1991


A. L. Frederick

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THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990: AN OVERVIEW

Part I — The Commodity Provisions (Titles I - XI)

by

A.L. (Roy) Frederick**

The Food, Agriculture, Conservation, and Trade Act (FACTA) of 1990 was enacted into law on November 28, 1990. Generally referred to as the 1990 farm bill, the Act is noteworthy with respect to its comprehensiveness and complexity. For example, it has 25 titles, or major sections, compared to 18 titles in the previous farm bill, the Food Security Act of 1985.

This is the first of three Campaign Circulars intended to outline major provisions of the FACTA. This Campaign Circular focuses on the commodity provisions, specifically those dealing with dairy, wool and mohair, wheat, feed grains, oilseeds, sugar, honey, and general commodity topics. Commodity titles dealing with cotton (Title V), rice (Title VI), and peanuts (Title VIII) are not covered because it is presumed that these sections would be of little or no interest to Nebraskans.

The intent of this publication is to outline the basic legislation, not the operating rules and regulations that will be announced separately for 1991 and subsequent years by the Secretary of Agriculture. Nor does the publication present a decision-making framework for producers to make decisions about program participation. Information relating to rules and regulations and program participation will be made available in other ways through the Cooperative Extension Division.

Much of the information in this publication is taken directly from “Comparison of Commodity and Conservation Provisions for the 1985 and 1990 Farm Bills,” as prepared by the Agricultural Stabilization and Conservation Service (ASCS) of the United States Department of Agriculture. However, in some cases, the information has been abridged where it appears to be repetitious or where readability was thought to be improved by the abridgement. Readers are cautioned, however, that the Act itself and the operating rules and regulations as implemented by ASCS will determine the precise applicability to individual producers.

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1.4 Calculation of milk equivalent, total solids basis: The milk equivalent of surplus dairy products purchased by CCC shall be measured on a total solids basis, equal to the weighted average of the milk equivalents, on a milkfat and a nonfat solids basis. The milk equivalent of nonfat solids shall not be weighted more than 70%, nor the milk equivalent of milkfat more than 40%.

In estimating the level of CCC purchases, the Secretary shall deduct the amount by which imports of milk products during the most recent calendar year exceeds the annual average level of imports during January 1, 1986-December 31, 1990.

1.5 Milk supply management study: Such a study must be completed and submitted to the House and Senate agricultural committees by August 1, 1991. Prohibited from the study are programs such as the dairy termination program and programs which would authorize a reduction in the support level below $10.10 per 100 pounds. Among the programs studied must be an alternative classification scheme under federal milk orders and target price/deficiency payment programs.

1.6 Reports on estimated purchases: The Secretary shall notify both Agriculture Committees on August 1 and November 20 of each calendar year 1991-95 regarding the value and volume of dairy product purchases the Secretary estimates CCC will make during the upcoming calendar year.

1.7 Pay price reductions for excess purchases: In order to offset any cost to the CCC associated with the purchase of milk and the products of milk in excess of 7.0 billion pounds, milk equivalent, during any calendar years 1991 through 1994, the Secretary is authorized to reduce milk price supports in the following calendar year.
to reimburse CCC for the cost of purchases in excess of 7.0 billion pounds.

1.8 Milk manufacturing marketing adjustment: Effective 12 months after enactment, no state shall provide a greater allowance for the processing of milk (i.e., "make allowance") than is permitted under the federal program to establish a Grade A price for manufacturing butter, nonfat dry milk, or cheese. Penalty for having a higher make allowance shall be twice the make allowance that could be charged multiplied by the quantity of milk on which the person had collected the excess allowance.

1.9 Minnesota-Wisconsin price series: Within 60 days of enactment, the Secretary shall commence to accept alternative pricing formula recommendations, as they relate to the Minnesota-Wisconsin price series used to determine the minimum prices paid under milk marketing orders.

1.10 Hearings on federal milk marketing orders: The Secretary shall conclude the national hearings announced March 29, 1990, and, to the maximum extent practicable, effect any resulting system-wide changes in the federal orders setting minimum prices by January 1, 1992.

1.11 Report of dairy product purchases: The Secretary shall make available to the public quarterly evaluations of the acquisition and disposal of CCC purchases of dairy products.

1.12 Application of support price of milk: The Secretary may not take the market value of whey into consideration for purposes of supporting the price of milk.

1.13 Application of amendments: The amendments made by this title shall not affect the liability of any person under the dairy title of the Agricultural Act of 1949 as in effect prior to enactment.

1.14 Extension of current provisions: The following provisions are extended until 1995:

- Adjustments for seasonal production; hearings on amendments; determination of milk prices; transfer of dairy products to the military and veterans hospitals; extension of the dairy indemnity program; export sales of dairy products; dairy export incentive program.

1.15 Component pricing of milk: The total value of milk purchased by a handler may be equitably apportioned among producers on the basis of the milk components contained in their marketings of milk.

1.16 Adjustments in payments by handlers: The grade, quality and location adjustments in prices paid by handlers need not be the same as adjustments in prices paid to producers.

1.17 Status of producer handlers: The legal status of producer handlers of milk shall be the same after amendments made by this title as it was before enactment.

1.18 Multiple component pricing study: The Secretary is required to make an assessment of the potential impact of achieving balance in the production, marketing, and domestic commercial use of milkfat through adoption of multiple component pricing programs.

### TITLE II — WOOL AND MOHAIR

2.1 Support prices: The procedure for determining support prices will be the same as under the Food Security Act of 1985.

For shorn wool, the support price shall be 77.5% of the amount calculated by multiplying $0.62 by the ratio of (1) the average parity index for the immediately preceding 3 calendar years to (2) the average parity index for 1958-60.

For pulled wool, the support price shall be established in relationship to that for shorn wool which will maintain normal marketing practices for pulled wool.

For mohair, the support price shall be determined at a level necessary to maintain approximately the same percentage of parity, plus or minus 15%, for mohair as for shorn wool.

2.2 Marketing assessments: The 1990 Budget Reconciliation Act requires a 1% assessment on wool and mohair payments for the 1991-95 marketing years.

2.3 Payment limits: Separate payment limits for wool and mohair are as follows:

- $200,000 — 1991 marketing year;
- $175,000 — 1992 marketing year;
- $150,000 — 1993 marketing year;
- $125,000 — 1994 and subsequent marketing years.

2.4 "Person" determination: For payment limitation purposes, producers will be subject to a person determination consistent with that currently in effect for other price support commodities.

### TITLE III — WHEAT

3.1 Loan rates: The minimum basic loan rate is set at 85% of the 5-year moving average of prices received by producers, dropping the high and the low, but reductions are limited to no more than 5% annually. The minimum loan rate is $2.44 per bushel (the 1990 rate), unless such rate would exceed 80% of the 5-year moving average determination.

A "Findley" loan adjustment is authorized, based on current year stocks-to-use ratios as follows:

<table>
<thead>
<tr>
<th>Stocks/Use</th>
<th>&quot;Findley&quot; Loan Adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td>≥30%</td>
<td>-10%</td>
</tr>
<tr>
<td>≥15&lt;30%</td>
<td>-5%</td>
</tr>
<tr>
<td>&lt;15%</td>
<td>0%</td>
</tr>
</tbody>
</table>

The Secretary may further reduce loan rates up to an additional 10% to maintain a competitive market position.
Thus, assuming the maximum discretionary reduction, the effective loan rate calculation is summarized as follows:

1. Calculate the 5-year moving average, dropping high/low (estimated to be $2.96 per bushel for 1986-90 period);
2. Determine maximum of 85% of (1) ($2.52 for 1991) or 95% of previous year’s basic loan rate ($2.44 x 95% = $2.32 for 1991). The result becomes this year’s basic loan rate ($2.52 for 1991);
3. Reduce the basic loan rate by the appropriate “Findley” adjustment based on stocks/use (10% x $2.52 in 1991, thereby leaving the loan rate at $2.27 for 1991 after this adjustment);
4. Calculate 80% of 5-year moving average, dropping high/low ($2.37 for 1991);
5. Determine the results of the “80% test”:
   a) if (4) > $2.44, select maximum of $2.44 or (3);
   b) if (4) < $2.44, select (3);
6. Calculate 90% of (5). The result becomes this year’s effective loan rate ($2.27 x 90% = $2.04 for 1991).

3.2 Marketing loan: The Secretary may use his discretionary authority to establish a marketing loan for wheat. Upon implementation, such a loan may be repaid at the lesser of: (1) the loan rate; (2) the higher of 70 percent of the loan rate or 70 percent the loan rate prior to any adjustment for stocks/use or competitive position; or (3) the prevailing world market price.

3.3 Loan deficiency payments: The Secretary may make payments available to producers who, although eligible to obtain a loan, agree to forgo obtaining a loan in return for payments. Payments are calculated as the loan payment rate (i.e., the amount by which the loan rate exceeds the loan repayment rate) multiplied by the quantity of wheat the producer is eligible to place under loan but for which the producer forgoes obtaining a loan.

3.4 Deficiency payment rate for wheat: For the 1991-93 crops, the payment rate shall be the amount by which the target price exceeds the higher of (1) the national weighted average price received by producers during the first 5 months of the marketing year, or (2) the loan rate for the crop prior to any adjustment for stocks/use or for maintaining competitive position.

For the 1994-95 crops, the payment rate shall be the amount by which the target price exceeds the higher of (1) the lesser of (a) the national weighted average market price received by producers during the marketing year; or, (b) the national weighted average market price received by producers during the first 5 months of the marketing year plus 10 cents; or (2) the loan rate for the crop prior to any adjustment for stocks/use or for maintaining competitive position.

3.5 Emergency compensation payments: If the Secretary adjusts loan rates to maintain competitive position, the Secretary shall provide emergency compensation by increasing the deficiency payments by an amount necessary to provide producers the same total return as if loan rates had not been adjusted. The December 1 estimate of the national weighted average market price received by producers during the marketing year shall be used to calculate the emergency compensation payment rate. At least 75 percent of the increase in payments shall be paid by December 15.

3.6 Target price: Frozen at $4.00/bu. for the 1991-95 crops.

3.7 Maximum payment acres: Payment acres for the crop shall be the lesser of (1) the number of acres planted to the crop for harvest within the permitted acreage; or, (2) 85% of the crop acreage base less the quantity of reduced acreage.

3.8 0/92 program for wheat: If an acreage limitation program is in effect and producers devote more than 8 percent of their maximum payment acres to conserving uses, the portion of maximum payment acreage in excess of 8 percent devoted to conserving uses shall be considered planted to wheat for purposes of determining the individual farm program acreage, and producers shall be eligible for deficiency payments with respect to such acreage at a per-bushel payment rate not less than the projected deficiency payment rate announced prior to program sign-up. A producer’s crop acreage base or program payment yield cannot be adversely affected by participation in the 0/92 program.

The Secretary may limit acreage entered into 0/92 to minimize adverse effects on agribusiness and other agriculturally related economic interests within any county, state, or region. No acreage restrictions may be imposed on producers in a county who are eligible for disaster emergency loans.

3.9 Alternative crops on wheat conserving use acreage:

For industrial and other crops, the Secretary may permit all or any portion of acreage required to be devoted to conserving uses to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, commodities for which no domestic production or market exists but that could yield industrial raw materials being imported, or commodities grown for experimental purposes (including kenaf and milkweed). The Secretary may permit production of these crops only if the production is not likely to increase the cost of the price support program and will not adversely affect farm income; and, the production is needed to provide an adequate supply of the commodity or is needed to encourage increased industrial use of the raw material.

With respect to oilseeds, the Secretary shall permit all or any part of conserving use acreage qualifying for payment to be devoted to sunflowers, rapeseed, canola, safflower, flaxseed, mustard seed, and other minor oilseeds designated by the Secretary. The producer has the option
of receiving deficiency payments and forgoing loan eligibility for all of that crop on the farm, or forgoing deficiency payments, but keeping loan eligibility.

3.10 Disaster payments: Prevented-planting and reduced-yield disaster payments are continued at the discretion of the Secretary.

The prevented-planting payment is an amount equal to: (1) the number of affected acres (but not more than wheat acres planted for harvest in the immediately preceding year) multiplied by (2) 75% of the farm program payment yield multiplied by (3) a payment rate equal to 33-1/3% of the target price.

The reduced-yield disaster payment is made at a rate equal to 50% of the target price for any deficiency in production below 60 percent of normal for the crop.

3.11 Crop insurance and disaster payments: Producers shall not be eligible for prevented-planting or reduced-yield disaster payments if prevented-planting or reduced-yield crop insurance is available to producers. However, the Secretary may make disaster payments to producers if, as the result of drought, flood, etc., the producer suffers substantial losses due to prevented-planting or reduced-yields, the losses have created an economic emergency for the producers, and crop insurance indemnity payments and other forms of federal assistance are insufficient to alleviate the economic emergency.

3.12 Announcement of acreage limitation programs: The 1990 farm bill continues the same announcement dates for annual acreage limitation programs: no later than June 1 prior to the calendar year in which the crop will be harvested, with any adjustments to the announced program no later than July 31 prior to the year in which the crop will be harvested.

3.13 Acreage reduction programs (ARP): The 1991 ARP is to be not less than 15%, nor more than 20%. (The Secretary has used his discretion to set the ARP at 15%.)

For 1992-95, the ARP level will be based on the stocks/use ratio for the preceding marketing year, subject to the following specified minimums:

<table>
<thead>
<tr>
<th>Stocks/Use</th>
<th>ARP</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;40%</td>
<td>10-20%</td>
</tr>
<tr>
<td>≤40%</td>
<td>0-15%</td>
</tr>
</tbody>
</table>

Minimum ARP levels for 1992-1995 Not less than:

<table>
<thead>
<tr>
<th>Year</th>
<th>ARP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>6%</td>
</tr>
<tr>
<td>1993</td>
<td>5%</td>
</tr>
<tr>
<td>1994</td>
<td>7%</td>
</tr>
<tr>
<td>1995</td>
<td>5%</td>
</tr>
</tbody>
</table>

Minimum ARPs shall not apply to a crop of wheat if the estimated stocks/use ratio is less than 34%; or, the minimum ARPs shall not apply to any of the 1992-95 crops of wheat if the beginning stocks of soybeans for 1991 will be less than 325 million bushels.

3.14 Acreage devoted to conservation uses: To be determined by multiplying the wheat acreage base by the percentage reduction required by the Secretary. This acreage shall be devoted to conservation uses and referred to as "reduced acres."

3.15 Planting designated crops on reduced acreage: The Secretary may permit producers to plant a designated crop on no more than one-half of the reduced acreage on the farm, with loss in deficiency payments on a number of acres determined by the Secretary that will assure no additional cost to the CCC. If the producer participates in more than one program crop on the farm, payments will be reduced on a prorate basis.

Designated crops are defined as any oilseed; any industrial or experimental crops designated by the Secretary; any other crop, except program crops and fruit or vegetable crops (including potatoes and dry edible beans) not designated by the Secretary as an industrial or experimental crop, or a crop for which no substantial domestic production or market exists. The Secretary may prohibit the planting of any of the above crops.

3.16 Targeted option payments: If the Secretary implements an acreage limitation program, the Secretary may permit producers who do not receive 0/91 payments for wheat to adjust their ARP requirements in the following manner:

**Increased acreage limitation option:**

If offered, producers have the option to increase their ARP above the announced ARP percentage by:

<table>
<thead>
<tr>
<th>Up to ___ % points</th>
<th>Max ARP %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>10</td>
</tr>
<tr>
<td>1992-95</td>
<td>15</td>
</tr>
</tbody>
</table>

Secretary must *increase the target price* by not less than 0.5 nor more than 1.0 percent for each 1 percentage point increase in the ARP.

**Decreased acreage limitation option:**

If offered, producers may decrease their ARP, but not by more than one-half of the announced ARP. The Secretary must *decrease the target price* by not less than 0.5 nor more than 1.0% for each 1-percentage point decrease in the ARP.

The Secretary shall, to the extent practicable, ensure that the targeted option program is offered in a manner that does not have a significant effect on program participation, total production, or does not result in additional budget outlays.

3.17 Annual or perennial cover on reduced acres: Acreage required to be devoted to conservation uses must be protected from weeds and wind and water erosion.

A participating producer is required to plant an annual or perennial cover on at least 50% of the acreage removed from production, not to exceed 5% of the crop acreage base. If the producer elects to establish a perennial cover, CCC shall make cost share assistance available for 25% of the approved cost of establishing the
cover on not more than 50% of the acreage diverted from production, not to exceed 5% of the crop acreage base. The producer shall agree to maintain the perennial cover for a minimum of 3 years. This requirement shall not apply to designated arid areas (including summer fallow areas).

3.18 Conserving crops on reduced acres: The Secretary may permit all or any portion of reduced acreage on a farm to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodities, if the Secretary determines that production of these crops is not likely to increase the cost of the price support program, will not adversely affect farm income, and the production is needed to provide an adequate supply of the commodities.

3.19 Haying and grazing: Haying and grazing shall be permitted on reduced acreage, conserving use acreage, and on acreage diverted under annual land diversion programs, except during any consecutive 5-month period between April 1 and October 31 that is established by the State ASCS Committee. The Secretary may permit unlimited haying and grazing in the case of natural disasters. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising this authority.

3.20 Water storage uses: Regulations issued by the Secretary shall provide that land converted to water storage areas shall be considered to be devoted to conservation uses if the land was planted to program crops or oilseeds in at least 3 of the last 5 years. Such land is eligible for up to 5 years if it remains in water storage, is not devoted to commercial uses (including commercial fish production), is not ground water, and the farm was irrigated with ground water during at least 1 of the last 5 years.

3.21 Summer fallow: In determining the quantity of land to be devoted to conservation uses under an acreage limitation program with respect to land that has been farmed under summer fallow practices, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

3.22 Land diversion payments: The Secretary may make land diversion payments to producers of wheat, whether or not an acreage limitation program for wheat is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. The amounts payable under land diversion contracts may be determined by bids from producers or through such other means as the Secretary determines appropriate. (No paid land diversions are offered in 1991.)

3.23 Conservation practices:
   Wildlife food plots or habitat: Reduced acreage and additional diverted acreage may be devoted to wildlife food plots or habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of such practices.

   Soil and water conservation practices: The Secretary may pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on conserving use acres.

   Public accessibility: The Secretary may provide for an incentive payment if producers allow, without other compensation, public access for hunting or other recreational uses of farmland.

3.24 Modification or termination of participation agreements: The Secretary may, by mutual agreement with producers on a farm, modify or terminate any program participation agreement if the Secretary determines the action necessary because of an emergency created by drought or disaster, or to prevent or alleviate a shortage in the supply of agricultural commodities.

   The Secretary may modify agreements with producers for the purpose of alleviating a shortage in supply of the commodity only if there has been a significant change in the estimated stocks of the commodity since the final program announcement.

3.25 Special oats plantings: In any crop year that the Secretary determines that projected domestic production of oats will not fulfill the projected domestic demand for oats, the Secretary may allow oats to be planted for harvest on any wheat and feed grain reduced acreage. With respect to such acreage planted to oats, the Secretary may make program benefits (including loans, purchases, and payments) in accordance with the annual program for oats; but, shall not make other program benefits available to producers.

3.26 Inventory reduction payments: The Secretary may make loan deficiency payments (in the form of wheat owned by the CCC) available to producers who agree to forgo obtaining a loan or receiving a deficiency payment, and who do not plant in excess of crop acreage base less one-half of the ARP requirement.

3.27 Pilot voluntary production limitation program: Effective for the 1992 or 1993 (and, if the Secretary so determines, 1994 and 1995), if a wheat acreage limitation program or land diversion program is announced, the Secretary shall carry out a pilot program in at least 15 counties in at least 2 states (a total of 30 counties) where production targets for participating farms are expressed in bushels of production. Participating farms will achieve the same pro rate reduction in production as prescribed by the national production targets.

   To comply with the program, producers must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of wheat in excess of the production limitation quantity, defined as permitted acreage under the acreage reduction

6
program multiplied by the higher of the farm program yield or 5-year average harvested yields, excluding the high and low years. Producers may market wheat in excess of their production limitation quantity in subsequent years. Producers must not plant program commodities in excess of the sum of crop acreage bases for the farm. Producers will be considered to have complied with the acreage limitation program even though the acreage planted to wheat exceeds their permitted acreage.

3.28 Equitable relief:

**Loans, purchases, and payments:** If the failure of a producer to fully comply with the terms of the program precludes the making of loans, purchases, or payments, the Secretary may make such loans, etc., in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. In doing so, the Secretary may also consider whether the producer made a good faith effort to comply with the terms of the program.

**Deadlines and program requirements:** The Secretary may authorize county and state ASCS committees to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such requirements does not adversely affect the operation of the program.

3.29 Cross and offsetting compliance: Both cross compliance (participating in other commodity programs or remaining within the crop acreage bases for other commodities as a condition for wheat program eligibility) and offsetting compliance (participating on other farms owned or operated by the same person) are prohibited.

3.30 Public comment on wheat program: The Secretary shall request public comment on annual determinations concerning price support and acreage reduction programs for each of the 1992 and subsequent crops of wheat. Various program options must be proposed for public comment not less than 60 days prior to announcement. Each proposed option shall be accompanied by an analysis that includes estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the federal government for each option. In announcing the wheat program, the Secretary shall include an estimate for these same variables that is expected to result from the program as announced.

3.31 Special provision for wheat planted in 1990: A producer participating in the program for the 1991 crop of winter wheat may elect to have deficiency payments calculated on either (1) the national weighted average market price received by producers during the marketing year; or (2) the national weighted average market price received by producers for the first five months of the marketing year but with the "triple base adjustment," which will reduce, by 15%, the number of acres in the crop acreage base on which the deficiency payment is made.

**TITLE IV — FEED GRAINS**

4.1 Loan rates: The basic loan rate for corn is set at 85% of the 5-year moving average of prices received by producers, dropping the high and the low, but reductions are limited to no more than 5% annually. The minimum basic loan rate is $1.76 per bushel, unless such rate would exceed 80% of the 5-year moving average determination.

A "Findley" adjustment is authorized, based on current year stocks-to-use ratios as follows:

<table>
<thead>
<tr>
<th>Stocks/Use</th>
<th>&quot;Findley&quot; Loan Adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td>≥25%</td>
<td>- 10%</td>
</tr>
<tr>
<td>≥12.5&lt;25%</td>
<td>- 5%</td>
</tr>
<tr>
<td>&lt;12.5%</td>
<td>0%</td>
</tr>
</tbody>
</table>

The Secretary may further reduce loan rates up to an additional 10 percent to maintain a competitive market position.

Loan rates for other feed grains (sorghum, barley, oats and rye) are to be set at such level as the Secretary determines is fair and reasonable in relation to corn, taking into consideration the feeding value of the commodity in relation to corn. The barley program was discretionary under the 1985 farm bill, but is mandatory under the 1990 farm bill.

Thus, assuming the maximum discretionary reduction, the effective loan rate calculation for corn is summarized as follows:

1. Calculate the 5-year moving average, dropping high/low (estimated to be $2.22 per bushel for 1986-90 period);
2. Determine maximum of 85% of (1) (85% x $2.22 = $1.89); or 95% of previous year's basic loan rate (95% x $1.96 = $1.86). The result becomes this year's basic loan rate ($1.89 for 1991);
3. Reduce the basic loan rate by the appropriate "Findley" adjustment based on stocks/use (5% x $1.89 in 1991, thereby leaving the loan rate at $1.80 for 1991 after this adjustment);
4. Calculate 80% of 5-year moving average, dropping high/low ($1.78 for 1991);
5. Determine the results of the "80% test":
   a. If (4) > 1.76, select maximum of 1.76 or (3);
   b. If (4) ≤ 1.76, select (3);
6. Calculate 90% of (5). The result becomes this year's effective loan rate ($1.80 x 90% = $1.62 for 1991).

4.2 Marketing loan: The Secretary has discretionary authority to institute a marketing loan for feed grains. Alternative repayment rates are determined in the same manner as for wheat. (See Section 3.2.)

4.3 Loan deficiency payments: The Secretary has discretionary authority to make such payments for feed grains. (See Section 3.3.)
4.4 Deficiency payment rate for corn, grain sorghum, oats and barley:

For the 1991-93 crops, the payment rate shall be the amount by which the target price exceeds the higher of (1) the national weighted average market price received by producers during the first 5 months of the marketing year, or (2) the loan rate for the crop prior to any adjustment for stocks/use or for maintaining competitive position, i.e., the basic loan rate.

For the 1994-95 crops, the payment rate shall be the amount by which the target price exceeds the higher of (1) the lesser of (a) the national weighted average market price received by producers during the market year; or (b) the national weighted average market price received by producers during the first 5 months of the marketing year plus 7 cents; or (2) the loan rate for the crop prior to any adjustment for stocks/use or for maintaining competitive position.

With regard to the payment rate for barley, the Secretary shall use the national weighted average market price received by producers of feed barley.

4.5 Emergency compensation payments: If the Secretary adjusts loan rates for stocks/use or competitive position, the Secretary shall provide emergency compensation by increasing the deficiency payments by an amount necessary to provide producers the same total return as if basic loan rates had not been adjusted. The national weighted average market price received by producers during the marketing year shall be used to calculate the emergency compensation payment rate.

4.6 Target prices: The minimum target price for feed grains for each of the 1991-95 crop years shall be:

<table>
<thead>
<tr>
<th>Grain</th>
<th>Target Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corn</td>
<td>$2.75/bu.</td>
</tr>
<tr>
<td>Grain Sorghum</td>
<td>2.61/bu.</td>
</tr>
<tr>
<td>Oats</td>
<td>1.45/bu.</td>
</tr>
<tr>
<td>Barley</td>
<td>A value fair and reasonable relative to corn, but not less than 85.8% of the corn target price. (The target price is set at $2.36 for 1991.)</td>
</tr>
</tbody>
</table>

4.7 Maximum payment acres: Payment acres for the crop shall be the lesser of (1) the number of acres planted to the crop for harvest within the permitted acreage; or, (2) 85% of the crop acreage base less the quantity of reduced acreage.

4.8 0/92 program for feed grains: Same as for wheat 0/92 program. (See Section 3.8.)

4.9 Alternative crops on feed grain conserving use acreage: Same as for wheat conserving use acreage. (See Section 3.9.)

4.10 Disaster payments for feed grains: Same as disaster payments for wheat. (See Section 3.10.)

4.11 Crop insurance and disaster payments for feed grains: Same as crop insurance and disaster payments for wheat. (See Section 3.11.)

4.12 Announcement of acreage limitation programs for feed grains: If the Secretary elects to implement an acreage limitation program, the Secretary shall announce such program no later than September 30 prior to the calendar year in which the crop will be harvested. The Secretary may make adjustments in the announced program no later than November 15 prior to the year in which the crop will be harvested. Producers must participate in the announced acreage limitation or land diversion program to be eligible for program benefits.

4.13 Acreage reduction programs (ARP) for feed grains: For the 1991 crop, the corn ARP shall be not less than 7.5% nor greater than 20%. Grain sorghum and barley ARP are to be set independent of corn, based on the respective supply/demand conditions (from 0% to 20%). Corn and grain sorghum bases are no longer required to be combined. (The Secretary subsequently set the 1991 ARPs for corn, grain sorghum and barley at 7.5% and declared that the corn and grain sorghum bases would be interchangeable.)

For the 1992-95 crops, the ARP level will be based on the stocks/use ratio for the preceding marketing year:

<table>
<thead>
<tr>
<th>Stocks/use</th>
<th>ARP</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;25%</td>
<td>10-20%</td>
</tr>
<tr>
<td>≤25%</td>
<td>0-12.5%</td>
</tr>
</tbody>
</table>

These ARPs are subject to a minimum of 7.5% for each of the 1992-95 crops of corn, grain sorghum, and barley.

However, minimum ARPs shall not apply to a crop of corn, grain sorghum, and barley, if the estimated stocks/use ratio is less than 20%; or, the minimum ARPs shall not apply to any of the 1992-95 crops of feed grains if the beginning stocks of soybeans for 1991 will be less than 325 million bushels.

For the 1991-95 crops of oats, the ARP level shall be 0%.

Except for the Targeted Option Program, if a feed grain acreage limitation program is announced, such limitation shall be achieved by applying a uniform percentage reduction (from 0 to 20%) to the crop acreage base for corn, grain sorghum, barley, or oats, respectively, for each feed grain-producing farm.

4.14 Acreage devoted to conservation uses: Same as acreage devoted to conservation uses for wheat. (See Section 3.14.)

4.15 Planting designated crops on reduced acres: Same as planting designated crops on reduced acres for wheat. (See Section 3.15.)

4.16 Targeted option payments for feed grains: If the Secretary implements an acreage limitation program, the Secretary may permit producers who do not receive 0/92 payments for feed grains to adjust their ARP requirement in the following manner:

Increased acreage limitation option: If offered, producers have the option to increase their ARP above the
announced ARP percentage by:

<table>
<thead>
<tr>
<th></th>
<th>Up to ___ % points</th>
<th>Max ARP %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>1992-95</td>
<td>10</td>
<td>20</td>
</tr>
</tbody>
</table>

Secretary must increase the target price by not less than 0.5 nor more than 1.0 percent for each 1-percentage point increase in the ARP.

**Decreased acreage limitation option:** If offered, producers may, decrease their ARP, but not by more than one-half of the announced ARP. The Secretary must decrease the target price by 0.5 to 1.0% for each 1-percentage point decrease in the ARP.

The Secretary shall, to the extent practicable, ensure that the targeted option program is offered in a manner that does not have a significant effect on program participation, total production, or does not result in additional budget outlays.

4.17 Annual or perennial cover on reduced acres: Same as annual or perennial cover on reduced acres for wheat. (See Section 3.17.)

4.18 Conserving crops on reduced acres: Same as conserving crops on reduced acres for wheat. (See Section 3.18.)

4.19 Haying and grazing: Same as haying and grazing for wheat. (See Section 3.19.)

4.20 Water storage areas: Same as water storage areas for wheat. (See Section 3.20.)

4.21 Summer fallow: Same as summer fallow for wheat. (See Section 3.21.)

4.22 Land diversion payments: Same as land diversion payments for wheat. (See Section 3.22.)

4.23 Conservation practices: Same as conservation practices for wheat. (See Section 3.23.)

4.24 Modification or termination of participation agreements: Same as modification or termination of participation agreements for wheat. (See Section 3.24.)

4.25 Special oats plantings: Same as special oats plantings for wheat. (See Section 3.25.)

4.26 Inventory reduction payments: Same as inventory reduction programs for wheat. (See Section 3.26.)

4.27 Pilot voluntary production limitation program: Same as pilot voluntary production limitation program for wheat. (See Section 3.27.)

4.28 Equitable relief: Same as equitable relief for wheat. (See Section 3.28.)

4.29 Cross and offsetting compliance: Same as cross and offsetting compliance for wheat. (See Section 3.29.)

4.30 Public comment on feed grain program: Same as for wheat. (See Section 3.30.)

4.31 Price support for high moisture feed grains: Effective for each of the 1991-95 crops of feed grains, the Secretary shall make available recourse loans to producers who: normally harvest all or a portion of their feed grains in a high moisture state; present certified evidence of the quantity of feed grains so harvested; certify that they were owners of the feed grain; comply with deadlines; and participate in an acreage limitation program. Loans will be made on a quantity of the crop determined by multiplying (1) the acreage of the feed grain in a high moisture state harvested; by (2) the lower of the farm program payment yield or the actual yield on a similar field from which the high moisture grain was obtained.

4.32 Price support for corn silage: The Secretary may make loans and purchases available to producers who cut corn for silage and purchase or exchange corn that has been produced in such crop year by another producer; and who participate in the announced acreage limitation program. Such loans may be made on the quantity equal to the acreage of corn for silage multiplied by the lower of the farm program payment yield or the actual yield on the farm that is similar to the field of silage.

4.33 Calculation of refunds of advance barley payments:

*Mandatory calculation of refund:* Not later than 90 days after enactment, the Secretary shall calculate, for informational purposes only, the amount of the refund of any advance deficiency payment a producer of barley who participated in the 1988 or 1989 barley program would be required to make based on a formula which excludes malting barley from the market price calculation used to determine the amount of refund. The aggregate results of the recalculation shall be published in the Federal Register, including total reduction amount and number of producers affected, along with a decision by the Secretary whether to use the recalculation in determining refunds. On demand, individual producers shall be notified of the implications of the recalculation for their 1988 or 1989 refund.

*Discretionary use of the calculation:* The Secretary may use the calculation to determine whether to reduce the total amount of refund owed by a producer for the 1988 or 1989 crops of barley. If the Secretary decides to use the calculation, the Secretary must reimburse, either by lump sum or installment, any producer who has already paid the refund prior to enactment of the Act. The amount of the reimbursement shall not bear interest if paid prior to February 15, 1991 (7% interest is paid after this date).

**TITLE VII — OILSEEDS**

7.1 Definition of oilseeds: The term "oilseeds" means soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine.
7.2 Loan rate for oilseeds:

Soybeans: A marketing loan rate of not less than $5.02/bu. is established for each of the 1991-95 crops. Sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed: A marketing loan rate of not less than $0.089/lb. is established for each of the 1991-95 crops.

Other oilseeds: Loan rates shall be at such levels determined to be fair and reasonable in relation to the loan rate for soybeans, except that, in the case of cottonseed, in no event less than the loan rate for soybeans on a pound basis.

For the 1992-95 crops, the Secretary shall announce the loan rate for a crop no later than November 15.

An oilseed loan shall mature on the last day of the 9th month following the month the application for the loan is made.

7.3 Marketing loan provisions: The Secretary shall permit a producer to repay a loan: (1) at a level that is the lesser of: (a) the loan rate; or, (b) the prevailing world market price; or (2) such other level (not in excess of the loan rate for the crop) that the Secretary determines will minimize loan forfeitures, minimize cost of accumulating and storing oilseeds, and allow U.S. oilseeds to be marketed freely.

7.4 Prevailing world market price: The Secretary shall prescribe by regulation a formula to define the prevailing world price for oilseeds; and, a mechanism to periodically announce such a price.

7.5 Loan deficiency payments: The Secretary shall make payments available to producers who, although eligible to obtain a loan, agree to forgo obtaining a loan in return for payments. Payments are calculated as the loan payment rate (i.e., the amount by which the loan rate exceeds the loan repayment rate) multiplied by the quantity of oilseeds the producer is eligible to place under loan but for which the producer forgoes obtaining a loan. The Secretary may make payments in the form of certificates redeemable for any agricultural commodity owned by CCC. The Secretary shall make certificates available in such a manner as to minimize the accumulation of oilseed stocks.

7.6 Loan origination fee:

Loans: The Secretary shall charge a producer a loan origination fee for a crop of oilseeds, in connection with making a loan, equal to 2% of the value of the loan.

Loan deficiency payments: The Secretary shall deduct from the amount of any loan deficiency payment an amount equal to the amount of the loan origination fee that would have been paid if the producer had obtained a loan instead of the loan deficiency payment.

7.7 Marketing year:

Soybeans: The 12-month period beginning September 1 and ending August 31.

Other oilseeds: To be prescribed by the Secretary by regulation.

7.8 Other terms and conditions: The Secretary shall not require participation in any production adjustment program for oilseeds or any other commodity as condition for price support for oilseeds.

Oilseeds may not be eligible for any reserve program.

TITLE IX — SUGAR

9.1 Loan rate: The Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at not less than $0.18/lb. for raw cane sugar.

The Secretary shall support the price of domestically grown sugar beets through nonrecourse loans at a loan rate based on the weighted averages of producer returns for sugar beets relative to sugarcane for the most recent 5 years plus fixed marketing expenses for beet producers.

The Secretary shall announce the loan rate to be applicable for a fiscal year as far in advance of the beginning of the fiscal year as is practical.

9.2 Length of price support loan for sugar: Sugar price support loans shall not be made available before the beginning of the fiscal year and shall mature at the earlier of: the end of 9 months; or, the end of the fiscal year.

A supplemental nonrecourse loan, in addition to the initial loan, shall be made to producers in areas that harvest sugar beets in the last three months of the fiscal year. The initial loan will be paid by the end of the fiscal year. Supplemental loans: (1) will be available on the first day of the following fiscal year and be made at the same loan rate as the initial loan; and, (2) will mature in 9 months less the amount of time the initial loan was in effect.

9.3 Marketing assessments and price support reductions: Effective only for each of the 1991-95 crops, the first processor of sugarcane or sugar beets shall remit to the CCC a nonrefundable marketing assessment equal to 0.18 cents per pound of raw cane sugar processed from domestically produced sugarcane; or, 0.193 cents per pound of beet sugar processed from domestically produced sugar beets.

9.4 Information reporting for marketing quotas: All cane sugar refiners and sugar beet processors and manufacturers of crystalline fructose from corn shall furnish the Secretary with monthly reports regarding the person’s imports, distribution, and stock levels of sugar or crystalline fructose. Based on this information, the Secretary shall publish a monthly report containing composite data collected from the reports.

9.5 Marketing allotments for sugar and crystalline fructose:

Sugar estimates: Before the beginning of each of the fiscal years 1992-96, and no later than the beginning of each of the 2nd, 3rd, and 4th quarters of the fiscal year, the Secretary shall estimate: (1) total consumption of sugar in the customs territory of the U.S.; and, (2) the supply of sugar from carry-in stocks or from domestically produced...
sugarcane or beets. These estimates are to be used to determine whether marketing allotments will be imposed.

**Sugar allotments:** The Secretary shall establish marketing allotments for sugar processed from domestically produced sugarcane and sugar beets to reserve not less than 1.25 million short tons for imports for that year.

**Crystalline fructose allotments:** If the Secretary establishes marketing allotments for sugar, there shall also be appropriate allotments for crystalline fructose at a total not to exceed the equivalent of 200,000 tons of sugar, raw value, during the fiscal year.

Processors are prohibited from marketing, including pledging as loan collateral, any sugar in excess of the processor's marketing allotment.

Crystalline fructose manufacturers may not exceed their marketing allotment. No restrictions or allotments shall be established on the marketings of any liquid fructose produced from corn.

9.6 Establishment of marketing allotments: Whenever marketing allotments are required, the Secretary shall establish the overall quantity of sugar to be allotted for the fiscal year as estimated sugar consumption minus 1.25 million short tons minus private and CCC carry-in stocks of sugar. The allotment quantity shall be adjusted to the maximum extent practicable to prevent the accumulation of sugar by CCC. The overall allotment quantity shall be allotted to sugar derived from cane and beets based on the historical percentage of marketings for beet and cane sugar, processing and refining capacity, and the ability of processors to market the sugar covered under the allotments. The percentage factors for cane and beet sugar shall be published in the Federal Register, along with the reason for establishing them. The allotment for sugarcane shall be further divided among the 5 cane-producing states in a fair and reasonable manner, considering the average of the highest production years out of the 1985-89 period.

9.7 Adjustment of marketing allotments: Based on the quarterly reestimates of sugar consumption and supply, the Secretary shall increase, decrease, or suspend allotments, as appropriate. Each allocation to a processor shall be increased or decreased in the same proportion as the overall percentage change in the allotment. Sugar marketings in excess of any reduced allotment shall be deducted from the next allotment established for the processor.

**TITLE X — HONEY**

10.1 Honey price support: For each of the 1991-95 crops, the price of honey shall be supported at not less than $0.538/lb.

10.2 Marketing loan provisions: The Secretary may permit a producer to repay a loan at the lesser of: (1) the loan level; or (2) such level as the Secretary determines will: (a) minimize the number of loan forfeitures; (b) not result in excessive total stocks of honey; and, (c) reduce federal government total of storing honey; and, (d) maintain the competitiveness of honey in the domestic and export markets.

10.3 Loan deficiency payments: The Secretary shall make payments available to producers who, although eligible to obtain price support loans, agree to forgo obtaining the loans in return for loan deficiency payments. The payment shall be computed by multiplying the loan payment rate (i.e., the amount by which the loan rate exceeds the loan repayment rate) by the quantity of honey eligible to be placed under loan, but for which the producer forgoes obtaining a loan. The Secretary may make loan deficiency payments in the form of generic commodity certificates.

10.4 Payment limitations: The total amount of payments that a person may receive under the honey program may not exceed:

- $200,000 in 1991,
- $175,000 in 1992,
- $150,000 in 1993,
- $125,000 in each of the 1994 and subsequent years.

The term “payment” means any marketing loan gain and any loan deficiency payment.

The Secretary shall issue regulations defining the term “person.” The regulations shall provide for the attribution of payments.

10.5 Marketing assessments and price support reductions: Effective only for the 1991-95 crops of honey, producers and producer-packers of honey shall remit to CCC a nonrefundable marketing assessment on a per pound basis equal to 1 percent of the national price support level. The assessment shall be collected and remitted by the first handler of honey.

**TITLE XI — GENERAL COMMODITY PROVISIONS**

Subtitle A — Acreage Base and Yield System

11a.1 Definitions:

- **Program crop:** Includes wheat, corn, grain sorghum, oats, barley, upland cotton, or rice.
- **Oilseed:** Includes soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.
- **Double cropping:** A farming practice, as designated by the Secretary, that has been carried out on a farm during at least 3 of the last 5 crop years.

11a.2 Crop acreage bases: In general, the crop acreage base for each program crop shall equal a 5-year average of acreage planted and considered planted (P&CP) for harvest on the farm.
11a.3 Acreage considered planted: Acreage considered planted to a program crop shall consist of:
(1) any reduced and diverted acreage;
(2) any acreage that producers were prevented from planting because of drought, flood, or other natural disaster;
(3) acreage equal to the difference between the permitted acreage and planted acreage for a program crop, if the acreage considered planted is devoted to conservation uses or production of permitted commodities under the 1990 or 1992 programs;
(4) acreage equal to the difference between the permitted acreage and planted acreage for a program crop, if the acreage considered planted is devoted to the production of commodities in accordance with planting flexibility provisions;
(5) any acreage the Secretary determines is necessary to be included in establishing a fair and equitable crop acreage base;
(6) the crop acreage base for the crop, if producers on the farm forgo receiving any payments for the crop and certify that no acreage on the farm was planted to: (a) the crop; or, (b) any fruit or vegetable crop (including potatoes and dry edible beans) not designated as an industrial or experimental crop by the Secretary, in excess of normal plantings; and,
(7) any acreage on the farm for which the crop acreage base was adjusted because of a condition or occurrence beyond the control of the producer.

11a.4 Construction of planting history: For the purpose of determining the crop acreage base for the 1991 and subsequent crop years, the county committee may construct a planting history for such crop if: (1) planting records for any of the past 5 crop years are incomplete or unavailable; or, (2) the program crop was not produced on the farm during at least 1 but not more than 4 out of the last 5 years.

11a.5 Crop rotation and other factors: The Secretary shall make adjustments (1) to reflect crop rotation practices, and (2) to enable producers to meet conservation requirements.

11a.6 Prevented planting: If a county committee determines that a producer was prevented from planting a program crop (or had the crop substantially destroyed after planting but before harvest) because of a natural disaster, the producer may plant any other crop, including any other program crop, on that acreage. Such acreage on which a substitute crop is planted shall be considered planted to the original program crop.

11a.7 Subsequent crop years (base building): A producer who is eligible to receive a deficiency payment for any program crop or crop of ELS cotton in any crop year may not use the acreage planted or considered planted to the program crop or ELS cotton to increase any crop acreage base established for the farm in a subsequent crop year.

11a.8 Adjustment of bases: The county committee may adjust any crop acreage base for any program crop if the crop acreage base would otherwise be adversely affected by a condition or occurrence beyond the control of the producer.

11a.9 Planting flexibility: Producers may plant specified commodities, other than the specific program crop, on that program crop’s base without suffering a reduction in the crop acreage base.

Specified commodities: The commodities that may be planted on a crop acreage base are:
(1) any program crop;
(2) any oilseed;
(3) any industrial or experimental crop designated by the Secretary; and,
(4) any other crop, except any fruit and vegetable crop (including potatoes and dry edible beans) not designated by the Secretary as: (a) an industrial or experimental crop; or, (b) a crop for which no substantial domestic production or market exists.

Limitation: The Secretary may prohibit the planting of any specified crop on a crop acreage base. The Secretary shall make a determination in each crop year of the commodities that may not be planted, and shall make available a list of such commodities.

11a.10 Limitation on acreage for flexibility: In general, no more than 25% of a crop acreage base may be planted to other specified commodities under the planting flexibility provisions.

Exception for soybeans: If on January 1 of any calendar year the Secretary estimates that the national average price of soybeans during the following marketing year would be less than 105% of the nonrecourse loan rate for soybeans if soybeans were to be allowed to be planted on up to 25% of the crop acreage base, the quantity of crop acreage base that may be planted to soybeans in regards to planting flexibility provisions may not exceed 15% of the crop acreage base.

11a.11 Plantings in excess of permitted acreage: Producers of a program crop who are participating in the production adjustment program for that crop shall be allowed to plant that crop in excess of the permitted acreage without losing eligibility for loans, purchases, or payments for that crop if: (1) the excess planting does not exceed 25% of the crop acreage bases on the farm for other crops; and, (2) the producer agrees to an equivalent reduction in permitted acreage for the other program crops produced on the farm.

11a.12 Loan eligibility: Producers of an original program crop who plant for harvest another program crop on the crop acreage base of the original program crop in
accordance with the planting flexibility provisions and who do not participate in the production adjustment program for the other program crop shall be eligible to receive loans, purchases, or loan deficiency payments for such other program crop on the same terms and conditions as are provided to participants in the production adjustment program established for such other program crop.

Requirements: Producers shall be eligible to receive loans, purchases, or loan deficiency payments if the producers: (1) plant such other program crop within 25% of the crop acreage base established for the original program crop; and, (2) agree to a reduction in the permitted acreage for the original program crop for that crop year.

11a.13 Farm program payment yields: The farm program payment yield for each of the 1991-95 crops shall be the farm program yield for the 1990 crop year for the farm.

Additional yield payments: In the case of each of the 1991-95 crop years, if the farm program payment yield for a farm is reduced more than 10% below such yield for 1985, the Secretary shall make payments available to the producer in such amount as the Secretary determines is necessary to provide the same total return to producers as if such yield had not been reduced more than 10% below the 1985 payment yield. The payments shall be made available no later than the time final deficiency payments are made.

No crop or yield available: If the crop was not produced on the farm, or if no farm payment yield was established for any of the 1981-85 crop years (or, as appropriate, the 1986-90 crop years), the farm program payment yield may be established on the basis of the average farm program payment yield for similar farms in the area.

11a.14 National, state, or county yields: If the Secretary determines the action is necessary, the Secretary may establish national, state, or county program payment yields on the basis of: (1) historical yields, as adjusted to correct for abnormal factors affecting the yields in the historical period; or, (2) the Secretary’s estimate of actual yields for the crop year involved if historical yield data is not available. If national, state, or county program payment yields are established, the farm program payment yields shall balance to the national, state, or county program payment yields.

11a.15 Determination of yields:

Actual yields: With respect to the 1991 and subsequent crop years, the Secretary may: (1) establish the farm program payment yield as provided above; or, (2) establish a farm program payment yield on the basis of the 5-year moving average of actual yields per harvested acre, excluding the high and low years and any year in which the crop was not planted on the farm.

Prior yields: For purposes of determining actual yields, the farm program payment yield for the 1986 crop year (which may not be reduced by more than 10% below the farm program payment yield for 1985) and the actual yield per harvested acre for the 1987 and subsequent crop years shall be used in determining farm program payment yields.

Adjustment of yields: The county committee may adjust any farm program payment yield for any program crop for any farm if the farm program payment yield does not accurately reflect the productive potential of the farm.

11a.16 Assignment of yields: In the case of any farm for which the actual yield per harvested acre for any program crop referred to in the section on determination of yields is not available, the county committee may assign the farm a yield on the basis of actual yields on similar farms in the area.

11a.17 Actual yield data: The Secretary shall allow producers to provide to county committees actual yield data for each program crop for each farm. The Secretary shall maintain the data for a least 5 years if necessary, the administration of the commodity programs. The Secretary shall provide timely notification to producers of these provisions.

11a.18 Planting and production history on farms: Each county committee may require any producer who seeks to establish a crop acreage base or farm program payment yield for a farm to provide planting and production history of the farm for each of the preceding 5 crop years.

11a.19 Establishment of bases and yields by county committees: Each county committee may provide for the establishment of a crop acreage base and farm program payment yield with respect to any farm administratively located within the county if such parameters cannot otherwise be established under this title. The crop acreage bases and payment yields shall be established in a fair and equitable manner, bUO no such bases or yields shall be established for a farm if the farm is subject to sanctions under any provision of federal law for cultivating highly erodible land or converted wetland.

11a.20 Appeals: The Secretary shall establish an administrative appeal procedure that provides for an administrative review of determinations made with respect to crop acreage bases and farm program payment yields.

Subtitle B — Payment Limitations

11b.1 General payment limitation provisions: For each of the 1991-95 crops, the total amount of deficiency payments (excluding emergency compensation or “Findley” payments) and land diversion payments that a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, upland cotton, ELS cotton, and rice may not exceed $50,000.

For each of the 1991-95 crops, the total payment of Findley payments, loan deficiency payments, and marketing loan gains that a person shall be entitled to receive
under one or more of the annual programs established for wheat, feed grains, upland cotton, rice, and oilseeds shall not exceed $75,000. When combined with deficiency and diversion payments and other specified payments, the total may not exceed $250,000.

11b.2 Definition of payments: The term “payments” means: (1) any part of any payment that represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation; (2) any annual disaster payments; (3) any marketing loan gains for wheat, feed grains, upland cotton, rice, or oilseed; or, any gain realized by a producer from repaying a loan for a crop of any commodity (other than honey) at a lower level than the original loan level; (4) emergency compensation (“Findley”) payments for wheat and feed grains; (5) any loan deficiency payment received for wheat, feed grains, upland cotton, rice or oilseed; and, (6) any inventory reduction payment received for wheat, feed grains, upland cotton, or rice. “Payment” shall not include loans or purchases.

11b.3 Adjustment in payment limitations for adverse impacts: If the Secretary determines that any of the payment limitations will result in a substantial increase in the number or dollar amount of loan forfeitures, will substantially reduce the acreage taken out of production, or will cause the market price for a crop to fall substantially below the effective loan rate, the Secretary shall increase the payment limitation as necessary to eliminate such adverse effect on the program involved.

11b.4 Adjustment in reduced acreage due to payment limitation: If the Secretary determines that the total amount of payments that will be earned by any one person will be reduced, any acreage limitation requirement for the farm shall be adjusted to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

11b.5 Definition of person: The term “person” means: (1) an individual, including any individual participating as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity; (2) a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity, including any such entity or organization participating in the farming operation as in (1) above; and, (3) a state, political subdivision, or government agency.

Regulations shall provide that the term “person” does not include any cooperative association of producers.

In determining whether a person growing hybrid seed under contract is actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

11b.6 Irrevocable trusts: To be considered a separate person for payment purposes, an irrevocable trust (except those established prior to January 1, 1987) must not allow the grantor to modify, terminate, or have any future contingent, or remainder interest in the trust, or provide for transfer to the remainder beneficiary in less that 20 years. Exceptions are cases where the transfer is contingent on the remainder beneficiary achieving majority or is contingent on the death of the grantor.

11b.7 Married couples: The husband and wife shall be considered one person, except: (1) if prior to marriage, each were engaged in unrelated farming operations and each continues to be operated as a separate operation, then they shall be treated as separate persons for payment limitations; and, (2) at the option of the Secretary, spouses who do not hold, directly or indirectly, a substantial beneficial interest in more than one entity may be considered separate persons if spouse meets requirements established to be considered as a separate person. (The Secretary subsequently has indicated that this option will be exercised for the 1991-95 crop years.)

11b.8 Tenants: A tenant that rents land for cash (or crop share) and that makes a significant contribution of active personal management but not of personal labor shall be ineligible to receive any payment with respect to such land unless the tenant makes a significant contribution of equipment used in the farming operation.

11b.9 Change in farming operations to increase the number of persons: The Secretary may not approve (for purposes of application of payment limitations) any change in farming operation that otherwise will increase the number of persons to which limitations apply unless the change is bona fide and substantive. The addition of a family member who is actively engaged in the farming operation shall be considered a bona fide and substantive change in farming operations.

11b.10 Actions taken in good faith: The Secretary shall establish time limits for the various steps involved with notice, hearing, decision, and the appeals procedure to expedite handling of payment limitation disputes. Actions taken by an individual or other entity in good faith on action or advice of any authorized representative of the Secretary may be accepted as meeting necessary requirements to the extent the Secretary deems it desirable to provide fair and equitable treatment.

11b.11 Treatment of public lands: Payment limitation provisions shall not apply to land owned by a public school district or land owned by a state that is used to maintain a public school.

11b.12 Maximum number of permitted entities: A person who receives farm program payments for a crop may not also hold, directly or indirectly, substantial beneficial interests in more than two entities engaged in farm operations that also receive such payments as separate persons. A person that does not receive payments may not hold, directly or indirectly, substantial beneficial interest in more than three entities that receive such payments as separate persons.
11b.13 Minimal beneficial interest: A beneficial interest in any entity that is 0-10% of all beneficial interests in such entity combined shall not be considered a substantial beneficial interest, unless the Secretary so determines on a case-by-case basis.

11b.14 Notification of entities: Each entity receiving payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the payment limitation requirements. Each entity receiving payments shall provide the Secretary the name and social security or taxpayer identification number of each individual entity that holds or acquires a substantial beneficial interest.

11b.15 Notification of interest: If a person holds substantial beneficial interests in more than the permitted number of entities receiving payments, the person shall notify the Secretary to designate which entities that should be considered as permitted entities for the person for payment limitation purposes. Each remaining entity in which the person holds a substantial beneficial interest shall be subject to reductions in the payments to the entity subject to limitation. Each payment to the entity shall be reduced by the proportion that the person’s beneficial interest is to the total beneficial interest for the operation. If the person does not notify the Secretary, all entities in which the person holds substantial beneficial interest shall be subject to reductions as described above.

11b.16 Actively engaged in farming: To be separately eligible for farm program payments a person must be an individual or entity and actively engaged in farming on the particular operation.

11b.17 General classes of actively engaged: Individuals: Shall be considered to be actively engaged in farming if: (1) the individual makes a significant contribution (based on the total value of the farming operation) of (a) capital, equipment, or land; and (b) personal labor or active personal management; to the farming operation; (2) the individual’s share of the profits or losses from the farming operation is commensurate with the individual’s contribution to the operation; and, (3) the individual’s contributions are at risk.

Corporations or other entities: Shall be considered as actively engaged in farming if: (1) the entity separately makes a significant contribution of capital, equipment, or land; (2) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and, (3) the standards related to commensurate shares and contributions at risk are met by the entity.

Entities making significant contributions: If a general partnership, joint venture, or similar entity separately makes a significant contribution of capital, equipment, or land, and the standards related to commensurate shares and contributions at risk are met by the entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming.

11b.18 Special classes of actively engaged: The following persons shall be considered to be actively engaged in farming: (1) a landlord who contributes owned land to the farming operation and receives rent or income on the land based on the land’s production or the operation’s operating results, and meets the standards related to commensurate shares and contributions at risk (NOTE: A landlord contributing land to the farming operation if the landlord receives cash rent, or a guaranteed crop share, for the use of the land, shall not be considered to be actively engaged in farming.); (2) an adult family member who makes a significant contribution of active personal management or personal labor to a farming operation in which a majority of members are of the same family, and who meets the commensurate share and contributions at risk standards; and, (3) a sharecropper who makes a significant contribution of personal labor, and meets the commensurate share and contribution at risk standards.

11b.19 Custom farming operations: A person receiving custom farming services will be considered eligible for payment limitation purposes if such person is actively engaged in farming and satisfies the above general requirements. No other rules with respect to custom farming shall apply.

11b.20 Schemes or devices to avoid payment limitations: If the Secretary determines that any person has adopted a scheme or device to evade payment limitation requirements, such person shall be ineligible to receive farm program payments for the crop year in which the scheme or device was adopted and for the succeeding crop year.

11b.21 Foreign persons: For each of the 1991-95 crops, any person who is not a citizen or permanent resident of the United States shall be ineligible to receive any type of program payments or price support loans on a farm they own or operate unless they provide land, capital, and a substantial amount of personal labor in the production of crops on the farm. A corporation or other entity shall be considered an ineligible person for program payments or price support loans if more than 10% of the beneficial ownership of the entity is held by persons who are not citizens or permanent residents, unless such persons provide a substantial amount of personal labor in the production of crops on the farm. However, the Secretary may make payments, loans, or other benefits available to the entity in relation to the percentage of ownership made up by U.S. citizens and permanent residents.

11b.22 Education program: The Secretary shall provide training of appropriate personnel for the purpose of fostering more effective and uniform application of the payment limitation. The State ASCS office shall make the initial determi-
nation concerning the application of established payment limitations and restrictions for farm operations consisting of more than 5 persons, subject to review by the Secretary.

The Secretary shall carry out the education program through the CCC.

11b.23 Treatment of multiyear program contract payments: In the event of a transfer of ownership of land (or an ownership interest in land) by way of devise or descent, the Secretary may, if the new owner succeeds to the prior owner's conservation reserve, wetland reserve, or environmental easement contract, make payments to the new owner under such contract without regard to the amount of payments received by the new owner under any CRP, WRP, or EEP contract executed prior to such devise or descent. Payments made shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

Subtitle C — Provisions Related to Agricultural Act of 1949

11c.1 Advance deficiency payments: If the Secretary establishes an acreage limitation program for any of the 1991-95 crops of wheat, feed grains, upland cotton, or rice and determines that deficiency payments will likely be made for the crop, the Secretary shall make advance deficiency payments available to producers as soon as practicable after sign-up in an amount equal to 40-50% of the projected deficiency payments for wheat and feed grains and 30-50% of the projected deficiency payments for upland cotton and rice. (The advance deficiency payments for wheat and feed grains in 1991 are being made at a level that represents 40% of the projected deficiency payments.)

Terms and conditions: Advance deficiency payments may be made in the form of: (1) cash; (2) commodities owned by CCC and generic commodity certificates redeemable for commodities owned by CCC; or, any combination of the two. No more than 50% of the advance payment may be made in commodities or certificates. If the payments are made under option (2), producers may choose whether they prefer commodities or certificates. Certificates shall be redeemable up to 3 years after issuance, and CCC shall pay storage costs for a commodity until the certificate is redeemed.

11c.2 Repayment of advance deficiency payments: If the final deficiency payment is less than the advance (including cases where the final payment is zero) producers shall repay the excess advance payment, due at the end of the marketing year for which the advance payment applies. Also, if a producer who receives an advance payment fails to comply with the terms and conditions of the acreage limitation program, the total amount of the advance shall be repaid immediately, plus interest.

11c.3 Land diversion payments: If the Secretary makes land diversion payments to producers of the 1991-95 crops of wheat, feed grains, upland cotton, or rice, the Secretary may make at least 50% of such payments available as soon as possible after sign-up.

11c.4 Repayment of advance payments for the 1988 and 1989 crops: Effective only for producers who are suffering financial hardship, as determined by the Secretary, and who received advance deficiency payments for the 1988 or 1989 crop, the Secretary: (1) shall not charge interest for any delinquent refund in excess of the prevailing rates for operating loans made by Farm Credit System institutions; (2) shall not withhold more than 1/3 of the farm program payments otherwise due to the producers in each of the next 3 years as a result of the delinquency; and, (3) shall permit the producers to make the refund in three equal installments during each of the 1990, 1991, and 1992 crop years, if the producers enter into an agreement to obtain multi peril crop insurance for each of those crop years consistent with the provisions of the Disaster Assistance Act of 1989.

Application: These repayments shall apply to producers if each of the following conditions hold: (1) they received an advance deficiency payment for the 1988 or 1989 crops; (2) their refund due is at least $1,500; (3) they reside either in a county or a contiguous county where the Secretary has found that farming, ranching, or aquaculture operations have suffered at least a 30% reduction in production during two of the three crop years 1988, 1989, and 1990; and, (4) their harvest of the 1988 or 1989 crops was less than 65% of their farm program payment yield.

11c.5 Commodity certificates: In making in-kind payments under any of the annual programs for wheat, feed grains, upland cotton, or rice, the Secretary may:

(1) acquire and use like commodities that have been pledged to CCC as security for price support or FOR loans;
(2) use other like commodities owned by CCC.

The Secretary may make in-kind payments:

(1) by delivery of the commodity to the producer at a warehouse or similar facility;
(2) by the transfer of negotiable warehouse receipts;
(3) by the issuance of negotiable certificates which CCC shall redeem for a commodity; or
(4) by such other methods as the Secretary determines appropriate.

The following additional provisions are applicable:

(1) The Secretary shall pay interest on the cash redemption of a commodity certificate if the producer holds the certificate for at least 150 days. This provision shall not apply to commodity certificates issued in connection with the export enhancement or the export marketing promotion programs.
(2) A subsequent holder of a commodity certificate shall be allowed to exchange the expired certificate under the same rules that apply to an original holder of the certificate. However, such an ex-
change shall only apply for 180 days following enactment and no person may redeem more than $1,000 worth of expired certificates. No person shall receive a payment for an expired certificate in an amount greater than the price paid for the certificate by the person, or if the certificate was purchased after January 1, 1990.

11c.6 General terms of the farmer-owned reserve: The Secretary shall formulate and administer a farmer-owned reserve (FOR) under which producers of wheat and feed grains will be able to store their commodities whenever the commodities are in abundant supply, extend the time period for the orderly marketing of the commodities, and provide for adequate carryover stocks to ensure reliable supplies. In carrying out this program, the Secretary shall provide for:

1. extended price support loans for wheat and feed grains, made available only after the expiration of the original 9-month price support loan, at a loan rate not less than that for the original loan;
2. repayment of the extended price support loan 27 months from the date on which the original loan expired unless, at the Secretary’s discretion, the loan is extended for one 6-month period;
3. an interest rate and storage payment specified by provision; and,
4. assurance that producers are afforded a fair and equitable opportunity to participate in the program, taking into account regional differences in the time of harvest.

11c.7 Producer repayment of FOR loans: Producers may repay the extended loan at any time during the contract period. The Secretary may require repayment prior to maturity if the Secretary determines that an emergency exists that requires the commodities under loan to be available to meet urgent domestic and international needs.

11c.8 Interest charges on FOR loans: The Secretary may charge interest on FOR loans whenever the price of wheat or feed grains is greater than or equal to 105% of the current target price for the crop. If interest is levied, it may be charged for up to 90 days after the last day on which the price was greater than 105% of the target price. The interest rate may not be less than the rate which the U.S. Treasury charges the CCC, except that the Secretary may waive or adjust the interest as appropriate for program administration.

11c.9 Storage payments for FOR loans: The Secretary shall provide storage payments to producers, payable at the end of each quarter, in such amounts and under such conditions as the Secretary determines appropriate to encourage participation in the FOR. The Secretary shall cease making storage payments whenever the price of wheat or feed grains is greater than 95% of the current target price and for any 90-day period immediately following the last day on which the price was greater than 95% the target price. Storage payments on FOR loans are subject to provisions related to comparability of storage payments.

11c.10 Quantity of commodities in FOR: The Secretary may establish maximum quantities that may receive loans and storage payments under the FOR as follows:

<table>
<thead>
<tr>
<th>Crop</th>
<th>Maximum in FOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>wheat</td>
<td>300-450 mil. bu.</td>
</tr>
<tr>
<td>feed grains</td>
<td>600-900 mil. bu.</td>
</tr>
</tbody>
</table>

The Secretary shall announce the terms and conditions of the program by December 15 of the year in which the crop was harvested for wheat; and, March 15 of the year after the crop was harvested for feed grains. The announcement shall include the maximum quantities determined appropriate by the Secretary.

Discretionary entry: The Secretary may make extended loans available to producers of wheat and feed grains if: (1) the Secretary determines that the average market price for wheat and feed grains for the 90-day period prior to the announcement deadline is less than 120% of the current loan rate for the crop; or, (2) as of the announcement deadline, the Secretary estimates that the stocks/use ratio on the last day of the current marketing year will be more than 37.5% for wheat, and more than 22.5% for corn.

Mandatory entry: The Secretary shall make extended loans available if both of the conditions described above under discretionary entry are met for wheat and feed grains, respectively.

11c.11 Miscellaneous provisions of the FOR: Reconcentration of grain: The Secretary may, with concurrence of the owner, reconcentrate all grain stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality to ensure that the holding producer or warehouser shall, at all times, have available for delivery at the designated price of storage both the quantity and quality of grain covered by the storage agreement.

Management of grain: Whenever grain is stored in the FOR, the Secretary may buy and sell at an equivalent price substantially equivalent quantities of grain in different locations to the extent needed to properly handle, rotate, distribute, and locate commodities that the CCC owns and controls. Purchases to offset sales shall be made within 2 market days, with a daily list made available of all such transactions.

Use of CCC: The Secretary shall use the CCC, to the extent feasible, to fulfill the purpose of the FOR. The Secretary shall also use the usual and customary channels, facilities, and arrangements of trade and commerce to the maximum extent possible.
11c.12 Use of commodity certificates regarding FOR: If a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for an FOR loan, the producer may repay the loan using a generic certificate that may be exchanged for commodities owned by the CCC, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county. In addition, the Secretary has the discretion to allow the exchange of certificates for substituted collateral.

11c.13 Comparability of storage payments: In making storage payments to producers under the FOR provisions and to commercial warehousemen under the CCC Charter Act provisions, the CCC and the Secretary shall, to the extent practicable, ensure that the rates of the storage payments made to producers are equivalent to average rates paid for commercial storage, taking into account the current demand for storage, efficiency, location, and impact of use fees as determined by the Secretary. The rates shall be established at such a level that will result in no increase in current or projected combined outlays of the CCC for storage payments to both producers and commercial warehouses.

11c.14 Supplemental set-aside and acreage limitation authority: The Secretary may announce, provide for, and modify an acreage limitation program for each of the 1991-95 crops of wheat and feed grains if the Secretary determines that such action is in the public interest as a result of export restrictions imposed by the President or other member of the executive branch.

11c.15 Disaster payments for soybeans and sugar beets;

Prevented planting: The Secretary may make prevented planting disaster payments to producers who were prevented from planting soybeans, sugar beets, or other nonconserving crops because of adverse weather or other condition beyond their control. The payment is determined by multiplying the number of affected acres by 75% of the farm program payment yield by 50% of the loan and purchase level for the crop.

Reduced yields: If the Secretary determines that, because of adverse weather or other conditions beyond the producer’s control, the total quantity of soybeans and sugar beets that producers are able to harvest is less than 60% of the farm’s program payment yield multiplied by the acreage planted to the crop, the Secretary may make a reduced yield disaster payment to the producers at a rate equal to 50% of the loan and purchase level for the crop for the deficiency in production below 60% for the crop.

Adjustments: The Secretary may adjust the prevented planting and reduced yield disaster payments on an individual farm to assure the equitable allotment of payments among producers, taking into account other forms of federal disaster assistance received by the producers.

11c.16 Increase in support levels: Price support at a level in excess of the maximum otherwise prescribed if the Secretary determines, after public hearing, that increased support levels are necessary to prevent or alleviate a shortage in the supply of any agricultural commodity essential to the national welfare or to increase or maintain production in the interest of national security.

Effective only for the 1991-95 crops of wheat, feed grains, upland cotton, and rice, the Secretary may annually adjust the target price for each crop to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by farmers for production items, interest, taxes, and wage rates.

11c.17 Adjustments of support prices: The Secretary may make appropriate adjustments in the support price for any commodity (excluding cotton) for differences in grade, type, quality, location and other factors. To the extent practicable, such adjustments shall be made in such a manner that average support prices for the commodity will be equal to the level of support provided for under this Act.

Limitation for wheat and feed grains: For each of the 1991-95 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, state, or county for the purpose of reflecting transportation differentials may increase or decrease the level established for the previous year by more than the percentage change in the national average loan plus or minus 3 percent.

11c.18 Program options for 1996 crops: The Secretary may offer an option to producers of the 1996 crop of wheat, feed grains, upland cotton, ELS cotton, rice, or oilseeds and to dairy producers for the 1996 calendar year to participate in commodity price support, production adjustment, and payment programs. The Secretary may offer such programs based on the terms and conditions provided for the 1991-95 crops. Any target price or loan rate made available shall be the same as that for the 1995 crops, or 1995 calendar year for dairy. The Secretary may offer such options for the 1996 crops if the Secretary has not made final program announcements for the 1996 crops before:

<table>
<thead>
<tr>
<th>Crop</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>wheat</td>
<td>June 1, 1995</td>
</tr>
<tr>
<td>feed grains</td>
<td>Sept. 30, 1995</td>
</tr>
<tr>
<td>upland cotton</td>
<td>Nov. 1, 1995</td>
</tr>
<tr>
<td>ELS cotton</td>
<td>Dec. 1, 1995</td>
</tr>
<tr>
<td>rice</td>
<td>Jan. 31, 1995</td>
</tr>
<tr>
<td>oilseeds</td>
<td>July 15, 1995</td>
</tr>
<tr>
<td>dairy</td>
<td>Nov. 1, 1995</td>
</tr>
</tbody>
</table>

Producers may not participate in such programs unless a subsequent law has been enacted that provides for loans and purchases for the 1996 crops, or for dairy for the 1996 calendar year.
11c.19 CCC sales price restrictions: Except as otherwise provided, CCC shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 115% of the lower of: (1) the current national average price support loan rate for the commodity adjusted for the current market differentials reflecting grade, quality, location, reasonable carrying charges, and other appropriate factors; or, (2) the loan repayment level.

Oilseeds: CCC shall not sell oilseeds at less than the lower of (1) 105% of the current national average price support loan rate, adjusted for market differentials; or, (2) 115% of the loan repayment level.

Wheat and feed grains: Whenever the FOR is in effect, CCC may not sell any of its stocks of wheat and feed grains at less than 150% of the then current loan rate.

11c.20 Nonapplicability of CCC sales price restrictions: The above CCC sales price restrictions shall not apply to: (1) sales for new or byproduct uses; (2) sales of peanuts and oilseeds for the extraction of oil; (3) sales for seed or feed if the sales will not substantially impair any price support program; (4) sales of commodities that have substantially deteriorated, or for which there is a danger of deterioration, in quality; (5) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts; (6) sales for export (excluding sales of upland cotton for export); (7) sales of wool; and, (8) sales for other than primary uses.

11c.21 CCC sales price restrictions related to disaster, distress, and emergency livestock areas: CCC may make available any farm commodity or product owned by CCC for use in: (1) relieving distress in any area in the United States declared by the President to be an acute distress area because of unemployment or other economic cause; or, any major disaster determined by the President to warrant federal assistance; and, (2) donate or sell commodities in accordance with emergency livestock assistance programs. Except on a reimbursable basis, CCC shall not bear any costs beyond the cost of storage, handling, and transportation.

11c.22 CCC sales price restrictions related to efficient operations: CCC sales price restrictions shall not apply to sales of commodities which are sold in the interest of effective and efficient operations of the CCC because of small quantities involved, or because of age, location, or questionable continued storability.

Such sales shall be offset by the purchases of commodities determined necessary to prevent adverse effects on price support programs or unduly affecting market prices. The price CCC pays for offsetting purchases shall not exceed the minimum sales price for unrestricted use.

Subject to sales price restrictions, the Secretary may sell any basic or storable nonbasic commodity on a competitive bid basis, if determined appropriate by the Secretary.

11c.23 CCC sales price restrictions related to sales for export: Sales for export shall include: (1) sales made on condition that the identical commodities sold be exported; and, (2) sales made on condition that commodities of the same kind and of comparable value or quality be exported, either in raw or processed form.

11c.24 General producer appeals process: Any participant may appeal an adverse determination as follows: county committee determinations appealed to state committee; State committee determinations appealed to the National Appeals Division; determinations by any other employee or agent of ASCS or CCC may appeal to the National Appeals Division.

11c.25 National Appeals Division: The Secretary shall establish a National Appeals Division (NAD) within ASCS, consisting of a director, hearing officers, and other necessary administrative personnel, all of whom shall be employees of USDA and have no other duties other than hearing and determining formal appeals. Hearing officers shall hear each appeal. The director of NAD has broad powers to have access to all necessary records, audits, etc., and to subpoena witnesses or documents. All hearing officers within NAD shall report to the principal officers within the division and shall not be under the direction or control or receive administrative support from officers other than NAD.

11c.26 General procedure for hearings of appeals: Hearings are held at a time and place designated by the NAD. Participants shall be advised of the issues involved and be given a full opportunity to present facts and information relevant to the matter at issue. The hearing officer may exclude irrelevant information. The hearing must be recorded verbatim and a transcript of the hearing made available, along with copies of all documents and evidence submitted.

11c.27 Procedure for review of decisions: The director of NAD shall make all determinations with respect to appeals submitted to the division, based on the certified record received from the hearing officer. The director of NAD may order further proceedings. Determinations of the director shall be final, conclusive, and binding on USDA, CCC, and any agency thereof. Final decisions of USDA are reviewable by a US court of competent jurisdiction.

11c.28 Delegation of authority for appeals: Nothing shall preclude the Secretary, Administrator of ASCS, or the Executive Vice President of CCC from making a determination or reversing any determination made by a state or county committee or by the director of NAD.

11c.29 Decisions of state and county committees: Decisions of state and county committees, unless otherwise appealed, shall be final within 90 days, and no action shall be taken to recover amounts disbursed in error.
The Secretary shall prescribe the necessary regulations to announce for programs for that marketing year. The support levels on the ability of producers to meet their financial obligations (esp. for FmHA and other) and other qualifying payments, taken actions in good faith in reliance on the advice of an authorized representative of the Secretary. The Secretary may provide such support to the extent such farmer has been injured by the good faith reliance, and may require the farmer to take necessary action designed to remedy any failure to comply.

Subtitle D — Miscellaneous Commodity Provisions

11d.1 Food Security Wheat Reserve: The Secretary shall establish a Food Security Wheat Reserve with 4 million metric tons of wheat, to be allocated for purposes of emergency food donations. Within 18 months after release of stocks from the reserve, the Secretary shall replenish the reserve: (1) through purchases to the extent of available appropriations; or, (2) to the extent appropriations are not available, by designating an equivalent quantity of wheat from uncommitted CCC stocks, except to the extent the Secretary reports to Congress that there are not sufficient uncommitted CCC stocks available.

11d.2 National Agricultural Cost of Production Standards Review Board: Membership of the Board shall consist of seven members who, individually or as a group, are engaged in the commercial production of each of the program crops and in one or more of the other various major agricultural commodities produced in the United States.

11d.3 Assignment of payments: A payment that may be made to a producer may be assigned only in accordance with regulations issued by the Secretary. These provisions shall not authorize any suit against or impose any liability on the Secretary or other agent of the Secretary without regard to the existence of any such assignment. The Secretary shall prescribe the necessary regulations to carry out these provisions.

11d.4 Financial impact study: The Secretary shall conduct an annual assessment of the financial impact of the support levels announced for the various program crops. The assessment should include the effect of such support levels on the ability of producers to meet their financial obligations (esp. for FmHA and FCA). Report due to Congress no later than the date of the final announcement for programs for that marketing year. The results of the assessment are for informational and oversight purposes only, and are not to be the basis for any administrative or judicial proceedings.

11d.5 Survey of program participants: The Secretary shall survey producers during sign-up for commodity programs in the 1992 calendar year regarding their preference for the redistribution of any crop acreage base on each producer’s farm. ASCS would be required to survey producers as to their preference to redistribute bases among existing program crops on the farm, among program crops which the producer currently does not have a base, or any combination of the two. Analysis of results must be reported to Congress by January 31, 1993.

Subtitle E — Options Pilot Program

11e.1 Purpose of program: The Secretary is required to conduct necessary research to ascertain whether futures options trading would provide reasonable protection to producers from market fluctuations and whether producers would accept and fully utilize this method of price protection.

11e.2 Description of program: The Secretary must conduct a pilot program for each of the 1991-95 crops of corn, and for each of the 1993-95 crops of wheat and soybeans. The pilot program in 1991 must be carried out in at least 3 counties in at least 3 major corn producing states. Additional states may be added later.

MISCELLANEOUS COMMODITY PROVISIONS IN OTHER TITLES

20.1 Entry quality standards for all FOR grain: In announcing the terms and conditions of the farmer-owned reserve program, the Secretary shall review standards concerning the quality of grain that shall be allowed to be stored under the program, and such standards should encourage only quality grain to be pledged as collateral for FOR extended loans.

20.2 Price support loan incentives for quality grain: Beginning with the 1991 crops of wheat, feed grains, and soybeans, the Secretary shall establish premiums and discounts related to cleanliness factors in addition to any other premium or discounts related to quality.

20.3 Quality requirements for CCC-owned grain: The Secretary shall establish minimum quality standards that shall apply to CCC-owned grain. In establishing such standards, the Secretary shall take into consideration factors related to the ability of grain to withstand storage and assurance of acceptable end-use performance. CCC shall use approved FGIS procedures to inspect and evaluate grain it acquires from producers.

25.1 Outreach and assistance for socially disadvantaged farmers and ranchers: The Secretary shall provide outreach and technical assistance to encourage socially disadvantaged farmers to participate in USDA programs. The Secretary shall review participation by socially disadvantaged groups, compared to participation of other groups, in each crop program on a state-by-state
and county-by-county basis. The review must identify reasons for participating or not participating in the crop programs. The Secretary shall calculate on a state-by-state and county-by-county basis the following information for each crop: total crop base for each crop, the percentage of total base controlled by socially disadvantaged producers, and average payment yield of socially disadvantaged producers. A report is due to Congress no later than September 30, 1992, and every two years after.

The Secretary shall propose an affirmative action plan to increase the rates of participation of socially disadvantaged groups. A report on the plan is due to Congress no later than 1 year after enactment.

An appropriation of $10 million is to be made for each fiscal year to carry out this section.

25.2 Consolidated suboffices on Indian reservations: The Secretary shall require ASCS, SCS, and FmHA offices in each county that has a reservation within its borders, to establish a consolidated suboffice at the tribal headquarters of the reservation, and to staff the suboffice as needed with existing personnel, but no less than 1 day per week. The tribe shall be required to provide the necessary office space if it wishes to participate in this program.

25.3 Recordkeeping improvements: To the extent practicable, it shall be the goal of USDA to bring about, within 3 years, a substantial reduction in the volume of documentation, and in the amount of time devoted and the number of visits to USDA offices, that are necessary to complete paperwork required of the typical producer participating in programs administered by the Secretary. Specific proposals are due in a report to Congress within 240 days. Such a report shall consider the feasibility of reducing paperwork and recordkeeping requirements by providing producers with access to a computerized departmental network or system that could be used by producers to transfer information electronically.

MISCELLANEOUS COMMODITY PROVISIONS IN THE OMNIBUS BUDGET

RECONCILIATION ACT OF 1990

OBR.1 Effective dates and basic provisions: The Omnibus Budget Reconciliation Act of 1990 became effective on November 29, 1990 (one day after enactment of the Food, Agriculture, Conservation and Trade Act of 1990). It will apply to program commodities produced in the 1991-95 period.

The Act authorizes minimum ARPs for wheat and feed grains; reduced payment acres ("triple base") for each program crop; recalculation of deficiency payments for 1994 and 1995 for wheat, feed grains, and rice; a loan origination fee for soybeans; marketing assessments for sugar, honey, peanuts, wool, mohair, and tobacco; and, a reduction in the purchase price for dairy.

OBR.2 Failure to enter into GATT agreement: If by June 30, 1992, the United States does not enter into an agricultural trade agreement in the Uruguay Round of multilateral trade negotiations under GATT, agricultural acreage limitation and price support and production adjustment programs and export promotion programs shall be reconsidered and adjusted by the Secretary as appropriate to protect the interests of American agricultural producers and ensure the international competitiveness of U.S. agriculture.

If a GATT agreement is not reached by June 30, 1992, the Secretary: (1) is authorized to waive any minimum ARP level required or authorized for any of the 1993-95 crops of wheat, feed grains, upland cotton, or rice; (2) shall authorize marketing loans for wheat and feed grains; and (3) shall increase export promotion programs by $1 billion for the period October 1, 1993 through September 30, 1995.

OBR.3 Failure of GATT agreement to enter into force: If by June 30, 1993, an agricultural trade agreement under the Uruguay Round of multilateral trade negotiations under GATT has not entered into force for the United States, agricultural price support and other programs and export promotion levels shall be reconsidered and adjusted by the Secretary, if such action is appropriate to protect the interests of American agricultural producers and ensure the international competitiveness of U.S. agriculture.

If the GATT agreement is not reached by June 30, 1993, the Secretary shall consider: (1) waiving all or part of the requirements of this Act regarding reductions in agricultural spending; (2) increasing the level of funds made available for export promotion; and (3) authorizing marketing loans for the 1993-95 crops of wheat and feed grains.