Provisions of the Food, Agriculture, Conservation, and Trade Act of 1990

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Introduction

The Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624), or the 1990 Act, provides a 5-year framework for the Secretary of Agriculture to administer agriculture and food programs. Several of the commodity programs were started decades ago under the Agricultural Adjustment Acts of 1933 and 1938 and the Agricultural Act of 1949 (commonly referred to as permanent legislation). Thus, the commodity programs are legislated under the 1949 Act as amended by previous legislation and by the 1990 Act. The 1990 Act also amends legislation that created USDA's food stamp, credit, rural development, and research programs. New programs target marketing of fruits and vegetables, forestry, grain quality, crop insurance and disaster assistance, organic foods, and global climate change.

The 1990 Act was passed by Congress on October 26 and signed by the President on November 28, 1990. The legislation continues the market-oriented approach to farm policy contained in the Food Security Act of 1985. The Omnibus Budget Reconciliation Act of 1990, which was passed by Congress on October 27 and signed by the President on November 5, 1990, amends the 1949 Act.

This report summarizes the 25 titles of the new 1990 Act and makes some comparisons to earlier legislation. The provisions of the Omnibus Budget Reconciliation Act of 1990 that apply to agriculture are also explained. Dollar amounts referred to in the text are the authorized funding levels. For a program to actually receive this money, an appropriation is also necessary. Therefore, some authorized programs may not be implemented as no money was appropriated for them. One provision of the legislation permits the Secretary of Agriculture to prioritize the many studies or reports mandated in the legislation, ensuring that at least 12 are completed. Thus, some studies mentioned in this report may not be conducted.

The Secretary referred to throughout the text is the Secretary of Agriculture, unless otherwise noted. The report concludes with a summary of the agricultural title of the Omnibus Budget Reconciliation Act of 1990, a glossary of agricultural terms used in this report, a list of agricultural legislation enacted from 1933 to 1990, a list of additional readings, a table listing commodity program levels for 1987 to 1991, and an index.

Title I--Dairy

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The 1990 Act continues the milk price support program through government purchases of storable dairy products such as butter, cheese, and nonfat dry milk. It requires USDA to prepare a report to Congress with recommendations on a program to limit growth in government purchases of dairy products, excluding the options of a whole herd buyout program or a decrease in the price support below the established minimum level.

Price Supports

Title I sets the minimum support price for milk at $10.10 per hundredweight (cwt) for milk containing 3.67-percent milkfat. The price of milk is supported through Commodity Credit Corporation (CCC) purchases of butter, cheese, and nonfat dry milk. The market price of whey may not be included in calculating the price support. The Secretary may set butter and nonfat dry milk prices at different levels to reduce CCC program costs. No more than two adjustments in purchase prices can occur in a calendar year. In no case can the support price be less than $10.10.

If the level of CCC purchases of milk and milk products are projected, on November 20 of the preceding calendar year, to exceed 5 billion pounds (milk equivalent, total milk solids basis), then the support price in effect for the calendar year must be reduced by 25-50 cents per cwt; reductions cannot be lower than the minimum support price. If the level of purchases is projected to be no more than 3.5 billion pounds (milk equivalent), then the support price in effect must be increased at least 25 cents per cwt. If purchases are projected to be between 3.5 billion pounds and 5 billion pounds (milk equivalent) for any of these years, no adjustment is to be made. The House and Senate agriculture committees must be notified of any proposed adjustments in the price support level.

The 1990 Budget Act amends the 1990 Act with a budget reduction provision for dairy. Prices received by producers for all milk produced and marketed in the United States will be reduced by 5 cents per cwt for calendar year 1991, and 11.25 cents per cwt for calendar years 1992-95. Dairy producers and handlers will remit this amount to the CCC. Producers who do not increase their milk marketings from year-earlier levels will receive a refund of the amount reduced. Beginning in 1992, another assessment may be required if CCC purchases exceed 7 billion pounds (see "Excess Purchases and Assessments" section).

Definition of "Milk Equivalent, Total Milk Solids"

Milk equivalent, total milk solids is equal to the weighted average of the milk equivalent as computed on a milkfat basis and on a nonfat solids basis with weighting factors of no more than 40 percent of milkfat and no more than 70 percent of nonfat solids; the sum of the weighting factors must total 100 percent.

In calculating CCC purchases, the Secretary must deduct the amount by which the level of imports of milk products in the most recent calendar year exceeds the annual average imports from 1986-90, milk equivalent, total milk solids basis.

Inventory Management Study

Within 60 days of enactment of the 1990 Act, the Secretary must publish a notice in the Federal Register soliciting proposals on a milk inventory management program. By August 1, 1991, the Secretary must submit a report to Congress explaining options for limiting further growth in government purchases of dairy products. The report must analyze and make recommendations on alternative milk inventory management programs, including an alternative classification under the Federal milk marketing order system, and a program for the support of national dairy producer income through a system of established prices and deficiency payments. The analysis cannot include any milk production termination program like a whole herd buyout for slaughter or export, or support price reductions below $10.10 per cwt.

Excess Purchases and Assessments

Milk prices received by dairy farmers must be reduced for 1992-95 if surplus is estimated by November 20 for the next calendar year to exceed 7 billion pounds, milk equivalent. Producers will be assessed the amount needed to reimburse the CCC for the cost of purchases in excess. The assessment is calculated by dividing the cost of the purchases in excess of 7 billion pounds by the total quantity of hundredweights of milk the Secretary estimates will be produced and marketed for commercial use during the next calendar year. The assessments can be adjusted or refunded in future years to reflect the actual purchases in excess.

Make Allowance

Effective 12 months after enactment of the 1990 Act, no State or individual plant may collect, directly or indirectly, a manufacturing or "make" allowance for processing milk that exceeds what is permitted under a Federal program to establish a Grade A price for manufacturing butter, nonfat dry milk, or cheese, unless the net return to producers exceeds the level of price support provided under the dairy program (see Appendix II--Glossary). Dairy product manufacturers may be liable for penalties if they collect a make allowance in excess of the permitted amount or fail to comply with regulations. The amount of the penalty equals twice the permitted make allowance that can be charged, multiplied by the quantity of the milk on which the manufacturer was determined to have collected the allowance in excess of the permitted amount.

Milk Marketing Adjustments and Orders

Hearings must be scheduled by October 1, 1991, to consider replacing the Minnesota-Wisconsin (M-W) price series. The M-W price provides the basis for minimum-class prices under the Federal milk marketing orders (see Appendix II--Glossary). Alternative pricing formulas that the Secretary must consider include a price series based on prices paid by milk processors for Grade A milk, and for manufacturing grade milk that is used to manufacture dairy products.

Adjustments for Seasonal Production, Hearings on Amendments, Determination of Milk Prices

The 1990 Act extends until 1995 the provisions authorizing the Secretary to adjust seasonal production to encourage producers to spread their milk marketings throughout the year. Also extended are provisions requiring that hearings be held to amend a Federal milk marketing order if at least one-third of the producers supplying the market petition for such hearings. The Secretary is also authorized to determine a revised pricing standard for milk.

Transfer of Dairy Products to Military and Veterans' Hospitals

The 1990 Act continues the transfer of dairy products (butter, cheese, and other items) to military and veterans' hospitals through December 31, 1995.

Extension of the Dairy Indemnity Program

The 1990 Act continues the Dairy Indemnity Program through September 30, 1995. Under this program, the Secretary is authorized to compensate dairy farmers for lost production if they are directed to remove their milk from commercial markets because of contamination.

Export Sales of Dairy Products

The 1990 Act continues the export sales program through September 30, 1995. Under this program, in each fiscal year, the Secretary must sell at least 150,000 metric tons of CCC-owned dairy products for export. At least 100,000 metric tons must be butter and 20,000 metric tons must be cheese. These sales must be made provided they do not interfere with the usual domestic marketing or disrupt world prices of agricultural commodities and normal patterns of commercial trade. The Secretary determines the appropriate price. The Secretary must make semiannual reports to Congress on the volume of sales.

Component Pricing of Milk

The Secretary must study the extent to which milkfat is being produced in the United States in excess of commercial market needs as a result of the current policy of the Federal or State milk pricing system. The study must assess the potential impact on achieving balance in the production, marketing, and domestic commercial use of milkfat by adopting multiple component pricing programs. Results of the study are due 180 days after enactment of this act. Once the study is completed, the Secretary must hold hearings to consider implementing such programs.

National Dairy Hearing

The Secretary must conclude the national hearings regarding possible changes in the pricing provisions of Federal milk marketing orders. To the maximum extent practicable, consistent with applicable laws, the Secretary must implement any changes by January 1, 1992.

Status of Producer Handlers

This provision reaffirms that the legal status of producer handlers under milk orders will not change as a result of enactment of this law.

Title II--Wool and Mohair

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The 1990 Act extends provisions of the National Wool Act of 1954, which were applicable for the 1986-90 marketing years, through the 1995 marketing year. The Secretary is authorized to support the prices of wool and mohair through loans, purchases, payments, or other operations. For the first time, wool and mohair price support payments are subject to a payment limitation. The maximum payment a producer may receive declines over the next 5 years.

Price Support

Since 1955, wool and mohair prices have been supported through direct payments based on the percentage of the national average price needed to bring the average return for all producers up to the statutory formula-based support price. Payments are made on proceeds from net sales. The support rate for shorn wool, rounded to the nearest full cent, remains at 77.5 percent of:

$$\$0.62 * \frac{\text{average parity index of shorn wool for 3 previous calendar years}}{\text{average parity index for 1958-60.}}$$

The parity index used in this calculation is the index of prices paid by farmers for commodities, services, interest, taxes, and farm wages. The support price for pulled wool must be set at a level that maintains its normal marketing practices. The mohair support price must provide about the same percentage of parity for mohair as for shorn wool. The 1990 Budget Act amends the 1954 Act to provide a 1-percent assessment to be placed on payments to producers during the 1991-95 marketing years.

Payment Limitation

The maximum payment a person may receive from the wool and mohair programs is limited separately for wool and mohair in each marketing year to:

$200,000 for 1991,
$175,000 for 1992,
$150,000 for 1993, and
$125,000 for 1994 and each subsequent marketing year.

USDA must issue regulations defining a "person" for the purposes of these programs. These regulations must be consistent with those established under the Food Security Act of 1985 for wheat, feed grains, cotton, and rice.

Titles III and IV--Wheat and Feed Grains

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The 1990 Act amends the Agricultural Act of 1949 to provide price support and production adjustment programs for wheat and feed grain producers through the 1995 crop year. Nonrecourse loans and purchase agreements provide price support; deficiency payments provide income support. The amended 1949 Act also permits the Secretary to make marketing loans available, to pay loan deficiency payments, to make targeted option payments, and to offer a paid land diversion program. Producers must not only follow the program requirements described below, they must also abide by the provisions of the conservation title of the 1990 Act and the provisions of the 1990 Budget Act.

Target Prices and Deficiency Payments

Minimum target prices for wheat, corn, sorghum, and oats are frozen at their respective 1990 levels of $4.00, $2.75, $2.61, and $1.45 per bushel for 1991-95.

The barley target price cannot be less than 85.8 percent of the target price for corn (that is, $2.36). This ends the downward trend of target prices enacted under the Food Security Act of 1985 which reduced target prices from $4.38 to $4.00 for wheat and from $3.03 to $2.75 for corn.

Deficiency payments will be paid to wheat and feed grain producers if the national weighted average market price during the first 5 months of the marketing year is less than the target price. Deficiency payments are determined by multiplying the payment rate times the payment acreage times the program payment yield. For 1991-93, eligible wheat and feed grain producers will receive a payment rate equal to the difference between the target price and the higher of either the national weighted average market price for the first 5 months of the marketing year or the basic price support level prior to any adjustment. For 1994-95, wheat deficiency payment rate calculations will shift to the difference between the target price and the lower of either a 12-month national weighted average marketing year price or the 5-month marketing year price plus 10 cents per bushel, whenever these are higher than the basic price support rate. For 1994-95, the feed grain deficiency payment rate calculations will shift to the difference between the target price and the lower of either the national weighted average market price for 12 months or the first 5 months of the marketing year price plus 7 cents per bushel, whenever these are higher than the price support rate.

The eligible payment acreage is different for 1991 to 1995, due to the amendments made to the 1949 Act by the 1990 Budget Act which mandate a triple base program. Deficiency payments are to be made on the smaller of either planted permitted acreage or on 85 percent of the crop acreage base less any acreage reduction program (ARP) acreage. This program, entitled triple base, is described in Appendix I.

For the 1991 winter wheat crop planted in 1990, producers have two options. First, producers could choose not to collect deficiency payments on the new normal flex acreage (15 percent of the crop acreage base). If they choose this option, then they would receive deficiency payments on a maximum of 85 percent of the crop acreage base minus any ARP and the deficiency payments would be calculated based on the national weighted average market price during the first 5 months of the marketing year. Under the second option, producers could choose to collect deficiency payments on the full permitted acreage and have the payment rate calculated as the target price minus the lower of either (1) the national weighted average market price for the entire marketing year, or (2) the national weighted average market price received by producers during the first 5 months of the marketing year plus 10 cents per bushel, whenever these are higher than the price support level.

In determining deficiency payments for barley, the Secretary must use the national weighted average market price for feed barley. For informational purposes, the Secretary must calculate the refunds of advance deficiency payments a barley producer in the 1988 or 1989 program would have owed, based on a formula that excluded malting barley from market price calculations. The Secretary must publish in the Federal Register the formula used, the aggregate results, and the decision on whether to use the calculation to recalculate refunds owed by barley producers. The Secretary may reduce the total refund owed by a producer of a 1988 or 1989 barley crop based on these calculations. If so, the Secretary must compensate producers who have already repaid their advance deficiency payments. The reimbursement may be made in a lump sum with commodity certificates which may be exchanged for commodities owned by the Commodity Credit Corporation (CCC) if paid within 60 days of enactment.

Price Support Loans, Purchases, and Loan Repayment

Price support rates must be set to maintain a competitive relationship for wheat and feed grains in domestic and export markets, and to reflect production costs, supply and demand conditions, as well as the world prices of wheat and feed grains.

The basic price support rate is calculated as 85 percent of the preceding 5-year moving average market price, dropping high and low price years. However, the basic price support rate cannot be reduced by more than 5 percent from the preceding year. The Food Security Act of 1985 amended the 1949 Act to set the price support rate at 75-85 percent of the previous 5-year average market prices, excluding the high and low years.

The Secretary may reduce the price support rate by up to 10 percent based on the projected ending stocks-to-use ratio for the current marketing year (table 1). The stocks-to-use ratio is the ratio of total ending stocks to total disappearance for the marketing year (total disappearance means all crop utilization, including total domestic, total export, and total residual disappearance).

The minimum price support rates for wheat and corn are $2.44 and $1.76 per bushel, respectively, unless the rate exceeds 80 percent of the 5-year moving average market price, dropping high and low price years. Therefore, if the 5-year moving average market price, dropping high and low years, for wheat is $3.13, the basic price support rate would be $2.66. If the stocks-to-use ratio were greater than 30 percent, the Secretary could reduce the rate by 10 percent, to $2.39. Eighty percent of the 5-year moving average price is $2.50, which is greater than the minimum price support rate. Therefore, the Secretary would use the minimum price support rate of $2.44 rather than the $2.39 adjusted rate. If, for example, 80 percent of the 5-year moving average price was $2.40 (which is less than the minimum basic rate), then the Secretary would use the $2.39 adjusted rate.

If the Secretary wishes to adjust the price support rate, at least 60 days before an adjustment, the Secretary must submit a report describing the adjustment to the House and Senate agriculture

Table 1--Reduction in price support rates

Reduction from basic price support rate	Stocks-to-use ratio for-- Wheat	Corn
Up to 10 percent	30 percent or more	25 percent or more
Up to 5 percent	15-30 percent	12.5-25 percent
0	Less than 15 percent	Less than 12.5 percent

committees certifying that the reduction is needed to prevent accumulation of stocks and to retain market share.

In addition to the above reductions, the Secretary may reduce the price support rate up to an additional 10 percent to ensure that U.S. commodities are competitive in world markets. Therefore, the Secretary could announce a price support rate of $2.20, which is $2.44 minus 10 percent.

These adjustments are noncumulative and may not be considered in price support rate calculations for future years. Price support rate calculations for the next year begin again with the basic price support rate before adjustments.

For 1986-90 crops, the 1949 Act, as amended by the Food Security Act of 1985, allowed price support levels to be adjusted by up to 20 percent under certain conditions. The 1990 Act provisions ensure that overall, price support rates will likely be higher than if the price support rate formulas of the Food Security Act of 1985 were continued.

If the Secretary adjusts the basic price support rate to maintain a competitive position internationally, producers must be paid emergency compensation (commonly referred to as Findley payments) to provide the same total return as if there had been no reduction. The Findley payment rate equals the basic price support rate minus the higher of either the December 1 estimate of the national weighted season average farm price for the marketing year, or the adjusted announced loan level.

Price support rates for other feed grains (grain sorghum, barley, oats, and rye) are set based on a fair and reasonable relationship to corn, taking into consideration the feeding value relative to corn.

Recourse loans must be provided on high-moisture feed grain crops. The loans are made on eligible quantity (harvested acreage in a high-moisture state multiplied by the lower of the farm program payment yield or the actual yield on a similar field).

The Secretary may again provide loans and purchase agreements for silage through 1996.

Marketing Loans

The Secretary may offer wheat and feed grain producers the option to repay price support loans at a rate lower than the announced price support level in order to minimize potential loan forfeitures, to minimize the accumulation of stocks, and to allow crops to be marketed freely and competitively worldwide. Under a marketing loan, when the market price is below the price support rate, producers may repay their loan at the higher of either the Secretary's determined world market price, or 70 percent of the basic price support rate, even if the rate has been adjusted. Otherwise, the loan is repaid at the adjusted announced price support rate. When implementing a marketing loan program, the Secretary must issue a formula defining the world market price and a mechanism for the periodic announcement of such price.

Loan deficiency payments may be offered to producers who are eligible to receive price support loans or purchase agreement loans but who agree to forgo obtaining such a loan or agreement. The loan deficiency payment equals the product of the loan payment rate times the eligible commodity quantity. The payment rate per bushel is the difference between the announced loan level and the loan repayment rate. The eligible quantity is the wheat the producer is eligible to place under loan (or to obtain a purchase agreement) but for which the producer forgoes obtaining the loan or agreement in return for payments under this subsection. The 1949 Act, as amended by the Food Security Act of 1985, limited the quantity eligible for payments to program payment yields. The 1990 Act's amendments to the 1949 Act base eligible quantities on actual yields.

Acreage Reduction Program

To be eligible for loans, purchases, and payments, producers must comply with the ARP announced by the Secretary for their crop. ARP's and Paid Land Diversion Programs (PLD) are both permitted whenever USDA projects excessive supplies. The Secretary must consider the number of acres enrolled in the Conservation Reserve Program when determining an ARP (see "Title XIV--Conservation").

Under an ARP, the acreage that may be planted to a crop (permitted acreage) is uniformly reduced from the crop acreage base. The 1991 ARP for wheat cannot be less than 15 percent. Under the 1990 Budget Act, the corn ARP must be at least 7.5 percent in 1991. The 1990 Budget Act also specifies minimum ARP's for 1992-95 crops. However, these minimum levels depend on stocks-to-use ratios for each crop as well as the ending stocks for the 1991 crop of soybeans.

The ARP's are set based on the year-end stocks-to-use ratio for the preceding year with a range of 0-20 percent for both wheat and corn (table 2).

The Secretary may establish ARP's separately for each feed grain. The ARP for oats must be 0 percent for 1991-95.

As in the Food Security Act of 1985, the Secretary must announce the ARP program by June 1 for wheat, and by September 30 for feed grains, prior to the calendar year in which the crop is harvested. Adjustments can be made until July 31 for wheat, or until November 15 for feed grains, if the total supply has significantly altered since the first announcement.

The Secretary may also implement a PLD whether or not an ARP is in effect, if a PLD will assist in adjusting the total national acreage to desirable goals. PLD payments may be set through bids submitted by producers or through any other means that the Secretary deems appropriate. The Secretary must consider how much land the producer will be diverting and the productivity of this land. Diverted land must be devoted to approved conserving use. The total acreage diverted in any county must be limited so that the local economy is not adversely affected.

The Secretary may authorize the planting of oats on wheat and feed grain Acreage Conservation Reserve (ACR) if the projected production of oats is less than projected use. Oats planted on this acreage may be eligible for program benefits.

The Secretary may offer targeted option payments (TOP) to producers who increase (or decrease) their ARP in return for an increase (or decrease) in their target price. For each voluntary 1-percent increase (decrease) in the ARP rate above (below) the announced level, a producer may receive an increase (decrease) in target price between 0.5-1 percent. Producers may not increase their wheat ARP by more than 10 percentage points for the 1991 crop and 15 percentage points for 1992-95, or above a 25-percent maximum. Therefore, if a 20-percent ARP is announced, a producer can increase

Table 2--Acreage Reduction Program (ARP) levels

	Stocks-to-use ratio for--	
ARP levels	Wheat	Corn
10-20 percent	More than 40 percent	More than 25 percent
0-15 percent	40 percent or less	NA
0-12.5 percent	NA	25 percent or less

NA = Not applicable.

the ARP to only 25 percent. The corn ARP cannot be increased by more than 5 percentage points for the 1991 crop and 10 percentage points for 1992-95, or above the 20-percent total. Thus, if a 20-percent corn ARP is announced, a producer may not increase the ARP. A producer may not choose to decrease the ARP by more than half of the announced level. Targeted option payments cannot significantly affect program participation or production and cannot increase budget outlays.

Malting barley producers participating in the production adjustment program are subject to an assessment of up to 5 percent of the value of the malting barley. The Secretary may exempt malting barley producers from the barley ARP requirement without loss of eligibility for loans, purchases, and payments.

Bushel Limitation Program

The Secretary must implement a pilot bushel limitation program for 1992 or 1993 in 15 counties in each of two States (30 counties total). The Secretary has the discretion to continue this program for 1994-95 crops. Under this program, producers may plant more acreage than their permitted acreage, up to the sum of the crop acreage base for the farm. However, they must not market, barter, donate, or use (including onfarm use) any wheat or feed grains above their production limitation quantity (the permitted acreage times the higher of the payment yield or the preceding 5-year average harvested yield, excluding years with high and low yields). Any excess production can be stored for up to 5 years and may be marketed, bartered, donated, or used in a later year if actual production falls below the limitation quantity.

If producers in the counties implementing this bushel limitation program choose to participate in the announced ARP or PLD, then they may devote additional acreage to conserving use (CU) beyond the ARP or PLD levels and may be permitted to market or use excess wheat in an amount equal to the quantity that would have been produced on this CU acreage. An evaluation of this program will be carried out and a report submitted to the House and Senate agriculture committees.

Acreage Conservation Reserve

Acreage Conservation Reserve (ACR) or reduced acreage refers to the acreage which must be devoted to conserving uses under the ARP. The quantity required is determined by multiplying the crop acreage base times the percentage reduction required. Producers must plant an annual or perennial cover crop on 50 percent or more of an ACR (not to exceed 5 percent of the base) except in arid and summer fallow areas.

On 50 percent of the ACR, the CCC will pay 25 percent of the cost of a perennial cover--if a producer plants and maintains for 3 years a permanent cover that is capable of improving water quality or wildlife habitats. If the ARP is later reduced below the portion of crop acreage base planted to cost-share perennial cover, the Secretary must pay deficiency payments on this acreage.

The Secretary may permit the planting of conserving crops for harvest on ACR and CU acreage if production is needed to provide an adequate supply of the commodities, will not increase program costs, and will not negatively affect farm income. Conserving crops include sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodities.

The Secretary may permit the planting of designated crops on up to 50 percent of the ACR in return for a specified reduction in deficiency payment acreage. The deficiency payments are reduced for each acre planted to these designated crops by an amount equal to the deficiency payment that would have been made according to the Secretary. If the producer plants more than one program crop, this reduction must be prorated across all program crops. This program must be implemented in a manner which results in no additional cost to the CCC.

Haying and grazing of ACR and CU acreage are permitted except for the 5-month period designated by the State Agricultural Stabilization and Conservation (ASC) committee. This period must be established between April 1 and October 31. During a natural disaster, the Secretary may permit unlimited haying and grazing and may not exclude any irrigated acreage, except irrigated alfalfa acreage.

The 1990 Act continues the summer fallow provisions of the Food Security Act of 1985. These provisions require the Secretary to consider effects of soil erosion and other appropriate factors.

Land converted to water storage use is considered in conserving use for up to 5 years from the date of conversion, if it was previously devoted to program crops or oilseeds in at least 3 of the preceding 5 years. It cannot be devoted to commercial use, including commercial fish production. The water stored cannot be ground water. In addition, the land must have been irrigated with ground water during at least 1 of the preceding 5 years.

ACR may be used for wildlife food plots or wildlife habitats if this acreage conforms to standards set by the Secretary in consultation with wildlife agencies. The CCC may share part of the cost of these practices. The Secretary may also share the cost of approved soil and water conservation practices on this acreage. The Secretary may provide additional payments if a producer agrees to permit access to all or part of the farm for hunting, trapping, fishing, and hiking.

The Secretary may make inventory reduction payments to any producer who agrees to forgo obtaining price support loans, purchase agreements, and deficiency payments; who limits the amount of wheat and feed grains planted for harvest to the crop acreage base minus half the ARP and PLD; and who otherwise complies with these programs. The payment rate is equal to the rate which would be used to make loan deficiency rates.

0/92 Provisions

The general 0/92 provisions are similar to those in effect for 1988 through 1990 except the number of permitted acres has been altered by the triple base provision. (The triple base provision is described in Appendix I.) If producers plant between 0 and 92 percent of the crop's permitted acreage when an ARP is in effect, and devote the rest to conserving uses or approved nonprogram crops, then they are eligible for deficiency payments on 92 percent of the permitted acreage. Payments are guaranteed to be at least at the projected deficiency payment rate.

On 0/92 acreage, the Secretary must permit planting of minor oilseeds and may permit planting of alternative crops on all or part of the acreage without producers losing deficiency payments. Producers who plant a minor oilseed on 0/92 acres and who want to retain eligibility for deficiency payments must forgo obtaining oilseed price support loans. Producers who want oilseed price support loans must forgo obtaining 0/92 payments on this acreage. Minor oilseeds include sunflowers, rapeseed, canola, safflower, flaxseed, mustard seed, and other oilseeds designated by the Secretary, but exclude soybeans. Alternative crops that may be permitted include sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, other commodities for which there are no substantial domestic production or market, and commodities grown for experimental purposes including kenaf and milkweed.

The Secretary may allow alternative crops to be planted on this acreage only if this does not increase the cost of price support programs and negatively affect farm income. These crops must also be needed to provide adequate supplies. In addition, these crops should encourage domestic manufacture of raw materials and increase the industrial use of the raw materials.

Under the 0/92 provisions, wheat and feed grain crop acreage bases and farm program payment yield history are maintained. These 0/92 acres cannot be used to fulfill ARP or PLD requirements.

In implementing the 0/92 provisions, the Secreatary must take action to minimize adverse effects on agribusiness and other agriculturally related economic interests. The Secretary may restrict the number of acres eligible for the program except in cases in which producers were eligible to receive disaster emergency loans due to natural disaster during the crop year.

Disaster Payments

Similar to the Food Security Act of 1985, prevented planting and reduced yield disaster payments are authorized in the case of natural disasters.

If the Secretary determines that any producers have been prevented from planting any portion of their base due to natural disaster, the Secretary must make a prevented planting disaster payment. This payment is calculated by multiplying the number of permitted acres affected times 75 percent of the program payment yield times a payment rate (one-third of the target price). If due to natural disaster, a producer's total yield is less than 60 percent of payment yield times acreage planted, the Secretary will make reduced yield disaster payments equal to 50 percent of the target price for the production loss below 60 percent.

However, if prevented planting and reduced yield crop insurance are available to producers under the Federal Crop Insurance Act, they are ineligible for disaster payments. The Secretary has the discretion to make these disaster payments even when insurance is available if the Secretary determines that the natural disaster has caused substantial losses of production; these losses have created an economic emergency and crop insurance indemnity payments and other assistance are insufficient to relieve the economic emergency; and additional assistance is needed to alleviate the economic emergency.

Other Provisions

The 1990 Act also includes the following provisions for wheat and feed grain programs.

Public Comment

Starting with the 1992 programs, at least 60 days before the program announcement, the Secretary will propose various program options for wheat and feed grains for public comment. In these announcements, the Secretary must include estimates of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and the cost of the programs to the Federal Government.

Cross-Compliance

Compliance with other commodity programs or with crop acreage base requirements for any other commodity cannot be required as a condition of eligibility for program loans, purchases, or payments for wheat and feed grains. The Secretary may not require producers on a farm to comply with terms and conditions of wheat or feed grain programs, unless the farmer chooses to participate in these programs.

Title V–Cotton

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The 1990 Act amends the Agricultural Act of 1949 to provide price support and program adjustment programs for upland cotton producers through crop year 1995. Nonrecourse loans with marketing loan repayment provisions are mandated, and marketing certificates may be paid to handlers of upland cotton. The 1990 Act also amends the 1949 Act to provide price support and production adjustment programs for extra-long staple (ELS) cotton producers through 1995.

Target Prices and Deficiency Payments

The minimum target price for upland cotton is set at the 1990 rate of 72.9 cents per pound for 1991-95. This ends the downward trend of target prices under the Food Security Act of 1985 which lowered the target price from 81 cents per pound for 1986 to 72.9 cents per pound for the 1990 crop.

Deficiency payments must be paid to upland cotton producers who participate in the programs if the national average market price received by farmers is below the target price. Deficiency payments are determined by multiplying the payment rate times the payment acreage times the program payment yield. Eligible producers will receive a payment rate equal to the difference between the target price and the higher of either the national average price during the calendar year or the basic price support rate.

The maximum payment acreage is the lesser of either the acreage the producer plants, or 85 percent of the crop acreage base minus any acreage reduction requirements due to the amendments made to the 1949 Act by the 1990 Budget Act. The maximum payment acreage is set at a maximum of 85 percent of the base due to the mandatory triple base program (which is described in Appendix I).

Price Support Rates and Loan Repayment

The Secretary must set the price support rate to encourage cotton exports and not create excessive stocks. The price support rate should reflect production costs, supply and demand conditions, as well as world prices of upland cotton.

The basic price support rate is the lower of either:

- The average U.S. spot market price, that is, 85 percent of the 5-year moving average of U.S. spot market prices, excluding high and low price years, or

- Ninety percent of the average price of the five lowest priced growths quoted for Northern Europe during a 15-week period beginning July 1, adjusted downward by the average difference in price quotation during the period April 15 to October 15 for Northern Europe and U.S. spot markets.

However, the price support rate floor of 50 cents per pound is continued from the Food Security Act of 1985. The loan level cannot be reduced by more than 5 percent from the previous year. If the average Northern European price is less than the average U.S. spot market price, then the Secretary may increase the loan level up to the average U.S spot market price.

Nonrecourse loans for upland cotton will mature 10 months from the first day of the month in which the loan application is made. Producers can request a loan extension of 8 months unless the designated spot market price for the preceding month exceeds 130 percent of the average price for the preceding 36-month period.

The price support rate must be announced by November 1 of the calendar year preceding the marketing year for which the loan is effective.

The Secretary must make recourse loans available to seed cotton producers.

Marketing Loan Repayment

Marketing loans which allow producers to repay loans at lower repayment rates are mandated if the adjusted prevailing world market price for upland cotton falls below the loan level. The repayment rate is the lesser of either the announced price support rate for cotton, or the higher of either 70 percent of the announced price support rate or the adjusted prevailing world market price for upland cotton.

The Secretary could also set a repayment rate between 70 percent of the price support rate and the price support rate if the Secretary determines it will minimize potential loan forfeitures, minimize accumulation of cotton stocks, minimize Federal storage costs, and allow cotton to be marketed freely and competitively in all world markets.

The Secretary must announce the formula defining the adjusted prevailing world market price for upland cotton and a mechanism for periodic announcement of this price.

<u>Making U.S. Cotton More Competitive</u>

The adjusted prevailing world market price must be further adjusted if:

- The adjusted prevailing world market price is less than 115 percent of the current crop year loan level, and

- The weekly (Friday through Thursday) average price quotation for the lowest priced U.S. growth, as quoted for Middling 1-3/32-inch cotton delivered c.i.f. (cost, insurance, freight) Northern Europe (for the purposes of this publication--the U.S. price), exceeds the weekly average price of the five lowest priced growths of upland cotton (M 1-3/32-inch) cotton, delivered c.i.f. Northern Europe (the Northern European price).

This price must also be adjusted by the U.S. share of world exports, the current level of cotton export sales and cotton export shipments, and other relevant data as determined by the Secretary. These adjustments cannot exceed the difference between the U.S. price and the Northern European price.

If the U.S. price exceeds the Northern European price for any consecutive 4-week period by more than 1.25 cents per pound, the Secretary will issue marketing certificates for documented sales made in the fifth week. The certificates are worth the difference between the two prices minus 1.25 cents per pound. These certificates may be transferred to other people with the Secretary's approval.

The President is also authorized to implement two cotton import quota programs. A special import quota will be implemented if for any consecutive 10-week period the lowest U.S. price (adjusted by certificate value) quoted for delivery to Northern Europe exceeds the Northern European price by more than 1.25 cents per pound. The quota will equal the domestic mill consumption for 1 week. This quota will apply to upland cotton purchased within 90 days after the quota announcement and entered into the United States no later than 180 days after such date. Quota periods can overlap one another.

The second quota is similar to the quota authorized by the 1949 Act for 1986-90 crops. A special limited global import quota will be implemented whenever the average price of the base quality of upland cotton in the designated spot markets for a month exceeds 130 percent of the average price of such quality of cotton in these markets for the preceding 36 months. Whenever this quota is triggered, producers cannot extend their loans. This quota will equal 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months.

If this quota has been established during the preceding 12 months, the quota quantity will be the smaller of either 21 days of domestic mill consumption or the quantity required to increase the "supply" to 130 percent of "demand." (This "supply" equals the ending stock in the previous year, the current production, and the current marketing year's imports. "Demand" equals the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months, and the larger of either the average exports during the preceding 6 marketing years or the cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.) Cotton may enter under the quota during the 90-day period following the announcement. This quota cannot overlap an existing quota period or the special import quota described above.

Loan deficiency payments must be made to producers who are eligible to receive price support loans but who agree to forgo obtaining such loans. These payments will equal the product of the loan payment rate times the eligible quantity of upland cotton. The eligible quantity is the upland cotton the producer is eligible to place under loan but for which the producer forgoes obtaining the loan or agreement in return for payments. The 1949 Act had limited the quantity eligible for payments to program payment yields. Amendments of the 1990 Act will base eligible quantities on actual yields. The loan payment rate is the announced loan level minus the allowed repayment rate. The Secretary may pay up to half of these payments with marketing certificates.

Marketing Certificates

If marketing loans have not assisted in making U.S. upland cotton competitive in world markets and the adjusted world market price remains below the loan repayment rate, the Secretary must issue marketing certificates to first handlers of cotton who agree to participate in the certificate program. First handlers are individuals or businesses who regularly buy or sell upland cotton. The value of these certificates is the difference between the loan repayment rate and the adjusted prevailing world market price. A person receiving marketing certificates can exchange them for cash or commodities owned by the Commodity Credit Corporation (CCC) at such times, in such manner, and at such price levels that best make cotton competitive in world markets. Price restrictions that apply to the disposition of CCC agricultural commodities do not apply to the exchange of these certificates. To the extent practicable, certificate owners can designate which commodities and which storage sites they prefer. Certificates must be exchanged within a reasonable number of days after issuance, or the CCC will deduct storage and carrying costs from the certificate's value. Certificates may be transferred to other people with the Secretary's approval.

Acreage Reduction Program

To be eligible for loans and payments, producers must comply with the cotton Acreage Reduction Program announced by the Secretary. Both Acreage Reduction Programs (ARP) and Paid Land Diversion Programs (PLD) are authorized if total supplies of upland cotton are projected to be excessive. The Secretary must consider the number of acres enrolled in the Conservation Reserve Program (see "Title XIV--Conservation") when determining an ARP.

An ARP for upland cotton can be 0-25 percent in order to achieve a 30-percent estimated stocks-to-use ratio.

The Secretary must make a preliminary announcement of any ARP on or before November 1 of the calendar year preceding the year in which the crop will be harvested. If total supply has significantly changed since the first announcement, the Secretary will make a final announcement of any adjustments to the program no later than January 1 of the calendar year of harvest. Producers in early planting areas (24 counties in South Texas) may elect to participate using either the preliminary or final announcement as the ARP if the Secretary determines that these producers have been unfairly disadvantaged by the revision.

The Secretary may also implement a PLD program whether or not an ARP is in effect if the PLD will assist in adjusting the total national acreage to desirable goals. If a projected carryover of upland cotton is 8 million bales or more at the time of the final ARP announcement, the Secretary must offer a PLD with a payment rate of not less than 35 cents per pound. PLD payments may be determined by bids submitted by producers or by any other means that the Secretary thinks appropriate. The Secretary must consider how much land the producer is diverting and the productivity of this land. Land under PLD must be devoted to conserving use. No more than 15 percent of the upland cotton crop base for a farm can be diverted. Diverted land must be limited so the local economy is not adversely affected.

The Secretary may make targeted option payments (TOP) to producers who increase (or decrease) their ARP in return for an increase (or decrease) in their target price. For each voluntary 1-percent increase (decrease) in ARP above (below) the announced level, a producer may receive an increase (decrease) in target price between 0.5-1 percent. The increase in the ARP cannot be more than 10 percentage points or above a total of 25 percent of the crop acreage base. If a producer has underplanted, then an increase in the ARP should be based on the average difference of the previous 2 years between the producer's permitted acreage and acreage actually planted to harvest, including 50/92 acreage. Producers cannot decrease the ARP by more than half the announced level. Targeted option payments cannot significantly affect program participation or total production and cannot increase budget outlays.

The Secretary may make inventory reduction payments to any producer who agrees to forgo obtaining loans, agrees to forgo receiving payments, limits the amount of upland cotton planted for harvest to the crop acreage base less half of any acreage to be diverted by an ARP or PLD, and who otherwise complies with the program. Marketing certificates may be used to make these payments.

Acreage Conservation Reserve

Acreage Conservation Reserve (ACR) or reduced acreage refers to the acreage which must be devoted to conserving uses under an ARP. The quantity required is determined by multiplying the crop acreage base times the percentage reduction required. Producers must plant an annual or perennial cover crop on 50 percent or more of the ACR (not to exceed 5 percent of the base) except in designated arid and summer fallow areas. The CCC will pay 25 percent of the cost of establishing a permanent cover if a producer agrees to maintain for a minimum of 3 years a permanent cover that is capable of improving water quality or wildlife habitats. If the ARP is reduced below the portion of crop base planted to cost-share perennial cover, the Secretary must pay deficiency payments on this acreage.

The Secretary may permit the planting of designated crops on up to 50 percent of the ACR in return for a specified reduction in deficiency payment acreage. The amount of deficiency payment is reduced for each acre by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate. If the producer plants more than one program crop, this reduction must be prorated across all program crops. This program must be implemented in a manner which results in no additional cost to the CCC.

Haying and grazing on ACR and conserving use acreage are permitted except for the 5-month period designated by the State Agricultural Stabilization and Conservation (ASC) committee. This period must be established between April 1 through October 31 of a year. During a natural disaster, the Secretary may permit unlimited haying and grazing and may not exclude any irrigated acreage except irrigated alfalfa acreage.

If converted to water storage uses and if devoted to program crops or oilseeds in at least 3 of the preceding 5 years, land is considered in conserving use while used for water storage for up to 5 years from the date of conversion. This land cannot be devoted to commercial use, including commercial fish production. The water stored cannot be ground water. In addition, the land must have been irrigated with ground water during at least 1 of the preceding 5 years.

ACR may be devoted to wildlife food plots or wildlife habitats that conform with standards set by the Secretary in consultation with wildlife agencies. The CCC may share part of the cost of these practices. The Secretary may also share the cost of approved soil and water conservation practices on ACR acreage. The Secretary may provide additional payments if the producer agrees to permit access to all or part of the farm for hunting, trapping, fishing, and hiking.

50/92 Provisions

The general 50/92 provisions applicable to the 1986 through 1990 crops continue except the number of permitted acres has been altered by the triple base provision (the triple base provision is described in Appendix I). If producers plant between 50 and 92 percent of the crop's permitted acreage when an ARP is in effect and devote the rest to conserving uses or approved nonprogram crops, they are eligible for deficiency payments on 92 percent of the maximum payment acreage. These payments on the portion of maximum payment acreage devoted to conserving use are guaranteed to be at least the projected deficiency payment rate at the time of signup. (The projected deficiency payment rate on the acres actually planted to cotton is not guaranteed.) In case of prevented planting, quarantine, or disaster, deficiency payments may be available on up to 92 percent of maximum payment acreage even if planted acreage is below 50 percent of the maximum payment acreage.

The Secretary may permit planting of approved alternative crops on all or part of the acreage devoted to conserving use under 50/92 provisions. Permitted alternative crops include sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, commodities grown for experimental purposes including kenaf and milkweed, and other commodities for which no substantial domestic production or market exists but that could result in industrial raw material being imported.

The Secretary may allow alternative crops to be planted on this acreage only if these crops do not increase price support program costs and do not negatively affect farm income. These crops must also be needed to provide adequate supplies. In addition, these crops should encourage domestic manufacture of raw materials and increase industrial use of the raw materials.

Under the 50/92 provisions, cotton crop acreage base and farm program payment yield history are maintained. Acreage in the 50/92 program cannot be used to fulfill ARP or PLD requirements.

Disaster Payments

Similar to the Food Security Act of 1985, prevented planting and reduced yield disaster payments are authorized in the case of natural disasters.

If the Secretary determines that any producers have been prevented from planting any portion of their base due to natural disaster, the Secretary must make a prevented planting disaster payment. This payment is calculated by multiplying the number of permitted acres affected times 75 percent of the program payment yield times a payment rate (one-third of the target price). If due to natural disaster, a producer's yield is less than 75 percent of the payment yield times acreage planted, the Secretary will make reduced yield disaster payments equal to one-third of the target price for the production loss below 75 percent.

However, if prevented planting and reduced yield crop insurance were available to producers under the Federal Crop Insurance Act, they are ineligible for disaster payments. But the Secretary has the discretion to make these disaster payments even when insurance is available if the Secretary determines that the natural disaster has caused substantial losses of production, these losses have created an economic emergency, crop insurance indemnity payments and other assistance have been insufficient to relieve the economic emergency, and additional assistance is needed to alleviate the economic emergency.

Extra-Long Staple Cotton Program

The extra-long staple (ELS) cotton program has some of the same features as those of the upland cotton program. Differences include no marketing loan repayment provision and the triple base provision does not apply to ELS cotton. Nonrecourse loans are available for a 10-month period with a discretionary 8-month extension. Loan rates are set at 85 percent of the average market price during the 5-year period, excluding high and low price years. ELS cotton loan rates must be announced by December 1. The Secretary will make deficiency payments to producers whenever the target price exceeds the average market price. The payment rate is the difference between the target price and the higher of either the average price during the first 8 months of the marketing year or the price support rate. Eligible producers receive deficiency payments on a quantity equal to the product of the farm program payment yield times the ELS cotton base planted for harvest minus the ARP requirement. The Secretary may implement ARP's and PLD's including a zero percentage reduction. The 1990 Act prohibits cross-compliance as a condition for loan, purchase, and payment eligibility.

Other Provisions

The 1990 Act also contains the following additional provisions affecting cotton.

Skip-row Planting

The 1990 Act amends the Agricultural Act of 1938 to set forth skip-row rules for classifying acreage to upland cotton and the area skipped. In addition, the provisions allow 30-inch rows to be taken into account for classifying acreage and the area skipped. Skip-rows previously had to be at least 32 inches.

Cottonseed

If any oilseed program causes or is likely to cause a price reduction for cottonseed or cottonseed oil, the Secretary must take action to offset these impacts. This action cannot decrease the prices of other oilseeds.

Cross-Compliance

Compliance with other commodity programs or with crop acreage base requirements for any other commodity cannot be mandated as a condition of eligibility for loans or payments. The Secretary may not require other producers on a farm to comply with terms and conditions of upland cotton programs.

Title VI--Rice

Lori Lynch

The 1990 Act amends the Agricultural Act of 1949 to provide price support and production adjustment programs for rice producers through the 1995 crop year. Nonrecourse loans and purchase agreements provide price support; deficiency payments provide income support. The nonrecourse loans are mandated to have marketing loan repayment provisions. The 1990 Act also continues the use of marketing certificates to make rice more competitive in world markets.

Target Prices and Deficiency Payments

The minimum target price for rice is set at $10.71 per hundredweight (cwt). Under the Food Security Act of 1985, the rice target price dropped from $11.90 per cwt for 1986 to $10.71 for 1990.

Under the 1990 amendments to the 1949 Act, deficiency payments are paid to participating rice producers if the national average market price received by farmers for rice is below the target price.

Deficiency payments are determined by multiplying the payment rate times the payment acreage times the program payment yield. Eligible rice producers will receive a payment rate equal to the difference between the target price and the higher of either the national average market price during the first 5 months of the marketing year or the price support rate. These calculations will continue to be based on a 5-month marketing year price for 1991-93. In 1994-95, the 1990 Budget Act amends the 1949 Act's calculations for rice deficiency payment rates to be the lower of either the 12-month national average calendar year price calculation, or the 5-month national average calendar price plus an appropriate amount that is fair and equitable in relation to wheat and feed grains.

The payment acreage is the lesser of either the planted permitted acreage or 85 percent of the crop acreage base minus any Acreage Reduction Program (ARP) acres. Maximum payment acreage is 85 percent of the base due to the amendments made to the 1949 Act by the 1990 Budget Act mandating a triple base program (which is described in Appendix I).

Price Support Loans, Purchases, and Loan Repayments

The basic price support rate is set at 85 percent of the simple average price during the marketing year of the preceding 5 years, excluding high and low years. However, the price support rate cannot be reduced more than 5 percent from the level of the previous year. The price support rate floor will continue at $6.50 per cwt. Loan periods are for up to 9 months. The loan period begins the month after the application is made.

The loan and purchase level and the target price must be announced by January 31 of the calendar year during which the crop is harvested.

Marketing Loan Repayment

Rice producers will have the option to repay price support loans at a rate lower than the price support level. Producers can use these marketing loans whenever the adjusted world market price for rice falls below the price support rate. The repayment rate is the lesser of either the announced price support for rice, or the higher of either 70 percent of the announced price support rate or the prevailing world market price for rice.