

Commodity Credit Corporation Sales Price Restrictions

In general, the CCC may not sell any basic or storable nonbasic commodity at less than 115 percent of the lower of either (1) the commodity's loan rate adjusted for current market differentials reflecting grade, quality, location, reasonable carrying charges, and other factors the CCC determines appropriate, or (2) the loan repayment level. The CCC may sell ELS cotton for unrestricted use at a price it determines will maintain and expand export and domestic use. Oilseeds may not be sold for less than the lower of (1) 105 percent of the loan rate adjusted for market differentials, or (2) 115 percent of the loan repayment level.

Whenever the FOR is in effect, the CCC may not sell any of its stocks of wheat and feed grains for less than 150 percent of the commodity's loan rate. The CCC may sell upland cotton for unrestricted use at the same price it sells for export, but not at less than 115 percent of the loan rate. The sales restrictions do not apply to the following categories:

- Sales for new or byproduct uses.
- Sales of peanuts and oilseeds for oil extraction.
- Sales for seed or feed if the sales will not substantially impair any price support program.
- Sales of commodities that have substantially deteriorated in quality or that have a danger of loss or waste through deterioration or spoilage.
- Sales to establish claims arising out of contract or against persons who have committed fraud or misrepresentation or other wrongful acts with respect to the commodity.
- Sales for export (excluding upland cotton).
- Sales of wool.
- Sales for other than primary uses.

The Secretary is authorized to allow the CCC to make its commodities or products available to relieve economic distress in any area in the United States (and in the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic causes. The CCC can do this only if the President finds that the use of the commodities will not adversely affect the normal marketing of agricultural commodities. The CCC may also make commodities available to relieve economic distress if the President determines a major disaster warrants Federal assistance under the Disaster Relief and Emergency Assistance Act. It may also donate or sell commodities for the Emergency Livestock Feed Assistance Program. In connection with this provision, the CCC must not bear any costs, except on a reimbursable basis, in connection with this provision beyond costs for storing, handling, and transporting the commodity to designated agencies at one or more central locations in each State or other area.

The sales restrictions do not apply to commodities that the CCC wishes to dispose of in order to run the operation effectively and efficiently. Such commodities would be disposed of because of their small quantity or because of age, location, or questionable continued storability.

The CCC must make purchases of commodities to offset adverse consequences of sales at less than prescribed prices; the purchase price may not exceed CCC's minimum sales price for the commodities for restricted use.

Subject to the sales price restriction, the CCC may sell any of its commodities on a competitive bid basis, if the Secretary determines the sale is appropriate.

In this provision, export sales include sales made on the condition that the identical commodities sold be exported, and sales made on the condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form.

Miscellaneous Commodity Provisions

This section includes provisions for normally planted acreage, the Food Security Wheat Reserve, and the National Agricultural Cost of Production Standards Review Board. It also includes provisions for a financial impact study and a survey of program participants.

Normal Supply

If the supply of wheat, corn, upland cotton, or rice during the marketing year for any of the 1991-95 crops is not likely to be excessive and acreage controls are not necessary as determined by the Secretary, the total supply of the commodity is deemed not to exceed normal supply. The Secretary cannot make any decision contrary to this for that marketing year.

Food Security Wheat Reserve

The Food Security Wheat Reserve, created to provide wheat for emergency food needs in developing countries, is extended through 1995. The Secretary must replenish stocks within 18 months of release so that there will be about 4 million metric tons in storage.

Cost of Production Review Board

The National Agricultural Cost of Production Standards Review Board is extended for another 5 years to September 30, 1995. The law also permits the members to be engaged in the commercial production of each of the program crops and in one or more of the other various major domestically produced agricultural products either as a member of a group or individually. Board members previously had to be individually engaged in the commercial production of one or more major domestically produced agricultural commodities.

Financial Impact Study

The Secretary must conduct an annual study of the financial impact of the support levels (under programs contained in the 1949 Act) established and announced by the Secretary. The study also examines how the support levels affect producers' ability to meet their financial obligations (with special emphasis on Farmers Home Administration and Farm Credit System borrowers). The Secretary must submit the annual report to the House and Senate agriculture committees by the date of the final announcement for the programs for any year. The study is for informational purposes only.

Survey of Program Participants

The Secretary must ensure that producers, at the time of signup for a commodity program in the 1992 calendar year, complete a survey regarding their preference either to increase the efficiency of their farming operation or to assist in meeting conservation requirements for their farm by redistributing any crop acreage bases on their farm. The survey shall include questions designed to determine whether the producers would prefer to redistribute their current crop acreage bases without exceeding the farm's total cropland. Producers could redistribute in different proportions among the program crops for which they currently have a crop acreage base, among program crops for which they do not currently have a crop acreage base, or in some combination of these two. The survey is to be prepared and administered by ASCS and conducted in every county where the signups are administered.

The data are to be compiled and analyzed to determine (1) the potential increases and decreases in State, regional, and national acreage that would be planted to various program crops if producers were given the option to redistribute their crop acreage bases; (2) the potential commodity program costs or savings if producers were allowed to implement redistribution of base; (3) the potential impact of the redistribution on U.S. competitiveness in world markets; and (4) other consequences of redistribution the Secretary determines to be significant to U.S. agriculture.

The report is due by January 31, 1993, to the House and Senate agriculture committees.

Options Pilot Program

The Secretary is required to conduct a pilot program (subject to advance appropriations) for each of the 1991-95 crops of corn and for each of the 1993-95 crops of wheat and soybeans to determine whether options trading can be used by producers to obtain protection from price fluctuations, whether producers would use this method of price protection with adequate information, and to determine the widespread effect that adopting such a program would have on commodity prices.

The Secretary must conduct the program in various counties that produce significant quantities of the commodities during the specified years. For the 1991 crop year, the Secretary must select at least three counties in each of the three major corn-producing States.

Title XII—State and Private Forestry

Jan K. Lewandrowski

The 1990 Act contains the first forestry title to be included in an omnibus farm bill. The 1990 Act authorizes the Forest Stewardship Program to replace the Forest Incentive Program by 1995, establishes a cost-share program to encourage the management of nonindustrial private forests, and protects environmentally important forests under the Forest Legacy Program. The 1990 Act also establishes the America the Beautiful Program which promotes tree planting.

Forest Stewardship Act (FSA)

Title XII, the Forest Stewardship Act (FSA), amends the Cooperative Forestry Assistance Act of 1978. It authorizes the Secretary to undertake actions designed to (1) establish a cooperative Federal, State, and local Forest Stewardship Program to manage non-Federal forest lands; (2) encourage timber production; (3) prevent and control tree damaging insects and diseases; (4) prevent and control rural fires; (5) promote the efficient use of wood and wood residues; (6) improve and maintain fish and wildlife habitats; (7) plan and conduct urban forestry programs; (8) expand existing management, fire protection, and insect and disease protection programs in non-Federal forests to meet multiple-use objectives in an environmentally sensitive manner; (9) provide opportunities to private landowners to protect ecologically valuable and threatened non-Federal forest lands; and (10) strengthen educational, technical, and financial assistance programs for non-Federal forest landowners.

Rural Forestry Assistance

The Secretary may provide financial, technical, educational, and related assistance to State foresters, other peer officials, and extension directors to enable them to provide technical information, advice, and assistance to those with an interest in private forests to meet the goals of the FSA.

The Secretary is also authorized to provide the same assistance to help State forest officials to (1) develop genetically improved tree seeds; (2) develop facilities for the production and distribution of tree seeds and seedlings in States with reforestation needs; (3) procure, produce, and distribute tree seeds and trees to establish forests, windbreaks, shelterbelts, woodlots, and other plantings; (4) establish trees on non-Federal forest lands that are suitable for the production of timber, recreation, and other tree-related benefits; (5) plan and implement management techniques on these lands to increase the quantity and quality of trees, vegetation, and fish and wildlife habitats; and (6) protect or improve the soil fertility of non-Federal forest lands and the quality, quantity, and timing of water yields from these forest lands.

Forest Stewardship Program (FSP)

The Secretary, in consultation with State forestry officials, must establish the Forest Stewardship Program (FSP) within USDA's Forest Service. The program is to encourage those managing nonindustrial private forests to promote the longrun viability of their many economic, environmental, and recreational uses. The program's goal is to enter at least 25 million acres of nonindustrial private forest lands in the FSP by December 31, 1995.

The FSP also provides State foresters and other comparable officials with financial, technical, educational, and related assistance. Within the States, foresters are to use these resources to build a network of individuals from government agencies, the private sector, and land-grant universities who will advise and assist owners of private nonindustrial forests with the multiple-use management of their lands to meet the goals of the FSA.

A nonindustrial private forest is eligible for assistance as long as it is not under an existing Federal, State, or private financial and technical assistance program at the time the 1990 Act becomes law. Those private forests that are managed by existing programs may receive assistance under this program if their forest management activities are expanded and enhanced. The landowner also must agree to meet the requirements of the FSA.

To enter land into the FSP, an owner of a private nonindustrial forest must prepare and submit to the State forester, or other comparable official, a forest stewardship plan prepared by a professional resource manager that meets the requirements of the program, as developed by the Secretary. The plan must identify and describe the actions the landowner will take to protect the forest land's soil, water, range, aesthetic quality, recreation, timber, water, and fish and wildlife resources in a way that is consistent with the owner's objectives. The plan must be approved by the State forester or other comparable official before the associated forest land can be enrolled.

Stewardship Incentive Program (SIP)

To meet the objectives of the FSP, the Secretary must establish the Stewardship Incentive Program (SIP) within the Forest Service. The FSP will ultimately replace the SIP which will end by December 31, 1995. The SIP provides cost-share assistance to help landowners institute approved stewardship plans. The assistance is limited to landowners with less than 1,000 acres. However, the Secretary may approve assistance for owners with over 1,000 acres if it is determined that significant public benefits would accrue from including these lands. Owners with over 5,000 acres are ineligible for cost-share assistance. Owners must agree to abide by the provisions of their plans for at least 10 years, unless the State official approves a modified plan.

The Secretary, in consultation with State officials, must determine the appropriate reimbursement rate and schedule for cost-share payments. The level of Federal cost-share assistance is to be determined by the Secretary but is not to exceed 75 percent of the total cost to the landowner for developing and implementing the stewardship plan. The Secretary must establish and implement a mechanism to recapture payments made to landowners if they fail to implement an approved activity specified in the plan for which payments were made. No land may simultaneously receive cost-share payments under the SIP and the already established Forestry Incentives Program.

The Secretary must distribute funds for cost-sharing among the States only after assessing the public benefit from the assistance and after considering for each State (1) the total acreage of nonindustrial private forest land, (2) the potential productivity of the land, (3) the number of owners eligible for cost-sharing, (4) the need for reforestation, (5) the opportunities to enhance nontimber resources on the forest lands, and (6) the anticipated demand for timber and nontimber resources.

The Secretary, after consulting with State coordinating committees, must develop a list of approved forest activities and practices that will be eligible for cost-share assistance. In developing the list, the Secretary must attempt to achieve landowner and public purposes including the goals of the FSA.

Forest Legacy Program (FLP)

The Secretary must establish the Forest Legacy Program (FLP) in cooperation with State, regional, and other governmental units. Program objectives are to ascertain and protect environmentally important forest areas (particularly areas that are threatened by conversion to nonforest uses) by using conservation easements and other similar mechanisms. The program also promotes other conservation objectives including protecting important scenic, cultural, fish, wildlife, and recreational resources, riparian areas, and other environmental values.

The Secretary may acquire lands and interests in lands from willing landowners, including conservation easements and public access rights for the program. Conservation easements with land titles held in common ownership with any other entity cannot be acquired. Acquired land may be held indefinitely. In administering the land in the program, the Secretary must identify the environmental values to be protected if the land is entered into the program. Management activities must be planned and their effect on environmental values identified. The Secretary must also obtain other appropriate information necessary to administer the program from the landowner, who is voluntarily offering his or her land.

Within 1 year of enactment of the 1990 Act, the Secretary must establish a regional program to further the Northern Forest Lands Study in New York, New Hampshire, Vermont, and Maine. The Secretary must also establish additional programs in each of the Northeastern, Midwestern, Southern, and Western regions, and the Pacific Northwest (including Washington) after assessing the needs for FLP's in those areas.

The Secretary must establish criteria for enrolling lands into the FLP within 1 year of enactment. The Secretary must give priority to lands that can be effectively protected and managed and that promote the goals of the program. Owners of lands or interests in lands may apply for entry into the program by submitting plans detailing the lands or interests that they would be willing to enroll. Owners would be paid the fair-market value for any property rights they convey. They must manage their property consistent with the terms of the easement. The land may be used for activities such as hunting, fishing, hiking, and similar recreational uses. Since the goals of the program do not preclude all economic activity, some easements on lands within the program would permit a degree of forest management practices (including timber harvesting).

The costs of acquiring lands or interests in lands and of projects will be shared among the entities participating in the FLP (including regional organizations, State and other governmental units, landowners, corporations, or private organizations). The costs may include, but are not limited to, those associated with planning, administration, property acquisition, and property management. To the extent practicable, the Federal share of total program costs, including in-kind contributions, is not to exceed 75 percent of the total.

Forest Health Protection

The 1990 Act renames the Insect and Disease Control Program to the Forest Health Protection Program. The new program includes the effects of manmade causes (such as air pollution) on forest health.

Under the program, the Secretary is authorized to conduct surveys and establish a monitoring system to detect insect infestations, disease conditions, and manmade stresses on forest land. On forest lands outside of the National Forest System, the Secretary is required to obtain the consent and cooperation of the landowner before carrying out any monitoring or health-improvement activities. The results of the surveys and monitoring efforts are to be reported annually.

In areas where insects, diseases, or manmade causes are determined to be affecting forest health or the value of forest resources, the Secretary is authorized to plan, organize, direct, and perform measures (including biological, chemical, and mechanical measures) as determined necessary. The Secretary will provide technical information, advice, and related assistance on available techniques for maintaining healthy forests and in managing and using chemicals applied to wood products, trees, and other vegetation. The Secretary is also authorized to develop applied technology and conduct pilot research tests before applying these technologies full scale, as well as to promote appropriate silviculture or management techniques to improve or protect forests.

The Forest Service may provide cost-share assistance to States and private landowners through cooperative agreements and contracts to monitor forest health and protect forest lands. Contributions by non-Federal entities may be made in cash, services, or equipment, as determined appropriate.

Funds for this program cannot be used to pay for cutting down or removing dead or dying trees unless the Secretary determines it is necessary to prevent a major insect infestation or disease epidemic. Also, funds cannot be used to compensate for the value of property injured, damaged, or destroyed by any cause.

The Forest Health Program also authorizes a separate cost-share assistance program with non-Federal forest owners and managers who have established an acceptable integrated pest management strategy. The strategy is to prevent, retard, control, or suppress gypsy moth, southern pine beetle, spruce budworm infestations, or other major insect infestations. The share paid by the Federal Government may be between 50 and 75 percent of the cost of implementing the strategy.

Urban and Community Forestry Assistance

Through education programs and technical assistance to State and local governments, the Urban and Community Forestry Assistance Program seeks to improve understanding of the benefits of preserving existing tree cover in urban areas, and encourage owners of private residences and commercial properties to maintain forest lands and individual trees in urban and community areas (cities, their suburbs, and surrounding towns). The program will also provide competitive matching grants to local governments or community tree volunteer groups for urban and community forestry projects and will implement a tree planting program.

In cooperation with State forest officials, the Secretary must develop and implement a program of education and technical assistance for urban and community forest resources. The program must (1) assist urban areas in conducting inventories of their forest resources; (2) improve educational and technical support related to selecting appropriate tree species, promoting energy conservation, providing proper tree planting and care, protecting individual trees and preserving all existing open space, and identifying opportunities to expand tree cover in urban areas; (3) assist State and local organizations in organizing and conducting urban and community forestry projects and programs; (4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and (5) increase public awareness of the benefits of trees.

The Secretary must establish an urban and community forest challenge cost-share program. This program will provide competitive, matchings funds and other support to eligible communities and organizations for urban forestry projects. The Federal share of support for any project may not exceed 50 percent of the total. The non-Federal share of the support may be made in cash, services, or in-kind contributions.

The Secretary also must establish a National Urban and Community Forestry Advisory Council that will develop a national urban and community forestry action plan, evaluate the implementation of that plan, and develop criteria for and submit recommendations with respect to the urban forestry challenge cost-share program.

The Council is to play a major role in planning, implementing, and evaluating urban forestry programs. It will be composed of 15 members appointed by the Secretary to include representatives from national nonprofit forestry and conservation organizations; State, county, city, and town governments; forest products, nursery, or related industries; urban forestry, landscaping, or design consultants; academia; State forestry or equivalent agencies; the Federal Extension and Forest

Services; and urban or community members with forestry experience. The Council chair cannot be a government official or employee.

Within 1 year of enactment of the 1990 Act and every 10 years thereafter, the Council must prepare a National Urban and Community Forestry Action Plan to assess the status of urban forest resources, review urban forestry programs, provide recommendations to improve the status of these resources, and review and make recommendations of related research. The plan must be submitted to the House and Senate agriculture committees by December 31.

Firefighting Preparedness and Mobilization Assistance

The Secretary may provide financial, technical, and related assistance to State forest officials, and through them to other agencies and individuals (including rural volunteer fire departments), to conduct activities related to suppressing forest fires. The Federal share of the cost of any approved activity is not to exceed 50 percent.

Federal, State, and Local Coordination and Cooperation

The Secretary must establish the Forest Resource Coordinating Committee, an intradepartmental committee to coordinate forestry activities. The committee will be chaired by the Chief of the Forest Service. It is to provide forestry-related assistance to the Secretary and USDA. The Secretary must also establish the State Forest Stewardship Coordinating Committee to coordinate Federal and State activities concerning the Forest Stewardship Program and plans.

Research and Education

This title includes numerous research and educational programs to promote forestry.

General Research Programs

The Secretary must establish a competitive forestry, natural resources, and environmental grant program to fund research in forest biology, ecosystem function, management, and economics. Grants will go to State agricultural experiment stations, colleges or universities, research institutions or organizations, Federal agencies, private organizations, or corporations that have experience conducting such research. The program is authorized through 1995.

Specialized Research

The Forest and Rangeland Renewable Resources Act of 1978 is amended to authorize the Secretary to conduct, support, and cooperate in research directed at reforesting lands from which timber has been harvested. The projects include establishing a wood-fiber recycling program, the Southern Forest Regeneration Program, the Semiarid Agroforestry Research Center, the Presidential Commission on State and Private Forests, the Blue Mountain Natural Resource Institute, and the International Forest Products Trade Institute. The Secretary is also authorized to continue the Modern Timber Bridge Initiative and the Forest Land Protection study.

Education

The Secretary, with Federal and State extension services, foresters, and others, must expand forestry and natural resource education programs for private forest owners and the public, and include guidelines for technology transfer.

The Secretary must establish the Forestry Student Grant Program to expand educational opportunities in forestry. In awarding these competitive grants, some preference will be given to graduate students and female and minority undergraduates.

America the Beautiful

The "America the Beautiful" program is established to promote the principles of basic forest stewardship through planting, improving, and maintaining trees nationwide to increase reforestation, and to enhance rural and urban areas environmentally and aesthetically.

Tree Planting Foundation

The President is authorized to designate a private nonprofit tree planting foundation to be eligible to receive a one-time grant of up to \$25 million from USDA. The grant will be used to promote public awareness and volunteerism, solicit private sector contributions, and oversee these contributions to encourage tree planting projects.

Tree Planting Programs

The 1990 Act authorizes the Secretary to establish a rural tree planting program as a special part of the Forest Stewardship and Stewardship Incentive Programs. The Secretary may also establish a community tree planting and improvement program as a special part of the Urban and Community Forestry Assistance Program. Both programs end December 31, 2001.

Miscellaneous Provisions

The 1990 Act also includes the following provisions for forestry.

Emergency Reforestation Assistance

The 1990 Act authorizes the Secretary to provide emergency reforestation assistance to landowners who lose 35 percent or more of a commercial tree stand as a result of damaging weather or wildfire. Assistance will be in the form of new tree seedlings or reimbursement of up to 65 percent of the costs of reestablishing the stand for losses greater than 35 percent. Program eligibility is limited to landowners with gross annual revenues of less than \$2 million.

Talladega National Forest Expansion

The 1990 Act authorizes the Secretary to proceed with the acquisition of lands and waters associated with a planned expansion of the Talladega National Forest.

Title XIII—Fruits, Vegetables, and Marketing

Bruce H. Wright

Title XIII provides the authority to establish a user-fee funded national laboratory accreditation program, to label perishable agricultural products by country of origin for a 2-year pilot period, and to impose import regulations for additional commodities subject to Federal marketing orders. It also requires evaluation of grade standards and other regulations for effects on pesticide use, and mandates research on the fruit and vegetable industry and the wine industry.

Fruits and Vegetables

The Secretary must conduct a study to determine the state of the domestic fruit and vegetable industry. The study must include:

- A review of the availability of an adequate labor supply for maintaining and harvesting fruits and vegetables.
- A review of the availability of crop insurance or disaster assistance for fruit and vegetable producers.
- A review of the scientific and technological advances in the areas of genetics, biotechnology, integrated pest management, post-harvest protection, and other advances related to the production and marketing of fruits and vegetables.
- An examination of the availability of safe and effective chemicals for use in the production of fruits and vegetables.
- An assessment of the value of national uniformity to both consumers and producers.
- A review of the requirements and cost of labeling fruits and vegetables in the industry, and of the benefits that would result from labeling these products.
- A review of Federal educational programs that teach the importance of fruits and vegetables to a proper diet.

The Secretary must report on the results and recommendations of this study within 18 months of the enactment of the legislation.

Country of Origin Labeling Program

The Secretary must implement a program describing the conditions under which nonperishable agricultural products may be labeled as "grown in the U.S."

The Secretary must also implement a 2-year pilot program to label fresh fruits and vegetables with their country of origin. Following the pilot program, the Secretary must also conduct a study to determine the effects of the program. The program must apply to both imported and domestic perishable agricultural products (including fresh fruits and vegetables).

Marketing Orders

Under the 1990 Act, kiwifruit, nectarines, plums, pistachios, and apples are added to the list of commodities subject to import regulation under the Federal marketing order programs.

The following provision amends the Agricultural Marketing Agreement (AMA) Act of 1937, the legislation authorizing marketing orders. Prior to any import prohibition or regulation under section 8e being made effective with respect to any commodity:

- The Secretary must notify the U.S. Trade Representative (USTR) of the proposed import prohibition or regulation; and
- The USTR must advise the Secretary within 60 days of the notification to ensure that the application of the grade, size, quality, and maturity provisions of the relevant marketing order, or comparable restrictions, to imports is not inconsistent with U.S. international obligations under any trade agreement, including the General Agreement on Tariffs and Trade.
- The Secretary may proceed with the proposed prohibition or regulation if the Secretary receives advice and concurrence of the USTR within 60 days of the notification.

The AMA Act of 1937 is further amended to permit fines and civil penalties for marketing order assessment violations.

Distinct Geographic Area Products

No person may use the unique name or geographical designation of a perishable agricultural commodity to promote the sale of a similar commodity produced outside such area, if the commodity is subject to a Federal marketing order; the commodity is traditionally identified as being produced in a distinct geographic area, State, or region; and the commodity has its unique identity, based on a distinct geographic area, promoted with funds collected through producer contributions pursuant to the local geographic marketing order.

National Laboratory Accreditation

The Secretary must administer a National Laboratory Accreditation Program to accredit certain laboratories that request accreditation and that conduct residue analysis of agricultural products, or that make claims to the public or buyers of agricultural products concerning chemical residue levels on agricultural products. The program will ensure that these laboratories meet certain minimum quality and reliability standards. Among other things, the Secretary must issue certificates of accreditation to laboratories that meet the requirements of the program, must establish a nonrefundable fee that each laboratory seeking accreditation must pay, and must issue regulations, with the exception of those delegated to the Secretary of Health and Human Services (HHS), as discussed below, to carry out the program.

The Secretary of Health and Human Services, after consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, must establish through regulations, standards for the National Laboratory Accreditation Program that include standards applicable to laboratories, qualifications for directors and other personnel, and standards and procedures for quality assurance programs. The Secretary of Health and Human Services is also required to approve State

agencies or private, nonprofit entities as accrediting bodies to act on behalf of the Secretary of Health and Human Services in implementing the certification and quality assurance programs.

The National Laboratory Accreditation Program will not apply to (1) laboratories operated by a government agency; (2) laboratories operated by a corporation or a partnership that perform analysis of residues on agricultural products only for the corporation, its wholly owned subsidiary, or for the partners of the partnership, and that make no claims to the public or buyers based on such analysis; and (3) laboratories that do not operate for commercial purposes that perform pesticide chemical residue analysis on agricultural products for research or quality control for the internal use of the person initiating the analysis. The Secretary is authorized to establish a fee to offset the total cost of the program, which may be adjusted annually.

Cosmetic Appearance and Pesticide Use

"Cosmetic appearance" is defined by the 1990 Act as the exterior appearance of an agricultural commodity, including changes to that appearance resulting from superficial damage or other alterations that do not significantly affect yield, taste, or nutritional value.

The Secretary must conduct research to investigate to what extent grade standards and regulations governing cosmetic appearance affect pesticide use in the production of perishable commodities. This research must:

- Determine pesticide application levels for production of U.S. perishable commodities. Trends, and factors influencing those trends, in pesticide application since 1975 are to be assessed.
- Determine the extent to which Federal grade standards and other regulations affect pesticide use in agriculture for cosmetic appearance.
- Determine the effect of reducing emphasis on cosmetic appearance in grade standards and other regulations on the application and availability of pesticides in agriculture, the adoption of agricultural practices that result in reduced pesticide use, the production and marketing costs, and the domestic and international markets and trade for perishable commodities.
- Determine to what extent grade standards and other regulations reflect consumer preferences.
- Develop options for implementing food marketing policies and practices that will remove possible obstacles to pesticide use reduction, based on the findings of research conducted under this section.

The Secretary must implement a minimum of three 2-year market research projects in at least three States to demonstrate and evaluate the feasibility of consumer education and information programs no later than 12 months after the enactment of the 1990 Act. These programs will be designed to offer consumers choices among perishable commodities produced with different production practices, provide consumers with information about agricultural practices used in the production of perishable commodities, or educate the public about the relationship between the cosmetic appearance of perishable commodities and pesticide use as determined in the research conducted under this title.

The Secretary must disseminate the results obtained from prior scientifically valid research concerning Federal marketing policies and practices to avoid duplication of effort and to ensure that current knowledge concerning such policies and practices is enhanced.

The Secretary must establish a 12-member advisory committee to provide ongoing review and recommendations of implementation of these provisions to the Secretary. The Secretary must report to Congress on the research governing cosmetic appearance and pesticide use by September 30, 1992, and the results of the field research by September 30, 1993.

With regard to Federal grade standards developed and regulated pursuant to the Agricultural Marketing Act of 1946, the Secretary must:

- Take into account the effect of those standards on the ability of growers to reduce the use of pesticides.
- Provide fair and reasonable opportunity for citizens outside an industry to formally petition for a change in grade standards.
- Provide a comment period after a petition to change grade standards has been made to enable all interested parties to submit information. The Secretary must evaluate all submitted information and consider this information in the revision process.
- Provide interested parties with annual status reports during the period from 1992 through 1994, updated upon request, on all pending changes of grade standards that USDA is considering.

Wine and Winegrape Industry Study

The Secretary must conduct a study to determine how to best work with and support the U.S. wine and winegrape industry. The study must determine whether existing USDA programs could better assist and support the U.S. wine and winegrape industry; determine whether new methods or programs could enhance wine and winegrape production and processing, and could expand markets for U.S. wine and winegrapes; be conducted with local, State, and national associations or organizations of wine and winegrape producers; and give special emphasis to States or other geographic areas that have not traditionally had a wine and winegrape industry.

The Secretary must report to Congress the determinations made in the study by December 31, 1991, including any recommendations for needed legislation.

Title XIV--Conservation

C. Tim Osborn

The conservation title amends the conservation compliance, sodbuster, and swampbuster provisions of the Food Security Act of 1985. It also establishes several new programs: the Environmental Conservation Acreage Reserve Program (ECARP) composed of an extended/redirected Conservation Reserve Program (CRP) and a new Wetlands Reserve Program (WRP), the Agricultural Water Quality Protection Program (AWQPP), and the Environmental Easement Program. Other provisions include establishing State technical committees to assist the Secretary in implementing conservation programs, establishing an Integrated Farm Management Program Option, providing Federal interest rate subsidies and loan guarantees to States for farmland preservation, establishing mandatory recordkeeping of use of restricted-use pesticides by certified applicators, and creating or extending several other conservation programs.

Highly Erodible Land Conservation

The 1990 Act extends the conservation compliance provisions to include highly erodible land that is set aside, diverted, or otherwise devoted to conserving use. Producers who violate conservation compliance plans or plant without a plan on highly erodible land, including set asides, diverted, or land otherwise devoted to conserving use, will lose program benefits. Also, additional government benefits are now specifically subject to denial for violations of conservation compliance or sodbuster provisions. These benefits include disaster assistance payments for weather-damaged trees, Agricultural Conservation Program (ACP) payments, Emergency Conservation Program payments, CRP payments, AWQPP payments, Environmental Easement Program payments, and assistance under the small watersheds program.

Tenant ineligibility for USDA benefits under conservation compliance provisions may be limited to the farm where the violation occurred if the tenant has made a good faith effort to obtain a reasonable compliance plan and the landlord refuses to allow the tenant to comply with the plan. The Secretary must determine that there is no scheme or device involved.

New provisions provide for graduated reductions in program benefits of \$500-\$5,000 for violations of conservation compliance or sodbuster provisions if the violator acted in good faith and without the intent to violate the highly erodible land provisions and has not committed another violation within the previous 5 years. Also, the Secretary may consider that a violation has not occurred if the Secretary determines that the apparent violation was technical and minor in nature, and that the violation has a minimal effect on erosion control. If the violation was due to circumstances beyond the control of the person, then the Secretary may grant producers a temporary variance from the practices specified in their conservation compliance plans so they may handle the specific problem or problems. Producers will continue to be eligible for benefits in future crop years if they are actively applying their conservation plans.

The Secretary must provide information to individuals preparing or revising conservation control measures on crop flexibility, base adjustments, and conservation assistance options.

Highly erodible lands in the conservation reserve are subject to the conservation compliance provisions when the CRP contract expires. If the conservation compliance plan requires the construction of structures, owners or operators will have up to 2 years to implement the conservation plan after the CRP contract period has ended. Owners or operators may be given more than 2 years to meet their conservation compliance plans on lands leaving the conservation reserve if the plans

require structures and if it is not technically or economically feasible to build these structures within 2 years.

Wetland Conservation

The 1990 Act contains a definition of wetlands which emphasizes that, to be considered a wetland, land must exhibit a predominance of hydric soils, must be inundated or saturated by surface or ground water at a frequency and duration sufficient to support hydrophytic vegetation, and under normal circumstances does support such wetland vegetation. This definition is consistent with the Food Security Act of 1985 but clarifies that all three conditions must be present for a wetland.

The Secretary must delineate wetlands on wetland delineation maps, making an effort at onsite wetland determination. After notifying affected producers, the Secretary will certify each map. Producers and landowners will have the right to appeal new delineations.

The 1990 Act establishes a new trigger mechanism for swampbuster violations. In any crop year after the date of enactment, a producer will have violated the swampbuster provisions whenever a wetland is converted for the purpose of producing an agricultural commodity or to make possible the production of an agricultural commodity. As legislated by the Food Security Act of 1985, producers also violate swampbuster provisions when they actually plant an agricultural commodity on a converted wetland.

In addition to the program benefits covered under the Food Security Act of 1985, violators of the swampbuster provisions may also lose the same additional governmental benefits as those listed under the Highly Erodible Land Conservation section above.

A producer will not be denied program benefits if the conversion has a minimal effect on the functional hydrological and biological value of the wetland, including the value to wildlife; or the producer converts a frequently cropped wetland and the producer mitigates the violation in advance by restoring a wetland converted prior to December 23, 1985. A number of rules specify when, where, and how many acres must be restored. The restoration must not be at the expense of the Federal Government and must be protected by an easement for as long as the converted wetland is not returned to its original wetland classification.

New provisions provide graduated reductions of program benefits of \$750-\$10,000 for a swampbuster violation if the violator acts in good faith, has not committed another violation within the previous 10 years, and agrees to restore the wetland. This graduated sanction provision is made retroactive to violations that occurred prior to the enactment of the 1990 Act, if the violations fully meet these requirements. Finally, USDA must conduct an onsite visit prior to the denial of program benefits under swampbuster provisions.

If the actions of an unrelated person or public entity result in a change of cropland characteristics that would cause land to be considered a wetland, the affected land cannot be considered a wetland under this law.

Agricultural Resources Conservation Program

The 1990 Act establishes an Agricultural Resources Conservation Program (ARCP). The ARCP acts as an umbrella program for the Environmental Conservation Acreage Reserve Program (ECARP), the Agricultural Water Quality Protection Program (AWQPP), and the Environmental Easement Program.

No more than 25 percent of the cropland in any county may be enrolled in the ECARP and the Environmental Easement Program (this percentage does not include land in shelterbelt or windbreak easements). In addition, no more than 10 percent of such cropland may be subject to an easement acquired under these programs. The Secretary may exceed these limits in a county if this would not adversely affect the local economy and if local producers are having difficulties complying with conservation plans or other environmental requirements.

Environmental Conservation Acreage Reserve Program (ECARP)

The ECARP is composed of the Conservation Reserve Program (CRP) and the Wetlands Reserve Program (WRP). USDA is required to enroll 40-45 million acres into the ECARP by the end of the 1995 calendar year. This includes the 33.9 million acres enrolled in the CRP during 1986-90. The 1990 Act also exempts CRP and WRP contracts from the threat of sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (commonly known as the Gramm-Rudman-Hollings Act). The 1990 Act authorizes the Secretary to extend contracts and to purchase new easements during 1996-2000. In addition to CRP payments, producers may receive cost-share assistance and rental payments or tax benefits from State and other entity programs for enrolling land in the reserve programs.

Conservation Reserve Program. The 1990 Act permits the Secretary to include the following lands in the CRP for the 1991-95 calendar years:

- Highly erodible cropland that could substantially reduce the production capability for future generations if not protected.
- Highly erodible cropland that cannot be farmed in accordance with a conservation plan under the conservation compliance provision.
- Marginal pasture already converted to wetlands or wildlife habitats.
- Marginal pasture planted to trees in or near riparian areas or for water quality purposes. This type of land cannot exceed 10 percent of the acreage enrolled in the CRP in each of the 1991-95 calendar years.
- Cropland that contributes to water quality degradation for which the water quality protection program (AWQPP) proves ineffective.
- Cropland that is newly created permanent grass sod waterways or contour grass sod strips established and maintained as part of an approved conservation plan.
- Cropland devoted to newly established living snow fences, permanent wildlife habitats, windbreaks, shelterbelts, or filter strips planted to trees or shrubs, where the farmer grants an easement for the useful life of the practice.
- Cropland posing an offsite environmental threat or cropland threatened by productivity degradation due to soil salinity.

The provisions require that 1 million acres be reserved for enrollment in each of calendar years 1994 and 1995. This acreage is intended to provide a buffer for highly erodible land enrollment that cannot be treated with a conservation plan under the conservation compliance program.

To the extent practicable, at least an eighth of the land enrolled in the conservation reserve during the 1991-95 calendar years must be devoted to trees, shrubs, or other noncrop vegetation or water that may provide a permanent habitat for wildlife, including migratory waterfowl.

Conservation priority areas are designated in watershed areas of the Chesapeake Bay region (Pennsylvania, Maryland, and Virginia), the Great Lakes region, and the Long Island Sound region. Other priority areas may be designated where watersheds exhibit actual and significant adverse effects on water quality or wildlife habitats related to agricultural production activities. USDA must try to achieve a significant level of enrollment in these watersheds in order to maximize water quality and habitat benefits. A priority area designation expires after 5 years and is subject to redesignation.

The Secretary may permit limited fall and winter grazing on conservation reserve land where grazing is incidental to the gleaning of crop residues. However, participants must accept a reduction in rental payment.

A farmer who enrolls land in the CRP after the date of enactment must agree not to produce an agricultural commodity, for the duration of the contract, on any other highly erodible land that has been purchased after the date of enactment unless this land has a history of producing an agricultural commodity. Violators are denied future CRP payments and must refund or accept adjustments to rental and cost-share payments received previously.

Participants must also be given information on how to address weed and pest problems for CRP acreage that is consistent with the objectives of the CRP. The control of insect pests may be considered a conservation measure to be included in a conservation plan if noncontrol will adversely affect surrounding commercial land.

Contract periods are at least 10 years and no more than 15 years. In cases where hardwood trees are planted on the land or where previously enrolled CRP land is converted to hardwood trees, the farmer may specify the duration of the contract within these limits.

The Secretary may permit planting of agricultural commodities between the rows of hardwood trees on conservation reserve lands (called alley cropping). However, through a bid process, the rental payments paid are reduced by at least 50 percent.

In addition to continuing to share 50 percent of the cost of establishing cover crops, the Secretary must share 50 percent of the cost to maintain hardwood trees, shelterbelts, windbreaks, or wildlife corridors for a 2- to 4-year period. In the case of acreage devoted to hardwood trees, the Secretary may consider bids for contracts on a continuous basis. The Secretary may share 50 percent of establishing water quality and conservation measures when cost sharing is appropriate. Total amount of cost sharing from Federal plus all other sources cannot exceed 100 percent of the establishment costs. If a producer contracts for at least 10 acres of hardwood trees, the Secretary may permit planting over a 3-year period if at least one-third of the land is planted in each of the first 2 years.

Farmers with CRP acreage enrolled in 1986-90 are allowed to convert areas of enrolled vegetative cover to hardwood trees, windbreaks, shelterbelts, or wildlife corridors, and to extend their contract terms up to 15 years. Except for hardwood trees, the landowner must grant a conservation easement to the Secretary for the useful life of the plantings. USDA may pay 50 percent of the cost of establishing new conservation measures and practices as deemed appropriate. Under these contracts, producers must participate in the Forest Stewardship Program.

The Secretary may permit farmers to convert existing CRP acreage in vegetative cover to wetlands if the lands are prior-converted wetlands, there is a high probability that the area can be successfully

restored to wetland status, and the farmer provides the Secretary with a long-term or permanent easement covering the area. When sharing costs for tree or wetland conversions, the Secretary may not incur any additional expense, including the expense involved in the original establishment of the vegetative cover, that would produce a total cost-share for the new practice that would exceed the costs of the original practice.

Finally, the Secretary must offer the opportunity to extend the protection of crop acreage bases, quotas, and allotments on conservation reserve lands after the contracts expire for as long as determined appropriate, if the owner or operator agrees to continue to keep the land in the appropriate conserving uses. In addition, haying and grazing may be permitted during specified periods. However, once the contract has expired, owners cannot receive additional cost-share assistance, rents, or bonus payments for the extensions.

The Secretary must conduct a study of cropland subject to expiring CRP contracts which must be submitted to Congress by December 31, 1993.

Wetlands Reserve Program. The 1990 Act establishes a new Wetlands Reserve Program (WRP) to restore and protect wetlands. To the extent practicable, the Secretary will enroll up to 1 million acres during 1991-95 at a rate of 200,000 acres per year by soliciting bids from landowners. Permanent easements are given higher priority for enrollment.

Farmed or converted wetlands (if converted prior to December 23, 1985), adjacent functionally related lands, and riparian areas that link wetlands are eligible for enrollment. In addition, farmed wetland and adjoining lands enrolled in the conservation reserve may be permitted to be enrolled if they have high wetland functions and values, were not planted to trees while under a CRP contract, are likely to return to production after they leave the CRP, and are riparian areas that link wetlands protected by easements.

Rather than 10-year contracts, participants in the WRP must agree to long-term easements on the enrolled land. These easement contracts, as determined by the Secretary, can be made for 30 years, on a permanent basis, or for the maximum duration allowed under State laws. Participants must implement a wetland easement conservation plan providing for the restoration and protection of the functional values of the wetland. In addition, participants must agree to the permanent retirement of any existing cropland base and allotment history for such land.

In return, participants will receive 5-20 annual payments of equal or unequal size, cost-sharing of 50-75 percent, and technical assistance. For permanent easements, compensation may be made in a single lump-sum payment and cost sharing may range from 75 to 100 percent. Total compensation may not exceed the fair market value of the land minus the fair market value of such land encumbered by the easement. Except for permanent easements, compensation in any year may not exceed \$50,000 per person. The payment limit does not apply to payments that a producer may receive from the State or other entities for wetland and environmental easement enhancement programs.

If permitted by the Secretary, wetland reserve land may be used for compatible economic uses, including hunting and fishing, managed timber harvest, or periodic haying or grazing if specifically permitted by the conservation plan. Spraying chemicals on or mowing WRP land is prohibited unless permitted by a producer's plan or if Federal or State laws or programs require this (for example, noxious weed control laws or pest treatment programs).

Agricultural Water Quality Protection Program

The Secretary must establish an Agricultural Water Quality Protection Program (AWQPP) as a voluntary incentive program with the goal of enrolling 10 million acres during calendar years 1991-95. USDA will enter into 3- to 5-year agreements with farm owners and operators to develop and implement plans to protect water quality. Unlike most CRP contracts and WRP easements, these agreements do not preclude crop production on the enrolled acreage.

Eligible lands include wellhead protection areas within 1,000 feet of public wells, areas of shallow Karst topography where sinkholes convey runoff water directly into ground water, critical cropland areas (as identified under Section 319 of the Federal Water Pollution Control Act) having priority problems resulting from agricultural nonpoint sources of pollution, areas where agricultural nonpoint source pollution is adversely affecting threatened or endangered species habitats, and other environmentally sensitive areas identified by USDA, the Environmental Protection Agency (EPA), the Department of the Interior, or State agencies.

Participants must agree to implement an approved water quality protection plan; report nutrient, pesticide, and animal waste materials usage rates on management areas for the 3 previous years; and supply production evidence, well test results, soil tests, tissue tests, nutrient application levels, pesticide application levels, and animal waste material usage levels to the Soil Conservation Service (SCS) and the local conservation district for each year of the agreement.

In return, participants may receive an annual incentive payment of up to \$3,500 per person, per year, cost-share assistance of up to \$1,500 per person, per contract, and technical assistance in developing and implementing their plans. If necessary, a discounted lump-sum payment may be made to enable a producer to pay the initial costs of implementing a required practice. These payments cannot be used for other payment limitation calculations under the 1990 Act. During the agreement period, producers' program payment yields and the historical base are protected.

Within 2 years of enactment, the Secretary must also develop resource materials to assist agricultural producers in preparing water quality protection plans.

The Secretary may enter into contracts with farmers to participate in model farm or demonstration programs to educate about, disseminate information on, and demonstrate practical application of agricultural production practices that reduce the potential for contamination or degradation of surface water.

Environmental Easement Program

The new Environmental Easement Program will acquire easements from willing landowners during calendar years 1991-95. These easements are either permanent or for the maximum term permitted under applicable State law. The easement program strives to provide long-term protection of environmentally sensitive lands and to reduce water quality impairment. No acreage mandate or goal is indicated.

Eligible land includes land in the CRP which poses an offsite environmental threat and is likely to return to production upon contract expiration; land in the Water Bank; and other cropland containing riparian corridors, areas of critical wildlife habitats, or environmentally sensitive areas that if cropped would prevent a producer from complying with State or Federal environmental goals. Cropland or pastureland planted to trees while under the CRP is specifically made ineligible for the easement program.

Participants must implement a natural resource conservation management plan on enrolled lands. They must also agree to creating and recording appropriate deed restrictions to reflect the easement. Any existing cropland base and allotment history must be permanently retired. The production of agricultural commodities is permitted on this land only if it will benefit wildlife. Harvesting, grazing, or other commercial use of forage is prohibited unless specifically provided for in the easement or related agreement. The program also prohibits harvesting and commercial sales of Christmas trees and nuts grown on this land. However, activities consistent with customary forestry practices, such as pruning, thinning, or tree stand improvement on lands converted to forestry uses, are allowed. If permitted by the owner, the Secretary must permit the land to be used for wildlife activities, including hunting and fishing.

In return, participants may receive up to 100 percent in cost-share assistance for establishing conservation measures and practices, annual easement payments for up to 10 years, and technical assistance to implement easement plans. Easement payments must not exceed the lower of either \$250,000, or the difference in the value of the land with and without an easement. Owners may also receive payments above this limitation from State and other agencies. The total of easement payments made to one person for any year cannot exceed \$50,000. Payments for perpetual easements are exempted from this limit. These payments will not be included in the calculations under the general payment limitation provisions of the 1990 Act.

State Technical Committees

State technical committees are to be established to assist the Secretary in the technical considerations and guidelines for implementing the conservation provisions established by the 1990 Act. The committees will play an advisory role, providing USDA with information, analysis, and recommendations for determining matters of fact, technical merit, or scientific question. These committees will not have implementation or enforcement authority. However, the Secretary must strongly consider their recommendations.

These State committees are composed of professional resource managers representing a variety of disciplines in the soil, water, wetland, and wildlife sciences. The committees may include representatives from the Soil Conservation Service (SCS), the Agricultural Stabilization and Conservation Service (ASCS), the Forest Service, the Extension Service, Farmers Home Administration (FmHA), the Fish and Wildlife Service, State foresters, State departments of agriculture, various State natural resource and wildlife agencies, and the State association of soil and water conservation districts.

Within 1 year of enactment, the committees must develop technical guides for implementing the wetland preservation and wildlife habitat improvement provisions of the Agricultural Water Quality Protection Program. The committees will also offer (1) recommendations on wetland protection, restoration, and mitigation requirements; (2) criteria to be used in evaluating bids for enrollment of environmentally sensitive lands in the CRP; (3) guidelines for haying or grazing and for the control of weeds to protect nesting wildlife on acreage idled under commodity programs; (4) exemptions and appeals under the highly erodible lands and wetland conservation provisions; (5) programs to control weed and pest problems on CRP land; and (6) guidelines for planting perennial covers for water quality and wildlife habitat improvement on set-aside land.

Integrated Farm Management Program Option

The Secretary must establish a new voluntary Integrated Farm Management Program Option designed to assist producers of agricultural commodities in adopting integrated, multiyear, site-specific farm resource management plans by reducing farm program barriers. The plans should benefit the overall