Farm Credit System

The credit title includes the following provisions relating to the Farm Credit System.

Secondary Market for FmHA-Guaranteed Loans

To further lender participation in the Farmers Home Administration's guaranteed lending programs, the Farm Credit Act of 1971 is amended to allow the Federal Agricultural Mortgage Corporation (Farmer Mac) to establish and operate a secondary loan market for FmHA-guaranteed agricultural loans.

Farm Credit System Lending Authority

The credit title makes other amendments to the Farm Credit Act of 1971, but most changes are technical in nature. Farm Credit Banks and Production Credit Associations are no longer prohibited from making loans to marketers and processors of agricultural commodities where less than 20 percent of the facilities throughput was derived by the owners' production. However, loans to owners with less than 20 percent throughput are not to exceed 15 percent of aggregate bank or association volume for a district. The California Livestock Production Credit Association is allowed to leave the Farm Credit System with $1 million in capital. Farm Credit Banks will be required to increase their regulatory reporting requirements, especially concerning the use of government guaranteed loans.

Study On Credit

The Comptroller General (General Accounting Office) is required to report to Congress within 2 years on the cost, adequacy, and availability of rural and agricultural credit. The report is to pay particular attention to pricing policies, competitiveness, and financial strength of the Farm Credit System.

Title XIX--Agricultural Promotion

Bruce H. Wright

Title XIX authorizes new assessment-funded research and promotion programs for soybeans, pecans, mushrooms, limes, and fluid milk. It also amends the Potato Research and Promotion Act; the Cotton Research and Promotion Act; the Honey Research, Promotion, and Consumer Information Act; and the National Wool Act of 1954.

Pecan Promotion and Research Act of 1990

The Pecan Promotion and Research Act authorizes a nationally coordinated pecan research and promotion program. Pecans used for nonfood purposes may be exempted from the program.

The program will be conducted under a pecan promotion and research order. A proposal for a pecan program will be published in the Federal Register for comment. The order, as proposed or modified, is effective no later than 150 days after its publication.

The Secretary will appoint a Pecan Marketing Board to carry out the program. This 15-member Board will consist of eight growers, four shellers, one handler, one importer, and one public representative.

The Secretary will hold a referendum within 2 years following the formation of the pecan promotion and research program. This referendum will determine whether the program will continue. If a majority of those voting support the program, it will continue.

Growers and grower handlers will pay assessments to first handlers who will pay the assessments to the Board when purchasing or marketing U.S. pecans. Importers will pay the assessments when pecans enter the United States. The rate of assessment will initially be one-half cent per pound for in-shell pecans. After the referendum is held, the rate is 2 cents per pound. The rate for shelled pecans is twice the rate for in-shell pecans. States may require a special assessment to fund State marketing board research.

Mushroom Promotion, Research, and Consumer Information Act

The Mushroom Promotion, Research, and Consumer Information Act authorizes a nationally coordinated program for mushroom promotion, research, and consumer information.

The program would be conducted under a mushroom promotion, research, and consumer information order. A proposal for such an order is to be published in the Federal Register no later than 60 days after the receipt of a request and proposal by an interested person or when the Secretary determines to propose an order. An order will become effective no later than 180 days following its publication, if approved by a majority of producers and importers voting in a referendum, who represent more than 50 percent of the total annual mushroom production and imports.

An appointed Mushroom Council will carry out the order. The Council will consist of between four and nine members. Members will represent regions that annually produce or import at least 35 million pounds of mushrooms.

A referendum among mushroom producers and importers must be conducted to determine whether the order will go into effect. The Secretary must conduct a referendum again in 5 years.

Assessments would be levied on those who produce or import over 500,000 pounds of mushrooms per year. The rate of assessment would be up to one-quarter cent per pound the first year, one-third cent per pound the second year, one-half cent per pound the third year, and no more than 1 cent per pound thereafter.

Potato Research and Promotion Act Amendments

This section amends the Potato Research and Promotion Act to permit the elimination of the refund provision; to permit the assessments on imported tablestock, frozen, processed, or seed potatoes; to propose representation of potato importers on the National Potato Promotion Board; to extend coverage of the Potato Act to Alaska and Hawaii; to extend comparable reporting and recordkeeping requirements of domestic handlers to importers; and to change referendum approval requirements from two-thirds to a majority.

The National Potato Promotion Board shall carry out the plan. The Board is currently composed of 95 producers and one public representative. Up to five importers must be added if the amendments are approved in a referendum.

The amendments to include importers in the potato program and to eliminate refunds of assessments must be published in the Federal Register for comment within 60 days after receipt of a request by a producer or by a producer organization. The Secretary shall issue final amendments to the plan no later than 150 days after publication.

The Secretary must conduct a referendum within 2 years to determine whether to continue the amendments. These amendments are continued if a majority of the producers and importers voting in the referendum support their adoption. Since importers would be included under the order, the Secretary must conduct a referendum among importers to determine if they favor the plan.

Lime Research, Promotion, and Consumer Information Act

The Lime Research, Promotion, and Consumer Information Act enables domestic producers, producer-handlers, and importers of fresh limes to develop, finance, and carry out a nationally coordinated program for lime promotion, research, and consumer information.

The program would be conducted under a lime research, promotion, and consumer information order regulated by the Secretary. A proposal for an order will be published in the Federal Register for comment. The order would be administered by a Lime Research and Promotion Board appointed by the Secretary. Board members would include seven producers, three importers, and one public representative.

Within 2 years of enactment of the 1990 Act, the Secretary will hold a referendum to determine if the program should continue. In order to continue the program, a majority of the producers, producer-handlers, and importers voting in the referendum must vote in favor of the program.

Assessments would be levied on those who produce or import more than 35,000 pounds of limes per year. The maximum assessment rate would be 1 cent per pound of fresh limes.

Soybean Promotion, Research, and Consumer Information Act

The Soybean Promotion, Research, and Consumer Information Act provides authority to generate funds to conduct research, promotion, and consumer information programs for soybeans and soybean products.

A proposal for a soybean promotion, research, and consumer information order is to be published in the Federal Register for comment within 30 days after receipt. The order would become effective no later than 180 days following its publication.

The program would be carried out by the U.S. Soybean Board appointed by the Secretary. The Board will consist of members representing different geographical soybean-producing areas.

A referendum is required 18-36 months after issuance of the order to determine whether the order would be continued. A majority of those producers voting in the referendum would have to approve continuing the order.

The assessment rate shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser. Each first purchaser of soybeans from a producer shall collect the assessment from the producer.

Honey Research and Promotion Act Amendments

The 1990 Act amends the Honey Research and Promotion Act to revise the provisions concerning the board and committee nominations, give exemptions to home use and donation honey and to producers whose production is less than 6,000 pounds, and revise provisions for importer refunds. Assessments are 1 cent per pound.

National Wool Act Amendments

The 1990 Act amends the National Wool Act of 1954 to change the vote for referendum approval from two-thirds to a majority of producers or a majority of production.

Cotton Research and Promotion Act

Title XIX amends the Cotton Research and Promotion Act to provide the authority to assess imports, to include importers on the Cotton Board, to increase the amount the Secretary can be reimbursed for conducting a referendum, to exempt de minimis imports as established by the Secretary, to terminate the producer's right to demand a refund of assessments, and to review once every 5 years whether a referendum is needed to determine if cotton producers and importers favor continuing or implementing the 1990 amendments.

These amendments become effective when a majority of those producers and importers voting in a referendum approve them. The Secretary must conduct a referendum within 8 months.

The assessment rate for the order shall be $1.00 per bale of cotton handled, supplemented by an additional per bale amount that does not exceed 1 percent of the value of the cotton as determined by the Board and the Secretary. The rate of assessment on cotton imports shall be established by the Secretary in a fair and equitable manner.

Fluid Milk Promotion Act

The fluid milk promotion provisions provide for developing, financing, and carrying out a nationally coordinated program of advertising designed to strengthen the position of the dairy industry and to maintain and expand markets and uses for fluid milk products produced in the United States.

A processor-funded milk promotion order is issued by the Secretary if fluid milk processors who market 30 percent or more of all fluid milk products propose such an order. The proposal will be published in the Federal Register for comment. The program will apply to milk products with less than 20 percent total milkfat solids. The program will not include evaporated or condensed milk, or infant formula. The order would be prohibited from any advertising using private brand names.

The Secretary will appoint a National Processors Advertising and Promotion Board to carry out the program. The Board will consist of 12-15 fluid milk processors representing geographic regions and 5 additional at-large members, of which 3 must be processors and at least 1 a public representative.

The Secretary must conduct a referendum to determine whether the order is implemented. If a majority of the processors voting approve the order, it is established. In addition, these voting processors must represent 60 percent or more of the volume of the fluid milk products marketed by all processors.

The rate of assessment may not exceed 20 cents per hundredweight of fluid milk products marketed. The assessment shall not reduce the prices paid under the Federal milk marketing orders or in any other way reduce the price paid to milk producers.

Miscellaneous Provisions

Prior to introducing regulations for or amending any research or promotion order or plan that provides for an assessment on imports, the Secretary must consult with the U.S. Trade Representative (USTR) regarding the consistency of the provisions with U.S. international obligations. The Secretary must take all necessary and appropriate steps to ensure that any order or plan or amendments to them and the implementation and enforcement of any order or plan as it relates to imports are nondiscriminatory and comply with the U.S. international obligations as interpreted by the USTR.

Title XX–Grain Quality

Lori Lynch

Title XX, the Grain Quality Incentives Act of 1990, establishes a 10-year USDA Committee on Grain Quality and a Grain Quality Coordinator whose duties include reviewing and investigating information and activities relating to grain quality. Exported corn must be tested for aflatoxin contamination, unless a contract between the buyer and seller exempt the corn from testing. The Secretary must establish premiums and discounts in price support loans related to quality standards.

Grain Quality Committee and Coordinator

The Secretary must establish a Committee on Grain Quality and appoint a Grain Quality Coordinator. In coordination with the Committee, the Coordinator must evaluate the concerns and problems with grain quality expressed by buyers, must develop and implement an effort to inform and educate foreign buyers about contract specifications so they may obtain the quality of grain they desire, must review USDA programs and activities for consistency with the provisions of this title, must coordinate grain quality activities or programs in the Federal Government, and must investigate USDA actions taken on grain quality issues and communicate findings to House and Senate agriculture committees.

Grain Standards

Title XX amends the U.S. Grain Standards Act by adding to the congressional declaration of policy that the official U.S. standards for grain should reflect economic value-based characteristics of the end-uses of grain. Grain standards should also accommodate scientific advances in testing and new knowledge concerning factors related to the end-use performance of grain.

The 1990 Act also provides that, if after a comprehensive study of changing standards the Administrator of the Federal Grain Inspection Service (FGIS) determines to do so, then the Administrator of FGIS must establish or amend grain grades and standards to include "economically and commercially practical levels of cleanliness" (such as dockage and foreign material) for wheat, corn, barley, sorghum, and soybeans meeting the requirements of grade U.S. No. 3 or better. Any standards would be phased in by incremental decreases in the levels of objectionable material permitted in shipments of grade 3 or better. The requirements are to be fully implemented no later than 6 years from enactment of the 1990 Act. The 1990 Act also provides that official grade-determining factors and factor limits be included in the grain standards to reflect the levels of soundness and purity that are consistent with end-use performance goals of each grain. For grades 3 and better, the factors and factor limits should strive to provide users with the best possible information to determine end-use product quality.

FGIS may prohibit the contamination of sound and pure grain with nongrain substances, grain unfit for ordinary commercial purposes, and grain exceeding the Food and Drug Administration's action limits or the residue tolerance level set by the Environmental Protection Agency. The blending of an entire grade of grain, however, cannot be prohibited. However, no prohibition enacted by FGIS may be interpreted as restricting the marketing of any grain so long as the grade or condition of the grain is properly identified.

FGIS may work with the National Institute for Standards and Technology and the National Conference on Weights and Measures to identify inspection instruments requiring standardization, establish performance criteria for inspection instruments, develop a program to approve such instruments, and develop standard reference materials for calibration or testings. FGIS will develop practical and cost-effective procedures for commercial inspection of grain that result in premiums and

discounts to ensure all producers are treated uniformly. In addition, the 1990 Act provides for the establishment of uniform standards for aflatoxin testing equipment. In addition, FGIS must establish uniform testing procedures and sampling techniques for processors, refiners, operators of grain elevators and terminals, and any others to accurately detect the level of aflatoxin contamination of corn in the United States.

Quality Standards for Farmer-Owned Reserve and Commodity Credit Corporation Grains

The Secretary must review standards concerning the quality requirements of grain entering into the Farmer-Owned Reserve (FOR) to encourage the entry of only quality grain in the program.

Beginning with the 1991 crops of wheat, feed grains, and soybeans, the Secretary must establish premiums and discounts related to cleanliness factors, in addition to any other premiums or discounts related to quality, for use in the price support program.

Also, the Secretary must establish minimum-quality standards for grain stored by the Commodity Credit Corporation (CCC). Factors related to the ability of grain to withstand storage and assurance of acceptable end-use performance must be considered in developing these standards. The CCC will use FGIS approved procedures to inspect and evaluate the condition of grain.

Aflatoxin Testing of Corn

Title XX directs FGIS to require that all corn exported from the United States be tested for aflatoxin contamination. However, the contract between buyer and seller can stipulate that aflatoxin testing not be conducted. (Almost 95 percent of U.S. corn exported is currently tested for aflatoxin contamination.)

Other Provisions

Grain submitted for public testing must be evaluated for specific agronomic performance and intrinsic end-use performance characteristics. The Secretary must conduct, compile, and publish a periodic survey of grain varieties commercially produced in the United States. Varieties must be analyzed to determine intrinsic quality characteristics and trends in production. Information on varietal performance must be disseminated to plant breeders, producers, and end-users.

The Secretary may provide technical assistance to grain producers and elevator operators for installing or improving grain cleaning, drying, or storing equipment.

Title XX also encourages the Agricultural Research Service and land-grant universities to place increased emphasis on grain variety evaluation and on the development of objective tests for end-use properties of grains.

Title XXI--Organic Certification

Lori Lynch

Title XXI, the Organic Foods Production Act of 1990, requires the Secretary to establish an organic certification program setting national standards for the production and handling of organically produced foods. Congress seeks to establish national standards governing the marketing of certain agricultural products as organically produced products, to assure consumers that organically produced products meet a consistent standard, and to facilitate interstate commerce in fresh and processed food that is organically produced. Within 540 days of enactment of the 1990 Act, the Secretary must issue proposed regulations to carry out these provisions.

National Standards for Organic Production

The Secretary must establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods. The Secretary must consult with the National Organic Standards Board (defined below) in developing this program and in developing the national list (also defined below). The Secretary shall implement the program through certifying agents. Certifying agents are State officials and any persons, including private entities, who have been accredited by the Secretary to certify farms or handling operations as certified organic farms or handling operations. Procedures that allow producers and handlers to appeal an adverse administrative determination must be provided for in the certification program.

The organic certification program requires that certifying agents annually conduct onsite inspections of each farm and handling operation. If certifying agents become aware of a violation of applicable laws relating to food safety, they are required to report the violation to the appropriate health agencies. The Secretary, the applicable State official, or the certifying agent must conduct an investigation to determine if the organic certification program has been violated, and may require the producer or handler to prove that a prohibited substance was not applied to the product.

The certification program must provide for appropriate and adequate enforcement procedures which have been determined by the Secretary to be necessary and consistent. In addition, the program must provide for public access to documents and laboratory analyses pertaining to certification. The collection of reasonable fees from producers, certifying agents, and handlers participating in the program is permitted.

The organic certification program must provide that any agricultural product sold or labeled as organically produced must be produced only on certified organic farms, be handled only through certified organic handling operations, and be produced and handled in accordance with the program. Organic producers and handlers must establish an organic plan (defined below). Each certified organic farm and handling operation must annually certify to the Secretary, the applicable State official, and the certifying agent that they are following the standards for organically produced foods established through this legislation.

The organic certification program may certify an entire farm. It also may certify specific fields if (1) they have distinct, defined boundaries and buffer zones separating these fields from fields not being cultivated using organic methods; (2) records for all organic operations are kept separately from records relating to other operations; (3) these records are available at all times for inspection by the Secretary, certifying agents, and applicable State official; and (4) appropriate physical facilities, machinery, and management practices are established to prevent the possibility of mixing organic and nonorganic products or a penetration of prohibited chemicals and other substances on certified areas.

The program may also provide reasonable exemptions from specific requirements of the legislation if agricultural products produced on certified organic farms are subject to a Federal or State emergency pest or disease treatment program.

Producers who operate certified farms or handling operations must maintain records concerning the production or handling of organic products for 5 years. These records must include a detailed history of substances applied to the fields or the agricultural products, the dates, rates, and method of application of the substances, as well as the names and addresses of the person who applied the substances.

If a production or handling practice is not prohibited or restricted by this legislation, the practice must be permitted unless it is determined that it would be inconsistent with the applicable organic certification program.

To be sold or labeled as an organically produced agricultural product, an agricultural product (1) must have been produced and handled without the use of synthetic chemicals except for the exemptions to be determined and specified on the national list; (2) must not have been produced on land to which any prohibited substances, including synthetic materials, have been applied during the preceding 3 years (excluding livestock products); and (3) must have been produced and handled according to an "organic plan" approved by the certifying agent. Organic food labels may indicate that the product meets USDA standards for organic production and may incorporate the USDA seal.

On or after October 1, 1993, no one may use a label or provide other market information about an agricultural product if the label or information directly or indirectly implies that the product is produced and handled using organic methods if the product has not been produced using the organic methods specified in this legislation. Farmers who annually sell less than $5,000 in value of agricultural products are exempted from certain provisions of the legislation. If the Secretary determines that imported agricultural products have been produced and handled under an organic certification program which has equivalent requirements to the U.S. program, then these imported products may be sold or labeled as organically produced.

Prohibited Crop Production Practices and Materials

Producers must not apply materials to or engage in practices on seeds or seedlings that are inconsistent with the organic certification program. Producers who want their farms certified must not use fertilizers containing synthetic ingredients or any commercially blended fertilizers containing prohibited materials, or use phosphorous, lime, potash, or any other materials that are inconsistent with the organic program as a source of nitrogen. Producers must not use natural poisons such as arsenic or lead salts that have long-term effects and persist in the environment, use plastic mulches unless they are removed at the end of each growing or harvest season, or use transplants that are treated with any synthetic or prohibited materials.

Organic Plan

A producer or handler seeking certification must submit an organic plan to the certifying agent and the State organic certification program if applicable. The certifying agent will review the plan and determine if it meets the requirements of the organic program. An organic plan must not include any production or handling practices that are inconsistent with this legislation.

An organic plan for crop production must contain provisions designed to foster soil fertility, primarily through the management of the organic content of the soil through proper tillage, crop rotation, and manuring. The plan must also contain terms and conditions that regulate manure application to crops.

The plan may provide for raw manure applications only to green manure crops, perennial crops, and crops not for human consumption. Raw manure may only be applied on a crop for human consumption if this crop is harvested after a reasonable period of time to ensure the safety of the crop, but never less than 60 days after the raw manure application. This organic plan must prohibit raw manure from being applied to any crop in a way that significantly contributes to water contamination by nitrates or bacteria.

An organic livestock plan must contain provisions designed to foster the organic production of livestock consistent with the legislation.

An organic handling plan must contain provisions designed to ensure that agricultural products that are sold or labeled as organically produced are produced and handled in a manner consistent with this legislation.

An organic plan for harvesting wild crops must designate the area from which the wild crop will be gathered or harvested and include a 3-year history of area management showing that no prohibited substances have been applied. It must also include a plan for harvesting or gathering in an environmentally nondestructive way that will sustain the growth and the production of the wild crop. The plan must also include provisions that producers will not apply any prohibited substances.

Residue Testing

The Secretary, the applicable State official, and the certifying agent must conduct residue testing of products sold or labeled as organically produced to assist in the enforcement of the organic food standards. The Secretary, applicable State official, or the certifying agent may require preharvest tissue testing of any crop grown on soil suspected of harboring contaminants. If products sold or labeled as organically produced contain any detectable pesticides, other nonorganic residues, or prohibited natural substances, the Secretary, the applicable State official, or the certifying agent must conduct an investigation to determine if the organic certification program has been violated. Producers and handlers may be required to prove that no prohibited substance was applied to the product. If it is determined that the residue is a result of an intentional application of a prohibited substance or that the residue is greater than unavoidable residual environmental contamination as prescribed, the product cannot be sold or labeled as organically produced.

State Organic Certification Programs

Each governing State official may submit a plan for the establishment of a State organic certification program for the Secretary's approval. This plan must meet the requirements of this legislation and with the Secretary's approval, may contain additional, more restrictive certification, production, and handling requirements. Any additional requirements must further the purposes of and be consistent with the Organic Foods Production Act. A State cannot restrict agricultural commodities organically produced according to the Federal regulations in other States from being sold in its State. Before implementing a State program, the Secretary must approve it; after approval, the Secretary must review it within every 5-year period. Any substantive changes to a State program must be submitted by the applicable State official for the Secretary's approval before the changes are implemented.

Animal Production Practices and Materials

Any livestock that is slaughtered, sold, or labeled as organically produced must be raised according to the organic standards to be established by this legislation. Breeder stock may be purchased from any source if not in the last third of gestation. For organic livestock, producers must feed the animals organically produced feed that meets the requirements of this legislation, and they must not use feed

containing plastic pellets for roughage, feed formulas containing urea, or manure refeeding. No growth promoters and hormones, whether implanted, ingested, or injected, including antibiotics and synthetic trace elements used to stimulate growth or production of livestock, may be used. Producers must not use subtherapeutic doses of antibiotics, must not use synthetic internal paraciticides on a routine basis, or must not administer medication other than vaccinations in the absence of illness.

Except for day old poultry, all poultry from which eggs or meat will be sold or labeled as organically produced must be raised and handled according to the national organic food standards prior to and during the sale period. Dairy animals, from which milk and milk products will be sold or labeled as organically produced, must be raised and handled according to the organic food standards for at least 12 months prior to labeling the product organically produced. Producers must ensure that organically produced meat does not come in contact with nonorganically produced meat. To be certified as an organic livestock farm, producers must keep adequate records and maintain a detailed, verifiable audit trail for each animal or flock so that each can be traced back to the farm. These records must include amounts and sources of all medications administered, and all feeds and feed supplements bought and fed to the animals.

The National Organic Standards Board must recommend additional standards for the health care of livestock to ensure that livestock are organically produced. The Secretary must hold public hearings and must develop detailed regulations, with notice and public comment, to guide the implementation of the standards for livestock products.

Handling Operations

The organic certification program may provide for certification of an entire handling operation or parts of a handling operation. The operators of the handling operation must maintain records of all organic operations separate from records of other operations and make these records available for inspection at all times to the Secretary, the applicable State official, and the certifying agent. The operators also must have appropriate physical facilities, machinery, and management practices to prevent the possibility of a mixing of organic and nonorganic products as well as the penetration of prohibited chemicals and other substances into the certified area.

For a handling operation to be certified as organic, employees must not add any synthetic ingredient to any agricultural product during processing or any post-harvest handling of the product. They must not add any ingredient known to contain levels of nitrates, heavy metals, or toxic residues in excess of those permitted by the applicable organic certification program. Handling employees must not add any sulfites, nitrites, or nitrates, or use water that does not meet all Safe Drinking Water Act requirements. They must not add any ingredient that is not organically produced unless the ingredients are included on the national list and represent no more than 5 percent of the weight of the total finished product (excluding water and salt). No packing materials, storage containers, or bins that may contain synthetic fungicides, preservatives, or fumigants may be used. Bags or containers that have previously been in contact with a substance that may compromise the organic quality of the product may not be used.

If a processed product contains at least 50 percent organically produced ingredients by weight, excluding water and salt, the word organic may be permitted by the Secretary on the principal display panel only to describe the organically produced ingredients. If a processed product contains less than 50 percent organically produced ingredients by weight, excluding water and salt, the word organic may be permitted by the Secretary in the ingredient listing panel to describe only those ingredients that are organically produced.

National Organic Standards Board

The Secretary must establish a National Organic Standards Board (NOSB) to assist in developing standards for substances to be used in organic production and to advise the Secretary on other aspects of the legislation's implementation. The Board will be composed of 15 members of which:

- Four must own or operate an organic farming operation.
- Two must own or operate an organic handling operation.
- One must own or operate a retail establishment with significant trade in organic products.
- Three must have expertise in areas of environmental protection and resource conservation.
- Three must represent public interest or consumer interest groups.
- One must have expertise in the fields of toxicology, ecology, or biochemistry.
- One must be a certifying agent.

The Secretary must appoint NOSB members from nominations received from organic certifying organizations, States, and other interested persons and organizations. Members of the NOSB will serve a 5-year term without compensation. A member cannot serve consecutive terms unless the member served an original term that was less than 5 years. The NOSB must provide recommendations to the Secretary regarding the implementation of this title. The NOSB must develop the proposed national list and proposed amendments to the national list. Prior to the establishment of the national list, the Board must review all botanical pesticides used in agricultural production and consider whether any of them should be included in the list of prohibited natural substances. Botanical pesticides are natural pesticides derived from plants. The NOSB must also advise the Secretary concerning residue testing of organic products and the rules for exemptions from specific requirements of the legislation for products produced on certified organic farms that are subject to Federal or State emergency pest or disease treatment programs.

In evaluating substances considered for inclusion in the proposed national list, the NOSB must consider:

- The potential of such substances for detrimental chemical interactions with other materials used in organic farming systems.
- The toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment.
- The probability of environmental contamination during manufacture, use, misuse or disposal of such substance.
- The effect of the substance on human health.
- The effects of the substance on biological and chemical interactions in the agroecosystem, including the physiological effects of the substance on soil organisms (including the salt index and solubility of the soil), crops, and livestock.

- The alternatives to using the substance in terms of practices or other available materials.

- Its compatibility with a system of sustainable agriculture.

National List

The Secretary must establish a national list of approved and prohibited substances for organic production and handling standards governing products to be sold or labeled as organically produced. The list must be itemized by specific use or application of each synthetic substance permitted or each natural substance prohibited. The national list must be based upon a proposed national list or proposed amendments developed by the NOSB. The Secretary may not include exemptions that allow the use of specific synthetic substances in the national list other than those proposed by the NOSB. Before establishing or amending the national list, the Secretary must publish NOSB's proposed national list or any proposed amendments in the Federal Register for public comment. The Secretary must include in this notice any changes to the proposals that the Secretary recommends. After evaluating all comments received regarding the proposed list or proposed amendments, the Secretary must publish the final national list in the Federal Register, along with a discussion of comments received. If the NOSB has not reviewed the exemptions or prohibitions within 5 years of adoption or last review and the Secretary has not renewed them, the exemptions and prohibitions of the national list become invalid.

The national list may provide for the use of substances that are otherwise prohibited only if:

- The Secretary determines that the use of such substances would not be harmful to human health or the environment, that it is necessary to the production or handling of an agricultural product because a wholly natural substitute product is unavailable, and that it is consistent with organic farming and handling.

- The substances are used in production and contain an active synthetic ingredient in the following categories: copper and sulfur compounds; toxins derived from bacteria; pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals; livestock paraciticides and medicines; and production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleansers.

- The substances are used in production and contain synthetic inert ingredients that are not classified by the Environmental Protection Agency as inerts of toxicological concern.

- The substances are used in handling and are nonsynthetic but are not organically produced.

The use of specific natural substances which are otherwise allowed may be prohibited if the Secretary determines that the use would be harmful to human health or the environment, is inconsistent with organic farming or handling, and is not consistent with the purposes of this legislation. The national list cannot permit any substance whose presence in food has already been prohibited by Federal regulatory action.

Accreditation Program

The Secretary must establish and implement a program to accredit the applicable State official and any private person who meet the requirements as certifying agents to certify farms or handling operations as organic. To be accredited, a State official or private person must submit an application and have sufficient expertise in organic farming and handling techniques as determined by the Secretary. Agents will be accredited for a period of no more than 5 years. An accreditation may be renewed.

To be accredited, a State official or private person must be able to fully implement the applicable organic certification program. An agent must employ a sufficient number of inspectors to implement the program. Agents must keep records concerning their activities for at least 10 years. USDA and State officials must have access to all of these records. If certifying agents dissolve or lose their accreditation, all records or copies of their records must be transferred to the Secretary and be made available to the applicable State official. Certifying agents must agree to carry out the provisions of this legislation and agree to other terms and conditions as the Secretary deems appropriate. They must also maintain strict confidentiality with respect to their clients and may not disclose any business-related information regarding a client to any third party except the Secretary or applicable State official.

Certifying agents must not inspect an operation in which they or their employees have or have had a commercial interest including providing any consulting services. They also must not accept payments, gifts, or favors from inspected businesses except the prescribed fees, or provide advice concerning organic practices or techniques for a fee except under the organic certification program. If the Secretary or State official determines that a certifying agent is not properly adhering to the organic provisions, then the Secretary or State official may suspend the accreditation. If accreditation is suspended, the Secretary or State official must promptly determine whether farming or handling operations certified by this agent may retain their organic certification.

The Secretary may establish a peer review panel of three or more people who have expertise in organic farming and handling methods to assist in evaluating the applications for accreditation of certifying agents. The peer review panel must have at least two members that are not USDA employees or employees of the applicable State government. In determining whether to approve an application for accreditation, the Secretary must consider the evaluation report prepared by the peer review panel.

Violations of Organic Standards

Any person who knowingly sells or labels a product as organically produced that has not been produced and handled according to this legislation is subject to civil penalties of no more than $10,000. A person who makes a false statement, mislabels a product, or otherwise violates the purposes of the organic certification program, after notice and an opportunity to be heard, cannot be eligible to receive organic certification for 5 years. The Secretary may reduce or eliminate the period of ineligibility if the Secretary determines that a modification or waiver is in the best interests of the applicable organic certification program. Certifying agents must immediately report any violations to the Secretary or State official. If certifying agents violate the provisions of this legislation, they will lose their accreditation and will be ineligible to be accredited as an agent for at least 3 years.

Title XXII--Crop Insurance and Disaster Assistance

Lori Lynch

Title XXII amends title V of the 1938 Act (Federal Crop Insurance Act) which authorized federally subsidized insurance for most crops that are commercially grown. In addition, the title amends the Disaster Assistance Act of 1989 and extends disaster assistance for 1990 crops.

Crop Insurance

Crop insurance is currently available for a wide variety of crops, but is not always available in each location where a crop is grown.

Ensuring Actuarial Soundness and Information Collection

The Federal Crop Insurance Corporation (FCIC) must adopt rates and coverage that will improve the actuarial soundness of the current crop insurance policies. The FCIC must compile the insurance rates necessary to achieve actuarial soundness by region and by crop within 180 days after enactment of the 1990 Act. Premium rates for any rate deemed not actuarially appropriate may not be increased more than 20 percent per year from the previous year's comparable rates.

Beginning in the 1992 reinsurance year (July 1, 1991, through June 30, 1992), the FCIC must revise its reinsurance agreements so that the reinsured companies bear an increased share of any potential loss.

The 1990 Act encourages innovative policy development, such as insurance based on area losses. These policies must be submitted to the FCIC Board for approval. The Board may approve innovative policies if it finds that they adequately protect producers and that the premiums are actuarially sound.

To participate in the multiple-peril crop insurance program, all parties that hold 5 percent or more beneficial interest in a policy must submit their Social Security and employer identification numbers to the FCIC. Any person who intentionally provides false or inaccurate information may be fined up to $10,000 and be disqualified from crop insurance benefits for up to 10 years.

The Board must establish standards to ensure all claims are adjusted in a uniform and timely manner to the extent practicable.

FCIC must provide to the Secretary current and complete Federal crop insurance information and a listing of agents for referral to be distributed to producers through local USDA offices.

Agricultural Stabilization and Conservation Service Yields and Dollar-Denominated Coverage

The 1990 Act authorizes FCIC to offer crop insurance coverage on the basis of the adjusted program yield established by the Agricultural Stabilization and Conservation Service (ASCS) rather than the recorded or appraised yield as established by the FCIC, when the ASCS yield is higher. Additional premiums that the Board determines actuarially sufficient are required to reflect the increased risk involved with the higher yield. This additional premium is not eligible for premium or administrative subsidies.

Beginning in the 1992 crop year, the FCIC will establish a price level for each commodity for insurance purposes. These levels cannot be less than the projected market price for the respective

commodity. Producers may then elect insurance coverage on the basis of any price election which is equal to or below this price level; the coverage is quoted in terms of dollars per acre.

Disaster Assistance

The Commodity Credit Corporation (CCC) has provided disaster assistance in recent years in counties where natural disasters have lowered farmers' production or prevented them from planting crops.

Clarifications of 1989 Disaster Assistance

A 1989 sugarcane producer will receive prevented planting credit for all acreage not planted due to disaster conditions beyond the producer's control minus the 1989 quantity of acreage of recoverable sugar. Sugarcane producers must apply for disaster assistance by January 15, 1991. If an application was received before enactment of the 1990 Act, the Secretary will recompute the amount of assistance due within 90 days of enactment.

If the Secretary determines that because of a natural disaster, producers had reduced yields for their 1989 crops of soybeans and nonprogram crops, then disaster payments must be made to them. Payments may also be made to producers of valencia oranges when yields were reduced by a freeze. Payments will be made on a crop-by-crop basis taking into account markets and uses of the crops. Payment levels will be determined separately for each crop. When determining the quantity of 1989 valencia oranges a producer was able to harvest, the Secretary must exclude 100 percent of the commodity that could not be sold in normal channels of trade due to a freeze. For soybeans and nonprogram crops, the Secretary must exclude 70 percent of the quantity which cannot be sold in normal channels due to weather damage. Any producer of valencia oranges is eligible for disaster payments if affected by a freeze and located in a county declared a disaster area by the President in 1989. Producers must submit applications by January 15, 1991. If an application was received before enactment of the 1990 Act, the Secretary must recompute the amount of assistance due within 90 days of enactment.

Amendments to the Disaster Assistance Act of 1989

The following disaster program payments are authorized by the 1990 Act, but payments can only be made if funds are specifically appropriated for these payments.

In the case of 1989 nonprogram crops that are historically double cropped (including two crops of the same commodity), the Secretary will treat each cropping activity separately when determining the level of weather damage to a crop and the total harvestable quantity. This applies in counties declared a disaster area by the President for that crop. Replacement crops are not eligible for disaster assistance.

To encourage tree owners to reestablish trees damaged by Hurricane Hugo, the Secretary will share up to 75 percent of the total costs of reforestation, site preparation, and other timber stand establishment practices with private timber stand owners. A private timber stand is defined as a stand of trees held for commercial purposes by a private individual, group, association, corporation, American Indian tribe or other American Indian group, or other legal entity, owning 1,000 acres or less of land planted to trees. The Secretary may consider, in determining the total cost of implementing eligible practices, any revenues from the sale of timber from private timber stands. Owners must submit a management plan developed in cooperation with the appropriate State official. Requests must be submitted by December 31, 1993. Payments are limited to $50,000 per person. The assistance is available only in counties declared a disaster area by the President as a result of Hurricane Hugo.

If the production of 1990 sugarcane on any farm is less than 60 percent of county average yield multiplied by the acreage planted for harvest due to a disaster or a Presidentially declared emergency in Louisiana, then the Secretary must make reduced yield disaster payments. These disaster payments will equal 50 percent of the loan level multiplied by the shortfall in production greater than 60 percent of the crop.

Emergency Crop Loss Assistance

Although the following assistance is authorized, these payments are subject to appropriation of funds by Congress.

For 1990 program participants, the Secretary must make disaster payments if the Secretary determines that due to damaging weather or related conditions in 1989 or 1990, the 1990 production of the crop is less than 60 percent (for producers with crop insurance, less than 65 percent) of the farm program payment yield multiplied by the permitted acreage prevented from being planted. These payments will equal 65 percent of the target price multiplied by any shortfall in production greater than 40 percent (or for producers with crop insurance, 35 percent). To be eligible for payments, producers must agree to obtain multiperil crop insurance for their 1991 crops. The quantity of the crop on which deficiency payments will be paid will be reduced by the quantity on which disaster payments are made.

Producers who, due to 1989 and 1990 weather conditions, are unable to harvest a quantity equal to the farm program payment yield multiplied by the sum of the acreage planted for harvest and prevented plantings, will not be required to refund advance deficiency payments on the portion of the production shortfall that does not exceed 35 percent for crop insurance holders, and 40 percent for noninsured producers. Producers who have not elected to receive advance deficiency payments may elect to receive them within 30 days of the enactment of the 1990 Act. If the Secretary determines that some portion of the advance deficiency payments for the 1990 crops must be refunded, the refunds for the portion of the crop on which disaster payments are made will not be required before July 31, 1991. To be eligible for disaster payments, producers must agree to obtain multiperil crop insurance for their 1991 crops.

For producers who did not participate in the commodity programs for 1990 crops, the Secretary must make disaster payments if the Secretary determines that, due to damaging weather or related conditions in 1989 or 1990, the harvested quantity of the 1990 crop is less than 40 percent (for producers with crop insurance, less than 35 percent) of the county average yield multiplied by the sum of the planted and prevented planted acreage. Payments will equal 65 percent of the basic county price support rate multiplied by any production losses greater than 40 percent (or for producers with crop insurance, 35 percent). The maximum acreage eligible for prevented planting credit may not exceed the greater of either the 1989 planted and prevented planted acreage minus acreage actually planted for harvest in 1990, or the average of 1987, 1988, and 1989 planted and prevented planted acreage minus acreage actually planted in 1990. The disaster payments will be reduced by a factor equivalent to the Acreage Reduction Program (ARP) percentage. To be eligible for disaster payments, producers must agree to obtain multiperil crop insurance for their 1991 crop.

Peanuts, Sugar, and Tobacco

The Secretary must make disaster payments available for 1990 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary determines that, due to natural disaster in 1989 or 1990, a producer harvests less than 60 percent (or for producers with crop insurance, 65 percent) of the county average yield (or the program yield for peanuts) multiplied by the sum of the acreage planted and prevented planted. Prevented planted acreage cannot exceed the higher of either the acreage

planted and prevented planted to the commodity for harvest in 1989 minus any acreage planted in 1990, or the average of the 1987, 1988, and 1989 planted and prevented planted acreage minus acreage actually planted in 1990. The Secretary can make adjustments to the prevented planting credit to account for crop rotation practices and any quota changes for the 1990 tobacco crop. To be eligible for payments, producers must agree to obtain multiperil crop insurance for their 1991 crop.

These payments will be made on the production losses greater than 40 percent of the crop (35 percent for producers with crop insurance). For a producer of burley tobacco or flue-cured tobacco, payments will be made on the production losses greater than 40 percent of the farm's effective 1990 marketing quota (35 percent for producers with crop insurance). For peanuts, the payment rate will be 65 percent of the price support level for quota peanuts or the price support level for additional peanuts depending on which type of peanuts were deficient in production. For tobacco, the payment rate will be 65 percent of the national average price support rate for the type of tobacco involved, or, if no price support rate exists, then 65 percent of the market price. For sugar beets and sugarcane, the payment rate will be determined by the Secretary at a fair and reasonable level relative to their 1990 price support levels.

When calculating the production deficiency for quota peanuts, the quantity of peanut poundage quota that has been transferred from the farm will be subtracted. The quantity of undermarketings of 1990 quota peanuts from a farm cannot be used to claim future quota increases if payments are received on the deficiency of production. (For an explanation of undermarketings, see "Title VIII--Peanuts.")

The quantity of undermarketings of 1990 quota tobacco from a farm cannot be used to claim future quota increases if payments are received on the deficiency of production. The Secretary cannot consider these disaster payments in determining the CCC's net losses for the tobacco program.

When determining the total harvestable quantity of 1990 sugarcane, the Secretary must use the quantity of recoverable sugar.

Soybeans, Sunflowers, and Nonprogram Crops

The Secretary must make disaster payments available for 1990 soybeans, sunflowers, and nonprogram crops, if the Secretary determines that due to natural disaster in 1989 or 1990, for which assistance was not made under the Disaster Assistance Act of 1989, producers had reduced yields. Disaster payments will be made to soybean and sunflower producers who are able to harvest less than 60 percent (or for producers with crop insurance, 65 percent) of the product of the State, area, or county yields (adjusted for adverse weather conditions during the 1987, 1988, and 1989 crop years) multiplied by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary. For nonprogram crop producers, disaster payments will be made if harvest is less than 60 percent (or for producers who obtained crop insurance, 65 percent) of the product of the yield established by the Commodity Credit Corporation multiplied by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary. Nonprogram crops include all crops for which crop insurance through the FCIC was available for crop year 1990 and other commercial crops (including ornamentals, turf, and sweet potatoes), but do not include soybeans, sunflowers, peanuts, sugar, and tobacco.

Prevented planted acreage cannot exceed the higher of either the acreage planted and prevented planted to the commodity for harvest in 1989 minus any acreage planted in 1990, or the average of 1987, 1988, and 1989 planted and prevented planted acreage minus acreage actually planted for harvest in 1990. The payment rate will equal 65 percent of the simple average market price for the previous 5 years, dropping the high and low years. Payments will be made on the production losses greater than 40 percent (or for producers with crop insurance, 35 percent) for soybeans, sunflowers,

and nonprogram crops. To be eligible for payments, producers must agree to obtain multiperil crop insurance for their 1991 crop.

For nonprogram crops, if a producer can provide satisfactory evidence of actual crop yields for at least 1 of the immediately preceding 3 years, the CCC will base the farm yield on the proven yield. If the farm yield data do not exist, then the CCC will use a county average yield determined from the best available information.

The Secretary must make disaster payments available, if the Secretary determines that, due to natural disaster in 1989 or 1990, a 1990 honey producer harvested less than 60 percent (or for producers with crop insurance, 65 percent) of the historical annual yield and if disaster assistance had not been made under the Disaster Assistance Act of 1989. Payments will be made on the deficiency in production greater than 40 percent (or for producers with crop insurance, 35 percent). To be eligible for payments, producers must agree to obtain multiperil crop insurance for their 1991 crop.

If a crop is historically double cropped (including two crops of the same commodity), the Secretary will treat each cropping separately when determining whether each crop was affected by a natural disaster, and the eligible quantity for disaster payments. Replacement crops are not eligible for disaster payments.

When determining harvested quantities, the Secretary must exclude commodities that cannot be sold in normal commercial channels of trade, and dockage if dockage is not included in determining yields.

Crop Quality Reduction Disaster Payments

To ensure that all producers of 1990 crops are treated equitably, the Secretary may make additional disaster payments to producers who incurred losses of 35-75 percent resulting from a crop's reduced quality caused by natural disasters in 1989 or 1990 as determined by the Secretary. The per unit reduced quality disaster payments may not exceed 10 percent of the target price for program crops, of the basic county price support rate for program nonparticipants, and of the disaster payment levels established for peanuts, sugar, tobacco, soybeans, sunflowers, honey, and other nonprogram crops. Producers will be eligible for these payments on the portion of the actual harvested crop that has reduced quality.

Adjustments to Disaster Payments for Producers with Crop Insurance

If a producer has crop insurance for the 1990 crop, the Secretary must reduce the amount of disaster payments made available, if the sum of the net of crop insurance indemnity payments (gross payments minus premiums paid) received for the production loss and the disaster payments for the crop exceeds the product of 100 percent of the yield used to calculate disaster payments, multiplied by the sum of planted and prevented planted acreage, multiplied by either (1) the target price for program participants, (2) the 1990 basic county price support rate for program nonparticipants, (3) the disaster payment level for sugar, tobacco, and peanuts, or (4) the simple average market price for the preceding 5 years, excluding high and low years, for soybeans, sunflowers, honey, and other nonprogram crops.

Crop Insurance Coverage for the 1991 Crops

Producers must agree to obtain multiperil crop insurance for their 1991 crop if they wish to be eligible for disaster payments, emergency loans for crop losses due to natural disasters, or forgiveness for refunding advance deficiency payments. A producer will be exempt from obtaining 1991 crop

insurance only if a producer's production losses for the crop exceed 65 percent; crop insurance is not available to the producer; the annual premium rate would be greater than 125 percent of the county's 1990 premium rate; the annual premium rate would exceed 25 percent of payments, loans, or advance deficiency repayments sought; or if either ASCS or Farmers Home Administration (FmHA) county committees find that the purchase of crop insurance would pose an undue financial hardship on a producer. The Secretary must ensure that nonexempt producers obtain crop insurance. If producers cancel the insurance any time before the end of the 1991 crop year, they must repay disaster payments, emergency loans, and advance deficiency payments.

Payment Limitations

The total amount of payments that a person may receive under one or more programs related to natural disasters (including livestock emergency benefits) is $100,000. A person may not receive double benefits of disaster payments and livestock emergency benefits for lost feed production in 1990. A producer may elect to receive disaster payments, livestock emergency benefits, or a combination of these payments and benefits.

Crop Insurance Program Yields

The Secretary may permit each eligible producer of wheat, feed grains, cotton, rice, or soybeans, who had multiperil crop insurance for his or her 1989 or 1990 crops, to substitute the crop insurance yield for the farm yield when determining the producer's eligibility and the amount of disaster payments. (When crop insurance was not available in 1990, the producer can substitute the 1989 crop insurance yield.) If producers choose to use the crop insurance yield, the amount of the advance deficiency payment they will be eligible to waive equals the amount of production eligible for disaster payments using the crop insurance yield minus the amount of production eligible for disaster payments using the farm program payment yield.

Orchard and Forest Crops

The Secretary must assist eligible orchardists if more than 35 percent of their trees die (adjusted for normal mortality) because of damage caused by a freeze, earthquake, or related condition in 1990 as determined by the Secretary. An eligible orchardist is a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees. Eligible tree farms that planted tree seedlings in 1989 or 1990 and lost over 35 percent (adjusted for normal mortality) because of natural disaster will also be assisted. An eligible tree farmer is a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of such trees. The Secretary may reimburse 65 percent of the costs in excess of the 35 percent mortality of replanting trees or provide sufficient seedlings to reestablish the stand. Payments are limited to $25,000 per person, in payments or in seedling equivalents.

No person may receive double payments from the Emergency Crop Loss Assistance provisions, forestry incentives program, agricultural conservation program, or other Federal programs.

Ineligibility for Disaster Payments

A person with qualifying gross revenues of over $2 million per year cannot receive any disaster payments or other disaster benefits. Qualifying gross revenues equal gross revenues received from farming, ranching, and forestry operations if a majority of a person's annual income is derived from these sources. If less than a majority of income comes from farming, ranching, and forestry operations, qualifying gross revenue equals a person's income from all sources.