S. HRG. 107–932

IMPLEMENTATION OF THE FARM SECURITY AND RURAL INVESTMENT ACT OF 2002

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

SEPTEMBER 17, 2002

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IMPLEMENTATION OF THE FARM SECURITY AND RURAL INVESTMENT ACT OF 2002

TUESDAY, SEPTEMBER 17, 2002

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC.

The committee met, pursuant to notice, at 10:04 a.m., in room SR–328A, Russell Senate Office Building, Hon. Tom Harkin, [Chairman of the Committee], presiding.

Present or submitting a statement: Senators Harkin, Leahy, Conrad, Lincoln, Miller, Stabenow, Wellstone, Lugar, Cochran, Fitzgerald, Thomas, Hutchinson, and Crapo.

STATEMENT OF HON. TOM HARKIN, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON AGRICULTRE, NUTRITION, AND FORESTRY

The CHAIRMAN. The Committee on Agriculture, Nutrition, and Forestry will come to order on the hearing on the implementation of the new Farm bill.

The Farm Security and Rural Investment Act of 2002 was passed with solid bipartisan majorities in both Houses of Congress and was signed into law with a strong statement of support by President Bush. It is a balanced and comprehensive bill that restores farm income protection, boosts conservation more than any previous bill, helps rural communities build economic growth and create jobs, and promotes farm-based renewable energy. It strengthens our support for trade, nutrition, food aid, and agricultural research.

Implementing this new legislation properly is, of course, of critical importance to rural America. The committee is pleased to welcome Secretary Veneman; Under Secretary J.B. Penn; Bruce Knight, chief of the Natural Resources Conservation Service; and Keith Collins, USDA's chief economist. We look forward to a progress report on carrying out the Farm bill and addressing issues and questions that have come up in that process.

At the outset, I want to thank the many conscientious employees at FSA, NRCS, Rural Development, and other USDA agencies for all their work toward making the promise of the new Farm bill a reality. I know in Iowa there have been a good number of informational meetings thanks to the USDA, the Iowa State University Extension and Farm and Commodity Organization. It all comes down to developing reasonable and workable rules and regulations and getting clear, consistent information out to those who need it.

USDA must also have open lines of communications for listening, responding to suggestions, and answering questions.

As I see it, we have a shared interest and responsibility to work together cooperatively to ensure that the Farm bill is implemented well, maximizing its benefits for our Nation. One of the reasons for this hearing is that I have heard in Iowa—and I have talked with other members of the committee on both sides of the aisle, and we have been getting certain conflicting reports back from the field about how it is being implemented—a lot of questions. Now, some of those were cleared up in the last couple of weeks with a letter from the Secretary's office, but I felt it was important for us to have an open session with you, Madam Secretary, to go over the implementation of the Farm bill and perhaps respond to some of the questions that we are hearing from some of our constituents in the respective States.

I would like to recognize Senator Lugar for a brief opening statement, and with the indulgence of the committee, I would like to then just go right to the Secretary. I would ask that if Senators have opening statements, just incorporate it with your first round of questioning.

With that, I would recognize Senator Lugar.

[The prepared statement of Senator Harkin can be found in the appendix on page 52.]

STATEMENT OF HON. RICHARD G. LUGAR, A U.S. SENATOR FROM INDIANA, RANKING MEMBER, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Senator LUGAR. Well, thank you very much, Mr. Chairman. The advice you have given to all of us is sound. We really want to hear from the Secretary, and so I will reserve my questions until the normal round. I appreciate the courtesy of your introduction, and we welcome the Secretary and all of her valued associates from USDA. We appreciate you very much.

The CHAIRMAN. Madam Secretary, welcome to the committee. Your statements, all of them, will be made a part of the record in their entirety, and please proceed.

STATEMENT OF HON. ANN M. VENEMAN, SECRETARY, UNITED STATES DEPARTMENT OF AGRICULTURE,

ACCOMPANIED BY DR. J.B. PENN, UNDER SECRETARY, FARM AND FOREIGN AGRICULTURAL SERVICE; DR. KEITH COLLINS, CHIEF ECONOMIST; AND BRUCE KNIGHT, CHIEF, NATURAL RESOURCES AND CONSERVATION SERVICE

Secretary VENEMAN. Thank you, Mr. Chairman and Senator Lugar and members of the committee. I thank you for the opportunity to appear before you today to discuss the implementation of the Farm Security and Rural Investment Act of 2002.

I am pleased that you called this hearing to provide USDA an opportunity to share our hard work and progress on implementation of the new Farm bill. As you indicated, Mr. Chairman, we have with us today our Under Secretary for Farm and Foreign Agricultural Service, Dr. J.B. Penn; our chief economist, Keith Collins; and our chief of Natural Resources Conservation Service, Bruce Knight; and as well, we have a number of our other mem-

bers of our USDA team with us today, all of whom have been very, very active in the implementation of this Farm bill.

Mr. Chairman, what I would like to do today is summarize my formal statement and then respond to questions.

As you know, this new law contains many complex issues and new programs that require a great deal of work to implement. This includes writing new computer programs, implementing new regulations, a massive updating of bases and yields, extensive training for USDA employees, working with producers to make sure they understand the changes in the new law so that they can best utilize and receive the programs and the benefits.

USDA has had very short time frames to meet in terms of putting these new programs into place. Even with all of these challenges, I have to say I am very pleased and proud of the progress that the Department has made thus far in implementing the new Farm bill. The implementation planning that we did prior to the bill being passed has helped in that regard, and as soon as the Farm bill was signed by the President, USDA went into high gear to implement it. We will get checks to farmers on time.

All this progress could not have been accomplished without the dedication and the hard work and the commitment of USDA's employees at every level around the country, and, Mr. Chairman, I appreciate you recognizing our USDA employees around the country in your opening remarks as well.

Many times over the years our employees have been called upon to assist our Nation's farm economy. What we have seen during these past few months of the Farm bill implementation is no different. USDA employees around the country have worked tirelessly to implement the new Farm bill, and they deserve a great deal of praise for their efforts thus far.

I also want to thank all the members of this committee as well as Chairman Combest and Congressman Stenholm and other members of the House Agriculture Committee for their continued interest in our work during the past few months. We have conducted several member and staff briefings and appreciated your input and suggestions as we have moved forward.

We also appreciate the input from the farm community, particularly our farmers and ranchers who have made their views known on implementation. We have a lot of suggestions, and we have conducted listening sessions around the country, which has been helpful to make sure that we were acting in the best interest of our Nation's farmers as a whole, but at the same time taking into account regional considerations.

We have been listening, and our recent announcement to provide clarification regarding bases and yields is just one example of our flexibility and desire to make the best available decisions as we implement the many changes required in the new law.

As soon as the new Farm bill was enacted, we moved quickly to set up an internal structure for implementation, and we did this with a two-pronged approach. We established our sub-Cabinet as the Board of Directors, and then we created a working group which was chaired by three people: Keith Collins, who is here with us, our chief economist; Hunt Shipman, our Deputy Under Secretary for Farm and Foreign Agricultural Service; and Scott Steele, who

is a senior person in our budget office and very knowledgeable with farm programs. This group has coordinated the Department-wide implementation process, and they, along with all of the people they have worked with, have done a tremendous job.

I issued delegations of authority assigning the program responsibilities to various Under Secretaries and agency administrators to ensure that quick actions would be taken, and we have developed a Department-wide tracking system for all farm bill actions so that we know the up-to-date status for each requirement under the law.

A top priority during this time has been to keep Congress and the farm sector informed of our actions. As I said, we have held many briefings with members and staff, over two dozen; we have held at least 44 press briefings as well as farm bill implementation meetings with producers throughout the country. As well, we immediately established a farm bill website that has a myriad of information, questions and answers, and program details available for producers wanting to know more about the new law.

In addition, we have undertaken one of the most thorough training programs the Farm Service Agency has ever had, including a train-the-trainer session in Chicago last July and another session in New Orleans just last week. Training is critical to farm bill implementation, and we have made it a very top priority from the beginning.

Regarding the specific titles, we are very pleased with the overall progress that we have made so far in implementing Title I. In August, we announced the sign-up for the Direct and Countercyclical Payment Program will begin on October 1st, with payments starting soon thereafter. In order that producers can receive their payments, we are working closely with our State and local FSA offices and eligible producers to update acreage bases and yields.

This will be the first time since 1985 that producers will have had a major opportunity to update program bases and yields. In this regard, we have recently issued special provisions for livestock producers who graze their crops or harvest grain, silage, or hay for feed.

Another new program we are working hard to move forward is the milk income loss contract which provides countercyclical support payments to dairy producers. Thanks to the hard work by USDA staff in DC and in the field, sign-up began on August 13th, and payments are scheduled to start early next month.

The Peanut Program has gone through a historic overhaul. The market quota system, in place since the 1930's, has been replaced with a Direct and Countercyclical Payment Program. Peanuts are also eligible for the Marketing Loan Program, and we established a national weekly market price for loan repayment purposes.

Peanut producers may sign up for the peanut quota buyout during the September 3rd through November 22nd time period. Payments will begin as soon as the rule is issued. All of these changes will make peanuts a more market-oriented commodity and help the industry become more competitive while easing the transition for peanut producers.

Sugar is another very complex program, and I am pleased that we are able to move forward quickly in implementing the new provisions. In August, we published a final rule on program details

and also announced the 2002 crop marketing allotment quantities for beets and cane sugar.

Other implementation actions are moving along on schedule, with final rules in various stages of clearance. We are working very closely with OMB to ensure timely review and implementation.

Turning to conservation, we are pleased with the strong conservation emphasis contained in Title II. The changes in the conservation policy supports the administration's commitment to a voluntary approach and provides the Nation's producers with a true portfolio of conservation options, including cost-share incentives, land retirements, and easement programs.

We are now moving in a deliberate manner to continue those conservation programs which were re-authorized in the Farm bill, such as the Wetlands Reserve Program, the Wildlife Habitat Incentive Program, and the Farmland Protection Program. We are also revising those programs with major changes, such as the Environmental Quality Incentives Program and the Conservation Reserve Program, and we are initiating rulemaking on new programs, such as the Grasslands Reserve Program and the Conservation Security Program.

Our initial focus has been on getting the additional fiscal year 2002 funding authorized by the Farm bill into the system. Funding has been made available for EQIP, WRP, WHIP, and FPP as warning letter as for ground and surface water conservation.

Funding for these conservation programs will exceed $750 million for the year 2002. We are also moving aggressively ahead with the expansion of direct technical assistance to producers from the private sector, the nonprofit sector, and State and local government sources to supplement technical assistance provided by NRCS. As we look ahead, we have scheduled the publication of proposed regulations in the near future for EQIP and FPP, for the 2003 programs, and an interim final rule for third-party technical service provider certification.

We are also making steady progress toward the proposed rules for the Conservation Security Program, ensuring that this newest policy initiative is implemented properly. We are finalizing the delegation of authority for the Grassland Reserve Program.

For other titles of the Farm bill, we are also making progress. While the time pressure is not as immediate as for Titles I and II, we are still working aggressively in these other areas. A detailed outline on progress for the other titles is in my prepared statement, but I want to briefly highlight a few areas.

We are moving quickly ahead with implementing the provisions that bolster our market development efforts overseas. On August 12th, we announced the allocation of an additional $10 million made available for the Market Access Program for fiscal year 2002. On September 10th, we published regulations for the new Technical Assistance for Specialty Crops Program and requested proposals for fiscal year 2002 funding.

For the nutrition title, implementing memoranda were sent to all the States in June so that the food stamp provisions could be put into effect according to statutory requirements. Also in June, we announced the award of farmers' market grants to States through

the WIC Farmers' Market Nutrition Program and the Seniors Farmers' Market Nutrition Program.

The rural development title included a wide range of funding and new authorities to improve the economic prospects and quality of life in rural areas. One of the most important features of this title is to provide funding for the backlog of water and waste projects. This funding has already been awarded to 377 projects in 47 States and Puerto Rico, totaling more than $700 million. In addition, we expect to award $33 million in value-added grants in the near future.

Numerous other provisions of that title that expand our authority for financing telecommunications, renewable energy, business and community projects are in the process of being implemented through the regulatory process.

Under the miscellaneous title, we are developing voluntary guidelines for country-of-origin labeling that will be released in the near future. Also under this title, we are moving forward to appoint a new Assistant Secretary for Civil Rights.

Mr. Chairman and members of the committee, before I conclude, let me discuss another issue of significant importance to our Nation's farmers and ranchers who have been stricken by severe drought conditions in many States around the country. This administration supports helping drought-affected farmers and ranchers who are most in need, particularly our livestock producers who do not have risk management tools to protect them during these difficult times. While the Congress has not completed work on a disaster assistance package for the President to consider, the administration has laid out its priorities for additional relief and is utilizing every available tool and program to help farmers and ranchers in need within our existing authorities.

Through the heavily subsidized Federal Crop Insurance Program, the Congress has already provided tools for drought relief for our crop farmers. The crop insurance subsidy was increased dramatically in the year 2000 to avoid the need for disaster payments. The vast majority of crop acreage in the drought regions is covered by crop insurance. Almost 80 percent of the insurable acreage in the U.S. is covered. Based on current crop conditions, our preliminary estimates indicate that the program will provide $4.1 billion in indemnity payments for 2002 crop losses compared to $2.9 billion for 2001 and $1.5 billion for the 1990's.

We have also responded swiftly and worked with States to expedite approval processes for declaring emergency disaster areas so that farmers can receive low-interest emergency loans. We have expanded CRP haying and grazing eligibility nationwide and are working to get Non-insured Crop Disaster Assistance Program payments out to farmers and ranchers.

Yesterday, we announced that $10 million of EQIP funding will be directed to States severely impacted by the drought. The Emergency Conservation Program will also help landowners deal with drought-related problems. Concerning livestock producers, we announced a $150 million Feed Assistance Program to help cow-calf operators in Colorado, Nebraska, South Dakota, and Wyoming. In these States, at least 75 percent of the pasture and range crop is currently rated as poor or very poor. We also need to be concerned

about the long-term implications of the current drought situation and efforts to cope with it.

First and foremost, we should not do anything that w be a disincentive for producers to participate in the Crop Insurance Program. Further, we need to continue working to improve and expand the program particularly with respect to forage and rangeland livestock insurance products.

The Agricultural Risk Protection Act was an important step in the right direction. It provided a substantial increase in Federal funding for the Crop Insurance Program and important new authorities for improving the program. We have made substantial progress toward implementing this legislation. For example, two new livestock products were recently approved and are being pilot tested. However, much more needs to be done not only by USDA but also by the private insurance industry and producers groups to ensure that new and better insurance and other risk management products are developed and brought to the market. Producers should not have to wait for emergency appropriations for relief from natural disasters. They should have assurance of protection against risk before it occurs through their participation in the Crop Insurance Program. That is the goal that we are working toward.

Mr. Chairman, that concludes my overview of where we currently stand on implementing the new Farm bill. Our team at USDA has worked hard to implement the new Farm bill in an efficient and expeditious and responsible manner to best help our farm and food sector receive the intended programs and benefits. We are committed to continuing to do the very best job we can to deliver the programs.

We are also committed to continuing to work with Congress and other stakeholders to ensure that legislation in implemented fairly and properly.

Again, thank you for having us here this morning, and we would now be willing to respond to your questions. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Madam Secretary. I will turn first to Senator Lugar, and we will start this with 5-minute rounds first.

Senator LUGAR. Thank you, Mr. Chairman.

Madam Secretary, I would like to mention that in Indiana I visited with John Nidlinger, who is our Indiana Director of the Farm Service Agency, and he has conducted over 140 meetings attended by over 17,000 Indiana farmers, and the information that you have suggested today and the network that you have talked about, I simply want to make that report from the grassroots. It has been very helpful in terms of mitigating all the questions that would have come to our office otherwise, and that has been minimized by this good process.

You mentioned that Congress provided authorization for USDA to use the private sector for conservation technical assistance. You mentioned in your opening statement work on that is continuing. You may not know the date at the moment that the regulations for the new authority will be ready, but if you could give me some notice after the meeting, I would appreciate it. There are many in our State who are eager, really, to proceed, and you are eager to help them.

Now, my major question comes down to on the 7th August I wrote to OMB Director Mitch Daniels regarding food aid, and that letter was signed by Chairman Harkin, and Senator Leahy was copied, to you and to Dr. Rice because it expresses concern over the administration's food policy review. The administration is supposed to limit the 416, 416(b) Surplus Disposal Food Program, and rely instead upon P.L. 480, Title II. The concern has been that there ought to be transparency and better regulation, and I understand this.

The net effect, however—I look at it now from the standpoint of the World Food Program, in which a colleague of mine, Jim Morris, is now the deputy of Kofi Annan, going through Afghanistan, Pakistan, various places of great interest to us—has been to drop the U.S. contribution from 6 million metric tons in fiscal year 2001 to 4 million this year or, rather, that is the estimate for, I guess, 2003, as we have the transition of this policy.

That is a dramatic decrease in the face of the African problems, quite apart from our foreign policy situation in Afghanistan and Pakistan, and this is why I have asked both you, Condoleezza Rice, and the powers that be wherever, this is very, very serious, and we really need to change the policy.

Now I am not certain how you can proceed to do that, but will you please give me some indication of your first reaction to this crisis and how we are going to get from 4 to 6, which we have to do, in one form or another. If we cannot improvise in this forum, please advise me sort of where, maybe starting with the President on down, we can do so because the humanitarian impact of this is very substantial.

Secretary VENEMAN. Well, Senator, I do appreciate your concerns that you have raised. As you know, USDA has a very active role in food aid, but we do not act alone in food aid. It is an interagency process that includes AID, the State Department, and the OMB, the NSC, a number of agencies throughout Government that come together in an interagency process to make determinations of food aid.

This food aid review group entered into discussions about how to create more consistent funding of the food aid, and it was believed that through P.L. 480 that it was a better mechanism to administer food aid. What the group did, however, was recognize that because there are emergencies that are beyond what one can anticipate in any given year, that the 416 authorities would still be available, and so that review committee continues to meet and look at needs.

I am aware of your concerns about the WFP, and certainly we are very pleased that Mr. Morris has come into that job and hit the ground running. We will continue to work with you to look at ways that we can satisfy the demands of the World Food Program, particularly during these times where there is a tremendous amount of need around the world.

Senator LUGAR. Well, we are constrained by the time, but will you please advise me what I can do personally to intervene because I am prepared to do so at any level. This is really a drastic problem and which people are going to die out there if we are not success-

ful, despite our own bureaucracy and however efficient we thought this might be. Please give the orders.

The last question I have deals with which agency will administer the McGovern-Dole International School Lunch Program. USDA and USAID have been suggested, maybe others. How is that sorting out?

Secretary VENEMAN. That is another issue that is still being discussed interagency between whether or not it would be USDA, who has, as you know, been administering the program, or AID.

My recommendation of the Farm bill language on the McGovern-Dole Program, which is the Global Food for Education Initiative, a replacement, is that the legislation itself did not specify who should administer the program. That issue is still in discussion.

Senator LUGAR. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Chairman Lugar.

Senator Leahy.

STATEMENT OF HON. PATRICK LEAHY, A U.S. SENATOR FROM VERMONT

Senator LEAHY. Thank you, Mr. Chairman. Both thanks to you and to Senator Lugar for holding this hearing.

I talked briefly with the Secretary before the hearing started, and I wanted to remind her that in the legislation, the National Dairy Program was designed to provide dairy farmers income support payments that are going to be virtually identical to what, for example, Vermont dairy farmers received under the Northeast Interstate Dairy Compact. Payments have be made retroactively, coveringproduction and low prices since December 1, 2001.

Retroactive to that date, prices for Class I fluid milk fell below the compact's trigger level, $16.94, which is identical to this program, but prices have been below that trigger level ever since, and they continue to fall.

We also note that the prices, as always happens in this, does not go down at all at the supermarket. What the consumers pay for milk is exactly the same. The prices drop precipitously to the farmers, and they are really getting a bad, raw deal. In fact, the farm level milk prices are at their lowest levels in over 10 years. In fact, only three times in the last 25 years have they been this low, and we have had both flood and drought, the worst combination possible this year. A lot of farmers have poor crops. They are going to have trouble feeding.

Now we designed the National Dairy Program to be farmer friendly. It was designed to be easy to administer. We spent a lot of time doing that. I believe that the Department of Agriculture has taken this program that was going to be farmer friendly, they made it overly burdensome, overly complicated, overly restrictive. They are basically telling family farmers you better have a couple of lawyers and a couple of accountants on staff to help you out through this program. There are some accountants available right now. This is not what was intended.

Now you and I have known each other for many years. I have an enormous amount of respect for you, Madam Secretary. I was going to tell you that during the Farm bill, the Department of Agri-

culture fought us on the National Dairy Program every step of the way in the House, and in the Senate, and during the committee conference. That is your prerogative. We won, and the Department lost.

Now I fear what you are trying to do is to undo administratively what we accomplished legislatively. In effect, the Department of Agriculture is trying to veto a bill that the President of the United States signed, and that is wrong. We wrote a farmer-friendly dairy program. You are making it farmer unfriendly.

The Department needs to maximize the payments, not minimize it. You should encourage participation, not discourage participation. Every dollar is going to pass through the hands of our farmers. It is going to have a great impact in our rural communities, and unless changes are made, thousands of Vermont dairy farmers, but tens of thousands of other dairy farmers across the country are not going to get what they should.

Let me ask you a couple of questions. Some we will probably have to put in the record.

I am concerned about your failure to meet the congressionally mandated deadline for implementation. Congress mandated that the Department of Agriculture begin entering into contracts on July 13th, but you did not allow producers to enter into a contract until August 13th. Then they mandated the first payments to be made no later than October 1st—less than 2 weeks from now.

Will producers start receiving their first checks by October 1st?

Secretary VENEMAN. I believe, Senator, that we will get checks out during October. I am not sure about exactly on October 1st, but I am going to ask Dr. Collins to talk just briefly about how we implemented this dairy program, and how we implemented it in a way that we feel was fair to the most number of——

Senator LEAHY. Well, if we are going to do that, then let us also go into the question of the beginning month for the transition payments because that has wiped out, wiped out, the way you are doing it, a whole lot of dairy farmers.

I want to know, in answering that, did officials in the White House Office of Management and Budget direct you to limit payments to dairy producers, either directly or indirectly, did anybody? Doctor, be very careful in your answer on this because if it is not accurate, you are going to have a chance to discuss this again before another committee that I am on.

Did anybody in the White House direct you, directly or indirectly, to limit payments to dairy producers?

Mr. COLLINS. Senator Leahy, no one directed me, personally, to limit payments to dairy producers.

Senator LEAHY. I am not talking personally. To your knowledge, did anybody?

Mr. COLLINS. Nor to my knowledge do I know of the White House directing the Department to limit payments to dairy producers. What we have done here is implement——

Senator LEAHY. Well, then why did you take a plan that was very clear in the legislation, change it all around to do something entirely different than what we intended?

Mr. COLLINS. The plan was far from clear in the legislation. To start with——

Senator LEAHY. It is a heck of a lot less clear now.

Mr. COLLINS. When you look at the dairy language, you have to understand that you provided very complicated overlapping requirements. There is a transition period, and there is a contract period, and both are variable. The dividing line between the two is any time between May 13th, 2002, and 2005, depending upon the choice of the producer, and then over the top of these two variable periods which you constructed in law, you require us to implement an eligibility cap of 2.4 million pounds per producer on what they can receive payments, and you further require that eligibility cap to be enforced on a fiscal year basis, even though neither the transition period, nor the contract period, are on a fiscal year basis.

I disagree with you if you think that that is abundantly clear and easy to implement.

Senator LEAHY. Well, but you are not allowing the producers to select the beginning month for the transition payments, and they could have.

Mr. COLLINS. That is correct. We did not.

Senator LEAHY. I do not think you are following the law in that regard.

Mr. COLLINS. Well, there are grounds for discussion here. When we first looked at the law, it was our belief that the law said the transition period started in December, and then the contract period, having an enforceable 2.4-million pound eligibility cap on a fiscal year basis, we figured the contract period and the 2.4 cap would start on fiscal years in October.

When we first designed this program, we were going to have producers enroll in this program beginning in December 2001 for the transition period, get payments until they hit the 2.4-million-pound cap. Then, the following October, and each October after that, start the clock again with a 2.4-million cap. That way producers would not have had any choice whatsoever to pick a month.

We think that is consistent with the law, and it could have been implemented that way. However, we chose not to implement it that way. We chose to give producers the flexibility to pick the month from 2003 on through 2005. We went beyond what a straight reading of the law could have implied by giving producers that flexibility.

It is true we did not give them the flexibility during the transition period. We said the transition period would start in December 2001, and the reason we did that was to provide, we think, consistency with all of our other programs, where once a price has been established, we do not allow producers to look back and pick a month to maximize a payment. We do not do it on LDPs for corn or wheat or anything else.

Senator LEAHY. There are a lot of things you did not do. I mean, you did not allow the sign-up time on the specific time that the statute required. You were a month late on that.

Mr. COLLINS. We were a month late on that, and for that I can say that having been at USDA for many, many years, and having had to sign off on every significant, economically significant and major regulation of the Department, I can tell you, with a law passed on May 13th, having a regulation out by July 13th or July 12th is almost impossible.

Every regulation that you put out under the Administrative Procedures Act or under various Federal Executive Orders requires a cost-benefit analysis, possibly an environmental assessment, possibly a risk assessment, an unfunded mandates assessment, a Small Business and Regulatory Flexibility Act assessment, a civil rights impact assessment and possibly an energy assessment.

That all flows from the fact that Congress did not want Federal departments to regulate willy nilly and impose lots of requirements on us to be sure that when we put out a regulation, when we put out decisions, they are sound and well thought out.

Unfortunately, it took us until July 12th to come to that conclusion on dairy, and we regret that, but we still think that we got it out in a fairly timely way by getting the sign-up period beginning in August. In fact, even though we do not have our computer software done for the dairy program yet, we have started sign-up with manual sign-up in order to get as close as we could to the July 12th date.

Senator LEAHY. Mr. Chairman, I, obviously, disagree, and I will submit a number of questions to the regard because we have a situation where medium-sized farms did not do as well as large farms or small farms. They have left a huge gap in here.

Thank you.

The CHAIRMAN. Thank you, Senator Leahy.

[The Statement of Senator Leahy can be found in the appendix on page 53.]

Senator Cochran.

THE STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR FROM MISSISSIPPI

Senator COCHRAN. Mr. Chairman, thank you very much.

Madam Secretary, welcome to the hearing.

First of all, I want to commend you and your staff for the hard work that you have turned in implementing this farm bill. It was a huge undertaking, very little time available to you between the enactment of that legislation and the sign-up periods that were going to be occurring for this crop year. I commend you. You have done an excellent job.

I happened to run into Mr. Penn the other day at the airport, and we talked about some of the practical problems that were confronted, and the enormous burden that was really imposed on the Department by the Congress to do this in a very short period of time.

I know there are going to be some difficulties encountered, one of which you mentioned in your statement on Page 3. You talk about the fact that you have a schedule for sign-ups, announcements, payments to farmers. I wonder whether you can share with us what the schedule is. We are asked by producers, when we go back to our States when can payments be expected, when will all of the sign-ups be scheduled. Is there anything you can tell us that we can pass on to our producers in that regard?

Secretary VENEMAN. Well, we did announce last month that we would begin sign-up on October 1st, with payments to be distributed shortly thereafter, and we continue to stand by that time line, and we will be able to get payments out shortly after people sign

up, on or around October 1st. We are on schedule and that we will get the payments out to farmers on time.

Senator COCHRAN. Well, that is good news, and I commend you for that. I hope that we can cooperate with you if there is any way that we can be helpful.

Now I know that a lot of these programs were changed in some fundamental ways. Farmers have the option, for example, of providing information on yields, past production of lands. Some of them are confused by what their options are and what the implications are. I know a lot of the Farm Service Agency offices are wrestling with how to answer the farmers' questions. I know one farmer told me he wished somebody could make that decision for him, that he does not know how it is going to turn out. He might want to change it, as a practical matter, later on, and would that be possible?

These are some fundamental difficulties that producers are encountering, and I know the employees in the Farm Service Agency offices are encountering as well.

Is there anything that you can tell us that we can pass on to the employees at the local level or the producers to help them address this situation more effectively?

Secretary VENEMAN. Well, Senator, you are absolutely right when you say that this has been very complicated to implement, and because we knew it was going to be complicated, because there were so many changes, we did several things.

First, we had a website up and running the first week, and we keep adding questions and answers that come up to that, as well as program decisions, time lines and so forth, and we hope that this is not only helping producers, but people in our Farm Service Agency county offices and anyone who wants information.

We have conducted training sessions for FSA, knowing that they need to get the up-to-date information. We are doing a lot of joint training with NRCS and FSA to make sure that people in the county offices have the same information because so many of this contact you should be able to get some general information from any USDA employees in the field.

Of course, we have done, and I, personally, have participated in several of these, but we have counted up all of the media briefings we have done through farm broadcasters, particularly, who are a wonderful source of getting information out to farmers and ranchers, and we have done, among all of our staff, 44 briefings on farm bill implementation with the press, trying to get the word out on how we can do some of these things because we know it is complicated. We are trying every way that we can.

For those farmers that do not want to go log on the website, they can listen to the radio. We are doing radio spots through our USDA all of the time to try to get word out to farmers. There are a lot of complicated questions, and we are doing everything we can to try to get people educated about what they need to do to sign up, what kinds of information they need to bring in, and when they can expect to have the final sign-up and their payment.

Senator COCHRAN. I know there is one difficulty that has developed between your department and the Office of Management and Budget with respect to a portion of the funds for technical assist-

ance for conservation programs. I joined with Senator Herb Kohl of Wisconsin in signing a letter yesterday—he is chairman of the Appropriations Subcommittee for the Department of Agriculture—suggesting that it would be inappropriate to deny the use of CCC funds for technical assistance for these conservation programs, as OMB apparently is proposing without a reprogramming.

We provided funding that we thought would be useful for the Department to carry out the conservation programs in the area of Conservation Operations. That is the name of the account. The funds that were included in that were to be used for operations. The technical assistance funding could come from CCC funds.

I hope that you are able to renew your discussions with OMB and figure out some way to persuade them. I would hate to see us have to go back through this and figure out a way to legislate an answer to this problem.

Can you bring us up-to-date as to what the status of that disagreement is, and is there any hope for resolving it?

Secretary VENEMAN. Well, Senator, there has been a difference of legal opinions, in terms of the new law and whether or not it superseded Section 11 of the old law, as I understand it. The lawyers have been at complete loggerheads about how this particular provision has been interpreted, and I know that some of the committee members have specific ideas on how it should be interpreted, as well as the appropriators, and we appreciate that fact.

We have our staff, particularly, Under Secretary Mark Rey, has worked to try to come up with a short-term resolution for the 2002 year because we were coming upon the deadline, as you know, with regard to the 2002 fiscal year, and we will continue to work through this issue for the subsequent years, but we have worked on a compromise for the 2002 year, which I can have our administrator talk about or our chief, I should say—sorry—talk about for a moment, if you would like.

Mr. KNIGHT. Well, in brief, we have come to some form of resolution that will allow us to be able to move forward with implementation of the two programs that it was most important that we get the money out and implemented. Those are the Wetlands Reserve Program and the Farmland Protection Program. We announced each of those, the allocations out to the States on both of those programs, two Fridays ago and are proceeding ahead very, very rapidly on implementation of that so that we can get the actual funds on the ground for the conservation for the needs of the Wetlands Reserve Program and be able to achieve the objectives of both of those before the end of the fiscal year, and we will proceed with further discussions for 2003.

Senator COCHRAN. Thank you very much, Mr. Chairman.

The CHAIRMAN. I have refrained from asking questions, but I want to pick up on this that Senator Cochran brought up.

OMB released $5.9 billion, if I am not mistaken; is that right?

Mr. COLLINS. In technical assistance, that is correct.

The CHAIRMAN. My information is that that is not going to cover the need. I do not know how far you expect that to go, but that if your lawyers were to contact on both sides of the aisle, in the Senate and the House, you would find that there is a clear agreement on both sides to supersede the 1996 bill by providing that, under

mandatory programs, technical assistance could be used out of those mandatory programs.

The only thing that we allowed to continue under 2701(b) was for transfers from CCC. That would still be subject to the Section 11 cap, but for the mandatory programs that we put in, it was very clear.

I have been befuddled, Senator Cochran, by why it seems to be confusing to lawyers. I have read it over. I know the problem. I have asked my staff to give it to me. We have read it over, and we have read it over, but as far as the mandatory programs go, I thought it was very clear, and that we left only Section 11 caps on the transfers from CCC.

Do you have anything to say about that?

Mr. KNIGHT. The most important thing for us, sir, was to be able to move forward with providing the services on the ground this year for Farmland Protection and the Wetlands Reserve Program. We have a compromise worked out for 2002.

The CHAIRMAN. Well, our problem is with OMB and not you, I assume. Senator Lugar and I have written twice to them informing them what we intended to do and repeating the appropriate section of the bill on Section 2701(a) as it provides that the Secretary shall use the funds, and that 2701(b) was simply to keep the Section 11 cap on the transfers from the CCC.

We still need $20 million for the Wetlands Reserve Program technical assistance. Where is that money? USDA asked for that and OMB denied it. Where is the money, Madam Secretary? Or anybody, where is the money? I mean, you asked OMB for it. They denied it. We still have a problem with the Wetlands Reserve Program.

Secretary VENEMAN. Well, again, Mr. Chairman, as I indicated, there has been a difference among lawyers on this issue, and in order to resolve it, to the maximum extent possible, to be able to get some of this technical assistance done before the end of the fiscal year, we did reach this compromise.

Now, I understand the frustration of the committee. There has been a disagreement about what the language means, and we will continue to work with the committee to try to resolve this for the subsequent years.

The CHAIRMAN. Well, OK. Again, USDA asked for the $20 million for technical assistance for WRP. OMB denied it. Senator Lugar, I am sure, wrote representing the Senators on his side. I wrote representing the Senators on our side. I believe letters also came from the House committee spelling this out for them. I don't know why there is any confusion. I just don't understand that at all. We still are missing the $20 million. That is why I asked about the $5.9 million that was going out. That is not sufficient. We know that.

I will have some more to say about that after a bit.

Senator Conrad.

Senator CONRAD. Thank you, Mr. Chairman, and welcome to the committee, Madam Secretary and others from the Department. Mr. Penn, we had a chance to meet last week, and Dr. Collins, Mr. Knight.

First, I want to thank the chairman for calling this hearing. It is critically important because there are things occurring here which I find very disturbing.

Madam Secretary, in our system of government who makes the law?

Secretary VENEMAN. I am sorry. I thought there was more to your question.

Senator CONRAD. In our system of government, which branch makes the law?

Secretary VENEMAN. Congress makes the law.

Senator CONRAD. Congress makes the law. No executive department makes the law. Is that correct?

Secretary VENEMAN. Well, the laws are made by the Congress and signed by the President.

Senator CONRAD. Made by the Congress. That is exactly right. That is not what is happening here. In item after item, example after example, you and your Department are defying the law, are defying Congress. I don't know how it could be more clear.

Senator Leahy gave the examples in dairy. I would turn your attention first to the minor oilseeds. The statute says the loan rate for a marketing assistance loan shall be equal—"shall be equal"—in the case of other oilseeds to 9.6 cents per pound.

The managers' report says for sunflowers, "In implementing the Marketing Assistance Loan Program for minor oilseeds, the managers expect the Secretary to establish a single sunflower loan rate." A single sunflower loan rate.

That is not what you have done. For the first time ever, without consultation, without public notice, without a hearing, you have decided that what Congress said to do, what Congress put in the law is not acceptable to you, and instead you will establish a rate for the oil types of 9.15 and for confections, 12.10. You are wreaking havoc on this industry.

That is not what the law is. That is not what the managers said to do. Why aren't you doing it?

Secretary VENEMAN. Well, Senator, let me first say that as we discussed, as Dr. Collins discussed with the Milk Program, there is a lot in this farm bill that is not abundantly clear in the law——

Senator CONRAD. What is not clear about a statute that is—I want to know, what is not clear about a statute that says—this is as clear as it can be. For the other oilseeds, the marketing loan rate shall be 9.6—not 12.10, not 9.15, 9.6. What is not clear about that?

Secretary VENEMAN. Well, I was talking generally about the Farm bill——

Senator CONRAD. I am talking specifically. I have asked you a specific question.

Secretary VENEMAN. I am going to get to that, but I would like to just be able to respond initially, and that we have had to make a lot of judgments in implementing this farm bill. I believe that our folks have done a tremendous job, and as I said in my opening statement, they deserve a lot of credit for that. The chairman recognized that. Many other committee members recognize that. They deserve a tremendous amount of credit. I am going to ask Dr. Penn and possibly Dr. Collins to comment specifically on how we came

to the sunflower loan rate issue because it is a technical calculation that this group came together as a committee and made.

Senator CONRAD. I am asking you. You are the Secretary. You run that Department. This statute is as clear as it can be. The managers' instruction is as clears as it can be, only that is not what you have done. I want an explanation from you: Why are you not following the clear intent of Congress?

Secretary VENEMAN. Again, I would like to let our folks who have gone through all the calculations respond to this question as to how we arrived at this.

Senator CONRAD. Well, I am interested in your answer. You are the Secretary. I want your answer. The people that I represent want your answer. This is a devastating effect out in the country. Farmers want to know. I mean, it is just as clear as it can be. The intent of Congress—can you tell me what could be more clear than a statute that says—and I will repeat the language. The statute says the loan rate for a marketing assistance loan shall be equal to, in the case of other oilseeds, 9.6 cents per pound.

Have you provided a loan rate for sunflowers of 9.6 cents per pound or have you got a differential rate for confectionery and oil types?

Secretary VENEMAN. I am going to ask Dr. Penn to respond to this.

Mr. PENN. Senator Conrad, you and I have had this conversation before, but I do think we should respond for the record. The portion of the statute that you read is very clear. There are also, I am told by the lawyers, other portions of the statute that gives the Secretary some discretion to adjust loan rates by quality and type and other factors. This is a part of an overall process of establishing loan rates for all of these commodities in the new Farm bill.

I would point out that we are establishing loan rates for 17 different commodities spread across 3,000 counties in the country. We are trying to do this to take into account location and type and different market factors for each one of these products. It is a very difficult task so that we don't introduce distortion, so that we don't cause more harm than good with what we are trying to do here.

In the case of the minor oilseeds, we did try to adhere to the 9.6 for all oilseeds, but it is part of a broader effort to try to establish individual loan rates for those commodities that have their own set of market fundamentals, and confectionery sun seeds have a different set of market fundamentals than do oil-type sun seeds. There has typically been a pretty substantial differential, historically about a $3 a hundredweight differential between the two, and it just seems to make sense to not cause distortions, not cause farmers to shift acres, not cause problems in the processing industry, nor with transportation and storage if you can delineate these. That is what we have tried to do, not only with the minor oilseeds but with the pulses and the other crops. We have tried to make these as fair and as equitable as we can among farmers and to minimize the distortions and enable farmers to be as efficient as they possibly can.

Senator CONRAD. Let me just say, you have substituted your judgment for the judgment of Congress. It is as clear as it can be what Congress said to do, not just there, flaxseed, same thing, 9.6

percent is what is provided for in the statute. You have set it at 6.98 percent—6.98 cents, and I can tell you, I have one farmer who is going to lose $30,000. You announce without public notice, without hearing, without consultation, that you on your own, defying the clear intent of Congress, go out and change the rules in the middle of the game. One farmer from my State, it is going to cost him $30,000. He acted in good faith. I don't think you have. It is just incredible to me that Congress gives you a clear direction and you don't follow it.

Well, we will have more chance—I have many more examples that we are going to have a chance to go over before we end today.

The CHAIRMAN. I thank you, Senator Conrad.

Senator THOMAS. Thank you, Mr. Chairman. Welcome, Madam Secretary. I know it must be a terrific job to implement this bill, and I hope that at least you get an opportunity to respond here in your own way.

A couple of fairly broad ones. EQIP is very important to us and designed, of course, to promote production, environmental quality. There seems to be some confusion with the implementation. Some States are ahead of the Department in terms of doing it. Other States are moving forward without the guidance, apparently.

What is the process the States are following with the rules of EQIP to get that program into place?

Secretary VENEMAN. Well, as you know, Senator, the Farm bill put substantial amounts of new money into EQIP even for the 2002 year. We moved quickly to announce the availability of that money so that it could be utilized for projects that had been applied for and yet funding was not yet available.

I am going to ask Bruce Knight to comment specifically on your question about how we are implementing it in the various States.

Mr. KNIGHT. We are using the existing rules and regulations to a large degree with very few minor—minor modifications for 2002 so that we could implement the additional funding authority that we have, that you granted us in the Farm bill.

For 2003, we will move forward with a rather robust, open, rulemaking process that will give us an opportunity for folks to make further comments on where to move forward on EQIP with the 2003 process.

Senator THOMAS. Grassland Reserve is also one that there has been some debate and some discussion as to whether that is going to be done under the jurisdiction of the Farm Service Agency or whether it is going to be done under NRCS or whether, in fact, it is going to be divided. Would you comment on that, please?

Secretary VENEMAN. There are some programs like the Grassland Reserve program where we are still working out where the oversight and where the administration will take place. What I can tell you is that we have made it a strong policy in USDA that our agencies should work together because our constituents need consistency and availability of services from our people in the field, no matter who they are. Both Jim Little, who is our administrator of FDA, and Bruce Knight have been strong advocates of working together, making sure that our programs are administered effectively and efficiently out in the field, and that NRCS and FSA particularly are working together in the administration of these. How we

are actually going to administer the Grasslands Reserve Program we are still working on, but it is one of these things that we are working closely in terms of the employees that have jurisdiction or responsibility for these areas.

Senator THOMAS. I have talked about it with some people before, actually, not during this implementation, but where Farm Service is doing the rental contract portion and NRCS is doing implementing the easement portion. Even though I agree with you they ought to work together, it does make it difficult when they split the responsibilities between two agencies, and perhaps it is something that the major responsibility ought to be with one. They can write the checks, I guess, over in the other one.

Secretary VENEMAN. Well, we are trying to bring our agencies together in terms of computer software and hardware and programs so that we should be able to take all of these data bases that have been kept by these agencies on paper, and as we can bring them together into a common computing data base, we will be much more able to administer these programs effectively across agencies.

Senator THOMAS. I am sure that is right. Still, the responsibility needs to lie somewhere. The Rural Marketing Program, when do you think those assistance loans and deficiency payments, when will that program be finalized?

Secretary VENEMAN. I am actually not sure when we are looking at the implementation of that program.

Mr. COLLINS. I have to look up the calendar. We have a timetable here. We can certainly——

Secretary VENEMAN. We can get that answer to you.

Senator THOMAS. I appreciate it.

Just one other final question. In the Livestock Feed Assistance Program contained in the new drought amendment, will people be able to use their new payments for feed they have already purchased here in the past?

Secretary VENEMAN. In the drought—I am not sure which drought amendment you are——

Senator THOMAS. I am talking about the one that is now in the process here. Just generally in drought, the payments don't get there for a good long time, and the operators have had to already spend the money to feed the livestock and so on. I presume those dollars will be available for what maybe that rancher has already spent.

Secretary VENEMAN. Yes, I—go ahead.

Mr. PENN. It depends on the language that is put in the final legislation, but I'm told that historically it has been true that farmers have been allowed to use the payments for feed that has already been purchased because of the timeliness of questions——

Senator THOMAS. It is pretty important because the critters are going to be hungry before that allocation of money is made. All right. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Thomas.

Senator Miller.

Senator MILLER. Thank you, Mr. Chairman. Obviously, it is a very timely hearing, and thank you, Madam Secretary, for being here with your staff. Thank you for all your hard work. I know that it has been a difficult task to implement this farm bill.

I guess it will come as no surprise to you. My question has to do with peanuts. I am about as predictable as Senator Leahy with his dairy questions.

[Laughter.]

Senator MILLER. One of the main thrusts of the Peanut Program that we worked so hard on was to enhance our peanut producers' ability to export. If we continue with this formula that has been set up, it is going to be very difficult to do that. In fact, it is going to drive U.S. producers completely out of the export market.

I have two or three questions, but my first question has two parts. Would someone please explain how this formula for the loan repayment rate for peanuts is calculated? Does the administration believe that the process of U.S. competitors should be used in developing the loan repayment rate?

Secretary VENEMAN. I am going to ask Dr. Penn, who has been intimately involved in the Peanut Program, to get into the technical issues.

Mr. PENN. Well, Senator, first let me say, as Chairman Harkin indicated in his opening statement about having lines of communication, this farm bill was passed late in the year, made applicable to the 2002 crop year. We were given the authority to go to, as you know, what is called interim final rules. We didn't have an opportunity to do the normal procedures which would be to promulgate some draft rules, make them available for comment, and then revise them and publish them in final form.

What we have done at the Department is to try to have open lines of communication. In fact, in my office we have had meetings with anybody. Any group that has requested a meeting to give us their views on how these programs should be implemented, we have certainly met with them. That has been the case with the peanut industry. I am happy to say they have taken us up on that, and we have had numerous meetings with all aspects of the industry trying to get their views on how this program should be implemented, because as you noted, this is essentially a brand-new program. I mean, it is an industry that was in place, had a particular program for almost 70 years, and then all of a sudden it is changed. It is made into a Marketing Loan Program just like we have for the major commodities. The industry itself hasn't made all of the changes.

We quickly got the quota buyout part of the program into place, and then following that, we started implementing the Marketing Loan Program. There is a marketing loan rate of $355 a ton for all peanuts that is in the statute. The question then becomes what is the loan repayment rate, and unlike soybeans and corn and all of the other commodities, there are no cash prices for peanuts. What is one going to use as the loan repayment rate?

Well, we think that after a while, after the industry is allowed to adjust to the new program, there will be cash markets emerge and that we will have reliable cash prices that can be used to determine the LDPs or the loan repayment rate, just like for the other commodities.

In the meantime, as you have suggested, that has forced us to try to develop some sort of composite or national posted price to determine the loan repayment rate. Frankly, we called in all of the

various portions of the industry. We have heard from them. We have heard from their experts. I am aware of the problem with trying to make our products competitive to try to get to the export market, and that too is our objective. I mean, we certainly want to do that, and we understand that that was the objective in basically reformulating this program. We have to go through this transition period here in which the markets begin to operate.

In the meantime, we are publishing, as you noted, this weekly price. We use a whole variety of sources. We explored sources for peanuts, peanut prices all around the world. As you can imagine, for the European price, the prices of our competitors, they varied greatly by quantity, quality, type, and reliability of the price estimates are not always very good. We talked to a lot of traders. We talked to a lot of people who prepare the prices in Rotterdam and other places, and they tell us they are subject to manipulation. We couldn't just very well take one of those prices with any confidence.

What we have done is to utilize information from a whole variety of sources. We get every transaction that we possibly can on peanuts in the United States for all purposes, those that are sold into the export market, those that are sold for the domestic crush for every single purpose. We try to take into account the prices of Argentinean peanuts and others in that formula.

Now, this is not a formula that I can write down and hand to you. It has quite a bit of judgment in it. We call, we ask about transactions, and if we think that there is something suspicious about those, we exclude them. We are doing the very best we can in this interim period here to indicate what we think are the value of peanuts at this point in reference to this loan rate, and I note that our formula—we have published four now—has moved around a fair bit, several dollars a ton, and that we think that after a while it will begin to reflect the true cash prices. Not many of the new crop peanuts have been sold into the market yet, so we are waiting to see that.

Senator MILLER. Let me try to get this question in before my time runs out. We all agree that the goals associated with the loan repayment rate are to minimize potential loan forfeitures and to minimize accumulation of stocks and to minimize the cost of storage and storage.

Does the administration agree that the current repayment rate will lead to large government stocks of peanuts and increased cost to the Government?

Mr. PENN. Well, we are certainly aware of that problem, and the last thing we want is for a big portion of this year's crop of peanuts to go under loan and to be forfeited to the Government. I mean, we don't want to be in the inventory management business. We want those peanuts to go into the market.

We are going to try our best to make sure that that happens, and the loan repayment rate, as I noted, is changed every week. As there are more transactions of new crop peanuts that are in the harvest process now, we think that a cash price will soon be established, and that that will reflect the opportunities to sell peanuts in the foreign markets and for the different purposes in the U.S. market. Our objective is the same as yours. We don't want any peanuts. We want to expand our exports. We want this new program

to work for this industry because it is very market-oriented, it is a step in the right direction.

Senator MILLER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Miller.

Let's see. Senator Hutchinson.

Senator HUTCHINSON. Thank you, Mr. Chairman.

I agree with my colleagues in recognizing the great challenges the Department has and am sympathetic with the short timeframe and the great pressures that you are under to get this done.

One of the questions that my farmers have raised that I would like if you could give us some help on, for the five options producers are given for base acres, is the Department willing to look at regulations with regard to crops that are rotated or are taken out of production for a year? In Arkansas, if a farmer rotates rice acres into soybean acres due to red rice infestation, my understanding is they would then have to average a zero year for their rice base. In Freedom to Farm, farmers were led to believe that they could shift planting choices and not be penalized for doing so. Rotating rice with soybeans or not planting now causes the resulting base to be substantially reduced. At one time this acreage could have been declared considered planted for program purposes, but under the new regulations, only a prevented planting declaration can be used in determining planting acreage and determining those base calculations.

Obviously, having to figure in a zero because you are doing some good conservation practices, that creates a real problem in using that option. Is there any flexibility, is there any way to address this concern that our farmers have, Dr. Penn?

Mr. PENN. Senator, yes, we are very much aware of that problem of the planted or considered planted portion of the regulation.

There are several of these situations that are very particular to certain areas, certain kinds of rotations, corn-soybean rotations where the whole farm is in a rotation, that just weren't anticipated, in the broad regulations that were promulgated and issued. There is some flexibility. We are looking at this. I understand the argument, and we are going to try to have an answer on this fairly soon.

Senator HUTCHINSON. Could you let me know what is going on? We are getting a lot of calls on that concern.

Mr. PENN. We will keep you posted.

Senator HUTCHINSON. Many of the farmers in my State are concerned about having to get a new power of attorney to make decisions for the new Farm bill. As you know, they cannot make decisions or receive payments until those documents are available, and farmers only have, I understand, until April 1, 2003, to get that done, to get all the paperwork finished.

Are there any plans or contingencies for farmers who have difficulty dealing with out-of-State landowners, which is a big problem in Arkansas?

Mr. PENN. Well, on that one, let me say as well that we have heard concerns expressed, and in every opportunity where we can explain what our objectives are, most people, most of the farmers agree that a little bit of extra trouble is probably worth the effort.

The last time we requested that the powers of attorney be updated was 1996. That was a fairly simple farm bill, as you know. This one is much more complex, and it requires decisions to be made on updating the acreage bases and the yields where the farmers only get one chance to make that decision for the entire life of the Farm bill. These are too important to not be taken very seriously, and what we want to avoid is a case where a year later somebody comes in and says, Why am I in this situation? Who made that decision for me? It was done under an old power of attorney.

When we explain to farmers that this is something they need to do, that it is really important, that we need to get the records updated, that there are new programs and new decisions in this farm bill that were never envisioned under the previous farm bill and under the old power of attorney, that we really do need to have the new up-to-date legal records. It is well worth the effort.

It is some difficulty, I know, for people to chase dow numerous landowners or to go to the nursing home to find people because there are a lot of landlord-tenant situations. It will be well worth the effort in this case.

Senator HUTCHINSON. Madam Secretary, in making many of the decisions on commodity options, there is a need to access the Internet so they can use the various models to determine which option is going to be the best that is going to serve them the best.

In Arkansas, only 26 percent of the State has Internet access, and most of that Internet access is in the urban areas, not out with our farmers. What is the USDA doing, what efforts are you undertaking to make these resources available to these rural areas? Are there alternative forms or means by which the best option can be determined for our farmers?

Secretary VENEMAN. Well, Senator, it is an important question, and there are a couple of things I would like to bring up in that regard. One is that we have tried to put together some Internet programs so that you can actually try to figure out which scenario is best for the particular farmer. It works like retirement planning programs that you can get on Quicken or something. That is an important tool for farmers and ranchers, something we have not been able to do in farm bill implementation before.

Now, we can make these programs accessible through the Farm Service Agency office for people who don't have their own Internet access. This also brings up another important part of the Farm bill, and that is, in the rural development title, there is a recognition that rural America should not be left behind with regard to Internet access, broadband availability and so forth. In that regard, we are also working to try to bring some of these services to rural America, but in the meantime we will work through our Farm Service Agency offices to work with farmers who don't have the availability in their own operations.

Senator HUTCHINSON. Well, thank you. That is the key. Most of what I am hearing is that implementation of the Farm bill, the time allowed, the paperwork required, while trying to operate their farm operations, that it is just very, very difficult unless there is going to be assistance and flexibility shown by the Department. That is my plea. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Hutchinson.

Senator Wellstone.

Senator WELLSTONE. Thank you, Mr. Chairman.

First of all, Mr. Chairman, let me ask to have a complete statement in the record.

The CHAIRMAN. Without objection.

Senator WELLSTONE. Second of all, let me just take note of the fact that my colleague Senator Dayton would be here, but there is a Senate Armed Services security closed hearing with Secretary Rumsfeld and others, and that is why he is not here, and he wanted me to make that clear to you, Madam Secretary.

As long as we are talking about Senator Hutchinson's last question, don't forget the telework provisions in this bill, too, which are really going to be important to greater Minnesota and rural America in terms of making sure that we are not left behind in this information technology economy.

I want to, first of all, say to you, I want to thank all of you for being here. I want to really echo the words of Senator Leahy on dairy and just make the following request rather than getting into a big battle with you, which is, first of all we are now 950 and we need to get these countercyclical payments out ASAP; and, second of all, to call on you to really make some adjustments here in terms of the formula because I really do think that the mid-sized dairy producers are now at a disadvantage in terms of the formula you have, and I that is a big mistake, and it goes against what we clearly intended, the legislative intent. I would urge you all to take that into account.

Madam Secretary, the big question I have for you as a Senator from Minnesota goes to the vote last week on the Senate floor, which was 79 to 16, 31 Republicans voting for the disaster relief bill. I want to try to get you on the record and see where you stand in relation to this. I was in northwest Minnesota this weekend, and time is not neutral. People are absolutely desperate and, of course, there was such support for this because in a lot of parts of the country it is the same story.

The one quote I have here is from White House spokesman Scott Stanzel, and I quote from the article, and he says, "We support the disaster aid, but it's going to come out of the pot of money earmarked for subsidies for Midwest corn, soybeans, and wheat, and for rice and cotton grown in California, Texas, Arkansas, and Louisiana."

My question for you is whether or not you support the disaster relief assistance that passed in the Senate because that is disaster relief assistance taken out of the Farm bill. That is the way we always do disaster relief assistance. We take it out of general revenue. We don't take it out of agriculture. We don't take it out of highway.

Do you or do you not support this vote in the Senate, this effort to get the money to farmers?

Secretary VENEMAN. Senator, let me say a couple things about the disaster situation, and as I said in my opening statement, both in the written one as well as my oral one, we recognize the severe drought situation in the country.

Senator WELLSTONE. In our case it is flooding. In other cases it is fire.

Secretary VENEMAN. We have certainly had to deal with a lot of fires this year as well, as you know.

The administration has made it clear that we do support disaster relief, particularly for those who don't have risk management tools available. As I indicated in my opening statement, about 80 percent of the cropland is covered by crop insurance, so we are really looking primarily at those producers, especially in the livestock area, that don't have the risk management tools available that others have.

We have also—and I want to reiterate what I did in my statement, the proactivity that this administration has taken with regard to the drought. Early on we began designating disaster areas as quickly as possible so that low-interest loans would be made available. We did CRP haying and grazing very early on. We then extended that from August 31st to November 30th. Then just a week or so ago we extended that to the entire country.

We have had the Emergency Conservation Program funds for States to develop water resources. We just announced yesterday another $10 million in EQIP funds for severely affected States. We announced this innovative 150——

Senator WELLSTONE. Could I interrupt you just for 1 second, Madam Chair, because I am going to run out of time. I appreciate what you have done, but there is a disconnect here. First of all, even for those producers that have crop insurance, they are lucky if it covers 70 percent; a 30-percent loss is the end for a lot of our independent producers.

My question is whether or not—I understand some of the things you have done, but it doesn't, frankly, have any bearing on what we are dealing with in northwest Minnesota. My question is: A, do you support the Senate amendment? Are you going to support this disaster relief assistance, 79 votes? Yes or no?

Secretary VENEMAN. We have——

Senator WELLSTONE. You are the Secretary of Agriculture.

Secretary VENEMAN. The Senate amendment that was passed, we did send a letter to Senator Daschle which clearly lays out the administration's position on that. This is not a bill that is passed out of both Houses of Congress and is on the President's desk to sign. We don't have a bill that has been passed and is conferenced, and we will continue to work with the Congress for appropriate disaster assistance within the principles that we have laid out as an administration.

Senator WELLSTONE. Can I just take 30 more seconds? I know there are lots of people here that are interested and there are journalists, and I am not trying to grandstand, and I will try to say it quietly. I just think this is disingenuous—not dishonest. You are not a dishonest person and you work hard. The administration—this is a little disingenuous because if you as the Secretary of Agriculture support this amendment passed by 79 Senators, with only 95 there and we all know darn well that the House will move this forward. We need your support now. I can't for the life of me understand your resistance.

I will tell you—I mean, I don't know, maybe you could start outlining exactly how much you are going to take out of corn, how much you are going to take out of soybeans, how much you are going to take out of wheat, how much—CBO won't let you do it, anyway. I mean, you are not going to be able to get the scoring that way. You could support this. You won't. If we don't get the support from the President and from the Secretary of Agriculture, I am really worried that the help will not be there for people. Then they will go under.

Are you sure you can't today say "I support this," it had strong bipartisan support, it is the right thing to do? You can't do that as Secretary of Agriculture?

Secretary VENEMAN. I understand your concern, Senator, and, again, I will reiterate that the President has been clear on the principles that he had laid out for disaster assistance, and we continue to want to work with the Congress on disaster relief which is consistent with those principles.

The CHAIRMAN. Thank you.

Senator Fitzgerald.

Senator FITZGERALD. Thank you, Mr. Chairman. Following up on Senator Wellstone's questioning, I just want to say I disagree with Senator Wellstone, and I actually agree with the administration. I want to compliment you for having the courage to say that we ought to give this relief within certain principles, and there is no easier way to score political points in Washington than just giving money to everybody. Everybody who comes in my office every day wants more money. Everybody wants more money. Somebody has to pay for it, and the money that we are giving out around here is not manna from heaven. It actually comes from the taxes and paychecks of people who work every day, and so we have a responsibility to treat that money very carefully and not just get out the ladle and not ask questions. I want to compliment you for your very careful approach in that regard.

Madam Secretary, I authored a section of the new Farm bill that establishes a commission on the application of payment limits for agriculture, and it required the members of the commission be appointed 60 days after enactment, and I believe it was enacted July 13th. I am wondering if your Department has turned its attention to the appointment of commission members, and would you be able to give me an update on where the USDA is in the nomination process?

Secretary VENEMAN. I would be happy to, Senator. As you know, this is a commission that is going to consist by law of ten members, one of whom the Congress appointed itself, and he is sitting right next to me. We do have one member appointed, but they are appointed three by the Senate, three by the House, and three by the Department of Agriculture.

I can tell you that with regard to the—we have not received any announcement on the three by the Senate or the House. I have had meetings with my staff just this week on this very issue. We are very close to making final selections on individuals that we believe will do a good job on this commission. We would hope to be able to announce the USDA selections in the very near future.

Senator FITZGERALD. Well, I appreciate that, and I am glad you are on top of it, and I just thought I would ask.

I had hoped that the Farm bill would have included stronger limitations that I sponsored with Senator Grassley, and I do think it is at least good that we are having a commission to look into the effect of essentially unlimited payments to certain very large farmers.

It has been called to my attention that the USDA has been in the business of buying mountains of nonfat dry milk that costs—we were talking a little bit earlier about it costing the taxpayers. This is costing the taxpayers millions of dollars every week for purchases and for ongoing storage. While the USDA has the authority to adjust the tilt twice a year, many have been surprised that the Government instead has chosen to continue to buy milk powder. My question is, Madam Secretary, when, if ever, will USDA decide to get out of the nonfat dry milk business?

Secretary VENEMAN. Well, Senator, as you say, we do have mountains of it. We have over a billion pounds, maybe 1.4.

Mr. PENN. 1.3.

Secretary VENEMAN. 1.3 now, 1.3 billion pounds of nonfat dry milk in storage. I use this a lot when I talk to people, and they are shocked. I have actually been out to Kansas City and seen some of this milk stored in the caves. It only stays in condition about 3 years, and then we have to sell it for pennies on the dollar for pet food.

Fortunately, we were very innovative—and I commend our staff at USDA for coming up with this Livestock Feed Assistance Program where we have been able to use just a small fraction of that milk, but it was an innovative way to help our livestock farmers and use some of that milk.

We have issues like the tilt under consideration constantly at USDA. As you know, there is a tremendous amount of interest in this by various groups within the industry, the broad sense of the industry, from producers to processors and so forth. It is an issue that we continue to take under consideration, and even I have had some of the producers come to me as well and say we do need to figure out a way to get a handle on the amount of nonfat dry that is going into storage because it is a cost to the Government and the taxpayer, and so we are continuing to look at that very carefully.

Senator FITZGERALD. Why do we buy it?

Secretary VENEMAN. Why do we buy it?

Mr. PENN. Well, this is a price support program. As you know, the Congress mandates that we support the price of milk at $9.90 a hundredweight, and since we can't physically buy milk, we have to buy products. We buy nonfat dry cheese and butter as a way to hold the price of fluid milk at $9.90. This is a price support program like any other, and the Government is the market of last resort.

Unfortunately, these products, much like we were talking about loan rates, each product has its own set of market fundamentals, and oftentimes they get out of whack and they need to be adjusted. Nonfat dry is a case where we have had an excess supply, more supply than was demanded. The Government has been the market for that.

If we adjust, we have to be careful that we don't adjust too far in the other direction. Then we just buy cheese or butter instead of nonfat dry. It is a very precarious balance that we are trying to maintain there, and we are watching this very closely, as Secretary Veneman said.

Senator FITZGERALD. Well, if there anything we can do to help you get off this treadmill, please let us know. I certainly would be glad to assist you.

It looks like I am running out of time, so I just want to thank you very much, Madam Secretary. I really appreciate your hard work. You weren't given a lot of time to implement this farm bill, so I want to compliment you and your staff for all that you have done to implement a very complex bill under a very short, tight deadline. We thank you for your good work for our Nation's farmers. Thank you, Madam Secretary.

The CHAIRMAN. Thank you.

Senator Stabenow.

STATEMENT OF HON. DEBBIE STABENOW, A U.S. SENATOR FROM MICHIGAN

Senator STABENOW. Well, thank you, Mr. Chairman.

First I would ask that an opening statement be inserted in the appropriate place in the committee's minutes, and thank you for holding the hearing.

First, to Madam Secretary and your staff, I have heard many positive comments about your website, so I want to thank you for putting that together. It has been something that people in Michigan have found very helpful, and I hope you will continue to expand that.

Michigan, because of its diversity, is impacted by every title in the Farm bill. Every provision, what colleagues have raised as issues are of concern to me in a wide variety of ways. I won't speak to other things that colleagues have raised, but I do want to emphasize the disaster bill, and also the impact that it has on the one question that I wanted to focus on.

When we look at disaster relief and, Madam Secretary, when you talk about crop insurance and 80 percent of the insurable land being in crop insurance, the problem is that we have uninsurable land. In a State like Michigan, with a high level of specialty crops, our fruit and vegetable farmers do not have a comprehensive program. We have a few pilot programs that we are experimenting with that I was involved in helping to create in the last number of years, but we are talking about part of agriculture that doesn't have the full, comprehensive impact of crop insurance, which is of great concern to me. In Michigan, we have seen not one but 2 years for our grape growers now that are devastated, apples, cherries. In some cases on our orchards, we literally do not have enough cherries for one cherry pie, which is—it is incredible what is happening for folks.

We are very much impacted. We appreciate in Michigan low-interest loans but our farmers, frankly, have enough loans. This disaster package is very, very important.

As it relates to the Farm bill—and I realize it is complicated in many provisions, and I appreciate the hard work that it takes to

put it together. I share the concern about provisions in the Farm bill where we were very clear and where our expectation is that, in fact, these will be implemented. I speak, as no surprise, to areas of specialty crops and the commodity purchase. I am pleased to be co-chair of the Produce Caucus along with Senator Gordon Smith. We have faxed a letter to you signed by 31 Senators expressing great concern that the commodity purchase provisions that really are historic—because, again, fruits and vegetable growers are not part of the Farm bill traditionally. They are not program crops, as you know. This commodity purchase is very important to them, and it was historic that we were able to get this into the Farm bill.

I am concerned that—we said two things in there. We said that there would be a minimum of a $200 million purchase made every year, and in addition to that, we were very clear—and I would read—"The managers' intend that the funds made available under this section are to be used for additional purchases of fruits and vegetables over and above the purchases made under current law." This is very important. We know that there are purchases made every year under Section 32, and we want to make sure that this is a new program of an additional amount of $200 million a year. I would like to know from you if, in fact, you intend to follow through on this provision that is in the Farm bill, that is so important to a group of people who aren't covered on other pages of this document and who also find themselves in disaster situations where they aren't covered by crop insurance, and then they get hit on all sides. This is a very important part of agriculture in Michigan. While we are very diverse, this is an important part of agriculture for us. I am going to do everything in my power to see that the Department follows through on this language in the Farm bill as it relates to the commodity purchase, and I would like to know your intent.

Secretary VENEMAN. Well, thank you, Senator. As someone who comes from California, you know that in my home State we hear a lot of the same concerns about some of the specialty crops that you are expressing from your constituents in Michigan.

Let me first address the crop insurance issue that you raised. One of the things that we have continued to do since the implementation of the 2000 crop insurance reform and through our Crop Insurance Board, which we just appointed in the last several months, which is very active, looking at new products, new tools for crop insurance. Dr. Collins has been very involved since the 2000 bill was implemented and could comment more if you would like, as well as Dr. Penn, who oversees the Risk Management Agency.

I do appreciate your issues about crop insurance. Crop insurance has been expanded to more and more commodities. We are constantly looking at new tools both in the specialty crop areas as well as the livestock areas, because these are—we do need to look at risk management opportunities here.

With regard to the purchases, I am aware of your letter and the number of people who have signed it and the concern. As you know, we purchase a tremendous amount of product under Section 32, primarily for our school lunch programs. My information is that for 2002 we have purchased $187 million already, as well as another $50 million through DOD for fruits and vegetables, and we

are going to continue to purchase the maximum amount that we can through Section 32.

I understand the managers' language, and there has been some disagreement about what this means in terms of the language of the bill versus the managers, but we are continuing to work that out with our lawyers.

Senator STABENOW. Well, if I might just say, traditionally in the Congress language put in through the managers has been followed as a part of the statute. My position is that that is, in fact—we agreed, everyone sat around the table and agreed that, in fact, this was in addition. This is $200 million in additional dollars, and it is very, very important that this be viewed in that light.

Let me also just say, back to crop insurance and all of the areas that are being looked at now, I know that there has been some discussion saying that our specialty corps could qualify under NAP. Let me just also say on their behalf that these farmers don't normally go to the FSA office, so they are not aware of what is available there. We had only 20-some farmers, 20 or so that signed up through there because that is not the structure through which they work. It is very important in looking at these farmers to do this in a way where they are informed, where it is really something that is going to work for them, and we are not yet there. I really encourage you, as we are expanding crop insurance, to be aware of those mechanisms.

Finally, I would just say—and I know my time is up. I would just say that from my perspective and on behalf of the fruit and vegetable growers that we are very concerned that there be a maintenance of a strict enforcement under restrictions that were in the 1996 bill and in the 2002 bill as it relates to planting fruits and vegetables on program crop acres. I know I have a different position than the leadership on the committee, but I have to say on behalf of our fruits and vegetable growers, they are very concerned that the restrictions and the enforcement of those remain in place.

Thank you, Mr. Chairman.

[The prepared statement of Senator Stabenow can be found in the appendix on page 56.]

The CHAIRMAN. Thank you, Senator Stabenow.

Senator Crapo.

Senator CRAPO. Thank you very much, Mr. Chairman. In fact, I am going to follow-up. My very first question was exactly what Senator Stabenow just finished on, and that is, the question of the prohibition on the planting of fruits and vegetables on acres enrolled in commodity payment programs. As you know, that was in the 1996 Farm bill. We continued it in the Farm bill we just passed. I am disturbed by reports that I am hearing that the USDA may be considering weakening those rules and the regulations and penalties relating to that prohibition. Can you provide me assurance that the USDA is not intending to weaken these prohibitions?

Secretary VENEMAN. On the——

Senator CRAPO. This is the prohibition on planting of fruits and vegetables on acres that are enrolled in the commodity payment programs.

Secretary VENEMAN. Right. We are maintaining the restrictions that were in the 1996 Act. I know there has been a lot of concern about that, but we are continuing to maintain those restrictions because we believe that is the intent of Congress.

Senator CRAPO. Good. I appreciate that. I just wanted to be sure that I covered that with you.

Let me move to pulse crops next. On September 3 of this year, the USDA announced the loan rates and loan repayment rates for peas, lentils, and chickpeas. You know where I am headed. Unfortunately, it appears that the loan rates are based on No. 1-graded products, whereas Congress spoke clearly in establishing the loan program that it should be based on feed peas, No. 3 grade lentils, and on No. 3 grade chickpeas. Congress based these rates on these lower grades to provide a broader safety net and to create a system with less forfeiture and prevent the need for discount schedules. Growers recognized the need for a broader, less disruptive safety net and supported this approach.

It is troubling to me that the USDA is acting contrary to congressional direction and without consultation with the pulse industry, and I would like to ask you what steps you are going to take to reverse this announcement on September 3 and do what Congress directed in the Act.

Secretary VENEMAN. Again, as Dr. Penn pointed out maybe before you got here, there has been a complex calculation on the number of loan rates that we have had to do in USDA, and I am going to have him comment directly on the way that we arrived at the pulse loan rates and how we calculated those.

Senator CRAPO. Dr. Penn.

Mr. PENN. Well, let me say that this is the first time ever that pulses have been included in the loan program.

Senator CRAPO. Correct.

Mr. PENN. Most of this crop is contracted, and it is not a set of crops that USDA normally gathers information for because it has been contracted. There is not very much information available on acreage, on production, on prices, on utilization.

To start a loan program from scratch, required that we have to go and find all of the information that we possibly could. We were not able to implement this program in the same detail that we would have liked to, and so we announced the national loan rate, no regional loan rates for these products, but we intend to do that in 2003, and we have announced that we are going to have a series of meetings with the various stakeholders, the producers, the processors, the contractors and others to try to develop this information and to try to make regional loan rates where possible. That is part of the background.

To get to the specific point, this is another one of those topics that Senator Conrad and I have had some discussions about, and he has expressed the same concerns that you have.

I have to tell you that there is an honest misunderstanding with the respect to the pulse loan rate. For instance, the $6.33-number that is put in the statute as the loan rate for dry peas is way above the market price for this crop for a long time. I mean, it has been several years since this crop reached that price. In fact, it has only been at that level in 2 out of the last 11 years. Because that was

so much above the market prices, we thought that was the food price, rather than the feed price. We thought that was the price of, No. 1, dry peas, rather than feed quality peas.

What we want to do, in establishing the loan rate, is to make sure that we have the loan rate and the repayment rate the same. We set the loan rate and said that is for food quality, and then we set a loan repayment rate for food quality as well.

Senator CRAPO. What you are saying is you do not believe that Congress clearly directed that we focus on feed peas, and No. 3-grade lentils, and No. 3-grade chickpeas?

Mr. PENN. I understand that is what is in the managers' report, but I am saying because that price, the $6.33 was so far above where market prices had been, we thought that was the food-grade price, rather than the feed-grade price.

Senator CRAPO. Well, you are hearing from us that that is not what we meant.

Mr. PENN. Well, as I said, we are trying to work with the various producers and with the trade association for this set of crops and to gather information so that in 2003 we can make changes in this program as are required.

Senator CRAPO. Do I understand you to say, then, that you are intending to move in 2003 to the feed peas, No. 3-grade lentils, and No. 3-grade chickpeas?

Mr. PENN. We certainly want to follow the intent of the Congress, as Senator Conrad reminds me over and over. We certainly do. In this particular case, unlike the sunflower case, I mean, it was just a misunderstanding about that. Because these prices are so high, I mean, you understand it is going to cause acreage distortions, it is going to distort the economics among the various crops, it is going to draw acreage perhaps from wheat and other things because the guaranteed price is so high. We just did not think that that would be the intent, to tell you the truth.

Senator CRAPO. I understand. There can be quite a debate on what the impact of your decision will be as well, and the program was put together with a lot of careful facts. I appreciate your comments, and I am going to work together with my colleagues to see that we get this where we intended it with Congress.

One last quick question. First of all, I have a lot of questions I will not get to, and I would appreciate the chance to submit them to you for response.

The last quick question is that I do commend you for your implementation, Madam Secretary, of the sugar program. There is one part of that implementation I am a little concerned about, and that is that in the Farm bill, Congress eliminated the 1-percent surcharge on CCC interest rates on sugar nonrecourse loans. Unfortunately, it appears that in implementing this rule, USDA has not eliminated the sugar loan rate.

Do you intend to take action to correct that?

Mr. PENN. No, Senator. This is a case where again, there is going to be a disagreement as to what is allowable in terms of implementation, but if I remember correctly, the statute allows us the discretion as to whether or not to lower this interest-rate charge by 1 percentage point, 100 basis points.

In effect, when the CCC operates the loan program, the 1996 Farm bill obligated us to increase the interest rate by 1 percentage point over the cost of borrowing money from the Treasury, and we do that for every commodity, and it is required in the law. It is only for sugar and only in this farm bill that the language was changed that you may not charge that for sugar.

Because we wanted to keep consistency and fairness among all of the crops, and we wanted simplicity in implementing the program, we elected to leave it as it had been in the past.

Senator CRAPO. Even though Congress directed that we eliminate the surcharge, because we did not specify the loan rate, you are going to continue to apply the surcharge?

Mr. PENN. It said we may or may not charge the additional 1 percent. It did not mandate that we do that, Senator.

Senator CRAPO. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Crapo.

[The prepared statement of Senator Crapo can be found in the appendix on page 58.]

Senator Conrad.

Senator CONRAD. Thank you, Mr. Chairman.

I would like to go back to the pulse-rate question and put up—again, I hope you understand the frustration, after spending hundreds of hours writing this farm bill, and basically you all fought us every step of the way, we get the job done in a way that we intended, and now we see you undoing what we spent hundreds of hours crafting.

On the pulse crops, Senator Crapo has raised, and I appreciate, Senator, your raising the subject because it is another example of defying the intent, a clear intent of Congress.

This is the managers' language with respect to the pulse crops, and this is language that I wrote. I do not know how it could be more clear. The conference substitute established a marketing assistance loan program for pulse crops, dry peas, lentil and small chickpeas. The loan rate for dried peas is based on U.S. feed pea prices. The loan rate for lentils is based on the price of U.S. No. 3 lentils, and the loan rate for small chickpeas is based on the price of chickpeas that drop below a 20/64 screen.

That is what Congress said. That is what Congress directed. The statute specifies the rate, but that is not what you have done. You have created this differential.

Now I heard in the responses to Senator Crapo what I hope to be an opening here. Madam Secretary, will you reconsider the actions that have been taken with respect to the so-called pulse crops?

Secretary VENEMAN. Well, as Dr. Penn indicated, that it is clear from his answer that we will take another look at this, as we look at these for the 2003 crop year.

Senator CONRAD. You will not reconsider for 2002.

Secretary VENEMAN. Well, we are in a position where we have tried to implement this farm bill, as has been indicated by a number of the members here, in a very short amount of time. Our people have done yeoman's work trying to do that and make the calculations. We are learning things from it, and we will reconsider

certain things for the 2003 crop year. There is no question about it. Dr. Penn has indicated that.

Let me——

Senator CONRAD. Can I just ask why were those of us who wrote it not asked? We are a phone call away. The intent of Congress, you have already acknowledged, should prevail. Why did anybody from the Department not pick up the phone and call us up, if you were confused about it, and just ask?

Secretary VENEMAN. Let me just say, Senator, and this is very important, every meeting that our folks have had on the implementation of this farm bill has been attended by our lawyers. We are doing nothing contrary to what our lawyers advise that we can do with regard to the implementation of this farm bill. I just do not want people to get the impression that we are not following the law here because we are taking every action.

There is, as I said before, a lot of discretion that the Department has to determine with regard to this farm bill, but I feel very strongly about getting legal advice, and our folks have had lawyers at every single meeting.

Senator CONRAD. You have said, Madam Secretary, you have said the lawyers disagreed. There was a disagreement among the lawyers. The lawyers do not run USDA, you run USDA. You make the decision, you have been appointed by the President, confirmed by the Congress to make those decisions.

I would say to you, Madam Secretary, if you have lawyers that are confused on this point, you need new lawyers. It could not be——

Secretary VENEMAN. I did not say lawyers were confused on this point. I talked about lawyers not agreeing on the Section 11 issue with regard to technical assistance, and that was not——

Senator CONRAD. Are you saying that your lawyers consistently have advised you, all of your lawyers are telling you that what you have done is what Congress intended on sunflowers, on pulse crops? All of your lawyers are telling you that that was the intent of Congress?

Secretary VENEMAN. Our lawyers are telling us that what we are doing is within the scope of the law that has been passed by Congress.

Senator CONRAD. Well, I will tell you, that is truly, it is unbelievable to me. I mean, I have read from the statute with respect to the oilseeds. I have read to you from the managers' report with respect to pulse crops. I wrote the section. There is no question whatever on what was intended. Everybody who participated in those talks knows what was intended, but that is not what you have done, and I find that very troubling because you have decided just to go your own way and defy what Congress has said.

It is pretty clear you took $165 million out of this farm bill that Congress intended farmers to receive. Because when we went to CBO and asked them what it would cost to reverse course, they said it is $165 million. You took, on your own, $165 million right out of the minor oilseeds. I do not know what other conclusion one can come to. That is, this administration, through you, this department, you, you are the one that made these decisions, saying to

Congress, "We do not care what you guys say. We have our own view of what makes sense," and that is wrong.

Mr. PENN. Senator Conrad, let me just respond that it is certainly not our intent—you talk about the intent of the Congress—but it is not our intent to violate the intent of the Congress. I mean, what we are trying to do, as the Secretary said, is implement these programs in the most fair, equitable, efficient way that we can.

This conference was a long, drawn-out, protracted process. We had people in the conference, in all of the sessions. We had lawyers there. We had program analysts there. All of our people were privy to all of the discussions, and as Secretary Veneman said, our lawyers are not saying go against the intent of the Congress, we are just trying to interpret the statutes in the best way we can and use the flexibility that we have to try to put together these programs in a way that makes sense, and so we are trying to carry out the intent of the Congress. It is just that we do not always agree as to exactly what you intended, and there is not always unanimous intent among the Members of the Congress as to what was intended.

Senator CONRAD. I could just say to you, in conclusion, with respect to these provisions, I was there for every minute. I wrote these provisions. It is just as clear as it can be what was intended. The language is clear, and I hope we are able to resolve it.

Mr. COLLINS. Could I just join this party for 1 second? I am not going to comment on your legal interpretation, Senator Conrad, but the impacts that you have described are something that I am not sure that we would agree with. We have been fortunate, for perhaps unfortunate reasons, to have very high oilseed prices this year, prices that are above loan rates.

The description you gave earlier of a farmer who is losing quite a large amount of money because of this decision or the costs that you just gave of our decision, in terms of leaving $160 million on the table, quite frankly, I do not think I could support those kinds of estimates.

Senator CONRAD. That is what you told CBO.

Mr. COLLINS. I never told CBO any such thing.

Senator CONRAD. Well, USDA told CBO that it would cost $165 million. That is where the number came from.

Mr. COLLINS. That may be somebody's version of baseline scoring, but in the real world, oilseed prices are well above loan rates right now, and we are not going to see those——

Senator CONRAD. Well, I will tell you it would be helpful if you had not told when Congress moved to put in place what they intended in the first place, that you did not act to subvert it by putting in a high score. You told them it would cost $165 million.

The CHAIRMAN. Senator Lincoln.

STATEMENT OF HON. BLANCHE LINCOLN, A U.S. SENATOR FROM ARKANSAS

Senator LINCOLN. Thank you, Mr. Chairman.

Once again, Mr. Chairman, thank you for bringing us here this morning and for your continued leadership on the Farm bill process.

Thanks to our panel, particularly Secretary Veneman, for coming to the Hill today to visit with us and answer our concerns about the Farm bill implementation process. We have all spent some months at home in August with our farmers and our agricultural industries, and we are full of questions and concerns, and we do want to work together to resolve them.

Like all of my colleagues here on the committee, I have been watching closely the Department's efforts to put our farm bill back into action. Farmers in Arkansas have been waiting anxiously for an implementation process that accurately and faithfully reflects the Farm bill that Congress passed; the reason being is that we worked closely with our producers when we were working hard on that farm bill.

When we came to those committee meetings and when we came to those conference meetings, we came with the concerns of our producers and our agricultural workers. Many of those farmers really have made their planting and financing decisions based on what we discussed and what we fought hard for. That is where a lot of our really deep concerns come from is that we fought these battles based on what our farmers told us they absolutely had to have. They based their decisions on the fact that we passed that, and so here we find ourselves in a situation where we want to do what is best for the producers and the agricultural community of our country.

Now we have the harvest is already upon our farmers in many parts of the country. Ours comes earlier than most in planting, and now we are already at harvesting. It is vitally important that the implementation rules be made and set into motion. If there is anything that frustrates farmers, it is being left in limbo, and for years they have been left in limbo, and that is what we want to resolve.

The crisis that spurred Congress to an early rewrite of the old Farm bill still exists. These farmers are still confused. They are still not sure. They are still doubtful that Government understands their concerns and their problems. It has only been further exacerbated by the natural disasters that we have talked about. You have mentioned drought, flood, disease, of which we are all very, very aware.

The anxiety that is surrounding the implementation process comes on top of all of these other existing problems, and being a farmer's daughter and from a seventh-generation Arkansas farm family, I know what it does to the family and to everybody else in the community when these crises exist, as well as these anxieties build.

Farmers from my State are increasingly alarmed by the direction implementation seems to be taking in the Farm bill. Frankly, many of them are wondering what kind of farm policy the USDA is going to give them, and our hope is that you will work with us for a better understanding of what our intent was. Again, that intent definitely comes from the work that we have done with our producers and the constituency that we serve, and our hope is that you would want to serve that same constituency and making sure that we do implement it in a way that is consistent with what our intent was.

They are still hurting, just as they were last year, and they wonder if the new farm policy is going to help them out. There is not

a great deal of faith in the ag community as to what Government is going to provide them.

With this in mind, I would like to voice my concerns about some specific implementation issues. I am sorry. I came earlier, I had to leave, and I am back, and I know everybody has been here for a long time. If I can just touch on a few of these, if you have some answers there. If there are others, we can certainly submit them in writing.

One issue that many farmers back home are very worried about, and I believe Senator Hutchinson may have been brought this up earlier, was in regard to the calculation of updated base acreage, particularly involving soybeans. The point of including soybean acreage into an updated base plan was to enable the support payments to reflect the crop a current farmer would grow, a current farm would grow.

It is vitally important that USDA try to get a fair picture of oilseed acreage history so that a farmer can receive the full support intended for him or her by the Farm bill.

I also strongly urge you to work with farmers and help them come up with a fair way of updating their base. We had a few panic attacks when we were home in August with farmers who had gotten word that they were going to have to have their updated base acreage in by the end of August. Then we found out later, that that was just the beginnings of the process and that the deadline was not until later in early spring. Still, they are going to have to have the assistance of FSA and USDA to help them work through that.

Similarly, I also want to urge you to work with farmers to find the fairest way of providing updated yields. That is going to be a critical part of what they have to do as well. Again, it is your field staff that is out there working with them, and I hope that they are going to get the correct directive from you.

There are a variety of ways to indicate reliably a farm's production of a given crop from past years, so it seems really unnecessary to restrict the types of records that a farmer can use to do so. I hope that you will be flexible in that and you can work with them.

I am also concerned about the ongoing problems with payments from settlement of the Pickford lawsuit. I do not know if anyone else has brought that up; the minority class action lawsuit that was settled a couple of years ago. To me, this is precisely the sort of issue for which we created a new Assistant Secretary of Civil Rights position. I would really like to know where the administration is in filling this new position. Are we moving forward?

I know that there have been some demonstrations of the minority community of how important this is to them at your FSA offices and other places. I do not understand why we cannot move forward and resolve some of this and certainly find someone for that position. We created it. Let us utilize it.

Finally, while I was pleased to see that the administration agreed to indemnify the poultry growers whose flocks were destroyed due to the avian influenza outbreak, I am extremely disappointed that USDA will apparently withhold a large portion of the money that was originally approved for the indemnification.

Given the degree of damage this outbreak has unleashed, I urge you to review your decision on that, and release the full amount

that was dedicated. This is a critical case where something could just devastate us. It did in many regions. If we do not act promptly on these, if the growers do not act promptly, it can become a nightmare nationwide, and many of them did act quickly, and we want to make sure that they know that USDA and the Government supports them in taking the correct kind of action.

Just a short list of my concerns, Mr. Chairman. I am sorry. I know my time is up, and I just wanted to bring them up to you face-to-face, and if we have time, you can answer any of those or if you would like, you can also write me.

The Chairman.

The CHAIRMAN. Thank you, Senator.

[The prepared statement of Senator Lincoln can be found in the appendix on page 60.]

The CHAIRMAN. Senator Crapo, do you have any follow-up questions?

Senator CRAPO. Yes, Mr. Chairman. I have a bunch, but I will submit them. I just have one I would like to ask.

Madam Secretary, the 2002 Farm bill creates a National Dairy Market Loss Payment Program, as you know. Also, as you know, I strongly opposed this program. I continue to have strong reservations that this program is not going to help dairy producers, and that recent studies lend credence to these criticisms that this program will result in lower prices for dairy producers, increased cost for the taxpayer, and sadly will do nothing to stop the number of failing dairies in the Northeast and the Midwest.

Nonetheless, if we are to be saddled with this program, that its implementation ought to be fair. One of the concerns I have—I understand it has been raised, an issue that has been raised earlier by Senator Leahy—that in the outyears, you have indicated that the dairy producers will be allowed to choose the month at which they will begin the program.

The question I have is with regard to the transition period and why that same approach will not be utilized in this initial transition period because it seems to me that it discriminates against the mid-sized dairies, the very ones that the argument was made it should have been created for.

Is there anything that is going to be done to allow producers to choose the month that their payments begin in the transition period?

Secretary VENEMAN. Senator, Dr. Collins addressed the dairy program in some detail, but the thing that we tried to do with regard to the transition period is make it the most fair that we possibly could, and so the decision was made to go back to December of 2001, which is the retroactive period for this particular program, the only one that is retroactive in operation.

The fairness issue revolved around the fact that you already knew the prices, when you have a retroactive program, and that we do not do that with any other program, and that is why we said it would be fairest to everyone to put them back to the initial time period, and so that is why there was not a choice, and yet for 2003, and beyond, the producers will be able to choose because they will not have the benefit of knowing what the price is already going to be for the subsequent months, and so that is why the decisions

were made. Dr. Collins went into that in much more detail, and we can have him do that again if you would like.

Senator CRAPO. Go ahead.

Mr. COLLINS. If I could, at the risk of stepping into one more controversial issue. A criterion that people are using to judge our decisions as being unfair is the statement that large producers are benefiting more than small- and medium-sized producers.

Senator CRAPO. Right.

Mr. COLLINS. Unfortunately, the way this program is constructed, that is the expected case no matter what you do, not only for this year, but for future years as well.

Senator CRAPO. I agree with you on that.

Mr. COLLINS. The reason for that, of course, is that there is a 2.4-million-pound eligibility cap, not a payment limit. Congress could have chosen a dollar payment limit. Instead they chose a volume cap. That means, for a large producer, they are going to reach their cap within 1 or 2 months. By giving a large producer, and all producers, an opportunity to choose the starting month so that they can maximize their payment, guess what? The large producers market the whole 2.4 million pounds in the months with the weakest prices. They will choose April and May or whatever to start the clock under 2.4 million pounds.

It is inevitable that the expected value of this program is the large producers will have a higher average payment rate than small- and medium-sized producers. There is no way around that. People keep criticizing us for that being an outcome of this program; it is endemic, it is inherent in the way the program was constructed.

Senator CRAPO. Doctor, I understand that. In fact, when we debated this, that was one of the arguments I made about the unfairness of the program and the impact that it was going to have.

That having been said, it seems to me that at least we ought to try to do what we can within the flexibility of the program to minimize that impact, and that is the reason for my question.

Mr. COLLINS. Fair enough.

Senator CRAPO. Thank you, Mr. Chairman.

Secretary VENEMAN. Senator or Mr. Chairman, if I might, just for a minute, respond to Senator Lincoln's questions just quickly, and we can provide more for the record.

I absolutely agree with you. We want to do the right thing with regard to implementation and do it as fairly as possible. Obviously, we are having to work under very quick time frames. Your colleague from Arkansas, Mr. Hutchinson, raised some of these issues as well, and we responded that we are working through our FSA offices to help producers make the kind of decisions that you have talked about in terms of bases and yields and the kinds of things that need to be updated and that they will need assistance from FSA.

We have computer programs. Senator Hutchinson brought up the fact that not everybody has access to computers, but we can make that available through FSA, and we will do that and work with our FSA folks.

Senator LINCOLN. Even our FSA offices, some of their computers does not even coincide with the software that you send them, so they have to take it home.

Secretary VENEMAN. We have a massive undertaking in terms of common computing environments. As I have testified at some other hearings, where USDA was on just computer hardware and software, I mean, we have a long way to go, but it is a very big focus, and one of the main reasons for the focus is because, if we do it right, we can better deliver programs to farmers, and we need to make them farmer friendly. That is a big area of concern.

You raised the poultry issue, and I have to say, with regard to this avian influenza, USDA stepped in and took over basically the control of this disease because it was so quickly spreading. I have to say that I believe that was the right decision. It is normally left to the States to deal with this, but because of the speed with which this disease was spreading, we came in and took that over.

We are now in the process of compensating the producers who were impacted, and there were, in terms of the amount of money that OMB approved, it actually anticipated that we had slaughtered more birds than we actually did in the end, which is why there is some discrepancy.

I just want to emphasize that I could not agree with you more that these programs of eradication are absolutely critical to what we do in this country in agriculture. Whether it is avian influenza or it is a Medfly outbreak or it is the threat of foot and mouth disease, this is a major focus of what we do at USDA. We are working to do everything we can to make sure that the affected producers get their payments, and we are going to continue to do that.

Senator LINCOLN. Can I just comment that that is so important because it builds the faith so that the next time, if we go to, and we need the eradication, they actually believe that we are going to come through for them after they eradicate their——

Secretary VENEMAN. We need to continue to work with industry so we do not get these outbreaks again because, as you know, it affects our exports and a whole variety of other things that we do, and so it is critical.

The Pickford settlement issue has been something we put a tremendous amount of focus on, and I want to commend so many people, including FSA, and my chief of staff, Dale Moore, who have spent a tremendous amount of time on not only the Pickford settlements, but dealing with some of the civil rights issues because we take them very seriously.

We are restricted, in many ways, on these Pickford settlements, by the very terms and the structure of the settlement itself. It is not a USDA issue as much as the structure of the settlement. Within the structure of that settlement, we are doing absolutely everything we can to get everything done as quickly as possible.

We have spent millions of staff hours or thousands of staff hours and millions of dollars in trying to get these cases settled and this behind us and move on, and we are looking at new and innovative programs. I just set up, having met with some of the affected farmers, I know that they are concerned about whether or not they can get the kind of information they need from their FSA offices, so we have set up a hotline so they can call Washington directly.

We are trying to address the issues in every way that we can, and we do take them very seriously.

Senator LINCOLN. How about the appointments?

Secretary VENEMAN. Oh, I am glad you brought that up again. Civil rights, I have been interviewing candidates. We have not yet selected a candidate, but I started interviewing candidates probably 6 weeks ago, if not 2 months ago. We have been actively engaged.

The CHAIRMAN. Thank you. Thank you.

Madam Secretary, I want to pick up a little bit on the point that Senator Conrad has been making, and I want to focus it on the conservation provisions. Now I heard you talking about some discrepancy in the legal opinions regarding conservation or Section 11. Well, let us walk through it. Dr. Penn, Dr. Collins, let us walk through this.

In the 1996 bill, Section 11 was added or created. At that time, EQIP was taken out and was not subject to the cap under Section 11 for technical assistance. It was specifically provided for EQIP and the authority separate from Section 11.

Do we agree on that point? I just want to make sure we agree as we go down this ladder here.

In the 2002 bill, we put all of the conservation programs on the same footing as EQIP by specifically providing the technical assistance apart from Section 11. Hence, all programs are exempt from any Section 11 cap on technical assistance, as long as the technical assistance money is provided through the authority separate from Section 11.

Now, again, I am going to read a couple of things; one, the law. Section 1241. "For each of fiscal years 2002 to 2007, the Secretary shall use the funds, facilities and authorities of the Commodity Credit Corporation to carry out the following programs under Subtitle (d), including the provisions of technical assistance," and then we list them all. "Conservation Reserve Program, Wetlands Reserve Program, Conservation Security Program, Farmland Protection Program, Grasslands Reserve Program, Environmental Quality Incentives Program, and the Wildlife Habitat Incentives Program."

Now there is a paragraph (b). It says that "Nothing in this section affects the limit on expenditures for technical assistance imposed by Section 11 of the Commodity Credit Corporation Charter Act."

This was added to say that, when we talked with your people while we were developing this, we wanted to make it as clear as possible, and that is why we separated out and listed them separately, the conservation programs. That is why we said in the opening paragraph, including the provision of technical assistance for all of those programs and then we added paragraph (b).

Paragraph (b) provides technical assistance under CCC for other things, for computers and other kinds of things outside of conservation. We asked for, and we obtained, from your general counsel, the memorandum to you, dated August 15th—(Nancy Bryson).

"In passing the 2002 act, Congress intended to provide a new funding authority for the technical assistance that is to be made available to the participants in the seven listed programs," which

I read for you. "That is, funding from the program funds authorized by Section 1241(a)." That is what I read. They intended an "adequate level of funding..." That is our wording. "...not one subject to the arbitrary limit contained in Section 11 of the CCC Charter Act."

"The conference managers rejected the Senate's approach of leaving technical assistance funding under Section 11, but exempting such funding from the cap to obtain adequate funding levels. Instead, they took as their guide," and this is key, "the funding mechanism for technical assistance under EQIP, which was outside of and not restricted by Section 11. Not only is this apparent from the text of Section 1241(a) 'including the provision of technical assistance,' but it is stated as the intent of the conferees in the conference report accompanying the Conference Bill H.R. 2646."

"It is clear from the text of Section 1241(a) and the underlying legislative history, that Congress intended the various programs made available under the section to be the primary source of funding for the technical assistance related to the respected programs."

Now I will say that in the back of this is an addendum from OMB saying they disagree, but you run the Department of Agriculture. I want to know why the legal opinion of the USDA general counsel is invalid and why it is disregarded by you in this provision.

Secretary VENEMAN. Mr. Chairman, I have not disregarded the opinion of our general counsel. As you point out, you have the documents. There is a disagreement between the general counsels, and we have tried——

The CHAIRMAN. Between the general counsel and whom? There is no disagreement. I just read it to you. I have the whole thing from the general counsel. There is no disagreement.

Secretary VENEMAN. Well, you said you had another memo that disagrees from OMB.

The CHAIRMAN. That is from OMB. That is right. I am just talking about why you are disagreeing with your general counsel's position.

Secretary VENEMAN. I am not disagreeing with my general counsel, sir.

The CHAIRMAN. You agree with general counsel.

Secretary VENEMAN. Well, my counsel has given me that advice, and I do not disagree with the advice.

The CHAIRMAN. Then what you are saying is that for those seven programs, that they do not fall, and according to you, they do not fall under Section 11 caps.

Secretary VENEMAN. That is the advice we have been given by our general counsel.

The CHAIRMAN. You agree with that advice.

Secretary VENEMAN. I have no reason to disagree with that advice.

The CHAIRMAN. Well, then, why was technical assistance then provided for EQIP and WHIP, two of them that were listed here, but not for the WRP and the Farmland Protection Program? USDA requested it, by the way. Why was it not?

Secretary VENEMAN. Mr. Chairman, as I indicated, there has been a disagreement among the lawyers of the two, of USDA and

OMB, on the interpretation of this section, and as a result of that disagreement, a compromise was worked out for the 2002 year because the time was growing very short, and we would welcome the opportunity to continue to work with you and other Members of Congress to try to resolve this issue for the outyears, but we felt it was in the best interests of getting some of this technical assistance out to agree to this compromise for the 2002 year because of the shortness of the time.

The CHAIRMAN. Well, this letter from Phillip Perry, whoever he is, at OMB, I hope he is not a lawyer. He is doing a disservice to his law school wherever he went, if he is indeed a lawyer, because he says, in his response to you, he refers to a colloquy between me, Senator Lugar and Senator Cochran. "I assured Senator Lugar, on this colloquy on the floor," and he puts it here, "that funding for technical assistance will no longer be affected by Section 11, as it pertains to these programs."

Then this guy, whoever he is, Phillip Perry, he says that "Although this colloquy adequately reflects the Senate's position and its version of the bill, the Senate's position had already been rejected by the Conference Committee, which dropped the Senate's amendment to Section 11 and added language that Section 11 limitation was not affected."

Is Phillip Perry sitting here? Well, maybe we have to have him up here. That is not worth the paper it is printed on as an opinion. Your general counsel is absolutely right. Senator Lugar believes that and so does Senator Cochran. Like I said, we sent a letter earlier last month. We sent it to OMB, and they have not responded. OMB will not respond to a letter sent joint by Senator Lugar.

Now what am I to take of this? What is going to happen with the CRP program next year? Will the CRP program fall under Section 11 cap? Can you tell me?

Secretary VENEMAN. Again, Senator, we are continuing to work on this issue with regard to 2003. As I indicated before, we would be happy to work with you and other Members of Congress to try to resolve this issue. Again, the reason we wanted to work out an agreement for the 2002 year is because the time was running short.

We cannot spend the money without OMB's approval because they have to sign the apportionment, and therefore we thought it was in the best interests of the farmers and ranchers who are going to depend on this technical assistance, to get some agreement on the 2002 year, rather than sit at a stalemate because of the inability to come to agreement.

Now, for the 2003 year, we will work with you and other Members of Congress to try to get this straightened out.

The CHAIRMAN. Madam Secretary, we are going to have a real problem here, and it is a problem for Senator Conrad. I mean, we know what we wrote. We wrote a letter to OMB. Now what does Congress do? I am speaking past you, now, but what is Congress to do when the executive branch, through OMB, thumbs its nose at what we said, wrote, and what we clearly intended? What do we do?

This is very frustrating. It is very frustrating. Maybe I should come to some conclusions that the administration, A, does not sup-

port conservation; that this administration, for all of their talk about supporting conservation, really does not support conservation, and this is the way they are going to get at it. They are going to bleed it dry because they will not provide the technical assistance mandatory that we provided in the bill. Again, I am talking past you.

I hope that the people at OMB hear this, and if I have to, we will have them down here, and we will subpoena them. If they will not come, we will bring them down here, and I want this to be loud and clear. This is unconscionable what they have done in this.

You are right. You are right, and your counsel is right. Senator Lugar, Senator Cochran, I found no disagreement on this in the way we structured this and what we intended. I do not find one disagreement in it. I cannot speak for the House side, but I do not find one disagreement over here.

Again, I just wonder is CRP going to be subject to the cap for next year? Will the Conservation Security program be subject to the cap next year? That was never our intent. We have a real problem here when OMB just thumbs its nose at you and at us. I mean, you guys can fight amongst yourself, I mean, the administration, but when they thumb their nose at us, then we have a real problem.

It is just frustrating, and I do not know that much about the pulse crops and everything, but I am sure that that must be frustrating for Senator Conrad, also.

Let me pick up a couple of other things before I end my time here.

Senator Hutchinson brought up this point about the rotation with the rice and the soybeans. Well, we have a similar problem with soybeans and corn. I have made the suggestion—I make it to you openly now—it seems to me, and I have asked our staff, and our legal people here, to see if there is any problem with this. They tell me there is not. Why do you not just use the 4 years? Rather than trying to segment it year after year after year, why do you not just take the 1998 to 2001 and just average it over the 4 years? It would seem to me that would give you a better reflection of the base that you need for the program crop, in our case corn; evidently, in their case rice. Why can we not just use the 4 years?

Mr. PENN. It would probably cost more money, and OMB would not let us do it.

[Laughter.]

The CHAIRMAN. Now there is an honest man.

[Laughter.]

Mr. PENN. That was a joke.

[Laughter.]

Mr. PENN. I am aware of that issue, and just like the question of the rice, soybean, wheat rotation in Arkansas, we are looking at that. We will try to find something practical. I mean, our objective is the same as yours. I mean, we have all of these rules and regulations, and we always find situations that do not exactly fit, and we want to do what is practicable and workable, so we will take a look at that.

The CHAIRMAN. Well, I do not know, if we have to do something, maybe we will have to do it, maybe we can do it in Ag Appropria-

tions or something, but it just seems to me the 4 years makes sense. It makes sense to everyone I have talked to. It seems to be the most equitable way of doing it because then you do not penalize someone for maybe doing a total rotation every year rather than a 50/50 rotation every year.

It just seems to me to make sense, and the most equitable. I do not know. Maybe we will have to get a cost estimate on it or something. I do not know, but it seem so to me that we have to work on that, and I look forward to working with you to find out how we answer that.

On the drought bill, again, I will only say this. I read your letter, Madam Secretary, that you sent up on the drought assistance measure. I know a lot has been talked about here, 79 votes here in the Senate. In it—I do not have it in front of me—but in it you stated it was the administration's position not to exceed the $180 billion that was in the Farm bill for the 10-year period of time.

I did not ask you to bring this with you, but do any of you here have some estimate now, a later estimate of about how much we are going to save on LDPs this year? The last I saw it was $5.6 billion. Is that still ballpark, maybe a little bit more?

Mr. PENN. The number that Senator Conrad obtained is the last one that I have seen.

The CHAIRMAN. Is that about right?

The point I made at the time is it seems to me then what we envisioned in the Farm bill is working, that we have a countercyclical payment, that our farmers, and some, God bless them, are going to get good prices for their corn and their beans in Iowa and other States this year—in Illinois, too, and other places—so then we do not pay them Government payments. That is the way we intended for this to work. If the prices are high, you get it from the marketplace, no Government payments.

In the savings that accrue if there are some farmers hurting someplace because of acts of God, because of droughts, and floods, and tornadoes, and hurricanes and whatever else not, that it would seem to me we could take that savings, and rather than putting it back in the general fund, use that savings. We had $180 billion allotted to agriculture. Why could we not take that savings and apply it to the drought, which is estimated to be around about $6 billion?

What I am saying to you, Madam Secretary, is that I do not believe we are going over the $180 billion. We are simply using it to respond to a legitimate hurt and a legitimate need that many farmers and ranchers have in this country. That is why I was a little dismayed at the letter. I was dismayed because it was opposing it, but to say that somehow we were not going to exceed the $180 billion. Why should the General Treasury take back the savings in LDPs? Why can we not use that for farmers that are hurting?

It is just an open question? Why can we not use the savings from the LDP?

Secretary VENEMAN. Well, again, these are complicated scoring issues that involve CBO and what can be counted as a saving and what cannot be counted as a saving, much beyond my capability to explain at this point. Again, we have laid out fairly clear principles for the drought assistance both in the letter and in numerous com-

ments that we have made, including at this hearing, and we want to assist the producers that are most in need.

It is important to point out, as I did in my testimony, that the Congress hasn't passed a drought relief bill, but what the USDA has done in the absence of a bill is we have taken every tool that we possibly can find to try to provide as much relief as we can under the circumstances. That is what we have continued to try to do at USDA, and we are continuing to look at even more tools if they are available.

For example, this $150 million Feed Assistance Program was very unique. It was very innovative. It helped, as was brought up earlier, to use some of our dairy stocks. Everyone from—it is the first time haying and grazing has ever been opened up nationwide.

We have tried to be very flexible in what we have done to try to address the issues of particularly the drought this year but other disasters as well.

The CHAIRMAN. I compliment you on that. You have acted aggressively within whatever things you have available to address these issues on haying and grazing. Quite frankly, there needs to be some funds out there, too, because no matter how much haying and grazing you open up this year we still have the problem of last year's, both prevented planting and drought that we had last year that we tried to put in the Farm bill. We didn't get it in. We thought we were going to come back again and we did. There are a lot of farmers today still paying interest rates and paying back loans that they took out last year because they thought they were going to get a drought or a prevented planting assistance last year. They didn't get it, and then they thought, well, they were going to get in the Farm bill, and they didn't get it, and so there is still that 2001 that has to be taken care of, and there is nothing you can do about that unless we have the money.

Secretary VENEMAN. Well, and as you know, the administration supported drought assistance within the context of the Farm bill. We made that clear last year—or during the farm——

The CHAIRMAN. We don't want to get into that.

[Laughter.]

Secretary VENEMAN. OK.

The CHAIRMAN. We just really don't want to go down that road.

Let me ask you about the Conservation Security Program. Can you assure us that USDA is moving forward with implementation of the Conservation Security Program as an uncapped national program consistent with the Farm bill's legislative language and congressional intent?

Secretary VENEMAN. We are moving ahead to implement this provision. I might ask Bruce Knight to talk about what our timeframe is on this provision, but we are looking at all of the various issues that needed to be resolved in order to implement this program.

Mr. KNIGHT. We are continuing to move forward on implementation in keeping with the direction that was provided to us in the law. As we proceed forward with this, it is a very innovative, very new program. Every step we uncover more areas that we have to look at. We are now looking wide-ranging at what sort of standards need to be reviewed internally both for CSP and other programs

that may result of having to look at these things, going through systematically to ensure that any efforts and every decision that is done here has to be done right. We believe strongly that it is more important to do it correctly than to do it rapidly and are trying to move forward in a very responsible, fiduciary manner in developing all these rules and regulations.

The CHAIRMAN. Can you give us some idea of when we might see the first proposed rules? Because the final rules under the law are supposed to be issued next February. Do you have some idea of when we might see some proposed rules?

Mr. KNIGHT. Quite honestly, sir, I have been much more focused on getting the dollars out on the 2002 programs than moving forward with 2003 in the priorities that were provided by Congress in the direction that they had given—you had given us with the third-party technical service providers, then following systematically with those in as rapid a manner as we can. In that context, the CSP on the publication status that we have thus far appears that we should be able to come out with proposed rules late fall of this year.

The CHAIRMAN. That would be good. Will your staff work with my staff to keep my office up-to-date on the schedule for implementation and developments in the process and so forth on this. I appreciate that.

Regarding on the Grasslands Reserve Program, there is a lot of interest in the Grasslands Reserve Program. Have you made any decisions as to what agency is actually going to administer this?

Secretary VENEMAN. No, we—someone else brought that up as well, Senator, and we are in the process of having FSA and NRCS work together on that issue and make the determinations of how the agency responsibilities will be defined, and I am sure we will get that decided in very short order.

The CHAIRMAN. A lot of interest in that.

One last thing here. Someone mentioned the website. Very good. Excellent. I compliment you highly on that. It is very, very good. Of course, there are a lot of people out there who don't have Internet access, but we did put something in there to expand broadband access, so I hope that is going ahead.

This is a question that I encounter all the time. What is the mechanism in place for a local FSA official to forward a farmer's comment and/or questions on to the appropriate bodies within USDA? If, for example, the FSA official does not know the answer or it is a comment or suggestion for implementation, I have had a lot of farmers say, well, we went to the FSA office and we asked this question and they didn't know, but they were going to find out, and we have never heard back. Do you have a mechanism in place so that farmers, when they go into the FSA office and ask a question and this question has gone up the ladder, they get a return on it somehow? Do you have a mechanism in place for that?

Mr. PENN. Well, Senator, I don't know if we have a formal mechanism that has a name, but——

The CHAIRMAN. No, I don't care about that, just as long as——

Mr. PENN. All of the people in the county FSA offices have been urged to send questions for which they don't have answers to Washington. They can do that through the State Executive Direc-

tor, or they can pick up the phone and send it directly. Now, of course, with e-mail they can certainly send them in. We have been taking special pains, when we see two or more questions on the same topic, to try to as quickly as we can prepare an answer, get it back to the people who posed the question, but, more importantly, put it on the FSA website in the Q&A column there so that it is available to everybody all over the country.

We appreciate your compliments on the website because we have really tried to use that as a new medium this time to disseminate information.

The CHAIRMAN. Good.

Mr. PENN. It gets picked up by the press. It is picked up by the extension services. It is utilized by lots of people.

I don't know if we have a formal mechanism, but we have encouraged everybody when they run into something they don't know about to get it to somebody who does, and we try to prepare an answer and make it available widely.

The CHAIRMAN. I appreciate that.

I just have two other things. One, on the Rural Business Investment Program—and I am concerned about how we are moving ahead on that. The Farm bill has been passed now 4 months. I understand that USDA still has not signed an interagency agreement with the SBA toward development of rules and management of this important program. Again, can you give me some idea of how we are moving on that? I know you have a lot on your plate. I understand that. The need for investment capital in rural America is drastic. Can you give me some idea of how we are progressing with the SBA on this?

Secretary VENEMAN. Senator, we will get you a response on this issue. I can't give you an exact timeframe, but I know that you and I agree on the importance of these rural development programs and investment in rural America. You mentioned our Broadband Program which is new in the Farm bill. We have a tremendous number of grants out with new funds that were provided by the Farm bill in the rural development areas, and we will check on this and get an answer back to you as to what timeframe.

The CHAIRMAN. OK. I appreciate that. I have some, again in my own State—that is what happens when you go out for a month. You hear all these things, and what I heard was that people are looking at this provision and they want to know when they can start applying for some of this assistance. We have had some farm credit organizations, even some banks in Iowa, have asked me about it. I said, well, we just—I am sure that soon we will have some regulations out on it and get this agreement made with the SBA to move ahead on it. I hope that, again, your area of rural development that is doing this will move ahead expeditiously, working with the SBA to get this agreement made.

I will close on a good note. I just want to personally thank you and your staff, particularly those at the Food and Nutrition Service, for your outreach and preliminary implementation work on the nutrition title. I have heard back really good things on it. You have made some terrific strides in simplifying program rules and expanding food stamp benefits. Now just make sure States know about the various options available to them and implement the food

stamp changes and other programs like the free fruits and vegetables. I am getting a lot of interest in this free fruits and vegetables program, and, again, my staff has told me and I have experienced it at least a couple of times where your people in FNS have been really very good at getting information out and support and that type of thing. Thank you for that.

Well, Madam Secretary, do you have anything else that you would like to add before I adjourn?

Secretary VENEMAN. Well, Mr. Chairman, I would just like to thank you for holding this hearing. Again, I know there are disagreements in some areas, but I just want to say that the USDA staff at every level, from the top to the county office staff, have done a tremendous amount of work to implement this Farm bill in a very short amount of time, and our farmers and ranchers and all of us owe them a tremendous amount for everything they are doing to try to do the best job they possibly can.

The CHAIRMAN. Well, I thank you. I would just note for the record that in your statement you said the bill includes 10 titles and over 400 pages. I just want you to feel good. The 1990 Farm bill had 25 titles and 751 pages.

[Laughter.]

The CHAIRMAN. We are making some progress, I guess.

Well, thank you very much, Madam Secretary. We look forward to working with you, but we do have these problems in terms of carrying out what we believe is the law and the intent. Senator Conrad went over his; I went over mine, my problems with OMB, and this cannot stand. This cannot stand. Our Government operates—I am not going to give you a lecture on Government. You have been in it as long as I have, practically speaking. We only operate on comity and recognizing our spheres and where we act. We pass laws, and we put our intents. We write our reports to give clear indication of what we intended. If the administration—and I don't mean this one, any administration—thumbs its nose at us, that breaks down the structure of our Government, breaks down the structure in which we operate. I don't like to see a Government operate where we are clashing all the time and continue to clash. That just breaks down, the very structure that has enabled our Government to succeeed for so long. OMB is on a dangerous course here. To the outside observer, that might seem small, well, this is just agriculture, what the heck? I am telling you, it is big. We are going to have to have some real serious meetings with OMB to get them to understand this.

Thank you very much, Madam Secretary.

Secretary VENEMAN. Thank you, Senator.

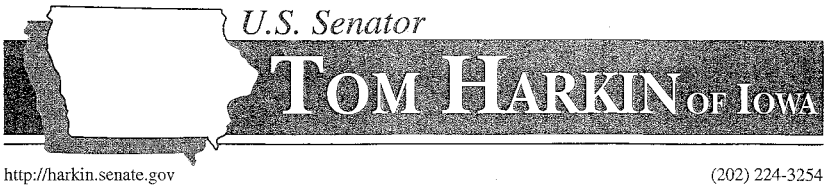
[The prepared statement of Secretary Veneman can be found in the appendix on page 62.]

The CHAIRMAN. Thank you. The committee will stand adjourned.

[Whereupon, at 12:48 p.m., the committee was adjourned.]

APPENDIX

SEPTEMBER 17, 2002



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FOR IMMEDIATE RELEASE
September 17, 2002

Contact: Seth Boffeli/ Tricia Enright

REMARKS OF SENATOR TOM HARKIN, CHAIRMAN COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY HEARING ON IMPLEMENTATION OF THE NEW FARM BILL

"The Farm Security and Rural Investment Act of 2002 was passed with solid bipartisan majorities in both Houses of Congress and signed into law with a strong statement of support by President Bush. It is a balanced and comprehensive bill that restores farm income protection, boosts conservation more than any previous bill, helps rural communities build economic growth and create jobs, and promotes farm-based renewable energy. It also strengthens our support for trade, nutrition, food aid and agricultural research.

"Implementing this new legislation properly is, of course, critically important to rural America. So the Committee is pleased to welcome Secretary Veneman, Under Secretary J.B. Penn, Bruce Knight, Chief of the Natural Resources Conservation Service, and Keith Collins, USDA's Chief Economist. We look forward to a progress report on carrying out the farm bill and to addressing issues and questions that have come up in that process.

"At the outset, I want to thank the many conscientious employees at FSA, NRCS, Rural Development and other USDA agencies for all of their work toward making the promise of the new farm bill a reality. I know in Iowa there have also been many good informational meetings thanks to USDA, ISU Extension and farm and commodity organizations.

"It all comes down to developing reasonable and workable rules and regulations, and then getting clear and consistent information out to those who need it. USDA must also have open lines of communication for listening, responding to suggestions and answering questions.

"As I see it, we have a shared interest and a responsibility to work together cooperatively to ensure the farm bill is implemented well to maximize its benefits for our nation. In that spirit, I will turn to our distinguished Ranking Member, Senator Lugar, for any comments he may have and then to Secretary Veneman for her statement."

Statement Of Senator Patrick Leahy
Hearing On Implementation
Of The 2002 Farm Bill
Senate Agriculture Committee

Tuesday, September 17, 2002

I want to thank the distinguished Chairman, Senator Harkin, and the distinguished ranking member, Senator Lugar, for holding this important hearing.

Farmers in Vermont and across this country are facing difficult times and counting on the support provided by the new farm bill. It is vitally important to them that USDA get it right and implement the new farm bill properly.

I also want to thank Secretary Veneman and her colleagues for appearing before the Committee today. I realize it is a tremendous undertaking to implement this new farm bill, and I want to thank you, and the countless members of the USDA staff who are working long and hard to make sure things go as smoothly as possible.

Mr. Chairman, today my questions will focus mainly on USDA's implementation of the national dairy program. I have concerns regarding other areas of implementation too, and I plan to submit for the record a number of questions regarding those areas.

The national dairy program was designed to provide dairy farmers income support payments that will be virtually identical to what Vermont dairy farmers would have received under the Northeast Interstate Dairy Compact. Payments are to be made retroactively, covering production and low prices since December 1, 2001. On that date, prices for Class I fluid milk fell below the Compact's trigger level ($16.94 per hundred weight in Boston) -- which is identical to the trigger level for this new program.

Unfortunately, prices have been below that trigger level ever since, and they continue to fall, leaving producers in Vermont and other states greatly in need of these payments. Farm-level milk prices are at their lowest levels in over 10 years. Only 3 times in the last 25 years have prices been this low. In addition, due to the flood and drought combination this year, many farms have poor crops and will have trouble feeding their herds through the winter. There is no relief in sight other than the national dairy program. Our dairy farmers need this assistance and they need it now.

The national dairy program was designed to be farmer-friendly and easy to administer. But I believe USDA has made the program overly burdensome, overly complicated, and overly restrictive.

Madam Secretary, you and I have known each other for many years. I consider you a friend. Friends can be blunt with each other: During the farm bill, USDA fought us on the national dairy program every step of the way. That was your prerogative. But we won and the Department lost. Now I fear that you are trying to undue administratively what we accomplished legislatively, and I find this outrageous.

Congress wrote a farmer-friendly dairy program. USDA is making it farmer-unfriendly. USDA needs to maximize the payments, not minimize them. USDA should encourage participation, not discourage it. Every dollar will pass through the farmers' hands and have a major impact on the economies of rural communities.

Unless changes are made, thousands of Vermont dairy farmers — and tens of thousands more across the country — will not receive the full measure of support that Congress intended.

In August, I, along with my colleagues in the Vermont Congressional delegation wrote you to express our concerns. I would like that letter to be included in the record for today's hearing. We pointed out that Vermont dairy farmers were very disappointed that USDA didn't begin the signup in July as the law required. We asked you to ensure that the first payments are made on time — by October 1 — and that there are no further delays in implementation.

We asked you to change the rules that relate to the so-called "transition" payments to address the unfairness that results in medium-sized dairy operations receiving smaller payments than both *larger* operations and *smaller* operations. Under your proposed rules, producers are not allowed to pick the beginning month for the transition period - all producers will begin receiving payments based on their eligible production beginning December 2001.

Prices have fallen every month this year, and as a consequence the payment rate has gone up each month. The payment rate in December 2001 was 77 cents while the payment rate in August 2002 was a $1.44 - exactly double. Thus, a producer who reaches the cap would be better off if he could elect to begin receiving retroactive payments later in the fiscal year. But your Department created a special rule that essentially gives only the largest of producers that choice. You are allowing producers to forgo the retroactive payments all together and simply receive the regular payments beginning in September. This only benefits producers who come close to the production cap in a single month. The producers who suffer under this rule are those with between 150 and 600 cows, who reach the production cap earlier in the fiscal year when payment rates were lowers, and yet don't produce enough to take advantage of this "September option."

One of the oddest results is that dairy operations that I would describe as medium-to-large sized—those with between 150 and 800 cows—receive smaller payments than larger operations—those with more than 800 cows--and they receive smaller payments than smaller operations—those with fewer than 150 cows. I don't believe this is fair. And it certainly isn't what my colleagues and I in Congress intended. I again urge you to fix this by allowing producers to select the beginning month for which they receive a transition payment.

We asked you to make sure that the same rules apply with respect to the definition of "dairy operation" regardless of where a dairy farm is located. I understand that each FSA state executive director was asked to complete a survey describing how the state FSA office defined a dairy operation for purposes of previous dairy market loss assistance (DMLA) programs. I have heard that the survey results reveal that states did not implement the DMLA program uniformly. Producers in certain states qualified for multiple DMLA payments while similarly situated dairy producers in other states qualified for only one. Do you intend to lock in these disparities, or will states have the flexibility to implement the national dairy program in the same manner as other

states? Congress intended this to be a *national* program and the same rules should apply in every state.

Finally, we asked you to ease the paperwork burden on producers by allowing dairy cooperatives and other milk handlers to report monthly milk marketings on behalf of producers. I hope that you will expedite this to ease the burden on dairy farmers and USDA staff alike, and to speed payments.

While I have not received a response to this letter as of yet, do I hope you will be able to respond to my concerns today. I look forward to hearing your testimony on these matters.

UNITED STATES SENATOR MICHIGAN
DEBBIE STABENOW
PRESS RELEASE
United States Senate · Washington, D.C. 20510-2204 · (202) 224-4822

FOR IMMEDIATE RELEASE
September 17, 2002

Contact: Dave Lemmon, Bob Meissner
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Senator Debbie Stabenow
Opening Statement
Senate Committee on Agriculture, Nutrition and Forestry
September 17, 2002

Chairman Harkin and Senator Lugar, thank you for convening today's hearing so that we can get a clear understanding of the status of the implementation of the Farm Bill. We all worked together under such extraordinary circumstances to craft the landmark new law and it is important to come together again to review the fruit of our labor.

Secretary Veneman, it is a pleasure to have you as our witness today. I must compliment you and the U.S. Department of Agriculture for developing such an informative website on the Farm Bill. I have heard from many in Michigan who indicate that this new resource is incredibly useful.

Michigan is a very diverse state, so every title of the Farm Bill is important from the new energy title to the rural development title. Certainly, the nutrition title was an important piece and I know that many Michigan families will benefit from the improvements in the Food Stamp Program.

I share the same concerns about the implementation of key titles in the Farm Bill, including the commodity and conservation titles, that I know my colleagues will raise in their remarks. I know there are some particular concerns regarding the dairy and sugar programs and I look forward to hearing your comments on those. The conservation title is also very important to Michigan and I would like to hear your comments on what is happening with the technical assistance funding.

Yesterday, I faxed to you a letter that highlights a priority issue of concern for the fruit and vegetable growers in my state. In fact, this is a nationwide concern as 29 of my Democrat and Republican colleagues in the Senate cosigned the letter with me. We are very concerned that USDA does not intend to implement the new specialty crop purchase provisions in the Farm Bill according to congressional intent. Congress was very clear. We set a floor in the Farm Bill of at least $200 million to be used annually to purchase specialty crops. As of August 30, 2002 only $109 million in Section 32 funds have been used to purchase fruits and vegetables. In our letter, we urge the Department purchase at least $200 million in fruits and vegetables as required by the Farm Bill.

Earlier this month, you and I both spoke at the annual conference for the United Fresh Fruit and Vegetable Association. You were the breakfast speaker and I spoke at lunch. While addressing the group I was informed that you were questioned about the specialty crop purchase provision. The conference attendees told me your response was that the USDA was trying very hard to make additional purchases. The Farm Bill did not state that you should "try very hard;" the Farm Bill requires you to use at least $200 million per year of Section 32 funds to purchase fruit and vegetables. In fact, the conference report states that "the Managers intend that the funds made available under this section are to be used for additional purchases of fruits and vegetables, over and above the purchases made under current law or that might otherwise be made without this authority."

The irony is that many of Michigan's crops have been hit with terrible disasters this year and in many cases there literally is no crop to purchase. Nonetheless, this is a critical program that must be implemented appropriately from day one to ensure that every year, a minimum of $200 million is available for growers when they experience supply pressure. Remember, fruit and vegetable growers do not earn any other subsidy from the government; that is why this program was such a historic achievement for specialty crop growers in the 2002 Farm Bill and why it is so important that it be appropriately implemented.

Finally, I urge you to continue to maintain strict enforcement on the restrictions for planting fruit and vegetables on program crop acres. I am hearing indications that enforcement of these provisions may be weakened and I strongly oppose that. I know my views are shared by many groups, including the American Farm Bureau.

In closing, the Farm Bill was an important bill for Michigan. I commend you for the work you and your Department have done to enact many critical new programs. I look forward to working with you to resolve the issues I and my colleagues will raise today. Thank you.

STATEMENT OF SENATOR MIKE CRAPO
SENATE AGRICULTURE COMMITTEE—SEPTEMBER 17, 2002

Mr. CRAPO. Thank you Chairman Harkin, Senator Lugar. I appreciate the Committee's diligence with respect to the farm bill and welcome this opportunity to discuss implementation with the USDA witnesses.

I also appreciate the Secretary, and the other witnesses, for taking the time to be here today. I also want to thank you for your efforts in implementing the bill. Clearly, this is a tremendous undertaking and, while I have a few concerns that I will raise during the questioning, in general, you have done an excellent job.

We all have a lot of questions, and I am anxious to hear from the witnesses so I will keep my remarks brief.

But, I do want to recognize the wonderful job USDA employees in my state have been doing. In conjunction with USDA, I held a number of meetings across the state to educate producers on the new bill. State and county USDA employees were instrumental to the success of these meetings. I've visited with a number of producers over the past few months and there is little criticism of the job these people are doing on the ground.

Wayne Hammon is doing a terrific job as our state FSA director. He has a real understanding for the needs of the producers and the agency. Wayne is one of the best directors our state has had.

We are also lucky to have Rich Sims as our State Conservationist. The many changes to existing conservation programs and the significant new conservation initiatives are a quite a challenge to implement. Rich is doing a wonderful job at meeting these challenges, and I appreciate his efforts.

I need to also recognize the job Mike Field is doing with Rural Development. USDA Rural Development is of great importance to Idaho and we are fortunate to have a leader like Mike running the agency.

I want to thank them for the work they're doing in the state. And, again, I commend you for your hard work and the Herculean effort the department is undertaking to implement this complex, but important, bill.

Opening Statement of Senator Blanche L. Lincoln
Senate Committee on Agriculture, Nutrition & Forestry
Hearing on Farm Bill Implementation
September 17, 2002

Mr. Chairman,

Thank you for bringing us here this morning and for your continuing leadership on the farm bill process. And, thank you, Secretary Veneman, for coming to the Hill today to visit with us and answer our concerns about the farm bill implementation process.

Like all of my colleagues on the Committee, I have been watching closely the Department's efforts to put our farm bill into action. Farmers in Arkansas have been waiting anxiously for an implementation process that accurately and faithfully reflects the farm bill Congress passed and on which these farmers have made their planting and financing decisions.

Now, with harvest already upon farmers in many parts of the country, it is vitally important that implementation rules be made and set into motion. The crisis that spurred Congress to an early rewrite of the old farm bill still exists. It has only been further exacerbated by the natural disasters - drought, flood, disease - of which you are well aware. The anxiety surrounding the implementation process comes on top of all these existing problems.

Farmers from my state are increasingly alarmed by the direction implementation seems to be taking the farm bill. Frankly, many of them are wondering what kind of farm policy the USDA is going to give them. They're still hurting, just as they were last year, and they wonder if the new farm policy is going to help them out.

With this in mind, I'd like to voice my concerns about some specific implementation issues. Unfortunately, I cannot stay for the duration of this hearing, so I'd like to highlight a few of these issues for your general response, and then submit a more complete list of questions for the record and for your written response.

One issue that many farmers back home are very worried about regards the calculation of updated base acres, particularly involving soybeans. The point of including soybean acreage into an updated base plan was to enable the support payments to reflect the crops a current farm would grow. It is vitally important that USDA try to get a fair picture of oilseed acreage history, so that a farmer can receive the full support intended for him or her by the farm bill. I strongly urge you to work with farmers and help them come up with a fair way of updating base.

Similarly, I urge you to work with farmers to find the fairest way of proving updated yields. There are a variety of ways to indicate reliably a farm's production of a given crop from past years, so it seems unnecessary to restrict the types of records a farmer can use to do so.

I am also concerned about the ongoing problems with payments from settlement of the Pigford lawsuit, the minority class action lawsuit that was settled a couple of years ago. To me, this is

precisely the sort of issue for which we created a new Assistant Secretary of Civil Rights position. Where is the Administration in filling this new position?

Finally, while I was pleased to see the Administration agree to indemnify poultry growers whose flocks were destroyed due to the avian influenza outbreak, I am disappointed that USDA will apparently withhold a large portion of the money originally approved for the indemnification. Given the degree of damage this outbreak has unleashed, I urge you to review your decision and release the full amount dedicated.

This is a short list of my concerns but I want to raise them with you, face-to-face, and get your personal thoughts. Thanks again for coming before us today.

Statement by
Ann M. Veneman
Secretary of Agriculture
Before the Committee on Agriculture, Nutrition and Forestry
United States Senate
September 17, 2002

Mr. Chairman, Senator Lugar and distinguished members, it is a privilege for me to appear before you today to discuss the implementation of the Farm Security and Rural Investment Act of 2002. I am pleased that you called this hearing to provide me the opportunity to share this with you and other Members who worked long and hard on the Farm Bill.

First, I will make some general remarks about implementing this Farm Bill and then discuss the progress we are making on specific titles of the bill.

Overall, I am pleased and proud of the progress the Department is making so far in implementing the bill. USDA had been actively engaged in preparing for a new bill well before passage. As soon as the Farm Bill was enacted, USDA went into high gear to implement it. In the four months since the President signed the Farm Bill, USDA has made major strides in implementation. Our staff throughout the country is working tirelessly and aggressively to implement all Farm Bill provisions as soon as possible.

Farm Bill implementation is a massive undertaking. The bill includes ten titles and over 400 pages with numerous sections and provisions. At the time of passage, its cost above baseline levels was estimated to be over $80 billion. We have determined that nearly 100 regulations will need to be issued, and that over 40 reports and studies will need to be prepared over the course of the bill's life. While such a complex bill is difficult to implement, we know our producers are waiting for programs to be in place and payments to begin and we appreciate their patience and perseverance. I assure you we are working hard to get Farm Bill programs out to producers as quickly as possible, and we are working just as hard to get the job done right.

As soon as the bill was enacted, we moved quickly to set up an internal structure for

implementation. We established a Board of Directors made up of our Subcabinet and a Working Group of key senior staff to coordinate department-wide implementation. I have issued Delegations of Authority assigning program responsibilities to Under Secretaries and Agency Administrators. We have also developed a department-wide tracking system for all Farm Bill actions so that we know the up-to-date status for each action. We are currently tracking nearly 500 separate actions, including regulatory and non-regulatory actions that require implementation. We have assigned responsibility for each of these actions and set milestones for completion. We are monitoring progress closely and issues are being resolved quickly.

We are making extensive efforts to keep the public and Congress informed at every step of the way. So far, over 30 major press releases have been issued announcing key program actions. We have also held numerous press conferences and briefings to further inform the public. I am particularly pleased to note that immediately after the Farm Bill was signed, we initiated a dedicated website to provide access to
extensive up-to-date information about the Farm Bill to address many constituent questions as they have arisen. This has been a valuable tool and another example of things we are striving to do to improve our services through e-Government measures.

Although we are making good progress, I would like to point out that we do face a number of challenges. The workload is massive and we are doing the best we can with limited resources. I appreciate the Committee's support in providing $55 million for implementation funding, but this level was below our initial and continuing estimates of need. The President yesterday officially requested an additional $60 million in funding from the Appropriations Committees to cover the Farm Bill workload, and we are hopeful that Congress will provide us with these additional funds. We are using the currently available funding to hire over 1,000 temporary employees to help with sign-ups and other activities in our service centers across the country. We are also developing brand new programs and program application software as well as improving program delivery through additional staff training and third party technical service providers. All of this takes time and money.

We also have the challenge of reviewing, clearing, and publishing a very large number of regulatory actions and notices, as well as numerous reports and studies. Just the sheer number of these documents moving through the system is a time- consuming effort, but one that we are managing. Extensive efforts are still required to put many of the new provisions into effect. We have begun to publish regulations and more of them will be published in the next several weeks. We do not need to have final regulations issued before the sign-ups can begin. Although the regulations will need to be issued before payments can be made, we are on track to meet the schedule we have established.

I will now discuss some of the key actions we have taken to implement specific programs, particularly for Title I (Commodity Programs) and Title II (Conservation), where most of the current attention is being focused because of the need to get programs up and running.

Title I – Commodities

As you know, Title I is complex and comprehensive, overhauling many of our programs and adding new ones as well. This means we must develop regulations, procedures, and software. We must also train our field employees and explain complex new programs to farmers. We are utilizing all available tools to get the job done.

In Washington, we are getting programs out to the county offices at a fast pace. To make sure farmers have timely information, we are publishing news releases, frequently asked questions, and other support materials on the USDA website. And, we are undertaking the most thorough training the Farm Service Agency (FSA) has ever had, including a train-the-trainer session in Chicago last July and another session in New Orleans last week.

Our field staffs are doing an extraordinary job in getting the programs in place, working with producers to update acreage reports and other key information to ensure a smooth signup process. In

additional, they continue to hold press briefings, participate in radio interviews, and conduct meetings with producers and other groups.

We are very pleased with the overall progress we have made so far in implementing Title I. Just recently we announced that signup for the direct and counter-cyclical payment program will begin on October 1, with payments starting soon thereafter.

To ensure that producers can receive their payments, we are working closely with them in updating their acreage bases and yields. This will be the first time since 1985 that producers will have had a major opportunity to update program bases and yields. In this regard, in July we sent farm owners and operators acreage reports showing planted and prevented planted acreage. We are still accepting records from farmers who feel the information is incorrect. This month, we will send farmers two additional reports showing base options and minimum yields for farms that are considering updating yields. Owners will use this information to begin selecting base and yield options.

Earlier this month, we issued additional guidance regarding procedures for updating yields. In general, producers who wish to establish or update yields will need to have available verifiable production evidence such as weight tickets, loan deficiency payments, crop insurance appraisals or sales records. However, we have made special provisions for producers with crops grazed, harvested as silage or hay or fed on the farm and, therefore, may not have tangible records of verifiable production. For these producers, FSA may use previous loan deficiency payments (LDP) records or yields on similar farms and other information to establish yields in most cases.

Helping producers make base and yield choices that are in their best interest has been a key focus of USDA. Toward this end, we have developed and will soon launch an interactive payment calculator that will be available on our website. In addition, FSA in partnership with the Extension Service is holding educational meetings with producers across the country. In the coming weeks, our USDA team will be working with producers to ensure that program payments will be made in an efficient and prompt manner.

Another new program we are working hard to move forward is the Milk Income Loss Contract. Thanks to the hard work by USDA staff in Washington and in the field, signup began on August 13. We have had a lot of interaction with many stakeholders in trying to make all the decisions necessary for that program. While we are still working on the fairest way to interpret the unique transition period provision, we hope to resolve this quickly so this will not hold up program administration or payments, which are scheduled to start next month.

The peanut program has gone through an historic overhaul. The market quota system, in place since the 1930s, has been replaced with the direct and counter-cyclical payment program. Peanuts also are eligible for the marketing loan program. We have begun announcing national weekly market price for loan repayment purposes. Peanut producers have the opportunity to sign up for the peanut quota buyout during the September 3rd through the November 22nd period. Payments will begin as soon as the rule is issued, which we expect to happen soon. All of these changes will make peanuts a more market-oriented commodity and help the industry become more competitive while easing the transition for peanut producers.

Sugar is another very complex program, and I am pleased that we were able to move quickly in implementing the new provisions. On August 26, we published a final rule and the following day announced the 2002-crop marketing allotment quantities for beet and cane sugar. A public hearing was held on September 4 to receive input from growers and processors on the structure and implementation of the allotment program. As you know, the law directs USDA to operate the sugar program in a way that will minimize the forfeiture of loan collateral and reduce unexpected impacts on trade, and we are going to follow that directive very carefully.

Apple Market Loss Assistance Program II (AMLAP II) regulations were published September 12. The sign-up for the program which began last spring will end September 26 and payments

will be made in October. While AMLAP II was authorized by the appropriations bill, a similar follow on program, the AMLAP III, was added by the Farm Bill. Signup for the AMLAP III will begin in October, with payments following soon after.

We also recently announced loan rates for pulse crops. These crops include dry peas, lentils, and small chickpeas.

Other implementation actions are moving along on schedule, with final rules in various stages of clearance. On the adjusted gross income (AGI) issue, USDA will publish a proposed rule seeking comments on how the AGI requirements should apply to non-profit and tax-exempt organizations and other program participants. The final rule on payment limitations is moving quickly through Departmental clearance, with software scheduled to be in FSA county offices by mid-September. The 26th signup of the Conservation Reserve Program (CRP) will begin in early spring of next year.

Title II – Conservation

We are pleased with the strong conservation programs contained in the Farm Bill. The changes in the conservation policy support this Administration's commitment to a voluntary approach and provide the Nation's producers with a comprehensive portfolio of conservation options including cost-share, incentive, land retirement, and easement programs. We are continuing those conservation programs reauthorized in the Farm Bill, such as the Wetlands Reserve Program (WRP), the Wildlife Habitat Incentive Program (WHIP), and the Farmland Protection Program (FPP). We are also revising those programs with major changes, such as the Environmental Quality Incentives Program (EQIP) and the CRP, and we are initiating rulemaking on new programs, such as the Grassland Reserve Program and the Conservation Security Program.

Even though the regulatory effort needed to implement these programs is a major challenge, the process is on schedule on all fronts. Initially, our focus has been on getting the additional FY 2002 funding authorized by the Farm Bill into the system and out to producers and program participants. So far, we

have issued the direct final rules on WRP and WHIP and a proposed rule for the Agriculture Management Assistance program. We have released funding for EQIP, WRP, WHIP and FPP as well as $25 million in Ground and Surface Water Conservation, a new activity authorized in the 2002 Farm Bill to assist producers in achieving irrigation efficiencies and reductions in overall water usages. Funding for these conservation programs will exceed
$750 million for FY 2002. These funds will allow the Natural Resources Conservation Service (NRCS) to provide financial assistance under these programs as authorized by the 2002 Farm Bill.

One of the key provisions in the new Farm Bill is the authority to use third-party, technical service providers in delivering the technical assistance needed to support the implementation of the conservation programs. We are moving aggressively ahead with the expansion of direct technical assistance to producers from the private sector, non-profit sector, and State and local government sources. We are undergoing rulemaking as required by the statute to construct a system to certify, pay, and utilize the broad range of technical assistance providers wherever feasible. This will be further enhanced by our efforts to accelerate deployment of the Customer Service Toolkit and the rollout of various web-based tools such as the electronic field office technical guide, e-forms including applications for the 2002 programs, and program specific public information products.

As we look ahead, we have scheduled the publication of proposed rules for early fall for EQIP and FPP for the 2003 programs and an interim final rule for the third party technical service provider certification. We are also making steady progress toward the proposed rule for the Conservation Security Program ensuring that this newest policy initiative is implemented properly. And, we are finalizing the delegation of authority for the Grassland Reserve Program.

For other titles of the Farm Bill we are also making progress but for the most part the time pressure is not as immediate as it is for Titles I and II. Here are some examples of some of the significant actions we are undertaking on the other titles of the bill:

- With respect to the trade title, we are moving ahead quickly with implementing the provisions that bolster our market development efforts overseas. Allocations of the additional $10 million of funding made available for the Market Access Program for FY 2002 were announced on August 12th. We expect to complete allocations of the additional funding made available for the Foreign Market Development in the near future so that funding will be fully obligated by the end of the fiscal year. On September 10, the Foreign Agricultural Service (FAS) published regulations to implement the new Technical Assistance for Specialty Crops Program and requested program proposals to be submitted by September 18th so that the program can be implemented by the end of this fiscal year. Also, FAS has completed a draft of the Department's Global Market Strategy, and it is currently undergoing review within the Department.

- For the Nutrition title, implementing memoranda were sent to all States in June so that the food stamp provisions could be put into effect according to statutory requirements. Also in June, we announced the awarding of farmer's market grants to States through the WIC Farmers' Market Nutrition Program and the Senior Farmers' Market Nutrition Program. In addition, the Food Nutrition Service has met with State agencies, State organizations, and various advocacy groups about issues and concerns and will continue to work closely with our partners to facilitate smooth implementation.

- The Rural Development title included a wide range of funding and new authorities to improve the economic prospects and quality of life in rural areas. One of the most important features of this title is to provide funding for the backlog of water and waste projects. This funding has already been awarded to 377 projects in 47 States and Puerto Rico — totaling more than $700 million. In addition, we expect to award $33 million in value added grants in the near future. Numerous other provisions of the title that expand our authorities for financing telecommunication, renewable energy, business and community projects are in the process of being implemented through the regulatory process.

- For the Energy title, we have been meeting with the Department of Energy and other Federal agencies and most recently with the representatives of stakeholders, discussing implementation of its various provisions. As a result of these meetings, we will soon start the process of publishing rules and obligating funds, in accordance with the statutory deadlines established for the programs. Our focus, thus far, has been on Federal Procurement of Biobased Products and the Biomass Research and Development initiative, the two programs of the title with mandatory FY 2002 spending authority. We have also recently established the USDA Biobased Products and Bioenergy Coordination Council.

- Under the Miscellaneous title, we are developing voluntary guidelines for country-of-origin labeling that will be released in the near future. Also, under this title, we are moving forward to appoint a new Assistant Secretary for Civil Rights.

Along with the Farm Bill provisions, USDA is continuing to help farmers and ranchers cope with the drought conditions.

The Congress has already provided the tools for drought relief for crop farmers through the heavily subsidized Federal Crop Insurance Program. The crop insurance subsidy was increased dramatically in 2000 to avoid the need for disaster payments. The vast majority of the crop acreage in the drought regions is covered by crop insurance. Almost 80 percent of the insurable acreage in the U.S. is covered. Based on current crop conditions, our preliminary estimates indicate that the program will provide about $4.1 billion indemnity payments for 2002 crop losses — compared to about $2.9 billion for 2001 and an average of about $1.5 billion for the 1990s.

The Department has also responded swiftly, utilizing a number of other available program options to assist farmers during these difficult times. We have expedited approval processes for declaring emergency disaster areas, so that farmers can receive low-interest emergency loans. We have

committed resources to the Emergency Conservation Program to help landowners develop water sources and haul water to livestock. We have expanded CRP haying and grazing eligibility nationwide and are working to get noninsured crop disaster assistance program payments out to farmers and ranchers.

The Environmental Quality Incentives Program (EQIP) is another important program that provides farmers with financial and technical assistance to address resource issues resulting from severe water shortages. We announced yesterday that we are directing $10 million of EQIP funding in FY 2002 to States severely impacted by the drought. We have also encouraged landowners whose property has been impacted by drought conditions to apply for assistance through the Wildlife Habitat Incentives Program.

We also have announced a signup for an innovative feed assistance program for cow/calf operators in Colorado, Nebraska, South Dakota, and Wyoming. In these States, at least 75 percent of the pasture and range crop is currently rated as poor or very poor. The program provides $150 million for producers to obtain feed at reduced or no cost at participating feed mills. And we are utilizing existing stocks of non-fat dry milk in the production of that feed. As of September 12, over 8.4 million pounds of non-fat dry milk has been shipped from storing warehouses to feed mills for use in manufacturing the feed. Coupled with the many other programs we have expedited in the recent months, these additional resources will continue to provide much needed relief to farmers in the most devastated areas.

Mr. Chairman, that concludes my statement. The staff at USDA is working very hard in view of the short deadlines to get the job done of implementing the Farm Bill so that all program participants can receive the benefits of the legislation. We are committed to doing the best job we can do. We are also committed to working with Congress and other stakeholders to ensure the legislation is implemented fairly and properly. I would now be glad to answer your questions.

DOCUMENTS SUBMITTED FOR THE RECORD

SEPTEMBER 17, 2002

Statement for Senator Max Baucus
Senate Committee on Agriculture, Forestry and Nutrition
Full Committee Hearing Regarding Farm Bill Implementation
September 17, 2002

Mr. Chairman, thank you for holding this very important hearing today. Last year's passage of a new farm bill was a major accomplishment for our nation's farmers and ranchers. Now we are faced with putting the farm bill into action. And we all know that the farm bill is only as good as it works on the ground. Today, I'd like to address several concerns I have regarding the way the farm bill has been implemented thus far.

I would like to begin by thanking all of the county Farm Service Agency (FSA) employees who are working tirelessly to implement the new farm bill. My state of Montana is fortunate to have great people working within the Farm Service Agency, the Natural Resource Conservation Service (NRCS), and the branches of the USDA.

I would also like to thank the USDA for the flexibility they have provided to the Natural Resource Conservation Service in addressing drought and fire issues. Through the USDA Environmental Quality Incentives Program (EQIP), our producers have received the flexibility they need to help protect their jobs and livelihoods.

Unfortunately, the most important tool we can provide to further secure our producer's jobs is still missing – Direct natural disaster assistance. I was pleased that the Senate agreed last week to support full funding for the Crop Disaster Program, Livestock Assistance Program, and the American Indian Livestock Feed Program by an overwhelming vote of 79-16. I am committed to continuing to work with the House of Representatives and with the Administration to provide this much needed and long overdue assistance.

Now I would like to turn to several concerns that Montanan farmers and ranchers have shared with me about the implementation of the farm bill.

First, the Department's decision to terminate the crambe loan program was a completely unanticipated blow to this small industry. The blow was compounded because the 2002 crop was already in the ground when the decision was announced. Only about 15,000 acres are planted to this crop, and an end to the loan program will almost certainly mean an end to domestic production. The result will be to cede this industrial oilseed market to Canadian producers.

As Chairman of the Senate Finance Committee, I am adamantly opposed handing over a viable, productive domestic industry. In addition, crambe makes up 20% of the crushing capacity of the Montola Crushing Plant in Northeastern, Montana that was purchased under a $3 million, 15 year USDA Rural Development loan in 1998. If this capacity is lost, the plant will have difficulty remaining current on its loan payments. The Montola Crushing Plant was the highest ranking project in 1998 for its positive impact on the community. The crushing plant provides more than 30 good, high paying, off-farm jobs in an area where off-farm jobs are difficult to come by. The impact of terminating the crambe loan rate is snowballing. I strongly encourage USDA to reinstate the crambe loan rate.

Second, with respect to non-recourse loans made to sugar producers, the 2002 farm bill eliminates the requirement that the CCC add 100 basis points to the interest rate. However, in its rule implementing the provision, USDA has chosen not to follow the law and lower the interest rate by one percent. It is my understanding the USDA's reasoning is because the farm bill did not set an exact interest rate and that the USDA is free to set the interest rate at the level it deems appropriate. I again urge the USDA to follow Congressional intent and lower the interest rate for non-recourse loans to sugar producers by one percent.

Third, the Farm Service Agency (FSA) supports the economic stability of agriculture and rural America by implementing programs that ensure a safety net to help farmers and ranchers maintain viable operations, compete for export sales of commodities in the world marketplace, and contribute to year-round availability of affordable, safe, and nutritious foods while adequately protecting natural, cultural, and historic resources. FSA is also a customer service based agency. With over 98 percent of producers on eligible farms participating in one or more FSA programs, FSA employees have an enormous task.

When Undersecretary Penn was in my office before he was confirmed, he and I spoke about staffing shortages in FSA. He said he was aware of staffing shortages in some areas, but he was going to wait until the new farm bill passed to reassess staffing needs. Well, the farm bill has passed. The Farm Service Agency in Montana has great and committed employees. However, we have charged them with an impossible task of implementing a farm bill, administering the Agriculture Risk Protection Act, and if the Senate has its way, implementing a natural disaster assistance program for 2001 and 2002. Turn over and frustrations are high within FSA offices because employees are so overworked. I urge the USDA to reassess FSA's staffing needs and to act on that assessment.

Fourth, I urge you to reconsider the 2002 pulse loan rate announcement of September 3, 2002. The USDA's announcement unfairly penalizes pulse producers and reduces their safety net at a time when current prices are well below the ten-year average. Furthermore, Congress' intent in establishing a marketing assistance loan program for pulse crops was clearly that loan and repayments rates be based on feed peas, No. 3 lentils, and small chickpeas that fall through a 20/64 screen.

The USDA's decision to base pulse loan and loan repayment rates on U.S. No. 1 graded product significantly reduces the intended safety net for pulse growers during periods of low prices. Early in the 2002 farm bill process, an agreement was reached to base the pulse marketing assistance loan program on feed peas, No. 3 grade lentils, and No. 3 grade small chickpeas. This decision significantly reduced pulse loan rates compared with historical No. 1 prices for all three commodities. However, growers were willing to forgo higher loan rates in exchange for a broader safety net that would include production that did not grade a No. 1 quality.

Basing the pulse loan program on feed peas, No. 3 grade lentils, and No. 3 grade small chickpeas would encourage pulse producers of all qualities to take the loan deficiency payment, during periods of low prices, and market their pulses without forfeiture to the government. I ask that you reconsider your announcement and follow the clear intent of Congress when implementing the 2002 pulse loan program.

There are a lot of Montanans who are anxiously awaiting the announcement of the specifics of the Hard White Wheat Incentive Program. We are fast approaching when planting decisions need to be made and it is important that producers have all the information they need to make informed decisions.

Like the Hard White Wheat Incentive Program, the Grasslands Reserve Program has an enormous amount of interest in Montana. It is my understanding that the decision as to which agency will administer the program is still outstanding. I encourage you to make this decision as soon as possible so that we can give producers answers as soon as possible.

Let me finish with a few comments on the Nutrition Title of the farm bill. This may be premature, but I have heard good things about the implementation of the new food stamp provisions. It is important that we don't forget the people who lost significant benefits under the Food Stamp Program when the USDA terminated Montana's Standard Utility Allowance Waiver. The Standard Utility Allowance Waiver allows a food stamp recipient to take the maximum utility deduction allowed under the food stamp program. It was originally created as a pilot project before welfare reform in 1996. The program is incredibly successful in the state.

There is an enormous amount of work that has been done and that remains to be done. It is imperative that we work together to get this right.

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

OCT 24 2002

The Honorable Tom Harkin
Chairman
Committee on Agriculture, Nutrition, and Forestry
United States Senate
328A Russell Senate Office Building
Washington, D.C. 20510-6000

Dear Mr. Chairman:

Thank you for your letter of October 18, 2002, in which you requested a copy of the responses from Farm Service Agency State Executive Directors to a Department of Agriculture survey regarding how states define a dairy operation for purposes of previous dairy market loss assistance programs.

Please be advised that the enclosed informal survey was only one factor used in determining what constitutes a dairy operation.

Your interest in this issue is greatly appreciated.

Sincerely,

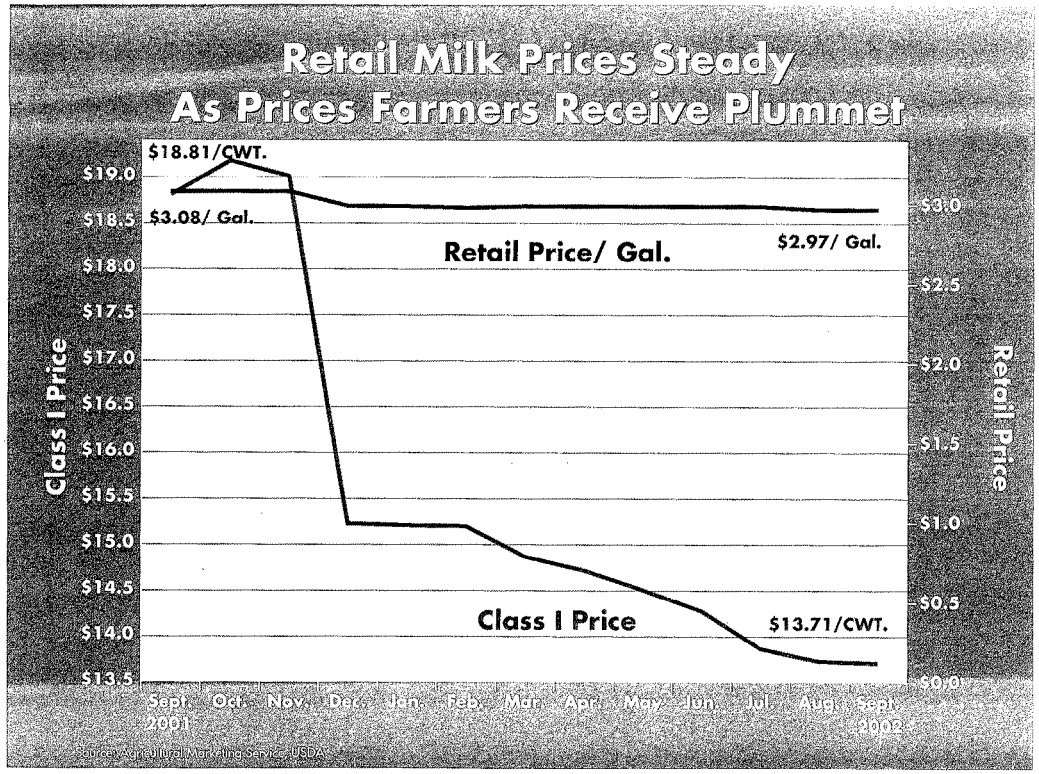
Thomas Hunt Shipman
Deputy Under Secretary
Farm and Foreign Agricultural Services

Enclosure

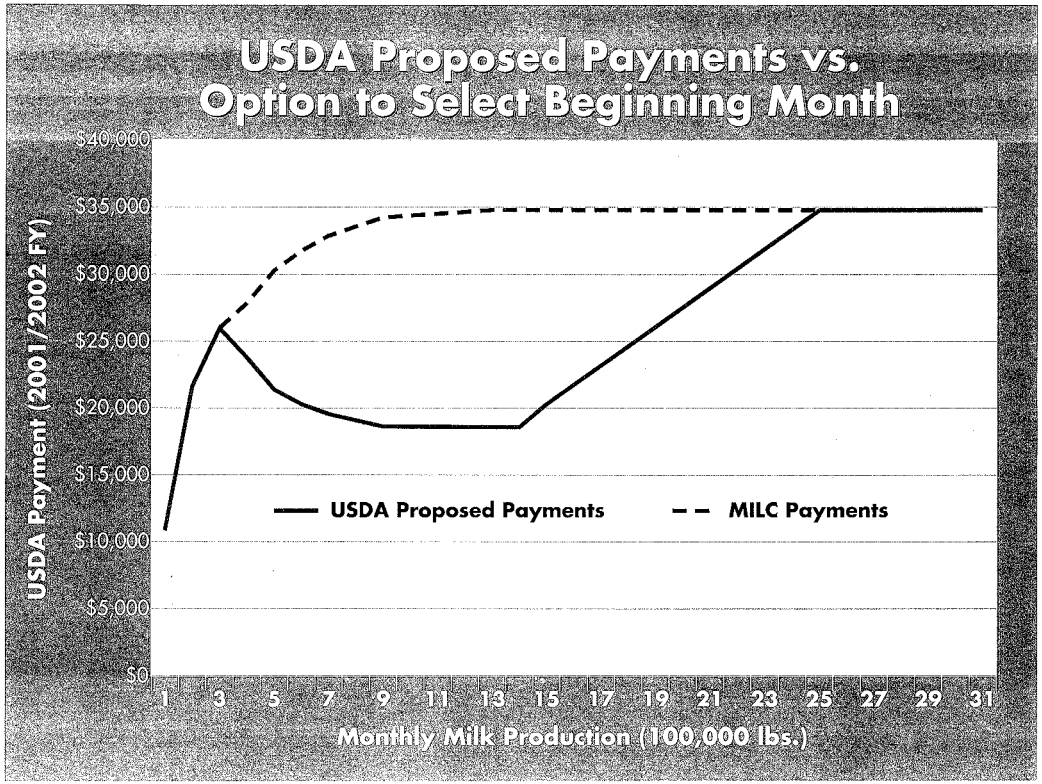
An Equal Opportunity Employer

Survey Results

Producer A owns 100 head of cattle at one Farm location.	All states agree 1 operation.	
1. Producer A and Producer B each own 80 head of cattle on a farm. Each producer maintains separate books and receive separate milk checks, however they share the same milk parlor on the farm.	**1 operation** - Illinois - Texas - Iowa - Wisconsin - Minnesota	**2 operations** - Ohio - Missouri - New York - Michigan - California
2. Producer A and Producer B each own 95 head of cattle on a farm. Each producer maintains separate books, however they share the same milk parlor on the farm and receive one milk check.	**1 operation** - Ohio - Missouri - New York - Michigan - California - Illinois - Texas - Iowa - Wisconsin - Minnesota	**2 operations**
3. Producer A owns 5 different dairy farms at different locations with cattle at each location. Separate records are maintained for each location.	**1 operation** - New York - Wisconsin	**5 operations** - Ohio - Missouri - Michigan - Texas - Iowa - California - Minnesota
4. Producer A and Producer B both own Farm 1 and Farm 2 which are separated by a distance of 15 miles.	**1 operation** - Ohio - Missouri - New York - Michigan - Wisconsin	**2 operations** - Texas - Iowa - California - Minnesota
5. Producer A and Producer B both own Farm 1, Producer C and Producer A both own Farm 2, Producer B and C both own Farm 3, and Producer A, Producer B, and Producer C all own Farm 4.	**1 operation**	**4 operations** - Ohio - Missouri - New York - Michigan - California - Texas - Iowa - Wisconsin - Minnesota



2256109 Milk Prices 12:16 PM Tue Sep 17, 2002



2255145 USDA Payments 11:29 AM Tue Sep 17, 2002

Impact of USDA New Dairy MILC Proposed Regulations on Family Farms, by Monthly Milk Production per Farm

Farm Size (Lbs./Mon)	USDA Proposed MILC Payments
100,000	$10,830
200,000	$21,660
240,000	$25,992
200,000	$23,790
400,000	$21,401
500,000	$20,300
600,000	$19,560
700,000	$19,100
800,000	$18,641
900,000	$18,630
1,000,000	$18,620
1,100,000	$18,610
1,200,000	$18,600
1,300,000	$18,590
1,400,000	$20,300
1,500,000	$21,750
1,600,000	$23,200
1,700,000	$24,650
1,800,000	$26,100
1,900,000	$27,550
2,000,000	$29,000
2,100,000	$30,450
2,200,000	$31,900
2,300,000	$33,350
2,400,000	$34,800

Leahy. 2255145 USDA # 2. 1st REVISE, Sept 13. 2002

QUESTIONS AND ANSWERS

SEPTEMBER 17, 2002

Questions Submitted by Chairman Tom Harkin of Iowa

Question 1: Yield Update: Notice DCP-27 for State and County Offices indicate that LDP records can be used to document production, but also states that if the producer uses LDP records, including for fed production, the producer would be required to submit actual production evidence upon request, consistent with LDP requirements.

Question 1(a): Does this mean that the producer has to have LDP records and additional documentation? If so, what documentation is required?

Answer: LDP records will be accepted.

Question 1(b): For direct payment yields for commodities other than oilseeds, if a producer does not have either a 2002 PFC payment yield or a 1995 payment yield for a farm and crop, what yield will be used?

Answer: If a payment yield has not been previously established for the commodity (other than oilseeds) on a farm, a direct payment yield will be assigned based on direct payment yields applicable to the commodity for at least 3 similar farms.

Question 1(c): In limited situations – when grain was fed or harvested as silage and either FSA or crop insurance records show that the crop would be used for livestock feed – production records from at least three similar farms can be used to assign a yield. If a farm was not in the program in 1998 and the crop was not insured or the insurance agent failed to check the appropriate box showing that the corn would be fed or the acres that would be harvested as silage, the producer would be assigned the minimum yield for the county, the 75-percent yield plug. If the farm could demonstrate with other records that the corn was fed, why not make the program as equitable as possible and allow more producers to use yields from three similar farms to update yields?

Answer: There is concern about the accuracy of records when there was no previous indication that grain was fed or harvested as silage.

Question 1(d): In many instances, land will have changed hands over the course of the last four or five years. If records from a previous producer are not available, will the Farm Service Agency be able to use LDP records for the farm? Would FSA accept yields from three similar farms?

Answer: If the producer is not able to provide LDP records or other verifiable production evidence, but existing FSA or crop insurance documents show all or a portion of the acreage was fed, hayed, or silage, the county committee will assign production based on 3 similar farms, based on records of actual production for the similar farms' production in the applicable crop year. Production from other acreage on the farm (not included in preceding sentence) will be considered zero. However, if the actual production for the farm is less than 75 percent of the county average yield, the producer will receive 75 percent of the county average yield.

Question 1(e): What yields will hybrid seed corn producers be able to use the update payment yields for the counter-cyclical program?

Answer: FSA is working with State Offices and the seed corn industry to determine a factor for converting seed corn production to commercial corn equivalent.

Question 1(f): What records will producers be able to apportion commingled production evidence?

Answer: LDP or commodity loan records; scale tickets, load records, or other harvest records showing farm/year where crop was produced; crop insurance records; other records acceptable to the county committee such as custom harvesting records or scale tickets identifying commodity, farm, and year of production. These records may not meet the requirements for acceptable production evidence; however, they may be used to apportion commingled records of acceptable production evidence between crop years and farms.

Question 1(g): When will producers be allowed to use crop insurance records to establish yields?

Answer: Crop insurance records are acceptable if they were for loss adjustment, or APH purposes if they were based on verifiable production records.

Question 2: The farm bill establishes a loan rate of $1.00 per pound for graded wool and $0.40 per pound for nongraded wool. Smaller producers will not be able to afford expensive core tests, but may be able to receive a graded wool price through a grade and yield sale or a consignment sale. Will smaller producers be able to qualify for loans and loan deficiency payments based on the graded wool loan rate without having their wool core tested?

Answer: No. Even smaller producers must have a core test to be able to qualify for a graded wool loan rate in order to receive the $1.00 for graded wool. Any producer who does not have a core test will be eligible to receive the nongraded loan rate of $.40 per pound.

Question 3: Fruits and Vegetables: The rules that prohibit the harvest of fruits and vegetables on base acres will potentially affect more farmers as the number of base acres on a farm increases with the addition of oilseeds base.

Question 3(b): Will producers with a history of planting at least one-tenth of an acre to a fruit and vegetable on the farm be able to give up the direct and counter-cyclical payments for each acre of base planted to any fruit and vegetable?

Answer: Direct payments and counter-cyclical payments will be reduced by an acre for every acre of fruits, vegetables or wild rice planted on base acres if either the farm history or producer history exception applies. However, a producer history of planting one-tenth acre of a specific fruit, vegetable or wild rice means that only one-tenth of an acre of that fruit, vegetable, or wild rice may be planted and harvested using that history.

Question 3(c): Are there any flexibility options for new fruit and vegetable producers without a history other than to give up all direct and counter-cyclical payments for the years or for the owner to permanently relinquish base acres?

Answer: By statute, fruits, vegetables and wild rice cannot be planted on base acres unless one of the exceptions provided in the statute applies. The options for the producers who cannot use

one of the exceptions are: do not plant and harvest fruits, vegetables or wild rice on base acres; do not enroll the farm for the applicable year; or permanently reduce the applicable base acres.

Question 4: USDA has decided to require new power of attorney from landowners who want to allow their tenants or other individuals to handle their business with the Farm Service Agency. Apparently, USDA has told county offices that this decision applies not only to those who had a power of attorney for USDA purposes, but also for those who have a general power of attorney under State law. If an individual has the authority through a power of attorney under State law to sell the land as the legal agent of the landowner, why would USDA not recognize this authority?

Answer: General (non-FSA) power of attorney documents vary greatly in the authority granted by the document and the applicability of the authority granted to the many government programs. In addition, general power of attorney documents are governed by the applicable State laws, which vary greatly on issues such as how the incompetence of the grantor impacts the validity of the document. Therefore, FSA developed a standard power of attorney form applicable only to FSA and Commodity Credit Corporation (CCC) programs and actions. The FSA power of attorney document has been used extensively since the early 1980's.

FSA does not prohibit the use of general power of attorney documents for individuals who wish to appoint another to act on their behalf for FSA and CCC programs but are unable to complete the standard FSA power of attorney form because of unique circumstances such as incompetence or incapacitation of the grantor. However, because of the nonstandard nature of such documents and the varying laws governing such documents, FSA does require general power of attorney documents to be reviewed by our Office of General Counsel to ensure that the interest of the grantor and USDA is protected, and that the document provides the authority necessary for the applicable FSA and CCC programs.

Question 5: Will the Department provide adequate computer and Internet resources to enable producers to access the USDA farm bill website and on-line farm bill calculators at their local FSA office?

Answer: The tool for producers to access base and yield options will be available on the Internet by October 1, 2002. County Office staff will work with producers who do not have access to the Internet on a one-to-one basis to explore their base and yield options.

Question 6: Will the Department meet the 400,000-ton minimum for commodities donated for use under the Food for Progress program? If not, why not?

Answer: USDA approved a total of 37 programs to 31 countries under the fiscal year 2002 Food for Progress program. The total tonnage for the approved programs reached 421,650 tons. All of the agreements have been negotiated and signed. However, due to the fact that negotiations took longer than anticipated, it will not be possible for approximately 141,500 tons to be purchased by the September 30 end of the fiscal year. These purchases are expected to occur early in the next fiscal year.

Question 7: Under what circumstances would the Department envision utilizing its authority under Section 416(b) to draw on CCC funds for international food aid?

Answer: The Administration's policy envisions using the Section 416(b) authority for commodities owned by the Commodity Credit Corporation. For fiscal year 2003 use of Section 416(b) authority is expected to be limited to programs using CCC's nonfat dry milk inventory.

Question 8: In the sections of the trade title for both the Market Access Program and the Foreign Market Development Program, Congress included language that requires USDA to give equal consideration to applications for the additional funding from potential new participants in the programs, in order to encourage exploration of new markets. What are the Foreign Agricultural Service's plans regarding carrying out these provisions?

Answer: The Foreign Agricultural Service (FAS) is working with all sectors of the agriculture industry to ensure that funding increases authorized under the 2002 Act are equitably distributed. The Foreign Agricultural Service gives equal consideration to all eligible applications submitted under the Market Access Program (MAP) and Foreign Market Development Cooperator (Cooperator) Program. Funds authorized for these two programs are allocated to participants in a manner that supports the strategic decision-making initiatives of the Government Performance and Results Act of 1993. An established set of factors is applied to every application in an effort to measure a proposed project's impact on the effective creation, expansion, or maintenance of foreign markets. These factors include the overall trade strategy, past and projected export performance in the foreign markets targeted, constraints and priorities to be addressed, industry contributions to the program, and evaluation plans for measuring progress at specific intervals.

At the Department, we continue to direct our resources and strategic focus to include those fast-growing emerging markets that have been identified as having the greatest potential to expand our overall global market share. Food industry analysts expect that these are the markets that will generate the overwhelming majority of new world food demand over the next decade. Although FAS has encouraged MAP and Cooperator Program participants to seek out new market opportunities, our industry partners generally have been reluctant to commit shrinking program resources to "riskier" markets at the expense of the hard-won market share already achieved in the larger, more mature markets. With the availability of additional funding provided in the 2002 Act, we expect that program participants will undertake a more aggressive effort to capture greater market share by pursuing emerging markets.

Question 9. Under Section 10606 of the new farm bill, the Department is to expand nationally the current 15-state cost-share funding pilot program for organic certification. Organic producers are preparing for the full implementation of the National Organic Program (NOP) on October 21 of this year. The farm bill cost-share funds will be instrumental in helping producers and handlers become certified in order to participate fully in the NOP.

When do you expect this funding to be available?

Answer: A departmental press release and a Federal Register notice are moving through the department's clearance process now. We expect to be able to send the announcement to the Federal Register in the first week of October. As soon as funds are transferred from the CCC to the Agricultural Marketing Service, we will begin coordinating the cooperative agreements with the States. We anticipate beginning this effort in October as well.

Question 10: Section 9006 of the bill, which helps renewable energy systems and energy efficiency improvements, contains $23 million in mandatory funds for fiscal year 2003. Is the Department on course to utilize these funds fully next year as provided in the regulations?

Answer: We intend to implement the authority granted in Section 9006 of the 2002 Act FY 2003. It will be accomplished with the publication of new regulations.

Questions Submitted by Ranking Member Richard Lugar of Indiana

Question 1: When considering changes made to the Federal Crop Insurance program in 2000, is it possible under the recent drought disaster package passed by the Senate that a farmer with 2001 crop losses who had crop insurance could make more money than a farmer who harvested and sold a normal crop without taking into consideration the cost of harvest? Please provide the Committee with some analysis on this issue.

Answer: Section 508(n) of the Federal Crop Insurance Act states that farmers with catastrophic risk protection coverage who are eligible to receive other USDA program benefits for the same loss must elect whether to receive the insurance benefits or the other program benefits, but not both. The same section that farmers with additional coverage can receive both an insurance indemnity and assistance for the same loss under another USDA program except that the total benefits paid to the farmer cannot exceed the actual amount of the producer's loss. This section was codified at 7 C.F.R. § 457.8, section 35 of the Basic Provisions.

Under these provisions, if a farmer was eligible for both a crop insurance indemnity and a disaster payment and the total amount of both payments would exceed the farmer's actual loss, the total amount received by the farmer is to be capped at the total amount of the loss. Therefore, the farmer should be unable to make more money than if the farmer harvested and sold a normal crop.

Section 35 also states that FSA will determine and pay the additional amount owed for any applicable USDA program after first considering the amount of the crop insurance indemnity. However, recently enacted disaster assistance bills have included language requiring that producers who purchase crop insurance not be penalized, which has made it possible for total benefits to exceed the amount of a producer's loss. Any further crop loss disaster assistance legislated by Congress that mandates a limitation for multiple benefits for the same loss will require FSA to include a provision in regulations governing that program.

Question 2: Section 4201 of the farm bill requires USDA to permit the use of food safety technologies that have been approved by either USDA or FDA when purchasing commodities for food assistance, school meal, or child nutrition programs. Irradiation is an example of such a technology. Has USDA changed its procurement specifications to allow for the purchase of irradiated products for theses programs?

Answer: We are currently working to implement that provision of the farm bill and expect to have the changes made in the near future.

Question 3: I am concerned by reports received that the Farm Service Agency may not include the continuous sign-up for hardwood tree plantations in the Conservation Reserve Program. It is the opinion of Hoosiers who have contacted me that FSA appears to be in a pattern of placing forestry, and hardwood forestry matters in particular, in a lower priority consideration. Please respond.

Answer: USDA has strongly advocated for enrollment of hardwood trees under CRP, which is the Government's largest tree planting program. Over 3 million acres of trees have been planted under CRP and over 2 million acres of trees are under contract of which over 300,000 acres are

hardwood trees. Further, under general signup, hardwood tree planting is encouraged by providing bonus points for covers for wildlife habitat, and long-term enduring benefits.

Generally, continuous signup practices provide high environmental benefits to large areas when compared to the relatively small acreage on which the practice is implemented and have historically been smaller acreages than practices available under general signup. Therefore, the hardwood tree planting practice is not currently available as a continuous signup practice. However, hardwood trees may be planted as part of certain continuous signup practices, such as a riparian buffer, cropped wetlands, or field windbreaks.

Question 4: In 1997, USDA set a goal of establishing two million miles of new conservation buffers on private farm and ranch land by 2002. That goal had bipartisan support in Congress, and I am pleased to note that USDA is now more than two-thirds of the way to the target. However, there is still a lot of potential for enrolling buffers in the eastern half of the country as well as in livestock ranching regions in the west where there has been little previous CREP participation. Will you continue to increase the acreage set aside for conservation buffers as part of the total acreage enrolled into the CREP?

Answer: There are approximately 2.1 million acres enrolled in CRP through continuous signup and CREP. This represents 200,427 contracts, with an average contract size of about 10.5 acres. Continuous and CREP acres tend to be more concentrated in areas such as the Northeast and West that have traditionally had a lower participation rate in the general CRP. The most recent acreage "hold back" for continuous and CREP acres is 4.2 million acres which was modestly increased from President Clinton's 1998 Clean Water Action Plan that established a goal of 4.0 million acres in conservation buffers by FY 2002.

As more focused and targeted programs, both continuous and CREP have a greater potential to address specific agriculture-related environmental issues, including the potential to reduce sedimentation, provide connectivity of habitat, sequester carbon, reduce flooding, and address endangered ecosystems.

Before the next round of enrollment under the general signup, we will re-evaluate the acreage "hold back" to determine the appropriate acreage mix for the general signup, continuous signup, CREP, and farmable wetland program.

Question 5: Please provide a status report of implementing the exporter assistance initiative included in the trade title of the farm bill.

Answer: USDA's Foreign Agricultural Service completed the implementation of the exporter assistance initiative as required by the 2002 Act. Specifically, the Agency has updated and maintains a comprehensive website on the Internet, FAS online, (www.fas.usda.gov) to facilitate U.S. agricultural exports. Many of the links specified in the conference report for the farm bill existed on the website, and the others were added.

Questions Submitted by Senator Patrick Leahy of Vermont

Delays in implementation of the National Dairy Program

Question 1: I am concerned about USDA's failure to meet the Congressionally-mandated deadline for implementation of the national dairy program. Congress mandated that USDA begin entering into contracts with producers on July 13, but USDA didn't allow producers to sign up for the program until August 13. Congress also mandated that the first payments to producers be made no later than October 1. Dairy farmers in Vermont and across the country are suffering from the lowest milk prices in ten years. They need these payments now. **Can producers count on receiving their first payments by October 1? If not, when can they expect to receive their first payment?**

Answer: Payments are being made.

Question 2: The farm bill unambiguously states that a contract entered into by a producer and USDA covers eligible production marketed by the producer during the period starting with the first day of the month the producer enters into the contract. Despite this unambiguous language, USDA's proposed rule provides that a producer isn't entitled to a payment until the month following the month in which the contract is entered into. **Why is USDA disregarding this clear statutory provision, thereby delaying payments to producers?**

Answer: USDA is not delaying payments to producers. Sign-up for the program is being conducted allowing producers to submit contracts for the dairy program and payments began in mid-October.

Equitable treatment for medium sized producers

Question 3: USDA's proposed rules allow producers to designate a beginning month for the regular dairy payments, but not for the transition payments. I understand this is because the payment rates for the transition months already are known and USDA didn't want producers to use that knowledge to maximize their payments. **Do you agree that the statute is flexible enough to allow USDA to permit producers to select a beginning month for the transition payments?**

Answer: The statutory language for the transition period explicitly states "the Secretary shall make a payment in accordance with the formula specified in subsection (c) on the quantity of eligible production of the producer marketed during the period beginning on December 1, 2001". For that reason, and because the prices for past months were already known by the public, the Department made all transition period payments consecutive beginning on December 1, 2001, for all producers who elected to receive a payment for the transition period.

The Department followed the guidelines established by the drafters of the statutory language, which in no way suggested that producers should be paid for the months when payment rates were the highest during the transition period so that producers could maximize program benefits.

Question 4: Milk markets are different than markets for other commodities. Prices for the upcoming months are known in advance—USDA's own Agricultural Marketing Service even promises to post the upcoming month's prices and payment rate on its website by the 23rd of each month. **In light of this fact, and the fact that producers can elect to receive a payment for September, why will USDA not allow producers to select a beginning month for the transition period?**

Answer: In addition to the answer provided in number 3, allowing producers to select months for payment for which the price is already known is inconsistent with other USDA programs.

Question 5: Would USDA allow producers to select a beginning month for the transition period if permitted to by the President's White House Office of Management and Budget?

Answer: No. For the reasons provided in the previous questions, USDA believes transition payments, if made, should begin with December 2001.

Question 6: During the inter-agency discussions, did any Executive Office of the President officials advocate against the option of allowing producers to select a beginning month for the transition payments in order to limit payments to producers and reduce program outlays?

Answer: It is inappropriate for USDA to characterize the views or actions of another agency taken during the process of developing a regulation. The process of regulatory development involves various agencies within the executive branch that review the regulation of interest and its associated analyses, including evaluations of alternatives to the option selected. The diverse effects of many alternatives are considered and discussed, including effects on producers, consumers, and government costs. The published regulation benefits from this frank, well-reasoned and informed exchange of views on the many factors under review. Views can and do change from one point in the process to another point, as new information is introduced into the discussion. Ultimately, interagency agreement is reached on the course of action and the regulation is promulgated. The administration acts as a single entity when it promulgates the regulation. This is the process that occurred in the development and promulgation of the Milk Income Loss Contract Program.

Question 7: Was USDA precluded by the President's White House Office of Management and Budget from implementing any options for the national dairy program that would have been more farmer friendly or would have resulted in higher payments to producers? If so, which options?

We believe the policies developed to implement the Milk Income Loss Contract Program by the Farm Service Agency fully and properly carryout the provisions of Section 1502 of the Farm Security and Rural Investment Act of 2002. This question seeks information regarding specific policy recommendations from a specific office within the Administration. For the reasons given, we do not believe it is appropriate to provide the level of detail regarding the policy development of this Program sought by this question.

Question 8: One of the oddest results of this rule is that dairy operations that I would describe as medium-to-large sized – those between 150 and 800 cows – receive smaller payments than larger operations – above 800 cows – and they receive smaller payments than smaller operations—below 150 cows. I don't believe this is fair. And it certainly isn't what my colleagues and I in Congress intended. **Do you believe this is equitable, and do you agree this could be corrected by allowing producers to select a beginning month for the transition period?**

Answer: Transition payments are retroactive to December 1, 2001, and will be paid based on consecutive months of eligible production until the earlier of the end of the fiscal year or the maximum payment quantity of 2.4 million pounds is reached. All dairy operations are subject to this rule. During the 2002 Fiscal Year only, an eligible dairy operation may elect to forgo their transition payment and instead receive a FY 2002 payment for months remaining in the fiscal year. When sign-up began in August of this year, the only month in the 2002 fiscal year not included in the transition period was September. Therefore, producers were allowed to forgo their transition period payment and select a FY 2002 payment for the month of September. The option to forgo the transition period payment is available to all dairy operations. Allowing producers to select a beginning month for the transition period would not address the inequity in payment rates because large producers would select the beginning month with the highest payment rate. Small producers could also choose a beginning month with the highest payment rate, but they would lose payments because forgoing some prior month's payments would lower the quantity of milk on which they could receive payment.

Question 9: Grain and oilseed producers are able to lock in loan deficiency payments and marketing loan gains after the LDP and MLG rates are announced. **With respect to both the transition payments and the regular monthly payments under the national dairy program, why are you forcing dairy farmers to select a beginning month for payments *before* the month begins and payment rates formally are announced?**

Answer: Grain and oilseed producers who are able to lock in loan deficiency payments and marketing loan gains after the LDP and MLG rates are announced do so not knowing if tomorrow's rate will be better than the rate they locked in. Grain and oilseed producers are not able to look back over the past month or year and select the day on which they would have received the highest LDP rate or marketing loan gain. Grain and oilseed producers have to rely on market forecasts to predict the best times to lock in rates, which is consistent with what has been developed for the dairy program. We believe we have implemented the statute properly.

The "Missing Month"

Question 10: Two examples provided in the USDA notices announcing the new national dairy program suggest that a producer entering into a contract in September can expect to receive a transition payment covering the period from December 1, 2001 through August 31, 2002 and a regular payment beginning October 1 (See, page 9 on notice # LD-524 and page 3 of notice # LD –526). **What about September's payment? Congress clearly did not intend for there to be a one month gap in payments. Isn't the producer entitled to a payment for September?**

Answer: Producers will receive a payment for September if the dairy operation does not reach the 2.4 million pound payments production limit by the end of the transition period.

Definition of a Dairy Operation

Question 11: I understand that each FSA state executive director was asked to complete a survey describing how the state defined a dairy operation for the purposes of previous dairy market loss assistance (DMLP) programs. I have heard that the survey results reveal that states did not implement the DMLP program uniformly. Producers in certain states qualify for multiple DMLP payments while similarly situated dairy producers in other states qualify for only one. **Do you intend to lock in these disparities, or will states have the flexibility to implement the national dairy program in the same manner as other states? Congress intended this to be a national program that does not discriminate against producers based upon where they farm.**

Answer: In accordance with the Farm Bill instructions to "apply the same standards as were applied in implementing the Dairy Market Loss Assistance program under Section 805 of the 2001 Appropriations Act", State and county offices have been instructed to apply the same definition to the MILC program in the same manner the definition was applied for the DMLA-III. The strict statutory language precluded the Department from altering, or clarifying the definition in a manner that would make it different from how an operation was classified under DMLA.

Question 12: Will you please provide me or the Committee with a copy of the state executive director's responses to your survey?

Answer: The responses were compiled and provided to the Committee on October 24, 2002.

Question 13: USDA has announced that cooperatives will be allowed to serve as an agent on behalf of a producer under the national dairy program. **By agreeing to be a MILC agent, does a cooperative assume liability for ensuring producer compliance with the contract requirements such as Highly Erodible Land Conservation and Wetlands Conservation requirements?**

Answer: The cooperative acting as MILC agent will not be liable for producer compliance. The producer is responsible for complying with all eligibility requirements including compliance with Highly Erodible Land Conservation and Wetland Conservation requirements.

Dairy Export Incentives Program

Question 14: Dairy producers all across the country are wondering why we are about to loose a whole quarter of DEIP sales of dairy products to foreign competitors. The Administration has repeatedly stressed their interest and support for opening new markets for agriculture and promoting trade growth. The DEIP marketing year began on July 1. **Why did the Department**

fail to announce the DEIP program until recently? With current low butter prices, will the Administration announce DEIP awards for butter?

Answer: With the enactment of the Farm Security and Rural Investment Act of 2002, there were numerous elements of dairy policy under review this summer, including the operation of the DEIP. This review contributed to the delay in the announcement of the DEIP allocations. In last year's (2001/2002) DEIP, the nonfat dry milk allocation was not implemented until November 2001, because U.S. nonfat dry milk was competitive on the world markets without subsidy. It took just 4 1/2 months to use up our yearly allocation of 68,201 metric tons, which was exhausted by mid-March 2002. We feel there is more than adequate time to fully utilize this years DEIP allocation by June 30, 2003, the end of the allocation year.

We agree that domestic butterfat prices have been steady to declining over the last few months and we are closely monitoring that market. If a weak domestic butterfat market continues we would be inclined to activate the DEIP for butterfat. However, given the extreme volatility of the domestic butterfat market, we remain cautious.

Question 15: Why did the administration decide- for the first time ever-to release DEIP funds in tranches? Why didn't USDA consult with Congress or the dairy industry before making this change?

Answer: The concept of announcing DEIP in tranches has been discussed in the past on various occasions with segments of the dairy industry. Although the specific operational changes announced this year were not discussed immediately prior to the announcement, through the years, we have always sought to find a balance between industry's concerns and USDA's duty to operate this program in a responsible manner. The industry is very aware of our concerns over lost tonnage due to cancellations. We stand ready to discuss the operation of the DEIP caused by changing domestic and world prices for dairy products, at any time.

Dairy Imports

Question 16: What is the status of the Import Assessment implementation? U.S. Dairy producers are supportive of Under Secretary Hawks' efforts to implement this program as quickly as possible.

Answer: The Department is in the process of drafting a proposed regulation for the collection of the assessments on dairy imports.

Question 17: The special safeguard provision in Article 5 of the Agreement on Agriculture was intended to help countries in the transition from non-tariff import barriers to a tariff-only regime. U.S. negotiators in the Uruguay Round knew that this transition would be difficult, and they wanted to ensure that the effects of the changes could be absorbed gradually. The U.S. endorsed the idea of a special safeguard early in the Uruguay Round, and most of the ideas in Article 5 came out of U.S. negotiating proposals. **Please explain why the Administration didn't prevent the collapse of butter prices last year by imposing our legitimate safeguard provision under WTO rules.**

Answer: In 2001, the trigger quantities for the volume-based safeguard were exceeded for butter, butter substitutes, and American Type cheese. USDA decided not to impose the additional duties available under the special agricultural safeguard primarily due to the near-record prices existing at that time. Subsequent price reductions were due to a number of factors, among which the most prominent were strengthening domestic production and weakening domestic demand.

Question 18: Is the Administration aware that U.S. imports for American Type cheese are already above the WTO safeguard trigger level? When do you expect to implement our dairy safeguard?

Answer: Yes, the Administration is aware that imports of American Type cheese have surpassed the volume trigger level. On November 15, 2002, USDA announced that it was applying the volume-based World Trade Organization (WTO) safeguard duty to above-quota imports of American-type cheese. The duty rises $0.16 per pound to its maximum permissible level through December 31, 2002.

Environmental Quality Incentives Program

Question 19: What are you doing to make sure that EQIP is helping producers avoid potential regulatory responsibilities related to wildlife? Are you working with the USDA Forest Service to scope out use of EQIP funding for non-industrial private forestlands?

Answer: The Environmental Quality Incentives Program provides cost-share assistance and technical assistance on many conservation practices, which provide either direct or indirect benefit to wildlife and wildlife habitat. In addition, EQIP policy requires compliance with all state and local laws in all its activities. Policy is contained in the NRCS General Manual under Ecological Sciences and Conservation Planning as well as in the NRCS National Planning Procedures Handbook. Representatives of wildlife and forestry interests participate on State Technical Committees and local work groups, which provide advice on program implementation. These representatives work to help insure producers not only meet regulatory responsibilities but also work to further improve and enhance wildlife habitats locally. We are working with the Forest Service. Where appropriate, the US Forest Service participates on State Technical Committees and local work groups. The USFS also provides input on private non-industrial forest land as well as the portion of federal owned land that is leased to private individuals that would be eligible for EQIP benefits. Another area is making sure that areas with critical habitat for endangered species is given high priority for EQIP.

Question 20-A: One of our important challenges in Vermont is to manage manure from our dairy farms. During the farm bill debate, we looked to EQIP as a program that could help farmers find alternatives to manure lagoons where the managing [of] manure could be viewed as an economic as well as environmental strategy. We have some farmers and organizations working with farmers who are starting to digest or compost manure so that it can be more efficiently reused. Under these innovative approaches, funding is needed to help bring farmers

together and sometimes cover shared costs. These alternatives usually also expand the environmental benefits, such as capturing air emissions and controlling odors.

Would you agree that producers willing to pursue these innovative strategies should receive a priority for help under EQIP?

Answer: Yes, we would concur that these innovative strategies should receive a priority for assistance under EQIP.

Question 20-B: Is the Department looking to fund these types of projects through conservation innovation grants?

Answer: Yes, we believe that these types of projects could compete for innovation grants.

Question 20-C: Has the Department funded similar projects through EQIP or other programs?

Answer: Yes, similar projects have been funded in the past.

Question 21: What criteria is the department looking at to insure EQIP funding does not underwrite entirely new or larger farm operations? What steps are being taken to insure that EQIP funds are used to address the full range of concerns associated with CAFOs, including odors, air and health issues?

Answer: As the Department drafts the proposed rule for EQIP, they are examining a number of alternatives for allocating funding in a manner that addresses the full range of environmental concerns identified in the statute, including those related to CAFO's. When the rule is published, public comment will be solicited on these alternatives and any criteria developed related to CAFO's.

Question 22: How and why did the Department develop this new policy and arrive at the $100,000 breakpoint? Will this policy continue for Fiscal year 2003 EQIP funding? If so, will the Department consider adding more flexibility into the policy to account for differences in site conditions?

Response: We were concerned that a limited number of family farms would have access to the limited funds available. Without a cap a very large portion of the funds could be spent on a relatively small number of very expensive practices if they were cost-shared at 75%. This could leave little available funding for other farms. This policy will be reviewed as part of the Federal rule making process as it is open for public comment.

Conservation Reserve Program

Question 23: What plans does UDSA have for another sign-up for the CRP program?

Answer: The President's Fiscal Year (FY) 2003 budget provided for a Conservation Reserve Program (CRP) general signup in FY2003. It also provided for continuous signup of certain

highly-desirable environmental acreage such as buffers and filter strips. The continuous signup of those acres remains open.

On a general signup, after the 2002 Farm Bill was enacted, FSA completed work on the CRP Draft Programmatic Environmental Impact Statement (PEIS) and published a notice of availability in the Federal Register on September 6, 2002, with a 45-day comment period. A Final PEIS is anticipated to be completed in December 2002. After the Final PEIS is completed, we will issue an interim rule in the Federal Register. We anticipate publication in early calendar year 2003. A general signup will be scheduled after the interim rule is published.

Question 24: With nearly 6 million acres available this year, are any limitations are (sic) being examined with consideration for CREP and buffers?

Answer: FSA published the CRP Draft PEIS on September 6, 2002, in the Federal Register with a 45-day comment period. One of the issues in the Draft PEIS is in regard to the issue of targeting acres for continuous signup of filter strips, riparian buffers, and other highly-desirable environmental acreage and the Conservation Reserve Enhancement Program. The Draft PEIS reviewed the environmental, social, and economic impacts of a more targeted CRP and we will not make a final decision until after the public comments are reviewed and potential impacts analyzed.

Question 25: Since it first authorized the Conservation Reserve Program in 1985, Congress has been pushing USDA to target it more and more towards environmental benefits. In the Northeast, we would benefit a great deal from buffer programs, but to do so, our area needs better incentives. During the farm bill debate, there was much discussion about other targeted uses of CRP such as designating special wildlife corridors and similar habitats for automatic enrollment in CRP. **What are you doing to insure that CRP becomes a more targeted program and can you assure us that you will reserve adequate CRP acres for buffers, CREP and other targeted enrollments? In addition, with state governments facing budget strains, how do you see CREP enrollments progressing and what option does the Department have to account for these budget issues.**

Answer: Under FSA's leadership, CRP has become a more targeted conservation program from the enrollment of relatively large tracts of land in the mid-1980's to the enrollment of relatively small tracts of land devoted to filter strips, riparian buffers, and other highly-desirable environmental acreage under continuous signup beginning in September 1996 and to the Conservation Reserve Enhancement Program (CREP) which began in October 1997.

The advent of CREP was extremely beneficial to address some of resource concerns of the Northeast. Higher incentive rates, enhanced technical and financial assistance, and State and private partnership has greatly increased FSA's success in getting conservation on the ground.

Prior to the start of the Maryland CREP in October 1997, less than 10 stream miles were installed per year of riparian buffers. With CREP, FSA is installing over 500 stream miles of riparian buffers per year. FSA believes that CREP and continuous signup can play a significant role in addressing critical conservation issues for the Northeast and the rest of the country.

FSA is evaluating the optimum mix of acreage for general signup, continuous signup, CREP, and the farmable wetland program. FSA published a notice of availability of the Draft Programmatic Environmental Impact Statement (PEIS) on September 6, 2002, in the Federal Register with a 45-day public comment period. The Draft PEIS evaluates the environmental, social, and economic impacts of a more targeted use of CRP resources and we will not make a final decision until after the public comments are reviewed and potential impacts analyzed.

We understand the budget situation of some States and FSA is working with States to try to develop alternative funding streams and to provide additional flexibility to assist in implementing the CREP. We encourage States to work with private entities to provide additional funding sources. For example, recently, the Secretary signed a Montana CREP Agreement in which a large share of the project funding will come from funds made available to the State by a power company. In the Kentucky CREP, The Nature Conservancy provided over $5 million dollars in funding. A large majority of our CREP's have a portion of their funding from private sources.

FSA is agreeable to amending their CREP Agreements when additional resources become available. West Virginia, Arkansas, and Vermont all started as relatively small (less than 5,000 acres) CREP's. Each of these States is expanding the size of their CREP based on their initial success and additional revenue.

Question 26: Some concerns have been raised about the date allowed for emergency haying and grazing this year. Hopefully, this decision will not be viewed a setting a precedent for future years. **What process and criteria will the Department use in the future for deciding when and to what extent emergency haying and grazing will be authorized?**

Answer: FSA remains committed to maintaining the delicate balance between soil erosion, wildlife habitat, and livestock needs through its implementation of emergency haying and grazing of CRP acreage. This year has been reported as one of the worst droughts since the 1903's era Dust Bowl.

The Farm Security and Rural Investment Act of 2002 included managed haying and grazing as a part of the CRP. As a result, FSA is currently evaluating suggestions and recommendations from a wide range of stakeholders representing producer, environmental, and wildlife interests, as well as from our field offices. Based on their suggestions and recommendations, FSA is developing criteria for the proper management of CRP acreage and determining methods to streamline the implementation of emergency haying and grazing provisions.

Question 27: What plans do you have for the farmable wetlands program now that is national in scope? Obviously states like Iowa have been using it but how will other regions of the country be able to use this program.

Answer: We are currently receiving comments on the Farmable Wetland Pilot (FWP) program as part of the comments to the Draft Programmatic Environmental Impact Statement that was published in the Federal Register on September 6, 2002, with a 45-day public comment period.

FWP will address small isolated wetlands that are not greater than 10 acres in size and their associated buffer acreage. These wetland acres are common throughout most of the country. The highest concentration of potential acreage is in the prairie pothole and the upper Midwest regions of the country. Wetlands located in riparian areas and floodplains are not eligible for FWP.

Wildlife Habitat Incentives Program

Question 28-A: With the funding increase and added flexibility provided in the farm bill, WHIP has a great opportunity to address some much needed challenges to wildlife. In particular, the increased funding would allow USDA to focus much more attention on helping farmers restore habitat for our national priorities for species recovery. Will the Department look to national experts to set priorities for recovery of declining species?

Answer: The Wildlife Habitat Incentive Program (WHIP) requires the Secretary, in consultation with the State technical committees established under Section1261 of the Food Security Act of 1985, as amended, to establish within the Natural Resources Conservation Service (NRCS) a program through which NRCS makes cost-share payments to landowners to develop upland wildlife, wetland wildlife, threatened and endangered species, fish and other types of wildlife habitat. The WHIP regulations at 7 CFR Part 636 mirror this purpose.

WHIP's statutory authority provides clear direction that the program is to have its priorities identified through advice obtained from the State Technical Committees. State-level representatives of Federal agencies, State agency representatives, agriculture, conservation and private wildlife interests are represented on the State Technical Committee, providing valuable technical information about Federal, State and local wildlife concerns within each State.

Many of these members are considered national experts in their particular field of work on wildlife habitat issues.

Question 28-B: Will the Department consider establishing a ranking system to give priority to projects that address endangered and threatened species?

Answer: NRCS provides a ranking system that gives priority to projects that address endangered and threatened species. Although WHIP's statutory and regulatory wildlife habitat purposes are broad, NRCS policy through guidance provided in its national WHIP Manual specifically identifies the program emphasis for enrollment as: wildlife and fisheries of national and State significance; habitats of fish and wildlife species experiencing declining or significantly reduced populations, including rare, threatened, and endangered species; and, practices beneficial to fish and wildlife habitat that may not otherwise be funded.

NRCS State Conservationists, in consultation with State Technical Committees, incorporate these program emphases as identified at the State and local level into a State WHIP plan. Each State identifies the specific habitat, wildlife species, and practice priorities that will be addressed through WHIP and specific goals and objectives for benefiting those priorities. The ranking process used to prioritize applications must be consistent with the State wildlife priorities identified in the State WHIP plan.

Question 28-C: Also, what steps is the Department taking to implement policies that will reassure landowner enrolling in the program that they will not suffer increased restriction on use of their property after the agreement term?

Answer: NRCS does not have authority to prevent regulatory restrictions from being imposed by other agencies. However, NRCS provides assistance to program participants when the participant works with other agencies. For example, when NRCS assists a participant with the development of a wildlife habitat development plan, it must enter into consultation with the Fish and Wildlife Service (or the National Marine Fisheries Service) to address any impacts upon threatened or endangered species. If the Service issues an incidental take statement, the participant operating under the incidental take statement's conditions is encompassed by its protection from prosecution. Additionally, when asked by the program participant, NRCS can facilitate discussions between the participant and the regulatory agency. NRCS has worked with WHIP program participants in their efforts to obtain safe harbor agreements from the Fish and Wildlife Service.

Question 29-A, 29-B: The farm bill instructed the Secretary to "ensure that regional issues of concern related to wildlife habitat are addressed in an appropriate manner." How is the Department ensuring regional issues are addressed and will the Department be contacting state conservationists and other stakeholders to identify regional issues such as using WHIP funding to address Atlantic salmon recovery along the Connecticut River?

Answer: NRCS ensures that regional issues of concern relating to wildlife habitat are addressed in several ways. Although the State Conservationist establishes priorities within the State in consultation with the State Technical Committees, the Regional Conservationist provides coordination of efforts between States. Where regional efforts are not adequately expressed through the State-specific priorities, the State and Regional offices may submit requests to the National Office for funding of special regional habitat efforts. During the past few years, NRCS has provided special funding towards Atlantic salmon recovery efforts in the Connecticut River Watershed. While these efforts continue, NRCS intends to fund in FY 2003 several additional regional efforts, including native prairie restoration in the Grand River Grasslands area of Iowa and Missouri.

NRCS also ensures that regional issues of concern are addressed through equitable allocation of WHIP resources. Allocations in FY 2002 were based on landowner interest, partnership contributions, general program progress, performance in previous years, and regional equity considerations. In making its allocation decision, NRCS ensured that no one region received disproportionately greater WHIP funding than any other region.

Grasslands Reserve Program

Question 30: With the limited funding available for GRP, will the Department consider targeting the program to specific classes of grasslands in particular need of preservation and/or maximize ecosystem benefits?

Answer: The details of the GRP are currently being worked out and a wide variety of options remain under consideration.

Question 31: How will the Department organize applications or the selection process to insure that groups of parcels could be evaluated together to look at the ecosystem benefits of the projects together as well on an individual basis?

Answer: As we proceed in further refining the GRP functions and program features, we will explore various methods of processing applications to insure that the objectives of the program are achieved.

Question 32: How will the Department evaluate applications to assess risk of conversion to cropland as well as conversion to non-agricultural uses?

Answer: The details of the GRP are currently being worked out. Information from the National Resources Inventory may be useful in identifying the risk of conversion to cropland as well as conversion to non-agricultural uses on a state by state basis.

Technical Assistance

Question 33-A: The temporary resolution for the disagreement between the Department and OMB for Fiscal Year 2002 technical assistance for WRP and FPP only allowed for $5.9 million. This still leaves a significant gap in funding from what the Department originally requested. How will the Department address this gap and will it impact obligation of all the FY 2002 funding by September 30, 2002?

Answer: While we had discussions, there is no disagreement between the Department and OMB. The Administration provided $5.9 million from CCC Section 11 to augment existing technical assistance resources to deliver CRP, WRP, and FPP.

Question 33-B: What process is underway to insure a similar disagreement does not delay any FY 2003 funding?

Answer: As noted above, there is no disagreement. Currently, discussions are underway between the USDA and OMB regarding technical assistance funding in FY 2003.

Question 33-C: When do you expect to resolve discussions for FY 2003?

Answer: The discussions will be completed as soon as possible.

Question 34: How did USDA develop the estimate for technical assistance needed to implement these programs and what activities will the funding cover? What type of analysis is the Department undertaking to arrive at a more precise estimate of technical assistance funding needed for Fiscal Year 2003?

Answer: NRCS developed a baseline workload model estimation based on the agency's Integrated Accountability System including workload analysis, timekeeping, and financial system data. The model is used to approximate the cost of technical assistance for Farm Bill programs based on workload data provided at the field level.

Farm Bill programs included in these technical assistance projections include the Agricultural Management Assistance Program (AMA), Conservation Reserve Program (CRP), Conservation Security Program (CSP), Environmental Quality Incentive Program (EQIP), Ground and Surface Water Conservation Program (GSWC), Klamath Basin, Farmland Protection Program (FPP), Grassland Reserve Program (GRP), Wildlife Habitat Incentives Program (WHIP), and Wetland Reserve Program (WRP).

The model projects the number of staff years needed to implement the provisions of the Farm Bill based on the tasks needed to carry out the provisions for each program. The model projects staff year needs based on historical participation rates and contracts projected in to the future. It projects staff years through FY 2007. The model can be continually updated, pending changes in rules, regulations and policy and gives leadership an accurate accounting of the staff years needed. The staff years projected are "organization neutral" and could be provided by the NRCS, partners, technical service providers or others. Total cost (salaries and support) can be estimated by applying the appropriate staff year salary to the staff years projected thus, determining the full cost of implementing the Farm Bill.

The model has been validated by comparing it to actual timekeeping and financial records in FY 2001 and 2002.

Question 35: Third parties are going to be vital to the implementation of this Farm Bill. How are these Technical Service Provider rules going to be implemented? How are the rules designed?

Answer: USDA plans to issue an interim final rule describing the certification and payment mechanism for Technical Service Providers. We believe that the program should provide opportunities for private and public sector participation in the provision of technical service and maximize the assistance available to producers.

Question 36: Some organizations like Conservation Districts and NGO's have had long-term relationships with NRCS providing technical assistance. How does the Department propose to continue these relationships within the framework of the new rules? We understand that there are provisions to provide matching funds at a 50% rate. Some of these non-profits have already expressed that this number is too high and could very well remove them as a TA provider. How did the Department arrive at this number?

Answer: In an effort to create a transparent, fair, and competitive Technical Service Provider process, contribution or cooperative agreements between the NRCS and nonprofit or non-Federal public agencies will be available. Payment amounts will be included in the contracts, agreements, and Federal procurements utilized for procuring the technical services. All cooperative agreements will go through the Requests for Proposals (RFP) process. However,

State Conservationists will have the flexibility to establish contribution agreements with a minimum 50% match of the resources, which may include in-kind services, while USDA conservation program funds pay for the balance. Requests for proposals will not be required for contribution agreements. In short, the 50% match scenario would be one option for arranging third party technical assistance that would result in leveraging additional non-federal resources.

Regional Equity

Question 37: The new farm bill establishes a priority for each state to receive at least $12 million per year out of EQIP, FPP, and WHIP. There doesn't appear to be any effort to meet this target this year based on EQIP allocations. Can you assure me that you will meet that goal next year, and what steps are you taking right now to make sure it is met?

Answer: Since the 2002 Farm Bill was enacted into law, we are analyzing the allocation procedure options for ensuring that each state is afforded maximum opportunity to receive and obligate a minimum of $12 million in aggregate funding from the conservation programs as directed by the "Regional Equity" amendment to Section 1241. The option selected will: 1) fully satisfy the intent of the "Regional Equity" amendment, 2) minimize disruption to established fund allocation decision-making procedures for the affected conservation programs, and 3) enable all eligible applications received before April 1 to be funded in the states subject to the "Regional Equity" amendment. Our efforts will ensure that we are able to fully meet the intent of the "Regional Equity" amendment in FY2003.

Nutrition

Question 38: We were pleased that, working on a bipartisan basis with the Administration and a broad coalition of anti-hunger groups and state officials, we crafted a strong nutrition title of the Farm Bill. In particular, as you know, we reauthorized and made important improvements in the Food Stamp Program: restoring food stamp benefits to nearly 400,000 vulnerable legal immigrants; giving states options to make it easier for working families to stay in the program; sensibly reforming the "quality control" system by which state program operation is evaluated; and simplifying program rules. I am pleased to hear from the anti-hunger community that thus far the Department has engendered much good will with its implementation of these changes. **Could you comment on how implementation is proceeding and what steps the Department is taking to assist states in fully utilizing their new options?**

Answer: We initially met with 150 representatives from 52 State agencies to discuss the options contained in the legislation and listen to concerns about implementation. We met with representatives of state organizations and national advocacy groups on general implementation issues and more specific topics such as performance bonuses and immigrant restoration. We have disseminated detailed information on state policy options via the FNS website, numerous implementing memoranda, and Question and Answer bulletins. Under Secretary Bost has sent State Commissioners two letters advising them of our implementation plans and encouraging them to take full advantage of the choices available through the Farm Bill.

We are strongly encouraging our State partners to select the best combinations of options that will most improve their operation of the program and perhaps allow them to qualify for bonus funding under the Farm Bill's new performance measurement system. The high performance bonus criteria FNS announced for FY 2003 balances rewards to states for achievement in program access and accountability.

Successful implementation of the Farm Bill is an agency priority, and state adoption of the Farm Bill options will promote our goals for both access and error reduction. This theme will be an integral part of our message as we work with States over the next year. For example, the Farm Bill is due to be the leading topic in the general session at the national conference of the American Public Human Services Association later this month. There will be five special sessions at the conference devoted to Farm Bill issues with intense focus on the options States can use to increase participation and streamline program operations. Staff in FNS regional offices continue to assist State agencies on an individual basis with implementation issues.

Question 39: USDA recently reported that the participation rate among food stamp eligible people fell from 74 percent in 1994 to 57 percent in 1999 and then rose slightly to 59 percent in 2000. This participation drop, followed by only a small rise during the recent economic troubles, has concerned many of us. **What plans does the Department have for addressing barriers to participation by food stamp eligible persons, including those newly eligible legal immigrants, many of whom do not realize they are eligible or face barriers such as language access?**

Answer: Improving the effectiveness of the FSP in reaching more eligible people is a major agency priority. First, we need to enhance the information and perceptions that people have about the program so that they can make informed decisions about applying for the program. Second, we want to see that when people apply they are afforded full access to the program through good customer service.

We are continuing our program access reviews of local offices and asking States to include a customer service review in their management evaluations of local offices. We will be awarding $5 million in grants authorized by FSRIA for projects aimed at enhancing program access. We are also emphasizing the importance of State policy choices. On July 3, Under Secretary Eric Bost wrote to each State Commissioner to ask for full consideration of the FSRIA policy options as well as other important State policy choices such as improving vehicle policies and waiving face-to-face interviews. FNS agency officials are promoting these options as ways in which States can improve program access and reduce State burdens by simplifying procedural requirements.

FNS has been strongly promoting program access and educational messages for several years to better inform the eligible population about the FSP. Our target populations are those groups of people that are the hardest to reach, and possibly the most in need. The primary target audiences are the working poor, immigrants, and seniors. Campaign activities are described below:

Local research grants: Research-oriented grants have been awarded during the past two years to non-profit, community-based organizations and other State agencies to learn how best to

reduce barriers to participation and utilize methods that bring eligible low-income households to the program.

We have also awarded three-year grants to six States to test various approaches to reaching elderly people. Elderly people are the single most underserved target group. Only about one-third of those eligible actually participate. This project may help us see alternatives that work better with elderly people.

"Food Stamps Make America Stronger": Under Secretary Eric Bost recently launched a national access and education campaign with the key slogan, "*Food Stamps Make America Stronger*." This slogan will appear on educational materials to convey a message of health and strength.

National media campaign: In fiscal year 2003, FNS will develop a national media component of the *"Food Stamps Make America Stronger"* campaign. We plan to hire a contractor to help us use the media and other resources wisely and effectively to get the message out using media outlets that best reach our target audience.

Translations for immigrant populations: To reach the immigrant population that may be eligible or may become eligible for program benefits as a result of changes made by the FSRIA, we have awarded a contract to translate six basic program materials into 34 languages. The materials include language identification cards, flyers describing general information about the FSP and brochures explaining immigrant eligibility.

Information on new immigrant eligibility provisions: A question and answer fact sheet has been posted on our web site in English and Spanish explaining the specific changes in immigrant eligibility made by the FSRIA. These changes have been publicized through various training sessions, and they are routinely discussed in speeches being made by USDA officials.

A FSP eligibility pre-screening tool: FNS awarded a contract to design and develop a web-based, generic food stamp pre-screening tool that will be made available on our web site this winter. Using this tool, working people can get a sense of their eligibility and approximate benefit value without having to take off work. Elderly people and immigrants who may shy away from the food stamp office can learn of their probable eligibility at a senior citizen's facility or a local immigrant services office.

The national toll-free hotline number: The FSP free hotline number (1-800-221-5689) has been in operation for several years. Callers are able to talk to live operators, and receive services in English or Spanish. Callers can hear their State's toll free number, and are sent an informational brochure on the program within 24 hours of their call. We are receiving approximately 600 calls per month.

Simple application forms: To make application forms easier to complete, we hired a communication company and are in the process of selecting 6 to 8 States per year for 4 years to help them make their food stamp application forms user-friendly. All States will benefit

because the contractor will produce a self-assessment guide State agencies can use to identify aspects of their forms that need work.

Specialty Crops

Question 40: Many of our farmers have had a difficult time in the past year, as the debate over disaster assistance last week on the floor made abundantly clear. The apple industry in Vermont has been particularly hard hit. In the farm bill, we required USDA to purchase $200 million in fruits and vegetables annually, starting in fiscal year 2002. Many of these fruits and vegetables will be distributed through the national school lunch and breakfast programs, as well as to food banks in Vermont and across the country. **When will USDA purchase the $200 million in specialty crop commodities mandated by Section 10603 of the Farm Bill for fiscal year 2002? In dollars, how much of these commodities will be purchased for the school lunch and school breakfast programs? How much will go to food banks?**

Answer: In fiscal year 2002, the Department purchased a total of $355 million worth of fruits, vegetables, and specialty crops, in addition to the $50 million made available to the Department of Defense for a total of $405 million. Products provided to school programs through Section 32 bonus or contingency purchases totaled over $40 million, almost 29 percent of the total bonus commodities donated. The Emergency Food Assistance Program, which includes food banks, received over $92 million worth of fruits, vegetables, and specialty crop commodities through bonus purchases.

Organic Farming

Question 41: On August 26, 2002, USDA –Agricultural Marketing Service released a Notification of Funds Availability for a cost-share program for organic certification. One million dollars were allocated to help producers in 15 states (including Vermont) with the costs of organic certification. This program was expanded nation-wide in the 2002 farm bill. Five million dollars of mandatory FY02 funds were provided to be available until expended. With the impending full implementation of the organic rule in October, the timely release of these funds is of particular importance. USDA, however, has not released a Notification of Funds Availability for these additional funds. When will the Department be releasing a NOFA for the 5 million dollars in organic certification cost-share funds? Has the Administration allocated increased staffing and other resources to the National Organic Program, a division of the Agriculture Marketing Service, in order that they might fully implement both the organic provisions of the Farm Bill and the national standards for organic food and beverage products? What is the staffing level of the National Organic Standards Board?

Answer: A departmental press release was issued on October 31 and a notice of availability of funds was published in the Federal Register on November 1. The Agricultural Marketing Service has received the $5 million from the CCC and is coordinating the cooperative agreements with the States and U.S. Territories.

The current staffing for the National Organic Program as provided by funding in the FY02 Appropriations bill is six FTE professionals, one administrative assistant, and one secretarial

position. The administrative assistant provides clerical and other administrative assistance to the Board, e.g., making travel arrangements.

Question 42: By definition, the organic farming is fundamentally different than conventional farming. For instance, organic products are purchased by different processors than conventional commodities. Accurate data for the organic industry will be required for its continued growth. Section 7407 requires the USDA to segregate data on the production and marketing of organic agricultural products in the ongoing baseline of data collection regarding agricultural production and marketing. When do you anticipate that the baseline data of the organic markets will be available?

Answer: The 2002 Census of Agriculture will collect harvested acreage of certified organically produced crops. Precise data on production and marketing of organic crops will not be collected and will need to be inferred from harvested acreage. Certified organically produced crops are defined as those certified by a Federal, state, or private certification agency. This will be the first census of agriculture to publish harvested acreage of certified organic crops. The data will be available in early 2004, and will be updated every 5 years as part of the quiquennial census of agriculture.

Question 43: Section 10607 exempted farmers who produce only organic products from the check-off promotion programs. This makes sense, as the promotions run by these programs target different consumers than those who buy from organic farmers. What are the Department's plans for completing regulations on the exemption of certified organic products from assessments?

Answer: Amendments are now being drafted to the regulations governing most research and promotion programs to allow for this exemption. The Department's Office of the General Counsel has determined that only those research and promotion programs with a producer assessment are subject to this exemption. Of the 16 existing research and promotion programs, there are two processor programs – fluid milk and popcorn – and they will not be addressed. The remaining 14 programs for beef, blueberries, cotton, dairy, eggs, Hass avocados, honey, lamb, mushrooms, peanuts, potatoes, pork, soybeans, and watermelons will be affected. As required by the Farm Bill, the Department expects to have these regulations promulgated by May 13, 2003.

Questions Submitted by Senator Max Baucus of Montana

Question 1: Madam Secretary, Undersecretary Penn and I spoke in my office prior to his confirmation and we had quite a discussion about USDA, particularly FSA, staffing levels. FSA employees are asked to do so much and are incredibly over worked. This leads to exhaustion, which leads to unintended mistakes, high turn over and what is perceived to be poor customer service. Mr. Penn assured me that when the new farm Bill had passed, he would reevaluate what are appropriate staffing levels for FSA. What is the USDA conclusion from that assessment?

Answer: When the outlines of the new legislation became known last spring, the Farm Service Agency (FSA) completed a workload analysis that indicated the need for $110 million for the costs of implementing titles I, V, and X. The estimate included only the FSA needs associated with title II, the conservation title.

The enacted Farm Security and Rural Investment Act of 2002 (2002 Act) provides $55 million for costs associated with title I, of which $5 million was designated for an information management system, leaving $50 million for implementation costs. This $50 million is supporting an additional 342 temporary staff-years in Fiscal Year (FY) 2002 and 1,000 temporary staff-years in FY2003, to handle a portion of the one-time Farm Bill start-up workload. The Administration has submitted to Congress an amendment to the President's FY2003 budget requesting $60 million, the balance of the original estimate of $110 million. The $60 million would provide additional FY 2003 staffing, which is critical to the agency's ability to fulfill its program delivery responsibilities. As the programs become operational and the full workload impacts are felt across the country, staffing needs will be reevaluated.

Staffing to cover recurring workload associated with the implementation of the provisions of the 2002 Act will be addressed in the Department's FY 2004 Budget request.

Question 2: The Department's decision to terminate the crambe loan program was a completely unanticipated blow to this small industry. The blow was compounded because the 2002 crop was already in the ground when the decision was announced. Only about 15,000 acres are planted to this crop, and an end to the loan program will almost certainly mean an end to domestic [production?]. In addition, crambe makes up 20 % of the crushing capacity of the Montola Crushing Plant in Northeastern, Montana. The impact of terminating the crambe loan rate is snowballing. I strongly encourage USDA to reinstate the crambe loan rate. Is the USDA considering reinstating the crambe loan program for 2002? Is the USDA considering reinstating the crambe loan program for 2003?

Answer: USDA operated a crambe loan program under the Federal Agricultural Improvement and Reform Act of 1996 (1996 Act) for the 1999, 2000, and 2001 crops. Despite loan program outlays totaling more than $2.7 million for these crops, crambe acreage has continued to decline from its high of 42,000 acres in 1998. For 2002, FSA reported and determined acreage totals only 14,700 acres. The relatively high level of support provided to crambe growers appears to have done little or nothing to slow the contraction of crambe production.

In making the decision to no longer designate crambe as an other oilseed, USDA considered not only the substantial loss in acreage in recent years, but also problems associated with operating the program in the past and recent changes to the structure of the industry. Crambe is produced commercially under contract. In the absence of an open market, price information is unavailable

to set loan rates that reflect a market price or to establish loan repayment rates that reflect current supply and demand conditions. Objective price information is essential to the operation of a marketing assistance loan program for any commodity. Data also does not exist on production or stocks and this information is also critical to managing a loan program. Adding to the problems associated with the crambe program is the fact that only one buyer contracted for 2002 production. With only one buyer, the Commodity Credit Corporation could face significant problems liquidating forfeited crambe should that buyer fail or default on its contracts with producers.

Although the Montola Growers Inc. processing plant in Culbertson, Montana, could potentially lose crambe it has been crushing under contract, a bigger problem for the Montola plant has been the loss of safflower production in recent years. Safflower production has declined as the result of the single minor oilseed loan rate that applied to all types of oilseeds under the 1996 Act. Because of the single loan rate, higher-valued oilseeds, such as safflower, became less profitable for producers as oilseed prices fell and loan deficiency payments for the lower-valued oilseeds increased. In Northeastern Montana, and Western North Dakota large canola loan deficiency payments created incentives for producers to shift safflower acreage into canola, substantially reducing safflower supplies which the Montola plant relied on to fill its crushing schedule. The 2002 announced other oilseed loan rates better reflect market price relationships among the other oilseeds providing a higher loan rate for safflower. The differentiated loan rates will eliminate this past loan program distortion that adversely affected the Montola Growers Inc. plant.

USDA regrets that Congress was unable to pass the new farm legislation prior to the planting of the 2002 crop. Crambe producers, as with many other producers, planted this year's crops without the full knowledge of important program changes that would affect their operations. For all the reasons already given, USDA did not consider the designation of crambe as a loan eligible oilseed for 2002.

Question 3: Many Montanans are anxiously awaiting the announcement of the specifics of the Hard White Wheat Incentive Program. We are fast approaching when planting decisions need to be made and it is important that producers have all the information they need to make informed decisions. When do you anticipate information on the program being released?

Answer: FSA has a draft regulation completed and policy established for the Hard White Wheat Incentive Program. Significant progress has been made and an announcement will be coming soon.

Question 4: Secretary Veneman, under the IRS tax code rules, if a taxpayer is eligible to receive income in a calendar year, they must pay tax on that income they are eligible for even if they don't actually realize it in that calendar year. In the IRS rules this is known as constructive receipt. In the 1996 Farm Bill, as in previous Farm Bills, this provision was waived as it applied to Farm Bill benefits, since those benefits technically apply with the beginning of the fiscal year but are not realized until after the start of the calendar year. It is my understanding that this provision has been carried forward in the current Farm Bill. Is that your understanding as well?

Answer: Yes. See Section 1601(d) of the 2002 Act.

Question 5: The Ground and Surface Water Conservation Program within the Environmental Quality Incentives Program institutes cost-share payments, incentive payments, and loans to producers to carry out eligible water conservation activities. Activities such as irrigation improvements, conversions to less water intensive crops, and dryland farming. As Montana

producers continue to suffer through drought, this program provides some hope for mitigating the impact of the drought. It is my understanding that this program will be available to producers nationwide and not limited to producers who live in states that overlie the Ogallala Aquifer. How is the USDA planning on administering the Ground and Surface Water Conservation Program?

Answer: The EQIP program is not an emergency program that can provide benefits to all producers impacted by a particular disaster. However, EQIP funds can be directed to the resource concerns associated with climatic events that stress the resource base. The EQIP program has been used to help the producer with prescribed grazing to reduce stress on the prairie resources, to assist producers' plant cover crops or utilize mulch to reduce wind erosion on soils where drought has stressed the vegetation.

We believe that the Ground and Surface Water provisions of the Farm Bill can do a great deal of good in terms of improving water efficiency and mitigate water shortages. For FY 2003 and beyond, NRCS plans to expand the availability of the ground and surface water into areas in addition to the Ogallala Aquifer.

Question Submitted by Senators John Breaux and Mary L. Landrieu of Louisiana

Question 1: Louisiana's rice farmers are experiencing the lowest market prices in 50 years. Are you aware of this situation and what steps can be or has been taken by the Department to assist these farmers and their families?

Answer: We are aware that rice prices are at their lowest levels in at least 16 years. This is true not only for Louisiana producers, but also other States' long grain rice producers.

The Department is implementing the Farm Security and Rural Investment Act of 2002 (2002 Act), which will provide economic assistance to rice producers. This assistance includes direct payments, counter-cyclical payments, and marketing assistance loans. For the 2002 crop, rice producers that participate in the programs under the 2002 Act will receive a direct payment rate of $2.35 per cwt. The amount of the direct payment will be the product of the direct payment rate, the payment acres on the farm, and the direct payment yield. The payment acres are 85 percent of the base acres. Owners have a one-time option for updating their base acres, which will be used to calculate direct and counter-cyclical payments. The direct payment yield for the farm is the program yield that was established under the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act).

The 2002 Act also provides counter-cyclical payments when the covered commodity's effective price is below the target price. For rice, a target price of $10.50 per cwt was established for the 2002-2007 crops. A counter-cyclical payment is to be made if the effective price is less than the target price. The effective price is the sum of the direct payment rate plus the higher of: (1) the national average loan rate for a marketing assistance loan established for the commodity or (2) the national, 12-month average market price.

Rice prices for the 2002 crop are currently projected to average between $3.85 and $4.35 per cwt, well below the loan rate of $6.50 per cwt. If the 12-month average farm price is less than $6.50 per cwt, the effective price will be $8.85 per cwt, resulting in a $1.65 per cwt counter-cyclical payment rate, the maximum permitted. The amount of the counter-cyclical payment will be the product of the counter-cyclical payment rate, payment acres on the farm, and the counter-cyclical payment yield. Farm owners have a one-time opportunity to partially update their counter-cyclical payment yield, but only if they also elect to update their base acres of all covered commodities on the farm.

Marketing assistance loans and loan program benefits are available to all rice producers. The 2002 Act established the national average loan rate at $6.50 per cwt for the 2002-2007 crops, the same rate that was in effect under the 1996 Act. Producers are eligible to receive a loan deficiency payment (LDP) in lieu of placing the rice under loan. Through the first seven weeks of the 2002 rice marketing year, the LDP rate has averaged $3.28 per cwt.

Questions Submitted by Senator Thad Cochran of Mississippi

Question 1: Given that the rulemaking for the Conservation Security Program has not occurred to date, and that the plans to promulgate these rules are not scheduled until late this fall, when will sign-up for this program occur? Will farmers be able to receive incentives payments in fiscal year 2003?

Answer: Our plans are to publish a proposed rule this year. Given the preliminary interest shown in the program and its uniqueness of purpose, we will provide an extended public comment period. If this schedule is met, the final rule could be published next spring.

Question 2: Will private companies be able to participate as third party vendors? If so, what type of mechanism will be used to deliver the reimbursement to a private company?

Answer: Private sector entities will be able to participate as Technical Service Providers as long as they have met the NRCS certification criteria, including applicable licensing standards, as established by the NRCS State Conservationist in the each State.

Payment to private sector Technical Service Providers will be administered in a number of ways. For example, payments for private sector technical service may be included in the program contract/agreement established with the participant. A second option would be to utilize federal procurement to obtain technical services from private-sector providers, private-sector entities, and non-Federal public agencies in accordance with Federal Acquisition Regulations. Payment amounts will be included in the contracts, agreements, and Federal procurements utilized for procuring the technical services.

Question 3: The Administration recently requested an additional $60 million for salaries and expense costs of the Farm Service Agency for administering and implementing the new farm bill. Please provide information as to the purpose for these funds will be distributed, including additional temporary and permanent staff. I also request that you make available this information for the $55 million that was provided in the new farm law.

Answer: The 2002 Act provides for extensive changes to existing programs, creates many new programs, and has a very aggressive implementation timeline. When the shape of the new legislation became known last spring, FSA completed a workload analysis that indicated the need for a minimum of $110 million for the costs of implementing titles I, V, and X and for FSA's activities related to Title II. The enacted law provides $55 million for costs associated with title I, of which $5 million to $8 million was designated for an information management system. The Department is directing $5 million to this project, leaving $50 million for implementation costs. The $60 million in the FY 2003 budget amendment represents the balance of the original estimate of $110 million.

The $50 million received in FY 2002 covers a portion of one-time, nonrecurring implementation efforts through FY 2003. It is supporting an additional 342 temporary staff-years in FY 2002 and 1,000 temporary staff-years 2003. In addition, it is providing postage for informational mailings to producers; national training for field staff to ensure effective program administration; and initial development of software for program delivery.

The requested $60 million will be used for continued implementation of title I in FY 2003. It would support additional staffing to administer the new and revamped programs, as well as additional postage, training, and information technology costs.

Question 4: Should Congress provide the additional $60 million for administering and implementing the farm bill, will the amount requested cover all such costs? If not, how much additional funding will be required?

Answer: The requested $60 million represents the balance of the Administration's best estimate of the costs of administering titles I, V, and X of the 2002 Act completed last spring during review of the Farm Bill. Without this additional support, FSA's ability to effectively deliver the mandated programs would be compromised. It should also be noted that the $60 million covers only FSA's estimated additional needs for implementation of the conservation title.

In addition to Farm Bill related activity, FSA FY 2003 administrative funding needs could be further impacted potential disaster assistance programs currently pending in Congress.

Questions Submitted by Senator Kent Conrad of North Dakota

Question 1: Under what authority does the Department believe it can ignore the specific language contained in the Farm Bill's sugar title (to lower the sugar loan interest rate by 1 percent)?

Answer: The Department has not ignored the specific language contained in the Farm Bill's sugar title. Paragraph 1401(c) of Farm Security and Rural Investment Act of 2002 (2002 Act) removed sugar from the requirement of Section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act). Section 163 of the 1996 Act required the Commodity Credit Corporation (CCC) to increase the interest rate charged on CCC commodity loans by 100 basis points.

However, the language does not specify an interest rate for sugar, it just eliminated the requirement that CCC add an extra 100 basis points above the cost of borrowing that was required for all commodities. CCC still has to determine an interest rate for sugar loans. The 2002 Act did not provide any additional guidance in establishing the interest rate for sugar loans.

In the sugar program regulations that were published in the Federal Register on August 12, 2002, CCC set the interest rate for sugar loans as the interest rate that is charged on all CCC commodity loans. The Department has proactively supported American sugar beet and sugarcane farmers through a series of actions such as sugar purchases, farmer payment-in-kind programs, and swapping CCC inventory for foreign sugar access. But the Department has to deliver the sugar loan program through its field offices with all the other loan programs and believes that keeping interest rates the same for all commodities ensures loan program consistency, simplicity and equity. A lower interest rate for sugar would appear to be unfair to producers of other commodities.

Question 2: In a letter to the Senate last week, the Department restated the President's view that "the needs of the current drought must be met within the additional resources provided for in the Farm Bill." With that as the Administration's position, can the Department tell the Committee what level of disaster aid the Administration believes is appropriate, and what specific Farm Bill cuts the Administration would recommend to pay for that assistance?

Answer: The Administration strongly supports farmers and ranchers affected by drought and similar or related natural disasters. First, we would like to emphasize the substantial assistance already available. The crop insurance program is our primary program for drought relief for crop producers. The crop insurance subsidy was increased dramatically by the Agricultural Risk Protection Act of 2000 to avoid the need for disaster payments. As we have indicated, the majority of crop acreage in the drought areas is covered by crop insurance. About 80 percent of the insurable acreage in the U.S. is covered and the majority is covered at the equivalent of 70 percent or more of production and 100 percent of expected market price. Based on current crop conditions, preliminary estimates indicate the program will provide over $4.0 billion in indemnity payments for 2002 crop losses compared to an average of $1.5 billion for the 1990s. This represents a significant level of disaster assistance compared to long-term historical levels.

And, while Congress has not completed work on a disaster assistance package for the President to consider, we have utilized every available tool and program to get assistance out quickly to those

producers most in need. In particular, those producers, such as livestock producers, who do not have access to significant risk management tools such as crop insurance, are most in need of assistance in our view.

The Administration has expedited declaring emergency disaster areas for making producers eligible for emergency loans. Haying and grazing of CRP acreage on a nationwide basis has been announced for the first time ever. Over $50 million in Emergency Conservation Program funds have been allocated to help farmers develop water sources and to haul water to livestock. Over $10 million of EQIP funds in States severely affected to drought have been allocated to drought assistance. And, the Noninsured Assistance Program is estimated on a very preliminary basis to provide over $250 million in assistance this year, well above previous year levels.

Further, the Administration implemented two innovative feed assistance programs this fall. First, $150 million cattle feed assistance program was provided in the most severely affected States. This program includes use of excess CCC nonfat dry milk to augment feed supplies. Second, on September 19, a $752 million Livestock Feed Compensation Program was announced to provide quick cash assistance in disaster designated areas with a signup beginning October 1.

While it is difficult to put an exact price tag on an appropriate level of disaster aid, we believe the assistance being provided by our ongoing programs and the new initiatives described above will make a significant contribution to addressing producer needs. Over $4 billion in crop insurance benefits and well over $1 billion in additional benefits primarily targeted to livestock producers are already in the pipeline using existing authorities.

The Administration believes that any additional disaster assistance must meet the following criteria: (1) it needs to be fiscally responsible, (2) it should be targeted to those producers with the most dire needs who do not have access to risk management tools, and (3) it should not serve as a disincentive for producers to participate in the crop insurance program.

The Administration recognizes that the costs of 2002 Act programs for counter-cyclical payments and some other related programs will likely be lower in the coming months than originally projected when the Farm Bill was passed. Producers of several commodities with crops to sell will benefit from larger earnings from the marketplace and all farm program participants in the direct payments program will receive payments regardless of whether drought has reduced their production. It is our understanding that conventional budget practices used by the Congressional Budget Office to score the costs of legislation would make it necessary to legislatively alter program provisions in order to legitimately claim a savings from the 2002 Act in order to offset any additional disaster assistance.

The Administration is prepared to work with Congress to both develop and assess appropriate disaster assistance and to identify appropriate offsets.

Question 3: Livestock Assistance. In the letter to the Senate last week, the Department also stated the "... the Administration continues to take all action allowable under current law to assist struggling farmers and ranchers." But I question whether that's the case. For example, on August 28th the Administration announced that it was using its discretionary authority to provide Emergency Feed Assistance to livestock producers in just four states. What about other states – or at minimum, contiguous counties in other states -- that meet the same eligibility criteria, which is "at least 75 of the pasture and forage crops...is rated as poor or very poor?" After all, droughts

don't stop at state boundaries. Does the Department have any authority to provide Emergency Feed Assistance to individual counties that meet the eligibility criteria?

Answer: As you may know, Congress authorized the Livestock Assistance Program (LAP) at only $500 million, and did not fund it at all. On September 19, the Secretary announced the Livestock Compensation Program (LCP), which makes available $752 million of Section 32 funds for assisting producers of certain livestock who suffered 2001, and 2002 losses due to drought. In order to be eligible, a county must have been declared after January 1, 2001, as a primary disaster area due to damages and losses from drought, or was requested by a Governor to the Secretary for a drought declaration no later than midnight, September 19, 2002, and subsequently approved. Eligible livestock are: beef, dairy cattle, buffalo, and beefalo weighing more than 500 pounds, sheep and goats. Due to a 2001 drought disaster declaration for the entire State of North Dakota, all counties in North Dakota are eligible for assistance under LCP, providing all other eligibility requirements are met. Overall, the cash assistance will be made available statewide in Arizona, Montana, Nebraska, New Mexico, North Dakota, South Carolina, Utah and in specified counties in at least 30 other states. Signup is scheduled to begin October 1, and payments are expected to be issued within two to three weeks after signup begins.

Questions Submitted by Senator Mike Crapo of Idaho

Question 1: The Farm Security and Rural Investment Act requires that the Secretary shall use not less than $200 million each fiscal year to purchase fruits, vegetables, and other specialty crops under Section 32 authority (Section 10603). The Conference Report clearly states that Congress intended these funds are to be used for purchases "over and above purchases made under current law." Recent purchases have been $243 million in 2001 and $232 million in 2000.

What is USDA doing to increase the amount of specialty crops purchased under Section 32?

Answer: Section 10603(a) of the Farm Security and Rural Development Act of 2002 provides that "Of funds made available under section 32 of the Act of August 24, 1935 (7. U.S.C. 612c), for fiscal year 2002 and each subsequent fiscal year, the Secretary of Agriculture shall not use less than $200 million each fiscal year to purchase fruits, vegetables, and other specialty food crops." The Department will make purchases in 2002 that will exceed that amount. While some have urged the Department to follow the Joint Explanatory Statement of the Committee, which provides that "The managers intend that the funds made available under this section are to be used for additional purchases of fruits and vegetables, over and above the purchases made under current law or that otherwise be made without this authority," the controlling statutory provision does not compel this result. Please be assured that we fully intend to meet the requirements of section 10603.

Question 2: What does USDA intend to do to meet Congressional intent and direction (with regard to the sugar interest rate issue)?

Answer: The Department has not ignored the specific language contained in the Farm Bill's sugar title. Paragraph 1401(c) of Farm Security and Rural Investment Act of 2002 (2002 Act) removed sugar from the requirement of Section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act). Section 163 of the 1996 Act required CCC to increase the interest rate charged on CCC commodity loans by 100 basis points.

However, the language does not specify an interest rate for sugar; it just eliminated the requirement that CCC add an extra 100 basis points above the cost of borrowing that was required for all commodities. The 2002 Act did not provide any further guidance in establishing the interest rate for sugar loans. CCC maintains the flexibility to lower rates at a future date to stave off potential forfeitures.

In the sugar program regulations that were published in the Federal Register on August 12, 2002, the CCC set the interest rates for sugar loans as the interest rate that is charged on all CCC commodity loans. The Department has proactively supported American sugar beet and sugarcane farmers in recent years through a series of actions such as sugar purchases, farmer payment-in-kind programs, and swapping CCC inventory for foreign sugar access. But the Department has to deliver the sugar loan program through its field offices with all the other loan programs and believed that to keeping interest rates the same for all commodities ensures loan program consistency, simplicity, and equity. A lower interest rate for sugar loans would appear to be unfair to producers of other commodities.

Question 2(b): In early July, the Idaho delegation sent you a letter asking USDA to suspend the Farm Service Agency's actions against Idahoans who participated in the 2001 Sugar Payment-In-Kind program. In Idaho, it appears that growers were given inaccurate advice regarding eligibility and that contracting records provided by the processor may not have been complete. It is my understanding that an updated contracting list has been provided to USDA, which may address much of the problem, but no action has been taken on it. Will you work with the Idaho delegation to resolve this problem? Are you willing to suspend penalizing our growers until you have had a chance to conduct an investigation into the problems with the signup?

Answer: The Idaho State FSA office has sent several cases to the national office for review. The review of the cases submitted to the FSA National Office has been delayed because of a pending law suit filed by some of the sugar processors. We are willing to meet with the Idaho delegation to discuss this issue.

Among the eligibility requirements for a producer participating in the 2001 Sugar Payment-In-Kind (PIK) program is the requirement that the producer be a party to a grower contract for the production from the acres offered for which the producer would have received a payment from the sugar processor, if the acres offered were not accepted in the 2001 Sugar PIK program. This requirement is stated on the Commodity Credit Corporation (CCC) contract (CCC-744) signed by each producer, and it is also stated on the Appendix to the CCC-744 provided to the producer.

FSA did discover that some producers falsely certified on the CCC-744 that they were a party to a grower contract with a particular sugar processor. Consequently, these producers were determined to be ineligible to participate in the 2001 Sugar PIK program. Producers who sign the CCC-744 agree to pay liquidated damages and refund the value of the CCC-owned sugar they received if they breach the terms and conditions of the contract, the appendix, or any other program requirement.

Question 3: The Farm Security and Rural Investment Act includes dry peas, lentils, and chickpeas as eligible commodities for the loan program. The Conference report states that loan rates are based on feed peas, No. 3 grade lentils, and No. 3 grade chickpeas. However, in announcing the loan rates for pulse crops, USDA based loan rates on No. 1 graded products. In response to questions about this decision, Undersecretary Penn indicated uncertainty surrounding a new program crop. While this is understandable, it is my understanding that 1) most dry peas, lentils and chickpeas grown in the country are sold on the open market--only 10 percent of the product is "contracted"; 2) The average No. 1 grade price for dry peas in the last ten years is $7.56 per cwt, with the average discount for feed grade peas averaging between $.75 and $1.50 per cwt.

Given this clarification, will USDA be revising the loan rates for 2002?

Answer: Before this question can be answered, some points made in the question require clarification:

- USDA held several meetings with the USA Dry Pea and Lentil Council and other growers and processors to acquire information on the marketing of pulses. One North Dakota processor stated that there was "much contracting last year, but not much this year on the part of both processors and producers due to the new farm bill". Also, a letter from the Council to FSA, Kansas City Operations, on June 20, 2002 discussed production contracts and stated that it is *common* practice in the *PNW* to have a processor go out in the spring and offer a producer a production contract for a specified number of pounds

per acre at a certain price and--that the number of production contracts varies from year to year depending on the demand for the commodity. However, it was later stated that the "bottom line is the majority of the crop is traded on the open market". From this information, it appears in some years, contracting may be the dominant marketing behavior, while in other years, it may not. We cannot substantiate that only 10 percent of the product is contracted.

- According to NASS statistics, the 10-year weighted average all pea price (includes green, yellow and Austrian winter dry peas) is $7.69 per cwt. NASS prices are based on survey data that represent sales from producers to first buyers of all grades and qualities of the commodity during the U.S. marketing year. Since this price is a blend of all grades, the predominant grade in terms of volume surveyed has the most influence on the NASS estimated price. It should be noted that it is customary for prices to be quoted at the No. 1 grade, as that is what is generally traded.

With respect to discount schedules, USDA looked at information provided by the Council which showed a constant difference of $.75 between U.S. #1 All Dry Pea price and the U.S. Feed Pea Price since 1985, as well as between the U.S. # 1 and #3 Lentils. Since feed pea prices are not quoted anywhere in the United States, we could not validate this discount, especially since it was held constant for over 15 years. To more accurately reflect the market, USDA used recent price data generated through our price discovery system to establish discount schedules.

While we recognized the language in the Manager's Report, loan and repayment rates were designed according to the same standards used for other major program commodities. Since NASS data supports the concept that the national loan rates more closely reflect a No. 1 grade for dry peas and lentils, repayment rates were set similarly--as is done with other loan commodities. Therefore, current repayment rate and discount schedules decisions will remain effective through the 2002 crop year. Additional price data reflecting the most current market trends will be incorporated into the existing analysis to determine 2003 loan and repayment rates. Meetings are currently being arranged for pulse growers, processors and USDA to meet in October to further discuss these issues.

Question 4: The Milk Income Loss Contract Program created by the Farm Security and Rural Investment Act will have significant impacts on dairy producers. In addition to my desire to see a fairer transition payment that allows producers to choose the starting month--as the Secretary originally announced on August 5, 2002--I am curious about the timing of the payments. Like most agricultural producers, when prices are low, dairy producers face cash flow problems. The timing of these payments can be critical. The law states payments cannot be made later than sixty days after the last day of the month for which the payment is made (Section 1502(e).

How soon after the end of the month can producers realistically expect payments in the future months of the MILC program?

Answer: Dairy operations will receive MILC payments on a monthly basis as soon as possible once all production quantity data for a month is submitted to the County FSA Office, but not later than 60 days.

Question 5: On September 17, 2002, USDA announced an initial allocation under the Dairy Export Incentive Program (DEIP). Congress directed that USDA use the DEIP program to the maximum WTO allowable quantities. The DEIP marketing year begins on July 1. Both USDA and the dairy industry have worked to improve the US's reputation as a committed, reliable

partner for overseas dairy buyers, the delayed announcement and partial release could have negative impacts on these relationships.

Why was the decision made in September, rather than the customary July announcement?

Answer: With the enactment of the Farm Security and Rural Investment Act of 2002, there were numerous elements of dairy policy under review this summer, including the operation of the DEIP. This review contributed to the delay in the announcement of the DEIP allocation. In last year's (2001/2002) DEIP, the nonfat dry milk allocation was not implemented until November 2001, primarily due to market conditions. Specifically, U.S. nonfat dry milk was competitive on the world markets without subsidy. The allocation for nonfat dry milk exhausted by mid-March 2002. It took just 4 1/2 months to use up our yearly allocation of 68,201 metric tons. So U.S. exporters really were actively selling non-fat dry milk under DEIP for only 4 1/2 months last year. We feel there is more than adequate time to fully utilize this year's DEIP allocations by June 30, 2003, the end of the allocation year.

Question 5(b): Why did USDA announce only a fourth of the program?

Answer: By announcing the program in stages we are hoping to better manage the DEIP resources. Again, last year's DEIP allocation for nonfat dry milk was exhausted in approximately 4 1/2 months. Because of changing world market conditions, and the fact that we had our awards concentrated in a narrow time period, we were beset by the possibility of numerous contract cancellations primarily due to the collapse of world market dairy prices. By spreading out the program over the year, we hope to shield the program to some degree from such large market shifts.

Question 5(c): What consultation has USDA had with the dairy industry in making these decisions?

Answer: The concept of announcing the program in stages has been discussed in the past on various occasions with segments of the dairy industry. Although the specific operational changes announced this year were not discussed immediately prior to this announcement, through the years we have always sought to find a balance between industry's concerns and USDA's duty to operate this program in a responsible manner. The industry is very aware of our concerns over lost tonnage due to cancellations. We stand ready to discuss the operations of the DEIP, including review of these changes, at any time.

Question 5(d): Do you believe the market should dictate the pace, extent, and destination for eligible products?

Answer: There is a limited volume of eligible dairy products that can be programmed under the DEIP because of our Uruguay Round commitments. Therefore, we attempt to program products where we see trade policy benefits and market development opportunities. In addition, we have a responsibility to carryout the DEIP in a manner that maximizes its effectiveness while minimizing its cost to the government. The world markets for dairy products are heavily influenced by the unpredictable actions of the European Union (EU) in setting their export subsidy levels. In taking these actions, the EU may, and often does, ignore world market supply and demand.

Question 5(e): What is USDA's reasoning for not making DEIP awards available for butterfat?

Answer: Domestic butterfat prices have been in a downward trend the last few months, but jumped with the announcement of the 2002/2003 DEIP program. We are closely monitoring that market. If the weak domestic butterfat market continues to weaken, we will be more inclined to activate the DEIP for butterfat. This program is still under active consideration and review.

Question 6: The Supplemental Nutrition Program for Women, Infants, and Children (WIC) has played an important role in addressing the health needs of a nutritionally at-risk segment of the population. I agree with the suggestion the WIC food package should reflect current dietary guidelines. However, there have been concerns expressed that proposed changes in the WIC food package may reduce some nutritious foods such as milk and dairy products– without being based on adequate scientific analysis.

Will USDA be undertaking a peer-reviewed, scientific evaluation of proposed changes?

Answer: As part of its regulatory clearance protocol, I want to assure you that the Department seeks to ensure that all of its rulemakings have a sound scientific basis. With respect to the WIC food packages, proposals under consideration are being reviewed to ensure they are grounded in the best and most current scientific research available. Further, no changes to the WIC food package would be made without submitting such proposals to a full and open public comment process. This process would ensure that the views of all interested parties are carefully considered and that the rule is open to review by all interested parties including the scientific community, public health nutritionists, the food industry, food retailers, and the professionals who operate this important nutrition program at the State and local level. In addition, any proposed rule we will eventually publish, would be supported by a detailed health risk assessment presenting the scientific underpinnings of the proposals.

Question 7: Can you provide a status report on your progress toward finalizing this new wool marketing loan program and a projection of when the application form and program rules will be available in the County FSA Offices?

Answer: Pending publication of the program's regulations, applications for marketing assistance loans and Loan Deficiency Payments (LDP) will be accepted. Directives will be issued as soon as possible to provide all the information once the regulations are published. Payments are expected to be made in mid-November to early December, pending software development.

Question 7(b): The farm bill establishes a loan rate of $1.00 per pound for graded wool and $0.40 per pound for nongraded wool. Smaller producers will not be able to afford expensive core tests, but may be able to receive a graded wool price through a grade and yield sale or a consignment sale. Will smaller producers be able to qualify for loans and loan deficiency payments based on the graded wool loan rate without having their wool core tested?

Answer: No. Even smaller producers must have a core test to be able to qualify for a graded wool loan rate in order to receive the $1.00 per pound for graded wool. Any producer who does not have a core test will be eligible to receive the nongraded loan rate of $.40 per pound. CCC has a responsibility to ensure the wool receiving the graded loan level in fact meets the graded standard.

Question 7(c): Do you know what the loan rates will be for the Wool program?

Answer: The 2002 through 2007 crop year marketing assistance loan rates as stated in the 2002 Act are for graded wool, $1.00 per pound, for nongraded wool, $0.40 per pound, and for mohair, $4.20 per pound.

Question 8: The Grasslands Reserve Program included in the Farm Security and Rural Investment Act has had strong, bi-partisan support since its introduction as a stand-alone bill. The program has widespread support from both environmental and agricultural interests. Yet, four month after the Farm Bill was enacted, it does not appear USDA has made progress in developing regulations for the program. I realize the burden the department is under due to the volume of programs altered and created in the farm bill.

Can you provide me with a schedule for the promulgation of rules and regulations for the Grasslands program?

When can Idaho ranchers expect sign-up to begin?

Answer: The details of the Grasslands Reserve Program (GRP) are currently being worked out. At present, we are currently establishing the appropriate roles and responsibilities for respective agencies including the NRCS and FSA. We believe that each agency brings unique expertise and attributes to the program. After the implementation roles and responsibility details have been established, we will have a better estimate of the timeframe for promulgating the rules and regulations and a time frame for sign-up for producers.

At this point, no decision has been made with respect to program sign-ups for FY2003.

Question 9: I share the concern of my colleagues about disputes between OMB and USDA on technical assistance. However, I am also aware of concerns regarding the use of technical assistance dollars.

What procedures are in place to account for Technical Assistance used for overhead costs versus salary and administrative costs?

Answer: NRCS's integrated accountability system records technical assistance costs for overhead such as rent and utilities as well as for salaries and benefits by program and by location. General administrative and overhead costs (such as rent, utilities, and supplies) are prorated to programs based on fundable staff years, as allowed by law. Costs such as agreements or relocation associated with a specific program are recorded directly to that program.

In 1998, NRCS established a new time and cost accounting system to get a more accurate picture of program costs. Employees record how much time they spend by program and activity. This information, along with workload analysis data and average support cost rates, is used to project the full cost of technical assistance for CCC funded programs based on authorized amounts and an estimate of the number of participants and contracts.

Question 10: Can you provide me with a schedule for promulgation of rules and regulations for certifying third party technical assistance providers?

Answer: We expect that the Technical Service Provider Rule will be published this fall as an Interim final rule with a 90-day comment period. The rule is being finalized now, and should be going through the clearance process for publication shortly.

Question 10(b): How soon before we can expect to see the Department utilizing these providers?

Answer: Though NRCS has been using technical service providers for some time at different levels in the delivery of conservation services, the Department plans on full implementation of the Technical Service Provider process in fiscal year 2003 once the rule is promulgated.

Question 10(c): Are potential providers commenting on the standards you are developing?

Answer: Earlier this spring, NRCS held a series of Public Listening sessions across the country, including the Caribbean area, and the Pacific Basin area. Additional outreach meetings were also held in the Northern Plains and other regions to involve Tribes, and small and limited resource producers. NRCS also held a public session at National Headquarters to hear from interested groups. Written comments were also encouraged. The purpose of these sessions was to gather feedback from farmers, ranchers, and potential technical service providers and hear their opinions and views on the types of features they would like to see in the Technical Service Provider regulation.

Most recently, Bruce I. Knight, Chief, NRCS, held a national satellite teleconference with potential technical service providers from both the private and public sectors, to bring them up-to-date on policy development of the Technical Service Provider regulation.

Question 10(d): What steps are you taking to ensure that the certification will allow for a broad range of providers?

Answer: The Technical Service Provider process will be open to individuals, private, not-for-profit sector entities, and public agency entities to participate once each has met the necessary NRCS certification and is placed on the Approved list. The Technical Service Provider policy allows State Conservationists the flexibility to adapt it to the specific circumstances in the state. Universities, colleges, NRCS, and other qualified sources will be used to provide training to ensure a broad range of providers.

Question 10(e): How does USDA propose continuing its relationship with its current technical assistance partners within the framework of new rules?

Answer: Individuals certified to provide Technical Service Provider assistance, by the State Conservationist, a public agency, or through an Approved Certifying Organization, prior to the Farm Security and Rural Investment Act of 2002, signed on May 13, 2002, may be considered eligible to provide technical service. These entities will be subject to meeting any further state-specific certification criteria, as established by NRCS. Licensed individuals, such as professional engineers, may be considered eligible to provide technical service in their area of expertise, but are subject to meeting any further state-specific certification criteria.

Question 11: It appears Idaho's percentage of EQIP dollars has dropped by about 13 percent compared with the average for the last three years. Moreover, Idaho's percentage and real dollars from crop assistance programs are minimal. Yet, states that benefit most from the commodity programs are getting the largest increases in EQIP and other conservation programs.

Can you explain why a state like Idaho, with its significant livestock industry and forestlands, has a diminishing percentage of EQIP dollars?

Can you explain how the state allocation process is determined?

How are we ensuring resource needs across the country are being met?

Answer: The allocation formula used in FY 2002 has not changed since FY 1999 with the exception of Native American Agricultural land. In reviewing our records for the base EQIP program, Idaho's portion of the national total has remained constant. Two other EQIP programs, the ground and surface water conservation program, and the Klamath have resulted in increased funding to other states.

The national allocation process for EQIP was developed by an Interagency Task Force at the inception of the EQIP Program. A process based on twenty-nine factors is utilized to allocate funds to meet best the programs' objectives.

The national allocation formula relates directly to natural resources. In addition, in each state, utilizing the State Technical Committees identifies the priorities and needs. At the local level, local working groups have the additional flexibility to identify resources of concern. As a result of these actions, we are ensuring that resource needs are being met across the country by providing states the flexibility to tailor their state program to best fit local needs.

Question 12: The Grasslands Reserve Program included in the Farm Security and Rural Investment Act has had strong, bi-partisan support since its introduction as a stand-alone bill. The program has widespread support from both environmental and agricultural interests. Yet, four months after the Farm bill was enacted, it does not appear USDA has made progress in developing regulations for the program. I realize the burden the department is under due to the volume of programs altered and created in the farm bill.

Can you provide me with a schedule for the promulgation of rules and regulations for the Grasslands Program?

When can Idaho ranchers expect sign-up to begin?

Answer: The details of the Grasslands Reserve Program (GRP) are currently being worked out. At present, we are currently establishing the appropriate roles and responsibilities for the NRCS and FSA, the two agencies what will have lead roles in implementing the program. We believe that each agency brings unique expertise and attributes to the program. After the implementation roles and responsibility details have been established, we will have a better estimate of the timeframe for promulgating the rules and regulations and a time frame for sign-up for producers.

At this point, no decision has been made with respect to program sign-ups for FY 2003.

Question 12(b): How does USDA develop state allocation formulas for the WHIP program?

What criteria are used to weight factors for WHIP, WRP, and EQIP?

Answer: The FY 2002 authorization for WHIP was set at $15 million. Allocations to individual states were based primarily on the value of unfunded applications within each state. In the case of Idaho, unfunded applications totaled $104,604. Idaho received $162,000 in financial assistance for FY 2002 contracts. Our staff in Idaho has acknowledged the need for an additional $100,000 to fund recent WHIP applications. We expect to update the unfunded backlog data and address these funding needs through the FY2003 allocation process.

The allocation process for WRP considers the following factors: landowner interest, percent of drained wetlands, potential impact on migratory bird habitat, and past performance of the NRCS staff in obligating WRP funds. National funding for WRP was not adequate to address the entire backlog of unfunded applications. Idaho received $2 million in financial assistance for FY 2002 easements. This funded 65 percent of the WRP applicants. As was explained earlier, the EQIP allocation process continues to be based upon a quantitative assessment of 29 resource factors by state. We believe that these processes ensure available funds are applied in a fair and equitable manner.

Question 12(c): The Farm Security and Rural Investment Act authorizes the Secretary to maintain up to 39.2 million acres in the Conservation Reserve Program. With six million acres available for enrollment, what is USDA's plan for enrollment under continuous sign-up and CREP?

Answer: There are approximately 2.1 million acres enrolled in CRP through continuous signup and CREP. This represents 200,427 contracts, with an average contract size of about 10.5 acres. Continuous and CREP acres are more concentrated in areas such as the Northeast and West, which traditionally have a low participation rate in the general CRP. The most recent acreage "hold back" for continuous and CREP acres is 4.2 million acres, which is a modest increase from the 1998 Clean Water Action Plan that established a goal of 4.0 million acres in conservation buffers by FY 2002. Before the next round of enrollment under the general signup, we will re-evaluate the acreage "hold back" for the continuous signup, CREP, and farmable wetland program.

Both the continuous signup and CREP are more targeted, and therefore, have a greater potential to address specific agriculture-related environmental issues, including the potential to reduce sedimentation, provide connectivity of habitat, sequester carbon, reduce flooding, and address endangered ecosystems.

Question 14: "I have heard reports that the $100 million for the Forest Land Enhancement Program, which was available to help non-industrialized private forest landowners over the next 6 years, has been borrowed to fight forest fires.

"Can you confirm this? If so, when will this money be repaid?"

"When it is finally repaid, I hope USDA will focus this money on under-served states like Idaho that get little in crop subsidy money and especially on those forestlands that will not qualify for the Conservation Security Program because they are not lands incidental to a farm operation."

Answer: No funds were transferred from the Forest Land Enhancement Program (FLEP) for fire suppression. Based on current activity, no transfers from this account are anticipated. It is expected that repayment will occur as part of the FY 2003 Interior and Related Agencies Appropriations Act. FLEP funds will be allocated based on the factors and considerations specified in the law. The Forest Service is working with the State Foresters to determine which factors to use, and will include the number of nonindustrial private forest owners and the amount of nonindustrial private forest land in each State. States are required by law to prepare a State Priority Plan to address how the FLEP will be implemented in their State. States can focus the program, target certain priority areas or groups of owners, and decide on the program components they want to implement.

Question 15: It is my understanding the Department is moving ahead with a consolidation of information technology staff. Advances in technology have allowed USDA to effectively and efficiently communicate both internally and externally through a variety of mediums. However, I am concerned USDA has not considered impacts of consolidation on the public.

What is the need behind this convergence?

Answer: The technology staff consolidation issue involves the USDA Service Center Agencies (SCA) The technology staff consolidation issue involves the USDA Service Center Agencies (SCA) Farm Service Agency (FSA), Natural Resources Conservation Service (NRCS), and the Rural Development (RD) Mission area. Over the past few years, USDA, the Executive Branch and the Congress have been working together to transform the archaic "stove-piped" technology systems of these agencies into a shared Common Computing Environment (CCE) which reduces duplicate data collection systems and facilitates data sharing, electronic access for customers, and the use of modern business technologies such as Geographical Information Systems (GIS) in order to provide more effective and efficient services. This new shared technology infrastructure will be completed in mid 2003. The three current technology support organizations, which were designed to support the previous separate infrastructures, now need to evolve to support the shared infrastructure. We believe that a shared staff to operate and maintain the CCE common infrastructure while maintaining separate agency staff for unique business applications makes sense in that it would better utilize limited information technology (IT) personnel and avoid potential problems of having "too many cooks in the kitchen" in terms of operating common telecommunications and other CCE components. This would allow us to gain the benefits of servicing the CCE while still allowing agencies to address the business needs. How we accomplish this and when is the discussion that is currently ongoing.

Question 15(b): What is the agency's timeline with respect to consolidation of information technology staff?

Answer: No specific timeline has been set. Generally, however, since the CCE will be fully operational in mid 2003, we need to make the decisions on the staff support issues and put any changes in place in the same general time frame. Once a decision and direction is determined, we plan to transition using a well defined and communicated time frame that will be developed.

Question 15(c): Have you consulted with county and state employees regarding the impact of consolidation on their ability to effectively serve the public?

Answer: Part of the current discussion process being led by our new Chief Information Officer (CIO), Scott Charbo, involves discussions at all levels, including state and county employees. As we progress, employees and managers at all levels will be fully involved. The technology staff that would be impacted are at the state office and higher levels. Any decisions that we make will be focused on improving the IT services supporting our county office program delivery system. In short, feedback is welcome and encouraged from all parties. In addition, several employee unions have indicated their support for IT convergence for the Service Center Agencies.

Question 15(d): What are the proposed savings and efficiency of this consolidation?

Answer: We have not focused on the cost savings aspects of any potential consolidation since our objective is to provide a reliable improved support system for the common technology infrastructure rather than achieve specific cost savings goals related to IT support. However, we would expect there to be savings from consolidation of support and maintenance contracts and

from elimination of duplicative positions. This would give us some flexibility to improve and services and increase program delivery support within the overall current staffing levels. Furthermore, an additional measurable benefit would the ability for Agencies to focus on business applications and customer relations without having the distractions of infrastructure support issues.

Question 15(e): How responsive would a separate information technology department be to an individual state agency office, including support for program related work?

Answer: If we were to proceed with a consolidated infrastructure support staff, customer service would be the top priority. Feedback and input systems and processes would be put in place so that the customer agencies would have a central voice in ensuring responsiveness to customer needs. At the state level, operating the current three staffs as one would offer significantly enhanced ability to address individual problems. For example, in the state of Virginia, there are currently two FSA, four NRCS and four RD information technology (IT) employees. In the case of FSA, if one of their IT staff is on leave and the other is in one part of the state addressing a problem, there is no support available elsewhere. If the ten employees were working as one staff (logical since there is now common technology) then the availability of staff resources to address specific agency infrastructure problems or help in a new technology deployment would be significantly improved. For specific program applications, the state would continue to get assistance from within their own agency.

Question 15(f): How is this different from the Support Service Bureau plan proposed by USDA and rejected by Congress in 2000?

Answer: The Support Services Bureau plan developed several years ago included the consolidation of all service center agencies administrative and IT functions and staff. This included personnel, contracting, budget, finance, technology infrastructure and applications personnel, and other activities. What is currently under discussion is that part of the IT staff that supports the common technology infrastructure (i.e., workstations, telecommunication services, network and data servers, etc.) which is about half of the technology workforce of these agencies would combined.

Question Submitted by Senator Tom Daschle of South Dakota

Question 1: Madam Secretary, earlier this year we received a General Accounting Office (GAO) report of March 2002, "How USDA Can Act To Improve Models To Explain Cattle Prices". The report finds that the entire model has not been re-estimated in more than a decade, even though much of the data used to estimate it predates the rapid rise of meat packing concentration during the 1980's, the growing population of marketing agreements and forward contracts, technological change, and shifting consumer preferences. In summary, the livestock economic models are totally inadequate and need to be updated. What has the Department done since this report was issued more than six months ago to address this documented inadequacy? I would appreciate a specific response that details when such new and updated economic models will be in use.

Answer: The report by the General Accounting Office (GAO) addresses modeling and data issues needed to improve economic models of cattle prices. ERS agrees that the model used to project cattle prices should be properly documented and maintained and be based on the most current information and data on the cattle and beef industry. We are following our new information quality guidelines (developed at the direction of OMB and recently posted on the ERS website) to ensure the quality, objectivity, utility, and integrity of information we disseminate. We will maintain the underlying data used to estimate our cattle price models and make these data available to interested parties through our website in a manner consistent with our responsibilities to protect the integrity of confidential data. To ensure transparency and reproducibility of our research results, both the underlying data and the models used to estimate cattle prices will be thoroughly documented, and the documentation will be publicly available.

The Department submitted to the Congress on August 9, 2002 a statement of actions to be taken in response to recommendations of the GAO report. ERS plans to:

1. Thoroughly document the current state of the models used to estimate cattle supply and demand.
2. Re-estimate of the model using the best available data, with special attention to data quality and integrity.
3. Make available to the public on the ERS website datasets and supporting documentation that can be accessed through a search procedure and retrieved for research purposes.

The cattle model referred to by the GAO report is part of a larger modeling effort by ERS. A Departmental baseline is prepared every year. The baseline is a ten-year, year-by-year projection of domestic and international market balance sheets for the major crop and livestock commodities. Implications for farm income, food costs, and the macro-economy are included. It requires significant USDA resources and the bulk of the analytical work underlying the baseline is carried out by ERS. The Interagency Commodity Estimates Committee (with members from ERS, AMS, FSA, FAS, World Agricultural Outlook Board (WAOB) and other USDA agencies such as GIPSA and NASS as needed) is used to coordinate the review and clearance. The baseline provides internal input for the President's Budget and supports Mid-Session budget reviews, and is used as a benchmark for policy and program analysis. ERS recently initiated an exercise to review the baseline process to streamline the process, and to provide the public with timely quality information. A review of the cattle model has been part of this exercise. We will incorporate updates to the underlying cattle price model in the fall baseline estimates.

Questions Submitted by Senator Peter Fitzgerald of Illinois

Question 1: I am concerned about farm families that have adopted annual whole-farm rotations being unfairly treated. A farm that plants 100 percent soybeans the next year can claim only half of the eligible oilseed acreage compared to an identical farm with a 50-50 corn and soybean rotation. What has USDA been doing to address this disparity?

[If a statutory change is necessary to fix this problem, would you ask your General Counsel to draft up a legislative proposal to fix this problem and send it to the Hill for the Committee's consideration?]

Answer: USDA is now reviewing this situation. We understand the effect rotations may have on establishing base and we are trying to be flexible, while remaining consistent with the law.

Question 2: For some time now, USDA has been in the business of buying mountains of nonfat dry milk (NFDM) costing taxpayers millions of dollars every week for purchases and ongoing storage costs. While USDA has the authority to adjust the "tilt" twice a year, many have been surprised that the government instead has chosen to continue to buy milk powder. My question is – when if ever; will USDA decide to get out of the nonfat dry milk business?

Answer: The Commodity Credit Corporation (CCC) is mandated to operate the Milk Price Support Program to support manufacturing milk prices by offering to purchase nonfat dry milk, butter, and cheese and announced prices that support milk at $9.90 per cwt.

A reduction of 10 cents per pound in the nonfat dry milk (NDM) purchase price was announced May 31, 2001. The decision to change the butter and nonfat dry milk purchase prices was based on an accumulation of nonfat dry milk stocks in quantities well above USDA's ability to use the product, the level of expenditures by USDA, and significant market distortions. This change was made at a time when milk prices were relatively high and increasing because of short supplies of dairy products worldwide. This tilt resulted in commercial exports of NDM from the United States, a reduction in milk protein imports, and a reduction in Government purchases.

Further tilts have been considered, but milk prices have been falling for 12 straight months. A new Milk Income Loss Contract Program has been established that will help to partially offset the decline in production revenue. The Department continues to monitor the dairy market and price support activity and will implement further purchase price changes in conditions merit such changes.

Question 3: As you know, I authored a section of the new farm bill that establishes a Commission on the Application of Payment Limits for Agriculture. It requires that the members of the Commission be appointed 60 days after enactment, which I believe was July 13th. Can you give me an update on where USDA is in the nomination process?

Answer: The 2002 Farm Bill established the Commission and requires that a total of 10 members are appointed as follows: three members appointed by the Secretary of Agriculture; three members appointed by the Senate Agriculture, Nutrition and Forestry Committee; and three members appointed by the House Agriculture Committee. USDA's Chief Economist also will

serve on the Commission. The Secretary will appoint one of the 10 members to serve as chairperson.

On July 5, 2002, USDA announced that it was accepting applications from individuals interested in serving on the Commission.

On September 23, 2002, the Secretary named three members to serve on the Commission on the Application of Payment Limitations. The appointees are: Alice Devine, Topeka, Kansas; Edward Smith, Bryan, Texas; and William Spight, Ripley, Mississippi. These members represent a broad cross-section of agriculture, and together they will provide valuable insight as members of this commission.

Alice Devine, J.D., L.L.M, is currently vice president and general counsel for the Kansas Livestock Association. Prior to this, she served as Kansas's secretary of agriculture. Edward Smith, Ph.D., is associate director for Agricultural and Natural Resource Sciences for Texas Cooperative Extension. He is an agricultural economist. William Spight has farmed since 1960 and raises soybeans, corn, hay and livestock. Spight has served on the Farm Service Agency Mississippi State Executive Committee for five years.

Question 4: Some Illinois farmers are concerned about obtaining new power of attorney for farms they have managed for years. Can you explain to the Committee your Department's position on this issue?

Answer: The 2002 Act provides multiple new programs, options, and responsibilities that are significantly different from those provided under the Agricultural Market Transition Act (AMTA) or other programs enacted before 1996. The new programs, options, and responsibilities authorized under the Act will have a significant economic impact on producers, especially landowners.

Existing Farm Service Agency (FSA) power of attorney forms on file with FSA do not include the new programs and options included in the 2002 Act. Producers were provided the opportunity to execute a new FSA power of attorney form that would provide the authority necessary for the new programs and options available under the 2002 Act. In addition, obtaining new power of attorney forms protects landowners' interests by requiring an agreement in writing before allowing another individual to make decisions on their behalf that will have a significant economic impact on their future government payments, and potentially, the value of their land.

Question 4(b): What about farmers who have general power of attorney for family members that cover issues from medical decisions to sale of land and assets? Will these farmers be required to obtain new powers of attorney simply for farm payments?

Answer: General (non-FSA) power of attorney documents vary greatly in the authority granted by the document and the applicability of the authority granted to the many government programs. In addition, general power of attorney documents are governed by the applicable State laws, which vary greatly on issues such as how the incompetence of the grantor impacts the validity of the document. Therefore, FSA developed a standard power of attorney form applicable only to FSA and Commodity Credit Corporation (CCC) programs and actions. The FSA power of attorney document has been used extensively since the early 1980's.

FSA does not prohibit the use of general power of attorney documents for individuals who wish to appoint another to act on their behalf for FSA and CCC programs but are unable to complete

the standard FSA power of attorney form because of unique circumstances such as incompetence or incapacitation of the grantor. However, because of the nonstandard nature of such documents and the varying laws governing such documents, FSA does require general power of attorney documents to be reviewed by our Office of General Counsel to ensure that the interest of the grantor and USDA is protected, and that the document provides the authority necessary for the applicable FSA and CCC programs.

Question 5: As you know, past farm programs have been fairly punitive to farmers who plant fruits and vegetables on farm program acres. With the addition of soybeans as a program crop, Illinois farmers will find it even more difficult to raise fruits and vegetables, how has USDA dealt with this issue during implementation?

Answer: The 1996 Act established base acres for wheat, feed grains, cotton, and rice. Nationally, there are 212 million base acres. Because producers of these crops can update their bases and bases may be established for oilseeds for the first time under the 2002 Act, total base acres could increase by 50 to 75 million acres. These additional base acres potentially reduce the "pool" of acres available for fruit and vegetable plantings.

However, the 2002 Farm Bill allows producers to opt out of the program for any year and be allowed to plant unlimited acres of fruits and vegetables on that farm. The producer will not receive any direct and counter-cyclical payments for that farm; however, the farm may be enrolled in the in succeeding years and receive full program benefits.

We have heard compelling arguments from those who think the fruit and vegetable restrictions and penalties are too severe and from those who think the opposite. The Secretary has used all discretionary tools available to her to strike a balance between opposing viewpoints. We believe in the principle of planting flexibility; however, we are concerned about how small increases in fruit and vegetable acreage can be devastating to the traditional growers of these crops, especially if the increase is a result of government programs.

The provisions that allow owners to update base acres and establish base acres for oilseeds is statutory; the Administration has no discretion when it comes to implementing these provisions.

Questions Submitted by Senator Blanche Lincoln of Arkansas

Question 1: Farmers in Arkansas relied on the precepts of Freedom to farm by varying their rotation planting of soybeans over the past few years. The purpose of including soybean acres from the 1990's into farmer's acreage base now is to reflect the value of his total program crop acreage use. What plan does USDA have to allow a farmer to reflect the full program crop use of his farm and thus to maximize the value of his acreage base?

Answer: We are aware of issues related to base establishment for producers who rotated soybeans during 1998-2001. We have not yet issued regulations on base updating procedures, and we are now assessing ways to address rotations for possible incorporations into the regulations.

Question 2: There are many different forms of proof that can reliably indicate the yield history of a particular acre of farmland. As possession and use of farmland may change hands in any given year, and thus certain records may be available to lessees or new owners, it seems unfair to require only certain records as proof of yield history. What sorts of records is USDA currently prepared to accept as proof of yield history?

Answer: Acceptable production evidence includes records of actual production that may be verified by FSA, such as warehouse receipts, warehouse load summary statements, and gin records. An acceptable alternative is to use LDP quantities (subject to LDP spot-check requirements). This may prove to be particularly helpful to livestock producers, since they may otherwise have a difficult time providing actual production records for quantities that were fed, or for acreage that was grazed, hayed, or silaged. If producers did not obtain an LDP, but documented the disposition of the acreage during the applicable crop year, the county committee will assign a yield based on actual production of three similar farms in the area.

Question 3: What is the status of the Administration's effort to appoint a new Assistant Secretary of Agriculture for Civil Rights? Will this new Secretary be allowed any oversight of the Pigford v. Veneman lawsuit settlement to ensure that all deserving persons receive compensation?"

Answer: We have made great progress toward establishing our new position of Assistant Secretary for Civil Rights (ASCR). Section 10704 of the Farm Security and Rural Investment Act of 2002 authorizes the Secretary of Agriculture to establish the new position. On July 23, 2002, Secretary Veneman appointed a Working Group, to "make recommendations as to the mission, responsibilities, and operating structure of the new office."

The Working Group recommendations have been accepted by the Secretary. We expect to implement the structure within the next few weeks. The Secretary has been interviewing candidates for the Assistant Secretary position. When this individual is selected and nominated by the President, we look forward to swift confirmation by the Senate and having him or her on the job at USDA.

The new Assistant Secretary will have responsibility for all civil rights matters, including ensuring compliance with civil rights and related laws by all agencies and under all programs of the Department.

The Assistant Secretary for Civil Rights will play an important role in ensuring that USDA meets its responsibilities under the Pigford Consent Decree. USDA, however, does not determine who

receives compensation under the Decree. Rather, those decisions are made by neutral third parties set forth in the Consent Decree, namely, the Facilitator Poorman-Douglas Corporation, the Adjudicator JAMS/ Endispate Corp., or the Arbitrator Michael Lewis of ADR Associates, Inc.

Question 4: While I am pleased that the Administration agreed to offer indemnification to poultry growers whose flocks were destroyed as part of the effort to contain the spread of avian influenza, I am disappointed that it now appears the Administration has decided against disbursing all of the funds originally provided for reimbursement. Given the degree of damage this outbreak has caused to poultry growers, is the Administration willing to review this decision to withhold funds?

Answer: Soon after the outbreak avian influenza (AI) began, USDA officials began working with the Office of Management and Budget (OMB) to determine whether Federal indemnification would be appropriate for those who have suffered losses due to the low pathogenic AI outbreak in Virginia. OMB approved the use of up to $69.2 million of Commodity Credit Corporation (CCC) funds for the indemnity. At the time USDA prepared the CCC request, officials estimated up to 8 million birds would be depopulated. Only 4.6 million birds were actually depopulated, which is approximately 60 percent of the original estimate of 8 million birds. USDA can provide compensation only for the actual number of birds depopulated. As a result, USDA will use approximately 60 percent of the $69.2 million for the indemnity.

However, the indemnity program will not begin until an interim rule can be published in the Federal Register. This interim rule will be effective 35 days after publication, with a comment period of 30 days. We invite the public to comment. If, after reviewing the comments, we determine that the indemnity program needs to be modified, we will have 5 days before the rule becomes effective to make the necessary changes.

Question 5. Is there any statutory or legal reason why USDA cannot release the full $69.2 million originally approved for avian influenza indemnification?

Answer: While there is no such legal impediment, we feel that the compensation formula to be published in the Interim Final Rule will be fair to all impacted parties, and we will invite public comment for 30 days.

Question 6: Third parties will play a very important role in the implementation of many provisions of this Farm Bill. With regard to the conservation title, some organizations enjoy long-term, successful relationships as providers of technical assistance with local NRCS offices. How does the USDA propose to facilitate these relationships within the framework of the new rules?

Answer: Individuals certified to provide Technical Service Provider assistance, by the State Conservationist, a public agency, or through an Approved Certifying Organization, prior to the Farm Security and Rural Investment Act of 2002, signed on May 13, 2002, may be considered eligible to provide technical service. These entities will be subject to meeting any further state-specific certification criteria, as established by NRCS. Licensed individuals, such as licensed professional engineers, may be considered eligible to provide technical service in their area of expertise, but are subject to meeting any further state-specific certification criteria.

Question 7: I understand that non-profit organizations may be required to provide matching funds at a 50% rate. This could be cost-prohibitive and, ultimately, counter-productive to the

Farm Bill's intent of utilizing the expertise and availability of third parties in carrying out the conservation programs. How did the USDA arrive at the 50% number and what alternative ideas are there?

Answer: Individuals, private sector entities, and public agency entities will be able to participate as Technical Service Providers as long as they have met the NRCS certification criteria, including applicable licensing standards, as established by the NRCS State Conservationist in the each State, and placed on the NRCS Approved list of technical service providers certified to provide technical assistance to a program participant or to the Department.

We are now in the process of developing the rule and considering alternatives for the Technical Service Provider provision of the 2002 Farm Bill. In an effort to create a transparent, fair, and competitive Technical Service Provider process, contribution or cooperative agreements between the State Conservationist and nonprofit or non-Federal public agencies will be available. Payment amounts will be included in the contracts, agreements, and Federal procurements utilized for procuring the technical services. We anticipate that all cooperative agreements will go through a Requests for Proposals (RFP) process, with State Conservationists having the flexibility to establish contribution agreements. Any matching requirement would be only one option for arranging third party technical assistance that would result in leveraging additional non-federal resources. We will continue to solicit alternative ideas as we go through the formal rule-making process.

Questions Submitted by Senator Zell Miller of Georgia

Question 1: Three weeks ago, USDA began publishing the weekly loan repayment rates for peanuts. Last week, the published rate was $386 per ton, while no farmer received more that $355 per ton. It is my understanding the USDA is using the Thomasville, Georgia report rate as a base for the loan repayment rate formula and there is no consideration of world prices. The intention of the new peanut program was to enhance U.S. peanut producers' ability to export, however, continued use of this formula will completely drive U.S. producers out of the export market. The goals associated with the loan repayment rate are to minimize potential loan forfeitures, minimize accumulation of stocks, and minimize the cost in storage.

How is the formula for the loan repayment rate for peanuts calculated?

Answer: The 2002 Act gives the Secretary the responsibility to set a repayment rate that will minimize potential loan forfeitures, minimize the accumulation of stocks of peanuts by the Federal Government, minimize the cost incurred by the Federal Government in storing peanuts, and allow peanuts produced in the U.S. to be marketed freely and competitively, both domestically and internationally. The loan repayment rate has been established based on reported price data in U.S. and international peanut markets. USDA collects international peanut prices on a weekly basis. We also follow domestic prices and the weekly Peanut Report published by the Agricultural Marketing Service. It is still early in the marketing year and prices reported are based on very light sales volume and tend to be volatile. There have been large swings in both domestic and international prices during the past two weeks. We attribute this to the light volume of 2002 peanuts being traded.

Question 2: Does the Administration agree that the current repayment rate will lead to large government stocks of peanuts and increase costs to the government?

Answer: Industry has informed us that most of the 2002 crop will go under loan since USDA is required to pay storage, handling and associated costs. Industry has also informed us that the current U.S. edible market supply/demand balance is tight. Given these current economic factors, we are optimistic that peanuts will move from the loan into the market as market prices and the loan repayment rate adjust to the market situation for peanuts.

Question 3: Does the Administration believe the prices of U.S. competitors should be used in developing the loan repayment rate?

Answer: The Foreign Agricultural Service is requesting and receiving information on peanut prices from the agricultural attaches in major exporting countries including Argentina, China and Vietnam. We are also identifying other reliable sources of price information. We believe that as the sales volume increases with the approach of the peak harvest period, more accurate price information will become available upon which to establish the loan repayment rate. We expect international prices to be a contributing factor in the establishment of the loan repayment rate.

Recently, many of Georgia's dairy producers have expressed great concern over the new diary program. I would like to summit the following questions for your response.

Question 4: The majority of Georgia's dairy farms are considered mid-size farms with herds range from a few hundred to near a thousand cows. It is my understanding that under the current framework of the program, these mid-size farms will not receive an equitable share of income support. Will the Administration propose any solution to make the new dairy program equitable to all dairy producers?

Answer: The new dairy program has two components, a contract period and a transition period. For the contract period, USDA has provided considerable flexibility for all producers by allowing them to choose the month to start receiving payments. All producers will also be given the opportunity to change the starting month if they later decide they would like to switch months. Of course, the new start month must be a month in the future, not a month that has already passed. We believe that such flexibility gives all producers an equitable chance to optimize their program benefits. Section 503(h) of the 2002 Act provides that, for the transition period, "the Secretary shall make a payment in accordance with the formula specified in subsection (c) [Section 1502(c)]on the quantity of eligible production of the produce marketed during the period beginning on December 1, 2001." For that reason, and because the prices for past months were already known by the public, the Department made all transition period payments consecutive beginning on December 1, 2001, for all producers who elected to receive a payment for the transition period. All producers who receive a transition period payment are subject to this provision. We believe the current policy remains consistent with other payment programs administered by FSA and with the statutory guidelines of the 2002 Act for retroactive payments and we plan no changes in the provision.

Question 5: Some state FSA offices have told producers that if they elect to receive transition payments, they are electing not to receive any monthly payments for FY 2002. This would mean a producer whose production is under the cap and who signed up promptly in August would be denied payments for two months out of ten in FY 2002, including the two highest monthly payment rates. Does the choice to receive transition payments mean that a producer cannot receive monthly payments?

Answer: No. An eligible dairy operation signing up in August 2002 for the Milk Income Loss Contract (MILC) program, whose production in under the 2.4 million pound cap and who is not choosing the option to designate a future starting month for the contract payments, may receive transition period payments from December 2001 through July 2002 and contract period payments for August and September until the total production for the period from December 1, 2001 until September 30, 2002 reaches the cap or the end of the 2002 fiscal year (September 30, 2002), whichever comes first.

Questions Submitted by Senator Patty Murray of Washington

In June, the Administration decided to sell wheat from the Bill Emerson Humanitarian Trust to finance purchases of other commodities for critical food aid donations in southern Africa. USDA's procedures for the wheat sales were criticized by grain elevator operators, farmers, and some Senators, particularly from the Pacific Northwest. A number of grain elevator operators felt that the process USDA utilized hit their region of the country disproportionately hard. Much of the nation's CCC stocks are held in that region, so significant sales from the Trust put large amounts of wheat into the local markets, depressing prices, while also hurting these elevators by reducing their storage income.

In late August, USDA announced additional sales from the Emerson Trust. Despite the concerns that were raised earlier this summer, USDA's procedures are not dramatically different for this second sale. Given the Administration's opposition to using its 416(b) authority, it is likely USDA will need to use the Emerson Trust in the future.

Question 1: What assurances can the Secretary give Western grain elevator companies and wheat farmers that USDA will not repeat its mistake during future sales from the Emerson Trust?

Answer: On June 11, 2002, Secretary Veneman announced the release of 275,000 metric tons (MT) of wheat based on a request from the U.S. Agency for International Development (USAID). Their request followed a recommendation from the Food Assistance Policy Council that immediate action be taken to help respond to the Southern Africa Complex Food Security Crisis. USAID further requested that the wheat be exchanged for an equal value of corn, beans, and vegetable oil that will be used to meet humanitarian needs. Subsequent to this initial release, USAID requested additional commodities, and Secretary Veneman authorized the release of up to an additional 300,000 metric tons of BEHT wheat.

Under the initial release, CCC made all its wheat stocks available for sale to all interested parties, thereby allowing the market to dictate which stocks would be sold. Buyers purchased wheat where demand was greatest and returns to CCC were maximized, allowing more commodities to be purchased for USAID.

For the second release, after considering concerns raised by interested parties, the Farm Service Agency (FSA) modified the manner in which the stocks were sold. Generally, all Commodity Credit Corporation (CCC) stocks of wheat were made available for sale, but, in an effort to limit the economic impact on the warehouse operators who were storing this wheat, CCC permitted only storing warehouse operators to submit bids on quantities stored in their facilities through September 11. Beginning on September 12, CCC stocks were to be made available to all other interested parties, with limitations on quantities on which bids could be submitted. As of September 11, CCC was able to meet all current needs from the sale of 248,000 metric tons of BEHT wheat to storing warehouse operators and, as of today, has not found it necessary to make available the remaining 52,000 metric tons authorized in the second release. It appears that these revised sales procedures were acceptable to the warehouse industry and as a result, they have alleviated most of the concerns that were expressed following the initial release.

With regard to selling Commodity Credit Corporation (CCC)-owned wheat into the marketplace, under releases of wheat prior to this year, wheat was made available through buy/sell transactions that were conducted on a "wheat bushel-for-wheat bushel" basis. Market impact was minimal.

Subsequent legislative changes, however, added the opportunity for program agencies to provide commodities other than wheat and replaced the traditional bushel-for-bushel exchange with "value-for-value" provisions. Accordingly, under both releases, wheat was made available in a manner that allowed buyers to purchase wheat where demand was greatest and returns to CCC were maximized, allowing more commodities to be purchased for USAID.

Regarding the reduction in storage income, CCC has been compensating the warehouse industry to store and maintain stocks in BEHT for over 20 years and some warehouse operators have made the storage revenue a permanent part of their operating income. The services provided by the industry to maintain these stocks are important to CCC, but the compensation received by warehouse operators is a subsidiary benefit that resulted from BEHT, since CCC does not guarantee use of space or services offered by warehouse operators under any of its programs.

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