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MISCELLANEOUS TOPICS - AGRICULTURE - AGRICULTURAL COMMODITIES - PRICE SUPPORTS - ADMINISTRATIVE REGULATIONS DIGEST: 1. THE WOOL AND MOHAIR ACT OF 1954, PUB.L. NO. 83-897, 910, AS AMENDED, AUTHORIZES THE SECRETARY OF AGRICULTURE, TO PREVENT ABUSES, TO ISSUE REGULATIONS ESTABLISHING LIMITATIONS ON PRICE SUPPORT PAYMENTS TO WOOL AND MOHAIR PRODUCERS BASED ON REASONABLY APPRAISED SALES PRICES. MISCELLANEOUS TOPICS - AGRICULTURE - AGRICULTURAL COMMODITIES - PRICE SUPPORTS - ADMINISTRATIVE REGULATIONS 2. DEPARTMENT OF AGRICULTURE NOTICE LD-276 (MAY 21, 1986), WHICH AT MOST, IS AN INTERPRETIVE REGULATION, AND THUS DOES NOT HAVE THE FORCE AND EFFECT OF LAW, IS IN CONFLICT WITH 1985 REVISIONS TO DEPARTMENTAL REGULATIONS COVERING THE WOOL AND MOHAIR PROGRAMS, 7 C.F.R. SECS. 1468, ET SEQ., 1472 ET SEQ., SINCE IT ALLOWS SUPPORT PAYMENTS TO PRODUCERS WHO SELL TO PERSONS AND ENTITIES NOT ENGAGED IN THE BUSINESS OF BUYING AND SELLING WOOL. MISCELLANEOUS TOPICS - AGRICULTURE - AGRICULTURAL COMMODITIES - PRICE SUPPORTS - ADMINISTRATIVE REGULATIONS 3. THE 1985 REVISIONS TO DEPARTMENT OF AGRICULTURE REGULATIONS COVERING WOOL AND MOHAIR SUPPORT PROGRAMS, 50 FED.REG. 34079-83 (AUG. 23, 1985), PROVIDED THAT A BONA FIDE MARKETING OF WOOL OCCURS WHEN (1) THE WOOL IS SOLD TO A PERSON OR BUSINESS THAT NORMALLY BUYS WOOL; (2) THE PRODUCER SELLING THE WOOL DOES NOT SELL WOOL TO A FAMILY MEMBER OR TO ANY BUSINESS IN WHICH THE PRODUCER HAS MORE THEN A 20 PERCENT INTEREST; (3) THE SALE IS BASED ON A REASONABLY APPRAISED PRICE FOR WOOL; AND (4) THE PERSON OR BUSINESS BUYING THE WOOL ALSO IS ENGAGED IN THE BUSINESS OF BUYING AND SELLING GREASE BASIS WOOL AND BUYS THE WOOL IN THE COURSE OF THAT BUSINESS. MISCELLANEOUS TOPICS - AGRICULTURE - AGRICULTURAL COMMODITIES - PRICE SUPPORTS - ADMINISTRATIVE REGULATIONS 4. INTERIM REGULATIONS PUBLISHED IN THE FEDERAL REGISTER ON FEBRUARY 11, 1987, 52 FED.REG. 4275-77, COVERING WOOL AND MOHAIR PRICE SUPPORT PROGRAM WHICH ESTABLISHED CERTAIN LIMITATIONS ON PRICE SUPPORT PAYMENTS TO PRODUCERS DOES NOT DIRECTLY CONFLICT WITH DISCUSSION IN THE CONFERENCE REPORT, H.R. REP. NO. 447, 99TH CONG., 1ST SESS. 341 (1985), ACCOMPANYING THE FOOD SECURITY ACT OF 1985, PUB.L. NO. 99-198, 99 STAT. 1354, 1378. THE CONFERENCE REPORT ONLY REJECTED A SENATE AMENDMENT THAT WOULD HAVE PLACED A LIMIT OF $50,000 ON TOTAL SUPPORT PAYMENTS TO PRODUCERS FOR ANY MARKETING YEAR, BUT NEITHER DIRECTED THAT NO SUCH LIMIT BE SET NOR DISCUSSED SUPPORT LIMITATIONS ON THE PRICE OF WOOL OR MOHAIR PER POUND.

THE HONORABLE PATRICK LEAHY:

THIS IS IN RESPONSE TO YOUR LETTER DATED MARCH 2, 1987. YOU HAVE ASKED VARIOUS QUESTIONS ABOUT THE WOOL AND MOHAIR SUPPORT PROGRAMS AUTHORIZED BY SECTIONS 1781-87 OF TITLE 7 OF THE UNITED STATES CODE. SPECIFICALLY, YOU ASK ABOUT THE STATUTORY AND REGULATORY AUTHORITY FOR NOTICE LD-276 (MAY 21, 1986) WHICH LIMITS WOOL AND MOHAIR PRODUCER SUPPORT PAYMENTS TO THAT PORTION OF THE SALES PRICE

THAT DOES NOT EXCEED FOUR TIMES THE NATIONAL AVERAGE PRICE RECEIVED BY ALL PRODUCERS, AND DIRECTS DEMANDS FOR REFUNDS FROM PRODUCERS WHO HAVE BEEN OVERPAID. YOU ALSO ASK ABOUT CHANGES IN PROGRAM ELIGIBILITY RESULTING FROM 1985 REVISIONS OF THE WOOL PRICE SUPPORT REGULATIONS. FINALLY, YOU REQUEST OUR VIEWS ON THE CONSISTENCY OF THE INTERIM RULES PUBLISHED IN THE FEDERAL REGISTER ON FEBRUARY 11, 1987 WITH LEGISLATIVE HISTORY ACCOMPANYING THE FOOD SECURITY ACT OF 1985, PUB.L. NO. 99-198, 99 STAT. 1354, 1378.

WE FIND THAT THE DEPARTMENT OF AGRICULTURE (DEPARTMENT) IS AUTHORIZED TO SET LIMITATIONS ON PRICE SUPPORT PAYMENTS TO PREVENT ABUSES, BASED ON REASONABLY APPRAISED SALES PRICES FOR WOOL. HOWEVER, SINCE THE NOTICE'S PROVISIONS WITH RESPECT TO SUPPORT PAYMENT ELIGIBILITY CONFLICTED WITH FORMAL DEPARTMENTAL REGULATIONS IN EFFECT WHEN THE NOTICE WAS ISSUED, WE DO NOT THINK IT COULD LAWFULLY BE IMPLEMENTED. /1/ WE ALSO FIND THAT THE FEBRUARY 11, 1987 INTERIM REGULATIONS ARE LEGALLY SOUND. THEY DO NOT DIRECTLY CONFLICT WITH THE LEGISLATIVE HISTORY ACCOMPANYING THE FOOD SECURITY ACT OF 1985, SEE H.R. REP. NO. 447, 99TH CONG., 1ST SESS. 341 (1985). WE ADDRESS YOUR QUESTION ABOUT 1985 CHANGES TO THE SUPPORT REGULATIONS IN THE "BACKGROUND SECTION."

BACKGROUND

THE WOOL AND MOHAIR ACT OF 1954, PUB.L. NO. 83-690, 68 STAT. 897, 910, AS AMENDED, CODIFIED AT 7 U.S.C. SECS. 1781-87, AUTHORIZES THE SECRETARY OF AGRICULTURE (SECRETARY) TO SUPPORT WOOL AND MOHAIR PRICES TO PRODUCERS THROUGH LOANS, PURCHASES, PAYMENTS OR OTHER OPERATIONS; AND TO SET THE AMOUNTS, TERMS AND CONDITIONS OF THE PRICE SUPPORT OPERATIONS AND THE EXTENT TO WHICH THESE OPERATIONS ARE CARRIED OUT. ID. SEC. 1785. THE SECRETARY MAY, IN DETERMINING SUPPORT PRICES AND RATES OF PAYMENTS, MAKE ADJUSTMENTS IN SUCH PRICES OR RATES FOR DIFFERENCES IN GRADE, QUALITY, TYPE, LOCATION AND OTHER FACTORS TO THE EXTENT DEEMED PRACTICAL AND DESIRABLE. ID. PURSUANT TO THESE AUTHORITIES, AS WELL AS THOSE UNDER SECTIONS 714B AND 714C OF TITLE 15, WHICH COVER COMMODITY CREDIT CORPORATION ACTIVITY, REGULATIONS WERE ISSUED FOR THE WOOL /2/ AND MOHAIR PAYMENT SUPPORT PROGRAMS. 7 C.F.R. SECS. 1468.1 ET SEQ. (MOHAIR), 1472.1401 ET SEQ. (WOOL).

THE REGULATIONS PROVIDE THAT SUPPORT PAYMENTS ARE TO BE MADE ONLY IF THERE IS A BONA FIDE MARKETING OF THE WOOL. ID. SEC. 1472.1506(H). THE REGULATIONS ALSO STATE THAT THE AMOUNT OF THE PAYMENT DUE A PRODUCER IS TO BE COMPUTED BY APPLYING THE RATE OF PAYMENT TO THE NET SALES PROCEEDS FOR THE WOOL MARKETED DURING THE SPECIFIED MARKETING YEAR. THUS, THE HIGHER THE SALES PRICE, THE HIGHER THE SUPPORT PAYMENT. THE RATE OF PAYMENT IS TO BE DETERMINED BY THE EXECUTIVE VICE PRESIDENT OF THE COMMODITY CREDIT CORPORATION, OR THAT OFFICER'S DESIGNEE, AT THE END OF THE MARKETING YEAR. ID.

SEC. 1472.1505(B). THE RATE OF PAYMENT IS THE PERCENTAGE REQUIRED TO BRING THE NATIONAL AVERAGE PRICE RECEIVED BY ALL PRODUCERS FOR THE SALE OF SHORN WOOL UP TO THE SUPPORT PRICE. ID. SEC. 1472.1504. /3/

A DEPARTMENTAL REVIEW OF A SELECTED NUMBER OF APPLICATIONS FOR 1983 SHORN WOOL PRICE SUPPORT PAYMENTS HAD REVEALED NUMEROUS PROBLEMS WITH MARKETING PRACTICES. THE REVIEW FOUND THAT PRODUCERS SOMETIMES SOLD WOOL TO, OR EXCHANGED WOOL WITH, PURCHASERS WHO RECEIVED COMPENSATION IN WOOL OR A WOOL PRODUCT WITH NO PRICE ESTABLISHED FOR THE WOOL. THIS PRACTICE OFTEN OCCURRED IN SALES OF WOOL AMONG FAMILY MEMBERS. THE REVIEW ALSO SHOWED SALES OF WOOL BY PRODUCERS TO PERSONS NOT PREVIOUSLY ENGAGED IN THE BUSINESS OF BUYING WOOL, AND ATTEMPTS TO SUBMIT TO THE

COMMODITY CREDIT CORPORATION DOCUMENTS REPRESENTING SALES, TRANSFERS, OR OTHER ARRANGEMENTS REGARDING WOOL THAT WERE FICTITIOUS OR NOT LEGALLY BINDING. 50 FED.REG. 34079-81 (AUG. 23, 1985).

TO PREVENT THESE SITUATIONS FROM RECURRING, THE 1985 REVISION OF THE PROGRAM REGULATIONS MORE CLEARLY SET FORTH THE REQUIREMENTS THAT PRODUCERS MUST MEET TO BECOME ELIGIBLE TO RECEIVE SUPPORT PAYMENTS. AMONG OTHER THINGS, THE REVISIONS ALTERED THE DEFINITION OF BONA FIDE MARKETING. THEY PROVIDED THAT A SALE OF WOOL BY A PRODUCER WOULD BE CONSIDERED A BONA FIDE MARKETING ONLY IF THE WOOL IS SOLD TO A PERSON OR BUSINESS THAT NORMALLY BUYS WOOL; THE PRODUCER SELLING THE WOOL DOES NOT SELL THE WOOL TO A FAMILY MEMBER OR TO ANY BUSINESS IN WHICH THE PRODUCER HAS MORE THAN A 20 PERCENT INTEREST; THE SALE IS BASED ON A REASONABLY APPRAISED PRICE FOR THE WOOL; AND THE PERSON OR BUSINESS BUYING THE WOOL IS ALSO ENGAGED IN THE BUSINESS OF BUYING AND SELLING GREASE BASIS WOOL /4/ AND BUYS THE WOOL IN THE COURSE OF THAT BUSINESS. 50 FED.REG. 34081-82 (AUG. 23, 1985), 7 C.F.R. SEC. 1472.1507(C). THESE RESTRICTIONS WERE NOT SPECIFICALLY PROVIDED FOR PREVIOUSLY.

SUBSEQUENTLY, THE DEPARTMENT DETERMINED THAT THE AMENDED REGULATIONS WERE TOO RESTRICTIVE SINCE THEY EFFECTIVELY DISQUALIFIED SALES OF WOOL, WHICH OTHERWISE WERE BONA FIDE MARKETINGS, SOLELY BECAUSE THEY WERE MARKETED BY A PRODUCER TO A PURCHASER NOT ENGAGED IN THE BUSINESS OF BUYING AND SELLING GREASE BASIS WOOL. 52 FED.REG. 4276 (FEB. 11, 1987). AS AN INITIAL REMEDY, THE DEPARTMENT'S AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE ISSUED NOTICE LD-276 (MAY 21, 1986). THE DEPARTMENT HAS INFORMED US THAT THE SECRETARY HAS DELEGATED AUTHORITY TO THE SERVICE TO ISSUE SUCH NOTICES.

THE NOTICE, IN CONFLICT WITH THE 1985 REGULATIONS, ALLOWED SUPPORT PAYMENTS TO PRODUCERS FOR WOOL SOLD TO PERSONS OR ENTITIES THAT DID NOT BUY THROUGH NORMAL TRADE CHANNELS, AND TO HOBBY CRAFTERS, HAND SPINNERS AND OTHER SIMILAR INDIVIDUALS; THAT IS, TO THOSE NOT NORMALLY ENGAGED IN THE BUYING AND SELLING OF WOOL. THE NOTICE ALSO ESTABLISHED A LIMIT ON THE AMOUNT OF THE SUPPORT PAYMENT THAT COULD BE RECEIVED PER POUND ON SALES TO THE EXPANDED CLASS TO THAT PORTION OF THE SALES PRICE THAT DOES NOT EXCEED FOUR TIMES THE NATIONAL AVERAGE MARKET PRICE RECEIVED BY ALL PRODUCERS FOR THE YEAR FOR WHICH PAYMENT WAS TO BE MADE. CONSISTENT WITH THESE RESTRICTIONS, THE NOTICE AUTHORIZED DEMANDS FOR REFUNDS OF OVERPAYMENTS FROM THOSE PRODUCERS WHO RECEIVED MORE THAN THE AMOUNTS ALLOWED BY THE NOTICE. IN THIS REGARD, THE DEPARTMENT HAS INFORMALLY TOLD US THAT 1985 SUPPORT PAYMENTS WERE MISTAKENLY MADE TO SOME PRODUCERS WHO SOLD WOOL TO PERSONS OR ENTITIES NOT ENGAGED IN THE BUYING AND SELLING OF WOOL, NOTWITHSTANDING THE 1985 REVISIONS TO THE FORMAL REGULATIONS.

THE DEPARTMENT'S SECOND RESPONSE TO THE PROBLEM CREATED BY THE 1985 REGULATIONS WAS TO PROMULGATE INTERIM REVISED REGULATIONS PROVIDING, AS DID THE NOTICE, THAT PRICE SUPPORT PAYMENTS COULD BE MADE TO PRODUCERS WHO MARKET WOOL TO PERSONS OR BUSINESSES THAT DO NOT NORMALLY PURCHASE AND SELL GREASE BASIS WOOL. 52 FED.REG. 4275-77 (FEB. 11, 1987). ADDITIONALLY, THE REVISIONS ESTABLISHED CERTAIN GENERAL LIMITS ON PAYMENTS TO PRODUCERS. THEY PROVIDE THAT SUPPORT PAYMENTS ARE NOT TO BE MADE ON THAT PORTION OF THE SALES PROCEEDS RECEIVED BY A PRODUCER BASED ON SALES IN EXCESS OF THE MAXIMUM SALES PRICE PER POUND AS DETERMINED BY THE DEPARTMENT FOR EACH MARKETING YEAR. THE DEPARTMENT FOUND THAT IN INSTANCES WHERE THE WOOL SALES PRICE IS SO HIGH THAT THERE IS NOT ANY RELATIONSHIP BETWEEN THE PRICE RECEIVED AND THE INHERENT GREASE BASIS VALUE OF THE WOOL, MAKING SUPPORT PAYMENTS PURSUANT TO THE HIGHER PRICE WOULD DEFEAT THE INTENT OF THE WOOL PRICE SUPPORT PROGRAM. ID.

ALTHOUGH THE TIGHT DEADLINE REQUESTED DID NOT ALLOW US TIME TO SEEK FORMAL COMMENTS FROM THE DEPARTMENT OF AGRICULTURE ON THE ISSUES RAISED, WE HAVE SPOKEN INFORMALLY WITH VARIOUS DEPARTMENTAL OFFICIALS. THEY HAVE TOLD US THAT THE WOOL AND MOHAIR ACT OF 1954, PUB.L. NO. 83 690, 68 STAT. 897, 910, AS AMENDED, DOES PROVIDE THE SECRETARY OF AGRICULTURE WITH AUTHORITY TO ESTABLISH SUPPORT PAYMENT LIMITATIONS AS PROVIDED FOR IN NOTICE LD-276. THEY FURTHER SUGGESTED THAT PART OF THE 1985 REVISIONS TO THE REGULATIONS, WHICH PROVIDES THAT FOR A BONA FIDE MARKETING TO OCCUR A WOOL SALE MUST BE BASED ON A REASONABLY APPRAISED PRICE, IMPLICITLY IS A SUPPORT PAYMENT LIMITATION. THUS, IT IS CONSISTENT WITH THE SUPPORT PAYMENT LIMITATION ESTABLISHED IN THE NOTICE. NEVERTHELESS, DEPARTMENT OFFICIALS AGREED THAT TO THE EXTENT THE NOTICE WAS IN CONFLICT WITH THE 1985 REVISED REGULATIONS REGARDING THE CLASS OF PEOPLE TO WHOM PRODUCERS COULD SELL, THERE IS A QUESTION ABOUT ITS PROPRIETY.

LEGAL DISCUSSION

1. SECRETARY OF AGRICULTURE'S AUTHORITY

THE SECRETARY OF AGRICULTURE IS AUTHORIZED TO ESTABLISH REGULATIONS COVERING THE WOOL SUPPORT PROGRAM. AS INDICATED IN THE BACKGROUND SECTION, THE SECRETARY'S AUTHORITY COVERS SETTING THE AMOUNTS, TERMS AND CONDITIONS OF PRICE SUPPORT OPERATIONS, AND THE EXTENT TO WHICH THOSE OPERATIONS ARE CARRIED OUT. 7 U.S.C. SEC. 1785. WE THINK THIS WOULD INCLUDE ESTABLISHING SUPPORT PAYMENT LIMITATIONS TO PREVENT ABUSES, BASED ON REASONABLY APPRAISED SALES PRICES FOR WOOL.

WE RECOGNIZE THAT THE CONFERENCE REPORT ACCOMPANYING THE FOOD SECURITY ACT OF 1985, PUB.L. NO. 99-198, 99 STAT. 1354, 1378, REJECTED A SENATE PROPOSAL THAT WOULD HAVE IMPOSED A $50,000 LIMITATION ON THE TOTAL PAYMENTS A PRODUCER COULD RECEIVE UNDER THE WOOL SUPPORT PROGRAM FOR ANY MARKETING YEAR. H.R. REP. NO. 447, 99TH CONG., 1ST SESS. 341 (1985). THIS INSTANCE, THE CONFERENCE REPORT DID NOT DIRECT THAT NO SUPPORT LIMITATION BE DECLARED, IT ONLY DELETED A SENATE PROVISION THAT WOULD HAVE INCLUDED ONE. MOREOVER, EVEN IF THE DISCUSSION IN THE CONFERENCE REPORT COULD BE CONSTRUED AS A DIRECTION, IT ONLY APPLIED TO A LIMIT ON TOTAL YEARLY PAYMENTS TO PRODUCERS RATHER THAN TO A LIMIT ON THE PAYMENT PER POUND OF WOOL THAT PRODUCERS COULD RECEIVE AS PROVIDED IN THE NOTICE. /5/

NOTWITHSTANDING THE SECRETARY'S AUTHORITY TO ESTABLISH SUPPORT PAYMENT LIMITATIONS BASED ON REASONABLY APPRAISED SALES PRICES FOR WOOL, NOTICE LD -276 WAS NOT CONSISTENT WITH APPLICABLE LAW. IT IS CLEAR THAT NOTICE LD- 276, AT MOST, IS AN INTERPRETIVE RATHER THAN A SUBSTANTIVE REGULATION. SUCH IT DOES NOT HAVE THE FORCE AND EFFECT OF LAW AS DO THE FORMAL REGULATIONS GOVERNING THE WOOL SUPPORT PROGRAM, 7 C.F.R. SECS. 1472.1501 ET SEQ. E.G., SMITH V. RUSSELLVILLE PRODUCTION CREDIT ASSN., 777 F.2D 1544, 1548 (11TH CIR. 1985); WESTCOTT V. UNITED STATES, 765 F.2D 121, 122 (8TH CIR. 1985), AFF'G 611 F.SUPP. 351, 358 59 (D. NEB. 1984).

THE PROBLEM IS NOT WITH THE SUPPORT PRICE LIMITATION IN THE NOTICE, BUT WITH THE NOTICE'S AUTHORIZING PAYMENTS TO PROCUCERS WHO SELL WOOL TO PERSONS AND ENTITIES NOT ENGAGED IN THE BUYING AND SELLING OF WOOL. AS WE HAVE SAID, THE SUPPORT PAYMENT LIMITATION IN THE NOTICE APPLIES ONLY TO PRODUCER SALES TO THAT CLASS. THESE PAYMENTS WERE DIRECTLY IN CONFLICT WITH THE 1985 REVISIONS TO THE WOOL SUPPORT REGULATIONS WHICH INDICATED THAT SUCH SALES WERE NOT BONA FIDE MARKETINGS AND THUS COULD NOT BE A BASIS FOR SUPPORT PAYMENTS. AS THE 1985 REVISIONS WERE IN EFFECT WHEN THE NOTICE WAS ISSUED, THEY GOVERNED. THUS, ANY PAYMENTS MADE TO PRODUCERS FOR THE SALES AUTHORIZED BY THE NOTICE, BUT PRECLUDED

BY THE REGULATION, WERE IMPROPER.

2.CONSISTENCY OF FEBRUARY 11 INTERIM RULE WITH CONGRESSIONAL INTENT

WE THINK THE AUTHORITY PROVIDED IN THE WOOL AND MOHAIR ACT PROVIDES AN AMPLE BASIS FOR THE SUPPORT PAYMENT LIMITATION SET FORTH IN THE INTERIM REGULATIONS PUBLISHED IN THE FEDERAL REGISTER ON FEBRUARY 11, 1987, THAT IS, THAT SUPPORT PAYMENTS ARE NOT TO BE MADE ON THAT PORTION OF THE SALES PROCEEDS RECEIVED BY A PRODUCER BASED ON SALES IN EXCESS OF THE MAXIMUM SALES PRICE PER POUND AS DETERMINED BY THE DEPARTMENT FOR EACH MARKETING YEAR. AS MENTIONED, SECTION 1785 OF TITLE 7 AUTHORIZES THE SECRETARY TO DETERMINE OR APPROVE THE AMOUNTS, TERMS AND CONDITIONS OF PRICE SUPPORT OPERATIONS, AND THE EXTENT TO WHICH THESE OPERATIONS ARE CARRIED OUT. THIS AUTHORITY WOULD INCLUDE SETTING PRICE SUPPORT LIMITATIONS TO PREVENT ABUSES, BASED ON REASONABLY APPRAISED SALES PRICES FOR WOOL.

IN ANY EVENT, THE INTERIM REGULATIONS DO NOT DIRECTLY CONFLICT WITH THE LEGISLATIVE HISTORY OF THE FOOD SECURITY ACT OF 1985, PUB.L. NO. 99 198, 99 STAT. 1354, 1378. SEE H.R. REP. NO. 447, 99TH CONG., 1ST SESS. 341 (1985). THE CITED CONFERENCE REPORT DOES NOT SPECIFICALLY PROHIBIT SUPPORT PAYMENT LIMITATIONS BASED ON REASONABLY APPRAISED SALES PRICES FOR WOOL. IT ONLY INDICATES THAT THE SENATE AMENDMENT IMPOSING A $50,000 LIMIT ON THE AMOUNT A PERSON CAN RECEIVE IN ANY MARKETING YEAR WAS DROPPED FROM THE AGREED-UPON LEGISLATION. MOREOVER, IT ONLY MENTIONS LIMITATIONS ON TOTAL SUPPORT PAYMENTS TO PRODUCERS, BUT NOT LIMITS ON THE AMOUNT OF THE SUPPORT PRICE PER POUND AS PROVIDED IN THE INTERIM REGULATIONS. HOPE WE HAVE BEEN OF ASSISTANCE. UNLESS RELEASED EARLIER BY YOUR OFFICE, THIS DECISION WILL BE PUBLICLY AVAILABLE 30 DAYS FROM TODAY.

/1/ WE SHOULD POINT OUT, HOWEVER, THAT IN VIEW OF TIME CONSTRAINTS IN REACHING OUR CONCLUSION, WE DID NOT HAVE THE BENEFIT OF THE DEPARTMENT OF AGRICULTURE'S FORMAL POSITION ON THIS ISSUE.

/2/ IN THIS LETTER, WE USE THE WORD "WOOL" TO INCLUDE BOTH WOOL AND MOHAIR PROGRAMS.

/3/ WE UNDERSTAND THAT THE NATIONAL AVERAGE PRICE PER POUND FOR WOOL IN 1985 WAS 63.5 CENTS, AND THE SUPPORT PRICE WAS $1.65 PER POUND.

/4/ THE AMENDED REGULATIONS DEFINED GREASE BASIS WOOL AS "WOOL AS IT COMES FROM THE SHEEP OR LAMBS BEFORE APPLYING ANY PROCESS TO REMOVE THE NATURAL OILS OR FATS." 7 C.F.R. SEC. 1472.1504.

/5/ FURTHERMORE, WE HAVE HELD THAT DIRECTIONS AND STATEMENTS IN COMMITTEE REPORTS, FLOOR DEBATES AND HEARINGS ARE NOT LEGALLY BINDING ON AN AGENCY UNLESS INCORPORATED EITHER EXPRESSLY OR BY REFERENCE IN A STATUTE. E.G., 55 COMP.GEN. 307, 319, 325-26 (1975).