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Resources, Community, and
Economic Development Division

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September 1, 1993

The Honorable E (Kika) de la Garza
Chairman, Committee on Agriculture
House of Representatives

Dear Mr. Chairman:

As you requested, we analyzed several perspectives of the payment limitations governing the honey price support program administered by the U.S. Department of Agriculture (USDA).

Under the current honey program, producers can obtain marketing loans from USDA, using their honey as collateral. Producers can then repay their loans at a rate lower than that at which the loan was made--thus receiving a marketing loan gain from USDA--or forfeit their honey to the government. Alternatively, producers can forgo the loans and receive a loan deficiency payment from USDA equal to the difference between the loan rate and the repayment rate.

Specifically, this correspondence provides information on (1) the statutory provisions that apply to payment limitations for the honey program as compared with those of other farm commodity programs; (2) payments received by honey producers and associated loan forfeitures to USDA, for 1991 and 1992; (3) the potential for honey producers to reorganize their businesses in response to lower payment limitations; and (4) the potential impact on government costs if the payment limitation is set at zero dollars.

In summary,

-- The honey program is not subject to the statutory payment limitations--including the so-called three-entity rule--applicable to other farm commodity programs. Instead, the honey program legislation aims to limit payments to producers through an alternative means--by attributing benefits to individuals, whether received directly or through an entity in which they hold an interest, up to the applicable monetary limit.

-- For 1991 and 1992, USDA data show that most honey producers received government payments of $10,000 or less, and only a few received more than $50,000. Overall, in 1991, 4,186 honey producers received about $11.3 million in payments, and in 1992, 3,477 producers have received about $11.0 million. In addition to government payments, the honey program has experienced loan forfeitures amounting to about $1.4 million in 1991 and $204,000 in 1992. (The payments and loan forfeitures in 1992 are subject to change as producers settle their outstanding loans with USDA and redeem or forfeit their honey collateral.)

-- Because existing payment limitations have, in most cases, substantially exceeded the payments actually received, honey producers have had little incentive to take steps to insulate themselves from these limits. Furthermore, the $50,000 limitation scheduled for 1997 will not affect many producers since most receive substantially less than that from the government. Even those few producers currently receiving more than $50,000 are not likely to be affected because they can reorganize their businesses as the payment limitation decreases. According to USDA, such reorganizations are permitted as long as the Department determines that each individual involved in the business qualifies as a "person" eligible to participate in the program. As a result, it is unlikely that a reduction in the payment limitation--such as the $50,000 limit that is to go into effect in 1997--will reduce government costs.

-- If a zero-dollar payment limitation is approved for the honey program without also limiting loan forfeitures, government costs are likely to increase, according to USDA, because producers would be more likely to settle their loans by forfeiting their honey collateral to the government.

PAYMENT LIMITATIONS APPLICABLE TO THE HONEY PROGRAM

The honey program is not subject to the statutory payment limitations applicable to other farm commodity programs. In the Food, Agriculture, Conservation, and Trade Act of 1990, which established the current provisions of the honey program, the Congress specifically excluded the honey program from payment limitation provisions applicable to other commodities and instead established separate provisions for limiting honey payments.

Under the current honey program, eligible producers can obtain 9-month, nonrecourse marketing loans for which the producers' honey is offered as security. To discourage loan forfeitures, the current legislation permits producers to realize marketing loan gains by repaying loans at a rate lower than that at which the loan was made. For crop year 1993, the honey loan rate is 53.8 cents a pound, and producers can repay their loans at 47 cents a pound. Thus, producers who repay their loans and market their honey can receive a marketing loan gain of 6.8 cents a pound from the government. This gain represents additional income above the prices that producers receive for their honey in the marketplace.

Alternatively, producers eligible to participate in the loan program may elect to forgo the loans in exchange for loan deficiency payments. In this case, each producer is paid an amount equal to the difference between the loan rate and the repayment rate--6.8 cents a pound in 1993--multiplied by the number of pounds of honey that could have been placed under loan. Finally, producers who have obtained loans may elect not to repay them but to satisfy their loan obligations by forfeiting to the government the honey that was put up as collateral.

The honey program legislation places separate annual monetary limits on the amount a person can receive in (1) marketing loan gains and loan deficiency payments and (2) the value of the honey forfeited to the government. This legislation requires these monetary limits to progressively decline over time: for program payments, from $200,000 in the 1991 crop year to $50,000 in each of the 1997 and 1998 crop years; for loan forfeitures, from $200,000 in the 1991 crop year to $125,000 in each of the 1994 and subsequent crop years. By statute, however, the loan forfeiture limitation does not apply to any crop year in which honey producers are not permitted to repay their loans at a level below the loan rate.

Each of these monetary limits applies on a "per person" basis. In the 1990 act, the Congress directed the Secretary of Agriculture to provide for "attribution" in defining "person" for the purpose of applying these limitations. As a result, USDA's payment limitation regulations for honey provide that payments received or the value of honey forfeited by an entity are to be attributed to the individuals who hold an interest in the entity, in proportion to their ownership interests. Under these regulations, no individual participating in the honey program may exceed the annual monetary limits on payments or loan forfeitures.

In contrast, for other commodity programs, under a 1987 amendment to the general statutory provisions, an individual may be eligible to receive program payments from up to three eligible entities--the three-entity rule (7 U.S.C. 1308-1(a)). Under this rule, a person can receive payments (1) as a person and by holding substantial beneficial interests in no more than two other entities engaged in farming operations or (2) by holding substantial beneficial interests in no more than three such entities. Although this provision prohibits individuals from qualifying for payments through the creation of an unlimited number of legal entities, it is also possible under the provision for an individual to double a monetary limitation, such as the $50,000 limit on deficiency and land diversion payments. For example, an individual could qualify for up to $100,000 in deficiency payments in a crop year: $50,000 as a qualifying person and up to $25,000 for each of two entities in which he or she held a 50-percent interest.[1]

The three-entity rule applies only to those payments that are subject to limitation under the general commodity statute (7 U.S.C. 1308(1) and (2)). The honey program, however, is not subject to these limitations, having been explicitly removed from their scope by the Congress as part of the changes made to the honey program in the 1990 act. USDA's payment limitation regulations are consistent with this result, since USDA does not apply the regulation subpart governing three-entity determinations to the honey program.

1991 AND 1992 HONEY PAYMENTS AND LOAN FORFEITURES

The enclosure to this correspondence includes tables showing the 1991 and 1992 honey payments and loan forfeitures, stratified by size, as you requested. These

[1]We discussed this issue in Agriculture Payments: Effectiveness of Efforts to Reduce Farm Payments Has Been Limited (GAO/RCED-92-2, Dec. 5, 1991).

tables were extracted from data we obtained from USDA's Commodity Credit Corporation. While we did not independently verify the data's accuracy, USDA officials attested to the reasonableness of the data and our presentations.

As the tables show, most honey producers annually received payments of $10,000 or less, and only 10 producers in each of the years 1991 and 1992 received more than $50,000. Overall, in 1991, 4,186 honey producers received about $11.3 million in payments, and in 1992, 3,477 producers have received about $11.0 million.

In addition to receiving government payments, some producers have settled their marketing loans by forfeiting their honey to the government. In 1991, the honey program experienced loan forfeitures of $1.4 million, and in 1992, the forfeitures are at $204.000. (As we previously pointed out, the payments and loan forfeitures for 1992 are subject to change as producers settle their outstanding loans with USDA.)

In addition to these tables, we are providing you, under separate cover, listings of the producers in 1991 and 1992 who received payments and who had loan forfeitures in excess of $25,000. As you requested, these listings show, by producer, the loan value and outstanding balance, the marketing loan gains and loan deficiency payments, the loan forfeitures, and the producer's name and address. USDA believes that producers' names and addresses are protected by the Privacy Act of 1974, 5 U.S.C. 552b, and exemption b(6) of the Freedom of Information Act, 5 U.S.C. 552(b)(6).

LOWER PAYMENT LIMITATIONS ARE LIKELY TO RESULT IN BUSINESS REORGANIZATIONS

Historically, payment limitations for the honey program have been set at levels that have substantially exceeded the actual payments received by the vast majority of producers. Thus, producers have not had to consider reorganizing their businesses to prevent losing government payments. Moreover, there are very few producers receiving payments exceeding $50,000 who would be affected when the payment limitation is reduced to that level in 1997: In 1991 and 1992, only 10 producers received annual payments exceeding $50,000.

According to officials in USDA headquarters and the two county offices we visited, even the few producers now receiving payments over $50,000 are not likely to be affected by the $50,000 payment limitation because they can reorganize their businesses to insulate themselves from the lower limit. Such reorganizations are permitted under current statutes and regulations.

For example, under a $50,000 payment limitation, an independent producer expecting to receive payments above that limit could reorganize into a joint venture or partnership with his or her spouse. Each spouse would be required to certify to active involvement in the honey business, and the cognizant USDA county office committee would have to determine that each qualified as a person eligible to receive program benefits. At that point, each spouse would be entitled to a separate and distinct payment limit.

USDA officials told us that some business reorganizations, while having the effect of insulating producers from lower honey payment limits, may represent good management decisions--the businesses may have grown and additional family members may have become available to share in the operations. Regardless of the reasons for reorganizing, the fact remains that government costs for the honey program are not likely to be reduced solely by lowering the payment limitation.

A ZERO-DOLLAR PAYMENT LIMITATION MAY INCREASE GOVERNMENT COSTS

According to USDA, a zero-dollar payment limitation for the honey program, which would apply only to marketing loan gains and loan deficiency payments, could actually add millions of dollars to government costs. These added costs could occur because a zero-dollar payment limitation could trigger substantial increases in loan forfeitures. If a zero-dollar payment limitation were in effect, honey producers would be prevented from receiving marketing loan gains or loan deficiency payments and, consequently, from repaying their loans at a rate lower than the loan rate. Therefore, producers would have to either repay their loans at the loan rate or forfeit their honey to USDA. When market prices are below the level at which producers can profitably repay their loans at the loan rate, producers are likely to forfeit virtually all of their honey to the government.

An increase in loan forfeitures would result in increased government costs because, after forfeiture, USDA, rather than the producers, becomes responsible for storing, transporting, processing, and distributing the honey. USDA estimates that these activities could add about 22 cents to each pound of honey forfeited. Furthermore, because most honey forfeited to USDA is subsequently donated to domestic food assistance programs rather than sold on the market, the government must absorb all costs--the value of the honey and the associated activities--instead of just the smaller marketing loan gain.

While the government's exposure to losses increases as the risk of loan forfeitures increases, it is difficult to determine how much a zero-dollar payment limitation will increase program outlays because it is uncertain exactly how much honey would be forfeited. This is because the number of loan forfeitures will depend on the relationship of market prices to the loan rate, and future honey prices are unknown. Nevertheless, USDA has projected that government costs would increase in fiscal year 1994 from about $9 million (if the current payment limitations remain in effect) to about $26.5 million (under a zero-dollar payment limitation). For fiscal year 1995, the projected costs would increase from about $3.5 million to about $60 million. These projected cost increases do not include the costs that USDA would also incur to store, transport, process, and distribute the honey obtained as a result of an increase in loan forfeitures.

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If I can be of further assistance, please contact me at (202) 512-5139, or Robert A. Robinson, Associate Director, at (202) 254-6100.

Sincerely yours,

John W. Harman
Director, Food and Agriculture Issues

Enclosure

(150046)

HONEY LOANS & PAYMENTS..PROGRAM YEAR 1991

PRODUCERS WITH LOANS, PAYMENTS, FORFEITURES > 0

FREQUENCY DISTRIBUTION

RANGE		PAYMENTS				FORFEITURES			
		Count of Participants		Total Payments		Count of Participants		Total Forfeitures	
Low	High	Number	Percent	Dollars	Percent	Number	Percent	Dollars	Percent
150,001	200,000	1	0.02%	154,491	1.37%	0	0.00%	0	0.00%
125,001	150,000	0	0.00%	0	0.00%	0	0.00%	0	0.00%
100,001	125,000	0	0.00%	0	0.00%	1	0.02%	112,809	8.23%
75,001	100,000	2	0.05%	179,599	1.60%	1	0.02%	81,491	5.95%
50,001	75,000	7	0.17%	440,371	3.91%	1	0.02%	67,110	4.90%
25,001	50,000	47	1.12%	1,595,125	14.17%	9	0.22%	331,640	24.20%
15,001	25,000	87	2.08%	1,663,295	14.78%	12	0.29%	218,232	15.92%
10,001	15,000	117	2.80%	1,421,557	12.63%	15	0.36%	176,220	12.86%
5,001	10,000	337	8.05%	2,344,966	20.84%	27	0.65%	199,189	14.53%
1,001	5,000	1,118	26.71%	2,717,246	24.15%	57	1.36%	152,964	11.16%
501	1,000	544	13.00%	386,708	3.44%	30	0.72%	22,899	1.67%
251	500	578	13.81%	210,816	1.87%	21	0.50%	7,600	0.55%
0	250	1,348	32.20%	139,151	1.24%	4,012	95.84%	276	0.02%
		4,186	100.00%	$11,253,325	100.00%	4,186	100.00%	$1,370,429	100.00%

HONEY LOANS & PAYMENTS..PROGRAM YEAR 1992

PRODUCERS WITH LOANS, PAYMENTS, FORFEITURES > 0

FREQUENCY DISTRIBUTION

RANGE		PAYMENTS				FORFEITURES			
		Count of Participants		Total Payments		Count of Participants		Total Forfeitures	
Low	High	Number	Percent	Dollars	Percent	Number	Percent	Dollars	Percent
150,001	200,000	1	0.03%	184,062 [1]	1.67%	0	0.00%	0	0.00%
125,001	150,000	0	0.00%	0	0.00%	0	0.00%	0	0.00%
100,001	125,000	0	0.00%	0	0.00%	0	0.00%	0	0.00%
75,001	100,000	1	0.03%	96,005	0.87%	0	0.00%	0	0.00%
50,001	75,000	8	0.23%	481,071	4.37%	0	0.00%	0	0.00%
25,001	50,000	50	1.44%	1,683,133	15.31%	1	0.03%	35,739	17.53%
15,001	25,000	84	2.42%	1,558,883	14.18%	4	0.12%	78,105	38.32%
10,001	15,000	121	3.48%	1,481,346	13.47%	2	0.06%	23,981	11.76%
5,001	10,000	343	9.86%	2,387,778	21.71%	5	0.14%	33,200	16.29%
1,001	5,000	1,044	30.03%	2,564,919	23.32%	9	0.26%	28,687	14.07%
501	1,000	433	12.45%	315,402	2.87%	5	0.14%	3,453	1.69%
251	500	436	12.54%	158,218	1.44%	1	0.03%	479	0.24%
0	250	956	27.49%	85,679	0.78%	3,450	99.22%	194	0.10%
		3,477	100.00%	$10,996,496	100.00%	3,477	100.00%	$203,839	100.00%

[1]According to USDA, this figure represents payments to a joint venture in which two persons are eligible for separate payment limitations.