



**Conference Report to Accompany
Food, Agriculture, Conservation, and Trade
Act of 1990
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Part 11 of 14

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TITLE XIV—CONSERVATION

SHORT TITLE

*Subtitle A—Highly Erodible Land Conservation**(1) Conservation Compliance and Set-Aside Acres, Ineligibility*

The Senate bill alters the existing definition of an agricultural commodity to make set-aside land subject to conservation compliance. Current law defines an agricultural commodity as a crop that is planted and produced by annual tilling of the soil. The Senate changes this definition by adding any agricultural commodity "considered planted" under an acreage reduction program authorized by title I of the Agricultural Act of 1949. (Section 1231)

The House amendment achieves the same purpose through altering what constitutes a violation of conservation compliance. The House requires any highly erodible land that is set-aside or diverted to be covered by a conservation compliance plan. (Section 1601(a)(1))

The Conference substitute adopts the House amendment. (Section 1411)

(2) Benefits Subject to Denial

The House amendment adds to the list of benefits subject to denial under the conservation compliance program, including: disaster assistance payments for weather damaged trees; Agricultural Conservation Program payments; Emergency Conservation Program payments; Conservation Reserve Program payments; Wetland and Environmental Easement Program payments; and assistance under the Small Watersheds Program. (Section 1601(a))

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment that deletes the House provision making wetland reserve payments subject to denial. (Section 1411)

(3) Implementation of Compliance Plans, Post-Conservation Reserve

The Senate bill gives an owner or operator up to two years to implement their conservation plan after the conservation reserve contract period has ended, if the plan requires the construction of structures. (Section 1220)

The House amendment requires conservation plans to be fully implemented on lands leaving the conservation reserve not later than 2 years after the date on which the contract expires or such longer period of time as determined appropriate by the Secretary if such plan requires structures to be constructed. (Section 1603)

The Conference substitute adopts the Senate provision with an amendment. An owner or operator may be given more than 2 years to meet their conservation compliance plan on lands leaving the conservation reserve if the plan requires structures and if it is not technically or economically feasible for such structures to be built in this period of time.

The Managers intend for owners or operators whose lands are leaving the conservation reserve who plan to return to crop production to be actively implementing their conservation plans, whether

such plan requires management practices or structures. Actively implementing means implementing according to the schedule established in the plan. The amount of time that may be necessary for implementing a plan with structures may be more than that for a management oriented plan, and it is for this reason 2 years, or more if necessary, is given to implement structures.

(4) Treatment of Conservation Reserve Lands After Contracts Expire

The Senate bill establishes that highly erodible lands in the conservation reserve shall be subject to section 1211 of the Food Security Act of 1985. (Section 1220)

The House amendment establishes that highly erodible lands in the conservation reserve shall be subject to subtitle B of the Food Security Act of 1985. (Section 1603)

The Conference substitute adopts the House provision. (Section 1412)

(5) Conservation Compliance and Set-Aside Acres, Exemptions

The House amendment makes technical amendments that conform with making set-aside and diverted land subject to conservation compliance. (Section 1610)

The Senate bill has no comparable provision.

The Conference substitute adopts the House amendment. (Section 1412)

(6) Tenant-Landlord Ineligibility

The Senate bill gives the Secretary the authority to limit, under certain circumstances, a tenant's ineligibility due to non-compliance with a conservation plan under the conservation compliance program. These circumstances are: 1) if the tenant has made a good faith effort to obtain a reasonable compliance plan; 2) the landowner refuses to allow the tenant to comply with such a plan; and 3) the county committee determines that there is no scheme or device. Under these circumstances, the Secretary may grant this variance to the ineligibility requirements. (Section 1232)

The House amendment contains essentially the same provisions as the Senate bill, except that in addition to the action of the landlord, if another tenant on the farm refuses to comply with the plan on the farm, this variance can apply. The House also requires the Secretary to make the determination of the presence of a scheme or device, and to make an annual report to Congress concerning any variances made during the year. (Section 1601)

The Conference substitute adopts the Senate provision with amendments that require the Secretary to make the determination of the presence of a scheme or device, and to make an annual report to Congress concerning any variances made during the year. (Section 1412)

The Managers note that the House included the actions of another tenant in their provision because of concerns over the fairness of penalizing one tenant for the actions of another person on the same farm over which the tenant has no control. A great deal of confusion has been present in regards to exactly how conservation compliance is applied to a farm that is divided into multiple fields and has multiple tenants.

Current law provides that the landlord and tenant on other fields on a farm where a conservation compliance violation occurs shall be ineligible for all USDA benefits. The ineligibility is applicable whether or not the field in violation could have earned USDA benefits, and is applicable to any other farm that the landlord and tenant farm. This has been unfair to many tenants, where the landowner refuses to take action to be in compliance and the tenant has no authority to take the required action.

The Department has interpreted current law, as it applies to other tenants on a farm where a violation occurs, so that such other tenants are not found ineligible for benefits on the farm where the violation occurs. Such other tenants are also not ineligible on any other farms so long as such tenants do not share in the crop produced on the field in violation. The Managers are in complete agreement with this interpretation.

For example, assume that Individual A owns a farm (Blackacre) with 3 separate fields. Individual A leases field 1, 2, and 3 to Individuals B, C, and D respectively for a share of the crop produced on each respective field. Individual B also farms another field on a different farm (which is not owned by A). Individual A refuses to take the necessary actions on field 1 to bring such field into compliance with the conservation compliance provisions of the law. B has attempted to get A to take the necessary actions. The Secretary has determined that B has made a good faith effort to comply with conservation compliance and is not participating in a scheme or device to evade the conservation compliance provisions.

Under current law, Individuals A and B are both ineligible for USDA benefits no matter where they are earned. Individuals C and D are eligible for USDA benefits both on Blackacre and on any other farm where they earn benefits. Under the Conference substitute, Individual A is ineligible for USDA benefits no matter where they are earned. Individual B is ineligible for USDA benefits on Blackacre, but is eligible for benefits on any other farm where he is a producer. Individuals C and D are eligible for USDA benefits both on Blackacre and on any other farm where they earn benefits.

The effect of the Conference substitute is to correct the inequity which occurs when the violation is a result of the landowner refusing to take action on his land. In such case, the Managers intend that the tenant shall be ineligible for USDA benefits only on that particular farm which contains the field where the violation occurs, but not on any other farm where the tenant may be earning USDA benefits. The intent is not to open a loophole in these provisions and the Managers expect the Department to strenuously enforce the requirements in the amendment for determining good faith and for dealing with actions which are determined to be a scheme or device to evade compliance with these conservation provisions.

(7) Graduated Sanctions

The Senate bill provides for a graduated sanction, under limited circumstances, to violators of conservation compliance. Violations of a conservation compliance plan that are minor and technical in nature and do not prevent future compliance with the plan, as written, are not subject to commodity program benefits denial. A

producer otherwise found to be in violation once in ten years, where such violation occurred in good faith, may be eligible for a graduated sanction of \$750-10,000, depending on the seriousness of the violation. Also, any person who loses crop program benefits in any one crop year shall be eligible for such payments in subsequent crop years if the plan is being actively applied before the beginning of these years, and other requirements are met. (Section 1235)

The House amendment is similar to the Senate provision except that: (1) a violation can occur once in every 5 years if the producer acted in good faith; or (2) failure to comply could be due to circumstances beyond the control of the producer; or (3) the producer can be given a temporary variance by the Secretary in order to deal with a specific problem; and (4) the loss of program benefits will range from \$375 to \$2500. (Section 1601)

The Conference substitute adopts the House provision with amendments changing the schedule of sanctions to \$500 to \$5000. Other technical amendments are also made, and incorporates the Senate provision regarding violations with minimal effects. (Section 1412)

(8) Preparation of New Plans

The Senate bill directs the Secretary to provide information on all cost-effective erosion control options available to producers as compliance plans are prepared in the future. The Secretary is also directed to provide information on planting flexibility and other base adjustment possibilities that may allow a farmer to comply with a conservation plan. (Section 1233)

The House amendment requires the Secretary to provide information on planting flexibility, base adjustment possibilities and conservation assistance options that may allow a farmer to comply with a conservation plan.

The Conference substitute adopts the Senate provision with an amendment that directs the Secretary to provide information on cost-effective erosion control options available to producers, and not on "all" such measures. (Section 1412)

The Managers note that producers may seek to modify their conservation compliance plans for several reasons over the life of this Act. Plans will need to be adjusted as a producer's crop enterprise mix or the machinery complement changes. When a producer purchases or leases new farmland for crop production purposes, a new plan for such land will be needed. A vast number of the conservation plans written to date rely on residue management as the sole means for achieving their erosion reduction objectives. The Managers intend that, as producers seek to modify their plans, the Secretary encourage producers to adopt other cost-effective erosion control practices, including contour farming and strip cropping.

One foreseeable reason producers might seek to modify their plans is the new "triple base" provision in this Act. Triple base requires that 15 percent of an acreage reduction program participant's crop acre base be ineligible for program payments. This 15 percent is in addition to whatever percent reduction is required under the set-aside program. These triple base acres may be planted to non-fruit and non-vegetable crops, with full economic use. As a result, many producers will change substantially their crop enter-

prises and rotations as they seek the most profitable combination for their farms. Such rotations have the potential for further helping producers economically achieve conservation compliance erosion control objectives on their farms. The Managers intend that the Secretary utilize this potential when working with producers as they seek to modify their conservation plans to reflect such new rotations.

(9) Non-Commercial Production of Agricultural Commodities

The Senate bill establishes that conservation compliance will not apply to 2 acres of cropland or less when the area is used for non-commercial production. (Section 1234)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment which states that this variance shall not be allowed if it somehow contributes or leads to the circumvention of the farm's conservation plan. (Section 1412)

(10) Erosion Reduction Goal

Current law requires that compliance plans are to be based on the practices contained in the field office technical guides. The House amendment adds to current law that compliance plans meet a 50% reduction in erosion from that level that would occur if conservation measures were not applied, unless the Secretary determines such reduction is not feasible. (Section 1601)

The Senate bill has no comparable provision.

The Conference substitute adopts the Senate provision, deleting the House provision. The Managers agree that the erosion reduction standard that producers with highly erodible land must meet in implementing a conservation plan shall not exceed those standards in effect upon the day of enactment of this Act and established in accordance with the Food Security Act of 1985. The Secretary should apply feasible technical and economic standards at the local level that do not cause undue hardship when establishing the requirements for measures to be included in conservation compliance plans. Alternative conservation systems should continue to be offered to producers as a means of achieving the goals of this program.

(11) Payments and Base Acres for Resource Conserving Crops

The House amendment permits up to 25% of a producer's base to be planted to a resource conserving crop as part of a conservation compliance plan and still be eligible for base acre protection and deficiency payments. Under limited circumstances haying and grazing is permitted while still receiving program benefits, but in general no haying or grazing is allowed. (1603)

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision.

Subtitle B—Wetland Conservation

(12) Wetland Definition

The House amendment places into statute a definition of wetlands that is consistent with the current definition, but emphasizes

that for the land in question: 1) the frequency of inundation or saturation by surface or groundwater is sufficient to support hydrophytic vegetation; and 2) under normal circumstances supports such wetland vegetation. (Section 1602)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1421)

The Managers note that there has been considerable confusion and controversy generated by attempts to apply the provisions of Subtitle C of Title XII of the Food Security Act of 1985. The provisions of this section, while restating the three characteristics that apply to a wetland, are not intended to indicate a change, in any way, in the intent of the original provision.

Wetland possess three essential characteristics: (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology, which is the driving force creating all wetland. The Managers intend that the three criteria for identifying the specific characteristics of a wetland must all be met for an area to be identified as wetland for the purposes of this section. Wetland generally include swamps, marshes, bogs, prairie potholes, and other similar areas.

The Managers' intent continues to be that an agricultural area cannot be designated a wetland on the basis of a single characteristic (e.g., the predominance of hydric soils). All three criteria must be satisfied in order for an area to be designated a wetland. The Managers do not intend that designations be made solely on the basis of the existence of a single characteristic. All three characteristics must be present to arrive at a wetland designation, unless interrupted by temporary weather conditions or if hydrophytic vegetation has been removed by farming or ranching practices.

When evaluating agricultural land to determine the presence or absence of wetland, the Managers recognize that agricultural lands are disturbed areas and must be viewed in that context. Cropping practices that can result in the removal of hydrophytic vegetation, or other conditions such as temporary drought or excessive moisture, can complicate the process of identifying wetland.

The Managers also reaffirm that unconverted wetland acreage may continue to be farmed without penalty, when conditions permit, and so long as the producer does not drain, dredge, fill, or level the farmed wetland so as to cause its conversion.

The Managers recognize that a farmed wetland often will not exhibit hydrophytic vegetation, since the act of cultivation will frequently remove such vegetation. In that regard, the Managers intend the term "under normal circumstances" to mean that a prevalence of hydrophytic vegetation must be present to allow a wetland designation unless such vegetation has been removed, or if disturbed by farming, ranching, or related activities, or eliminated as the result of unusual natural events and a determination made that hydrophytic vegetation would have been present but for the disturbance.

The Managers intend that the term "prevalence of hydrophytic vegetation" refers to a condition in which, "under normal circumstances", a majority of the plant life species present require saturated or inundated soil conditions, as well as those that can toler-

ate saturated or inundated soil conditions but are capable of surviving in upland areas.

The Managers further intend that the term "frequency and duration" of inundation or saturation required in the definition of the term "wetland" means that permanent or periodic inundation, or soil saturation to the surface, exists during a significant portion of the growing season, conforming the hydrology of the area to the wetland definition, and that this condition occurs in years of normal precipitation. Such condition may also exist seasonally. The Managers do not intend that land subject to infrequent flooding or occasional, brief pooling, such as from abnormally heavy rains or unusually heavy snowmelt, be construed to meet the hydrological requirements of a wetland.

(13) Benefits Subject to Denial

The House amendment adds to the list of benefits subject to denial, including: disaster assistance payments for weather damaged trees; Agricultural Conservation Program payments; Emergency Conservation Program payments; Conservation Reserve Program payments; Wetland and Environmental Easement Program payments; and assistance under the Small Watersheds Program. (Section 1602)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment that deletes the House provision making wetland reserve payments subject to denial. (Section 1420)

(14) Timing of Violation

The Senate bill establishes that a swampbuster violation is deemed to have occurred at either the point of planting an agricultural commodity on a converted wetland, or after the date of enactment of this Act, at the point of converting a wetland for the purpose of, or to have the effect of making possible, the production of a commodity. (Section 1286)

The House amendment is essentially identical to the Senate bill (House language replaces "date of enactment of this Act" with "December 23, 1985". (Section 1602)

The Conference substitute adopts the House provision with technical amendments. (Section 1421)

(15) Wetland Delineation

The House amendment directs the Secretary to delineate wetland on a map and to make a reasonable effort to make an on-site wetland determination whenever requested by an owner or operator. The Secretary is also directed to provide notice to affected owners or operators, to certify each map as sufficient evidence for the purpose of making determinations of ineligibility for program benefits under section 1221, and to provide an opportunity to appeal the delineations to the Secretary prior to the certification. The Secretary also must maintain a public listing of all completed certifications. (Section 1602)

The Secretary is directed to review and certify the accuracy of the mapping of all lands mapped prior to the date of enactment of the Food and Agricultural Resources Act of 1990 for the purpose of

wetland delineations to ensure that wetland on such lands have been accurately delineated. The Secretary must provide by regulation a process for the periodic review and update of wetland delineations, as determined appropriate by the Secretary.

Persons are exempted from being adversely affected because of having taken an action based on a previous determination by the Secretary.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with amendments. The House requirement for the review of all lands mapped for wetland delineation purposes prior to enactment of this Act is deleted. All maps will be certified, as required in the House provision, and such maps may be appealed, but no appeal will be allowed on maps completed prior to the date of enactment of this Act that had not been changed, and where such maps had already been appealed and for which an on-site visit had been conducted. (Section 1602)

The Managers agree that the certification process is to provide farmers with certainty as to which of their lands are to be considered wetlands for purposes of Swampbuster. The Managers note that the current USDA wetland delineation process involves the use of substantial materials to make an initial determination in the field office, developed in consultation with other appropriate Federal and State agencies. Wetlands identified in this process are delineated on maps which are then mailed to producers for review. If the producer finds such map to be in error, and the USDA agrees that an error has been made, then the map is corrected. If the USDA does not agree that there is an error in the map, and the producer continues to believe so, then the producer may appeal such determination.

The Managers find that this process is adequate for certification of any new maps delineated after the date of enactment of this Act. For maps completed prior to the date of enactment of this Act, the Managers intend for producers to be notified that their maps are to be certified and that they have some appropriate time for appeal. In this circumstance, producers who had not already been mailed their maps should be given a map for their review. As stated in the Conference substitute, the Secretary shall not be required to provide an opportunity for an appeal on maps completed prior to the date of enactment of this Act where such maps have not been changed, and had already been appealed and for which an on-site visit had been conducted. After the appropriate length of time for allowing an appeal has expired, the Managers intend for the Department to certify such maps.

The Managers note also that the Conference substitute has adopted a provision which specifies that no person shall be adversely affected because of having taken an action based on a previous determination by the Secretary. It is the intent of the Managers that a person shall not be considered to have been adversely affected except to the extent that, consistent with customary USDA practice for granting relief of that kind, the person involved was acting in good faith reliance on the mis-determination made on behalf of the Secretary.

Such determinations would include determinations by state, county, or other offices of the Department. This would mean that if the person involved knew or should have known in the normal course of business that the Department's determination was erroneous, that person will not be considered to have been adversely affected by the previous determination.

In addition, the Managers intend that the relief granted should only be that relief necessary to correct for the actual effect of the erroneous determinations. In some cases, however, the necessary relief will include, to the extent determined to be appropriate, relief for subsequent crop years, such as in the case where there has been a substantial good faith investment based on the erroneous determination. The Secretary may require such mitigation or such modification of the previous determination as may be appropriate consistent with the adopted provision.

(16) Exemptions

The House amendment modifies and adds to the exemptions in current law. The "natural conditions" exemption is restated so that a person is exempt from swampbuster for agricultural activities on a wetland on which a farmer or rancher uses normal cropping or ranching practices that are consistent for the area as a result of natural conditions without actions by the producer that destroys a natural wetland characteristic.

Producers are also made exempt for the conversion of an artificial lake, pond or wetland created from a non-wetland area for various purposes including various aspects of food production, livestock management and flood control. (Section 1602)

The Senate bill has no comparable provision.

The Conference substitute adopts the House amendment. (Section 1422)

(17) On-site Inspection Requirement

The House requires the Secretary to conduct on-site visits prior to the denial of program benefits. (Section 1602)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1422)

(18) Prior loans

The House amendment establishes that loans made before December 23, 1985 shall not be subject to denial under swampbuster. (Section 1602)

The Senate bill has no comparable provision.

The Conference substitute adopts the House amendment. (Section 1422)

(19) Non-wetlands

The House amendment establishes that persons are exempted from the ineligibility provisions of swampbuster for any action upon lands that the Secretary determines do not have a predominance of hydric soils, are not inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in

saturated soil conditions, or do not, under normal circumstances, support a prevalence of such vegetation. (Section 1602)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1422)

(20) Minimal Effects

There is no difference between the Senate bill and the House amendment. (Section 1286) (Section 1602)

The Conference substitute adopts the Senate provision. (Section 1422)

(21) Mitigation

The Senate bill permits a producer to drain a frequently cropped wetland and not become ineligible for program benefits if the producer mitigates this drainage through the restoration of a wetland converted prior to December 23, 1985. This restoration must occur in advance of, or be concurrent with, the drainage of the frequently cropped wetland. The restoration must be in accordance with an approved restoration plan, and not be at the expense of the Federal Government. The restored wetland is to provide equivalent wetland functions and values, and shall be on not more than a one-for-one acreage basis unless more acreage is needed. The restoration must be in the same general area as the wetland that is to be converted. (Section 1286)

The producer must also agree to protect the restored wetland for as long as the converted wetland remains in cropland, or is not returned to its original wetland classification.

The House amendment is similar to the Senate bill, except that permanent easement protection for the wetland created in the mitigation process is required. The House amendment also provides for a person to appeal any mitigation plan that requires more than a 1 acre for 1 acre wetland restoration. (Section 1602)

The Conference substitute adopts the House provision with an amendment. Wetlands restored as part of a mitigation plan shall be protected by an easement for as long as the converted wetland remains in agricultural use, or is not returned to its original wetland classification. No alteration or modification will be allowed on such restored wetlands that lowers the wetland functions and values. (Section 1422)

The Managers do not intend, in providing for appeal of a mitigation plan requiring more than one restored acre for each converted acre, to allow more than one appeal of the technical aspects of such a plan. A producer is not to be afforded the right to appeal the one-for-one requirement, and then appeal a second time the other technical requirements of the plan. The area restored must have been converted or commenced to be converted by December 23, 1985.

The Managers intend that the mitigation sites be located as close to the actual wetland loss as is practicable. However, it is recognized that a flexible approach to location of such mitigation sites will be necessary to ensure that opportunity to effectively mitigate is present in any given instance. Requiring mitigation within "the same general area of the local watershed" means the mitigation would be required to take place within the hydrologically defined

watershed in which the loss is to occur. The topography and characteristics of the area should be similar and the restored wetlands approximate the values of the areas being converted for which mitigation is taking place. The Committee expects the agencies to define such areas, in each instance, to include relatively large geographic areas measured in the tens of thousands of acres and not in terms of each small tributary that may cross a field. At the same time, the Managers intend that the agencies are to keep the mitigation site as close to the converted area as practicable. Should a conversion occur along the fringe of a watershed boundary, the location of the mitigation site in the adjacent watershed also relatively near the fringe of that watershed would be consistent with this intent.

(22) Graduated Sanctions

The Senate bill continues the existing sanctions except under limited circumstances. A person who violates the wetland conservation provisions while acting in good faith, and who has not violated these provisions more than once in the last 10 years, and agrees to restore the wetland, shall be denied program benefits of a value ranging from \$750 to \$10,000, depending on the seriousness of the violation.

A producer who has converted a wetland and is in violation in one crop year shall not be in violation in subsequent crop years if the producer restores the converted wetland. All determinations and the development of restoration plans shall be made at the local level with concurrence with the concurrence of the Fish and Wildlife Service. Provisions are made for resolving disputes that might occur at the local level. (Section 1286)

The House amendment is identical to the Senate bill, except that it is not necessary for the violator to restore the converted wetland. The violator must restore the characteristics of the converted wetland. (Section 1602)

The Conference substitute adopts the House amendment, with an amendment. The graduated sanctions provisions are made retroactive to violations that occurred prior to the date of enactment of this Act, if such violations fully meet the requirements of this provision. (Section 1422)

The Managers note that the statutory language requires the producer to actively and fully restore the characteristics of the converted wetland to its prior wetland state. Full restoration is not intended to mean the exact replication of the original wetland, including its physical dimensions or distribution of vegetation.

The Managers note also that different periods of time are necessary for fully restoring different wetlands' functions and values. It could take several decades for restored hardwoods in a bottomland area to reach pre-conversion maturity. In such a case, the Managers do not intend that the trees must reach full pre-conversion maturity before the producer can be eligible for the graduated sanction and future program benefits. The full restoration of other wetlands can take much less time than for a bottomland area, although full restoration may not be possible immediately. Simply plugging a drain or breaking a tile can restore the necessary hydrology of some wetlands, but time is required for herbaceous hy-

drophytic vegetation to reappear. The Managers do not intend for full restoration to mean immediate restoration. Rather, the producer is to take such steps as are necessary for such wetland functions and values to be fully restored within a period of time that is physically and biologically appropriate.

(23) Determinations, Restoration Plans and Monitoring

There is no difference between the Senate bill and the House amendment. (Section 1286) (Section 1602)

The Conference substitute adopts the Senate provision. (Section 1422)

(24) Consultation

The House amendment directs the Secretary of Agriculture, in addition to current consultation requirements, to consult with the Secretary of Interior on determinations with respect to mitigation and the restoration of wetland values and functions on converted wetland as required under swampbuster. (Section 1602)

The Senate bill has no comparable provision.

The Conference adopts the House amendment. (Section 1422)

(25) Fairness of Compliance, Actions of Unrelated Persons

The House amendment establishes that if, without prior approval, the actions of an unrelated person or public entity causes a person's cropland to change characteristics and be classified as a wetland, this new wetland shall not be considered a wetland for swampbuster purposes. (Section 1602)

The Senate bill has no comparable provision.

The Conference substitute adopts the House amendment. (Section 1422)

Subtitle C—Agricultural Resources Conservation Program

(26) Conservation Stewardship Program General Authority

The Senate bill establishes that the Conservation Stewardship Program (CSP) will be implemented through contracts and the acquisition of easements to assist owners and operators in the protection of highly erodible lands, other fragile lands, and wetlands. The program is intended to conserve and improve the soil and water resources of the farms or ranches of participating owners and operators. (Section 1211)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that changes the program title from the CSP to the Agricultural Resources Conservation Program (ARC). (Section 1431)

(27) Crop Year

The House amendment defines crop year for CRP purposes as that calendar year in which harvest occurs. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment that puts the conservation reserve program on a calendar year basis. (Section 1431)

(28) Number of Acres

The Senate bill directs the Secretary, through the 1995 crop year, to enroll at least 40 million but not more than 50 million. When determining whether or not to exceed 40 million acres, the Secretary is to take into consideration commodity prices and various supply and demand factors, all of which are indicators of whether there will be an adequate supply of commodities for domestic, export, and reserve needs. (Section 1211)

The House amendment has no comparable provision.

The Conference substitute adopts the House provision, with an amendment. The Secretary is directed to enroll a minimum of 40 million acres, and has the authority to enroll as many as 45 million. (Section 1431)

The Managers do not intend for the ARC to retire excessive amounts of productive cropland, nor unduly diminish economic activity in rural areas. It is important that the U.S. crop production sector maintain adequate cropland capacity to meet domestic and export needs while providing sufficient protection against the variability in yields due to weather. It is also important that sufficient cropland remain in use in rural areas that are highly dependent on agriculture to maintain these areas' economies.

The Managers believe that enrolling 40 million acres into the ARC will not diminish the Nation's ability to meet domestic and export needs and economic activity in rural areas. When considering enrolling more than 40 million acres into the ARC, the Managers intend for the Secretary to consider, in addition to budgetary concerns: (1) whether such enrollments would threaten our ability to maintain adequate commodity stocks and to meet domestic and export needs; (2) the consequences of such enrollments on the economic health and vitality of rural communities.

The Managers recognize that there are limited funds available for the conservation activities authorized in the ARC, and that it may be fiscally impossible to expand the number of acres beyond 40 million, even if crop supply and demand, and local economic conditions, would permit such expansion.

(28) Implementation

The Senate bill establishes that the CSP shall consist of conservation reserve land and the WRP. Acreage that was enrolled into the conservation reserve before enactment of this title will be considered CSP land. (Section 1211)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that reflects the new name for the program, ARC. (Section 1431)

(29) Environmental Conservation Acreage Reserve Program

The Senate bill renames the conservation reserve to the environmental conservation acreage reserve.

The House amendment retains the existing name for the conservation reserve.

The Conference substitute adopts the House amendment. (Section 1432)

(30) Newly Eligible Lands

The Senate bill makes eligible for the conservation reserve, in addition to those lands already eligible, land that is not otherwise eligible for the program if such land will be used as: (1) a shelter-belt or windbreak, or permanent contoured grass strip or for some other similar purpose to avoid or mitigate soil loss or an on- or off-farm environmental threat; (2) land that is pastureland and that is environmentally sensitive, economically marginal and sustainable for tree planting if such land is devoted to trees. (Such lands will not be available for any other non-CRP cost-share assistance and the Secretary may establish a reasonable limit on the number of acres per farm of these lands that can be enrolled); and (3) lands that will ameliorate or prevent an on- or off-farm threat to water quality, including wellheads, Karst lands, section 319 watersheds, areas critical to threatened or endangered species. (Section 1213)

The House amendment makes eligible for the conservation reserve highly erodible croplands that if permitted to remain in production should substantially reduce the production capability of future generations or croplands that cannot be farmed in accordance with a conservation compliance plan. Also made eligible are marginal pasturelands converted to wetland, established as wildlife habitat, or established to trees in or near riparian areas. Marginal pasturelands planted to trees are not to exceed 10% of the acreage enrolled into the program during 1991 to 1995. (Section 1603)

The House amendment also makes eligible lands that would otherwise not be eligible that are: (1) water quality lands; (2) croplands that are newly created permanent grass sod waterways or contour grass strips maintained as part of an approved conservation plan; (3) to be planted to trees, living snow fences, permanent wildlife habitat, windbreaks, shelterbelts and filterstrips; (4) farmed wetlands; and (5) lands that pose an off-farm environmental threat or threat to productivity because of salinization. Lands on which the Secretary has prevented the production of agricultural commodities shall be considered planted for the purposes of determining eligibility for the conservation reserve.

The Conference substitute adopts the House provision with amendments. Farmed wetlands are not made explicitly eligible for the program. Marginal pasturelands to be planted to trees are also made eligible if enrolling such lands will result in water quality benefits similar to those from enrolling such lands in or near riparian areas. Shelterbelts, windbreaks and living snow fences are also eligible, but participants must agree to an easement on these plantings for their useful life, where such period of time will extend beyond the paid contract period. In addition, the Secretary is directed to not enroll lands into the conservation reserve for water quality purposes if these same purposes can be achieved under the water quality incentives program. (Section 1432)

In not making farmed wetlands explicitly eligible for the conservation reserve, the Managers are expressing their preference for seeing such lands enrolled into the wetland reserve. Farmed wetlands are implicitly eligible for the conservation reserve under the 1985 Food Security Act, and have been made administratively eligible since the eighth conservation reserve sign-up in 1989. The Man-

agers intend that farmed wetlands will no longer be admitted into for the conservation reserve, at least until such time it is conclusively determined the wetland reserve will not substantially meet its goal.

The wetland reserve restores and protects eligible lands, including farmed wetlands, by placing a 30 year or permanent easement on these lands, or an easement of the maximum length allowed under state law. The Managers believe that such long term or permanent protection for these areas is greatly preferred over the shorter, ten year contracts of the conservation reserve.

The Managers believe that farmers will want to participate in the wetland reserve, and if it is actively implemented and promoted, the program should be fully successful. In the event that the wetland reserve proves unable to reach at least one-third of its 1 million acre goal by 1995, farmed wetlands could once again be made eligible for the conservation reserve. Such a decision should not be made by the Secretary until the wetland reserve has been in operation for a full 3 years. By allowing for the possible enrollment of farmed wetlands into the conservation reserve, the Managers do not intend for the wetland reserve to be implemented so as to reduce the likelihood of its success.

The Managers intend, in making marginal pasturelands converted to wetlands eligible for the reserve, only to make eligible those marginal pasturelands that were converted to wetlands, prior to the date of enactment of this Act, as a result of natural processes or Acts of God. The intent is not to allow persons to convert a marginal pastureland and then enroll such lands into the reserve. The intent also is not to make eligible for the program marginal pasturelands that have been converted to wetlands through the actions of an outside party, even if that party is unrelated to or acted without the knowledge or approval of the person seeking to enroll such lands. Rather, in those limited instances where abnormal rainfall or other weather-related or geologic process caused marginal pastureland to flood and remain flooded indefinitely, such marginal pasturelands shall be eligible for the conservation reserve.

The Secretary is directed in the Conference substitute to not enroll land for water quality purposes if the land can be effectively treated under the water quality incentives program. The Managers note that this provision is included because of the recognition that it is more efficient and cost-effective to alter, where possible, cropping management activities to achieve conservation goals than it is to remove environmentally sensitive lands from production and compensate the farmer for the lost economic activity.

The Managers recognize that there are circumstances where a management program will not be effective, and the retirement of the cropland in question is the only option available for achieving water quality goals. The lands made eligible for the conservation reserve for water quality purposes under these circumstances are broadly defined. The Managers intend that the majority of the land enrolled under such circumstances will be the types of land, or located within the areas made eligible for the agricultural water quality incentives program. The Managers intend that the Secretary consult and work with the Federal and state authorities identified in the eligible lands section of the water quality incentives

program when implementing the conservation reserve for water quality purposes.

(31) Acreage Goal

The Senate bill directs the Secretary to enroll as many acres into the conservation reserve that are needed to meet the CSP goal of 40 million acres by the end of 1995. (Section 1212)

The House amendment directs the Secretary to enroll up to 45 million acres by 1995. (Section 1603)

The Conference substitute adopts the House amendment with an amendment that requires the Secretary to manage the ARC so as to ensure that there will be 1 million acres available for the enrollment of non-WRP lands into the CRP in each of the years 1994 and 1995.

The Managers note that the conferees, in ensuring a total of 2 million acres will be available for enrollment into the conservation reserve in 1994 and 1995, intend to provide a buffer that can be used to enroll highly erodible lands that cannot be treated with a conservation plan under the conservation compliance program. Although non-highly erodible, non-wetlands reserve lands can be enrolled under these 2,000,000 acres, the Managers intend that highly erodible lands not able to meet conservation compliance be given priority for entry into the reserve under this buffer.

(32) Contract Period and Easements (S 1214; H 16 08) [sec 1434]

The Senate bill gives the Secretary the authority, in addition to that already existing for 10-15 year contracts, to purchase 30-year or permanent conservation easements, at the option of the land owner or operator. The Secretary is directed to attempt to use permanent easements in implementing the conservation reserve, to the extent practicable. Owners or operators are to be paid no more than the fair market value of the land for these easements. (Section 1214)

The House amendment directs the Secretary to enter into contracts of 10 years, but authorizes the owner or operator to extend to a term not to exceed 15 years any new or existing contract on land to be devoted to hardwood trees. The Secretary is also authorized to terminate an existing CRP contract if the land is entered into the environmental easement program. (Section 1608)

The Conference substitute adopts neither provision, although similar provisions are retained in the Conference substitute in different parts of the bill. The Managers note that the House amendment includes a program for the establishment of long-term or permanent environmental easements which the Conference substitute adopts in the environmental easement program (see below). The Managers intend for those lands that might have been granted an easement under the Senate's easement modification to the conservation reserve be entered into this new program. The Managers do not intend, by not adopting here the House's tree planting incentives, to indicate lack of support for such provisions. The Conference substitute adopts in another part of the conservation reserve a Senate provision regarding 10-15 year conservation reserve contracts for hardwood trees and other plantings. The Managers believe this is an important incentive to help get more hardwood

trees and other important types of plantings established under the conservation reserve, and intend that this contract option should be promoted by the Department and used by farmers to its full capacity. (Section 1432)

(33) Conservation Priority Areas

The Senate bill directs the Secretary to take into consideration watersheds such as the Chesapeake Bay where water quality is significantly adversely affected by agriculture, and where there are State programs designed to address these problems. The Secretary is directed to attempt to maximize water quality and habitat benefits in these watersheds using whatever means the Secretary determines to be appropriate and consistent with the program. (Section 1218)

The House amendment also directs the Secretary, upon application by the appropriate state agency, to designate watershed areas of the Chesapeake Bay Region, the Great Lakes Region, the Long Island Sound Region, and other environmentally sensitive areas as conservation priority areas. Such priority designation shall last 5 years, or until water quality and wildlife in the area are no longer adversely affected by agriculture. (Section 1603)

The Secretary is also directed to ensure that participation in these priority areas is at least equal to 50% of the national average of participating acres to eligible acres. The Secretary is to achieve this by: (1) providing a one-time cash bonus or an annual rental premium for eligible lands; (2) accepting filter strips of less than 66, but not less than 25 feet in width; (3) contracts of 5-15 years; (4) paying up to 50% of costs of establishing conservation practices; and (5) promoting participation in any other manner the Secretary deems appropriate.

The Conference substitute adopts the House provision regarding conservation priority areas, and directs the Secretary to attempt to maximize water quality and habitat benefits in these watersheds using whatever means the Secretary determines to be appropriate and consistent with the program. (Section 1432)

(34) Duties of Owners and Operators

The House amendment requires conservation reserve participants to implement a plan for all eligible lands, not just highly erodible land (as in current law), to a less intensive, conserving use. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1432)

The House amendment requires conservation reserve participants to establish approved vegetative cover or water cover for the enhancement of wildlife on CRP lands. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment which prohibits the use of such water cover for watering livestock, irrigating crops or the raising of fish for commercial purposes. (Section 1432)

The House amendment allows limited fall and winter grazing on conservation reserve land where such grazing is incidental to the

gleaning of crop residues on the fields in which the land is located. Participants must accept an applicable reduction in rental payment. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1432)

The Senate bill establishes that a producer who has land in the conservation reserve and who also busts sod shall be denied future conservation reserve benefits, return all earlier payments, and be denied all of the other Federal farm program benefits that are subject to denial under the highly erodible land provisions of the 1985 Food Security Act. (Section 1212)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. A conservation reserve participant who has entered the reserve after the date of enactment of this Act and subsequently purchases highly erodible grassland and converts such lands to cropland use shall be denied future conservation reserve payments and shall refund or accept adjustments to rental and cost share payments received previously. (Section 1433)

(35) Trees and Other Environmental Uses on CRP Land

The House amendment establishes that, to the extent practicable, not less than one-eighth of the land that is placed in the conservation reserve during the 1991 through 1995 crop years shall be devoted to trees, shrubs, hydrophytic vegetation, critical area seedings, or other non-crop vegetation or water that provides a permanent habitat for wildlife including migratory waterfowl. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment that strikes "hydrophytic vegetation" and "critical area seedings", and that such lands "may" be devoted to these uses. Other technical changes are made. (Section 1433)

(36) Alley Cropping

The Senate bill authorizes the Secretary to permit agricultural commodities to be planted between the rows of trees on conservation reserve lands, if the trees are hardwoods, and the rental payments paid by the Federal Government are reduced by at least 50 percent. The total amount of dollars expended by the Federal Government on any contract that is modified according to this subsection shall not exceed what would have been expended if no modification had been undertaken. (Section 1220)

The House amendment has a similar provision. (Section 1603)

The Conference adopts the Senate provision. (Section 1433)

(37) Foreclosure

The Senate bill establishes that a conservation reserve participant who loses his or her reserve land as a result of foreclosure may be relieved of the requirement that 100% of rental payments be repaid, plus interest, if the Secretary determines such forgiveness is necessary to provide fair and equitable treatment. If the participant regains this land after foreclosure within the original

contract period, the original contractual obligations will still apply to the participant until the end of the term of the contract. (Section 1221)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1433)

(38) Payments

The House amendment directs the Secretary not to make any cost share payments to a participant to the extent that such payment, when added to all of the other sources of cost share assistance received by the participant, exceeds 100% of the total costs of establishing the associated practices. Other technical changes are made. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1434)

(39) Payments for Maintenance Costs

The Senate bill directs the Secretary to continue to pay 50 percent of the costs of establishing conservation cover on conservation reserve lands. The Secretary is also directed to pay 50 to 75 percent of the maintenance costs of hardwood trees, shelterbelts and windbreaks, for a 2 to 4 year period commencing from the date a tree is planted. These maintenance costs shall include those of replanting trees, if the trees were lost due to factors out of the control of the owner or operator. If more than 10 acres are to be planted to hardwood trees, the planting of these trees may be extended over a 3 year period, as long as one-third of the trees are planted in each of the first two years. (Section 1216)

The House amendment directs the Secretary to pay, for acreage planted to indigenous trees, 50-75% of the costs of establishing trees, taking into consideration the amount necessary to ensure that the acreage levels planted to trees specified in section 1231 are attained, and authorizes cost share assistance for the establishment of windbreaks, shelterbelts, wildlife corridors, and filter strips and other costs incurred by the owner or operator for maintaining new tree plantings (including the cost of replanting, cultivation, nutrient needs, and disease and insect control) during the 2 to 4 year period beginning on the date the acreage is planted to trees, as determined by the Secretary. (Section 1604)

The Conference substitute establishes 2 to 4 year 50 percent cost-share assistance for the maintenance of hardwood trees, shelterbelts, windbreaks, or wildlife corridors. (Section 1434)

The Managers do not intend for the Secretary to be required to cost share for any activities and their costs that the Secretary determines not to be appropriate and in the public interest. For example, the Secretary is not to be required to make cost share payments for activities with per acre costs that are in excess of the fair market value of the land, or are otherwise excessive.

(40) Staggered Tree Planting

The Senate bill authorizes the Secretary to permit participants who contract to convert at least 10 acres of land to the production

of hardwood trees under this subtitle to extend the planting of such trees over a 3-year period if at least one-third of such trees are planted in each of the first 2 years. (Section 1216)

The House amendment contains a similar provision, but is applicable only to indigenous trees. (Section 1603)

The Conference substitute adopts the Senate provision. (Section 1434)

(41) Cost Share Limitation

The House amendment prohibits a participant from receiving cost-share assistance from any other Federal cost-share assistance with respect to the land. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1434)

(42) Acceptability of Offers

The Senate bill adds to the considerations established in current law, directing the Secretary to give priority to offers that would provide for the greatest public benefit, and to take into consideration the potential benefits to wildlife. (Section 1218)

The House amendment authorizes the Secretary to: (1) take into consideration the extent to which enrollment of the land would improve soil resources, water quality, or provide other environmental benefits; (2) accept contract offers for the establishment of shelterbelts, windbreaks, or living snow fences or permanently vegetated stream borders, filter strips of permanent grass, forbs, shrubs, and trees that will substantially enhance water quality; and (3) establish different criteria in various States and regions to determine the extent to which water quality may be improved or erosion may be abated. (Section 1603)

The Conference substitute adopts the House provision with amendments. The conferees add wildlife habitat as one additional environmental benefit to consider when accepting contract offers. (Section 1434)

The Managers intend that the Secretary compare the lands seeking enrollment into the reserve, and enroll those lands with the highest conservation and environmental benefits relative to the costs of enrolling such land.

(43) Continuous Sign-Up

The Senate bill directs the Secretary to permit bids for entry into the conservation reserve to be accepted on a continuous basis if such lands are to be planted to hardwood trees. (Section 1216)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1434)

(44) Payments

The House amendment establishes that program payments made to a participant who is also participating in a special State conservation reserve enhancement program shall be made in cash only. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1434)

The House amendment established that in addition to all payments received by participants, they may also receive rental, cost-share and tax benefits from a State for participating in the conservation reserve. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1434)

(45) Sequestration

The House amendment establishes that notwithstanding any other provisions of law, CRP payments will not be subject to sequestration. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1434)

The Managers believe that Section 252 of the Gramm-Rudman Act already exempts payments under long-term contracts of the Commodity Credit Corporation (CCC) from sequestration. The Managers believe also that Section 252 exempts payments under any CCC contract from any subsequently issued sequester order, whether or not there has been an earlier sequester order. Therefore, the amendment should not be needed.

However, differing views have been expressed as to the applicability of a sequester order to payments made under the conservation reserve. Accordingly, in order to clarify this matter, the Conference substitute adopts the provisions of the House bill. It should be noted that the adoption of this amendment is not intended to suggest that other payments under other CCC multi-year contracts are sequestrable. Farmers should be assured that long-term payments agreed to be made by the CCC in return for a committed land use will not be sequestered. It is doubtful that these programs could operate at all without such certainty.

(46) Conversion to Trees and Wetlands

The Senate bill directs the Secretary to permit conservation reserve participants whose reserve lands are in grass to convert these lands to hardwood trees, shelterbelts, windbreaks, or wetlands, and in some case to extend the period of the contract so that its total length may reach 15 years, or in the case of wetlands, convert the contract to long term or permanent easements. Lands so converted to shelterbelts and windbreaks shall be covered by an easement that extends beyond the length of the conservation reserve contract for the useful life of the planting, as determined by the Secretary. The Secretary shall pay 50% of the costs of establishing these hardwoods, windbreaks or shelterbelts. (Section 1215)

The House amendment authorizes the Secretary to permit conservation reserve participants to convert highly erodible grass acres to indigenous trees. The Secretary may not incur any expense on such acres, including the expense involved in the original establishment of the vegetative cover, that is in excess of the average per acre indigenous tree planting expense in the same area. The participant is permitted to extend the term of contract to a

term of no more than 15 years. The Secretary may decline to cost share where the cost would be excessive in light of the overall program goals. Participants must agree to participate in the Forest Resources Stewardship Program established under section 4 of the Cooperative Forestry Assistance Act of 1978. (Section 1604)

The Conference substitute adopts the Senate provision with an amendment. Emphasis shall be placed on planting hardwood species that are indigenous to the area which is being converted to trees. The amendment establishes that the Secretary may not incur any expense on these new plantings and wetlands, including the expense involved in the original establishment of the vegetative cover, that is in excess of the average per acre expense for the comparable practice in the same area. Cost share assistance shall also be made available for the establishment of wildlife corridors on these converted acres.

The Conference also adopts the House provision which requires recipients of these special tree planting incentives to enroll into the Forest Stewardship Program, as established in this Act. (Section 1435)

The Managers do not intend for the Secretary to be required to cost share for any activities and their costs that Secretary determines to not be appropriate and in the public interest. For example, the Secretary is not to be required to make cost share payments for activities with per acre costs that are in excess of the fair market value of the land, or are otherwise excessive.

(47) Extended Base Protection

The Senate bill gives the Secretary the authority to extend for as long as the Secretary decides is appropriate, the protection of crop acreage bases, quotas and allotments on conservation reserve lands after the contracts expire if the owner or operator agrees to continue to keep the land in the appropriate conserving uses. (Section 1220)

The House amendment is similar to the Senate provision except that the extension is not indefinite, but is for 10 years. Also, the Secretary may permit haying and grazing of acreage placed in the conservation reserve for the purpose of meeting any requirement established under the Act except during any consecutive 5 month period that is established by the State committee. Each of these 5 month periods must be established during the period beginning April 1 and ending October 31 of a year. In the case of a natural disaster, Secretary may permit unlimited haying and grazing on such acreage, and authorizes the Secretary to reduce or terminate the amount of cropland base and allotment history when a violation of all these conditions occurs. (Section 1603)

The Conference substitute adopts the House provision with an amendment that changes the length of time that the base acreage or allotment is protected from 10 years to indefinitely. (Section 1436)

(48) Study of Land Use for Expiring Contracts

The Senate bill requires the Secretary to undertake a study of the lands currently in the conservation reserve to determine what are the best options available for dealing with these lands when

their contracts expire. The study is to include such subjects as the tradeoffs between providing incentives to producers to keep some of these lands out of production versus allowing them to return to production, various levels of post-conservation reserve economic use in exchange for conservation practices, and the use of easements to preserve conservation cover. The Secretary is to provide such report to Congress no later than December 31, 1993. (Section 1222)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers note that one of the more important conservation issues the Nation must address in this decade will be how to treat conservation reserve lands as their contracts expire. The expiration of conservation reserve contracts will have far-reaching effects on the effectiveness and costs of commodity supply control programs and conservation programs like conservation compliance and the Department's water quality initiative. Lands leaving the reserve will also have substantial effects on the crop and livestock sectors, and the regional and rural sectors of the economy. Numerous issues need to be examined before Congress can formulate policies for the conservation reserve lands beyond 1995.

The Managers intend that the Secretary assemble a broad, multidisciplinary study team that can provide a practical and useful document for policy-making purposes. The disciplines participating should include natural resource managers, economists, commodity program specialists, and biologists, among others. Many of the agencies within the Department have practical experience with implementing and analyzing this program, and the Managers intend for this expertise to be drawn upon. The regional effects of the CRP can vary considerably, and as a result this team also should include, from affected regions, persons able to provide region specific detail and relevant analysis. (Section 1437)

(49) Extensions

The Senate bill authorizes the Secretary to extend conservation reserve contracts, or purchase conservation easements during crop years 1996-2000. Lands eligible for such extensions or purchases are to be determined on the basis of the results from the study required in the Senate bill. The participating owner or operator may select either the easement or the multi-year contract for this land. (Section 1222)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that establishes that conservation reserve contracts may be extended for only 10 years after the initial contracts end. Other technical changes are also made. (Section 1437)

(50) Enrollment

The House amendment directs Secretary to provide opportunities for enrollment into the reserve, and give public notice of such opportunities. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision.

(51) Bid-Back Program

The Senate bill establishes a bid-back program where the least highly erodible land in the conservation reserve could leave the program if there are other highly erodible lands waiting to be enrolled. The net result of such an exchange of lands is to be the same or greater reduction in erosion savings, at the same or less total cost to the Federal Government. (Section 1217)

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(52) Ownership Requirement

The Senate bill waives the conservation reserve's three year ownership requirement for lands that are administered, as of the 1987 Agriculture Credit Act Amendments of 1987, by a Farm Credit System institution, by the Secretary under the Consolidated Farm and Rural Development Act, or a private lender. The Secretary shall make payments only to family farmers who purchase or lease the cropland administered by these institutions, except that the Secretary shall not give preference to family farmers when there are offers to enroll land from persons who otherwise meet the conservation reserve ownership requirements. In this case, the Secretary shall give priority to these latter owners or operators. (Section 1219)

The House has no comparable provision.

The Conference substitute deletes the Senate provision.

(53) Ownership Requirement, Transfer of Land, and Technical Changes

The House amendment prohibits the continuation of an agreement by a new owner after a conservation reserve agreement has been entered into if the original owner retains a contingent interest in the land as determined by the Secretary. The option of continuing the original contract is denied the new owner or operator. Numerous other technical changes are also made. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision.

(54) Post-CRP Erosion Standard

The Senate bill requires highly erodible land that enters the conservation reserve after the date of enactment of this Act to meet the soil loss tolerance standard for purposes of conservation compliance, except that the Secretary may specify a different standard if such standard is not feasible. (Section 1220)

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(55) Economic Use on CRP Lands

The House amendment directs the Secretary to modify or waive a term or condition of any conservation reserve contract in order to permit sustained-yield harvesting of timber or related resources by the participant during the last 3 years of the contract period if the owner or operator agrees to permanently retire the cropland base and allotment history applicable to the land. The Secretary shall

provide additional compensation to such an owner or operator. In this context, sustained yield shall mean the harvesting of timber or related resources in a manner that will provide for the long-term productivity of such resources and not result in the degradation of water quality or related resources in the area. Limited economic uses on conservation reserve lands at the end of the contract period. (Section 1603)

The House amendment also requires the Secretary to modify or waive a term or condition of any conservation reserve contract in order to permit sustained-yield harvesting of timber or related resources by the owner or operator of the land during the last 3 years of the contract period if the owner or operator agrees to permanently retire the cropland base and allotment history applicable to the land, and to provide additional compensation to such an owner or operator.

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision.

(56) Technical and Conforming Amendments

The Senate bill makes technical changes, whereby references to the conservation reserve shall be considered to mean the environmental conservation acreage reserve program. The program shall be called the Environmental Conservation Acreage Reserve Program. (Section 1225)

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(57) CRP Payments

The House amendment directs the Secretary to base annual payments according to comparable land rental rates. (Section 1603)

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision.

Wetlands Reserve Program

(58) Establishment

The Senate bill directs the Secretary to establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands. (Section 1223)

The House amendment directs the Secretary to conduct a wetland and environmental easement program during the 1991 through 1995 crop years, through perpetual easements or easements for the maximum term permitted under applicable State law. Easements shall be purchased from willing owners of eligible land in order to ensure the continued long-term protection of environmentally-sensitive lands or the reduction in the degradation of water quality on such lands through conservation and improvement of soil and water resources. (Section 1608)

In addition, the Secretary shall also establish under this easement program, the national agricultural wetland reserve.

The Conference substitute adopts the Senate provision, establishing a wetlands reserve, and retains the environmental easement program that does not include easements for wetlands. (Section 1438)

(59) Number of Acres

The Senate bill directs the Secretary to enroll, to the extent practicable, not less than 1 million acres during the 1991 and 1995 crop years. (Section 1223)

The House amendment does not establish an overall environmental easement program. The Secretary is directed to seek to enroll 2.5 million acres during 1991-1995 fiscal years. (Section 1608)

The Conference substitute adopts the Senate provision with amendments. The acreage goal is changed from not less than one million acres to one million acres. The Secretary is also directed to enroll: in 1991 no more than 200,000 acres; in 1991 to 1992, no more than 400,000; in 1991-1993, no more than 600,000 acres; in 1991-1994, no more than 800,000 acres; and in 1991-1995, 1 million acres. The Secretary is directed to place lands into the reserve through the purchase of easements. The wetland reserve is placed on a calendar year basis. (Section 1438)

The Managers intend that if it becomes apparent in 1994 that the wetland reserve is not growing in size and will not meet substantially the 1,000,000 acre goal by 1995, that some of the remaining acres available for the wetland reserve may be used to enroll highly erodible lands into the conservation reserve. The Managers do not want the wetland reserve acres to be used for this purpose if it is possible that the 1,000,000 acre goal could be reached if enrollments were authorized to take place in 1996 and 1997.

(60) Eligible acres

The Senate bill makes eligible farmed wetlands and wetlands converted before Dec 23, 1985, if there is a high probability that these areas can be successfully restored to wetland status relative to the cost of such restoration. Other wetlands may be eligible if they add to the functional value of wetlands restored on the same property under this program. Eligible lands shall include appropriate buffer areas. Lands shall be determined eligible by the Secretary, in consultation with the Soil Conservation Service and the Fish and Wildlife Service. (Section 1223)

The House amendment authorizes the Secretary to acquire easements on land placed in the conservation reserve (other than land that is likely to remain out of production and does not pose an off-farm environmental threat), Water Bank Land or other cropland that:

- (1) is farmed wetland;
- (2) is adjacent to wetland that is functionally dependent on such cropland;
- (3) is wetland converted prior to December 23, 1985, the restoration of which is important for the protection of water quality or wildlife;
- (4) contains riparian corridors that link wetlands or adjacent water bodies;
- (5) is an area of critical habitat for wildlife; or
- (6) contains other environmentally-sensitive areas, as determined by the Secretary, that would prevent a producer from complying with other Federal, State, or local environmental

goals if commodities were to be produced on such lands. (Section 1608)

The House amendment does not allow the Secretary to acquire: (1) land that contains timber stands established under the conservation reserve; or (2) pasture land established to trees under the conservation reserve. In establishing the wetland reserve, the Secretary, in consultation with the Secretary of the Interior, shall place priority on acquiring easements based on the value of the easements for the protection of wetlands and associated areas and the value of the easement for enhancing habitat for migratory birds and other wildlife. The Secretary may convert any existing conservation reserve contract into an easement under this program.

The Conference substitute adopts the Senate provision with amendments. The Secretary is required to consult with the Secretary of the Interior, at the local level, on determinations of eligibility for the reserve. The program will be conducted on a calendar year, rather than a crop year, basis. Also added to the Senate provision is the House provision that makes eligible farmed wetlands enrolled into the conservation reserve, including adjoining upland habitat areas, that are likely to return to crop production after they leave the conservation reserve and have the highest wetland functions and values. (Section 1438)

The Conference substitute also amends the Senate provision to add the House provision making riparian areas eligible for the program if such areas link wetlands that are protected by an easement, or some other device or circumstance that achieves protection similar to an easement. The House provision making certain timber-covered lands ineligible for the reserve is also adopted. Also included is the provision allowing for the conversion of an existing conservation reserve contract on farmed wetlands to an easement under this program.

The Conference substitute also adopts the House provision establishing the priority for enrolling lands for migratory bird and wildlife habitat purposes, incorporating such provision in the acceptance of offers section of the wetland reserve program.

The Managers intend for the Soil Conservation Service and the Fish and Wildlife Service to use professional judgement when selecting riparian areas for entry into the wetland reserve.

The Managers intend for the consultation between the Secretary and the Secretary of the Interior at the local level to be technical in nature, and will largely involve the Soil Conservation Service and the Fish and Wildlife Service. The Fish and Wildlife Service leads the Federal government in expertise and experience in the restoration and protection of wetlands, and the Managers believe it is important that the Department draw upon this expertise when determining whether or not to accept lands into the program.

The Managers do not intend for this consultation to unnecessarily delay the enrollment of lands into the reserve. The Soil Conservation Service's current procedures for making a minimal effect determination allows the Fish and Wildlife Service 15 days to comment. The Managers believe 20 working days is sufficient time for consultation to determine eligibility for the wetland reserve.

The Managers intend for the wetland reserve to restore and protect converted and farmed wetlands, achieving as significant an increase in wetland functions and values as are possible and practical. Of lesser importance is the protection of existing wetlands that already have relatively high wetland functions and values, and the Managers do not intend for such lands to receive priority for entry into the reserve. At the same time, there may be valuable wetlands in the conservation reserve that are threatened with conversion after their contracts expire. In such a case, these wetlands, including adjacent upland habitat, are made eligible for the wetland reserve. The Federal government will already have paid for the restoration of these wetlands under the conservation reserve, so that the Managers intend for few additional restoration expenditures to be made when entering these lands into the reserve.

The Conference substitute has retained the Senate provision making otherwise ineligible wetlands eligible if they are located on a property where wetlands are being restored and entered into the reserve. The incorporation of these existing wetlands is intended by the Managers only for the purpose of adding significantly to the functional values of the easement. For example, physically linking existing wetlands and adjacent upland habitat with the restoration of other wetlands and habitat can create an extremely valuable easement. The Managers do not intend for large sums to be expended when acquiring easements on existing wetlands, particularly when they are subject to little or no pressure from development.

(61) Easements and Wetland Easement Conservation Plan

The Senate bill establishes that in order to enter the reserve, the owner of the land must allow an easement to be placed on the lands. The easement shall provide for the restoration and protection of wetlands, according to a Wetland Easement Conservation Plan. The plan shall be developed by the Soil Conservation Service, in concurrence with the Secretary of the Interior and the approval of the participating landowner. Unless otherwise permitted by the plan, the plan shall prohibit: (1) alteration of wildlife habitat and other natural features; (2) crop production or timber harvest; (3) grazing of livestock; (4) spraying of chemicals or mowing, except where necessary to comply with pest treatment laws; and (5) activities on adjacent lands if they will degrade the wetland. (Section 1223)

The plans shall permit: (1) such activities necessary to maintain existing public drainage systems; and (2) wildlife activities, including hunting and fishing, if permitted by participant.

The plan shall also: (1) specify how the area will be effectively restored; (2) permit the participant to control public access; and (3) contain such other terms and conditions as are agreed to by the Secretary and participant.

In general, these wetlands may be used for compatible economic uses (i.e., hunting, fishing, managed timber harvest, periodic haying) if specified in the plan and consistent with maintaining the quality of the wetland. (Section 1223)

The House amendment requires a natural resource management plan, developed by the Secretary, in consultation with the Secretary of the Interior. In such plan, the participant must agree to: (1)

specify the location of any timber harvesting (the harvest and sale of Christmas trees and nuts shall be prohibited, although any customary forestry practices (pruning, thinning, or stand improvement) on lands converted to forestry are permitted); (2) limit the production of any commodity to only those that benefit wildlife; (3) not to conduct harvesting or grazing (or otherwise make commercial use of the forage) unless specifically provided for in the easement agreement, nor adopt any similar practice specified in the agreement that would tend to defeat the purpose of the subtitle; and (4) not to adopt any other practice specified in the agreement that would tend to defeat the purpose of the subtitle, as determined by the Secretary. (Section 1608)

The natural resource management plan shall also set forth: (1) the conservation measures and practices to be carried out; (2) the commercial use, if any, that is to be permitted under the easement. (Section 1608)

The Conference substitute adopts the Senate provision with amendments. The plan shall be developed by Soil Conservation Service in concurrence at the local level with the Fish and Wildlife Service. As for Swampbuster, if concurrence cannot be reached at the local level, the decision is to be made by the Soil Conservation Service State Conservationist, in consultation with the Fish and Wildlife Service. Reports are required from both State-level officials when the State Conservationist must make the determination. (Section 1438)

As for the consultation required with the Secretary of the Interior when determining the eligibility of lands for the reserve, the Managers do not intend for this concurrence to unnecessarily delay the development and adoption of these plans. Unless unusual circumstances make more time necessary, the Managers intend for the Fish and Wildlife Service to have 20 working days to concur with the plan.

The Conference substitute also amends the Senate provision by altering the prohibition of certain activities on lands adjacent to the easement, where such prohibitions are made to apply to the participating landowner's land, or the successor's land. Certain activities relating to weed control are allowed if specifically permitted in the plan. In general, haying and grazing, along with other economic uses, are to be permitted on the easements where such activities are compatible with maintaining the functions and values of the wetlands. The Senate provision is also amended by including three other House provisions: (1) the plans may include such other provisions as the Secretary determines to be appropriate; (2) the plans shall not permit the adoption of any practices which defeat the purposes of the subtitle; and (3) the easement shall be created and appropriately recorded, in accordance with applicable State law.

(62) Length of Easement, Rate of Compensation

The Senate bill requires that the easements be in recordable form, and that they may be permanent or 30 years in length. (Section 1223)

The House amendment establishes that the easements shall be perpetual or to the maximum length allowable under State law. (Section 1608)

The Conference substitute adopts the Senate provision, with an amendment. Easements shall be for 30 years or permanent, or to the maximum extent allowed under State law. (Section 1438)

The Senate bill establishes that the compensation for the granting of the easement is to be made in cash, be based on the value of the property, and may be determined through a bid process. Compensation may not be provided in less than 5, nor more than 20 annual payments, and may be of either equal or unequal size. In the case of permanent easements, one lump sum payment may be made.

The House amendment establishes that the Secretary is to provide payment or obligations: (1) for cost sharing payment, as soon as possible after the obligation is incurred; and (2) with respect to any annual easement payment, as soon as possible after October 1. The Secretary may use such means as are appropriate to determine the amount to be paid for the easements, and in making this determination, may consider the amounts necessary to encourage owners to participate in the easement program.

The Conference substitute adopts the Senate provision with an amendment that establishes the value of the payment for the easement to be the fair market value of the pre-encumbered land, less the fair market value of the land encumbered by the easement.

The Senate bill requires the owner and or the operator of the land is to comply with the terms of the easement.

The House amendment establishes duties of owners, requirements of the plans, the consequences of violating the terms of the agreement, and provides for the permanent retirement of base acres and allotment history.

The Conference substitute adopts the Senate provision, with amendments from the House provisions, adding the consequences of violating the terms of the agreement, and the permanent retirement of base acres and allotment history. All payments may be lost in the event of a violation, not just the cost share payments.

In the event of a violation, the Managers intend that the easement will remain in effect against the owner or successor, unless otherwise provided in the Conference substitute.

The Senate bill directs the Secretary to give priority to obtaining permanent conservation easements, to the extent practicable.

The House has no comparable provision.

The Conference substitute adopts the Senate provision, moving it into the acceptability of offers section.

The Senate bill establishes that the Secretary is to compensate an owner for granting an easement to the secretary, and that the Secretary shall provide cost share assistance for the restoration costs on lands covered by the easement.

The House amendment establishes that the Secretary must: (1) share the cost of conservation measure establishment and practices for which cost sharing is appropriate; (2) pay annual easement payments for a period up to 10 years up to an aggregate maximum of the lesser of \$250,000 or the value of the land without an easement; (3) provide necessary technical assistance; and (4) permit the land

to be used for wildlife activities, including hunting and fishing, if such use is permitted by the owner.

The conference substitute adopts the House provision with an amendment that deletes the \$250,000 cap, and technical amendments that combine the 3 other House provisions.

The House amendment requires that payments shall be made in cash and in advance of the determination of performance. If a participating owner dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person who fulfills the requirements of the program, without regard to any other provision of law the Secretary shall make payments to such person in a fair and reasonable in light of all of the circumstances.

The House amendment also requires the maximum amount of easement payments to a person is \$50,000 per fiscal year. Person is to be defined in regulation, and shall conform, to the extent practicable, to the general payment limitation regulations. The Secretary is to prescribe such rules necessary to ensure a fair and reasonable application of this payment limitation.

The House amendment also provides that the easement payments received by a participant are in addition to, and do not affect, the total amount of payments that the owner is otherwise eligible to receive under the Food Security Act of 1985, the Food and Agricultural Resources Act of 1990, or the Agricultural Act of 1949. This payment limitation does not apply to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under a special wetland and environmental easement enhancement program carried out by that entity that has been approved by the Secretary. The Secretary may enter into agreements for payments to States, the the Secretary determines will advance the purposes of the program.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with amendments. No annual payment limitation shall be applicable when granting a permanent easement.

The Senate bill directs the Secretary to give priority to obtaining permanent conservation easements, to the extent practicable. In giving such a priority, the Secretary is to take into consideration costs and future food needs.

The House amendment directs the Secretary, in establishing the wetland reserve, to consult with the Secretary of the Interior, and place priority on acquiring easements based on the value of the easements for the protection of wetlands and associated areas and the value of the easement for enhancing habitat for migratory birds and other wildlife. The House amendment also authorizes the Secretary, in determining the acceptability of easement offers, to may take into consideration: (1) the contribution of the land to the purposes of the program; (2) the productivity of the land; and (3) the on- and off-farm environmental threats of the land if used in agricultural production.

The Conference substitute adopts the Senate provision and the House provisions.

The House amendment establishes that easement payments are exempted from sequestration.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision.

As discussed previously in connection with a similar provision for the conservation reserve, this provision is not believed to be needed but has been adopted because of differing views expressed in the past as to the applicability of a sequester order to payments made under long-term conservation contracts of the Commodity Credit Corporation (CCC). This provision is not intended to suggest that other payments made under other CCC multi-year contracts are sequestrable.

The Senate bill directs the Secretary to pay 50-75% of the costs of restoring wetland on 30 year easements, and 50-100% of costs for permanent easements. Such payments shall be for the costs of: (1) restoring eligible lands to wetland status; (2) protecting these restored wetlands; and (3) complying with the plan.

The House amendment requires the Secretary to pay up to 100% of the cost of conservation measure establishment and other related practices.

The Conference substitute adopts the Senate provision with an amendment. Cost share rate shall be 50 to 75 percent for any easement less than permanent, and from 50 to 100 percent for permanent easements.

(63) Ownership Requirements

The House amendment establishes that no easement is allowed on land that has changed ownership in the year preceding such acquisition unless the new ownership was acquired by will or as a result of death, or was acquired before January 1, 1990, or if the Secretary determines that the land was acquired under appropriate circumstances. (Section 1608)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1438)

(64) Modifications of Easement and Agreement

The House amendment authorizes the Secretary to modify an easement or associated agreement if the current owner agrees to such modification, and the Secretary determines that such modification is desirable and otherwise appropriate. The Secretary may terminate an easement if the participant agrees and the Secretary determines that the termination would be in the public interest. The Secretary shall provide written notice to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 90 days after taking any action to terminate easements entered into under this subtitle. (Section 1608)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1438)

(65) Delegation of Easement Authority

The Senate bill allows the Secretary to delegate easement management, monitoring and enforcement responsibilities to other appropriate Federal or State agencies. (Section 1223)

The House amendment has no comparable provision (Section 1608)

The Conference substitute adopts the Senate provision. (Section 1438)

(66) Regulations

The Senate bill establishes that regulations for the program shall be established in 180 days. (Section 1223)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1438)

Agricultural Water Quality Incentives

(67) Policy

The House amendment states the policy of Congress is that water quality protection, including source reduction of agricultural pollutants, henceforth shall be an important goal of the programs and policies of USDA. Agriculture producers in environmentally sensitive areas should request assistance to develop and implement plans. (Section 1607)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1439)

(68) Definitions

The House amendment defines agricultural water quality protection practice and source reduction. (Section 1607)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1439)

(69) In General

The Senate bill establishes that, in general, the program incentives are to encourage major reductions in the potential for contamination or degradation of surface water or ground water, emphasizing practices that enhance farm profitability and productivity. (Section 1224)

The House amendment directs the Secretary to formulate and carry out a voluntary incentive program during the 1991 through 1995 crop years through agreements to assist owners and operators of a farm in development and implementing a water quality protection plan. (Section 1607)

The Conference substitute adopts the House provision. (Section 1439)

The Managers believe that source reduction is an important component in agriculture water quality protection efforts and intend that, in administering the water quality incentive program adopted by the Conference, the concept of source reduction should be viewed as an important means to achieve the overall goal of improving water quality or other natural resources. Source reduction itself should not be viewed as a goal independent of water quality improvement or other environmental objectives but instead provides a means of pollution reduction. In the case of animal waste,

efficient and effective management practices such as manure containment, composting, or processing are among the modifications of agricultural systems and practices that might be useful in minimizing the discharge of agricultural pollutants.

(70) Contracts

The Senate bill directs the Secretary to enter into contracts with participants. The contracts shall: (1) incorporate the Farm Water Quality Management Plan; (2) specifically describe the practices to be implemented or avoided to achieve the plan's objectives; (3) provide to the maximum extent possible and consistent with the goal of achieving a major reduction in the potential for contamination, for practices that enhance the profitability and productivity of participating farms; (4) establish a schedule for plan implementation; (5) specify performance standards; and (6) specify the obligations of the Secretary. (Section 1224)

The Senate bill requires that payments shall be made under the contract for a period of not less than 3 and no more than 5 years, as determined appropriate by the Secretary. The contract shall require the participant to maintain the practices for not less than 5 years for which a payment is received. (Section 1607)

The House amendment directs the Secretary to enter into agreements of up to 5 years upon the request of eligible persons. Participants must agree: (1) to implement a water quality protection plan; (2) to not conduct certain inappropriate practices; (3) to comply with additional provisions as are desirable and necessary; (4) on violation of the agreement, to refund any incentive or cost share payment received with interest and forfeit any future such payments, as determined by the Secretary; and (5) on the transfer of right in land, unless transferee agrees to assume all obligations, to refund any such cost-share and incentive payments received, as determined by the Secretary.

The Conference substitute adopts the House provision with amendments. Added to the House provision is the Senate requirement that payments be made for 3 to 5 years. (Section 1439)

(71) Wetland and Wildlife Options

The House amendment establishes that participants who voluntarily agree to develop and implement agricultural production practices, in concert with their water quality protection plan, that preserve and enhance wetland or wildlife habitat, are eligible to receive cost-share assistance for the implementation of such practices. (Section 1607)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with amendments. The Secretary shall develop procedures for approving agricultural practices that preserve and enhance habitat, and are consistent with the objectives of the water quality protection plan. The Secretary is to encourage practices that are designed to preserve and enhance, not restore, existing wetland. (Section 1439)

The Managers note that the primary purpose of the water quality incentives program is to promote the protection of water quality. The wildlife or wetland option of the water quality program is intended to provide additional incentives for practices that can con-

tribute to the preservation and enhancement of wetland functions and values, and the associated wildlife benefits. This option is not the primary goal of the program. The Managers intend for the practices authorized under this option to be consistent with the water quality objectives of the program.

(72) Duties of the Secretary

The House amendment establishes the duties of the Secretary, where the Secretary is to assist the participant by: (1) assessing the operation for eligibility for the program; (2) provide technical assistance in developing the plans; (3) provide annual incentive payments; (4) provide cost share assistance for wetland and wildlife habitat purposes; and (5) ensuring that participants receive adequate information to implement the plan. (Section 1607).

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with amendments. The Secretary will not have to ensure the participant receives adequate information to implement the plan, but rather shall provide participants with such information. The Secretary also shall encourage participants to obtain cost-share assistance under other Federal, State or local programs. (Section 1439)

(73) Payments

The Senate bill establishes that the Secretary shall make annual acreage-based incentive payments to reimburse producer for the costs of the practices in the plan. (Section 1224)

The House amendment directs the Secretary to provide an annual incentive payment for implementing these practices. (Section 1607)

The Conference substitute adopts the House provision. (Section 1439)

The Senate bill establishes that annual incentive payments are to be made on a per acre basis in amounts sufficient to encourage participation in the program in sufficient numbers to achieve an improvement in ground or surface water quality. Payments shall not exceed \$3500 for any crop year. These payments shall not be considered when calculating payment limitations under any other USDA program, except that payments may not be provided under this program if payments are available for the same practices under any other federal program. A lump sum payment covering the term of the contract is possible if it enables the participant to pay initial costs of implementing a practice required under the contract.

The House amendment establishes that the Secretary shall make up to 5 years of cost share payments for up to 50 percent of the cost, and incentive payments, as determined appropriate by the Secretary taking into consideration the amount necessary to encourage participation, additional costs to the producer, and the production values forgone, if any. Payments to a participant are limited to no more than \$3500 per year in incentive payments, and not more than an additional \$1500 per person per year in the form of cost share assistance. Payments received are in addition to, and do not affect, the total amount of payments the participant receives in other USDA programs, except payments may not be made if pay-

ments or assistance is provided for the same practice under any other Federal program.

The Conference substitute adopts the House provision with amendments. Cost share assistance for wildlife purposes is limited to \$1500 per person per contract period. The Senate provision allowing for lump sum payments is added to the House provisions.

(74) Modification and Termination

The Senate bill provides that revisions of the water quality plan are possible if: (1) natural causes prevent performance under the contract; (2) the contract no longer reflects practices suitable for the farm operation; (3) the contract cannot be carried out without losses that threaten the viability of the farm operation; or (4) the participant and the Secretary agree to changes that permit the plan to meet the objectives of the program. (Section 1224)

The House amendment establishes that the Secretary may modify an agreement if the participant agrees to such modification and the Secretary determines that the modifications are desirable. The Secretary may terminate an agreement if: (1) producer agrees or violates the agreement; and (2) the Secretary determines termination is in public interest. (Section 1607)

The Conference substitute adopts the House provision, adding the Senate provisions regarding natural causes preventing performance, the threat of economic losses, and agreement between the participant and the Secretary to change the plan. (Section 1439)

(75) Refunds

The Senate bill establishes that if a participant fails to comply, all incentive payments received under the program, plus interest, must be repaid. (Section 1224)

The House amendment establishes that participants must agree: (1) on violation of the agreement, refund any incentive or cost share payment received with interest and forfeit any future such payments, as determined by the Secretary; and (2) on the transfer of right in land, unless transferee agrees to assume all obligations, to refund any such cost-share and incentive payments received, as determined by the Secretary. The Secretary shall obtain refunds of payments with interest if an agreement is terminated unless it is determined by the Secretary not to be in the public interest to seek a refund. (Section 1607)

The Conference substitute adopts the House provision with an amendment that requires a refund if the agreement is terminated, or violated. Payments shall be refunded to the extent determined by the Secretary to be in the public interest. (Section 1439)

(76) Base and Yield Protection

The House amendment establishes that participants shall be eligible for program payment yield and base protection on the farm during the agreement period. (Section 1607)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision. (Section 1439)

(77) Acreage

The Senate bill directs the Secretary to attempt to place acreage into the program in an amount sufficient to enable the Secretary to achieve an improvement in ground and surface water quality. (Section 1224)

The House amendment directs the Secretary to enroll 20 million acres, to the extent practicable, in 1991-1995 crop years. (Section 1607)

The Conference substitute adopts the House provision with an amendment changing the goal of the program from 20 million acres, to the extent practicable, to 10 million acres, to the extent possible. The program will be on a calendar year rather than a crop year basis. (Section 1439)

(78) Content of Plans

The Senate bill establishes that participants must develop and implement a Farm Water Quality Management Plan. Such plans must include specific goals and objectives to ensure a major reduction in potential for contamination or degradation of surface or ground water by pollutants associated with agricultural production. (Section 1224)

The House amendment establishes that the agricultural water quality protection plans should include as applicable, but not be limited to: (1) a description of the prevailing characteristics of the farm including information relevant to protecting water quality; (2) a description of the farms natural resources; (3) to the extent practicable, specific, quantitative water quality protection goals and objectives that will minimize contamination or degradation of surface or ground water; (4) a range of water quality protection practices that, where appropriate, complement conservation compliance; (5) the specific agricultural production practices that will be implemented; (6) to the extent practicable, water quality protection practices for safe storage, mixing and loading of pesticides and fertilizers, and storage and handling of animal waste; (7) the timing and sequence for implementing such practices; and (8) information that will enable the producer to evaluate the effectiveness of the plan in protecting water quality. (Section 1607)

The Conference substitute adopts the House provision with an amendment to add that the plans shall contain or require recommendations of application rates and disposal methods. The plan shall also contain water quality protection practices, but not a range of such practices. (Section 1439)

(79) Plan Development, Confidentiality, and Approval and Acceptance of Plans

The House amendment directs the Secretary to establish procedures: (1) to help producers develop plans, with the assistance of the Soil Conservation Service; (2) that protect the confidentiality of the information contained in these plans; (3) that provide notice to producers that information contained in the plans will be available to the public upon request; (4) for the approval of plans; and (5) within one year for the acceptance of the plans.

This program is to supplement and support the provisions of other State and Federal laws and in no way replaces or substitutes for any other State or Federal laws. (Section 1607)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision, with an amendment that deletes the reference to the Soil Conservation Service, and directs the Secretary to act through the Assistant Secretary for Natural Resources and the Environment. (Section 1439)

(80) Eligible Lands, Priority Lands

The Senate bill establishes that croplands shall be eligible if they are determined by the Secretary as having the potential to contribute to the degradation of water quality, including: (1) well-head buffer areas; (2) Karst areas; (3) critical cropland areas identified in section 319 plans; and (4) other areas where non-point source pollution poses threat to endangered or threatened species habitat. (Section 1224)

The House amendment establishes that lands eligible for enrollment or technical assistance include: (1) impaired 319 watersheds; (2) wellhead protection areas; (3) other areas recommended by State agencies for environmental protection; and (4) other areas recommended by EPA, in consultation with Interior. In identifying eligible lands, consideration for eligibility and program assistance should be given to defined tributary watersheds contributing significant levels of sediment to nationally significant ecosystems such as the Upper Mississippi River System. Eligibility of these watersheds shall be identified by State pursuant to Section 319. (Section 1607)

The Conference substitute adopts the House provision with amendments. Also made eligible are Karst areas, critical cropland areas within watersheds designated under section 319 of the Federal Water Pollution Control Act, areas where non-point sources pose a threat to critical habitat, other areas that if allowed to remain in production would defeat the purposes of this program, and any other areas that contribute to water quality problems, as identified by the Secretary. (Section 1439)

The House amendment also directs the Secretary to give priority to lands which if allowed to remain in production will lead to failure to meet applicable Federal or State water quality laws.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment that clarifies the House provision, specifying the lands to be given priority shall provide the greatest public benefit if managed under the water quality program.

The Managers intend that the Secretary compare the lands seeking enrollment into the water quality incentives program, and enroll those lands with the highest water quality benefits relative to the costs of enrolling such land.

The Senate bill establishes that, in determining the acceptability of offers, the Secretary shall; (1) consider the possible degree of reduction in the potential for water contamination; (2) give priority to an area within a State that is designated by the State, in consultation with the EPA, as a priority area for dealing with the problem of ground and surface water contamination attributable to ag-

ricultural non-point source pollution; and (3) give priority to offers that would provide the greatest public benefit.

The House amendment establishes that the Secretary, in accepting agreements and in providing assistance should give priority to lands on which agricultural production has been determined to contribute to, or creates, the potential for failure to meet applicable water quality standards or the goals and requirements of Federal or State laws governing surface and ground water quality. In making this determination, the Secretary shall consult with State officials having responsibility for monitoring and protecting water quality.

The Conference substitute adopts the House provision.

(81) Technical Assistance, Guidance, Content, Deadline, Consultation, Personnel, Limitation of Liability

The Senate bill establishes that the Secretary shall provide technical assistance through the Extension Service (ES) and the Soil Conservation Service (SCS), and where determined to be appropriate, private consultants, in the development and implementation of plans. (Section 1224)

The House amendment directs the Secretary to establish a procedure to enable the Soil Conservation Service to help producers develop plans under this program. (Section 1607)

The Conference substitute adopts the House provision with an amendment to delete the reference to the Soil Conservation Service. Also added is a provision that provides that the assistance offered to help producers comply with Federal or State environmental issues shall not provide a basis of claim against any official or entity. (Section 1439)

The House amendment directs the Secretary to develop local field office technical guides for helping producers prepare and implement plans necessary to assist in complying with State and Federal environmental laws, and to implement this program. The guides are to reflect local agronomic, economic and ecological conditions, and to describe: (1) procedures to identify potential sources of pollution on a farm; (2) to the extent practicable, a range of water quality protection practices, and their economic cost and benefit, and that complement conservation compliance plans; (3) storage, mixing, and loading practices; (4) any information regarding relevant State and environmental laws; (5) criteria to evaluate the effectiveness of on-farm plans; (6) provide aggregate data to aid in evaluating compliance with State and Federal environmental laws; and (7) means to evaluate the economic costs and benefits of these practices.

The technical guides must be developed for environmentally sensitive areas no later than two years after the areas have been so designated under State or Federal environmental law and to be updated periodically. The Secretary must consult with the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and with relevant State agencies in developing handbooks and field office technical guides to ensure they contain accurate and up-to-date information.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with amendments. Instead of technical guides, the Secretary is directed to develop guidance materials that serve the same purpose. To the extent practicable, these materials are to reflect local conditions. These materials are to be developed no later than 2 years after the date of enactment of this Act.

The Managers intend that technical materials will be prepared that reflect and are useful under local conditions. All factors that might make a particular local area unique with respect to water quality needs and agricultural non-point source pollution should be adequately accounted for in whatever materials are developed.

The Senate bill directs the Secretary to assist producers, upon their request, who are required by a State or the Federal government to comply with an environmental law that requires a reduction in the potential for contamination of ground or surface water. Such assistance shall be technical in nature, and in the form of an on-farm plan. Land affected by the plan must be within an area designated as environmentally sensitive for purposes of federal or State law. The on-farm plan must provide the producer with information concerning the economic and natural resource consequences of the implementation of the plan. (Section 1282)

The House amendment establishes that the Secretary shall provide technical assistance to agricultural producers on eligible lands to assist them in developing and implementing water quality plans. The Secretary shall designate the Soil Conservation Service as the lead agency for providing technical assistance, and shall assign such personnel from the Extension Service, the Agricultural Research Service, and other agencies as are necessary. The Secretary may request help from State agencies, or any source deemed appropriate.

The Conference substitute adopts the House provision with an amendment and technical changes. No person shall have cause for claim against an official or entity as a result of technical assistance offered under this section to help a producer comply with Federal or State environmental laws.

(82) Demonstration and Pilot Programs

The Senate bill requires the Secretary to contract with producers for demonstration or model farm programs to provide education, information and demonstrations of agricultural practices to reduce contamination or degradation of surface or ground water. Pilot projects may also be set up to provide assistance on farming operations and production conditions for the efficient use of inputs and to reduce waste. (Section 1224)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make it discretionary. (Section 1439)

(83) Report to Congress

The House amendment requires that the Secretary provide to Congress no later than September 30, 1992, an interim report on participation in this program. A final report is to be delivered to Congress no later than September 30, 1994. (Section 1607)

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment that deletes from the House provision that the report include the economic costs and benefits of the plans, if implemented. Other technical changes are made. (Section 1439)

(84) Findings

The House amendment includes several findings: (1) protecting water quality is essential for human health; (2) agricultural non-point source pollution has been identified as contributing to the water quality problem; (3) the agricultural community wants to address the problem; (4) the technology exists today in many cases to address the problem; (5) such practices are also cost-effective; and (6) pollution prevention is being given increasing priority in State and Federal laws. (Section 1607)

The Senate bill has no comparable provision.

The Conference substitute adopts the Senate provision, deleting the House findings.

(85) Continued Eligibility

The Senate bill establishes that participants, if they are to remain eligible for these program payments, must: (1) continue to abide by the terms of the contract pertaining to implementation and performance; (2) remain in compliance with the other conservation provisions of this title. (Section 1224)

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(86) Information, Assistance, and National Database

The Senate bill establishes that the Secretary shall, at the request of the participant, provide information concerning the resource, economic, and environmental effects of the plans to be implemented under this program. The Secretary shall collect and maintain data on a State-by-State basis of these same effects that result from the adoption of the plans selected by the producers. (Section 1224)

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

Environmental Easement Program

(87) Easement Program

The Senate bill establishes the wetland reserve, which is to be used to restore and protect 1,000,000 acres of farmed and converted wetlands by 1995 through the use of 30-year and permanent easements. (Section 1223)

The House amendment establishes a wetland and environmental easement program which is to restore and protect 2,500,000 acres of wetlands by 1995 through perpetual easements, and the protection of other environmentally sensitive lands through such easements. (Section 1608)

The Conference substitute adopts the House provision with amendments that remove from its provisions the restoration and protection of wetlands through the use of easements. This activity is incorporated in the substitute which adopted the Senate wetland

reserve with amendments. The other remaining functions of the House environmental easement program remain intact.

(88) Tree Planting Initiative

The House amendment establishes a new program that addresses the maintenance, afforestation, and reforestation of forest lands. The Secretary is directed to implement this new policy by using the conservation reserve program, the agricultural conservation program, the Cooperative Forestry Assistance Act of 1978, and the provisions of this title.

The Secretary is directed to encourage owners and operators of cropland who enter this new program to enlist the cooperative assistance of the State Forester or equivalent State official in obtaining technical and financial assistance for tree planting and maintenance activities. (Section 1604)

The Senate bill has no comparable provision.

The Conference substitute adopts the House amendment. (Section 1441)

Administration of Conservation Programs

(89) Administration

The House amendment directs the Secretary to act as expeditiously as possible in making determinations under title XII and in conducting appeals from any determination made under title XII, but requires the Secretary to provide adequate safeguards to protect the interests of the persons involved in such determination. (Section 1609)

The Secretary is also to annually review the number and status of appeals pending under title XII at the district, area, and State conservationist level, to identify those such appeals that have been pending in excess of 120 days, and to annually report to Congress the results of such review.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision, with substantial alterations so that the Secretary is directed to maintain data concerning the number and status of appeals pending in excess of 120 days, and the number of appeals resolved, under this title.

The Managers intend that the Secretary establish and maintain a system by which it is possible to know at any point in the year the number and status of appeals pending for more than 120 days, or resolved.

(90) Acreage Retirement Programs—County Limitation

The Senate bill establishes that the number of cropland acres placed into the CSP in any one county (not counting the acreage enrolled into the water quality incentives program) is not to exceed 25 percent of the cropland in the county. The Secretary may exceed this cap if it will not adversely affect the local economy of the county. Land enrolled into the CSP for the purposes of shelterbelts or windbreaks does not count towards this limitation. (Section 1211)

The Senate bill also establishes that the Secretary shall permit a particular county to exceed current law's 25% county limit for cropland entering the conservation reserve to the extent the Secretary determines that producers in the county are having severe difficulty meeting conservation or other environmental requirements. In making a determination under this section to allow a particular county to exceed the 25% limit, the Secretary shall not require the written consent of a member of Congress. In addition, the Senate bill establishes that land enrolled into the reserve for water quality improvements need not be considered when calculating the acreage for the 25% limit if the risks for water quality of not enrolling such land outweigh the adverse economic consequences on the local economy of enrolling such land. (Section 1212)

The Senate bill establishes for the wetlands reserve that for the purpose of the Conservation Stewardship Program's 25 percent county limitation, the lands enrolled under the wetlands reserve shall be added to the other lands enrolled in the stewardship program in that particular county and otherwise subject to this limitation. (Section 1223)

The House amendment retains the existing 25 percent county limit, but adds that the limitation may be exceeded if the Secretary determines that producers in the county are having difficulty complying with their conservation plans and there are no negative effects on the local economy. (Section 1607)

The House amendment also modifies the existing 25% cap, applying it only to lands acquired under easement, and adding that the limit may be exceeded if the Secretary determines that producers in the county are having difficulty complying with their conservation plans and there are no negative economic consequences.

For the easement programs, the House amendment establishes that no more than 10% of the cropland in any county shall be enrolled in the easement program. Such easements shall be acquired only to the extent that the number of acres under easement, when added to that county's conservation reserve acres, shall not exceed 25% of the county's cropland, except that this limitation may be exceeded if producers are having difficulty complying with compliance plans and it will not hurt the local economy.

The Conference substitute adopts provisions from both the Senate bill and House amendment with amendments. The Agricultural Resources Conservation (ARC) now contains the conservation reserve and the wetlands reserve. The existing 25 percent county cap for the conservation reserve is retained for the ARC. For lands coming under easement in the ARC or the environmental easement program, not more than 10 percent of the cropland in a county may be covered with easements, and these lands are also counted towards the 25 percent cap. Added to the House's exemption to this 25 percent cap is the Senate provision allowing for it to be exceeded in the event that producers are having difficulty meeting other environmental requirements. Lands placed into the ARC under the conservation reserve that are to be devoted to shelterbelts or windbreaks shall not be counted towards the 25 percent cap. Also, when determining whether or not to exceed the 25 percent cap, the Secretary is directed to not seek the written consent of a member of Congress.

In any event, with the exception of lands enrolled as windbreaks, shelterbelts, the other eligible plantings, and in those exceptional cases, the combined total of land retired under easements and contracts cannot exceed 25 percent of the cropland in a county.

The Managers do not intend that the 25 percent limit be waived for all potential conservation reserve entrants. For those counties where it is determined producers are not able to meet conservation compliance, the 25 percent limit should be waived on a case-by-case basis so that only those specific producers not able to meet compliance can enter the program. Of course, this waiver should only be given if the Secretary also determines that there are no negative economic consequences for the local economy.

(91) Regulations

The House amendment also directs the Secretary to issue not later than 180 days after the date of enactment such regulations as the Secretary determines are necessary to carry out subtitles H and I including: (1) a definition of the term "person"; (2) the determination of persons who are ineligible for program benefits under subtitles B and C, so as to ensure a fair and reasonable determination of ineligibility; and (3) those that protect the interests of landlords, tenants, and sharecroppers.

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision. The Managers note that the requirement for the establishment of regulations is included in the appropriate place throughout the Act.

(92) Use of the Commodity Credit Corporation

The House amendment authorizes the Secretary to use the facilities of the Commodity Credit Corporation to carry out the new subtitles H and I if funds are appropriated for this purpose.

The Senate bill has comparable provisions in the specific sections of the bill that establish these programs.

The Conference substitute adopts the Senate provision, deleting the House provision. The Managers note that under current law, the facilities, services, authorities and funds of the Commodity Credit Corporation may be used, if appropriations have been made for such purpose, to carry out subtitle D. Subtitle D, as amended by this Act, includes the conservation reserve, wetland reserve and the water quality incentives program.

(93) Appropriations

The Senate bill authorizes such funds as are necessary to carry out the program.

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision, and creates a new authorization of appropriations that makes such sums as may be necessary to carry out the conservation reserve and wetland reserve (chapter 1) and the water quality incentives program (chapter 2), of subtitle D.

(94) Monitoring and Evaluation

The Senate bill requires 2 reports, a one-time progress report towards national goal of controlling soil erosion, and an annual report on conservation progress under the conservation title.

The House amendment has 2 reporting requirements. The first requires the Soil Conservation Service to report on accomplishments during the previous year with regard to improving water quality; plans for addressing water quality problems in the upcoming year; and in general progress towards the goal of aiding and protecting the quality of water. The second reporting requirement directs the Secretary to prepare an annual comprehensive report on progress towards the national goal of controlling soil erosion, and another annual report that contains a summary of the results of the monitoring and evaluation that goes into the comprehensive report generation.

The Conference substitute adopts the House provision with amendments. The first reporting requirement for the Soil Conservation Service is deleted. The annual reporting requirement on progress towards the goal of soil erosion reduction and the results of monitoring and evaluation is changed to a one-time report that is to be completed by June 30, 1993. Added to this one-time report is an assessment, to be conducted by the Soil Conservation Service in consultation with the Fish and Wildlife Service, of progress toward the national objectives of wetland preservation, habitat and water quality improvement, and analysis of how to further meet these objectives.

(95) Assistance to control the spread of weeds and pests

The Senate bill directs the Secretary to work with the appropriate Federal and State agencies in the development of a weed and pest control technical guide for use by participants in the conservation reserve. If there is a pest infestation on reserve lands enrolled into the program after the date of enactment of this Act, and the participant is determined to have failed to follow the recommendations of this technical guide, as determined by the Secretary and following review by the appropriate Federal and State authorities, shall have their conservation reserve rental payments reduced.

The Secretary is also instructed to identify those lands already enrolled into the conservation reserve that are the most likely to incur a significant crop pest infestation. The Secretary is given the authority to renegotiate the contracts on these lands to require reserve participants control such pests, or allow participants to leave the program if they repay the cost share payments, or establish such other procedures that might achieve such control. The costs of crop pest control on the lands identified in the above study are made eligible for 50% cost share as a conservation practice in the conservation reserve.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with amendments. The Secretary is directed to provide technical materials and information for the control of weed and pests on conservation reserve lands. This material and information is to be consistent with the conservation and environmental objectives of the re-

serve. The Secretary is also given the discretion to treat weed and pest control costs as a conservation practice on conservation reserve lands.

The Managers note that there are parts of the United States where weeds and pests are a particular problem and that conservation reserve lands are contributing to this situation. Conservation reserve contracts require that participants apply appropriate weed and pest control practices on the enrolled lands. The Managers intend that the Secretary enforce rigorously this provision of the contracts, and take whatever actions are appropriate and necessary to see that participants comply with this provision. Such actions might include the denial of some or all of the annual rental payments for failure to comply with this contract requirement.

(96) State Technical Committee

The House amendment establishes State Technical Committees to assist the Secretary in the technical considerations relating to implementation of the conservation provisions under this title. Each State Technical Committee is to include professional resource managers that represent a variety of disciplines in the soil, water, wetland, and wildlife sciences.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision.

Subtitle D—Other Conservation Measures

(97) Integrated Farm Management Program Option

The Senate bill establishes a program that provides producers a set of incentives to participate in a multi-year program where resource-conserving crop rotations are adopted.

The House amendment directs the Secretary to establish the "Integrated Farm Management Program Option" to assist producers in adopting integrated, multi-year, site-specific farm management plans by reducing farm program barriers to resource stewardship practices and systems, and authorizes participants to plant base acres of one program commodity to a crop of another program commodity and maintain base acreage, but not receive payments unless such planted commodity is part of a resource-conserving crop rotation.

The Conference substitute adopts the House provision.

(98) Definitions

The Senate bill defines resource conserving crop, grass, legumes, small grains, resource conserving crop rotation, and Secretary.

The House amendment defines the terms resource-conserving crop, resource-conserving crop rotation, farming operations and practices, and integrated farm management plan and defines for purposes of this section the terms grass, legume, small grain, and alternative crops.

The Conference substitute adopts the House provision.

The Managers do not intend for the term legume to include peas and lentils.

(99) Eligibility

The Senate bill establishes that to be eligible, a producer must submit an integrated farm management plan which must be approved by the Secretary. The producer must comply with the plan.

The House amendment is the same as the Senate provision, except the producers must keep such records as the Secretary may require.

The Conference substitute adopts the House provision with an amendment that such records must be kept that the Secretary can "reasonably" require.

(100) Plans

The Senate bill establishes that the plans shall: (1) describe the farming operations and practices to be implemented; (2) describe how the practices could be expected to reduce pollution, soil loss, water contamination and reduce the use of nonrenewable natural resources and purchased inputs—if such reductions result in positive economic and environmental benefits; and (3) contain such other terms the Secretary determines are necessary.

The House amendment requires each plan approved by the Secretary to: (1) specify the acreage to be enrolled; (2) describe the resource-conserving crop rotation; and (3) contain a schedule for the implementation of the plan. The plan shall also describe how the practices to be implemented could be reasonably expected to result in: (1) the maintenance or enhancement of the overall productivity and profitability of the farm; (2) the prevention of the degradation of farmland soils, the long-term improvement of the fertility and physical properties of such soils; and (3) the protection of water supplies from contamination by managing or minimizing agricultural pollutants.

The plans shall also: (1) comply with all applicable requirements to protect natural resources; and (2) contain such other terms as the Secretary may, by regulation, require.

The Conference substitute adopts the House provision with amendments. Eligibility criteria are added that require a participant to have and apply the plan, devote a resource conserving crop to 20 percent of the crop acreage bases enrolled into the program, participate in and comply with the requirements of the annual acreage limitation programs, and keep such records that the Secretary may require.

(101) Administration

The Senate bill establishes that the Secretary shall provide technical assistance to participants to formulate their plans. Plans may draw on technical guides and may include other appropriate practices. The Secretary shall also provide participants sufficient flexibility to adjust or modify their plans, except that such adjustments shall be approved by the Secretary.

The House amendment directs the Secretary to provide technical assistance to producers, in consultation with the local conservation districts, in developing and implementing plans, in evaluating the effectiveness of plans, and assessing the costs and benefits of the practices in the plans. The plans may draw on technical guides and

include other appropriate practices. The Secretary is to provide sufficient flexibility for a producer to adjust or modify the plan to respond to appropriate changes in conditions.

The Conference substitute adopts the House provision with an amendment that directs the Secretary to also consult with any other Federal, State or local authority the Secretary deems appropriate in administering the program.

(102) Acreage

The Senate bill directs the Secretary to enroll, to the extent practicable, not less than 3 and no more than 5 million acres during each crop year from 1991-1995.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(103) Base Protection

The Senate bill establishes that participants in the ICM will not have their crop acreage bases reduced during the program as a result of the planting of resource conserving crops on their base acres.

The House amendment is similar to the Senate provision, except that farm program payment yields are also protected.

The Conference substitute adopts the House provision, incorporating it into a new program rules section.

(104) Payments

The Senate bill establishes that deficiency payments shall be made on base acres planted to resource conserving crops, if such crops are not hayed or grazed. If such land is hayed or grazed, such payments will be received if the resource conserving crop is a small grain such as oats or triticale and the small grains residue is grazed following the 5-month period established in the 1949 Agricultural Act.

The House amendment establishes that payments will be protected on that portion of the base acreage devoted to a resource-conserving crop. The Secretary shall eliminate any program payments such producer is otherwise eligible to receive if such producer hays or grazes the enrolled acreage during the 5-month period in each State, or before the producer harvests the small grain crop in kernel form, whichever is sooner.

The House amendment also establishes producers may not receive payments on traditionally under-planted acreage, which is defined to mean the 3 year average acreage that is part of a producer's base and is permitted to be planted but is not planted, minus the portion of the crop base subject to an ARP or required to be set aside for the current crop year.

The Conference substitute adopts the House provisions with amendments. The word "eliminate" is deleted and replaced with the phrase "not make". Resource conserving crops may be planted on reduced acres and be considered a conserving use, except that barley, oats or wheat planted as part of a resource conserving crop may not be harvested in kernel form. Reduced acreage devoted to perennial cover established with Federal cost-share assistance may

not be considered a resource conserving crop for the purposes of this program.

The House amendment also denies any program payment for a resource conserving crop planted on traditionally underplanted acres. Traditionally underplanted acres is defined for both 0-92 participants and other producers who have not been in 0-92. For these latter producers, traditionally underplanted acres is defined as the difference between the average of the crop acreage base not planted to a program crop in the previous three years and the set-aside requirement for the current year.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment that defines traditionally underplanted acres for non-0-92 participants as the average for the previous three years of the difference between those crop acreage base acres not planted and those crop acreage base acres set-aside under an annual program.

(105) Adjustments to Annual Set-Aside Acres

The Senate bill directs the Secretary to make fair and equitable adjustments to a participant's acreage reduction requirements to reflect drop in commodity program crop output as a result of participation. The entire set-aside requirement shall be waived under specified conditions. The Secretary may also waive the cross-compliance requirements, if necessary as part of the plan.

The House amendment is similar to the Senate provision.

The Conference substitute deletes both the House and Senate provision for making adjustments to the acreage reduction requirements.

(106) Base Acre Adjustment

The House amendment establishes that for the purposes of establishing a producer's crop acreage base, the Secretary shall make adjustments as are fair and equitable to reflect program participation. The total of these adjustments shall not exceed the savings in the same year that would result from the implementation of plans.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment making the requirement that the Secretary make adjustments to a producer's crop acreage base discretionary.

(107) Haying and Grazing Restriction

The Senate bill establishes that, notwithstanding any other provision of this section, the Secretary may restrict any haying and grazing under this program if it is determined that the haying and or grazing of the resource conserving crop could adversely affect the local markets.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(108) Contracts

The House amendment directs the Secretary to enter into contracts with producers to enroll acreage in the program, and requires the contracts to be for a period of not less than 3 years, or, at the producer's option, for a longer period of time up to 10 years.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment that changes the contract period to 3 to 5 years, and provides the producer with the option to renew the contract at the end of the contract period, if agreed to by the Secretary.

(109) Minimizing Economic Effects

The House amendment directs the Secretary to implement the program so as to minimize any adverse economic effect on the agribusinesses and other agriculturally related economic interests within the area. The Secretary may restrict the total amount of crop acreage that may be removed from production, taking into consideration the total amount of crop acreage that has, or will be, removed from production under other price support, production adjustment, or conservation program activities.

The House amendment also directs the Secretary to permit, to the greatest extent practicable, producers to enroll enough acreage into the Integrated Farm Management option adequate to maximize conservation goals on such farm and ensure economic effectiveness of the program in each individual application. Any enrollment of land that results in an average decrease of harvested acres on the farm in excess of 25 percent over the life of such plan as compared to current operations is to be deemed as CRP acres for the purpose of applying the county limit on acres placed in the reserve.

The Secretary is directed to not enroll any acreage, to the extent practicable, under this program to the extent that the average amount of cropland removed from production in any county under the plan developed for such acreage over the life of such plan plus the total amount of cropland removed from production in such county under the CRP, and other supply control programs would exceed 25 percent of the total commercial cropland in any such county.

The Secretary is also prohibited from approving any plan that will result in the involuntary displacement of farm tenants or lessees by landowners through the removal of substantial portions of the farm from production of a commodity.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with an amendment that deletes the provisions with regard to acreage enrolled into this program and the conservation reserve 25 percent county limit.

The Managers note that the overall acreage limitation of 20 million acres placed in the program will effectively minimize any local negative economic consequences that could result from the program. This is particularly true since limited, but important, economic use is allowed on the acres enrolled into this program. At the same time, negative economic effects are possible, and the Managers intend that the Secretary consider this potential when determining whether or not to enroll land into the Integrated Farm Management program. The Managers intend that this program be implemented, to the extent possible, so as to ensure there are no negative economic consequences for local communities.

The House amendment also directs the Secretary, in the case of any tenant or lessee who has rented or leased the farm (with or without a written option for annual renewal or periodic renewals) for a period of two or more of the immediately preceding years, to consider the refusal by a landlord, without reasonable cause other than simply for the purpose of enrollment in the program, to renew such rental or lease as an involuntary displacement in the absence of a written consent to such non-renewal by the tenant or lessee.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision.

(110) Certification and Termination

The House amendment directs the Secretary to certify compliance by producers with the terms and conditions of the plans. The Secretary is authorized to terminate a contract entered into with a producer under this program if the producer agrees to such termination or the producer violates the terms and conditions of such contract.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision.

(111) Reports

The House amendment directs the Secretary to submit to Congress not later than April 1, 1991, and each April 1 thereafter, a report describing the progress of the program.

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision.

(112) Resource conservation and development program

The Senate bill and the House amendment have the same provision. The Conference substitute adopts the Senate provision with an amendment that reauthorizes the program through 1995. Number of areas is increased to 450.

(113) Amendment to the Noxious Weed Act

The Senate bill establishes a noxious weed management program for Federal, State and private lands. It is the purpose of the program to prevent and control undesirable plant species on Federal lands, and to conduct a national noxious weed management coordination program.

The House amendment amends the 1974 Noxious Weed Act. The Secretary of Agriculture shall use this authority to control the spread of undesirable plants as a result of transporting seeds or commodities to or from Federal lands.

The Conference substitute adopts the House provision, with amendments.

(114) Farmland Protection Policy Act

The Senate bill establishes that Federal Departments and agencies shall use the USDA developed criteria to identify the actual quantity of farmland converted by Federal programs.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(115) Great Plains conservation program

The Senate bill reauthorizes the program for 10 years, and provides a total of \$1.2 billion in authorizations for the program.

The House amendment is similar to the Senate provision, but establishes only \$900 million in program authorizations.

The Conference substitute adopts the Senate provision with an amendment to allow for \$1 billion in program authorizations.

The Senate bill also directs the Secretary to substitute, where practicable, more intensive management measures for structural measures. The Secretary is also required to collect and maintain comprehensive data on the economic and natural resource consequences of the applications implemented under this program.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(116) Composting research and extension program

The Senate bill directs the Secretary to assemble a catalog of laws, rules, and programs adopted by State and local governments, and foreign countries, that relate to various factors affecting the quality and use of compost. The Secretary also is directed to conduct a study report to the Congress on compost use, and composting processes involving various forms of organic waste matter. A 15 member compost "task force" comprised of professionals from public and private sector is established which is authorized until 1995.

The House amendment contains several findings, including the value of composting for various purposes, and the role USDA should play in supporting and using compost research. The Secretary is directed to identify appropriate methods of composting agricultural wastes and potential uses for such compost. A compost Task Force, similar to that established in the Senate provision, is also in the House amendment, except that the task force is exempted from the Federal Advisory Committee Act. The Secretary is directed to conduct research on various aspects of compost production and use.

The House amendment, as in the Senate provision, directs the Secretary to prepare a catalog of or rules and laws, but provides greater detail as to what the catalog is to contain. The Secretary is also directed to initiate extension efforts for the dissemination of information on compost. The Secretary is directed to enter into agreements with appropriate Federal agencies to identify opportunities for applying compost on Federal lands, and is required to disseminate the results of compost research to all appropriate Federal agencies. Six months after the enactment of this Act, and every year thereafter, the Secretary is to report to Congress on the activities under this program.

The Conference substitute adopts the House provision with substantial amendments. The Secretary is directed to identify and compile information about compost, and to make such information available to the appropriate public and private authorities. The information to be compiled is on all aspects of compost production and use, as well as information on the laws, rules, and programs adopted by State and local governments, and foreign countries,

that relate to various factors affecting the quality and use of compost. The Secretary is directed to consult with the appropriate authorities in conducting such work. The Secretary is also directed to conduct research on the production and use of compost, as well as initiate an extension effort to inform the agricultural community of the information on compost.

Subtitle E—Watershed Protection and Flood Prevention Act

Watershed Protection and Flood Prevention

(117) Relation of benefits to agriculture

The Senate bill amends current law, so that all watershed projects shall be required to contain at least 20% of their benefits to agriculture and upstream rural communities.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that deletes the word "upstream".

(118) Use of Wetlands for Flood Control Purposes

The Senate bill gives the Secretary the authority to provide cost share assistance for the purchase of wetlands easements for flood control and other purposes.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(119) Data

The Senate bill directs the Secretary to collect and maintain data, on a State-by-State basis, on expenditures for individual flood control measures that are being cost shared under the program, as well as the expected flood control and environmental benefits that result from such measures.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(120) Water Quality Improvement

The House amendment authorizes the Secretary to enter into agreements as part of a watershed project to enhance the water quality on such lands.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision.

(121) Disposal of Dredge Materials

The Senate bill amends current law so that local project sponsors will be required to purchase the land rights necessary for the disposal of dredge materials.

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(122) Construction Cost Share Assistance

The Senate bill amends current law, which requires the Federal government to pay 100 percent of the construction costs of these projects, so that the cost share rate shall be "up to" 100% of the costs of construction.

The House amendment has no comparable provision.

The Conference substitute adopts the House provision, deleting the Senate provision.

CHAPTER 2—FARMLAND PROTECTION

(123) Funding

The Senate bill directs the Secretary to issue stock to Treasury for the purpose of obtaining funds to run the program.

The House amendment makes the program entirely subject to appropriations.

The Conference substitute adopts the House provision, making the program subject to appropriations. A mandatory pilot project is also established in Vermont.

(124) Loan Guarantees

The Senate bill directs the Secretary to guarantee loans that match, on a 2 for 1 basis, the funds made available by each State for farmland protection activities.

The House amendment is similar to the Senate provision except that the Secretary is directed to guarantee loans that match on a 1 for 2 basis the funds devoted to this program by States.

The Conference substitute adopts the Senate provision.

(125) Maximum Loan Guarantee

The Senate bill sets a maximum of \$10 million annually to any eligible State.

The House amendment is the same as the Senate provision.

The Conference substitute adopts the Senate provision.

(126) Interest Cost Subsidy

The Senate bill requires the Secretary to reimburse States for all interest costs for the first 5 years of the loan. For the second 5 years of the loan, the Secretary will reimburse at a rate that will leave the State paying the limited resource rate.

The House amendment is the same as the Senate provision except that there is no subsidy for the second 5 years of the loan.

The Conference substitute adopts the Senate provision.

(127) Definition of an Eligible State

The Senate bill requires that, in order to be eligible, a State must have a farmland protection program by August 1, 1991.

The House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision with an amendment making the pilot State (Vermont) eligible for direct spending assistance and the other eligible states eligible for assistance subject to appropriations.

(128) Regulations

The Senate bill specifies that the regulations shall encompass the application, payment, record keeping and abuse control procedures for the program.

The House amendment requires regulations to be promulgated, but does not include specifics on their content.

The Conference substitute adopts the Senate provision.

(129) Report

The Senate bill requires the Secretary to report to Congress on the progress of the program by Sept. 30, 1992.

The House amendment does not require any report.

The Conference substitute adopts the Senate provision.

(130) Duration of the Program

The Senate bill establishes that the program expires on Sept. 30, 1996.

The House amendment establishes that the program expires on Sept. 30, 1995.

The Conference substitute adopts the Senate provision.

Subtitle F—Administration of Environmental Programs

(131) Federal Administration (S 1435–39)

The Senate bill establishes a Federal administrative structure for groundwater oversight by: listing the responsibilities of USDA (Sec. 1435); creating the Office of Groundwater Policy Coordination and listing the duties of the office (Sec. 1436); establishing the position and duties of Director of the office as the contact within USDA for groundwater (Sec. 1437); establishing an intra-agency committee on groundwater quality to assist the Director (Sec. 1438); and allowing the Director to establish technical support committees and technical integration groups as necessary.

The Senate bill states that the Federal Advisory Committee Act does not apply to any advisory committees. (Sec. 1439).

The House amendment contains no comparable provision. The Office of Environmental Quality established in Section 1612 of the amendment would provide oversight for this program. The Director is required to prepare a plan to implement the environmental quality policy statement. The Council established in section 1612, through the Director, is required to prepare an annual report to Congress.

The Conference substitute adopts the House provision with an amendment to establish an Office of Environmental Quality and an Agriculture Environmental Quality Council to be chaired by the Secretary or by the Secretary's designee. The Director of the Office will assist the Council and serve as its Executive Director.

Subtitle G—Water Quality Research, Education, and Coordination

(132) Water Policy Research, Education and Coordination (S. 1435; H. 1365)

The Senate bill establishes USDA as the principal Federal agency responsible for agricultural groundwater concerns and provides several mechanisms in order to improve the coordination and management of USDA and State activities dealing with groundwater policy, research, and education.

The purpose and structure of the House amendment is similar, but with fewer specifications.

The Conference substitute adopts the House provision.

(133) Purpose, Definitions, and Authorization (S 1441, 1448, 1458, 1462, 1467, 1470)

The House amendment establishes a purpose for this subtitle of ensuring that the USDA develops and implements a coordinated, integrated and comprehensive intra-agency program to protect waters from contamination.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision.

The Senate bill provides definitions for the following terms: agricultural chemicals; agriculture ground water management practices; agriculture management practices; agricultural nitrogen; contaminant; director; food and agriculture councils; ground water; groundwater quality coordinator; office; pesticide; root zone; soil and water conservation committees; secretary; state; state government agency; state water quality advisory council; technical integration group; vadose zone or unsaturated zone; and zone of saturation.

The House amendment provides definitions for the following 7 terms: agricultural nitrogen; contaminant; Department; Food and agriculture Councils; soil and water conservation committees; Secretary; and State.

The Conference substitute adopts the House amendment regarding the purpose and definitions.

Section 1441 of the Senate bill authorizes \$1,000,000 for each fiscal year 1991 through 1995 and any additional funds necessary for Federal coordination activities.

Section 1448 authorizes \$10,000,000 for each fiscal year 1991 through 1995 for the State groundwater quality coordinators and \$1,000,000 each fiscal year to enable the Secretary to undertake the reviews and studies required.

Section 1458 authorizes \$56,000,000 for each fiscal year 1991 through 1995 for Extension education activities.

Section 1462 authorizes such sums as necessary for SCS activities.

Section 1467 authorizes not less than \$15,000,000 of the Agricultural Research Service general funds and \$15,000,000 of the Cooperative State Research Service general funds be devoted to the program in this title for fiscal year 1991 and \$20,000,000 from each account in fiscal years 1992-1995.

Section 1467 further provides that \$5,000,000 is authorized for fiscal year 1991 for Economic Research Service and \$7,500,000 for fiscal years 1992-1995.

Section 1470 provides \$1,000,000 for fiscal year 1991 and \$400,000 each year thereafter for databases at NAL on groundwater quality.

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to provide such sums as necessary.

(134) State coordination (S 1442-47; H 1366)

Sections 1442 through 1447 of the Senate bill concerns State groundwater activities and coordination. These sections provide that: (1) The Secretary shall establish State intra-agency groundwater coordination and ad hoc advisory committees as appropriate; (2) the Secretary, acting through the Extension Service, shall estab-

lish a state groundwater quality coordinator to coordinate state and federal policy on groundwater; (3) The state coordinator, along with the state groundwater committee, is required to review the state's non-point source pollution plan required by the Federal Water Pollution Control Act and the mapping of hydrologic units within each state; and complete an assessment of state groundwater programs and needs; and (4) the Groundwater Committee shall submit an annual report to the Groundwater Director and the Chief Executive Officer of the State.

Sec. 1366 of the House amendment provides for: (1) a water quality coordination program within each State which shall use the expertise of the food and agricultural councils; (2) the membership of the state water quality coordination program; (3) designation by the Secretary of a state water quality coordination program leader from among the Federal agency representatives; (4) other activities, including Federal coordination with water quality plans developed within the state, review of State hydrologic units and assessment of State needs; (5) the establishment of State ad hoc advisory panel by the chair of the water quality coordination program; and (6) an annual report to the Environmental Quality Office by the State program.

The Conference substitute adopts the House provision with an amendment to delete the annual reports to the Environmental Quality Office.

(135) Extension and Education (S 1451-58)

The Senate bill establishes a national chemical education program.

The Secretary, in concurrence with the Administrator of EPA, shall establish a national program for information on the safety of fertilizer use and use of pesticides that are not classified as restricted use pesticides.

The Secretary shall, among other things, develop guidelines and provide information to users and dealers, including information on safety, the environment and disposal of unused chemicals, and be the national coordinator of training for applicators and dealers.

Section 1452 provides that the program provide for the voluntary adoption of nutrient management practices and groundwater practices that protect ground water. Examples such as the use of crop rotations and the storage and handling of fertilizers are provided.

The Secretary shall strengthen programs on soil and tissue testing information.

The Extension Service shall: (1) improve programs to educate and assist farmers regarding nutrient management and pesticide application, so that programs focus more on groundwater management (Sec. 1451); (2) establish a national program to educate homeowners on use and disposal of household chemicals, pesticides and fertilizers (Sec. 1454); (3) conduct educational activities concerning water quality education and provide a training program for the State groundwater Quality Coordinators (Sec. 1456); and (4) establish a national well water testing project that provides information on sources of testing and help in interpreting results (Sec. 1457).

The House amendment contains no provisions regarding the activities of the Soil Conservation Service (SCS) and the Extension Service which are comparable to the Senate bill.

Section 1368 of the House amendment authorizes a research and development program on nutrient management practices relying, to the maximum extent possible, on multidisciplinary research teams and conducted in cooperation and coordination with Federal, State and other public and private entities, including the National Fertilizer and Environmental Research Center.

Research shall emphasize whole-farm systems approaches to nutrient management practices and shall include, among other topics: nutrient management, availability, and use efficiency, soil and tissue testing, enhancement of soil productivity, use and role of cover crops, legume management, nutrient use and water quality, subsoil fertility, and other critical areas identified by the Secretary.

The Conference substitute adopts the House provision.

The Managers note that additional water quality extension functions are authorized as a part of Chapter 3 of Title XII.

(136) Soil Conservation Service (S 1459-62)

Sections 1459 through 1462 of the Senate bill concern the activities of the SCS.

The Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is amended to add groundwater protection to the purposes of the SCS.

The SCS, in consultation with the State experiment stations and their directors, shall: (1) review State conservation plans for compliance; and (2) create a database concerning groundwater practices included in plans.

The SCS shall develop groundwater management guidelines and include those guidelines in SCS field guides and within 6 months of enactment determine how to modify the National Resources inventory to account for groundwater information.

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(137) Research Topics (S 1463-65; H 1367(c))

Section 1463 of the Senate bill sets forth 7 findings, including a finding which states that research agendas need to be integrated and coordinated.

Section 1464 lists a series of research areas that shall be investigated.

Section 1465 requires States to prioritize the agriculture and groundwater research agenda for their State addressing the 15 research topics which are to be analyzed at the regional and Federal level and included in several reports.

Section 1367(c) of the House amendment establishes a series of purposes for water quality research projects.

The Conference substitute adopts the House provision with an amendment to incorporate nutrient management research into House section 1367.

(138) Data Compilation (S 1468, 1469; H 1369-71)

Sections 1468 and 1469 of the Senate bill establish a national repository at the National Agriculture Library (NAL) for data and information on ground water.

A repository of the reports developed under this subtitle and other information, including water quality planning documents, compilations of relevant Federal and State statutes, and listings of other data bases on water quality is established at the NAL.

An interactive data base is to be established at the NAL on State laws that address relationships between agricultural production and water quality and information on State programs as compiled by the State water quality coordination programs.

The Director of the NAL, together with the State water quality coordination programs and the Administrators of appropriate Departmental agencies shall develop standardized formats and procedures for data entry into the data base to facilitate access by interested parties in the States.

Sections 1369 through 1371 of the House bill concern data collection and deposit and establish similar provisions, with the following additions that the Secretary shall submit a report to Congress within 270 days of enactment on the measures necessary to develop an interactive, descriptive national data base on agricultural practices and water quality.

The Conference substitute adopts the Senate provision.

(139) Water Policy With Respect to Agrichemicals (S 1435; H 1365)

The Senate bill establishes USDA as the principal Federal agency responsible and accountable for development and delivery of educational programs, technical assistance, and research for uses of agrichemicals and consumers.

The House provision is similar with the additional requirement that the Secretary act in coordination with the Office of Environmental Quality established in Section 1612 of this bill. (Section 1365)

The House amendment lists several Federal agencies that shall participate in the Department's water program. This list closely corresponds to the membership of the Committee on Groundwater Quality established in Section 1438 of the Senate bill.

The Conference substitute adopts the House provision with an amendment to acknowledge the role of the EPA in the program.

(140) Development and Implementation of Water Policy (S. 1440)

The Senate bill provides mechanisms for development and implementation of groundwater policy by: requiring development of a USDA "Agency-Specific Groundwater Policy Statement," covering USDA capabilities, jurisdictional problems and areas for research, requiring development of a "National Agriculture Groundwater Plan," a comprehensive 5-year plan for managing USDA groundwater policy, research, and education; and requiring an annual "Groundwater Activities Report" to allow the public to follow the progress of the program. (Section 1440)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(141) Experimental Water Quality Enhancement Program (H 1374-76)

The House amendment establishes a new experimental water quality enhancement program that requires the Secretary to implement, during the 1991-1995 crop years, a program to assist owners and operators affected by section 319 of the Federal Water Pollution Control Act or in other areas designated by the Secretary in order to minimize water contamination from agriculture production practices.

The Secretary shall: (1) enter into agreements with farmers and ranchers to reduce water quality problems in designated areas; (2) prepare water quality management plans for farms and ranches enrolled in this program; and (3) enter into agreements under this program with farmers and ranchers for between three and five years. The Secretary may include land outside of designated areas in the program if continuing existing management practices on that land would defeat the purpose of this program.

Participating owners and operators must: (1) implement a water quality management plan approved by the local conservation district for water quality improvement; (2) consider recommendations by the Secretary for application and disposal of nutrients, pesticides, and animal waste materials; (3) certify nutrient, pesticide, and animal waste usage rates for three previous years; (4) supply various production and well-test data to the county committee for each year of the agreement; (5) comply with terms or conditions of the agreement or be ineligible for any assistance or payment specified in section 1211 or 1221 of this bill; (6) upon transfer of the land subject to the agreement, unless the transferee agrees to assume the obligations of the agreement, forfeit all rights to exceed permitted acres or reduced set aside; (7) not conduct any practice on the land that would defeat the purposes of this program; and (8) comply with additional provisions as determined by the Secretary.

Water quality management plans shall set forth the best management practices to be used.

The Secretary shall, as the Secretary determines appropriate: (1) provide reductions in set aside requirements; (2) increase permitted acreage of program crops, except quota or allotment crops; (3) allow program deficiency payments to be based upon the greater of established yield or actual yield; (4) not require structural practices as a requirement of participation in the program; (5) encourage the participant to obtain cost share assistance under Federal, State, or local programs; (6) provide operating loans to implement the water quality plan or conduct well testing; and (7) provide technical assistance to the owner or operator.

No water quality management plan shall be required under this program that requires above normal expenditures by the owner or operator unless the owner or operator approves or unless financial assistance is available. The range of farm and ranch operations included in the water quality management plan are provided.

If, during the term of the agreement under this program, the land is sold or transferred, the new owner or operator may continue the agreement, enter into a new agreement, or elect not to par-

ticipate. The Secretary may modify a contract or terminate an agreement under this program.

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

(142) Agriculture Environmental Restoration (H. 1376a)

Section 1376A of the House amendment requires that the Secretary establish an environmental restoration program in USDA to further assess and identify any releases of hazardous substances, including groundwater contaminants, from facilities owned, operated, or formerly operated by USDA.

The Secretary shall: (1) identify each facility, including grain storage facilities; (2) consult with EPA administration and State officials and notify persons living in the vicinity of any possible contamination if found; (3) submit an annual report to Congress; and (4) prepare cost estimate and work schedule for response actions.

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

Subtitle H—Pesticides

(143) Recordkeeping Requirements (S 1283(a); H 1371A(a))

The Senate bill requires producers who are certified applicators to keep records of their use of restricted use pesticides for 2 years. (section 1283(a))

The House amendment requires that producers must maintain records of their use of all pesticides for agricultural production, including post-harvest treatment, or other commercial purposes for 2 years. The House amendment further requires that copies of records maintained by commercial applicators shall be provided to a person for whom the pesticide was applied within 30 days. (section 1371A(a))

The Conference substitute adopts the Senate provision requiring that records of the application of restricted use pesticides be maintained for two years but adopts a House provision that all certified applicators of such pesticides, both agricultural and nonagricultural, keep such records. The substitute also adopts the House provision requiring commercial applicators to provide application records to person for whom an application was provided.

(144) Contents of Records (S 1283(a); H 1371A(a))

The Senate bill requires that the records required under this provision shall contain information comparable to that maintained by commercial applicators in the state in which the certified applicator resides. If the State has no such requirements, such applicators shall maintain records that contain the product name, amount, approximate date of application, and location of application of such pesticide used. (S 1283(a))

The House amendment requires that records shall contain the product name, amount and rate of application, method of application, target pest, crop, or if a nonagricultural treatment, the site treated, date and approximate time of application and its location. (H 1371A(a))

The Conference substitute adopts the Senate provision.

*(145) Agency Access, and Government Information Requests
(S1283(b); H 1371A(a)), (S 1283(c); H 1371A(a))*

The Senate bill directs that records be made available to any Federal or State agencies that deal with pesticide use or any health or environmental issues related to the use of pesticides, upon request.

The Senate bill further restricts access to information maintained under this section from disclosure, except to employees of Federal or State agencies that deal with pesticide use or any health or environmental issues related to the use of such pesticides.

The House amendment requires information maintained as records, data compiled from records, or surveys and reports to be made available to Federal, State, or local agencies that deal with pesticide use or any health or environmental issues related to the use of pesticides.

In addition, the House amendment provides that Federal agency access to records be the responsibility of USDA or its designee. Non-Federal agency requests will be the responsibility of the agency designated by the State. Information maintained by any government agency shall be subject to public disclosure under the provision of the Freedom of Information Act (5 USC 552(a)) or similar State law except for the name and address of the individual keeping the records and the specific location of application in the records, except designation of the county of application.

The Conference substitute adopts the Senate provision with regard to records made available to Federal or State agencies and the provisions of the House amendment that provide for Federal agency access to pesticide use records to be the responsibility of the Secretary of Agriculture, or the Secretary's designee and for non-Federal agency requests for access to records maintained under this section to be the responsibility of the lead State agency so designated by the State. In addition, the substitute provides that each Federal agency shall conduct surveys and record the data from individual applicators to facilitate statistical analysis for environmental and agronomic purposes, but in no case may a government agency release data, including the location from which the data was derived, that could directly or indirectly reveal the identity of individual producers.

The Managers intend that access to records maintained by certified applicators in accordance with this section be managed in a manner that will minimize the burden which is placed upon individual producers. In order to do so, the Managers have adopted language that would make Federal agency access to individual applicator or producer records the responsibility of the Department of Agriculture or its designee. In this way, USDA personnel or the personnel of the agency designated by the Secretary, would be the only Federal agency that need contact individual producers. However, the records obtained in this manner would be made available through USDA or the designated lead agency, to other Federal agencies for use in statistical analysis and for other purposes. Similarly, a single State lead agency would be identified to contact producers to obtain records on behalf of other state agencies. Both the Federal and State lead agency would be expected to respond to the

requests of other agencies for access to such records and data in a timely and complete manner.

(146) Health Care (S 1284(c); H 1371A(c))

The Senate bill provides that, upon the request of any medical personnel, a producer shall provide the name of the product and any associated label information for any pesticide for which records are maintained so that emergency treatment may be provided to an individual who may have been exposed to the pesticide.

The House amendment establishes that persons covered by this section shall provide record and available label information to a health professional who requests information because it is needed to provide medical treatment or first aid to a person who may have been exposed to a pesticide. Information must be provided promptly, or immediately in the case of an emergency.

The Conference substitute adopts the House provision.

(147) Employee Information (H 1371A(d))

The House amendment requires that, upon request, persons covered by this section shall provide records on a pesticide to an employee who may have been exposed.

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision.

(148) Penalty (S 1283(d); H 1371A(e))

The Senate bill provides that the Secretary of Agriculture shall notify the Administrator of the EPA of producers not in compliance with this section. The Administrator may revoke the certification of such producers or shall make them ineligible for certification for such length of time as the Administrator deems appropriate.

The House amendment requires that persons who fail to comply with this section shall be subject to a fine in an amount up to \$500 for the first offense, and not less than \$1000 for each subsequent offense, except in the case of a good faith effort to comply.

The Conference substitute adopts the House provision.

(149) Surveys and Reports (S 1283(f); H 1371A(g))

The Senate bill requires the Secretary of Agriculture, in consultation with the Administrator of EPA, to develop and maintain a database comprised of pesticide usage information in order to publish periodic reports concerning agricultural and nonagricultural use. Reports shall provide aggregated data only in order to protect the identity of individual applicators.

The House amendment directs the Secretary of Agriculture and the Administrator of EPA to survey records maintained under this section in order to develop and maintain a data base and publish annual reports. A memorandum of understanding shall define the respective duties of each agency.

The Conference substitute adopts the House provision.

(150) Federal or State Law (S 1283(e); H 1371A(f))

The Senate bill provides that the provision of other State or Federal laws shall not be affected by this section.

The House amendment is the same as the Senate provision.
The Conference substitute adopts the House provision.

(151) Regulations (H1371A(h))

The House amendment requires that regulations implementing this section shall be promulgated within 180 days.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision.

(152) Amend FIFRA (S 1283(g))

The Senate bill amends Section 11(d) of FIFRA to permit the Secretary to require private applicators of pesticides to maintain records of the purchase and use of any restricted use pesticide.

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(153) Minor Use Pesticides (S 1781, 1782, 1783, 1784)

The Senate bill provides that, in registering a pesticide for a minor agricultural use, it is not necessary to submit field residue data from geographic areas where the pesticide will not be used. The Administrator of EPA is allowed to reduce or waive a fee for a re-registration of a pesticide for a minor agricultural use if the loss of the registration will significantly reduce the availability of the pesticide for the use, as long as the pesticide does not pose a risk to the environment. The bill provides for a 30-day public comment period prior to the cancellation of one or more uses of a pesticide under a notice of voluntary cancellation. If the registration is for a minor use, and the loss of the registration would affect the availability of the pesticide for use, 90 days must be allowed from publication in the Register before a decision is made on the cancellation, as long as the continued use of the pesticide does not pose an unreasonable risk to the environment. A procedure is set up to allow for the transfer a registration of pesticide which may be voluntarily cancelled if all conditions set by the Administrator are met, and the pesticide does not pose an unreasonable risk to the environment. If a transfer is granted, the new registrant shall assume all outstanding data and other requirements pending. (Section 1781, 1782, and 1783)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

The Senate bill expands current USDA efforts to identify pests and methods, both chemical and nonchemical, in which to control pests specifically for minor use crops. The Secretary is required to report within 180 days, and annually thereafter, on these activities. The Administrator, in cooperation with the Secretary, is required to develop pest control approaches for minor agricultural uses based on integrated pest management. (Section 1784)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require that information compiled in the pest and disease control data base established in Section 1651 of the Act be included in the contents of the report.

(154) IR-Program (S 1786, 1787)

The Senate bill provides findings in support of an expanded IR-4 program. (Section 1786)

The House amendment contains no comparable provision.

The Conference agreement deletes the Senate provision.

The Senate bill requires the Secretary to assist in the collection of residue and efficacy data in order to facilitate pesticide registrations and tolerances for minor agricultural uses. In this program, the Secretary shall cooperate with other agencies, private industry and interested parties; give priority to registrations, re-registrations and tolerances for food use crops; participate in research to reduce pesticide residues in minor use crops; develop residue analytical methods for minor use crops; and coordinate with EPA on biological and alternative methods of pest control.

The Secretary shall submit an annual report on data collection issues, plans, and research conducted for registrations, re-registrations or tolerances under this authority. The Secretary shall also review and report on the recoupment of costs of developing data under this program for those registrants who make a profit subsequent to a registration, re-registration or tolerance established with the data.

The authorization for appropriations is increased to \$25 million for 1991, and such sums as necessary thereafter. (Section 1787)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

(155) Biological Pesticide Handling (S 1773)

The Senate bill requires the National Academy of Sciences to conduct a study of biological control programs and registration procedures of the Food and Drug Administration, U.S. Department of Agriculture Animal and Plant Health Inspection Service and the EPA. Following the study, these agencies must develop and implement a common process for review and approval of biological control applications based on its findings and recommendations. (Section 1773)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

(156) Agricultural Chemical Containers—Collection and Recycling (S 1772; H 1381)

The Senate bill authorizes the Administrator of EPA to promulgate standards for a national agriculture chemicals plastic container collection and recycling program. The standards will include options to landfills; that are environmentally and economically sound; be coordinated with state, county and regional entities; not be overly burdensome on small businesses and retail dealers; and not affect authorities under the Solid Waste Disposal Act and FIFRA.

The Administrator shall conduct a study to assess the feasibility of the standards. The study will include a review of the regulation, transportation, and funding of the program. \$1.5 million is authorized for these activities. (Section 1772)

The House amendment authorizes the Secretary of Agriculture to direct the Extension Service to operate a program in each State to catalogue the Federal, State, and local laws and regulations which govern the disposal of unused or unwanted agricultural chemicals and agricultural chemical containers in such State. The program established under this section shall also make available to producers of agricultural commodities and the general public, educational materials developed or collected by the program. (Section 1381)

The Conference agreement deletes both provision.

(157) Agricultural Pest Control (S 1771; H 1379, H 1380, H 1347)

The Senate bill requires the Secretary of Agriculture to establish a national program to compile a database on chemical and nonchemical pest control methods used in commercial agriculture. This information will be provided to the Administrator of EPA for benefit assessments of pesticides. The data shall be collected through state surveys in cooperation with the national program. The Secretary may provide grants and reimbursements to States for data collections. (Section 1771)

The House amendment contains establishes a Pesticide Impact Response Program to collect and analyze information by the Department of Agriculture and States on pesticide use in agricultural activities; and the impact of FIFRA pesticide regulations on the agricultural economy, including the impact on production and prices of agricultural commodities and retail food. A Board of Pesticide Assessments, consisting of representatives of appropriate federal agencies, is to be appointed to provide advice on the policies, priorities, projects and operations of the program.

The Director of the Program is instructed to: (1) work with the Administrator to assure that pesticide assessments developed under the program are suitable to the needs and requirements of the Administrator, and that they are of sufficient quality to be publishable works of research, and released in a timely manner with respect to proposed EPA regulations; (2) work with EPA developing benefits and use data regarding the pesticide and information on exposure; (3) establish data collection priorities to satisfy any requirements or priorities relevant to the program; and (4) consult with EPA to anticipate actions that may entail the cancellation, restriction, or reclassification of pesticides.

Within one year of enactment of this Act, the Director is required to prepare a five-year planning report on the priorities of the program (including the priorities established by the Director), which is to be updated for each five-year period thereafter.

The Secretary is authorized to collect data of statewide significance on the use of pesticides to control pests and diseases of major crops and crops of dietary significance. Such data shall be collected by surveys of farmers or from other sources offering statistically reliable data. This information shall be submitted to the Director of the Pesticide Impact Response Program; and made available to the public through the National Agricultural Library and other sources as appropriate. (Section 1379 and 1380)

The Conference agreement deletes both provisions.

(158) Policy With Respect to Agrichemicals

The Senate bill stated that the Department of Agriculture should be the principal Federal agency for delivery of educational programs to users of agrichemicals and consumers. (Section 1435)

The House amendment stated that the Department of Agriculture would play the same role as in the Senate provision, except that no provision was made for the delivery of such information to consumers. (Section 1365)

The Conference substitute adopts the House provision with an amendment stating that this statement of responsibility does not alter or affect the responsibilities of the Environmental Protection Agency under FIFRA. (Section 1499).

(159) USDA Offices on Indian Lands

The Senate bill establishes a demonstration project for 12 reservations or areas under tribal authority is established. In such areas, ASCS, SCS and FmHA offices are to be established for carrying out USDA activities specifically for the Indian population. On other Indian lands, USDA to provide services for at least 1 day per week, or more as needed. A study of the demonstration project is required within 3 years of enactment.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment limiting the provision to requiring the Secretary to provide services at least 1 day a week on the appropriate reservations, as determined by the Secretary. The entire provision is moved into the Miscellaneous title of this Act.

(160) Report Concerning International CRP

The Senate bill directs the Secretary to conduct a study within 1 year of enactment on the feasibility of creating an international highly erodible land protection policy whereby participating countries would agree to keep virgin HEL out of production and return some HEL in crops now to a conservation reserve with adequate conservation protection.

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(161) A National Ground Water and Wetlands Protection Strategy (S 1291)

The Senate bill establishes a Sense of Congress that states the upcoming reauthorization of the Clean Water Act shall prevent wetlands loss and ground water contamination, and that Congress should provide for consistent and understandable wetland regulations and in general strengthen the Nation's ground water and wetlands protection laws.

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(162) Natural Resource Loan Program

The House amendment directs the Secretary to establish a natural resources loan program to encourage the alleviation of natural resource conservation problems that reduce the productive capacity

of the Nation's land and water resources or that cause degradation of environmental quality.

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision.

(163) Soil and Water Activities

The House amendment establishes that an additional purpose of the Secretary is to aid in protecting and improving the quality of water. The Secretary shall, when reviewing conservation plans for compliance certification, determine the impact that such plans may have on agriculture and water quality planning and to complete this determination by January 1, 2000. The Secretary, through the Chief of the Soil Conservation Service, shall determine within six months after the date of the enactment of this Act whether the natural resources inventory can be modified to acquire useful information on water conditions and surface conditions that affect water quality and supply.

The Senate bill has no comparable provision.

The Conference substitute deletes the House provision.

(164) Cost Sharing for Soil Enhancement

The House amendment expands the authority of the Secretary to provide financial assistance to agricultural producers for carrying out other measures that enhance soil fertility and physical characteristics of the soil.

The amendment also provides that the Secretary may enter into agreements with producers on farms to provide 50 percent cost-sharing assistance for the costs of establishing short-term stands of soil-building legumes and legume-grass mixtures on harvested or reduced acres when applying a resource-conserving crop rotation, except when planted on acres on which farm program payments are received. Various terms are defined. Producers are not ineligible for this assistance solely because they plant on land eroding at rates less than the tolerable rate, and authorizes assistance to be denied if the presence of soil nitrates resulting from the planting of the legume will result in excessive leaching of nitrates into groundwater. Herbicide purchases and applications shall be ineligible for assistance under this subsection.

The Senate bill has no comparable provision.

The Conference substitute deletes the House amendment.

(164) Outreach to Socially Disadvantaged Farmers

The Senate bill directs the Secretary to provide outreach and technical assistance to farmers meeting the socially disadvantaged criteria described in section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)). Such assistance is to help such persons participate in all of the programs established under this title. This assistance may include grants and work with the 1890 colleges. The Director of the Office of Advocacy and Enterprise of the Small Business Administration is to prepare a report for Congress on the rate of minority participation in each program established under this title.

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision. The Managers note that the minority farmers provisions in the Miscellaneous

title of this Act establishes minority outreach and assistance similar to that provided in this section of the Senate bill.

TITLE XV—AGRICULTURAL TRADE

Subtitle A—Agricultural Trade Development and Assistance Act of 1954

(1) Amendments

The Senate bill amends the Agricultural Trade Development and Assistance Act of 1954 (commonly referred to as P.L. 480) by replacing it with new text. (Section numbers below referencing the Senate bill and the conference substitute refer to the sections of that Act as amended.)

The House amendment amends various provisions of the Agricultural Trade Development and Assistance Act of 1954.

The conference substitute adopts the Senate position.

(2) Short title

The Senate bill provides that the short title is "The Agricultural Development and Trade Act of 1990". [Section 1101]

The House amendment does not provide a short title for the title but provides that subtitle A of title XII, which amends various provisions of the Agricultural Trade Development and Assistance Act of 1954, may be cited as the "Mickey Leland Food for Peace Act". [Section 1201]

The conference substitute provides that the short title for Title XV of this Act is the "Agricultural Development and Trade Act of 1990" and that the short title of subtitle A is the "Mickey Leland Food for Peace Act". [Sections 1511 and 1501]

(3) Policy

The Senate bill provides that:

It is the policy of the United States to use its abundant agricultural productivity to promote the foreign policy of the United States by enhancing the food security of the developing world through the use of such productivity to—

- (1) combat world hunger, malnutrition and their causes;
- (2) promote broad-based and sustainable economic development;
- (3) expand international trade;
- (4) develop and expand export markets for U.S. agricultural commodities;
- (5) encourage the development of private enterprise and democratic participation; and
- (6) use foreign currencies accruing under this Act to implement the policy objectives described in this section. [Section 2]

The House amendment is the same as the Senate provision except that it does not include subsection (6) concerning use of local currencies. [Section 1204]

The conference substitute adopts the House provision. [Section 2]

(4) Global food aid needs

The Senate bill states that pursuant to the principal findings of the National Academy of Sciences, doubling food aid above present levels of about 10 million tons per year would be necessary to meet projected global food needs throughout the 1990s, and that the President should increase U.S. food contributions and encourage other donor or advanced countries to do likewise. [Section 3]

The House amendment is similar to the Senate provision. [Section 1205]

The conference substitute adopts the Senate provision with an amendment specifying "1990" instead of "present" food aid levels. [Section 3]

(5) Human rights

The Senate bill prohibits assistance under this Act to countries which engage in a consistent pattern of human rights abuse, with a waiver if food assistance is provided to the most needy people in a country and is made available through non-governmental channels. [Section 102]

The House amendment makes technical changes to current law. [Section 1208(j)]

The conference substitute adopts the Senate provision. [Section 403(j)]

(6) Delegation of authorities.

The Senate bill directs the President to carry out, through the Agency for International Development, a program of grant food assistance to least developed countries, and through the Secretary of Agriculture, to offer agricultural commodities for sale on credit to developing countries. [Section 101]

The House amendment directs the President to designate the Secretary of Agriculture as the official with primary responsibility for administering the concessional sales program and to designate the Administrator of the Agency for International Development as the official with primary responsibility for administering grant assistance programs under title II and title III. [Section 1209(n)]

The conference substitute requires the President: (1) to establish a concessional credit sales program under title I, which shall be implemented by the Secretary of Agriculture [section 101]; (2) to establish a donation program through governments and public and private agencies under title II, which shall be implemented by the Administrator of the Agency for International Development (AID) [section 201] and (3) to establish a program for donations to least developed countries under title III, which shall be implemented by the AID Administrator. [Section 301]

It is the intent of the Managers to provide clear lines of authority to the Secretary for the title I concessional sales program and to the Administrator for the title II and III grant programs and to reduce the amount of interagency involvement in operational decisions which occur after country-level allocations of food aid are made. By fixing responsibility—making sure that someone is in charge—the Managers intend to enhance program focus, effectiveness and responsibility.

(7) Eligible countries

The Senate bill defines a "least developed country" eligible to participate in the grant program as one which meets poverty criteria as set forth in the World Bank Civil Works Preference list, or that the Administrator determines (using the best available information) is a food deficit country characterized by high levels of malnutrition among significant numbers of its population, including, a daily per capita calorie consumption of less than 2300 calories, an under-five child mortality rate in excess of 100 per 1000 births; and an inability to meet its food security requirements through domestic production or imports due to a shortage of foreign exchange earnings. [Section 102 (a) and (c)]

The House amendment is similar to the Senate provision, except that the President is required to take into account whether the country meets the calorie, under-five mortality rate and food security requirements in determining whether a country is a food deficit country. [Section 1208]

The conference substitute requires the Administrator to determine that a country meets the calorie, under-five mortality rate and food security requirements to be found in a food deficit country.

In dropping the reference to "best available information" in the Senate bill, the conference managers recognize that because calorie and child mortality data may be inaccurate, out of date, or unavailable, the Administrator may be required to use his judgement and the judgement of experts in determining that a country meets the criteria. [Section 302]

(8) Allocation priority for bilateral grant program

The Senate bill provides that in the allocation of grant assistance the Administrator is to give priority to least developed countries that demonstrate the greatest need for food, have a capacity to use food assistance effectively, and are willing to adopt policies to promote food security, including policies to reduce hunger and nutrition. [Section 103(b)(2)]

The House amendment is the same as the Senate provision, with the addition of language directing that priority also be given to countries that have a long-term plan for broad-based, equitable, and sustainable development. [Section 1208]

The conference substitute adopts the House provision. [Section 302(c)]

(9) Multi-year agreements

The Senate bill mandates, subject to a waiver, that the Administrator or the Secretary shall enter into multi-year agreements to make agricultural commodities available to eligible countries. Multi-year agreements must include a number of specified terms, including plans for encouraging private sector participation in agricultural distribution, and a statement of how commodities will be integrated into the overall development plans of a country. [Sections 103, 108, and 202]

The House amendment provides that agricultural commodities provided under this Act be made available on a multi-year basis,

subject to the availability of commodities and funding, unless: (1) a country's past performance does not warrant a multi-year agreement; (2) it is anticipated that the need of a country for assistance does not extend beyond one year; or (3) other circumstances indicate there is only a need for a one-year agreement. [Section 1209(j)]

The conference substitute provides that agreements under this Act shall be on a multi-year basis, unless the past performance of a country is not satisfactory, a country's anticipated food needs do not justify a multi-year agreement, or other circumstances indicate a need for only a one year agreement. The managers intend that other circumstances may include a recipient country's desire for a one-year agreement.

In addition, the substitute provides that agreements include: an estimate of annual value or volume of commodities proposed to be available to a country or organization; and a statement that such agreement is subject to the availability of funds and commodities each fiscal year. For title I and III agreements, a statement is also required concerning how the commodities provided or the revenues generated by their sale will be integrated into a country's overall development plans; and how private sector participation in storage, marketing, transportation and distribution will be encouraged. Authority is also provided to terminate, or refuse to enter into, a multi-year agreement if the country is not fulfilling the objectives or requirements of the Act.

The conference substitute also provides that before entering into title I or title III agreements, consideration shall be given to the extent to which the recipient country is undertaking measures for economic development purposes in order to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable development. [Section 404]

(10) Transportation

The Senate bill requires the AID Administrator to transfer, arrange for transportation, and take other steps necessary to make commodities available to recipient countries under the government-to-government grant program. It mandates that only the Administrator may serve as purchasing or shipping agent, permits the Administrator to establish reasonable fees for such services, and permits the Administrator to award contracts for establishing freight agents to handle shipping for this section. [section 103(d)(1) & (2)]. It also requires the importing country to acquire commodities made available under the concessional sales program, requires the Secretary or the Commodity Credit Corporation to serve as the purchasing or shipping agent for the importing country, permits the Secretary or the CCC to establish reasonable fees for such services, and permits the Secretary or the CCC to award contracts for freight agents to act on their behalf. [Section 107(c) and 206(b)]

The Senate bill requires that the procurement of commodities and ocean transportation for concessional sales be on the basis of publicly advertised open bids. Commissions to selling agents or agents of purchasers or grantees are prohibited; all commissions or fees paid by the supplier of an agricultural commodity or of ocean transportation to any representative of an importer or importing country must be reported to USDA and USDA must provide an

annual report to Congress; failure of a supplier to file a report or the filing of a false report will result in 5 years ineligibility; freight agents hired under this Act may not represent any supplier of commodities, freight or ancillary services or any foreign government while under contract with the U.S. government. [Section 110]

The House amendment retains current law providing the Commodity Credit Corporation discretionary authority to serve as purchasing or shipping agent.

It also sets out requirements for avoidance of conflict of interest by prohibiting a person from being an agent or other representative of the U.S. government, an importer, or an importing country during a fiscal year in which he acts as agent or other representative of a person engaged in providing ocean transportation or transportation related services; requires full and open competition for purchase of commodities and ocean transportation; and provides that the President may determine an appropriate ceiling for fees and commissions. [Section 1209(f)]

The House amendment maintains current law with regard to prohibitions on payment of commissions and changes the penalty for failure to report to not more than 5 years.

The conference substitute provides that the importing country shall acquire commodities under title I and the Administrator shall make commodities available under titles II and III. It modifies current law giving the Secretary or the CCC discretionary authority to serve as shipping agent for title I transactions. It adopts the House provision with regard to open bidding procedures and prohibitions on commissions. Also, see paragraph T-39 of this report for discussion of related conflict of interest provisions. [Section 407]

(11) Timing of shipments

The Senate bill requires the Administrator or the Secretary to consider time of harvest of any competing commodities in the recipient country and any other concerns determined appropriate in making determinations concerning the timing of transportation of commodities. [Sections 103(d)(3) and 107(d)]

The House amendment requires the President to consider the time of harvest of any competing commodities in the recipient country. [Section 1209(a)]

The conference substitute combines the Senate provisions in a single section. [Section 407(d)]

(12) Deadline for agreements

The Senate bill provides that, to the maximum extent practicable, agreements shall be entered into not later than November 30 of the year in which commodities are to be shipped. [Section 103(e)]

The House amendment provides a similar requirement, applicable to sales and grants, and provides an alternative deadline of 60 days after enactment of the Rural Development, Agriculture and Related Agencies Appropriations Act, if this date is later. [Section 1206(k)]

The conference substitute adopts the House provision. [Section 407(e)]

(13) Uses of donated commodities/local currency accounts

The Senate bill provides that donated agricultural commodities may be used: (1) for direct feeding programs, development of emergency food reserves, or distributed through normal commercial channels; or (2) sold by the recipient country or by the Administrator and the proceeds of such sale deposited in a separate account, which may be owned by the recipient country or by AID, and distributed in accordance with a local currency use agreement. Local currencies are to be used for economic development purposes, and a list of suggested uses is provided. [Sections 104 and 105]

The House amendment provides that donated commodities may be used: (1) for direct feeding programs, including child survival programs, or for the development of emergency food reserves; or (2) sold by the recipient country or the President, and the proceeds used for specific economic development purposes. Local currencies are to be deposited in a separate account, which may be owned by the recipient country or the United States. The requirement for a special account may be waived if the proceeds are to be used to promote policy reforms and if the President determines that there will be adequate accounting for the currencies. A list of suggested economic development purposes is provided. [Section 1208 (d), (e), and (f)]

The conference substitute provides that, to the extent determined appropriate by the Administrator, local currency proceeds shall be deposited in a separate account and disbursed in accordance with local currency agreements. To the extent that local currencies are to be used under section 306(a) for specific economic development purposes, the Administrator may determine that such proceeds need not be deposited into a separate account if amounts equivalent to such proceeds will be programmed for such purposes. [Section 305]

(14) Use of local currency proceeds of grant program

The Senate bill provides that local currencies generated from sales of donated commodities be used in the recipient country for economic development purposes, including a list of general categories of suggested purposes. It also provides that not less than 10 percent of local currencies in a separate account should be used to support indigenous PVOs. [Section 106]

The House amendment also provides that local currency proceeds from sales of donated commodities be used for specific economic development purposes, and includes a more detailed list of suggested purposes. It also provides that not less than 10 percent of the proceeds generated from the sales of donated commodities be used to support indigenous PVOs; directs the President to ensure that members of the Foreign Agricultural Service (FAS) are consulted regarding the uses of local currency in a country to which they are assigned; allows nongovernmental organizations to invest local currencies received and to use the interest that accrues for the purpose for which the assistance was provided to that organization without further congressional appropriation; and permits the use of local currencies in the recipient country in which they are generated to support educational institutions if those currencies

are not needed for other economic development purposes. [Section 1208(f)]

The conference substitute adopts the House list of proposed economic development purposes, the Senate earmark for indigenous PVOs, the House provision on PVO investment of local currencies, and the House provision for support for educational institutions. In deleting the House provision for consultation with the Foreign Agricultural Service in the use of local currencies, the managers intend that to the extent possible such consultation should occur in order to take advantage of the knowledge of FAS representatives of agricultural development and private sector activities in such developing countries. [Section 306]

(15) Priorities for the concessional credit program

The Senate bill provides that priority under the concessional sales program is to be given to countries that demonstrate the greatest need for food; that are listed on the priority list established by the Secretary under title III of the Agricultural Trade Act of 1978; and that have the demonstrated potential to become commercial markets for competitively priced U.S. commodities. [Section 107 (a) and (b)]

The House amendment provides that priority under the concessional credit sales program is to be given to countries that demonstrate the greatest need for food and have the demonstrated potential to become commercial markets for competitively priced U.S. commodities. [Section 1206 (a) and (c)]

The conference substitute adopts the House provision. [Section 102(b)]

(16) Terms and conditions of sales

The Senate bill provides that loan repayments be made in dollars, except when the Secretary exercises his discretionary authority to permit a recipient country to make payments in local currencies, which may be used by the United States for certain specified activities. Concessional loan rates are to be determined by the Secretary, and the term of the loan is to be 10 to 20 years, and payments may be deferred for up to 7 years. [Section 108(a) through (d)]

The House amendment is similar to the Senate provision, except that a ceiling of 50 percent of the cost of borrowing to the United States at the time an agreement is entered into is placed on the allowable interest rate, the payment period may extend up to 40 years, and payments may be deferred for up to 2 years.

The House amendment also provides that agreements for concessional sales may include requirements for the programming of local currencies generated by the sale of the commodities in the recipient country. [Section 1206(e)]

The conference substitute provides for concessional loan rates and the grace period on repayment as defined in the Senate bill and establishes a repayment period of between 10 and 30 years. The conference managers expect that, in the case of sales for local currencies, repayment obligations may need to be stated in terms of dollars payable in local currencies at the exchange rate applicable at the time of each payment. The conference substitute does

not contain a requirement for the programming of local currencies generated by the sale of the commodities in the recipient country. [Section 103]

(17) Delivery

The Senate bill provides that delivery of commodities for concessional sale shall be in accordance with the terms of the agreements and subject to the availability of commodities at the time delivery is to be made, as determined by the Secretary. [Section 108(f)]

The House amendment retains current law, providing that delivery must be within 10 years following the date of agreement and subject to the availability of commodities at the time of delivery. [Section 1206(d)]

The conference substitute provides that delivery of commodities for concessional sale shall be made in accordance with the terms of the agreement. [Section 103(e)]

(18) Self-help requirements

The House amendment requires that a proposed recipient country, to be eligible to enter into a concessional sales or grant food assistance agreement, must undertake self-help measures for economic development in order to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable development. [Section 1206(h)]

The Senate bill does not require "self-help" provisions as part of concessional sales or grant food assistance programs. It does, however, require (in section 103 (c) and 108 (e)) that the grant and loan agreements include a statement of the manner in which the food aid commodities or the revenues received for such commodities will be integrated into the development plans of the recipient country and a plan to encourage competitive private sector participation in the storage, marketing, transportation and distribution of the food aid commodities. In addition, grant agreements must also include a plan for the intended use of the proceeds generated from the sale within the country of the agricultural commodities provided under the agreement.

The conference substitute deletes the House provision. It does, however, include requirements in section 404 regarding integration of assistance into a recipient country's overall development plans and encouragement of competitive private sector participation in the handling of food aid commodities from the Senate bill.

(19) Uses of local currency repayments under concessional sales

The Senate bill authorizes the Secretary to permit repayment of concessional sales in local currencies, which shall be used for one or more of the following activities: trade development; agricultural business development loans; agricultural facilities loans; trade promotion; recipient country private sector agricultural trade development; research; and payments of U.S. obligations. Any U.S. government department or agency other than the Department of Agriculture using these currencies for an appropriated purpose must reimburse the Commodity Credit Corporation in a dollar equivalent amount. [Section 109]

The House amendment provides that in addition to the purposes specified in the Senate provision, local currency repayments may also be used for: agricultural development, acquisition of buildings for U.S. government use, acquisition of materials for libraries, scientific activities, and pest control programs. An appropriation is required for all these additional purposes except agricultural development. If the President determines that these local currencies are not needed for any of the listed activities, they may be used to support certain educational institutions. [Section 1206(c)]

The conference substitute provides that local currency repayments may be used for: trade development; agricultural development; agricultural business development loans, agricultural facilities loans; trade promotion; private sector agricultural trade development; research; and payment of U.S. obligations. The conference substitute exempts from the appropriation requirement local currencies used for any of these purposes except for payment of U.S. obligations. The conference managers intend that this exemption from the appropriation requirement will apply to use of these local currencies by the Agency for International Development for agricultural development and other activities relating to AID programs in developing countries. [Section 104]

(20) Value-added foods

The Senate bill provides that countries which are or have been recipients of value-added foods under title II should continue to receive assistance to combat hunger through the continued provision of such foods under the concessional sales program. It permits the Secretary to waive repayment for the value-added portion of the cost of commodities for countries which provide assurances and have a reasonable potential for transferring the benefits of such waiver to commercial purchases and individual recipients of such foods. [Section 111]

The House amendment retains current law, which is similar to the Senate provision except that the waiver may be made for countries which have a reasonable potential for transition to commercial purchase of such foods.

The conference substitute adopts the Senate provision. [Section 105]

(21) Use of Commodity Credit Corporation

The Senate bill requires that the Commodity Credit Corporation acquire or otherwise make available to the Administrator agricultural commodities as are determined under section 401 to be available, to carry out bilateral grant programs and title II programs, and that the CCC may finance the sale and export of agricultural commodities, from private or CCC stocks, as are determined under section 401 to be available, to carry out concessional sales programs. It also permits the CCC to make commodities available for concessional sales on a cost and freight basis, and gives the CCC authority, with respect to bilateral grant and title II programs, to pay for the cost of acquiring commodities; the costs of packaging and enrichment; the costs of handling commodities to delivery at U.S. ports; ocean freight charges from U.S. ports to designated ports of entry abroad; and costs of transporting commodities from

U.S. ports to designated points of entry abroad in the case of land-locked countries, closed ports, unavailability of carriers to specific countries, or cost or time savings which may be realized from using points of entry other than ports. [Sections 112 and 206]

The House bill retains CCC authorities in current law, and provides that the CCC subject to the approval of the Secretary, shall acquire commodities for grant programs under title II and title III. The Administrator may acquire commodities, as determined to be available under section 401, if commodities are not available through the CCC. [Section 1209(f)]

The conference substitute provides that the CCC shall acquire and make available such commodities (as determined available under section 401 docket authorities) as necessary to carry out agreements under this Act. It amends the Senate provision regarding included expenses to permit such payments under all titles of this Act. [Section 406]

(22) Limitation on expenditures

The Senate bill provides that the total value of agreements for concessional sales and government to government grants not exceed \$1.9 billion in any fiscal year. [Section 112(d)]

The House amendment repeals the ceiling on total fiscal year costs of concessional sales and government to government grant programs. [Section 1206(i)]

The conference substitute adopts the House position.

(23) Regulations

The Senate bill states that the Secretary or the Administrator, as appropriate, shall promulgate regulations implementing the concessional sales and government to government grant program. [Section 113]

The House amendment does not contain a comparable provision.

The conference substitute deletes the Senate provision.

(24) Purposes of title II assistance

The Senate bill provides general authority to carry out programs under title II to:

- (1) address famine;
- (2) combat malnutrition, especially in children and mothers;
- (3) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity;
- (4) promote economic and community development; and
- (5) promote sound environmental practices. [Section 201]

The House amendment retains section 201 of current law, and makes that authority available notwithstanding provisions of any other law. Current law establishes a title II program to address famine; to combat malnutrition; to promote economic and community development; and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. [Section 1207(a)]

The conference substitute adopts the Senate provision, with the addition of specific reference to feeding programs. [Section 201]

(25) Provision of agricultural commodities

The Senate bill authorizes the Administrator to provide agricultural commodities to meet emergency food needs through governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations. Non-emergency assistance may be provided through private voluntary organizations (PVOs) and intergovernmental organizations such as the World Food Program (WFP). [Section 202]

The House amendment amends current law, which is similar to the authorities provided in the Senate bill, to provide authority to distribute food aid through "private" (rather than nonprofit) voluntary organizations, and to governments rather than "friendly" governments. [Section 1207(b)]

The conference substitute adopts the Senate provision, with an amendment providing that emergency assistance may be provided notwithstanding the provisions of any other act. [Section 202(a) and (b)]

(26) Support for PVOs and cooperatives

The Senate bill provides that not less than 2 percent of title II funds shall be made available to U.S. PVOs or cooperatives to assist them in expanding and establishing new title II programs and meeting administrative, management, personnel and internal transportation and distribution costs. The request for such funds shall include specific explanation of (1) the program costs to be offset by such funds; (2) the reason why such funds are needed to carry out the particular program; and (3) the degree to which such funds will improve the provision of food assistance to countries (particularly those in sub-Saharan Africa) suffering from acute long-term food shortages. [Section 202(f)]

The House amendment is similar to the Senate provision. Funding is defined as not less than \$10 million and not more than \$13.5 million of amounts available under title II for PVOs and cooperatives. The President must approve each request for funds. [Section 1207(d)]

The conference substitute adopts the House provision. It is the intent of the Managers that such funds be requested as part of the provided multiyear operational plan or amendment thereto. [Section 202(e)]

(27) Effective use of commodities

The Senate bill provides that to ensure that agricultural commodities made available under Title II are used effectively and in the areas of greatest need organizations or cooperatives through which such commodities are distributed shall—

- (1) to the extent feasible, work with indigenous institutions and employ indigenous workers;
- (2) assess and take into account nutritional and other needs of beneficiary groups;
- (3) help such beneficiary groups design and carry out mutually acceptable projects;

(4) recommend to the Administrator methods of making assistance available that are the most appropriate for each local setting;

(5) supervise the distribution of commodities provided and the implementation of programs carried out under this title; and

(6) periodically evaluate the effectiveness of projects undertaken under this title. [Section 202(g)]

The House amendment retains current law, which provides that priority be given to the poorest regions of countries, and directs implementing organizations, to the extent feasible, to work with indigenous institutions and employ indigenous workers; to help beneficiary groups design and carry out mutually acceptable projects; to give priority to those suffering from malnutrition; to supervise food distribution and implementation of programs; and to give consideration to nutritional and development objectives in light of an assessment of recipients' needs.

The conference substitute adopts the Senate provision. [Section 202(f)]

(28) Priority for U.S. PVOs and cooperatives

The Senate bill provides that in carrying out Title II, the Administrator shall give priority to U.S. PVOs or cooperatives. [Section 202(h)]

The House amendment provides no comparable provision.

The conference substitute deletes the Senate provision.

(29) Labeling

The Senate bill provides that, to the extent practicable, Title II commodities are to be clearly identified as being furnished by the United States. [Section 202(i)]

The House amendment retains current law, which provides that to the extent practicable, commodities are to be clearly identified, in the language of the locality in which they are distributed, as being furnished by the United States.

The conference substitute adopts the House provision. [Section 202(g)]

(30) Value-added commodities

The Senate bill requires that 75 percent of the sub-minimum be made available as processed or fortified products or bagged commodities, defining those products to include processed milk, plant protein products, and fruit, nut, and vegetable products, and gives the Administrator the authority to waive this requirement upon determination that the programs under this title will not be best served by the enforcement of these requirements. [Section 204(b)]

The House amendment is similar to the Senate provision. It retains current law with regard to the 75 percent earmark, with an amendment clarifying the waiver language. Current law also requires the President to consider the nutritional assistance to recipients and benefits to the United States from distributing value-added commodities; the nutritional needs of proposed recipients; and cost effectiveness of providing such commodities, and the pur-

poses of title II in ensuring that at least 75 percent of title II commodities distributed be value-added commodities. [Section 1207(a)]

The conference substitute adopts the Senate provision. [Section 204(b)]

(31) Food Aid Consultative Group

The Senate bill establishes a Food Aid Consultative Group to review the effectiveness of regulations and implementation of Title II generally. The Group is to be composed of the AID Administrator, the USDA Under Secretary for International Affairs and Commodity Programs, the AID Inspector General, a representative of each participating PVO and cooperative, and one representative each from African, Asian, and Latin American non-governmental organizations determined appropriate by the Administrator. The Administrator is required, in preparing regulations, handbooks, or guidelines implementing Title II, to provide them to the Group for review and comment. The Group is exempted from application of the Federal Advisory Committee Act. [Section 205]

The House amendment is similar to the Senate provision. It requires that authority for the Group terminate on December 31, 1995, includes as members the Administrators of the Foreign Agricultural Service and the Agricultural Stabilization and Conservation Service, and representatives from developing country NGOs, as determined appropriate by the President. The Group is not exempted from the Federal Advisory Committee Act. [Section 1207(f)]

The conference substitute adopts the Senate provision with regard to membership of the Food Aid Advisory Group and the exemption from application of the Federal Advisory Committee Act, except that it adopts the House language with regard to representation of developing country NGOs. The conference substitute also includes the House sunset provision. [Section 205]

(32) Maximum level of expenditures

The Senate bill limits title II programs to those requiring appropriation of no more than \$1 billion, unless the President determines that a waiver is necessary to meet urgent humanitarian needs. [Section 207]

The House amendment retains current law, which is essentially the same as the Senate provision, with the addition of an authorization to purchase up to \$7.5 million in foreign currencies accruing under title I. [Section 204]

The conference substitute adopts the Senate provision. [Section 206]

(33) Farmer-to-Farmer Program

The Senate bill authorizes the President to establish a farmer-to-farmer program to assist developing countries, middle income countries and newly emerging democracies. Authority to implement this provision is vested in the Administrator, in consultation with the Secretary. The section expands existing authority to include private agribusiness and non-profit farm organizations to the list of those whose services can be utilized under the program. It defines "emerging democracy" as a country that has recently begun the transformation of its system of government and "middle income

country" as a country that has developed economically to the point where it does not receive bilateral economic assistance from the United States. It earmarks 0.1 percent of funds available each year for this Act to be used to carry out this provision in developing countries. [Section 209]

The House amendment amends current law with provisions similar to those in the Senate bill. It defines "emerging democracy" as a country that is taking steps toward political pluralism, economic reform, respect for internationally recognized human rights, and a willingness to build a friendly relationship with the United States. It also defines "middle income country" as a country which does not qualify for bilateral U.S. development assistance because its per capita income level exceeds the eligibility requirement of such assistance programs. It provides that not less than 0.2 percent of amounts available each fiscal year for this Act, in addition to any funds that may be specifically appropriated to carry out this section, be used to carry out programs under this section, with not less than 0.1 percent to be used for programs in developing countries. [Section 1209(e)]

The conference substitute is the same as the House provision, except that it includes the Senate definition of "middle income country". [Section 501]

(34) Food For Development/Food for Freedom/Food for Progress

The Senate bill deletes current Title III of P.L. 480 (Food for Development) and the Food for Progress Act of 1985. It establishes as Title III of P.L. 480 a new Food for Freedom program, which provides authority to assist developing countries, middle-income countries, and newly emerging democracies through government-to-government and PVO/cooperative agreements. Under the Food for Freedom program, the President is authorized to provide commodities to eligible countries to support (1) the democratization of the government of such countries (2) the granting of individual liberties to the people of such countries, and (3) the promotion of economic freedom within such countries. The bill provides an annual limitation on CCC expenditures of \$50 million (exclusive of the cost of commodities). [Section 301]

The House amendment deletes current Title III of P.L. 480; the government-to-government grant program becomes the new Title III, which is still entitled "Food for Development." The amendment reauthorizes the Food for Progress Act of 1985, amending it to extend the authority of the Act to assist middle income countries and emerging democracies, and to provide assistance through PVOs, cooperatives, and non-profit agricultural organizations. It adds provisions regarding commodity transportation and prohibition on military handling or distribution of the commodities identical to provisions included as amendments to P.L. 480. It maintains the current limitation on CCC expenditures of \$30 million (exclusive of the cost of commodities.) [Section 1214]

The conference substitute adopts the House provision. [Section 1516]

(35) Private market enhancement

The Senate bill authorizes the use of \$20 million in CCC funds or commodities to enhance the development of private sector agriculture in middle income countries and emerging democracies. Agricultural commodities may be provided in a manner that uses the commodity transaction as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing and distribution of such commodities. This section also authorizes use of the local currencies generated by the sale of commodities provided under this title for the purposes of this section. [Section 302].

The House amendment does not contain a comparable provision.

The conference substitute adopts the Senate provision, except that available funding is \$10 million, and developing countries are also eligible for assistance under this section. [Section 1516(m)]

*Public Law 480 Title IV**(36) Commodity determinations (docket authority)*

The Senate bill requires the Secretary, after consultation with other federal agencies, and after considering productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, to determine, prior to the beginning of the fiscal year, the agricultural commodities and quantities available for disposition under this Act.

In establishing policies for implementing this bill, the President should attempt to maintain a stable level of available agricultural commodities needed to provide food assistance to developing countries and should attempt to make such commodities available to the degree necessary to fulfill multi-year agreements entered into under this Act.

The Secretary may suspend the eligibility of a commodity for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary at the time of exportation of such commodity. However, notwithstanding subsections (a) and (c), the Secretary may make Public Law 480 commodities available if he determines that some part of the supply of such commodity should be used to carry out urgent humanitarian purposes of this Act. [Section 401]

The House amendment modifies current law to require the Secretary to make commodity availability determinations prior to the beginning of each fiscal year and adds discretionary authority for the Secretary during the fiscal year to modify such determination if the Secretary provides prior notice to the Congress (including a statement of the reasons for the modification). It deletes authority to determine commodity availability for an individual country. In implementing the Act, the Secretary is directed, to the extent practicable, to seek to maintain a stable level of available agricultural commodities to provide assistance to developing countries and seek to make such commodities available to the degree necessary to fulfill multi-year agreements under the Act. [Section 1209(a)]

The conference substitute requires that prior to the beginning of the fiscal year and after consultation with other federal agencies, and after considering productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary is to determine the agricultural commodities and quantities available for disposition under this Act. The Secretary may modify this determination after the beginning of the fiscal year only if the Secretary provides to the Congress prior notice of that modification. Such notice must include a statement of the reasons for the modification. No commodity shall be available if its disposition would reduce the domestic supply below that needed to meet domestic requirements, adequate carryover, and anticipated dollar exports as determined by the Secretary, unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act. The Secretary is directed, to the extent practicable, to seek to maintain a stable level of commodities needed to provide food assistance to developing countries and should attempt to make such commodities available to the degree necessary to fulfill multi-year agreements under this Act. [Section 401]

The conference substitute makes an important improvement in the functioning of the docket, while maintaining the Secretary's responsibility for ensuring an adequate U.S. food supply. The Managers intend that the result of these changes will limit the frequency of commodity availability determinations. This will provide an important degree of certainty in the process, avoiding delays in programming and shipping and commodity switching.

In the unusual case when commodity availability changes, a mechanism is provided whereby the Secretary may, during the fiscal year, modify the determination made prior to the beginning of the fiscal year.

The Managers intend that the modification option be exercised only if there is a significant and unexpected change in the U.S. supply situation. The Managers believe that in most years not more than one docket determination should be necessary and stress that they intend that the modification mechanism be used sparingly.

(37) Definitions

The Senate bill provides that unless otherwise provided in this Act, "agricultural commodity" includes any agricultural commodity or the products thereof produced in the U.S., including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products.

"Administrator" means the Administrator of the Agency for International Development.

"Cooperative" means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

"Indigenous non-governmental organization" means a foreign organization that is not primarily an agency or instrumentality of a foreign government working at the local level to solve development problems in the foreign country in which it is located. "Private vol-

untary organization" means a nonprofit organization (a tax-exempt organization if such is a U.S. organization) that receives some portion of its annual revenue from the private sector and receives voluntary contributions of money.

"Secretary" means the Secretary of Agriculture. [Section 4]

The House amendment retains the definition of agricultural commodity in current law, amending it, for purposes of title II, to provide that a product of agricultural commodities shall not be considered to be produced in the United States if it contains any ingredient that is not produced in the United States if that ingredient is produced and is commercially available in the United States. "Administrator" refers to the AID Administrator unless otherwise specified. "Food security" means access by all people at all times to sufficient food and nutrition for a healthy and productive life. "Private voluntary organization" means a not-for profit, nongovernmental organization (in the case of a U.S. organization, an organization that is exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1986) that receives funds from private sources, that receives voluntary contributions of money, staff time, or in-kind support from the public; and that is engaged in or is planning to engage in voluntary, charitable, or development assistance activities (other than religious activities). The House amendment defines cooperative, indigenous nongovernmental organization, and Secretary in the same manner as Senate bill. [Section 402]

The conference substitute adopts the Senate language for "agricultural commodity," with an amendment providing that effective October 1, 1991, for purposes of title II, a product of an agricultural commodity shall not be considered to be produced in the United States if it contains any ingredient that is not produced in the United States, if that ingredient is produced and is commercially available in the United States at fair and reasonable prices. This provision insures that ingredients will be treated equally with other components of title II processed foods, such as the basic agricultural commodity and packing materials which are now required to be of domestic origin. It clarifies the basic intent to use available domestic components when food is purchased for overseas humanitarian donation. The provision does, however, limit the use of domestically produced ingredients to those commercially available at fair and reasonable prices. It is intended that such price determinations will be made on the basis of domestic production considerations.

The conference substitute adopts the House definition of "food security". The managers note that the concept of food security rejects the outdated concept of "food self-sufficiency" whereby countries would try to produce all needed food domestically. It focuses instead on access to food, which includes the ability of a country to earn sufficient foreign exchange to import food.

The conference substitute also provides that "developing country" means a country that has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels, as determined by the Secretary or the Administrator, as appropriate.

The conference substitute clarifies the definition of "indigenous nongovernmental organization" to mean an organization organized under the laws of the recipient country or having its principal place of activity in such country. [Section 402]

(38) General provisions

The Senate bill maintains the provision of current law regarding adequate storage of commodities in recipient countries, known as the "Bellmon amendment", to require that no commodities be made available under this Act unless the Secretary or Administrator, as appropriate, determines that adequate storage facilities which will be available at the time of arrival of the commodity and that the distribution of the commodity in the recipient country will not be a disincentive to domestic production. It adds a provision requiring the Secretary or the Administrator to consult with the International Monetary Fund, the World Bank and recipient countries to ensure that Public Law 480 commodities and local currencies for development purposes will not have a disruptive impact on farmers or the local economy of the recipient country. It makes discretionary the provision in current law prohibiting transshipment of P.L. 480 commodities from the recipient country. It includes several provisions from current law including: the use of private trade channels; the requirement to avoid disruption of world prices for agricultural commodities or of normal patterns of commercial trade; the requirement to publicize the fact that commodities purchased under P.L. 480 are provided through the friendship of the American people; the requirement to encourage U.S. and recipient country private sector participation; and the requirement to safeguard usual U.S. marketing. [Section 402]

The House amendment retains current law with regard to the Bellmon amendment; publicizing the source of P.L. 480 commodities; concerning efforts to increase effective demand and stimulation of economic growth in recipient countries; requiring that donations not displace sales of U.S. commodities; and efforts to assure that the United States obtain a fair share of any increase in commercial purchases of agricultural commodities by recipient countries; all applicable to titles I and III. It retains current law, applicable to title I, concerning convertibility requirements for local currency repayments; use of private trade channels; and giving priority to financing the sale of food and fiber commodities in the allocation of funds. It retains the provision of current law on safeguarding usual marketing, making it applicable to the entire act. [Sections 1206(b), 1208(g), and 1209(n)]

The conference substitute includes the requirement on adequate storage from the Senate bill; the transshipment prohibition, the provision on use of private trade channels; the provision on safeguarding world prices and normal commercial trade patterns; the publicity requirement; the private sector participation provision and the usual marketing safeguards provision, all from current law. The provision in the Senate bill requiring the Secretary or the Administrator, as appropriate, to consult with representatives of the IMF, the World Bank, and other donor organizations is retained with slight modifications. All these provisions are applicable to the entire Act. [Section 403]

The managers are concerned about reports that U.S. food aid has undermined domestic agricultural production in some recipient countries. For example, in El Salvador, shipments of nonfat dried milk exceeded the amount of domestic consumption, causing domestic milk prices to decline and domestic production to plummet. The managers believe that the executive branch needs to update and formalize the process by which a determination is made to assure that food aid does not create disincentives to agricultural production in the recipient country. Specifically, the so-called "Bellmon" determination should include measurement of the impact of P.L. 480 commodities on the same and cross commodity production and should evaluate the impact on producer prices and income. The managers intend that the methodology used to make these determinations be continually updated and that periodic validations be conducted after food aid is received to evaluate the conclusions of the Bellmon determination. The managers affirm the vital importance of these studies and expect the executive branch to give serious consideration to previous and on-going determinations before entering into new P.L. 480 agreements.

(39) Ocean transportation services

The Senate bill provides that notwithstanding any provision of the Federal Property Act of 1949, the Agency for International Development may procure ocean transportation services for bilateral grant and Title II programs under full and open competitive procedures as determined by the Agency. [Section 402(j)]

The House amendment provides that a person may not be an agent, broker, consultant, or other representative of the U.S. Government, an importer, or an importing country in connection with agricultural commodities provided under this Act during a fiscal year in which such person acts in a similar capacity for a person engaged in providing ocean transportation or transportation-related services for such commodities. It also provides for full and open competition for the purchase of ocean transportation services financed under this Act and prohibits payment of fees to an agent, broker, consultant, or other representative of the importer or importing country for ocean transportation brokerage services under this Act in excess of an amount determined appropriate by the President. [Section 1209(f)]

The conference substitute adopts both provisions, with an amendment clarifying that the requirement for full and open competition applies to purchase of commodities by the Federal Government under titles II and III of this Act. Prohibitions on conflict of interest in this section, as well as corresponding amendments to section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985, are not intended to preclude the payment by ocean carriers of compensation or brokerage fees on a shipment-by-shipment basis as provided in governing tariffs or charter parties to persons performing freight forwarding or charter brokering services for these programs under contract to the U.S. Government. Such persons award ocean transportation contracts under the direct supervision of contracting officers or their representatives. These payments shall not be deemed per se to give rise to prohibited conflicts of interest under the cited provisions. [Section 407]

(40) Debt forgiveness

The Senate bill authorizes the President to forgive Public Law 480 debt of least developed countries eligible for grant assistance under Section 103 that have in effect: (1) an IMF standby agreement; (2) a World Bank structural adjustment program; (3) an IMF structural adjustment facility or enhanced structural adjustment facility; or (4) if such an agreement, program or facility is not in effect, the country is pursuing market-oriented, and long term economic development. The President may only provide debt relief if a request therefore is included in the President's annual budget submission to the Congress or is transmitted to the appropriate Congressional committees within three months after the President's budget submission. Debt may be forgiven only in amounts as provided in advance in appropriations acts. No concessional sales agreements shall be concluded under this Act for two years after a country has received debt relief under this section. [Section 403]

The House amendment provides a similar provision which amends Title I to provide that the President may forgive P.L. 480 debt, with respect to credit sales agreements entered into before or after the enactment of the Food and Agricultural Resources Act of 1990, to countries defined as least developed under this Act or which have a per capita external debt greater than \$1500, and which meet the other criteria in the Senate bill. No concessional sales agreements shall be concluded under this Act for two years after a country has received debt relief under this section without written presidential justification. [Section 1206(d)]

The conference substitute adopts the House provision, except that it deletes the reference to the \$1500 per capita external debt criterion. [Section 414]

(41) Sec. 1833. Debt for agricultural development exchanges

The House amendment provides for "debt for agricultural development exchanges, authorizing the Secretary of Agriculture to award grants to U.S. non-governmental organizations, for the purchase on the secondary market of discounted commercial foreign debt of a foreign government to be canceled under the terms of an agreement with that government as part of a debt for agricultural development exchange to carry out projects of mutual benefit to the agricultural sector of the United States and the recipient country. The Secretary is also required to identify those areas which, because of their imminent threat to agriculture, are in particular need of attention to promote the control of plant and animal diseases in the Western Hemisphere. [Section 1833]

The Senate bill has no comparable provision.

The conference substitute provides for "debt for health and protection swaps", authorizing the Secretary of Agriculture to award grants to U.S. and foreign non-governmental organizations, including colleges and universities, for the purchase on the secondary market of discounted foreign commercial debt to be cancelled as part of an agreement that the recipient government provide local currencies to the grantee to carry out projects involving the research, study, prevention, or control of animal and plant pests and diseases in the country, or that government's agreement to take

specific action to carry out animal and plant pest and disease control programs in that country. The Secretary is required to ensure that swaps under this section are designed to be of mutual benefit to the agricultural sector of the United States and recipient country. Projects facilitated under this provision could include research and study exchanges; collaborative linkages and training for developing country professionals; programs on the African honey bee and on screwworm fly research in Mexico and Central America; control of babesiosis, Texas fever in cattle and scrapies; and control of plant diseases such as carnal bunt on wheat and spittle bug pest on grasses. [Section 1517]

The managers direct the Secretary to consult with the AID Administrator before undertaking a debt exchange under this section in a developing country receiving assistance from AID.

(42) Sec. 105A. Debt-for-nature and Debt for development and Agricultural swaps for Latin America and the Caribbean; Enterprise for the Americas facility

The House amendment provides for debt-for-nature swaps as well as debt for development and agricultural swaps for Latin America and the Caribbean. Both provisions give authority to the President to reduce an eligible country's P.L. 480 debt in exchange for agreement to make available resources to be used for environmental, agricultural development and poverty reduction purposes. [Section 1206(d)]

The Senate bill has no comparable provision.

The conference substitute establishes the Enterprise for the Americas Facility (the "Facility") in the Department of the Treasury. It provides that the purpose of the Enterprise for the Americas Initiative is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with inter-related actions to promote debt reduction, investment reforms, and community-based conservation and sustainable use of the environment. [Sections 601 and 602]

To be eligible, a country must: (1) be a Latin American or Caribbean country; (2) have in effect, or have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward an IMF standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent; and as appropriate, structural or sectoral adjustment loans from the IBRD or IDA; (3) have put in place major investment reforms in conjunction with an InterAmerican Development Bank loan or otherwise be implementing or making significant progress toward an open investment regime; and (4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction. The President shall determine eligibility. [Section 603]

The managers are very concerned that World Bank and IMF structural adjustment programs can have significant adverse impacts on the poor and the environment. Thus, the "in exceptional circumstances, be making significant progress towards" formula-

tion cited above provides important flexibility with respect to economic conditionality requirements. If a country has not yet met these requirements, the U.S. shall consider potential environmental and social impacts in determining whether to invoke this flexibility. These conditionality requirements are designed to give flexibility where evidence exists that a proposed World Bank or IMF adjustment program has significant adverse social or environmental impacts.

The Congress addressed these concerns last year in Title V of the International Development and Finance Act, which requires the U.S. Treasury to advocate that multilateral development banks address the social impacts of structural adjustment and develop environmental assessment procedures. The Congress expects that these issues will be addressed in future adjustment negotiations. In addition, it expects that environmental assessments will be carried out for economic adjustment programs.

The managers believe that an integral part of investment reform must be the development of host country capacities for regulation and oversight of the environmental impact of investment. Since investment reform is a basic part of this debt initiative the Managers expect the Treasury to work in concert with the United States Environmental Protection Agency and the Inter-American Development Bank to provide technical assistance to host countries to develop appropriate environmental standards and regulations. Local nongovernmental organizations should be provided assistance in developing the capacity to do research, monitoring and education relating to the environmental impacts of private investment activities.

The conference managers expect that the requirement conditioning eligibility on the establishment of a satisfactory commercial bank financing program will apply only to countries whose commercial debt obligations exceed their official debt obligations.

Authority is provided to the President to forgive P.L. 480 debt to an eligible country to the extent provided for in appropriations Acts. The conference managers expect the President to consult with the Secretary of Agriculture in all decisions to reduce P.L. 480 debt under this provision. [Section 604(a)]

The managers are concerned about the effect of debt servicing obligations on Latin countries' ability to invest in their own development. The managers recognize the difficulties in fashioning a more comprehensive approach to official and commercial debt relief. While the debt-reducing options prescribed by the "Brady Plan" are a step in the right direction for reducing some of the foreign commercial debts of the region, other options also need to be considered in order to achieve true debt relief and to give Latin countries enough breathing space to achieve much needed economic growth. The managers hope, however, that for countries with significant official debt and high debt service ratios, the official debt reduction authorized by this section will include a reduction, to the extent possible, of a country's debt service burden to a level which will allow the country to invest in its own development.

The conference substitute provides that new obligations issued are to bear interest at a concessional rate. If the country has entered into an Environmental Framework Agreement described

below, interest shall be paid in local currency into an Environmental Fund, and shall be the property of the eligible country until it is disbursed pursuant to an Environmental Framework Agreement. If a country has not entered into an Environmental Framework Agreement, interest is to be paid in dollars and deposited in the Commodity Credit Corporation or other appropriate U.S. government account. If a country suspends local currency payments, interest payments are to be made in dollars to the U.S. government account. [Sections 604(c), 605 and 606]

Countries which enter into an Environmental Framework Agreement are required to establish an Enterprise for the Americas Environmental Fund to receive local currency payments. Deposits in such a fund shall be invested until disbursed and any return on such investment may be retained by the Environmental Fund. This requirement is not intended to affect the ability of local bodies administering funds to draw on either principal or interest in the disbursement of Funds. Funds in an Environmental Fund shall be disbursed only pursuant to an Environmental Framework Agreement. [Section 608]

The President is authorized to enter into an environmental framework agreement with each eligible country establishing an Environmental Fund. The managers expect that these provisions will include a process whereby the U.S. government can prevent disbursements from the Fund if the operations of the Fund or of the local body are not in keeping with the terms of the agreement. Funds disbursed from an Environmental Fund are to be administered by a local body constituted under the laws of that country, which shall include representatives nominated by the United States, by the country, and individuals who represent a broad range of nongovernmental environmental, and local community development organizations and scientific or academic organizations or institutions of the recipient country. The framework agreements should outline a process for selecting a different local body if the original body does not fulfill its responsibilities. The local body is to receive proposals for grant assistance from eligible grant recipients and to make grants to such recipients in accordance with priorities agreed upon in the Environmental Framework Agreement, oversee the activities funded, be subject to annual, independent fiscal audits, present an annual program to the Environment for the Americas Board, and submit an annual report on the previous year's activities. The annual program is submitted only for review purposes, not for approval. The managers expect that the local body shall remain a foundation-type mechanism for allocating grants, but should not itself implement programs and activities. The managers expect that efforts will be made to prevent conflicts of interest in the allocation of grants to organizations which are represented on a local body. [Sections 609 and 610]

Eligible activities that may be funded by an Environmental Fund include those activities specified in the Global Environmental Protection Assistance Act of 1989 as follows:

- (1) restoration, protection, or sustainable use of the world's oceans and atmosphere;
- (2) restoration, protection, or sustainable use of diverse animal and plant species;

(3) establishment, restoration, protection, and maintenance of parks and reserves;

(4) development and implementation of sound systems of natural resource management;

(5) development and support of local conservation programs, including infrastructure and institutional support to governmental and non-governmental environmental ministries, institutions, and private groups;

(6) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

(7) efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;

(8) design and implementation of sound programs of land and ecosystem management; and

(9) promotion of regenerative approaches in farming, forestry, fishing, and watershed management.

Also eligible are agricultural related activities that benefit the environment including water quality, and activities that provide for the biological prevention and control of animal and plant pests and disease, and local community initiatives which promote conservation and sustainable use of the environment. All activities are, where appropriate, to include initiatives which link conservation of natural resources with local community development. Organizations eligible to receive grants from an Environmental Fund include nongovernmental environmental, community development, conservation, development, and indigenous peoples organizations of the country; other appropriate local or regional entities; and in exceptional circumstances, the government of the beneficiary country. [Section 612]

The conference substitute also provides for the establishment of an Environment for the Americas Board, to consist of 5 U.S. government representatives and 4 representatives from nongovernmental environmental, scientific, and academic organizations with experience and expertise in Latin America and the Caribbean. The Board is to be selected by the President and chaired by the representative of a U.S. government agency. Its responsibilities are: (1) to advise the President on negotiations for environmental framework agreements; (2) to ensure that suitable local bodies are established; and (3) to review the activities of local bodies. The managers expect that the chair of the Board will be a representative from the Department of the Treasury and that a representative from the Inter-American Foundation will be one of the U.S. government representatives. The managers expect close coordination of financial activities with the overall country development plans and activities of AID. The responsibility of the Board to insure that suitable local bodies are identified will be a crucial element for this Initiative. The nature and composition of the local bodies, the involvement of a wide range of legitimate nongovernmental organizations in it, and the administration of resources, will be a key ingredient for the success or failure of the entire process. [Section 610]

The conference substitute also allows the President to designate appropriate U.S. agencies to review program performance and pro-

vide fiscal audits. Such oversight does not constitute active management of the Environmental Funds. [Section 611]

The conference substitute directs the President to actively encourage other official creditors of eligible countries to provide debt reduction and to attempt to insure that Environmental Funds established are eligible to receive donations from private and public entities, and private creditors of the eligible countries. The President is also required to submit an annual report to the Congress on the operation of the Facility. [Section 613]

(43) Independent evaluation of programs

The Senate bill requires not later than 2 years after enactment of this Act and once every 3 years thereafter, independent evaluations by the Comptroller General of the government-to-government grant, concessional sales and Title II programs in representative countries. The Comptroller General shall submit a report to the appropriate Congressional Committees concerning the evaluations made under this section. [Section 406]

The House amendment requires not later than 2 years after enactment of this act and 2 years thereafter, independent evaluations by the Comptroller General of titles I, II, and III programs in representative countries and a report submitted to the appropriate Congressional Committees. [Section 1212]

The conference substitute adopts the House provision. [Section 410]

(44) Authorization of appropriations

The Senate bill provides that not less than 40% of amounts available for Title I may be used to carry out sales programs and not less than 40% may be available for grant program. [Section 407]

The House amendment provides that the amount of funds made available to carry out the title I concessional sales program shall not be more than twice the amount made available to carry out the title III grant program and that the amount of funds available to carry the title III grant program shall not be more than twice the amount available to carry out the title I concessional sales program. It also amends the provision authorizing transfer between titles to require that any transfers must respect the 1/3, 2/3 ratio. [Section 1209(c) and (d)]

The conference substitute adopts the Senate provision and the House amendment to the transfer authority. [Section 412]

(45) Coordination of Public Law 480 with foreign assistance programs

The Senate bill requires that the Committees on Agriculture, Foreign Affairs, and Appropriations of the House and Senate be notified at least 15 days prior to: (1) entering into any agreement under this Act (including any local currency agreement); (2) adopting any amendment to an agreement that would increase the amount of assistance or change the purpose of that agreement; or (3) waiving any payments under section 403. [Section 408]

The House amendment requires that, to the maximum extent possible, assistance under this Act be coordinated and integrated

with US. development assistance objectives and programs and with the overall development strategy of a country. Special emphasis should be placed on activities that will increase the nutritional impact of programs of assistance under this Act and child survival programs and projects, in least developed countries. [Section 1209(d)]

The conference substitute adopts the House provision. [Section 413]

(46) Annual Reports

The House amendment amends current law to require the President to prepare an annual report, which shall include: the levels and recipients of food assistance; the countries in which activities are implemented; a general description of the projects implemented and a statement of the amount of each agricultural commodity made available pursuant to Section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985. It retains provisions of current law requiring a global assessment of food production and needs, a status report on planned programming of food assistance and cross-country evaluations. It also requires quarterly reports on anticipated agreements; requires current year reports on agreements signed by June 1 specifying the quantities provided through various organizations and the type and quantity of each commodity; requires an annual report on Title II foreign currency proceeds; and requires an annual report on October 16 of each year, World Food Day, by the Secretary and the Administrator assessing progress towards food security in each country receiving assistance under this Act. [Section 1208(g)]

The Senate bill provides no comparable provision.

The conference substitute requires submission of an annual report on levels and recipients of food assistance, including a general description of projects or activities implemented and local currency funded activities, and a statement of assistance made available under section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985. This report should include the total amount of food aid from all U.S. sources to each recipient country. The conference substitute also requires a separate World Food Day report to be submitted annually on October 16. [Section 407(g) and (h)]

(47) Use of Local Currencies for Abortions

The House amendment provides that local currencies that are made available for use under this Act may not be used to pay for abortions as a method of family planning or to motivate or coerce any person to practice abortions. [Section 1209(m)]

The Senate bill provides no comparable provision.

The conference substitute adopts the House provision. [Section 403(k)]

(48) Cooperation between agencies

The House amendment requires: that the Secretary is responsible for ensuring that the Department of Agriculture, in carrying out its responsibilities under Title I, cooperate with the Agency for International Development with respect to the latter's area of ex-

expertise; that the Administrator is responsible for ensuring that the Agency for International Development, in carrying out its responsibilities under Title II and Title III, cooperate with the Department of Agriculture with respect to the latter's areas of expertise; establishes procedures for AID and the Department of Agriculture to consult on and review proposed agreements; and requires the Secretary and the Administrator to consult with the Secretary of State to ensure that agreements are not inconsistent with U.S. foreign policy. [Section 1209(n)]

The Senate bill provides no comparable provision.

The conference substitute provides that the Secretary of Agriculture and the AID Administrator shall cooperate and consult in carrying out the provisions of this Act. The managers expect that the level of cooperation can be maintained while the amount of inter-agency involvement in day to day discussions can be substantially reduced. This cooperation and consultation will enable the Department and the Agency to take advantage of each other's areas of expertise and to avoid contradictions with on-going programs of each agency.

The managers believe that the reference in section 2 to using food assistance to promote the foreign policy of the United States by enhancing the food security of the developing world is sufficient to ensure that activities implemented under this Act will not be inconsistent with U.S. foreign policy. [Section 405]

(49) Food for Peace Officers

The House amendment requires that the Administrator increase the number and expertise of the personnel of the Agency for International Development at agency headquarters and abroad who are responsible for implementation of P.L. 480 activities. [Section 1210]

The Senate bill provides no comparable provision.

The conference substitute deletes the House amendment. The managers suggest that the Agency for International Development, within the constraints of available funding, should increase the expertise of personnel at the agency's headquarters and field missions, who design and carry out the programs for which it is responsible under this Act, in order to increase the number and effectiveness of the implementation of food assistance programs for which it is responsible under this Act.

(50) Assistance in Furtherance of Narcotics Control Objectives of the United States

The Senate bill authorizes the President, through the Administrator to provide assistance under this Act, notwithstanding any other provision of law, for economic development activities undertaken in an eligible country that is a major illicit drug producing country. Such assistance should reduce the dependence of the economy of such country on the production of crops from which narcotic and psychotropic drugs are derived. [Section 409]

The House amendment provides that local currencies available under this Act may not be used to finance the production for export of agricultural commodities (or products thereof) that would compete in world markets with similar U.S. products of commodities if such competition would cause substantial injury to U.S. pro-

ducers. It also provides waiver authority for use of such currencies for crop substitution or other alternative development activities undertaken in furtherance of narcotics control objectives. [Section 1209(1)]

The conference substitute adopts the House limitations on uses of local currencies and provides that the President, notwithstanding those limitations, may provide assistance for economic development in major illicit drug producing countries to reduce the dependence of the economy of such country on crops from which narcotic and psychotropic drugs are derived. This provision retains restrictions on the use of local currencies for activities which would cause substantial injury to U.S. producers, while making a limited exception for activities in major illicit drug producing countries. The managers intend that this amendment will, in limited circumstances, permit the use of local currencies generated under P.L. 480 to finance local development projects which will assist participating countries to reduce their reliance on the production of illicit narcotics. [Section 414]

(51) Development of new regulations: effective date

The Senate bill requires the Administrator to promulgate proposed regulations for title II within 120 days of enactment of amendments to that title. Promulgate final regulations implementing such amendments within 210 days, and to issue revised agency guidelines implementing such amendments within 210 days of enactment. [Section 1112]

The House amendment requires the President to provide for the issuance of regulations to revise existing regulations to implement the Agricultural Trade Development and Assistance Act of 1954. The regulations shall be issued in proposed form no later than 6 months after the date of enactment of this Act and form no later than one year after the date of enactment of this Act. [Section 1211]

The conference substitute provides that the Agricultural Trade Development and Assistance Act of 1954, as amended by this Act, shall take effect on January 1, 1991. (The Food for Progress Act of 1985 as amended is effective upon enactment of this Act.) The conference substitute provides that food assistance agreement entered into prior to January 1, 1991 shall remain subject, for the duration of such agreements, to applicable provisions of the law in effect prior to such date. The conference substitute requires promulgation of regulations implementing this Act within 180 days of date of enactment. [Section 409 and 1513]

(52) Amendment to section 416(b)

The Senate bill amends section 416(b) of the Agricultural Act of 1949 to provide that surplus CCC-owned commodities are to be used in carrying out P.L. 480 concessional sales, grant, donation and Food for Freedom programs. It maintains provisions of current law relating to eligible commodities, minimum amounts of commodities to be furnished under section 416(b), estimation of expected year-end levels of uncommitted stocks, publication of stocks to be made available under section 416(b), and statement that commodities provided through section 416(b) should be subjected to expedited proce-

dures. It provides that commodities shall not be made available for disposition in amounts that will reduce amounts of commodities traditionally made available through donations to domestic feeding programs or that would prevent the Secretary from fulfilling agreements entered to under the production adjustment programs provided in Titles I and II of this Act or other Acts administered by the Secretary. It also maintains current law relating to use of foreign currency proceeds in Poland but strikes language describing eligible activities. [Section 1113]

The House amendment retains current law and adds new provisions on conflict of interest, commodity transportation, open competition, capping of broker fees, non-discriminatory distribution, and prohibition against military involvement which are also added to P.L. 480. [Section 1213]

The conference substitute adopts the House position, with an amendment making section 416(b) commodities available under the new title III of this Act. In agreeing to retain current law, the managers intend that section 416(b) programs continue to be implemented as they are at the present time. [Section 1514]

101 Subtitle B—Agricultural Trade Act of 1978 (S 1121; H 1221)

The Senate bill amends the Agricultural Trade Act of 1978 by replacing it with new text. Section numbers below refer to the sections of that Act as amended. [Section 1121]

The House amendment amends titles I through IV of the Agricultural Trade Act of 1978 by replacing them with new text. Section numbers below refer to the sections of that Act as amended. [Section 1221]

The Conference substitute rewrites the Agricultural Trade Act of 1978 in its entirety. The following section and title references are to the provisions of the Agricultural Trade Act of 1978 as rewritten. (Section 1521)

102. Short title (S 1121; H 1221)

The Senate bill Section 1 states that the Act may be cited as the Agricultural Trade Act of 1978 (the "1978 Act"). (Section 1121)

The House provision contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1521)

TITLE I—AGRICULTURAL TRADE POLICY

Subtitle A—Purpose and Definitions—Agricultural Trade Policy of the United States

The Senate bill provides that it is the policy of the United States to—

- (1) provide agricultural commodities for export at competitive prices;
- (2) increase exports of value-added agricultural products;
- (3) provide food assistance to needy countries;
- (4) support the principle of free trade, promote fair trade, and remove foreign policy constraints in agricultural trade;
- (5) counter unfair trade practices;

(6) to remove foreign policy constraints in agricultural trade; and

(7) provide for increased representation of U.S. agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade. (Sec. 101)

The House amendment expresses Congressional findings that the U.S. agricultural export policy should emphasize increased exports of high value agricultural products. [Section 104]

The Conference substitute deletes both provisions.

103. Purpose (S 1121; H 1221)

The Senate bill outlines the Act's purpose of increasing the profitability of farming and market opportunities for U.S. farms and agricultural enterprises and coordinated and efficient implementation of U.S. agricultural trade programs. [Section 102]

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision with a clarifying change. (Section 101)

104. Definitions (S 1221; H 1221)

The Senate bill defines the terms agricultural commodity, developing countries, Secretary, Service, unfair trade practice, and wood and processed wood products. [Section 103]

The House amendment provides a similar provision which also defines the terms U.S. Agricultural Commodity, U.S., Agricultural Commodity, Developing Country, Secretary and Unfair Trade Practice. [Section 101]

a. Agricultural Commodity

The Senate bill provides that an Agricultural Commodity is defined as any agricultural commodity or product produced in the U.S., wood or processed wood products, fish, livestock, or value-added, fortified or high-value agricultural products.

The House amendment provides that an Agricultural Commodity is defined as any agricultural commodity, food, feed, fiber or products thereof.

The Conference substitute adopts the House provision. (Section 102)

b. U.S. Agricultural Commodity

The House amendment provides that a U.S. Agricultural Commodity is defined as—

(1) for other than agricultural products, an agricultural commodity produced in the U.S.;

(2) for an agricultural product, either a product—

(a) all components are produced in the U.S., except fish harvested in waters of a foreign country;

(b) the agricultural component not entirely produced in the U.S. is an added, de minimis component; not commercially produced in the U.S.; and no acceptable substitute produced in the U.S. (Section 101)

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision clarifying that no acceptable substitute be commercially produced in the U.S. (Section 102)

c. Unfair Trade Practice

The Senate bill provides that an unfair Trade Practice is defined as any act, policy or practice of a foreign government that is unreasonable or discriminatory and burdens or restricts U.S. ag. exports, including—

- (1) export subsidies;
- (2) artificially low priced raw materials;
- (3) financial assistance on preferential terms;
- (4) variable levies or restrictive licensing practices; and
- (5) discriminatory pricing policies of marketing boards and State trading agencies. (Section 103)

The House amendment provides that an unfair trade practice is defined as an act, policy or practice of a foreign government that—

- (1) violates or is inconsistent with any trade agreement including the U.S. as a party;
- (2) is unjustifiable, unreasonable, or discriminatory and restricts U.S. commerce;
- (3) is not inconsistent with Sec. 301 of the Trade Act of 1974.

The Conference substitute adopts the House provision. (Section 102)

The Managers intend that unfair trade practice include (1) export subsidies such as the provision of direct subsidies to an individual, firm, or industry contingent on export performance; currency retention schemes; internal transport and freight charges on export shipments by governments on terms more favorable than for domestic shipments; and tax rebates on exports; (2) furnishing or ensuring the availability of raw materials to domestic processing operations at artificially low prices, including the maintenance of export taxes, duties, or charges on products that are used as inputs for the production of secondary products at levels higher than that levied on the secondary products; any other differential export tax or duty exemption; domestic consumption quotas and the assumption of costs or expenses of production, processing, or distribution by the government; (3) financial assistance on preferential terms; (4) variable levies or restrictive licensing practices; (5) discriminatory pricing policies of marketing boards and State trading agencies.

The Managers believe an act, policy or practice is unreasonable if it, while not necessarily in violation of or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable.

105. Certification of Compliance (S 1211; H 1221)

The Senate bill provides no comparable provision, but see provisions concerning arrival of commodities under export credit guarantee program. (Sec. 202(1)).

The House amendment provides that the Secretary is required to obtain certification concerning commodities being exported or used under any export promotion program of USDA or CCC—

- (1) from countries or importers that the commodity was received in that country; and

(2) from sellers or exporters that there were no corrupt bonuses, etc. involved and that transaction complied with U.S. law. [Sec. 102]

The Conference substitute provides that with respect to commodities or other assistance provided, or for which financing or credit guarantees are made available under the programs authorized in this section, the Commodity Credit Corporation shall—

(1) require the exporter to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and have access to such documents or records as needed to verify the arrival of agricultural commodities exported in connection with such programs in the countries that were the intended destination of such commodities, and

(2) obtain certification from the seller or exporter of record of such commodities, that there were no corrupt payments, extra sales services, or other items than those so provided, financed, or guaranteed in connection with the transaction, and that the transaction complied with applicable United States law. (Sec. 401)

106. Departmental Administration System (H 1221)

The House amendment establishes required procedures governing the submission and review of all export program proposals, including regular audits of program transactions. Encourages the Secretary to determine whether to use suspension and debarment for non-compliance with program requirements. Requires the Secretary to contract with an outside management consultant to obtain recommendations on how to improve the implementation of this section. [Sec. 103]

The Senate bill provides no comparable provision.

The Conference substitute provides that with respect to each commercial export promotion program of the Department of Agriculture or the Commodity Credit Corporation, the Secretary shall—

(1) specify by regulation the criteria used to evaluate and approve proposals for that program;

(2) establish a centralized tracking system to permit the Foreign Agricultural Service to provide the full history and current status of any proposal;

(3) provide for regular audits of program transactions to determine compliance with program objectives and requirements; and

(4) establish criteria to evaluate loans eligible for guarantees by the Commodity Credit Corporation, so as to ensure that the Corporation does not assume undue risk in providing such guarantees.

The substitute also provides that information on the status of a proposal shall be retrievable within the central system by appropriate categories, as determined appropriate by the Secretary. (Section 103)

107. Long-term agricultural trade strategy (S 1121; H 1221)

The Senate bill requires the Sec. to develop a long-term agricultural trade strategy every three years to guide the implementation of agricultural trade programs. [Section 110 (a) and (d)]

Specifies the goals of such a strategy.

Requires that the Secretary establish the above-mentioned goals, identify priority markets and establish market plans for such markets. [Section 110(b)]

Requires that the Secretary consult with other agencies and with the Agricultural Policy Advisory Committee, and provide for public comment in developing the long-term strategy and consider exchange rate fluctuations, foreign unfair trading practices, foreign food needs, and differences in transportation, shipping, and marketing factors. The strategy should: (1) encourage the commercialization of foreign markets and promotion of U.S. as a primary and dependable supplier of agricultural commodities, and (2) contain multi-year plans to implement U.S. export and food assistance programs. [Section 110(c)]

The House amendment provides a similar provision which requires the Secretary to develop, every three years, a long-term agricultural trade strategy to ensure coordinated use of the various export programs, and include trade goals, designation of growth and priority markets, and individual market plans. [Section 105]

The House provision requires the Secretary to consult with USTR to ensure that strategy is coordinated with annual national trade policy agenda.

The Conference substitute adopts the Senate provision with requirements to consult with USTR and private sector advisory groups.

108. Long-term agricultural trade goals (S 1121; H 1221)

The Senate bill requires that the Secretary develop goals with respect to the desired levels of agricultural exports and market shares over a period of not less than 3 years for all agricultural commodities; certain specified commodities; high-value, value-added, processed commodities; and expenditures on export programs. [Section 111]

The House amendment requires the Secretary to include agricultural trade goals for all agricultural commodities, expressed in both physical volume and monetary value over not less than the 3-year period for which the long-term strategy is developed. [Section 105(b)]

The Conference substitute adopts the Senate provision except for the reference to processed, value-added products. [Section 103(b)]

109. Establishment of priority markets (S 1121; H 1221)

The Senate bill directs the Secretary to designate at least 15 countries or groups of countries most likely to emerge as growth markets for U.S. commodities within 5 and 10 years. At least 5 of these countries shall be developing countries. Growth markets shall be given priority for the use of U.S. ag export programs, excluding food assistance and programs to combat unfair trade prac-

tices, in accordance with individual market plans and the long-term agricultural trade goals. [Section 112]

The House amendment provides a similar provision except uses 3- and 6-fiscal-year prospective periods for growth and sets no minimum for developing countries. [Section 105(c)]

The Conference substitute provides that the Secretary shall develop a list for inclusion in the long-term trade strategy of not less than 15 countries (or groups of countries) that are most likely to emerge as growth markets during the 3- and 6-fiscal-year periods beginning on October 1, 1991. The Secretary is required to designate countries on the list as priority markets for Federal programs that promote the export of U.S. agricultural commodities (other than those programs designed to provide food assistance and those programs under section 201). (Section 103(d))

110. Establishment of market plans (S 1121; H 1221)

The Senate amendment directs the Secretary to develop individual market plans for each priority market, including specific plans to assist exports and market development, and the agricultural trade goals for that country over the next 3 years, depending upon the type of market (commercial, subsidized, or concessional) with an emphasis on decreasing subsidized exports and increasing commercial purchases. [Section 113]

The House amendment provides a similar provision, but does not address individual market goals. [Section 105(e)]

The Conference substitute adopts the House amendment with clarifying change. (Section 104(d)(3))

111. Confidentiality (S 1121; H 1221)

The House amendment authorizes the Secretary to designate portions of the trade strategy as confidential. [Section 105(f)]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision, with an amendment to sunset the provisions in December 1995. (Section 103(f))

112. Review (S 1121)

The Senate bill requires the Secretary to review the U.S. agricultural trade performance based on the strategy and goals at least every 3 years and evaluate what revisions are necessary. (Section 114(a))

Directs the Secretary to conduct an interim review on the actions the Secretary has taken to increase exports of U.S. processed, value-added agricultural products. [Section 114(c)]

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision, with amendments to maintain the 3-year review. (Section 103(e))

The Managers intend that in conducting this review, the Secretary shall review U.S. agricultural trade performance in conjunction with the long-term trade strategy developed for such period; determine whether and to what extent individual market plans were successfully implemented during such period; determine whether the use of any Federal export programs has resulted in an increase in agricultural exports, including high value, processed ag-

gricultural commodities in priority markets during such period, and conduct a country-by-country analysis of expenditures made under Federal export programs and the resulting exports of U.S. agricultural commodities during such period.

113. Relief from Unfair Trade Practices (H 1221)

The House amendment authorizes the Secretary to utilize the export promotion programs to offset unfair trade practices faced by an industry which is not able to progress with dispute settlement proceedings under an international trade agreement because the party maintaining the unfair trade practice does not allow the proceeding to progress. Consultations with the industry are required. [Section 106]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 302)

114. Preservation of traditional markets (S 1121; H 1221)

The Senate bill directs the Secretary to seek to preserve traditional markets for U.S. agricultural commodities. [Section 115]

The House amendment provides a similar provision which directs the Secretary to seek to preserve traditional markets for agricultural commodities in implementing USDA programs intended to encourage exports. [Section 107]

The Conference substitute adopts the House provision. (Section 104)

115. Independence of Authorities (S 1121; H 1221)

The House amendment provides that authorities under the Act are in addition to other authorities. [Section 108]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 105)

116. Program Expenditures (S 1121; H 1221)

The House amendment provides that expenditures under the 1978 Act are expenditures for export promotion and not for price support. [Section 109]

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

117. Direct credit sales program

a. General Provisions

The Senate bill revises and reauthorizes the direct credit sales program from section 4 of the Food for Peace Act of 1966. Section 4 of Food for Peace is deleted in a later section of the bill.

Use of program changed to include both short and long term credit assistance. Permissible uses expanded. Freight costs specifically included in part of sale that is financed. [Section 201]

The House amendment provides no provision. Retains current law provisions.

b. Short-term Credit Sales

The Senate bill provides that sec. 201(a) authorizes the CCC to provide short-term financing of commercial export sales from privately owned stocks for periods of up to 3 years.

The House amendment retains current law authority under the CCC export credit sales program and section 4 of the Food for Peace Act with technical modifications. Wood, fish and products thereof are explicitly included in guarantee program. [Section 1222]

The Conference substitute adopts the Senate provision. (Section 201)

c. Intermediate term credit sales (H 1222)

The Senate bill authorizes CCC to provide intermediate-term financing for commercial export sales from privately owned stocks for periods between 3 and 10 years.

Sec. 201(c) provides that intermediate-term financing must be determined to develop, expand or maintain the foreign market; improve the importing countries' ability to be a long term commercial purchaser; or otherwise promote U.S. agricultural exports.

Sec. 201(d) specifies that the direct credit program shall be used to increase exports, meet foreign competition, and assist developing countries in meeting their food needs. Cost of freight to the foreign port of entry may be included within the financed sales. The use of the financing for foreign aid or debt rescheduling is prohibited. Cargo preference laws do not apply to the financed sales. Deletes reference to use of funds for friendly countries.

Sec. 201(e) requires repayment of the financing to be in dollars, including interest, and an initial payment may be required at the time of sale or shipment.

Sec. 201(f) prohibits the resale or transshipment of commodities subject to a direct sale to other countries. The CCC may obtain commitments of such action from purchasers, where feasible. (Section 201)

The House amendment requires that intermediate term direct credit export sales must directly benefit U.S. producers. [Section 1222(b)]

Adds a prohibition on the use of intermediate credit financing or guarantees for the purpose of foreign policy. [Section 1222(e)]

The Conference substitute adopts the Senate provision except for the cost of freight provision. (Section 201)

The Managers intend that cost of freight with regard to intermediate-term programs be handled in the same manner as cost of freight for the intermediate-term credit guarantee program.

118. Export credit guarantee program

a. General Provisions (H 1222)

Sec. 4 of Food for Peace and sec. 1125 of the FSA are deleted in a later section of the bill.

The House amendment retains current law authority under the CCC export credit sales program and section 4 of the Food for Peace Act with technical modifications. [Section 1222]

b. Short-term Program

The Senate bill provides that sec. 202(a) authorizes the CCC to guarantee short-term loans of up to 3 years for commercial sales of agricultural commodities from privately owned stocks.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 202)

c. Intermediate-term Program

The Senate bill provides that section 202(b) authorizes CCC to guarantee intermediate-term loans of between 3 and 10 years for commercial sales of agricultural commodities from privately owned stocks.

Sec. 202(c) provides that intermediate guarantees must be determined to develop, expand or maintain the foreign market; improve the importing countries ability to be a commercial purchaser; or otherwise promote U.S. agricultural exports.

The House amendment requires that intermediate term credit guarantees must directly benefit U.S. producers. [Section 1222(b)]

The Conference substitute adopts the Senate provision with an amendment clarifying that the credit guarantees must directly benefit U.S. producers. (Section 202)

d. Other Provisions

The Senate bill provides that sec. 202(d) specifies that the guarantees may be used to increase exports, meet foreign competition, and assist developing countries in meeting their food needs.

Sec. 202(e) provides that the cost of freight to the foreign port of entry may be included within the guaranteed sales.

Sec. 202(f) prohibits the use of the guarantees for foreign aid or debt rescheduling. Cargo preference laws do not apply to the guaranteed sales. Deletes reference to use of assistance for foreign policy.

Sec. 202(g) prohibits the availability of guarantees to a country that cannot adequately service the debt.

Sec. 202(h) authorizes the CCC to determine the terms and conditions of the contract of guarantee, as necessary.

Sec. 202(i) prohibits the resale or transshipment of commodities subject to a contract of guarantee to other countries. The CCC shall obtain, where feasible, certification of such action from purchasers.

The House amendment adds prohibition on the use of intermediate credit guarantees for the purpose of foreign policy. [Section 1222(e)]

Amends section 4(e) of the Food for Peace Act to prohibit the availability of guarantees to a country that cannot adequately service the debt. [Section 1222(d)]

Retains current law prohibiting resale or transshipment of commodities under the intermediate-term program with authority to the Secretary to obtain certification where feasible. (Section 1222(d))

The Conference substitute adopts the Senate provision with an amendment to prohibit the use of intermediate credit guarantees for foreign policy purposes. (Sec. 201(b)(c))

e. Domestic Content

The Senate bill establishes a domestic content requirement for eligible commodities for the export credit guarantees. At least 90 percent of the value of the commodity shall be derived from agricultural commodities produced in the United States. The CCC may require 100 percent U.S. content if monitoring the export of such commodities to determine the percentage domestic content is not practical. Guarantees shall not cover any portion of the exported commodity derived outside the United States. (Section 202(j))

The House amendment amends section 1125 of the Food Security Act to provide that CCC may only finance or guarantee U.S. agricultural commodities as defined in the revised 1978 Trade Act. The Commodity Credit Corporation shall not guarantee the value of any foreign agricultural component. [Section 1222(e)]

The Conference substitute adopts the House provision. (Section 202)

f. Financial Institutions

The Senate bill provides that sec. 202(k) establishes eligibility criteria for financial institutions to negotiate letters of credit guaranteed under this program. Ineligible institutions include an institution that is not in sound fiscal condition, an institution that lacks experience in similar transactions, or a branch, home office or a subsidiary of the institution issuing the letter of credit.

The House amendment provides no comparable provision.

The Conference substitute provides that a financial institution shall be ineligible for credit guarantees if it (1) is not in a sound financial condition, (2) is the financial institution issuing the letter of credit or a subsidiary of such institution, or (3) is owned or controlled by an entity that owns or controls such financial institution issuing the letter of credit. (Section 202(i))

g. Arrival of Commodities

The Senate bill provides that sec. 202(l) requires the CCC to audit export transactions to ensure that the agricultural commodities arrive in the agreed country of destination.

The House amendment amends the Food for Peace Act to provide that the Secretary shall ensure that commodities exported under short or intermediate direct credit programs and intermediate export credit guarantee programs arrive at a specified destination country. Requires the Secretary to provide for enforcement of penalties for failure to properly deliver commodities exported under this section. Does not apply to short-term export credit guarantees. [Sec. 1222(d)]

The Conference substitute provides that the unauthorized diversion of commodities under the programs authorized under this title is prohibited. The Commodity Credit Corporation shall establish procedures providing for the annual audit of a sufficient number of export transactions under these programs to ensure that the agricultural commodities that were the subject of such transactions arrived in the country of destination as provided in the sales agreement.

The failure of an exporter, seller or other person to comply with these provisions shall not affect the validity of any credit guarantee or other obligation of the Commodity Credit Corporation under the programs under this title with respect to any exporter, seller, or person who had no knowledge of such failure to comply at the time the credit guarantee was assigned or at the time the Corporation entered into such obligation.

h. Fraud

The Senate bill provides that sec. 202(m) prohibits guarantees to an exporter or assignees who have knowledge of or commit fraud in the use of guarantees or the appropriation of commodities under this program.

The House amendment amends the Food for Peace Act to provide a provision similar to the Senate provision, except it does not apply to short-term guarantee program and contains no requirement of knowledge of the fraud. [Sec. 1222(d)]

The Conference substitute provides that if any exporter, assignee, or other participant has engaged in fraud with respect to the programs authorized under this Act or has otherwise violated program requirements under this Act, the Commodity Credit Corporation may—

- (1) hold such exporter, assignee, or participant liable for any and all losses to the Corporation resulting from such fraud or violation;

- (2) require a refund of any assistance provided to such exporter, assignee, or participant plus interest, as determined by the Secretary; and

- (3) collect liquidated damages from such exporter, assignee, or participant in an amount determined appropriate by the Secretary.

The provisions of this subsection shall be without prejudice to any other remedy that is available under any other provision of law.

The Conference substitute further provides that the Commodity Credit Corporation may suspend or debar for at least 1 or more years, any exporter, assignee, or participant (including a participating country) from participation in one or more of the programs authorized by this Act if the Corporation determines, after opportunity for a hearing, that such exporter, assignee, or participant has violated the terms and conditions of the program or of this Act and that the violation is of such a nature as to warrant suspension or debarment. (Section 402(b))

The Conference substitute also provides that the provisions of 18 USC 1001 pertaining to making false statements to the Federal government applies to any false statements made in connection with the programs authorized under this Act. (Section 402(d))

119. Records (H 1222)

The House amendment amends the Food for Peace Act to require exporters under the program to maintain program records for 5 years after completion of the program transaction, requires the Secretary to maintain the confidentiality of such records, and requires the Secretary to issue final regulations within 90 days after

enactment. Secretary may require exporters to keep non-program transaction records. [Sec. 1222(d)]

The Senate bill has no comparable provision.

The Conference substitute provides that in the administration of the programs under this Act, the Secretary shall require, by rule, each exporter to maintain all records concerning a program transaction for a period of not to exceed 5 years after completion of the program transaction, and to permit the Secretary to have full and complete access, for such 5-year period, to such records.

Additionally, the Secretary may require by regulation an exporter or other participant to make records available to the Secretary with respect to the non-program transactions if such records would pertain directly to the review of program-related transactions undertaken by such exporter or participant, as determined by the Secretary. Confidentiality language is clarified. (Section 402(a))

120. Guarantees for Wood and Fish (H 1222)

The Senate bill directs the Secretary to make export credit guarantees available for wood and wood products under terms and conditions comparable to guarantees of other commodities. [Section 202(n)]

The House amendment amends the Food for Peace Act with a similar provision, except House provision only applies to intermediate-term guarantees, and explicitly includes fish and fish products. [Sec. 1222(a)]

The Conference substitute provides that the Secretary shall make credit guarantees available for fish and processed fish products under terms and conditions that are comparable to the terms and conditions that apply to guarantees provided with respect to other agricultural commodities under such subsections. (Section 202(j))

It is the intent of the Managers that the terms "wood and processed wood products" continue to be included in definitions of agricultural products and included in USDA Export Credit Guarantee Programs.

121. Deferred payment sales (H 1222)

The Senate bill provides technical changes to section 201 of current law. [Section 203]

The House amendment repeals similar provision in current law.

The Conference substitute deletes the Senate provision.

122. Marketing Assistance Program (MAP)

a. General (H 1221)

The Senate bill provides that sec. 204 authorizes the Secretary to establish a Marketing Assistance Program to provide cost-share assistance to U.S. organizations for the development, maintenance and expansion of commercial export markets for U.S. agricultural commodities. Cost share assistance may be in the form of funds or commodities of the CCC.

To be eligible for cost-share assistance, a United States organization shall be an eligible trade organization, prepare and submit a

marketing plan and meet any other requirements established by the Secretary.

Priority for assistance shall be made for affirmative determinations under section 301 of the Trade Act of 1974, where exports have been adversely affected, as defined by the Secretary, through retaliatory actions related to an affirmative determination under section 301, to counter or offset an unfair trade practice of a foreign country or to promote the sale of value-added, fortified, or high-value agricultural products under section 301 of the Agricultural Trade Development and Assistance Act of 1954, especially countries in Eastern Europe.

Most private organizations cannot receive assistance exceeding 50 percent of expenses. Exceptions are (1) private companies that provide a marketing plan for agricultural commodities that have received a favorable decision under section 301 of the Trade Act of 1974, and (2) private entities that have received assistance under section 1124 of the Food Security Act, where any cost-share assistance was greater than 50 percent. In the latter case, cost-share assistance would be staged down to 50 percent in equal increments over the 5-year period. [Section 204(g)]

The Secretary may use the funds, facilities and authorities of the CCC for this program. \$200-\$325 million is authorized for each of the fiscal years 1991 through 1995. [Section 211(c)]

Sec. 204(i) requires that FAS review the regulations governing the eligibility of organizations for MAP. Within 60 days, FAS should recommend to the Agriculture Committees ways to improve the use of funds by smaller trade organizations and any changes to these regulations.

The House amendment amends title II of the 1978 Act to direct the Commodity Credit Corporation to establish a Marketing Promotion program. [Section 202]

Priority for assistance under the program shall be for cases involving an unfair trade practice (or in other cases as determined by the Secretary).

Assistance for branded promotion shall not exceed 50 percent of the cost of implementing the marketing plan. Criteria for determining that cost must be documented.

Final rules must be issued not later than 90 days after the date of enactment of this Act.

The CCC shall make available assistance at a level not less than \$325,000,000 for each of fiscal years 1991 through 1995. Within this amount, the Secretary must establish as an objective the reservation of an amount of assistance for use of the four regional non-profit export trade associations established through the States and the Foreign Agricultural Service. [Sec. 202]

The Conference substitute adopts the House provision except for the following: (1) defines an eligible trade organization as a United States agricultural trade organization or regional State-related organization that promotes the export and sale of agricultural commodities and that does not stand to profit directly from specific sales of agricultural commodities, and (2) does not include the provision requiring the Secretary to establish as an objective the reservation of funds for the four regional nonprofit export trade associations. (Section 203)

The marketing promotion program provided for by this section is a revision of the Targeted Export Assistance program provided for by Section 1124 of the Food Security Act of 1985. Although that section only provided for export assistance to be made available in the case of finding of an unfair trade practice, the program provided for by this section is designed to help foreign market promotion activities generally, with a special emphasis given to helping the exports of agricultural commodities hampered by unfair trade practices.

The Managers note their intent that priority be given to assisting exports of agricultural commodities affected by unfair trade practices, particularly agricultural commodities with respect to which there has been a favorable decision under Section 301 of the Trade Act of 1974 (19 U.S.C. 2411); and agricultural commodities for which exports have been adversely affected, as defined by the Secretary, through retaliatory actions related to a favorable decision under Section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

This section defines organizations that are eligible for assistance under the marketing promotion program. The Managers deleted from the Conference substitute language in the Senate bill specifically stating that a tribal or inter-tribal organization that promotes the export and sale of one or more Native American agricultural products. The Managers took this action because the eligibility of such tribal or inter-tribal organizations is covered by the more general language concerning private or non-profit organizations that promote agricultural exports that remains in the Conference substitute.

The Foreign Agricultural Service (FAS), in cooperation with state governments, has formed four regional trade organizations designed to assist smaller businesses in the development of export markets for agricultural commodities. Since the Targeted Export Assistance (TEA) program was established, the four regional organizations have assisted FAS by consolidating small company TEA requests and administering the TEA awards to the applicants. They also provide needed technical assistance to smaller companies in their regions in developing market development plans for the export of agricultural products.

It is the intent of the Managers that the FAS continue to view favorably the applications from eligible companies that are channeled through the regional trade organizations. It is also the intent of the Managers that FAS provide stronger oversight of the operation of the regional organizations. This includes ensuring that the regional organizations are complying with program requirements, that regional funds are equitably distributed, and that recipients are qualified organizations with the potential to contribute significantly to U.S. export market growth. The goal of the program—to expand commercial export markets with priority in the case of unfair trade practices—should not be hampered by inadequate or inappropriate administration of the program by any of the parties involved.

b. Requirements for Participation

The Senate bill provides requirements for participation:

Eligible trade organizations that prepare and submit a marketing plan within guidelines must be established by the Secretary for the Secretary's approval;

Marketing plans must be developed for countries that are, or have the potential to be, viable commercial markets for U.S. agricultural commodities;

Exports resulting from the use of MAP projects should have a significant positive effect on farmgate agricultural commodity values and on financial returns to farmers;

Priority shall be given where there is an affirmative determination or foreign retaliation to an action under section 301 of the Trade Act of 1974;

MAP assistance will be used to counter or offset an unfair trade practice by the foreign country or will be used in a country eligible for the Food for Freedom program in the Agricultural Trade Development and Assistance Act of 1954, especially Eastern European countries.

The House amendment contains a similar provision requiring submission of a marketing plan by an eligible organization.

The Secretary is directed to provide assistance under this section on a priority basis in the case of unfair trade practices. (Section 202)

The Conference substitute adopts the House provision. (Section 203)

c. Eligible Trade Organizations

The Senate bill defines eligible trade organizations to include U.S. or regional agricultural trade organizations that promote but do not profit directly from specific sales of agricultural commodities; a cooperative organization or State agency that promotes the sale of agricultural commodities; a private organization that contributes significantly to U.S. export market development; or a tribal or inter-tribal organization that promotes the export and sale of one or more Native American agricultural products.

The House amendment provides a similar provision which defines eligible trade organizations that promote but do not profit directly from specific sales of agricultural commodities; a cooperative organization or State agency that promotes the sale of agricultural commodities; or a private organization that contributes significantly to U.S. export market development. [Section 202(d)]

The Conference substitute is similar to both the Senate bill and House amendment with clarifying changes relative to limitation of funds for branded promotion. The Conference substitute provides that an exception can be made to the 50 percent limitation for branded promotion in the case of agricultural commodities with respect to which there has been a favorable decision under section 301 of the Trade Act of 1974. Criteria for determining that cost shall be consistent and such cost shall be documented.

The Conference substitute further provides that in the case where a participant has received funds in excess of 50 percent prior to the date of enactment of this Act and with respect to which assistance would be limited under this Act, any such reduction in assistance must be phased down in equal increments over a 5-year period. (Section 203)

The Managers note that the Targeted Export Assistance program was created in 1985 to assist a number of commodity groups which had gone through the very lengthy and expensive process of pursuing a section 301 case. The Congress believed that those commodity groups that faced unfair trade barriers overseas should be assisted in pursuing their export markets, and it is the Managers' intention that such assistance be continued.

The Managers intent that a private organization include a tribal or inter-tribal organization that promotes the export and sale of one or more Native American agricultural products.

d. Approved Marketing Plan

The Senate bill elaborates the requirements for the marketing plan to be submitted by eligible organizations prior to receiving cost-share assistance. This should include the manner in which Federal and private funds will be expended and the market goals of the program. Such promotion may include branded advertising.

Assistance may be provided over a period of 1 to 3 years. Multi-year assistance has to meet certain criteria.

The Secretary may terminate assistance under certain conditions, including the elimination of the unfair trade practice that was the basis of the provision of assistance.

The Secretary shall have full access to all records of the organization relating to the use of assistance during and for 5 years after participation in the program.

The House amendment provides a similar provision for an approved marketing plan. The Secretary is required to make evaluations of expenditure of funds under this section and must justify in writing the level of assistance provided to an eligible trade organization and the level of cost-sharing required of such organization.

Assistance may be provided on a multi-year basis and the Secretary may terminate any assistance made under certain conditions.

The Secretary must require each eligible trade organization that receives assistance under this program to maintain all records concerning a program transaction for a period of 5 years after completion of the program transaction and to permit the Secretary to have full and complete access to such records. (Section 202)

The Conference substitute adopts the House provision. (Section 203)

123. Non-program Transactions (H 1222)

The House amendment authorizes the Secretary to require organizations to make available records of non-program transactions. [Section 202(f)(4)]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 203)

124. Barter of agricultural commodities

The Senate bill provides that sec. 205 replaces barter provisions outside of the CCC Charter Act, including sections 1167 of the Food Security Act of 1985, section 416(d) of the Agricultural Act of 1949, and others.

The Secretary is authorized to provide commodities in barter for foreign products. Eligible commodities include those acquired by the CCC through price support operations or in the normal course of business.

The Secretary or CCC may provide commodities, technical advice and assistance to U.S. exporters that barter for foreign products or to develop foreign markets for U.S. exports. The Secretary or CCC is authorized to transfer foreign products that they obtain to other government agencies, provided they are fully reimbursed within the same fiscal year.

This section does not limit the CCC's authority to acquire, hold or dispose of such foreign materials. The Secretary or CCC is required to take reasonable precautions to prevent the misuse of eligible commodities in a barter or exchange program.

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision. (Section 204)

125. Agricultural Credit Revolving Fund

The Senate bill provides that the original revolving fund is slightly revised and transferred to new sec. 206. Only significant change is that the requirement that the Secretary annually report on the status of fund is deleted. [Sec. 206]

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision.

126. Equitable Treatment of High-Value Commodities

The House provision provides that in the case of any program, such as that established under section 201 (Export Enhancement Program), operated by the Secretary or the Commodity Credit Corporation during the fiscal years 1991 through 1995, for the purpose of discouraging unfair trade practices, the Secretary shall establish as an objective to expend annually at least 25 percent of the total funds available (or 25 percent of the value of any commodities employed) for activities involving the export sales of high-value agricultural commodities and value-added products of U.S. agricultural commodities. (Section 203)

The Senate has no comparable provision.

The Conference substitute adopts the House provision. (Section 303)

Combination of programs

The Senate bill provides that if a country fails to meet its financial qualifications under the direct credit sales program or export credit guarantee program, the Secretary may provide commodities under the Export Enhancement Program to that country.

The Secretary is required to annually review and adjust the quantity of commodities provided to a country.

The CCC may blend commercial export credit guarantees with direct credits to reduce the effective rate of interest on export sales of agricultural commodities. (Section 207)

The House amendment provides no comparable provision.

The Conference substitute provides that the Commodity Credit Corporation may carry out a program under which commercial

export credit guarantees under section 202 are combined with direct credits under section 201 from the Commodity Credit Corporation to reduce the effective rate of interest on export sales of agricultural commodities. (Section 205)

Subtitle B—Implementation

127. Funding levels (H 1222)

The Senate bill provides that sec. 211(a) provides that the CCC may make available such funds as necessary for the direct credit program.

The House amendment retains current law with same provisions.

The Conference substitute adopts the Senate provision. (Section 211)

The Senate bill provides that short-term export credit guarantees are to be funded at a minimum of \$5 billion in each fiscal year 1991-95.

The House amendment extends current law with same provisions. [Section 1222(f)]

The Conference substitute adopts the Senate provision. (Section 211)

The Senate bill provides that intermediate-term export credit guarantees are to be funded at minimum of \$500 million in each of the FYs 1991-95.

The House amendment extends current law with same provisions. [Section 1222(c)]

The Conference substitute adopts the Senate provision. (Section 211)

The Senate bill provides that the Marketing Assistance Program is to be funded at between \$200 million and \$325 million in each of the FYs 1991-95.

The House amendment requires a minimum funding level of \$325,000,000 for the Market Promotion Program. [Section 202(g) of the 1978 Act as amended]

The Conference substitute provides a funding level for the Market Promotion Program of \$200 million for each of the fiscal years 1991 through 1995. (Section 211)

128. Regulations

The Senate bill directs the CCC or Secretary to promulgate regulations to carry out the provisions. (Section 212)

The House amendment provides no comparable provision.

The Conference substitute provides that the Secretary issue regulations within 180 days. (Section 404)

129. Authorization of appropriations

The Senate bill authorizes such sums as necessary for the title. (Section 213)

The House amendment provides no comparable provision.

The Conference substitute provides authorization for such sums as are necessary for the title. (Section 506)

TITLE III—RESPONSE TO UNFAIR TRADE PRACTICES

130. Purpose of authorities

The Senate bill authorizes the Secretary to carry out agricultural trade programs directed at foreign unfair trade practices. (Section 301)

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision. (Section 301)

131. Export enhancement program to combat unfair trade practices

The Senate bill provides that sec. 302 replaces section 1203 of the Agricultural and Food Act of 1981 and section 1127 of the FSA of 1985. The Secretary is required to carry out a program to discourage unfair trade practices by foreign countries and to encourage the development, maintenance, and expansion of export markets for U.S. agricultural commodities by making U.S. agricultural commodities price competitive. (Section 302)

The House amendment provides that section 201 of the 1978 Trade Act is amended to require the Commodity Credit Corporation to carry out a program to discourage unfair trade practices by making U.S. agricultural commodities competitive.

The Conference substitute adopts the Senate provision with a clarifying amendment. (Section 301)

The Senate bill provides Terms and Conditions:

Export incentives shall be made to the extent necessary to counter or offset the adverse effect of unfair foreign trade practices.

Incentives should make U.S. ag commodities available at the world market price in the foreign market.

Priority should be given to sales to traditional markets for U.S. commodities.

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Senate bill provides that the Secretary shall avoid displacement of usual U.S. marketings and shall take reasonable precautions to prevent the resale or transshipment of the exported commodities.

The House amendment provides no provision.

The Conference substitute adopts the Senate provision. (Section 301).

The Senate bill provides that the cost of freight may be included. (Section 301)

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision (Section 301)

The Senate bill provides that the Secretary shall make reasonable efforts to avoid a disproportionate preference for one class of wheat.

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision. (Section 301)

The Senate bill provides that the Secretary shall make available some or all of the commercial export assistance to mitigate or

offset unfair trade practices against particular commodities. Such commodities include those that the United States institutes, or attempts but is prevented from instituting, a proceeding of any international dispute settlement procedures, or initiates an investigation pursuant to section 301 of the Trade Act of 1974. The Secretary shall promptly consult with the industry regarding specific actions or an integrated marketing strategy to mitigate or offset such unfair trade practice, as well as the industry preference for the practical use of available assistance under this subtitle.

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision (but see Section 302)

The Senate bill provides that agricultural commodities cannot be purchased with Section 32 funds for the sole purpose of using such commodities under this program. The program is to be carried out through the CCC. (Section 301(d))

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision.

The House amendment provides that in proposals for livestock, the Commodity Credit Corporation shall give priority to those proposals that include the purchase of livestock and technical services. [Sec. 201(c)]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 301(c))

The Senate bill provides that authority for this program is in addition to existing authorities.

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision.

The Senate bill provides that the Secretary shall use definite and publicized criteria for reviewing initiatives made under the program, establish and maintain a procedure for evaluating and reviewing bonuses awarded under the program, and establish consistent and effective procedures for reviewing the payment of bonuses to exporters.

The House amendment provides that the Commodity Credit Corporation shall maintain an established procedure for evaluating program bonus requests, use a clear set of established procedures for measuring transportation and incidental costs to be used in the calculation of acceptable bonus levels, in the case of livestock and livestock products, develop methodology to determine the world price and cost of production and maintain controls and procedures for auditing and reviewing payment of bonuses and securing refunds where appropriate. The Secretary may withhold from the public the procedures and guidelines established pursuant to this section. (Section 201)

The Conference substitute adopts the House provision. (Section 301)

The Senate bill requires the Secretary to make available at least 10 percent of the program incentives for sales of value-added, fortified, or high-value commodities. (Section 302(i))

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Senate bill provides that the Corporation shall make available such funds or commodities as are necessary to carry out the program in years 1991-95. (Section 302(j))

The House amendment provides that the Corporation shall make available not less than \$500,000,000 per year to carry out the program in years 1991-95. Not more than 10 percent of the funds and commodities available may promote the export of agricultural commodities described in section 101 (6)(B)(ii). (Section 201(f))

The Conference substitute adopts the House provision, except for the provision directing 10 percent for value-added exports. (Section 301(e))

The Senate bill provides no comparable provision.

The House amendment provides that general purpose is not to adversely affect exports of countries not engaged in unfair trade practices. [Sec. 201(g)]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision with a fairly traded clarifying amendment that the Export Enhancement Program should not affect adversely the exports of fairly traded commodities. (Section 301 (g))

132. Regulations

The Senate bill provides that Sec. 303 provides that the Secretary or CCC shall promulgate the necessary regulations for the export enhancement program.

The House amendment provides no comparable provision.

The Conference substitute provides that the Secretary shall issue regulations implementing the provisions of this Act, including specific regulations pertaining to program compliance requirements under sections 401 and 402.

TITLE IV—GENERAL PROVISIONS

133. Increase in Total Revenue as Result of Export Assistance

The Senate bill provides that sec. 407 provides that the Secretary advise the Secretary of the Treasury and Director of the Office of Management and Budget concerning increases in U.S. agricultural exports resulting from assistance under section 302(c)(11). The Director shall estimate the additional revenue received by the Treasury as a result of the assistance programs established under this Act. The President shall, to the maximum extent practicable, consider this increase in Treasury receipts and the U.S. balance of payments in preparing the budget for the export assistance programs under this Act.

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision.

TITLE V—FOREIGN AGRICULTURAL SERVICE

134. Administrator of the Foreign Agricultural Service

The Senate bill provides that sec. 502 establishes the position of Administrator of the FAS in USDA. Such position is appointed by the President with the advice and consent of the Senate. The Administrator is authorized to exercise functions and perform duties

related to foreign agriculture, and shall oversee the operations of FAS, the General Sales Manager and the Agricultural Attaches. The Administrator, if a member of the Foreign Service, may rejoin the Foreign Service and retains full retirement rights and benefits.

The House amendment provides no comparable provision.

The Conference substitute provides for the establishment of the position of Administrator of the Foreign Agricultural Service. The Administrator is authorized to perform duties related to foreign agriculture and other duties as may be required by law or prescribed by the Secretary of Agriculture. The Administrator must oversee the operations of the Foreign Agricultural Service, the General Sales Manager, and the Agricultural Attache Service. (Section 502)

135. Responsibilities of the Foreign Agricultural Service

The Senate bill provides that FAS shall assist the Secretary in carrying out the agricultural trade policy of the United States. FAS is responsible for the promotion of U.S. agricultural exports; facilitation of economic assistance and development through programs authorized by this Act or elsewhere in law; representation of U.S. producers, processors and exporters in trade negotiations; and collection of information on foreign production, markets and government policies affecting agricultural trade. (Section 503)

The House amendment provides no comparable provision.

The Conference substitute provides that the Service shall assist the Secretary in carrying out the agricultural trade policy of the United States by acquiring information pertaining to agricultural trade, carrying out market promotion and development activities, and implementing the programs authorized in this and other Acts. (Section 503)

136. Staff of the Foreign Agricultural Service

The Senate bill provides that sec. 505 generally restates section 4211 of the Omnibus Trade and Competitiveness Act of 1988. This section authorizes a minimum of 900 staff years to FAS for operation of the agricultural export programs. The Secretary of State shall accord the diplomatic title of Minister-Counselor for up to 12 senior Service officers assigned to any U.S. mission abroad. (Sec. 4211 is deleted in a later provision.)

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision. (Section 504)

137. Authorization of appropriations

The Senate bill authorizes to be appropriated for the service such sums as necessary to carry out the provisions of this title. (Section 506)

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision. (Section 506)

TITLE III—TRADE REPORTING

138. Export reporting and contract sanctity (H 1221)

The House amendment provides that Title III of the 1978 Act requires weekly export sales reports of all exporters of wheat, wheat flower, feed grains, oilseeds, cotton, cotton products and other commodities, as the Secretary designates.

The Secretary shall collect information from commercial exporters of all major agricultural commodities on the U.S. versus foreign content in each export shipment. Information that cannot be obtained from records maintained in the ordinary course of business shall not be required. Processed product reports may be aggregated.

Identifiable information shall be considered confidential. Fines shall be levied against USDA employees who disclose such information or exporters that knowingly fail to file a report. The President cannot prohibit or curtail the export of any agricultural commodity under an export sales contract that is entered into before the President announces an action that would otherwise prohibit or curtail the export of the commodity and the terms of which require delivery of the commodity within 270 days after the date of the suspension of trade is imposed except for a national emergency or declaration of war by the Congress. [Sec. 301]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision but limits the report on origin of commodities to loose and shelled peanuts.

In regard to tobacco, the Conference substitute—

(1) requires reporting within 60 days of export of all tobacco shipments;

(2) requires records to be kept on all finished cigarette and cigarette ready tobacco with information aggregated on a quarterly basis, certified as accurate by the reporting person and submitted to the Secretary (records supporting the accuracy of such certification must be maintained for 5 years);

(3) requires that records maintained and reports filed shall include the crop year, grade, type, country of origin, poundage, and such other information as the Secretary deems appropriate;

(4) requires the Secretary to forward reports to the House and Senate agriculture committees in a timely fashion; and

(5) provides that any person who violates this provision shall be subject to penalties under 18 U.S.C. 1001 for each such violation. (Sec. 602)

The Conference agreement envisions there will be two reports. One, relating to general tobacco exports, on a monthly basis regarding individual reports, and another, relating to cigarettes and cigarette ready tobacco exports, on a quarterly basis regarding individual aggregate reports. Both must be submitted to the House and Senate agriculture committees in a timely fashion.

The tobacco reporting requirements simply require reports to be filed on all tobacco shipments under two different mechanisms. First, tobacco shipments which are not either cigarettes or cigarette ready, must be reported to the Secretary of Agriculture within 60 days of export on an individual basis. Report require-

ments for cigarettes and cigarette ready tobacco shipments allow for individual aggregate quarterly reporting of tobacco shipments by individual companies. This processed product requirement is designed to protect specific or particular brand formulations.

The Managers intend that certification of tobacco or tobacco products by type relates to the broad categories of the major and minor kinds of tobacco, for example, flue-cured, burley, Maryland, dark air, fire cured, etc. Type reporting does not require the person reporting to designate types within the broad categories.

The Managers intend that crop year designation for tobacco and tobacco products reflect the crop year which the Department of Agriculture would normally assign to the particular lot of tobacco. Tobacco marketed in a given year, and considered to be of a certain crop year continues to retain that particular crop year designation. In the case of imported tobacco, the marketing year, and not the year of importation, should control.

The retention of supporting documentation for a 5-year period, provides clear guidance to the exporters of cigarettes and cigarette ready tobacco as to the requirements of the section.

The certification specified in this provision should not limit the ability of the Producer Associations to sell tobacco.

TITLE VI—REPORTS

139. Nongovernmental subsidies (H 1221)

The House amendment requires the Secretary to study the extent to which non-governmental (i.e. private) trade and production practices are provided in any foreign country, with a priority to livestock and U.S. price support commodities. [Section 401]

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

140. Other reports to Congress

The Senate bill provides that sec. 602 provides that additional reports be made to the Ag Committees including an annual report on barter; a bi-monthly update on export assistance; an annual report on the operation of the Trade Assistance Office; a quarterly report on the level of export sales, the use of credit guarantees and direct loans; and an annual report concerning the food aid assistance programs.

The House amendment provides no comparable provision.

The Conference substitute provides that the Secretary must, not less than quarterly, prepared and submit to the Agriculture Committees and the House Committee on Foreign Affairs a report specifying the cumulative amount of export assistance provided by the Commodity Credit Corporation under this and other Acts. (Section 603)

141. Prohibition on use of title

The Senate bill extends the prohibition on the use of the title "Assistant Secretary of Agriculture for International Affairs and Commodity Programs". (Section 1123)

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision.

142. Durum wheat imports

The Senate bill requires the Secretary to report to Congress within one year on the impact on domestic durum wheat growers of durum wheat imports from Canada. (Section 1124)

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision.

143. Alfalfa seed imports

The Senate bill provides that sec. 1125 requires the Secretary to report to Congress within one year on the impact on domestic alfalfa seed growers of alfalfa seed imports from Canada.

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision.

144. Market development task force (H 1223)

The House amendment requires the Secretary to establish a Market Development Task Force to help develop the long-term agricultural trade strategy required by section 105. Membership on the task force includes representatives from Commerce, FAS, USTR, SBA, the Extension Service, the National Association of State Departments of Agriculture, the special assistance to the President for Agriculture, and the private sector. [Section 1223]

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

It is the intent of the Managers that in the preparation of the long-term trade strategy the Secretary will, to the extent possible, draw upon the resources of all of the principal governmental agencies involved in the export business and organizations involved in the daily operations of export trade and export promotion. It is especially important that the U.S. Trade Representative, the Small Business Administration, and the Department of Commerce be consulted and involved in the strategy formulation. The ultimate goal should be a comprehensive, government-wide strategy for agricultural exports.

*Subtitle C—General Provisions**145. Cottonseed oil and sunflower oil exports*

The Senate bill revises the Cottonseed Oil and Sunflower Oil Export programs, established in section 301(b) of the Disaster Assistance Act of 1988. This provision provides that \$50 million of the available funds shall be used to encourage the export of sunflower-seed oil and cottonseed oil at competitive world prices. Such funds shall be fully obligated in years such sums are available and the domestic prices of such oils exceed competitive world prices. Benefits under the program shall be only to the extent necessary to encourage the sale. To the maximum extent practicable, equivalent funds should be used for sales of sunflower seed oil and cottonseed oil. (Section 1132)

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1521)

146. Promotion of Agricultural Exports to Emerging Democracies (H 1231)

The House amendment makes available not less than \$225 million of GSM 102 export credit guarantees for agricultural exports to emerging democracies and \$50 million of GSM 103 for financing infrastructure improvement projects. [Section 1231]

The Senate bill contains no comparable provision.

The Conference substitute provides \$1 billion for the five-year period (fiscal years 1991-1995) for short- and intermediate-term credit guarantees for emerging democracies. (Section 1522)

The House amendment provides that the Secretary, in order to develop, maintain, or expand markets for U.S. agricultural exports, is directed to make available to emerging democracies the expertise of the U.S. to make assessments of the food and rural business systems needs. The Secretary must provide assistance of not more than \$10,000,000 for each fiscal year and must implement this subsection with respect to at least 3 emerging democracies in each fiscal year.

Experts making the assessments must prepare such reports as the Secretary may designate, the Secretary must annually submit to the Agriculture Committees and the Committee on Foreign Affairs a report summarizing the assessments and recommendations prepared, and the Secretary must also make the assessments and recommendations available to the public. (Section 1231)

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision limiting funding to \$5 million annually. (Section 1522)

The House amendment provides that in carrying out this program, the Secretary must ensure that the credits for which repayments are guaranteed under subsection (a) do not negatively affect the political and economic situation in emerging democracies by adding to their foreign debt burdens. The Secretary is required to report to Congress on this matter. An emerging democracy is defined as any country taking steps toward political pluralism, economic reform, respect for internationally recognized human rights and a willingness to build a friendly relationship with the U.S. (Section 1231)

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1522)

147. Multilateral trade negotiations (S 1134)

The Senate bill states the sense of Congress that the objectives of the Uruguay round of negotiations on agriculture under the General Agreement on Tariffs and Trade (GATT) are to reform global agricultural trade and eliminate trade-distorting policies. The objective should be an agreement that provides U.S. agriculture the opportunity to compete fairly in international markets; permits U.S. farmers a safety net against market instability; assures consumers of adequate supplies of high quality, reasonably priced food; and meets humanitarian food needs. (Section 1134)

The President shall prepare a report on the details of any agreement on agriculture and how such an agreement meets the objec-

tives and criteria of these provisions. Such report shall be submitted to Congress within 30 days after conclusion of the agreement.

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision stating the sense of the Senate. (Section 1539)

148. Triggered marketing loans (S 1135)

The Senate bill renews the triggered marketing loan provision of section 4301 of the Omnibus Trade and Competitiveness Act of 1988 through 1991. (Section 1135)

The House provides no comparable provision.

The Conference substitute deletes the Senate provision.

149. Study of North American Free Trade Area (H 1241)

The House amendment requires the Secretary to study the effects on the U.S. agricultural economy of the creation of a North American free trade area, including the creation of a U.S.-Mexico free trade area, by May 31, 1991. [Section 1241]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision changing the due date of the report to March 31, 1991. (Section 1551)

The Managers intend that such a study look at, among other things, the trade and non-trade barriers to expanded U.S.-Mexico, and U.S.-Mexico-Canada agricultural trade and how such trade would be modified or eliminated under a bilateral or trilateral free trade arrangement.

Possible elements of bilateral and trilateral trade, such as converting non-tariff barriers into tariffs, modifying and/or harmonizing sanitary and phytosanitary regulations, especially for livestock and horticultural products, and establishing binational or trilateral procedures for consultation and dispute settlement mechanisms in agriculture need to be analyzed and their impacts assessed.

The study must also consider how an FTA or NAFTA could be affected by agreements that may be reached in the current Uruguay Round of trade negotiations at the General Agreement on Tariffs and Trade (GATT).

150. Report on wood and fish export promotion (H 1242)

The House amendment requires the Secretary to report on the use and participation of wood and fish and their products in the export promotion programs within 180 days. [Section 1242]

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

151. Rose and flower study (H 1243)

The House amendment provides for the study of the impact of consignment sales of foreign flowers on the domestic cut flower industry within 6 months. [Section 1243]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1552)

The Managers encourage the Secretary to consider the importance of this report to the industry and give it priority consider-

ation in the Secretary's determination of studies to undertake pursuant to section 1980 of this Act.

152. Commodity transportation and technology assessment report (H 1244)

The House amendment provides for the assessment of the impact upon producer prices, consumer costs, and exports of the current agricultural transportation situation, focusing on rail transportation within 240 days. The Secretary shall consult with rail, truck and water-bourn carriers. The Secretary is authorized to expend such sums as may be necessary from any unobligated funds appropriated to the Department of Agriculture to carry out this assessment and report. [Section 1244]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision with a requirement that funds to carry out this section must be appropriated. (Section 1553)

The Managers acknowledge that disruptions and delays in transportation for agricultural commodities have a costly impact on prices received by producers, prices paid by consumers, and further inhibit efforts to compete in export markets.

At the present time, farmers, cooperatives, and local elevator facilities are often forced to wait for weeks in order to obtain rail transportation for their goods. Substantial financial losses may result when commodities cannot be shipped to a buyer or export terminal at a higher market price conditioned on receipt of shipment within a specified time frame. Other factors such as rail abandonments and the more recent practice of rail carriers selling certificates of transportation (COTs)—which are a form of futures trading in equipment availability and pricing—are also having a dramatic impact on producers' ability to effectively market their commodities.

The Managers strongly urge the Secretary to thoroughly undertake this assessment and to include in this report specific suggestions which would accomplish the dual goals of enhancing and improving presently available modes of transportation, and also identifying economically viable intermodal alternatives (which may require new and innovative equipment designs). It is also anticipated that as producers, marketers, exporters, and transportation firms are provided in the future with access to a nationwide agricultural computer network system, the efficient transportation of commodities can be further enhanced through data-based matching of potential cargoes with the availability of intermodal transportation carriers which may utilize either traditional or innovative designs of equipment. This topic should also be addressed in the final report.

153. Red tart cherry study (H 1245)

The House amendment provides for the study of international trading practices in cherries and cherry products on the domestic red tart cherry industry within 240 days. A sense of Congress is included to assist the industry in domestic and world markets. [Section 1245]

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

154. Report on section 22, suspension or termination (H 1246)

The House amendment provides for the study of the effects of repealing section 22 of the Agricultural Adjustment Act prior to such repeal. [Section 1246]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1554)

155. Agricultural exports to the European Community (H 1247)

The House amendment provides findings on the E.C. integration plan to set agricultural product standards and requirements. Statements of policy are included regarding the effect of such standards on U.S. exports and to maintain such exports. [Section 1247]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1555)

156. Language proficiency and evaluation of foreign agricultural service officers (H 1248)

The House amendment requires the Secretary to evaluate language proficiency of its Foreign Service Officers within 6 months. Directs FAS to give precedence in promotions to FSO's with language proficiency. [Section 1248]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1556)

157. Prohibition on the use of programs with respect to the export of certain commodities and products (H 1249)

The House amendment prohibits the use of export promotion programs for assisting cigarette, or tobacco product exports. [Section 1249]

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

158. Use of economic assistance funds for agricultural and industrial alternative to narcotics production in major coca producing countries (S 1111; H 1251)

The House amendment waives Foreign Assistance restrictions on promotion of agricultural commodities in coca producing countries. [Section 1251]

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1544)

159. World livestock market price information (S 1136)

The Senate bill provides that the Secretary determine the world price of livestock and livestock products. The Secretary shall gather and analyze the appropriate price and cost of production information to aid in price discovery and exports of U.S. livestock and livestock products. The price information shall be published within 8 months and periodically thereafter. (Section 1136)

The House amendment contains a similar provision providing for publication of such information periodically. (Section 201)

The Conference substitute adopts the Senate provision. (Section 1545)

160. Sense of Senate concerning rebalancing proposal of the European Community (S 1137)

The Senate bill outlines the Congressional findings that the success of the GATT agriculture negotiations are important to world agricultural trade and U.S. exports, as have been past negotiations that have established more market-oriented trade. Countries have committed to substantial and progressive reductions in agricultural protection and support in the GATT negotiations. It is the sense of the Senate that the EC's proposed rebalancing is fundamentally at odds with the goal of liberalizing world agricultural trade and eliminating trade-distorting policies. Rebalancing could have a particularly severe impact on U.S. exports of corn gluten feed and oilseeds. The United States should forcefully reject rebalancing in the GATT negotiations. (Section 1137)

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision making the provision a sense of Congress. (Section 1555)

Subtitle D

161. Conforming Provisions and Technical Changes (S 1141-1147; H 1221)

The Senate bill provides that sections 1141 through 1147 provide technical amendments as a result of this legislation to the Omnibus Trade and Competitiveness Act of 1988, the Food Security Act of 1985, the Agriculture and Food Act of 1981, the Food for Peace Act of 1966 and the Agricultural Act of 1949, the Agricultural Act of 1956 and the Agricultural Technical Corrections Act as follows:

Strikes following sections of 1988 Trade Bill:

Sec. 4201. Long Term Agricultural Trade Strategy Reports (7 U.S.C. 5211)(transferred)

Sec. 4202. Technical Assistance in Trade Negotiations (7 U.S.C. 5212)(transferred)

Sec. 4205. Contracting Authority to Expand Agricultural Export Markets (7 U.S.C. 5215)(transferred)

Sec. 4206. Establishment of Trade Assistance Office (7 U.S.C. 5216)(transferred)

Sec. 4211. Personnel of the Foreign Agricultural Service (7 U.S.C. 5231)(restated)

Sec. 4212. Agricultural Attache Educational Program (7 U.S.C. 5232)(transferred)

Sec. 4213. Personnel Resource Time

Sec. 4305. Export Credit Guarantee Program (7 U.S.C. 1736(t), note); and

Sec. 4311. Food Aid and Market Development (7 U.S.C. 1691 note).

Strikes following sections of FSA of 1985:

Sec. 1124. Targeted Export Assistance Program

Sec. 1125. Short-term Export Credit (transferred)

Sec. 1127. Export Enhancement Program

Sec. 1128. Poultry, Beef and Pork Meats and Meat-Food Products, Equitable Treatment

Sec. 1132. Agricultural Attache Reports (transferred)

Sec. 1151. Trade Consultations (transferred)

Sec. 1162. Assessment of Export Displacement; and

Sec. 1167. Barter (restated).

Strikes following sections of the Agriculture and Food Act of 1981:

Sec. 1203. Special Standby Export Subsidy Program

Sec. 1204. Agricultural Embargo Protection (transferred); and

Sec. 1205. Development of Plans (transferred).

Sec. 4 of the Food for Peace Act of 1966, sec. 416(d) of the Agricultural Act of 1949, sec. 201 of the Agricultural Act of 1956, and sec. 13 of P.L. 101-220 are repealed.

The House amendment makes technical and conforming amendments as follows:

The provisions of section 103 of the Agricultural Trade Act of 1978 (as amended by section 1221) shall apply to proposals pending or received on or after the date of enactment of this Act.

The Secretary shall promulgate regulations to implement section 301 of the Agricultural Trade Act of 1978 (as amended by this title) no later than 180 days after the date of enactment of this Act.

Section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3) is repealed.

Effective October 1, 1991, sections 1124 and 1127 of the Food Security Act of 1985 (7 U.S.C. 1736s and 1736v) are repealed.

Section 1165 of the Food Security Act of 1985 is repealed.

Section 4201 of the Agricultural Competitiveness and Trade Act of 1988 is repealed.

In general, this title and the amendments made by this title shall take effect on October 1, 1990, and shall be effective only for fiscal year 1991 and thereafter.

The Conference substitute adopts the Senate provisions and repeal of Section 1165 of the Food Security Act as contained in the House amendment. (Sections 1541, 1142, 1143, 1144, 1145, 1146, 1147, and 1148)

162. Soviet Union bank loans. [S 1975]

The Senate bill prohibits any U.S.-insured financial institution from providing credit to the Soviet Union unless credit is to purchase U.S.-produced agricultural products or the interest rate is equal to or greater than the interest rate generally provided to U.S. farmers. (S. 1975)

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision.

163. Iraq sanctions, title XXIII, [H 1224, 1225]

The Senate bill provides sanctions on trade with Iraq. (S. title XXIII)

The House amendment prohibits export promotion programs for trade with countries that (1) lack respect for internationally recognized human rights, (2) acquire chemical, biological, and nuclear

weapons and has not forsworn first use of such weapons, (3) lack commitment to Geneva Protocol on use of gas or bacteriological weapons, or (4) support international terrorism, unless impact of restrictions on credit would hurt U.S. farmers more than the offending country.

The Conference substitute deletes both provisions.

The Managers note that the House bill contains a provision prohibiting agricultural credit guarantees and commercial export promotion programs to countries that violate human rights, have acquired chemical, biological and nuclear weapons, do not abide by the 1925 Geneva Protocol on chemical and biological weapons and that support terrorism. As written the prohibition would currently apply only to the country of Iraq.

A second House provision provides a waiver of these sanctions if the Secretary of Agriculture finds that they would have the effect of reducing U.S. exports of agricultural commodities while those commodities remain available to Iraq from other, non-U.S. sources. Furthermore, the imposition of the restrictions would be delayed until the Secretary has studied their impact and determined whether they would have a greater negative effect on U.S. farmers than upon Iraq.

The Senate bill contains no similar provision in this title, and the Conference substitute is the same as the Senate position.

The Managers adopted the Senate position because the need for such prohibitions are fully addressed in the Sanctions Against Iraq Act of 1990 and, because a prohibition on agricultural credit guarantees and commercial export promotion programs would result in a negative agriculture budget score of \$1.6 billion.

The Managers wish to emphasize that the deletion of the provisions is not to be construed as opposition to strong measures against the country of Iraq. Indeed, the Managers are in full support of both the President's Executive Order imposing comprehensive sanctions on Iraq and the Sanctions Against Iraq Act of 1990.

164. Use of Economic Assistance Funds for Agricultural and Industrial Alternatives to Narcotics Production in major coca producing countries

The House amendment provides that the President may provide economic assistance for a country which, because of its coca production, is a major illicit drug producing country (as defined in the Foreign Assistance Act of 1961) to promote the production of products which can be economically produced in such country, notwithstanding the provisions of law that would otherwise restrict the use of economic assistance funds, including sections 521, 546, and 547 (but excluding section 510) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, and comparable provisions of subsequent Acts appropriating funds for foreign operations, export financing, and related programs.

Economic assistance is defined as assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 and assistance under chapter 4 of part II of that Act.

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision.

Great Lakes

Both the Conference substitute adopts identical provisions of both the Senate bill and the House amendment to permit the designation of "American Great Lakes Vessels" which would be exempted from the 3-year restriction for vessels built, rebuilt, or documented outside the United States from carrying preference cargoes.

The House provision that allowed such Great Lakes Vessels to apply for, and be granted, an operating differential subsidy by the U.S. Maritime Administration was deleted.

Both the House and Senate versions limited the carriage of commercial bulk cargoes, but the conference report places no restrictions on the carriage of commercial bulk cargoes by these vessels.

A provision which was not in either bill was added to assure that the exemption from the 3-year restriction only applies while the vessel is designated as a Great Lakes Vessel.

Provisions regarding the age of vessels that were identical in both bills were modified to state that to be designated an American Great Lakes Vessel, a vessel (1) cannot be more than 6 years old and not less than 1 year old on the effective date of the designation, or (2) the vessel cannot be more than 11 years old and not less than 1 year old on the effective date of the designation, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used, and the vessel could not have been previously designated an American Great Lakes Vessel.

Both bills had identical provisions restricting such vessels from engaging in trade with Canadian Great Lakes ports, and in the conference report this restriction has been deleted.

The requirement that repairs to such vessels be conducted in U.S. shipyards, which was included in both bills, was deleted by conferees.

The House amendment included provisions requiring that the same tonnage level of bagged, processed, and fortified P.L. 480 title II commodities shipped from Great Lakes ports in 1984 be shipped from these ports in 1991. This tonnage would be phased down from 1992 through 1995. The Senate bill did not include a similar provision and this provision was deleted in conference.

The Senate bill included provisions changing the current procedures for allocating title II bagged, processed, or fortified products, which was adopted in conference with several amendments. Instead of expiring in 1985, as in the Senate bill, this provision has no termination date.

Further, in the conference report the Commodity Credit Corporation (CCC) would be required to take such steps as may be necessary and practicable without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of documentation of the vessel, 50 percent of the bagged, processed, or fortified commodities furnished pursuant to title II of P.L. 480. In the Senate bill, the Secretary of Transportation was granted this authority. The Senate bill did not have the words "without regard to the country of documentation of the vessel."

The Senate capped the amount that could be allocated to Great Lakes ports under these new allocation procedures at a level equal to the metric tonnage or the percentage share, whichever is lower, received by the Great Lakes port range in 1984, as determined by the Secretary of Agriculture. The Conference report caps the amount the Great Lakes can receive at a level not greater than the share experienced by that port range in 1984.

The Conference report adds a further provision to these new allocation procedures. Amounts of cargo allocated to ports in the Great Lakes port range under these procedures shall not be exported from a different port range except as necessary to meet U.S.-flag transportation requirements, in which case are necessary and practicable without detriment to any port range to ensure the export from the Great Lakes port range of an amount of tonnage of title II bagged, processed, or fortified commodities that is not required to be transported on U.S.-flag vessels, that is equal to the amount diverted for export from other port ranges. The conference report further provides that any determination of non-availability of United States-flag vessels resulting from the application of this new allocation procedure shall not reduce the gross tonnage of commodities required by the government-impelled preference laws to be transported on United States-flag vessels.

The Managers added a new section, which was not in either bill, requiring the Secretary of Transportation, in consultation with the Secretary of Agriculture, to conduct a study on the implementation of these new provisions and report to Congress not later than December 31, 1994, on (1) the effects of these new provisions on diversions of cargo to and from the Great Lakes port range and any resulting effects on the cost of transporting commodities, and (2) whether the authority to designate vessels as American Great Lakes Vessels has increased U.S.-flag vessel service to Great Lakes ports.

The definition of "lowest landed cost" included in the Senate bill, but not in the House amendment, was deleted.

TITLE XVI—RESEARCH

The Managers note that throughout this title whenever the term land grant colleges and universities appears it is meant to include 1890 colleges, including Tuskegee University.

The Managers note that unless otherwise specified institutions eligible to compete for grants include: State agricultural experiment stations; all colleges and universities including land grant colleges and universities; other research institutions and organizations; Federal agencies; private organizations or corporations; and individuals.

Subtitle A—Extensions and Changes to Existing Programs

Sec. 1601. Increased authorizations for, and the extension or repeal of, existing programs

(1) General Authorization of Appropriations (S 1414; H 1301(b)(4))

The Senate bill increases and extends the authorizations for the Agriculture Research Service (ARS), the Cooperative State Re-