The National Agricultural Law Center

University of Arkansas
NatAgLaw@uark.edu • (479) 575-7646
www.NationalAgLawCenter.org

Conference Report to Accompany Food, Agriculture, Conservation, and Trade Act of 1990

H.R. Rep. No. 101-916 (1990)

Part 10 of 14

The digitization of this Report was performed by the National Agricultural Law Center under Specific Cooperative Agreement No. 58-8201-6-140 with the United States Department of Agriculture, National Agricultural Library.

(2) allow adequate time for written public comment prior to the formulation and issuance of any final regulations. [Section 709]

The House amendment provides no comparable provision.

The Conference substitute strikes sections 709(a) through 709(e) of the Senate provision, and adopts language encouraging the Secretary to comply with the written notice and comment provisions of the Administrative Procedure Act.

TITLE IX—SUGAR

(1) Sugar price support [SB 901, HB 201]

The Senate bill amends title II of the Agricultural Act of 1949 by adding a new section 206 that directs the Secretary to support the price of the 1991 through 1995 crops of sugar beets and sugarcane. [Section 901]

The House amendment provides a comparable provision in section 201 that amends section 201(h).

The Conference substitute adopts the House provision.

(2) Nonrecourse loans [SB 901, HB 201]

The Senate bill provides the same as current law. [Section 206(b) and (c)]

The House amendment provides the same provision for sugarcane. The House amendment also provides that the price for sugar beets shall be supported through nonrecourse loans at a level that bears the same relation to the support level for sugarcane as the weighted average of producer returns for sugar beets bears to the weighted average of producer returns for sugarcane, for the most recent five year period, plus an amount that covers processor fixed marketing expenses. [Section 201(h)(2) and (3)]

The Conference substitute adopts the House provision.

(3) Technical provisions [SB 901, HB 201]

The Senate bill amends section 201 of the 1949 Act as follows:

(1) in the matter preceding subsection (a), by striking "honey, and milk" and inserting "honey, milk, sugar beets, and sugarcane"; and

(2) by striking subsection (j). [Section 901]

The House amendment contains a similar provision.

The Conference substitute adopts the Senate provision.

(4) Distortions to world sugar trade [SB 902]

The Senate bill provides that GAO report to Congress recommendations for policies the United States can adopt to improve and enhance developing countries' access to world sugar markets and reduce other distortions to world sugar trade. Senate findings with respect to the importance of the U.S. sugar market for the countries of Latin America, especially in the Caribbean, Central American and Andean regions. [Section 902]

The House amendment provides no comparable provision.

The Conference substitute deletes the Senate provision.

(5) GAO report [HB 201]

The House amendment directs the Comptroller General of the United States to report to Congress within 12 months after the date of enactment on the progress the various agencies of the United States Government have made in addressing the concerns raised by the General Accounting Office in its official report, RCED-88-146, dated June 1988. [Section 201(b)]

The Senate bill provides no comparable provision.

The Conference substitute deletes the House provision.

(6) Information reporting [HB 202]

The House amendment requires all cane sugar refiners and sugar beet processors and all manufacturers of crystalline fructose to furnish the Secretary with monthly information with respect to such person's importation, distribution, and stock levels of sugar or crystalline fructose, respectively. [Section 202(a)]

The House amendment makes any person willfully failing or refusing to furnish such information, or furnishing willfully any false information, subject to a civil penalty of not more than $10,000 for each such violation. [Section 202(b)]

The House amendment directs the Secretary to publish monthly composite data on imports, distribution, and stock levels of sugar and crystalline fructose. [Section 202(c)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(7) Marketing allotments for sugar and crystalline fructose [HB 203]

The House amendment directs the Secretary—

(1) to estimate, for each of the fiscal years 1992 through 1996, the amount of sugar that will be consumed in the United States during such fiscal year and the amount of sugar that will be available from carrying stocks or from domestically-produced sugarcane and sugar beets;

(2) to estimate the amount of sugar that will be imported for such consumption during such year; and

(3) to make quarterly reestimates of sugar consumption, availability, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of such fiscal year. [Section 203(a)]

The House amendment directs the Secretary to establish, for any fiscal year in which the Secretary estimates that imports of sugar for consumption in the United States will be less than 1,250,000 short tons, raw value, appropriate allotments for the marketing of domestic sugar under section 204. [Section 203(b)]

The House amendment directs the Secretary to establish, for any fiscal year in which the Secretary establishes such allotments, appropriate allotments for the marketing of crystalline fructose. [Section 203(c)]

The House amendment provides that at any time allotments are in effect and allocated to processors under section 205, the total of—

(1) the amount of sugar marketed by a processor plus

(2) the amount of sugar pledged as collateral for a price support loan under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) may not exceed the amount of the allocation of the allotment made to such processor exclusive of—

(A) the marketing during a fiscal year of sugar pledged as collateral for a price support loan under section 201 after such sugar has been subsequently redeemed; or

(B) any sale of sugar by a sugar beet processor to enable another sugar beet processor to fulfill the allocation of an allotment. [Section 203(d)]

The House amendment also prohibits any manufacturer from exceeding the allotment made to it, prohibits restrictions or allotments on the marketings of any liquid fructose, makes any processor who violates section 203(d)(1) or manufacturer who violates 203(d)(2) liable to the Commodity Credit Corporation for a civil penalty, and defines, for purposes of subtitle A, the term "market". [Section 203(d)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision with an amendment allowing both beet and cane sugar to be sold between processors to fill an allocation.

The managers intend that pledging sugar as collateral for a price support loan be counted against a processor's allocation of the allotment; however, the subsequent marketing of sugar redeemed from a price support loan shall not be counted a second time against such allocation.

The Managers intend that the term "crystalline fructose" for the purposes of this Act means any solid fructose sweetener produced from corn, and that any such solid fructose be subject to the marketing restrictions provided for crystalline fructose under the Food, Agriculture, Conservation, and Trade Act of 1990. The Managers intend that the marketing allotment provisions be implemented in a manner that will not undermine the effectiveness of the marketing allotment system.

(8) Establishment of marketing allotments [HB 204]

The House amendment directs the Secretary to establish marketing allotments for sugar for any fiscal year in which such allotments are required under section 203(b) as follows:

(1) The Secretary must establish the overall allotment amount by deducting from the estimated sugar consumption for such fiscal year—

(A) 1,250,000 short tons, raw value (minimum imports), and

(B) carrying stocks of sugar, including sugar in CCC inventory; and must adjust the overall allotment amount to prevent to the maximum extent practicable the accumulation of sugar by the CCC.

(2) The overall allotment amount for the fiscal year must be allotted among sugar derived from sugar beets and sugar derived from sugarcane.

(3)(A) The Secretary must establish fair and equitable percentage factors for the overall allotments based upon past mar-

ketings, processing and refining capacity, and the ability to market the sugar covered under the allotments.

(B) The Secretary must publish these percentage factors along with a description of the reasons for establishing the factors.

(4) The marketing allotment must be equal to the product of the overall allotment amount multiplied by the percentage factor established by the Secretary under paragraph (3)(A) for such allotment.

(5) The allotment for sugar derived from sugarcane must be further allotted equitably among the four States in which sugarcane is produced, and Puerto Rico on the basis of past marketings of sugar, (average of the 2 highest years of production from each State from 1985 through 1989), processing and refining capacity, and the ability of processors to market the sugar.

(6)(A) The Secretary must adjust marketing allotments based on reestimates established under section 204 (1) through (5) or suspend such allotments to reflect changes in estimated sugar consumption, availability, or imports.

(B) Each allocation of an allotment under section 205, and each proportionate share established under section 207(b), must be increased or decreased by the same percentage that the allotment is adjusted.

(C) Whenever an allotment is required to be reduced under section 204(6), if the amount of the sugar marketed (or pledged) for that fiscal year at the time of such reduction by all processors or by any individual processor covered by the allotment exceeds the reduced allotment, the amount of the excess sugar marketed shall be deducted from the marketing allotment, if any, next established for such processors, or State.

(7) Except as otherwise provided in section 206, each marketing allotment established under this section may only be filled with sugar processed from domestically grown sugarcane and sugar beets. [Section 204]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(9) Allocation of Marketing allotments [HB 205]

The House amendment directs the Secretary to allocate each marketing allotments established for a fiscal year under section 204 among the processors covered by the allotment. [Section 205(a)]

The House amendment also directs the Secretary to make allocations for cane sugar and beet sugar after hearing and notice in such manner and quantities as to provide a fair, efficient, and equitable distribution taking into consideration processing capacity, past marketings of sugar (in the case beet sugar considering the marketings of sugar processed from sugar beets of any or all of the 1985 through 1989 crops), and the ability of each processor to market sugar, and makes each such allocation subject to adjustment under section 204(6)(B). [Section 205(a)]

The House amendment authorizes the marketing allotment, except as otherwise provided in section 206, established for cane sugar under subtitle A for a fiscal year to be filled only with sugar

processed from sugarcane grown in the State covered by the allotment. [Section 205(b)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

The managers intend that in considering the ability of processors to market sugar, the ability to produce such sugar be taken into account.

(10) Assignment of deficits [HB 206]

The House amendment directs the Secretary, at any time allotments are in effect under subtitle A, to determine whether processors of sugarcane and sugar beets will be able to market sugar covered by the portion of the allotment applicable to them. [Section 206(a)]

The House amendment directs the Secretary, if the Secretary determines that the sugarcane processors subject to a State allotment will be unable to market the State's allotment for the fiscal year—

(1) to first reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with such reassigned amount to each State to be allocated among processors in that State in proportion to the allocations of such processors; and

(2) if after such reassignments, the deficit cannot be completely eliminated, to reassign the remainder to imports. [Section 206(b)]

The House amendment also directs the Secretary, if the Secretary determines that a sugar beet processor subject to an allotment will be unable to market that allotment—

(1) to first reassign the estimated quantity of the deficit proportionately to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it; and

(2) if after such reassignments, the deficit cannot be completely eliminated, to reassign the remainder to imports. [Section 206(b)]

The House amendment also provides that the allocation of each processor receiving a reassigned amount of an allotment under section 206(b) for a fiscal year must be increased to reflect such reassignment. [Section 206(b)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision with an amendment directing the Secretary to first reassign a cane sugar deficit to other processors within that state.

(11) Processor assurances [HB 207]

The House amendment directs the Secretary, whenever allotments for a fiscal year are allocated to processors under section 205, to obtain from the processors such assurances as the Secretary deems adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories, and to resolve through arbitration by the Secretary on the request of either party any dispute between a processor and a producer, or group of pro-

ducers, with respect to the sharing of the processor's allocation. [Section 207(a)]

The Senate bill provides no comparable provisions.

The Conference substitute adopts the House provision.

(12) Proportionate shares of certain allotments [HB 207]

The House amendment directs the Secretary, in any case in which a State allotment is established under section 204(5) and there are in excess of 250 producers in the State to which it applies, to make a determination under section 207(b)(1)(B). [Section 207(b)]

The House amendment also requires the Secretary to determine, for each State allotment described in section 207(b)(1)(A), whether the production of sugar, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory and require the Secretary, if the Secretary determines that the amount of sugar processed from all crops by all processors covered by a State allotment for a fiscal year will be in excess of the quantity needed to enable processors to fill the allotment for such fiscal year and provide a normal carryover inventory, to establish proportionate shares for the crop of sugarcane that is harvested during the fiscal year the allotment is in effect as provided in this subsection with each such proportionate share subject to adjustment under section 204(6)(B). [Section 207(b)]

The House amendment also directs the Secretary, for purposes of determining proportionate shares for any crop of sugarcane—

(1) to convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (B),

(2) the Secretary shall establish the State's per-acre yield goal for a crop at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in such State, taking into consideration any available production research data that the Secretary deems relevant, and

(3) to establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for such crop under subparagraph (A), by the number of acres in the State that the Secretary estimates would otherwise be harvested for the production of such crop of sugarcane. [Section 207(b)]

The House amendment also provides that the uniform reduction percentage for such crop, as determined under section 207(b)(3)(C), must be applied to the acreage base for each farm covered by the State allotment to determine the farm's proportionate share for the crop and that for purposes of section 207(b), the acreage base for each sugarcane-producing farm must be determined by the Secretary, as follows:

(1) The acreage base for any crop shall be the number of acres that is equal to the average of the acreage planted and

considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding such crop year.

(2) Acreage that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers shall be considered as harvested to sugarcane for sugar or seed for purposes of section 207(b)(4). [Section 207(b)]

The House amendment provides that whenever proportionate shares are in effect in a State for a crop of sugarcane, no producer in the State knowingly may harvest for sugar or seed an acreage of sugarcane of such crop in excess of the farm's proportionate share for the crop or otherwise violate proportionate share regulations issued by the Secretary under section 209(a). Section 207(b) also makes any producer who violates section 207(b)(5)(A) liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the U.S. market value, at the time of the commission of the violation of that quantity of sugar involved in the violation and provides that the quantity of sugar involved must be determined based on the per-acre yield goal established under section 207(b)(3). Provides that the Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of proportionate shares. [Section 207(b)]

The Senate bill provides no comparable provisions.

The Conference substitute adopts the House provision.

(13) Transfer of production history [HB 208]

The House amendment Authorizes the Secretary, for the purpose of establishing proportionate shares for producers under section 207, on application of any producer, may transfer the production history of land owned, operated, or controlled by such producers to any other parcels of land of such applicant. [Section 208(a)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(14) Revision of production history [HB 208]

The House amendment authorizes the Secretary, if for reasons beyond the control of the owner of a farm, the owner is unable to use all or a portion of the proportionate share established for the farm under section 207, to reserve for a period of not more than 3 consecutive years the production history of such farm to the extent of the proportionate share involved. Such proportionate share may be redistributed to other farm owners or operators, but no production history may accrue to such other farm owners or operators, by virtue of such redistribution of the proportionate share so redistributed. [Section 208(b)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(15) Revisions of allocations and proportionate shares [HB 208]

The House amendment authorizes the Secretary, after such hearing and notice as the Secretary by regulation may prescribe, to

revise or amend any allocation of a marketing allotment under section 205, or any proportionate share established for a farm under section 207, on the same basis as the initial allocation or proportionate share was established. [Section 208(c)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(16) Regulations [HB 209]

The House amendment directs the Secretary to issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering the marketing allotment program under subtitle A and in addition to taking such other action as may be required under 5 U.S.C. 551 through 559, prior to proposing any regulations under paragraph (1), to consult with representatives of domestic sugar processors and producers with regard to ensuring that such regulations achieve the objectives of subtitle A. The results of such consultations must be published in the Federal Register, along with the proposed regulations. [Section 209(a)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(17) Violation [HB 209]

The House amendment makes any person knowingly violating any regulation of the Secretary issued under section 209(a) subject to a civil penalty of not more than $5,000 for each violation. [Section 209(b)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(18) Publication [HB 209]

The House amendment requires each determination issued by the Secretary to establish, adjust or suspend allotments under subtitle A to be promptly published in the Federal Register and to be accompanied by a statement of the reasons for such determination. [Section 209(c)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(19) Jurisdiction of courts [HB 209]

The House amendment grants to U.S. district courts jurisdiction to enforce subtitle A or any regulation issued thereunder and requires U.S. attorneys to enforce the remedies and to collect the penalties and forfeitures unless the Secretary determines that the administration and enforcement of subtitle A would be adequately served by written notice or warning to any person committing a violation. [Section 209(d)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(20) Nonexclusivity of remedies [HB 209]

The House amendment provides that the remedies and penalties provided for in subtitle A are in addition to, and not exclusive of, any remedies or penalties existing at law or in equity. [Section 209(e)]

The Senate bill provides no comparable provision.
The Conference substitute adopts the House provision.

(21) Appeals [HB 210]

The House amendment provides that an appeal may be taken to the Secretary from any decision under section 205 establishing allocations of marketing allotments, or under section 207, by any person adversely affected by reason of any such decision. [Section 210(a)]

The House amendment provides that any such appeal must be filed with the Secretary, including a notice of appeal and a statement of the reasons therefor, within 20 days of the announcement of the decision unless a later date is specified by the Secretary as the effective date. The Secretary must notify each person adversely affected by reason of the decision appealed, and must permit any such person to inspect and make copies of appellant's reasons for the appeal and to intervene in the appeal. The Secretary must provide each appellant an opportunity for a hearing and appoint an administrative law judge to conduct such hearing. [Section 210(b)]

The Senate bill provides no comparable provision.
The Conference substitute adopts the House provision.

(22) Administration [HB 211]

The House amendment authorizes the Secretary, in carrying out the provisions of sections 202 through 210 of this subtitle, to use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act, and the departments and agencies of the United States Government. [Section 211(a)]

The House amendment directs the Secretary to use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out the provisions of sections 202 through 210 of subtitle A. [Section 211(b)]

The Senate bill provides no comparable provision.
The Conference substitute adopts the House provision.

Subtitle B—Miscellaneous

(23) Sugarcane disaster assistance [HB 221]

The House amendment amends section 201(k)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(k)(2)), effective only for the 1990 crop of sugarcane, by inserting a new subparagraph that provides that if, because of frost, freeze, or related condition in 1989 constituting a major disaster or emergency declared by the President in the State of Louisiana under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.), the total quantity of the 1990 crop of sugarcane that producers are able to harvest on any farm is less than—

(1) 60 percent of the county average yield, as determined by the Secretary of Agriculture, for such crop, multiplied by

(2) the acreage planted for harvest to such crop,

the Secretary must make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the loan level for the crop for the deficiency in production greater than 60 percent for

the crop and must ensure that no producer receives duplicative payments under this section. [Section 221(a)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision, with an amendment clarifying that any such assistance be subject to advance appropriation.

(24) 1989 Crop clarification [HB 221]

The House amendment amends section 103 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) by adding a new subsection that requires the Secretary, for purposes of determining the total quantity of the 1989 crop of sugarcane that the producers on a farm are able to harvest, to make the determination based on the quantity of recoverable sugar. [Section 221(b)]

The House amendment also amends section 152(a)(2) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) to require the Secretary to permit producers described in section 103(f) to apply for assistance no later than January 15, 1991 and, in the case of applications received prior to the date of enactment of the Food and Agricultural Resources Act of 1990, to re-compute in accordance with section 103(f) the amount of any assistance due no later than 90 days after such date of enactment. [Section 221(b)]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

(25) Reports on quota allocations to countries importing sugar [HB 222]

The House amendment amends section 902(c) of FSA.

The House amendment also requires the Secretary, within 90 days after the date of enactment of this Act and by August 1 of each year thereafter through 1995, to report to the President and the Congress the extent, if any, of sugar imports from the country named in section 902(c)(1) by the countries described in section 902(c)(1).

The House amendment also requires the President, commencing with the 1991–1992 quota year for sugar imports, to report to the Congress by January 1 the identity of the countries that are net importers of sugar derived from sugarcane or sugar beets who have a quota for the current quota year, the identity of such countries who have verified that they do not import for reexport to the United States any sugar produced in the country named in section 902(c)(1), and the action, if any, taken by the President with respect to countries reported by the Secretary as net importers of sugar derived from sugarcane or sugar beets who imported such sugar from the country named in section 902(c)(1) who reexported such sugar to the United States during the previous quota year under a sugar quota allocation. [Section 222]

The Senate bill provides no comparable provision.

The Conference substitute adopts the House provision.

TITLE X—HONEY

(1) Short Title; Findings; Policy

The House amendment provides that subtitle A may be cited as the "Beekeeping Industry Stabilization Act of 1990". It provides findings of Congress that illustrate the vital function that honeybees serve for United States agriculture by pollinating millions of acres of fruits, vegetables, oilseeds, and legumes, and seed crops annually.

A policy of Congress statement emphasizes the need to extend the honey price support program and preserve a viable domestic beekeeping industry. (Sections 601 and 602)

The Senate bill provides no comparable provision.

The Conference substitute deletes the House provision.

(2) Honey price support

The Senate bill requires that the price of honey for each of the 1991 through 1994 honey crops be supported through loans, purchases, or other operations at such level as the Secretary determines appropriate. The price support program is eliminated for 1995 and subsequent crops. (Section 1041)

The House amendment requires that for each of the 1991 through 1995 crops of honey, the price of honey be supported through loans, purchases, or other operations at not less than 53.8 cents per pound. (Section 603(a))

The Conference substitute adopts the House provision with an amendment to direct the Secretary to make payments available to producers who, although eligible to obtain a loan, agree to forgo obtaining the loan in return for deficiency payments. The payments are to be computed by multiplying the loan payment rate by the quantity of honey eligible to be placed under loan by that producer. The loan payment rate is defined to be the amount by which the loan level determined for the eligible crop exceeds the level at which a loan may be repaid under the price support program.

(3) Payment limitations

The House amendment limits total payments for each individual to $200,000 in crop year 1991, $167,000 in crop year 1992, $133,000 in crop year 1993, and $100,000 beginning with crop year 1994. (Section 603(b))

The Senate bill extends current law.

The Conference substitute adopts the House provision with an amendment to limit the total payments that an individual may receive under the marketing loan program to $200,000 in crop year 1991, $175,000 in crop year 1992, $150,000 in crop year 1993, and $125,000 beginning with crop year 1994. It also limits the total amount an individual may forfeit to $200,000 in crop year 1991, $175,000 in crop year 1992, $150,000 in crop year 1993, and $125,000 beginning with crop year 1994. The Secretary is authorized to issue regulations defining the term person. Such regulations shall provide for the attribution of payments for the honey program.

TITLE XI—GENERAL COMMODITIES

(1) Definitions

The Senate bill rewrites Sec. 502(4) of the 1949 Act to define "program crop" to mean a crop of wheat, corn, grain sorghum, oats, barley, upland cotton, extra long staple cotton, or rice. (Sec. 1001.)

The House amendment to Sec. 502(1) of the 1949 Act leaves the definition of "program crop" the same as current law. (Sec. 1131.)

The Conference substitute adopts the House definition of "program crop".

The Senate bill rewrites Sec. 502(2) of the 1949 Act to define "normal crop acreage" to mean the sum of the crop acreage bases established for program crops and historical oilseed plantings for a farm. (Sec. 1001.)

The House amendment contains no comparable provision.

The Conference substitute adopts the House definition of "normal crop acreage".

The Senate bill rewrites Sec. 502(3) of the 1949 Act to define an "oilseed" crop to mean a crop of soybeans, sunflowers, rapeseed, canola, safflower seed, flaxseed or other oilseeds, as designated by the Secretary. (Sec. 1001.)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate definition of an "oilseed" crop with an amendment to include mustard seed.

(2) Farm acreage bases

The Senate bill rewrites Sec. 503(b) of the 1949 Act to require the county committee to determine the normal crop acreage for a farm for a crop year, in accordance with regulations prescribed by the Secretary. (Sec. 1001.)

The House amendment of Sec. 503(b) of the 1949 Act requires the county committee, in accordance with regulations prescribed by the Secretary, to determine the flexible acreage base for a farm for a crop year. Such flexible acreage base shall include the sum of (1) the number of acres equal to the sum of the crop acreage bases for the farm; and (2) the average of the acreage on the farm planted and considered planted to soybeans, sunflower, canola, rapeseed, safflower, flaxseed, mustard seed, and any other oilseeds the Secretary may designate, in each of the 5 crop years immediately preceding the year for which the determination is made. (Sec. 1131.)

The Conference substitute deletes both provisions.

(3) Oats plantings

The Senate bill contains no provision on this issue.

The House amendment rewrites Sec. 503(d) of the 1949 Act to extend current law through the 1995 crops, with a conforming amendment to change references from "farm acreage base" to "flexible acreage base". (Sec. 1131.)

The Conference substitute adopts the Senate provision.

(4) Calculation of crop acreage bases

The Senate bill rewrites Sec. 504 (b) (1) of the 1949 Act similar to current law but also includes calculation of historical oilseed plantings. (Sec. 1001.)

The House amendment rewrites Sec 504 (b) (1) of the 1949 Act to retain current law. (Sec. 1131.)

The Conference substitute adopts the House language.

(5) Upland cotton and rice

The Senate bill accepts Sec. 504(b)(2) of the 1949 Act, thereby maintaining current law. (Sec. 1001.)

The House amendment rewrites Sec. 504(b)(1)(B) to provide that the crop acreage base for upland cotton and rice shall equal the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 3 preceding crop years. (Sec. 1131.)

The Conference substitute adopts the House provision,with an amendment allowing producers who did not participate in the upland cotton or rice programs in the 1989, 1990 and 1991 crop years to calculate their crop acreage bases for the 1991 crop (in the case of those producers who first planted in 1989) and the 1992 crop (for those producers who first planted in 1990) as the average of the acres planted and considered planted for the two previous crop years—the same calculation used for the 1986–1990 crops.

The Managers intend that the change in the method of base calculation not unfairly penalize those producers who began to build base in the 1990 crop year. For this reason, producers on a farm with no upland cotton or rice base who planted outside of the program in 1990 and certified their acreage and continue to do so in 1991 for the purpose of establishing upland cotton or rice crop acreage base will be subject to the crop acreage base provisions of the Food Security Act of 1985 for the 1992 crop.

(6) Acreage considered planted

The Senate bill rewrites Sec. 504(c) of the 1949 Act to provide that acreage considered planted includes—

(1) any reduced, set-aside, and diverted acreage, (same as current law except deletes reference to set-aside;)

(2) any acreage that producers were prevented from planting because of a disaster, (same as current law;)

(3) acreage equal to the difference between the permitted acreage for a program crop and the acreage planted to a crop, if the acreage considered to be planted is devoted to conservation uses or the production of commodities permitted by the Secretary (same as current law;)

(4) includes acreage equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to the production of commodities in accordance with the planting flexibility provisions, in lieu of the current 20% planting provision;

(5) determines what is to be included to establish a fair and equitable crop acreage base, (same as current law);

(6) the permitted acreage for the crop, if producers certify that no acreage on the farm was planted to the crop (or any fruit & vegetable crop (including potatoes and edible beans) not designated as an industrial or experimental crop by the Secre-

tary) and forgo receiving payments under the program established under title I of the 1949 Act. (Sec. 1001.)

The House amendment rewrites Sec. 504(b)(2) of the 1949 Act to provide that acreage considered planted includes—

(1) same as current law; (See Senate (1) above)

(2) same as Senate (2);

(3) same as Senate (3);

(4) acreage designated as flexible crop acreage, other than that portion designated from acreage on the farm planted or considered planted to minor oilseeds;

(5) same as current law;

(6) no comparable provision; and

(7) any acreage on the farm for which the crop acreage base was adjusted because of a condition or occurrence beyond the control of the producer pursuant to section 504(e). (Sec. 1121.)

The Conference substitute adopts the Senate provisions on (1), (2), and (3). The substitute adopts the House provision on (4), (5), and (7), and the Senate provision on (6) with an amendment to include the same list of permissible crops as in the triple-base option.

(7) Prohibition on increase in crop acreage bases

The Senate bill rewrites Sec. 504(g) of the 1949 Act to prohibit a producer who receives a deficiency payment for any program crop from using the acreage planted or considered planted to any program crop or oilseed on the farm in the crop year to increase any crop acreage base established for the farm in a subsequent crop year. (Sec. 1001.)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate language, with an amendment which deletes oilseed crops from the provision.

It is not the intent of the Managers that producers use the flexiblity provisions to increase crop acreage base.

(8) Adjustment of crop acreage bases

The Senate bill contains no provision on this issue.

The House amendment rewrites Sec. 504(e) of the 1949 Act to authorize the county committee to adjust any crop acreage base for any program crop for any farm if such crop acreage base would otherwise be adversely affected by a condition or occurrence beyond the producer's control. (Sec. 1131.)

The Conference substitute adopts the House provision.

(9) Planting flexibility

The Senate bill rewrites Sec. 505(a) and Sec. 505(c) of the 1949 Act to permit a producer to plant a commodity, other than the program crop for which crop acreage base is established, on the crop acreage base in an amount not to exceed 25% of the crop acreage base. (Sec. 1001.)

The House amendment rewrites Sec. 503(c)(1) of the 1949 Act to require the Secretary to permit producers on a farm to designate up to 25% of the flexible acreage base for the crop year as flexible crop acreage, which may be planted to crops specified in the Act. (Sec. 1131.)

The Conference substitute adopts the Senate provision with an amendment. The Senate provision would allow producers to plant up to 25 percent of the crop acreage base to any commodity, except fruits and vegetables (including potatoes and dry edible beans) in exchange for a reduction in maximum payment acres. This provides for an increase in planting flexibility in addition to triple-base acreage of 10 percent. In exchange for planting something other than the program crop for which the crop acreage base is established, the producer would not be allowed to receive deficiency payments on that flexed acreage.

The Conference substitute also requires that if the Secretary estimates that the national average price of soybeans the following marketing year for soybeans would be less than 105 percent of the nonrecourse loan level for soybeans if the planting of soybeans were allowed on up to 25 percent of the crop acreage base, the quantity of the crop acreage base that may be planted to soybeans under this section may not exceed 15 percent of the crop acreage base.

Other provisions in the Act, or in the budget reconciliation act for 1991, provide for a mandatory reduction in payments on 15 percent irrespective of whether the producer plants the program crop or not. It is the intention of the Managers that the so-called "triple base" program be operated in conjunction with the 25 percent flexibility provision. In other words, a producer is allowed full planting flexibility on 25 percent of the crop acreage base. On 15 percent of that 25 percent, the producer is ineligible for program payments. On the remaining 10 percent of the 25 percent flexibility a producer has the option of planting something other than the program crop, but the producer is required to forgo payments. In other words, the bill provides 25 percent flexibility, not 40 percent flexibility.

(10) Notification of permissible crops for planting on "flex" acres

The Senate bill contains no provision on this issue.

The House amendment rewrites Sec. 503(c)(2) of the 1949 Act to require the Secretary, with regard to commodities that may be planted on flexible crop acreage, to make a determination in each crop year of the commodities that will qualify for planting on flexible acres and to publish a proposed list of such commodities in advance of making a final determination granting the authority to producers to plant such commodities. (Sec. 1131.)

The Conference substitute adopts the House provision, with an amendment that the Secretary publish a list of crops that may not be planted on flexible crop acreage.

The Managers intend that, for the purposes of this Act, popcorn, as a field crop, may not be considered to be a vegetable. Further, the Managers intend that peas and lentils be considered to be dry edible beans and that they be precluded from being planted on flexible acreas.

(11) Farm program payment yields

The Senate bill rewrites Sec. 506(a) of the 1949 Act to read the same as current law. (Sec. 1001.)

The House amendment rewrites Sec. 505(a) of the 1949 Act to require the Secretary to establish of a farm program payment yield for each farm for each program crop for each crop year. (Sec. 1131.)

The Conference substitute adopts the House provision.

(12) Offset of costs of the use of actual yields to establish feed grain program payment yields

The Senate bill contains no provision on this issue.

The House amendment rewrites Sec. 505(e) of the 1949 Act to require the Secretary, in order to offset any cost of using actual yields in establishing farm program payment yields for feed grains (as authorized under the amended section 505(a) of the 1949 Act, described above), to increase the uniform percentage reduction to the crop acreage base for each crop of feed grains under an acreage limitation program by an amount sufficient to offset such costs. (Sec. 1131.)

The Conference substitute adopts the Senate provision.

(13) Irrigated yields

The Senate bill rewrites Sec. 506(f) of the 1949 Act to prohibit the Secretary from establishing farm program payment yields based on yields for irrigated land, as opposed to yields for non-irrigated land, for any acreage that was not irrigated prior to the beginning of the 1991 crop year. (Sec. 1001.)

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision. However, it is the intent of the Managers that the Secretary exercise his discretionary authority to prohibit the establishment of farm program payment yields based on yields on irrigated acres, as opposed to yields on non-irrigated acres, for any acres not irrigated prior to the 1991 crop year.

(14) Payment limitations: In general

The Senate bill rewrites Sec. 1001 of the FSA to extend the provisions of this section through the 1995 crop year. (Sec. 1011.)

The House amendment substantially rewrites Sec. 1001 of the FSA and extends its provisions through the 1995 crop year. (Sec. 1101.)

The Conference substitute adopts the Senate provision.

(15) Marketing loan gains, loan deficiency, inventory reduction, and Findley payments: $100,000 limit

The Senate bill contains no comparable provision.

The House amendment rewrites Sec. 1001(1) of FSA 85 by adding a new subparagraph (B) to provide, for each of the 1991 through 1995 crops, that the total amount of payments that a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, oilseeds, upland cotton, extra long staple cotton, and rice shall not exceed $100,000. For purposes of this subparagraph, the term "payments" includes—

(A) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, oilseeds, upland cotton, rice or any other commodity at a lower level than the original loan level established under the 1949 Act (marketing loan gains);

(B) any loan deficiency payment received for a crop of wheat, feed grains, oilseeds, upland cotton, or rice under 1949 Act;

(C) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under the 1949 Act; and

(D) any deficiency payment received for a crop of wheat or feed grains under the 1949 Act as the result of a reduction of the loan level for such crop (Findley payments). (Sec. 1101(a)(1)(C).)

The Conference substitute adopts the House provision with an amendment changing the limit to $75,000 which applies to only to the payments and gains under (A), (B), and (D), excluding honey.

(16) Overall limitation on payments: $250,000

The Senate bill rewrites Sec. 1001(2)(A) FSA 85 to (1) make the section applicable to the 1991 through 1995 crops, and (2) to include under the payment limitation the enumerated payments for any other commodity for which a program is established under the 1949 Act. Currently section 1001(2)(A) only applies to those non-enumerated commodities where producers reap marketing loan gains. (Sec. 1011(a)(2) and (3).)

The House amendment amends Sec. 1001(2)(A) FSA 85 the same as the Senate bill and, in addition, (1) includes within the overall payment limitation payments made pursuant to (A) the oilseeds program established under the 1949 Act, and (B) the wool and mohair program established under the National Wool Act of 1954, and (2) reduces the overall payment limitation to $200,000. (Sec. 1101(a)(2).)

The Conference substitute adopts the Senate provision, but does not include wool, mohair, or honey payments or benefits.

(17) Payments included within overall limitation

The Senate bill rewrites Sec. 1001(2)(B) of FSA 85 with an amendment to include loan deficiency payments received for a crop of oilseeds under the 1949 Act in the overall payment limitation, and to make other conforming changes. (Sec. 1101(a)(3).)

The House amendment rewrites Sec. 1001(2)(B) of FSA 85 to include among the payments under the overall payment limitation, in addition to those detailed in sections 1001(1) and 1001(2)(A), above, any marketing loan gains realized by a producer from repaying a loan for a crop of honey at a lower level than the original loan level established under the 1949 Act. (Sec. 1101(a)(3).)

The Conference substitute adopts the Senate provision.

(18) Definition of a person for payment limitation purposes

The Senate bill contains no change in current law.

The House amendment rewrites Sec. 1001(5)(B)(i) of the FSA 85 to—

(I) include in subclause (I) the requirement that the term person also include, except for purposes of deficiency and land diversion payments, any individual holding a substantial beneficial interest in any entity described in subclause (II); and

(II) provide that only for purposes of deficiency and land diversion payments will any entity described in subclause (II) be

considered a separate person for payment limitation purposes. (Sec. 1101(a)(4) and (5).)

[NOTE: The effect of these amendments is to provide that all farm program payments, except deficiency and land diversion payments, would be attributable to individuals, while deficiency and land diversion payments would continue to be attributed to either individuals or to the entities described under subclause (II), as under current law.]

The Conference substitute deletes the House provision.

(19) Payments to irrevocable trusts

The Senate bill rewrites Sec. 1001(5)(B)(ii) of FSA 85 by adding a new subclause (III) to provide that to be considered a separate person under the payment limitation rules, an irrevocable trust must not (1) allow for modification or termination of the trust by the grantor, (2) allow the grantor to have any future, contingent, or remainder interest in the corpus of the trust, or (3) provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years after the trust is established, except where the transfer is contingent on the beneficiary achieving majority or on the death of the grantor or income beneficiary. (Sec. 1011(e).)

The House amendment rewrites Sec. 1001(5)(B) of FSA 85 by providing that regulations defining the term "person" for payment limitation purposes shall prohibit an irrevocable trust from being eligible to receive any farm program payments. (Sec. 1101(a)(6) and (7) (with respect to the new clause (vi) added by paragraph (7).)

The Conference substitute adopts the Senate provision with an amendment which inserts "at least the age of" before the word "majority".

The Managers intend that the Secretary carefully scrutinize all irrevocable trusts which receive payments under this Act to ensure that the trusts are legitimate entities and have not been created solely for the purpose of evading the payment limitations established in this section.

(20) Eligibility of married couples for program payments

The Senate bill rewrites Sec. 1001(5)(B)(iii) of FSA 85 to provide another exception to the rule that the husband and wife in a married couple be considered as one person in the case of any married couple consisting of spouses who do not hold, directly or indirectly, a substantial beneficial interest in more than one entity (including the spouses themselves) engaged in farm operations that also receives farm program payments as separate persons. If they fall within this exception, the spouses may be considered as separate persons if each spouse meets the other requirements necessary to be considered a separate person under title X of FSA 85 Act. (Sec. 1011(c).)

The House amendment rewrites Sec. 1001(5)(B) of FSA 85 to authorize the Secretary to modify regulations defining the term "person" for payment limitation purposes to provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except—

(I) in the case of a married couple which owns or operates a farming operation otherwise eligible for deficiency and land di-

version payments, the couple may designate one spouse as the "primary recipient" for the purpose of receiving such payments and the other spouse (secondary recipient) may be considered to be a separate person for the purpose of receiving farm program payments not to exceed the $50,000 per-person limitation, provided such other spouse makes a significant contribution of active personal management or personal labor; or

(II) in the case of a married couple consisting of spouses who were separately engaged in unrelated farming operations prior to marriage, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by such spouse, so long as such spouse continues to provide a significant contribution of active personal management or labor in relation to the farming operation brought into the marriage; or

(III) in the case of a married couple wherein, following marriage, either of the spouses becomes the owner of an unrelated farming operation by way of gift, devise, or descent, such spouse may be treated as a separate person actively engaged in farming with respect to the acquired farming operation, so long as such spouse provides a significant contribution of active personal management or labor in relation to the farming operation so acquired. (Sec. 1101.)

The Conference substitute adopts the Senate provision with an amendment to make this section applicable at the discretion of the Secretary. The Conference substitute does not change the provision of current law which allows a married couple who were engaged in separate farming operations before marriage and continue to operate separately to be considered separate persons for the purposes of payment limitations.

(21) Corporations and stockholders as separate persons

The Senate bill contains no provision on this issue.

The House amendment rewrites Sec. 1001(5)(C) of FSA 85 to make it applicable only for purposes of deficiency payments and land diversion payments described in Sec. 1001(1)(A), as amended. (Sec. 1101.)

The Conference substitute deletes the House provision.

(22) Treatment of cash rent tenants

The Senate bill contains no provision on this issue.

The House amendment rewrites Sec. 2 of the Act of December 11, 1989 to make it effective beginning with the 1990 crops. (Sec. 1101(c).)

The Conference substitute adopts the House provision.

(23) Three entity rule

The Senate bill contains no provision on this issue.

The House amendment rewrites Sec. 1001(A)(a)(1) to limit the section's application to deficiency payments and land diversion payments described in Sec. 1001(1)(A), as amended. (Sec. 1101.)

The Conference substitute deletes the House provision.

(24) Minimum (de minimis) beneficial interest

The Senate bill rewrites Sec. 1001A(a)(2) of the FSA '85 to reduce the minimum beneficial to 5% of all beneficial interests in the entity. (Sec. 1011.)

The House amendment rewrites Sec. 1001A(a) of the FSA '85 by striking paragraph (2). (Sec. 1131.)

The Conference substitute provides that the Secretary establish a minimum beneficial interest level between 10% and 0%. It further provides that the Secretary may reduce this level on a case by case basis.

(25) Treatment of multiyear farm program contract payments

The Senate bill rewrites FSA 85 to add a new Sec. 1001F, such that—

(1) the Senate bill—

(A) applies to the transfer of ownership of "land" as opposed to "farming operation; and

(B) applies only to conservation reserve program contract payments, instead of all multiyear farm program contract payments;

(2) prohibiting such payments from exceeding the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the gift or the death of the prior owner; and

(3) the Senate bill has no provision comparable to House (3) below, limiting the reduction in such payments to the new owners. (Sec. 1011(i).)

The House amendment rewrites FSA 85 to add a new Sec. 1001D to provide for the specified treatment of multiyear farm program contract payments by—

(1) authorizing the Secretary of Agriculture, in the event of a transfer of ownership of a farming operation by way of gift (in anticipation of death or upon disability), devise, or descent, to continue to make to the new owner all payments which may become due and payable by virtue of any multiyear program contract which was in effect at the time of the gift or the death of the prior owner;

(2) prohibiting such payments from exceeding the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the gift or the death of the prior owner; and

(3) requiring that payments be made to the new owner of a farming operation without regard to any limitation on farm program payments received by such new owner in their capacity as a separate person actively engaged in farming with regard to any other farming operation, including the operation subject to the multiyear program payment contract. (Section 1101(e).)

The Conference substitute adopts the Senate provision.

(26) Information regarding payments in excess or violation of payment limitations

The Senate bill adds a new Sec. 1001D to FSA 85 that requires USDA to maintain a database of individuals receiving in excess of the statutory limitation of $50,000 in deficiency and land diversion payments under Sec. 1001(1)(A) of FSA 85, to publish a report concerning this information, and to submit a report to Congress concerning violations of the limitations and restrictions, including the names of individuals who are found to be in violation. (Sec. 1011(g).)

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

(27) Education program to foster effective application of payment limitations

The Senate bill adds a new Sec. 1001E to FSA 85 requiring USDA to carry out a payment provisions education program similar to current law except—

(1) the amendment deletes the requirement that particular emphasis be focused on the amendments made by Omnibus Reconciliation Act of 1987;

(2) no reference is made to the date by which such a program must be implemented; and

(3) the Senate bill further requires that the State ASC office shall make the initial determination concerning the application of payment limitations to farm operations consisting of more than 5 persons, subject to review by the Secretary. (Sec. 1011(h).)

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision.

(28) Authorization

The Senate bill rewrites Sec. 107C of the 1949 Act to—

(1) make it effective for the 1991 through 1995 crops (Sec. 1012(a).); and

(2) provides for payments for underestimated market prices. If the deficiency payment payable to a producer for a crop, as finally determined by the Secretary, is less than the projected deficiency payment determined for the purposes of calculating the advance deficiency payment, the Secretary shall make a payment to the producer equal to 20% of the difference between the final deficiency payment and the projected deficiency payment. (Sec. 1012(b).)

The House amendment rewrites Sec. 107C of the 1949 Act, making this section applicable for the 1991 through 1995 crops. (Sec. 1103.)

The Conference substitute adopts the House provision.

(29) Repayment of 1988 and 1989 advance deficiency payments

The Senate bill adds a free standing provision of law to govern the repayment of advance deficiency payments for producers who received an advance deficiency payment for the 1988 or 1989 crops, who must refund at least $1,500 of those payments, who reside in a county (or a county contiguous to a county) where farming oper-

ations have been substantially affected by natural disaster as evidenced by a production drop of at least 30% during 2 of the 3 crop years 1988, 1989, & 1990, and whose total production of the commodity for 1988 and 1989 is less than 65% of the farm program payment yield times acreage planted for harvest and acreage prevented from being planted. (Sec. 1012(c).)

The House amendment provides no directly comparable provision, however, Sec. 1004 of the House amendment requires the Secretary to recalculate refunds of advance deficiency payments by producers of the 1988 or 1989 crops of feed barley based on a formula that include the human food values of barley. (Sec. 1004.)

The Conference substitute adopts the Senate provision with an amendment adding a financial needs test.

(30) Commodity Credit Corporation (CCC) sales price restrictions

The Senate bill rewrites Sec. 407 of the 1949 Act to—

(a) authorize the CCC to sell any farm commodity at any price not prohibited by this section.

(b) require CCC to take into consideration several factors in determining sales policies for basic agricultural commodities or storable nonbasic commodities. CCC should consider the establishment of policies with respect to prices, terms, and conditions as will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop.

(c)(1) prohibit CCC from selling any basic agricultural commodity at less than 115 percent of the lower of—

(A) the current national average price support loan rate for the commodity adjusted for current market differentials; or

(B) the loan repayment level.

(c)(2) permit CCC to sell extra long staple cotton for unrestricted use at such price as it determines is appropriate to maintain and expand export and domestic markets.

(c)(3) prohibit CCC from selling oilseeds at less than the lower of—

(A) 105% of the current national average price support loan rate for the oilseed, adjusted for market differentials; or

(B) 115% of the loan repayment level.

(c)(4) prohibit CCC from selling its stocks of wheat or feed grains at less than 105% of the established price whenever the producer reserve program for wheat and feed grains is in effect.

(c)(5) require CCC to sell upland cotton at same price CCC sells upland cotton for export, but not less than the minimum sales price.

(d) provide for exemptions from the sales price restrictions, as under current law.

(e) authorize CCC, to make available any commodity owned or controlled by it in accordance with title VI of the 1949 Act or for use in relieving distress, disaster, and livestock emergency areas, if such use does not displace or interfere with normal marketing of agricultural commodities and if the costs to CCC

in connection with making the commodity available are limited.

(f) provide that CCC's sales price restrictions shall not apply to sales of commodities that are in the interest of the effective and efficient conduct of the operations of CCC because of the small quantities involved, etc, and to authorize CCC to sell basic commodities on a competitive bid basis.

(g) define sales for export to include—

(1) sales made on condition that identical commodities be exported; and

(2) sales made on condition that commodities of the same kind and of comparable value or quantity be exported.

The House amendment rewrites, effective only for the marketing years for the 1991 through 1995 crops, Sec. 407 of the 1949 Act to—

(1) provide that CCC may not sell any of its stocks of wheat, corn, grain sorghum, barley, oats, and rye at less than (A) 150 percent of the current national average loan rate for the commodity, adjusted for current market differentials + RCC, or (B) if the Secretary permits the repayment of loans made for a crop of the commodity at a rate that is less than the loan level for such crop, 150 percent of the average loan repayment rate (Sec. 1104(1).);

(2) require that, if CCC makes purchases of commodities to offset adverse consequences of sales at less than prescribed prices, the purchase price may not exceed CCC's minimum sales price for such commodities for unrestricted use (Sec. 1104(2).); and

(3) direct CCC to sell upland cotton for unrestricted use at the same prices as it sells upland cotton for export, but at not less than 115 percent of the lower of the loan rate or the loan repayment rate in effect for the week in which it is sold, adjusted for market differentials + RCC. (Sec. 103.)

The Conference substitute adopts the House provision with an amendment for cotton and rice setting the resale price at 115% of the loan repayment rate, taking into account location and reasonable carrying charges. Oilseed resale prices are the lower of 105% of the loan rate or 115% of the loan repayment level.

It is the intent of the Managers that such resale price restrictions include reasonable carrying charges, as is the case in current law. In addition, it is the intent of the Managers that in determining the sales price restriction for oilseeds the Secretary may determine the effective current national average price support by taking into account loan origination fees assessed under this Act or an other provision of law.

(31) Multiyear set-aside contracts for program crops

The Senate bill rewrites Sec. 1010 of FSA 85 to extend the authority for multiyear set-asides through the 1991–95 crops. (Sec. 1018.)

The House amendment rewrites Sec. 1010 of FSA 85 to—

(1) require the Secretary to enter into multiyear set-aside contracts, subject to appropriations;

(2) extend the authority for such contracts through the 1995 crops;

(3) require that 50 percent of the set-aside acreage under such a contract be devoted to a perennial cover crop or an annual cover crop each year that is capable of naturally improving water quality, improving habitat for wildlife, or making forage available for drought emergencies, unless water conservation considerations or other crop management considerations identified in a conservation plan prepared for such land require otherwise, and requiring that seasonal flooding with shallow water be considered to be acceptable cover crop for the purpose of this section;

(4) prohibit haying (as well as grazing, as provided under current law) on land under such multiyear set-aside contracts, except in areas of a major disaster;

(5) remove the requirement that such a program be carried out through CCC, and instead authorize the appropriation of necessary funds for the program; and

(6) add a new requirement that, in order to be eligible to enter into a multi-year set-aside agreement and receive cost share assistance under section 1010, a producer must designate the same cropland each crop year for all agricultural set-aside and acreage limitation programs that are involved in multiyear set-aside programs, except that those croplands necessary for normal crop rotation or those lands used for changes in farm operations will be exempt from this requirement. Each producer must establish on such acreage a perennial cover crop or an annual cover crop that is capable of naturally improving soil fertility, reducing water problems, improving water quality, improving habitat for wildlife or making forage available for drought emergencies, unless water conservation considerations or other crop management considerations identified in a conservation plan for such land require otherwise. (Sec. 1106.)

The Conference substitute adopts the Senate provision with an amendment addressing conserving use acreage in each appropriate commodity Title.

(32) Food security wheat reserve

The Senate bill rewrites Sec. 302 of the Food Security Wheat Reserve Act of 1980—

(1) in subsection (i), to extend the reserve through 1995; and

(2) in a new subsection (j), to require the Secretary to take whatever steps are necessary to ensure that at least 75 million bushels are maintained in the reserve if, for each of the 1991-95 marketing years for wheat, it is determined that the season average price for wheat during the marketing year is less than 140% of the loan rate for wheat. (Sec. 1020.)

(3) No comparable provision.

The House amendment rewrites Sec. 302 of the Food Security Wheat Reserve Act of 1980—

(1) to extend the reserve through 1995 (Sec. 1215);

(2) no comparable provision; and

(3) to add a new subsection (b)(2)(B) to require the Secretary, not later than 18 months after the release of stocks from the reserve, to replenish the reserve—

(A) through purchase of wheat, to the extent of the appropriations available; or

(B) by designating an equivalent quantity of wheat from uncommitted CCC stocks, to the extent sufficient appropriations are not available, except to the extent that the Secretary reports to the Agriculture Committees that there are not sufficient uncommitted CCC stocks available. (Sec. 1109.)

The Conference substitute adopts the House provision.

(33) Special grazing and hay program

The Senate bill rewrites Sec. 109(a) of the 1949 Act to extend the special grazing and hay program through 1995. (Sec. 1022.)

The House amendment provides no comparable provision.

The Conference substitute adopts the House provision.

(34) Advance announcement of programs

The Senate bill rewrites Sec. 406(b) of the 1949 Act to extend through the 1995 crop year, current law regarding the advance announcement of the final terms of the price support, production adjustment and payment programs for wheat, feed grains, upland cotton and rice. (Sec. 1022.)

The Senate bill also rewrites Sec. 406(b) of the 1949 Act to authorize the Secretary to offer an option to producers of the 1996 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or oilseeds and to dairy producers for the 1996 calendar year to participate in commodity price support, production adjustment, and payment programs based upon the terms and conditions as are provided in sections 101(h), 101A, 103A, 105A, 107A, 107C, and 204 of the 1949 Act, as amended by the 1990 Farm Bill. Any established price or loan and purchase level made available in accordance with this section shall be established at the same level as that established for the 1995 crop or, in the case of milk, for the 1995 calendar year.

The Secretary may offer each of these programs if the Secretary has not made final announcement of the terms of the commodity price support, production adjustment, or payment programs for the 1996 crops of wheat, feed grains, cotton, rice, or oilseeds, or the 1996 calendar year for dairy on or before the later of—

(A) in the case of wheat, June 1, 1995; and

(B) in the case of feed grains, September 30, 1995;

(C) in the case of upland cotton, November 1, 1995;

(D) in the case of extra long staple cotton, December 1, 1995;

(E) in the case of rice, January 31, 1996;

(F) in the case of oilseeds, July 15, 1995; and

(G) in the case of dairy, November 1, 1995.

Producers may not participate in this program unless legislation has been enacted subsequent to the date of enactment of the 1990 farm bill that provides for loans and purchases for the 1996 crop of wheat, feed grains, cotton, rice, or oilseeds, or for dairy for the 1996 calendar year.

CCC may be used to carry out this section. (Sec. 1033.)

The House amendment rewrites Sec. 406(b) of the 1949 Act to extend through the 1995 crop current law regarding the advance

announcement of the final terms of the price support, production adjustment and payment programs for wheat and feed grains, and deleted references to upland cotton and rice. (Sec. 1111.)

The House amendment further rewrites Sec. 406(b) of the 1949 Act to provide that, in the case of the 1996 crop, the Secretary shall make available to producers of a commodity who exercise the election provided in § 406 and who comply with the terms and conditions of any acreage reduction program established for the 1995 crop of the commodity—

(1) loans and purchases for the 1996 crop under legislation enacted subsequent to the date of the 1990 farm bill, except that if such subsequent legislation provides that loans and purchases shall not be made with respect to the 1996 crop of a commodity, the Secretary may make available to producers loans and purchases at the level determined for the 1995 crop, or if no subsequent legislation is enacted providing that loans and purchases shall be made for the 1996 crop of any commodity, and if loans and purchases are available to producers of such commodity under laws previously enacted, none of the provisions of this section shall apply to the 1996 crop;

(2) deficiency payments calculated on the basis of the established price for the commodity determined for the 1995 crop; and

(3) payments equal to the difference between the level of loans and purchases that the producers are eligible to receive under (1) above for such commodity for the 1995 crop and the level of loans and purchases determined for such commodity for the 1995 crop.

Payments authorized by (3) above shall be made in cash or in the form of in-kind commodities. (Sec. 1111(4).)

The Conference substitute adopts the Senate provision.

(35) Normal supply

The Senate bill provides a freestanding section which is substantially identical to Sec. 1019 of FSA 85. (Sec. 1026.)

The House amendment rewrites Sec. 1019 of FSA 85 to extend current law through the 1995 crop year. (Sec. 1114.)

The Conference substitute adopts the House provision.

(36) National agricultural cost of production standards review board

The Senate bill rewrites Sec. 1006(a)(1) of the 1981 Act to require that the seven producer members of the Board, individually or as a group, are engaged in the commercial production of each of the program crops and in one or more of the other various ag commodities grown in the United States (Sec. 1027(a).)

The House amendment extends current law.

The Senate bill also rewrites Sec. 1014 of the 1981 Act to extend the cessation of the Board through September 30, 1995. (Sec. 1027(b).)

The House amendment also rewrites Sec. 1014 of the 1981 Act to extend the cessation of the Board to September 30, 1995. (Sec. 1115.)

The Conference substitute adopts the Senate provision.

(37) Adjustment of support prices

The Senate bill rewrites Sec. 403 of the 1949 Act to—

(a) authorize the Secretary to make appropriate adjustments in the support price for any commodity (excluding cotton) for differences in grade, type, quality, location and other factors. Such adjustment shall, so far as practicable, be made in such manner that the average support price for the commodity will be equal to the level of support under the 1949 Act;

(b) authorize the Secretary to make appropriate adjustments in the support price for cotton for differences in quality factors and location. In determining the premiums and discounts for quality factors for the upland cotton loan program, the Secretary shall give equal weight to loan differences for the preceding crop and market differences for such crop in the designated U.S. spot markets; and

(c) limit the adjustment in loan rates for transportation differentials for the 1990 through 1995 crops of wheat and feed grains such that no adjustment in the loan rate for a region, State, or county may increase or decrease the regional, State or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 2%. (Sec. 1028.)

The House amendment rewrites Sec. 403 of the 1949 Act to—

(a) same as Senate bill, except that the House amendment simply provides that "appropriate adjustments may be made", as under current law;

(b) same as Senate bill, except that the House amendment simply provides that "appropriate adjustments may be made", as under current law; and

(c) no comparable provision to the Senate. (Sec. 108.)

The Conference substitute adopts the Senate provision with an amendment on (c) to increase the limit on transportation differentials to three percent.

(38) Producer reserve program for wheat and feed grains

The Senate bill rewrites Sec. 110(a) of the 1949 Act to authorize the Secretary to carry out a farmer owned reserve program, as under the current law in Sec. 110(a), except the Senate bill—

Strikes the limitation that the reserve not provide for excessive carryover stocks, and strikes the requirement that the Secretary establish safeguards to assure that wheat and feed grains held under the program not be used to unduly depress, manipulate, or curtail the free market. (Sec. 1029.)

Rewrites Sec. 110(l) to provide, as under current law, that the authority provided by Sec. 110 is in addition to other Secretarial authorities to carry out producer loan and storage operations. (Sec. 1029.)

New Sec. 110(b) adds a requirement that the Secretary provide original or extended price support loans for wheat and feed grains whenever the price of wheat or feed grains is less than 140% of the loan rate. (Sec. 1029.)

Rewrites Sec. 110(d) to require the Secretary to provide storage payments to producers for storage of wheat or feed grains in such

amounts and under such conditions as appropriate to encourage participation. Such payments shall be available at the end of each quarter. The Secretary may cease such payments whenever the price of wheat or feed grains is equal to or exceeds the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of the established price. (Sec. 1029.)

Further rewrites Sec. 110(b) to require that such loans shall not be less than the then current level of support under the wheat and feed grain programs. The Secretary shall provide for loans with—

(A) a maturity of not less than 3 years, with extensions as warranted by market conditions;

(B) a specified rate of interest; and

(C) payments to producers for storage. (Sec. 1029.)

Sec. 1030 requires CCC and the Secretary, to the extent practicable, to ensure that the rates of the storage payments are equivalent to average rates paid for commercial storage, taking into account the current demand for storage for commodities, efficiency, location, regulatory compliance costs, bonding requirements, and impact of user fees. There cannot be any increase in current or projected combined outlays of the CCC as a result of this provision. This provision also applies in making storage payments to commercial warehouses under the CCC Charter Act. (Sec. 1030.)

Senate bill would delete the requirement that the Secretary offer increased incentives to producers when—

(A) the quantity of stored commodities falls below the stated levels; and

(B) the market price falls below 140% of the loan rate. (Sec. 1030.)

New Sec. 110(b) further provides, as does current law, that producers shall be afforded a fair and equitable opportunity to participate in the farmer owned reserve program, taking into account regional differences at the time of harvest. (Sec. 1029.)

Rewrites Sec. 110(c) to provide that the Secretary may charge interest on the loans whenever the price of wheat or feed grains is equal or greater than the then current established price for the commodities. The interest may be charged for 90 days after the last day on which the price of wheat or feed grains was equal to or greater than the established price. The rate of interest shall not be less than that charged the CCC by the U.S. Treasury, except that the Secretary may waive or adjust the interest as appropriate to effectuate the purposes of the reserve. (Sec. 1029.)

Rewrites Sec. 110(e) to provide, similar to current law, that the Secretary may require producers to repay loans, plus accrued interest and such other charges, if emergency conditions exist that require that the commodity be made available in the market to meet urgent domestic or international needs. The Secretary must report the reasons for this determination to the President, and appropriate committees of Congress at least 14 days before taking the action. (Sec. 1029.)

Sec. 110(g) requires that the Secretary announce the terms and conditions of the reserve program as far in advance of making loans as practicable. Such announcement shall specify the quantity

of wheat or feed grains to be stored under this program that the Secretary determines appropriate to promote the orderly marketing of the commodities. (Sec. 1029.)

Sec. 110(f) authorizes the establishment of maximum quantities of wheat and feed grains that may receive loans and storage payments under the reserve program as follows:

(1) The quantities may not be established at less than 300 million bushels of wheat and 600 million bushels of feed grains.

(2) The quantities may not be established at more than—

(A) 30% of the estimated total domestic and export usage of wheat during the marketing year for the crop of wheat, as determined by the Secretary; and

(B) 15% of the estimated total domestic and export usage of feed grains during the marketing year for the crop, as determined by the Secretary.

(3) Notwithstanding paragraph (2), the Secretary may establish the upper limits at higher levels, not in excess of 110% of the levels established in paragraph (2), if the higher limits are necessary to achieve the purposes of this section. (Sec. 1029.)

The Senate bill deletes Sec. 110(f). (Sec. 1029.)

Sec. 110(h) authorizes the Secretary, with the concurrence of the owner of grain stored under this program, to reconcentrate all grain in the farmer owned reserve to be stored in commercial warehouses. Such reconcentration shall be at such points as are in the public interest, taking into account such factors as transportation and normal marketing patterns. Rotation of stocks is permitted. Secretary shall maintain quality under regulations that assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by the commitment. (Sec. 1029.)

Sec. 110(i) provides that when grain is stored under this section, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate the commodities that the CCC owns or controls. The purchases to offset sales shall be made within 2 market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions. (Sec. 1029.)

Sec. 110(j) requires the Secretary to use the CCC to fulfill the purposes of this section, and to utilize the usual and customary channels, facilities, and arrangements of trade and commerce. (Sec. 1029.)

Sec. 110(k) provides that if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the Secretary may allow a producer to repay the loan using a generic commodity certificate that may be exchanged for commodities owned by CCC, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county. (Sec. 1029.)

The House amendment rewrites, effective beginning with the 1991 crops, section 110 of the Agricultural Act of 1949—(Sec. 1116.)

(1) to make the requirement that the Secretary formulate and administer a producer reserve program contingent upon the event that the Secretary estimate for any marketing year that the ratio of ending stocks to total use for the marketing year for—

(A) wheat will be more than 40 percent; or

(B) for corn will be more than 25 percent.

(2) to reduce the minimum term of storage loans from not less than three years to not less than 18 months, and provide for one automatic 6-month loan extension upon the request of the producer, and further extensions at the discretion of the Secretary;

(3) to provide (A) that payments to producers be made in such amounts as appropriate to encourage producers to participate in the program, taking into account, to the extent practicable, the average rates paid for commercial storage in the State, and (B) that such storage payments will be made to producers at the end of the first calendar quarter after the grain enters storage;

(4) to provide that producer storage program loans may be redeemed at the discretion of the producer;

(5) to provide that the producer storage program may be designed to induce producers to redeem and market wheat or feed grains without regard to the maturity date of any loans when the market price for the commodity has attained 150 percent of the nonrecourse loan rate;

(6) to strike, as would the Senate bill, the requirement that the Secretary offer increased incentives to producers when—

(A) the quantity of stored commodities falls below the stated levels: and

(B) the market price falls below 140% of the loan rate.

Retains Sec. 110(c) as in current law, but adds a provision, as does the Senate bill—

(6) to authorize the Secretary to waive the repayment of principal or interest on loans made under this section if market conditions warrant;

(7) to amend subsection (e)(2) to provide—

(A) that the total quantity of wheat stored under storage programs established under this section may not exceed 300 million bushels; and

(B) that the total quantity of feed grains stored under storage programs established under this section may not exceed 600 million bushels. (Sec. 1116.)

The Conference substitute adopts the Senate provision with the following amendments:

(1) Conditions for entry are triggered when (a) price or (b) stocks to use ratios are met. When both (a) and (b) occur, the Secretary shall permit entry; when either (a) or (b) is met, the Secretary may permit entry.

Condition (a) is met when the average price for the previous 90 days exceeds 120% of the loan rate.

Condition (b) is met when the projected stocks-to-use ratio for the current marketing year equals or exceeds 37.5% for wheat, and 22.5% for corn.

No direct entry is allowed: producers must first take out an original 9-month loan.

(2) Conditions of exit are—

(a) Producers may exit at their discretion.

(b) Storage stop is triggered when the 5-day price equals or exceeds 95% of the target price for wheat and corn.

(3) Interest and CCC resale—

(a) Interest accrues when the 5-day average price equals or exceeds 105% of the target price.

(b) CCC resale is triggered when the 5-day average price equals or exceeds 150% of the loan rate.

(4) Stock levels—

The maximum quantities of wheat in FOR shall be established at not less than 300 million bushels nor more than 450 million bushels. The maximum quantities of feed grains in FOR shall be established at not less than 600 million bushels nor more than 900 million bushels.

(5) Period of loan—

The duration of the loan is three years, inclusive of the 9-month regular loan, with one 6-month extension at the discretion of the Secretary.

The Managers feel that the FOR has not been operated in an efficient manner in the recent past. The changes made in this section are intended to provide for a more moderate transition of grain into and out of the reserve. The Managers note that the program has, in the past, had the effect of completely isolating the reserve from the market—some wheat from the 1978 crop remains in reserve at the time this Act is being completed. The Managers intend that the changes made in this Act will allow for a more orderly flow of grain into and out of the FOR. Accordingly, the amendments adopted in the Conference substitute become effective December 1, 1990, to govern the administration of the FOR as of that date.

The amendments adopted to Sec. 110 of the Agricultural Act of 1949, provide that the Secretary may allow entry into the FOR only if one of two conditions exist: (1) if the wheat projected stocks-to-use ratio at the end of the marketing year exceeds 37%, and if the corn projected stocks-to-use ratio at the end of the marketing year exceeds 22.5%, or (2) the market price of wheat or corn is less than 120% of the loan rate for the crop of that commodity. Such determinations are to be made by the Secretary as soon as practicable prior to the expiration of the regular 9 month price support loans. If both conditions (1) and (2) above occur, the amendments require the Secretary to permit the entry of grain into the FOR.

The current statutory restrictions on access to FOR grain severely restrict usefulness of the FOR. The amendments adopted in the Conference substitute will allow producers to gain access to FOR-held grain to encourage producers to redeem grain from the FOR as market conditions and individual marketing plans warrant. The amendments allow all producers to redeem FOR loans at any time without imposition of penalties, as exists in current law. The amendments also provide that once market prices reach 95% of the current established price for the commodity, storage payments will end, and loans extended for FOR grain will begin accruing interest

once market prices each 105% of the established target price for the commodity. FOR contracts may be extended only after the maturity of a regular Commodity Credit Corporation price support loan and such contracts may not extend for more than 36 months, including the 9 months of the original price support loan. However, at the Secretary's discretion, FOR loans may be extended for one additional period of 6 months.

(39) Redemption of expired certificates

The Senate bill contains no provision on this topic.

The House amendment amends Sec. 107E(b)(3) of the 1949 Act to provide that negotiable certificates issued by CCC must enable any subsequent holders of such certificates to redeem such certificates under the same rules that apply to original holders of such certificates. (Sec. 1117(a)(1).)

Limits the application of the amendment made by Sec. 1117(a)(1) to—

(1) the 180-day period beginning on the date of enactment; and

(2) no more than $25,000 worth of certificate redemptions per person. (Sec. 1117(b).)

Requires that in no event may a person receive a payment from CCC for a certificate that is redeemed under the amendment made by Sec. 1117(a)(1) in an amount greater than the price paid for the certificate by such person. No expired certificate may be exchanged under section 1117 if the owner purchased such certificate after January 1, 1990. (Sec. 1117(c).)

The Conference substitute adopts the House provision with an amendment limiting the redemption value to $1,000 per person.

(40) Payment of interest on certificates redeemed for cash

The Senate bill rewrites Sec. 107E of the 1949 Act to require the Secretary to pay interest on the cash redemption of a commodity certificate issued by the Secretary to a producer who holds the certificate for at least 150 days. (Sec. 1015.)

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to exempt certificates used for Export Enhancement Program or Targeted Export Assistance.

(41) Producer option to receive cash in lieu of certificates

The Senate bill contains no provision on this issue.

The House amendment rewrites Sec. 1007E of the 1949 Act by adding a new subsection (c) to require the Secretary, in the case of the annual programs for wheat or feed grains, if the Secretary makes in-kind payments available to producers for any payment under any such program, to also permit producers to elect to receive such payment in cash instead of in the form of an in-kind payment. (Sec. 1117(a)(2).)

The Conference substitute adopts the Senate provision.

(42) Use of certificates to pay producers interest on loans

The Senate bill rewrites Sec. 405(b)(1) of the 1949 Act to make the paragraph effective for only the 1991 through 1995 crops. The bill also amends Sec. 1004 of FSA 85 to make permanent the addition of subsection (b) to Sec. 405 of the 1949 Act. (Sec. 1014.)

The House amendment provides no comparable provision.

The Conference substitute adopts the House provision.

(43) Procedures for disposition of stocks

The Senate bill provides no provision on this issue.

The House amendment rewrites the 1949 Act by adding a new section, Sec. 107G, governing the procedures for the disposition of stocks, to require—

(a) CCC to establish procedures for the exchange of certificates issued by CCC for commodities or funds of the CCC, including any procedures to be used by CCC to determine the value of any such commodities;

(b) the Secretary, as soon as practicable before the marketing year or season for each commodity for which there is an annual program in effect under the 1949 Act, to announce the anticipated stock disposition actions with respect to the exchange of commodity certificates for commodities owned by CCC (and reasons therefor) for that commodity for the marketing year or season;

(c) the Secretary, upon deciding to make payments to producers participating in annual programs under the 1949 Act using marketing certificates, to announce the rationale for such decision and the goals for the levels of CCC stocks; and

(d) the Secretary, upon deciding to make payments to producers participating in annual programs under the 1949 Act using marketing certificates, to allow producers to make any refund of those payments by using such certificates. (Sec. 1118.)

The Conference substitute adopts the Senate provision.

It is the intent of the Managers that the Secretary, in requesting public comment on proposed annual commodity program determinations and in making the final announcement of the provisions of such programs, include, as practicable, based on information available at the time, a statement of intended procedures for the disposition of Commodity Credit Corporation stocks during that marketing year for that crop. Such announcements should include, as practicable, policies and procedures for the issuance and redemption of CCC commodity certificates to participating producers and for third parties. The intent of the Managers is not to hinder the effective and efficient use of CCC certificates nor the disposition of CCC stocks as market conditions warrant but to ensure that such policies are well communicated to producers and to the grain marketing, processing, and exporting industry generally, so as to minimize disruptions in the grain markets and so participants in these markets can plan their marketings acordingly.

(44) Loan rate study

The Senate bill requires Secretary to conduct a study on the impact of increasing loan rates to the established price level or to

the projected average cost of production level, and eliminating deficiency payments for the crop, for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice. Requires Secretary to analyze the impact of such increased loan rate on exports, CCC outlays, and net farm income, and to report to the Committees on Agriculture by October 1, 1991. (Sec. 1031.)

The House amendment provides no comparable provision.

The Conference substitute adopts the House provision.

(45) Financial impact assessment

The Senate bill contains no provision on this issue.

The House amendment provides that Sec. 1119 requires the Secretary to conduct an annual assessment of the financial impact of the support levels established and announced by the Secretary under programs contained in the 1949 Act (hereafter "programs"), including an assessment of the effect of such support levels on the ability of producers to meet their financial obligations. Sec. 1119 further requires the Secretary to annually prepare a report containing the results of such assessment and submit such report to the Agriculture Committees, not later than the date of the final announcement for such programs by the Secretary for any one year. The assessment under this section, may be only for informational purposes and for Congressional oversight and may not give rise to any cause of action, be a basis for, or be used as evidence in support of, any claim or right of any person, including farmers and borrowers, in any administrative or judicial proceeding. (Sec. 1119.)

The Conference substitute adopts the House provision with an amendment that changes the term "assessment" to "study".

(46) Establishment of cover crop

The Senate bill provides no provision on this topic.

The House amendment, in Sec. 1107(a), provides that the Secretary of Agriculture should encourage producers who participate in an acreage reduction program established for a crop of wheat, feed grains, cotton or rice under the 1949 Act to plant an annual or perennial vegetative cover on reduced acreage that provides full season coverage capable of naturally improving soil fertility, reducing erosion, improving soil quality, enhancing wildlife, and making forage available for drought emergencies on all acreage required to be devoted to conservation uses, unless water conservation considerations or other crop management considerations identified in a conservation plan prepared for such land require otherwise.

Sec. 1107(b) requires that participation by a producer in any program of encouragement under subsection (a) must be at the discretion of the producer. Failure to participate in any such program may not be used to determine eligibility for any other Federal program, unless specifically authorized by law.

Sec. 1107(c) requires the Secretary, in any program of encouragement authorized under sec. 1107, to provide for the planting of annual or vegetative cover crops consistent with normal crop rotation management practices, such as summer fallow or other conserving use management practices, traditionally practiced in the area. (Sec. 1107.)

The Conference substitute adopts the Senate provision.

However, the Managers would point out that in each of the commodity Titles, the Act requires the planting of a cover crop on one half of the ACR acres.

(47) Producer appeals process under the 1949 Act

The Senate bill adds a new section, Sec. 426, to Title V of the 1949 Act, concerning producer appeals as follows:

Sec. 426(a) provides that any participant in any of the programs under the 1949 Act or any other Act administered by the ASCS shall have the right to appeal any adverse determination made by any State or county ASC committee.

Sec. 426(b) provides that any participant who believes that a proper determination has not been made with respect to the implementation of any such program concerning such participant may appeal such determination as follows:

if such determination was rendered by a county ASC committee, the appeal is to the applicable State ASC committee;

if such determination was rendered by a State ASC committee, the appeal is to the National Appeals Division; and

if such determination was rendered by any other employee or agent of ASCS or CCC, the appeal is to the National Appeals Division (NAD).

Notice of appeal must be filed within a reasonable time after receiving notice of the adverse determination.

Sec. 426(c) establishes an ASCS National Appeals Division, which shall consist of a director, hearing officers, and such other personnel who shall hear and determine formal appeals. Hearing officers shall hear each appeal made to NAD.

The director of NAD—

shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to the appeal;

may request such information or assistance as may be necessary from any Federal, State, or local governmental agency or unit;

may require the attendance of witnesses, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary;

may require the attendance of witnesses and production of documentary evidence by subpoena;

may administer oaths and affirmations;

may enter into contracts and other arrangements for reporting and other services and make such payments as may be necessary;

shall issue procedural rules for the conduct of appeals; and

may delegate to hearing officers these authorities.

Sec. 426(c)(4) specifies how, when, and where such hearings shall be conducted. The participant shall be advised of the issues involved and shall be given a full opportunity to present facts, evidence and information relevant to the matter. The hearing officer may confine the presentation of facts and evidence to pertinent matters and may exclude irrelevant evidence.

Hearings before the NAD shall be recorded verbatim if requested by participant. A transcript of the hearing, together with all documents and evidence submitted shall be made available to the participant, on request, if there is an appeal. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing, if prepared.

Sec. 426(c)(5) provides that the director of NAD shall make all determinations with respect to the appeals submitted to the Division for review.

NAD shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer, except that the director may order that further proceedings be had in order that the record presented for review may be complete or in order to hear new or additional evidence.

Sec. 426(c)(6) will require NAD hearing officers to report to the principal officers of the division and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than NAD.

Sec. 426(c)(7) provides that NAD determinations shall be final, conclusive, and binding on USDA, including CCC, and any agency thereof. However, see Sec. 426(f), below.

Sec. 426(d) provides that the decisions of USDA under this process shall be reviewable by a United States court of competent jurisdiction.

Sec. 426(e) defines, for purposes of this section, a participant to mean any person whose right to participate in, or receive payments or other benefits in accordance with, any of the programs under the 1949 Act or any other Act administered by the ASCS is adversely affected by a determination of any State or county ASC committee or by agents of the CCC under such Acts.

Sec. 426(f) provides that nothing contained in Sec. 426 shall preclude the Secretary, the Administrator of ASCS, or the Executive Vice President of CCC from determining at any time any question arising under the programs to which the provisions of this section apply or from reversing or modifying any determination made by a county or State committee or the director of NAD.

Sec. 426(g) provides that decisions of the State and County ASC Committees made in good faith in the absence of misrepresentation, false statement, fraud, or wilful misconduct, unless otherwise appealed, shall be final, unless otherwise modified under Sec. 426(f) within 90 days, and no action shall be taken to recover amounts found to have been disbursed thereon in error unless the producer had reason to believe that the decision was erroneous.

Sec. 426(h) authorizes the Secretary to issue such regulations as necessary to implement this section. (Sec. 1032(a).)

Sec. 1032(b) provides that Sec. 1032 of the bill does not apply to any appeal or proceeding with respect to any adverse determination made by any State or county ASC committee, etc., prior to the date of enactment of this Act. (Sec. 1032(b).)

Sec. 1032(c) amends Sec. 326 of the Food and Agriculture Act of 1962 to provide that, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment, the Secretary may make price support or other payments available to farmers who

have, in attempting to comply with the requirements of any price support or other program or other requirements in law affecting such person's eligibility under such programs, taken actions in good faith in reliance upon the action or advice of an authorized representative of the Secretary. The Secretary may provide such price support or other payments to the extent the Secretary determines such farmer has been injured by such good faith reliance and may require such farmer to take necessary actions designed to remedy any failure to comply with such programs. (Sec. 1032(c).)

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision.

(48) Survey of program participants

The Senate bill contains no provision on this topic.

The House amendment provides that Sec. 1120(a) requires that the Secretary of Agriculture provide that producers, during the sign-up period for commodity programs under the 1949 Act in calendar year 1991, complete a survey regarding the preference of such producers, either to increase the efficiency of their farming operation or to assist in meeting conservation requirements for the farm, for the redistribution of any crop acreage bases on each producer's farm. Such survey must include questions designed to determine whether such producers would prefer to redistribute their current crop acreage bases—

(1) in different proportions among the program crops for which such producers currently have a crop acreage base;

(2) among program crops for which such producers currently do not have a crop acreage base; or

(3) in some combination of the options provided under paragraphs (1) and (2) without exceeding the total cropland of the farm. Such survey must be prepared and administered by the ASCS, and conducted in every county where sign-ups for Federal commodity programs are administered.

Sec. 1120(b) requires the Secretary to compile and analyze the data collected from the survey required under subsection (a) to determine—

(1) the potential increases and decreases in State, regional, and national acreage that would be planted to various program crops if producers were given the option to redistribute their current crop acreage bases as indicated by the survey conducted under subsection (a);

(2) the potential commodity program costs or savings if producers were allowed to implement the redistribution of such crop acreage bases as described in paragraph (1);

(3) the potential impact of such a redistribution of crop acreage bases on the competitiveness of United States agriculture in world markets; and

(4) such other consequences of such a redistribution of crop acreage bases that the Secretary determines to be of significance to United States agriculture.

Sec. 1120(c) requires the Secretary, not later than January 31, 1992, to submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and

Forestry of the Senate a report on the results of the survey conducted under subsection (a). Such report is required to—

(1) include a compilation of the data collected pursuant to the survey conducted under subsection (a);

(2) include the results of the analysis and determinations required under subsection (b);

(3) provide a summary of such data and determinations on a program crop-by-program crop and State-by-State basis; and

(4) provide such other recommendations or information as the Secretary determines appropriate. (Sec. 1120.)

The Conference substitute adopts the House provision with an amendment to move the survey to 1992, and the report to Jan. 31, 1993.

(49) Disaster assistance due to Indian water rights adjudication

The Senate bill provides that Sec. 1034 of the Senate bill authorizes the Secretary to make disaster assistance available to providers on a farm who suffered losses due to drought induced by lack of water as a result of Indian Tribal water rights adjudication affecting producers on that portion of the Big Horn River drainage system located on the Wind River Indian Reservation, Wyoming, for the 1990 crop of wheat, barley, oats, grass hay, and alfalfa hay. The disaster assistance shall be similar to assistance provided under the Disaster Assistance Act of 1989 and shall be drawn from a pool of funds of not to exceed $250,000. The section contains other terms and conditions, including a waiver of the federal crop insurance requirement contained in the 1989 disaster act. Also authorizes a loan deferral program. (Sec. 1034.)

The House amendment provides the Secretary with authority in each of the commodity titles of the bill to include in the definition of a "condition beyond the control of producer" such a condition resulting from the adjudication of Indian water settlement disputes. See—

(1) wheat: new 107A(c)(2) as added by H901;

(2) feed grains: new 105A(c)(2) as added by H1001;

(3) cotton: new 103B(c)(2) as added by H101; and

(4) rice: new 101B(c)(2) as added by H301.

The Conference substitute adopts the Senate provision with an amendment limiting the program to one year and the funds to $250,000, and requiring that the program be implemented. (Legal language is contained in ————)

(50) End rows in set-aside

The Senate bill contains no provision on this issue.

The House amendment requires, in Sec. 1122, that producers be allowed, subject to budget neutrality, to meet acreage limitation or set-aside requirements by idling end rows if—

(1) they are planted to a perennial cover crop;

(2) it would result in substantial reductions of soil loss; and

(3) each acre thus idled counts as 0.9 acres (or less, if so determined by ASCS) toward meeting such requirements. Producers are limited in such use of idled end rows to the extent that total payments to the producer are not increased.

The Conference substitute adopts the Senate provision.

(51) Advance recourse commodity loans

The Senate bill, in Sec. 1013, rewrites Sec. 424 of the 1949 Act and Sec. 1003 of FSA 85 to authorize advance recourse commodity loans for the 1991-95 crops for which nonrecourse loans are made available. (Sec. 1013.)

The House amendment provides no comparable provision.

The Conference substitute adopts the House provision.

(52) Increase in support levels

The Senate bill contains no provision on this issue.

The House amendment provides that Sec. 1123 of the House bill authorizes the Secretary, effective for the 1991 through 1995 crops, to provide for annual adjustments in the target prices of wheat, feed grains, cotton, and rice to reflect changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates. (Sec. 1123.)

The Conference substitute adopts the House provision.

(53) Sense of the Congress: budget cuts targeted to protect family farms

The Senate bill provides no provision on this topic.

The House amendment provides that Sec. 1121 expresses the sense of the Congress that future spending reductions affecting commodity programs should be made on a targeted basis to protect support prices for the amount of commodities produced by family-sized farms. (Sec. 1121.)

The Conference substitute adopts the Senate provision.

(54) Encouraging surface water storage

a. Definitions

The Senate bill provides no provision on this issue.

The House amendment provides that Sec. 1141 defines, for the purposes of subtitle C, the term—

(1) "producer" to mean a producer of a program crop participating in the price support and acreage reduction program under the 1949 Act;

(2) "surface reservoir" to mean a reservoir, pond, or other facility constructed on a farm for the purpose of storing surface water for crop irrigation on the farm, for watering livestock, or other agricultural purposes;

(3) "program crop" to mean any crop of wheat, feed grains, upland cotton, or rice; and

(4) "wetland" to mean the same as under Sec. 1201(a)(16) of FSA 85. (Sec. 1141.)

b. Surface reservoir encouragement program

The Senate bill provides no comparable provision.

The House amendment provides that Sec. 1142 provides that a producer may construct a surface reservoir on land that is part of the flexible acreage base for a farm and that the land on which such reservoir is built must be considered to be devoted to conservation uses if the land was planted or considered planted to a pro-

gram crop or oilseed crop in at least 3 of the preceding 5 years. (Sec. 1142)

c. Special programs for areas of severe groundwater depletion

The Senate bill provides no comparable provision.

The House amendment provides that Sec. 1143 requires the Secretary to implement, within 18 months after the date of enactment, a program providing further incentives for reservoir construction in counties designated by the Secretary as areas of severe groundwater depletion. (Sec. 1143.)

d. Limitations

The Senate bill provides no comparable provision.

The House amendment provides that Sec. 1144 limits the applicability of subtitle C to—

(1) surface reservoirs constructed in compliance with an established conservation plan approved by SCS;

(2) producers who the SCS certifies have not converted any wetland in constructing the reservoir (excluding wetlands previously designated as prior converted wetland or farmed wetland); and

(3) producers demonstrating that water needs on the farm to be met by the surface reservoir have been met by groundwater in at least 3 of the preceding 5 years. (Sec. 1144.)

The Conference substitute adopts the Senate provision.

(55) Options Pilot Program—In general

The Senate bill provides that subtitle D of the Senate bill (Sec. 1051-Sec. 1056) establishes an options pilot program to determine whether futures options trading would provide reasonable protection to producers from fluctuations in value of the commodities they produce. Sec. 1051 provides that the short title may be cited as the "Options Pilot Program Act of 1990". (Sec. 1051-Sec. 1056.)

The House amendment provides no comparable provision.

b. Findings

The Senate bill, in Sec. 1052(a), provides Congressional findings that—

(1) significant budgetary savings could result if alternatives could be found to USDA price support and production adjustment programs;

(2) hedging on regulated commodities futures markets may provide protection from price fluctuations;

(3) ag producers are not generally familiar with hedging procedures;

(4) price protection may be economically obtained by trading commodity options;

(5) more information is needed to evaluate the viability of futures options trading as an alternative to USDA price support and production adjustment programs. (Sec. 1052(a).)

The House amendment provides no comparable provision.

c. Policy or purposes

The Senate bill provides that Sec. 1052(b) provides that the purposes of subtitle D of the Senate bill are to—

(1) ascertain whether futures options trading would provide reasonable protection to producers from fluctuations in commodity values;

(2) ascertain whether producers will use this method of price protection; and

(3) determine the effect widespread use of such trading would have on commodity prices. (Sec. 1052(b).)

The House amendment provides no comparable provision.

d. Pilot program

The Senate bill provides that Sec. 1053-Sec. 1056 authorize the pilot program for each of the 1991–95 crops of corn and each of the 1993–95 crops of wheat and soybeans. The program shall be conducted in various counties, but not less than 3 counties in each of 3 major corn-producing States during 1991.

Sec. 1054 provides that regulations shall specify terms of program. Some specific eligibility requirements are listed, including a requirement that the producer attend a seminar concerning commodity futures.

The program shall provide a target price strike price for put options that is equivalent to the target price for the commodity involved and a loan rate strike price that is equivalent to the loan rate for the commodity involved.

The program benefits to be offered shall include cost of option premiums and payments of not more than 15 cents per bushel to cover transaction fees, interest, and other expenses.

Sec. 1055 provides that the Secretary may consult with representatives of the commodity futures trading industry designated by futures markets participating in the program.

Sec. 1056 provides that CCC shall be used to carry out this pilot program.

The House amendment provides no comparable provision.

The Conference substitute adopts the Senate provision on the Options Pilot Program with an amendment making the provision subject to appropriations, and adopts the House provision on the Findings.

TITLE XII—STATE AND PRIVATE FORESTRY

(1) Short Title

The Senate bill cites the title as the Forest Stewardship Act of 1990. (Sec. 1501)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

Subtitle A—Cooperative Forestry Assistance Act References

The Senate bill provides that whenever amendments in this title are expressed in terms of an amendment to a section the reference shall be considered to amend the Cooperative Forestry Assistance Act of 1978. (Sec. 1511)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 1211)

(2) Findings, Purpose, and Policy

The Senate bill amends Section 2 of the Cooperative Forestry Assistance Act (CFAA) by adding findings and purposes that address environmental threats to private forest lands, and economic and environmental benefits that may accure from more active multiple use management of those lands. Encourages the Secretary to implement Federal programs affecting non-federal forest lands through and in cooperation with appropriate state officials and the private sector. (Sec. 1512)

The House amendment amends section 2 of the CAFF by omitting current law findings on water yield and on value of trees to urban areas and adding findings similar to those in the Senate and an additional finding regarding the economic health of rural communities. (Sec. 1507(a))

The Conference substitute adopts the Senate provisions with the addition of House finding on economic health of rural communities and deleting Senate findings on federal funding. (Sec. 1212)

(3) Rural Forestry Assistance

The Senate bill replaces section 3 of the CFAA. New section 3(a) directs the Secretary to expand educational and technical assistance to meet the goals of the Act. (Sec. 1513)

The House amendment is identical to the Senate provision. (Sec. 1507(b))

The Conference substitute adopts the language contained in both provisions. (Sec. 1213)

(4) Enabling Assistance

The Senate bill is similar to current law but lists additional activities in which the Secretary may provide technical, financial and related assistance to states. Those additional activities include: (1) enhancing and preserving forest lands and the multiple values, uses, and communities that depend on the forest to ensure its health and conserving associated soil and water resources; (2) identifying, enhancing and preserving rate and endangered wildlife and fish species and their habitats; (3) implementing forest stewardship and management technologies; (4) selecting, producing, and marketing alternative forest crops, products, and services from forest lands; (5) protecting forest land from damages caused by fire, insects, and disease; (6) identifying highly aesthetic forest lands and protecting, regenerating and improving the aesthetic character of such lands; (7) managing the lands where rural and urban areas meet to balance the use of forest resources in the adjacent to urban and community areas; (8) identifying and managing recreational forest land resources; (9) protecting forest lands from conversion to other uses; and (10) managing timber resources ensuring that forest regeneration or reforestation occurs if needed to sustain long term resource productivity and to help prevent major climate changes as a result of the greenhouse effect. (Sec. 1513)

The House amendment is similar to the Senate provision except that items 6 and 9 do not appear in the House version. Additionally, the House version provides that activities consistent with the purposes of the Act include protecting forest land from damage caused by damaging weather. (Sec. 1507(b))

The Conference substitute adopts the House provision with the Senate list of activities for which a state may deliver assistance to landowners. (Sec. 1213)

(5) Direct Assistance

The Senate bill contains provisions identical to current law, with the omission of authority to provide technical assistance to private forest landowners and others, and further authorizes the Secretary to assist state foresters and officials to develop and contract for the development of field arboretums, greenhouses, and tree nurseries, to facilitate production and distribution of tree seeds and seedlings where they are needed for reforestation. (Sec. 1513)

The House amendment contains provisions identical to current law, with the omission of authority to provide technical information to private forest landowners and others. (Sec. 1507(b))

The Conference substitute adopts the Senate provision. (Sec. 1213)

(6) Land Grant Universities

The House amendment allows the Secretary to cooperate directly with land grant universities in implementing this section. (Sec. 1507(b))

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

(7) Cooperation with Other Federal, State, and Local Natural Resource Agencies, Universities, and the Private Sector

The Senate bill will require the Secretary in implementing section 3 of CFAA to cooperate with other Federal, State, and local natural resources agencies, universities and the private sector. (Sec. 1513)

The House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision (Sec. 1213)

(8) Appropriations

The Senate bill authorizes such sums as necessary to implement the section. (Sec. 1513)

The House amendment is identical. (Sec. 1507(b))

The Conference adopts the Senate provision. (Sec. 1213)

(9) Forest Incentives Program

The Senate bill combines financial and related assistance program under current law with expanded authority to meet new forest management objectives by inserting new Sections 4 and 5 into CFAA. (Sec. 1514)

The House amendment repeals the authority for the Forestry Incentive Program under Section 4 of CFAA, and establishes a new "Forest Resources Stewardship Program". (Sec. 1507(c))

The Conference adopts the Senate provision with an amendment to terminate the authorization for the FIP program on December 31, 1995. (Sec. 1214)

The Managers intend that the Stewardship Incentive Program should ultimately serve as the basis for all cost-share assistance for promoting the protection, management, and reforestation of non-industrial private forest lands. SIP funds can be used for tree planting as well as other activities intended to promote the multiple-use management of these lands. Nevertheless, the Managers recognize the popularity and success of the FIP program and have therefore provided a 5-year period of transition in order to permit landowners and the implementing agencies to become familiar with the SIP program before FIP expires. The authorization for the FIP program will expire on December 31, 1995.

During the five year preiod when SIP and FIP funds remain available, the Managers expect that the Forest Service, acting through the State Foresters or equivalent State officials, will make every effort to distinguish between FIP and SIP-funded projects and provide for efficient use of both cost-share programs. Landowners should not receive FIP and SIP funding for projects on the same acre. In order to track agency efforts to implement the two programs simultaneously, the Forest Service is to report to the Committees on their efforts in this regard no later than December 31, 1993.

(10) Forest Stewardship Program

The Senate bill directs the Secretary, in consultation with state foresters or equivalent state officials, to establish a program, to be known as the Forest Stewardship Program (FSP) as part of the rural forestry assistance program. The Stewardship Program is authorized at $25 million annual for FY 1991-95.

The Program is established to encourage the development, management, protection, and stewardship of non-industrial private forest lands. The goal of the Program is to enroll 25 million additional acres of private forest land into stewardship management. Management shall be in accordance with landowner objectives and to provide multiple benefits to the nation.

Additionally, the program requires the Secretary to provide assistance to state foresters for the delivery of information and technical assistance to nonindustrial private forest landowners. The Secretary may cooperate directly with other state and local natural resources agencies and land-grant universities in implementing Rural Forestry Assistance and FSP provisions in cases where state foresters cannot make fund transfers. (Sec. 1513)

The House amendment establishes a similar program called the Forest Resources Stewardship Program (FRSP) in place of the existing Forestry Incentives Program (FIP), Section 4 of CFAA. Both the goals and objectives are similar to the Senate program. However, authorization is $20 million annually from FY 1991-95 and such sums as necessary thereafter.

FSRP provisions are similar to the Senate's provisions except that the House amendment: (1) contains a provision defining "Private Forest Land" identical to current law; (2) directs the Secretary, in consultation with each state forester or equivalent state of-

ficial, to establish a State Advisory Committee; (3) specifies that technical assistance must be directed to help private owners of non-industrial forest lands to understand and evaluate alternative actions they may take to protect, maintain, and enhance fish, wildlife, water, wetlands, recreation and timber resources and; (4) does not specifically require the Secretary to cooperate with other government agencies, non-governmental organizations, and the private sector in implementing the Act.

Additionally the House amendment makes eligible existing non-industrial forest lands that: (1) are not currently under a forest management plan; or (2) are managed under existing Federal, state, or private assistance programs if the landowner agrees to comply with the requirements of the FSRP or if forest management activities on such forest lands are expanded or enhanced to meet the requirements of the CFAA, as amended.

Another provision describes the duties of owners who enter forest land into the Program and requires that such landowners prepare and submit to the state forester or equivalent state official a forest resources stewardship plan that: (1) is prepared by a professional resource manager; (2) identifies and describes actions to be taken by the landowner affecting the natural resources of such land; and (3) is approved by the state forester or equivalent state official in accordance with Federal and state law. Additionally, the landowner must agree that all activities conducted on the land be in accordance with the stewardship plan (Sec. 1507(c))

The Conference substitute adopts the House amendment with amendments to define non-industrial private landowners as rural lands with existing tree cover or suitable for growing trees; define eligibility as those nonindustrial private forest lands that are not currently enrolled under existing Federal, state, or private sector financial and technical assistance programs; and authorize appropriation of $25 million through 1995 and such sums as necessary thereafter. The substitute also creates an independent section for FSP within the CFAA. (Sec. 1215)

(11) Forest Stewardship Incentives

The Senate bill directs the Secretary to establish a Forest Stewardship Incentive Program (FSIP) to encourage the voluntary long-term stewardship of private nonindustrial forest lands.

Eligibility is limited to landowners who own up to 1,000 acres, or 5,000 acres at the Secretary's discretion. The Senate bill adds that nonindustrial forest lands that are not currently enrolled in a Federal, state or pviate sector program are eligible for the FSIP cost share and landowners currently enrolled in a program may be eligible if they agree to expand and enhance forest management and comply with Program requirements. FSIP cost share assistance shall not be received for landowners who receive forest incentives program cost share.

The Secretary may accept recommendations of state agencies to bring certain forest lands into the program. The Secretary in consultation with the State Forest Stewardship Advisory Committee, may develop a list of approved activities, which must include: (1) management of forests conservation purposes; (2) sustainable timber production; (3) protection and management of wetlands; (4)

management of native vegetation; (5) agroforestry; (6) forest management for energy conservation purposes; (7) management for fish and wildlife; (8) management for recreation; and (9) other activities approved by the Secretary. All activities must be consistent with Federal and state environmental laws and policies.

The Senate bill requires landowners participating in the FSIP to have a forest stewardship plan prepared by a professional resource manager. The plan must be approved by the state forester or equivalent official. The landowner must follow the plan for which cost share was received for not less than 20 years. Plan modifications may be approved by the state forester or equivalent official.

The bill allows the Secretary to share the cost of developing and implementing the forest stewardship plans. The Secretary and state forester shall determine the reimbursement rate. Cost share payments may not exceed 75 percent.

Provisions of the Senate bill require the Secretary to implement a payback provision in the event a landowner terminates cost share practices within the 20 year period.

The Secretary is encouraged to use the private sector, non-governmental organizations, and consultants to implement this section.

The Secretary is to distribute funds among the states after giving appropriate consideration to the: (1) amount of a state's private land; (2) a state's potential productivity; (3) number of eligible owners in a state; (4) the need for multiple-use forestry investments.

The Secretary may use the Agricultural Act of 1970 when implementing this section. Such sums are to be appropriated as may be necessary to carry out the FSIP. (Sec. 1514)

The House amendment authorizes a similar Stewardship Incentive Program (SIP) to provide cost share assistance for tree planting and other forest management activities pursuant to approved stewardship plans.

The Program establishes eligibility criteria for cost sharing assistance under SIP to be available for owners of existing private nonindustrial forest lands that: (1) have developed an approved stewardship plan; (2) agree to implement approved activities for a period of not less than 10 years unless the state forester or equivalent state official approves a modification for the plan; and (3) own not more than 1,000 acres of private forest land, except that the Secretary may provide assistance to owners of more than 1,000 acres, but not more than 5,000 acres, if the Secretary determines that significant public benefits will accrue. The Program authorizes the Secretary, in consultation with the state forester or equivalent state official and the Advisory Board established in accordance with the new provisions of the CFAA, to recommend state priorities for cost-sharing in that state.

The Secretary is directed, in consultation with the Advisory Board, to develop a list of approved forest management activities that will be eligible for cost-sharing in that state.

The Secretary is authorized to cost-share for approved forest management activities, at a rate and according to a schedule developed in accordance with the state forester, or equivalent state offi-

cial, in an amount not to exceed 75 percent of the total cost to the landowner of developing and implementing the stewardship plan.

The Secretary is directed to establish and implement a mechanism to recapture funds provided to landowners who terminate any approved practice required by the stewardship plan.

The Secretary is directed to distribute funds available for cost sharing among the states after assessing the public benefit incident to such distribution and giving consideration to: (1) the acreage of private forest land in each state; (2) the potential productivity of such land; (3) the number of owners of such land eligible for cost sharing in each state; (4) the need for reforestation in each state; (5) the opportunities to enhance non-timber forest resources on such forest lands; and (6) the anticipated demand for timber and non-timber resources in each state.

The Program authorizes the Secretary to use the authorities provided by the Agricultural Act of 1970, as added by the Agricultural and Consumer Protection Act of 1973, in implementing this section.

The SIP is authorized at $100 million annually from 1991-95, and such sums as may be necessary therefore. (Sec. 1507(d))

The Conference substitute adopts the Senate provisions with the House eligibility, duties of owners, and authorization provisions. (Sec. 1216)

(12) Forest Legacy Program

The Senate bill directs the Secretary to establish a new conservation easement program, the Forest Legacy Program (FLP), in cooperation with state and political subdivisions, for the purpose of protecting environmentally sensitive forest lands from conversion to alternative uses. It authorizes the Secretary to purchase interests in land and water for inclusion in the FLP from willing landowners.

The bill requires that an initial program in Maine, New Hampshire, New York, and Vermont be implemented immediately. Additional programs in the Northeast, Southeast, Midwest, West, and the Pacific Northwest should be implemented upon receipt of an assessment of the need for such a program.

The bill directs the Secretary, in consultation with State Forest Stewardship Advisory Committees established under the CFAA in Section 19(b), to establish eligibility criteria for inclusion of land in the FLP. Priority shall be given to lands with unique scenic character, riparian areas, or fish and wildlife habitat.

To be eligible to enter forest lands in the Program, the forest land owner is required to prepare and submit through the state forester an application at such time, in such form, and containing such information as the Secretary requires. The Secretary must make application forms available within one year of enactment.

The bill directs the Secretary to determine the eligibility of forest lands for inclusion within the FLP in consultation with the state forester and other appropriate state natural resource management agencies.

The Program requires any forest management activities on FLP lands, including timber management, to be consistent with the purposes intent of the FLP. Participating landowners must prepare a forest legacy plan that states the rationale for bringing the land

into the FLP, describes planned management activities, and describes other information determined appropriate by the Secretary.

The Secretary is directed to share the cost of purchasing an easement. These purchases should: (1) be in the public interest; (2) appropriately reimburse the landowner based on the forest land's economic, ecological and scenic value, the threat of potential loss, income expected from the land, and other criteria deemed appropriate; (3) not exceed 75 percent of the purchase cost; and (4) be made in lump-sum or periodic payments.

The Senate bill defines and authorizes acquisition of easements and prohibits limitations to their duration or scope. (See. 1514)

The House amendment authorizes a Forest Reserve Program (FRP) similar to the Senate provision, but does not authorize purchases of interests in water.

The House amendment further directs the Secretary to establish four pilot projects to meet the goals and requirements of this section for the Program not later than 1 year after the date of enactment.

The House amendment directs the Secretary to establish eligibility criteria for the inclusion of forest lands threatened by conversion to non-forest uses in the Program and to give priority to forest lands that are threatened by development, have unique scenic character or contain threatened or endangered species.

The House provision contains similar application procedures to the Senate's plan but application may be made through state forester or equivalent state official and information required must include a forest reserve plan that demonstrates satisfaction of the eligibility requirements, identifies the environmental rational for including the lands into the FRP, describes management activity planned and the manner in which values identified in the plan are to be protected, and discloses other information determined appropriate by the Secretary.

House stipulations are similar to the Senate's on determination of eligibility but consultation is with the state forester or equivalent state official.

The House measure requires landowners to manage FRP lands and conduct any timber harvesting of such lands consistent with a forest reserve plan approved by the Secretary, and not convert the forest land to other uses for the life of the interest acquired by the Secretary. Hunting, fishing, and similar recreational leases are not to be considered inconsistent with the proposes of the program.

The Secretary is directed to provide compensation to the landowner for the interest in land acquired by the Secretary at such rate and schedule as it determined to be appropriate, in consultation with the state forester or equivalent state official. It is similar to the Senate provision on the appropriate level and manner of reimbursement except it lacks the 75 percent limit on Federal share.

The House amendment does not define easement. As in the Senate bill, the House amendment prohibits limitations regarding the duration and scope of easements. The provision lacks both a specific authorization for acquisition and an authorization for appropriations. (Sec. 1505)

The Conference substitute adopts the Senate bill with amendments. The Conference substitute adds a provision to clarify the cooperative federal and state approach to program objectives.

The Conference substitute adopts the Senate provisions regarding interests in lands with modifications to clarify that the Secretary may acquire lands in fee or lesser interests therein, including waters, conservation easements, or rights of public access and use. In acquiring interests, undivided common ownership in conservation easements are prohibited.

The Conference substitute modifies the Senate's implementation provisions by allowing the Secretary to acquire perpetual rights in lands.

The Conference substitute modifies the Senate eligibility provisions by requiring the Secretary to establish eligibility provisions by requiring the Secretary to establish eligibility criteria within one year in consultation with State Forest Stewardship Advisory Committee or similar regional organization. The Secretary is also required to give priority to areas which can be effectively protected and managed.

The Conference substitute provides new language on applications. For consultative purposes, the Secretary is required to give notice of all applications to appropriate state offcials who may, in turn, make recommendations on the merits of an application.

The Conference substitute adopts determination language that prohibits the Secretary from acquiring lands and conservation easement where states have not previously consented to any acquisitions of lands within that state under section 6 of the Weeks Act. Where Weeks Act consent has never been granted, the Secretary can acquire lands and conservation easements only in areas within a state that have enrolled in the Forest Legacy Program. The Conference substitute departs from both the House and Senate provisions in the manner by which compatible management activities will managed. Conservation easements or deed reservations acquired may allow forest management activities, however, the Secretary may only delegate or assign management and enforcement to another governmental entity.

The Conference substitute modifies compensation provisions to require that the fair market value of the real property acquired under the program be required in accordance with federal appraisal and acquisition standards and procedures.

Regarding cost sharing, the Conference substitute adopts a modified Senate approach of 75% Federal contribution. Cost sharing shall be calculated by the Secretary on a project wide or state program basis.

On easements, the Conference adopts the Senate version with modifications to allow the Secretary to utilize any form of easement under state or federal law.

The Managers note that Forest Legacy program will be another tool for federal resource management agencies to use for land protection and encourage the Secretary to expedite the establishment of the program. The Managers encourage the Secretary and states participating in the Forest Legacy program to follow Program guidance in House Report 101-569 and Senate Report 101-357. In addition the Managers note that this authority should not diminish in

any way any water rights established under state law. Further, the Conference does not intend that condemnation be used for Forest Legacy Program purposes except to clear title to land or establish acquisition price from and otherwise willing seller.

The Secretary is prohibited from acquiring conservation easements with title held in common ownership with any other entity. However, the Managers intend that the required non-Federal contribution to the costs of acquiring such an interest can be met through various means and in accordance with terms and conditions that the Secretary prescribes. Such costs might include those associated with planning, administration, and management of the easements acquired. Or, the federal and state governments might cost share with one entity paying for land and the other paying for administrative or management expenses.

The Managers intend for acquisitions to be geared to meeting established objectives for protecting areas. Any easements or other lands acquired for projects should be predicated on permanent administration of such property rights. Additional projects shall be established where the Secretary or a state assess the need for such a project. Special attention should be given to bring Washington State into the program in that the state has developed a statewide conservation easement program.

The application procedure is entirely voluntary and serves to allow the landowner to initiate the process of entering the program. In addition to the landowner application process, the Managers encourage the Secretary to initiate negotiations to acquire lands and easements within designated program areas.

In addition to easement requirements, the Managers encourage the Secretary to use management plans prepared with a landowner to guide activities in a manner consistent with the easement or other federal interests in land. While management and enforcement may only be granted to a governmental entity, the Secretary is not precluded from using permits, cooperative agreements or other mechanisms to allow persons or organizations to perform the tasks of monitoring easement compliance and conducting resource conservation activities consistent with the rights acquired by the Secretary and approved by the landowner.

In requiring the Secretary to use established federal appraisal standards, the Managers also intend that the Secretary take into consideration the potential for any commercial activities on the land subject to the easement that would return income to the landowner and that would be allowed under the terms of the easement. The appraisal of the value of the easement to be purchased by the Secretary should recognize and reflect this potential.

(13) Forest Health Protection

The Senate bill renames the current Insect and Disease Control program as the Forest Health Protection program. Current law is amended to include the impacts from man-made causes (such as air pollution) into forest health programs. Additions to current law include provisions: (1) strengthening insect and disease control programs by authorizing a nationwide forest health monitoring program; (2) allowing technical information, advice and related assistance regarding forest health techniques to be provided to state and

private landowners; (3) allowing pilot research projects to be completed before applying full scale application of a forest health practice; (4) allowing implementation of appropriate silvicultural techniques that may protect forest health; (5) establishing financial assistance partnerships between Forest Service and state forestry organizations for forest health monitoring and protection; and (6) allowing any amounts appropriated or available to the Forest Service to be used for emergency suppression of forest pests on all lands.

The Senate version authorizes such sums as may be necessary to carry out the forest health protection provisions. (Sec. 1515)

The House amendment requires the Secretary, subject to appropriations, to provide cost-share assistance to state foresters or equivalent officials of states, subdivisions of states or other entities on non-Federal lands (cooperators), who have established an acceptable integrated pest management strategy, as determined by the Secretary, that prevents, retards, controls or suppresses, incipient, potential, or emergency gypsy moth, southern pine beetle, or spruce budworm infestations in an amount no less than 50 percent nor greater than 75 percent of the cost of such activity. The Secretary must also assist such cooperators in developing an integrated pest management strategy upon request.

The House provision authorizes $10 million to be appropriated annually in order to implement the amendment. (Sec. 1502)

The Conference substitute adopts both the Senate and House provisions, except that the Senate provision for emergency pest suppression is deleted and the House provision is amended to apply to other major insect infestations. (Sec. 1218)

The Managers intend, in adopting the House provision, to encourage the development and implementation of integrated pest management programs to address infestations of gypsy moth, southern pine beetle, or spruce budworm thus promoting more efficient use of limited Federal pest control resources.

(14) Urban and Community Forestry Assistance

[NOTE: The Senate provision (Sec. 1941) was originally included in the global climate change prevention subtitle of Title XIX of the Senate bill.]

The Senate bill sets forth several findings regarding value of trees for ameliorating the urban heat island effect and aiding the reducing the buildup of carbon dioxide emissions.

The House amendment cites several Congressional findings in addition to those contained in the Senate bill, which acknowledge (1) the declining health of forests in urban areas and communities, (2) the value of trees for improving the quality of life for urban residents, and (3) the sense of community involvement associated with efforts to encourage tree plantings and protect existing open spaces in urban areas and communities.

The Conference substitute adopted the findings of the House amendment amended to include provisions to recognize the energy conservation values of trees, and incorporated as an amendment to the CFAA.

The Senate bill requires the Secretary to establish a program of urban forestry education, technical assistance, planting, and tree maintenance. The Secretary is authorized to provide a variety of

services to implement this program, including competitive matching grants. The bill authorizes such sums as may be necessary to implement this section.

The House amendment amends Section 6 of CFAA by adding new subsections (c) through (g). The new section 6(c) directs the Secretary, in cooperation with State foresters and State extension agents or equivalent State officials, to implement a program of education and technical assistance for urban forest resources. The program is to assist: (urban areas and communities conduct inventories of their forest and related resources; (2) State and local organizations in organizing and conducting urban and community forestry projects and programs; (3) in the development of State and local management plans for trees and associated resources in urban areas and communities and to provide for proper tree planting, maintenance, and protection; (4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and (5) increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.

The House amendment, in section 6(d) directs the Secretary, in cooperation with State foresters or equivalent State officials, to assist in identifying sources of plant materials and would authorize the Secretary to obtain such materials and make them available to urban areas and communities. The new section 6(e) directs the Secretary to establish an urban and community forestry challenge cost share program for eligible communities and organizations, on a competitive basis, for urban and community forestry projects, and to annually make awards under the program in accordance with criteria developed in consultation with, and after consideration of recommendations received from the National Urban and Community Forest Advisory Council established under section 6(f), and consistent with the cost-share requirements of this section which would limit the Federal share of assistance to no more than 50 percent for each project.

The Conference substitute adopted the House provisions, with minor amendments of a technical nature. In addition, the substitute stipulated that each State Forester or equivalent State official may make recommendations to the Secretary for awards under the challenge cost-share program. However, the Managers do not intend for State officials to make actual awards of the funds provided, nor are the funds to support this program to be distributed to the States by formula. The Managers intend for this program to be a national program to reward those projects which warrant cost-share support from proposals submitted from any state. The role of the State foresters or equivalent State officials in this capacity is simply to facilitate the activities of the National Urban and Community Forestry Advisory Council and the Forest Service by making initial recommendations based upon criteria established by the Secretary in consultation with the Council.

The Senate bill authorizes the Secretary to establish a National Urban and Community Forestry Advisory Council to develop and evaluate the implementation of an action plan and develop recom-

mended criteria for the Urban Forestry Energy Conservation Program established by section 1942. The Council would consist of 15 members appointed by the Secretary, at least two of whom would be representatives of national nonprofit forestry and conservation citizen organizations; the forest products, nursery, or related industries; urban forestry professionals; academic institutions; State or local forestry agencies; Federal agencies; and the general public. The Secretary is also authorized to detail personnel of the Department to the Council.

The House amendment would also establish a Council which would be responsible for developing a national urban and community forestry action plan; evaluating its implementation; and developing criteria for and submitting recommendations with respect to the urban and community forestry challenge cost-share program under section 6(e). The Council would be imposed of: (1) 2 representatives of national nonprofit forestry and conservation citizen organizations; (2) 3 representatives, one each from State, County, and city or town governments; (3) 2 members representing academic institutions with an expertise in urban and community forestry activities (4) 1 individual representing urban forestry, landscape, or design consultants; (5) 1 member representing State forestry agencies or equivalent State agencies; (6) 1 member representing the forest products, nursery, or related industries; (7) 1 member representing a professional renewable natural resource or arboricultural society; (8) 1 member from the Extension Service; (9) 1 member from the Forest Service; and (10) 2 members who are not government employees, 1 of whom is from a community with a population of less than 50,000, and both of whom have expertise and have been active in urban and community forestry. The House bill would also provide for an amendment to the Renewable Resource Extension Act (16 U.S.C. 1672(a)) to promote increased understanding of the values of trees and related resources in urban and community environments.

The Conference adopted the provsions of the House amendment, with amendment to ensure that the energy conservation value of trees was recognized as an important public information objective.

The Conferees intend that the National Urban and Community Forestry Advisory Council should serve as an independent source of information, ideas, and initiative for expanding the role of the Forest Service in promoting urban forestry programs and community activities. In addition, the Council is to aid in evaluating the Forest Service's urban and community forestry programs, to develop an action plan and agenda for urban forestry activities, and to help guide the implementation of the challenge cost-share program.

(15) Firefighting Preparedness and Mobilization Assistance

The Senate bill provides additional authority for the Secretary to establish a fire fighting mobilization and funding program. It authorizes a financial, technical, and related assistance program for state foresters to conduct fire fighting mobilization activities. The bill authorizes $100 million per year to be appropriated, $50 million of which shall be made available to rural volunteer fire departments to conduct mobilization activities. The Federal cost share

may not exceed 50 percent of any rural fire fighting activities and must be provided on a matching basis.

The Senate bill defines "mobilization" as any activity in which one fire fighting organization assists another that has requested assistance. It defines "rural volunteer fire department" as any organized, not for profit, fire protection organization that provides service primarily to a community or city with a population of 10,000 or less or to a rural area, whose manpower is 80 percent or more volunteer, and which is recognized as a fire department by the laws of the state. (Sec. 1516)

The House amendment is similar to the Senate provision except that the Secretary may also provide such assistance through state foresters or equivalent state officials to other agencies and individuals, including rural volunteer fire departments, to conduct preparedness and mobilization activities to respond to requests for fire suppression assistance. The amendment authorizes $40 million for each fiscal year for such assistance, to be allocated as follows: (1) ½ of sums appropriated is available only forest agencies administered by state foresters or equivalent state officials, and through them to other agencies and individuals, to enhance their firefighting capability and conduct mobilization activities, of which not less than $100,000 is made available to each state, and (2) ½ of sums appropriated are available only for rural volunteer fire departments to conduct such activities; and (3) limits the Federal share of any activity of a state or rural volunteer fire department carried out with funds made available pursuant to these provisions to no more than 50 percent of the cost of the activity, on a matching basis and allows the non-Federal share to be in the form of cash, services, or in-kind contributions, fairly valued.

The House amendment definitions for "rural volunteer fire department" and "mobilization" are similar to the Senate bill. (Sec. 1501)

The Conference substitute adopts the House amendment with an authorization level of $70 million. (Sec. 1220)

(16) Rural Revitalization through Forestry

The Senate bill establishes a new rural revitalization education program within the USDA Extension Service. It allows the Secretary to establish a rural revitalization program through Extension Service and Cooperative Extension Service in consultation with Forest Service to assist rural communities with economic policies for business development consistent with environmental concerns. The plan requires—

(1) the transfer of technologies to other United States based industries;

(2) assisting businesses in identifying global markets; and

(3) training of local leaders in economic development.

The program requires the Secretary to establish specific programs that—

(1) deliver educational services;

(2) use Cooperative Extension Service databases and analytical tools to help communities diversify their economic base; and

(3) fuliy use the Cooperative Extension Service, land grant universities and county offices to promote economic development that is sustainable and environmentally sound. (Sec. 1517)

The House amendment contained no comparable provision.

The Conference substitute deletes the Senate provision from the State and Private Forestry title, and adopts a similar provision in the Rural Development title.

(17) Federal, State and Local Coordination and Cooperation

The Senate bill establishes a Forest Resource Coordinating Committee within the USDA. The Committee will be chaired by the Forest Service Chief and will include representatives from Agricultural Research Service, Agricultural Stabilization and Conservation Service, the Extension Service, Forest Service, and Soil Conservation Service. The Committee will coordinate private forestry programs, clarify agency responsibilities, and advise the Secretary on mediating intra-departmental differences.

The Program also provides a framework for state coordination, requiring each state forester to establish a Forest Stewardship Advisory Committee. Each state Committee will be chaired by the state forester, or his designee, and must include representatives from Federal agencies, state agencies, conservation and environmental organizations, the private sector, and landowners. Committee members will serve three year terms. Existing state committees may be used if they include landowners and the general public. The bill requires the Committees to consult with other USDA and state committees which address forestry issues and (a) make recommendations to the Secretary about implementation of this Act; (b) make recommendations concerning the development of a Forest Stewardship Planning Guide; (c) make recommendations about approved practices; and (d) make recommendations concerning those forest lands that should be included in the Forest Legacy Program. Subcommittees may be established to address different programs under this Act.

The Senate bill requires Forest Stewardship Planning Guides to be developed. These Guides will: (a) provide baseline data; (b) outline threats to forest lands; (c) describe economic and environmental opportunities; (d) address management of intermingled Federal, state, and private forest land ownerships; and (e) make recommendations for local implementation.

Existing state advisory plans may be used if they conform to the above requirements. (Sec. 1518)

The House amendment is similar to the Senate bill. However, the membership of the advisory Committee varies slightly from that of the Senate bill. The House amendment does not include the Planning Guide requirements. (Sec. 1507(e))

The Conference substitute adopts the Senate provision and adds forestry consultants and the forest products industry while dropping the private sector and state park service representatives from the list of entities that should be a part of the Forest Stewardship Advisory Committee. (Sec. 1222)

(18) Administration and Limitations

The Senate bill outlines administrative guidelines for the Act's implementation. These guidelines require—

(a) administering the Act in accordance with regulations developed by the Secretary;

(b) keeping the regulations formulated by the Agricultural Act of 1970 in tact;

(c) requiring cost sharing regulations to be developed;

(d) allowing the Secretary to make grants, contracts and agreements;

(e) construing the Act as supplemental to other USDA laws and not as limiting or repealing current laws;

(f) providing that an existing mechanism should be used to make payments and to deliver services to the landowner. The bill states that no provision of the Act may infringe on a landowner's private property rights unless they are willingly sold under the Forest Legacy Program. (Sec. 1519)

The House amendment does not contain a comparable provision.

The Conference substitute adopts the House position with technical amendments. (Sec. 1223)

(19) Conforming Amendments

The Senate bill makes amendments that bring subtitle A into conformance with existing authorities. (Sec. 1520)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with technical amendments. (Sec. 1224)

Subtitle B—Research, Utilization, and Education

CHAPTER 1—GENERAL RESEARCH PROGRAMS

(20) McIntire-Stennis Research Program

The Senate bill reaffirms the importance of the McIntire-Stennis Cooperative Forestry Act. (Sec. 1521)

The House amendment does not contain a comparable position.

The Conference adopts the Senate provision. (Sec. 1231)

(21) Competitive Forestry, Natural Resources, and Environmental Grants Program

The Senate bill authorizes the Secretary to establish a Competitive Forestry, Natural Resources, and Environmental Grant program. The bill allows agricultural experiment stations, colleges or universities, research organizations, Federal agencies, private organizations and corporations to be eligible for grants. Eligible organizations are required to submit an application to the Secretary.

The provision allows grants to be used for research in—

(1) biology of forest organisms;

(2) ecosystem function and management;

(3) wood use;

(4) human forest interactions;

(5) international forestry product marketing;

(6) energy;

(7) water and agricultural chemical reduction;

(8) alternative crops;
(9) economic production and marketing products and services;
(10) the benefits of conservation;
(11) the affects of global climate change;
(12) genetic tree improvement; and
(13) market expansion.

The arrangement allows grants to be used for updating research facilities and equipment, and for the Secretary to develop criteria that will assist in prioritizing grants.

The bill requires the Cooperative Forestry Research Council to provide recommendations to the Secretary on grant priorities. The Secretary can make grants under this program for five years. The plan authorizes such sums as are necessary to be appropriated for the Grant program. (Sec. 1522)

The House amendment contains no comparable position.

The Conference substitute adopts the Senate provision, with an amendment revising the research topics eligible for the grants. (Sec. 1232)

CHAPTER 2—SPECIALIZED RESEARCH

(22) Research and Utilization

The Senate bill contains no comparable provision.

The House amendment authorizes for the Secretary to conduct, support, and cooperate in research for encouraging improved reforestation of forest lands from which timber has been harvested.

The Secretary is authorized to develop and implement improved methods of survey and analysis of forest inventory information, and authorizes $10,000,000 to be appropriated annually for such development and implementation.

The House amendment also authorizes the Secretary to conduct, support, and cooperate in studies and other activities the Secretary deems necessary to evaluate renewable resource management problems associated with urban-forest interface, to assess effects of changes in Federal revenue codes on private forest management and investment, and to develop improved delivery systems for information and technical assistance provided to private landowners.

The amendment adds authority for the Secretary to conduct, support, and cooperate in an expanded wood fiber recycling research program, including the acquisition of necessary equipment, and would direct the Secretary to make every effort to ensure that the program includes the cooperation and support of private industry, and that program goals include the application of such research to industry and consumer needs. $10,000,000 is authorized to be appropriated annually for a five-year period beginning on the date of enactment.

The amendment also authorizes the Secretary to continue the Modern Timber Bridge Initiative to provide Federal funds, on a cost-share basis as determined by the Secretary, for the construction of demonstration bridges, modern bridge technology transfer projects, and conferences. $5,000,000 in annual appropriations is authorized.

The amendment also directs the Secretary to submit a report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry that responds to the recommendations contained in the report of the National Research Council entitled, "Forestry Research: A Mandate for Change". The report is to be submitted within six months after the date of enactment.

Elements of the report are to include—

(1) an assessment of the capability of current forestry research programs to address research areas specified in the report, including research on ecosystem functions and management;

(2) an evaluation of alternatives to current organizational frameworks for providing guidance to forestry research programs and establishing research priorities; and

(3) recommendations for changes in current forestry research programs, including funding needs.

The Senate bill contains no comparable provision.

The Conference substitute adopts the House amendment. (Sec. 1241)

(23) Southern Forest Regeneration Program

The Senate bill requires the Secretary to make a grant to a State to establish a Southern Forest Regeneration Center to study forest regeneration problems in the southern regions of the United States.

The bill directs the Secretary to give preference to a State intending to establish the Center at a land-grant university, and that—

(1) operates a forestry program;

(2) operates forest regeneration research programs;

(3) employs research personnel in nursery seedling research; and

(4) has a regional communications system.

The bill requires the Southern Forest Regeneration Center to study forest regeneration and productivity problems in the southern regions of the U.S.

The Secretary is required to prepare and submit a plan to Congress on the implementation of the Center's recommendations to carry out regeneration activities.

The provision directs the Secretary to establish additional centers at the Secretary's discretion.

The Senate bill requires the Secretary to report to Congress annually on the forest regeneration research activities that are conducted pursuant to the Plan, and authorizes such sums as may be necessary to carry out the Center's duties. (Sec. 1525–1530)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to eliminate the planning and report requirements. The substitute also deletes the provision for preference in the selection of a grant recipient. (Sec. 1242)

(24) Southern Forest Productivity Grant Program

The Senate bill authorizes a southern forest productivity grant program that allows competitive grants to be given for southern forest regeneration research. (Sec. 1531)

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers recognize the importance of the Southern Forest Productivity priority research program now underway within the Forest Service. This program of accelerated research focusing on protecting and increasing the productivity of southern forest lands was jointly developed by the Forest Service and the schools of forestry in the southeast. As originally planned, this priority research program included a cooperative research component through which research funds would be competitively awarded to forestry schools and colleges, industry and other research entities to compliment the research on southern forest productivity being conducted by the Forest Service. This competitive grant program has not yet been implemented although the Forest Service has the authority to do so under existing law.

To fully realize the goals and objectives of the Southern Forest Productivity research program the Managers direct the Forest Service to establish and administer a competitive grants component under this priority research project in FY 1991. The Managers expect the Forest Service to continue this competitive grants program for a minimum of three years with an annual appropriation of $2.5 million.

(25) Center for Semiarid Agroforestry Research, Development, and Demonstration.

The Senate bill directs the Secretary to establish a Center for Semiarid Agroforestry Research, Development in Lincoln, Nebraska. The Center, under the Forest Service's direction will work with State and private foresters, international foresters, Great Plains universities experiment stations and other USDA agencies.

The bill authorizes $5 million per year to be appropriated for agroforestry research. (Sec. 1541)

The House amendment is similar to the Senate bill but authorizes such sums to be appropriated as are necessary to carry out the amendment. (Sec. 1513)

The Conference substitute adopts the House provision with technical amendments and an amendment authorizing appropriations of $5,000,000 annually. (Sec. 1243)

(26) Forest Land Protection

The Senate bill directs the Secretary to conduct a study of the New York-New Jersey Highlands region of New Jersey, New York, and Pennsylvania. The Study should include an identification and assessment of forest resources of the region, historical land ownership patterns, the likely impacts of changes in land ownership and management on traditional land use patterns, and alternative conservation strategies. The Secretary shall provide for public participation. The Study is to be completed within 12 months. The bill authorizes a $250,000 appropriation. (Sec. 1545)

The House amendment contains similar provisions but no deadline for completion of the study. The House amendment also authorizes the Secretary to continue support for the study of changing land ownership and management patterns in the northern forest lands of Maine, New Hampshire, New York, and Vermont. The amendment authorizes such sums as necessary. (Sec. 1506)

The Conference substitute adopts the House amendment with a modification to authorize appropriations of $250,000 for the New York-New Jersey Highlands study. (Sec. 1244)

(27) Presidential Commission on State and Private Forestry

The House amendment directs the President to establish a Commission of State and Private Forests (Commission) which shall assess the status of the nation's State and private forest lands, the problems affecting these lands, and the potential contribution of these lands to the nation's renewable natural resource needs associated with their improved management and protection.

The provision describes the composition of the Commission, to consist of 15 members, appointed by the President. Members are to include Federal, State, and local officials, timber industry representatives, nonindustrial private forest landowners, conservationists and community leaders. No more than 5 members are to come from any one State and not fewer than 20 are to come from a list of nominations provided by Members of Congress, including—

(1) the Chairman of the Committee on Agriculture of the House of Representatives;

(2) the Ranking Minority Member of the Committee on Agriculture of the House of Representatives;

(3) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

(4) the Ranking Minority Member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Vacancies must be filled by appointment by the President.

The amendment further:

Directs the Commission to elect a chairperson from among the members of the Commission by majority vote.

Directs that the Commission meet at the call of the chairperson or a majority of the members.

Directs that the Commission meet at the call of the chairperson or a majority of the members.

Directs the Commission to conduct a study to include—

(1) an assessment of the current status of the nation's State and private forest lands, including ownership status and past and future trends, renewable natural resource inventories, the production of timber and non-timber resources from such lands, and landowners attitudes toward the protection and management of these lands;

(2) a review of the problems affecting the nation's State and private forest lands including resource losses to insects, disease, fire, and damage, inadequate reforestation, fragmentation of the forest land base, and constraints on management options; and

(3) recommendations for addressing the problems and capitalizing on the potential of these lands for contributing to the nation's renewable natural resource needs.

The amendment further directs the Commission to make findings and develop recommendations for consideration by the President and requires the Commission to submit a report to the President no later than December 1, 1991, which the President will then transmit to the Committee on Agriculture in the House and the Committee on Agriculture, Nutrition, and Forestry in the Senate.

The amendment describes the operations of the Commission in general and directs the heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office to provide the Commission with such information as it may require to carry out its duties.

The House amendment stipulates that the Commission members are to serve without compensation, but shall be allowed travel expenses while away from their homes or place of normal business in performance of duties of the Commission.

In addition, to the extent there are sufficient funds available to the Commission, the Commission may appoint and fix compensation for a Director and such additional personnel as the Commission determines necessary to carry out its duties. On the request of the Commission, staff may be provided by the heads of executive agencies and other offices, on a non-reimbursable basis, to assist the Commission in carrying out its duties and functions.

The amendment authorizes such sums as are necessary to implement this section.

It further provides for termination of the Commission 90 days following the submission of its report to the President. (Sec. 1510)

The Senate bill contains no comparable provision.

The Conference adopts the House amendment with amendments requiring the Commission to use existing inventories, review the impact of forest land conversion, and other technical changes. The delivery date for the Commission report was changed to December 1, 1992. (Sec. 1245)

(28) Blue Mountain Natural Resources Institute

The Senate bill contains no similar provision.

The House amendment directs the Secretary to establish a research, development, and application program for the forests and rangelands in Oregon and Washington located east of the Cascade Crest, to be headquartered in La Grande, Oregon.

The amendment directs the Secretary to establish and carry out the program in consultation and cooperation with Federal, State, and local agencies, universities, and the private sector. In addition, the Secretary is directed to establish an advisory committee to assist in formulating plans for implementation. (Sec. 1511)

The Conference adopts the House amendment with an amendment to direct the Secretary to establish an Institute to address the research needs of eastern Oregon and eastern Washington. (Sec. 1246)

(29) International Forest Products Trade Institute

The House amendment directs the Secretary to establish an International Forest Resources Institute (Institute) to be operated by the State University of New York College of Environmental Science and Forestry.

It directs that the Institute be comprised of the State University of New York College of Environmental Science and Forestry.

The amendment directs the Institute to—

(1) emphasize application of existing knowledge to the manufacturing and international marketing of forest products as well as conduct new research related to the competitiveness of the northeastern forest products industry;

(2) study and evaluate domestic and international forest sector, agroforestry, development, economic and trade policies;

(3) design, analyze and test technologically appropriate manufacturing, processing, and marketing systems which enhance opportunities for markets in forest products;

(4) formulate and test management strategies for United States forests and for manufacturing facilities that promote rational use, and long term maintenance, of globally important forests; and

(5) design and analyze specific policies for critically important forest in the world with respect to forest sector, agricultural, development, and economic policies.

Such sums are authorized as may be necessary to carry out the Institute's programs. (Sec. 1512)

The Senate bill contains no comparable provision.

The Conference adopts the House amendment with an amendment to authorize establishment of an Institute and other technical changes. (Sec. 1247)

CHAPTER 3—EDUCATION

(30) Extension

The Senate bill amends the Renewable Resources Extension Act by inserting a section that augments USDA Extension Service educational programs.

The bill authorizes the Secretary to expand existing forestry and natural resources education programs of the Extension Service and State Cooperative Extension Service, in cooperation with State foresters, school boards and universities. The Secretary is required to ensure that expanded programs include activities that—

(A) demonstrate the concepts of sustainable natural resources management;

(B) conduct comprehensive environmental citizen education programs for environmentally positive activities; and

(C) improve the capacity of schools, local governments and agencies to deliver forestry and natural resource information.

It amends existing law by requiring a comprehensive natural resource and environmental education program with an emphasis on youth.

In addition, the Senate bill amends existing law to require that the Extension Service's plan address water quality protection and

natural resource and environmental education for landowners, managers, public officials and the public. (Sec. 1535)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate bill with technical amendments. (Sec. 1251)

(31) Forestry Student Grant Program

The Senate bill amends the Forest and Rangeland Renewable Resources Research Act by establishing a Forestry Student Grant Program. The Program provides expanded assistance for forestry, natural resources, and environmental science education.

Provides that grants be targeted to assist graduate and undergraduate minority and female students, giving priority to students whose studies concentrate in—

(1) biology of forest organisms;
(2) ecosystem function and management;
(3) human-forest interactions;
(4) international trade, competition, and cooperation; and
(5) wood as raw material.

Authorizes such sums to be appropriated as may be necessary to implement the Student Grant Program. (Sec. 1536)

The House amendment contains no comparable provision.

The Conference adopts the Senate provision with technical modifications, and with an amendment changing the listed priority subjects as subjects eligible for student grants.

Subtitle C—America the Beautiful

(32) Findings and Purposes

The Senate bill's purposes are to: (1) award the Foundation a grant to solicit, accept, and administer public and private sector grants; (2) promote public awareness and volunteerism by awarding grants and support to non-governmental organizations; (3) preserve unique natural resources and environments; (4) award matching grants to nonprofit organizations; and (5) award grants to municipalities that have developed an urban forestry plan. (Sections 1581-1583)

The House amendment contains no comparable provisions.

The Conference substitute adopts the Senate bill with technical modifications. (Sections 1261-1263)

(33) Foundation

The Senate bill sets out to—

(1) award a Foundation a grant to solicit, accept, and administer public and private sector grants;
(2) promote public awareness and volunteerism by awarding grants and support to non-governmental organizations;
(3) preserve unique natural resources and environments;
(4) award matching grants to nonprofit organizations; and
(5) award grants to municipalities that have developed an urban forestry plan.

The bill authorizes the President to designate a private nonprofit foundation ("Foundation") as eligible to receive funds to carry out the purposes of the Foundation.

In addition, it prohibits the construction of anything in the law to make the Foundation an agency or instrumentality of the United States Government, or to make officers, employees, or members of the board of directors of the Foundation officers or employees of the United States.

The bill authorizes the Secretary to make a grant not to exceed $25 million from amounts appropriated for FY 91 to the Foundation. Limits the use of funds to carrying out the purposes of this Act and any administrative expenses in carrying out such purposes.

The Foundation is authorized, notwithstanding any other provision of law, to hold funds in interest-bearing accounts, prior to the disbursement of the funds and to retain any interest earned on the accounts to carry out such purposes.

Outlines eligibility criteria for the Foundation to meet in order to receive the one year grant. To receive the grant, the Foundation must: only use funds to meet the purposes of this Act; not accept payments from outside sources to compensate officers or employees of the Foundation; not issue any shares of stock or declare or pay any dividends; assure that no part of Foundation funds shall inure to the benefit of any board member, officer, or employee except as salary or reasonable compensation for services rendered; not engage in lobbying or propaganda; have its accounts audited annually; have the financial transactions under the grant be audited by any federal agency designated by the President; ensure that each recipient of assistance maintain separate accounts for such assistance and give the Foundation, or its duly authorized representative, access to such accounts; and prepare annual reports. (Sec. 1584)

The House amendment establishes a foundation similar to the Senate bill, but also directs the Secretary to ensure that the officers of the Foundation have the experience and expertise necessary to direct the activities of such Foundation.

The House amendment also specifies that the Foundation may use its funds only for making grants to "qualified organizations", defined as those that meet the requirements of section 501(c)(3) of the Internal Revenue Code and that have demonstrated a capability to provide at least one-half of the total cost of the project or program for which the Foundation funds will be used. The House amendment also provides that trees planted pursuant to a program receiving funds under the Foundation may not be commercially harvested and sold for Christmas trees. (Section 1509).

The Conference adopts the House amendment with technical modifications. (Sec. 1264)

(34) Rural Tree Planting and Forest Management Program

The Senate bill establishes a rural tree planting forest improvement, and stewardship program as special components of the Rural Forestry Assistance Program and Forest Stewardship Incentives Program under sections 3 and 4 of the CFAA (as amended by FACT). Authorizes the Secretary of Agriculture to provide financial, technical, and related assistance to State foresters to assist nonindustrial private landowners in managing their forests for multiple uses. (Sec. 1585)

The House amendment contains no comparable provision in the America the Beautiful provisions.

The Conference adopts the Senate bill with a ten year authorization, an amendment providing that the program is to be established as a special component of the stewardship and stewardship incentives programs, and other technical amendments. (Sec. 1265)

(35) Community Tree Planting

The Senate bill authorizes the Secretary to use section 12 of the CFAA (as redesignated by section 1514) and issue any regulations that may be necessary to carry out the provisions of the America the Beautiful Act.

The House amendment contains no comparable provision.

The Conference adopts the Senate bill with a ten year authorization, an amendment providing that the program is to be established as a special component of the urban and community forestry assistance program under CFAA, as amended, and other technical modifications. (Sec. 1266)

(36) General Provisions and Appropriations

The Senate bill provides general authority for the Secretary to implement the program, and authorizes such sums as may be necessary to implement the provisions on tree planting, including rural tree planting and community tree planting. (Sections 1587 & 1588)

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provisions.

Subtitle D—Miscellaneous Provisions

(37) Emergency Reforestation Program

The Senate bill authorizes the Secretary to establish an emergency reforestation program for forest lands damaged by natural disasters.

Directs the Secretary to share cost of implementing forestry practices set forth in a required forest management plan. Limits cost share to 75 percent of actual costs.

Makes owners of 1,000 acres or less of private forest land eligible for cost share assistance. Owners of more than 1,000 acres but no more than 5,000 acres are eligible if significant public benefit will accrue. Assistance is available only to owners with an inability to pay. The Landowner must cooperate with State forester or equivalent State official to develop a forest management plan, which will be the basis for agreements between the owner and the Secretary. The maximum amount any individual may receive will be determined by the Secretary in consultation with the Emergency Reforestation Committee. Defines "Emergency Reforestation Committee" as a committee of at least five State foresters or equivalent State officials who represent diverse geographical interests and who are selected by a majority of the State foresters or equivalent State officials from States participating in programs under the CFAA.

Defines "Forestry Practice" as site preparations, reforestation of damaged stands, timber stand improvement, including thinning,

burning and other practices approved by the Secretary. The bill defines "Natural Disaster" as a condition described in the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Defines "Private Forest Land" as land capable of producing commercial crops of industrial wood and owned by any private individual, group, Indian tribe, or other native group, association, corporation, or other legal entity, except Federal, State, or local government agencies.

Requires the Secretary to issue regulations as soon as practicable after enactment of this subtitle.

Allows landowners to be reimbursed for reforestation practices that were implemented prior to the enactment but the Secretary may not reimburse for reforestation prior to September 1, 1989.

Authorizes the Secretary to provide assistance under this section to eligible landowners that suffer destruction of 35 percent or more of a tree stand due to damaging weather, related conditions (defined as insect infestation, disease or other deterioration exacerbated by damaging weather) or wildfire in the form of either reimbursement of up to 65 percent of the cost of reestablishing such damaged tree stand for losses in excess of 35 percent mortality or provision of sufficient tree seedlings, as determined by the Secretary, to reestablish such tree stand.

Defeines "eligible landowners" to mean a person that produces annual crops from trees for commercial purposes and owns five hundreds acres or less of such trees or owns one thousand acres or less of private forest land. Limits the amount of assistance which any person could receive under this section to no more than $25,000, or an equivalent value in tree seedlings. In addition, a person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary, shall not be eligible to receive assistance. Defines "qualifying gross revenue" as gross revenue from farming, ranching, and forestry operations, if a majority of the person's annual income is received from such operations, or gross revenue from all sources if less than a majority of the person's annual income is received from farming, ranching, and forestry operations.

Directs the Secretary, for the purpose of implementing this section, to issue regulations that—

(1) define "person" in accordance with regulations issued under the FSA of 1985,

(2) prescribe a fair and reasonable application of the limitations established under section 1503(c), and

(3) ensure that no person receives duplicative payments under section 1503 and the Forestry Incentives Program, Agricultural Conservation Program, or other existing Federal program.

The Senate bill authorizes to be appropriated such sums as may be necessary for disaster relief. (Sec. 1561)

The House amendment authorizes the Secretary to provide assistance under this section to eligible landowners that suffer destruction of 35 percent or more of a tree stand due to damaging weather, related conditions (defined as insect infestation, disease or other deterioration exacerbated by damaging weather) or wildfire in the form of either reimbursement of up to 65 percent of the cost

of reestablishing such damaged tree stand for losses in excess of 35 percent mortality or provision of sufficient tree seedlings, as determined by the Secretary, to reestablish such tree stand.

The amendment defines "eligible landowners" to mean a person that produces annual crops from trees for commercial purposes and owns five hundred acres or less of such trees or owns one thousand acres or less of private forest land. The amendment limits the amount of assistance which any person could receive under this section to no more than $25,000, or an equivalent value in tree seedlings. In addition, a person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary, shall not be eligible to receive assistance. The provision defines "qualifying gross revenue" as gross revenue from farming, ranching, and forestry operations, if a majority of the person's annual income is received from such operations, or gross revenue from all sources if less than a majority of the person's annual income is received from farming, ranching, and forestry operations.

The amendment directs the Secretary, for the purpose of implementing this section, to issue regulations that: (1) define "person" in accordance with regulations issued under section 1001 of the FSA of 1985, (2) prescribe a fair and reasonable application of the limitations established under section 1503(c) and (3) ensure that no person receives duplicative payments under section 1503 and the Forestry Incentives Program, Agricultural Conservation Program, or other existing Federal program. (Section 1503)

The Conference substitute adopts the House substitute with modifications to incorporate the Senate provisions regarding definition of forestry practices, secretarial discretion for assistance to landowners of 1000 to 5000 acres, and retroactive assistance to September 1, 1989. (Sec. 1271)

(38) Talladega National Forest Expansion

The Senate bill requires the Secretary of Agriculture to acquire lands within the Talladega National Forest to protect and manage those lands for multiple uses. The acquisitions should be made commensurate with appropriated and donated funds. The Secretary may exclude lands from acquisition if such lands are not manageable and if impacts on private property rights are determined to be unacceptable. (Sec. 1571)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate bill with technical changes and an amendment stating the sense of Congress that the Secretary should acquire the lands on a willing seller basis without undue delay. (Sec. 1272)

TITLE XIII—FRUITS, VEGETABLES, AND MARKETING

Subtitle A—Fruits and Vegetables

(1) Declaration

The Senate bill provides that the domestic production of fruits and vegetables is an integral part of U.S. farm policy. (Sec. 1711)

The House amendment is similar, providing that fruit and vegetable production is an "integral part" of U.S. farm policy. (Sec. 1401)

The Conference substitute adopts the House provision.

(2) Study of the Fruit and Vegetable Industry

The Senate bill requires a study to include reviews of (A) the availability of adequate labor supply; (B) the availability and adequacy of crop insurance or disaster assistance; (C) the scientific and technological advances related to the production of fruits and vegetables; (D) the availability of safe and effective chemicals for use in the production of fruits and vegetables; (E) the requirements and cost of labeling fruits and vegetables in the industry and benefits of labeling to consumers; (F) Federal educational programs that teach the importance of fruits and vegetables to a proper diet. (Sec. 1714)

The House amendment is similar to the Senate provisions, except that it requires special emphasis on the value of national uniformity of fruits and vegetables when studying the availability of safe and effective chemicals. (Sec. 1404)

The Conference substitute adopts the House provision with minor changes by striking "with special emphasis" and adding, "with an evaluation."

(a) Study

The Senate bill requires the Secretary to report the results of the study not later than 18 months after the date of enactment of this subtitle to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate. (Sec. 1714 (b))

The House amendment is similar to Senate provisions, except that the report is to Congress rather than specific Committees. (Sec. 1404 (b))

The Conference substitute adopts the House provision.

(b) Report

The Senate bill requires the Secretary of Agriculture to conduct a study of the Federal programs that provide market enhancement assistance (similar to EEP) to producers of domestic fruit and vegetable commodities.

It also requires a report to Congress within 180 days after enactment containing; (1) the results of the study conducted under subsection (a); (2) recommendations of the Secretary concerning the manner in which producers not receiving assistance could participate in such programs; and (3) recommendations to the Secretary concerning the establishment of additional programs to assist producers of domestic fruits and vegetables in increasing their production and expanding domestic and foreign markets. (Sec. 1715)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to include in the "Study of the Fruit and Vegetable Industry" the requirement to the Secretary to report on the availability of current programs, and the potential addition of future programs that provide market enhancement assistance to the producers of fruits and vegetables.

(3) 1305. Programs on Labeling of Agricultural Products

The Senate bill provides that this section may be cited as the "Grown in the United States Labeling Act of 1990."

The House amendment contains no comparable provision.

The Senate bill requires the Secretary in cooperation with the Commissioner of Food and Drug, not later than 6 months after the date of enactment of this title, to establish a program to be known as the "Grown in the United States Food Labeling Program," under which food processors, producers, and sellers may label food products as "Grown in the United States" or as "Made of Ingredients Grown in the United States."

Likewise, it provides that a food product that contains a significant amount of imported ingredients, as determined by the Secretary, shall not be eligible for the program.

It requires the Secretary in cooperation with the Commissioner to conduct a comprehensive review of all existing Federal country of origin food labeling requirements and prepare and submit a report containing an analysis of the adequacy of such laws to Congress. (Sec. 1716)

The House amendment requires the Secretary of Agriculture to implement a nationwide 2-year pilot program during which time perishable agricultural products (fresh fruits and vegetables) are labeled or marked as to their country of origin. Within 18 months after the completion of the pilot program the Secretary shall study the results of the program and shall submit the results to Congress. It also requires that the country of origin of perishable produce is indicated on the commodity or container of the commodity and visible at point of sale to the purchaser.

It requires the labeling program to apply to imported and domestic perishable products and that it applies to products in compliance with section 304(a) of the Tariff Act of 1930. In addition, it exempts products from labeling requirements that are placed on the J-list of the Tariff Act of 1930. (Sec. 1405)

The Conference substitute adopts the House provision with an amendment authorizing the Secretary to implement a program defining the conditions under which non-perishable agricultural products may be designated "Grown in the U.S." and making the section subject to appropriations.

(4) Enforcement of Handler Assessments

The Senate bill contains no comparable provision.

The House amendment amends section 8c(14) of the Agricultural Marketing Agreement Act of 1937 to extend the current authority of the Department of Agriculture and the federal courts to assess civil fines and penalties against any handler subject to a Federal marketing order to include the non-payment of handler assessments under such an order. (Sec. 1412)

The Conference substitute adopts the House provision.

(5) Kiwifruit and Other Fruit

The Senate bill amends section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e–1) to include kiwifruit, nectarines, plums,

pistachios, apples and papayas (except papayas grown in the CBI). (Sec. 1721)

The House amendment contains no comparable provision.

The Conference adopted the Senate provision with an amendment to strike papayas.

(6) Marketing Orders

The Senate bill amends section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e-1) to require the Secretary to notify the USTR prior to implementing marketing order regulations to imports to ensure they are consistent with trade agreements in effect. The USTR is given 30 days to respond before implementation of the restrictions proceeds. (Sec. 1730A.)

The House amendment contains no comparable provision.

The Conference substitute adopted the Senate provision with an amendment to require the USTR to provide advice to the Secretary within 60 days, and to provide that the Secretary may implement the prohibition or regulation only after receiving the advice and concurrence of the USTR. This new provision only applies to prospective marketing order determinations by the Secretary, including any modifications to marketing orders currently in effect.

(7) Products Produced in Distinct Geographic Areas

The Senate bill prohibits the labeling, packaging, classification, sale, etc., of any onion as "Vidalia" unless they are produced in the area defined in the USDA marketing order for Vidalia onions, and are otherwise consistent with that order. (Sec. 2195)

The House amendment contains no comparable provision.

The Conference substitute deleted the Senate provision with an amendment to require that in the case of an agricultural commodity subject to a Federal marketing order, traditionally identified as being produced in a distinct geographic area, State, or region, which has a unique identity, based on such distinct area that has been promoted with funds collected through producer contributions, no person may use the name of the unique name or geographic designation of such commodity or product to promote the sale of a similar commodity or product outside such area, State, or region.

Section 1309(b) provides that a violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act (7 U.S.C. 499b).

Section 1309(c) provides that a person bringing a complaint shall reimburse the Secretary for any or all costs associated with the enforcement of this section.

Section 1309(d) provides that the Secretary shall not increase any fees charged under the Perishable Agricultural Commodities Act to offset costs associated with the operation of this section.

Section 1309(f) provides for the Secretary to promulgate regulations to carry out this section.

This provision is the result of the Managers growing concern for the marketing and labeling of fruits and vegetables that may mislead consumers about the authenticity of such produce.

Individuals who market fruit and vegetables outside of marketing orders receive, at no cost to themselves, the same benefits as

those producers who operate in compliance with marketing orders that require mandatory assessments. Furthermore, this misleading labeling jeopardizes the future integrity of the market for those operating within the existing regulations of the marketing orders.

Subtitle B—National Laboratory Accreditation

The Senate bill requires the Secretary to establish a program to certify laboratories that conduct residue testing, or make claims concerning residue levels, on agricultural products. The Secretary is required to consult with the administrators of the FDA and EPA in establishing minimum standards for laboratories. Government operated laboratories, private laboratories that do not make claims to the public based on residue analysis, and laboratories that perform analysis for research or quality control, are exempt.

The amendment requires laboratories to apply to the Secretary for accreditation, and to successfully complete certain tests required by the Secretary, including performance evaluation tests.

Each laboratory that performs, brokers or otherwise arranges for pesticide chemical analysis of food shall report to the Secretary, and to the owner of such food, any finding of residue; (a) for which no chemical tolerance has been established by the EPA; (b) which is in excess of residue tolerances established by EPA; or (c) for which chemical residue tolerance is revoked or otherwise not permitted for use by EPA.

The Secretary shall provide standardized reporting guidelines to laboratories. Laboratories shall reimburse the Secretary to help offset the cost of the program through an accreditation fee. States or local government-owned laboratories working only in a reference capacity shall be exempt.

The amendment also calls for the laboratory evaluations conducted by the Secretary to be made available to the public on request. (Sec. 1731)

The Conference substitute adopts the Senate provision with amendments: the term agricultural products is defined as any "fresh fruit or vegetable or any commodity or product derived from livestock or fowl that is marketed in the U.S. for human consumption;" "Laboratory" is defined; and the analysis on agricultural products should be for commercial purposes.

The amendment also strikes the "Reference Laboratory" section and directs the Secretary under the "Establishment of the Program" to administer a National Laboratory Accreditation Program.

The Secretary of the HHS is responsible for developing and promulgating the standards for the National Laboratory Accreditation Program. The Conference managers expect that such standards shall include, but not be limited to: laboratory facilities and equipment; scientific and analytical methodologies; qualifications, training and supervision of personnel; provisions for handling samples; record keeping; the circumstances (if any) under which work may be subcontracted; and in-house quality assurance mechanisms. The Secretary of the HHS is also responsible for the standards for the quality assurance programs, including performance evaluations, which will be used as the basis for certification. The Managers believe that "blind" performance evaluations, where laboratories are

not aware that they are being evaluated, is the only means of ensuring an adequate and reliable program. Quality assurance may also be provided by on-site inspections of both physical facilities and records.

In order to conduct such quality assurance programs, in particular the preparation and distribution of performance evaluation samples, it is necessary to have access to a number of high quality laboratories and personnel. To this end, the Managers provide that the Secretary of HHS may approve State and private entities as accrediting bodies to act on the Secretary's behalf in implementing the certification and quality assurance programs in accordance with the requirements of this provision.

Under "Requirements," laboratories are required to prepare and submit an application for accreditation to the Secretary, and comply with such terms and conditions as are determined to be necessary by the Secretaries of the USDA and HHS.

The Conference substitute strikes the "Interim Accreditation" subsection. It requires the Secretary to deny an application for accreditation or revoke any existing accreditation that fails to meet the requirements for accreditation. It also strikes the "Duration of Accreditation" and "Renewal of Accreditation" subsections. The substitute provides that the Secretary shall ensure that performance evaluation samples are provided to any laboratory that has applied for accreditation.

The Managers note that performance evaluation samples are samples that laboratories seeking accreditation must test as an evaluation of their ability to accurately analyze products. The Managers have ensured that the facilities of qualified accredited bodies will be available to the Secretary for this purpose.

In the "Review for Accreditation" subsection the Secretary must ensure that performance evaluation samples for analysis are provided to accredited laboratories to enable them to continue their certification. The waiting period for application for a laboratory that has lost or been denied accreditation is extended to six months. The agreement also makes conforming technical amendments.

The results of laboratory evaluations conducted by the Secretary shall be made available to the Secretary of the HHS, the Secretary of Agriculture, and the public, on request. Nothing shall substitute for or affect the current authorities of the Secretary of the HHS under the Food, Drug, and Cosmetic Act (FFDCA) with regard to the regulation of pesticide residues on foods, the labeling of such foods, and any health-based claims regarding such foods. However because accredited laboratories will be in a position to know about violations of the FFDCA, it is a necessary requirement that the laboratories report such information promptly to the Secretary of the HHS.

This is a voluntary program, but one which will require the resources of several agencies. The Managers expect the Secretaries to make every effort to minimize this. Accordingly, it is crucial that fees for this program are carefully set, and regularly re-examined, to offset all costs.

Subtitle C—Cosmetic Appearance

The Senate bill is titled the "Agricultural Marketing Research and Reform Act of 1990." It defines the term "cosmetic," and it requires, among other things, that the Secretary conduct research, including field projects, on the effects of grade standards and other regulations governing cosmetic appearance on pesticide use in the production of perishable commodities, and the extent of consumer preference for commodities produced by low-input methods. The Secretary shall also disseminate the results of valid research already conducted in these areas to reduce duplications of efforts. A temporary advisory panel is established to review and recommend policies to carry out these activities. The bill also authorizes $4 million annually to carry out the activities and request that the Secretary report to Congress on the findings of the research. (Sec. 1725)

The House amendment is similar to the Senate provision, except that of the statement of policy. It also does not require annual reports on pending grade standard changes to interested parties, and authorizes such sums as necessary to carry out these activities. (Sec. 1861)

The Conference substitute adopts the Senate provision with an amendment to strike the statement of policy, and requires reports on proposed changes to grade standards during 1992, 1993, and 1994.

Subtitle D—Miscellaneous

(8) Amendment to the Perishable Agriculture Commodities Act

The Senate bill amends PACA by providing that operating balances and interest earned may be invested by the Secretary of the Treasury, in public debt securities, bearing interest at rates determined by the Secretary of the Treasury. Such investments must be requested by the Secretary of Agriculture, who will also determine the maturities of the investments. Interest earned shall be used to pay for the services provided under the Act. (Sec. 1961)

The House amends PACA to provide that any reserve fund in the PACA Fund may be invested by the Secretary of Agriculture in insured or fully-collaterized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The amendment also requires that any interest earned on such reserve funds be credited to the PACA Fund and be available for the same purposes as the fees deposited in the fund under that Act. (Sec. 1411)

The Conference substitute adopted the House provision.

(9) Wine and Winegrape Industry Study

The Senate bill requires the Secretary to conduct a study to determine the most effective manner in which the USDA may work with and support the U.S. wine and wine grape industry. Such study must evaluate existing programs to support the industry, consider new methods or programs to enhance processing and expand markets, and consult with local, State, and national associations of the industry. The Secretary must report to the Agriculture Committees by December 31, 1991. (Sec. 1973)

The House amendment is similar but directs the Secretary to give special emphasis to studying States or other geographic areas that have not traditionally had a wine or wine grape industry. (Sec. 1413)

The Conference adopted the House provision.

(10) Use of U.S. Produced Fruits and Vegetables

The Senate bill, among other things, provides a Sense of Congress that food procurement offices of each agency or department of the Federal government should intensify efforts to purchase from U.S. sources of fruits and vegetables. (Sec. 1717)

The House amendment contains no comparable provision.

The Conference deletes the Senate provision.

(11) Circle of Poison

Pesticide Export Reform

Definitions

The Senate bill adds definitions for Country of Use and Exporter, and amends the definition of Misbranded to reflect language-specific label requirements, under section 2 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

The House amendment is the same as the Senate.

The Conference substitute deletes the Senate and House provision.

Requirements for Registration of Establishments

The Senate bill amends section 7 of FIFRA to require manufacturers of pesticides to report annually to the Administrator on the types and quantities of pesticides produced for export, and the date and quantities of exports over the most recent year. (Sec. 1756)

The House amendment is the same as the Senate.

The Conference substitute deletes both the Senate and House provision.

Protection of Trade Secrets

The Senate bill amends section 10 FIFRA to require that information collected under section 17(a)(6)(C) of the Act, with regard to the export of particularly hazardous pesticides, and information obtained under section 7(c)(1)(B)(ii) of the Act, on prior year pesticide production, shall not be considered confidential information protected under subsection (b) of FIFRA.

The House amendment is the same as the Senate except that it also provides that data, summaries and reviews for unregistered pesticides permitted to be exported by the House bill be made available to the public.

The Conference substitute deletes both the Senate and House provision.

Unlawful Acts

The Senate bill makes violations of new section 17 import/export controls unlawful acts under enforceable under section 12 of FIFRA.

The House amendment is the same as the Senate.

The Conference substitute deletes both the Senate and House provision.

Requirements for the Export of Pesticides

Preparation and Packaging

The Senate bill amends section 17(a) and 17(b) of FIFRA to require that pesticides intended for export meet the legal preparation and packaging requirements of the foreign government of the country of use, as well as EPA regulations and conditions of the purchaser.

The House amendment is the same as the Senate.

The Conference substitute deletes both the Senate and House provision.

Registration or Tolerance

The Senate bill provides that in order to be exported, a pesticide must have an EPA registration under section 3 of FIFRA, a U.S. food tolerance for a raw agricultural commodity under section 408 of Federal Food Drug and Cosmetic Act (FFDCA), or a U.S. food tolerance for a processed food under section 409 of FFDCA. If the pesticide is to be exported for use in agricultural production, the EPA registration must be for food use.

In the case of a pesticide for which the Administrator has delayed a suspension or revocation of a tolerance or exemption issued under FFDCA section 408, and for which a temporary "pipeline tolerance" has been established to allow existing food inventories to be sold, the pesticide could not be exported based on that temporary tolerance.

The House amendment allows pesticide exports on the same basis as the Senate bill, except that: (1) it does not provide for the export of a pesticide that has an EPA tolerance established under section 409 of FFDCA; and (2) it provides an additional mechanism for the export of unregistered pesticides.

A pesticide not registered in the U.S. can be exported if all of the following conditions are met: (1) it has not: been denied a registration; failed to have a registration granted due to EPA concerns of adverse human health effects; or had a registration canceled or suspended; (2) the exporter has provided sufficient data on health and safety effects to make a preliminary assessment of human health effects (data may be based on either U.S. or foreign standards); (3) the exporter has provided all known residue detection methods; (4) the active ingredients in the pesticide are registered for any use in an Organization for Economic Cooperation and Development (OECD) country; (5) the Administrator has preliminarily determined the pesticide does not pose an unreasonable risk to human health; (6) there is a practical residue testing method; (7) upon request of the country of use, all information is made available to them; and (8) the country of use has agreed to the import of the pesticide. Agreement by a foreign country to import an unregistered pesticide is in effect for up to two years, unless rescinded or changed by the foreign country.

The Conference substitute deletes both the Senate and House provision.

Prior Informed Consent

The Senate bill requires the Administrator of EPA to implement procedures for notification and regulation of certain pesticides. For "particularly hazardous pesticides" with an EPA registration or tolerance, if it is the first shipment of the pesticide to a foreign country in the calendar year, the Administrator must notify the foreign government of the intended shipment. If the foreign government notifies the Administrator that it does not wish to receive the pesticide and will not otherwise produce or import the pesticide to that country, the Administrator shall publish such notice in the Federal Register, and the pesticide shall not be exported unless the foreign country notifies the Administrator differently. No reply is considered consent.

Notices to foreign governments shall include the common or trade name of the chemical in the country of use and its active ingredients; the producer; the exporter; the foreign purchaser; intended date and quantity of shipment; manner of transport; country of use; and the raw commodity on which the pesticide is likely to be used.

The House amendment is the same as the Senate, except that for the export of unregistered pesticides written approval must be received from the country of use prior to the export. Notices to foreign governments must include a statement that data on unregistered pesticides, allowed to be exported under section (2)(A)(ii), is available on request from EPA.

The Conference substitute deletes both the Senate and House provision.

Labeling

The Senate bill requires labels on exported pesticides to be written in an official language of the country of use and to contain all information required by section 3 of FIFRA for a pesticide used in the U.S (if not in conflict with requirements of country of use).

The House amendment requires labels to be written in English and the official language of the country of use, or in the major language of the international relations of the country of use; and to be in compliance with section 3 requirements under FIFRA where determined by the Administrator to be applicable to the country of use.

The Conference substitute deletes both the Senate and House provision.

Control of famine or communicable disease

The Senate bill provides that on the request and certification of the country of use, unregistered pesticides may be exported for use on a temporary basis to prevent or control the spread of a communicable disease or famine.

The House amendment is the same as the Senate bill.

The Conference substitute deletes both the Senate and House provision.

Experimental use

The Senate bill provides that, in order for a pesticide to be exported for research or experimental use, similar information as that required for a domestic experimental use permit must be provided to the Administrator and forwarded to the proposed country of use. The country of use must approve the experimental use in writing to the Administrator and the exporter. The pesticide may be exported once consent is received from either the Administrator or country of use. Following receipt of consent, the Administrator must publish in the Federal Register that the pesticide will be used for research or experimental use, including the consent of the country of use, and the identity of the producer and the exporter of the pesticide.

The House amendment is the same as the Senate except that the Administrator is not required to release information on pesticides exported for experimental use.

The Conference substitute deletes both the Senate and House provision.

Notices of Regulatory Change to Foreign Governments

The Senate bill requires the Administrator, rather than the State Department, to transmit notices of significant changes in registration status, or an interim administrative review for a pesticide, to the appropriate agency of the foreign government, and to the International Registry of Potentially Toxic Chemicals.

The House amendment is the same as the Senate bill.

The Conference substitute deletes both the Senate and House provision.

Cooperation in International Efforts

The Senate bill provides specific recommendations for the Administrator to convene an international meeting with foreign governments and international organizations to promote improved research, pest management, pesticide regulatory programs, and sustainable agriculture; convene a meeting to encourage multilateral agreements on export notices and control measures for pesticides; and report to Congress every three years on regulatory abilities of countries which import pesticides from the U.S.; report to Congress, in conjunction with FDA and USDA, on the ability of testing for pesticide residues.

The House amendment is the same as the Senate except that it also requires the General Accounting Office to conduct a study of unregistered pesticides that are used in agricultural production and/or have a food tolerance under section 408 of the Federal Food Drug and Cosmetic Act and that are exported.

The Conference substitute deletes both the Senate and House provision.

Automatic Revocation of Tolerances

The Senate bill requires the Administrator to immediately revoke a tolerance for a pesticide use if the pesticide registration for such use has been cancelled or voluntarily withdrawn due to dietary risk to humans. If a pesticide is the subject of a suspension,

the tolerance must also be suspended. The bill provides for the sale of food legally treated with the pesticide prior to the final suspension or cancellation of the tolerance, and a gradual lowering of the tolerance in the case of unavoidable persistence in the environment.

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

Practical Methods for Residue Detection

The Senate bill requires that, in order to grant a tolerance for a pesticide use, EPA must determine that a practical method exists for detecting and measuring the pesticide residue in food. This means that inspectors must be able to use the method on a routine basis as part of ongoing surveillance and compliance sampling of raw commodities and processed foods for pesticides.

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

Information on Pesticide Use in Exporting Countries

The Senate bill requires U.S. agricultural attaches in foreign countries to provide information, to the extent practicable, in their annual reports, on the customary use of pesticides in agriculture production for the foreign country they monitor. This information shall be provided to the Secretary of Health and Human Services and Treasury.

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

Effective Dates

The Senate bill provides that the provisions of this Act shall be in effect 6 months after enactment, except that for provisions to prohibit the export of unregistered pesticides that have not been denied or rejected for a registration (sec. 3) or tolerance (sec. 408 or 409 of FFDCA), and that apply for a tolerance within 6 months of enactment of this Act, shall be effective 36 months after enactment. A one year extension may also be granted if a tolerance has not been granted through no fault of the applicant who has filed a completed application with the Administrator.

The House amendment is the same as the Senate, except that an application for a tolerance or registration within 6 months may allow the export of the unregistered pesticide during the approval process. For unregistered pesticides which could be exported under the House bill, provisions to require information on a practical detection method, all other available detection methods, OECD registrations, and notification and consent of the country of use shall be effective within 6 months of enactment; provisions requiring health and safety data and summaries, and EPA review and preliminary determination of any potential risk to human health shall be in effect 18 months following enactment. A one-year extension may be granted by the Administrator for unregistered pesticides if EPA review has not been completed and it is not the fault of the applicant.

The Conference substitute deletes both the Senate (Sec. 1751) and House (Sec. 1271) provision.