

Farm Security and Rural Investment Act of 2002

(Summary of Selected Provisions)

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By

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I. Commodity Programs

A. General

1. Effective date

The commodity provisions in the 2002 Act are effective with the 2002 crop year of each covered commodity through the 2007 crop year.

Act Sec. 1108.

2. Conditions for receiving direct and counter-cyclical payments

The conference agreement rejected both the House and Senate provisions on sharing of payments between landlord and tenant and stipulated that “The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers” with the Secretary directed to provide “for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.”

Act Sec. 1105(d), (e).

The 2002 Act also requires, as conditions for receipt of direct and counter-cyclic payments, that producers—

- a. Comply with applicable conservation requirements.
- b. Comply with applicable wetland requirements.
- c. Comply with the planting flexibility requirements of Section 1106 of the Act (as to permitted crops on base acres on a farm).
- d. To use base acres and peanut acreage for agricultural and conserving uses, not for non-agricultural commercial or industrial use.
- e. Effectively control various weeds and maintain the land in accordance with “sound agricultural practices.”

Act Sec. 1105(a)(1).

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The Act provides that a transfer or change in the interest of producers on a farm in base acres for which direct or counter-cyclical payments are made results in termination of the payments unless the transferee or owner agrees to assume the obligations of participation in the program. If a producer dies or becomes incompetent, the Secretary is to prescribe in regulations how the payments are to be made.

Act Sec. 1105(b).

3. Establishing payment yield

The Secretary is required to establish payment yields for each farm for each covered commodity for the purpose of making direct payments and counter-cyclical payments.

Act Sec. 1102(a).

The yield for a farm, in general, is the payment yield established for the 1995 crop of the covered commodity as adjusted by the Secretary to account for any additional yield payments made with respect to the crop.

Act Sec. 1102(b).

If no yield is available, the Secretary is to establish an appropriate payment yield taking into account the payment yields applicable to the commodity for similar farms in the area but before the yields are updated to reflect the actual yield per planted acre for 1998 through 2001.

Act Sec. 1102(c).

The payment yield for a farm for an oilseed is to equal the product of the following—

- a. The average yield for the oilseed for the 1998 through 2001 crops and
- b. The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops.

Act Sec. 1102(d)(2).

In the event the yield per planted acre for a crop of an oilseed for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that oilseed, the Secretary is to assign a yield for that crop year equal to 75 percent of the county yield for purposes of determining the average yield for the 1998 through 2001 crop years.

Act Sec. 1102(d)(3).

If the owner of a farm elects to update the crop acreage base for all covered commodities using the average of the planted and prevented from planting acreage for 1998 through 2001, the owner has a one-time opportunity to elect to *partially* update the payment yields that would be used in calculating any counter-cyclical payments for covered

commodities on the farm. If yields are updated for counter-cyclical payments for one covered commodity, yields must be updated for *all* covered commodities on the farm.
Act Sec. 1102(e)(1).

In the event the owner of a farm elects to update yields for payments, the counter-cyclical payment yield for a covered commodity is to equal the yield determined under either of the following—

- a. The sum of the payment yield applicable for direct payments for the covered commodity on the farm and 70 percent of the difference between the average yield per planted acre for the crop of the covered commodity on the farm for 1998 through 2001 crop years and the payment yield applicable for direct payments for the covered commodity on the farm, or
- b. 93.5 percent of the average yield per planted acre for the crop of the covered commodity for the farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the crop of the covered commodity was zero.

Act Sec. 1102(e)(3).

The owner of a farm may *not* elect one method for one covered commodity and the other method for other covered commodities on the farm.

Act Sec. 1102(e)(5).

If the yield per planted acre for a crop of the covered commodity for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that commodity, the Secretary is to assign a yield for that crop year equal to 75 percent of the county for the purpose of determining the average yield.

Act Sec. 1102(e)(4).

The Conference Report (but not the statute) states that the Secretary is to recognize that producers planting crops for grazing that will be included as base acreage may be unable to furnish production evidence similar to that furnished by producers who harvest crops for grain. For those owners intending to partially update a crop's counter-cyclical yield in that situation, the Secretary is to equitably determine the yield on the grazed acreage to be used for purposes of proven yields by either assigning a yield based on the actual production for that year on similar farms that harvested grain or other method determined appropriately by the Secretary.

Conf. Report on Act Sec. 1102.

4. Establishment of base acres and payment acres for a farm

For the purpose of making direct and counter-cyclical payments to a farm, the Secretary is to give an owner of the farm an opportunity to elect the method by which the base acres of all covered commodities on the farm are to be determined.

Act Sec. 1101(a)(1).

Subject to the provision requiring the base acreage to be determined based on a four-year average, including the years in which the crop was not planted, and the treatment of multiple plantings or prevented planting on the same acreage, owners are to use the four-year average of the following—

- a. Using the acreage planted on the farm to covered commodities for harvest, grazing, haying, silage or other similar purposes for the 1998 through 2001 crop years including any acreage on the farm; any acreage that the producers were prevented from planting to covered commodities because of drought, flood or other natural disaster or other condition beyond the control of the producers, as determined by the Secretary, or
- b. Contract acreage that would be used to calculate the fiscal year 2002 production flexibility contract payments and the four-year acreage for each oilseed produced on the farm for the 1998 through 2001 crop years.

Act Sec. 1101(a)(1)(A).

Note that the Conference Report states the above differently—

“Subject to the provision requiring the base acreage to be determined based on a four-year average, including the years in which the crop was not planted, and the treatment of multiple plantings or prevented planting on the same acreage, owners may choose the farm’s acreage base by either: (1) using the acreage planted on the farm to covered commodities for harvest, grazing, haying, silage, or other similar purposes for the 1998 through 2001 crop years including any acreage on the farm that the producers were prevented from planting to covered commodities because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary or (2) contract acreage that would be used to calculate the fiscal year 2002 production flexibility contract payments and the four-year average for each oilseed produced on the farm in the 1998 through 2001 crop years.”

Conf. Report under Act Sec. 1101(a).

The Secretary is not to exclude any crop year in which a covered commodity was not planted for purposes of determining a four-year average.

Act Sec. 1101(a)(2)(B).

The owner of a farm may increase the eligible acreage for an oilseed on the farm by reducing the production flexibility contract acreage for one or more covered commodities on an acre-for-acre basis, except that the total base acreage for each oilseed on the farm may not exceed the four-year average of each oilseed.

Act Sec. 1101(a)(2)(C).

For purposes of determining the four-year average of acreage planted or prevented from being planted during the 1998 through 2001 crop years to covered commodities, acreage that was planted or prevented from being planted that was devoted to another covered commodity in the same crop year may only be used in the base calculation after the

owner determines whether the initial commodity or the subsequent commodity, but not both, will be used.

Act Sec. 1101(a)(4).

As soon as practicable after enactment, the Secretary is to provide notice to owners of farms regarding their opportunity to make the applicable base election. The notice is to include—

- a. Notice that the opportunity of an owner to make the election is being provided only once and
- b. Information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

Act Sec. 1101(b)(1).

The owner may make an election of base acres only once and must provide notice of the election to the Secretary within the time period and in the manner prescribed by the Secretary.

Act Sec. 1101(b)(2).

If an owner fails to make an election of base acreage, or fails to notify the Secretary, *the owner is deemed to have chosen base acres reflecting the production flexibility contract acreage, plus oilseeds if applicable.*

Act Sec. 1101(c).

The election made by the producer applies to all covered commodities on the farm.

Act Sec. 1101(d).

The Secretary is to provide for an appropriate adjustment in the base acres for covered commodities for a farm whenever land under a conservation reserve contract expires, is voluntarily terminated or is released by USDA.

Act Sec. 1101(e)(1).

For the crop year in which a base acre adjustment is first made, the farm owner is to elect to receive either direct payments and counter-cyclic payments with respect to the acreage added to the farm *or* a prorated payment under the conservation reserve contract, but not both.

Act Sec. 1101(e)(2).

Payment acres for both the direct and counter-cyclical payments are to equal 85 percent of the base acres.

Act Sec. 1101(f).

The sum of base acres, base acres for peanuts, and acreage enrolled in CRP, WRP and other conservation programs which restrict or prohibit the production of an agricultural

commodity cannot exceed the actual cropland acreage on the farm. If it does, the Secretary is to reduce the base acres so that the total does not exceed the actual cropland acreage.

Act Sec. 1101(g)(1).

The owner of the farm is to be given the opportunity to select the base acres against which the reduction is to be made.

Act Sec. 1101(g)(3).

The owner of a farm may reduce, at any time, base acreage for any covered commodity for the farm provided the reduction of base acreage is permanent.

Act Sec. 1101(h).

The Conference Report states that the Secretary is to allow owners of a farm who did not hold a production flexibility contract under the FAIR Act of 1996 to elect to calculate base acreage for planting history on the farm for crop years 1998-2001. *The intent is to provide the opportunity to update base acreage to reflect a more recent planting history, to allow owners not holding production flexibility contracts to receive farm program benefits under the 2002 Act and to allow owners holding production flexibility contracts the opportunity to retain their base acreage and add oilseeds in a "limited manner."*

The Conference Managers expect the Secretary to recognize that, although the owner of the farm will be allowed the opportunity to make the applicable base election under Section 1101, it is important that other producers on the farm be notified of the acreage options available to the owner. Therefore, in addition to providing notice to the owner of the farm, notice is to also be provided to operators or producers on the farm of the owner's opportunity to elect the method in which to calculate base acres.

The Conference Managers are aware that production flexibility contract acreage was not protected on acreage enrolled in the CRP during CRP signup 15 or later. The Conference Managers intend that the Secretary develop a method that provides for the restoration of base acreage on farms that permanently reduced contract acreage because of CRP enrollment. Since soybeans and other oilseeds did not have contract acreage prior to the 2002 Act, the Secretary is expected to treat soybeans and other oilseeds in a manner similar to and consistent with other covered commodities.

Conf. Report under Act Sec. 1101.

B. Payments available under the Act

1. For easy reference, the commodity loan rates, direct payments and target price levels for selected crops are shown in Table 1.

Table 1. Commodities

Loan Rates, Direct Payments and Target Prices for Covered Commodities					
	Loan Rate		Direct Payment	Target Price	
	2002-2003	2004-2007		2002-2003	2004-2007
Corn (bu)	\$1.98	\$1.95	\$0.28	\$2.60	\$2.63
Sorghum (bu)	\$1.98	\$1.95	\$0.35	\$2.54	\$2.57
Barley (bu)	\$1.88	\$1.85	\$0.24	\$2.21	\$2.24
Oats (bu)	\$1.35	\$1.33	\$0.024	\$1.40	\$1.44
Wheat (bu)	\$2.80	\$2.75	\$0.52	\$3.86	\$3.92
Soybeans (bu)	\$5.00	\$5.00	\$0.44	\$5.80	\$5.80

2. Direct payments

Direct payments are to be made to eligible producers on farms for which payment yields and base acres are established for each of the 2002 through 2007 crop years at the payment rates shown in Table 1.

Act Sec. 1103(a), (b).

The amount of the direct payment is to equal the product of the payment rate of the applicable base crop, the payment acres and the payment yield.

Act Sec. 1103(c).

For 2002, the Secretary is directed to make payments as soon as practicable after the date of enactment of the Act; for 2003 through 2007 the direct payments are not to be paid before October 1 of the calendar year in which the crop of the covered commodity is harvested.

Act Sec. 1103(d)(1).

A producer may elect to receive up to 50 percent of the direct payment in advance for any of the 2003 through 2007 crop years. The payments may be made in any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested through the month the payment would otherwise be made. The producer may change the selected month for a subsequent crop year by providing advance notice to the Secretary.

Act Sec. 1103(c)(2).

If a producer who receives an advance direct payment ceases to be a producer or changes shares before the date the remainder of the direct payments are to be made, the producer must repay the applicable amount of the advance payment.

Act Sec. 1103(c)(3).

The Conference Managers state in the Conference Report that the Managers are aware that producers that elect to receive up to 50 percent of an advance direct payment might

cease to be a producer on the farm before the date the remainder of the direct payment is made. The Managers assume the Secretary recognizes that different reasons exist for a producer ceasing to be a producer on a farm. Those reasons would include bankruptcy, foreclosure and similar situations that would preclude the producer from repaying the advance direct payment. Specifically, the Managers would not intend for this provision to apply in situations where a producer with winter wheat harvested a crop or failed to harvest the crop for weather-related reasons beyond their control and the acreage was subsequently under the control of another producer that intended to plant a subsequent crop, or other similar situations. Conversely, the Managers expect that there are a number of situations where the producer receiving the advance direct payment ceases to be a producer on the farm and should refund the advance direct payment.

Conf. Report under Act Sec. 1103.

Note on constructive receipt: whenever federal farm program payments are payable at the election of the owner or producer in an earlier taxable year, as is the case in the 2002 Act, the Internal Revenue Service has asserted the doctrine of constructive receipt to make the payments taxable in the earliest year the payments could have been received even though the election to receive the funds earlier was not made. E.g., Rev. Rul. 68-44, 1968-1 C.B. 191. A similar situation existed under the FAIR Act of 1996 and Congress enacted legislation in 1998 making payments under that legislation not subject to constructive receipt. *Pub. L. No. 105-277, Sec. 2012, 105th Cong., 2d Sess. (1998)*. Similar legislation was passed in 1999 (Pub. L. 106-170). The 2002 Act in an attempt to avoid the constructive receipt of income referred to Pub. L. 106-170 but not to Pub. L. 105-277. The Senate Committee believes the present language is adequate and this author is now inclined to agree. Income under the 2002 Act will be reportable into income in the year of receipt.

3. Counter-cyclical payments

Counter-cyclical payments are to be made to producers on farms for which payment yields and base acres are established with respect to a covered commodity whenever the “effective” price is less than the “target” price.

Act Sec. 1104(a).

The “effective” price for a covered commodity is equal to the sum of (1) the higher of the national average market price during the 12-month marketing year for the commodity or the national average loan rate for a marketing assistance loan for the commodity and (2) the payment rate for direct payments for the commodity.

Act Sec. 1104(b).

The loan rate and target price appear in Table 1.

Act Sec. 1104(c).

The payment rate for counter-cyclical payments is equal to the difference between the target price and the effective price for the commodity.

Act Sec. 1104(d).

The payment amount for counter-cyclical payments is the product of the payment rate, the payment acres and the payment yield or updated payment yield, depending upon the election of the owner of the farm.

Act Sec. 1104(e).

The counter-cyclical payments are to be made “as soon as practicable” after the end of the 12-month marketing year for the covered commodity.

Act Sec. 1104(f)(1).

If the Secretary estimates that counter-cyclical payments will be required, the Secretary is to give producers the option to receive partial payments. For partial payments for any of the 2002 through 2006 crop years, the first partial payment for the crop is to be made not earlier than October 1 and, to the maximum extent practicable, not later than October 31 of the calendar year in which the crop is harvested. The second partial payment is to be made not earlier than February 1 of the next calendar year. The third and final partial payment is to be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

Act Sec. 1104(f)(3)(A).

For the 2002 through 2006 crop years, the first partial payment may not exceed 35 percent of the projected counter-cyclical payment for the covered commodity for the crop year. The second partial payment may not exceed the difference between 70 percent of the revised projection of the counter-cyclical payment for the crop of the covered commodity and the amount of the first partial payment. The final payment is to equal the difference between the actual counter-cyclical payment to be made to the producer and the amount of the first and second partial payments.

Act Sec. 1104(f)(4)(A).

For the 2007 crop year, the first partial payment is to be made after completion of the first six months of the marketing year and the second and final partial payments are to be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

Act Sec. 1104(f)(3)(B).

The first partial payment, for the 2007 crop year, may not exceed 40 percent of the projected counter-cyclical payment. The final payment is to equal the difference between the actual counter-cyclical payment to be made to the producer and the amount of the partial payment.

Act Sec. 1104(f)(4)(B).

The producer must repay the amount, if any, by which the partial payments exceed the counter-cyclical payment to be made in that crop year.

Act Sec. 1104(f)(5).

C. Required producer agreement

Before producers may receive direct payments or counter-cyclical payments, the producers must agree, in exchange for the payments, to comply with applicable conservation requirements, applicable wetland protection requirements, planting flexibility requirements, use the base acres for an agricultural or conserving use and not for a non-agricultural commercial or industrial use and, on non-cultivated land attributable to the base acres, control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices.

Act Sec. 1105(a)(1).

The Secretary, at the request of the transferee or owners, may modify these requirements if the modifications are consistent with the objectives of this provision.

Act Sec. 1105(a)(3).

A transfer of or change in the interest of a producer in base acres for which direct or counter-cyclical payments are made is to result in the termination of the payments with respect to base acres unless the transferee or owner agrees to assume all obligations under conservation, wetlands, planting flexibility, agriculture land use provisions and noxious weed control provisions. The termination date is determined by the Secretary.

Act Sec. 1105(b)(1).

The Conference Report states that when there is a transfer (or change in) the interest of a producer in base acres for which direct or counter-cyclical payments are made, the intent is that the time frame for the succession to occur is to be “farmer-friendly.”

Conf. Report Under Act Sec. 1105(a).

If a producer entitled to a direct or counter-cyclical payment dies, becomes incompetent or is otherwise unable to receive payment, the payments are to be made as provided in regulations.

Act Sec. 1105(b)(2).

A producer who receives direct payments, counter-cyclical payments or marketing loan benefits is required to submit annual acreage reports with respect to all land on the farm.

Act Sec. 1105(c).

The Conference Report states that acreage reports provide important information for assisting in determining the eligibility of land to be accepted into the CRP. The Managers are aware that, in prior years, penalties have been imposed on producers submitting acreage reports found later to be inaccurate. The Managers understand that, under prior acreage limiting and acreage reduction programs, there was a need for very accurate reporting. However, under the 2002 Act, with the exception of determining the amount of fruits, vegetables and wild rice planted on base acreage, there is no need or requirement for that level of accuracy. Therefore, the Managers *do not intend for any penalty to be applicable to inaccurate acreage reports* on covered commodities or peanuts provided the producer has made a good faith effort accurately to report acreage.

Conf. Report Under Act Sec. 1105(c).

The Secretary is to provide “adequate safeguards” to protect the interests of tenants and sharecroppers.

Act Sec. 1105(d).

Direct and counter-cyclical payments are to be shared among producers on a farm on a “fair and equitable basis.”

Act Sec. 1105(e).

D. Planting flexibility

In general, any commodity or crop may be planted on base acres on a farm.

Act Sec. 1106(a).

However, the planting of fruits and vegetables produced on trees or other perennials is prohibited on base acres and the planting of fruits, vegetables (other than lentils, mung beans and dry peas) and wild rice is prohibited on base acres unless the commodity, if planted, is destroyed before harvest.

Act Sec. 1106(b).

Those restrictions do not apply—

1. In any region where there is a history of double-cropping of covered commodities with the commodities specified in the Act Sec. 1106(b);
2. On a farm with a history of planting the commodities specified in the Act Sec. 1106(b) except that direct payments and counter-cyclical payments are to be reduced by an acre for acre planted to such an agricultural commodity; or
3. On a farm with a planting history of a commodity specified in the Act Sec. 1106(b) except that the quantity planted may not exceed the average annual planting history of the commodity on the farm in the 1991-1995 period or 1998-2001 crop years (excluding crop years in which no plantings were made) and direct payments and counter-cyclical payments are reduced by an acre for each acre planted to such agricultural commodity.

Act Sec. 1106(c).

For the 2002 crop year, if the calculation of base acres results in total base acres for a farm in excess of the contract acreage for the farm that was used to calculate the fiscal year 2002 payment, the planting of fruits, vegetables and wild rice on new base acres is allowed, provided the direct and counter-cyclical payments for the 2002 crop year are reduced on an acre-for-acre basis.

Act Sec. 1106(d).

E. Payment authority under the FAIR Act of 1996

The authority to make production flexibility contract payments under the FAIR Act of 1996 is terminated as of the date of enactment of the 2002 Act unless requested by a producer who is a party to the contract.

Act Sec. 1107(a).

In that event, the amount of the producer's direct payment for fiscal year 2002 is reduced by the amount of the production flexibility contract payment.

Act Sec. 1107(b).

F. Marketing assistance loans

1. Eligibility

Non recourse marketing assistance loans are to be made available for producers for commodities produced on the farm including extra long staple cotton, wool, mohair, honey, dry peas, lentils and small chick peas for each of the 2002 through 2007 crop years.

Act Sec. 1201(a).

Producers on a farm are eligible for a marketing assistance loan for *any* quantity of a loan commodity produced on the farm.

Act Sec. 1201(b).

The Conference Report states that loan commodities harvested for hay and silage and unshorn pelts are eligible only for a loan deficiency payment.

Conf. Report Under Act Sec. 1201.

Producers that would otherwise be eligible but for the fact that the covered commodity is commingled with covered commodities of other producers in facilities unlicensed for the storage of commodities are eligible if the producer obtaining the loan agrees to redeem the loan collateral immediately.

Act Sec. 1201(c).

Producers are required to comply with applicable conservation requirements and applicable wetland protection requirements as a condition to receiving marketing loan assistance.

Act Sec. 1201(d).

Authority for marketing assistance loans under the FAIR Act of 1996 cannot be used for the 2002 crop of loan commodities.

Act Sec. 1201(e).

The Conference Report states that, beginning with the 2002 crop, the Managers intend for marketing loan and loan deficiency program benefits to be made available for all farms producing loan commodities regardless of whether the farm does or does not have base acreage.

Conf. Report Under Act Sec. 1201.

2. Loan rates

The loan rates are as shown in Table 1.
Act Sec. 1202.

The Conference Report states that the Managers anticipate that the Secretary will take advantage of the change in national average loan rates to review and adjust, as appropriate, the county loan rates.

To the extent practicable, for purposes of making loans and loan deficiency payments, the Secretary should designate loan rates “in those units that are consistent with the units in common usage in the industry.”

The Conference Report also states that the provision for non-graded wool be made available for wool that has not been objectively measured for fiber diameter (micron) and yield. Documentation of objective measurement is commonly known as a core test, which is available through laboratory analysis. It is the intent of the Managers that the Secretary provide the graded wool rate to wool that meets the terminology used by the wool industry to define graded wool, such as core tested.

Conf. Report Under Act Sec. 1202.

3. Term of loans

The term for marketing assistance loans is nine months beginning on the first day of the first month after the month in which the loan is made.

Act Sec. 1203(a).

The Secretary may not extend the term of a marketing assistance loan.

Act Sec. 1203(b).

4. Repayment of loans

Producers of loan rate commodities (other than upland cotton, rice and extra long staple cotton), including wheat, corn, grain sorghum, barley, oats, soybeans, other oilseeds, dry peas, lentils, small chickpeas, wool, mohair and honey, are to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or a rate that the Secretary determines will minimize forfeitures, accumulations of stocks, and storage costs; will allow the commodity to be marketed feely and competitively; and will minimize discrepancies in marketing loan benefits across state boundaries and county boundaries.

Act Sec. 1204(a).

Producers of upland cotton and rice are to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or the prevailing “world

market price” (adjusted to U.S. quality and location), as determined in accordance with Section 163 of the FAIR Act of 1996.

Act Sec. 1204(b).

Producers of extra long staple cotton can repay a marketing assistance loan at the loan rate plus interest as determined in accordance with Section 163 of the FAIR Act of 1996.

Act Sec. 1204(c).

The Secretary is to prescribe by regulation the formula to determine the prevailing world market price for upland cotton and rice and a mechanism to announce the price periodically.

Act Sec. 1204(d).

5. Beneficial interest

For the 2001 crop only, in the case of a producer who marketed or lost beneficial interest before repaying the loan, the Secretary is to permit the producer to repay the loan at the appropriate repayment rate that was in effect for the loan commodity as of the date the producer lost beneficial interest if the Secretary determines the producer acted in good faith.

Act Sec. 1204(f).

6. Conference Report on minor crop loan and repayment rates

The Conference Report states that, in determining loan repayment rates for loan commodities other than upland cotton and rice, the Secretary is to consider alternative methodologies, including establishing the Posted County Prices for grains and oilseeds at levels that reflect market prices at both terminal markets for counties with two terminal markets. The Secretary is expected to determine whether assigning equal weight to two terminal markets will better reflect local market prices than the current system of using the higher of the two terminal markets to establish the Posted County Price.

In implementing the marketing assistance loan for minor oilseeds, the Secretary is expected to establish a single sunflower loan rate in each county for oil-type, confection and other-type sunflowers combined. The Secretary is also expected to continue to announce weekly loan repayment rates for sunflowers reflecting local market prices that minimize potential loan forfeitures. Accordingly, sunflower seed loan repayment rates should reflect oil-type sunflower seed local market prices.

The Conference Report notes that a marketing assistance loan program has been established for pulse crops—dry peas, lentils and small chickpeas. The loan rate for dry peas is based on U.S. feed pea prices; the loan rate for lentils is based on the price of U.S. No. 3 lentils; and the loan rate for small chickpeas is based on the prices of chickpeas that drop below a 20/64 screen. Accordingly, the Secretary is expected to calculate regional pulse loan rates and repayment rates based on the prices of feed peas, No. 3 lentils and chickpeas that drop below a 20/64 screen.

Conf. Report Under Act Sec. 1204.

G. Loan deficiency payments

The 2002 Act provides for the continuation of loan deficiency payments to producers who, although eligible for a marketing assistance loan, agree to forego a loan in favor of receiving an LDP.

Act Sec. 1205(a)(1).

Non-graded wool in the form of unshorn pelts, hay and silage derived from a loan commodity are not eligible for a marketing assistance loan. However, the commodities are eligible for loan deficiency payments when unshorn pelts, hay or silage are derived from a loan commodity.

Act Sec. 1205(a)(2).

The loan deficiency payment is determined by multiplying the payment rate by the quantity of the loan commodity produced, excluding any commodity for which the producer obtained a loan.

Act Sec. 1205(b).

The payment rate is the amount by which the loan rate exceeds the rate at which the loan may be repaid.

Act Sec. 1205(c)(1).

The loan deficiency payment for unshorn pelts is based on the rate in effect for ungraded wool and the LDP for hay and silage is based on the loan commodity from which the hay and silage are derived.

Act Sec. 1205(c)(2), (3).

Loan deficiency payments do not apply to long staple cotton.

Act Sec. 1205(d).

A loan deficiency payment rate is to be based on the date the producer requests the payment.

Act Sec. 1205(e).

For the 2002 crop of wool, mohair, honey, dry peas, lentils and small chickpeas (the “first-time” loan commodities) that would be eligible for a LDP except for the fact that the producer lost beneficial interest in the crop prior to the date of publication of the regulations implementing this provision, the producers are eligible for a LDP payment as of the date the producer marketed or otherwise lost beneficial interest in the crop.

Act Sec. 1205(f)(1).

The legislation provides for loan deficiency payments on crop year 2001 commodities on farms that do not have an AMTA contract. The Secretary is to make payment on the date the producer marketed or lost beneficial interest in the loan commodity or the date the producer requested payment.

Act Sec. 1205(f)(2).

H. Payments in lieu of LDPs for grazed acreage

For the 2002 through 2007 crop years, for a producer who would be eligible for a LDP for wheat, barley or oats, but who elects to use acreage planted to wheat, barley or oats for the grazing of livestock, a LDP payment may be made if the producer enters into an agreement to forego any other harvesting of the wheat, barley or oats on that acreage.

Act Sec. 1206(a)(1).

Likewise, for the 2002 through the 2007 crop years, a producer on a farm who uses acreage planted to triticale for the grazing of livestock may receive a LDP if the producer enters into an agreement to forego any other harvesting of triticale on that acreage.

Act Sec. 1206(a)(2).

The amount of payment is equal to the amount determined by multiplying the LDP payment rate in effect, as of the date of the agreement, for the county in which the farm is located, by the payment quantity (determined by multiplying the quantity of the grazed acreage on the farm with respect to which the producer elects to forego harvesting of wheat, barley or oats and the payment yield in effect for the calculation of direct payments with respect to that loan commodity on the farm or, in the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary).

Act Sec. 1206(b)(1).

A similar formula is prescribed for the triticale LDP.

Act Sec. 1206(b)(2).

The Conference Report states that, for purposes of determining the LDP on triticale acreage, the Secretary is to take into account the predominant class of wheat grown in the county in which the farm is located.

Conf. Report Under Act Sec. 1206(b)(2).

The legislation makes it clear that, for the 2002 through the 2007 crops of wheat, barley, oats or triticale planted on acreage that the producer elects to use for the grazing of livestock, the producer is not eligible for a Federal Crop Insurance Act indemnity.

Act Sec. 1206(d).

I. Special marketing loan for upland cotton

Through July 31, 2008, the special marketing loan provisions for upland cotton remain unchanged including provisions relating to cotton user marketing certificates, special impact quota and the limited global import quota for upland cotton.

Act Sec. 1207.

J. Special competitive provisions for extra long staple cotton

Through July 31, 2008, the special competitive provisions for extra long staple cotton remain unchanged including provisions relating to the competitiveness program, payments under the program, eligibility and the amount and form of payment.

Act Sec. 1208.

K. Recourse loans for high moisture feed grains and seed cotton and other fibers.

The availability of recourse loans for high moisture feed grains and seed cotton remains unchanged for the 2002 through 2007 crops. Loans are determined by multiplying the acreage in a high moisture state on the farm by the lower of the farm program payment yield used for counter-cyclical payments or the actual yield.

Act Sec. 1209.

L. Dairy

1. Milk Price Support Program

The Milk Price Support Program is authorized from June 1, 2002, through December 31, 2007, at a rate of \$9.90/cwt on a 3.67 percent milk fat basis.

Act Sec. 1501(a), (b).

The purchase prices for butter and nonfat dry milk powder may be allocated so as to minimize expenditures from the Commodity Credit Corporation. The Secretary may modify purchase prices for butter and nonfat dry milk not more than twice per year.

Act Sec. 1501(d).

2. National dairy market loss payments

The legislation establishes a national payment program using a payment formula under which participating dairy producers will receive monthly payments equal to 45 percent of the difference between \$16.94 and the price per hundredweight of Class I fluid milk in Boston under the applicable federal milk marketing order. No payments will be made for months during which the fluid milk price in Boston is \$16.94 or higher.

Act Sec. 1502(b), (c).

Producers on a “single dairy operation” may receive payments on no more than 2.4 million pounds of milk marketed per year.

Act Sec. 1502(d)(2).

The Secretary is to issue regulations to insure that a producer does not “reconstitute” a dairy operation for the sole purpose of receiving additional payments.

Act Sec. 1502(d)(3).

On that point, the Conference Report states that previous Dairy Market Loss Assistance Programs provided discretion to the Secretary to limit payments to individual dairy operations. It is the intent of the Managers that this program be administered in the same

manner, thereby limiting payments on an operation-by-operation basis. Accordingly, a producer might qualify for separate limits on separate operations.

The Managers intend that, in carrying out this section, the Secretary utilize information available through the Agricultural Marketing Service monthly milk marketings by producers.

Conf. Report Under Act Sec. 1502(d).

Payments will be made not later than 60 days after the end of each month for which a payment is made. Retroactive payments will be made covering market losses due to low prices since December 1, 2001.

Act Sec. 1502(e), (f).

Producers are to enter into contracts covering eligible production marketed by the producers on the dairy farm during the period starting with the first day of the month the contract is entered into and ending on September 30, 2005.

Act Sec. 1502(g)(1).

Violations may result in contract termination or repayment of a portion of the payments received.

Act Sec. 1502(g)(2).

The Secretary is charged with conducting a study of the effects of terminating all federal programs relating to price support and supply management for milk and granting the consent of Congress to cooperative efforts by states to manage milk prices and supply.

Act Sec. 1508(a).

M. Administration of programs (selected provisions)

1. Effect of 1938 and 1949 legislation

The legislation suspends the relevant provisions of the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 applicable otherwise to the 2002 through 2007 crops of covered commodities.

Act Sec. 1602.

2. Payment limitations

Under the 2002 Act, the total direct and counter-cyclical payments to a “person” for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton and rice per crop year may not exceed \$40,000 and \$65,000, respectively.

Act. Sec. 1603(a), amending 7 U.S.C. § 1308.

The payment limitation for peanuts for direct and counter-cyclical payments is also \$40,000 and \$65,000, respectively.

Act. Sec. 1603(a), amending 7 U.S.C. § 1308.

The limit on marketing loan gains and loan deficiency payments for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton, rice, lentils, dry peas and small chickpeas that a “person” is entitled to receive is \$75,000.

Act. Sec. 1603(a), amending 7 U.S.C. § 1308.

The legislation provides for a separate marketing loan gain and loan deficiency payment limitation for peanuts, wool, mohair, and honey of \$75,000 per person.

Act. Sec. 1603(a), amending 7 U.S.C. § 1308.

The 2002 Act contains a limitation based on “adjusted gross income” which specifies that an individual or entity is not eligible for any program benefit during a crop year if the average adjusted gross income of the individual or entity exceeds \$2,500,000 *unless not less than 75 percent of the average adjusted gross income of the individual or entity is derived from farming, ranching or forestry operations.*

Act. Sec. 1604, adding 7 U.S.C. § 1308-4.

The benefits limited by the adjusted gross income limit are direct payments, counter-cyclical payments, marketing loan gains, LDPs and conservation (Title II of the 2002 Act and Title XII of the Food Security Act of 1985 (conservation)).

Act. Sec. 1604, adding 7 U.S.C. § 1308-4.

Note that the reference in the Act to Sec. 1001(d) of the Food Security Act of 1985 appears to be in error. It is believed to be Sec. 1001(1)(D) of the Food Security Act of 1985.

For benefits made in a crop year to an entity, general partnership or joint venture, the amount of the benefit is to be reduced by an amount which is commensurate with the direct and indirect ownership interest in the entity, general partnership or joint venture of each individual who has an average adjusted gross income in excess of the \$2,500,000 limitation for the average of the three preceding crop years.

Act. Sec. 1604, adding 7 U.S.C. § 1308-4.

To comply with the limitation, an individual or entity must provide to the Secretary a certification by a certified public accountant “or another third party that is acceptable to the Secretary” that the average adjusted gross income of the individual or entity does not exceed the limitation.

Act. Sec. 160,4 adding 7 U.S.C. § 1308-4.

Note, however, that this limitation applies only during the 2003 through 2007 crop years.

Act. Sec. 1604, adding 7 U.S.C. § 1308-4.

3. Commission on Payment Limits

The legislation provides for a “Commission on the Application of Payment Limitations for Agriculture.” The Commission is to report not later than one year after enactment of the 2002 Act.

Act Sec. 1605.

4. Assignment of payments

Under the 2002 Act, producers may assign any payments received under the Act by providing notice in the manner prescribed by the Secretary.

Act Sec. 1612.

5. Hard white wheat incentive payments

The legislation provides for the 2003 through 2005 crop years a total of \$20 million in incentive payments to growers who demonstrate that buyers and end-users are available for the wheat to be covered by the incentive payment.

Act Sec. 1616.

6. Market loss assistance for apple and onion producers

The legislation provides \$94 million to apple producers for the loss of markets during the 2000 crop year and \$10 million as a grant to onion producers in Orange County, New York, who suffered losses to onion crops during one or more of the 1996 through 2000 crop years.

Act Secs. 10105, 10106.

7. Assistance for livestock producers

Authorization is included (but funds are not appropriated) for assistance to livestock producers in the form of indemnity payments for mortality losses, livestock feed assistance for feed shortages, compensation for sudden increases in production costs and such other assistance as the Secretary considers appropriate.

Act Sec. 10104.

8. Availability of market loss assistance and emergency assistance to persons who failed to receive assistance

The legislation provides authority to use CCC funds for paying market loss assistance and emergency assistance to persons who failed to receive assistance before October 1, 2001.

Act Sec. 1617.

II. Conservation

A. Conservation Security Program

The legislation establishes the Conservation Security Program (CSP) for fiscal years 2003 through 2007 to assist producers in implementing various conservation practices as applicable for each individual operation.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238A(a).

1. Eligible lands

Eligible lands include private cropland, grassland, prairie land, pasture land, private forest land that is an incidental part of a farming operation and land under the jurisdiction of an Indian tribe.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238A(b)(2).

Lands enrolled in the CRP, WRP or the Grasslands Reserve Program (GRP) are not eligible for enrollment nor are lands that have not been cropped for more than four out of the past six years.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238A(b)(3).

2. Allowed economic use

Producers are allowed to make economic uses of the land that—(1) maintain the agricultural nature of the land and (2) are consistent with the natural resource and conservation objectives of the program.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238A(b)(4).

3. Tiers of conservation security contracts

The Secretary is to establish and offer to producers three tiers of conservation contracts under which payments may be received.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238A(d)(1)(A).

The tiers are specified in the 2002 Act as follows—

- a. A tier I CSP contract is to be for a period of five years and includes conservation practices appropriate for the agricultural operation that, at a minimum, address at least one “significant resource of concern for the enrolled portion of the agricultural operation at a level that meets the appropriate non degradation standard” and covers “active management of the conservation practices that are implemented or maintained under the conservation security contract.”
- b. A tier II CSP contract is to be for a period of not less than five nor more than 10 years and is to include conservation practices appropriate for the agricultural operation that, at a minimum, address at least one significant resource of concern for the entire

agricultural operation at a level that meets the appropriate non degradation standard and covers active management of conservation practices that are implemented or maintained under the conservation security contract.

- c. A tier III CSP contract is to be for a period of not less than five nor more than 10 years and includes conservation practices appropriate for the agricultural operation that, at a minimum, apply a resource management system that meets the appropriate non degradation standard for all resources of concern of the entire agricultural operation and covers active management of conservation practices that are implemented or maintained under the conservation security contract.
Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238A(d)(5).

4. Permissible practices

Conservation practices that may be implemented by a producer under a conservation security contract include—(a) nutrient management; (b) integrated pest management; (c) water conservation and water quality management; (d) grazing, pasture and rangeland management; (e) soil conservation, quality and residue management; (f) invasive species management; (g) fish and wildlife habitat conservation, restoration and management; (h) air quality management; (i) energy conservation measures; (j) biological resource conservation and regeneration; (k) contour farming; (l) strip cropping; (m) cover cropping; (n) controlled rotational grazing; (o) resource-conserving crop rotation; (p) conversion of portions of cropland from a soil-depleting use, including production of cover crops; (q) partial field conservation practices; (r) native grassland and prairie protection and restoration; and (s) any other conservation practices determined by the Secretary to be appropriate and comparable to other conservation practices listed.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238A(d)(4).

5. Contract renewals

A conservation security contract may be renewed for an additional term of not less than five nor more than 10 years except that, in the case of Tier I renewals, the producer may renew the contract only if the producer agrees—

- a. To apply additional conservation practices that meet the non degradation standard on land already enrolled in the conservation security program, or
- b. To adopt new conservation practices with respect to another portion of the agricultural operation that address resource concerns and meet the non degradation standard under the terms of the Tier I conservation security contract.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238A(e)(4).

6. Violations

A producer will not be considered in violation of a conservation security contract for failure to comply due to circumstances beyond the control of the producer including a disaster or related condition.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238A(f).

7. Producer responsibilities

A producer, under the terms of a conservation security contract, must agree—

- a. To implement the conservation security plan as approved by the Secretary;
- b. Maintain and make available appropriate records showing the effective and timely implementation of the conservation security contract;
- c. Not engage in any activity that would interfere with the purposes of the program; and
- d. On violation of a term or condition of the contract, forfeit all rights to payments and refund payments as determined by the Secretary.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238B.

8. Payment guidelines

The guidelines for payment include the following—

- a. For tier I contracts, an amount equal to five percent of the “applicable base payment for land covered by the contract,” an amount not exceeding 75 percent (90 percent for a beginning farmer) of the average county costs of practices and an “enhanced payment” for additional enumerated practices;
- b. For tier II practices, an amount equal to 10 percent of the “applicable base payment for land covered by the conservation security contract,” an amount not exceeding 75 percent (90 percent for a beginning farmer) of the average county cost of adopting or maintaining practices and an enhanced payment for additional enumerated practices; and
- c. For tier III contracts, an amount equal to 15 percent of the “base payment for land covered by the conservation security contract,” an amount that does not exceed 75 percent (90 percent for a beginning farmer) of the average county cost of adopting or maintaining practices and an enhanced payment for additional enumerated practices.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238C(b)(1)).

The annual payments to an individual or entity cannot exceed \$20,000 under a tier I contract, \$35,000 under a tier II contract or \$45,000 under a tier III contract.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238C(b)(2).

9. Prohibited payments

A payment to a producer is not to be provided for construction or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations or the purchase or maintenance of equipment or a non-land based structure that is not integral to a land-based practice.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238C(b)(3).

10. Safeguards for tenants and sharecroppers

Regulations are to be promulgated to provide adequate safeguards to protect the interests of tenants and sharecroppers on a fair and equitable basis.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238C(d).

11. Transfer of interests in land

Unless duties and rights are transferred to and assumed by the transferee, a transfer or change in interest of a producer in land results in the termination of a conservation security contract.

Act Sec. 2001, adding Food Security Act of 1985, Sec. 1238C(e).

12. Beginning farmers and ranchers

Incentives may be provided to beginning farmers and ranchers, Indian tribes and limited resource agricultural producers to participate in conservation programs to (a) foster new farming and ranching opportunities and (b) enhance environmental stewardship over the long-term.

Act Sec. 2004, adding Food Security Act of 1985, Sec. 1244(a).

13. Privacy of personal information relating to natural resources conservation programs

The 2002 Act specifies that information received for technical and financial assistance with respect to any natural resources conservation program that is considered proprietary to the agricultural operation or land is not considered to be public information except for the availability of payment information under 5 U.S.C. § 552.

Act Sec. 2004, adding Food Security Act of 1985, Sec. 1244(b).

B. Conservation Reserve Program

The 2002 Act reauthorizes the CRP program through the 2007 calendar year.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1231(a).

1. Enrollment

The legislation adds marginal pasturelands devoted to appropriate vegetation, including trees, in or near riparian areas or for similar water quality purposes, including marginal pastureland converted to wetlands or established as wildlife habitat.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1231(b)(2), (3).

The legislation also allows enrollment of land which would contribute to degradation of soil, water or air quality if permitted to remain in production and land where enrollment would contribute to the conservation of ground or surface water where the result is a net savings in ground or surface water resources on the agricultural operation of the producer.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1231(b)(4).

2. Eligibility and cropping history

To be eligible, the land must have a cropping history or be considered to have been planted for four of the six years preceding the enactment of the 2002 Act.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1231(b)(1).

The Conference Report states that the Managers are concerned about reports that producers are planting crops on non-cropped lands as a means of being eligible to participate in CRP. This language is intended to prevent the enrollment of these lands under CRP.

The Managers understand the Secretary is currently reviewing the land eligibility criteria, including the eligibility of non-cropland that could be restored to serve as buffers. The Managers expect the Secretary to do this examination expeditiously.

Conf. Report Under Act Sec. 2101.

The legislation allows producers to enroll entire fields through the continuous CRP as buffers in cases in which more than 50 percent of the field is eligible for enrollment and the remainder of the field is infeasible to farm. The modification restricts payments on the remaining acreage to general sign-up rates.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1231(b)(5).

The Conference Report intends that USDA allow prescribed burning and other measures that are intended to enhance forage for the benefit of pheasants and other wildlife species on land enrolled in CRP.

In carrying out the CRP, the Managers direct the Secretary to evaluate qualifications and criteria relating to spring wind erosion of sandy soils not currently recognized by the Wind Erosion Equation.

The Managers expect the Secretary to develop ways to make land prone to frequent seasonal flooding, such as three out of the last five years, eligible for enrollment in the CRP, including, but not limited to, designating the area as a conservation priority area.

Conf. Report Under Act Sec. 2101.

3. Acreage limitations

The 2002 legislation raises the acreage cap to 39.2 million acres at any one time during the 2002 through 2007 calendar years including contracts that are extended.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1231(d).

4. Duration of contracts

The 2002 Act authorizes CRP contracts of not less than 10 and not more than 15 years.
Act Sec. 2101, amending Food Security Act of 1985, Sec. 1231(e)(1).

5. Signing and Practice Incentive Payments (SIPs and PIPs)

The Senate proposal directing the Secretary to provide signing and practice incentive payments for landowners who implement a practice under the conservation buffer or CREP programs at the highest rate currently provided was deleted. However, the Conference Report addresses the issue by stating that the Managers are concerned that the payments for practices may not reflect the conservation benefits of the practices. Grass wind strips, shelter belts, living snow fences and wellhead protection are particular activities that should receive serious consideration for signing and practice incentive payments. The Managers strongly encourage the Secretary to re-examine the procedures used to determine the incentive payment. The Managers intend that the Secretary should continue current signing and practice incentive payments throughout the duration of this legislation.

Conf. Report Under Act Sec. 2101.

6. Duties of owners and operators

Under the 2002 Act, USDA is to permit, consistent with the conservation of soil, water quality and wildlife habitat, managed harvesting and grazing on the land at a reduced rate. Harvesting and grazing or other commercial use of the forage are permitted in response to a drought or other emergency. The Secretary is to insure that all precautions are taken to protect against over grazing or haying or use of land during a period that may adversely impact wildlife habitat or wildlife directly, especially insuring that activities take place after the nesting season is completed.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1232(a)(7).

The Secretary is to permit wind turbines on CRP land, whether commercial in nature or not, in a manner that does not interfere with wildlife.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1232(a)(7).

It is noted that the Conference Committee deleted the House provision to replace the term “rental payment” with the term “conservation reserve payment.” The House language appears to have stemmed from the treatment of CRP payments for self-employment tax purposes. The Tax Court in 1998 held that CRP payments were rental payments and not subject to the 15.3 percent self-employment tax. *Fredrick J. Wuebker, 110 T.C. 431 (1998)*. However, that case was reversed on appeal in 2000. *Wuebker v. Commissioner, 205 F.3d 897 (6th Cir. 2000)*.

7. Expansion of CRP Wetland Pilot Program nationwide

The 2002 Act expands the CRP Wetland Pilot Program nationwide, limiting enrollment to 100,000 acres in any state and 1,000,000 acres nationwide, during the 2002 through 2007 calendar years.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1231(h)(1)(C).

An owner or operator may enroll in CRP a wetland that was cropped during at least three of the immediately preceding 10 crop years (including a converted wetland) and buffer acreage that is contiguous to the wetland, used to protect the wetland and of such width as necessary to protect the wetland, taking into consideration and accommodating the farming practices used with respect to the cropland surrounding the wetland.

Act Sec. 2101, amending Food Security Act of 1985, Sec. 1231(h)(2)(A).

The Conference Report states that, in expanding the CRP Wetland Pilot Program nationwide, the Managers recognize that the playa lakes found throughout the Southern Great Plains states of Kansas, Oklahoma, Colorado, New Mexico and Texas, are also worthy of protection as they function as recharge points for the Ogallala Aquifer, help in containing flood waters and provide habitat for hundreds of bird species. Playa lakes are the most significant topographical and hydrological attribute in the Southern Great Plains. Playa lakes are often dry enough to be farmed due to the annual precipitation rates and high evaporation rates that occur in the high plains.

Conf. Report Under Act Sec. 2101.

The Conference Committee struck a Senate proposal to require the Secretary to provide up to 500,000 acres for CREP (Conservation Reserve Enhancement Program, 7 C.F.R. Pt. 1410) but the Conference Report states that the Managers encourage the Secretary to allow states to have flexibility in creating CREP programs.

Conf. Report Under Act Sec. 2101.

C. Wetlands Reserve Program (WRP)

The 2002 Act extends the Wetlands Reserve through 2007.

Act Sec. 2201.

The legislation clarifies that technical assistance is provided under the WRP and allows the Secretary to raise the acreage cap to 2,275,000 acres. The Secretary is required to enroll 250,000 acres per year “to the maximum extent practicable.”

Act Sec. 2202, amending Food Security Act of 1985, Sec. 1237(b)(1).

The Secretary is to enroll acreage into the WRP through the use of permanent easements, 30-year easements, restoration cost-share agreements or any combination.

Act Sec. 2202, amending Food Security Act of 1985, Sec. 1237(b)(1).

D. Environmental Quality Incentives Program (EQIP)

The 2002 Act continues the EQIP program through 2007.

Act Sec. 2301, amending Food Security Act of 1985, Sec. 1240B(a)(1).

In a disagreement between the House and Senate over the stated purpose of EQIP, the Senate prevailed in its statement that the purposes of QTIP are to promote agricultural production and environmental quality as compatible national goals and to (1) assist producers in complying with federal, state and local environmental laws; (2) avoid the need for regulatory programs; (3) provide assistance to producers for installing and maintaining conservation systems; (4) assist producers in making certain conservation changes; (5) facilitate partnerships between producers, government and non government organizations; and (6) consolidating and streamlining conservation planning. The 2002 Act states also that air quality is a component of EQIP.

Act Sec. 2301, amending Food Security Act of 1985, Sec. 1240.

The Conference Report states that the Managers expect the Secretary to continue carrying out EQIP with the goal of optimizing environmental benefits.

Conf. Report Under Act Sec. 2301.

The 2001 Act contains several other changes—(a) incentive payments for comprehensive nutrient management plans; (b) minimum term of one year for contracts beyond the date of project completion; (c) removal of the “bidding down” procedure that assigns a higher priority to an application because it costs less; and (d) increased cost-share payments for beginning and limited-resource farmers.

Act Sec. 2301, amending Food Security Act of 1985, Sec. 1240B(b).

In terms of payment limitations, an individual or entity may not receive, directly or indirectly, cost-share or incentive payments that, in the aggregate, exceed \$450,000 for all contracts entered into during the period of fiscal years 2002 through 2007, “regardless of the number of contracts entered into...by the individual or entity.”

Act Sec. 2301, amending Food Security Act of 1985, Sec. 1240G.

The 2002 Act rewrites the provision on ground water and surface water conservation. Water conservation activities that are eligible for incentive payments and cost-share include the lining of ditches and installation of piping, tail water return systems, low-energy precision irrigation systems, low-flow irrigation systems, off-stream and groundwater storage and conversion from gravity or flood irrigation to higher efficiency systems.

Act Sec. 2301, amending Food Security Act of 1985, Sec. 1240I.

The Secretary may provide cost-share and incentive payments under this provision only if the assistance will facilitate a conservation measure that results in a net savings in ground or surface water resources on the agricultural operations of the producers.

Act Sec. 2301, amending Food Security Act of 1985, Sec. 1240I(b).

An amount of \$50,000,000 is made available for the Klamath Basin in Oregon and California.

Act Sec. 2301, amending Food Security Act of 1985, Sec. 1240I(c)(2).

E. Grassland Reserve Program

The 2002 Act establishes a Grassland Reserve Program (GRP) to assist owners “in restoring and conserving eligible land.”

Act Sec. 2401.

The total number of acres is not to exceed 2,000,000 acres under 10, 15, 20 and 30-year contracts as well as 30-year and permanent easements.

Act. Sec. 2401, adding Food Security Act of 1985, Secs. 1238N(b), (c).

The Conference Report states that the Managers intend that the Secretary is to permit common grazing practices. In permitting such activities, the Managers intend that the Secretary will allow for maintenance and necessary cultural practices common to grazing systems utilized throughout the various regions of the country. These management practices may include such things as: controlled burning, aeration, over-seeding, reseeding, planting of new native species or any other practice as determined by the Secretary to be necessary for grazing management. Beyond maintenance, the Managers intend that the Secretary will permit haying, mowing, or harvesting for seed production, subject to appropriate restrictions for completion of the nesting season for birds in the local area which are in significant decline or are conserved pursuant to state or federal law, as determined by the NRCS state conservationist.

Conf. Report Under Act Sec. 2401.

The annual payments to the owner during the term of the rental agreement are not to exceed 75 percent of the grazing value of the land covered by the contract.

Act. Sec. 2401, adding Food Security Act of 1985, Sec. 1238P(b)(2).

F. Other Conservation Programs

The other conservation programs funded under the Act are shown in Table 2.

Table 2.

Program	Notes	Cost
Conservation Reserve Program (CRP)	Increases acreage cap from 36.4 million to 39.2 million acres. Retains priority areas. Expands wetlands pilot to 1 million acres with all states eligible.	\$1.517 billion
Wetlands Reserve Program (WRP)	Increases acreage cap to 2.275 million acres.	\$1.5 billion
Grasslands Reserve Program (GRP)	A new program to enroll up to 2 million acres of virgin and improved pastureland. Program would be divided 40/60 between agreements of 10, 15, or 20-years and agreements and easements for 30-years and permanent easements.	\$254 million
Farmland Protection Program (FPP)	Since 1996, the program has provided \$53.4 million to protect 108,000 acres. The new funding is a nearly 20-fold increase over amount committed to this program since the last farm bill.	\$985 million

Wildlife Habitat Incentives Program (WHIP)	Since 1996, approximately \$62.5 million has been spent through this program to provide cost-share payments on 1.6 million acres. The new funding is greater than a 10-fold increase over amount committed to this program since the last farm bill.	\$700 million
Environmental Quality Incentives Program (EQIP)	Phased up to achieve a \$1.3 billion annual funding level. Priority areas are eliminated. Funds are split 60/40 between livestock and crop producers.	\$9 billion
Water Conservation Program	Water Conservation Program provides cost-share incentives and assistance for efforts to conserve ground and surface water. \$50 million is reserved specifically to assist producers in the Klamath Basin	\$600 million
Conservation Security Program (CSP)	A new national incentive payment program for maintaining and increasing farm and ranch stewardship practices.	\$2 billion
Small Watershed Rehabilitation Program	Provides essential funding for the rehabilitation of aging small watershed impoundments that have been constructed over the past 50 years.	\$275 million
Underserved States	Continues program begun in Agricultural Risk Protection Act of 2000.	\$50 million
Desert Terminal Lakes	Provides funding to help conserve desert terminal lakes.	\$200 million
Total		\$17.1 billion

III. Trade

A. Export assistance

1. Market Access Program

The 2002 Act reauthorizes the Market Access Program through 2007 at a level of \$90,000,000 for fiscal year 2001, \$100,000,000 for FY 2002, \$110,000,000 for FY 2003, \$125,000,000 for FY 2004, \$140,000,000 for FY 2005 and \$200,000,000 for FY 2006 and 2007 from CCC funds (or CCC commodities). The provision establishes that proposals submitted by new market participants and programs in emerging markets are to receive consideration equal to that given to current program participants for new funds made available. The section includes no provision for the Quality Export Initiative.
Act Sec. 3103, amending Sec. 211(c) of the Agricultural Trade Act of 1978.

2. Export Enhancement Program

The legislation extends the Export Enhancement Act through 2007 and expands the definition of unfair trade practices to include—(a) pricing practices by an exporting state trading enterprise that “are not consistent with sound commercial practices conducted in the ordinary course of trade;” (b) providing a subsidy that decreases market opportunities for United States exports or unfairly distorts an agricultural market to the detriment of U.S. exporters; (c) imposes an unfair technical trade barrier including a trade restriction or commercial requirement (such as a labeling requirement) that adversely affects a new technology (including biotechnology) and an unjustified sanitary or phytosanitary restriction (including any restriction that, in violation of the Uruguay Round Agreements, is not based on scientific principles; (d) imposes a rule that unfairly restricts imports of U.S. agricultural commodities in the administration of tariff rate quotas; or (e) fails to adhere to, or circumvents any obligation under, any provision of a trade agreement with the United States.
Act Sec. 3104, amending Sec. 301(e)(1)(G) of the Agricultural Trade Act of 1978.

3. Foreign Market Development Cooperator Program

The 2002 legislation reauthorizes the Foreign Market Development Cooperator Program through 2007. The provision also directs the Secretary to carry out the program with a continued significant emphasis on the importance of exporting value-added agricultural products to emerging markets. The provision establishes that proposals submitted by new program participants and programs in emerging markets are to receive consideration equal to that given to current program participants for additional funds made available.

As for funding, CCC funds or commodities are to be used in the amount of \$34,500,000 in each of the fiscal years 2002 through 2007.

Act Sec. 3105, amending Secs. 702(a), 703 of the Agricultural Trade Act of 1978.

4. Food for Progress

The 2002 Act reauthorizes the Food for Progress Program through 2007 and amends the Food for Progress Act of 1978 rather than establishing a new Title VIII of the Agricultural Trade Act of 1978 as had been proposed. The legislation excludes from the limitation on tonnage in Section 1110(g) of Food for Progress Act those commodities furnished on a grant basis or on credit terms under Title I of the Agricultural Trade Development Act of 1954. The President is encouraged to approve agreements on a multi-year basis. The provision was expanded to include all eligible organizations rather than just private volunteer organizations (PVOs).

The legislation allows monetization of commodities in U.S. dollars, on minimum tonnage.

The section incorporates a definition section in the statute, establishes quality assurance requirements and requires the President to insure that each eligible organization is optimizing the use of donated commodities—(a) taking into account the needs of target populations in recipient countries; (b) working with recipient countries and institutions or groups within those countries to design mutually acceptable programs; (c) monitor and report on distribution and sale of eligible commodities using accurate and timely reporting methods; and (d) periodically evaluate the eligible organization's program effectiveness.

Act Sec. 3106, amending the Food for Progress Act of 1985.

The provision authorizes \$15,000,000 per year in administrative expenses from CCC.

Act Sec. 3106, amending the Food for Progress Act of 1985.

The Conference Report states that the Managers are aware of the Food Aid Review conducted by the Administration, which is a continuing process of review of all foreign food aid programs. The Administration plans to make several changes beginning in FY 2003, which include USDA administering all government-to-government programs as a result of funding Food for Progress programs through Title I and USAID administering most private voluntary programs through Title II.

Under the current Food for Progress statute, eligible organizations include private voluntary organizations, cooperatives, other non-governmental and intergovernmental organizations, as well as foreign governments. In providing additional resources and establishing a minimum tonnage requirement for the Food for Progress program under this section, the Managers wish to see the program accessible to all eligible organizations submitting proposals. The Administration's ongoing food aid review should take this into consideration. In many circumstances, the institutional experience of private voluntary organizations and other organizations may be crucial in determining the success or failure of projects in emerging markets under the Food for Progress program.

Conf. Report Under Act Sec. 3106.

B. Other assistance programs

1. Surplus commodities for developing or friendly countries

The 2002 Act authorizes the use of U.S. dollars and other currencies for the monetization of commodities and requires the Secretary to publish in the Federal Register by October 31 of each fiscal year an estimate of the total commodities available under this provision for that fiscal year and encourages the Secretary to finalize agreements by December 31 of that year. The legislation encourages the submission of multi-country proposals, expanded to include all eligible organizations rather than just private voluntary organizations (PVOs).

The provision permits PVOs to apply to become certified institutional partners. The legislation specifies that, within 270 days, the Secretary is to review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve and clarify the application approval and implementation process pertaining to agreements under Section 416(b) of the Act.

Act Sec. 3201, amending Sec. 416(b)(7)(D) of the Agricultural Act of 1949.

The Conference Report states that the Managers believe that the use of donated American agricultural commodities to support rural electrification overseas is a highly appropriate use of surplus commodity monetization, particularly where the USDA's own rural electrification expertise can be added to the on-going efforts of American electric cooperatives to "export" the successful rural electrification model that was established with the Rural Electrification Administration. The Conferees encourage the Secretary of Agriculture to direct a more aggressive rural electrification development effort as part of USDA's monetization programs under section 416(b) of the Agricultural Act of 1949, including collaboration with other international development agencies in leveraging funds to build on the successful experience of American electric co-op projects in less developed countries.

Conf. Report Under Act Sec. 3201.

2. Export Credit Guarantee Program

The legislation reauthorizes the Export Credit Guarantee Program through 2007; continues the current requirement that not less than 35 percent of the export credit guarantees issued be used to promote the export of processed or high-value agricultural products, and extends terms of repayment for the supplier credit guarantee program to 360 days, if an authorization of appropriations to fund loan terms greater than the current length of 180 days is provided.

Act Sec. 3102, amending Sec. 202(a) of the Agricultural Trade Act of 1978.

The legislation authorizes to be appropriated "such sums as are necessary" to fund the additional costs attributable to the portion of any guarantee issued to cover the repayment of credit beyond the initial 180-day period.

Act Sec. 3102, amending Sec. 202(a) of the Agricultural Trade Act of 1978.

3. Food for Peace Program and the International Food Relief Partnership Act

The 2002 legislation reauthorizes the Food for Peace Program and the International Food Relief Partnership Act through 2007. Program approvals should be based on the potential benefits of the program on food security and the choice of the appropriate commodity for the intended use.

Act Secs. 3011, 3012, amending Secs. 407(c)(1) and 408 of the Agricultural Trade Development and Assistance Act of 1954.

4. Non-emergency assistance

The legislation adds a new provision requiring the Administrator to foster program diversity by encouraging eligible organizations to propose and implement plans that address one or more aspects of Food for Peace and incorporate a variety of program objectives specified in Section 201 of the Agricultural Trade Development and Assistance Act of 1954 to assist development in foreign countries.

Act Sec. 3002(1), amending Sec. 202 of the Agricultural Trade Development and Assistance Act of 1954.

The funding for transportation, storage and handling of P.L. 480 commodities is to be not less than five percent and not more than 10 percent of the funds made available under Title II of the Act in each fiscal year.

Act Sec. 3002(2), amending Sec. 202 of the Agricultural Trade Development and Assistance Act of 1954.

Within one year after enactment of the 2002 Act, the Administrator is to establish streamlined guidelines and application procedures to be effective for fiscal year 2004, to the maximum extent practicable, for resource allocation for existing projects and for new proposals. A report is to be submitted within 270 days on progress achieved in modernizing US-AID's information management, procurement and financial management systems.

Act Sec. 3002(3), adding Sec. 202(h) of the Agricultural Trade Development and Assistance Act of 1954.

5. Minimum level of commodities

The 2002 Act increases the minimum level of commodities available to 2,500,000 metric tons per year in fiscal year 2002. The sub-minimum requirement for non-emergency programs is changed to 1,875,000 metric tons annually.

Act Sec. 3004, amending Sec. 204(a) of the Agricultural Trade Development and Assistance Act of 1954.

The Conference Report asks the Administrator to examine the commodities currently shipped under Title II non-emergency programs and determine which ones qualify as value-added products to satisfy the sub-minimum requirement under the 1954 Act.

Conf. Report Under Act Sec. 3004.

6. Food Aid Consultative Group

The legislation reauthorizes the Food Aid Consultative Group through 2007.
Act Sec. 3005, amending Sec. 205(f) of the Agricultural Trade Development and Assistance Act of 1954.

7. Maximum level of expenditures

The 2002 Act eliminates the \$1,000,000,000 cap on spending for Title II of the 1954 Act.
Act Sec. 3006, amending Sec. 206 of the Agricultural Trade Development and Assistance Act of 1954.

8. Administration of US-AID

The 2002 legislation requires that the Administrator of US-AID make decisions on program proposals, received from PVOs, not later than 120 days after submission of the proposal to the Administrator (and, to the maximum extent practicable, the Administrator is encouraged to make decisions on program proposals within that period); requires the Administrator to treat proposed policy determinations the same as guidelines; and allows direct delivery of commodities to milling or processing facilities in recipient countries, with proceeds of transactions going to eligible organizations to carry out the approved project.

Act Sec. 3007, amending Sec. 207 of the Agricultural Trade Development and Assistance Act of 1954.

The Conference Report notes that, at present, milling or processing facilities located in or near countries receiving food are occasionally unable to process commodities or arrange for the monetization of commodities because the non-governmental organizations coordinating or arranging the food aid delivery do not interact on a timely basis with the milling or processing facilities. This often leads to delay and inefficiencies in the food aid program.

Conf. Report Under Act Sec. 3007.

9. Assistance for stockpiling and rapid transportation, delivery and distribution of shelf-stable prepackaged foods

The 2002 Act reauthorizes the funding through 2007 for the funding for stockpiling, transportation, delivery and distribution of shelf-stable prepackaged foods.

Act Sec. 3008, amending Sec. 208(f) of the Agricultural Trade Development and Assistance Act of 1954.

10. Sale procedure

The 2002 legislation specifies “reasonable market price” (for purposes of monetization of commodities) in the economy where the agricultural commodity is to be sold. The legislation adds a new subsection providing that (b) and (h) are to apply to Titles II and III of Food for Peace, Section 416(b) of the Agricultural Act of 1949 and Section 1110 of the Food and Security Act of 1985.

Act Sec. 3009, amending Sec. 403 of the Agricultural Trade Developing and Assistance Act of 1954.

The Conference Report states that the “reasonable market price” provision would generally be the locally prevailing price for the same or a similar commodity. The Managers understand that, as with commercial sales, the actual sales price will be affected by product quality and delivery and payment terms. There are two primary purposes for this provision. The first is to ensure that commodities are sold at the prevailing local market price, rather than imposing an arbitrary formula approach.

The Managers believe that a relatively inflexible formula approach is undesirable because in situations in which local prices are above the formula value, the formula does not maximize proceeds from sales of commodities. Conversely, in cases in which the formula produces a price significantly above locally prevailing prices, no sales are likely to result, to the possible detriment of program operations in recipient countries.

The second reason for this provision is to bring consistency to the approaches currently used by US-AID and USDA. The Managers understand that although the two agencies generally operate in different countries at different times, some monetization programs may overlap. The Managers expect that, should this occur, the two agencies will consult to ensure that, to the extent possible, a uniform sales price is established. More generally, the Managers expect the two agencies to adopt methodologies for determining a reasonable market price that will tend to produce similar results in determining sales prices.

Finally, the Managers note that this provision is intended to be consistent with the goal of maximizing proceeds from commodity sales. In deciding whether to approve a proposed sale of commodities at the local market price, the Managers expect that both agencies will take into account the prevailing U.S. and world market prices of a commodity, including U.S. acquisition costs, transportation costs, and any localized factors that might result in significant differences between prevailing local market prices and those prices that would be expected to prevail in a pure free market. In cases in which high-quality U.S. agricultural products are purchased for the program, it should be noted that the market in the recipient country may not be sufficiently sensitive to fully reflect quality premiums.

Conf. Report Under Act Sec. 3009.

11. Prepositioning

The 2002 Act reauthorizes the limits on funding for prepositioning through 2007.
Act Sec. 3010, amending Sec. 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954.

12. Transportation and related costs

The legislation adds authority for the US-AID Administrator to pay for transportation costs for non-emergency assistance under Title II and only to least –developed countries.
Act Sec. 3011, amending Sec. 407(c)(1) of the Agricultural Trade Development and Assistance Act of 1954.

13. Expiration date for the Agricultural Trade Development and Assistance Act of 1954

The 2002 Act extends the expiration date for the 1954 Act through fiscal year 2007.
Act Sec. 3012, amending Sec. 408 of the Agricultural Trade Development and Assistance Act of 1954.

14. Micronutrient fortification program

The 2002 legislation reauthorizes the micronutrient program and removes the program from “pilot” status. The provision adds folic acid as a fortifying element that can be used under the program.

Act Sec. 3013, amending Sec. 415 of the Agricultural Trade Development and Assistance Act of 1954.

The Conference Report states that the US-AID-sponsored “Micronutrient Assessment Project” study (report issued in 1999), found significant quality problems in fortified food aid commodities, including low micronutrient levels and the loss of highly labile vitamins. A US-AID-sponsored “Micronutrient Compliance Review of Fortified P.L. 480 Commodities” (report issued in 2001) found that while progress has been made, additional follow-up is needed to assure adequate micronutrient levels in the fortified commodities and to standardize procedures used to test and monitor for compliance. Additional concerns, such as lack of shelf-life information, bioavailability and package durability have also been reported. The organization that conducted the 1999 and 2001 assessments uses an effective approach of engaging technical experts from food industries to improve the quality and nutritional content of food products for developing countries. This provision calls on the Administrator, in consultation with the Secretary, to use the same mechanism to follow-up on the 2001 compliance review recommendations to improve and assure the quality of fortified food aid commodities.
Conf. Report Under Act Sec. 3013.

15. Emerging Markets Program

The 2002 legislation reauthorizes the Emerging Markets Program at current levels through 2007 but without an increase in assistance.

Act Sec. 3203, amending Sec. 1542 of the Food, Agriculture, Conservation and Trade Act of 1990.

C. Special programs

1. Bill Emerson Humanitarian Trust

The 2002 legislation reauthorizes the Bill Emerson Humanitarian Trust through 2007.
Act Sec. 3202, amending Sec. 302 of the Bill Emerson Humanitarian Trust Act.

2. Biotechnology and Agricultural Trade Program

The 2002 Act establishes a stand-alone program providing technical assistance in addressing barriers to trade from biotechnology. The purpose of the program is to “remove, resolve, or mitigate significant regulatory nontariff barriers to the export of United States agricultural commodities...into foreign markets through public and private sector projects funded by grants that address—(1) quick response intervention regarding nontariff barriers to United States exports involving—(a) United States agricultural commodities produced through biotechnology; (b) food safety; (c) disease; or (d) other sanitary or phytosanitary concerns; or (2) developing protocols as part of bilateral negotiations with other countries on issues such as animal health, grain quality, and genetically modified commodities.”

The legislation authorizes to be appropriated \$6,000,000 for each of the fiscal years 2002 through 2007.

Act Sec. 3204, adding Sec. 1543A to the Food, Agriculture, Conservation and Trade Act of 1990.

3. Technical assistance for specialty crops

The 2002 legislation establishes an export assistance program to address barriers to the export of United States specialty crops. The legislation provides direct assistance through public and private sector projects and technical assistance to remove, resolve or mitigate sanitary or phytosanitary and related barriers to trade. The provision gives priority to time sensitive and market access projects based on the trade impact.

The Secretary is to make available \$2,000,000 of funds (or commodities) of CCC for each of the fiscal years 2002 through 2007 to carry out the program.

Act Sec. 3205.

4. John Ogonowski Farmer-to-Farmer Program

The 2002 Act incorporates the John Ogonowski Farmer-to-Farmer Program into the existing Farmer-to-Farmer Program, with a special emphasis on Sub-Saharan Africa and the Caribbean Basin countries and authorizing to be appropriated an amount of \$10,000,000 for each of the fiscal years 2002 through 2007. Not more than five percent of the funds are to be made available to pay administrative costs incurred in carrying out programs.

The program is oriented toward increasing food production and distribution and improving the effectiveness of the farming and marketing operations of agricultural producers in the target countries. The approach is to use U.S. agricultural producers, agriculturalists, colleges and universities, private agribusiness and private organizations

on a voluntary basis to improve agricultural and agribusiness operations and to strengthen cooperatives and other agricultural groups in those countries. The program is designed to transfer the knowledge and expertise of U.S. agricultural producers and businesses to those countries while enhancing the democratic process by supporting private and public agriculturally-related organizations that request and support technical assistance activities.

Act Sec. 3014, amending Sec. 501 of the Agricultural Trade Development and Assistance Act of 1954.

5. McGovern-Dole International Food for Education and Child Nutrition Program

The 2002 Act authorizes the President to direct the provision of U.S. agricultural commodities and financial and technical assistance for foreign preschool and school feeding programs to reduce hunger and improve literacy (particularly among girls) and nutrition programs for pregnant and nursing women and young children. The legislation authorizes the appropriation of such sums as may be necessary each year through 2007.

The program is named the “McGovern-Dole International Food for Education and Child Nutrition Program.”

The provision specifies that agreements with eligible organizations are to include provisions to “sustain the benefits to the education, enrollment and attendance of children in schools in the targeted communities when the provision of commodities and assistance to a recipient country under this program terminates.

The President is to use \$100,000,000 of CCC funds for fiscal year 2003 to carry out the program and “such sums as are necessary” for fiscal years 2004 through 2007.

Act Sec. 3107.

The President has the authority to designate the administering federal agency.

Act Sec. 3107.

The Conference Report states that the Managers expect that mandatory funds provided for fiscal year 2003 will be utilized to continue the operation of the projects approved under the pilot program.

Conf. Report Under Act Sec. 3107.

6. Study on fee for services

The 2002 legislation directs the Secretary to report to Congress on the feasibility of instituting a program of charging fees to cover the costs of services performed abroad beyond those already provided by the Foreign Agricultural Service as part of an overall market development strategy for a particular country or region.

Act Sec. 3208.

A program is to be established on a pilot basis to ensure that the program does not disadvantage small and medium-sized companies including companies that have never engaged in exporting.

Act Sec. 3208.

7. Global Market Strategy Report

The 2002 legislation directs the Secretary to consult with specified Congressional Committees on the formulation and implementation of a global market strategy for the U.S. Department of Agriculture that, to the maximum extent practicable, identifies opportunities for the growth of agricultural exports to overseas markets; ensures that the resources, programs and policies of USDA are coordinated with those of other agencies; and removes barriers to agricultural trade in overseas markets.

Act Sec. 3206.

8. Exporter Assistance Initiative

The 2002 Act authorizes the USDA to develop and maintain a website to assist exporters and potential exporters of U.S. agricultural products. No appropriation is authorized.

Act Sec. 3101, adding Sec. 107 to the Agricultural Trade Act of 1978.

The Conference Report states that the Managers observe that knowledge about legal and regulatory requirements that apply to the export of an agricultural product is basic to any transaction. This applies to the country in which the exporter is located and the importing foreign country. Many countries already provide at least this much assistance to private exporters. In the United States, a small exporter that cannot afford to hire a trade consultant has been forced to navigate among numerous Federal laws and regulations that impact an export transaction. Today, the Internet provides a propitious vehicle for making such information accessible. The Foreign Agricultural Service at USDA has developed a website that provides information about USDA programs that may affect the exporter, recommendations on how to develop a marketing plan, and tariff and sanitary/phytosanitary requirements of several countries. However, the website does not alert the small exporter to U.S. laws such as, for example, the Corrupt Practices Act that may impact the export. Linkage to the website of the Treasury Department for detailed information about the Corrupt Practices Act is also necessary. A new Government website, "FirstGov," provides access to the Department of the Treasury's website, but the FAS website does not provide a link to FirstGov.

Other U.S. agencies such as the Treasury Department's Office of Foreign Assets Control and the Commerce Department's Bureau of Export Administration enforce laws and regulations which bear on international business transactions involving agricultural products. Access to the websites of these agencies is also necessary to ensure that a potential or current exporter has access to a maximum amount of information relevant to the international commercial transaction. A small exporter needs more than just information about U.S. laws and regulations. Information about tariff and non-tariff regulations of importing countries is needed. Information about private companies in this

country and abroad that may impact a marketing plan and decision to proceed with the export transaction is also necessary. A new website established by USDA, the Export Directory of U.S. Food Distribution Companies, provides a good start.

The Secretary of Agriculture is directed to improve and maintain the FAS website consistent with the requirements of this provision and to coordinate the content of this website with the agency responsible for the FirstGov website. The Secretary is further directed to improve the FAS website so that an exporter may connect to links with oversees governmental, private sector, and non-profit sector websites that provide information on market opportunities, marketing requirements and restrictions, product preferences, foreign legal considerations, and other information that may assist the exporter with marketing an agricultural product in a foreign market.

Conf. Report Under Act Sec. 3101.

IV. Nutrition

A. Food Stamp Program

1. Income exclusions

The 2002 Act adds new income exclusions to the Food Stamp Program to align, to the extent possible, the Food Stamp Program rules with those of Medicaid and the “temporary assistance to needy families” or TANF provisions.

Act Sec. 4102, amending Sec. 5(d) of the Food Stamp Act of 1977.

The Conference Report states that the Managers intend that this provision will allow states to eliminate consideration of any types of income they do not consider when judging eligibility for temporary assistance to needy families (TANF) cash assistance or those required to be covered by Medicaid. It does not include items that are included in the definition of income but part of which are disregarded for the purposes of TANF and Medicaid by state agencies.

Conf. Report Under Act Sec. 4102.

2. Standard deduction

The 2002 legislation establishes a “standard deduction” equal to 8.31 percent of the inflation-indexed federal poverty income guideline used for food stamp eligibility determinations and includes comparable provisions for the Virgin Islands and Guam.

Act Sec. 4103, amending Sec. 5(e) of the Food Stamp Act of 1977.

3. Simplified utility allowance

The 2002 legislation allows states choosing to make standard utility allowances mandatory to do so without regard to the current metered public housing and prorating rules. Standard utility allowances (SUAs) can be used in lieu of actual costs for all households incurring a heating or cooling expense and covered by a mandatory SUA without having to determine their utility metering status or prorated expenses.

Act Sec. 4104, amending Sec. 5(e)(7)(C)(iii) of the Food Stamp Act of 1977.

4. Simplified determination of housing costs

The 2002 legislation permits a state to allow homeless households not receiving free shelter throughout the month to choose a standard shelter deduction from income (set at \$143 per month) in lieu of any excess shelter expense deduction. States could deny this deduction to households with extremely low shelter costs. Homeless households would continue to be permitted to choose the regular excess shelter expense deduction that is based on actual shelter costs.

Act Sec. 4105, amending Sec. 5(e)(7) of the Food Stamp Act of 1977.

The Conference Report states that the Secretary should review current rules governing household shelter costs and their implementation and identify any means, within existing authority, to modify or communicate these rules in a manner that makes the determination of eligible shelter costs less complicated and error prone for food stamp participants and eligibility workers.

Conf. Report Under Act Sec. 4105.

5. Simplified determination of deductions

The legislation establishes a state option to disregard most types of changes in household circumstances that affect the amount of those deductions until the next determination of eligibility. States are able, under the provision, to disregard changes in household size, costs for dependent care, amount of child support payments, medical expenses for elderly or disabled individuals and shelter costs, unless the costs were the result of a move.

Act Sec. 4106, amending Sec. 5(f)(1) of the Food Stamp Act of 1977.

Under the provision, a state agency could not disregard any reported change of residence or any change in earned income (under standards prescribed by the Secretary).

Act Sec. 4106, amending Sec. 5(f)(1) of the Food Stamp Act of 1977.

6. Simplified definition of resources

The 2002 Act requires the Secretary to promulgate regulations under which a state may exclude any types of financial resources that it does not consider when determining eligibility for cash assistance under its temporary assistance under its Medicaid Program. This authority does not allow the exclusion of cash, vehicles (except to the extent states already are allowed to use their TANF standard to exclude vehicles) and readily available amounts in any account in a financial institution or any similar type of resource the Secretary judges essential to equitable determinations of eligibility.

Act Sec. 4107, amending Sec. 5(g) of the Food Stamp Act of 1977.

The Conference Report states that the intent of this provision is to align with, to the extent possible, Medicaid and TANF rules. The Secretary will only count types of resources that are required by law or judged to be absolutely essential to equitable determinations of eligibility in the food stamp program.

Conf. Report Under Act Sec. 4107.

7. Alternative issuance systems in disasters

The legislation allows the Secretary to adjust issuance systems in disaster situations to take into account any conditions that make reliance on electronic benefit transfer (EBT) systems impracticable, effectively permitting the issuance of cash or other forms of benefits.

Act Sec. 4108, amending Sec. 5(h)(3)(B) of the Food Stamp Act of 1977.

The Conference Report states that the Managers expect this authority for alternative issuances in disaster programs will only be used in the most extreme circumstances, after the Secretary, working with the state, has exhausted all other means of benefit delivery and determined that electronic systems cannot be restored in a timely fashion and that the use of food coupons is impractical.

Conf. Report Under the Act Sec. 4108.

8. State option to reduce reporting requirements

The 2002 Act allows the states to establish semi-annual reporting requirements for any household, independent of the presence of earners or other characteristics. However, households required to report less often than once each three months are required to report, in a manner prescribed by the Secretary, if their income exceeds the food stamp gross income eligibility limit (130 percent of the federal poverty income guidelines).

Act Sec. 4109, amending Sec. 6(c)(1) of the Food Stamp Act of 1977.

9. Cost neutrality for electronic benefit transfer systems

The legislation eliminates the current requirement that electronic benefit transfer (EBT) systems not cost the federal government more than the prior paper issuance systems.

Act Sec. 4110, amending Sec. 7(i)(2) of the Food Stamp Act of 1977.

The Conference Report states that the Managers encourage the Department of Agriculture to continue its cost containment and competition efforts and its efforts to work with the states on this issue.

Conf. Report Under Act Sec. 4110.

10. Report on EBT systems

The 2002 legislation requires the Secretary to submit a report to Congress not later than October 1, 2003, on—(a) a description of the status of each state agency's EBT implementation in the food stamp program; (b) an indication of the number of vendors that currently hold an EBT-related contract with the states; (c) information on the number of states that are working with multiple vendors and a description of how responsibilities are divided among the various vendors and other organizations within a given state; (d) an explanation of the reasons any state is not operational statewide by October 1, 2002, how these issues are being addressed and the expected date for statewide EBT operations; (e) a description of the issues faced by any states that have awarded a second EBT contract in the last two years and the steps taken to resolve them; (f) a description of the issues faced by any states that will award a second EBT contract within the next two years and strategies they are considering to address these issues; (g) initiatives being considered or taken by USDA, food retailers, EBT vendors and client advocates to address any outstanding issues with respect to EBT systems; and (h) an examination of areas of potential advances in electronic benefit delivery in the next five-ten years including, but not limited to access to electronic benefits in farmers' markets, increased

use of EBT transaction data to identify and prosecute fraud and the fostering of increased EBT vendor competition to ensure cost containment and optimal service.

Act Sec. 4111.

11. Alternative procedures for residents of certain group facilities

The 2002 Act effectively establishes a pilot program that tests, at the request of a state agency or state agencies, the feasibility of the alternative procedures for determining allotments for groups living in certain group facilities. If an insufficient number of pilot projects are proposed by state agencies or the Secretary concludes that this is not in the best interest of the food stamp program, the Secretary must inform the Senate and House Committees and is not to implement this provision nationwide.

Act Sec. 4112, amending Sec. 8 of the Food Stamp Act of 1977.

12. Redemption of benefits through group living arrangement

The legislation allows the Secretary to authorize group living facilities to redeem food stamp benefits through direct use of EBT cards, if they are equipped with “point-of-sale” devices and are operating in an area in which an EBT system has been implemented.

Act Sec. 4113, amending Sec. 10 of the Food Stamp Act of 1977.

13. Availability of Food Stamp Program applications on the internet

The 2002 Act requires states to make food stamp applications available on their agencies’ internet websites in each language in which printed applications are available. The effective date is 18 months after enactment of the legislation (May 13, 2002).

Act Sec. 4114, amending Sec. 11(e)(2)(B)(ii) of the Food Stamp Act of 1977.

The Conference Report states that many states have already adopted standards that comply with this requirement. States should, therefore, not incur additional costs to put their food stamp application forms on their web sites.

Conf. Report Under Act Sec. 4114.

14. Transitional food stamps for families moving from welfare

The 2002 legislation permits states to provide transitional food stamp benefits to households who cease to receive TANF (temporary assistance for needy families). Under this option, households could receive transitional benefits for up to five months after termination of cash assistance without regard to normal eligibility reviews or termination of an eligibility review period. During the transitional period, food stamp benefits generally would be frozen, without required reports of changed circumstances.

Transitional benefits are equal to the monthly allotment received in the month immediately prior to termination, adjusted for the change in household income because of termination of cash assistance but not adjusted for changes in circumstances that could increase household benefits. In the final month of the transitional period, states could

require a household to cooperate in a redetermination of eligibility in order to receive continued benefits. Households receiving transitional benefits can apply for food stamps under regular rules at any time during the transitional period.

Transitional benefits would not be allowed for households—(a) losing eligibility under food stamp rules for intentional program violations, failure to cooperate or meet work requirements, post-secondary students, transferring assets to gain eligibility, failure to perform an action required by a means-tested assistance program, receipt of multiple benefits, fleeing felons or failure to fulfill child-support-related requirements; (b) sanctioned for failure to perform an action required by a federal state or local TANF law; or (c) in any state-designated category.

Act Sec. 4115, amending Sec. 11 of the Food Stamp Act of 1977.

15. Grants for simple application and eligibility determination systems and improved access to benefits

The 2002 legislation requires the Secretary to spend up to \$5,000,000 to provide grants to states to develop and implement programs that improve the food stamp application and eligibility determination process. A program of grants to states and other eligible entities is authorized to simplify food stamp application and eligibility determination systems and to improve access to the food stamp program.

Act Sec. 4116(a), amending Sec. 11 of the Food Stamp Act of 1977.

The 2002 Act repeals existing grant authority, dependent on appropriations, in the expectation that similar grants may be made under this new authority.

Act Sec. 4116(b), amending Sec. 11 of the Food Stamp Act of 1977.

The Conference Report states that in addition to the types of projects described in the amendment, the Managers believe that other types of projects may be permissible under this section. These projects include but are not limited to—(a) establishing a single site at which individuals may apply for food stamp benefits, supplemental security income, Medicaid, states' children's health insurance program benefits, WIC benefits and benefits under other programs as determined by the Secretary; (b) developing systems to enable increased participation in the provision of benefits under the food stamp program through farmers' markets, roadside stands, and other community-supported agriculture programs, including wireless electronic benefit transfer systems and other systems appropriate to open-air settings where farmers and other vendors sell directly to consumers; (c) encouraging consumption of fruit and vegetables by developing a cost-effective system for providing discounts for purchases of fruit and vegetables made through use of electronic benefit transfer cards; or, (d) reducing barriers to participation of individuals, with emphasis on working families, eligible immigrants, and elderly individuals with disabilities.

Conf. Report Under Act Sec. 4116.

16. Deliveries to retailers of notices of adverse action

The 2002 legislation permits notices of adverse action against retailers to be delivered by any form of delivery that the Secretary determines will provide evidence of delivery.
Act Sec. 4117, amending Sec. 14(a) of the Food Stamp Act of 1977.

17. Reform of quality control system

The 2002 Act eliminates features of current law under which approximately half of the states are assessed sanctions each year. The legislation reconfigures the formula for determining sanction amounts, delays any sanctions until a state has shown a persistently high error rate, explicitly recognizes a policy for new investment in improved administration by states with high error rates, places some limits on the Secretary's ability to excuse payment of sanctions and replaces the current system for rewarding states with very low error rates with a requirement to pay bonuses to states that exhibit exemplary administrative performance.

Act Secs. 4118-4121, amending Secs. 16(c), 16(c)(8), 16(d), 16(h)(1) of the Food Stamp Act of 1977.

18. Expanded grant authority

The 2002 legislation extends the Secretary's waiver authority to cover all contracts and grants authorized under this section of the Food Stamp Act of 1977.

Act Sec. 4123, amending Sec. 17(a)(1) of the Food Stamp Act of 1977.

19. Assistance for community food projects

The 2002 Act extends the authority for community food project grants through 2007, and increases the funding to \$5,000,000 per year. The legislation adds language describing other purposes for community food projects for meeting specific state, local or neighborhood food and agriculture needs including infrastructure improvements and development, planning for long-term solutions and the creation of innovative marketing activities that benefit both agricultural producers and low income consumers.

The legislation directs the Secretary to make available \$200,000 each fiscal year, 2003 through 2007, out of funds available "under this section" to support innovative programs for addressing common community problems including loss of farms and ranches, rural poverty, welfare dependency, hunger, the need for job training and the need for self-sufficiency by individuals and communities.

Act Sec. 4125, amending Sec. 25 of the Food Stamp Act of 1977.

The Conference Report states that the non-governmental organization (NGO) selected by the Secretary to carry out subsection h of Section 25(h) on innovative programs for addressing common community problems, shall: be experienced in gathering relevant information about successful innovative programs; be experienced in working with other targeted entities (NGOs, federal agencies, states, and political subdivisions) and be experienced in providing information about such innovative programs; and be experienced in operating a national information clearinghouse. In addition, the Managers

intend that the NGO selected under subsection (h) shall contribute in-kind resources toward implementation of any contract or grant and should be prepared to coordinate with targeted entities and with the Community Food Security Coalition.

Conf. Report Under Act Sec. 4125.

20. Availability of commodities for the Emergency Food Assistance Program

The legislation extends the requirement to purchase commodities for the Emergency Food Assistance Program through fiscal year 2007 and increases the funding level to \$140,000,000 per year and increases the authorization for appropriations from \$50,000,000 to \$60,000,000 per year for direct and indirect costs related to processing, storing, transporting and distributing commodities, including gleaned commodities.

Act Sec. 4126, amending Sec. 27(a) of the Food Stamp Act of 1977.

B. Commodity distribution

1. Commodity Supplemental Food Program

The 2002 legislation reauthorizes the Commodity Supplemental Food Program through fiscal year 2007, requiring the Secretary to use the fiscal year 2001 “grant-per-assigned-slot” as the baseline from which the administrative cost grant per assigned caseload slot is calculated, rather than using \$50 as the base. The legislation also requires the Secretary to spend the amount necessary to permit all states that began to participate in the CSF Program in the fiscal year 2000 caseload cycle to participate at a caseload level not less than their originally assigned caseload through the fiscal year 2002 caseload cycle, as determined by the Secretary.

Act Sec. 4201, amending Sec. 4(a) of the Agriculture and Consumer Protection Act of 1973.

The Conference Report states that funding from CCC is provided to permit the Secretary to alleviate an unusual situation that has arisen in two states that have recently implemented the CSF Program. This is a one-time emergency use of CCC funds and is not intended as a precedent for drawing on the CCC to supplement appropriations for the CSF Program.

Conf. Report Under Act Sec. 4201.

2. Commodity donations

The 2002 Act provides that, notwithstanding any provision of law concerning commodity donations, any commodities acquired in the conduct of CCC operations and any “Section 32” commodities may be used for any domestic feeding program involving acquisition and use of commodities for use in a domestic feeding program.

The domestic feeding programs covered by this authority include the Emergency Food Assistance Program, programs authorized under the Richard B. Russell National School

Lunch Act, the Child Nutrition Act, the Older Americans Act or other laws the Secretary determines to be appropriate.

Act Sec. 4202, amending Sec. 17 of the Commodity Distribution Reform Act and WIC Amendments of 1987.

The Conference Report states that the Managers recognize that, under current law, the source of funding for the purchase of a particular commodity can limit the eligible recipient programs. As a result, distribution of commodities to the Department's School Nutrition Programs and other domestic programs has sometimes been difficult or prevented entirely. The limitation in the current law has stymied the two-fold purposes of commodity purchases—to support American agriculture and to provide nutritious foods through our domestic feeding programs. For purposes of this distribution authority, the Managers consider eligible excess commodities to be those that are purchased by the Commodity Credit Corporation or by the Secretary and remain available after all other authorized distributions, including distribution of specific quantities reserved for specific purposes, have been satisfied. This section allows more efficient, expeditious and direct distribution of excess commodities by expanding the Secretary's existing distribution authorities.

Conf. Report Under Act Sec. 4202.

3. Distribution of surplus commodities to special nutrition projects

The legislation reauthorizes the commodity distribution program through fiscal year 2007.

Act Sec. 4203, amending Sec. 1114(a)(2)(A) of the Agriculture and Food Act of 1981.

4. Emergency food assistance

The 2002 legislation reauthorizes the Emergency Food Assistance Program administrative cost appropriations through fiscal year 2007 and revises the definition of costs to be covered to include the costs to the states related to the processing, storing, transporting and distributing commodities, including commodities secured by gleaning.

Act Sec. 4204, amending Sec. 204(a)(1) of the Emergency Food Assistance Act of 1983.

C. Child Nutrition and Related Programs

1. Commodities for school lunch program

The legislation extends, through 2003, provisions of current law that remove a mandate that any "bonus" commodities acquired for agricultural support purposes and donated to schools be counted toward a minimum requirement that 12 percent of all school lunch assistance be in the form of commodities. The provision mandates that only entitlement commodities count toward the 12 percent requirement through fiscal year 2003.

Act Sec. 4301, amending Sec. 6(e)(1)(B) of the Richard B. Russell National School Lunch Act.

2. Eligibility for free and reduced price meals

Effective on enactment and through fiscal year 2003, in cases where military personnel live in “privatized” housing, their housing allowance is not to be counted as income in determining eligibility for free and reduced-price school meals.

Act Sec. 4302, amending Sec. 9(b) of the Richard B. Russell National School Lunch Act.

3. Purchases of locally-produced foods

The legislation requires the Secretary to encourage institutions participating in the School Lunch and Breakfast Programs to purchase locally-produced foods to a maximum extent practicable and appropriate and in addition to other food purchases. The Secretary is to advise the institutions of the locally-produced food policy and to provide start-up grants to up to 200 institutions to defray initial costs of equipment, materials, storage facilities and similar costs incurred in carrying out the locally-produced food policy.

Appropriations of \$400,000 per year are authorized for fiscal years 2002 through 2007.

Act Sec. 4303, amending Sec. 9 of the Richard B. Russell National School Lunch Act.

The Conference Report states that the intent of the Managers is to authorize the Secretary to award modest start-up grants for equipment, materials and similar costs associated with purchasing locally produced foods. It is not the intent to create a geographical preference for purchases of locally produced foods or purchases made with grant funds. All purchases are to be made competitively, consistent with federal procurement laws and regulations.

The Conference substitute also includes an amendment that treats Puerto Rico in the same way as Hawaii is treated under the Buy America provision in the National School Lunch Act.¹ It extends, to the extent practicable, an advantage of domestic grown or produced products over foreign products, to Puerto Rico for purposes of the School Lunch Program. The Buy America provision originally applied only to the 48 contiguous states with the later addition of Hawaii.

The Managers want to make clear that school food authorities are still required to follow federal procurement rules calling for free and open competition and limit local product purchases to those that are practicable. Furthermore, while products from Puerto Rico will have an advantage over foreign products, this provision will not give an advantage to products produced or grown in one of the 48 contiguous states or Hawaii.

Conf. Report Under Act Sec. 4303.

4. Applicability of “Buy American” requirement to Puerto Rico

¹ See item 4 *infra*.

The 2002 legislation extends the “Buy American” requirement to Puerto Rico with respect to domestic commodities or products produced in Puerto Rico in sufficient quantities to meet the needs of meals provided under the school lunch and school breakfast programs.

Act Sec. 4304, amending Sec. 12(n) of the Richard B. Russell National School Lunch Act.

5. Fruit and vegetable pilot program

The 2002 Act requires the Secretary to use not more than \$6,000,000 of “Section 32” funds to conduct a pilot program (beginning in July 2002 and lasting one year) for providing free fresh and dried fruits and fresh vegetables throughout the school day in one or more areas designated by the school. A report is required by May 1, 2003.

Act Sec. 4305, amending Sec. 18 of the Richard B. Russell National School Lunch Act.

The Conference Report states that the Managers agree that the intent of the pilot program is to determine the feasibility of carrying out such a program and its success as determined by the students’ interest in participating in the program. The Managers encourage USDA to work with the schools to collect information on the types of schools that ultimately participate in the program, how schools choose to implement the program (including information on whether or not they incorporate nutrition education), and reasons for different implementation approaches. The Department is encouraged to find out from the schools about lessons learned and whether or not (and why) they are interested in continuing to participate in a similar program. To the extent practical, the Department is also asked to find out from teachers and/or students about students’ attitudes and actual behavior over the course of time. *The Managers recommend the selection of the following four states to participate in the pilot: Indiana, Iowa, Michigan and Ohio.* The Secretary will select the Indian reservation and the schools within each of the states that will participate in the pilot project.

Conf. Report Under Act Sec. 4305.

6. Eligibility for assistance under the Special Supplemental Nutrition Program for Women, Infants and Children

The legislation adds an option for states to exclude any housing allowance in cases in which military personnel live in “privatized” housing whether on base or off base.

Act Sec. 4306, amending Sec. 17(d)(2)(B)(i) of the Child Nutrition Act of 1966.

7. WIC Farmers’ Market Nutrition Program

The 2002 legislation makes available an additional \$15,000,000 in mandatory funding for the WIC Farmers’ Market Nutrition Program out of CCC resources.

Act Sec. 4307, amending Sec. 17(m)(9) of the Child Nutrition Act of 1966.

The Conference Report states that this emergency allocation of CCC funding to the WIC Farmers' Market Nutrition Program is made to meet a one-time shortfall and is not intended to set a precedent for the use of CCC resources to support the WIC Farmers' Market Nutrition Program.

Conf. Report Under Act Sec. 4307.

D. Miscellaneous

1. Partial restoration of benefits to legal immigrants

The 2002 Act makes legal permanent residents under age 18 eligible for food stamps without regard to date of entry and exempts them from requirements that their sponsor's financial resources be deemed to them in determining food stamp eligibility. This provision is effective on October 1, 2003.

The legislation also makes eligible individuals who have continuously resided in the United States as qualified aliens for a period of five years or more beginning on the date the qualified alien entered the United States. This provision is effective April 1, 2003. **Act Sec. 4401, amending Sec. 402(a)(2)(F) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.**

The Conference Report states that the Managers note that application of the new five-year residence rule to refugees and asylees has the same effect as lifting the seven-year limit (on the length of time that refugees and people seeking asylum may participate in the program).

Conf. Report Under Act Sec. 4401.

2. Seniors Farmers' Market Nutrition Program

The 2002 legislation directs the Secretary to use \$5,000,000 for fiscal year 2002 and \$15,000,000 for each of fiscal years 2003 through 2007 to carry out and expand a seniors' farmers market nutrition program. The purposes are—(a) to provide fresh, nutritious, unprepared, locally-grown, fruits, vegetables and herbs from farmers' markets, roadside stands and community-supported agriculture programs to low-income seniors; (b) increase domestic consumption of such agricultural commodities; and (c) to develop or aid in the development of new and additional farmers' markets, roadside stands and community-supported agriculture programs.

Act Sec. 4402.

3. Nutrition information and awareness pilot program

The legislation establishes a pilot program involving 50 percent federal cost sharing in not more than five states and for a period of not be exceed four years for each participating state, a pilot program for the purpose of increasing the domestic consumption of fresh fruits and vegetables and conveying related health promotion messages.

Funds may not be used to disparage any other agricultural commodities and funds made available to states under this program may not be provided by a state to any foreign for-profit corporation.

The legislation authorizes an appropriation of \$10,000,000 for each fiscal year 2002 through 2007 to carry out this program.

Act Sec. 4403.

4. Hunger Fellowship Program

The 2002 Act establishes the Congressional Hunger Fellows Program. The purposes of the program are to—(a) encourage future leaders of the United States to pursue careers in humanitarian service, to recognize the needs of people who are hungry and poor and to provide assistance and compassion for those in need; (b) to increase awareness of the importance of public service; and (c) to provide training and development opportunities through placement in programs operated by appropriate organizations or entities.

An amount of \$18,000,000 is authorized to be appropriated to carry out the program.

Act Sec. 4403.

5. Encouragement of payment of child support

The legislation permits states to exclude from a household's counted income for food stamp purposes any legally obligated child support payments made by a household member (before calculating any deductions) or to continue to deduct them in the calculation of net income (as under current law).

Regardless of a state's exclusion or deduction choice, the Secretary is required to establish simplified procedures that allow a state option to determine the amount of child support paid.

Act Sec. 4101, amending Sec. 5(d)(6) of the Food Stamp Act of 1977.

6. General effective date

The legislation designates that amendments made by this title (Title IV) take effect on October 1, 2002, unless otherwise specified.

V. Credit

A. Eligibility

1. Eligibility of entities for loans

The 2002 Act includes limited liability companies, joint operations and trusts as eligible entities for purposes of USDA farmer loan programs (farm ownership loans, farm operating loans and emergency loans).

Act Sec. 5302.

It is noted that the legislation does not define “joint operation” or “joint operations.” Those terms are arguably less well known and less precise in meaning than “joint venture” which is a form of general partnership.

The legislation, surprisingly, does not include limited liability partnerships (LLPs) in the amendment.

2. Bridge loans

The legislation contains authority to refinance bridge loans made by a commercial or cooperative lender to borrowers who have a direct farm ownership loan approved for the acquisition of land for a farm or ranch and for which funds were not available at the time the application was approved.

Act Sec. 5002, amending Sec. 303(a)(1) of the Consolidated Farm and Rural Development Act (CFRD).

3. Tribal operating loan guarantees

The 2002 Act requires the Secretary to guarantee 95 percent of the amount of operating loans made to a farmer or rancher whose operation is subject to the jurisdiction of an Indian tribe if the loan is secured by one or more “security instruments” which are subject to the jurisdiction of an Indian tribe.

Act Sec. 5003, amending Sec. 309(h) of CFRD.

4. State beginning farmer or rancher program

The legislation authorizes the Secretary (“The Secretary *may* guarantee...”) to guarantee loans made under a state beginning farmer or rancher program, including a loan financed by the net proceeds of a qualified small issue agricultural bond for land or property pursuant to Section 144 (a)(12)(B)(ii) of the Internal Revenue Code.

Act Sec. 5004, amending Sec. 309 of CFRD.

5. Down payment loan program

The 2002 Act increases the principal amount of the down payment loan on land to equal 40 percent of the purchase price of the land acquisition and increases the repayment period from 10 to 15 years.

Act Sec. 5005, amending Sec. 310E of CFRD.

The Conference Report states that the Managers are aware that, on an average per dollar basis, funds used for down payment loans serve over three times as many borrowers as regular farm ownership loans, and thus help to stretch limited loan funds and increase new farming and ranching opportunities. The Managers encourage the Secretary to publicize widely the availability of loans under this section as amended among potentially eligible recipients of the loans, retiring farmers and ranchers, and applicants for farm ownership loans under this subtitle and to coordinate the loan program established by this section with state programs that provide farm ownership or operating loans for beginning farmers and ranchers. The Managers strongly encourage the Secretary to establish performance goals for each state with a significant volume of real estate loans under this subtitle, with a goal of attaining down payment loan volumes consistent with the loan reservation percentage for down payment loans.

6. Beginning farmer and rancher contract land sales program

The legislation directs that a new pilot program be developed by October 1, 2002, in at least 10 geographically dispersed states, involving guarantees of at least five loans per state in each of the fiscal years 2003 through 2006. The loans may be guaranteed if made by a private seller of a farm or ranch to a qualified beginning farmer or rancher on a contract land sale basis provided the loan meets applicable underwriting standards and a commercial lending institution agrees to serve as escrow agent.

The Secretary is to make a determination on whether guarantees of contract land present a risk comparable to the risk presented in the case of guarantees to commercial lenders not later than October 1, 2002.

Act Sec. 5006, enacting Sec. 310F of CFRD.

The Conference Report states, in going beyond the statute, that “the Secretary shall start the program on making a determination that guarantees of contract land sales present a risk comparable to the risk presented in the case of guarantees to commercial lenders.”

The Conference Report also states that the Managers are aware that contract land sales are prevalent in many states and encourage the Secretary to create a pilot program for guaranteeing the financing of such contract land sales. The Managers intend for the Secretary to approve any loan guarantee under this pilot program using its normal underwriting criteria. The Managers envision that land contracts between the seller and buyer will contain a side escrow agreement that outlines the duties and responsibilities of the escrow agent.

Conf. Report Under Act Sec. 5006.

7. Direct loans

The legislation deletes the requirement that a direct loan may not be made to a farmer or rancher who has operated a farm or ranch for five years or more.

Act Sec. 5101, amending Sec. 311(c)(1)(A) of CFRD.

B. Miscellaneous

1. Suspension of effectiveness of provision affecting loan eligibility

The 2002 Act contains a provision that the law limiting loan eligibility of borrowers with Farm Service Agency loan guarantees will have no effect through December 31, 2006.

Act Sec. 5102.

The legislation also amends the operating loan eligibility limitations by adding several new provisions—

- a. To require the Secretary to waive the direct operating loan eligibility limitations to a farmer or rancher whose farm or ranch land is subject to the jurisdiction of an Indian tribe and whose loan is secured by one or more “security instruments” subject to the jurisdiction of an Indian tribe if the Secretary determines that commercial credit is not generally available for such farm or ranch operations;
- b. To authorize the Secretary, on a case-by-case basis, to grant a waiver for a direct operating loan to a borrower one time for a period of two years if the borrower demonstrates—(1) the borrower has a viable farm or ranch operation; (2) the borrower has applied for commercial credit from two commercial lenders; (3) the borrower was unable to obtain a commercial loan, including a loan guarantee; and (4) the borrower has successfully completed or will complete within one year the required borrower’s training course.

Act Sec. 5101, amending CFRD, Sec. 311(c)(4).

2. Emergency loans necessitated by quarantines

The 2002 Act authorizes emergency loans where a quarantine was imposed by the Secretary under the Plant Protection Act or the animal quarantine laws.

Act Sec. 5201, amending Sec. 321(a) of CFRD.

3. Interest rate options for loans in servicing

The legislation amends CFRD to require the Secretary, when restructuring a farmer program loan, to charge the lowest of—(a) the rate of the original loan; (b) the rate being charged when the borrower applies for restructuring the loan or (c) the rate being charged when the borrower restructures the loan.

Act Sec. 5305, amending Sec. 331B of CFRD.

4. Elimination of certification by county committee

The legislation eliminates the requirement that local or area FSA committees must certify in writing that they have reviewed the credit histories, business operations and continued eligibility of all borrowers. Language is retained requiring that the annual reviews be conducted but certification in writing is eliminated.

Act Sec. 5306, amending Sec. 333(2) of CFRD.

5. Simplified loan guarantee application

The 2002 Act increases the loan amount of the guaranteed loan program using a simplified short form to a maximum of \$125,000 (up from \$50,000).

Act Sec. 5307, amending Sec. 333A(g)(1) of CFRD.

6. Disposition of inventory property

The 2002 Act amended the rules governing the disposition of inventory property by—

- a. Increasing from 75 to 135 days the period inventory property must be held and offered for sale to beginning farmers and ranchers;
- b. Authorizing the Secretary to bundle or parcel real estate in such ways as to maximize the sale to beginning farmers and ranchers; and
- c. Authorizing the Secretary to sell farm real estate that has been acquired and leased before April 4, 1996, to beginning farmers and ranchers within 60 days of the expiration of the lease agreements.

Act Sec. 5308, amending Sec. 335(c) of CFRD.

7. Administration of Certified Lenders and Preferred Certified Lenders Programs

The 2002 Act gives the Secretary discretionary authority (“The Secretary may....”) to administer the certified and preferred lender guaranteed loan program through central offices in states or multi-state areas.

Act Sec. 5309, amending Sec. 339 of CFRD.

8. Definition of beginning farmer or rancher

The 2002 Act replaces the 25 percent limitation on ownership of the median ownership acreage within a county for purposes of determining who is a beginning farmer or rancher with a 30 percent acreage limitation.

Act Sec. 5310(a), amending Sec. 343(a)(11)(F) of CFRD.

The legislation also defines “debt forgiveness” as not including consolidation, rescheduling, reamortization or deferral of a loan or any write-down provided as part of a resolution of a discrimination complaint against the Secretary.

Act Sec. 5310(b), amending Sec. 343(a)(12)(B) of CFRD.

9. Authorization levels for loans

The 2002 legislation authorizes the Secretary to make or guarantee loans by providing not more than \$3,796,000,000 for each of the fiscal years 2002 through 2007. Of that amount, \$770,000,000 will be for direct loans of which \$205,000,000 is for farm ownership loans and \$565,000,000 for operating loans. Of the remainder, \$3,026,000,000 is for guaranteed loans of which \$1,000,000,000 is for guaranteed farm ownership loans and \$2,026,000,000 is for guaranteed operating loans.

Act Sec. 5311, amending Sec. 346(b)(1) of CFRD.

10. Reservation of funds for direct operating loans for beginning farmers and ranchers

The 2002 Act reauthorizes the reservation of beginning farmer and rancher loan amounts at 35 percent of the funds for 2003 through 2007.

Act Sec. 5312, amending Sec. 346(b)(2)(A)(ii)(III).

11. Extension of interest rate reduction program

The legislation reauthorizes the interest rate buy-down program retaining current law on the interest rate, but reserving 15 percent of the funds in a fiscal year for beginning farmers and ranchers (until March 1 of the fiscal year) and providing for a permanent authorization of \$750,000,000 annually.

Act Sec. 5313, amending Sec. 351 of CFRD.

12. Reamortization of recapture payment—shared appreciation agreements

The legislation authorizes the Secretary to modify the recapture consequences of a shared appreciation agreement loan which has become delinquent by using loan servicing tools under section 343(b)(3) of CFRD if the default was beyond the control of the borrower and the borrower acted in good faith in attempting to repay the recapture amount.

Act Sec. 5314, amending Sec. 353(e)(7) of CFRD.

A reamortized loan may not exceed 25 years from the date of the original amortization agreement or provide for reducing the outstanding principal or unpaid interest that is due on the obligation.

Act Sec. 5314, amending Sec. 353(e)(7) of CFRD.

The Conference Report goes on to state that the Managers expect the Secretary to review USDA appeal policies regarding appraisals used for shared appreciation agreements. The Managers expect the Secretary to establish policies that will result in the use of the most accurate appraisal of assets including the use of independent appraisals provided on appeal by the borrower that are consistent with federal appraisal standards.

Conf. Report Under Act Sec. 5314.

It is interesting to note that the Senate had proposed to allow shared appreciation agreement debtors to grant the Secretary an easement on the property which is subject to the shared appreciation arrangement under a conservation program which would replace the recapture obligation.

The House conferees objected, reportedly because of a dislike for easements (which, ironically, are part of several provisions in the 2002 Act).

13. Allocation of funds for socially disadvantaged farmers and ranchers

The 2002 Act authorizes the Secretary to provide unused funds allocated for socially disadvantaged farmers and ranchers within a state to other states where there are pending applications for socially disadvantaged (SDA) farmers and ranchers. Any remaining unused SDA funds within a state may be reallocated to other applicants in that state.
Act Sec. 5315, amending Sec. 355(c)(2) of CFRD.

14. Waiver of borrower training certification requirement

The legislation authorizes the Secretary to waive the educational training requirements of Section 359 of CFRD if the Secretary determines that the borrower demonstrates adequate knowledge of financial and farm management. Standards are to be established by the Secretary for this waiver to be implemented consistently in all counties nationwide.
Act Sec. 5316, amending Sec. 359(f) of CFRD.

15. Loan approvals

The 2002 Act strikes language requiring the local county committee to approve a borrower's eligibility for farmer program loans. This conforms the CFRD to 1994 legislation.
Act Sec. 5317, amending Sec. 360(a) of CFRD.

16. Annual review of borrowers

The legislation changes the review of borrowers from biannual to annual.
Act Sec. 5318, amending Sec. 360(d)(1) of CFRD.

17. Loan eligibility for borrowers with prior debt forgiveness

The 2002 Act authorizes the Secretary to make an operating loan to a borrower who has received debt forgiveness on not more than one occasion that was "directly and primarily" from a major disaster or emergency designated as a disaster by the President on or after April 4, 1996.
Act Sec. 5319, amending Sec. 373(b)(2)(A) of CFRD.

18. Making and servicing of loans by personnel of state, county or area committees

Under the 2002 legislation, the Secretary is required (“The Secretary shall...”) to use Farm Service Agency state, area or county office employees to make and service farmer program loans if the personnel are trained to do so. This overrides the 90-day “finality” rule of FSA employees in Sec. 281(a)(1) of the USDA Reorganization Act so that the finality rule does not apply to an agricultural credit decision made by a state, area or county FSA employee.

Act Sec. 5320, adding Sec. 376 to CFRD.

The Conference Report goes on to state that the Managers believe that the Secretary should provide that these individuals have been adequately trained in these areas in a comparable manner as USDA Farm Service Agency employees with the same job responsibilities. Furthermore, the Secretary should insure that the credit decisions of these individuals are subject to the same USDA loan review as any USDA employee making credit decisions, including internal control review and disciplinary action to protect against the misuse of government funds.

Conf. Report Under Act Sec. 5320.

19. Eligibility of employees of state, county or area committee for loans and loan guarantees

The 2002 Act states that the Secretary is not to prohibit an employee of a state, county or area committee or a USDA employee from obtaining a loan or loan guarantee. Loan applications from an employee of a county or area office must be reviewed and approved by the state office; loan applications from an employee of a state office must be reviewed and approved by the national office.

Act Sec. 5321, adding Sec. 377 to CFRD.

The Conference Report states that the Managers believe it is important for these employees, many of whom are farmers in their communities, to have access to the same farm loan programs as other producers. Nevertheless, the Managers believe that a higher level of review is appropriate to alleviate concerns regarding the eligibility of those individuals for the farm loan programs.

Conf. Report Under Act Sec. 5321.

20. Banks for Cooperatives

The Farm Credit Act of 1971 is amended to replace the words “farm supplies” with “agricultural supplies” and to add a definition of an agricultural supply to include farm supply, agriculture-related processing equipment, agriculture-related machinery and other capital goods related to the storage or handling of agricultural commodities or products.

Act Sec. 5402, amending Sec. 3.7(b) of the Farm Credit Act of 1971.

21. Restriction on loan participation activities by a Bank for Cooperatives

The 2002 Act amends the Farm Credit Act of 1971 to delete a provision that restricts without prior approval the loan participation activities of a Bank for Cooperatives in the lending territory of a Farm Credit Bank or association. The amendment also makes

conforming changes to loan participation activities of Banks for Cooperatives and Farm Credit System institutions that operate under separate titles of the Farm Credit Act.
Act Sec. 5401, amending Sec. 3.1(11)(B) of Farm Credit Act of 1971.

The Conference Report states that the Managers understand that, this provision eliminates certain territorial concurrence requirements on Farm Credit System lenders so that lenders may participate in loan syndications or other multiple-lender arrangements for “similar entity” loans originated in other Farm Credit System geographic territories without seeking the permission of the Farm Credit System lender in that territory. Current law requires system institutions to obtain permission from one another when participating in similar entity transactions in which a commercial bank originates the loan and then sells the loan to a group of lenders (including the System institution). The change eliminates these requirements only as they pertain to similar entity loans that the System does not originate. Territorial concurrence for loans other than similar entity loans are not affected by this change. The Managers are expressing no opinion with this provision on pending litigation regarding participation regulations issued by the Farm Credit Administration on April 25, 2000.

Conf. Report Under Act Sec. 5401.

22. Insurance Corporation premiums

The 2002 Act amends the Farm Credit Act of 1971 to include government sponsored enterprise-guaranteed loans or credits and establishes the rate at which these loans or credits in accrual or non-accrual status are used to fund the Insurance Fund for calendar year 2002.

Act Sec. 5403, amending Sec. 5.55 of the Farm Credit Act of 1971.

VI. Rural Development

A. Funding for rural local television broadcast signal loan guarantees

The 2002 Act provides from CCC funds \$80,000,000 of loan guarantees from the date of enactment through December 31, 2006, under the Launching Our Communities' Access to Local Television Act of 2000.

Act Sec. 6404, amending Sec. 1011(a) of the Launching Our Communities' Access to Local Television Act of 2000.

B. Expanded eligibility for value-added agricultural product market development grants

The legislation amends the Agricultural Risk Protection Act of 2000 to spend \$40,000,000 each fiscal year 2000-2007 for value-added grants from CCC funds.

Act Sec. 6401, amending Sec. 231 of the Agricultural Risk Protection Act of 2000.

The legislation defines "value added" as undergoing a change in the physical state or produced in a manner that enhances its value to consumers as a result of which a greater part of the revenue derived is available to the producer.

Act Sec. 6401(a), amending Sec. 231(a) of the Agricultural Risk Protection Act of 2000.

Five percent of the funds are to be used for the Agricultural Marketing Resource Center.

Act Sec. 6401(a)(2), amending Sec. 231(a)(3) of the Agricultural Risk Protection Act of 2000.

The Conference Report states that the Managers intend that the Department of Agriculture, in administering the program, will seek to fund a broad diversity of projects that help increase agricultural producers' share of the food and agricultural system profit, including projects likely to increase the profitability and viability of small and medium-sized farms and ranches. The Managers intend for the Department to consider a project's potential for creating self-employment opportunities in farming and ranching and the likelihood that the project will contribute to conserving and enhancing the quality of land, water and other natural resources.

When making these grants, the Managers expect the Secretary to consider applications from a variety of agricultural sectors, such as renewable energy, wineries, high value products from major crops, agri-marketing ventures, and community supported agricultural projects. The inclusion of renewable energy includes farm or ranch based wind, solar, hydrogen, and other renewable energy.

An exception from the normal rural area requirement is made for majority controlled producer based business ventures. It is the Managers' intent that the Department award grants, to the maximum extent practicable, to projects located in rural areas. However, state rules and regulations and other circumstances may hinder some worthy value-added agricultural projects from meeting the Department's specific definition of "rural." One such example is wineries in certain areas. In this instance, the Managers expect the Department to

consider the importance and value of the project to area agricultural producers who will be the ultimate beneficiaries of the project, including the consistency of the project with the intent of the program.

Conf. Report Under Act Sec. 6401.

C. Agriculture Innovation Center Demonstration Program

The 2002 Act provides authority for the Secretary to make grants to establish centers for value-added agricultural businesses. The Secretary is to use not less than \$3,000,000 for fiscal year 2002 and not less than \$6,000,000 for fiscal years 2003 and 2004.

Act Sec. 6402.

D. Funding of Community Water Assistance Grant Program

The legislation directs the Secretary to use \$35,000,000 for each of fiscal years 2003 through 2007 to fund water assistance grants. No less than three percent and not more than five percent of appropriate funds are to be used for grants in cases where a significant decline in quantity and quality of water is imminent.

Act Sec. 6009, amending Sec. 306A of CFRD.

The Conference Report states that the Managers are acutely aware of the ongoing needs of rural communities in maintaining water systems to provide adequate and safe drinking water for its residents. The Managers are particularly concerned about current drought conditions in many areas of the United States and its dire impact on a rural area's drinking water needs. Many areas are faced not only with the lack of potable water but with the lack of any water at all. For this reason, the provision allowing for potable water includes the delivery of bottled water where necessary.

The Managers expect this provision to provide USDA, Rural Development with a flexible program with a certainty of funds to meet the emergency and imminent drinking water needs of rural areas. The Secretary should ensure that communities eligible for assistance under this program receive immediate attention.

Conf. Report Under Act Sec. 6009.

E. Loans and loan guarantees for renewable energy systems

The 2002 Act amends Section 310B of CFRD by inserting "and other renewable energy systems including wind energy systems and anaerobic digesters for the purpose of energy generation."

Act Sec. 6013, amending Sec. 310B(a)(3) of CFRD.

F. Rural Business Enterprise grants

The legislation authorizes grants to be made to eligible nonprofit entities or tax-exempt organizations to create, expand or operate value-added processing on land of an existing or

former Native American Reservation or a city, town or unincorporated area of not more than 5,000 population.

Act Sec. 6014, amending Sec. 310B(c)(1) of CFRD.

G. Rural Cooperative Development Grants

The 2002 legislation reauthorizes Rural Cooperative Development Grants through 2007 and prohibits the Secretary from requiring a non-federal share of more than five percent for “1994 institutions.”

Act Sec. 6015, amending Sec. 310B(e) of CFRD.

H. Increase in limit for certain loans for rural development

The 2002 Act authorizes the Secretary to increase the loan limit of the Business and Industry Loan Guarantee Program above \$25,000,000 for particular projects. The Secretary may guarantee a loan not exceeding \$40,000,000 for a project located in a rural area that provides for the value-added processing of agricultural commodities.

Act. Sec. 6017, amending Sec. 310B(g) of CFRD.

I. Use of rural development loans and grants for other purposes

The 2002 Act specifies that if the circumstances under which a loan or grant was made have sufficiently changed to make the project or activity “no longer appropriate,” the Secretary may allow the loan borrower or grant recipient to use real or personal property purchased or improved with the loan or grant funds or proceeds from the sale of such property to be used in another project or activity in the same area as the original activity if the criteria for the loan or grant are met.

Act Sec. 6018, enacting Sec. 310G of CFRD.

J. Definition of “rural” and “rural area”

The legislation defines “rural” and “rural area” to mean any area other than a city or town with a population of greater than 50,000 and “the urbanized area contiguous and adjacent to such a city or town.” The legislation also reduces the population requirement for the Community Facilities Program from 50,000 to 20,000.

Act Sec. 6020, amending Sec. 343(a) of CFRD.

K. National Rural Development Partnership

The 2002 Act amends Subtitle D of CFRD to add the National Rural Development Partnership composed of the Coordinating Committee and the state rural development councils. The legislation authorizes up to \$10,000,000 for each fiscal year 2003 through 2007.

Act Sec. 6021, adding Sec. 378 of CFRD.

The Conference Report states that for more than 40 years, rural policy scholars and analysts have recognized the absolute necessity of a more integrated, comprehensive rural policy framework. In establishing this framework, Section 6030, will require the active participation of all Federal agencies, rural units of local government, development organizations, community-based organizations, rural nongovernmental organizations, and the private and philanthropic sectors. While a collaborative effort and comprehensive planning are essential for success of any endeavor, no plan can succeed without resources for its implementation and completion.

This program is designed to use Federal funds as a catalyst to bring together the various sectors from rural areas in order to make maximum use of Federal, state and local resources.

The Managers intend that the appropriate population of an eligible area is between 50,000 and 150,000; however, the Managers expect the regional and national boards to make exceptions as needed. The target population does not include a metropolitan area which may be participating in a regional plan.

The Managers understand the diversity of governance, governmental entities and governmental structure in the 50 states. In composing the regional boards, the Managers expect that it will include the broadest possible collection of public and private entities representative of the area or region of the eligible area.

In appointing the National Board on Rural America, the Managers expect the Secretary to carefully consider individuals recommended by the Chairman and Ranking Members of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry, the Speaker of the House of Representatives, and the Majority Leader of the Senate. The Secretary is encouraged to consider seven recommendations from the House of Representatives and seven recommendations from the Senate.

Conf. Report Under Act Sec. 6021.

- L. Grants to non-profit organizations to finance the construction, refurbishing and servicing of individually-owned household water well systems in rural areas with low or moderate incomes

The 2002 Act amends the water and wastewater authorities to authorize the Secretary to make grants and loans to provide individual residential water wells.

Act Sec. 6012, adding Sec. 306E of CFRD.

Loans under this provision bear an interest rate of one percent with a term not exceeding 20 years and are not to exceed \$8,000.

Act Sec. 6012, adding Sec. 306E(d) of CFRD.

- M. Eligibility of Rural Empowerment Zones and Rural Enterprise Communities for direct and guaranteed loans for essential community facilities

The 2002 legislation authorizes the Secretary to make or insure loans to communities designated as rural empowerment zones and rural enterprise communities to install or improve essential community facilities.

Act Sec. 6001, amending Sec. 306(a)(1) of CFRD.

The Conference Report states that the intent is for this provision to affect *only two communities*—Lewiston, Maine, and Eagle Pass, Texas. These communities were designated Rural Enterprise Communities in 1999 and this amendment makes them eligible for participation in essential community facility programs.

Conf. Report Under Act Sec. 6001.

- N. Grants to train farm workers in new technologies and to train farm workers in specialized skills necessary for higher value crops

The 2002 legislation authorizes the Secretary to make grants to an entity to train farm workers to “use new technologies and develop specialized skills for agricultural development.” The legislation authorizes not more than \$10,000,000 to be appropriated for fiscal years 2002 through 2007.

Act Sec. 6025, adding Sec. 379C to CFRD.

- O. Loan guarantees for purchase of stock in a farmer cooperative seeking to modernize or expand

The 2002 Act provides a loan guarantee to purchase capital stock of a farmer cooperative seeking to modernize or expand. The Secretary may make or guarantee a loan to a cooperative headquartered in a metropolitan area if the loan is used for a project in a rural area or meets the criteria of a cooperative generally. A cooperative can refinance an existing loan if specified requirements are met. The Secretary may guarantee a loan to a cooperative for a facility that is not located in a rural area if the facility provides value-added processing to producers located within 80 miles of the facility; if the primary benefit of the guarantee provides employment to rural areas; and the total amount of loans guaranteed does not exceed 10 percent of total loan guarantees in a fiscal year. The Secretary may consider the value of a properly appraised brand name, patent, or trademark of the cooperative in determining whether the cooperative organization is eligible for a loan guarantee. The Secretary may guarantee a loan that may not exceed \$40 million for a project that is located in a rural area and provides for the value-added processing of agricultural commodities and the Secretary may not delegate the approval authority for such a guarantee.

Act Sec. 6017, amending Sec. 310B(g)(2).

The Conference Report states that the Managers expect the Secretary to consider, on a priority basis, Business and Industry loan and loan guarantee applications from eligible marketing cooperatives of agricultural producers for the purpose of constructing peanut storage facilities and for value-added agriculture and renewable energy.

Conf. Report Under Sec. 6017.

- P. Ban on limiting eligibility of farmer cooperative for Business and Industry Loan Guarantee based on population of area in which the cooperative is located

The 2002 legislation specifies that the Secretary may guarantee a loan to a cooperative for a facility that is not located in a rural area if the facility provides value-added processing to producers located within 80 miles of the facility, the primary benefit of the guarantee provides employment to rural areas and the total amount of loans guaranteed does not exceed 10 percent of total loan guarantees in a fiscal year.

Act Sec. 6017, adding Sec. 310B(g)(6) of CFRD.

Q. Rural water and waste facility grants

The legislation increases the level of spending for rural water and waste facility grants from \$590,000,000 to \$1,500,000,000 per year. Also, the Secretary may make grants to entities to capitalize revolving funds to provide loans to eligible borrowers to finance up to \$100,000 of the costs of predevelopment, equipment replacement, small systems extensions and other small water and wastewater projects. The legislation authorizes appropriations of \$30,000,000 for each fiscal year 2002 through 2007.

Act Sec. 6002, amending Sec. 306(a)(2) of CFRD.

R. Rural water “circuit rider” program

The 2002 Act establishes the national water “circuit rider” program on a permanent basis to provide technical expertise to existing and start-up rural water systems throughout the country. The legislation provides for an authorization of appropriations of \$15,000,000 per year beginning in 2003.

Act Sec. 6005, amending Sec. 306(a)(22) of CFRD.

The program is not to affect the Secretary’s authority to carry out the circuit rider program for which funds are made available under the Rural Community Advancement Program in title III of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act of 2002.

Act Sec. 6005, amending Sec. 306(a)(22) of CFRD.

S. Rural Business Investment Program

The 2002 Act adds a new subtitle H to CFRD that establishes a Rural Business Investment Program (RBIP). The program is administered by the Secretary to promote economic development and “the creation of wealth and job opportunities in rural areas.” The legislation provides \$100,000,000 to carry out the program.

Act Sec. 6029, adding Sec. 384A through 384S of CFRD.

The Conference Report states that this program addresses the crucial problem of limited equity capital in rural America. The program allows investment companies to considerably leverage their equity resources, increasing the equity funds available in rural America by attracting capital for the program and through the leverage that the program provided. Only for profit Rural Business Investment Companies (RBIC) may apply because the profit motive and danger of loss will help minimize losses to the government. The Managers

believe that a high quality management team of the applicants is crucial for success and expects that this factor will be given solid consideration.

Financial institutions may participate in the program as set forth in the program. The Managers intend that financial institution regulators including the Farm Credit Administration, the Office of the Comptroller, the Federal Reserve, state bank regulators, and other financial institution regulators continue to have the authority to impose on any financial institution that they regulate any safeguard, limitation, or condition that the regulator considers to be appropriate (including, without limitation, any investment limit that is lower than the investment limit that this section imposes on insured depository institutions). The strong expectation of the Managers is that RBICs will not normally engage in lending of a type performed by regulated financial institutions except in circumstances where such assistance is not likely to be available and where the equity investment makes such arrangements prudent given the overall risks involved.

The program is modeled after the Small Business Investment Company program, where considerable expertise in operating the program that provides capital for equity investments has been developed. That program shares many of the same provisions with the RBIC program that is being enacted allowing day-to-day management to follow almost identical practices with a few exceptions such as those dealing with the grants program and rural targeting of investments. It is the expectation of the Managers that the Secretary enter into an agreement under the Economy Act within 60 days of enactment with that appropriate agency.

It is the expectation of the Managers that a considerable share of the rules and operating procedures for this program will be the same as the rules and operating procedures for the Small Business Investment Company program. Given that reality, it is the Manager's expectation that rules implementing this program can be proposed in a very short time period. The grant provisions are similar to the New Markets Venture Capital Program.
Conf. Report Under Act Sec. 6029.

T. Full funding of pending rural development loan and grant applications

The legislation provides \$360,000,000 to fund pending applications for water and waste disposal system grants and loans with priority given to water systems.
Act Sec. 6031.

U. Enhancement of access to broadband in rural areas

The 2002 Act authorizes "such sums as are necessary" to carry out a program of enhancement of access to broadband in rural areas plus \$20,000,000 of CCC funds for each of fiscal years 2002 through 2005 and \$10,000,000 for fiscal years 2006 and 2007. The legislation states that the purpose of the program is to "provide loans and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities."
Act Sec. 6103(a), amending Sec 601 of the Rural Electrification Act of 1936.

The Conference Report states that the Managers expect that the state government or local government or any agency, subdivision or instrumentality thereof (including consortia thereof) will be permitted to file applications during the three-month waiting period after rules have been promulgated on the broadband program in order to keep their place in line for the next available round of funding.

The Managers expect the priority status of all pending broadband applications will be evaluated as soon as practicable after the date of enactment. Any completed application which meets the priority criteria should be evaluated for expedited approval. The Managers expect the Agency to determine the priority status of applications on hand at least once every quarter. In general, all other applications should be evaluated and awarded on a first come first serve basis.

The Managers are aware that in the current broadband pilot program the FCC's definition of broadband services has generally been used. It is the Manager's intent that this practice should continue and that is why the Managers used the definition of broadband services that is currently being used. The Managers want to make clear that the purpose behind using this definition was to maintain the current high standard used in determining what a broadband service is.

However, the Managers expect the Administrator will apply a definition of broadband services to encourage new broader bandwidth technologies in rural areas and that the program will foster the development of a variety of technological applications including terrestrial and satellite wireless services. This is a critical function since this is a rapidly changing technology.

The Managers have taken no position on particular technologies and believe that it is very important for the Department not to choose among adequate technologies. The Managers expect the Secretary to participate in any FCC proceedings or Department of Commerce study of the future of broadband services and the markets for such services.

The Managers are aware that the agency has administered a telecommunications program for over 50 years. To date there has not been a loan loss in that program. The Managers expect, that given that record, program levels will fully take that reality into account. The Managers intend for direct loans to be made at the treasury rate of interest in most circumstances.

Conf. Report Under Act Sec. 6103.

V. Rural firefighters and emergency personnel grant program

The legislation establishes a grant program to provide scholarships to local government units to train firefighters and emergency medical personnel in fire fighting, emergency medical practices and responding to hazardous material and bio-agents. Grants may be used for facility improvements, equipment, operating expenses or establishing regional training centers. The funding level authorized is \$10,000,000 for each of the fiscal years 2003

through 2007. The legislation sets the limitation for any single training center in any single year at \$750,000.

Act Sec. 6405.

The Conference Report states that the Managers expect that efforts will be made to minimize travel costs in order to maximize actual training provided. In order to minimize costs, appropriate training facilities within the area or region should be utilized whenever possible. Many firefighter and first responder training facilities, some with specialized functions such as farm safety have received USDA or FEMA assistance in the past, have excellent reputations but have significant facility needs. It is expected that the Department give a high priority to such facility needs.

Conf. Report Under Act Sec. 6405.

W. Rural Business Enterprise Grants

The legislation creates a priority in awarding grants to non-profit entities operating on tribal land in an area with a population of no more than 5,000.

Act Sec. 6014, amending Sec. 310B(c)(1) of CFRD.

The Conference Report states that in many rural tribal communities, tribes and tribal governments play a dominant role in the economic development of the area. As a result, unique patterns of economic development exist whereby the local economy is often composed of a single dominant employer. Because of these circumstances, many organizations located in isolated tribal communities are often unable to receive assistance from the Rural Business Enterprise Grant program. The Managers recognize the different patterns of economic development that exist in many rural tribal communities.

It is the Managers' expectation that funds made available under this provision will be used to assist in the financing or development of small and emerging businesses located in communities of less than 5,000 people on tribal lands or former tribal lands without respect to revenue or employee limitations. Funds made available under this provision may only be used to create, expand or operate value-added agricultural processing facilities.

Conf. Report Under Act Sec. 6014.

X. Children's day care facilities

The 2002 Act reserves not less than 10 percent of the Community Facilities funds for grants to pay the cost share of developing and constructing day care facilities for children in rural areas up to April 1 of each fiscal year.

Act Sec. 6004, amending Sec. 306(a)(19) of CFRD.

Y. Rural "telework"

The legislation directs the Secretary to make a grant for an "eligible organization" to pay the cost of establishing a "national rural telework institute." Nonprofit organizations and educational institutions may receive a grant of up to \$500,000 for obtaining equipment and

facilities to establish, expand or operate telework locations in rural areas on a match basis. The match requirement is 30 percent for the first three years of a project and 50 percent during the fourth and fifth years. The legislation authorizes \$30,000,000 for each fiscal year 2002-2006 of which \$5,000,000 is for the establishment of the institute.

Act Sec. 6022, adding Sec. 379 of CFRD.

The amount of a grant is to be not less than \$1,000,000 and not more than \$2,000,000.

Act Sec. 6022, adding Sec. 379 of CFRD.

Z. Historic barn preservation

The 2002 Act authorizes the Secretary to make grants and enter into agreements with states to identify, rehabilitate and preserve historic barns. The legislation authorizes “such sums as are necessary” to carry out this provision from fiscal years 2002 through 2007.

Act Sec. 6023, adding Sec. 379A to CFRD.

The Act directs the Secretary to establish a historic barn preservation program to assist states in developing a list of historic barns; to collect and disseminate information on historic barns; to foster educational programs related to the history, construction techniques, rehabilitation and contribution to society of historic barns and to sponsor and conduct research on the history of barns and list practices to protect and rehabilitate historic barns from the effects of decay, fire, arson and natural disasters.

Act Sec. 6023, adding Sec. 379A(b) to CFRD.

The term “historic barn” is defined as a barn at least 50 years old; retains sufficient integrity of design, materials and construction to clearly identify the barn as an agricultural building; and meets the criteria for listing on national, state or local registers or inventories of historic structures.

Act Sec. 6023, adding Sec. 379A(a)(3) to CFRD.

The term “barn” means a building (other than a dwelling) on a farm, ranch or other agricultural operation for housing animals, storing or processing crops, storing and maintaining agricultural equipment or securing an essential or useful purpose related to agricultural activities conducted on the adjacent land.

Act Sec. 6023, adding Sec. 379A(a)(1) to CFRD.

The legislation defines “eligible applicant” to mean a state department of agriculture; a Section 501(c)(3) organization if it has experience or expertise in identification, evaluation, rehabilitation, preservation or protection of historic barns; and a state historic preservation office.

Act Sec. 6023, adding Sec. 379A(a)(2) to CFRD.

AA. Grants for emergency weather radio transmitter

The 2002 Act authorizes “such sums as are necessary” fiscal year 2002 through 2007 for 75 percent cost sharing grants to public and nonprofit entities for acquiring radio transmitters to increase coverage of rural areas by the emergency weather broadcast system.

Act Sec. 6024, adding Sec. 379B of CFRD.

The Conference Report states that the Managers are concerned that many rural and remote areas in the United States do not have access to timely and accurate alerts and warnings regarding severe weather in the vicinity. In many cases, timely weather warnings may be the difference between life and death for individuals in the path of severe weather. It is the Managers’ intent that this grant program increase the coverage area of the all-hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration to as many rural and remote areas as possible.

Conf. Report Under Act Sec. 6024.

BB. Telemedicine and distance learning services in rural areas

The legislation extends the program for telemedicine and distance learning services in rural areas through 2007.

Act Sec. 6203, amending Sec. 2335A of the Food, Agriculture, Conservation and Trade Act of 1990.

The Conference Report states that public television entities are eligible to receive assistance under this provision for high speed telecommunication services in rural areas to provide educational programming for schools and communities in rural areas.

Conf. Report Under Act. Sec. 6203.

CC. SEARCH grants for small communities

The 2002 Act authorizes SEARCH grants (special environmental assistance for the regulation of communities and habitat) with a population of 2,500 or less for an environmental project or to comply with an environmental law. The legislation authorizes \$51,000,000 in appropriations for each of the fiscal years 2002 through 2007 and “such sums as are necessary” to carry out the provision.

Act Secs. 6301-6304.

The Conference Report states the Managers are aware that many communities do not have experts with the technical ability to complete the paperwork and other documents accompanying traditional funding programs. Therefore, it is the Managers’ intent that the application process be simplified and streamlined as is practicable. State rural development directors should work with rural communities to identify the requirements of such a simplified application process.

Many communities coping with environmental laws and regulations are economically distressed and lack the resources to comply with mandates without grant assistance. It is the Managers’ intent that State rural development directors not seek a local match from communities for grants awarded if it will result in economic hardship to the community in

question. State rural development directors should reserve match requirements for specific situations and circumstances, and allow communities reasonable amounts of flexibility to provide, in lieu of cash payment, in-kind contributions when calculating the cost-share amount.

Conf. Report Under Act Secs. 6301-6304.

DD. Value-added agricultural product market development grants

The 2002 Act provides for a competitive grant program to eligible independent producers of a value-added agricultural product to assist the producer in developing a business plan “for viable marketing opportunities for the value-added product” or in developing strategies that are intended to create marketing opportunities for the producer. Eligible producer groups, farmer or rancher cooperative or majority-controlled producer-based business venture are also eligible participants. The total amount provided to a grant recipient is not to exceed \$500,000. The legislation authorizes \$400,000,000 of CCC funds for each fiscal year 2002 through 2006.

Act Sec. 6401, amending Sec. 231 of the Agricultural Risk Protection Act of 2000.

VII. Research

A. Extension

1. National Rural Information Center Clearing House

The 2002 Act extends the authorization for the National Rural Information Center Clearing House through 2007.

Act Sec. 7101, amending Sec. 2381(e) of the Food, Agriculture, Conservation and Trade Act of 1990.

The Conference Report states that the Managers expect the Rural Development mission area of the Department to highlight the existence and resources of the Rural Information Center of the National Agricultural Library on its websites and in its informational materials.

Conf. Report Under Act Sec. 7101.

2. Grants and fellowships for Food and Agricultural Sciences Education

The 2002 legislation expressly includes teaching and educational programs in “rural economic, community, and business development” as eligible purposes or recipients under the national Agricultural Research, Extension, and Teaching Policy Act of 1977 and extends authorization through 2007.

Act Sec. 7102, amending Sec. 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

3. Policy Research Centers

The legislation extends the authorization for the Policy Research Centers through 2007.

Act Sec. 7103, amending Sec. 1419A(d) of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (NARETPA).

4. Other authorizations

The 2002 Act extends authorization through 2007 for the following—
Human Nutrition Intervention and Health Promotion Research Program

Act Sec. 7104, amending Sec. 1424(d) of NARETPA.

Pilot Research Program to Combine Medical and Agricultural Research

Act Sec. 7105, amending Sec. 1424A(d) of NARETPA.

Nutrition Education Program

Act Sec. 7106, amending Sec. 1425(c)(3) of NARETPA.

Continuing Animal Health and Disease Research Programs

Act Sec. 7107, amending Sec. 1433(a) of NARETPA.

Appropriations for Research on National or Regional Problems

Act Sec. 7108, amending Sec. 1434(a) of NARETPA.

Grants to Upgrade Agricultural and Food Sciences Facilities at 1890 land-grant colleges, including Tuskegee University

Act Sec. 7109, amending Sec. 1447(b) of NARETPA.

National Research and Training Virtual Centers

Act Sec. 7110, amending Sec. 1448 of NARETPA.

Hispanic-Serving Institutions

Act Sec. 7111, amending Sec. 1455(c) of NARETPA.

Competitive Grants for International Agricultural Science and Education Programs

Act Sec. 7112, amending Sec. 1459A(c) of NARETPA.

Supplemental and Alternative Crops

Act Sec. 7115, amending Sec. 1473D(a) of NARETPA.

Aquaculture Research Facilities

Act Sec. 7116, amending Sec. 1477 of NARETPA.

Rangeland Research

Act Sec. 7117, amending Sec. 1483(a) of NARETPA.

National Genetics Resources Program

Act Sec. 7118, amending Sec. 1635(b) of the Food, Agriculture, Conservation and Trade Act of 1990.

High Priority Research and Extension Initiatives

Act Sec. 7119, amending Sec. 1672(h) of the Food, Agriculture, Conservation and Trade Act of 1990.

The Conference Report states that the Managers expect that the Secretary shall, in making grants, give priority to proposals to: (i) establish and coordinate priorities for genetic evaluation of domestic beef cattle; (ii) consolidate research efforts to reduce duplication of effort and maximize the return to beef industry; (iii) streamline the process between the development and adoption of new genetic evaluation methodologies by the industry; (iv) identify new traits and technologies for inclusion in genetic programs in order to reduce the costs of beef production and provide consumers with a high nutritional value, healthy, and affordable protein source or create decision making tools that incorporate the increasing number of traits being evaluated and the increasing amount of information from DNA technology into genetic improvement programs, with the goal of optimizing the overall efficiency, product quality and safety, and health of the domestic beef cattle herd resource.

The Managers recognize the importance of proper management and stewardship of the Ogallala Aquifer and other natural resources to the long-term viability of agricultural enterprises and communities in the Central and Southern Great Plains. The Managers recognize the ongoing efforts of educational institutions and agricultural entities in this region that have expertise in developing enhanced management strategies for conserving water, natural resources and associated agricultural infrastructure in order to protect the region's economic integrity over the long term. The Managers commend multi-disciplinary research efforts to develop new technologies and strategies to manage and utilize water and natural resources to produce sustainable economic returns.

To maintain the economic vitality and rural population base of the Central and Southern Grant Plains, the Secretary is encouraged to give priority to and fund collaborative research efforts that seek to protect the water and natural resources of this region.

Conf. Report Under Act Sec. 7119.

Nutrient Management Research and Extension Institute

Act Sec. 7119, amending Sec. 1672A(g) of the Food, Agriculture, Conservation and Trade Act of 1990.

The Conference Report states that the Managers acknowledge the many benefits of the worm farming industry. Worm farms, while not recognized in any specific program within the USDA, provide considerable environmental benefits. By recycling organic waste, worms fertilize our agriculturally productive lands and improve nutrient-deficient soil. The Managers encourage the USDA to study and promote worm farming industry techniques that are beneficial to the environment.

Conf. Report Under Act Sec. 7120.

Agricultural Telecommunications Program

Act Sec. 7121, amending Sec. 1673(h) of the Food, Agriculture, Conservation and Trade Act of 1990.

Assistive Technology Program for Farmers With Disabilities

Act Sec. 7122, amending 1680(c)(1) of the Food, Agriculture, Conservation and Trade Act of 1990.

Partnership for High-Value Agricultural Product Quality Research

Act Sec. 7123, amending Sec. 402(g) of the Agricultural Research, Extension and Education Reform Act of 1998.

Bio-based Products (Pilot Project)

Act Sec. 7124, amending Sec. 404(e)(2) of the Agricultural Research, Extension and Education Reform Act of 1998.

1994 Institution Research Grants

Act Sec. 7127, amending Sec. 536(c) of the Equity in Educational Land-Grant Status Act of 1994.

Endowment for 1994 Institutions

Act Sec. 7128, amending Sec. 533(b) of the Equity in Land-Grant Status Act of 1994.

Precision Agriculture

Act Sec. 7129, amending Sec. 403(i) of the Agricultural Research, Extension and Education Reform Act of 1998.

Thomas Jefferson Initiative for Crop Diversification

Act Sec. 7130, amending Sec. 405(h) of the Agricultural Research, Extension and Education Reform Act of 1998.

Office of Pest Management Policy

Act Sec. 7132, amending Sec. 614(f) of the Agricultural Research, Extension and Education Reform Act of 1998.

National Agricultural Research, Extension, Education, and Economics Advising Board

Act Sec. 7133, amending Sec. 1408(h) of NARETPA of 1977.

Grants for Research on Production and Marketing of Alcohols and Industrial Hydrocarbons from Agricultural Commodities and Forest Products

Act Sec. 7134, amending Sec. 1419(d) of NARETPA of 1977.

Agricultural Experiment Stations Research Facilities

Act Sec. 7135, amending Sec. 6(a) of the Research Facilities Act.

Competitive, Special, and Facilities Research Grants National Research Initiative

Act Sec. 7136, amending Sec. 2(b)(10) of the Competitive, Special, and Facilities Research Grant Act.

Federal Agricultural Research Facilities Authorization of Appropriations

Act Sec. 7137, amending Sec. 1431 of NARETPA of 1977.

Critical Agricultural Materials Research

Act Sec. 7138, amending Sec. 16(a) of the Critical Agricultural Materials Act.

Aquaculture

Act Sec. 7139, amending Sec. 10 of the National Aquaculture Act of 1980.

5. University research

The 2002 Act extends authorization for university research and, in place of authorization of \$850,000,000 for each fiscal year through 2002, authorizes “such sums as may be necessary” for each of fiscal years through 2007.

Act Sec. 7113, amending Sec. 1463 of NARETPA.

The Conference Report states that the Managers encourage the Secretary to review USDA competitive grants programs administered by the Cooperative States Research, Education and Extension Service to provide to Congress a report that includes an accounting of the success of minority-serving institutions in accessing competitive research funding during the applicable fiscal year, and recommendations for steps that Congress, the Administration and the minority-serving institutions might take to achieve greater success by minority-serving institutions in securing competitively awarded grant funds.

Conf. Report Under Act Sec. 7113.

6. Extension

The legislation extends authorization for Extension funding and authorizes “such sums as are necessary.”

Act Sec. 7113, amending Sec. 1464 of NARETPA.

The Conference Report states that the Managers recognize the importance of ensuring that America’s farmers and ranchers have the tools necessary to retain the most productive, efficient and competitive producers in the global marketplace. Due to the complexity of marketing and management issues, intensive educational efforts have proven effective in helping producers increase their returns. The Agricultural Risk Protection Act acknowledged the need to establish a risk management education program to inform agricultural producers about the full range of risk management activities available to them.

One program that has proven to be successful is the Master Marketer Educational System (MMES) conducted by Texas Cooperative Extension. This intensive training course takes producers from an intermediate to an advanced level in marketing/risk management. Program graduates serve as volunteer leaders in establishing and/or revitalizing marketing clubs in their home county to share what they have learned. Two-year post-training surveys have indicated that graduates have increased their returns by \$25,000 to \$30,000 per year. While the Master Marketer training and marketing clubs are the cornerstones of the system, MMES also includes an advanced topic series for producers and an in-depth risk management training for lenders. The Managers encourage the Secretary of Agriculture to expand such programs to provide quality risk management training for farmers across the country.

Conf. Report Under Act Sec. 7113.

7. Integrated Research, Education and Extension Competitive Grants Program

The 2002 legislation extends the authorization for the program through 2007 and provides that grants are not to exceed five years.

Act Sec. 7125, amending Sec. 406 of the Agricultural Research, Extension and Education Reform Act of 1998.

8. Alternative Agricultural Research and Commercialization Revaluing Fund

The legislation repeals the provision and provides authority to the Secretary for the orderly disposal of AARCC assets.

Act Sec. 6201.

9. Institution capacity building grants

The 2002 Act extends authorization through 2007 and changes the authorized amount from \$1,700,000 per year to “such sums as are necessary.”

Act Sec. 7126, amending Sec. 535 of the Equity in Educational Land-Grant Status Act of 1994.

10. Support for research on specific diseases

The legislation reauthorizes support for research regarding diseases of wheat, triticale and barley caused by *fusarium graminearum* or by *tilletia indica*, strikes the amount of \$5,200,000,000 and inserts “such sums as may be necessary.”

Act Sec. 7131, amending Sec. 408(e) of the Agricultural Research, Extension and Education Reform Act of 1998.

B. Modifications

1. Equity in Educational Land-Grant Status Act of 1994

The 2002 Act increased the authorization for appropriations from \$50,000 to \$100,000 under the Equity in Educational Land-Grant Status Act of 1994 for eligible institutions. **Act Sec. 7201, amending Sec. 532, 533 and 534 of the Equity in Educational Land-Grant Status Act of 1994.**

2. Carryover for Experiment Stations

The 2002 legislation specifies that the balance of any annual funds provided under the Hatch Act of 1887 to a state agricultural experiment station for a fiscal year, that remain unexpended at the end of the fiscal year, may be carried over for use during the following fiscal year. Any unexpended balance not expended by the end of the second fiscal year is deducted from the next annual allotment to the state.

Act Sec. 7202, amending Sec. 7 of the Hatch Act of 1887.

3. Carryover for eligible institutions

The 2002 legislation specifies that funds allocated to an eligible institution under NARETPA that remain unexpended at the end of the fiscal year, may be carried over for use during the following fiscal year. Any unexpended balance not expended by the end of the second fiscal year is deducted from the next annual allotment for the institution.

Act Sec. 7204, amending Sec. 1445(a) of NARETPA.

4. Initiative for Future Agriculture and Food Systems

The legislation provides for the use of CCC funds to fund an account for research, extension and education grants to address critical emergency agricultural and rural issues related to—(a) future food production; (b) environmental quality and natural resource management; (c) farm income; and (d) rural economic and business and community development policy. The amounts provided are \$120,000,000 on October 1, 2003; \$140,000,000 on October 1, 2004; \$160,000,000 on October 1, 2005; and \$200,000,000 on October 1, 2006 and each October 1 thereafter.

Act Sec. 7205, amending Sec. 401(b) of the Agricultural Research, Extension and Education Reform Act of 1998.

The Conference Report states that in making grants to address rural economic and business and community development policy issues, the Managers encourage the agency to solicit and fund research, education, and extension projects on rural policy, rural economic and community development, agriculturally-based development, new and alternative markets, locally-owned value-adding enterprises, and self employment and entrepreneurial opportunities. The Managers also encourage the agency to solicit project proposals addressing critical issues related to improving the effectiveness of Federal rural and agricultural development programs, including projects directly involving rural organizations and rural entrepreneurs that participate in Federal rural development programs.

The Managers note the importance of funding for the farm efficiency and profitability priority mission area. The Managers encourage the agency to solicit and fund projects which promote the development of management and marketing systems that improve profitability, including development of diversification and input cost reduction strategies; effective local, regional, and international marketing programs; farm-based value-added processing and new high return production and marketing niches; improved methods of managing risk; and means to improve management and marketing of natural and environmental resources. Also, as part of this priority mission area, the Managers encourage the agency to solicit and fund research and development of farm tenure, transfer, succession, finance, management, production, and marketing models and strategies that foster new farming and ranching opportunities for beginning farmers and ranchers.

Conf. Report Under Act Sec. 7205.

5. Agricultural Research, Extension, and Education Reform Act of 1998

The 2002 legislation provides for a definition of “precision agriculture,” broadened the program to improve viability of small and medium-size livestock and poultry operations, modified the rules on research into Karnal Bunt and authorized the establishment of a control program by Bovine Johne’s Disease. The legislation authorizes appropriations “as may be necessary” to carry out the programs.

Act Sec. 7207, amending Secs. 403, 405, 407 and 408 and adding Sec. 409 of the Agricultural Research, Extension and Education Reform Act of 1998.

The Conference Report states that the Managers do not intend that any future funds made available for *Tilletia indica* (commonly referred to as Karnal Bunt) research would be taken from the amount presently made available for research related to *Fusarium graminearum* (commonly referred to as Wheat Scab).

Conf. Report Under Act Sec. 7207.

6. Food, Agriculture, Conservation and Trade Act of 1990

The 2002 Act amends the provisions for the Agricultural Genome Initiative and amends and adds to the list of high priority research and extension initiatives to include, as new initiatives, genetically modified agriculture products research, publicly held plant and animal varieties and sugarcane genetics. In addition, the provision lists wind erosion research and extension, crop loss research and extension, land use management research and extension, water and air quality research and extension, revenue and insurance tools for research and extension, agrotourism research and extension, harvesting productivity for fruits and vegetables, nitrogen fixation by plants, agricultural marketing, environment and private lands research and extension, livestock disease research and extension, plant gene expression, animal infectious diseases research, program to combat childhood obesity, integrated pest management and dairy pipeline cleaner.

Now language is added to the assistive technology program for farmers with disabilities to ensure that full consideration is given to entities applying for grants but have not previously received grants.

Act Sec. 7208, amending Secs. 1671(b) and 1672(e) of the Food, Agriculture, Conservation and Trade Act of 1990.

The Conference Report states that the Managers recognize the success of state AgrAbility programs that have benefited from assistive technology competitive grants. The Managers understand the difficulty faced by new applicants in competing with established programs for limited funds. To continue the success of this program and broaden its scope to additional states, the Managers encourage full funding of the program and urge the Secretary to give full consideration to the potential merits of eligible programs that have not previously received a grant award.

Conf. Report Under Act Sec. 7208.

7. National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA)

The legislation adds a non-Land-Grant college or university representative to the National Agricultural Research, Extension, Education, and Economics Advisory Board. Industrial oilseed crops are made eligible for grants under the project for Marketing of Alcohols and Industrial Hydrocarbons. The Act is also amended to authorize an internship program in Foreign Agriculture Service overseas offices.

Act Sec. 7209, amending Secs. 1408, 1419, 1458(a) and 1480 of NARETPA.

The Conference Report states that the legislation adds 1994 institutions to the list of institutions eligible for the Integrated Grants Program in an amendment to Sec. 1404(4) of NARETPA. However, the statute does not contain that authority.

Conf. Report Under Act Sec. 7209.

8. Biotechnology risk assessment research

The 2002 legislation specifies that risk assessment projects carried out under this program compare the risks associated with products of agricultural biotechnology to those associated with traditionally bred plants and animals. The Secretary is to withhold from outlays for research on biotechnology at least two percent for the purpose of making grants for research on biotechnology risk assessment. The legislation adds genetically engineered micro-organisms as a priority topic for risk assessment research.

Act Sec. 7210, amending Sec. 1668 of the Food, Agriculture, Conservation and Trade Act of 1990.

9. Competitive, special and facilities research grants

The 2002 Act strikes the stated substantive areas of national and multi-state needs under high priority research and instead provides for the Secretary to determine those needs in

consultation with the National Agricultural Research, Extension, Education, and Economics Advising Board.

Act Sec. 7211, amending Sec. 2(b)(2) of the Competitive, Special, and Facilities Research Grant Act.

10. Matching Funds Requirement for Research and Extension Activities of 1980 Institutions

The 2002 legislation phases in an increased matching requirement for non-federal funds for 1890 Land-Grant colleges and universities to 100 percent by 2007. Authority is provided for a waiver of the matching requirement for an eligible institution if the state is unlikely to satisfy the matching requirement.

Act Sec. 7212, amending Sec. 1449 of the NARETPA.

11. Matching fund requirement for research and extension activities for “Insular Area Land-Grant Institutions”

The legislation provides that, beginning in fiscal 2003, the insular areas of Puerto Rico, Guam and the Virgin Islands are to provide a 50 percent match for the formula funds (research and extension) provided by USDA. Authority is provided for a waiver if the insular area is unlikely to meet the matching requirement.

Act Sec. 7213, amending Sec. 3(d) of the Hatch Act of 1887 and Sec. 3(e) of the Smith-Lever Act.

12. Definition of “Food and Agricultural Sciences”

The 2002 Act strikes the definition of “Food and Agricultural Sciences” in the Research Facilities Act and instead refers to the definition of Food and Agricultural Sciences in NARETPA.

Act Sec. 7214, amending Sec. 2(3) of the Research Facilities Act.

13. Federal Extension Service – 1994 Institutions

The legislation provides that “such sums as are necessary” may be appropriated to carry out Sec. 3(b)(3) of the Smith Lever Act which authorizes extension funds for the 1994 Institutions (replacing an amount of \$5,000,000). The balance of annual funds provided that remain unexpended at the end of the fiscal year remain available.

Act Sec. 7215, amending Sec. 3(b)(3) of the Smith-Lever Act.

14. Policy Research Center

The 2002 legislation provides that grant funding to the Center under NARETPA may be used to disseminate policy research information.

Act Sec. 7216, amending Sec. 1419A(a)(3) of NARETPA.

15. Availability of competitive grant funds

The 2002 Act provides that funds made available to carry out any competitive agricultural research, education or extension grant programs under NARETPA or any other act are to be available for two fiscal years beginning on October 1 of the fiscal year for which the funds are made available.

Act Sec. 7217, adding Sec. 1469A to the NARETPA.

16. Organic agriculture research and extension initiative

The 2002 legislation requires the Secretary to consult with the National Organics Standards Board (as well as the National Agricultural Research, Extension, Education, and Economics Advisory Board) in making grants. The legislation adds four additional purposes for which grants may be awarded—(a) determining desirable traits for organic commodities using advanced genomics, field trials and other methods; (b) pursuing classical and marker-assisted breeding for publicly-held varieties of crops and animals optimized for organic systems; (c) identifying marketing and policy constraints on the expansion of organic agriculture; and (d) conducting advanced on-farm research and development that emphasizes observation of, experimentation with, and innovation for working organic forms, including research related to production and to socio-economic conditions. The legislation also includes breeding, marketing and policy research as priority areas.

The legislation includes \$3,000,000 in mandatory funding for each fiscal year beginning October 1, 2003, through October 1, 2007.

Act Sec. 7218, amending Sec. 1672B of the Food, Agriculture, Conservation and Trade Act of 1990.

The Conference Report states that it is the intent of the Managers that these funds shall be allocated for high priority aspects of organic agricultural systems research, education, and extension. Priority concerns encompass biological, physical, and social sciences (including economics). The authorization of these funds shall not preclude or preempt the allocation of funds for other organic farming research, education, and extension programs under any other competitive or special grants programs, integrated activity, or formula funding. Rather, it is the intent of the Managers that organic agriculture be recognized as a legitimate priority of all Research, Education, and Economics programs, and should be recognized accordingly in appropriate USDA Research, Education and Extension program plans and requests for proposals.

Conf. Report Under Act Sec. 7218.

17. Senior Scientific Research Service

The 2002 Act establishes a “Senior Scientific Research Service” in USDA of not more than 100 members. To be eligible to be appointed to the Service by the Secretary, an individual must (a) have conducted outstanding research in the field of agriculture or forestry; (b) have earned a “doctoral level degree” at an institution of higher education; and (c) meet the qualification requirements for a GS-15 position. Compensation of members of the Service is to be set between a GS-15 appointment and an ES-I (Executive

Schedule) appointment (with an exception to ES-I maximum for a rate approved by the President).

A member appointed to the Service from a prior position at an institution of higher education who retains the right to make contributions to that institution's retirement system may request that the Secretary contribute an amount not to exceed 10 percent of "basic pay" to that retirement system but such a member does not earn service credit under federal law for time served in the Service except for purposes of crediting annual leave.

Act Sec. 7219, adding Sec. 620 to the Agricultural Research, Extension, and Education Reform Act of 1998.

18. Termination of certain Schedule A appointments

The legislation provides for the termination, 60 days after enactment, of Schedule A, dual federal-state appointments, of employees working in agricultural extension programs at 1862 institutions, 1890 institutions and the University of the District of Columbia. An individual whose appointment is terminated but who remains employed in the agricultural extension program continues to be eligible, to the same extent as before enactment of this provision, to participate in the Federal Employee Health Benefits Program, the Federal Employee Group Life Insurance Program, the Civil Service Retirement System, the Federal Employee Retirement System, federal long-term care benefits, and the Thrift Savings Plan. Individuals continue to receive federal civil service employment credit as long as the employing college or university continues to fulfill the administrative and financial responsibilities associated with providing those benefits. If an individual changes employment from an agricultural extension program at one institution to that in another, the individual will continue to receive such benefits as long as the second institution fulfills its responsibilities and had employed another person in the same position within 120 days before the date of employment of the individual.

This provision is effective on January 31, 2003.

Act Sec. 7220.

19. Bio-security planning and response program

The 2002 legislation adds a new subtitle on to NARETPA entitled "Biosecurity."

A special supplemental authorization of "such sums as are necessary" is provided for biosecurity planning and response for fiscal years 2002 through 2007. Funds may be used to carry out agricultural research education and extension activities (including competitive grants) necessary to—(a) reduce the vulnerability of the U.S. food and agricultural system to chemical or biological attack; (b) continue joint research initiatives between ARS, universities and industry on counter bioterrorism efforts; (c) make competitive grants to universities and qualified research institutions for research on counter bioterrorism; and (d) counter or otherwise respond to chemical or biological attack.

Expansion or security upgrade grants may be made on a competitive basis to colleges and universities in a program to enhance the security of agriculture in the U.S. against threats posed by bioterrorism. Grants on a 50 percent cost-share basis to a recipient cannot exceed \$10,000,000 in any fiscal year.

Act Sec. 7221, adding Sec. 1484 and Sec. 1485 to the NARETPA.

The Conference Report states that, under this program to receive a grant, a Land-Grant Institution must have—(a) demonstrated expertise in the area of animal and plant diseases; (b) substantial animal and plant diagnostic laboratories; and (c) well-established working relationships with the agricultural industry and farm and commodity organizations. In making grants, the Secretary is to give priority to institutions with demonstrated expertise in (a) animal and plant disease prevention; (b) pathogen and toxin mitigation; (c) cereal disease resistance; (d) grain milling processing; (e) livestock production practices; (f) vaccine development; (g) meat processing; (h) pathogen detection and control; or (i) food safety.

Conf. Report Under Act Sec. 7221.

20. Indirect costs for Small Business Innovation Research Grants

The 2002 Act strikes the 19 percent cap on indirect costs for competitive agricultural research, education and extension grants. The cap does not apply to a grant awarded competitively under section 9 of the Small Business Act.

Act Sec. 7222, amending Sec. 1462 of the NARETPA.

The Conference Report (but not the statute itself) states that the 19 percent cap is to be replaced by the “negotiated indirect cost rate established for an institution by the cognizant Federal audit agency for that institution.”

Conf. Report Under Act Sec. 7222.

21. Carbon cycle research

The legislation extends the authorization through 2007 for the discretionary program so carbon cycle research can continue.

Act Sec. 7223, amending Sec. 221 of the Agricultural Risk Protection Act of 2000.

The Conference Report states that the Managers recognize the success of the carbon cycle research consortium (created by Sec. 221 of the Agriculture Risk Protection Act of 2000) and encourage these institutions to continue their cooperative work. The Managers understand that the consortium network may be expanded, as deemed appropriate by the consortium, to include additional institutions with interest or expertise in carbon cycle research.

Conf. Report Under Act Sec. 7223.

C. Repeal of activities and authorities

1. Food Safety Research Information Office and National Conference

The 2002 legislation repeals subsections (b) and (c) of Section 615 of the Agricultural Research Extension, and Education Reform Act of 1998.
Act Sec. 7301.

2. Sheep Promotion, Research and Information Act of 1994

The 2002 Act repeals Section 617 of the Agricultural Research, Extension, and Education Reform Act of 1998.
Act Sec. 7302.

3. Market Expansion Research

The legislation repeals Sec. 1436 of the Food Security Act of 1985.
Act. Sec. 7303.

4. National Advisory Board on Agricultural Weather

The 2002 Act repeals Sec. 1639 of the Food, Agriculture, Conservation, and Trade Act of 1990.
Act Sec. 7304.

5. Agricultural Information Exchange With Ireland

The legislation repeals Sec. 1420 of the NARETPA.
Act Sec. 7305.

6. Pesticide Resistance Study

The 2002 legislation repeals Sec. 1437 of NARETPA.
Act Sec. 7306.

7. Expansion of Education Study

The legislation repeals Sec. 1438 of NARETPA.
Act Sec. 7307.

8. Task Force on 10-Year Strategic Plan for Agricultural Research Facilities

The 2002 Act repeals Sec. 4 of the Research Facilities Act.
Act Sec. 7308.

D. New authorities

1. Research equipment grants

The legislation provides authority for a competitive grant program for research equipment for use in food and agricultural sciences programs of colleges or universities or a “state cooperative institution.” The maximum amount of a grant is \$500,000.

The cost of acquisition or depreciation of equipment purchased with a grant cannot be charged as an indirect cost against another federal grant or included as part of the indirect cost pool for purposes of calculating the indirect cost rate of an eligible institution.

Act Sec. 7402, adding Sec. 1462A of NARETPA.

The Conference Report states eligible institutions include 1862 Institutions, 1890 Institutions, 1994 Institutions, Hatch experiment stations, McIntire-Stennis schools, veterinary schools under the animal and health disease formula program authorized in NARETPA and Hispanic-serving institutions.

Conf. Report Under Act Sec. 7402.

2. Joint requests for proposals

The 2002 Act authorizes the Secretary, in carrying out competitive agricultural research, education or extension grant programs, to cooperate with other federal agencies in issuing joint requests for proposals, awarding grants and administering grants for similar or related projects.

The legislation authorizes joint peer review panels.

Act Sec. 7403, adding Sec. 1473B to NARETPA.

3. Review of Agricultural Research Service

The legislation directs the Secretary within 90 days after the date of enactment, May 13, 2002, to create a task force to conduct a review of the purpose, efficiency, effectiveness and impact on agricultural research of the Agricultural Research Service and a review and evaluation of the merits of establishing National Institutes focused on disciplines important to the progress of food and agriculture sciences. The report is to be submitted not later than 12 months after enactment of the legislation.

The Secretary may use not more than 0.1 percent of ARS appropriations for fiscal year 2003 to conduct the study.

Act Sec. 7404.

The Conference Report states that the sciences related to plant biology and agriculture have contributed greatly to human welfare. The gains in the next decades have the potential to be astonishing. The challenge is to establish appropriate mechanisms, with adequate funding, to ensure that the United States is home to highest quality research and is able to maximize its benefits to its economy. In 1999, food and agriculture accounted for 16.4 percent of the GDP (or \$1.5 trillion) yet attracted less than two percent of the federal research budget. In real terms, the U.S. now spends less on food and agricultural research than was spent in 1978.

The Managers believe a new model for plant and agricultural research might be patterned after the highly successful biomedical research conducted by the National Institutes of Health (NIH). The mechanisms employed by NIH and the National Science Foundation (NSF) have advanced science of the highest quality, attracted the best young scientists to careers in research and teaching, and provided a stream of discoveries that has been rapid and highly beneficial to society. The Managers intend that any new research institute would supplement, not supplant, the successful programs of USDA and other existing federal research programs. As such, the conferees urge the Secretary to place high priority in establishing a task force of members, the majority of which should be from the private sector, including institutions of higher education, that have extensive background and preeminence in the field of plant and agricultural sciences research. In addition, the Secretary is urged to designate a chairperson that has significant leadership experience in educational and research institutions and in-depth knowledge of the research enterprises of the United States in leading the evaluation of the merits of establishing a National Institutes for Plant and Agricultural Sciences and provide recommendations to the Committees. In addition, the task force is charged with conducting a separate review of the purpose, efficiency, effectiveness, and impact of agricultural research conducted by the Agricultural Research Service. Together, these two separate reports should provide a roadmap for the future of the federal government concerning plant and agriculture research and the potential benefits that could be realized.

Conf. Report Under Act Sec. 7404.

4. Beginning Farmer and Rancher Development Program

The 2002 Act authorizes appropriations in terms of “such sums as may be necessary” for each of the fiscal years 2002 through 2007 to carry out a beginning farmer and rancher development program to provide training, education, outreach and technical assistance initiatives for beginning farmers or ranchers. A “beginning farmer or rancher” is defined as a person who has not operated a farm or ranch or operated one for less than ten years and who meets other criteria prescribed by the Secretary.

In carrying out the program, the Secretary is to make competitive grants to support new and established local and regional training, education, outreach and technical assistance initiatives for beginning farmers or ranchers including programs and services related to—

- (a) mentoring, apprenticeships and internships;
- (b) resources and referrals;
- (c) assisting beginning farmers or ranchers in acquiring land from retiring farmers and ranchers;
- (d) innovative farm and ranch transfer strategies;
- (e) entrepreneurship and business training;
- (f) model land leasing contracts;
- (g) financial management training;
- (h) whole farm planning;
- (i) conservation assistance;
- (j) risk management education;
- (k) diversification and marketing strategies;
- (l) curriculum development;
- (m) understanding the impact of concentration and globalization;
- (n) basic livestock and crop farming practices;
- (o) the acquisition and management of agricultural credit;
- (p) environmental compliance;
- (q) information processing; and
- (r) other similar subject matter areas of use to beginning farmers or ranchers.

Act Sec. 7405.

5. Sense of Congress regarding doubling of funding for agricultural research

The legislation expresses the sense of Congress that food and agricultural research funding should be “at least doubled” over the next five fiscal years.

Act Sec. 7406.

6. Organic production and market data initiatives

The 2002 Act requires the Secretary to ensure that segregated data on the production and marketing of organic agricultural products are included in the ongoing baseline of data collection regarding agricultural production and marketing.

Act Sec. 7407.

7. International Organic Research Collaboration

The legislation requires the Secretary, acting through ARS, the National Agricultural Library and the Economic Research Service to facilitate access by research and extension professionals, farmers and other interested persons to organic research conducted outside the United States.

Act Sec. 7408.

8. Report on producers and handlers of organic agricultural products

The legislation provides for a report to be submitted by the Secretary not later than one year after funds are made available to carry out this section on—(a) the extent to which producers and handlers of organic agricultural products are contributing to research and promotion programs of USDA; (b) the extent to which producers and handlers of organic agricultural products are surveyed for ideas for research and promotion; (c) ways in which the programs reflect the contributions made by producers and handlers of organic agricultural products and directly benefit producers and handlers; and (d) the implementation of initiatives that directly benefit organic producers and handlers. The report is also to evaluate industry and other proposals for improving the treatment of certified organic agricultural products under federal marketing orders including proposals to target additional resources for research and promotion of organic products and to differentiate between certified organic and other products in new or existing volume limitations or other orderly marketing requirements.

Act Sec. 7409.

Note: Act Sec. 10607, amending Sec. 501 of the FAIR Act of 1996 (page 44 of this summary) allows a person who produces and markets only 100 percent organic products and does not produce any conventional or non-organic products, to be exempt from the payment of an assessment under a commodity promotion law for products produced on a certified organic farm.

9. Report on genetically modified pest-protected plants

The 2002 Act states that it is the sense of the Congress that, not later than one year after the date of enactment, May 13, 2002, the Secretary “should” review the recommendations of the Committee on Genetically Modified Pest-protected Plants, of the Board on Agriculture and Natural Resources, National Research Council made in 2000, and the Committee on Environmental Impacts Associated with Commercialization of Transgenic Plants, made in 2002, concerning food safety, ecological research, monitoring needs and environmental effects and submit a report to the House and Senate agriculture committees.

Act Sec. 7410.

10. Study of nutrient banking

The legislation states that the Secretary “may” (not shall) conduct a study to evaluate nutrient banking for the purpose of enhancing the health and viability of watersheds in areas with large concentrations of animal producing units. If conducted, a report “shall” be submitted to the Senate and House agriculture committees.

Act Sec. 7411.

11. Grants for youth organizations

The legislation provides \$8,000,000 from CCC (to remain available until expended) for 2002 through 2007 for the Secretary, acting through CSREES, to make grants to the Girl Scouts, Boy Scouts, National 4-H Council and the National FFA organization to establish pilot projects to expand the programs carried out by the organizations in rural areas and small towns and for purposes of the 4-H Centennial under Pub. L. No. 107-19.

Act Sec. 7412, adding Sec. 410 to the Agricultural Research, Extension, and Education Reform Act of 1998.

E. Miscellaneous

1. Resident instruction and distance education at institutions of higher education in United States insular areas.

The 2002 Act provides new authority for resident teaching and extension programs in food and agricultural sciences in “insular areas” (Puerto Rico, Virgin Islands, Guam, American Samoa, Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands and the Republic of Palav).

Act Secs. 7501, 7502, 7503, adding subtitle O to NARETPA and amending Sec. 1404 of NARETPA.

2. Declaration of Extraordinary Emergency and Resulting Authorities

The 2002 legislation addresses the declaration of emergencies and approval for transfer of funds and also requires the Secretary to consider the availability of methyl bromide alternatives prior to making a determination under this section and to identify alternatives to the use of methyl bromide.

Act Sec. 7504, amending Secs. 415(e) and 442 of the Plant Protection Act.

3. Agricultural biotechnology research and development for developing countries

The 2002 Act authorizes appropriations of “such sums as may be necessary” for fiscal years 2002 through 2007 to establish and administer a program to make competitive grants to eligible entities (defined as an institution of higher education offering a curriculum in agriculture or the bio-sciences; a non-profit organization; or a consortium of for-profit institutions and agricultural research institutions) to develop agricultural biotechnology for developing countries.

Act Sec. 7505, adding Sec. 411 to the Agricultural Research, Extension, and Education Reform Act of 1998.

VIII. Forestry

A. Cooperative Forestry Assistance Act of 1978

The 2002 Act repeals both the Forestry Incentives Program (FIP) and the Stewardship Incentives Program (SIP). Remaining funds can be used to carry out the program purposes. **Act Sec. 8001, repealing Sec. 4 and Sec. 6 of the Cooperative Forestry Assistance Act of 1978.**

The 2002 legislation enacts a new program, the Forest Land Enhancement Program, to provide financial assistance to state foresters and to encourage the long-term sustainability of non-industrial private forest lands in the United States by assisting the owners of non-industrial private forest land, through state foresters, in more actively managing the non-industrial private forest lands and related resources of those owners through the use of federal, state and private sector resource management expertise, financial assistance and educational programs.

To be eligible for cost-share assistance, an owner of non-industrial private forest lands must—(a) develop and implement a management plan that provides for the treatment of not more than 1,000 acres of non-industrial private forest land; the plan must be approved by the state forester and address site specific activities and practices; and (2) implement approved activities and practices in a manner consistent with the management plan for a period of not less than 10-years, unless the state forester approves a modification to the plan.

Approved activities and practices under the management plan may consist of—(1) the establishment, management, maintenance and restoration of forests for shelterbelts, windbreaks, aesthetic quality and other conservation purposes; (2) the sustainable growth and management of forests for timber production; (3) the restoration, use and enhancement of forest wetland and riparian areas; (4) the protection of water quality and watersheds through the planting of trees in riparian areas and the enhanced management and maintenance of native vegetation on land vital to water quality; (5) the management, maintenance, restoration or development of habitat for plants, fish and wildlife; (6) the control, detection, monitoring and prevention of the spread of invasive species and pests on non-industrial private forest lands; (7) the restoration of non-industrial private forest land affected by invasive species and pests; (8) the conduct of other management activities such as the reduction of hazardous fuels that reduce the risk of fire; (9) the development of management plans; (10) the conduct of energy conservation and carbon sequestration activities; and (11) the conduct of other activities approved by the Secretary in consultation with the state forester and the appropriate committees.

The acreage limitation can be increased to 5,000 acres for an owner of non-industrial private forest lands if the Secretary determines that significant public benefits will accrue as a result of the cost-share assistance for the treatment of the additional acreage.

The maximum cost-share is 75 percent with the Secretary determining the maximum amount an owner may receive under the program. The Secretary is to use \$100,000,000 of CCC

funds to carry out the program from the date of enactment (May 13, 2002) through September 30, 2007.

The Secretary is to establish and implement a procedure to recapture cost-share payments if the recipient fails to implement a project or activity in accordance with the management plan or comply with the program requirements.

Act Sec. 8002, enacting Sec. 4 of the Cooperative Forestry Assistance Act of 1978.

B. Enhanced community fire protection

The 2002 legislation amends the Cooperative Forestry Assistance Act of 1978 by adding a new Enhanced Community Fire Protection Program in Section 10A of the Cooperative Forestry Assistance Act of 1978. Under the program, the Secretary is to cooperate with state foresters and “equivalent state officials” to—(1) aid in wildfire prevention and control; (2) protect communities from wildfire threats; (3) enhance the growth and maintenance of trees and forests that promote overall forest health; (4) ensure the continued production of all forest resources, including timber, outdoor recreation opportunities, wildlife habitat and clean water through conservation of forest cover on watersheds, shelterbelts and windbreaks.

The legislation authorizes to be appropriated \$35,000,000 for each of fiscal years 2002 through 2007.

Act Sec. 8003, adding Sec. 10A to the Cooperative Forestry Assistance Act of 1978.

C. Sustainable forestry outreach initiative

The Renewable Resources Extension Act of 1978 is reauthorized through 2007 with \$30,000,000 authorized to be appropriated for each of the fiscal years 2002 through 2007.

The Sustainable Forestry Outreach Initiative is intended to educate landowners concerning—(1) the value and benefits of practicing sustainable forestry; (2) the importance of professional forestry advice in achieving sustainable forestry objectives; and (3) the variety of public and private sector resources available to assist landowners in planning for and practicing sustainable forestry.

Act Sec. 8101, enacting Sec. 5B of the Renewable Resources Extension Act of 1978.

D. Office of International Forestry

The 2002 Act reauthorizes the Office of International Forestry through 2007.

Act Sec. 8102, amending The Global Climate Change Prevention Act of 1990.

E. McIntire-Stennis Cooperative Forestry Research Program

The 2002 legislation reaffirms the importance of Pub. L. No. 87-788 (the McIntire-Stennis Cooperative Forestry Act).

Act Sec. 8201.

The Conference Report states that the Managers recognize the importance of university-based programs in forest and natural resources to the success of many of the technical assistance and cost-share programs in the Conservation and Forestry Titles of this Act including the Conservation Reserve Program, EQIP, Sustainable Forestry Outreach Initiative, and Forest Land Enhancement Program. As these programs are expanded and enhanced, there will be an increased need for science-based information in the development of these initiatives. The nation's forestry schools and colleges are uniquely equipped to expand the base of knowledge and to assist in the delivery of educational outreach to our nation's nonfederal forest landowners. The Managers expect the Department to seek greater cooperation and collaboration with universities as it implements these various technical assistance and cost-share programs.

Conf. Report Under Act Sec. 8201.

Note: the Conference Committee rejected a total of 25 provisions that had been approved by either the House of Representatives or Senate.

IX. Energy

A. Federal procurement of bio-based products

The 2002 Act establishes a new program for the purchase of bio-based products by federal agencies. The program is modeled after the existing program for the purchase of recycled materials. The intent is to stimulate the production of new bio-based products and to encourage the development of markets for those products. An amount of \$1,000,000 from CCC annually for each of the fiscal years 2002-2007 is provided for testing bio-based products.

Act Sec. 9002.

B. Bio-refinery development grants

A competitive grant program is established to support the development of bio-refineries for the conversion of biomass into products such as fuels, chemicals and electricity. An amount of \$15,000,000 is provided annually subject to appropriation.

Act Sec. 9003.

C. Bio-diesel fuel education program

The legislation establishes a competitive grant program to educate governmental and private entities with vehicle fleets (and the public) about the benefits of bio-diesel fuel use. An amount of \$1,000,000 is provided annually out of CCC funds in each of fiscal years 2003-2007.

Act Sec. 9004.

D. Renewable energy development loan and grant program

The 2002 Act amends the CFRD Act by adding other renewable energy systems including wind energy and anaerobic digesters to the list of purposes for which loans and loan guarantees are available. Also, the value-added grant program in the Rural Development title has been expanded. The objective is to encourage more farmers and ranchers to become involved in the ownership of renewable energy systems.

Act Sec. 6013, amending Sec. 310B(a)(3) of CFRD; Act Sec. 6401, amending Sec. 231 of the Agricultural Risk Protection Act of 2000.

E. Energy audit and renewable energy development program

The legislation establishes a competitive grants program for entities to administer energy audits and renewable energy development assessments for farmers, ranchers and rural and small businesses. "Such funds as are necessary" are subject to appropriation.

Act Sec. 9005.

F. Renewable energy systems and energy efficiency improvements

The 2002 Act establishes a loan, loan guarantee and grant program to assist eligible farmers, ranchers and rural businesses in purchasing renewable energy systems and making energy efficiency improvements. An amount of \$23,000,000 is provided annually in each of fiscal years 2003-2007.

Act Sec. 9006.

G. Hydrogen and fuel cell technologies

The legislation directs the Secretary of Agriculture and the Secretary of Energy to enter into a memorandum of understanding regarding hydrogen and fuel cell technology applications for agricultural producers and rural communities.

Act Sec. 9007(a).

The section also directs the Secretary of Agriculture to disseminate information to rural communities and agricultural producers on potential application of hydrogen and fuel cell technologies.

Act Sec. 9007(b).

H. Biomass research and development

The 2002 Act extends the Biomass Research and Development Act of 2000 to September 30, 2007. The legislation provides \$5,000,000 for fiscal year 2002 and \$14,000,000 annually from CCC funds for each of fiscal years 2003-2007.

Act Sec. 9008, amending Sec. 311 of the Biomass Research and Development Act of 2000.

I. Cooperative research and extension projects

The legislation establishes a carbon sequestration research and development program to promote understanding of the net sequestration of carbon in soil and emissions of other greenhouse gasses from agriculture. The section authorizes an appropriation of “such sums as are necessary” annually.

Act Sec. 9009.

J. Continuation of bio-energy program

The 2002 Act authorizes the continuation of the Commodity Credit Corporation Bio-energy Program and includes animal byproducts and fat, oils and greases (including recycled fats, oils and greases) as eligible commodities. The legislation provides not more than \$150,000,000 for each of fiscal years 2003-2006 out of CCC funds.

Act Sec. 9010.

The Conference Report encourages the Secretary to investigate the feasibility of utilizing wheat that has been infested with karnal bunt spores, and for which a market is not readily available, in the operation of the CCC Bio-energy Program.

Conf. Report Under Act Sec. 9010.

X. Miscellaneous

A. Animal welfare

1. Definition of “animal”

The 2002 Act excludes, from the definition of “animal” under the Animal Welfare Act of 1966, 7 U.S.C. § 2132(g), the following—birds, rats of the genus *Rattus* and mice of the genus *Mus*, bred for use in research.

Act Sec. 10301, amending Sec. 2(g) of the Animal Welfare Act of 1966.

2. Interstate movement of animals for fighting

The legislation makes it unlawful to knowingly sponsor or exhibit an animal in an animal fighting venture if any animal in the venture was moved in interstate or foreign commerce.

Act Sec. 10302(a), amending 7 U.S.C. § 2156.

For fighting ventures involving live birds in a state where it would not be in violation of the law, the 2002 Act makes it unlawful to sponsor or exhibit a bird in the fighting venture only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported or received in interstate or foreign commerce for the purpose of participating in the fighting venture.

Act Sec. 10302, amending 7 U.S.C. § 2156 (effective one year after enactment).

3. Penalties for violations of the Animal Welfare Act

The legislation increases the penalties from \$5,000 to \$15,000 for violating the Animal Welfare Act of 1966.

Act Sec. 10303, amending 7 U.S.C. § 2156 (effective one year after enactment).

B. Livestock

1. Packer ban on ownership and control of livestock

The Conference Committee deleted a Senate provision banning packer ownership and control prior to 14 days before slaughter with exemptions for cooperatives and packers killing less than two percent of the U.S. annual slaughter for that type of livestock. The Conference Report states that the Managers recognize the importance of Congress holding hearings to address issues affecting livestock producers, such as agribusiness consolidation and livestock marketing issues.

Conf. Report Under Subtitle F., Title X, of the Farm Security and Rural Investment Act of 2002.

2. Swine contracts and contractors

The 2002 Act includes “swine contractors” as a covered entity under the Packers and Stockyards Act of 1921 and defines swine contractor to include—

“...any person engaged in the business of obtaining swine under a swine production contract for the purpose of slaughtering the swine or selling the swine for slaughter, if—
“(A) The swine is obtained by the person in commerce; or
“(B) The swine (including products from the swine) obtained by the person is sold or shipped in commerce.”

The term “swine production contract” is defined as “...any growout contract or other arrangement under which a swine production contract grower raises and cares for the swine in accordance with the instructions of another person.”

The term “swine production contract grower” means “...any person engaged in the business of raising and caring for swine in accordance with the instructions of another person.”

Act Sec. 10502, amending Sec. 2(a) of the Packers and Stockyards Act of 1921, 7 U.S.C. § 182(a).

The legislation also enacted a provision addressing confidentiality provisions in “any contract between a producer and a processor for the production of livestock or poultry, or in any marketing agreement between a producer and a processor for the sale of livestock or poultry for a term of 1 year or more...” Under that provision, a party to the contract cannot be prohibited from discussing any terms or details of the contract with—a federal or state agency, a legal advisor to the party, a lender to the party, an accountant hired by the party, an executive or manager of the party, a landlord of the party or a member of the immediate family of the party.

That provision, however, does not pre-empt any state law that “addresses confidentiality provisions in contracts for the sale or production of livestock or poultry, except any provision of State law that makes unlawful a contract provision that prohibits a party from, or limits a party in, engaging in discussion that [the above provision] requires to be permitted; or...deprive any State court of jurisdiction under such State law.”

The provisions are effective for contracts entered into, amended, reviewed or extended after the date of enactment.

Act Sec. 10503. Note that this provision is apparently not added to the U.S. Code.

C. Organic products promotion

The 2002 Act allows a person who produces and markets only 100 percent organic products and does not produce any conventional or non-organic products, to be exempt from the payment of an assessment under a commodity promotion law for products produced on a certified organic farm.

Act Sec. 10607, amending Sec. 501 of the FAIR Act of 1996.

D. Assistant Secretary for Civil Rights

The 2002 Act creates an Assistant Secretary for Civil Rights in the U.S. Department of Agriculture.

Act Sec. 10704, amending Sec. 218 of the Department of Agriculture Reorganization Act of 1994, 7 U.S.C. § 6918.

E. Chapter 12 bankruptcy

The legislation reinstates Chapter 12 bankruptcy for seven months, from June 1, 2002 through December 31, 2002.

Act Sec. 10814, amending Sec. 149 of tit. I of division C of Pub. L. No. 105-277.

The Bankruptcy Reform Act would make Chapter 12 permanent.

F. Country-of-origin labeling

The 2002 Act requires, effective for retail sales of a commodity beginning September 30, 2004, country-of-origin labeling for “covered commodities” (muscle cuts of beef, lamb and pork; ground beef, ground lamb and ground pork; farm-raised fish; wild fish; perishable agricultural commodities; and peanuts).

A retailer of a covered commodity is required to inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

A commodity may be designated as having a United States country of origin only if the covered commodity—

1. In the case of beef is exclusively from an animal that is exclusively born, raised and slaughtered in the U.S. (including animals born and raised in Hawaii or Alaska and transported for a period not to exceed 60 days through Canada to the U.S. for slaughter in the U.S.).
2. In the case of lamb and pork, is exclusively from an animal exclusively born, raised and slaughtered in the U.S.
3. In the case of farm-raised fish, is hatched, raised, harvested and processed in the U.S.
4. In the case of wild fish is harvested in waters of the United States, a U.S. territory or a state and processed in the U.S., a U.S. territory or a state “including the waters thereof.”
5. In the case of a perishable agricultural commodity or peanuts, is exclusively produced in the U.S.

The rules do not apply to a covered commodity if the commodity is prepared or served in a food service establishment and offered for sale or sold at the food service establishment in normal retail quantities or served to consumers at the food service establishment.

Act Sec. 10816, adding Secs. 281 and 282 to the Agricultural Marketing Act of 1946.

G. Financing statements

The legislation makes numerous changes in Sec. 1324 of the Food Security Act of 1985 relative to financing statements.

Act Sec. 10604, amending Secs. 1324(c)(4), 1324(e) and 1324(g)(2)(A) of the Food Security Act of 1985.

The following, as pertains to Section 10604, was prepared by Roger A. McEowen, Kansas State University:

1. Section 10604(a) of the Act modifies the requirement of 7 U.S.C. §1631(c)(4) that an effective financing statement (other than electronically filed financing statements) be signed by the debtor by specifying that the statement is effective if it is signed, authorized or otherwise authenticated by the debtor. The same section also clarifies that a financing statement securing farm products need describe the farm products and specify each county or parish in which the farm products are produced or located. Also, any amendment to a financing statement made to reflect material changes must be made in writing within three months and be signed, authorized or otherwise authenticated by the debtor.
2. Section 10604(a) of the Act also changes the requirement that a notice of lapse of the financing statement be signed by the secured party to a requirement that the secured party sign, authorize or otherwise authenticate the filed notice of lapse of the financing statement. Section 10604(c) of the Act makes the same changes to 7 U.S.C. §1631(g)(2)(A) with respect to a commission merchant or selling agent who sells a farm product for others.
3. Section 10604(b) of the Act modifies, in part, the language of 7 U.S.C. §1631(e) concerning when a buyer of farm products takes subject to a security interest by changing the required information on the security interest from “a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable, crop year, county or parish, and a reasonable description of the property,” to “a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable, crop year, and the name of each county or parish in which the farm products are produced or located.” Section 10604(c) of the Act makes the same changes to 7 U.S.C. §1631(g)(2)(A) with respect to a commission merchant or selling agent who sells a farm product for others.
4. Section 10604(b) of the Act also modifies the requirement that the notice sent to the buyer of farm products by the secured party within a year before the sale of the farm products be amended in writing within three months of the occurrence of any material changes be signed to “signed, authorized or otherwise authenticated”. Section 10604(c) of the Act makes the same changes to 7 U.S.C. §1631(g)(2)(A) with respect to a commission merchant or selling agent who sells a farm product for others.