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Soil and Water Conservation Issues

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Soil and Water Conservation Issues

SUMMARY

Conservation is a prominent topic in the FY2002 farm bill, which is currently being debated by a conference committee to resolve differences between House and Senate bills. The House approved its farm bill (H.R. 2646) on October 5, 2001. This bill would provide \$15.8 billion in new mandatory budget authority (BA) over the next 10 years for conservation programs, according to CBO, which is more than 20% of the \$73.5 billion in additional BA allocated to agriculture under the FY2002 budget agreement. The bill would reauthorize most of the current active programs at higher funding levels, and amend many of them. Before final passage, an alternative proposal, known as the Kind-Boehlert Amendment, which would have increased conservation funding over 10 years by \$19 billion above the committee bill, was defeated (226-200).

The Senate approved its farm bill (S. Amdt. 2471 to S. 1731) on February 13, 2002. CBO estimates that this bill would provide \$11.8 billion in new BA over 5 years (and \$21.3 billion over 10 years). This bill includes a new Conservation Security Program, which would provide payments to producers who apply conservation practices on working lands, and numerous other new program proposals to address specific resource topics or resource problems in specified areas or under certain circumstances. It also reauthorizes many current programs at higher funding levels, and amends them as well.

Current conservation policy was set through FY2002 in the 1996 Federal Agricultural Improvement and Reform Act (P.L. 104-127). This law reauthorized and amended the Conservation Reserve and Wetland Reserve (two multi-year land retirement

programs), and Conservation Compliance and Swampbuster Programs (programs that reduce incentives to cultivate highly erodible lands and wetlands). New programs it created included EQIP, which provides \$200 million annually in cost-sharing to producers to address conservation problems, a conservation option for producers who receive market transition payments, and farmland protection, floodplain protection, grazing lands conservation, and wildlife habitat protection programs.

Agencies in the Department of Agriculture generally implement these programs, which are based on providing incentives to attract voluntary participants. The Natural Resources Conservation Service (NRCS) provides technical assistance and administers many of the smaller cost-sharing programs, and the Farm Service Agency (FSA) administers the CRP and emergency programs.

As both agencies implemented the 1996 farm bill provisions, controversy occurred when the Administration's interpretation of the law's intent differed from that of interested Members of Congress. Both agriculture committees held numerous oversight hearings. These committees (and others) have also examined conservation issues that have emerged since 1996, including livestock waste management, non point water pollution, and sequestering carbon on agricultural lands. Pending legislation, especially the Senate bill, includes responses to some of these topics.

The Bush Administration released its views on priorities and principles for the next farm bill on September 19, 2001. It has not submitted any legislative proposals, but it continues to comment on congressional actions.



MOST RECENT DEVELOPMENTS

The conference committee continues to meet to resolve the many differences between the House and Senate passed versions of omnibus farm bill. The House version, H.R. 2646, passed on October 5, 2001, provides almost \$15.8 billion in new budget authority for mandatory funding of conservation programs over the next 10 years, with most of the additional money going to the Environmental Quality Incentives Program. Perhaps the most contentious issue the House addressed during floor consideration was an alternative conservation title supported by many environmentalists, known as the Kind-Boehlert amendment, which would have redirected to conservation programs an additional \$19 billion destined for commodity programs. While this proposal was defeated on a vote of 226-200, the widespread support that it attracted may have influenced the committee to remove or modify many of the provisions in H.R. 2646 opposed by conservation and environmental interests, through a manager's amendment.

The Senate made S.Amdt. 2471 the primary vehicle for consideration, passing it on February 13, 2002. S.Amdt. 2471 provides new budget authority for mandatory funding of conservation programs over the next 5 years, estimated to total \$11.8 billion (and about \$21.3 billion if the policies were to remain in place, unchanged, over the next 10 years). It includes Chairman Harkin's proposal to pay producers to apply conservation practices on working lands, called the Conservation Security Program, and many other new programs; a new water conservation provision has been particularly controversial. Also, it reauthorizes many current programs at much higher funding levels.

Congress has started to consider the FY2003 funding request for discretionary funding from the Administration. Discretionary funding accounts for between \$1.25 billion and \$1.5 billion of USDA conservation funding. Hearings are being held, and no further action has been taken.

BACKGROUND AND ANALYSIS

Evolution of Federal Resource Conservation Issues

Conservation of soil and water resources has been a public policy issue for more than 60 years, an issue repeatedly recast as new problems have emerged or old problems have resurfaced. Two themes involving farmland productivity dominated the debate until 1985. One was to reduce the high levels of soil erosion, and the other was to provide water to agriculture in quantities and quality that enhance farm production.

Congress responded repeatedly to these themes by creating new programs or revising existing ones. These programs that were designed to benefit the farmer and agriculture by resolving resource problems on the farm. These programs combined voluntary participation with technical, educational, and financial assistance incentives. By the early 1980s, however, concern was growing, especially among environmentalists, that these programs were inadequate in dealing with environmental problems caused by agricultural activities (especially

off the farm), even those caused by widely accepted practices. Publicized instances of significant problems, especially soil erosion rates said to rival the dust bowl era, increased awareness and intensified the policy debate.

Congress responded, in a watershed event, by enacting four major new conservation programs in the conservation title of the 1985 Food Security Act. One of these programs, the Conservation Reserve (CRP), greatly increased the federal financial commitment to conservation and targeted federal funds at some of the most severe problems. The other three, sodbuster, conservation compliance, and swampbuster, created a new approach to conservation, which halted access to many federal farm program benefits to producers who did not meet conservation program requirements.

Conservation provisions enacted in the next farm bill, in 1990, reflected a rapid evolution of the conservation agenda. This evolution reflects the growing influence of environmentalists and other non-agricultural interests in the formulation of agricultural policy, and a recognition that agriculture was not treated like other business sectors in many environmental laws. Congress expanded this agenda to address groundwater pollution, water quality, and sustainable agriculture, and allowed for the use of easements, as well as amending existing programs. Amendments to the CRP reflect these changes; its earlier focus on highly erodible land was expanded to include other environmental concerns.

Prior to the 1994 election, conservation policy discussions centered primarily on how to build on the conservation initiatives enacted in the previous two farm bills, and on how to secure more dependable funding for programs at a time when controlling outlays to reduce the federal deficit was a major priority. Also, new concepts for resource management that considered natural systems larger than individual farms, called landscapes, watersheds or ecosystems, received increased attention. At the individual farm level, proposals to integrate the growing number of plans that farmers had to follow to implement various conservation activities, which had proliferated during the prior decade, also were discussed.

The focus of these discussions, which led up to the 1995-1996 farm bill debate, shifted with the new leadership in both chambers. They became centered on identifying ways to make the conservation compliance and swampbuster programs less intrusive on farmer activities. Moreover, environmental interests initially played a diminished role in policy formulation. After President Clinton vetoed the initial farm bill that Congress had attached to the omnibus reconciliation legislation in December 1995, Congress moved quickly to pass a free-standing farm bill early in 1996. Started from the vetoed legislation, the conservation title was expanded substantially in the Senate. The bill, as enacted, restored much of the environmental focus that had been left out of earlier versions while continuing to attract support from agricultural interests. (For an overview of conservation provisions in the 1996 farm bill, see CRS Report 96-330, *Conservation Provisions in the Farm Bill: A Summary*.)

Current Major Conservation Activities

USDA's conservation effort, while diverse, centers on implementing the CRP, cost sharing programs, and compliance programs, and carrying out wetland protection responsibilities. Conservation programs are administered either by the Natural Resources Conservation Service (NRCS), which provides technical assistance to producers who wish

to plan, install, and maintain conservation practices. It administers both most of the programs that provide cost-sharing assistance to producers and the compliance and wetland protection efforts. The Farm Service Agency (FSA) administers the largest cost-sharing program, the CRP and one of the emergency conservation programs.

Conservation Reserve Program (CRP)

Under the CRP, enacted in 1985, producers can bid to enroll highly erodible or environmentally sensitive lands into the reserve during signup periods, retiring it from production for 10 years (or longer under limited circumstances). Successful bidders receive annual rental payments, and cost-sharing and technical assistance. Enrollment is limited to 36.4 million acres in total, and to 25% of the crop land in a county. The FY2003 budget submission notes that about 35.1 million acres were enrolled on November 1, 2001. About 135 counties, concentrated in the high plains, are at the county enrollment limit. Funding is mandatory spending.

During the twelve signups held between 1986 and 1992, 36.4 million acres were enrolled. (Congress did not appropriate funds to enroll additional lands from FY1992 through FY1996.) USDA estimates that the average erosion rate on enrolled acres was reduced from 21 to less than 2 tons per acre per year. Retiring these lands also expanded wildlife habitat, enhanced water quality, and restored soil quality. The annual value of these benefits has been estimated from less than \$1 billion to more than \$1.5 billion; some estimates of these benefits exceed annual costs, especially in areas of heavy participation. However, there is no guarantee that program benefits will endure after contracts. The General Accounting Office has criticized the potentially ephemeral nature of these environmental benefits. Currently, annual expenditures to support existing contracts are about \$1.5 billion, close to half of all conservation expenditures.

The Department held one open enrollment period each year between FY1997 and FY2000. The FY1997 signup (the 15th) was large because contracts on approximately 21.4 million acres were set to expire. Bids were offered to enroll more than 23 million acres, and accepted on 16.6 million acres (including 11.7 million acres that had been enrolled). Subsequent signups have been smaller. The FY1997 enrollment period (the 16th) attracted bids on 9.5 million acres and enrolled 5.9 million acres. The FY1998 enrollment period (the 18th) attracted bids on more than 7 million acres and enrolled almost 5 million acres. The most recent enrollment (the 20th) enrolled 2.3 million acres. USDA did not offer an opportunity to enroll land in FY2001 (farmers with expiring contracts would have the option of extending them for one year) and is not offering that opportunity in FY2002. USDA took this action because relatively few acres would be leaving the program, offering limited opportunities to enroll new acres. It estimates that only about 1.8 million acres are affected by these two extensions.

USDA has been preserving 4.2 million acres within the 36.4 million acre cap to enroll land in two ways outside the open enrollment periods. One of those ways allows continuous signup for individuals who wish to enroll portions of fields with particularly high environmental values. FSA staff reported that through February 2002 almost 1.95 million acres have been enrolled under this option. (Almost 32% of these acres are in Iowa and Illinois.) The conservation practice that has received the most attention is buffer strips along water bodies. NRCS started a buffer initiative in 1997 to enroll 2 million miles of these strips

by 2002; it estimates that over 750,000 miles have been enrolled. In April 2000, the Department announced that it was implementing three new incentives to attract more participation: paying signing bonuses; increasing cost-share payments for cover crops and making maintenance payments on buffers; and increasing payments on pasture. It estimated these payments could total up to \$350 million over the next 3 years.

The second way is a state-initiated enhancement program, under which higher rents are paid to attract eligible land. Maryland, the first state to be approved for this program in October 1997, is trying to enroll 100,000 acres of stream buffers, restored wetlands, and highly erodible lands along streams in a portion of the Chesapeake Bay Watershed. (Before this agreement was signed, it had less than 20,000 acres in the CRP, and more than 37,000 acres have been enrolled under this option.) The Maryland program will cost \$195 million; this includes \$170 million in federal money. A total of 20 states have approved enhancement programs, and five additional states have submitted proposals. FSA data show that almost 310,000 acres had been enrolled under this option through February 2002, and more than 30% of those acres are in Illinois. Combining these three options for enrolling land, USDA forecasted in its FY2002 budget submission that the reserve would grow to 36.4 million acres by December 31, 2002.

A third way to enroll land outside the general enrollment periods was created when Congress authorized a new pilot program to enroll up to 500,000 acres of farmable wetlands in six upper Midwestern states in Title XI of the FY2001 Agriculture Appropriations legislation. USDA is offering signup bonuses as an incentive to participate. Signup for this option started in June, 2001, and results are limited.

NRCS provides technical assistance in support of CRP, but the 1996 farm bill placed a cap on the portion of program funding from the CCC that can be used to reimburse agencies for services provided to deliver CCC programs. The funds available have been insufficient to pay all related technical assistance costs in recent years. Insufficient funding in FY1999 led NRCS to briefly suspend CRP-related activities. The FY1999 Supplemental Appropriations (P.L. 106-31) and FY2001 Agriculture Appropriations (P.L. 106-387) provided additional. The most recent congressional response to this dilemma, in the FY2002 appropriations, is discussed below in the FY2002 appropriations section.

A new CRP concern was raised in March 2000 when the Sixth U.S. Circuit Court of Appeals reversed a 1996 federal tax court ruling and required that farmers must pay a 15.3% self-employment tax on CRP payments. Program supporters fear the ruling could have a chilling effect on participation. Legislation to overturn the ruling has been reintroduced. It would not be considered by the agriculture committees or within the farm bill. (For more information on this tax issue, see CRS Report RS20564, *Conservation Reserve Payments and Self-Employment Taxes*, and for CRP generally, see CRS Report 97-673, *Conservation Reserve Program: Status and Current Issues*.)

Conservation Compliance and Sodbuster

Under sodbuster provisions, established in the 1985 farm bill, producers who cultivate highly erodible land (HEL) not cultivated between 1981 and 1985 are ineligible for most major farm program benefits, including price supports and related payments. These benefits are lost for all the land the farmer operates, not just for the HEL. A smaller penalty can be

imposed on producers once every 5 years if circumstances warrant. Producers who cultivate highly erodible land using an approved conservation plan are not subject to these provisions. The 1996 farm bill revised these provisions in ways that increased producer flexibility.

Under conservation compliance, also established in the 1985 farm bill, producers who cultivate HEL lose the same program benefits as sodbusters unless they obtained an approved conservation plan by 1990 and had fully implemented it by the end of 1994. As under sodbuster, benefits are lost for all the land the non-complying farmer operates, and graduated penalties are available once every 5 years. Any person who had HEL enrolled in the CRP has 2 years after his contract expires to be fully in compliance (or longer if the Secretary determines that 2 years is not feasible).

According to 1997 data compiled by NRCS, producers were actively applying plans on more than 97% of the tracts of land that were reviewed. NRCS estimates that soil erosion on these acres is being reduced from an average of 17 tons per year to 6 tons per year. More generally, a 1997 national survey of erosion rates taken by NRCS, showed that cropland erosion totaled about 1.9 billion tons per year. This decline in the annual rate of almost 1.4 billion tons from the 1982 survey is attributed mostly to the compliance and CRP programs.

Critics, primarily from the environmental community, have contended that USDA staff has not vigorously enforced conservation requirements. The Inspector General and the U.S. General Accounting Office also have been critical of the implementation effort. Others, primarily from the agriculture community, have countered that the Department has been too vigorous, and, especially in the early years, was inconsistent in its enforcement from county to county. Many of the agriculture community concerns were addressed in the 1996 farm act. (For more background on the compliance programs, see CRS Report 96-648, *Conservation Compliance for Agriculture: Status and Policy Issues*.)

Wetlands and Agriculture

Swampbuster and the Wetlands Reserve Program (WRP) are the main agricultural wetland protection programs. Under swampbuster, farmers who convert wetlands to produce crops lose the same federal farm program benefits as would be lost under conservation compliance or sodbuster until the wetland is restored. Swampbuster includes four major exemptions, and also allows a partial penalty once every 10 years. Provisions enacted in the 1996 farm bill generally gave producers and USDA greater flexibility under swampbuster.

Swampbuster has been controversial since it was first enacted. Some from the farm community view wetland protection efforts on agricultural lands as too extensive or overzealous. They observe that it sometimes protects sites that provide few of the values attributed to wetlands. A portion of this group also view these efforts as an unacceptable intrusion of government into the rights of private property owners, or “takings.” Environmental and other groups counter that the swampbuster program has been enforced weakly and inconsistently, with few violators losing farm program benefits. Controversies also arise over inconsistencies, such as when adjoining states use different interpretations of rules based on their physical settings that lead to different determinations. Such a controversy arose in 1999 between South Dakota and Minnesota.

Some concerns raised by the agricultural community were thought to have been addressed when a Memorandum of Agreement (MOA) making NRCS responsible for all federal wetland determinations on agricultural lands under swampbuster and the Clean Water Act's §404 Program was signed by NRCS, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency (EPA) on January 6, 1994. But aspects of implementation have proven controversial. The signatory agencies attempted to revise the MOA to reflect changes in the 1996 farm bill; this revision process was difficult and has not been completed.

A new issue for agriculture was raised when the Supreme Court determined, in *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers* (January, 2001) that the §404 wetland permit program should not apply to "isolated waters." One effect of this decision is that an estimated 8 million acres of agricultural wetlands that had been subject to both the §404 program and swampbuster will now be subject only to swampbuster. For more information on this decision, see CRS Report RL30849, *The Supreme Court Addresses Corps of Engineers Jurisdiction Over "Isolated Waters": The SWANCC Decision.*)

The second wetlands program, the WRP, was established in the 1990 farm bill. It uses easements to protect farmed wetlands. The Department had chosen to use only permanent easements prior to 1996, when Congress authorized temporary easements and long-term agreement options, and instructed that the three options be used equally. Enrollment has reached the current cap of 1,075,000 acres. The Secretary is permitted to delegate the administration of easements to other federal or state agencies that have the necessary expertise. Since funding was made mandatory in the 1996 farm bill, appropriators have limited enrollment by placing limits on available staff most years. In addition to the annual appropriations, emergency funding was provided to enroll lands flooded in 1993 in the upper Midwest. November 2001 data from NRCS show that almost 1,075,000 acres were enrolled, and almost 35% of that total is in 3 states: Louisiana (142,000 acres), Mississippi (103,000 acres) and Arkansas (101,000 acres). Permanent easements account for almost 90% of the total. (For more information about wetlands, see CRS Issue Brief IB97014, *Wetland Issues*, updated regularly.)

Cost-Sharing Assistance

Over the past several decades, Congress has enacted cost-sharing programs that provide financial incentives to induce farmers to participate in conservation efforts. These programs pay a portion of the cost of installing or constructing approved conservation practices. Before 1996, the largest of these programs, by far, had been the Agricultural Conservation Program (ACP), administered by the Farm Service Agency and funded at between \$175 and \$200 million annually during the two decades preceding the early 1990s. Funding for all the small cost-sharing programs combined was always a fraction of the ACP total. In FY1995 and FY1996, Congress reduced funding for these programs as part of efforts to reduce the federal budget deficit. In 1994, Congress moved administration of almost all the small programs, but not the ACP, from FSA to NRCS.

The 1996 farm act replaced the ACP and three smaller cost-sharing programs – the Great Plains Conservation Program, the Water Quality Incentives Program, and the Colorado River Basin Salinity Control Program – with a new Environmental Quality Incentives

Program (EQIP). EQIP is a mandatory spending program which supports structural, vegetative, and land management practices. Annual funding is authorized at \$200 million. Half the funding is to address the needs of livestock producers. A plan is required to participate. Payments per contract are limited to \$10,000 annually and to \$50,000 over the life of a contract (5 to 10 years); exceptions to the annual limit are permitted. Large livestock operations, defined in regulations by USDA, are ineligible for contracts to construct animal waste management facilities. The law requires USDA to designate priority areas for more concentrated attention; USDA has allocated at least 65% of the funding for these areas, to be designated by each state.

Participation has remained high; demand far exceeds available funds. For FY2000, for example, NRCS received about 54,000 applications requesting \$402 million, but was only able to sign 16,000 contracts, with a total cost of almost \$177 million. These contracts are providing \$140 million in financial assistance, \$33 million in technical assistance and almost \$4 million in educational assistance. . The Clinton Administration repeatedly sought higher funding levels, but Congress rejected these proposals and limited funding to less than \$200 million, except for FY2001, when it provided an additional \$26 million (restoring full funding) in omnibus appropriations legislation at the end of the 106th Congress (P.L. 106-554). (For further information on the early implementation of EQIP, see CRS Report 97-616, *Environmental Quality Incentives Program (EQIP): Status and Issues*, last updated March 2, 1998.)

Selected Other Conservation Activities

Conservation includes many additional activities and programs. The list below does not include programs that have been authorized but not implemented. Also, it only includes conservation activities in USDA that are administered by NRCS and FSA. However, several other agencies make significant contributions to the conservation effort; for example, the Agricultural Research Service conducts basic and applied research on numerous conservation topics. The Economic Research Service provides analysis of many conservation topics and played a major role in developing the Environmental Benefits Index, used to compare CRP bids. The Forest Service does relevant research on forest and tree topics, and administers numerous programs to enhance timber stands on private lands.

Conservation Technical Assistance (CTA). NRCS provides technical assistance on a voluntary basis to conserve and improve natural resources. Technical assistance is provided as a component of most conservation programs, and has amounted to just under \$1 billion annually in recent years, according to data compiled by NRCS. Almost two thirds of this funding is found in Conservation Operations. NRCS characterizes technical assistance as the “intellectual capital” of the agency, allowing it to combine its scientific and technical expertise with knowledge of local conditions.

Watershed Programs. NRCS has worked with local sponsors under several authorities to construct more than 10,500 structures. Benefits from these projects may include flood prevention, watershed protection, erosion and sediment control, water supply, water quality, recreation, habitat enhancement, or wetland creation or restoration.

A rehabilitation program for aging small watershed structures was enacted late in the 106th Congress. The Small Watershed Rehabilitation Amendments of 2000 (§313 of P.L.

106-472) authorizes up to \$90 million over 5 years. The law provides that federal funds can be used for 65% of the total cost of rehabilitation, with the remainder coming from local sponsors, and requires that rehabilitation projects meet the requirements of the National Environmental Policy Act. NRCS released a status report in June, 2000.

Resource Conservation and Development (RC&D). RC&D provides a framework for local interests to work together to improve the economy, environment, and living standard in multi-county areas through RC&D Councils. USDA provides technical and financial assistance to councils and helps them secure funding and services from other sources. NRCS states that 348 areas encompassing more than 75% of the country have been designated, and additional requests are pending.

Farmland Protection Program(FPP). The 1996 farm bill authorized USDA to assist state and local governments to acquire easements to limit conversion of agricultural lands to nonagricultural uses. The program was allocated \$35 million from the CCC to protect between 170,000 and 340,000 acres of farmland. Eligible lands must be subject to a pending offer. From FY1996 through FY1998, \$33.5 million was obligated in 19 states to place easements on 127,000 acres on 460 farms with an estimated easement value of \$230 million. Congress provided an additional \$17.5 million in FY2001. This legislation also made certain private nonprofit organizations eligible to compete with state and local governments for these funds for the first time. The Department awarded the funds to protect about 28,000 acres in 28 states. Demand to participate greatly exceeds available funds.

Forest Incentive Program (FIP). FIP, a line item in the NRCS budget, provides technical and financial assistance to help landowners install practices such as tree planting and timber stand improvement on non-industrial private forest lands. While forestry and farm conservation issues are closely related, all other similar forestry programs for forests on private lands are administered by the Forest Service. Forest issues for private landowners are sometimes addressed in a farm bill, and when they are, they may either be in a conservation title or in a separate title. (For more information on FIP and related programs, see CRS Report RL31065, *Forestry Assistance Programs*.)

Wildlife Habitat Incentives Program (WHIP). Cost-sharing to develop and implement a WHIP was authorized in 1996, using \$50 million from mandatory funds allocated to the CRP. The FY1998 appropriations obligated \$30 million, and the remaining \$20 million was obligated in FY1999. More recently, Congress provided additional conservation funding for FY2001, and the Department allocated \$12.5 million to WHIP. In other sections of the 1996 conservation title, wildlife was given greater recognition.

Emergency Programs. The Emergency Watershed Program (EWP) is administered by the NRCS and the Emergency Conservation Program (ECP) is administered by the FSA. The EWP provides technical and cost sharing assistance for projects that restore land after flooding and protect it from future damage. The ECP provides cost-sharing and technical assistance to rehabilitate farmland damaged by natural disasters, and to carry out emergency water conservation measures during severe drought.

Water Quality Programs and Initiatives. Groundwater and nonpoint pollution have emerged as major issues as more instances of contamination in which agricultural sources play major roles have been identified. As the specific instances that drive public

interest and concern mount, such as a very large hog farm waste spill in North Carolina, the outbreak *Pfiesteria* and fish kills in portions of the Chesapeake Bay, or the discovery of a large “dead zone” in the central Gulf of Mexico, questions are being raised about the extent of the problems, the severity of the potential threat to human health, the adequacy of government programs, and the contribution of agriculture. In some cases, contamination may have resulted even though producers followed accepted agricultural practices, and did not commit illegal acts. Also, another issue, odor, is addressed by local and state programs.

Current conservation programs that are used to address water quality concerns center on the EQIP program, plus both the Enhancement Program (CREP) and the continuous enrollment option under CRP. During the 106th Congress, both agriculture committees held hearings to examine proposals to address water quality topics and review the effectiveness and shortcomings of current programs.

NRCS released proposed revisions to its nutrient management policy, which are designed to help the farm community more effectively address these topics, on June 30, 1998. USDA and EPA released a “unified national strategy for animal feeding operations.” on March 9, 1999. Elements in the strategy are controversial because it would greatly expand the number of animal operations at which nutrient management plans would be required. In early August 1999, EPA released a long-awaited draft plan for issuing Clean Water Act permits, which is required under court order. Large operators will be required to develop comprehensive nutrient management plans while smaller operators will be encouraged to develop them. The comment period on the proposed rule was extended. Because of the court order, EPA must release the final rule by December 15, 2002.

Limiting total maximum daily loadings (TMDLs) is another approach to cleaning polluted waterways authorized under the Clean Water Act. Congress included a rider in H.R. 4425, the FY2001 Military Construction and FY2000 Urgent Supplemental Appropriations bill, prohibiting EPA from using FY2000 or FY2001 funds to implement the TMDL proposal the Clinton Administration had announced in August, 1999. The Clinton Administration responded by issuing a revised rule delaying the effective date of the program until October 31, 2001. (For more information, see CRS Report RL30437, *Water Quality Initiatives and Agriculture*.)

Private Grazing Lands Program. A new voluntary coordinated technical and educational assistance program was enacted in the 1996 farm bill to maintain and improve resource conditions on private grazing lands. Appropriations were authorized at \$20 million in FY1996, \$40 million in FY1997, and \$60 million annually thereafter. Appropriators have not established a separate line item, but continue to earmark a portion of NRCS’s Conservation Operations funds for this effort annually, providing \$21.5 million for FY2002.

Air Quality Activities. The 1996 farm bill created an interagency air quality task force in USDA. The task force represented USDA when it questioned some scientific aspects of EPA’s proposals, under court order, of revisions to the National Ambient Air Quality Standards for ground-level ozone and two sizes of particulates in 1997. Cooperation on air quality issues grew after USDA and EPA signed a Memorandum of Agreement in January 1998. More recently, federal agencies have been discussing the role agricultural practices and programs could play in global warming, especially by sequestering carbon. (For more

information, see CRS Report 97-670, *Agriculture and EPA's Proposed Air Quality Standards for Ozone and Particulates.*)

Research and Technical Activities. Research and technical support includes activities in several USDA agencies. NRCS provides basic data about resource conditions and characteristics through the soil and snow surveys, and does applied research to support conservation programs through the plant material centers. It also provides basic information on changing resource conditions on private lands through the National Resource Inventory, conducted every 5 years.

Appropriations for FY2002

FY2002. The President signed the FY2002 Agriculture Appropriations legislation on November 28 (P.L. 107-76). For discretionary conservation programs, this law provides \$962.1 million. This amount is less than the Senate provided (\$985.4 million) and more than the House provided (\$909.0 million) It is also greater than both the \$928.6 million requested by the Administration, but less than the FY2001 total of \$1,061.2 million.

For the core technical assistance effort, the Conservation Operations Program, the law provided \$779.0. A particularly contentious issue was using Conservation Operations funds to provide technical support for the CRP because it reduces funds available for other programs and activities. The law allows the Secretary to transfer to the CRP up to \$13 million from the EQIP.

The law provided funding levels for other conservation line items that are higher than FY2001. These amounts include:

- \$11 million for Watershed Surveys and Planning (an increase from \$10.8 million in FY2001);
- \$106.6 million for Watershed and Flood Prevention Operations (An increase from \$99.2 million in FY2001);
- \$48.0 million for Resource Conservation and Development Program (RC&D) (a large increase from the \$41.9 million in FY2001); and
- \$6.8 million for the Forestry Incentives Program (an increase from \$6.3 million in FY2001).

The Senate and the House both included numerous earmarks in their reports, especially in the Conservation Operations and Watershed Operations portions. Among the most notable was a \$45.5 million limitation on technical assistance under the Watershed and Flood Prevention Operations Program. The conference committee was silent on most earmarks, and stated that any earmarks it did not address were considered to be adopted. It provided \$10 million for a new line item for rehabilitating aging watershed projects. The conference committee called for the RC&D to fund as many applications as \$3 million will allow.

For the mandatory programs that are funded through the borrowing authority of the Commodity Credit Corporation and not subject to annual appropriations, the Administration proposal did not assume the recurrence of several single year increases at unauthorized levels provided in FY2001 under various emergency supplemental measures. These funding proposals benefitted from the emerging budget surplus and provided additional resources after some of these programs had reached their mandated enrollment or funding caps set in the

1996 farm bill. The mandatory programs that have already reached their authorized enrollment or funding caps include: the WRP (capped at 1,075,000 acres); the WHIP (capped at \$50 million); and the FPP (capped at \$35 million). The Bush Administration sought no new funding in FY2002 to sustain these programs at higher, but unauthorized levels. Conservation advocates who had supported these increases in FY2001 characterized the Administration proposals in FY2002 as reductions.

The law also contained a general provision to prohibit the use of any funds to implement a fourth mandatory program, the Conservation Farm Option, for which the Administration had not sought any funding. Another mandatory program, the EQIP, is currently authorized at \$200 million annually. EQIP had been limited to \$174 million annually in recent years by annual appropriations acts. The FY2002 act, however, provided \$200 million in FY2002, but allows the Secretary to transfer up to \$13 million of that amount for technical assistance to implement the CRP, as mentioned above. (For a more detailed discussion of FY2002 appropriations for conservation, see the final version of CRS Report RL31001, *Appropriations for FY2002: U.S. Department of Agriculture and Related Agencies.*)

FY2003. The FY2003 budget request does not account for any increased authorizations expected in the pending omnibus farm bill. Under the two bills currently in conference, conservation would receive an increase of between \$15.8 billion and \$21.3 billion in mandatory funding to fund existing programs and new initiatives above current baseline levels over the next 10 years.

The Administration requests \$897 million for Conservation Operations, up \$118 million from FY2002. The Administration requests no funding for Watershed and Flood Prevention Operations, Watershed Surveys, or the Watershed Rehabilitation Programs, but instead requests \$111.4 million for Emergency Watershed Protection, so USDA can focus its resources on providing assistance rapidly after a natural disaster, and limit watershed spending to disasters. The Emergency Conservation Program is usually funded through emergency supplemental legislation, but the budget requests \$48.7 million, the average amount spent over each of the past 10 years, so these funds will be available when needed. The budget also requests no funding for the Forestry Incentive Program.

For the mandatory programs, the Administration assumes full funding for EQIP at \$200 million, even though budget authority expires at the end of FY2002. No funding is requested for any of the other mandatory programs that expire after FY2002. The budget does assume continuing outlays for land retirement programs. For the CRP, for example, it assumes outlays of \$1.856 billion in FY2003 to fund existing and new contracts.

Farm Bill Proposals for Resource Conservation

Farm bills passed in both Chambers and currently being negotiated by a conference committee reaffirm the traditional approaches to federal conservation policy — technical assistance and cost-sharing, supported by research and education. The House version (H.R. 2646), which was approved on October 5, 2001, is more centered on expanding or amending existing programs rather than creating new ones, while the Senate bill (S.Amdt. 2471), which was approved on February 13, 2002, would create more new programs and provide more total funding. Most agricultural leaders continue to push for rapid completion of the conference process so that the new policies could be in effect for the 2002 crop year and so

that the \$73.5 billion increase in mandatory funding for agriculture over the next 10 years, provided in the FY2002 budget agreement, is locked into law. Agricultural interests fear that they might have to compete more aggressively for funds in future years because of the recent tax relief legislation, the war on terrorism, and the economic slowdown.

The role of conservation has continued to evolve since 1996, challenging existing programs and agencies. This evolution has resulted in framing this conservation debate in terms of: (1) increasing funding; (2) creating new programs; (3) providing more programs for land that is in production; and (4) using conservation programs to meet world trade obligations. Increased funding was a dominant theme at committee hearings, where witnesses suggested that total annual conservation funding should grow from about \$3 billion to between \$6 billion and more than \$10 billion. Enacting new conservation programs to address emerging problems has generally been at the center of recent farm bills, but more debate on this farm bill has been about increasing funding and amending existing programs. However, both bills (but especially the Senate bill) include new program proposals that have received widespread interest. Land that is in production, called “working lands,” now receives about 50% of conservation funding (with the remainder going to land retirement programs). Several interests have recommended that this portion be increased. (Prior to 1985 more than 99% of conservation funding was spent on working lands programs.) Finally, conservation programs are widely viewed as meeting world trade obligations, or to be in the “green box”, but only if eligibility for payments is based on fulfilling conservation requirements, and is limited to the costs of complying with these requirements.

House Activity. The House Agriculture Committee passed H.R. 2646 that would set agricultural policies through FY2011. It reported this bill on August 2, and the House approved it on October 5, 2001. H.R. 2646 would provide almost \$16 billion in new mandatory funding over the next 10 years for programs in the conservation title, with most of the additional money going to EQIP. As the House began consideration of H.R. 2646, it approved a manager’s amendment, which removed many conservation provisions reported by the committee that had proven to be controversial. As passed, H. R. 2646 would:

- Raise the CRP enrollment ceiling from 36.4 million acres to 39.2 million acres, expand the small wetlands pilot program from 6 states to all states, expand the eligibility acres to include certain farmable wetlands, and allow certain economic uses of enrolled lands;
- Gradually increase the annual authorized funding level for EQIP to \$1.5 billion by FY2010, provide 50% of the funding to livestock producers and 50% to crop producers, limit contracts to \$50,000 annually and to \$200,000 in total, allow contracts as short as 1 year, and add a water conservation component;
- Establish an annual enrollment cap of 150,000 acres for WRP;
- Gradually increase the authorized funding level for WHIP to \$50 million;
- Provide \$50 million annually for FPP, and make certain nonprofits eligible;
- Permanently reauthorize and make numerous changes to the RC&D Program;
- Create a new 2 million acre Grasslands Reserve Program using multi-year agreements and easements, and limit total funding to \$254 million;
- Create a new Farmland Stewardship Program to coordinate and target existing conservation programs;
- Allow certified third parties to provide technical assistance;

- Fund restoration of small watershed projects at \$15 million annually; and
- Repeal several programs that are not being implemented.

Before final passage, an alternative proposal, known as the Kind-Boehlert Amendment, that was endorsed by many environmental interests and would have increased total conservation funding by an additional \$19 billion above H.R. 2646, by transferring \$1.9 billion annually from commodity program accounts to conservation, was defeated (226-200).

Senate Activity. The Senate Agriculture Committee approved its version of the farm bill (S. 1628) to set agricultural policy through FY2006 on November 14, then reported a clean version of the bill, S. 1731. The primary vehicle for full Senate consideration was S.Amdt. 2471, which contains all the provisions that are in the conservation title of S. 1731, and some additional provisions as well. As passed on February 13, 2002, it would provide \$11.8 billion in new mandatory funding over the next 5 years for programs in the conservation title (and \$21.3 billion over the next 10 years if programs were reauthorized and not amended). As passed, S. Amdt. 2471 would:

- Create a new Conservation Security Program to make payments to farmers who practice conservation, with the amount of payment to be determined by which of three levels of conservation is being practiced;
- Authorize technical assistance support for each mandatory conservation program;
- Raise the CRP enrollment ceiling from 36.4 million acres to 40.5 million acres, expand the small wetlands pilot program to all states, fund a new water conservation program to temporarily or permanently purchase water rights through state CREPs, and permit some economic uses of enrolled lands;
- Gradually increase the authorized annual funding level for EQIP to \$1.5 billion, limit contracts to \$30,000 annually and to \$150,000 in total, expand eligible practices to include comprehensive nutrient management plans, and establish programs using EQIP funds for competitive innovative grants, water conservation in the Southern Plains, and pilot programs for drinking water suppliers and nutrient reduction in the Chesapeake Bay watershed, and partnerships to address conservation issues on a watershed basis;
- Create a process to certify third-party providers of technical assistance;
- Allow up to 250,000 acres to be enrolled into the WRP annually (with up to 25,000 of these acres to be enrolled in a new Wetlands Reserve Enhancement Program) , and limit total enrollment to 2.225 million acres;
- Expand the FPP to include rangeland pastureland, grassland, and forest land, allow certain nonprofits to participate, gradually increase funding to \$500 million annually, and initiate a new market viability program;
- Gradually increase the annual funding level for WHIP to \$355 million and create sub programs for threatened for endangered species, and for habitat;
- Establish new programs to purchase floodplain easements, to control erosion in the Great Lakes basin, to protect 2 million acres of grasslands using easements, to retire wetlands where cranberries are grown, to develop a water management plan for the Klamath River basin, and to support organic farming research;
- Authorize a grazing lands conservation program to replace one authorized in §386 of the 1996 farm bill;

- Protect the privacy of personal information related to conservation programs;
- Require the Secretary to examine opportunities to consolidate and coordinate conservation programs;
- Permanently reauthorize and make numerous adjustments to the RC&D Program;
- Restate the provisions creating the State Technical Committees to specify membership and responsibilities; and
- Set a minimum total conservation funding level of \$12 million per state.

For detailed information about the provisions in these two proposals, including funding and cost estimates, see CRS Report RL31255, *Resource Conservation Title: Comparison of Current Law with House and Senate Farm Bills*.

Administration Position. The Bush Administration released its principles for the next farm bill on September 19, 2001, and presented them a week later at a Senate Agriculture Committee hearing . It drew on these principles when it issued an administration policy letter on October 3, 2001 that was critical of aspects of H.R. 2646 and a letter on December 4, 2001 that was critical of aspects of S. 1731. It has stuck to its stated policy not to submit specific legislative proposals. Principles for conservation include:

- Sustain past environmental gains;
- Accommodate new and emerging environmental concerns;
- Design and adopt a portfolio approach to conservation policies;
- Reaffirm market-oriented policies;
- Ensure compatibility of conservation and trade policies;
- Coordinate conservation and farm policies; and
- Recognize the importance of collaboration with conservation partners.

LEGISLATION

Numerous bills with conservation provisions have been introduced; those listed below are currently being actively considered.

H.R. 2646 (Combest)

Provides for the continuation of farm programs through FY2011. Introduced July 26, 2001; referred to Committee on Agriculture. Reported August 2, 2001 (H. Rept. 107-191, pt. 1). Passed the House (amended); October 5, 2001.

S. 1731 (Harkin)

Strengthens the safety net for agricultural producers, enhances resource conservation, and for other purposes. Introduced (to replace S. 1628) and reported November 27, 2001 (S. Rept. 107-117).

S. Amdt. 2471 (Daschle for Harkin)

A complete substitute for S. 1731. Proposed December 11, 2001. Passed the Senate (amended), February 13, 2002.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

- U.S. Congress. House. Committee on Agriculture. Subcommittee on Department Operations, Oversight, Nutrition, and Forestry. *The Impact of the Proposed Total Maximum Daily Load Regulations on Agriculture and Silviculture*. Hearings. 106th Congress, 2nd session. May 22, June 19, and June 20, 2000. 296 p. Serial No. 106-53.
- U.S. Congress. House. Committee on Agriculture. Subcommittee on General Farm Commodities, Resource Conservation, and Credit. *Review of USDA's Administration of the CRP*. Hearings, 106th Congress, 1st session. July 22, 1999. 96 p. Serial No. 106-30.
- U.S. Congress. House. Committee on Agriculture. Subcommittee on Water Resources and Environment. *H.R. 728, The Small Watershed Rehabilitation Amendments of 1999 and the Natural Resource Conservation Service's Small Watershed Program*. Hearings, 106th Congress, 1st session. Sept. 24, 1999. 63p. Serial No. 106-40.
- U.S. Congress. Senate. Committee on Agriculture, Subcommittee on Forestry, Conservation, and Rural Revitalization. *Farmland Protection Program*. Hearings, 106th Congress, 2nd session. September 18, 2000. 61p. S. Hrg. 106-947.
- U.S. Congress. Senate. Committee on Agriculture, Subcommittee on Research, Nutrition, and General Legislation. *Carbon Cycle Research and Agriculture's Role in Reducing Climate Change*. Hearings, 106th Congress, 2nd session. May 4, 2000. 116 p. S. Hrg. 106-905.

FOR ADDITIONAL READING

- U.S. Department of Agriculture. Economic Research Service. *Agricultural Resources and Environmental Indicators, 1996-1997*. Washington, July 1997. 347 p. Agricultural Handbook No. 712.
- *Agri-Environmental Policy at the Crossroads: Guideposts on a Changing Landscape*. Washington, January 2001. 66p. Agricultural Economic Report No. 794.
- U.S. Department of Agriculture. Natural Resources Conservation Service. *America's Private Land: A Geography of Hope*. Washington. 1996. 81 p.

CRS Reports

- CRS Report RL31001. *Appropriations for FY2002: Department of Agriculture and Related Agencies*, coordinated by Ralph M. Chite.
- CRS Report 98-451. *Animal Waste Management and the Environment: Background for Current Issues*, by Claudia Copeland and Jeffrey Zinn. 40 p.

CRS Report 96-330. *Conservation Provisions in the 1996 Farm Bill: A Summary*, by Jeffrey Zinn. 6 p.

CRS Report RL30331. *Conservation Spending in Agriculture: Trends and Implications*, by Jeffrey Zinn. 11 p.

CRS Report 97-673. *Conservation Reserve Program: Status and Current Issues*, by Jeffrey Zinn. 6 p.

CRS Report 97-616. *Environmental Quality Incentives Program (EQIP): Status and Issues*, by Jeffrey Zinn and Geoffrey Becker. 6 p.

CRS Report RL31065. *Forestry Assistance Programs*, by Ross Gorte. 20p.

CRS Report RL31255. *Resource Conservation Title: Comparison of Current Law with House and Senate Farm Bills*, by Jeffrey Zinn. 24p.

CRS Report RL31131. *Selected Conservation Proposals for the Next Farm Bill*, by Jeffrey Zinn. 40 p.

CRS Report RL30437. *Water Quality Initiatives and Agriculture*, by Claudia Copeland. 29 p.