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Conservation Provisions in the 1996 Farm Bill: A Summary

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Summary

This report briefly reviews the setting in which the farm bill was passed, then describes the provisions in Title III -- Conservation. For a comparison of conservation provisions in the House and Senate-passed bills, S. 1541 and H.R. 2854 respectively, see CRS Report 96-165, *Conservation Provisions in S. 1541 and H.R. 2854: A Comparison*, and for a summary and comparison of selected provisions throughout the farm bill with previous law, see CRS Report 96-304, *The 1996 Farm Bill: Comparison of Selected Provisions with Previous Law*.

Passing the 1996 Farm Bill

Pressure grew quickly for Congress to pass farm legislation after President Clinton vetoed the omnibus reconciliation proposal (H.R. 2491) on December 6, 1995. It included an agricultural title and conservation provisions. With many provisions of the 1990 farm law expiring or about to expire, farmers wanted to know their federal commodity program options as they started to make 1996 planting decisions. Farm program supporters feared the potential negative budgetary and political consequences of farm programs reverting to permanent legislation if commodity prices should drop, causing federal commodity program costs to grow.

The Senate and House each passed omnibus farm legislation in February, and the conference committee completed its work quickly. Both Chambers approved the conference committee report on March 27. The conference committee deleted four conservation proposals that had been included in the Senate bill, but not in the House bill. These proposals would have made Water Bank Program contracts a part of the Conservation Reserve Program; established pilot projects to restore closed drainage systems, expanded the Natural Resources Conservation Service's Small Watershed Program, and established a nutrient waste management program for dairy producers funded by an assessment on milk. The President signed the Federal Agricultural Improvement and Reform Act of 1996 into law on April 4 (P.L. 104-127).

Conservation Provisions

The conservation title, as enacted, contains some provisions supported by environmental interests and others supported by agricultural interests. As in the conservation title enacted in the 1990 farm law, Congress was able to incorporate some, but not all the goals of the major interests, from environmental to commodity organizations. During the debate, especially early on, it appeared that agricultural interests would prevail, but when Congress completed its deliberations, the conservation title addressed a broad array of issues. The conservation title probably included more initiatives than any of these interests anticipated when the debate started.

These provisions more fully integrate resource conservation and environmental concerns with agricultural policies, continuing a trend that started with the 1985 farm law and continued with the 1990 farm law. Provisions in this title change the resource conservation effort in significant ways that go beyond individual programs.

- Total funding for conservation is estimated to grow by about \$300 million per year;
- A majority of the conservation funding will be entitlements; and
- The conservation agenda is broadened by adding wildlife considerations to many programs and by further elevating non point source pollution.

Sections 301 through 317 amend the *highly erodible land (conservation compliance)* provisions in numerous ways that provide greater producer flexibility. Among these changes, to be implemented within 90 days, are:

- providing that all market transition payments are subject to compliance;
- providing violators up to one year to come meet compliance requirements;
- developing expedited variances (not to exceed 30 days) for weather, pest, or disease problems;
- allowing third parties to measure residue, and requiring that residue measurements take into account the top two inches of soil;
- allowing producers to self-certify compliance when applying for benefits;
- allowing producers to modify plans while maintaining the same level of treatment;
- allowing local county committees to permit relief if a conservation system causes a producer undue economic hardship;
- directing USDA employees who observe compliance violations while providing other assistance to inform the producer of the necessary corrective action within 45 days; and
- authorizing a wind erosion pilot project to review the use of wind erosion factors.

Sections 321 through 326 amend *wetland conservation (swampbuster)* provisions in numerous ways that provide greater program flexibility. Among these changes, to be implemented within 90 days, are:

- expanding the definition of agricultural lands used in the interagency Memorandum of Agreement (the MOA defines Natural Resource Conservation Service (NRCS) responsibilities on these wetlands), to include pasturelands, rangelands, and tree farms, but not commercial forest operations;
- exempting swampbuster penalties when wetland values and functions are voluntarily restored following a specified procedure;

- providing that prior converted wetlands will not be considered "abandoned" as long as the land is only used for agriculture;
- giving the Secretary discretion to determine which program benefits violators are ineligible for and to provide good-faith exemptions;
- establishing a pilot mitigation banking program (using the CRP); and
- repealing required consultation with the U.S. Fish and Wildlife Service.

Section 331 extends the *Environmental Conservation Acreage Reserve (ECARP)* through 2002 and adds a new program within the ECARP framework; the Environmental Quality Incentive Program (EQIP, discussed below). The Secretary is allowed to designate priority areas for concentrated assistance to meet environmental laws and conservation needs. Assistance may be based on the significance of the natural resource problems, and on practices that maximize environmental benefits for dollars expended.

Sections 332 and 341 make the *Conservation Reserve Program (CRP)* an entitlement financed by the Commodity Credit Corporation (CCC) and extend program authority through 2002. Maximum enrollment at any time will be 36.4 million acres. Producers with participating lands enrolled at least 5 years before this enactment can terminate their contracts at any time, with 60 days' notice, if they enrolled lands that do not contain high environmental values or high erosion potential. Conservation requirements on land returning to production can not exceed those placed on similar nearby lands. Implementing regulations are to be issued in 90 days.

Sections 333 and 341 make the *Wetland Reserve Program (WRP)* an entitlement financed by the CCC and extend program authority through 2002. Enrollment is limited to 975,000 acres. Eligibility is expanded to include land that maximizes wildlife benefits and wetlands values and functions. After October 1, 1996, enrolled land is to be 1/3 in permanent easements, 1/3 in 30-year easements, and 1/3 in restoration cost-share agreements; and 75,000 acres are to be enrolled in temporary easements before permanent easements can again be used. Permanent easements offer a higher percentage cost share (75% to 100%); the other two forms of participation are eligible to receive 50% to 75%. The specific role of the U.S. Fish and Wildlife Service is replaced by consultation with state technical committees in restoration planning. Implementing regulations are to be issued in 90 days.

Sections 334, 336, and 341 combine the functions of four cost-sharing programs to create a new entitlement, the *Environmental Quality Incentives Program (EQIP)*. The four programs (Great Plains Program, Agricultural Conservation Program, Water Quality Incentives Program, and Colorado River Basin Salinity Control Program) are terminated in section 336. EQIP is to be implemented within 180 days. Annual funding is \$200 million starting in FY1997 (Funding in FY1996 is \$130 million as the terminated programs received appropriations totaling more than \$70 million.) EQIP supports structural and land management practices through technical and educational assistance, and cost-sharing and incentive payments. A plan is required to participate. Half the funding each year will address problems associated with livestock production. Payments per contract are limited to \$10,000 annually, and to \$50,000 over the life of the contract (5 to 10 years); exceptions to the annual limit are permitted. Cost-sharing payments are not to exceed 75% of the projected practice cost, taking into consideration payments received from state or local government. Large livestock operations, to be defined by the Secretary, can not use these payments to construct animal waste management facilities.

Section 335 creates a new 10-year *Conservation Farm Option*, as a pilot program, for producers participating in the 7-year market transition program. A plan is required to participate. Annual payments are based on estimated benefits from conservation programs. Market transition payments do not appear to be affected by participation in this program. This option will receive increasing funding each year, starting at \$7.5 million in FY1997 and growing to \$62.5 million in FY2002. Total funding is \$197.5 million over 7 years.

Section 341 amends *conservation funding and administration*. In addition to the funding provisions described above, it also directs the Secretary to minimize duplication of conservation planning efforts required under CRP, WRP, EQIP, and compliance. Limits on enrollment per county are set, including no more than 25% of the county cropland enrolled in the CRP and WRP combined unless the Secretary determines that there will be no adverse effect on the local economy and producers are having difficulties meeting compliance requirements. Producers are permitted to obtain technical assistance from approved sources other than NRCS in developing conservation plans.

Section 342 expands membership in the *State Technical Committees* to include agricultural producers, representatives from agribusiness and non-profit groups, and interested individuals with demonstrated expertise. Committees are required to give notice and hold open meetings. New responsibilities assigned to committees include to establish procedures for evaluating petitions on new conservation practices and to establish priorities for state initiatives under EQIP.

Section 343 requires that all future revisions in *state technical guides* (the documents that describe how compliance, swampbuster, and CRP are to be implemented), be subject to public notice and comment.

Sections 351 through 360 establish a *Natural Resources Conservation Foundation* as a non-profit corporation to promote and assist conservation efforts, especially the activities of NRCS. The Foundation can accept gifts and raise money to sustain its efforts, which can include promotion of partnerships and conducting research and demonstrations. Up to \$1 million per year for 3 years (FY1997 through FY1999) is appropriated to serve as "seed money."

Sections 371 through 374 is a *forestry subtitle*. Appropriations are authorized through 2002 for the Office of International Forestry and the Forestry Incentives Program. The Secretary is authorized to make grants under the Forest Legacy Program in response to a request from a participating state. Also, cooperative work on units of the National Forest System is authorized.

Section 381 amends the *purposes of the Commodity Credit Corporation* to include conservation, giving the Secretary discretion to use CCC funds for conservation purposes.

Section 382 creates *floodplain easements* as an option under the Emergency Watershed Protection Program.

Section 383 reauthorizes the *Resource Conservation and Development Program* through 2002.

Section 384 repeals *report publication requirements* for completed soil surveys.

Section 385 permits the Secretary to contract with market transition program participants to retire *frequently flooded cropland*. Participants receive up to 95% of their projected program payments, and must agree to comply with swampbuster and conservation compliance, as well as to forego future disaster payments. Funding comes from the CCC, but is available only if appropriated for this program.

Section 386 establishes a new *private grazing lands program*, based on providing coordinated technical and educational assistance to maintain and improve resource conditions. Participation is voluntary. Appropriations are authorized at \$20 million in FY1996, \$40 million in FY1997, and \$60 million annually thereafter. The Department can establish two grazing management demonstration districts, following specified procedures.

Sections 387 authorizes a new cost sharing program to develop and implement *wildlife habitat* improvement management plans. The program would be administered by the NRCS, in coordination with state technical committees. Up to \$50 million in funds allocated to the CRP between today and 2002 could be used to implement this program. Eligible lands would include upland habitat, wetlands, habitat for rare and endangered species, and fish habitat.

In addition, in several other sections of the conservation title give greater recognition to protection of wildlife and habitat.

Section 388 authorizes the Secretary to purchase *farmland protection easements* on between 170,000 and 340,000 acres of prime or unique or other productive soils using up to \$35 million from the CCC. Eligible lands must be subject to a pending offer from a state or local government, making this program available only to places operating farmland protection programs.

Section 389 imposes an 18 month moratorium, prohibiting the Forest Service from placing conditions on permit renewals that would require retention of *bypass flows on federal lands* while a task force studies 5 specified aspects of this issue. The task force is to be established within 60 days, and is to report to Congress within 1 year.

Section 390 requires the Treasury to provide \$200 million through the Secretary of Agriculture to the Secretary of the Interior on July 1, 1996 to acquire lands as part of *federal efforts to restore the Everglades ecosystem*. Funds must be spent by December 31, 1999. The Secretary of the Interior can transfer these funds to the U.S. Army Corps of Engineers, the state of Florida, or the South Florida Water Management District to carry out the purposes of this provisions.

In addition, the federal government is authorized to sell excess or surplus property (excluding lands protected for conservation purposes) in Florida to raise up to an additional \$100 million to be dedicated to this restoration effort. These additional funds can only be spent to acquire property if Florida provides funds equal to half the appraised value. The Secretary of the Interior is to report on the feasibility of applying this approach for resource protection nationwide within one year of enactment.

Section 391 establishes an agricultural *air quality research* oversight committee, to review the accuracy of agricultural air quality data, and to coordinate agricultural air quality activity in the Department. The committee is to be chaired by the Chief of the NRCS. Members will include representatives from Department of Agriculture agencies and industry, and other experts in the field.