

# CRS Issue Brief for Congress

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## Soil and Water Conservation Issues

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## Soil and Water Conservation Issues

### SUMMARY

President Clinton signed the most recent farm bill, the Federal Agricultural Improvement and Reform Act of 1996 on April 4, 1996 (P.L. 104-127). Provisions in the conservation title reauthorize and amend the Conservation Reserve, Wetland Reserve, Conservation Compliance, and Swampbuster Programs. New programs include: the Environmental Quality Incentives Program (EQIP) to provide \$200 million annually in cost-sharing to producers to address conservation problems; a conservation option for producers who receive market transition payments; and new programs for farmland and floodplain protection, grazing lands conservation, and wildlife habitat protection.

The conservation effort remains centered on voluntary participation, and federal technical, financial, and educational assistance. Core programmatic activities include (1) implementing the Conservation Reserve Program to retire highly erodible or environmentally sensitive land; (2) implementing Conservation Compliance and Swampbuster Programs which remove incentives to cultivate highly erodible lands and wetlands; (3) implementing the Wetland Reserve Program to set aside agricultural wetlands; and (4) implementing EQIP.

Significant changes this farm bill made in conservation policy include increasing overall funding for conservation, making a majority of the conservation funding mandatory spending so these programs no longer go through the annual appropriations process, recognizing wildlife values and water quality concerns more explicitly, and providing assistance explicitly to livestock producers for the first time.

The Department of Agriculture has been implementing the 1996 farm bill provisions. Controversy has occurred, especially when the Administration's interpretation of the law's requirements differs from those of interested Members of Congress. The House Agriculture Committee has held oversight hearings to review implementation of the CRP and EQIP and to review potential effects of revisions to proposed air quality regulations.

Congress has also examined problems that have emerged since 1996. For example, both agricultural committees have explored livestock management and non point water pollution issues.

The Administration's FY2001 budget request includes a total of \$3.9 billion for all agricultural conservation programs, an increase of \$1.1 billion over FY2000 estimates. These increases are largely attributed to the \$1.3 billion conservation component of the new Safety Net Initiative, in which the Administration proposes expanded activity in current mandatory conservation programs and creating one new program. It includes \$878 million for Natural Resource Conservation Service (NRCS) conservation programs, an increase of \$65 million. The proposal also includes a staffing increase of more than 1800, to 13,450, at NRCS to staff the new and expanded programs. The House has approved less overall funding for conservation than the Administration requested but slightly more than the FY2000 level, while the Senate approved more than the House, but again less the FY2001 request.

## MOST RECENT DEVELOPMENTS

*The Department of Agriculture continues to implement conservation provisions enacted in the 1996 farm bill. Most attention has centered on the Conservation Reserve Program, where the most recent signup was completed earlier this year.*

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*New issues are emerging that attract congressional interest, in part because they challenge the adequacy of conservation programs. One example is that the oldest small watershed projects are approaching the end of their useful life, and significant funding will be required to rehabilitate them and take into account modern concerns. A second example, the concentration of livestock, is raising questions about waste management and disposal and non point water pollution. While the Administration works to address these issues, they often attract congressional attention as well -- the Administration proposal to approve new regulations to implement the Total Maximum Daily Loading (TMDL) program is a case in point.*

## 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 high levels of soil erosion, and the other was providing 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 that were designed to resolve resource problems on the farm, with the primary benefits accruing to the farmer and to agriculture. These programs combined voluntary participation with technical and financial assistance from the federal government. By the early 1980s, however, concern was growing, especially among environmentalists, that traditional programs were inadequate in dealing with environmental problems (especially off the farm), which were often caused by widely accepted agricultural practices. Publicized instances of significant problems 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 the worst problems. The other three, sodbuster, conservation compliance, and swampbuster, created a new approach to conservation, which halted access to 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. By 1990, Congress concluded that the conservation agenda should be expanded beyond soil erosion to encompass additional environmental concerns. This evolution can be attributed, in large part, to the growing influence of environmentalists and other non-agricultural interests in the formulation of agricultural policy. The conservation title in 1990 added a new theme, water quality. While some provisions amended existing programs, most addressed other environmental topics, including groundwater pollution, water quality, and sustainable agriculture. Amendments to the CRP reflect these changes; its earlier focus on highly erodible land was supplemented by broader 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. 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 number of plans that farmers had to follow to implement various conservation activities, which proliferated during the prior decade, also were discussed.

The focus of debate over conservation provisions in the 1995-1996 farm bill shifted with the new leadership in both chambers. Discussions centered on identifying ways to reform the conservation compliance and swampbuster programs to make them less intrusive on farmer activities. Moreover, environmental interests initially played a diminished role in policy formulation. The initial farm bill incorporated into omnibus reconciliation legislation included conservation provisions that centered on saving money in existing programs and authorizing a new cost-sharing program for livestock producers. After President Clinton vetoed this legislation in December, Congress moved quickly to pass a free-standing farm bill. 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 Conservation Reserve and compliance programs, and carrying out wetland protection responsibilities. The most significant conservation programs are administered by two agencies. The Natural Resources Conservation Service (NRCS) provides technical assistance to producers who wish to plan, install, and maintain conservation practices. It also administers some of the programs that provide cost-sharing assistance to producers as an incentive to practice conservation, and

the compliance and wetland protection efforts. The Farm Service Agency (FSA) administers the largest cost-sharing program, the Conservation Reserve Program.

### **Conservation Reserve Program (CRP)**

Under the CRP 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 to plant conserving vegetation.

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. 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 approach or exceed annual costs, especially in areas of heavy participation.

Annual appropriations to support existing contracts had been somewhat less than \$2 billion before the 1996 farm bill was enacted. These costs, which are now greater each year than all other resource conservation expenditures combined, guarantee program benefits only during the life of the contract. The General Accounting Office was critical of the potentially ephemeral nature of these environmental benefits in a 1993 report.

The 1996 farm act amended the CRP by extending the program through 2002 and capped overall enrollment at 36.4 million acres. It also made CRP a mandatory spending program, to be funded through the Commodity Credit Corporation. Producers who enrolled at least 5 years before this enactment can terminate their contracts early if their lands do not contain high environmental values or high erosion potential. Conservation requirements placed on land returning to production can not exceed those placed on similar nearby lands.

The Department issued final rules to implement the 1996 farm bill changes on February 12, 1997 and has held one open enrollment period each year. The 15th signup was held during March 1997. Contracts on approximately 21.4 million acres were set to expire on September 30, 1997, and the Department initially announced that it hoped to enroll 19 million acres from the 240 million eligible acres. FSA used an Environmental Benefits Index (EBI) to compare all the bids that were offered to enroll more than 23 million acres. In May, it announced that it would accept bids on 16.1 million acres (including 11.7 million acres that had been enrolled), reducing the overall reserve by 5.2 million acres, to 27.6 million acres. The 15th signup generated concerns about why more acres had not been accepted and about apparent inconsistencies from state to state.

Subsequent signups have been smaller. The 16<sup>th</sup> was completed on November 14, 1997. For this signup, FSA accepted 5.9 million acres of the 9.5 million acres that had been bid, including 1.8 million acres currently enrolled and 2.0 million acres that had been enrolled. The total enrollment stood at 29.9 million acres. The 18<sup>th</sup> signup was completed in mid December 1998. This opportunity attracted bids to enroll more than 7 million acres. On March 4, 1999, FSA announced that it had accepted almost 5.0 million acres. The most recent enrollment, the 20<sup>th</sup> signup was completed in February 2000. FSA received bids to

enroll almost 3.5 million acres and accepted bids on 2.5 million acres. Total enrollment is estimated to rise to 33.5 million acres by the end of FY2000. The Department is preserving most of the acres that remain under the 36.4 million acre cap to enroll land in two other important ways.

One of those ways allows continuous signup for individuals who wish to enroll portions of fields, with particularly high environmental values (the 14<sup>th</sup> signup in 1997, the 17<sup>th</sup> signup in 1998, the 19<sup>th</sup> signup in 1999, and the 21<sup>st</sup> signup in 2000). FSA staff reported that through June 2000 more than 1,165,000 acres have been enrolled under this option. (About 45% of these acres are in Iowa, Illinois, and Montana.) The conservation practice that has received the most attention is filter strips. NRCS has started an initiative to enroll 2 million miles of filter strips and riparian buffers along streambanks by 2002; it estimates that over 600,000 miles have been enrolled. The continuous enrollment receives greater emphasis in the Administration's Safety Net Initiative, which called for offering bonuses totaling up to \$100 million in FY2000 and up to \$125 million in FY2001 and FY2002 to attract more participation in the continuous enrollment option. In April, the Department announced that it was implementing these proposals administratively by paying signing bonuses; increasing cost-share payments for cover crops and making maintenance payments on buffers; and increasing payments on pasture. USDA estimates 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, will attempt to enroll 100,000 acres of stream buffers, restored wetlands, and highly erodible lands near streams in the Chesapeake Bay drainage. (Before this agreement was signed, it had less than 20,000 acres in the CRP.) The Maryland program will cost \$195 million; this includes \$170 million in federal money. Ten other states have approved enhancement programs, and two additional states have submitted proposals. FSA estimates that almost 80,000 acres had been enrolled under this option through June, 2000, and more than half those acres are in Illinois. Combining these three options for enrolling land, USDA forecasts in its FY2001 budget submission that the reserve will grow to 34.4 million acres in FY2001 and to 36.4 million in FY2002.

NRCS provides technical assistance in support of CRP, but the 1996 farm bill placed a cap on the amount that CCC can be used to reimburse agencies for services provided in the delivery of CCC programs. The funds available under this cap are insufficient to pay all related technical assistance costs this year. (In prior years, funding above the cap came from unobligated balances under previous CRP spending authorities.) NRCS temporarily suspended CRP-related activities in April while it assesses exactly how much money remains and how those funds will be spent. The FY1999 Supplemental Appropriations (P.L. 106-31) provided an additional \$28 million in FY1999 and \$35 million in FY2000. With this additional money, implementation of new CRP contracts will be possible.

Congress is considered using the CRP to address farm financial problems. Members talked about enlarging the eligible acreage for the CRP, offering a shorter term program (3 to 5 years in length), and allowing more land to be enrolled more quickly. The Department did not need congressional authority to accelerate the payments within a fiscal year, and sent out \$1.3 billion to holders of about 400,000 contracts in October 1998, and again in 1999, instead of later in the year, as had been past practice. Legislative proposals have been

introduced to raise the enrollment cap to 45 million acres (H.R. 408/S. 1523) and to allow enrollments above the current cap if funds are appropriated (H.R. 1299). These proposals were discussed at a July 22, 1999 hearing by a subcommittee of the House Agriculture Committee where the Department announced that the Administration would support such a change. In its FY2001 budget submission, it proposed raising the enrollment cap to 40 million acres. However, these proposals have not moved in the legislative process.

A new concern arose in March when the Sixth U.S. Circuit Court of Appeals ruled that farmers must pay a 15.3% self-employment tax on CRP lands. In 1996, a federal tax court had ruled that farmers did not have to pay this tax. However, the Internal Revenue Service successfully appealed. Program supporters fear the ruling could have a chilling effect on participation. Legislation to overturn the ruling has been introduced in both Chambers (H.R. 4064 and S. 2344). (For more information on the CRP, see CRS Report 97-673, *Conservation Reserve Program: Status and Current Issues*.)

## **Conservation Compliance and Sodbuster**

Under sodbuster provisions, 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.

Under conservation compliance, 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. Concerns of this community were addressed in the 1996 farm act. These provisions revise the highly erodible land provisions in numerous ways that are expected to provide greater producer flexibility; the Department issued interim rules to implement these changes on September 6, 1997. Among these changes are:

- providing violators up to one year to meet compliance requirements;



- developing expedited variances for weather, pest, or disease problems;
- allowing approved third parties to measure residue (organic materials left after harvest), and requiring that residue measurements include the top two inches of soil;
- allowing producers to modify plans while maintaining the same level of treatment; and
- allowing local county committees to permit relief if a conservation system causes a producer undue economic hardship.

(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. Wetlands are exempt from swampbuster if they: (1) were previously converted or artificially created; (2) are created by irrigation or water delivery systems; (3) made possible agricultural production under natural conditions or where production had a minimal effect; or (4) are farmed using an approved wetland conservation plan. A partial penalty may be allowed once every 10 years.

Implementation of swampbuster was caught up in the broader wetlands policy debate initially. Some from the farm community view wetland protection efforts on agricultural lands as too extensive or overzealous, and a portion of this group also view these efforts as an unacceptable intrusion of government into the rights of private property owners. Environmental and other groups counter that the swampbuster program has been enforced weakly and inconsistently. A central source of controversy has been that about 4 million tracts of agricultural land may contain wetlands, and only about 2.6 million tracts have received wetland determinations. New determinations will be certified. 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 earlier in 1999 between South Dakota and Minnesota, but was resolved in January, 2000.

Some agricultural concerns were thought to have been addressed when a Memorandum of Agreement (MOA) making NRCS responsible for all wetland determinations on agricultural lands 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. This MOA made NRCS responsible for wetland determinations for the federal wetland regulatory program, known as the Section 404 Program, as well as swampbuster. But aspects of implementation have proven controversial. The MOA is currently being revised to reflect changes in the 1996 farm bill; this revision process has proven lengthy and difficult.

These specific actions did little to address broader concerns about regulatory actions, characterized by some as wetland “takings”. While not addressing these broader issues, numerous provisions were considered for the 1996 farm bill to give producers greater flexibility in responding to swampbuster. Among the changes included in the enacted legislation, and addressed in interim final regulations issued on September 6, are

- exempting swampbuster penalties when wetland values and functions are voluntarily restored following a specified procedure;
- providing that wetlands will not be considered “abandoned” as long as the land is only used for agriculture (abandoned means that the land has not been actively managed for agriculture for 5 years; previously, abandoned land could be reclassified if it retained wetland characteristics);
- giving the Secretary discretion to determine which program benefits violators are ineligible for and to provide good-faith exemptions;
- allowing mitigation and starting a pilot mitigation banking program (using the CRP); and
- repealing required consultation with the U.S. Fish and Wildlife Service.

The WRP, established in the 1990 farm bill, uses easements to protect farmed wetlands. The Department had chosen to use only permanent easements prior to 1996. The enrollment goal is capped at 975,000 acres. The law permits the Secretary to delegate the administration of easements to other federal or state agencies that have the necessary expertise. Congress has appropriated funds most years since enactment, although at considerably lower amounts than the Administration has requested. In addition to the annual appropriations, emergency funding was provided to enroll lands flooded in 1993 in the upper Midwest. Farmer interest has generally exceeded available funding. April 2000 data from NRCS show that over 785,000 acres were enrolled, and more than 35% of that total is in 3 states: Louisiana (123,000 acres), Mississippi (83,000 acres) and Arkansas (74,000 acres). The Department estimates that only 40,000 additional acres could be enrolled in FY2001 before it reaches the enrollment cap. Two legislative proposals, S. 1448 and H.R. 2066, would replace the current cap with an annual enrollment limit of 250,000 acres. The Administration endorsed these proposals in its FY2001 budget submission as an element of the Safety Net Initiative, but Congress has yet to act on them.

Provisions in the 1996 farm act made WRP a mandatory spending program and extend program authority through 2002. Eligibility was expanded to include land that maximizes wildlife benefits and wetland values and functions. After October 1, 1996, enrolled land was 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 was to be enrolled in temporary easements before permanent easements can again be used. The specific role of FWS was replaced by consultation with state technical committees. The Department issued final rules implementing these changes on August 8, 1996. The new regulations opened the program for continuous signup for the first time. Permanent easements currently account for 88% of the total, while 10% is enrolled under 30-year easements, and the remainder under restoration agreements. (For more information about wetlands, see CRS Issue Brief IB97014, *Wetland Issues*.)

## **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. The largest of these programs, by far, had been the Agricultural Conservation Program (ACP), funded at between \$175 and \$200 million annually during the two decades preceding the early 1990s. All other cost-sharing programs combined were always a fraction of this total. In

FY1995 and FY1996, Congress reduced funding for these programs, and in 1994, Congress moved administration of almost all the small programs from FSA to NRCS.

The 1996 farm act terminated the ACP and three other cost-sharing programs – the Great Plains Conservation Program, the Water Quality Incentives Program, and the Colorado River Basin Salinity Control Program -- and replaced them with a new Environmental Quality Improvement Program (EQIP). EQIP is a mandatory spending program which supports structural, vegetative, and land management practices. Annual funding is \$200 million. Half the funding addresses 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 final regulations, can not use these payments to construct animal waste management facilities.

NRCS issued a final rule on May 22, 1997. Major topics addressed in the rule include the identification and designation of priority areas (where funding would be concentrated), development of conservation plans and administration of EQIP contracts, the definition of large confined livestock operations, education and technical assistance activities, and payment limits. In March 1997, the Department announced that at least 65% of the funding is to be spent in state-designated priority areas, while the remainder can be spent on problems of state-wide concern. Almost 19,000 contracts were signed in FY1999, with a total cost of \$174 million. These contracts are providing \$137 million in financial assistance, \$33 million in technical assistance and \$3.8 million in educational assistance. As in earlier years, interest was much greater, with almost 52,000 applicants requesting funding totaling \$386 million.

The Administration's FY2001 budget submission proposes to raise the funding cap from \$200 million to \$325 million and actual funding from \$174 million to \$325 million as part of both the Clean Water and Safety Net Initiatives. Congress has not supported these proposals in the appropriations process, discussed below, but it did provide an additional \$40 million for EQIP in FY2001 in §211 of the Agricultural Risk Protection Act of 2000 (P.L. 106-224). These funds are all to go to farmers and can not be used by NRCS to support technical assistance. (For further information, see CRS Report 97-616, *Environmental Quality Incentives Program (EQIP): Status and Issues*.)

## **Selected Other Provisions in the 1996 Farm Act**

**Conservation Farm Option.** A new 10-year Conservation Farm Option was enacted as a pilot program, for producers participating in the market transition program. Participation requires a plan. Annual payments are based on estimated benefits from conservation programs. Authorized funding levels increase funding each year, starting from \$7.5 million in FY1997, and total \$197.5 million over 7 years. However, no funds have been appropriated. The final rule was published September 29, 1998 *Federal Register*.

**State Technical Committees.** Provisions expanded membership eligibility for state technical committees to include agricultural producers, representatives from agribusiness and non-profit groups, and individuals with demonstrated expertise. Committees are required to give notice and hold open meetings, to establish procedures for evaluating petitions on new conservation practices, and to establish priorities for state initiatives under EQIP. All states

have implemented these provisions. The final rule to provide greater uniformity in the ways committees operate among states was issued in the August 3, 1999 *Federal Register*.

**Flooded Cropland Retirement.** The Secretary may 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, and to forego future disaster payments. Funds will come from the CCC. The Department purchased easements using funds provided through the FY1997 and FY1999 supplemental appropriations for the Watershed and Flood Prevention Operations Program. The FY1999 funds, \$11.9 million, were used to purchase easements on 18,000 flood-prone acres in 8 states.

**Private Grazing Lands.** A new voluntary coordinated technical and educational assistance program was established 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. The Department is allowed to establish two grazing management demonstration districts, following specified procedures. No funds have been appropriated, although Congress continues to earmark a portion of NRCS's Conservation Operations funds for this effort annually, providing \$17 million for FY2000.

**Wildlife.** Cost-sharing to develop and implement wildlife habitat improvement management plans were authorized, using \$50 million from funds allocated to the CRP. A final rule was issued on September 19, 1997. The FY1998 appropriations obligated \$30 million, and the remaining \$20 million are being obligated in FY1999. In other sections of the conservation title, wildlife is given greater recognition. The Administration has requested \$50 million annually as part of its Safety Net Initiative.

**Farmland Protection.** The Secretary was authorized to acquire easements to limit conversion to nonagricultural uses. The program is to protect between 170,000 and 340,000 acres of farmland, using \$35 million from the CCC. Eligible lands must be subject to a pending offer from a state or local government. From FY1996 through FY1998, \$33.5 million was obligated in 18 states. These funds are being used to place easements on 127,000 acres on 460 farms with an estimated easement value of \$230 million. Interest in the program has been high, and requests have exceeded funding. Bills introduced in the 106<sup>th</sup> Congress (S. 333 and H.R. 1950) would authorize \$55 million annually for this program and make other changes, and several other bills would revitalize this program as part of wide-ranging resource protection efforts. The Administration has requested \$65 million annually as part of the conservation component of its Safety Net Initiative. Congress provided \$10 million for farmland protection in FY2001 in §211 of the Agricultural Risk Protection Act of 2000 (P.L. 106-224) and made certain private nonprofit organizations eligible to compete with state and local governments for these funds for the first time.

## Other Activities

**Implementing the Government Performance and Results Act (GPRA).** The GPRA, P.L. 103-62, requires all federal agencies (and Departments) to submit a strategic plan to the Office of Management and Budget (OMB), produce an annual performance plan starting in FY1999, and furnish annual performance reports beginning with FY1999. GPRA emphasizes performance outcomes such as improvements in resource and environmental conditions,

rather than traditional measures of effort such as staff hours or outlays of funds. USDA's plan identifies "sensible management of natural resources" as one of three Department goals and identifies ten agencies with relevant mission areas. NRCS, the Department's lead agency for conservation, set the six objectives, including:

- Conserving watersheds;
- Conserving and enhancing the productivity and quality of cropland;
- Conserving and restoring agricultural wetlands; and
- Building a strong and effective grass roots partnership.

The Administration discussed its subsequent budget proposals, in part, in terms of these goals and objectives.

**Responding to Proposed Air Quality Standards for Ozone and Particulates.** The Environmental Protection Agency, under court order, promulgated revisions to the National Ambient Air Quality Standards for ground-level ozone and two sizes of particulates on July 18, 1997. Many in the agriculture community questioning the scientific basis and economic consequences of these proposals. USDA raised scientific questions when it officially responded to these proposals through its new Agricultural Air Quality Task Force, which was created as a result of provisions in the 1996 farm bill.

Senator Inhofe attached language to the surface transportation bill (S. 1173) that establishes an extended implementation schedule and require EPA to pay certain monitoring costs. Implementation was thrown into turmoil by recent federal circuit court rulings that state that EPA has exceeded its authority by issuing these regulations.

Within the Administration, cooperation on this and related issues is likely to grow as USDA and EPA signed a Memorandum of Agreement in January 1998 to work more closely on air quality topics. More recently, there have been discussions within the Administration on the role agricultural practices, such as tillage, and programs, such as land retirement, could play in controlling greenhouse gases. (For more information, see CRS Report 97-670, *Agriculture and EPA's Proposed Air Quality Standards for Ozone and Particulates*.)

**Water Quality and Agriculture.** 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 *Pfisteria* 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, a large issue at many locations, odor, is addressed by local and state programs.

The magnitude of these concerns can be measured by the responses. The National Pork Producers Council was the first industry group to conclude an environmental dialogue, endorsed by EPA, with recommendations for states to enact legislation that would phase in environmental standards that all pork producers would have to meet. They believe that this proactive effort responds to the highly publicized problems some producers have

encountered, and might forestall more stringent regulations or controls. Poultry growers and other livestock groups have tried to complete a similar dialogue process.

These issues have been elevated as policy questions through the Clinton Administration's Clean Water Action Plan. It was developed by several federal agencies under guidance laid out by Vice President Gore and released in February 1998. Funding to implement these recommendations was included in the FY1999 and FY2000 budget requests. Congress generally has not supported the agriculture proposals, which sought new emphasis within existing law and new funding for three agencies in the Department of Agriculture rather than new law. These funds would have been spent to make grants to partnerships involved in managing watersheds, to increase monitoring, and to restore and improve riparian areas, grazing lands, and forest health in high priority areas.

While the 1990 farm act had responded to water quality concerns with a number of new initiatives and amendments to established programs, the 1996 farm act did not directly address water quality concerns with any new initiatives. However, the new EQIP program, plus the CRP Enhancement Program (CREP) and the continuous enrollment option, are at the heart of the USDA response. At an April 2, 1998 hearing convened by the Senate Agriculture Committee and a May 13 hearing convened by two subcommittees of the House Agriculture Committee, witnesses commented on how legislation proposed by Senator Harkin (S. 1323) and other proposals might address many of these topics, and on the effectiveness and shortcomings of current programs. An Administration proposal similar to this legislation, and made as part of the Safety Net Initiative, would provide \$600 million annually for a new cost-sharing Conservation Security Program. The program would provide annual payments to producers who implement certain conservation practices, such as nutrient management and grassed waterways. Payments would be based on the comprehensiveness of the plans.

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 implemented. In early August 1999, EPA released a long-awaited draft plan for issuing Clean Water Act permits. Large operators will be required to develop comprehensive nutrient management plans while smaller operators will be encouraged to develop them. For more information, see CRS Report 98-451 ENR, *Animal Waste Management and the Environment: Background for Current Issues*

President Clinton announced on August 14, 1999, a proposal for cleaning up polluted waterways based on strengthening "total maximum daily loading" (TMDL) requirements. More recently, at an October 28, 1999 hearing convened by the House Agriculture Committee's Subcommittee on Department Operations, members received testimony on this effort. 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 Administration responded by issuing a revised rule the day before the President signed the bill, July 11, 2000. The revised rule does delay the effective date of the program until October 31, 2001. (For more information, see CRS Report RL30422, *EPA's Total Maximum Daily Load (TMDL) Program: Highlights*

*of Proposed Changes and Impacts on Agriculture, and CRS Report RL30573, Changes Recently Announced by EPA to its Total Maximum Daily Load (TMDL) Proposal.*

## **Appropriations**

**FY2001 Request.** The Administration's budget requests a total of \$3.9 billion in FY2001 for all agricultural conservation programs, an increase of \$1.1 billion over FY2000 estimates. These increases are largely attributed to the \$1.3 billion conservation component of the new Safety Net Initiative, in which the Administration proposes expanded activity in five current programs and creating one new program, identified above. Each conservation proposal would require authorizing legislation. Nearly one-half of the total, \$600 million, would support a proposed new Conservation Security Program to would promote sound land management by providing conservation payments to landowners who voluntarily implement specified conservation practices. The remainder would increase the size of five current programs by increasing the number of eligible acres in the WRP and the CRP, and providing more funds annually for the EQIP, Farmland Protection, and Wildlife Habitat Improvement Programs. The initiative would support a 16% increase in staff years for NRCS, from 11,600 to almost 13,450.

Other conservation programs would undergo less change. The Conservation Operations Program, which provides basic technical assistance to farm operators, would increase by \$86 million, to \$747 million. Increases would be partially offset by a decrease of \$8 million for the Watershed and Flood Prevention Operations programs. The Watershed and Flood Prevention Operations Program would initiate a new \$60 million loan program to help states and localities rehabilitate dams which are approaching the end of their design life. Most of the smaller conservation programs are proposed to be level funded in FY2001, although the Forestry Incentive Program would receive no funding, as had been proposed in FY2000.

**Congressional Responses.** The House and Senate have each passed their versions of the FY2001 agriculture appropriations legislation. The bills are similar, but not identical. Both bills do not fund any elements in the conservation portion of the Safety Net Initiative. Both would provide an increase in discretionary funding over FY2000, but less than the Administration had requested. The House would provide an increase of almost \$9 million while the Senate would provide an increase of \$63 million; both are less than the \$86 million that was requested. Both reports contain numerous earmarks and instructions to NRCS, especially under the Conservation Operations account. For Watershed and Flood Prevention Operations, the House agreed to the proposed Administration decrease, while the Senate provides an increase of about the same size, almost \$8 million. During floor consideration, the House adopted an amendment, offered by Representative Berry, to move all funding for the Office of the Under Secretary for Natural Resources and Environment, \$693,000, to the Resource Conservation and Development Program; the Senate bill has no comparable provision. This amendment was reportedly offered as a response to concerns about how USDA and EPA were coordinating their efforts on the TMDL program.

**Other Funding Sources.** Beyond federal resources, state agencies and conservation districts provide a growing portion of the staff and funds supporting conservation. The National Association of Conservation Districts, in October 1997 testimony before the House Agriculture Committee, estimated that conservation districts employed over 23,000 and state conservation agencies over 1,000, and that these organizations had \$700 million in operating

funds and \$400 million in financial incentives for program participants in FY1997. (For more information on the FY2000 proposal, see CRS Report RS20046, *The Administration's FY2000 Budget Request for the U.S. Department of Agriculture*.)

## **Resource Conservation Policy in the 106th Congress**

The 1996 farm act reaffirmed the traditional approaches to federal conservation policy — technical assistance, cost-sharing, and education — while changing the resource conservation effort in several ways that go beyond individual provisions and programs.

- The total funding committed to resource conservation will grow by an average of \$300 million annually.
- A majority of the conservation funding will be mandatory spending, which reduces the uncertainty of relying on annual appropriations decisions.
- The conservation agenda is expanded by adding wildlife considerations, by creating a new cost sharing program to address nonpoint pollution and livestock problems, and by creating a new agricultural air quality committee.
- State and local levels will have a stronger role in many aspects of the conservation effort, primarily through state technical committees.
- The CRP, WRP, and EQIP will use priority areas established by each state to target the most pressing problems and increase the efficiency of conservation expenditures.

The role of conservation continues to evolve, challenging existing programs and agencies. Issues that the 106<sup>th</sup> Congress may examine include the role that agriculture plays in nonpoint pollution, responding to the Administration's Clean Water Initiative and animal feeding strategy, looking more closely at agriculture's role in global climate change, co-location of field staff, and funding. Old issues may get some attention as well. For example, the aging of small watershed projects was the subject of legislation (H.R. 728) that was amended and passed in the Agriculture Committee, reported by the House Resources and Transportation Committees (H. Rept. 106-484, pt. 1 and 2), and passed the House by voice vote on July 17, 2000; a comparable bill was introduced in the Senate by the late Senator Coverdell and approved by the Agriculture Committee on June 20, 2000. In addition, Congress may look to conservation programs to play a more prominent role in addressing the farm financial downturn; one possibility that has been widely discussed is to increase the maximum size of the CRP, and the Administration proposes other roles in its Safety Net Initiative. Basic questions that Congress may consider in such examinations are whether agricultural conservation programs and agencies (and the overall approach) remain effective, and whether they should serve production agriculture first and foremost or additional interests as well.



## LEGISLATION

**H. R. 408 (Peterson)/S. 1961 (Johnson)**

Amends to the Food Security Act to expand the number of acres in the CRP to 45 million. Introduced January 19, 1999; referred to Committee on Agriculture.

**H. R. 728 (Lucas)/ S. 1762 (Coverdell)**

Amends to the Watershed Protection and Flood Prevention Act to authorize cost-sharing assistance to rehabilitate structural measures. H.R. 728 introduced February 11, 1999; reported by the Committee on Resources (November 18, 1999; H. Rept. 106-484, pt.1) and reported by the Committee on Agriculture, amended (October 27, 1999); passed the House by voice vote (July 17, 2000). S 1762 approved by the Senate Agriculture Committee; June 20, 2000.

**H.R. 1299 (Berry)/S. 1523 (Lincoln)**

Reforms the marketing loan program, expands land enrollment opportunities under the CRP, and maintains opportunities for foreign trade in agricultural commodities. H.R. 1299 introduced March 25, 1999; referred to Committee on Agriculture. S. 1523 introduced August 5, 1999; referred to Committee on Agriculture.

**H.R. 2066 (Pickering)/S. 1448 (Hutchinson)**

Amends the Food Security Act to authorize the annual enrollment of land in the WRP to extend the program through 2005, and for other purposes. H.R. 2066 introduced June 8, 1999; referred to Committee on Agriculture. S. 1448 introduced July 28, 1999; referred to Committee on Agriculture.

**H. R. 2779 (Moran)**

Amends the Food Security Act to give producers greater flexibility in enrolling certain marginal land in the CRP, and for other purposes. Introduced August 5, 1999; referred to Committee on Agriculture.

**H.R. 2793 (Stenholm)**

Designates USDA as the lead federal agency for national agricultural conservation and environmental policy, including water quality research and assessment, and technical assistance for agricultural activities, and for other purposes. Introduced August 5, 1999; referred to Committee on Transportation and Committee on Agriculture.

**H.R. 3101 (Bryant)**

Authorizes farmers and ranchers in designated drought disaster areas to use certain land enrolled in the CRP for haying and grazing. Introduced October 19, 1999; referred to Committee on Agriculture.

**H.R. 4064 Moran)**

Amends the IRS Code to exclude certain CRP payments from net self-employment earnings. Introduced March 22, 2000; referred to Committee on Ways and Means.

**S. 333 (Leahy)/H.R. 1950 (Farr)**

Amends the 1996 farm act to improve the Farmland Protection Program. S. 333 introduced February 3, 1999; referred to the Committee on Agriculture, which held a hearing,

July 21, 1999. H.R. 1950 introduced May 26, 1999; referred to Committee on Agriculture.

**S. 1177 (Harkin)**

Amends the Food Security Act to permit the harvesting of lands enrolled in the CRP for recovery of biomass used in energy production. Introduced May 27, 1999; referred to Committee on Agriculture.

**S. 1426 (Harkin)**

Provides incentive payments to farmers who undertake conservation practices under multi-year contracts. Introduced July 21; referred to Committee on Agriculture.

**S. 2344 (Brownback)**

Amends the IRS Code to treat CRP payments as rentals from real estate. Introduced April 4, 2000; referred to Committee on Finance.

## CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

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. Senate. Committee on Agriculture. Farmland Protection Program. Hearings, 106<sup>th</sup> Congress, 1<sup>st</sup> session. July 21, 1999. 113p. S. Hrg. 106-422.

## 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.

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 RS20046. *The Administration's FY2000 Budget Request for the U.S. Department of Agriculture*, coordinated by Ralph M. Chite.

CRS Report 97-670. *Agriculture and EPA's Proposed Air Quality Standards for Ozone and Particulates*, by James McCarthy and Jeffrey Zinn. 15 p.

CRS Report 98-451. *Animal Waste Management and the Environment: Background for Current Issues*, by Claudia Copeland and Jeffrey Zinn. 40 p.

CRS Report RL30422. *EPA's Total Maximum Daily Load (TMDL) Program: Highlights of Proposed Changes and Impacts on Agriculture*, by Claudia Copeland. 11 p.

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

CRS Report 96-648. *Conservation Compliance for Agriculture: Status and Policy Issues*, by Jeffrey Zinn. 6 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.