

# Issue Brief for Congress

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## **Soil and Water Conservation Issues**

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## Soil and Water Conservation Issues

### SUMMARY

The most recent farm bill, the Federal Agricultural Improvement and Reform Act of 1996 (P.L. 104-127), sets out the basis for farm policy through FY2002, including soil and water conservation policy. Provisions in the conservation title reauthorized and amended the Conservation Reserve (CRP), Wetland Reserve (WRP), Conservation Compliance, and Swampbuster Programs. (The CRP is used to retire highly erodible or environmentally sensitive land; Conservation Compliance and Swampbuster Programs reduce incentives to cultivate highly erodible lands and wetlands; and the WRP uses easements to protect agricultural wetlands.) New programs it created 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 farmland and 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. Key agencies include: the Natural Resources Conservation Service (NRCS), which provides technical assistance and administers many of the smaller cost-sharing programs; the Farm Service Agency (FSA), which administers the largest cost-sharing program and emergency programs; the Extension Service, which provides educational assistance; the Agricultural Re-

search Service; and the Forest Service. Most programs involve more than one of these agencies.

These agencies have been implementing the 1996 farm bill provisions. Controversy has occurred, especially when the Clinton Administration's interpretation of the law's intent or requirements differs from those of interested Members of Congress. Both agriculture committees have held oversight hearings. These committees have also examined conservation problems that have emerged since 1996. For example, both agricultural committees have explored livestock waste management and non point water pollution issues.

During the 107<sup>th</sup> Congress, both agriculture committees are likely to consider options for the next generation of farm policy, including conservation. Options being suggested would expand the conservation mission to deal with additional environmental issues, find ways to tie conservation benefits to commodity programs ("green payments"), and modify existing programs based on experience in recent years or changing needs and resource conditions. In addition, Congress may also consider ways to integrate some conservation policies with programs and policies outside agriculture and the farm bill. However, with the new administration getting organized and changes in Congress, there is little certainty about the pace or the process that these deliberations may follow.

## MOST RECENT DEVELOPMENTS

*Many provisions in current farm law expire in FY2002. The House and Senate Agriculture Committees each plan to consider options for future agricultural policies, and possibly start the process to enact new legislation, during the 107<sup>th</sup> Congress. The form and pace of these considerations await decisions about committee assignments and organization in Congress and leadership appointments in the Bush Administration.*

*Since the last farm bill debate in 1996, new issues have emerged that are attracting congressional interest, in part because they challenge the adequacy of current conservation programs. For example, the growing concentration of livestock is raising questions about waste management and disposal and non point water pollution. The Clinton Administration addressed these issues by approving new regulations to implement the Total Maximum Daily Loading (TMDL) program and by promulgating regulations for concentrated animal feeding operations. The approach the Bush Administration will pursue on these topics is unknown.*

## 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 resolve resource problems on the farm, with the primary benefits accruing to the farmer and to agriculture. These programs combined voluntary participation with technical, educational, and financial assistance incentives 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 caused by agricultural activities (especially off the farm), which were often caused by widely accepted practices. Publicized instances of significant problems, especially soil erosion rates said to rival the dust bowl era of the 1930s, 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 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 its focus on soil erosion to encompass additional environmental concerns. This evolution can be attributed to the growing influence of environmentalists and other non-agricultural interests in the formulation of agricultural policy, and to a recognition that agriculture was not treated like other business sectors in many environmental laws. The conservation title in 1990 addressed new environmental topics, including groundwater pollution, water quality, and sustainable agriculture, as well as amending existing programs. Amendments to the CRP reflect these changes; its earlier focus on highly erodible land was supplemented by several 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 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 that Congress passed in 1995 and attached to omnibus reconciliation legislation included conservation provisions that centered on saving money in existing programs, reauthorizing the CRP, and authorizing a new cost-sharing program for livestock producers, but little else. After President Clinton vetoed this 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 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 CRP.

## 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 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 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, have declined to less than \$1.5 billion but remain 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 has held one open enrollment period each year since 1996. 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, and accepted bids on 16.1 million acres (including 11.7 million acres that had been enrolled). Total enrolled acres dropped to 27.6 million acres, and generated concerns about why USDA had not accepted more acres and about apparent inconsistencies in bidding from state to state.

Subsequent signups have been smaller. The 16<sup>th</sup>, completed in November 1997, enrolled 5.9 million acres of the 9.5 million acres that had been bid. The total enrollment stood at 29.9 million acres. The 18<sup>th</sup>, completed in December 1998 enrolled almost 5.0 million acres of the more than 7 million acres that had been bid. The most recent enrollment, the 20<sup>th</sup> signup, was completed in February 2000 and enrolled 2.5 million acres. USDA estimated that total enrollment will 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 FY1997, the 17<sup>th</sup>

signup in FY1998, the 19<sup>th</sup> signup in FY1999, the 21<sup>st</sup> signup in FY2000, and the 22<sup>nd</sup> signup in FY2001). FSA staff reported that through December 2000 almost 1.4 million acres have been enrolled under this option. (More than 30% of these acres are in Iowa and Illinois.) The conservation practice that has received the most attention is filter strips. NRCS has started an initiative in 1997 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. In April 2000, the Department announced that it was administratively implementing proposals it had submitted with the FY2001 budget to attract more participation 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 Watershed. (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. Fourteen other states have approved enhancement programs, and seven additional states have submitted proposals. The most recent state to be approved was California, on January 19, 2001. FSA data show that more than 120,000 acres had been enrolled under this option through December, 2000, and almost 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 portion of program funding from the CCC that can be used to reimburse agencies for services provided in the delivery of CCC programs. The funds available under this cap have been insufficient to pay all related technical assistance costs this year. If funding is insufficient, NRCS may have to suspend CRP-related activities, as it did in FY1999. The FY1999 Supplemental Appropriations (P.L. 106-31) provided an additional \$28 million in FY1999 and \$35 million in FY2000. The FY2001 Agriculture Appropriations (P.L. 106-387) provides \$35 million for technical assistance to implement the CRP (and the WRP).

The 106<sup>th</sup> Congress considered using the CRP to address current farm financial problems. Members introduced bills to raise the CRP cap from 36.4 million acres, offer a shorter term program (3 to 5 years in length), and allow more land to be enrolled more quickly. These proposals were discussed at a House Agriculture subcommittee hearing. The Department addressed this problem administratively by accelerating 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. In its FY2001 budget submission, the Clinton Administration had proposed raising the enrollment cap to 40 million acres. However, the only proposal that moved through the legislative process during the second session of the 106<sup>th</sup> Congress was in Title XI of the FY2001 Agriculture Appropriations legislation, which authorized a new pilot program to enroll up to 500,000 acres of farmed wetlands in six upper midwestern states into the CRP. It will offer signup bonuses as an incentive to participate.

Another CRP concern was raised in March 2000 when the Sixth U.S. Circuit Court of Appeals ruled that farmers must pay a 15.3% self-employment tax on payments received for 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 was introduced in both Chambers (H.R. 4064 and S. 2344), but action was not completed. (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, 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 revised the highly erodible land provisions in numerous ways that 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 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 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 signatory agencies are attempting to revise the MOA to reflect changes in the 1996 farm bill; this revision process has proven 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 included in the 1996 farm bill to give producers greater flexibility in responding to swampbuster. Among these 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. June 2000 data from NRCS show that over 915,000 acres were enrolled, and about 35% of that total is in 3 states: Louisiana (132,000 acres), Mississippi (92,000 acres) and Arkansas (88,000 acres). The Department estimated that only 40,000 additional acres could be enrolled in FY2001 before it reaches the enrollment cap. Legislative proposals endorsed by the Clinton Administration that would have replaced the current cap with an annual enrollment limit of 250,000 acres were considered but not enacted by the 106th Congress. However, Congress did raise the enrollment ceiling 100,000 acres in the FY2001 Agriculture Appropriations.

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. (Permanent easements currently account for almost 90% of the total.) 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. (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. 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. 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 from FSA to NRCS. Funding for all the small cost-sharing programs combined was always a fraction of the ACP total.

The 1996 farm act terminated 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 – 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 authorized at \$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 Clinton Administration repeatedly sought higher funding levels while Congress reduced them. 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. Congress rejected these proposals in the appropriations process, discussed below, but it did provide an additional \$26 million for EQIP in omnibus appropriations legislation at the end of the 106<sup>th</sup> Congress (P.L. 106-554). (For further information, see CRS Report 97-616, *Environmental Quality Incentives Program (EQIP): Status and Issues*, last updated March 2, 1998.)

## **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 \$18 million for FY2001.

**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. Funding for the wildlife program has been provided in FY2001 by making \$20 million, half the amount authorized for conservation assistance in §211(b) of the Agricultural Risk Protection Act (P.L. 106-224), available for the Wildlife Habitat Improvement Program; §820 of the FY2001 Agriculture Appropriations (P.L. 106-387) allowed this program to be one of the potential recipients.

**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 19 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 would have authorized \$55 million annually for this program and made other changes, and several other bills also would have revitalized this program. The Clinton Administration had requested \$65 million in its FY2001 budget submission. Congress provided \$10 million for farmland protection in FY2001 and made certain private nonprofit organizations eligible to compete with state and local governments for these funds for the first time in FY2001 in §211 of the Agricultural Risk Protection Act of 2000 (P.L. 106-224). The Department subsequently decided to make an additional \$20 million, half the amount authorized for conservation assistance in §211(b) of the Agricultural Risk Protection Act (P.L. 106-224), available for the this program; §820 of the FY2001 Agriculture Appropriations (P.L. 106-387) allowed this program to be one of the potential recipients.

## Other Activities

**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.

Within the Clinton Administration, cooperation on this and related issues grew after 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 among the federal agencies 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. It believes 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 budget requests since FY1999. 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.

Current efforts at USDA to address water quality concerns center on the new EQIP program, plus the CRP Enhancement Program (CREP) and the continuous enrollment option. During the 106<sup>th</sup> Congress, both agriculture committees held hearings to examine how

legislation proposed by Senator Harkin (S. 1323) and other proposals might address many water quality topics, and on the effectiveness and shortcomings of current programs. The Clinton Administration proposed a new \$600 million program as part of its FY2001 budget submission, but Congress did not act on it.

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 Clinton 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 RL30437, *Water Quality Initiatives and Agriculture.*)

**Other Conservation Programs.** The NRCS also administers a number of other programs that are either smaller or have been less controversial in recent years, but are still important components of the conservation effort. These include; the Resource Conservation and Development Program, the Forestry Incentive Program, snow and soil surveys, the Watershed Program, and the Natural Resource Inventory. They will be discussed as congressional interest and actions warrant.

## Appropriations

**FY2001 Agriculture Appropriations (P.L. 106-387).** The Clinton Administration requested 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 – 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 -- and creating one new program to pay farmers who voluntarily implement specified conservation practices. Other proposed funding changes included increasing the Conservation Operations Program, which provides basic technical assistance to farm operators, by \$86 million to \$747 million; and initiating a new \$60 million loan program to help states and localities rehabilitate dams which are approaching the end of their design life.

The conference committee resolved differences between the House and Senate-passed versions (which each included a large number of earmarks), and also added a number of conservation provisions and earmarks that had not been in either version. The resulting bill did not fund the conservation portion of the Safety Net Initiative. It did increase total discretionary funding over FY2000 by \$69 million, which was \$4.5 million less than the Administration had requested. In a separate title dealing with emergencies (Title VIII), it included \$110 million for watershed emergencies and earmarked a portion of those funds to specific states, and provided \$80 million for the Emergency Conservation Program.

**Other Sources of Funding in FY2001.** Two other laws provided funds for conservation. In the Agricultural Risk Protection Act of 2000, §211 authorized \$10 million for the Farmland Protection Program and \$40 million for cost-sharing assistance to farmers from the Commodity Credit Corporation. Omnibus appropriations legislation passed at the end of the session (P.L. 106-554) appropriated \$26 million for EQIP in §105 and made the Federal Farmland Protection Program eligible for a portion of the \$40 million appropriated in the emergency title of the appropriations legislation, mentioned above, in §107. The Department then decided to allocate half the \$40 million to the farmland program and the remainder to the Wildlife Habitat Incentive Program.

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 a somewhat more detailed discussion of FY2001 appropriations for conservation, see pages 13-15 of the November 9, 2000 version of CRS Report RL30501, *Appropriations for FY2001: U.S. Department of Agriculture and Related Agencies*.)

## 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 if all programs are fully funded.
- ! A majority of the conservation funding was made mandatory spending, which reduces the uncertainty of relying on annual appropriations decisions.
- ! The conservation agenda was 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 have a stronger role in many aspects of the conservation effort, primarily through state technical committees.

- ! The CRP, WRP, and EQIP 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 examined include the role that agriculture plays in nonpoint pollution, responding the Clinton Administration's Clean Water Initiative and animal feeding strategy, agriculture's role in global climate change, co-location of field staff, the adequacy of funding and staffing, and the rehabilitation of aging small watershed projects.

Many of these issues are likely to reappear before the 107<sup>th</sup> Congress, although the positions that the Bush Administration will take may not be known for some time. 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 in Congress is to increase the maximum size of the CRP. Many other options are being examined by various interests. One effort that received attention during the 106<sup>th</sup> Congress was the development of a conservation security proposal by Senator Harkin (S. 1426, S. 3223, S. 3260). Whether he or another member will reintroduce this proposal in the 107<sup>th</sup> Congress is unknown. Basic questions that Congress may consider in examining proposals are whether agricultural conservation programs and agencies (and the overall approach) remain effective, whether they should serve production agriculture first and foremost or additional interests as well, and how they might be better-integrated with commodity policies.

## 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. 106<sup>th</sup> Congress, 2<sup>nd</sup> 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. 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 RS30501. *Appropriations for FY2001: Department of Agriculture and Related Agencies*, 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 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 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 RL30437. *Water Quality Initiatives and Agriculture*, by Claudia Copeland. 29 p.