

# CRS Report for Congress

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## **Selected Conservation Proposals for the Next Farm Bill**

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# Selected Conservation Proposals for the Next Farm Bill

## Summary

Conservation is expected to be a major component of the next generation of farm policy which the 107<sup>th</sup> Congress is formulating, according to leaders of the agriculture committees in both Chambers and many others involved in agricultural policy. The House Agriculture Committee reported its version of a new omnibus farm bill (H.R. 2646) on August 2, 2001, and it includes numerous conservation proposals. The Senate Agriculture Committee is working to develop a bill in which conservation will play a prominent role, according to Chairman Harkin.

Major questions being debated about conservation revolve around: (1) at what level should overall funding be set; (2) how should funding be distributed among existing and proposed new programs and activities; (3) should existing programs be amended, and if so, how; (4) what, if any, new programs are needed; (5) how should funding be divided between programs for land retirement and for working lands; and (6) should Congress provide new or additional direction to the implementing agencies? Answers to these questions have been offered in extensive testimony at hearings, and are reflected in the policy options that Congress is considering.

This report compares, by program, conservation proposals in four bills with current law. The presentation for each existing program includes a brief program description, an overview of accomplishments, a summary of some of the issues that have been identified, and a table or narrative comparing current law with proposals in each bill. While these bills do not represent all of the bills with conservation provisions that have been introduced, they reflect most of the range of policy approaches currently being considered. The four bills are:

- H.R. 2646, the farm bill reported by the House Agriculture Committee (House Report 107-191 parts I and II);
- H.R. 2375, a set of alternative conservation proposals introduced by Representative Kind and favored by many environmentalists;
- S. 1267, a set of proposals introduced by Senator Crapo and generally favored by the agriculture community; and
- S. 1326, a set of proposals introduced by Senator Lugar.

In addition, Chairman Harkin's Conservation Security Act (S. 932/H.R. 1949), which proposes a new "green payments" program, is briefly summarized in the cross-cutting issues section of this report because he has indicated that it will be a part of the Senate Agriculture Committee's farm bill proposal. Since this bill does not include proposals for any of the existing programs, it is not mentioned elsewhere in this report.

This report will be updated as new bills are introduced or existing bills are amended. Specifically, it will be updated when the Senate Agriculture Committee's farm bill legislation is introduced, and again when it is reported.

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# Selected Conservation Proposals for the Next Farm Bill

## Introduction

Leaders on both agriculture committees have stated that conservation will be an important part of the next farm bill. House Agriculture Committee leaders have been pressing to move the farm bill through the legislative process rapidly because of concerns that lower projections of the budget surplus might affect future allocations to agriculture. The House Agriculture Committee reported its version of the farm bill (H.R. 2646, H. Rept. 107-191, pt. 1 and pt. 2) on August 2, 2001. The committee drew on conservation testimony offered by many witnesses at numerous hearings. The process for gathering input has been much the same in the Senate, but the committee has not yet completed a farm bill proposal. Progress in the Senate may have been slowed by changes in party control, although conservation was a focus of hearings both before and after the Democratic Party take-over.

Agricultural conservation has played an increasingly important role in farm policy during the past two decades. This importance can be measured in many ways: the growing proliferation of conservation programs and overall federal funding for conservation; the willingness to use mandatory funding, which bypasses the annual appropriations process, for most conservation spending; and the expansion of the conservation mission from programs that largely focus on managing natural resources to enhance farm production to programs that deal with off-farm impacts of farming practices and environmental topics that are new to agricultural policy.

This changing role can be seen by comparing conservation elements of the most recent three farm bills, enacted in 1985, 1990, and 1996. Prior to the 1985 farm bill, almost all conservation programs supported either the goal of reducing soil erosion or the goal of providing water at a rate and pattern that would enhance crop production. These programs were designed to improve conditions on the farm and most did not address effects of agricultural practices on resources or the environment beyond the farm fence line. The 1985 farm bill (P.L. 99-198) expanded conservation efforts by enacting the Conservation Reserve Program (CRP) and the three compliance programs (Conservation Compliance, Sodbuster, and Swampbuster).<sup>1</sup> Except for Swampbuster, these programs were all concerned with reducing soil erosion, although the CRP included language that gave the Department of Agriculture (USDA) the option of enrolling lands that provided off-farm environmental benefits (an option that initially it choose to neglect).

The 1990 farm bill (P.L. 101-624) added little to erosion control efforts. By 1990, however, the Department had expanded the CRP to include other conservation objectives in addition to reducing soil erosion and was starting to use an Environmental Benefits Index (EBI) to compare bids by assigning values to each of these objectives. The 1990 farm bill

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<sup>1</sup> Descriptions of each program mentioned in this introductory section that is being actively implemented appear later in the report.

endorsed the EBI and made other changes to the CRP. It also created new programs, including the Wetlands Reserve Program (WRP), the Water Quality Incentives Program (a cost sharing program), the Environmental Easement Program, and a new pesticides record keeping program. It also called on USDA to create a new Office on Environmental Quality, and amended the 1981 farmland protection program, as well as water quality research and education programs. The overall conservation theme in this law was water, but it also greatly expanded the conservation mission and authorized the use of easements.

The 1996 farm bill (P.L. 104-127) again expanded the conservation mission, adding numerous programs. These included the Environmental Quality Incentives Program (EQIP), the Farmland Protection Program (FPP), and the Wildlife Habitat Incentives Program (WHIP). In addition, the compliance programs were made more producer-friendly, and perhaps of greatest interest to the agriculture community, the CRP was reauthorized. Other provisions dealt with assigning responsibilities for air quality concerns in USDA to the Natural Resources Conservation Service (NRCS) and providing a new option combining conservation and commodity payments. The overall conservation theme was wildlife and habitat protection, but the most significant change may have been to make a majority of the conservation funding mandatory using the Commodity Credit Corporation (CCC), which excludes it from the annual appropriations process; previously, funding for all conservation programs had been discretionary, and required an annual appropriation.

Thus far, the current farm bill debate has differed from the past three in at least two major ways. First, the debate over this bill has been more about how much money will be allocated to agriculture, and how much of that allocation will be assigned to conservation. In earlier farm bills, funding was an important constraint because of federal budget deficits. But it is now a larger driving force both because the FY2002 budget agreement allocated the surplus projected at that time and gave a significant portion to agriculture over the next decade, and because that surplus is now forecast to decline for the next few years. Second, while the earlier farm bill debates centered on what new programs and policies are needed for conservation, this debate thus far has given more attention to how to make existing programs more effective either by providing more funding or by amending them. The House Agriculture Committee emphasized this difference from earlier farm bill conservation titles in a summary of its actions on conservation.

## **Overview of the Conservation Effort**

USDA provides conservation assistance through many agencies, but primarily through the Natural Resources Conservation Service (NRCS) and the Farm Service Agency (FSA). The programs are almost all voluntary, and participation is attracted by providing incentives in the forms of financial assistance and technical assistance, and supported by education and basic and applied research. In recent years, funding for all of these programs has averaged more than \$3 billion per year.

The overall conservation effort encompasses about 30 programs and activities, according to USDA's budget summary, but the total number depends on how one counts them and which ones are included. If one views this overall effort as a piece of fabric, with each of the woven threads representing a program or activity, then the fabric includes other threads as well. They consist of:

- Very small programs, as measured by funding (the NRCS Snow Survey and Plant Material Centers are examples);
- Scientific or technical support programs (the Soil Survey and the Natural Resources Inventory are examples);
- Programs that are not being implemented (the Conservation Farm Option, the Natural Resources Conservation Foundation, and the Flood Risk Reduction Program, all enacted in the 1996 farm bill, are examples);
- Programs that are implemented only under unpredictable circumstances (the Emergency Conservation Program and the Emergency Watershed Program are examples);
- Activities that support many other programs (Conservation Technical Assistance and the State Technical Committees are examples); and
- Programs that are agency or department initiatives rather than legislated mandates (the National Conservation Buffer Initiative and the Unified National Strategy for Animal Feeding Operations are examples).

This report discusses only those programs that are being addressed in one or more of the four farm bill proposals being compared; if none of these bills would amend a program, it is not included. If only one bill would amend a program, it is presented in narrative, and if more than one bill would amend it, the proposals are presented in a table. However, some of these other threads are very important to the overall conservation effort.

## **Cross-Cutting Issues**

Certain topics are being raised in discussions of agricultural conservation activities that transcend individual conservation programs. Some of these topics have been raised recently, while others have been discussed for many years. Some of these topics are being raised by those who believe that lack of attention to them is increasingly constraining the conservation effort. The topics are discussed below rather than being repeated for each program. They include: compatibility with international trade obligations; funding for conservation; demand for conservation programs and services; complexities in program administration; effects of the expanding conservation mission; agency staffing; and green payments as an alternative approach.

### **International Trade Obligations**

The multilateral Uruguay Round Agreement on Agriculture (URAA) poses a constraint on U.S. farm assistance by limiting, to no more than \$19.1 billion per year, the cost of domestic farm supports most likely to distort production and trade. (Other countries have their own, different limits.) The URAA spells out rules for determining whether a policy is market-distorting and thus must be counted toward the \$19.1 billion limit, or whether it can be considered exempt from the annual spending calculation. The United States and other countries use these guidelines to make the cost calculations, which in turn are reported on an annual basis to the World Trade Organization (WTO).

Conservation and environmental programs are viewed as less likely to distort production and trade than some other types of government support for production agriculture. Thus, they may not have to be counted toward the \$19.1 billion limit. Some environmental organizations have seized upon this argument to build support for moving money from

commodity price support into conservation and environmental activities. However, the URAA does contain stipulations that must be met in order for a conservation or environmental program to be exempt.

One stipulation is that payments under environmental programs must be based on eligibility determined “as part of a clearly-defined government or conservation program and dependent on the fulfillment of specific conditions under the government program, including conditions related to production methods or inputs.” Also, the amount of the payment “shall be limited to the extra costs or loss of income involved in complying with the government program.” Most of the conservation programs, including the EQIP, WRP, FPP, and Conservation Technical Assistance programs, have been reported as exempt by the Administration under this stipulation.

The second stipulation is that structural adjustment assistance provided through resource retirement programs could be exempted, so long as: (a) payment eligibility is “determined by reference to clearly defined criteria...designed to remove land or other resources, including livestock, from marketable agricultural production”; (b) payments on retired land are for a minimum of 3 years (livestock must be permanently disposed of); (c) payments cannot “require or specify any alternative use for such land or other resources which involves the production of marketable agricultural products”; and (d) payments cannot be related to either the type or quantity of production or to prices applying to production undertaken using the land or other resources remaining in production.<sup>2</sup> The CRP has been reported as exempt by the Administration under this stipulation.

## Funding for Conservation

Total federal funding for conservation has almost tripled over the past 15 years. According to data compiled by USDA, funding for all conservation activities in five spending categories totaled just over \$1 billion in FY1985, and had grown to as much as \$3.6 billion in FY1998.<sup>3</sup> Almost all that growth has been in rental and easement programs, one of five categories, which had its funding increased from \$8 million to more than \$1.8 billion over this time period. Actual funding for three of the other four categories – technical assistance, cost sharing, and data and research – grew by 50% to almost 100% over this time period, while funding for public works programs has risen and fallen from year to year, but shown little discernable growth. These funding trends have caused a recurring shortfall in the resources needed to operate the suite of conservation programs, according to NRCS representatives. For example, funding for technical assistance needed to support the rental and easement programs has required supplemental appropriations in recent years, and a lack of funding in 1998 caused NRCS to temporarily suspend support for CRP signups.

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<sup>2</sup> URAA, Annex 2: *Domestic Support: the Basis for Exemption from the Reduction Commitments*. For more information see CRS Report RL30612, *Farm Support Programs and World Trade Commitments*.

<sup>3</sup> The budget data is taken from tables prepared by USDA’s Office of Budget and Program Analysis, which places all conservation programs and activities in five categories: (1) technical assistance, education, and administration; (2) cost-sharing; (3) public works programs; (4) rental and easement payments; and (5) data and research.

## **Demand for Conservation Programs and Services**

Demand for most conservation programs has greatly exceeded available funds in recent years. In response to an inquiry from Senator Harkin at a conservation hearing earlier this year, NRCS supplied data from recent years for several conservation programs that showed the extent of this disparity. For example, these data show that the EQIP program spent \$597 million to implement almost 277,000 applications between FY1997 and FY2000, leaving unserved almost 197,000 applications that would have cost \$1.378 billion. (The data do not indicate how many of the unserved applications might have been rejected.)

Changes in emphasis or activities most likely would not fully address this problem. If NRCS were asked to commit more resources to one program, it would likely mean less could be accomplished in other programs. NRCS has developed a workload analysis system in recent years to track how staff distribute their time among the activities of the agency. This system has been used to forecast how long it might take to meet anticipated demands in the future, given current work demands, such as providing the technical assistance that producers are likely to need to meet new water quality requirements on farms with larger animal populations.

## **Complexities in Program Administration**

Some landowners have complained that complicated enrollment procedures and inconsistent or difficult administrative procedures have dampened their interest in participating in conservation programs. There are differing opinions as to whether these complications are excessive, whether the problems are overstated, and whether the current procedures actually drive away potential participants. However, there has been no comprehensive examination of these complaints, and thus, it is impossible to determine whether they add up to significant problems, or represent isolated incidents in programs that have thousands of participants. Suggested solutions usually center on combining or coordinating program delivery, and USDA has made some administrative adjustments.

## **Expanding Conservation Mission**

The conservation mission has grown a great deal since 1985, and it now consists of many more subjects which are addressed through new, mostly small, programs. It has expanded from a focus on managing lands that are producing food and fiber to include land retirement, and from a focus on on-farm challenges to include environmental concerns that arise beyond the fence line because of farming activities. Expansion of the mission since 1985 has required USDA agencies, especially NRCS, to add significant capability in wetland science, water quality, biology, archeology, and animal agriculture, among other topics. It has also meant that many additional producers participate in these programs, especially the compliance programs enacted in 1985, placing further demands on USDA agencies. The laws creating these programs require little coordination. Most of the programs are implemented at the scale of individual property owners, and the sheer number of programs may contribute to the frustrations noted above. Staff at the field level are now dealing with far more landowners. This, it is contended, has lessened their ability to work one-on-one with each interested person, which had been a hallmark of the conservation effort.

## Agency Staffing

While the mission of conservation has expanded rapidly, the human resources at USDA, especially the NRCS, have not expanded. Rather, at NRCS, the total agency capacity has shrunk from more than 13,600 staff years in FY1985 to less than 11,500 in FY2000. Moreover, many of the specialists who have been hired to provide the new expertises that the expanded mission requires have not followed the traditional career path in NRCS, which starts in a district office working directly with individual landowners. Employees who lack that experience are less knowledgeable about how conservation is provided to landowners. Another important effect of limited staffing in NRCS (and other agencies administering conservation programs) is that they have been able to devote few resources to evaluating program accomplishments in recent years, thus limiting the amount of information about the accomplishments and limitations of these programs. These constraints have been partially offset by two other trends. First, states and localities are committing additional resources for conservation; funding from these sources for conservation districts has grown from about \$275 million in FY1986 to more than \$1 billion in FY2000, according to NRCS. Second, the expanded use of computers has been credited with contributing to increased efficiencies for many activities during the past few years.

## Green Payments

The concept of green payments – paying producers to perform environmental services or provide environmental benefits from their production activities – is receiving wide spread attention as a major new direction for conservation in this farm bill.<sup>4</sup> Some existing programs, such as the Environmental Quality Incentive Program (EQIP) and Conservation Reserve Program (CRP), meet this general definition, but supporters of the green payment concept describe at least two major differences from any current programs. One difference is that, with the exception EQIP, all existing green payment programs pay producers to perform these services by retiring land from production. Proponents of green payments are seeking a program that pays producers to provide services on land that remains in production. Second, with the exception of CRP, all these programs have limited funding. Proponents of green payments are seeking a program with much larger total funding that can be used by many producers.

One bill that would meet these two qualifications is S. 932/H.R. 1949, the Conservation Security Act (CSA), which was developed and sponsored by Chairman Harkin. (It is discussed here since the bill would not amend any existing conservation programs.) Senator Harkin has stated that he hopes to make this proposal a key element in the Senate version of a farm bill conservation title. The CSA was developed over more than 2 years and working with an extremely wide range of interests. It would establish 3 tiers of conservation practices, and provide mandatory payments through the CCC for each tier. All farmers would be eligible to participate if they submit a plan that is approved and enter into a contract for all land that is part of the agricultural operation. Ineligible lands would include full fields enrolled in the CRP, land enrolled in the WRP, and land brought into production after the

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<sup>4</sup> For an overview of the concept of green payments, and how it fits within the array of current conservation programs, see a recent Economic Reserve Service report, *Agri-Environmental Policy at the Crossroads: Guideposts on a Changing Landscape*, Agricultural Economic Report 794, January 2001.

date of enactment. Contracts would be renewable, and could be adjusted for inflation. The program would provide payments, technical assistance, education, and outreach to participants. It would also include evaluation and monitoring components. The legislation does not set any limit on the total to be spent, either annually or over the life of the program. This legislation would be placed in current farm legislation in a way that would allow program efforts to be concentrated in priority areas set by the Secretary. The tiers, and payment levels are described below:

- Tier 1 practices would include numerous listed management activities, such as nutrient or water quality management, that would be specified in a 5 year contract and apply to either part of or the entire agricultural operation. Participants would receive an advance payment of the greater of \$1,000 or 20% of the contract value and annual payments of up to \$20,000 for the life of the contract.
- Tier 2 practices would include all tier 1 practices plus one or more of the following: resource conserving crop rotations; controlled rotational grazing; land conversion; partial field conservation practices; prairie; habitat; or wetland protection and restoration; and agroforestry practices. Practices would be specified in a contract of 5 to 10 years that would address priority resource concerns on the total agricultural operation. Participants would receive an advance payment of the greater of \$2,000 or 20% of the contract value and annual payments of up to \$35,000 for the life of the contract.
- Tier 3 practices would include all tiers 1 and 2 practices and any others needed to address all the resource concerns on the entire agricultural operation that are needed to address the long term sustainability of the resource base. Practices would be specified in a contract of 5 to 10 years that address priority resource concerns on the total agricultural operation. Participants would receive an advance payment of the greater of \$3,000 or 20% of the contract value and annual payments of up to \$50,000 for the life of the contract.

## **Conservation Programs**

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

**Program Description.** The CRP was enacted in the 1985 farm bill, and most recently amended in the 1996 farm bill.<sup>5</sup> It is administered by the FSA and funded as a mandatory program through the Commodity Credit Corporation (CCC). The current program goal is to retire up to 36.4 million acres of environmentally sensitive and highly erodible crop land (and some marginal pasture lands) under multi year contracts. At the start of FY2001, FSA reported that 31.4 million acres were enrolled.<sup>6</sup> Almost all of the contracts are for 10 years. Enrollment is limited to 25% of the crop land in a county, a ceiling that has been reached by about 135 counties concentrated in states with the most overall enrollment.

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<sup>5</sup> The CRP is placed in subchapter B of Chapter 1 (Environmental Conservation Acreage Reserve Program), and is in §1231-§1236 of the 1985 farm bill (16 U.S.C. 3831-3836).

<sup>6</sup> Enrolled lands are concentrated in the High Plains. States with the most enrolled land at the start of FY2001 included Texas (4.1 million acres (an area a little smaller than New Jersey)), Montana (3.5 million acres), and North Dakota (3.3 million acres). Kansas and Colorado both have more than 2 million acres enrolled.

CRP is the most expensive conservation program, having totaled about half of all spending on conservation in recent years. In addition to the conservation benefits, other benefits that have been attributed to it include helping to stabilize land prices, enhancing farmer income, and reducing excess production.

CRP enrolls lands through several mechanisms. A large majority of the total entered the program through open enrollment, which has usually been offered once a year, during specified time periods using a nationwide competitive bidding process.<sup>7</sup> For open enrollment, the FSA compares all the bids using an Environmental Benefits Index (EBI), which awards points under seven factors for each bid. The EBI awards points for wildlife (up to 100 points), water quality (up to 100), erosion control (up to 100), enduring benefits beyond the life of the contract (up to 50), air quality (up to 35 points), located in priority areas (up to 25), and cost (points determined at each signup). FSA has adjusted the index from signup to signup. Enrolled land is usually an entire field or larger.

Much of the land that is enrolled is under a second contract, since most of the initial contracts were signed in the late 1980s and ended in the late 1990s. Landowners who wish to reenroll their land get no priority over other bidders, although they do get some points in the EBI if they need no financial assistance to establish the required conservation plantings. (If they were in the program, these plantings should already be in place.)

Farmers can enter the program through three alternatives to open enrollment. First, FSA took administrative action in 1997 to allow enrollment at any time, called continuous enrollment, for smaller parcels of lands within fields that provide especially high environmental benefits, such as riparian buffers (narrow strips of vegetated land adjacent to water bodies), grassed waterways, or shelter belts. Incentive payments were added in April 2000 to attract participation. Second, FSA implemented the Conservation Reserve Enhancement Program (CREP) in 1997 to allow states to contribute at least 20% of the cost, to enroll up to 100,000 acres in areas that states designate as especially high priorities. USDA has approved 16 state CREPs, and several other proposals are pending. Third, provisions in the FY2001 agriculture appropriations legislation (P.L. 106-387) require the Department to implement a program to enroll 500,000 acres of wetlands and buffers in 6 upper Midwestern states. The Department announced in 1997 that it was holding back 4 million acres to enroll under these options, making the effective ceiling under open enrollment 32.4 million acres.

Almost 1.6 million acres have been enrolled under these three alternatives through July 2001, including almost 190,000 acres in the 16 approved CREPs. The conservation practice installed under these alternatives that has received the most attention is buffer strips, since NRCS started a "buffer initiative" in 1997 to enroll 2 million miles of riparian buffers and filter strips by 2002; it estimates that more than 600,000 miles have been enrolled. Enrollment under the farmable wetlands pilot program just started, and no results are available.

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<sup>7</sup> There was no open enrollment in FY2001, and the Department allowed expiring CRP contracts to be extended for one year. FSA may have adopted this approach both because very few contracts end in FY2001 and because the Department plans to enroll much of the acreage that remains under that ceiling using other mechanisms.

**Program Accomplishments.** The most recent open enrollment, completed in February 2000, accepted 2.5 million acres of the 3.5 million acres that were offered. Program benefits, measured in either the type of land being enrolled or the practices to be installed, are documented by FSA at the time of enrollment. These data also measure what the additions (and expiring contracts) mean for cumulative conservation benefits. For example, FSA identified the following benefits from the February 2000 enrollment: almost 1.3 million acres of highly erodible land; almost 275,000 acres to be planted to trees; over 150,000 acres of wetlands and protective upland areas; and almost 123,000 acres to be restored to rare and declining habitat.

The minimum acceptable EBI for this enrollment was 246, which was nearly identical to the previous two open signups. If the cost factor is subtracted from the EBI, the total value of the other 6 factors has continued to rise with each enrollment, indicating that the program's environmental benefits are growing. The benefits of enrolling land under the three alternative methods, which do not use the EBI, has not been documented by FSA. Also, FSA does not monitor what the program actually accomplishes while the land is enrolled, so there are little hard data beyond the general conclusion that resource conditions have benefitted from this program, and these benefits can be significant.<sup>8</sup> Also, there is little information on what happens to land or resources after the contract ends. The results are probably mixed, as some land is returned to production, some land is reenrolled, and some land lies idle.

**Issues.** Issues have been raised about adjusting the overall objectives of the program, the adequacy of the current level of erosion control, retaining long-term benefits from the program, the net amount of crop land that is in production, the cost of the program, the enrollment ceiling, and options to open enrollment.

**Overall Objectives.** The CRP measures multiple environmental objectives for each bid using the EBI. Whether these are appropriate objectives and how to weigh each of them generates debate. There are questions about whether the "correct" land is being enrolled and about the geographic distribution of the enrolled land. Any change in the EBI would lead to a different mix of land being enrolled. Questions include: should any of the current 7 EBI factors be dropped, or others added; should the weighting of any of these factors be changed; and should more land under the ceiling be set aside to be enrolled under the alternative methods, such as CREPs?

**Erosion Control.** A well-documented benefit of the CRP has been erosion reduction. As noted above, erosion rates have dropped by 1 billion tons per year since the CRP (and conservation compliance programs) were implemented. However, the erosion rate has leveled off at 2.2 billion tons for the past several years, and, over the long term, this rate still exceeds the rate at which soil productivity can be maintained in some areas. It is unclear whether this lower rate is a sufficient reduction to maintain a long-term production capability. Questions include: what is a desirable goal for a national level; if the current level is above

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<sup>8</sup> The one exception, where good data are available, is reduction in soil erosion rates. NRCS collects these data in its Natural Resource Inventory, and it shows that overall soil erosion has dropped from 3.2 billion tons per year before CRP (and the compliance programs) were enacted to 2.2 billion tons per year in 1997.

that, what policy changes are needed to further lower the overall rate and what role should the CRP play in these policies; and at what scale – field, farm, county, state, or national – should additional erosion reduction needs be addressed?

**Long-Term Benefits.** Environmental values are protected while land is enrolled in the CRP. However, the enduring nature of this protection has been questioned by the General Accounting Office (GAO) and others since landowners are under no obligation to protect these values after the payments stop, except that conservation compliance requires that highly erodible lands returned to production must follow an approved conservation plan within 2 years of leaving the CRP. Under current policies, the only way to ensure that these benefits will be retained is to reenroll the land the year that the contract expires. Questions include: what portion of the land that was in the CRP is being returned to production; what environmental and other benefits are being lost on land that is returned to production; should other mechanisms to protect some of these benefits be considered and under what circumstances; and can long-term or permanent easements play a role in protecting them?

**Actual Acreage Reduction.** There are reports that CRP is not completely successful at reducing crop acreage (and therefore production). Some enrolled acres have been replaced by other land that is brought into production. This “slippage”, while widely reported, has never been documented. Questions include: exactly how widespread is slippage; does it occur more in some regions or for some crops than others; and are there either more severe environmental problems or a different mix of problems from the new crop lands than from lands enrolled in the CRP?

**Cost.** The CRP is the most expensive conservation program. The farm community supports it, in part, because of the amount of money it transfers to farmers for providing environmental benefits. Questions include: is the CRP sustainable indefinitely at the enrollment size and annual costs of today; are there less expensive alternatives to multi-year rental agreements that could provide similar or more enduring environmental benefits; and are there ways to retain the benefits created after contracts expire?

**Total Enrollment Levels.** The current enrollment ceiling of 36.4 million acres was the peak actual enrollment (in 1993). It was not selected based on an assessment of demand or need. Many witnesses at farm bill hearings called for expanding the scope of the program, citing that demand has exceeded available space in recent general enrollments, that chronic low commodity prices could be addressed at the margin by taking more land out of production, that CRP could help additional landowners address environmental problems, that the program could provide additional benefits, and that it could address emerging environmental challenges. Questions include: what would be the cost of increasing the size of the program; how might enrollment patterns change with a larger program and how might altered patterns affect commodity production; how might these changes affect environmental benefits; and could the program be enlarged by moving one or more of the alternative enrollment options outside the overall enrollment ceiling?

**Options to Open Enrollment.** Many of the same issues apply to the three alternative enrollment options. Participation rates have been uneven, suggesting that these options are being more aggressively marketed in some states. Overall, less land has been enrolled than supporters had hoped for. Also, the involvement of states in the CREP raises additional questions about coordination. Questions include: Has the Department offered enough incentives to attract desired enrollment levels; can some states have multiple CREPs

before all states that want them have one CREP; should states be allowed to enroll more than 100,000 acres in a CREP under some circumstances; is the current state requirement for CREPs appropriate; and for the continuous enrollment, does the location of participation land matter?

**Table 1. Comparison of Proposed CRP Provisions**

<b>Topic</b>	<b>Current Law</b>	<b>H.R. 2646</b>	<b>H.R. 2375</b>	<b>S. 1267</b>	<b>S. 1326</b>
Period of Authorization and Purposes	§1231(a) authorizes program through FY2002, and the purposes are to conserve and improve soil and water resources.	§231(a) authorizes program through FY2011; §231(b) adds wildlife resources to the program purposes.	§304(a) authorizes the program through FY2008.	§201 authorizes the program through FY2011.	§102(a) authorizes the program through FY2011.
Enrollment Ceiling and Limits	§1231(d) authorizes enrollment ceiling at 36.4 million acres. §1243(b) describes the county enrollment limit for CRP.	§232(b) raises ceiling to 39.2 million acres. §265(a) gives the Sec. flexibility to exceed the enrollment limit when it would not adversely affect the local economy.	§304(a) raises ceiling to 45 million acres.	§203 raises ceiling to 40 million acres.	No provisions.
Enrollment Subcategories	§1231(h), enacted in §1102 of the FY2001 Agriculture Appropriations (P.L. 106-387), creates a 500,000 acre wetland pilot program. §1231(e) establishes the length of contracts.	§232(d) adds a new §1231(i) that requires balance between soil erosion, water quality, and wildlife habitat when reviewing bids, with implementing regulations to be issued within 180 days of enactment.	§304 (b) adds language to §1231(d) to enroll 9 million acres of environmentally sensitive lands, including 5 million acres of buffers. §304(c) amends §1231(e) to use permanent easements to enroll up to 3 million acres (including 1 million acres in isolated wetlands), and encourages using qualified state and local government and non profits. Makes fruits, vegetables, sod and specialty crops eligible for CREP and continuous enrollment programs.	§203 requires 2.5 million acres be enrolled in conservation buffers and 1.1 million acres be enrolled through the CREP. §204 adds a new subsection allowing the Sec. to automatically extend contracts for land planted to hardwood trees for up to 10 years.	§102(b) requires that at least 4 million acres be enrolled in conservation buffers or in a CREP. §102 (c) same as §204 of S. 1267, except that contracts would be extended for 15 years with the rental payment reduced by 50% during the extension period.
Priority Areas	§1231(f) discusses conservation priority areas.	§232 deletes the priority area language, and makes all land already enrolled eligible to reenroll. H. Rept. 107-191 states the Sec. is to focus on priority issues rather than geographic (priority) areas.	No provisions.	No provisions.	No provisions.
Eligible Lands	§1231(b) defines eligible lands. §1231(b)(3) makes certain marginal pastureland planted to trees eligible.	§ 232(a) makes land that would contribute to water conservation eligible, and clarifies that marginal pastureland must contribute to improving water quality to be eligible.	§304(d) amends §1231(b)(3) to make pasture, range, and hay land eligible that must be restored to wetland and managed to prohibit livestock access; authorizes enrollment of up to an additional 3 million acres of grassland and range land under 5 specified criteria.	§202 replaces “cropland” with “land”.	No provisions.

Topic	Current Law	H.R. 2646	H.R. 2375	S. 1267	S. 1326
Duties of Owners and Operators	§1232(a) (7) sets limits on commercial uses of lands in the CRP §1232(c) sets a goal of planting 1/8 of the land enrolled each year to trees or habitat. §1232(d) allows alley-cropping.	§233 amends §1232(a) to allow certain economic uses of enrolled lands (with adjusted payments), and retains cover crops on lands entering the CRP. It deletes subsections c and d.	No provisions.	§205 replaces existing grazing limits in §1232(a)(7)(A) to allow haying and grazing while protecting the quality of the cover.	§102(d) permits haying and grazing to maintain buffers and land enrolled under a CREP.
Duties of the Secretary	§1233(3) requires the Sec. to provide technical assistance.	§234 deletes §1233(3). §265(e) allows producers to use approved third parties rather than NRCS staff for technical assistance.	No provisions.	No provisions.	No provisions.
Payments	§1234(c)(3) requires the Sec. to consider different criteria in various regions when accepting bids.	§ 235 deletes §1234(c)(3).	§304(e) adds subsections to allow continuous enrollment of small wetlands, buffer strips, contour buffer strips, and irrigated lands at their adjusted values. §304(f) exempts the continuous enrollment and CREP from the CRP payment limit.	No provisions.	No provisions.
Contracts	§1235(a) establishes eligibility for land acquired within a year of entering into a contract.	§236 allows only land that was acquired by will or foreclosure within the past year to be eligible, and adds a new subsection (f) requiring the crop base be restored.	No provisions.	No provisions.	No provisions.
Funding and Administration	§1241(a) provides mandatory funding through the CCC. §1243(b)(2) allows the Sec. to waive the enrollment ceiling if it would not adversely affect the local economy or producers are having problems implementing compliance plans.	§265(a) deletes the exception for when producers are having trouble meeting compliance requirements.	No provisions.	No provisions.	§102(e) provides funding from the CCC through FY2011, and uses CCC funds to pay for technical assistance.

**Note:** Sec. is Secretary of Agriculture.

## Conservation Compliance

**Program Description.** The three compliance programs – Conservation Compliance, Sodbuster, and Swampbuster – were enacted in the 1985 farm bill and are administered by NRCS.<sup>9</sup> These three programs remove producer access to certain federal farm program benefits to producers who, respectively, (1) farm highly erodible lands without following a conservation plan, (2) bring highly erodible land into production without following a conservation plan, and (3) alter wetlands to produce crops. Under the 1985 law, producers risked losing eligibility to most major farm programs on all the land they cultivated, including: price and income support and related programs; farm storage facility loans; crop insurance; disaster payments; storage payments; and any farm loan that would contribute to erosion on highly erodible land. Amendments in 1990 and 1996 relaxed the reach and impact of the compliance programs in many ways, including allowing graduated penalties and “good faith” exemptions, deleting crop insurance from the benefits lost, and allowing self-certification.

When first enacted, the compliance requirements generated widespread anxiety in the farm community, both because these programs were a new approach to meeting conservation goals and because no one knew how aggressively they might be implemented. Perhaps the two largest implementation issues were the need to make wetland determinations at approximately 4 million sites, and the need to develop compliance plans for about 140 million acres classified as highly erodible by 1990. Both issues created a large increase in workload for NRCS staff. But today, many of the past fears and problems seem to have dissipated. Very few compliance and swampbuster violations result in loss of benefits. Supporters of traditional agriculture say this reflects nearly universal compliance in the farm community, while critics, primarily from the environmental community, wonder whether lax or limited enforcement is responsible for the high success rate.

**Program Accomplishments.** Program accomplishments have been measured in terms of reduction in soil erosion and identification of wetland acres. Soil erosion had declined because of compliance, from almost 17 tons per acre per year to less than 6 tons on sampled tracts in the mid 1990s. Wetlands have benefitted from delineation and from the disincentives. The National Resources Inventory shows that the rate of wetlands conversions on agricultural lands has declined significantly, but this data set does not document the number of acres that might have been brought into production, but was not because of this disincentive.<sup>10</sup> Wetland protection interests seem more focused on possible changes to the Wetland Reserve Program, discussed below, in this farm bill debate.

**Issues.** The reach of the compliance programs remains the main issue. Producers and farm groups continue to worry about the potential for these programs to have a greater effect on producers that would alter some production practices and result in either higher production costs or less revenue, while some environmental interests would like to see that reach extended, especially for wetlands protection. Questions include: Do producers need

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<sup>9</sup> The compliance programs are placed in subtitle B and C of Title XII, and are in §1211-§1224 of the 1985 farm bill (16 U.S.C. 3811-3824).

<sup>10</sup> The Natural Resources Inventory, conducted every five years by NRCS, is a statistically-reliable inventory of conditions and trends of natural resources on non-federal lands

greater flexibility than the law currently provides; does a recent Supreme Court ruling that eliminates the Clean Water Act's regulatory program for wetlands under §404 of that Act for isolated wetlands suggest any changes for swampbuster; and should crop insurance be returned to the list of program benefits that could be lost by a producer who is out of compliance?<sup>11</sup>

**Table 2. Comparison of Proposed Compliance Provisions**

Topic	Current Law	H.R. 2646	S. 1267	S. 1326
Loss of Eligibility for Payments	§1221(b) gives the Sec. authority to determine which loans and payments violators will be ineligible to receive.	§211 makes swampbusters ineligible for specified loans and payments only in the year in which the violation occurs.	No provisions.	No provisions.
Program Administration	§1242(a) requires the Sec. to use local, county and state conservation committees when implementing compliance.	§264 transfers primary responsibility for administering compliance programs from NRCS to FSA.	No provisions.	No provisions.
Technical Assistance	§1213(e) requires the Sec. to provide technical assistance to producers who are subject to compliance.	§265(d) allows producers to use approved third parties rather than NRCS staff to provide technical assistance.	No provisions.	No provisions.
Technical Amendments	§1222(a) addresses delineation of wetlands by the Sec. §1222(h)(2) sets the period for compliance for a good faith exemption. §1222(j) makes NRCS responsible for technical determinations.	No provisions.	§1004(a) makes technical amendments amending §1222(a), §1222(h)(2), §1222(j).	§205 makes the same set of technical amendments.

Notes: H.R. 2375 contains no amendments to the compliance provisions.  
Sec. is Secretary of Agriculture.

## Environmental Quality Incentives Program (EQIP)

**Program Description.** EQIP, enacted in the 1996 farm bill and administered by NRCS, provides cost-sharing, technical and educational assistance to producers under agreements lasting between 5 and 10 years.<sup>12</sup> Funding is authorized as mandatory spending at \$200 million annually, and provided through the CCC. Participants can receive up to \$10,000 per year and \$50,000 for the total contract. EQIP funds are to provide the greatest possible environmental benefits for the funds spent. EQIP replaced four programs – Agricultural Conservation Program, Great Plains Conservation Program, Water Quality

<sup>11</sup> The Supreme Court case is *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers* (No. 99-1178).

<sup>12</sup> EQIP was enacted in 1996 as Chapter 4 of the 1985 farm bill, and is found in §1240-§1240H (16 U.S.C. 3839aa-3839aa-8).

Incentives Program, and the Colorado River Basin Salinity Control Program – that were repealed in the same bill.

EQIP made several significant changes in conservation policy. It is the first conservation program to concentrate funds in priority areas in each state, where potential environmental benefits would be greatest. NRCS policy has been that 65% of the funds be spent in priority areas. Priority areas are identified in each state by the NRCS State Conservationist, working with the State Technical Committee, then approved at headquarters. A second policy change is EQIP is the first conservation program with funding directed specifically to livestock-related issues. Half the funds are to be used to address these issues. Third, it is the first conservation program to limit participation by any measure of farm size; livestock producers cannot access EQIP funds to pay for constructing waste management facilities if they have more than 1,000 animal units.

In recent years, Congress has limited EQIP spending to \$174 million. However, \$105 of the omnibus appropriations for FY2001 (P.L. 106-554) provided an additional \$26 million, raising the total to \$200 million. Even full funding for this program would not come close to meeting demand levels; in FY1999, for example, NRCS received almost 52,000 applications totaling \$386 million, but only was able to fund almost 19,000 of those applications. In response to this demand, the Clinton Administration had sought higher funding levels, but never submitted legislation needed to raise the authorized ceiling.

**Program Accomplishments.** EQIP funds are distributed primarily as cost-sharing payments to producers. In FY1999, for example, of the \$174 million distributed, \$137 million was spent for cost sharing, \$33 million was spent for technical assistance, and \$4 million was spent for educational assistance. Program accomplishments vary widely by state, depending on the physical conditions and needs in priority areas.

The Economic Research Service recently looked at how EQIP funds have been spent. It identified five categories of practices that are being funded: crop-related nutrient management, livestock-related nutrient management, soil erosion and land protection, water resources management, and other resource concerns. It found that the largest amount, 39%, was being spent on water resource management practices, which range from more efficient irrigation systems to livestock drinking troughs. It also found that while 58% of the total has been spent on livestock-related activities, only 20% has been spent specifically on livestock nutrient waste management. It found that the geographic distribution of funds had been fairly even among 9 regions; with the largest portion, 14.3%, going to the Prairie Gateway (southern plains) and the smallest portion, 8.1%, going to the Northern Great Plains

**Issues.** Issues have been raised about relationships between this new program and the four programs that it replaced, how to address the high level of demand to participate, and limiting participation for farms that meet certain characteristics.

**EQIP and the Programs It Replaced.** Several issues revolve around the general question of whether EQIP is meant as a replacement for 4 repealed programs or is intended to be a more significant break with the past. For example, some have suggested a return to some of the characteristics of one of these programs, the Agricultural Conservation Program (ACP), which provided smaller amounts of funding but to many more participants each year to apply a different mix of practices, and on an annual rather than multi year cycle. Some also have called for EQIP to be implemented using the same basic pattern of distributing funds,

by state, that was used under the four terminated programs. Still others take the alternative view that EQIP spending patterns are too similar to the repealed programs and do not follow the pattern of the most significant conservation needs. Questions include: after several years of implementation, to what degree do EQIP funding patterns continue to replicate the funding distribution by state of the four programs that it replaced; has the decline in the number who can participate in any year (because more funding is available under each contract) affected support for this program (compared with the ACP); and should the program be altered to increase the environmental benefits provided outside priority areas, where spending is currently concentrated in each state?

***Meeting Participation Demands.*** EQIP is different from the programs that it replaced in several respects. As the first conservation program to assist farmers who want to address livestock issues, it has greatly increased the pool of possible participants, introducing more competition for funding to traditional recipients of cost-sharing conservation funds. Producers who are located outside priority areas are also finding it more difficult to participate. These changes, made when EQIP was created in 1996, are among the reasons why demand for the program greatly exceeds available funds. Questions include: should the overall funding level for the program be increased; should funding levels be raised to a level that would allow a similar number of producers to participate in this program as had participated in the ACP (more than 125,000 producers received ACP funding in FY1994, the last year that funding approached \$200 million); should the average size of priorities areas be changed to increase the effectiveness of projects; and should the maximum length or total funding level for a contract be altered?

***Limiting Participation of Larger Farms.*** EQIP is the first conservation program that limited participation based on farm size, in this instance to pay for the construction of animal waste management facilities. This change proved particularly contentious. Lawmakers left it to the Department to define large operations through the rule-making process. It defined them by number of animals – 1,000 beef cattle, 800 dairy cows, 2,500 pigs, or 20,000 chickens. Some farm groups opposed this change, while others, particularly small farm advocates, contended that USDA set the threshold too high. Questions include: should this (or other) conservation programs be available to only a portion of all producers; should large farms be expected to pay for certain conservation practices that may be required by federal or state law or permit requirements as part of their farm operations without federal assistance; and should EQIP funds be made available to large operations to develop animal waste management facilities under certain circumstances?

**Table 3. Comparison of Proposed EQIP Provisions**

<b>Topic</b>	<b>Current Law</b>	<b>H.R. 2646</b>	<b>H.R. 2375</b>	<b>S. 1267</b>	<b>S. 1326</b>
Program Purposes	§1240 identifies the 4 programs that EQIP replaces, and specifies that the program maximize environmental benefits per dollar spent while meeting 4 purposes.	§251 deletes reference to the 4 programs that were replaced, and replaces a purpose of responding to environmental threats with a purpose of providing environmental benefits.	No provisions.	§501 adds “air” to the purposes of the program.	§101 specifies 6 purposes of EQIP.
Definitions	§1240(A) defines 5 terms; “eligible land”, “land management practice”, “livestock, producer”, and “structural practice”.	§252 adds non-industrial private forest land to “eligible land”, and replaces the notion of posing an environmental threat with the notion of providing environmental benefits in that definition; “producer” is expanded to include non-industrial private forestry; and permanent wildlife habitat is deleted from “structural practice”.	No provisions.	§501 adds “air” to all definitions that identify soil.	§101 includes definitions of “comprehensive nutrient management”, “eligible lands”, “land management practices”, “livestock”, “maximum environmental benefits per dollar expended”, “practice”, “producer”, and “structural practice”. The definitions of eligible lands and livestock are unchanged.
Administration of Program	§1240B authorizes EQIP through 2002; authorizes contracts of 5 to 10 years; provides cost-share of not more than 75% for structural practices; prohibits cost sharing to large livestock operations to construct animal waste management facilities; funding, not to exceed projected costs, is provided for technical assistance; types of private sources to provide technical assistance are listed.	§253 authorizes EQIP through FY2011; authorizes contracts of 1 to 10 years; repeals requirement that structural practices be selected based on the maximum environmental benefits per dollar spent; deletes limitation on payments to large livestock operations to construct animal waste management facilities; adds a new subsection to make incentive payments at an amount and rate to encourage multiple land management practices; and emphasizes payments for practices that address “residue, nutrient, pest, invasive species, and air quality management.”	§201(g) amends the non-federal assistance subsection to add drinking water utilities as a source of assistance, and to allow these sources to provide cost-share payments and incentives in addition to technical assistance. §201(i) allows the Sec. to consider the degree to which producers would reduce or limit the use of antibiotics when providing funds to livestock operations.	§502 authorizes EQIP through FY2011. §503 authorizes contracts of 1 to 10 years. §504 requires all cost share payments to be 75% of the cost for installing structural practices. §505 repeals limitation on payments to large livestock operations to construct certain facilities; §506 limits technical assistance to 25% of total funding annually. §507 expands types of private sources for technical assistance to include “other technical advisors (approved by the Sec.)”	§101 authorizes EQIP through FY2011; adds comprehensive nutrient management planning to the list of eligible practices; authorizes contracts of 3 to 10 years (except that nutrient management practices can be less than 3 years); repeals limitation on payments to large livestock operations to construct certain facilities; requires the Sec. to develop approval and evaluation processes; allows the Sec. to designate special projects to address specific issues; allows other approved sources to provide technical assistance; describes how bids are to be evaluated; allows cost share of up to 90% under limited circumstances.

Topic	Current Law	H.R. 2646	H.R. 2375	S. 1267	S. 1326
Evaluation of offers	§1240C requires Sec. to give higher priority to assistance in priority areas, maximize environmental benefits per dollar spent, or are in watersheds, regions, or conservation priority areas where states or localities are active partners.	§254 replaces these provisions with general language about aiding farmers to comply with environmental laws and encourage conservation, and maximizing the benefits of using manure.	§201(f) adds a new subsection that requires the Sec. to establish a ranking process and benefits index, giving extra credit to small and disadvantaged farmers, and to producers who have practiced conservation. §201(h) adds factors that should be considered in addition to priority areas.	§508 replaces priority area provision with a requirement to assist in meeting federal and state environmental laws, including nonpoint pollution requirements; and deletes “conservation priority areas” where states and localities are active partners.	§101 requires the Sec. to give higher priority to: maximize environmental benefits per dollar spent; address specified national conservation priorities; problems in priority areas; or in special projects initiated by a new §1240B(g).
Duties of Producers	§1240D lists 5 duties; one is a prohibition against practices that counter the purposes of EQIP.	§255 deletes the prohibition on practices that counter the purposes of EQIP.	No provisions.	No provisions.	No provisions.
Program Plan	§1240E lists the general contents of plans producers are required to submit to the Sec. to participate.	§256 replaces mention of management and structural practices with providing greater environmental benefits.	No provisions.	No provisions.	No provisions.
Sec. Duties	§1240F assigns 5 duties to the Sec.	§258 deletes 2 of these duties which provide technical assistance.	No provisions.	No provisions.	§101 deletes the duty of providing an eligibility assessment.
Payment Limits and Timing	§1240G(a) limits payments to \$10,000 annually and \$50,000 per contract. §1240G(b) specifies when the annual limit can be exceeded. §1240G(c) delays federal expenditures until the year after the contract has been signed.	§258 limits payments to \$50,000 annually and \$200,000 per contract; deletes language allowing annual limits to be exceeded to provide maximum environmental benefit per dollar spent, and repeals §1240G(c).	§201(d) allows the annual limit to be exceeded to, prohibits funding to livestock producers who must comply with Clean Water Act permit requirements, and repeals §1240G(c).	§509 limits payments to \$30,000 annually and \$150,000 per contract. §510 repeals §1240G(c).	§101 limits payments to \$50,000 annually and \$150,000 per contract, allows the Sec. to adjust these limits under 2 specified conditions, and repeals §1240G(c).

Topic	Current Law	H.R. 2646	H.R. 2375	S. 1267	S. 1326
Other Provisions	No provisions.	§259 adds a new §1240(H) that provides \$60 million annually through FY2011 for cost share payments and low interest loans to encourage groundwater conservation.	§201(c) adds a new subsection for multiyear watershed management contracts to protect public drinking water supplies and provides \$1 billion, with annual payments to individual recipients limited to \$50,000.	No provisions.	§101 adds a new §1240H that provides \$100 million annually for competitive innovative grants (e.g. market based pollution credit trading); federal share is less than 50%; funds unobligated by June 1 each year can be spent on other EQIP purposes.
Funding and Administration	§1241(b) provides \$200 million annually from the CCC for EQIP, with 50% of the total going to practices related to livestock production. §1242 defines coordination among agencies.	§262 provides \$200 million for FY2001, and \$1.2 billion annually for FY2002 through FY2011 from the CCC. §264 amends §1242(a) to make the FSA the principle agency implementing EQIP. §265(e) allows producers to obtain technical assistance from approved third parties as well as NRCS.	§201(a) provides \$130 million for FY2002 and \$1 billion annually for FY2003 through FY2008 from the CCC. §201(b) replaces the livestock requirement, and provides at least 20% of the funding for managed grazing systems, at least 10% for innovative manure management systems, at least 20% for water conservation through increased irrigation efficiencies (with half of that going to improve fisheries habitat), and at least 10% to practices that reduce pesticide use. §201(c) also addresses planning requirements, the role of watershed councils, monitoring, privacy protection, interagency coordination, and authorizes 10 pilot projects in conjunction with drinking water utilities.	§511 provides \$615 million annually through FY2011 from the CCC, and requires that at least \$15 million of that amount be spent on salinity control measures in the Colorado River basin.	§101 provides \$650 million in FY2003, \$1 billion in FY2004, and \$1.5 billion annually in FY2005-FY2011 from the CCC. §101 requires that 5% of funding each year be dedicated to special projects.

## Farmland Protection Program (FPP)

**Program Description.** The FPP, enacted in the 1996 farm bill, provided a total of \$35 million through FY2002 in mandatory spending from the CCC to state and local governments to purchase conservation easements on productive soils that are “subject to a pending offer from a state or local government.”<sup>13</sup> NRCS, the administering agency, allocated the authorized amount by the end of FY1998.

Congress appropriated additional funds for FY2001 when §211(a) of the crop insurance reform legislation (P.L. 106-224) provided an additional \$10 million and made certain non-profit organizations (NGOs) eligible to receive funds. Section 107 of the final omnibus appropriations for FY2001 (P.L. 106-554) made the FPP eligible for a portion of an additional \$40 million that §211(b) of P.L. 106-224 had provided for certain conservation cost-sharing activities. The Department decided to allocate \$7.5 million of this amount to the FPP, so it received a total of \$17.5 million for FY2001. NRCS determined that NGOs could apply for grants only from the \$10 million provided in the crop insurance reform legislation. As in earlier years, requests for those funds greatly exceeded the available amount.

**Program Accomplishments.** The \$35 million authorized in the 1996 farm bill was obligated by the end of FY1998 to acquire easements on more than 127,000 acres in 19 states. (The law called for easements to be acquired on 170,000 to 340,000 acres, but the money was fully allocated before the minimum acreage was reached.) The process to actually complete the process of placing an easement on land can be lengthy, and by the end of FY1998, the last report on the program showed that this process had been completed on less than 40,000 acres. NRCS states that every federal dollar has been matched by an average of \$6 from other participants.

**Issues.** Issues have been raised about the disparity between the high level of interest in the program and the available funding, implications for expanding eligibility, and what lands are actually protected with these funds.

**Interest in Participation.** Demand for funding has greatly exceeded the amount available. NRCS reported in March, 2001, that it had a backlog of 747 offers involving almost 160,000 acres that would require about \$165 million. Most participating states (including participating localities in those states) received at least \$1.5 million, but only two states received more than \$3 million in federal funds; California (\$3.4 million) and Pennsylvania (\$3.27 million). Press reports indicate that interest in protecting farmland (and other “desirable lands”) continues to spread. Questions include: how much federal funding would be appropriate; what limits (if any) should be placed on protection efforts when federal funds are involved; should the pending offer requirement be retained; and should this program be integrated with other long-term land retirement and resource protection programs both within and outside of USDA?

**Eligibility.** The changes to the FPP enacted in the crop insurance reform legislation that expanded eligibility is a departure from past practices because it allows private and public entities to compete directly for federal grant funds. It is not clear whether either private or public entities will have any inherent advantages over the other. Questions include: how

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<sup>13</sup> The FPP is in §388 of the 1996 farm bill (16 U.S.C. 3830).

might the program be changed to accommodate eligible private entities, if at all; how will public entities react if their funding is reduced to support these new participants; and will these new participants alter the geographic distribution of program spending funds by either including some new states or increasing activity in some states that already participate (and decreasing activity in others)?

***Distribution of Funds.*** Data indicate that NRCS awards most eligible states similar amounts. Should states equity guide future distributions, or should other considerations carry more weight, such as the quality and accomplishments of the grant applicants to date, the relative intensity of the conversion pressure on the parcels where offers are pending, or the relative productivity or uniqueness of the land that would be protected? The requests for proposal provide little detail on how NRCS makes these decisions. Questions center on: how does NRCS decide the relative cost effectiveness of each request; should the money continue to be distributed relatively evenly among eligible states; and could the target of 170,000 acres have been reached if funds had been distributed differently?

**Table 4. Comparison of Proposed FPP Provisions**

<b>Topic</b>	<b>Current Law</b>	<b>H.R. 2646</b>	<b>H.R. 2375</b>	<b>S. 1267</b>	<b>S. 1326</b>
Funding Level	§388(c) provides up to a total of \$35 million from the CCC by FY2002.	§272(b) provides \$50 million annually through FY2011 from the CCC.	§101 provides up to \$500 million annually through FY2008 from the CCC; limits technical assistance to no more than 10% of the total; and limits the federal share to less than 50% of the total cost.	§901 provides \$100 million annually from FY2003 through FY2011 from the CCC.	§104 provides \$65 million annually from FY2003 through FY2011 from the CCC.
Types of Easements	§388(a) allows purchase of conservation easements (an undefined term).	No provisions.	§101 allows purchase of permanent conservation easements, or conservation easement or other interests when the land is subject to a pending offer from state or local government.	No provisions.	No provisions.
Eligible Land	§388(a) makes between 170,000 acres and 340,000 acres eligible if the soil is prime, unique or productive, and an offer is pending from a state or local government to limit non agricultural uses.	§272(a) makes historic and archaeological sites eligible.	§101 makes land eligible if it is used for farming, ranching, and forestry.	No provisions.	§104 includes crop land, rangeland, grassland, and private forest land.
Conservation Planning	§388(b) requires a conservation plan if the land is highly erodible; the Sec. can require conversion of the land to a less intensive use in the plan.	No provisions.	Restates current law.	No provisions.	§104 adds a new subsection that prohibits degradation of the environment.

Topic	Current Law	H.R. 2646	H.R. 2375	S. 1267	S. 1326
Eligible Participants	§388(a) makes eligible any state or local agency that has made an offer to purchase a conservation easement.	No provisions.	§104 also makes eligible any recognized Indian tribe and non-profits that meet certain qualifications.	No provisions.	§104 same as provisions in H.R. 2375.
Comparing Bids	No provisions.	No provisions.	§104 requires Sec. to consider how strongly states are discouraging conversion to urban uses when comparing bids.	No provisions.	No provisions.
Enforcing Easements	No provisions.	No provisions.	§104 requires states to certify that easements are in a form that can be enforced.	No provisions.	No provisions.
New Program Options	No provisions.	No provisions.	§104 provides up to \$10 million from the CCC for a new program option for producers who agree to forego development for 5 to 10 years.	No provisions.	No provisions.

**Note:** Sec. is the Secretary of Agriculture.

## Forestry Incentives Program (FIP)

**Program Description.** FIP, administered by NRCS, provides technical and cost-sharing assistance to forest land owners to help them install practices, such as tree planting and timber stand improvements on non-industrial private forest lands.<sup>14</sup> Landowners eligible to receive cost-sharing assistance must meet a number of qualifications, including owning no more than 1,000 acres of eligible forest land (this requirement can be waived by NRCS up to an absolute maximum of 5,000 acres), being able to produce at least 50 cubic feet of wood per year, and be both a private landowner and a manufacturer of forest products on a part-time basis rather than as a primary source of income. FIP is offered in designated counties where a Forest Service survey indicates that the total private timber acreage has the potential to supply sufficient wood to support production of timber products. The Forest Service administers several very similar programs.<sup>15</sup>

**Program Accomplishments.** Over the past decade, outlays and participation in the program have both been declining. In FY1989, this program spent more than \$10 million to assist more than 5,000 participants. By FY1999, outlays had dropped to \$5.6 million, while participation remained about the same. (It had fallen to a low of 3,124 in FY1996.) The acreage trends are similar. In FY1989, trees were planted on more than 164,000 acres, timber stand improvements were made on more than 30,000 acres, and sites were prepared

<sup>14</sup> FIP was authorized in §4 of the Cooperative Forestry Assistance Act of 1978, and reauthorized through FY2002 in the 1996 farm bill. (16 U.S.C. 2103)

<sup>15</sup> FIP is one of a suite of closely related state and community forestry programs. All these programs except FIP are administered by the Forest Service. For more information on these programs, see CRS Report RL31065, *Forestry Assistance Programs*.

for natural regeneration on more than 3,600 acres. By contrast, in FY1999, trees were planted on more than 82,000 acres, timber stands improvements were made on almost 20,000 acres, and sites were prepared for natural regeneration on about 4,500 acres.

**Issues.** In recent budget submissions, the earlier Bush and Clinton Administrations recommended that the program be terminated, and that these efforts be continued through several similar Forest Service programs. Congress has repeatedly disagreed. Questions include: should some of the closely related forest programs be combined; should they all be administered by the Forest Service; does FIP duplicate programs offered by the Forest Service; are some landowners who participate in this program ineligible for other similar forestry programs; are some land owners more likely to participate in a NRCS program than in a Forest Service program; and how has participation been distributed around the country?

**Table 5. Comparison of Proposed FIP Provisions**

Topic	Current Law	H.R. 2646	S. 1326
Funding Level	§4(j) authorizes such funds as necessary, including funds for technical assistance, through FY2002.	§801 repeals the FIP (§4) and the Stewardship Incentive Program (§6). §802 replaces them with a new Forest Land Enhancement Act, funded with \$150 million by FY2011 from the CCC.	§204(e)(2) reauthorizes FIP through FY2011.
Uses of Funding	§4(f) limits cost sharing to no more than 75% of the landowner’s actual costs.	§802 would provide cost sharing assistance of up to 75% to implement practices in an approved plan over a period of at least 10 years to help landowners more actively establish, restore, manage, maintain, or enhance nonindustrial private forest lands. The Sec. would be required to coordinate with state foresters and State Forest Stewardship Coordinating Committees.	No provisions.

**Notes:** H.R. 2375 and S. 1276 would not amend FIP, and would therefore allow it to expire at the end of FY2002.

FIP is one of several closely related programs created by the Cooperative Forestry Assistance Act of 1978. While the forestry proposals in these bills are not limited to FIP alone, the other forestry programs, all administered by the Forest Service in USDA, are beyond the scope of this paper and not discussed further.

## Resource Conservation and Development Program(RC&D)

**Program Description.** The RC&D, administered by NRCS, provides funds to approved RC&D councils, which encompass multi-county areas, to help them plan and implement programs for resource conservation and development in rural areas.<sup>16</sup> Each area is coordinated by a Council, which is locally organized, sponsored, and directed. Councils typically have several sponsors, including county governments, conservation districts, state agencies, and cooperating private organizations. NRCS provides administrative leadership

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<sup>16</sup> The RC&D Program was enacted in §102 of the 1962 Food and Agricultural Act, revised in §1528-1538 of the 1981 Agriculture and Food Act, and reauthorized through FY2002 in the 1996 farm bill (16 U.S.C. 3453-3461).

for each Council, and other sources, including agencies in USDA, provide other forms of assistance.

The program is authorized to designate up to 450 areas. Currently, there are 348 RC&Ds encompassing counties in all 50 states. The newest 33 councils were designated in December 2000, and additional applications await secretarial action. Appropriations for this program have been slowly rising, from more than \$27 million a decade ago to about \$35 million in recent years. For FY2001, funding was \$42 million, the highest level yet and more than either appropriations committee had initially approved.

**Program Accomplishments.** Accomplishments of councils are highly varied, reflecting local physical conditions and economic and environmental needs. NRCS attributes almost 50,000 projects to the RC&D councils. In planning and implementing these projects, councils draw on technical assistance from NRCS and financial assistance from other sources. Projects initiated by councils address natural resource improvements, community improvement, forestry, education, economic development, water supply and quality, recreation and tourism, marketing and merchandising, fish and wildlife, and waste and waste utilization. For each of these topics, NRCS measures accomplishments. For example, efforts to improve natural resources have resulted in improvements to 500,000 acres of wildlife habitat, 510,000 acres of lakes, and 1,500 miles of streams.

**Issues.** More than two thirds of all counties and 75% of the land area are now in a designated RC&D area. Current law authorizes up to 450 areas. Some accomplishments appear to be primarily related to increasing cooperation and coordination or being more efficient. Other accomplishments relate to implementing changes that lead directly to improved resource conditions on the ground. Questions include: should a program goal be to eventually have every county in the country participating; should this program be funded at a higher level that would provide additional assistance to all Councils; and should Councils be required to be self-sustaining, by withdrawing NRCS support after they complete work plans?

**Comparison of Proposed Provisions.** **Current law**, as amended in §1528 through §1538 of the 1981 farm bill (P.L. 97-98), is described above. Two of the bills, H.R. 2646 and S. 1267, would make numerous technical amendments, which would not affect the basic direction or goals of the program. The amendments appear to have the same general effects, although they are drafted in different ways. In **H.R. 2646**, §273 would amend the RC&D by making the authorization permanent. It also would make changes to the RC&D legislation by amending several definitions and making Indian tribes eligible to participate. **H.R. 2375** does not amend the RC&D legislation (and it would therefore expire at the end of FY2002). In **S. 1267**, §601 would make most of the same changes as §273 of H.R. 2646. In **S. 1326**, §204(d), would extend the program authorization through FY2011.

## **Watershed Program**

**Program Description.** The purposes of the Watershed Program, administered by NRCS, include preventing erosion, flood, and sediment damages, and furthering conservation

and use of both water and land in watersheds where projects are authorized.<sup>17</sup> Projects may also include the development of recreation facilities and improvement to fish and wildlife habitat. This program is commonly referred to as the small watershed program because a large majority of the projects have been built under the authorities of the Watershed Protection and Flood Prevention Act of 1954, or P.L.-566 (enacted in the 83<sup>rd</sup> Congress), which set maximum size limits. Each project has one or more local sponsors. An emerging concern has been the need to rehabilitate the oldest dams and structures that are reaching or exceeding their design life.

Congress could address many different aspects of the watershed program in the farm bill, but the four bills being compared only address funding of the rehabilitation program. Congress first addressed the rehabilitation question by authorizing \$8 million for a pilot rehabilitation program in four states: Ohio, New Mexico, Mississippi, and Wisconsin. Then it authorized a general rehabilitation program in P.L. 106-472, the Grain Standards and Warehouse Improvement Act of 2000, which provides up to \$90 million for rehabilitation through FY2005. Local sponsors must cover 35% of the rehabilitation costs. NRCS is to develop a system to prioritize rehabilitation projects. It recently estimated that more than 2,000 dams need to be rehabilitated at a total estimated cost of more than \$540 million.

**Program Accomplishments.** The Watershed Program has been a major conservation activity; a total of 1,641 projects have been approved, and more than 10,000 flood control structures have been built. The total project costs have been \$14 billion (1997 dollars), including more than \$8.5 billion of federal funds. The total area encompassed by all projects is more than 110 million acres.<sup>18</sup> NRCS estimates that these projects provide more than \$1 billion in benefits to agriculture and others annually. These benefits center on flood control, but they also include water management, municipal and industrial water supply, recreation, fish and wildlife habitat improvement, water quality improvement, and land conservation. This program has been funded at higher levels during some economic downturns to stimulate rural economies by providing employment.

**Issues.** How should the rehabilitation program address changes in the needs and purposes of watershed projects since the first projects were constructed more than 50 years ago? Flood control is still needed in some situations, but other purposes have grown more important, many of them dealing with aspects of the environment, such as protection of wetlands, were not recognized when this program started. These changes are addressed in new projects but may not be fully recognized as older projects are rehabilitated. The rehabilitation process will expand as more structures deteriorate or age. Questions include: should other purposes receive more attention in relation to flood control; should rehabilitation

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<sup>17</sup> The Watershed Program was first authorized under Public Law 534 in 1944 for flood control in 11 specified watersheds, and then generically in 1954 for all small watersheds under Public Law 566. Some relatively minor amendments were made in §1461-§1464 of the 1990 farm bill. Rehabilitation activities were first authorized in a 4 state pilot program in Title II of the FY2001 agriculture appropriations (P.L. 106-387); then authorized for all states in §313 of P.L. 106-472, the Grain Standards and Warehouse Improvement Act of 2000.

<sup>18</sup> The initial 11 watershed projects were authorized in the Flood Control Act of 1944, or P.L. 534 (enacted in the 78<sup>th</sup> Congress). They are larger and encompass almost one third of the 110 million acre total.

be limited to addressing safety and deterioration questions, or should its purpose be expanded; and how will funding levels affect the rehabilitation process?

**Comparison of Proposed Provisions.** Only one of the four bills, H.R. 2646, would amend the Watershed Program. In H.R. 2646, §276 would reauthorize the small watershed rehabilitation program, discussed above, through FY2011 at a funding level of \$15 million annually.

## Wetlands Reserve Program (WRP)

**Program Description.** The WRP, administered by NRCS, provides mandatory funds through the CCC to restore up to 1,075,000 acres of wetlands and protective buffers on agricultural land.<sup>19</sup> Most, but not all lands, are restored to their original natural condition; the remainder (up to 30%) can be restored to a different natural condition that meets the landowner's objectives while providing wetland benefits. Before the 1996 amendments, all land was enrolled in a permanent easement; now the program is required to use a mix of permanent easements, 30-year easements, or cost-sharing agreements of at least 10 years. The magnitude of assistance to the landowner is greatest for the permanent easement and least for the cost-sharing agreement. Almost 90% of the enrolled land is under the permanent easement.

**Program Accomplishments.** Interest in the WRP has been high as individuals have sought to enroll many more acres than the program could accept. The FY2001 NRCS Budget Notes report that for every acre accepted, more than 5 acres of eligible lands were offered.<sup>20</sup> Participation has been concentrated in the lower Mississippi River valley. States with the most enrolled acreage through March 2001, are Louisiana (139,000 acres), Mississippi (103,000 acres) and Arkansas (101,000 acres), according to data compiled by NRCS. The next two states in terms of enrollment – California and Missouri – each have about 60,000 acres in this program. If interest is measured by number of contracts, the largest number is in New York (673 contracts). Other states with large numbers of contracts include Iowa (424), Missouri (400), and Louisiana and Wisconsin (378 each).

**Issues.** Issues have been raised about enlarging the program, changing the eligibility requirements, and simplifying the enrollment process.

**Scope of Program.** In most years, both the earlier Bush and Clinton Administrations proposed enrolling larger amounts of land than Congress had allowed. Congress did this by limiting staff time and resources available to the program in appropriations legislation. The Clinton Administration also proposed larger enrollments because the WRP was a component of its Clean Water Action Plan, as well as critical to the national wetlands policy goal of no-net-loss. Much of the program effort was centered on reaching this goal for agricultural lands, and the information that NRCS provides about WRP is more about enrolling land

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<sup>19</sup> The WRP was enacted in the 1990 farm bill, and is placed in Subchapter C of Chapter 1 (Environmental Conservation Acreage Reserve Program), and is in §1237-§1237F of the 1985 farm bill (16 U.S.C. 3837-3837f)

<sup>20</sup> However, it does not assess what portion of the offered acres would have been accepted if funding was not a constraint.

rather than restoration efforts. The program has reached its enrollment ceiling. Questions include: should the overall ceiling be raised; should a total ceiling be replaced by an annual enrollment maximum; should the justification for the program be altered if the no-net-loss goal is attained on agricultural lands, perhaps to enroll lands to offset losses in other land use categories; and how rapidly are agricultural wetlands being restored and what benefits are those restorations providing?

**Eligible Land.** A variety of lands are eligible to enroll in the WRP. As interest in the program greatly exceeds the amount of land that the program accepts, options to the current pattern of eligibility might be considered. These options might be based on cost; NRCS reports that easement costs range from \$500 per acre in upstate New York to more than \$2,000 per acre in California. Also, certain types of wetlands may be more valuable because they are scarce, or because they serve a more important set of functions at a particular location. Support for some types of benefits, such as habitat, may be greater than for other types of benefits, such as flood control or improving water quality. Finally, permanent easements provide the greatest level of protection. Those familiar with the program have stated that all acreage could be enrolled using permanent easements, if that were allowed. Questions include: should WRP eligibility be narrowed so long as interest is high; should cost be a consideration in deciding which acres to enroll; should certain benefits be favored over others; and should enrollment be limited to permanent easements so long as land owners are willing to offer sufficient land to be placed under that form of protection?

**Enrollment Process.** Actually enrolling land into the WRP is a long process that includes initial signup, appraisals, and registering the easement with the deed. This process is characterized by some as “cumbersome” and often has high transaction costs for NRCS and others who are involved. Questions include: in what ways has the program been simplified or streamlined since its inception; are there additional ways to simplify or streamline the enrollment process; at what point in this process should land be considered to be enrolled; and can the acreage at each stage of this process be identified at any time?

**Table 6. Comparison of Proposed WRP Provisions**

<b>Topic</b>	<b>Current Law</b>	<b>H.R. 2646</b>	<b>H.R. 2375</b>	<b>S. 1267</b>	<b>S. 1326</b>
Enrollment	§1237(b)(1) limits total enrollment at 1,075,000 acres. §1237(c) allows land to be enrolled through 2002.	§241 allows enrollment of up to 150,000 acres per year starting in 2002, with any acres up to the annual limit that is not enrolled to be enrolled in succeeding years.	§302(a) allows enrollment of at least 250,000 acres annually through FY2008, not to exceed a total of 2.5 million acres.	§301 allows up to 250,000 acres to be enrolled annually from 2003 through 2011.	§103(a) sets an enrollment ceiling of 3,475,000 acres. §103(b) allows land to be enrolled through FY2011.
Enrollment Options	§1237(b)(2) requires 1/3 enrollment each using permanent easements, 30 year easements, and agreements.	§241(b) deletes the 1/3 requirement and the distinction between permanent and temporary easements.	§303 creates a new 250,000 acre wetland reserve enhancement program, modeled after the CREP. §303(b) defines eligible land. §303(c) sets eligibility requirements for states. §303(d) sets state cost-sharing requirements. §303(e) defines permitted and prohibited uses. §303(f) establishes payment terms. §303(g) sets the terms for contracts and easements. §303(h) states that special emphasis should be given to wetlands which are declining or endangered, and wetlands that are not adequately protected by law, including isolated wetlands.	No provisions.	§103(c) creates a new wetland reserve enhancement program, modeled after the CREP, that would allow agreements with state and local government, and non-governmental organizations.
Eligible lands	§1237(c) defines eligible land based on maximizing wildlife and wetland benefits, use in agriculture, likelihood of a successful restoration, and §1237(e) makes CRP timber stands on cropland and pastureland ineligible.	§241(c) replaces §1237(c),(d), and (e) with new subtitles that give priority to land that maximizes wetlands functions and values, and make land enrolled in the CRP or under an EQIP contract ineligible.	No provisions.	No provisions.	No provisions.

Topic	Current Law	H.R. 2646	H.R. 2375	S. 1267	S. 1326
Easements and Agreements	§1237A describes the general terms of easements and agreements. §1237A(b)(2) prohibits altering habitat, spraying chemicals and mowing, any activity that degrades the land, and any other activity that counters the purpose of the easement, unless permitted in the plan.	§242 replaces the 4 more specific prohibitions in §1237A(b)(2) with a general statement to allow only changes permitted in the plan. It deletes subsection (c), which makes NRCS responsible for restoration plans and requires consultation with State Technical Committees, and subsection (h), which permits the use of cost sharing agreements for restoration.	No provisions.	No provisions.	No provisions.
Secretary Duties, including Providing Technical Assistance	§1237(C) describes how cost sharing and technical assistance will be provided; and how priorities will be set for determining which bids to accept (requires consultation with the Sec. of the Interior).	§243 deletes requirements to provide technical assistance and to consult with the Sec. of the Interior; and gives priority to using permanent easements. §265(e) allows producers to use approved third parties as well as the NRCS for technical assistance.	No provisions.	§303 limits technical assistance to 10% of the funds provided.	§103(d) adds monitoring and maintenance to what is included under “assistance.” §103(e) adds technical assistance to the activities funded through the CCC.
Payments	§1237D(c)(1) limits easement payments to \$50,000 annually, with exceptions.	§244 deletes the modifier “easement” from the limitation.	No provisions.	No provisions.	No provisions.
Changes in Ownership , etc.	§1237E limits program entry if ownership changes occurred during the previous year, and specifies terms under which easements can be modified or terminated.	§245 replaces 1990 acquisition date in §1237E(a)(2) with provision to make eligible at any time land acquired through foreclosure where the previous owner exercised a right of redemption.	No provisions.	No provisions.	No provisions.
Adminis- tration	No provisions.	§302(b) requires the Sec. to issue revised regulations by 10/1/02 to ensure equitable regional enrollment, based on historic distribution and opportunities for restoration.	No provisions.	No provisions.	

**Note:** Sec. is the Secretary of Agriculture.

## Wildlife Habitat Incentives Program (WHIP)

**Program Description.** WHIP, administered by NRCS, provides a total of \$50 million through FY2002 from the CCC to make cost sharing payments of up to 75% and provide technical assistance to landowners who agree to develop and implement a wildlife habitat improvement plan under agreements lasting 5 to 10 years.<sup>21</sup> Each state determines its wildlife and habitat priorities. The authorized funds were exhausted during FY2000. Section 211(b) of the crop insurance reform legislation (P.L. 106-224) provided \$40 million for conservation activities in FY2001, and the Department decided to allocate \$12.5 million of this amount to WHIP.

**Program Accomplishments.** For the most recent year for which data are available, FY1999, the program distributed more than \$22 million nationwide to fund 3,588 agreements; amounts ranged from \$6,046 in Delaware and \$116,931 in Indiana to \$779,116 in Colorado. More than 720,000 acres were enrolled, averaging 187 acres per agreement. Program accomplishments are described by types of habitat. Almost 90% of the total were upland acres including grasslands, shrub/scrub, and forests. Of the remainder, more than 50,000 acres were in wetlands that were not eligible for the WRP. NRCS estimates that threatened and endangered species may benefit from about 10% of the lands enrolled in FY1999.

**Issues.** Issues have been raised about the importance of wildlife in the overall conservation effort and about how to retain wildlife protection benefits after contracts expire.

**Wildlife and the Conservation Effort.** WHIP is but one of many conservation programs that can provide wildlife benefits. However, it is the only program that is limited to wildlife. The Wildlife Management Institute (WMI) focused on the integrative nature of these programs in its recent report, *How Much is Enough for 2002; A Regional Wildlife Habitat Needs Assessment for the 2002 Farm Bill*. This report makes numerous recommendations to expand or adjust existing programs and create new ones, for example, for grasslands. However, the only WHIP recommendations are to substantially increase funding (to \$100 million annually). Questions include: what will more funding for WHIP actually buy; to paraphrase the WMI report title, how much will be enough; should WHIP remain as a separate program or be integrated into other conservation programs; and should policy makers increase efforts to coordinate wildlife goals with other agricultural goals?

**Wildlife Protection in the Future.** Agreements will start to expire during the next farm bill. There are no provisions that give priority to renewing contracts, or encourage retention of the benefits that have been generated. At the end of their contract, landowners will be under no further obligations, and only some will choose to maintain those benefits. Questions include: what, if any obligation, should come after the contract for program participants; should current participants be given a higher priority if they would like to extend their contracts; and how should any extended contracts differ from the initial ones?

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<sup>21</sup> WHIP was enacted as §387 of the 1996 farm bill (16 U.S.C. 3836a)

**Table 7. Comparison of Proposed WHIP Provisions**

<b>Topic</b>	<b>Current Law</b>	<b>H.R. 2646</b>	<b>H.R. 2375</b>	<b>S. 1267</b>	<b>S. 1326</b>
Period of Authorization	§387(c) provides a total of \$50 million from the CCC (from CRP funding) by the end of FY2002.	§271 provides \$25 million annually through FY2011 from the CCC.	§301 provides a total of \$500 million through FY2008.	§802 provides \$100 million annually through FY2011 from the CCC.	§1326 provides \$50 million annually through FY2011 from the CCC.
Program Participation and Endangered Species	No provisions.	No provisions.	§301 adds new subsections that require at least 50% of the funds be targeted to habitat for species recognized as threatened, endangered, or of special concern by the Fish and Wildlife Service, or as imperiled by a state natural heritage program; authorize the Sec. to assist landowners in setting up “safe harbor” agreements.	§801 adds new subsections that require that at least \$40 million each year be spent on widely-dispersed pilot programs to help avoid listing a species as endangered or threatened; and to exempt participants from being considered as taking a threatened or endangered species when implementing a contract.	No provisions.
Declining Habitat	No provisions.	No provisions.	§301 uses at least 20% of the funds to acquire permanent easements and water rights to protect important and declining habitat identified in each state.	No provisions.	No provisions.
Incentive Payments	No provisions.	No provisions	§301 provides incentive payments to landowners who implement land management practices that create or protect habitat.	No provisions.	No provisions.
Revisions to Enrollment Criteria	No provisions.	No Provisions	§301 requires the Sec. to revise enrollment criteria within 6 months to ensure regional equity and encourage projects that contribute to producer profitability.	No provisions.	No provisions.

**Note:** Sec. is the Secretary of Agriculture.

## Other Amendments to Existing Programs

Each bill also would amend other conservation programs in various ways. Proposals in some bills directly contradict other bills; for example some programs would be reauthorized in some bills but repealed in others.<sup>22</sup>

### Technical Assistance

Technical assistance is one of four types of conservation support the federal government provides to landowners. (The others are financial, educational, and research). Technical assistance is delivered by the NRCS, primarily through Conservation Technical Assistance (CTA) activities. NRCS describes CTA as the “intellectual capital of the agency,” combining expertise in soils and other sciences and engineering with knowledge of local conditions. The “handbook” for CTA is the Field Office Technical Guide, which specifies standards for the design and implementation of various conservation practices. Both CTA and the guide are central to implementing almost every conservation program that serves farmers and landowners.

For the mandatory programs funded through the CCC (CRP, EQIP, WRP, WHIP, and FPP), technical assistance is funded as a portion of total funding for each program. This amounted to \$90 million in FY2000, according to data supplied by NRCS to the House Appropriations Committee’s Subcommittee on Agriculture. Otherwise, technical assistance is provided through the Conservation Operations line of the annual appropriations for NRCS and through several other program accounts. This amounted to \$619 million for CTA and \$212 million for other programs, according to the same data set.

The gap between the need for technical assistance to implement conservation programs and the funding level for those programs has been growing in recent years. Some of the underlying reasons for this gap, as summarized in the earlier discussion of cross-cutting issues, is that: the conservation mission has been expanding; funding devoted to most conservation activities, other than land retirement programs, has been growing more slowly; and the federal staff to provide technical assistance has been shrinking. Proposed conservation legislation could further expand the mission and greatly enlarge several existing programs, increasing the pressure to address this gap.

Possible solutions that have been suggested could involve some combination of: (1) shifting overall administration of some programs from NRCS to FSA; (2) increasing staff, and therefore the capability of NRCS, to provide more conservation and serve more customers; (3) allowing trained and certified individuals who are parties other than NRCS employees, referred to as third parties, to provide some of the services that now only are provided by NRCS; or (4) altering the legislation that created the CCC to either remove the current cap on funding for technical assistance or create a separate account within the CCC for technical assistance.

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<sup>22</sup> In addition to provisions in H.R. 2646, House Report 107-191, pt. 1, which accompanies this bill also calls for the Sec. to :examine ways to address over-allocation of water in the Klamath Basin; to work with states and agricultural producers and coordinate assistance to implement water conservation practices; to use EQIP contracts to control invasive species; and to explore ways that farmers can reduce paperwork.

Each solution has some supporters, but also vocal opponents. Efforts to move administration of conservation programs from either NRCS or FSA to the other agency, which has been proposed in Congress and at USDA in recent years, has generated strong negative reactions repeatedly from the constituents and clients of both agencies. Supporters of current proposals to transfer programs from NRCS to FSA argue that the result would be a reduced workload at NRCS that would allow its staff to focus on fewer programs, while opponents of these transfers argue that the two agencies have different skills and capabilities, so a transfer would penalize the overall conservation effort. While appropriators have limited funding increases and have supported staffing reductions in recent years because of other higher priorities, they have also supported emergency or supplemental funding for technical assistance on numerous occasions. Using other parties to do some of the activities assigned to NRCS has been met with suspicion by those who worry about the quality of service or the expense of using private providers in place of free public services. Amending the CCC legislation in either of the suggested ways is opposed by those who would like to maximize the amount of money coming from the CCC that is distributed to producers, but supported by those who view conservation as more important to these programs than current funding levels suggest. Three of the bills propose various responses to these concerns.

In **H.R. 2646**, §265(b) would provide up to \$100 million annually from FY2002 through FY2011 from the CCC, with the total limited to \$850 million, to provide technical assistance for all the mandatory conservation programs funded through the CCC. It would also allow technical assistance from other sources by supporting the use of approved other parties as well as NRCS staff to provide technical assistance for these programs. The Secretary would be required to issue regulations laying out a system for approving technical assistance providers within 6 months of enactment; the required expertise in planning and implementation is specified. Conforming amendments would be made to the highly erodible lands provisions (1213(c)), CRP (§1233), WRP (§1237C(b), EQIP (§1240B), and Funding and Administration (for mandatory programs) §1241(b). Section 281 would amend §6 of the Soil Conservation and Domestic Allotment Act, which was enacted in 1935 and created the Conservation Operations Account, to allow technical assistance funds to be used for all agriculture conservation programs.

In **H.R. 2375**, Title VI would amend technical assistance provisions. Section 601 would authorize \$964 million annually from FY2003 through FY2008 from the CCC. Section 602 would amend §1241 of the 1985 farm bill (the Funding and Administration subtitle) to allow for full reimbursement of actual technical assistance costs for listed programs and any other programs funded through the CCC that require technical assistance. Four activities – providing an eligibility assessment as the basis for developing a conservation plan, providing technical assistance in developing and implementing the plan, providing technical assistance in installing structural and land management practices, and providing supporting information, education, and training in support of implementing the plan -- are listed as being approved for reimbursement. Section 603 would allow other parties certified by the Secretary to provide technical assistance. The Secretary would develop guidelines for training and certification, and establish training centers in eight specified locations, using \$50 million annually from the CCC to implement this subsection.

In **S. 1326**, §203 would require the Secretary to establish requirements, standards, and procedures for certifying and recertifying other parties who are qualified to provide technical assistance. Potential providers would pay a fee, to be set by the Secretary, for the certification training process. The Secretary would decide which services private providers can offer,

except that they would be prohibited from assessing a CRP contract or conservation farm option contract that would reduce net environmental benefits.

## Grazing Lands Conservation

Section 386 of the 1996 farm bill created a program to coordinate technical, educational, and related assistance to conserve and enhance private grazing lands, and authorized appropriations of \$20 million in FY1996, \$40 million in FY1997, and \$60 million annually thereafter. It has been funded as an activity within the Conservation Operations line item that earmarked in report language. It was given \$18 million for FY2001.

In **H.R. 2375**, §305 would authorize \$100 million annually from the CCC through FY2008, and provide incentive payments to producers who enter into multi-year contracts to improve their grazing lands. In **S. 1267**, §701 would authorize \$60 million annually from the CCC through FY2011, and delete existing provisions that require the program to be funded as a line item in annual appropriations legislation.

## Conservation Practice Standards

Conservation standards are the engineering and other criteria used to design conservation practices. These standards are compiled in a handbook found in every county in the country. There are currently no requirements in law for periodically reviewing or updating these standards, some of which were last updated more than 20 years ago.

In **H.R. 2375**, §604 would require the Secretary to establish and revise standards for conservation practices “immediately”, and to update the Handbook and guides where these standards are described at least once every 5 years.

## Evaluation and Monitoring

Program evaluation and monitoring has been a limited activity for conservation programs, based on the small number of studies that have been published. In P.L. 95-192, the Soil and Water Resources Conservation Act of 1977, §6 lays out a program to periodically monitor conservation problems and evaluate the effectiveness of current programs and alternatives in addressing them.

In **H.R. 2375**, §702 would require the Secretary to work with the National Academy of Sciences to establish a program to evaluate the benefits of conservation practices as a condition for receiving rental or cost-sharing payments. It defines the qualifications of organizations that would be permitted to do the evaluations, and require the Secretary to use the information these organizations collect to identify and rank needed measures. This activity would be funded at \$10 million annually through FY2011 from the CCC.

In **S. 1267**, §1002 would require the Secretary to request that the National Academy of Science prepare a study, to be submitted to the House and Senate Agriculture Committees, on developing and implementing a county-level accounting system to measure “efforts, gains, and losses” in participation and natural resources as a result of agricultural conservation programs.

## Program Consolidation and Administration

In **H.R. 2375**, §503 discusses consolidation of community forestry programs, and was discussed above in the FIP presentation. That discussion was limited to FIP, which is the only community forestry program that is not administered by the Forest Service.

In **S. 1326**, §202 would call on the Secretary to consolidate conservation programs for agricultural lands, “to the maximum extent possible” by designing forms that apply to all programs, reducing and consolidating paperwork, developing a single classification system for all information collected on forms, ensuring that USDA agencies have the technology that will allow them to share those forms, and develop a single conservation plan format. Within 180 days of enactment, the Secretary would be required to report to both agriculture committees with an implementation plan, as well as a budget, and a second plan for implementing the periodic appraisal of soil and water resources required under the 1977 Soil and Water Resources Conservation Act.

## Program Extensions and Deletions

Congress has enacted many conservation programs that have never been implemented. Other programs may have been implemented earlier, but are no longer being implemented. Examples from the 1996 farm bill alone include the Conservation Farm Option (§335), the Natural Resources Conservation Foundation (Subtitle F, §351 through §360), and the Flood Risk Reduction Program (§385).

In **H.R. 2646**, §291(a) would repeal the wetland mitigation banking program enacted as §1222(k) of the 1985 farm bill; §291(b) would repeal the CRP payment limits enacted in §1234(F)(3) of the 1985 farm bill; §291(c) would repeal the base history provisions of the CRP, enacted in §1236 of the 1985 farm bill; §291(d) would repeal the WRP payment limits enacted in §1237D(c)(3) of the 1985 farm bill; §291(e) would repeal the Environmental Easement Program, enacted in Title XII, Subtitle D, Chapter 3 of the 1985 farm bill; §291(f) would repeal the Conservation Farm Option, enacted in Title XII, Subtitle D, Chapter 5 of the 1985 farm bill; §291(g) would repeal the Tree Planting Initiative, enacted in §1256 of the 1985 farm bill, and §292 would repeal provisions creating the National Natural Resources Conservation Foundation, enacted in Subtitle F of Title III of the 1996 farm bill.

In **S. 1267**, §1004(c) would repeal the Environmental Easement Program, enacted in Title XII, Subtitle D, Chapter 3 of the 1985 farm bill.

In **S. 1326**, §204 would extend the authorization through FY2011 for several programs, including the Conservation Farm Option and the Flood Risk Reduction Program (others have been noted in discussions of those programs).

## The Environmental Conservation Acreage Reserve Program (ECARP)

ECARP is a program and policy umbrella, created in §1230 of the 1985 farm bill. Programs under this umbrella include the CRP (Subchapter B), the WRP (Subchapter C), and EQIP (chapter 4). Section 1230(a)(1) states that the main purpose is to assist producers “to conserve and enhance soil, water, and related natural resources, including grazing land,

wetland, and wildlife habitat.” The main policy that ECARP creates is the identification of priority areas “that are eligible for enhanced assistance” through the programs that fall under the ECARP umbrella. Priority areas are to be designated in locations where producers can benefit from assistance to comply with federal and state environmental laws or to meet other conservation needs. The only specified law is the non point water pollution requirements of the Clean Water Act.

In **H.R. 2646**, §221 would delete the entire ECARP provision, with the exception of §1230A, which provides relief to producers who have violated provisions of CRP or WRP through no fault of their own; this subsection would be transferred to a new §1244, in the Funding and Administration subtitle.

In **H.R. 2375**, §701 would add a provision to §1230 to require the Secretary to revise policies by October 1, 2002 to ensure that enrollment of land into the ECARP programs is equitable among regions.

In **S. 1326**, §204(a) would extend the authority for ECARP through FY2011.

## New Program Proposals

Each bill includes some new program proposals. These proposals are briefly explained in this section. Some other proposals in these bills are not discussed in this section. All the proposals to alter forestry programs, other than changes to the FIP, are not included. In addition, several proposals in two bills that have not been traditionally considered to be part of resource conservation are not included. These provisions include §1003 of **S. 1267**, which would require the Secretary to prepare a study of the effectiveness of agriculture disaster programs and submit that study to Congress within 60 days of enactment, and several sections in **H.R. 2375**, including:

- Expansion of state marketing programs (§102);
- Amendments to the Farmer-to-Consumer Direct Marketing Act (§103);
- Promotion of locally-grown fruits and vegetables (§104);
- Increasing appropriations for assistance to socially-disadvantaged farmers (§105);
- Providing loans and grants for manure reuse activities (§202); and
- A new program to assist in the transition to organic farming, funded at \$100 million annually through the CCC (§401).

## Grassland Reserve

Three of the bills would authorize a new grassland reserve. This reserve would be in addition to the private grazing lands conservation program. Amendments to the existing program, proposed in H.R. 2375 and S. 1267, are discussed above.

**Table 8. Comparison of Proposed Grasslands Reserve Program**

<b>Topic</b>	<b>H.R. 2646</b>	<b>H.R. 2375</b>	<b>S. 1267</b>
Program Purposes	§274 creates a 2 million acre grasslands reserve under ECARP, split evenly between restored grasslands and virgin (never cultivated) grasslands. Minimum size for enrolled parcels is 50 acres east of the 90 <sup>th</sup> meridian and 100 acres west of the 90 <sup>th</sup> meridian.	§306(a) would establish a new 3 million acre program, with at least half the land enrolled using permanent easements.	In Title IV, §401 creates a 1 million acre grasslands reserve. Same minimum size qualifications as in H.R. 2646.
Eligible Land	§274 permits landowners to enroll natural grass and shrub land that has a potential to serve as important plant or animal habitat.	§306(b) uses the same definition of eligible land as in H.R. 2646, except that this bill also would allow incidental additional land to be enrolled.	§401 same as H.R. 2375.
Contracts	§274 permits contracts of 10, 15, and 20 years. Contract payments are limited to 75% of the grazing value of the land.	§306(c) permits contracts of 10 years. §306(e) requires the Sec. to establish a system for fair compensation.	§401 allows enrollment in; permanent easements, 30 year easements, easement at the maximum length allowed by a state, and 30 year rental agreements.
Permitted and Prohibited Uses	§274 permits contract holders to use common grazing practices, and permits haying and mowing outside the bird nesting season, but prohibits all agricultural production (except hay) and all practices that require disturbing the land surface or breaking the soil except construction of fire breaks and fences, or restoration activities.	§306(c)(2) similar to H.R. 2646 for permitted and prohibited activities, except that this bill also prohibits building permanent structures on enrolled land.	§401 same as H.R. 2646, except that this bill requires periodic inspections of enrolled lands. It specifies payment schedules under the different forms of enrollment, and requires that land in a 30 year rental agreement be reassessed periodically, with the payment rate adjusted.
Ranking Bids	§274 requires the Sec. to develop ranking criteria, with emphasis on support for native vegetation, grazing operations, and plant and animal diversity.	§306(d) same as H.R. 2646, and adds preference for large contiguous tracts of working farm and ranch land.	No provisions.
Cost-sharing Payments	§274 provides cost sharing payments for restoration of 90% or less on virgin grasslands or 75% or less on restored grassland; annual payments to producers could not exceed 75% of the grazing value of the land.	No provisions.	§401 limits cost sharing assistance to 75%, and limits reimbursement to NRCS for technical assistance to 10% of the federal cost of restoration and the cost of acquisition.
Program Administration	§264 makes FSA the primary implementing agency.	No provisions.	§401 sets criteria for the Sec. to delegate easements to private conservation and land trust organizations, and requires implementing regulations to be issued within 180 days.

**Note:** S. 1326 does not contain any comparable proposal.  
Sec. is the Secretary of Agriculture.

## WRP Enhancement Program

In **H.R. 2375**, §303 would create a 250,000 acre program of cost sharing with states, modeled after the Conservation Reserve Enhancement Program (CREP). Participants could enroll wetlands in agreements of 10 to 30 years, or in easements of more than 30 years. States would identify eligible land as significant habitat, having water quality value, or a potential to reduce floods, with priority given to types of wetlands that are declining or not protected by law. Eligible lands would include wetlands, converted wetlands, potential wetlands, and limited buffer areas. States must submit a plan and contribute 25% of the program costs to participate. The activities permitted and prohibited would be the same as under the grasslands reserve proposal in H.R. 2375 (discussed above). In land placed under permanent easement, restoration of wetlands, grassland and shrubs would be permitted, while development and commercial crop and timber production would be prohibited.

## Corridor Demonstration Projects

In **H.R. 2375**, Title VIII would establish one or more demonstration projects for ecosystems or watersheds using existing conservation programs, as determined within 90 days of enactment by the Secretary, in consultation with the states. Agreements with states would be through a plan about resources to be used, giving the Secretary flexibility to make adjustments to apply programs more effectively and efficiently. States would have 6 months from the date of enactment to submit plans; the Secretary would have 30 days to review and approve the proposal based on 4 specified criteria. States would contribute an unspecified portion of necessary resources; the federal portion would be funded through an unspecified portion of the funding for all conservation programs provided through the CCC.

## Privacy

Protection of data collected by federal agencies about resource conditions or farm operations that could be used to identify individuals or to locate specific sites or properties has been a growing concern to producers. Driving this concern are the expanded ability of computers to manipulate complex data sets, and efforts by environmental quality programs to locate possible sources of problems, such as groundwater pollution, that might originate from agricultural activities. Specific concerns include potential liability and reduced property values. Producers and landowners reportedly have responded to these concerns by being less willing to share information about their operations in surveys conducted by agencies in USDA. In **H.R. 2375**, §702(f) would protect data about individuals used for evaluation and monitoring; and allow the use of data aggregated so that individuals could not be identified. In the EQIP provisions, §201(c) which would establish watershed quality incentive contracts, has a subsection 9, excludes collected data from federal mandatory disclosure requirements except “in an aggregate form to measure expected benefits.”

In **S. 1276**, §1001 would add a new section to subtitle E of the 1985 farm bill (Funding and Administration subsection) stating that information associated with implementing any NRCS or FSA conservation program, or with the Natural Resources Inventory (NRI) and the individual sample points from which that data is compiled, is not public and not to be released. Cooperating agencies and organization, however, could obtain these data. Information from the NRI could be released in aggregate form that precludes identification of individuals or specific data gathering sites.

In **S. 1326**, §201 is identical to privacy provisions in S. 1276, except that it also includes a provision that allows an individual to disclose information about his operation, but that information may not be used as a condition for participating in or benefitting from any program.

### **Farmland Stewardship Program**

In **H.R. 2646**, §275 would create a new Farmland Stewardship Program, to be administered by NRCS, “to more precisely tailor and target” current conservation programs, using program funding on a watershed basis, where possible. Participation would require matching funds. Participants would submit a management plan and would be encouraged to use easements, where possible, to implement conservation management.