

CRS Report for Congress

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Agricultural Issues in the 109th Congress

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Summary

A number of issues affecting U.S. agriculture are receiving attention during the 109th Congress. The agriculture committees are required by the FY2006 budget resolution to report legislation this year that reduces spending on mandatory food and agriculture support programs by \$3 billion over the next five years. Other issues of importance to agriculture during the 109th Congress include the possible reauthorization of an expiring dairy support program; consideration of emergency farm disaster assistance; multilateral and bilateral trade negotiations; concerns about agroterrorism, food safety, and animal and plant diseases (e.g., “mad cow” disease and avian flu); high energy costs; environmental issues; and a number of agricultural marketing matters. This report will be updated if significant developments ensue.

Farm Production Support

Large harvests for major crops and unusually high prices for livestock and milk have generated two years of record earnings for the farm sector. Net farm income set records of \$59.5 billion in 2003 and \$82.5 billion in 2004. For 2005, cash receipts for both crops and livestock are expected to remain at or near record levels despite slight declines expected for most commodity prices. However, farm production costs have been increasing and are likely to continue upward, with energy prices, including the price of natural gas, an essential element of nitrogen fertilizers, a driving force.

Budget and Spending. Congress is addressing USDA spending levels on two fronts during 2005: in budget reconciliation and in the FY2006 agriculture appropriations bill. Reconciliation instructions in the final version of the FY2006 budget resolution (H.Con.Res. 95) require the House and Senate Agriculture Committees to cut spending on mandatory USDA programs (which include farm commodity support programs, crop insurance, certain conservation programs, and food stamps) by \$3 billion over five years (FY2006-FY2010). The Agriculture Committees are required to divide these cuts among the various mandatory programs, and then were to report their recommendations to their respective Budget Committees by September 16, 2005, for incorporation in an omnibus reconciliation bill. However, as congressional attention focused on Hurricane Katrina relief and recovery in September, leadership delayed consideration of reconciliation until

at least October. Separately, Congress is considering the FY2006 agriculture appropriations bill (H.R. 2744) that will contain funding levels for most USDA discretionary programs. Tight budget constraints require agriculture appropriators to keep FY2006 discretionary spending close to the FY2005 level. Both chambers have completed action on the FY2006 agriculture appropriations bill. Current USDA spending is being governed by a continuing resolution until conferees complete action. (See CRS Report RS22086, *Agriculture and FY2006 Budget Reconciliation* and CRS Report RL32904, *Agriculture and Related Agencies: FY2006 Appropriations*.)

Commodity Support Programs. Farm income and price support programs are dictated primarily by Title I of the 2002 farm bill (P.L. 107-171), which expires in 2007. Observers expect that the House, and possibly the Senate, Agriculture Committees could begin hearings in 2005 on a new farm bill, with more intensive deliberation likely in 2006. Meanwhile, across-the-board cuts or other types of reductions in commodity support spending might be considered this year by the agriculture committees within the budget reconciliation process. (See CRS Report RS22131, *The Farm Bill in Brief* and CRS Report RS21999, *Farm Commodity Programs: Programs and Issues for Congress*.)

Farm Disaster Assistance. Several major weather events in 2005, particularly Hurricanes Katrina and Rita and a severe Midwest drought, have increased the likelihood that Congress will consider emergency disaster assistance for farmers this year. In past years, Congress has authorized crop disaster payments and various livestock assistance programs when natural disasters strike. Similar types of assistance will likely be considered in the context of an emergency supplemental bill later this year. (For more information, see CRS Report RS21212, *Agricultural Disaster Assistance* and CRS Report RL33075, *U.S. Agriculture After Hurricanes Katrina and Rita: Status and Issues*.)

Payment Limits. Most crop payments are subject to annual per-person limits. Past legislative efforts to reduce the maximum amount of payments that producers can receive, and to count certain benefits (i.e., the value of commodity certificates producers receive) toward the limits, have been thwarted by strong opposition from Southern cotton and rice growers. In the 109th Congress, S. 385 and H.R. 1590 would reduce payment limits to a total of \$250,000, and count commodity certificates and loan forfeiture toward the limits. CBO estimates that a plan similar to S. 385 would save \$1.2 billion over five years. (See CRS Report RS21493, *Payment Limits for Farm Commodity Programs: Issues and Proposals*.)

Dairy. Several bills (H.R. 859, H.R. 1260, S. 273, and S. 307, H.R. 3847) have been introduced in the 109th Congress to provide a two-year extension of the Milk Income Loss Contract (MILC) program, which in FY2003 and FY2004 provided more than \$2 billion in direct payments to dairy farmers when farm milk prices were below a specified target level. The program expired September 30, 2005 without an extension. However, market prices of farm milk have been so strong in recent months that no MILC payments have been triggered. Program extension is supported by the Administration and small- to medium-sized dairy farmers, but generally is opposed by larger dairy farmers because of a limit on eligible annual production. Because extension of the program has budget implications, reauthorization might be considered in the context of the pending omnibus budget reconciliation bill. (See CRS Issue Brief IB97011, *Dairy Policy Issues*.)

WTO Cotton Case. On March 3, 2005, a World Trade Organization (WTO) appellate review upheld an earlier WTO dispute settlement panel finding (of September 2004) against the United States on several key complaints brought by Brazil that elements of the U.S. cotton program are not consistent with U.S. trade commitments. The United States has been asked to bring various existing program operations into compliance with the WTO panel recommendations including the removal of prohibited export subsidies such as Step 2 cotton user payments and certain export credit guarantees. U.S. cotton program changes were not fully implemented by the WTO-mandated deadline of July 1, 2005. However, the Administration announced administrative changes to the export credit guarantee program in late June, and proposed in early July the elimination of the Step 2 cotton program. Modifications to or the elimination of the Step 2 program ultimately will be decided by Congress, possibly in the context of the pending budget reconciliation bill. The Senate Agriculture Committee, as part of its budget reconciliation package, has proposed eliminating the Step 2 program by August 1, 2006. (See CRS Report RL32571, *Background on the U.S.-Brazil WTO Cotton Subsidy Dispute.*)

Conservation Programs. Spending for conservation programs, which help producers protect and improve natural resources on some farmed land and retire other land from production, have grown rapidly since the 2002 farm bill, reaching a total of more than \$5.2 billion in FY2005. This growth in spending reflects the expanded reach of conservation programs, which now involve many more land owners and types of rural lands. Budget pressures could force the 109th Congress to weigh the resource and other benefits of these programs against growing costs. Another topic that continues to attract congressional interest is implementation of the Conservation Security Program, enacted in 2002. Some stakeholders have questioned why USDA has implemented the program in only a few watersheds, and why Congress has limited funding even though the program was enacted as a true entitlement. The agriculture community also is starting to address issues that might be addressed in the next farm bill. The Senate Agriculture Committee has started to identify conservation issues, holding hearings on endangered species and the Conservation Reserve Program in July 2005. (See CRS Issue Brief IB96030, *Soil and Water Conservation Issues.*)

Energy. Although not as energy-intensive as some industries, agriculture is a major consumer of energy — directly, as fuel or electricity, and indirectly, as fertilizers and chemicals. In early September 2005, energy prices jumped to record levels in the wake of Hurricanes Katrina and Rita. By raising the overall price structure of production agriculture, sustained high energy prices could result in significantly lower farm and rural incomes in 2006, and are generating considerable concern about longer-term impacts on farm profitability. Agriculture also is viewed as a potentially important producer of renewable fuels such as ethanol and biodiesel, although farm-based energy production remains small relative to total U.S. energy needs. The energy bill (P.L.109-58) enacted in July includes a renewable fuels standard (RFS) for biofuels that grows from 4 billion gallons in 2006 to 7.5 billion gallons in 2012. The RFS, along with tax credit incentives, is expected to encourage significant increases in U.S. ethanol production. (See CRS Report RL32677, *Energy Use in Agriculture: Background and Issues*, and CRS Report RL32712, *Agriculture-based Renewable Energy Production.*)

Agricultural Trade Policy

Building export market opportunities for U.S. farm products remains a priority for Congress. Some Members of Congress express concern about growing competition from major producers and exporters like Brazil; they note that the U.S. share of world agricultural exports declined from 17% in 1980 to 11% in 2003, according to the WTO.

Trade Negotiations. U.S. trade policy seeks to improve market access for U.S. agricultural products through multilateral, regional, and bilateral trade agreements. U.S. officials also seek to hold countries to commitments made under existing agreements, and to resolve disputes impeding farm exports. The 109th Congress passed legislation (P.L. 109-53) to implement the Dominican Republic-Central America-U.S. free trade agreement (DR-CAFTA) despite strong opposition from the U.S. sugar industry which fears those countries would gain increased access to the U.S. market. Separately, the Administration is participating in the current Doha round of multilateral trade negotiations and also negotiating new free trade agreements with Panama, the Andean countries, Thailand and the Southern African Customs Union, among others. (See CRS Report RL32110, *Agriculture in the U.S.-Dominican Republic- Central American Free Trade Agreement* and CRS Report RS21905, *Agriculture in the WTO Doha Round: The Framework Agreement and Next Steps*.)

Other Trade Issues. Other ongoing issues of interest to Congress include Japan's ban on U.S. beef imports because of concerns about bovine spongiform encephalopathy (see "BSE" below); changes needed in U.S. cotton support programs pursuant to an adverse litigation in WTO dispute settlement (see "WTO Cotton Case" above); rules of trade for the products of agricultural biotechnology (see CRS Report RL32809, *Agricultural Biotechnology: Background and Recent Issues*); the scope of restrictions that should apply to agricultural sales to Cuba (see CRS Issue Brief IB10061, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation*); and funding for U.S. agricultural export and food aid programs (see CRS Issue Brief IB98006, *Agricultural Export and Food Aid Programs*).

Protecting the Food Supply

Agroterrorism. Border inspections have been the first defense against livestock and plant diseases and, more recently, the threat of terrorist attacks against agricultural targets. The agriculture committees remain concerned whether the Department of Homeland Security (DHS, which has jurisdiction over border inspections) is devoting enough attention to agricultural inspections, staffing, and training; they note that controlling a disease outbreak depends on quick and coordinated responses. Recent homeland security programs have improved the capacity of federal, state, and university agencies to detect and diagnose emerging animal and plant diseases. In the 109th Congress, S. 572 and S. 573 would improve federal responsiveness to agroterrorism, and give additional agricultural biosecurity responsibilities to DHS. S. 1532 would criminalize agroterrorism and improve prevention, detection, and recovery planning. Project Bioshield II (S. 975) contains a section on agroterrorism countermeasures to assess preparedness and improve interagency coordination. (See CRS Report RL32521, *Agroterrorism: Threats and Preparedness*.)

Food Safety. Approximately 76 million people get sick and 5,000 die from food-related illnesses in the United States each year, it is estimated. Congress frequently conducts oversight and periodically considers legislation on food safety and could do so again. Some Members also continue to be interested in the control of animal diseases that also threaten human health; the regulation of bioengineered foods, human antimicrobial resistance (which some link partly to misuse of antibiotics in animal feed), and the safety of fresh produce. In the 109th Congress, S. 729 and H.R. 1507 are proposals to consolidate U.S. food safety oversight under an independent U.S. agency. H.R. 3160 and S. 1357 clarify USDA's authority in prescribing performance standards for the reduction of pathogens in meat and poultry products. (See CRS Report RL31853, *Food Safety Issues in the 109th Congress*, and CRS Report RL32922, *Meat and Poultry Inspection: Background and Selected Issues*.)

BSE. Bovine spongiform encephalopathy (BSE or "mad cow disease") continues to attract intense interest, as the fifth North American case (the second in the U.S.) was confirmed in June 2005. Authorities characterize the risk to human health from these cases as extremely low. However, the beef industry has suffered economically due to foreign borders being closed to U.S. beef. The 109th Congress has held hearings on trade impacts since the first confirmed U.S. BSE case in December 2003. H.Res. 137 and S.Res. 87 call for economic sanctions if Japan does not soon readmit U.S. beef. Elsewhere, the Senate early in 2005 approved a resolution (S.J.Res. 4) to disapprove a January 2005 USDA rule to reopen the U.S. border to some Canadian cattle imports (the rule also was blocked by a federal judge). A similar House resolution (H.J.Res. 23) is not expected to be approved. Other bills addressing various aspects of BSE include H.R. 187, H.R. 384/S. 108, S. 294, S. 73, S. 135, H.R. 1254, and H.R. 3170. (The latter two bills require the establishment of a nationwide electronic animal identification system). (See CRS Issue Brief IB10127, *Mad Cow Disease: Agricultural Issues for Congress*.)

Avian Influenza. Since 2003, highly pathogenic avian influenza (H5N1) has spread throughout Asia and recently has advanced towards Europe. No cases of H5N1 have been found in the United States. The virus has infected mostly poultry but also a limited number of humans. Officials are concerned that the virus could mutate to allow human-to-human transmission. In 2004, two different and less virulent strains were found and eradicated in the United States. Federal agricultural appropriations to prepare for and respond to avian flu have risen from \$1 million in FY2004 to nearly \$23 million in FY2005. Because the virus may be spread by wild birds, farm personnel, or equipment, strict biosecurity measures are necessary on poultry farms. For more information, see CRS Report RS21747, *Avian Influenza: Multiple Strains Cause Different Effects Worldwide*.

Marketing

Country of Origin Labeling (COOL). Mandatory COOL for fresh meats, produce, and peanuts is scheduled to take effect September 30, 2006. Some Members continue to support mandatory COOL, and a few of them would prefer that it take effect sooner (e.g., S. 1331), or expanded to processed meats (e.g., S. 135). Others are seeking to replace mandatory COOL with voluntary labeling programs. A bill (H.R. 2068) sponsored by the chairman of the House Agriculture Committee (and an identical Senate bill, S. 1333) would make COOL labeling voluntary for fresh meats. S. 1300 would make COOL voluntary for meat, fish and produce. The House-passed (but not the Senate-

passed) version of the pending USDA appropriation for FY2006 (H.R. 2744) would prohibit spending on implementation of mandatory COOL for meats. (See CRS Report 97-508, *Country-of-Origin Labeling for Foods.*)

Livestock Marketing. Continuing concentration and other changes in business relationships within livestock markets (such as contractual relationships between producers and processors) have raised concerns about the impacts on farm prices and on smaller operations. USDA currently is conducting an in-depth examination of livestock marketing, including issues surrounding proposals to ban packer ownership of animals. Congress expects to receive reports on this work in 2005. Two bills to regulate control of livestock have been offered (S. 818, S. 960). Also, Livestock Mandatory Price Reporting expired on September 30, 2005. It was originally passed in 1999 to address some producers' concerns about low prices, price transparency, and industry concentration. The system generally has found acceptance among industry players, but the House and Senate have taken differing approaches. A House-passed bill (H.R. 3408) extends reporting for five years with amendments to the hog reporting provisions. A Senate-passed bill (S. 1613) extends it for one year. (See CRS Report RS20079, *Livestock Mandatory Price Reporting.*)

Farm Animal Protection. Both the Senate- and House-passed versions of the USDA FY2006 appropriation bill (H.R. 2744) contain a provision aimed at banning the slaughter of horses for human food, causing uncertainty for the three foreign-owned plants in the United States that currently do so for primarily European and Japanese consumers. Also in H.R. 2744, the Senate adopted a floor amendment, not in the House version, intended to prohibit nonambulatory livestock (also called "downers") from being used for human food. Other pending bills (S. 1779; H.R. 3931) have the same purpose. (See CRS Report RS21842, *Horse Slaughter Prevention Bills and Issues*, and CRS Report RS21978, *Humane Treatment of Farm Animals: Overview and Issues.*)

Grain Standards Reauthorization. On September 28, 2005, Congress completed action on a reauthorization (S. 1752, P.L. 109-83) of the U.S. Grain Standards Act. This continues Federal Grain Inspection Service (FGIS) activities for the coming 10 years. FGIS establishes and maintains official grades for grains and oilseeds, provides for official weighing and grading at export locations, conducts oversight of domestic weighing and grading, and investigates complaints made by importers. The House Agriculture Committee considered but did not adopt a grain industry supported proposal to allow for federally supervised private inspection of exports (See H.R. 3421, and Review of U.S. Grain Standards Act, Hearing, May 24, 2005, Serial 109-8).

CFTC Reauthorization

The Commodity Futures Trading Commission (CFTC) is an independent federal regulatory agency that regulates the futures trading industry. The CFTC is subject to periodic reauthorization; current authority expired on September 30, 2005. In the past, Congress has used the reauthorization process to consider amendments to the Commodity Exchange Act (CEA), which provides the basis for federal regulation of commodity futures trading. The House and Senate Agriculture Committees, with jurisdiction over CFTC, conducted hearings on CFTC reauthorization in March 2005. The Senate Agriculture Committee reported a reauthorization bill (S. 1566) in July 2005. (See CRS Report RS22028, *CFTC Reauthorization in 2005.*)