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Soil and Water Conservation: An Overview

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CRS Report for Congress

Soil and Water Conservation: An Overview

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Committees of Congress

Congressional
Research
Service

Soil and Water Conservation: An Overview

Summary

Soil and water conservation topics are prominent in discussions of policy options for the next farm bill, which the 110th Congress is considering. Major conservation topics include where to set overall funding levels and levels for each program; what should be the priorities for the conservation effort; and deciding whether any existing programs or activities should be modified or eliminated and whether new programs or activities should be added to the effort. Addressing these topics often pits supporters of commodity programs and the traditional farm program benefits against those who would like to see an expanded conservation effort.

The House passed its version of the farm bill on July 27, 2007 (H.R. 2419) by a vote of 231 to 191. Numerous options for conservation provisions were offered as the legislation moved through the House, but the conservation title was passed largely as reported by the Agriculture Committee and modified by a chairman's mark. This legislation would increase funding for many conservation programs and add a number of small new programs to the conservation portfolio while delaying further implementation of the Conservation Security Program until FY2012. The Senate passed its version of this legislation on December 14 (H.R. 2419, amended) by a vote of 79 to 14, after adopting a wide-ranging manager's amendment. This legislation would create a new Conservation Stewardship Program that combines features of the Conservation Security and Environmental Quality Incentives Programs. It would provide level funding for most existing conservation programs and create several new programs within existing programs.

The House- and Senate-passed versions differ in numerous ways that will have to be resolved by the conference committee; the most significant of these differences is that the House version allows no new signups in the Conservation Security Program (CSP) until FY2012 while the Senate version replaces the CSP with a new Conservation Stewardship Program and requires that more than 13 million acres be enrolled annually. While the House bill would increase conservation funding by more than $4.5 billion and the Senate bill would increase it by almost $4.8 billion, the differences in which programs would be increased, and by how much, must also be resolved.

Congressional appropriators influence the scope and scale of conservation programs annually. The President signed the Consolidated Appropriations Act, 2008, on December 26, 2007. It provides funding for the rest of FY2008. It makes several adjustments to funding for conservation programs (for example, limiting funding for the Environmental Quality Incentives Program to $1.0 billion), extends funding for three farm bill programs that expired at the end of FY2007 through March 15, 2008, and includes a 0.7% across-the-board rescission.

Contents

Most Recent Developments 1

Evolution of Federal Resource Conservation Issues 2

Current Major Conservation Activities 3
- Conservation Reserve Program (CRP) 4
- Wetlands and Agriculture 6
- Environmental Quality Incentives Program (EQIP) 7
- Conservation Security Program (CSP) 8
- Technical Assistance 10
- Selected Other Conservation Activities 11
  - Watershed Programs 11
  - Conservation Compliance and Sodbuster 12
  - Resource Conservation and Development (RC&D) 12
  - Farmland Protection Program (FPP) 13
  - Wildlife Habitat Incentives Program (WHIP) 13
  - Emergency Conservation Programs 13
  - Water Quality Programs and Initiatives 14
  - Private Grazing Lands Program 15
  - Grasslands Reserve Program 15
  - Healthy Forests Reserve 15
  - Air Quality Activities 15
  - Research and Technical Activities 16
  - Program Evaluation 16
  - Other Conservation Programs and Provisions 16

Conservation Funding 17
- FY2008 Appropriations 17

Pending Omnibus Farm Bill 18
- The Senate Farm Bill Conservation Title 20
- The House Farm Bill Conservation Title 23
- Bush Administration and Other Recommendations 26

Soil and Water Conservation: An Overview

Most Recent Developments[1]

The House and Senate completed action on their respective versions of a new farm bill in 2007 (H.R. 2419). However, conference action was initially delayed in part because of differences between committee leadership and the Administration over the inclusion of tax provisions in the bill, and the Administration's demand for additional reform of commodity programs. Consequently, Congress temporarily extended portions of the expiring 2002 farm bill until March 15, 2008, as part of the Consolidated Appropriations Act for FY2008 (P.L. 110-161). Since March, Congress has approved a one-month extension, followed by three consecutive short-term extensions lasting through May 16.[2] Both the House and Senate have named conferees. Conferees began official meetings in April 2008, and have been working to resolve approaches to finance new spending above baseline using tax provisions not usually associated with farm bills.

The House and Senate versions of the pending omnibus farm bill differ in numerous ways that will have to be resolved by the conference committee. In conservation, the most significant difference is that the House version allows no new signups in the Conservation Security Program (CSP) until FY2012, while the Senate version replaces the CSP with a new Conservation Stewardship Program that combines features of the existing CSP and Environmental Quality Incentives Program, requiring that more than 13 million acres be enrolled annually. The Senate bill provides level funding for most existing conservation programs while increasing overall conservation funding by almost $4.8 billion between FY2008 and FY2012, and creates several new programs (mostly within existing programs). The House bill increases overall funding for conservation by more than $4.5 billion between FY2008 and FY2012 and adds several small new programs to the conservation portfolio, while eliminating very little of the current effort beyond delaying further enrollment in the CSP until FY2012.

Congress completed action on FY2008 funding for agriculture when it passed the Consolidated Appropriations Act, 2008 (H.R. 2764). The President signed this bill on December 26, 2007. It makes several adjustments to funding for conservation programs (for example, limiting funding for the Environmental Quality Incentives Program to $1.0 billion and providing $30 million for Watershed Operations),

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[1] This report is an updated and revised version of a report originally written by former CRS specialist Jeffrey A. Zinn.

[2] March 12 (P.L. 110-196), April 17 (P.L. 110-200), April 24 (P.L. 110-205), and May 1 (P.L. 110-208).

extends funding for three farm bill programs that expired at the end of FY2007 through March 15, 2008, and includes a 0.7% across-the-board rescission.

Evolution of Federal Resource Conservation Issues

Conservation of soil and water resources has been a public policy issue for more than 60 years, an issue repeatedly recast as new problems have emerged or old problems have resurfaced. Two themes — reducing high levels of soil erosion and providing water to agriculture in quantities and quality that enhance farm production — dominated public policy debates about conservation until 1985.

Congress responded repeatedly to these themes before 1985 by creating or revising programs designed to reduce resource problems on the farm. They combined voluntary participation with technical, educational, and financial assistance incentives. By the early 1980s, however, concern was growing, especially among environmentalists, that these programs were not adequately dealing with environmental problems resulting from agricultural activities (especially off the farm). Publicized instances of significant problems, especially high soil erosion rates said to rival the dust bowl era, increased awareness and intensified the policy debate.

Congress responded, in a watershed event, by enacting four major new conservation programs in the conservation title of the Food Security Act of 1985 (P.L. 99-198). One of these programs, the Conservation Reserve Program (CRP), greatly increased the federal financial commitment to conservation and targeted federal funds at some of the most severe problems by retiring land under multi-year contracts. The other three, Sodbuster, conservation compliance, and Swampbuster, created a new approach to conservation by halting producer access to many federal farm program benefits if they did not meet conservation program requirements for highly erodible lands and wetlands. Three of these four programs (all except Swampbuster) addressed soil erosion.

Provisions enacted in the next farm bill, the Food Agriculture, Conservation and Trade Act of 1990 (P.L. 101-624), reflected a rapid evolution of the conservation agenda, including the growing influence of environmentalists and other non-agricultural interests in the formulation of conservation policy, and a recognition that agriculture was not treated like other business sectors in many environmental laws. Congress expanded this agenda to address groundwater pollution, water quality, and sustainable agriculture, and allowed for the use of easements, as well as amending existing programs. Amendments to the CRP reflect these changes; its earlier focus on highly erodible land (and on stabilizing land prices) has been adjusted, especially in the 1990 farm bill, to give greater emphasis to environmental concerns.

After congressional party control switched in 1994, conservation policy discussions turned to identifying ways to make the conservation compliance and Swampbuster programs less intrusive on farmer activities. This switch also appeared to reduce the influence of environmental interests in developing conservation policy. However, the Federal Agricultural Improvement and Reform Act of 1996 (P.L. 104-127) included a wide-ranging conservation title. The enacted bill gave considerable

attention to wildlife, and enacted new programs dealing with farmland protection, grasslands, and other topics. It also funded many of these new programs as mandatory for the first time, using the Commodity Credit Corporation as the funding mechanism.[3]

The nature of the conservation effort continued to evolve after 1996, as reflected in the provisions of the most recent farm bill, the Farm Security and Rural Investment Act of 2002 (P.L. 107-171). Conservation themes in this farm bill included (1) increasing overall funding; (2) creating new programs and addressing new issues; and (3) providing more conservation on lands in production (called working lands), primarily through the new Conservation Security Program. One factor that influenced the decision to provide more funding was the large backlog of interested and qualified applicants who could not participate because of insufficient funds. A new factor in this farm bill was considering how funding for farm programs generally, and conservation specifically, could be used to meet world trade obligations.[4] Themes for conservation and the broader context within which the farm bill is being debated have continued to change, and are described below in the section on the 2007 farm bill.

Current Major Conservation Activities

USDA's conservation efforts have centered in recent years on implementing the Conservation Reserve Program (CRP), wetland protection programs, the Environmental Quality Incentives Program (EQIP), and the Conservation Security Program (CSP), and on providing technical assistance. Funding for the overall conservation effort will have grown much larger by the end of FY2007, when many of the farm bill programs authorized in the 2002 law expired. General trends in policy for the suite of conservation programs between 2002 and 2007 included less emphasis on land retirement and on land producing row crops, and more attention to conservation on land in other agricultural uses and to livestock producers. Recognizing this expanding effort, Congress in the 2002 farm bill required the Secretary to submit a report to both agriculture committees about how to better coordinate and consolidate conservation programs, including implementing recommendations. That report was delivered in July 2006.[5]

Lead conservation agencies are the Natural Resources Conservation Service (NRCS), which provides technical assistance and administers most programs, and the Farm Service Agency (FSA), which administers the most expensive current program,

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[3] For an overview of conservation provisions in the 1996 farm bill, see CRS Report 96-330, *Conservation Provisions in the Farm Bill: A Summary*, by Jeffrey A. Zinn.

[4] For detailed information about the enacted provisions in the farm bill's conservation title, including how they compare with prior law, see CRS Report RL31486, *Resource Conservation Title of the 2002 Farm Bill: A Comparison of New Law with Bills Passed by the House and Senate, and Prior Law*, by Jeffrey A. Zinn.

[5] U.S. Department of Agriculture, *Reform and Assessment of Conservation Programs: A Report to Congress*, submitted July 10, 2006.

the CRP. These agencies are supported by others in USDA that supply research and educational assistance, including the Agricultural Research Service, the Forest Service, and the Economic Research Service.[6] In addition, the conservation effort involves a very large array of partners, including other federal agencies, state and local governments, and private organizations, among others, who provide funds, expertise, and other forms of assistance to the conservation effort.[7]

Conservation Reserve Program (CRP)

Under the CRP, producers can bid to enroll highly erodible or environmentally sensitive lands into the reserve during signup periods, retiring it from production for 10 years in almost all instances. Successful bidders receive annual rental payments and cost-sharing and technical assistance. Enrollment can total up to 39.2 million acres. However, enrollment (in combination with land enrolled in the Wetland Reserve Program, discussed below) is limited to 25% of the crop land in a county. Funding is mandatory spending.[8] FSA's summary of participation through February 2007 shows almost 36.8 million acres were enrolled, with more than 4 million acres in Texas and almost 3.5 million acres in Montana.[9] Only land that was cropped in four of six years preceding enactment is eligible, thus making it more difficult to bring land into production primarily to gain access to the program. A sub-program can enroll up to 1 million acres of small, isolated farmable wetlands. Since 2002, some economic uses of enrolled lands have been permitted in return for a reduction in annual rental payments.

In August 2005, Secretary of Agriculture Johanns announced that USDA would offer opportunities to reenroll or extend contracts involving more than 28 million acres of land where current contracts expire between 2007 and 2010. Priority for reenrollment was based on the relative ranking of the land using the Environmental Benefits Index, with additional credit being given for land located in any of five national priority areas or areas of significant adverse water quality or habitat impacts. Contracts were offered in five groups. Land in the highest ranked group was reenrolled for 10 years (with 15 years for restored wetlands), using updated market rental rates to reflect changes in local market conditions. Land in the other four groups received contract extensions at existing rental rates, with the second highest group receiving five-year extensions and the lowest group receiving two-year

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[6] For background information on the suite of current conservation programs administered by NRCS and FSA, see CRS Report RL32940, *Agriculture Conservation Programs: A Scorecard*, by Jeffrey A. Zinn and Tadlock Cowan.

[7] One of many recent examples of such partnerships is the November 8, 2006 announcement of a partnership with the Defense Department to promote land conservation near military bases.

[8] Mandatory spending means that funding levels (or for this program, acreage enrollment levels) are authorized for each year in the 2002 farm bill and provided through the borrowing authority of the Commodity Credit Corporation, with no annual appropriation required.

[9] Information on the CRP, including announcements and enrollment statistics, can be found at [http://www.fsa.usda.gov/daft/cepd/crp.htm].

extensions. On March 8, 2007, FSA announced that 23.2 million acres would reenroll or extend their contracts out of the 27.8 million set to expire between 2007 and 2010; the other 4.6 million acres will exit the program when contracts expire. Some of these acres will be planted to meet the growing demand for corn to produce ethanol, and FSA also stated that approximately 1.4 million of the 4.6 million acres are located in major corn producing areas. More recently, USDA announced with its FY2008 budget request that it does not anticipate holding a general sign-up in 2007 or 2008. More recently, interest has grown in providing producers with the option to leave the program without penalty because of high market prices for corn, wheat, and soybeans; and the Department has repeatedly responded that it does not see any justification for such an option at this time.

USDA has estimated that the average erosion rate on enrolled acres has been reduced from 21 to less than 2 tons per acre per year. Retiring these lands also expanded wildlife habitat, enhanced water quality, and restored soil quality. The annual value of these benefits has been estimated from less than $1 billion to more than $1.5 billion; in some regions where participation is most concentrated, estimated benefits exceed annual program costs, which have averaged about $50 per acre per year. However, the Government Accountability Office (GAO) and others have criticized the potentially ephemeral nature of these benefits, because the landowner is under no obligation to retain them after contracts expire, although they must follow a conservation plan on any previously enrolled highly erodible land to retain eligibility for many types of farm program payments.

In addition to general signups, FSA has enrolled more than 3.7 million acres under several more targeted options. These acres, which count against the overall enrollment cap of 39.2 million acres, can be enrolled continuously because they are presumed to provide large environmental benefits. The three largest and oldest options, all authorized in legislation, are:

- Continuously enrolling portions of fields with especially high environmental values. Through February 2007, more than 2.6 million acres had been enrolled, with more than 465,000 acres in Iowa. The most common conservation practice at these sites is buffer strips along water bodies.
- A state-initiated enhancement program (Conservation Reserve Enhancement Program, or CREP) under which states contribute funds so that higher rents can be offered to potential participants in specified areas where benefits will be concentrated. For example, Maryland, the first state to implement a CREP, is enrolling stream buffers, restored wetlands, and highly erodible lands along streams in a portion of the Chesapeake Bay watershed. Currently, 29 states have one or more approved enhancement programs (3 states have more than one program), and requests are pending from several additional states. FSA data show that almost 920,000 acres had been enrolled through February 2007.
- A program to enroll up to 1 million acres of small, isolated farmable wetlands. USDA offers signup bonuses to attract participation. More than 162,000 acres had been enrolled through February 2007, with more than 71,000 of those acres in Iowa.

Other newer options, all established through administrative actions by USDA, include enrolling up to 500,000 acres of floodplains to be planted to hardwood trees, with allotments specified for states; enrolling up to 250,000 acres of field boarders for northern bobwhite quail habitat; creating up to 250,000 acres of wetlands in non-floodplain areas; and restoring up to 250,000 acres of long leaf pine, 100,000 acres of duck nesting habitat, and 500,000 acres to meet priority needs in all states (with allocations to each state). Finally, a new emergency forestry conservation program was enacted in supplemental appropriations in the wake of Hurricane Katrina in 2005 under which FSA estimates that 700,000 acres will be restored.

NRCS provides technical assistance in support of CRP, but the 1996 farm bill placed a cap on funding from the CCC that can be used to reimburse agencies for services provided to deliver CCC programs. These funds have been insufficient to pay all related technical assistance costs at times in recent years, and in FY1999, NRCS briefly suspended CRP-related activities. NRCS now has a line item in its budget for this purpose and received $76.4 million for FY2006. Congressional efforts to provide adequate technical assistance funding are discussed in the subsection titled "Technical Assistance," below.[10]

Wetlands and Agriculture

Swampbuster and the Wetlands Reserve Program (WRP) have been the main agricultural wetland protection programs. (A 1 million acre program for small, isolated farmable wetlands, added to the CRP in the 2002 farm bill, is discussed above.) Under Swampbuster, farmers who convert wetlands to produce crops lose many federal farm program benefits until the wetland is restored. Swampbuster includes several exemptions from loss of benefits, such as any wetland conversion that was initiated prior to December 23, 1985 (the date of enactment), or a wetland that is created as a result of adjacent development. It allows a partial penalty, meaning that fewer benefits are lost, once a decade.

Swampbuster has been controversial since it was first enacted in 1985. Some from the farm community view wetland protection efforts on agricultural lands as too extensive or overzealous. They observe that it protects some sites that appear to provide few of the values attributed to wetlands. A portion of this group also view these efforts as an unacceptable intrusion of government into the rights of private property owners, or "takings." Environmental and other groups counter that the Swampbuster program has been enforced weakly and inconsistently, with few violators losing farm program benefits. Controversies also arise over inconsistencies, such as when adjoining states use different interpretations of rules that lead to different determinations.

A wetland issue for agriculture was raised in January 2001 after the Supreme Court determined, in *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers* (531 U.S. 159 (2001)), that the Clean Water Act's

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[10] For more information on CRP, see CRS Report RS21613, *Conservation Reserve Program: Status and Current Issues*, by Tadlock Cowan.

Section 404 regulatory wetland permit program should not apply to certain "isolated waters." One result is that an estimated 8 million acres of agricultural wetlands that had been subject to the Section 404 program is now subject only to Swampbuster. Up to 1 million of these acres may be enrolled in the farmable wetland component of the CRP.[11] The Supreme Court issued subsequent decisions on two cases that continue to alter the reach of the Section 404 program.[12]

The second wetlands program, the WRP, was established in the 1990 farm bill. It uses permanent and temporary easements and long-term agreements to protect farmed wetlands. Enrollment reached almost 1.9 million acres by September 30, 2006. Permanent easements account for more than 80% of the total, and have been perfected on almost 1.5 million acres. The Secretary has the option of delegating the administration of easements to other federal or state agencies with the necessary expertise. It currently has an enrollment cap of 2,275,000 acres, and annual enrollment is limited to 250,000 acres. Funding is mandatory through the CCC. The Office of Inspector General released an audit report in 2006 which found that "unwarranted payments" had been made because of lax controls and poor appraisals.

On June 29, 2004, USDA announced a partnership initiative in Nebraska, modeled after the CREP component of the CRP, to enroll almost 19,000 acres. This may be a prototype for future initiatives. Another recent initiative taken administratively will be used to create 250,000 acres of wetlands in non-floodplain areas (see the CRP discussion, above).[13] During FY2006, NRCS used a "reverse auction" to enroll more than 3,500 acres under 16 new easements, at a savings to the federal government that it calculated to be more than $800,000.

Environmental Quality Incentives Program (EQIP)

EQIP encourages farmers to participate in conservation efforts by paying a portion of the cost of installing or constructing approved conservation practices. EQIP is a mandatory spending program which supports structural, vegetative, and land management practices. Each year, 60% of the funds are to be used to address the needs of livestock producers. The Deficit Reduction Act of 2005 (P.L. 109-171) extended the authorization through 2010, and delays funding it at $1.3 billion until 2010 (with somewhat lower levels through FY2009) to create savings in the intervening years. The total of all EQIP payments that a single entity can receive, combined, is $450,000 during any six-year period. Contracts can be 1 to 10 years in length. A conservation plan is required to participate. Producers with comprehensive nutrient management plans (one type of conservation plan) are eligible for incentive payments, and producers receiving funding for animal waste

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[11] For more information on this decision, see CRS Report RL30849, *The Supreme Court Addresses Corps of Engineers Jurisdiction Over "Isolated Waters": The SWANCC Decision*, by Robert Meltz and Claudia Copeland.

[12] For background on these two cases, see CRS Report RL33263, *The Wetlands Coverage of the Clean Water Act Revisited: Rapanos and Carabell*, by Robert Meltz and Claudia Copeland.

[13] For more information about wetlands, see CRS Report RL33483, *Wetlands: An Overview of Issues*, by Claudia Copeland and Jeffrey A. Zinn.

manure systems must have these plans. Beginning and limited resource producers are eligible for additional cost-sharing assistance. The implementing regulations list four national priorities that guide decisions about which producers will receive assistance and help optimize environmental benefits from this program. NRCS gathered public comments about whether these priorities should be altered at a national listening session on May 5, 2005 (and at state listening sessions).[14]

Three subprograms were authorized in 2002. First, a portion of EQIP funds in FY2003 through FY2006 can be used to make grants for innovative efforts, such as fostering markets for nutrient trading. NRCS first awarded grants in FY2004, and most recently, in FY2006, it awarded almost $25 million to more than 150 recipients. Awards for FY2007 will be announced later in the year. Second, additional funds, starting at $25 million in FY2002 and growing to $60 million annually between FY2004 and FY2007, are authorized for a new ground and surface water conservation subprogram. In FY2002, funds were provided to eight states that are located on top of the high plains aquifer. The program has expanded each year since, primarily to areas suffering from drought and water shortages. According to the NRCS, it has been used to enroll more than 1.5 million acres under more than 5,000 contracts, and obligations have totaled more than $130 million.[15] Third, an additional $50 million was earmarked for the Klamath River basin in Oregon and California, and was to be provided as soon as possible. Since the program began, irrigation water management has been applied on more than 62,000 acres and conservation practices on almost 110,000 acres.

Interest in participating in EQIP continues to far exceed available funds, even with the large increases in authorized amounts. For FY2006, NRCS reported that it received almost 78,000 approved applications, but was only able to sign some 41,000 contracts, which provided a total of $788 million in financial assistance. The remaining almost 33,000 applications that would have provided $636 million in financial assistance could not be funded.[16]

Conservation Security Program (CSP)

Section 2001 of the 2002 farm bill authorized the new Conservation Security Program (CSP) to provide payments to producers on all agricultural land that was

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[14] This process has been criticized, especially by those from states who believe they should be receiving a higher allocation. The Government Accountability Office reviewed how EQIP funds are allocated among states in a recent report; *Agricultural Conservation: USDA Should Improve Its Process for Allocating Funds to States for the Environmental Quality Incentives Program*, September 2006, GAO-06-969.

[15] NRCS and FSA produce fact sheets that briefly describe their programs; these fact sheets, reached on the "programs" page on the NRCS website and on the "conservation" page on the FSA website, are written primarily to inform potential program participants. The NRCS website for programs is [http://www.nrcs.usda.gov/programs], and the website for FSA programs is [http://www.fsa.usda.gov/dafp/cepd/epd].

[16] Unfunded applications include those that were preapproved, deferred, eligible, pending, and disapproved. For further information on EQIP, see CRS Report RS22040, *Environmental Quality Incentives Program (EQIP): Status and Issues*, by Jeffrey A. Zinn and Carol Canada.

cropped in four of six years before 2002. Payments are based on which of three levels of conservation is planned for and practiced. The lowest level allows contracts of five years and annual payments up to $20,000; the middle level allows contracts of 5 to 10 years and annual payments up to $35,000; the top level allows contracts of 5 to 10 years and annual payments up to $45,000. The lowest level requires a plan that addresses at least one resource concern on part of a farm; the middle level requires a plan that addresses at least one resource concern on the entire operation, and the top level requires a plan to address all resource concerns on the entire operation.

Implementation has proven controversial, as the authorizing legislation created this program as a true entitlement, but appropriators prohibited funding in FY2003, then limited available funding each year subsequently. As a result, CSP has been growing, but much more slowly than proponents would like. NRCS has responded to these funding constraints in the way that it has implemented the program, limiting signups to producers in designated watersheds. After three years of implementation, the program has more that 19,000 participants in 280 watersheds. In these watersheds, about 15.7 million acres has been enrolled in the program. Requested funding for FY2008 was $316 million, an increase of $57 million from FY2007. However, this increase only will be enough to support contracts on land that is currently enrolled. This program has another component new to the conservation effort; it requires interested producers to complete an extensive self-assessment to determine their eligibility, the first time it has required this amount of work from producers interested in enrolling in conservation programs, as a prerequisite to determining whether they will be accepted.[17]

The most recent congressional action to cap CSP funding was in reconciliation legislation enacted February 8, 2006 (P.L. 109-171), where it was capped at a total of $1.954 billion from FY2006 through FY2010, and at $5.65 billion from FY2006 through FY2015. The budget resolution that set FY2007 spending provides only enough funding to support existing contracts. These actions generated complaints from program supporters, who view the current funding situation as being at odds with the entitlement that was envisioned in 2002 and are looking for alternatives to gain additional funding.[18] Earlier actions related to CSP funding include the following:

- In FY2002, CBO scored CSP at $2 billion over 10 years.
- In 2003, CBO revised this estimate to $6.8 billion.
- In FY2003 appropriations, Congress limited CSP funding to $3.7 billion through FY2013 to pay for emergency drought assistance.
- In FY2004 appropriations, Congress eliminated the 10-year cap, but limited FY2004 funding to $41.4 million.

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[17] The GAO issued a report in April 2006 in which it found that some producers were receiving payments through multiple conservation programs for a practice. The program is titled *Conservation Security Program: Despite Cost Controls, Improved USDA Management is Needed to Ensure Proper Payments and Reduce Duplication with other Programs* (GAO-06-312).

[18] For more information, see CRS Report RS21740, *Implementing the Conservation Security Program*, by Tadlock Cowan.

- In 2004, CBO revised its estimate to $8.9 billion through FY2014.
- In FY2005 supplemental appropriations, Congress limited CSP to $6.37 billion to provide $2.9 billion for agriculture disaster assistance.
- Congress limited FY2005 funding to $202 million; FY2006 funding to $259 million, and FY2007 funding to $259 million.

Technical Assistance

NRCS provides technical assistance (TA) at the request of the landowner to conserve and improve natural resources. TA includes professional advice on how to design, install, and maintain land management, vegetative, and structural practices that provide conservation benefits. NRCS combines that advice with knowledge of local conditions. TA is a component of most conservation programs, and NRCS estimates that the cost of providing it in FY2005 amounted to about $1.45 billion.[19] Almost $1.0 billion of this total came from discretionary accounts. Two issues associated with technical assistance have been whether NRCS has the capacity to meet the growing demand as funding for programs increases, and how technical assistance costs should be funded for mandatory programs.

NRCS is permitted to augment the technical assistance capacity of the agency by allowing producers to use approved third parties to provide this assistance. In the June 7, 2006, oversight hearing, NRCS Chief Bruce Knight testified that more than 2,500 applications to perform these services had been approved. These people had provided the equivalent of 520 staff years of support between 2003 and 2006, at a cost of $163.5 million to the agency.

A subsection of Section 2701 of the 2002 farm bill provided that technical assistance in support of each mandatory program come from the funding provided by the CCC for that program. However, the Office of Management and Budget, supported by the Department of Justice, issued an opinion in late 2002 that technical assistance funding for mandatory programs remains limited under a cap that has been placed in Section 11 of the CCC charter under prior law. Many in Congress had thought that the language in the 2002 farm bill had resolved this issue, and they were supported in this conclusion by a GAO opinion.

The Administration proposed in its FY2003, FY2004, and FY2005 budget requests to address this limit by creating a new farm bill technical assistance account, to be funded through annual appropriations. Congress rejected these proposals. In FY2003 and FY2004, Congress prohibited using any of the discretionary funds from Conservation Operations for technical assistance to implement any mandatory programs. This prohibition, combined with a retention of the cap on CCC funds that can be spent on administrative expenses, meant that some of the mandatory programs donated funding for technical assistance to other programs, thereby leaving less

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[19] For more information on how funds for technical assistance (and financial assistance) are allocated, see Natural Resources Conservation Service, U.S. Department of Agriculture. *FY2007 Program Allocation Formulas and Methodologies*. December, 2006, 41 p.

money available to implement "donor program" activities.[20] In P.L. 108-498 (S. 2856), enacted December 23, 2004, Congress amended the 1985 farm bill to require that technical assistance for each mandatory program be paid from funds provided for that program annually, and that funding for technical assistance cannot be transferred among the mandatory funded programs, starting in FY2005.

Other actions related to technical assistance may also attract congressional interest. A GAO report, released in November 2004, might contribute to discussions about the cost of providing technical assistance, which critics state is too high and reduces the amount of money available for program participants.[21] Second, in February 2005, NRCS announced new policy guidance for technical assistance that will establish national priorities. For FY2007, as for FY2006, these priorities centered on helping producers comply more easily with environmental regulatory requirements. Third, in September 2005, NRCS initiated a new pilot program for conservation planning in nine states, using a land-owner self-assessment process. This assessment process appears to follow the process developed for producers who are interested in participating in the CSP, and wish to determine their eligibility.

Selected Other Conservation Activities

Federal conservation efforts include many additional activities and programs. The list below includes only selected conservation activities in USDA that are administered by NRCS and FSA.[22] Other USDA agencies that make significant contributions to the conservation effort include the Agricultural Research Service, the Economic Research Service, and the Forest Service. Also, none of the many other conservation programs that Congress has authorized but that are not being implemented (in some cases, they have never been implemented) are included here. (Please note that any recent funding issues associated with these programs are discussed below in the "Conservation Funding" section.)

Watershed Programs. NRCS has worked with local sponsors for more than 50 years to construct more than 10,500 structures to prevent floods, protect watersheds, and control erosion and sediments, among other things, under two authorities, P.L. 534 and P.L. 566. Projects continue to be constructed under both authorities, although at a slower pace, as appropriations have remained relatively constant or declined in recent years. An Emergency Watershed Program responds to emergencies created by natural disasters (see discussion of "Emergency

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[20] For example, in FY2003, the EQIP was authorized at $695 million. Of that total, $145 million was to be spent on TA, leaving $550 million for cost-sharing assistance to producers. But EQIP was a donor program because an additional $107 million was diverted from the program to pay for TA in other mandatory conservation programs, leaving $442 million for cost-sharing assistance for producers. Other donor programs in FY2003 included the Farmland Protection Program, the Grasslands Reserve Program, and the Wildlife Habitat Incentives Program; they contributed a total of just over $50 million.

[21] Government Accountability Office, *USDA Should Improve Its Methods for Estimating Technical Assistance Costs*, November 2004 (GAO-05-58).

[22] General program information for the NRCS programs can be found at [http://www.nrcs.usda.gov/programs], and for the FSA programs, general program information can be found at [http://www.fsa.usda.gov/dafp/cepd/epd].

Conservation Programs," below). Funding varies greatly from year to year, and is provided in supplemental appropriations. Over the past decade, funding has averaged $131 million per year, but in FY2005 it was $354.5 million, while in FY2007, no funding was provided. The FY2008 omnibus appropriations legislation provides $30 million.

A rehabilitation program for aging small watershed structures that are reaching or have exceeded their design life was enacted in the Small Watershed Rehabilitation Amendments of 2000 (Section 313 of P.L. 106-472). Both mandatory and discretionary funding are authorized each year; mandatory funding rises from $45 million in FY2003 to $65 million in FY2007, and discretionary funding can be as large as $45 million in FY2003 and grow up to $85 million in FY2007. To date, appropriators have not provided any of the mandatory funds and have provided only a portion of the discretionary funds. The law permits federal funds to pay for 65% of rehabilitation projects, with the remainder coming from local sponsors. Through FY2005, 132 rehabilitation projects in 22 states had been initiated and 47 dams had been rehabilitated.

Conservation Compliance and Sodbuster. Under conservation compliance and Sodbuster provisions, established in the 1985 farm bill, producers who cultivate highly erodible land (HEL) are ineligible for most major farm program benefits, including price supports and related payments. These benefits are lost for all the land the farmer operates. A smaller penalty can be imposed on producers once every five years if circumstances warrant. Producers who cultivate highly erodible land using an approved conservation plan are not subject to conservation compliance. Section 2002 of the 2002 farm bill prohibited USDA from delegating authority to other parties to make highly erodible land determinations. Any person who had HEL enrolled in the CRP has two years after a contract expires to be fully in compliance.

According to 1997 data compiled by NRCS, producers were actively applying plans on more than 97% of the tracts of land that were reviewed. NRCS estimates that soil erosion on these acres is being reduced from an average of 17 tons per year to 6 tons per year. Critics, primarily from the environmental community, have contended that USDA staff has not vigorously enforced these requirements, and cite a recent GAO report to support some of their contentions.[23] Others, primarily from the agriculture community, have countered that the department has been too vigorous at times.

Resource Conservation and Development (RC&D). RC&D provides a framework for local interests to work together to improve the economy, environment, and living standard in multi-county areas through RC&D Councils that develop and implement plans. USDA provides technical and financial assistance to councils, and helps them secure funding and services from other sources. Projects are implemented to improve natural resources, address waste disposal needs, foster economic development, and address other similar needs. According to NRCS, 375 areas encompassing more than 85% of the counties in the country have been designated. This total includes the 7 most recent additions that were accepted from

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[23] Government Accountability Office, *USDA Needs to Better Ensure Protection of Highly Erodible Cropland and Wetlands*, April 2003 (GAO-03-418).

28 applications during the summer of 2003; at the start of FY2006, an additional 32 applications were pending.

Farmland Protection Program (FPP).[24] The 1996 farm bill authorized USDA to assist state and local governments to acquire easements to limit conversion of agricultural lands to nonagricultural uses. Funding was authorized at $97 million for FY2007. The definition of eligible land includes not only farmland, but rangeland, pastureland, grassland, certain forest land, and land containing historic or archeological resources as well. Land enrolled in the program is subject to conservation compliance. Certain private nonprofit organizations are eligible to receive these funds. Eligible lands must be subject to a pending offer. Through FY2006, almost $452 million had been obligated to acquire 1,561 easements on almost 312,000 acres in 42 states. An additional 909 easements were pending on more than 169,000 acres. States where the most funds have been obligated include Maryland ($29.1 million), New Jersey ($25.7 million), and Pennsylvania ($25.2 million).[25]

Wildlife Habitat Incentives Program (WHIP). WHIP was authorized in 1996 to provide cost-sharing and technical assistance for conservation practices that primarily benefit wildlife. Funding was authorized at $85 million in FY2007. Up to 15% of the funding each year may be used for higher cost-sharing payments to producers who protect and restore essential plant and animal habitat under agreements of at least five years. Through FY2005, almost 3.7 million acres had been enrolled under more than 24,000 agreements.

Emergency Conservation Programs. The two emergency conservation programs are the Emergency Watershed Program (EWP) administered by the NRCS, and the Emergency Conservation Program (ECP) administered by the FSA. The EWP provides technical and cost-sharing assistance for projects that restore land after flooding and help to protect it from future damage. The ECP provides cost-sharing and technical assistance to rehabilitate farmland damaged by natural disasters, and to carry out emergency water conservation measures during severe drought. Emergency programs are implemented most years when funding is provided in response to natural disasters.

In the wake of a very busy hurricane season in 2005, and especially Hurricane Katrina, Congress provided $300 million to the EWP and $199.8 million to the ECP in Division B, Title I, of FY2006 Defense appropriations (P.L. 109-148, enacted December 30, 2005). It also created a new Emergency Forestry Conservation Reserve Program (EFCRP), modeled after the CRP and to be administered within it, and appropriated $404 million for this effort. In June 2006, Congress passed additional emergency supplemental funding (P.L. 109-234, enacted June 15, 2006), which provided an additional $51 million to the EWP and $100 million to the new EFCRP, as well as making several other changes to improve access to these emergency programs. Emergency legislation, including additional funding for these two programs, was attached to the FY2006 appropriation. After that legislation was not

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[24] USDA calls this program the Farm and Ranch Lands Protection Program.

[25] For more information, see CRS Report RS22565, *Farm Protection Program*, by Renée Johnson.

enacted, supporters have attempted to attach this funding to other legislation. Currently, it is included in the pending bill that would provide supplemental funding for the war in Iraq.

Water Quality Programs and Initiatives. Pollution in ground and surface waters has emerged as a major issue for conservation policy as more instances of contamination in which agricultural sources play major roles have been identified. Specific occurrences that have driven public interest and concern in recent years range from a very large hog farm waste spill in North Carolina to the *Pfiesteria* outbreak and fish kills in portions of the Chesapeake Bay, hypoxic conditions creating a large "dead zone" in the central Gulf of Mexico, and less extensive ones in other coastal sites such as Chesapeake Bay. Questions are being raised about the extent of the problems, the severity of the potential threat to human health, the adequacy of government programs, and the contribution of agriculture. In some cases, producers may have contributed to contamination even though they followed accepted agricultural practices. Current agricultural conservation programs that address water quality concerns center on EQIP, plus the Enhancement Program (CREP) and the continuous enrollment option under CRP.

EPA announced a final revised rule for managing nutrient wastes from animal feeding operations, as required under court order, on December 12, 2002. Large operators are required to develop comprehensive nutrient management plans while smaller operators are encouraged to develop them.[26] Farm interests were generally pleased because the rule affects fewer producers and costs less when compared with earlier proposals. On February 27, 2004, NRCS released its *National Animal Agriculture Conservation Framework*, which it describes as a blueprint for assisting livestock and poultry producers with their voluntary efforts to deal with environmental issues.[27]

Water quality problems are being addressed not only through the programs discussed above, including the CSP and the Ground and Surface Water Conservation Program under EQIP, but also through other farm bill programs, including:

- the Small Watershed Rehabilitation Program (discussed above);
- the Agricultural Management Assistance Program, which provides $20 million annually between FY2003 and FY2007 and $10 million annually thereafter to 15 specified states that have been chronically underserved by risk management programs (subsequent amendments limited conservation funding to $14 million annually until FY2007);
- a program for the Great Lakes Basin states;
- a Grassroots Source Water Protection Program; and
- a program for the Delmarva Peninsula.

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[26] This rule was published in the February 12, 2003, *Federal Register*, effective April 14, 2003.

[27] For more information on this rule, see CRS Report RL31851, *Animal Waste and Water Quality: EPA Regulation of Concentrated Animal Feeding Operations (CAFOs)*, by Claudia Copeland.

In addition, USDA released a draft framework for addressing animal agriculture conservation on September 9, 2003. The framework discusses how USDA can help producers meet environmental regulatory requirements and promote new opportunities while sharing knowledge and increasing accountability.

The 108th Congress enacted legislation (P.L. 108-328) authorizing funding for the New York City Watershed Protection Program through FY2010. This program, funded primarily by New York City, intensively installs conservation practices on farms (and funds other actions in response to other types of land use) in watersheds that provide drinking water to New York City to maintain a level of water quality that precludes the need to build a very expensive new water treatment plant. The program requires participation by at least 85% of the farms in the watershed. If that participation level is not maintained, the city would be required to build a treatment system, estimated to cost between $5 billion and $8 billion to construct and $200 million to $500 million annually to operate. In April, 2007, the U.S. Environmental Protection Agency announced that it would continue the exemption from having to build a treatment plant to 2017, an additional 10 years.

Private Grazing Lands Program. This voluntary coordinated technical and educational assistance program was initially enacted in the 1996 farm bill to maintain and improve resource conditions on private grazing lands. Appropriations of $60 million annually through FY2007 were authorized, and appropriators have funded this program by earmarking a portion of NRCS's Conservation Operations funds, providing $27.2 million in FY2006.

Grasslands Reserve Program. A new land retirement and rehabilitation program, Grasslands Reserve Program, was authorized to retire 2 million acres under arrangements ranging from 10-year agreements to permanent easements. Easements can be delegated to certain private organizations and state agencies. The enacted funding cap of $254 million was reached in FY2006. Through FY2006, 3,166 participants had enrolled slightly more than 1 million acres. Applications have greatly exceeded available funding; in FY2005, 1,219 applications to enroll almost 385,000 acres were approved; this was 16% of the applications received.

Healthy Forests Reserve. Title V of the Healthy Forests Restoration Act of 2003 (P.L. 108-148) established a program from 2004 through 2008 to help landowners to restore and enhance forest ecosystems using 10-year agreements, 30-year easements, and easements up to 99 years. Participants are to be able to show that participation will improve the likelihood that threatened or endangered species will recover, biological diversity will improve, or additional carbon will be sequestered. An interim final rule became effective on May 17, 2006. In FY2006, 11 applications were approved to enroll almost 500,000 acres in pilot projects in Arkansas, Maine, and Mississippi. An additional 60 applications were processed but could not be funded.

Air Quality Activities. The 1996 farm bill created an interagency air quality task force in USDA. The task force represented USDA on scientific topics such as EPA's proposals to revise National Ambient Air Quality Standards for ground-level ozone and particulates. USDA and EPA cooperate on air quality topics under a Memorandum of Agreement signed in January 1998. More recently, federal agencies have been discussing how agricultural practices and programs affect global warming,

especially by sequestering carbon. On March 23, 2005, USDA announced that NRCS and the National Forest Service would start to track the amount of carbon that farmers would be sequestering.[28]

Research and Technical Activities. Many agencies in USDA conduct research and provide technical support. NRCS, for example, provides basic data about resource conditions and characteristics through the soil and snow surveys and the National Resources Inventory (NRI). Data collected for the NRI was used to determine that total erosion on cropland declined 43% between 1982 and 2003, according to a June 2006 press release. NRCS also does applied research through the plant material and technical centers. Other agencies, both within USDA and outside, conduct basic research that contributes to both understanding the problems that conservation programs address and how effective these programs are in counteracting these problems.

Program Evaluation. NRCS initiated the Conservation Effects Assessment Project (CEAP) in 2003 to quantify the environmental benefits of conservation practices installed through selected federal agricultural conservation programs.[29] The project, funded at about $8 million annually, is centered on developing approaches, methodologies, and databases that can produce scientifically credible estimates of these benefits. It draws from other activities throughout USDA and beyond, from NRCS's National Resources Inventory to watershed research conducted by the Agricultural Research Service and the U.S. Geological Survey in the Department of the Interior. CEAP has two components, a national assessment and more focused watershed studies. Limited data from this effort is just starting to become available.[30]

Other Conservation Programs and Provisions. In addition to the programs described above, several additional programs and activities were authorized in the 2002 farm bill and funded through FY2007.

- Partnerships and Cooperation could use up to 5% of conservation funding for both stewardship agreements with other entities and special projects designated by state conservationists to enhance technical and financial assistance to address resource conservation issues.
- Incentives could be used to attract greater participation from beginning and limited resource producers and Indian tribes.
- The Agricultural Management Assistance Program provided $20 million in mandatory funding annually.
- A Grassroots Source Water Protection Program received $5 million.

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[28] For more information, see CRS Report 97-670, *Agriculture and EPA's Proposed Air Quality Standards for Ozone and Particulates*, by James E. McCarthy and Jeffrey A. Zinn.

[29] NRCS has been releasing a national summary listing fiscal year conservation achievements in recent years. This summary is limited to numerical totals, such as "applied conservation buffers on nearly 225,000 acres" in the FY2006 summary, which can be found on the NRCS website. However, these summaries to provide some sense of the breadth, scope, and magnitude of NRCS's conservation effort.

[30] For more information, see Soil and Water Conservation Society, *Conservation Effects Assessment Project: Final Report*, 2006, 24 pp.

- A Great Lakes Program for Erosion and Sediment Control received $5 million annually.
- Desert Terminal Lakes provisions required the Secretary to transfer $200 million in mandatory funds to the Bureau of Reclamation to pay for providing water to at-risk natural desert terminal lakes; the Bureau may not use these funds to purchase or lease water rights.
- Matching funds were authorized to demonstrate local conservation and economic development through a Conservation Corridor Demonstration Program on the Delmarva Peninsula.

Conservation Funding

Conservation spending combines discretionary spending in six accounts (all administered by NRCS) and mandatory funding for more than a dozen programs through the Commodity Credit Corporation administered by NRCS and FSA. This section summarizes the FY2008 appropriations actions by Congress to date and the FY2007 appropriations. The Administration's FY2008 request was based in part on funding changes that would occur if Congress enacted the Administration's farm bill proposals. FY2007 appropriations is operating under a continuing resolution throughout the year which was enacted after the FY2008 request had been submitted.

Funding for emergency conservation programs, discussed in an earlier subsection, is not included in the data compilations for annual appropriations unless noted, because these programs are almost never funded in these acts; they are commonly funded in emergency supplemental appropriations acts. Emergency funding in FY2006 was substantial, totaling more than $1 billion, because of significant and widespread hurricane damage. Additional emergency funding was attached to legislation providing supplemental funding for the war in Iraq.

FY2008 Appropriations

The President signed H.R. 2764, the Consolidated Appropriations Act, 2008, on December 26, 2007. This legislation provides funding through the remainder of FY2008 for all federal agencies except the Defense Department, which was funded in separate appropriations legislation. The amounts listed in the remainder of this paragraph can be compared with earlier House and Senate actions, discussed below. Among the discretionary conservation programs, this legislation provides $840 million for Conservation Operations, $30 million for Watersheds and Flood Prevention Operations, $20 million for Watershed Rehabilitation, $51 million for Resource Conservation and Development, and $2 million for Healthy Forests. Among the mandatory programs, it limits EQIP funding to $1,000 million and provides no mandatory funding for Watershed Rehabilitation; it also extends authorization of the Farmland Protection Program, the Wildlife Habitat Incentive Program, and Ground and Surface Water Program to March 15, 2008, at their authorized FY2007 funding levels.

The House bill (H.R. 3161, H.Rept. 110-258), which passed the House on August 2, 2007, and the Senate-reported bill (S. 1859, S.Rept. 110-134), which was reported on July 19, 2007, both proposed to increase funding for discretionary NRCS

programs, rejecting some of the Administration's proposed reductions. More specifically, the House bill would have increased total FY2008 discretionary NRCS funding by $127.6 million (nearly 15%, to $979.4 million) and the Senate bill would have increased discretionary funding by $120.3 million (about 14%, to $972.1 million), compared to FY2007 levels; the Administration's request would have reduced total discretionary funding by $27.1 million to $824.8 million (-3%).

Among the discretionary programs, the House provided $851.9 million and Senate provided $863.0 million for Conservation Operations, which was an increase from FY2007 ($763.4 million) and more than the Administration requested ($801.8 million). Both bills identify numerous earmarks, and specify that they be funded in addition to, rather than a part of, state allocations. Among other programs, the Administration requested no funding for Watershed and Flood Prevention Operations (the same as FY2007), but the House provided $37.0 million and the Senate $33.5 million. Also, both bills identified numerous earmarks. The House bill provided similar funding levels as FY2007 for the Watershed Rehabilitation Program ($31.6 million), whereas funding levels were lower in the Senate bill ($20.0 million) and in the Administration's request ($5.8 million). Both the House and Senate bills provided similar funding levels as FY2007 for Resource and Conservation Development ($52.4 million and $53.2 million, respectively), while the Administration had requested to reduce funding to $14.7 million by consolidating RC&D program coordinators and altering their work responsibilities. The Senate bill provided $2.5 million to the Healthy Forests Reserve Program, the amount requested by the Administration, while the House bill provided no funding.

Both bills proposed few changes to mandatory programs. The mandatory conservation programs administered by the NRCS would have been $2.0 billion in FY2008 if reauthorized without further change. The Conservation Reserve Program (CRP), administered by the FSA would increase by $26 million to $2.0 billion. Both the House and Senate bills recommended limiting EQIP spending below the authorized level of $1,270 million; the House bill limited spending to $1,017 million, while the Senate bill limited it to $1,000 million.

Pending Omnibus Farm Bill

The Senate passed its version of the farm bill on December 14, 2007 (H.R. 2419, amended), by a vote of 79 to 14, after adopting a wide-ranging manager's amendment (S.Amdt. 3855). This legislation would create a new Conservation Stewardship Program that combines features of the Conservation Security Program (CSP) and Environmental Quality Incentives Program, provide level funding for most existing conservation programs while increasing overall conservation funding by almost $4.8 billion between FY2008 and FY2012, and create several new programs (mostly within existing programs).

The House completed action on its version of the farm bill (H.R. 2419), passing it by a vote of 231 to 191 on July 27, 2007. H.R. 2419 would authorize all programs through FY2012. Numerous options for conservation provisions had been offered and considered as the legislation moved through the House; perhaps the most prominent were H.R. 1551, introduced by Representative Kind on March 15, 2007 and H.R. 1600, introduced by Representative Cardoza on March 20, 2007, each with

more than 100 cosponsors. However, the House leadership strongly endorsed the bill reported by the committee, and the conservation title, as reported by the Agriculture Committee and modified by a chairman's mark, passed the House without further amendment. This legislation would increase overall funding for conservation and add a number of small new programs to the conservation portfolio while eliminating very little from the current effort.

Prior to acting on farm bill legislation, both agriculture committees had held hearings on conservation earlier in 2007; the Senate Agriculture Committee held an oversight hearing on the Conservation Security Program and Environmental Quality Incentives Program on January 17 and a general conservation hearing on May 1, while the House Agriculture Committee's Subcommittee on Conservation, Credit, Energy, and Research held a hearing on the status and performance of conservation programs on April 19. At these hearings, interest groups expressed support for or opposition to many of the proposals that had emerged, and addressed questions such as how funding constraints might be addressed in conservation policies and programs. Several reports from USDA agencies and others, such as the strategic plan for USDA's Natural Resources Conservation Service (NRCS), which administers most of the conservation programs, to guide its activities until 2010, helped to inform the farm bill debate.[31] The most-widely discussed conservation topics include (in no particular order) the following:

- How to **better integrate** conservation efforts with commodity policies through green payments or by other means.
- Whether overall **conservation funding** should continue to grow, and how any additional funds should be allocated among the many conservation programs, as well as whether certain locations (states, regions, or watersheds), producers, or resource concerns should receive a higher priority, and what levels of funding would eliminate backlogs of interest in program participation.
- Whether funding for working lands in production, generally referred to as **green payments** and perhaps modeled after the CSP, should be expanded, both because of the likely need for more funding if international trade talks are successfully concluded, and because such an effort would complement the many land retirement conservation programs.[32]
- How to make **energy policies** that encourage expanded crop cultivation for biofuels compatible with land retirement and other conservation goals.
- How to address **issues new to the farm bill** or of growing importance, such as endangered species and invasive species.

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[31] Natural Resources Conservation Service, *Productive Lands Healthy Environment: Strategic Plan 2005 -2010*, May 2006, 100 pp. The plan states that NRCS will follow three overarching strategies: the watershed approach; market-based approaches; and cooperative conservation (a Bush Administration initiative).

[32] For more information on the green payment concept, as well as a comparison of views about it from the United States and Europe, see CRS Report RL32624, *Green Payments in U.S. and European Union Agricultural Policy*, by Charles Hanrahan and Jeffrey A. Zinn.

- Whether the **federal conservation agencies have the capacity** to: deliver new or expanded programs; add new mission areas; or undertake enlarged responsibilities.
- What **conservation programs actually accomplish**, including how efficient and effective are they, how enduring are their benefits, how do they serve various sectors of agriculture and various regions of the country, and how are accomplishments monitored and measured.
- How to **condense and coordinate** the plethora of programs, simplifying them for potential participants.
- What role(s) **voluntary partnerships**, such as the Bush Administration's Cooperative Conservation Initiative, might play in agriculture conservation policy.[33]
- What opportunities there are to use more **market-based approaches** — establishing ecosystem markets or selling carbon credits, for example — in conservation.
- Whether opportunities to apply conservation efforts at **larger scales**, such as ecosystems or watersheds, should be expanded.
- What role **compliance** should play in future conservation policies.

The Senate Farm Bill Conservation Title

The Senate Agriculture Committee marked up and reported its version of the farm bill, S. 2302, on October 25, 2007 (S.Rept. 110-220). Other then adoption of a chairman's mark, the conservation title was altered little by the committee. The following week, the Senate adopted a manager's amendment (S.Amdt. 3500) that combined S. 2302 with a revenue bill that would fund increased farm bill spending above the budget baseline (S. 2242), and adopted it as a substitute to H.R. 2419. The Senate than passed this version of the farm bill on December 14, by a vote of 79 to 14, after adopting a wide-ranging manager's amendment (S.Amdt. 3855). Almost all programs are authorized from FY2008 through FY2012.

- Section 2001 would add **definitions** for beginning farmer and rancher, Indian tribe, socially disadvantaged farmer, non-industrial private forest land, and technical assistance.
- Section 2101 and Section 2201 would amend the **compliance provisions for highly erodible lands** and **wetlands**, respectively, to provide a second level of review for compliance violations.
- Section 2301 would **move programs in the conservation title**, by combining the Healthy Forests Reserve Program with other land retirement programs, and placing EQIP within the new Comprehensive Stewardship Incentives Program.
- Section 2311 would reauthorize the **Conservation Reserve Program** at the current enrollment level of 39.2 million acres, and make numerous other changes, including expanding eligible lands, extending the wetland subprogram, and adding wildlife provisions.
- Section 2312 would create a new **Flooded Farmland Program** within the CRP for closed basins in the Northern Great Plains.

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[33] More information on this initiative can be found at [http://cooperativeconservation.gov].

- Section 2313 would authorize a new **Wildlife Habitat Program** within the CRP to improve habitat on enrolled lands under contracts of up to five years.
- Section 2321 would reauthorize the **Wetlands Reserve Program**, allowing up to 250,000 acres to be enrolled each fiscal year. It would authorize a new Wetland Reserve Enhancement Program and clarify how compensation is to be calculated.
- Section 2331 would move the **Healthy Forest Reserve Program** to the conservation title and allow it to use permanent easements.
- Section 2341 would create a new **Comprehensive Stewardship Incentives Program** covering EQIP and CSP. It lists program purposes, defines "resource of concern," limits the number of concerns that can be identified in a single portion of a state, and requires implementing regulations to be issued within 180 days of enactment.
- Section 2356 would reauthorize the **Environmental Quality Incentives Program** and make numerous amendments, such as adding provisions to address forestry and forest fire topics, and making invasive species management, pollinator habitat, and predator deterrence practices eligible for incentive payments.
- Section 2358 would reauthorize **Conservation Innovation Grants** under EQIP and encourage participation by specialty crop producers.
- Section 2359 would reauthorize the **Ground and Surface Water Conservation Program** under EQIP at the current funding level and authorize the program to work at a regional scale.
- Section 2360 would authorize a new effort under EQIP to assist producers who choose to **convert to organic agriculture**.
- Section 2361 would authorize $165 million for a new **Chesapeake Bay Watershed Conservation Program** within EQIP.
- Section 2371 would reauthorize the **Farmland Protection Program** and make numerous clarifying changes to the program.
- Section 2381 would reauthorize the **Grasslands Reserve Program**, allow certain lands already enrolled in the CRP to be transferred into this program, and make numerous clarifying changes to the program.
- Section 2391 would authorize the new **Conservation Stewardship Program**, which would replace the Conservation Security Program. Participants would be required to meet stewardship thresholds for the resource concerns they agree to address. It requires more than 13 million acres to be enrolled into the program annually, at an average cost of $19 per acre.
- Section 2392 would extend the **Conservation of Private Grazing Land Program** through FY2012.
- Section 2393 would extend the **Wildlife Habitat Incentives Program**, increase the percentage of funds that can be used for long term projects from 15% to 25%, and give priority to projects that support the goals of fish and wildlife conservation plans.
- Section 2394 would extend the **Grassroots Source Water Protection Program** through FY2012 at $20 million annually.
- Section 2395 would extend the **Great Lakes Basin Program for Soil Erosion and Sediment Control** through FY2012.

- Section 2396 would extend the **Farm Viability Program** through FY2012.
- Section 2397 would create the **Discover Watershed Demonstration Project** in the Upper Mississippi River basin to demonstrate approaches to reducing the loss of nutrients into surface waters.
- Section 2398 would create an **Emergency Landscape Restoration Program** to rehabilitate agricultural lands after natural catastrophic events, and authorize the purchase of flood plain easements.
- Section 2399 would authorize a new grant program at $20 million, the **Voluntary Public Access and Habitat Incentive Program**, to encourage public access for wildlife-dependent recreation.
- Section 2401 would **provide funding** for the Conservation Security Program ($2.317 billion to administer contracts entered into before the date of enactment of this farm bill); the Conservation Stewardship Program (no amount specified); the Farmland Protection Program ($97 million annually through FY2012); the Grasslands Reserve Program (a total of $240 million through FY2012); and EQIP ($1.27 billion in FY2008 and FY2009, and $1.3 billion in FY2010 through FY2012).
- Section 2402 would reauthorize the **regional equity** provisions, increasing the aggregate minimum amount each state is to receive annually from $12 million to $15 million per year.
- Section 2403 would improve **access to conservation programs** by providing that 10% of conservation funds be used to assist beginning and socially disadvantaged producers; by expanding the use of conservation innovation grants; requiring the Secretary to offer higher levels of technical assistance to beginning and socially disadvantaged producers, where possible; and by allowing the Secretary to implement cooperative agreements with entities who assist beginning and socially disadvantaged producers.
- Section 2404 would make numerous changes that address the **delivery of technical assistance** and the use of third party providers.
- Section 2405 would alter the **administrative requirements for conservation programs**, by making such changes as requiring the Secretary to develop a streamlined application process, encouraging partnerships using at least 5% of conservation program funds, and requiring monitoring of program performance by applying the Soil and Water Resources Conservation Act.
- Section 2406 would require the Secretary to develop a framework to facilitate participation in **environmental services markets**, and would require three reports to Congress on implementation.
- Section 2501 would address **state technical committee** operations.
- Section 2601 would reauthorize the **Agricultural Management Assistance Program** through FY2012 and make Idaho an eligible state.
- Section 2602 would authorize a new **Experienced Services Program** under which the Secretary can enter into agreements to hire older qualified individuals to help administer conservation programs.

- Section 2603 would update and clarify the provision of **technical assistance**, and reauthorize the Soil and Water Resources Conservation Act.
- Section 2604would authorize such sums as necessary to carry out the **Small Watershed Rehabilitation Program**.
- Section 2605 would amend the **Resource Conservation and Development Program**, requiring a coordinator for each council.
- Section 2606 would amend provisions related to the **National Natural Resources Conservation Foundation**.
- Section 2607 would extend the **Desert Terminal Lakes Program** through FY2012.
- Section 2608 would deny crop insurance benefits on land parcels greater than 5 acres converted to crop land from **native sod** after the date of enactment.
- Section 2609 states that producers who participated in a study of aquifer recharge potential in the Texas high plains would not **lose program eligibility**.
- Section 2610 would require the Department of State **to cover expenses incurred by EPA employees** working on international treaties.
- Section 2611 would allow the Bureau of Reclamation to carry out certain **salinity control activities** in the Colorado River Basin.
- Section 2612 would authorize $5 million annually from FY2007 through FY2012 to carry out the **Great Lakes program for soil erosion and sediment control**.

The House Farm Bill Conservation Title

The conservation title passed by the House evolved in many ways since the House Agriculture Committee's Subcommittee on Conservation, Credit, Energy, and Research marked up a "discussion draft" May 23, 2007. The House discussion draft was prepared before key decisions about the amount of funding available for conservation programs had been made, so it included two options for funding levels for several programs.

The full committee marked up the farm bill over three days, July 17 through July 19, 2007. It reported this bill on July 23, 2007 (H.Rept. 110-256. pt. 1). The House adopted a manager's amendment and an en bloc reserve fund amendment, both of which amended the conservation title by altering policies and programs, and increasing some funding levels. However, it rejected three other amendment that would have altered the conservation title, including the Kind amendment, which would have made numerous changes enhancing funding and adding a new forestry program.[34] All programs in the bill are authorized from FY2008 through FY2012,

[34] For a more detailed review of the steps leading to House passage, see CRS Report RL33934, *Farm Bill Proposals and Legislative Action in the 110th Congress*, by Renée Johnson.

unless noted. As passed by the House, the conservation title includes the following provisions.[35]

- Section 2101 would reauthorize the **Conservation Reserve Program** at the current enrollment level of 39.2 million acres, and make numerous other changes, including adding a new transition option for transferring land from a retiring land owner to a beginning or socially-disadvantaged land owner.
- Section 2102 would reauthorized the **Wetland Reserve Program** at 3,605,000 acres, set a goal of enrolling 250,000 acres each year (including up to 10,000 acres of land in flood plains using easements), define eligible and ineligible lands, and create a new Wetlands Reserve Enhancement Program..
- Section 2103 would reauthorize the **Conservation Security Program**, defining ineligible lands, the terms and contents of conservation security contracts, requiring the identification of priority resources of concern in each state, authorizing stewardship enhancement payments (limited to $150,000 over five years), limiting technical assistance to 15% of annual spending, and prohibiting new contracts after September 30, 2007 (see Section 2401 for additional funding information).
- Section 2104 would reauthorize the **Grasslands Reserve Program**, at an additional 1,340,000 acres, allow certain lands already in the CRP to be enrolled in this program instead, create a new Grasslands Reserve Enhancement Program, and authorize private organizations and states to hold and enforce easements.
- Section 2105 would reauthorize and make numerous changes to the **Environmental Quality Incentives Program**, including adding forestry provisions, reserving at least 5% of the funds each year for beginning producers and 5% for socially-disadvantaged and limited resource producers, setting priorities for evaluating applications, reauthorizing and increasing funding for the Conservation Innovation Grants subprogram (including providing specified amounts for a pilot program for comprehensive conservation planning, an air quality program, and a program for organic producers) (see Section 2401 for additional funding information).
- Section 2106 would create a new **Regional Water Enhancement Program** under EQIP (replacing the current Ground and Surface Water Conservation Program), reserve up to 50% of the funding for 5 specified priority areas, authorize activities based on partnership agreements, and authorize $60 million annually in mandatory funding to implement this program.
- Section 2107 would reauthorize the **Grassroots Source Water Protection Program** and increase funding to $20 million annually, plus a one-time "infusion" of $10 million to remain available until spent.

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[35] For a brief overview of all the provisions in H.R. 2419, see CRS Report RL34228, *Comparison of the House and Senate 2007 Farm Bills*, by Renée Johnson et al.

- Section 2108 would reauthorize the **Conservation of Private Grazing Lands** provisions.
- Section 2109 would reauthorize the **Great Lakes Basin Program for Soil Erosion and Sediment Control**.
- Section 2110 would reauthorize the **Farmland Protection Program**, renaming it the Farm and Ranchland Protection Program, adding a certification process for participating states and agreements with eligible entities (all to be reviewed every three years) (see Section 2401 for additional funding information).
- Section 2111 would reauthorize the **Farm Viability Program**.
- Section 2112 would reauthorize the **Wildlife Habitat Incentive Program**, increasing the percentage of funding for long term agreements from up to 15% to up to 25% (see Section 2401 for additional funding information).
- Section 2201 would reauthorize the **Agricultural Management Assistance Program**, making Hawaii and Virginia eligible, and providing that 50% of the funding made available go to NRCS for the program's conservation purposes (and 10% to organic certification, and 40% to risk management).
- Section 2202 would amend the **Resource Conservation and Development Program**, specifying that each Council is to have a coordinator designated by the Secretary.
- Section 2203 would reauthorize the **Small Watershed Rehabilitation Program**, providing $50 million annually in mandatory funding and $85 million annually is discretionary funding.
- Section 2301 would authorize a new **Chesapeake Bay Program for Nutrient Reduction and Sediment Control**, specifying the components of plans and projects, and providing mandatory funding of $10 million in FY2008, increasing each year to $55 million in FY2012.
- Section 2302 would create a new **Voluntary Public Access and Habitat Incentive Program**, specifying priorities and authorizing $20 million annually in discretionary funding.
- Section 2303 would create a new **Muck Soils Conservation Program**, defining eligible land, limiting payments to between $300 and $500 per acre annually, and authorizing discretionary appropriations of $50 million annually through FY2012.
- Section 2401 would specify **funding levels** for many conservation programs: for the CSP, it would provide $1.454 billion for FY2007 through FY2012 and $1.927 billion for FY2007 through FY2017for current contracts, and $501 million in FY2012 and $4.646 billion for FY2012 through FY2017 for contracts signed after October 1, 2011 (effectively prohibiting new contracts from FY2008 until that date); for the Farm and Ranchland Protection Program, it would provide $125 million in FY2008, increasing each year to $280 million in FY2012; for EQIP, it would provide $1.25 billion in FY2008, increasing each year to $2.0 billion in FY2012; and for WHIP, it would provide $85 million annually through FY2012.

- Section 2402 would amend several provisions authorizing third party **technical assistance providers** related to rates charged, review of technical assistance specifications, concerns of specialty crop producers.
- Section 2403 would establish a new **Cooperative Conservation Partnership Initiative** using 10% of funds authorized for the CSP, EQIP, and WHIP each year, and working with eligible partners. Provisions establish evaluation criteria, project priorities, and preferential enrollment.
- Section 2404 would increase the authorized level for the **regional equity** provision to $15 million annually.
- Section 2405 would authorize implementation of a new **simplified application process** for individuals who wish to participate in conservation programs within one year of enactment.
- Section 2406 would authorize an **annual report on specialty crop producer participation** in conservation programs, and require the initial report within 180 days of enactment.
- Section 2407 would authorize and fund the development of performance standards that could be used to promote **market-based approaches** to conservation, and authorize a total of $50 million in discretionary funding, to remain available until expended.
- Section 2408 would amend the membership and responsibility provisions for **state technical committees** and specify the use of subcommittees.
- Section 2409 would authorize **payment limits** of $60,000 per year for any single conservation program and $125,000 per year for all conservation programs, excluding payments for WRP, Farm and Ranchland Protection Program and Grassland Reserve Program contracts.
- Section 2501 would add income from **affiliated packing and handling operations** in determining the application of the adjusted gross income limitation on eligibility for conservation programs.
- Section 2502 would encourage the Secretary to use **voluntary sustainability practices guidelines for specialty crop producers** when implementing conservation programs.
- Section 2503 would require the Secretary to designate at least one **farmland resource information center** using at least $400,000 per year but no more than 0.5% of the funds provided for the Ranch and Farmland Protection Program.
- Section 2504 would authorize a **pilot program for a four year crop rotation contract** with a peanut producer, and provide mandatory funding of up to $10 million per year.

Bush Administration and Other Recommendations

While considering the farm bill in committee and on the floor of both chambers, Congress considered recommendations from many sources, including the Bush Administration. The Administration offered 10 conservation farm bill proposals to Congress on February 2, 2007, then submitted legislative language that would implement them in late April. These proposals come out of a process that started

with more than 50 listening sessions, followed by issuing four broad theme papers, including one on conservation and the environment. The Administration estimated that its conservation proposals would cost $7.8 billion above current conservation spending over 10 years. The proposals (and additional costs) are as follows:

- Consolidate six financial assistance programs that provide conservation cost-sharing funds and technical assistance in a revised **EQIP**, and create a new sub-program to deal with water quality and quantity issues on a regional basis (an increase of $4.25 billion).
- Expand enrollment from 15 million acres today to 96 million acres in 10 years and simplify the **CSP** (an increase of $500 million).
- Consolidate the **three easement programs** (an increase of $900 million).
- Increase the focus of the **CRP** on environmentally sensitive lands, with priority for enrolling land to produce biomass crops.
- Increase the **WRP** enrollment cap to 3.5 million acres, and combine it with the floodplain easement program (an increase of $2.125 billion).
- Expand **conservation compliance** to include "sod saver" to discourage conversion of grasslands into crop land.
- Designate 10% of financial assistance for each conservation program to **socially disadvantaged and beginning producers**.
- Encourage the development of **private environmental markets** to supplement and compliment conservation programs ($50 million).
- Repeal **regional equity provisions** requiring a minimum amount of conservation funds go to every state to increase allocations for the most meritorious program areas.
- Consolidate the two **emergency conservation programs**.

In addition, many interest groups who represent widely varying perspectives.[36] presented to Congress recommendations for changes to conservation policies and programs. Recommendations ranged from general principles to very specific changes and possible legislative language, and from changes limited to a specific farm bill title or program to those involving multiple farm bill titles. Conservation was among the most active farm bill topics, attracting an especially large number of recommendations.

[36] For a brief introduction identifying many of these proposals, see CRS Report RL33934, *Farm Bill Proposals and Legislative Action in the 110th Congress*, by Renée Johnson.