

# CRS Report for Congress

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## Agricultural Issues in the 109<sup>th</sup> Congress

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### Summary

A number of issues affecting U.S. agriculture are receiving attention during the 109<sup>th</sup> Congress. Some are related to new initiatives or to unfinished legislation from the 108<sup>th</sup> Congress; others have been the focus of ongoing congressional oversight. 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 109<sup>th</sup> Congress include the possible reauthorization of an expiring dairy support program; multilateral and bilateral trade negotiations; concerns about agroterrorism, food safety, and animal and plant diseases (e.g., “mad cow” disease and Asian soybean rust); high energy costs; environmental issues; and a number of agricultural marketing matters. Although the current (2002) farm bill (P.L. 107-171) generally does not expire until 2007, the agriculture committees could begin hearings on a new measure later this year. This report will be updated if significant developments ensue.

### Farm Production Support

Exceptionally 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 \$59.2 billion in 2003 and \$73.7 billion in 2004. For 2005, moderate declines in commodity prices and lower cash receipts for both crops and livestock could pressure farm income. Moreover, 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.

**Commodity Support Programs.** Farm income and price support programs are dictated primarily by Title I of 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. If the coming year brings falling commodity prices, higher input costs, or widespread natural disasters, Congress could be asked for more support before the current bill expires. However, tight budget constraints might forestall action on any new assistance. (See CRS Report

RS22131, *Agriculture: Previewing a Farm Bill* and CRS Report RS21999, *Farm Commodity Programs: Summary, Issues, and CRS Products.*)

**Budget and Spending.** Approximately three-fourths of total spending within USDA is classified as mandatory, (i.e., farm commodity support, certain conservation and trade programs, crop insurance, food stamps and child nutrition programs), which by definition occurs outside the control of the annual appropriations process. The balance of USDA spending is for discretionary programs (e.g., research, rural development and farm credit), for which annual spending levels are determined in the annual agriculture appropriations bill.

Congress is addressing agricultural spending levels on two fronts during 2005: in budget reconciliation as required by the FY2006 budget resolution, 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 by \$3 billion over five years (FY2006-FY2010). The Agriculture Committees must decide how to divide these cuts among the various mandatory farm support and food and nutrition programs, and report their recommendations to their respective Budget Committees by September 16, 2005, for incorporation in an omnibus reconciliation bill. 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 are expected to require agriculture appropriators to keep discretionary spending close to the FY2005 level. (See CRS Report RS22086, *Agriculture and FY2006 Budget Reconciliation* and CRS Report RL32904, *Agriculture and Related Agencies: FY2006 Appropriations.*)

**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. The Administration's FY2006 budget request included a legislative proposal to reduce the payment limit per person from \$360,000 to \$250,000; count commodity certificates and forfeiture in the limits; eliminate the three-entity rule; and apply the limits to dairy. The Administration estimates that their proposal will save \$200 million in FY2006 and \$845 million over five years.

In the 109<sup>th</sup> 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. The Senate-passed budget resolution for FY2006 (S.Con.Res. 18) contained a non-binding sense of the Senate amendment that any agricultural savings should be achieved primarily through reductions in farm commodity program payment limits. This provision was deleted in conference. (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) have been introduced in the 109<sup>th</sup> Congress to extend the Milk Income Loss Contract 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 expires September 30, 2005; an 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. (H.R. 1260 and S. 273 would double the current payment limit.) 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 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. Farmer interests have expressed concern that full compliance with the panel findings could extend beyond cotton to other major field crops, and could necessitate that the U.S. farm bill be reopened well before its scheduled expiration in 2007. (See CRS Report RL32571, *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, and will reach a total of more than \$4.2 billion in FY2005. This growth in spending reflects the expanded reach of conservation programs, which now involve many more land owners and acres. For example, under the land retirement programs, nearly 40 million acres (almost 9% of total U.S. cropland) have been retired from production. However, most of these acres are not retired permanently, and the environmental benefits being sought may be lost after the contract (usually 10 years) ends. Some critics question whether program costs are merited for the benefits they provide. Farm interests question whether all these lands should remain out of production given the current farm economy, especially if they could be cropped using proper conservation and land management practices. If budget pressures force a look at funding for conservation programs, the 109th Congress could be asked to weigh these arguments against farm and environmental supporters of the programs. Another topic that may attract congressional interest is implementation of the 2002 farm bill's Conservation Security Program. Some stakeholders have expressed concerns that USDA has implemented the program in only a few watersheds, and that current funding has been limited even though the program was enacted as a true entitlement. (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. International petroleum and natural gas market prices have experienced substantial volatility and have been trending significantly higher in recent years, leading to 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.

Any work on energy legislation could include discussions of agriculture's energy needs and contributions. (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. USDA notes that U.S. agricultural exports account for 20-25% of farm income. Their value reached a record \$62.3 billion in FY2004. However, recent forecasts indicate a decline to \$60.5 billion in FY2005, and the smallest agricultural trade surplus since 1960. 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. Congress currently is considering implementing legislation for the Dominican Republic-Central America-U.S. free trade agreement (DR-CAFTA). It is of particular concern to the U.S. sugar industry because 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. Trade promotion authority (TPA, formerly termed "fast track"), which provides authority for Congress to consider implementing bills under expedited procedures, covers trade agreements signed before June 1, 2005. Since Congress did not disprove the President's request for a two-year extension, TPA authority will continue until June 1, 2007. Current TPA contains extensive negotiating objectives for agriculture. (See CRS Report RL32110, *Agriculture in the U.S.-Dominican Republic- Central American Free Trade Agreement* and CRS Report RL32053, *Agriculture in WTO Negotiations*.)

**Other Trade Issues.** Other ongoing issues of interest to Congress include the rules of trade for the products of agricultural biotechnology (see CRS Issue Brief IB10131, *Agricultural Biotechnology: Overview and Selected 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. Such an attack could inflict large economic losses and incite public fear. The Homeland Security Act of 2002 (P.L. 107-296) transferred USDA border inspectors to the Department of Homeland Security (DHS). The agriculture committees remain

concerned whether DHS is devoting enough attention to agricultural inspections, staffing, and training; they note that controlling a disease outbreak depends on quick and coordinated responses. Current and past appropriations have funded some preparedness programs, but health experts request more. In the 109<sup>th</sup> Congress, Senator Akaka has introduced S. 572 and S. 573 to improve federal responsiveness to agroterrorism, and to give additional agricultural biosecurity responsibilities to DHS. Elsewhere, under the Bioterrorism Preparedness and Response Act (P.L.107-188), the Food and Drug Administration (FDA) has implemented rules for registration of food processors, record-keeping, and prior notice of imports. (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 109<sup>th</sup> 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 109<sup>th</sup> 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*.)

**Soybean Rust.** Asian soybean rust (ASR), a fungal disease that can reduce soybean yields by 10-80%, was detected in the United States in 2004. Some are concerned that ASR may have over-wintered in southern states and become more dispersed and established here than anticipated. Widespread ASR infection in the United States could have significant regional and national effects on domestic and international commodity markets; soybeans rank second only to corn as the most important U.S. field crop, both in terms of planted area and value. USDA has made extensive preparation to closely monitor and respond to ASR outbreaks. In Congress, oversight hearings on the disease and mitigation efforts are possible, as are proposed bills. (See CRS Report RL32225, *Asian Soybean Rust: Background and Issues*.)

## Marketing

**Commodity Check-Off Programs.** Congressionally-authorized assessments are being collected to fund national research and promotion (“check-off”) activities for 17 commodities. Some producers have challenged the mandatory aspects of check-offs, which, they contend, are “taxes” for activities they would not underwrite voluntarily. In May 2005, the U.S. Supreme Court ruled that the beef check-off program constitutes government speech, and is therefore not susceptible to a First Amendment challenge. Consequently, USDA announced that the beef check-off will continue, and that it is studying the legal implications of this case for other check-off programs. (See CRS Report 95-353, *Federal Farm Promotion (“Check-off”) Programs.*)

**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. (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 expires on September 30, 2005. It was originally passed in 1999 to address some producers’ concerns about low prices, price transparency, and industry concentration. While the system generally has found acceptance among industry players, any effort to extend it likely will generate discussion of possible changes. (See CRS Report RS20079, *Livestock Mandatory Price Reporting.*)

## CFTC Reauthorizat

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 expires 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. (See CRS Report RS22028, *CFTC Reauthorization in 2005.*)