

# CRS Report for Congress

## Soil and Water Conservation: An Overview

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## Summary

Soil and water conservation topics are prominent in discussions of policy options for the next farm bill, which Congress is considering. More specifically, the House Agriculture Committee is scheduled to consider a chairman's mark of a farm bill soon, including a conservation title based in part on language approved at the subcommittee level on May 23, 2007. The committee could consider a second version of this bill if additional funding becomes available. The Senate Agriculture Committee is continuing to develop a discussion draft of a conservation title. Other conservation proposals, and proposals containing conservation provisions, have been introduced (H.R. 1551 and H.R. 1600 are examples). In late April 2007, the Administration released legislative language that would implement its 10 farm bill recommendations for conservation.

The current farm bill, enacted in 2002 and generally expiring at the end of FY2007, increased spending and expanded the scope of the conservation effort by reauthorizing and amending many U.S. Department of Agriculture (USDA) conservation programs and enacting new ones. An example of increased spending is the Environmental Quality Incentives Program (from \$200 million annually before FY2002 to \$1.3 billion in FY2007); and an example of a raised enrollment ceiling is the Wetlands Reserve Program (from 1,075,000 acres to 2,275,000 acres). Several new programs also expanded the scope of conservation. For example, the Conservation Security Program (CSP) provides payments to producers who address natural resource concerns as part of their farm operation on so-called "working lands." Other new programs conserve grasslands, address surface and ground water conservation needs, permit approved third parties to provide conservation assistance, and encourage use of innovative conservation technologies.

Implementation controversies have arisen since 2002. One of these, how to fully fund technical assistance to implement the mandatory conservation programs, was resolved with legislation enacted in 2004 (P.L. 108-498). A second, implementing the CSP, continues as Congress has repeatedly limited funding and USDA's Natural Resources Conservation Service has responded by limiting program eligibility to specified watersheds, instead of making it available nationally.

Congress continues to monitor conservation topics. Oversight hearings have been held by both the House and Senate Agriculture Committees. Conservation topics addressed at recent hearings have centered on farm bill proposals and the status of the conservation effort. Conservation also was discussed during several field hearings held by the House Agriculture Committee to gather input during 2006.

Congressional appropriators influence conservation topics annually. They are considering the Administration's FY2008 budget request. FY2007 funding is being provided under a continuing resolution. With one significant exception, conservation funding under this resolution generally is similar to FY2006 funding levels, when Congress agreed with Administration proposals to make cuts in several mandatory programs, while rejecting proposed cuts to discretionary programs.

## 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) .....	8
Conservation Security Program (CSP) .....	9
Technical Assistance .....	10
Selected Other Conservation Activities .....	12
Watershed Programs .....	12
Conservation Compliance and Sodbuster .....	12
Resource Conservation and Development (RC&D) .....	13
Farmland Protection Program (FPP) .....	13
Wildlife Habitat Incentives Program (WHIP) .....	13
Emergency Conservation Programs .....	14
Water Quality Programs and Initiatives .....	14
Private Grazing Lands Program .....	16
Grasslands Reserve Program .....	16
Healthy Forests Reserve .....	16
Air Quality Activities .....	16
Research and Technical Activities .....	17
Program Evaluation .....	17
Other Conservation Programs and Provisions in the 2002 Farm Bill ..	17
Conservation Funding .....	18
FY2008 Appropriations .....	18
FY2007 Appropriations .....	19
2007 Farm Bill .....	20
Agriculture Committee Proposals .....	22
Administration Proposal .....	24
Introduced Legislation .....	25

## List of Tables

Table 1. FY2007 Funding for Mandatory Conservation Programs .....	20
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# Soil and Water Conservation: An Overview

## Most Recent Developments

Soil and water conservation topics are prominent in discussions of policy options for the next farm bill, which Congress is considering. The House Agriculture Committee released a “discussion draft” of a lengthy conservation title in mid-May, which was amended and approved at the subcommittee level on May 23, 2007. The House Agriculture Committee is planning to consider a chairman’s mark of a farm bill soon, including a conservation title based in part on language approved at the subcommittee level. The committee could consider a second version of this bill if additional funding becomes available.<sup>1</sup> The Senate Agriculture Committee is reportedly continuing to develop a staff draft of a conservation title. Other conservation proposals, and proposals containing conservation provisions, have been introduced (H.R. 1551, introduced by Representative Kind on March 15, 2007, and H.R. 1600, introduced on March 20, 2007, are examples; both bills have more than 100 cosponsors). Other proposals, many focused on specific areas of the country or specific aspects of agricultural policy, have been introduced. In late April 2007, the Administration released legislative language that would implement its 10 recommendations for changes in conservation policies and programs; aspects of these recommendations are being considered by one or both agriculture committees.

Both agriculture committees have recently held hearings on conservation; the House Agriculture Committee’s Subcommittee on Conservation, Credit, Energy, and Research held a hearing on April 19, and the Senate Agriculture Committee held a hearing on May 1. At both 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 analyses of conservation topics prepared by USDA’s Economic Research Service and the strategic plan through 2010 for the Natural Resources Conservation Service (NRCS), which administers most of the conservation programs, may help inform the farm bill debate.<sup>2</sup>

Congress is funding agriculture for the remainder of FY2007 under a continuing resolution (P.L. 110-5). This resolution generally provides funds at the lower of

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<sup>1</sup> Both bills, as well as section-by-section summaries, can be found at [<http://agriculture.house.gov/inside/2007FarmBill.html>].

<sup>2</sup> 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).

either the FY2006 level or the House-passed level in H.R. 5384. The resolution rejected many reductions for discretionary conservation programs that the Administration had requested, although it provides no funding for the Watershed and Flood Prevention Operations Program (not an Administration request). For mandatory conservation programs, current law authorized funding to increase by almost \$330 million in FY2007, but the continuing resolution limits funding for some of these programs.

## **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.<sup>3</sup>

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.<sup>4</sup> 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 expire. General trends in policy for the suite of conservation programs between 2002 and 2007 include 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.<sup>5</sup>

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

<sup>4</sup> 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.

<sup>5</sup> U.S. Department of Agriculture, *Reform and Assessment of Conservation Programs: A* (continued...)

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, 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.<sup>6</sup> 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.<sup>7</sup>

## 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.<sup>8</sup> 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.<sup>9</sup> Under the 2002 farm bill provisions, 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. It made a six-state pilot program to retire small, isolated farmable wetlands into a national program, with an enrollment ceiling of 1 million acres. Some economic uses of enrolled lands are permitted for the first time under the 2002 farm bill, 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

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<sup>5</sup> (...continued)

*Report to Congress*, submitted July 10, 2006.

<sup>6</sup> 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 Zinn and Tadlock Cowan.

<sup>7</sup> 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.

<sup>8</sup> 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.

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

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 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. Given the widespread interest in expanding the number of acres planted in corn to meet the growing demand for ethanol, 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.

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 borders 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 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.<sup>10</sup>

## **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.

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

The only provision in the 2002 farm bill amending Swampbuster addressed a concern raised by the farm community by prohibiting USDA from delegating the authority to make wetland determinations to other parties. This concern was thought to have been addressed when a Memorandum of Agreement (MOA) making NRCS responsible for all federal wetland determinations on agricultural lands under Swampbuster (and the Clean Water Act's Section 404 Program) was signed by NRCS, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency (EPA) in 1994. But these agencies have been unable to revise the MOA to reflect changes in the 1996 farm bill, and the participating agencies have ended their discussions.

An additional issue for agriculture was raised in January 2001 when 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 Section 404 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 will now be subject only to Swampbuster. Some of these wetlands (up to 1 million acres) may be enrolled in the new farmable wetland component of the CRP.<sup>11</sup> The Supreme Court recently issued decisions on two cases that will likely result in further adjustments to the reach of the Section 404 program.<sup>12</sup>

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. Section 2201 of the 2002 farm bill reauthorized the WRP through FY2007 and increased the enrollment cap to 2,275,000 acres, while limiting enrollment to 250,000 acres per year. 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).<sup>13</sup> During FY2006, NRCS used a "reverse

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<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> For more information about wetlands, see CRS Report RL33483, *Wetlands: An Overview of Issues*, by Jeffrey Zinn and Claudia Copeland.

auction” to enroll more than 3,500 acres under 16 new easements, at a savings to the federal government of 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. Under provisions in the 2002 farm bill, annual funding was authorized to increase from \$200 million in FY2002 to \$1.3 billion in FY2007, with 60% of the funds each year 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 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).<sup>14</sup>

Three new subprograms were authorized under EQIP 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 program within EQIP. 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.<sup>15</sup>

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<sup>14</sup> 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.

<sup>15</sup> 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 (continued...)

Third, an additional \$50 million is earmarked for the Klamath River basin in Oregon and California, and was to be provided as soon as possible; both states received \$4 million in FY2006. 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.<sup>16</sup>

## **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 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 than 19,000 participants in 280 watersheds. In these watersheds, about 15.7 million acres has been enrolled in the program. Requested funding for FY2008 is \$316 million, an increase of \$57 million from FY2007. However, this increase will only be enough to support contracts on land that is currently enrolled. Funding amounts mean that no additional land will be enrolled in 2007, and the Administration request for 2008 would not fund enrollment of additional land either. 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

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<sup>15</sup> (...continued)  
programs is [<http://www.fsa.usda.gov/dafp/cepd/epd>].

<sup>16</sup> 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 Carol Canada and Jeffrey Zinn.

producers interested in enrolling in conservation programs, as a prerequisite to determining whether they will be accepted.<sup>17</sup>

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.<sup>18</sup> 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.
- 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.<sup>19</sup> 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.

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<sup>17</sup> 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 report 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).

<sup>18</sup> For more information, see CRS Report RS21739, *The Conservation Security Program in the 2002 Farm Bill*, by Tadlock Cowan; and CRS Report RS21740, *Implementing the Conservation Security Program*, by Tadlock Cowan.

<sup>19</sup> 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 pp.

Section 2701 of the 2002 farm bill allows NRCS 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 money available to implement “donor program” activities.<sup>20</sup> 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.<sup>21</sup> 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 announced that it would initiate 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

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<sup>20</sup> 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.

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

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.<sup>22</sup> 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 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 is being provided.

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). Section 2505 of the 2002 farm bill authorized both mandatory and discretionary funding for the rehabilitation program; 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.

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<sup>22</sup> 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>].

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.<sup>23</sup> 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 28 applications during the summer of 2003; at the start of FY2006, an additional 32 applications were pending. Section 2504 of the 2002 farm bill permanently reauthorized the program and made numerous technical and updating amendments.

**Farmland Protection Program (FPP).**<sup>24</sup> The 1996 farm bill authorized USDA to assist state and local governments to acquire easements to limit conversion of agricultural lands to nonagricultural uses. Section 2503 of the 2002 farm bill greatly increased mandatory funding from \$50 million in FY2002 to a high of \$125 million in FY2004 and FY2005. The definition of eligible land was expanded to include rangeland, pastureland, grassland, certain forest land, and land containing historic or archeological resources. Land enrolled in the program is subject to conservation compliance. Certain private nonprofit organizations are made 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).<sup>25</sup>

**Wildlife Habitat Incentives Program (WHIP).** WHIP was authorized in 1996 to use a total of \$50 million in mandatory funds allocated to the CRP to provide

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

<sup>24</sup> USDA calls this program the Farm and Ranch Lands Protection Program.

<sup>25</sup> For more information, see CRS Report RS22565, *Farm Protection Program*, by Renée Johnson.

cost-sharing and technical assistance for conservation practices that primarily benefit wildlife. This money was fully allocated in FY1998 and FY1999. Congress provided \$40 million in additional conservation funding beyond authorized levels for FY2001, and USDA allocated \$12.5 million to WHIP. Section 2502 of the 2002 farm bill provided \$15 million in FY2002, growing to \$85 million annually from FY2005 through FY2007. It provided that up to 15% of the funding each year could 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 enacted, supporters attempted to attach this funding to other legislation. It was finally enacted with legislation providing supplemental funding for the war in Iraq (P.L. 110-28).<sup>26</sup>

**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 smaller 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

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<sup>26</sup> As enacted, it provides \$16 million to the Emergency Conservation Program and an estimated \$115 million to the Emergency Forestry Conservation Reserve Program. For more information on this legislation, see CRS Report RS21212, *Agricultural Disaster Assistance*, by Ralph Chite.

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.<sup>27</sup> 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.<sup>28</sup>

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 farm bill programs enacted in 2002, including:

- the Small Watershed Rehabilitation Program amendments enacted in Section 2505;
- the Agricultural Management Assistance Program, reauthorized in Section 2501, 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 limit conservation funding to \$14 million annually);
- a program for the Great Lakes Basin states enacted in Section 2502;
- a Grassroots Source Water Protection Program, enacted in Section 2502; and
- a program for the Delmarva Peninsula enacted in Sections 2601-2604.

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 108<sup>th</sup> 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

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<sup>27</sup> This rule was published in the February 12, 2003, *Federal Register*, effective April 14, 2003.

<sup>28</sup> 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.

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.** A 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. Section 2502 of the 2002 farm bill reauthorized the program through FY2007 with appropriations of \$60 million annually. Appropriators continue to earmark a portion of NRCS's Conservation Operations funds for this effort annually, providing \$27.2 million in FY2006.

**Grasslands Reserve Program.** Section 2401 of the 2002 farm bill authorized a new Grasslands Reserve Program to retire 2 million acres under arrangements ranging from 10-year agreements to permanent easements. The law permits the delegation of easements to certain private organizations and state agencies. It provides up to \$254 million in mandatory funding, a cap that 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 was issued and 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 some particulates in 1997. USDA and EPA cooperate 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. The 2002 farm bill did not amend air quality provisions.<sup>29</sup>

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<sup>29</sup> For more information, see CRS Report 97-670, *Agriculture and EPA's Proposed Air* (continued...)

**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.<sup>30</sup> 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 may be available for a 2007 farm bill debate.<sup>31</sup>

**Other Conservation Programs and Provisions in the 2002 Farm Bill.**

In addition to the programs described above, the conservation title of the 2002 farm bill authorizes and funds several other programs.

- Partnerships and Cooperation in Section 2003 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.
- Administrative requirements are amended in Section 2004 to provide incentives to beginning and limited resource producers and Indian tribes, and to protect the privacy of personal information related to natural resource conservation programs and information about National Resources Inventory data points.
- The Agricultural Management Assistance Program is reauthorized through FY2007 in Section 2501, and provided an additional \$10

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<sup>29</sup> (...continued)

*Quality Standards for Ozone and Particulates*, by James E. McCarthy and Jeffrey A. Zinn.

<sup>30</sup> 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.

<sup>31</sup> For more information, see Soil and Water Conservation Society, *Conservation Effects Assessment Project: Final Report*, 2006, 24 pp.

million (for a total of \$20 million) in mandatory funding annually through 2007.

- A Grassroots Source Water Protection Program is authorized in Section 2501, with annual appropriations of \$5 million through FY2007.
- A Great Lakes Program for Erosion and Sediment Control is authorized in Section 2501, with annual appropriations of \$5 million through FY2007.
- Desert Terminal Lakes provisions are authorized in Section 2507 to require 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 are authorized through FY2007 in Sections 2601-2604 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 to the present and the FY2007 appropriations. The FY2008 request is based in part on funding changes that would occur if Congress enacted the Administration's farm bill proposals. FY2007 appropriations will operate throughout the year under a continuing resolution, which was enacted after the FY2008 request had been submitted.

Funding for emergency conservation programs, discussed in an earlier subsection and below, 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 that had been attached to FY2007 agriculture appropriations that Congress did not complete action on was then enacted in legislation providing supplemental funding for the war in Iraq (see discussion of emergency conservation programs, above). In past years, Congress has repeatedly lowered limits on Conservation Security Program funding to pay for disaster programs; the specifics are presented above, in the CSP discussion.

**FY2008 Appropriations.** The Administration request includes several changes for both discretionary and mandatory funds. One major proposed reduction in a discretionary account is to reduce funding in the Resource Conservation and Development Program from \$51 million in FY2007 to less than \$15 million in FY2008. The Administration proposes to consolidate RC&D program coordinators and alter their work responsibilities, decreasing the total number needed in these positions from 375 (one for each RC&D district) to about 50. In FY2006, Congress rejected Administration proposals to decrease funding; that request was for a smaller reduction, to \$25 million. A second proposed decrease in FY2008 is to lower the

discretionary funding portion of the Watershed Rehabilitation Program from \$31 million to \$6 million because the Administration believes that this work should be primarily a local responsibility. A large proposed increase in a discretionary account is to increase Conservation Operations by \$38 million from FY2007, to \$801 million, primarily to fund increased pay costs, but for several other purposes as well.

Among the mandatory conservation programs, the Administration proposes to increase spending for the Wetlands Reserve Program from \$264 million in 2007 to \$455 million in 2008 by raising the annual enrollment ceiling from 150,000 acres to 250,000 acres (which is the maximum annual enrollment currently authorized). No funding would be provided for four mandatory programs, although two of these, the Klamath Basin and Grasslands Reserve programs, will have used their total authorized funding by the end of FY2007, while funding for the Wildlife Habitat Reserve Program will expire at the end of FY2007 and no funding would be provided for the Agricultural Management Assistance Program, which is authorized at \$10 million in FY2008. The request does call for providing \$97 million for the Farmland Protection Program, even though authorization for appropriations expires at the end of FY2007. It also calls for limiting Conservation Security Program spending to \$316 million, and would reduce budget authority for this program by \$80 million over 10 years (FY2006-FY2015). This would be the seventh reduction since the program was enacted in 2002.

**FY2007 Appropriations.** Appropriations for the remainder of FY2007 are being provided under a continuing resolution (H.J.Res. 20, P.L. 110-5), enacted February 15, 2007. The resolution provides \$763 million for Conservation Operations, a decrease of \$68 million from FY2006, and no funding for Watershed and Flood Prevention Operations, a decrease of more than \$74 million. It generally rejects earmarks. Funding for many of the mandatory conservation programs remains unchanged from FY2006; significant increases (more than \$5 million) are for the CRP and WRP (funding for both programs is set by acres that can be enrolled rather than dollars provided), and there are no decreases. Earlier appropriations legislation had proposed varied changes, as shown below in **Table 1**.

Each year before FY2007, appropriations bills have included reductions in mandatory programs, although they are often different than the Administration request for reductions.<sup>32</sup> Starting in FY2003, the portion of the authorized mandatory funding for conservation that Congress has allowed has declined each year from the preceding year. It fell from 97.6% of the authorized amount in FY2003 to 87.2% of the total in FY2006. Each of the mandatory programs is supported by different constituencies who decry reductions from the funding commitment that was established in the 2002 farm bill; those who support the reductions point out that overall conservation funding has been rising, even after these reductions are taken into account.

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<sup>32</sup> For information on authorized funding levels and actual funding of all mandatory conservation programs each year starting in FY2003, see CRS Report RS22243, *Mandatory Funding for Agriculture Conservation Programs*, by Jeffrey Zinn.

**Table 1. FY2007 Funding for Mandatory Conservation Programs**

(dollars in millions, unless noted otherwise)

<b>Program</b>	<b>Authorized Level: 2002 Farm Bill<sup>a</sup></b>	<b>Admin. Request</b>	<b>House Bill (H.R. 5384)</b>	<b>Senate Bill (H.R. 5384)</b>	<b>Continuing Resolution</b>
Environmental Quality Incentives Program	\$1,270	\$1,000	\$1,087	\$1,031	\$1,017
Conservation Security Program	\$373	\$342	\$280	\$373 <sup>b</sup>	\$259
Wildlife Habitat Incentives Program	\$85	\$55	\$55	\$63	\$43
Wetlands Reserve Program	250,000 acres	250,000 acres	144,766 acres	250,000 acres	\$264
Farm and Ranch Lands Protection Program	\$97	\$50	\$50	\$58	\$74
Ground and Surface Water	\$60	\$51	\$51	\$54	\$51
Small Watershed Rehabilitation Program	\$65	\$0	\$0	\$0	\$0
Ag. Management Assistance	\$14	\$0	\$6	\$14	\$0

**Source:** CRS, using Senate Appropriations Committee and Congressional Budget Office data. See also CRS Report RS22243, *Mandatory Funding for Agriculture Conservation Programs*, by Jeffrey A. Zinn, for authorized funding and limits on mandatory conservation programs.

- a. Figures in the FY2007 authorized column represent how much are currently available, including reductions made by the Deficit Reduction Act of 2005 (P.L. 109-171).
- b. Based on CBO scoring, which differs from Administration figures.

## 2007 Farm Bill

Congress continues to develop a 2007 farm bill. Agriculture committee chairs in both chambers have set a goal of completing conference on this legislation by September 30, 2007. Both agriculture committees have held numerous hearings in anticipation of drafting legislation. The Senate Agriculture Committee held an oversight hearing on the Conservation Security Program and Environmental Quality Incentives Program on January 17, 2007, and a general conservation hearing on May 1, 2007, 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, 2007. At these hearings, interest groups expressed support or opposition for many of the proposals that have emerged. At many other farm bill hearings, which have been more general or addressed other agricultural topics, numerous witnesses have made observations or offered recommendations about conservation topics.

Many groups have presented recommendations to Congress for changes to conservation policies and programs. These range from general principles to very specific changes (and legislative language in some instances), and from changes limited to a specific farm bill title or program to those involving multiple farm bill titles. Conservation has attracted recommendations from many interests who

represent widely varying perspectives.<sup>33</sup> Coalitions are articulating their priorities and positions on many of these topics. One conservation group, the American Farmland Trust, in particular, was very active early on in soliciting input from a large and diverse set of interests and developing a wide-ranging set of general proposals, which it released in early summer of 2006.<sup>34</sup> Its proposals, as well as those from others, address many aspects of conservation policy. These aspects 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, how available funds should be allocated among the many conservation programs, whether certain locations (states, regions, or watersheds), producers, or resource concerns should receive higher priority for access to these funds, and whether a level of funding that would eliminate backlogs of unfunded program applications should be provided.
- Whether funding for working lands, generally referred to as **green payments** and perhaps modeled after the CSP, should be expanded, both because of the likely need for such a program if international trade talks are successfully concluded, and because such an effort would complement the many land retirement conservation programs.
- 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.
- Whether the federal conservation agencies have the **capacity to deliver new or expanded programs**, and whether their responsibilities should be enlarged to include new mission areas or receive significant additional funding.
- What **conservation programs actually accomplish**, including how efficient and effective these programs are, how enduring the benefits are, how these programs serve various sectors of agriculture and various regions of the country, and how accomplishments are 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.<sup>35</sup>

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<sup>33</sup> For a brief introduction identifying many of these proposals, see CRS Report RL33934, *Farm Bill Proposals and Legislative Action in the 110<sup>th</sup> Congress*, Renée Johnson, coordinator.

<sup>34</sup> Information on these proposals can be accessed through the American Farmland Trust website at [<http://www.farmland.org>].

<sup>35</sup> More information on this initiative can be found at [<http://cooperativeconservation.gov>].

- What opportunities there are to use more **market-based approaches** — establishing ecosystem markets or selling carbon credits, for example — in conservation.
- Whether opportunities should be expanded to apply conservation efforts at **larger scales**, such as ecosystems or watersheds.
- What role **compliance** should play in future conservation policies.

**Agriculture Committee Proposals.** The House Agriculture Committee’s Subcommittee on Conservation, Credit, Energy, and Research marked up a “discussion draft” of its conservation title to authorize conservation programs through FY2012 on May 23, 2007. Chairman Peterson has announced that the full committee will mark up a revised version of this bill (along with the rest of the farm bill) soon. In addition, Chairman Peterson has also prepared an alternative bill that would provide additional funding to many programs, if an additional \$17.5 billion can be found to be placed in a “reserve fund” for agriculture programs over the next five years, an option approved in the FY2008 budget resolution if offsetting reductions can be made elsewhere in the federal budget or revenues increase. If the reserve fund is funded at this level, this alternative bill would provide just over \$2.0 billion for four conservation programs and authorize an additional 5 million acres to be enrolled into the Grasslands Reserve Program.

The Senate Agriculture Committee staff is reported to have prepared a discussion draft of a conservation title that has yet to be released. Discussion in the farm press and elsewhere repeatedly suggest that the versions of this title that eventually emerge from the House and the Senate may have significant differences that will need to be resolved in conference. For example, Senator Harkin is now talking about a reauthorization period greater than five years.

The current version of the House bill that will be considered by the full committee contains the following provisions in the conservation title.<sup>36</sup>

- Section 2101 would reauthorize the **Conservation Reserve Program** at the current enrollment level of 39.2 million acres, and make other changes.
- Section 2102 would reauthorize the **Wetlands Reserve Program** at 3.775 million acres, with an annual enrollment goal of 250,000 acres, allow 10,000 acres to be enrolled each year in flood plains using easements, and create a new wetland reserve enhancement program (modeled after the Conservation Reserve Enhancement Program).
- Section 2103 would reauthorize and rewrite the **Conservation Security Program**, simplifying the structure and payment system, and allowing existing contracts to be modified.
- Section 2104 would reauthorize the **Grasslands Reserve Program**, retaining the 2 million acre limit and allowing certain lands in the CRP to be enrolled in this program instead.

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<sup>36</sup> The bills and summaries of provisions can be found at [<http://agriculture.house.gov/inside/2007FarmBill.html>]

- Section 2105 would reauthorize and make numerous changes to the **Environmental Quality Incentives Program**, and reauthorize and amend the Conservation Innovation Grants subprogram (providing a portion of the funding to specialty crop producers and a portion to a new pilot program in the Chesapeake Bay).
- Section 2106 would create a new **Regional Water Enhancement Program** to replace the Ground and Surface Water Conservation Program under EQIP, and provide \$60 million annually in mandatory funding.
- Section 2107 would reauthorize and increase funding for the **Grassroots Source Water Protection Program**.
- 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 and making numerous other changes.
- Section 2111 would reauthorize the **Farm Viability Program**.
- Section 2112 would reauthorize the **Wildlife Habitat Incentive Program**, and increase the cost share for long-term agreements from 15% to 25%.
- Section 2201 would reauthorize the **Agricultural Management Assistance Program**, add Hawaii and Virginia to the list of eligible states, and specify that 50% of the funds each year are to go to conservation purposes.
- Section 2202 would amend the **Resource Conservation and Development Program** and require that Secretary designate a coordinator for each council established under this program.
- Section 2203 would reauthorize the **Small Watershed Rehabilitation Program**, providing \$50 million in mandatory funding and \$85 million in discretionary funding annually.
- Section 2301 would authorize mandatory funding of \$10 million in FY2008, growing to \$50 million in FY2012 for a new **Chesapeake Bay Program for Nutrient Reduction and Sediment Control**.
- Section 2401 would specify **funding levels** for the Conservation Security Program in multi-year periods through FY2017 (placing multi-year limits on available funding so that there would be no new contracts until after FY2011 and funding of more than \$5 billion between FY2011 and FY2017), the Farm and Ranchland Protection Program (from \$125 million in FY2008 to \$300 million in FY2012), the Environmental Quality Incentives Program (from \$1.5 billion in FY2008 to \$2.0 billion in FY2012), and the Wildlife Habitat Incentives Program (\$85 million annually through FY2012).
- Section 2402 would address **technical assistance** by providing additional direction on how it is to be provided.
- Section 2403 would establish a new **Cooperative Conservation Partnership Initiative** using a portion of funds from other specified conservation programs.

- Section 2404 would increase the annual authorized level for the **regional equity** provision from \$12 million to \$15 million.
- Section 2405 would authorize the development of a new **simplified application process** for individuals who wish to participate in conservation programs, to be implemented within a year of enactment. It would also **transfer administrative duties** associated with conservation programs from NRCS to FSA, and require that funding to both agencies be adjusted as needed.
- Section 2406 would require a **report to the agriculture committees** on the participation of specialty crop producers in conservation programs.
- Section 2407 would authorize development of performance standards that could be used to promote **market-based approaches** to conservation and would authorize \$50 million to be appropriated to implement this provision.
- Section 2408 would amend the membership and responsibility provisions for **state technical committees**.
- Section 2501 would amend **adjusted gross income limitation** provisions.
- Section 2502 would encourage the Secretary to develop **voluntary sustainable practice guidelines** for specialty crop producers and processors.
- Section 2503 would require the Secretary to create **farmland information centers** and fund them with up to 0.5% of the funds provided to the Farm and Ranchland Protection Program, to be matched with non-federal sources.

**Administration Proposal.** The Administration offered its set of 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. The theme paper on conservation and the environment, issued in June 2006, identified four “generalized alternatives”: (1) improve existing conservation programs; (2) provide “green payments” for land in production to enhance environmental benefits and provide income support; (3) encourage private sector markets for environmental services; and (4) expand conservation compliance or establish a standard of care.<sup>37</sup> The Administration’s 10 proposals would cost a total of \$7.8 billion above current conservation costs. 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 Environmental Quality Incentives Program, and create a new sub-program to deal with water quality and quantity issues on a regional basis (\$4.25 billion over the current 10-year baseline).

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<sup>37</sup> 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 Zinn.

- **Amend the Conservation Security Program** to emphasize higher levels of conservation, and expand enrollment from 15 million acres today to 96 million acres in 10 years, while simplifying the program (\$500 million above the current 10-year baseline).
- **Consolidate the three easement programs** for working lands into a single program (\$900 million above the current 10-year baseline).
- **Increase the focus of the Conservation Reserve Program on environmentally sensitive lands**, with priority for whole fields enrolled on which biomass crops for energy are produced.
- **Increase the Wetlands Reserve enrollment cap** to 3.5 million acres, and consolidate this reserve with the floodplain easement program (\$2.125 billion increase above the 10-year baseline).
- **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, in order to increase allocations for the most meritorious program areas.
- **Consolidate the two emergency conservation programs**.

**Introduced Legislation.** Several bills with conservation proposals have been introduced. Two bills have been receiving particular attention at this time, perhaps because of their broad scope, and perhaps because each has many cosponsors. It is not clear whether either agriculture committee might incorporate portions of these bills into legislation they will be developing, or if proponents might offer these bills as options to the committee bill when farm bill legislation is considered on the floor of either chamber. The number of other bills addressing aspects of conservation is likely to increase. Provisions in both the larger bills are outlined below. They appear to represent much of the range of likely proposals from the conservation and environmental communities. Following these two bills is a list of provisions from a third bill, H.R. 1766, which is an example of more limited or targeted legislation; in this instance, a focus on the Chesapeake Bay watershed.

**H.R. 1551 (Representative Kind)/S. 919 (Senator Menendez).** H.R. 1551, the Healthy Farms, Foods, and Fuels Act of 2007, was introduced on March 15, 2007, and S. 919, an identical bill, was introduced on March 20, 2007. H.R. 1551 has 119 cosponsors while S. 919 has 6 cosponsors. The bill has four titles, but about 70% of the bill (by length) is the conservation title. All reauthorizations are through FY2013, unless otherwise noted. Topics addressed in this bill are also addressed in H.R. 1600, unless they are identified as not being include in both bills. The conservation title of H.R. 1551 includes the following provisions:

- Section 101 would reauthorize the **Conservation Reserve Program** and make numerous amendments, such as greater consideration of animals and forests, and greater focus on environmental benefits.
- Section 102 would reauthorize the **Wetland Reserve Program**, increasing the total enrollment goal to 5 million acres and specifying

annual maximums. It would make other amendments, such as making the protection of rare and endangered species a priority.

- Section 103 would reauthorize the **Conservation Security Program**, making changes in the structure, eliminating maintenance payments, changing some enrollment procedures, and limiting technical assistance expenditures to 15% of a contract's value.
- Section 104 would reauthorize the **Grasslands Reserve Program**, increasing total enrollment to 10 million acres and setting several enrollment goals. It would add provisions for biodiversity, pasture-based operations, and an enhancement subprogram where states contribute a portion of the funds (similar to the CREP in the CRP).
- Section 105 would reauthorize the **Environmental Quality Incentives Program**, at \$2.0 billion annually. Among other changes, it would add new provisions for forest stewardship, enhanced manure and nutrient management, and state performance incentives; and increase funding for two subprograms, Conservation Innovation Grants and Ground and Surface Water Conservation.
- Section 106 would reauthorize the **Wildlife Habitat Incentives Program**, increasing funding to \$300 million annually in FY2012 and FY2013. It would also expand the use of long-term agreements, add priorities, and promote fish habitat.
- Section 107 would authorize a new **Cooperative Conservation Partnership Initiative** using two- to five-year grants involving multiple producers. It lists numerous evaluation criteria for applications, eight program priorities, and funding criteria. It would provide funding by using 20% of the annual allocation for several specified conservation programs.
- Section 108 would reauthorize the **regional equity** provisions and increase the minimum amount each state would receive to \$15 million annually.
- Section 109 would exclude conservation payments from the cap on **adjusted gross income** that is used to exclude people with very high annual incomes from farm program participation.
- Section 110 would increase annual funding for the **Agricultural Management Assistance Program** to \$40 million and specifies the allocations among the three component subprograms. (*Provision not included in H.R. 1600.*)
- Section 111 would authorize \$50 million a year for a new **Community Forests and Open Space Program** to help protect forests in and near communities in states designated by the Secretary. (*Provision not included in H.R. 1600.*)
- Section 112 would authorize the **Farmland Protection Program** through FY2012 at \$300 million annually.
- Section 113 would authorize mandatory funding, with no amount specified, for the **Healthy Forests Reserve Program**. (*Provision not included in H.R. 1600.*)
- Section 114 would authorize an **Integrated Pest Management Initiative** in priority areas identified by the Secretary that would be integrated with EQIP and use a portion of the funds provided for EQIP and CSP.

- Section 115 would authorize a new initiative for **socially disadvantaged farmers and ranchers**, funded using up to 10% of the money provided to several conservation programs. (*Provision not included in H.R. 1600.*)
- Section 116 would establish a **Conservation Loan Guarantee Program**. It specifies loans qualifications and provides an unspecified amount of mandatory funds for implementation.
- Section 117 would authorize \$40 million annually in mandatory funding to establish a pilot program for **Comprehensive Conservation Planning** in five specified locations (the Chesapeake Bay watershed, for example, is one of them). (*Provision not included in H.R. 1600.*)
- Section 118 would address **technical assistance** by clarifying the role of third-party providers and establishing a financial-aid program to assist students in exchange for a commitment to work for NRCS.

**H.R. 1600 (Representative Cardoza).** H.R. 1600, the Equitable Agriculture Today for a Healthy America or the EAT Healthy America Act, was introduced on March 20, 2007. This legislation currently has 115 cosponsors. Nine of the cosponsors are members of the House Agriculture Committee. This bill encompasses more farm bill topics than H.R. 1551, with eight titles. The conservation title is more than 40% of the total bill (by length). All programs in this bill are authorized through FY2012. Sections that are identical or nearly identical to similar provisions in H.R. 1551 are identified as such. The conservation title includes the following sections.

- Section 201 would reauthorize the **Conservation Security Program** by adding eight findings about importance and potential benefits.
- Section 202 would reauthorize the **Conservation Reserve Program** and make numerous amendments, such as greater recognition of rare and endangered species and habitat, and limiting the portion of land in the program that can be enrolled through a general signup.
- Section 203 would reauthorize the **Wetland Reserve Program**. It is similar to Section 102 of H.R. 1551.
- Section 204 would reauthorize the **Farmland Protection Program**, and is identical to Section 112 of H.R. 1551.
- Section 205 would reauthorize the **Grasslands Reserve Program** and establish annual enrollment levels increasing to 3 million acres in 2012 and annually thereafter. Other changes would include allowing land in the CRP to be transferred into this program; adding considerable detail about who can hold easements, and adding an enhancement subprogram where states contribute a portion of the funds (similar to the CREP in CRP).
- Section 206 would reauthorize the **Wildlife Habitat Incentives Program**, and is similar to Section 106 of H.R. 1551. In addition, it would give more emphasis to rare and endangered species and their habitat, and require coordination with state wildlife plans.
- Section 207 would reauthorize the **Environmental Quality Incentives Program**, gradually increasing the annual authorization to \$2 billion in FY2012. It would amend the existing statute in several ways, such as modifying incentive payment rates. It would

increase funding for Ground and Surface Water and Innovative Grants subprograms, and add a new section on air quality.

- Section 208, which would authorize a new **Cooperative Conservation Partnership Initiative**, is nearly identical to Section 107 of H.R. 1551.
- Section 209 would reauthorize the **regional equity** provisions, providing a minimum of \$12 million annually to each state.
- Section 210 would authorize an **Integrated Pest Management Initiative** that is nearly identical to Section 114 of H.R. 1551.
- Section 211 would address **technical assistance** and is similar to Section 118 of H.R. 1551. In addition, it would require development of technical assistance for specialty crop producers.
- Section 212 would establish a **Conservation Loan Guarantee Program**, and is nearly identical to Section 116 of H.R. 1551.
- Section 213 would amend the **Emergency Conservation Program** to add providing assistance to clean up debris in nurseries caused by natural disasters. (*Provision not included in H.R. 1551.*)
- Section 214 would exclude conservation payments from the cap on **adjusted gross income**, and is identical to Section 109 of H.R. 1551.
- Section 215 would encourage the Secretary to develop guidelines for **voluntary sustainable practices** for specialty crop producers. (*Provision not included in H.R. 1551.*)
- Section 216 would require the Secretary “whenever practicable” to assist specialty crop producers in addressing the adverse impacts of **long-term climate change**. (*Provision not included in H.R. 1551.*)

***H.R. 1766 (Van Hollen) : An Example of a Targeted Conservation Bill.*** In addition to these general bills, measures that are more specific to a particular topic or location have been introduced. H.R. 1766, for example, is called the Chesapeake’s Healthy and Environmentally Sound Stewardship of Energy and Agriculture Act of 2007. It would amend and create programs to target conservation (and bioenergy) activity either specifically to the Chesapeake Bay watershed or to places that are confronting the types of conservation issues found in the Chesapeake Bay watershed, focusing especially on the need to improve water quality by reducing nutrients and sediments. Justifications for taking these actions are outlined in a findings section. Conservation provisions in this legislation would reauthorize or enact (and fund through FY2013) the following:

- Reauthorizes the **Environmental Quality Incentives Program**, giving priority to multi-state watersheds with impaired waters, creating new subprograms for small privately owned forest land and regional water quality enhancement, and expanding the Conservation Innovation Grants subprogram (increases to \$2 billion/year).
- Reauthorizes the **Conservation Reserve Program**, and sets aside 7 million acres for enrollment under the continuous enrollment and conservation reserve enhancement (CREP) options. Environmental standards will be raised for newly enrolled lands (remains at 39.2 million acres).

- Reauthorizes the **Conservation Security Program**, eliminating the multi-year spending caps and allowing continuous enrollment in multi-state watersheds (the Chesapeake Bay watershed is specified as eligible). If funding is limited, priority is to be given to watersheds impaired by nutrients (no funding level specified).
- Authorizes a new **pilot Comprehensive Planning Technical Assistance Program** that would be created for the Chesapeake watershed (\$10 million/year).
- Reauthorizes the **Wetlands Reserve Program**, with a target of enrolling 25,000 acres in the Chesapeake Bay watershed by 2010 (increases to 3.5 million acres).
- Amends the **Agricultural Management Assistance Program**, for which Virginia would be added to the list of eligible states (\$50 million/year).