Agricultural Conservation and the Next Farm Bill

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February 12, 2013

Congressional Research Service
7-....
www.crs.gov
R42093

CRS Report for Congress
Prepared for Members and Committees of Congress

Summary

Reauthorization of the Food, Conservation, and Energy Act of 2008 (2008 farm bill) failed to pass in the 112th Congress, leaving it to the 113th Congress to continue the farm bill debate. The conservation title continues to receive attention and interest from farmers and ranchers as well as environmental and conservation organizations. Contentious issues raised in the 2012 farm bill debate might continue in the 113th Congress, specifically calls to reduce overall funding levels, including conservation, and the addition of crop insurance as a benefit lost under conservation compliance. Other issues from the 2012 farm bill reauthorization debate include consolidating duplicative programs, using public-private partnerships to extend federal funding, and amending existing programs by adding new options to protect and restore resources on agricultural lands.

Budgetary concerns continue to drive the farm bill reauthorization discussion, with additional emphasis placed on reducing mandatory spending. In the past 25 years, conservation has received an increasing level of mandatory funding authorized through farm bills. Nutrition, direct payments, crop insurance, and conservation make up 99% of the 10-year estimated baseline funding for farm bill programs. As a result, conservation is one of the four major sources of mandatory program spending that continues to be closely examined during reauthorization. Several conservation programs, provisions, and funding authorized in the 2008 farm bill expired at the end of FY2012 and were extended to the end of FY2013 by the American Taxpayer Relief Act of 2012 (P.L. 112-240). This extension did not include additional baseline funding for the 37 farm bill provisions that do not have baseline funding beyond FY2012, five of which are within the conservation title.

The Senate-passed (S. 3240) and House-reported (H.R. 6083) farm bills in the 112th Congress included a number of program consolidations within the conservation title. The existing portfolio of conservation includes more than 20 programs, ranging in size and scope. The large number of programs has been cited as a source of confusion and redundancy, causing both the current and previous Administrations to request some form of consolidation. Other programmatic topics continue to be discussed and debated about conservation: (1) Should existing programs be amended, and if so, how? (2) How should funding be divided between programs for land retirement and for working lands? (3) Should conservation programs be subject to the same program limitations as other commodity support programs? (4) How will the debate be affected by new data that highlight the connection between conservation practices and positive environmental results? Various responses to these questions have been offered in extensive testimony at hearings, and are reflected in the policy options that Congress is considering.

The federal response to environmental concerns related to agriculture is generally viewed as both supportive and restrictive. One of the primary means of support is provided through the voluntary conservation programs established in the farm bill. These conservation programs are increasingly called upon to support best management practices to meet federal environmental requirements; however, these programs are being considered for funding reductions. Other conservation efforts, such as conservation compliance on highly erodible lands and wetlands compliance, might be viewed as restrictive. Potential changes in commodity programs could reduce the effectiveness of compliance programs. This has caused some to advocate for reestablishing compliance requirements to other farm program benefits, such as crop insurance.

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Agricultural conservation began in the 1930s with a focus on soil and water issues associated with production and environmental concerns on the farm. By the 1980s, agricultural conservation policies broadened to include environmental issues beyond soil and water, especially environmental issues related to production (off the farm). Many of the current agricultural conservation programs were enacted as part of the 1985 farm bill (P.L. 99-198, Food Security Act of 1985), which also included for the first time a conservation title. These programs have been reauthorized, modified, and expanded, and several new programs have been created, particularly in subsequent omnibus farm bills. While the number of programs has increased and new techniques to address resource problems continue to emerge, the basic approach has remained unchanged—voluntary farmer participation encouraged by providing land rental payments, cost-sharing conservation practice implementation, technical assistance, education, and basic and applied research.

The Food, Conservation, and Energy Act of 2008 (P.L. 110-246), the 2008 farm bill, reauthorized almost all existing conservation programs, modified several programs, and created various new ones.[1] Funding authority for most of these programs expired at the end of FY2012, and was extended until the end of FY2013 by the American Taxpayer Relief Act (P.L. 112-240).[2] The 112th Congress debated reauthorizing legislation in the House-reported (H.R. 6083) and Senate-passed (S. 3240) farm bills.[3] This legislation did not pass before the end of the 112th Congress, leaving the 113th Congress to write a new farm bill.

Current Conservation Portfolio

Since its first inclusion in the 1985 farm bill, the conservation title has been a significant and visible title in the farm bill. As the title has grown in both size and interest, so too have questions and concerns about program funding, policy objectives, individual program effectiveness, comparative geographic emphasis, and the structure of federal assistance. Congress has continued to debate and address these concerns with each omnibus farm bill. The 2008 farm bill was no exception. While almost all existing conservation programs were reauthorized, several programs were modified to address concerns. The 2008 farm bill also created new programs, expanding the range of USDA conservation activities.

Currently, more than 20 agricultural conservation programs are administered by USDA, mostly by the Natural Resources Conservation Service (NRCS). Starting in 1985, each succeeding farm bill has expanded the range of natural resource problems to be addressed as well as the number of conservation programs and level of funding. In some cases, the programs are subsets of overarching programs that apply to a specific place or a specific resource, but with unique provisions and eligibility requirements. Though some similarities among these programs exist, each is administered with slight differences. For a list of most agricultural conservation programs, see CRS Report R40763, *Agricultural Conservation: A Guide to Programs*.

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[1] For additional information on conservation provisions in the farm bill, see CRS Report RL34557, *Conservation Provisions of the 2008 Farm Bill*.

[2] For additional information on the extension and possible expiration of the 2008 farm bill, see CRS Report R42442, *Expiration and Extension of the 2008 Farm Bill*.

[3] For more information on the conservation provisions considered in the 112th Congress, see CRS Report R42552, *The 2012 Farm Bill: A Comparison of Senate-Passed S. 3240 and the House Agriculture Committee's H.R. 6083 with Current Law*.

Programs by Type

Generally, farm bill conservation programs can be grouped into the following four categories based on similarities: working land programs, land retirement and easement programs, conservation compliance programs, and other programs and overarching provisions. Most of these programs are authorized to receive mandatory funding (i.e., they do not require an annual appropriation) and include authorities that expire with other farm bill programs at the end of FY2013.[4] Other types of conservation programs such as watershed programs, emergency programs, and technical assistance are authorized in other non-farm bill legislation. Most of these programs have permanent authorities and receive appropriations annually through the appropriations process. These programs are not generally discussed in the context of a farm bill and are not covered in detail in this report.

Working Lands

Working lands conservation programs are typically classified as programs that allow private land to remain in production, while implementing various conservation practices to address natural resource concerns specific to the area. The largest of these programs is the Environmental Quality Incentives Program (EQIP), currently authorized at a total of $7.3 billion between FY2008 and FY2012. Others, such as the Wildlife Habitat Incentives Program (WHIP), Agricultural Management Assistance (AMA), and Agricultural Water Enhancement Program (AWEP), operate similarly to EQIP; however, they target specific resource concerns or geographic areas. The Conservation Stewardship Program (CSP) replaced the Conservation Security Program in the 2008 farm bill and is designed to encourage producers to address specific resource concerns in a comprehensive manner. CSP operates differently from the other working lands programs in that it employs a "pay-for-performance" approach. This approach pays producers based on their quantifiable level of environmental outcomes. Payments may vary to further incentivize higher levels of performance.

Land Retirement and Easement Programs

Land retirement programs provide federal payments to private agricultural landowners for *temporary* changes in land use or management to achieve environmental benefits. Conversely, conservation easements impose a *permanent* land-use restriction that is voluntarily placed on the land in exchange for a government payment. The largest land retirement program is the Conservation Reserve Program (CRP), which reimburses the landowner for removing land from production for up to 10 years at a time and is authorized to enroll up to 32 million acres. Other programs such as the Wetlands Reserve Program (WRP) and the Grasslands Reserve Program (GRP) use a combination of long-term and permanent easements as well as restoration contracts to protect wetlands and grasslands from production. The Farmland Protection Program (FPP) also uses easements; unlike the aforementioned programs, however, it does not remove land from production, but rather restricts productive farmland from being developed for non-farm purposes.

[4] Most of the 2008 farm bill conservation programs expired at the end of FY2012 but were extended in the American Taxpayer Relief Act of 2012 (P.L. 112-240) to the end of FY2013. The FY2012 Agriculture Appropriations Act (P.L. 112-55) also extended certain conservation programs' funding authority to FY2014. This is further discussed in the "Mandatory Reduction " section.

Conservation Compliance

USDA also administers highly erodible lands conservation and wetland conservation compliance programs, referred to as Sodbuster, Swampbuster, and Sodsaver.[5] These programs prohibit producers from receiving many farm program benefits when certain compliance requirements are not met. Under Sodbuster, farmers who cultivate highly erodible lands must have fully implemented an approved conservation plan or risk losing eligibility for various farm support programs on all the land the producer cultivates. Similarly, under Swampbuster, producers who convert a wetland, making production of an agricultural commodity possible, after November 28, 1990, are ineligible for program benefits. The 2008 farm bill created a new compliance provision known as Sodsaver. Under Sodsaver, producers that plant an insurable crop (over 5 acres) on native sod are ineligible for crop insurance and the noninsured crop disaster assistance (NAP) program for the first five years of planting. This provision requires states to sign up for participation. To date, no state governors have opted to participate in this program.

Other Programs and Provisions

USDA administers several other farm bill conservation programs, many of which were created in the 2008 farm bill. Some programs are geographically specific, such as the Chesapeake Bay program and the Great Lakes Basin program, which focus on select watershed regions. Other programs, such as the Cooperative Conservation Partnership Initiative (CCPI), use existing conservation program funds as leverage for partnership agreements with non-federal funding. Grant programs are also available, such as the Voluntary Public Access and Habitat Incentives program and the Conservation Innovation Grants (CIG). Other farm bill provisions redirect funding to various priority areas, such as the regional equity provision[6] and additional incentives for beginning, socially disadvantaged, and limited resource producers.[7]

For additional information and program descriptions for most conservation programs within the farm bill discussion, see the CRS Report R40763, *Agricultural Conservation: A Guide to Programs*.

Program Funding

The majority of farm bill conservation programs are funded through USDA's Commodity Credit Corporation (CCC)[8] as mandatory spending. Mandatory spending can be thought of as multiyear appropriation in authorizing legislation (e.g., a farm bill). These authorizations do not require an annual appropriation. Mandatory conservation programs either receive a statutorily authorized level of funding (e.g., $1.75 billion available for a conservation program during a fiscal year) or

[5] For additional information on conservation compliance provisions, see CRS Report R42459, *Conservation Compliance and U.S. Farm Policy*.

[6] The regional equity provision was first instituted in the 2002 farm bill and reauthorized in the 2008 farm bill. The provision mandates that each state receive annually a minimum aggregate amount of funding for specified conservation programs. Regional equity affects EQIP, WHIP, FPP, and GRP. The 2008 farm bill increased the minimum level of funding to each state for these combined four conservation programs from $12 million to $15 million.

[7] Added in the 2008 farm bill, this provision directs funding for EQIP and acres for CSP to beginning farmers and ranchers (5%) and socially disadvantaged farmers and ranchers (5%).

[8] The CCC is the funding mechanism for the mandatory payments administered by various agencies of USDA, including farm commodity price and income support programs.

an acreage allotment (e.g., enroll up to 32 million acres nationally). Mandatory funds from the authorizing law are assumed to be available unless they are expressly reduced to smaller amounts by a subsequent act of Congress, usually initiated in the appropriations process or by the authorizing committees.

USDA Farm Bill Conservation Programs and Provisions

Working Lands Programs—typically classified as programs that allow private land to remain in production, while implementing various conservation practices to address natural resource concerns specific to the area.

- Environmental Quality Incentives Program (EQIP), Conservation Stewardship Program (CSP)/Conservation Security Program, Wildlife Habitat Incentives Program (WHIP), Agricultural Water Enhancement Program (AWEP), and Agricultural Management Assistance (AMA) program.

Land Retirement and Easement Programs—land retirement programs provide federal payments to private agricultural landowners for temporary changes in land use or management to achieve environmental benefits. Conversely, conservation easements impose a permanent land-use restriction that is voluntarily placed on the land in exchange for a government payment.

- Conservation Reserve Program (CRP, includes the Conservation Reserve Enhancement Program (CREP) and Farmable Wetlands), Wetlands Reserve Program (WRP), Farmland Protection Program (FPP), Grassland Reserve Program (GRP), and Healthy Forests Reserve Program (HFRP).

Compliance—prohibits a producer from receiving most federal farm program benefits (including conservation assistance) when conservation requirements for highly erodible lands and wetlands are not met.

- Conservation Compliance, Sodbuster, Swampbuster, and Sodsaver.

Other Conservation Programs and Provisions—Chesapeake Bay Watershed Program, Cooperative Conservation Partnership Initiative, Conservation Innovation Grants, conservation technical assistance, Great Lakes Basin Program, regional equity, Voluntary Public Access and Habitat Incentive Program (VPAHIP), and Grassroots Source Water Protection Program.

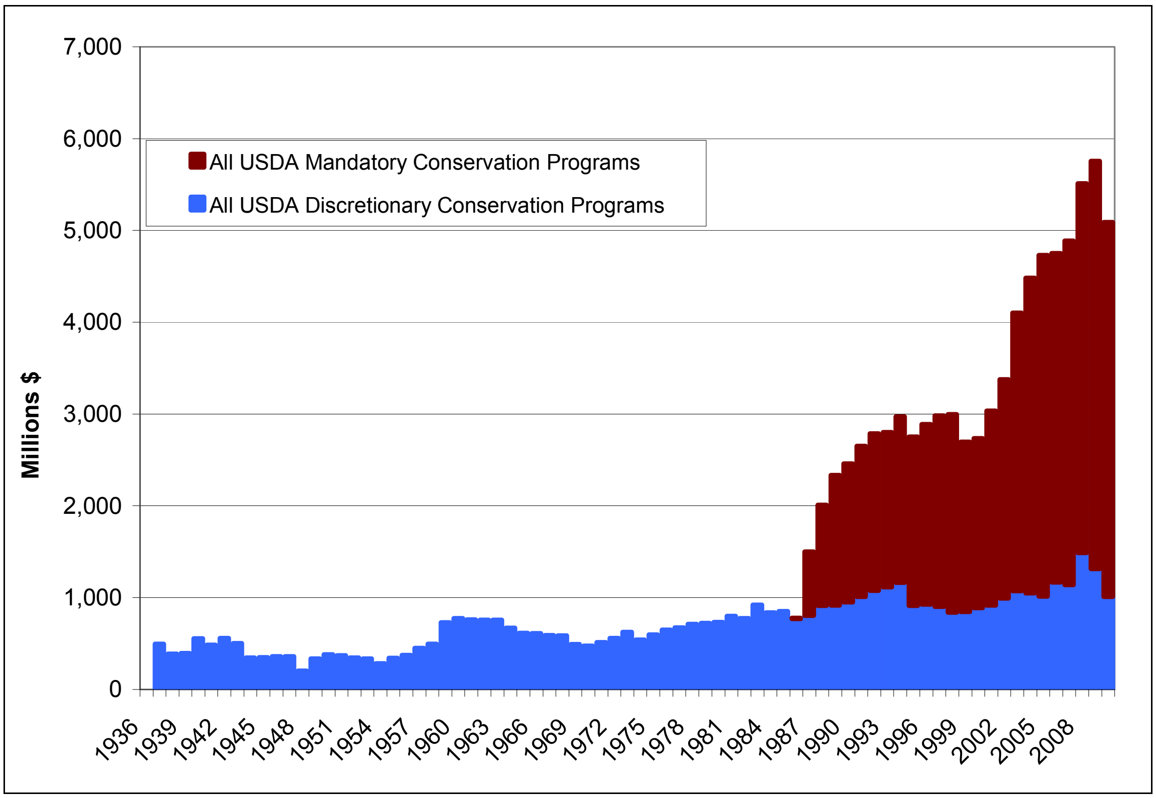
Historically, most conservation programs did not receive mandatory funding. The majority of conservation programs prior to the 1985 farm bill (P.L. 99-198) had discretionary funding authority and were funded through the annual appropriations process. Since the 1985 farm bill, the number of programs receiving mandatory funding as well as the level of authorized funding has grown (**Figure 1**). Most conservation program advocates view mandatory funding as a more desirable approach than the annual appropriations process. They believe that it is generally easier to protect authorized mandatory funding levels from reductions during the appropriations process than to secure appropriations each year. Congress has supported this by continuing to enact provisions that allow many conservation programs to receive mandatory funding. One of several concerns regarding conservation funding in the next farm bill centers on the possible reduction of mandatory program spending, without an increase in discretionary spending, thereby reducing the total level of conservation funding.

During the 2008 farm bill debate conservation groups and producers found themselves competing with other agricultural interests for the necessary resources to expand or even continue many conservation programs. Upon passage of the 2008 farm bill, the conservation title was one of the few titles to have received an increase in mandatory funding levels, which was seen as a victory by many in the conservation and environmental communities. Conservation program funding was authorized to expand from approximately $4 billion total in FY2008 to $6.1 billion in FY2012.

In an environment of pronounced domestic budget constraints, many mandatory conservation programs have faced reductions from the farm bill authorized levels, usually through the appropriations process. While other farm bill mandatory programs have experienced reductions in appropriations, the majority affect conservation programs. Conservation and environmental groups criticize these reductions, arguing that when appropriators reduce conservation funding they undercut many of the programs that generated political support for the farm bill's initial passage. Others point out that funding for mandatory conservation programs continues to increase despite these reductions (see **Figure 1**). For additional information on reductions to mandatory agricultural spending, see CRS Report R41245, *Reductions in Mandatory Agriculture Program Spending* and CRS Report R41964, *Agriculture and Related Agencies: FY2012 Appropriations*.

Figure 1. Historical USDA Conservation Program Funding

(nominal historical dollars, 1936-2010)



Source: George A Pavelis, Douglas Helms, and Sam Stalcup, *Soil and Water Conservation Expenditures by USDA Agencies, 1935-2010*, USDA, NRCS, Historical Insights Number 10, Washington, DC, May 2011.

Notes: The graph includes both financial and technical assistance expenditures for 32 USDA conservation programs; excludes funding for conservation-related research. Total conservation program funding through these 32 programs since 1935 is approximately $110 billion.

Issues for the Next Farm Bill

Current budgetary constraints continue to drive the debate related to the next farm bill. Most programs authorized in the 2008 farm bill (P.L. 110-246) will expire on September 30, 2013, because of the 2012 farm bill extension.[9] Many of the conservation issues discussed in the 112th

[9] The 2012 American Taxpayers Relief Act (P.L. 112-240), extended the 2008 farm bill for on additional year until (continued...)

Congress continue to be discussed, including program consolidation, environmental regulation, and conservation compliance. While the conservation title was arguably one of the less controversial titles debated during the 112th Congress's farm bill reauthorization consideration, tension remains on some key policy points, namely funding levels and compliance requirements.

Budget and Baseline Issues

One overarching issue affecting conservation in the next farm bill is budgetary constraints and baseline funding. Similar to the conditions during debate on the 2008 farm bill, the current farm bill debate has been driven in part by relatively large budget deficits and demand for fiscal restraint. Most conservation programs authorized in the 2008 farm bill receive mandatory funding. Farm bill reauthorization proposals in the 112th Congress would have reduced mandatory conservation funding. Also, reductions in mandatory funding through the annual appropriations process continue to impact conservation program funding.[10] Many of these proposed reductions continue to receive strong opposition from conservation and farm supporters alike.

Overall Farm Bill Baseline

The Congressional Budget Office (CBO) generates a budget score and baseline projection for mandatory spending. A "baseline" is an estimate at a particular point in time of what federal spending on mandatory programs likely will be under current law. The baseline serves as a benchmark or starting point for the budget under which the authorizing committees write the farm bill. When new provisions are introduced that affect mandatory spending, their impact (or "score") is measured as a difference from the baseline. Increases in cost above the baseline may be subject to budget constraints such as pay-as-you-go (PAYGO) or cut-as-you-go (CUTGO).[11]

Conservation currently accounts for less than 7% of the overall farm bill baseline funding for the next 10 years (**Figure 2**). The largest percentage of baseline funding is in the nutrition title (primarily the Supplemental Nutrition Assistance Program, or food stamps), which has long been considered to be difficult politically to reduce. If it is assumed that no additional money from outside the agriculture committees' jurisdiction is expected, then funding for any new programs or program growth will likely come from existing farm bill baseline. The three largest sources of funding after nutrition are crop insurance, conservation, and commodity support (namely direct payments). Authorizing committees are not restricted by the current division of the farm bill baseline—only the total amount of baseline available during reauthorization. This means that the authorizing committees can shift funding from one title or program to another, depending on priorities.

The American Taxpayer Relief Act of 2012 (P.L. 112-240) extended all 2008 farm bill provisions that were in effect and expiring on September 30, 2012, for one additional year until September 30, 2013. There is no net cost to the extension because mandatory funding to continue most of the

(...continued)

September 30, 2013, or, in the case of the farm commodity programs that were on a different calendar, through crop year 2013.

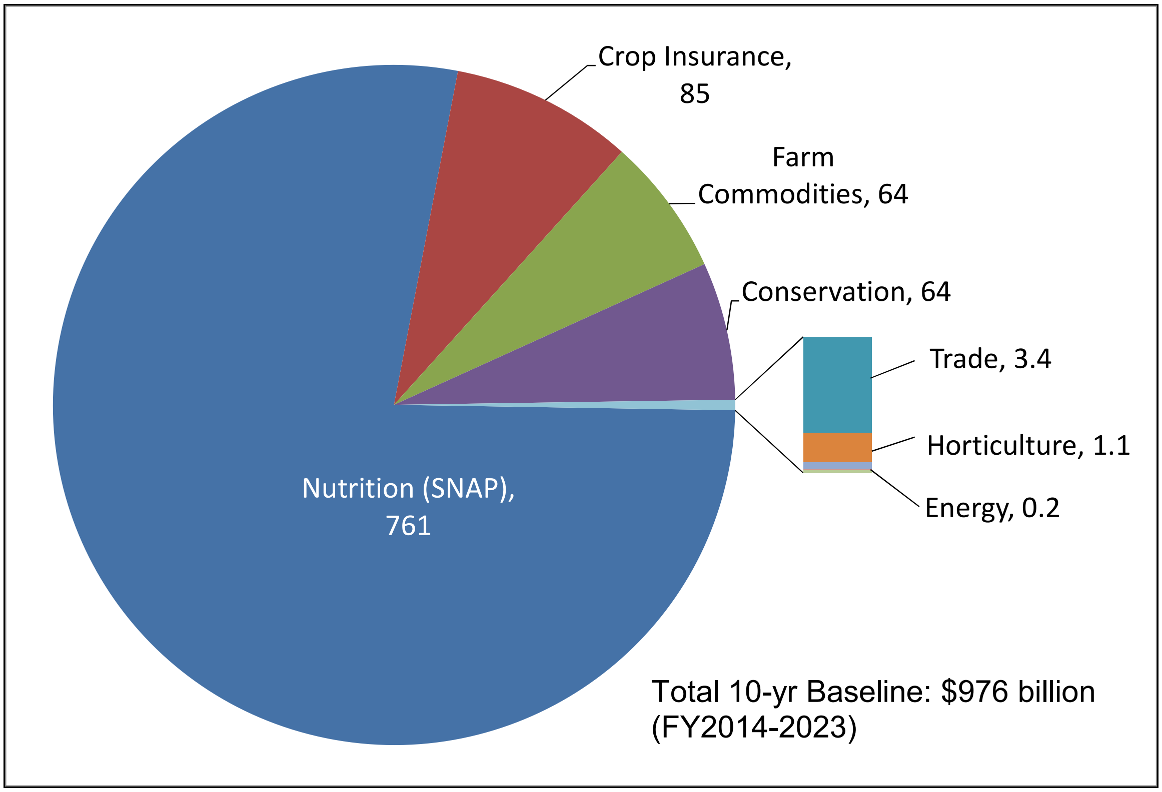
[10] This is discussed further in the "Mandatory Reduction " section of this report. For additional information on overall farm bill spending, see CRS Report R42484, *Budget Issues Shaping a 2013 Farm Bill.*

[11] For more information on budget rules, see CRS Report 98-721, *Introduction to the Federal Budget Process*.

major farm bill programs was already in the budget baseline. A subset of the 2008 farm bill programs did not have a continuing mandatory baseline and did not receive any additional mandatory funding under the extension. This group includes certain conservation programs and is discussed further in the next section. Many of these programs would have been funded in the five-year farm bills that were developed in 2012 (both H.R. 6083 and S. 3240). However, most of these programs do not have funding for FY2013, and require additional legislative action or appropriations.

Figure 2. CBO Baseline for Mandatory Agriculture and Farm Bill Programs

($ billion, FY2014-FY2023)



Source: Based on CRS report using CBO baseline (February 2012).

Notes: Includes $0.8 billion of baseline for expiring programs that do not have baseline to continue.

Conservation Programs With No Baseline

Thirty-seven provisions in the 2008 farm bill received mandatory budget authority but are not assumed to receive such funding in the budget baseline beyond the original expiration of the 2008 farm bill (FY2012).[12] Of these 37 provisions, five are for programs within the conservation title (**Table 1**). The estimated cost to extend these five programs for five years is approximately $2.7

[12] For additional information on the 37 farm bill provisions without baseline, see CRS Report R41433, *Expiring Farm Bill Programs Without a Budget Baseline*.

billion.[13] If policymakers want to continue these programs, under current budget rules, they will need to pay for the programs with offsets from other sources.

Table 1. Conservation Programs in the 2008 Farm Bill With No or Limited Budget Baseline After FY2012
($ in millions, over 5 years)

		Estimated Cost to Extend		
2008 Farm Bill Section	Program	CBO Score in 2008, time of enactment	CBO Baseline in February 2013	Original 2008 Farm Bill Provisions[a]
2202	Wetlands Reserve Program	$1,460	$2,238[b]	3.04 million acres to be enrolled through FY2012. The 2008 farm bill added $128-$338 million of costs to baseline annually.
2403	Grassland Reserve Program	$320	$300[b]	1.22 million additional acres to be enrolled during FY2009-FY2012. The farm bill added $63-$80 million of costs to baseline annually.
2606	Voluntary Public Access and Habitat Incentive Program	$50	$50	$50 million for the period FY2009-FY2012.
2803	Small Watershed Rehabilitation Program	$100	$100	$100 million in FY2009, to remain available until expended. Discretionary appropriations also are authorized.
2807	Desert Terminal Lakes	$175	$175	$175 million in FY2008, to remain available until expended (transfer from USDA to Dept. of the Interior's Bureau of Reclamation).
	Total	**$2,105**	**$2,863**	

Source: Based on CRS Report R41433, *Expiring Farm Bill Programs Without a Budget Baseline* and the February 2013 CBO Baseline.

a. The 2012 farm bill extension extended provisions to September 30, 2013. This extension did not provide any new mandatory funding for programs that did not originally have mandatory funding authority beyond FY2012. Limited funding may remain for some programs as a result of limitations placed by appropriators in previous fiscal years.

b. Costs for WRP and GRP are CBO's actual amounts from FY2008 to FY2012.

Extension of the 2008 Farm Bill

Some conservation programs such as CRP have baseline beyond FY2012; therefore the extension allows CRP to continue in FY2013 at the original authorized rate of enrollment—up to 32 million acres at any one time. Other mandatory conservation programs that expired and were extended have limited baseline beyond FY2012, as a result of previous reductions in annual appropriations. For example, the Wetlands Reserve Program (WRP) had authority under the 2008 farm bill to enroll no more than 3.04 million acres before FY2012, and did not include budgetary baseline beyond FY2012. Temporary reductions in FY2011 and FY2012 annual appropriations acts limited USDA's ability to enroll the authorized level of acres. This resulted in limited baseline

[13] $3 billion is a cost estimate based on known and projected data through the March CBO baseline (Congressional Budget Office, *CBO March 2012 Baseline for CCC & FCIC*, March 2012), and should not be considered an official CBO score of program cost.

being carried forward into FY2013, whereas it would have otherwise been expended by the end of FY2012. With the current farm bill extension, WRP can presumably use this additional baseline to enroll acres within its original authorized acreage cap.

A different set of mandatory conservation programs has no baseline beyond FY2012 and therefore require offset funding to be continued (e.g., VPAHIP). The extension does not affect these programs, which have expired and will continue to remain inactive unless otherwise funded. The extension authorized VPAHIP to receive $10 million in appropriations for FY2013; however, no additional funding has been appropriated.

Spending Limits on Mandatory Program Spending

The 2008 farm bill authorized increases in mandatory funding for many conservation programs. Unlike the discretionary conservation programs, which must be funded through the annual appropriations process, mandatory programs have an authorized level of funding (or acreage enrollment) that is available unless reduced to smaller amounts in the appropriations process. If appropriators do not set a spending limit or reduce the authorized level, then the program receives the authorized level of funding.

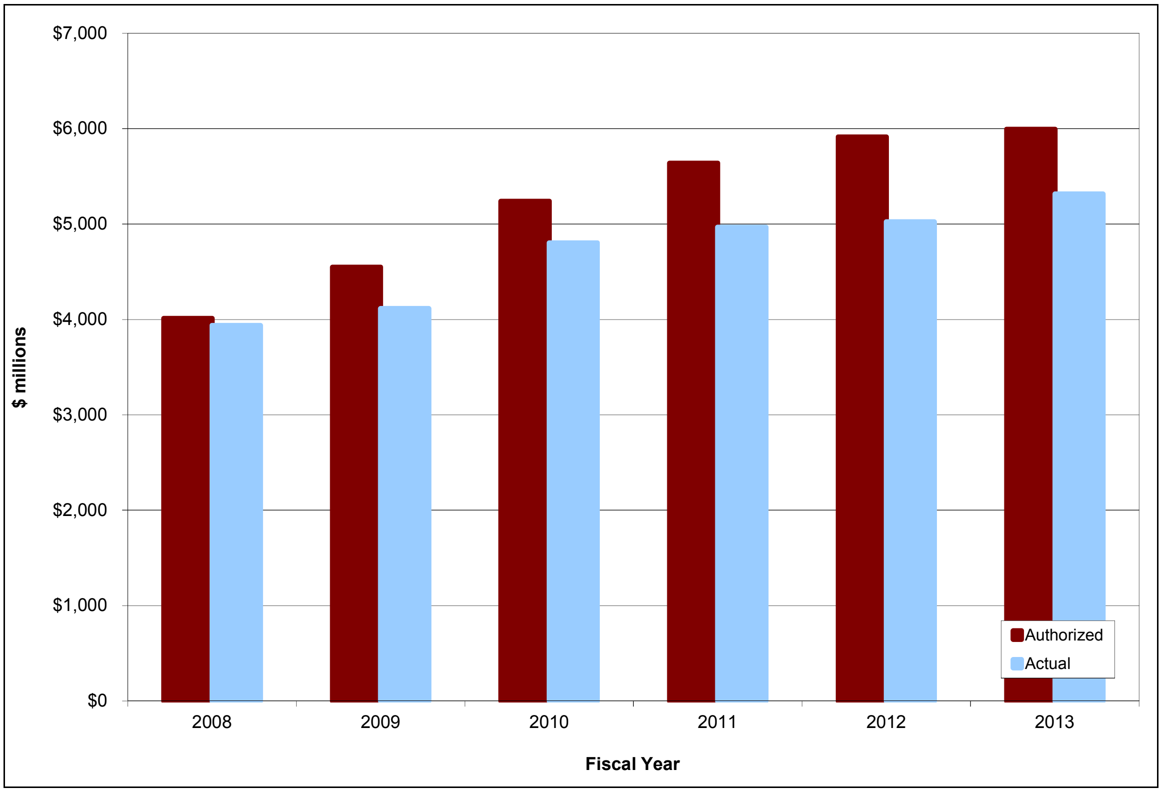
Despite the increase in mandatory funding authority, many conservation programs have been reduced or capped through annual appropriations acts since FY2003 (**Figure 3**). Many of these spending reductions were at the request of both the Bush and Obama Administrations. The mix of programs and amount of reduction has varied from year to year. Some programs, such as the CRP, have not been reduced by appropriators in recent years, while others, such as EQIP, have been repeatedly reduced below authorized levels. Total mandatory funding for conservation was reduced by over $5.3 billion from FY2003 through FY2013. Even with these reductions, total mandatory funding for conservation programs has remained relatively constant at around $5 billion annually. For more information about reductions in mandatory program spending, see CRS Report R41245, *Reductions in Mandatory Agriculture Program Spending*.

Although some titles in the 2008 farm bill (e.g., commodities and crop insurance) received a reduction in mandatory funding authority, the conservation title received increased mandatory funding authority. Many supporters of conservation programs viewed this as a victory during the farm bill debate. Yet the President's budget proposals continued the trend of proposed reductions. While the FY2010 Agriculture Appropriations Act (P.L. 111-80) did not include many of these proposed reductions (with the exception of EQIP and Watershed Rehabilitation), the FY2011 (P.L. 112-10) and FY2012 (P.L. 112-55) appropriations acts reduced mandatory conservation program funding by $673 million and $929 million, respectively.[14] The FY2013 continuing resolution (P.L. 112-175) continues FY2012 funding levels, including reductions, to March 27, 2013. Advocates for these programs contend that these limitations are significant changes from the intent of the farm bill, which they say compromise the programs' ability to provide the anticipated magnitude of benefits to producers and the environment. Others, including those interested in reducing agricultural expenditures or in spending the funds for other agricultural purposes, counter that even with these reductions, overall funding for conservation has not been reduced.

[14] See CRS Report R41475, *Agriculture and Related Agencies: FY2011 Appropriations*; and CRS Report R41964, *Agriculture and Related Agencies: FY2012 Appropriations*.

Figure 3. Authorized and Actual Funding Levels for Mandatory Farm Bill Conservation Programs

(FY2008-FY2013)



Source: CRS using CBO estimates and funding reports from the President's annual budget requests.

Notes: FY2013 includes funding reductions authorized in the FY2013 continuing resolution (P.L. 112-175), which expires March 27, 2013, and funding estimates from the February 2013 CBO baseline.

Mandatory Reduction and Program Extension in Appropriations Acts

While most conservation advocates decry reduced conservation funding for any fiscal year, additional emphasis was placed on reductions proposed in FY2012. Authority for many of the farm bill conservation programs expired at the end of FY2012. Because CBO uses the last year of authorization to determine future authorization levels, a reduction in the last year's authorized level could compound the effect on available baseline for the next farm bill.

> **The EQIP Example**
>
> The FY2012 Agriculture Appropriations Act reduces EQIP from an authorized level of $1.75 billion to $1.4 billion in FY2012, creating a savings of $350 million. Without an extension of authority, CBO would use the level of funding in the last year of authorization (FY2012) to determine the future farm bill baseline. This means that the reduction of $350 million in FY2012 would have a cumulative effect of a $3.5 billion reduction over a 10-year baseline. The act, however, extends the EQIP authority to FY2014, thereby preserving the original authorized level ($1.75 billion) rather than the lower level.

To address this concern, the FY2012 Agriculture Appropriations Act (P.L. 112-55) extended the expiration date of selected farm bill conservation programs to the end of FY2014. Authority for these programs—AMA, CSP, EQIP, WHIP, and FPP—

would have expired in FY2012. Appropriators also placed limitations on FY2012 spending for all of these programs. Without the program extension, the reduced FY2012 spending levels would have served as the baseline for future years, based on CBO scoring rules.

Because these five conservation programs were extended to the end of FY2014, they were unaffected by the 2012 farm bill expiration and extension. They were, however, affected by the FY2013 continuing resolution, which continued FY2012 funding reductions to March 27, 2013. AMA, EQIP, WHIP, and FPP were reduced by a specific funding level, similar to FY2012 reductions.

However, CSP, which is authorized to enroll acres, was affected differently by the appropriations limitation. CSP is authorized to enroll a specific level of acres annually (12.769 million acres) and does not have a limited funding level. Similar to CRP, CSP pays prior year contracts out of current year funding. For example, a 10-year CSP contract signed in FY2009 will be paid annually using FY2009-FY2018 funding.[15] Reductions in appropriations to CSP have not limited the number of authorized acres, but rather the total amount of annual funding available. This affects the program in two ways. First, because existing CSP contracts must be paid first using current year funding, it limits the amount of funding left to enroll new acres, thus indirectly reducing the number acres enrolled for a given year. Second, because the program is authorized to enroll acres each year and grow exponentially, the reductions in appropriations one year may delay the expected growth in baseline for the program.

Just as the savings from conservation reductions in appropriations bills are not always redirected toward other conservation activities, the reestablishment of the farm bill baseline through expiring conservation programs does not guarantee that future farm bills or appropriations will extend the same level of support for conservation.

Programmatic Issues

Simplifying the Conservation Portfolio

Before the 1985 farm bill, few conservation programs existed and only two would be considered large by today's standards. The current conservation portfolio includes more than 20 distinct programs with annual spending over $5 billion. The differences and number of programs can create some general confusion about the purpose, participation, and policies of the programs. Discussion about simplifying or consolidating conservation programs to reduce overlap, duplication, and generate savings frequently arises during farm bill reauthorization. Prior to the 2008 farm bill, USDA proposed a major consolidation of several conservation programs. While the 2008 farm bill did eliminate some conservation programs, it also created several more. Both the House-reported (H.R. 6083) and Senate-passed (S. 3240) farm bills in the 112th Congress included several program consolidation measures.[16] In light of continued funding constraints, program consolidation to generate potential savings may continue during reauthorization.

[15] This is different from other conservation programs, such as EQIP, which pays prior year contracts using funds obligated in the contract year. For example a 10-year EQIP contract signed in FY2009, will be paid upon completion, presumably before FY2018, using FY2009 funding.

[16] For a comparison of both bills, see CRS Report R42552, *The 2012 Farm Bill: A Comparison of Senate-Passed S. 3240 and the House Agriculture Committee's H.R. 6083 with Current Law.*

While many conservation groups supported the consolidation efforts in the 112th Congress, other expressed concern that program consolidation would remove the geographic or issue-specific emphasis that was originally created by Congress to address identified priorities. The majority of conservation programs are administered nationwide. Some programs have sub-programs that address specific issues or are geographically defined in statute or report language (e.g., the Conservation Innovation Grants is a subprogram of EQIP). Other programs that are geographically specific or issue-specific are stand-alone programs and receive funds in addition to other nationwide programs (e.g., the Chesapeake Bay Watershed Program). If program consolidation occurs, it could remove these previously identified priorities that allowed the number of programs to expand. Conversely, program consolidation could also lead to additional congressionally directed language or "carve-outs" within programs to ensure that identified priorities are still addressed. Efficiencies created by a reduction in the number of programs could be negated or reduced by additional carve-outs within remaining programs.

Working Lands or Land Retirement

Land retirement programs, such as the CRP, began with a soil conservation and commodity-reduction purpose, during a time of economic downturn in the farm sector. As the conservation effects of these programs were identified, the potential for generating multiple environmental benefits beyond soil conservation emerged and included benefits to wildlife habitat, air and water quality, and carbon sequestration. For producers, land retirement programs are attractive because they receive rental payments at acceptable levels. However, with high commodity prices and incentives to plant crops, producer interest in land retirement may be declining. Some forecasts are that these high commodity price levels may continue for the foreseeable future, thus shrinking farmer interest in land retirement for some time.[17] Also, increased commodity prices can lead to increased land rental rates, which in turn increases the cost of land retirement programs. These factors could signal a shift in farm bill conservation policy away from the traditional land retirement programs toward an increased focus on conservation working lands programs—programs that keep land in production while implementing conservation practices to address natural resource concerns. Some of this shift has already occurred in the last decade (see **Figure 4** and **Figure 5**) as the percentage of mandatory program funding for land retirement programs (e.g., CRP) has declined relative to working lands programs (e.g., EQIP) and overall land use.

Most conservation and wildlife organizations support both land retirement and working lands programs; however, the appropriate "mix" continues to be debated. Even debate between shorter-term land retirement programs such as CRP and longer-term easement programs such as WPR continues. Supporters of long-term or permanent easement programs cite a more cost-effective investment in sustainable ecosystems for long-term wildlife benefits. Short-term land retirement program supporters cite the increased flexibility, which can generate broader participation than permanent easement programs.

There is also a noticeable increase in what USDA terms land preservation programs (long-term and permanent easement programs, see **Figure 6** and **Figure 7**). The high cost of land retirement programs (e.g., CRP, which is based on land rental rates) and the lack of baseline for most land preservation programs (e.g., WRP and GRP) make the future of these programs uncertain in the

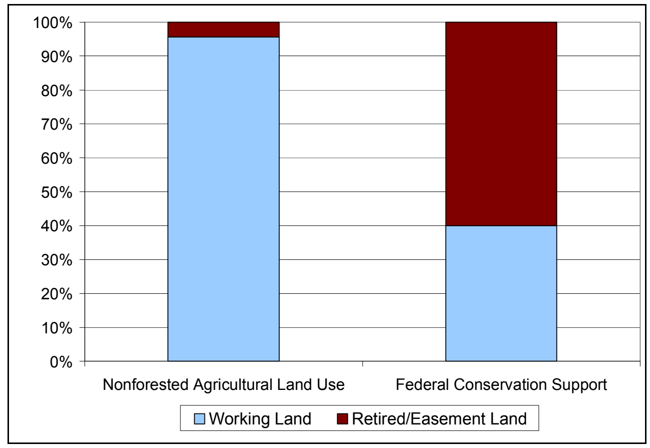
[17] Daniel Hellerstein and Scott Malcolm, *The Influence of Raising Commodity Prices on the Conservation Reserve Program*, USDA, ERS, ERR-110, Washington, DC, February, 2011, http://www.ers.usda.gov/Publications/ERR110/ERR110.pdf.

current budget situation. With any proposal, it is likely that environmental interests will not support a reduction in one conservation program without an increase in another conservation program.

Figure 4. Mandatory Federal Conservation Support Compared to Land Use, 1997

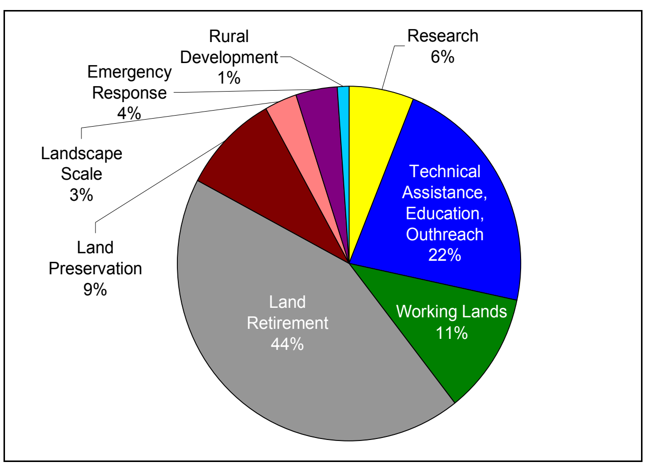
Source: USDA, NRCS, *1997 National Resources Inventory*, revised 2000, December 1999 and USDA historical funding for conservation.

Figure 5. Mandatory Federal Conservation Support Compared to Land Use, 2007



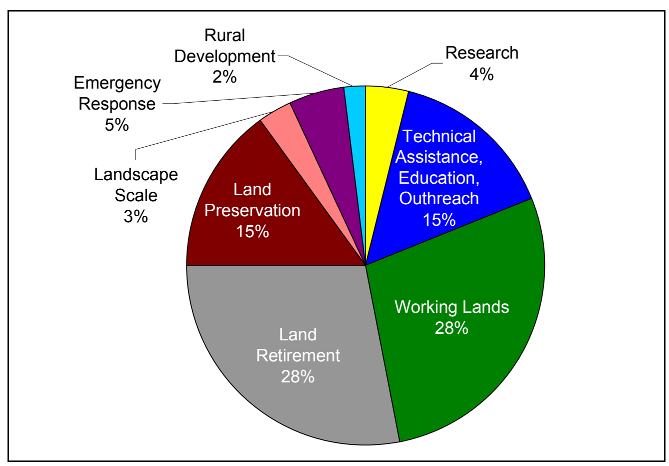
Source: USDA, NRCS, *2007 National Resources Inventory*, December 2009 and USDA historical funding for conservation.

Figure 6. Allocation of Total Conservation Funding, 2002



Source: USDA, *RCA Appraisal*, Soil and Water Resources Conservation Act, Washington, DC, July 2011, p. 60.

Figure 7. Allocation of Total Conservation Funding, 2010



Source: USDA, *RCA Appraisal*, Soil and Water Resources Conservation Act, Washington, DC, July 2011, p. 60.

Payment and Income Limitations

Two types of payment limits exist for conservation programs. One sets the maximum amount of conservation program payments that a person or legal entity can receive during a specified period of time. The other (known as the adjusted gross income or AGI limit) sets the maximum amount of income that an individual can earn and still remain eligible for conservation program benefits. Limitations on payments received through conservation programs were expanded in the 2008 farm bill. Prior to the 2008 farm bill, most conservation programs were affected by an income limitation, not a limitation on payments. Now, most programs are affected by both, which in turn can affect program participation (see **Table 2**).

Table 2. Conservation Programs Affected by Payment and Income Limitation Changes in the 2008 Farm Bill

Prior Law (2002 farm bill, as amended, P.L. 107-171)		Current Law (2008 farm bill, P.L. 110-246), as amended	
Payment Limit	Income Limit	Payment Limit	Income Limit
AMA, CRP, and EQIP	AMA, Chesapeake Bay Watershed Program, CRP, CSP, EQIP, FPP, GRP, WRP, WHIP, and other programs under Title II of the 2002 farm bill	AMA, Chesapeake Bay Watershed Program, CRP, CSP, CCPI, EQIP, AWEP, FPP, GRP, WRP, and WHIP	AMA, AWEP, CRP, CSP, EQIP, FPP, GRP, WRP, WHIP, and other programs under Title II of the 2008 farm bill

Source: Income limits may be found under Section 1604 of the 2002 farm bill (P.L. 107-171) and Section 1604 the 2008 farm bill (P.L. 110-246), as amended. Payment limitations may be found under individual program sections under Title II of both enacted bills.

Payment Limits

Payment limits are the maximum amount of conservation program funding that a person or legal entity can receive during a specified period of time. As with commodity programs, payment limits for conservation programs are controversial because of issues relating to the size of operations receiving support and who should receive payments. The effect of payment limits varies by program and the conservation practices implemented.[18] Most conservation programs with higher payments tend to be distributed to farms and ranches with larger acreage because payments for many conservation practices are scaled by the number of acres on which that practice is applied or acres are enrolled.[19]

Supporters of payment limits are often advocates for smaller farms and opponents of large animal feeding operations. Most working lands conservation programs provide a percentage of the cost to install conservation practices (known as cost-share) or implement site-specific management practices. As noted above, most of these payments are made on a per-acre applied basis, thereby skewing larger payments to contracts with more acres enrolled. Small farm advocates claim that this disproportionately benefits large agricultural producers by making less money available for small producers. Also, in the case of EQIP, cost-share assistance is provided for more expensive practices such as animal waste storage facilities in concentrated animal feeding operations (CAFOs).[20] Opponents of these animal operations criticize the higher payment limit because of the recipients' production methods.

[18] Payment limits vary from $300,000 for any six-year period for EQIP to $50,000 annually for WHIP payments.

[19] Soil and Water Conservation Society and Environmental Defense, *Environmental Quality Incentives Program (EQIP)—Program Assessment*, March 2007, http://www.swcs.org/documents/filelibrary/EQIP_assessment.pdf.

[20] The 2002 farm bill increased the payment limit from its 1996 farm bill levels of $10,000 for any fiscal year and $50,000 for any multi-year contract, to a limitation on total payments to $450,000. This was reduced in the 2008 farm bill to $300,000 for any six-year period, except in cases of environmental significance. The 2002 farm bill also required that 60% of EQIP funds should be made available to payments for practices relating to livestock production. This was continued in the 2008 farm bill.

Those who oppose payment limits (or support higher limits) for conservation programs counter that conservation programs should focus on land with the greatest environmental need and not be limited to a price per participant. They argue that higher payment limits allow for greater environmental stewardship on farms and ranches, particularly larger operations with a greater land base, which may have greater natural resource concerns. Others claim that payment limits on restoration agreements could create a disincentive to enroll larger conservation easements, which can be most desirable. Because most conservation easement programs, namely WRP and GRP, enroll land that will also require restoration, a limit on restoration payments could reduce the enrollment of large acre tracts.

Income Limits

The AGI limit sets a maximum amount of income that an individual can earn and still remain eligible for program benefits. The 2008 farm bill made the AGI limitation for conservation programs higher than the AGI limitation for the commodity farm support programs. Despite this higher limit, income limitations on conservation programs remain somewhat controversial. Previously, the AGI limit for both conservation and commodities programs was set at $2.5 million and had an exception if three-fourths of AGI was earned from farming sources. Now, if the three-year average of non-farm income AGI exceeds $1,000,000, no conservation program benefits are allowed. The exception to this limit is if two-thirds of the three-year AGI was earned from farming sources. In addition, this limitation may be waived by USDA on a case-by-case basis for the protection of environmentally sensitive land of special significance. In general, the AGI limit for conservation programs is higher than that for commodity programs to encourage environmental stewardship on farms and ranches, particularly larger operations that may have greater natural resource problems.

Supporters of AGI limits believe that tighter limits benefit small producers and gain additional public support for all agricultural programs through fiscal responsibility. Opponents of AGI limits on conservation programs believe that if there are greater conservation benefits provided to the general public, then, irrespective of wealth, a producer’s enrollment is good for the general public.

Compliance Requirements

The 1985 farm bill created the highly erodible lands (HEL) conservation and wetland conservation compliance programs, which tied various farm program benefits to conservation standards. These programs require farmers producing agricultural commodities on HEL to fully implement an approved conservation plan or to not convert wetlands to production in order to remain eligible for certain farm program benefits. Between 1982 and 2007, farmers reduced total cropland soil erosion by 43%.[21] The bulk of this reduction occurred following the 1985 farm bill and the implementation of CRP and conservation compliance requirements.

Under the original provisions enacted in 1985, a producer could lose the following farm program benefits if found to be out of compliance: price and income supports and related programs, farm storage facility loans, crop insurance, disaster payments, storage payments, and any farm loans

[21] USDA, *RCA Appraisal*, Soil and Water Resources Conservation Act, Washington, DC, July 2011.

that contribute to erosion on highly erodible lands. The provision has since been amended numerous times to remove certain benefits and add others.

Most notably, the 1996 farm bill (P.L. 104-127) removed crop insurance as a program benefit that could be denied and added production flexibility contracts—the precursor to what is now referred to as direct payments. The debate surrounding this decision centered on the desire to encourage producers to purchase crop insurance and to respond to farmer concerns that compliance requirements were intrusive.

Currently, the major farm program benefits that could be affected by compliance are counter-cyclical payments, direct payments, and conservation programs. Presently, high commodity prices have resulted in few or no counter-cyclical payments. This leaves conservation program participation and direct payments as the remaining major benefits that could be affected by compliance. The current financial climate has caused direct payments under the farm commodity support programs to come under considerable scrutiny. Debate continues regarding their fate, and many believe that the program could be reduced or eliminated in farm bill reauthorization as a budget saving measure. Conservation advocates worry that without direct payments there will be little incentive for producers to meet conservation compliance and wetland conservation requirements. Environmental and conservation organizations are asking Congress to consider requiring conservation compliance for crop insurance benefits or any new revenue assurance programs.[22] Additional information on this issue may be found in CRS Report R42459, *Conservation Compliance and U.S. Farm Policy*.

Environmental Regulation and Certainty Projects

Farm bill conservation programs are the voluntary federal policy for addressing environmental impacts related to agriculture. Another federal policy for addressing environmental impacts is through regulation.[23] Increasingly, conservation programs are called upon to prevent or reduce the need for environmental regulation. While the farm bill debate will likely not focus specifically on environmental regulations because most environmental law originates outside of the House and Senate Agriculture Committees, debate could focus on strengthening the voluntary response to environmental issues through conservation programs. This, in turn, could influence the funding debate and how much of the overall farm bill budget is appropriate for conservation programs.

Another assistance mechanism recently discussed in relation to environmental regulation is referred to as "certainty" or "assurance standards." Several states have in place or are developing certainty programs to encourage farmers to implement water quality improvement measures without the fear that those actions could lead to further regulation and enforcement under national environmental laws such as the Clean Water Act (CWA). While this is a somewhat new concept

[22] Examples of such requests include *Principals for Strengthening the Conservation Title,* released by 56 policy and advocacy organizations, September 7, 2011, http://www.farmland.org/documents/092811JointConservationTitlePrinciples.pdf; Izaak Walton League of America, *2012 Farm Bill Issue Brief*, II. Conservation Compliance and Crop Insurance, November 19, 2010, http://www.iwla.org/index.php?ht=a/GetDocumentAction/i/11073; and Jon Scholl, President, American Farmland Trust, "Conservation Compliance is Critical," *Agri-Pulse*, October 5, 2011, http://www.agri-pulse.com/Conservation_Compliance_Oped_10052011.asp.

[23] For more information about environmental regulations effecting agriculture, see CRS Report R41622, *Environmental Regulation and Agriculture*.

for addressing water quality concerns, similar certainty programs have been established in the past between state and federal agencies for the protection of wildlife habitat in private lands.

On January 17, 2012, a memorandum of understanding (MOU) was signed between EPA and USDA to establish a water quality certainty program in Minnesota.[24] This is the first formal state-federal certainty program to be developed in the area of water quality. USDA officials continue to express interest in developing a "safe harbor"-type mechanism between USDA and EPA for water quality; however, no formal proposal has been released nationwide.[25] Legislation was proposed in the 111th Congress (H.R. 5509), but not in the 112th. It is possible that additional proposals for creating a national certainty program or pilot program in select watersheds (e.g., the Chesapeake Bay) could be included in the farm bill reauthorization debate.

Evaluation and Reports

Following the significant increase in funding for conservation programs in the 2002 farm bill, USDA initiated a project to measure the environmental benefits of many of these programs. The project is a multi-agency effort known as the Conservation Effects Assessment Project (CEAP). CEAP's stated purpose is to aid policymakers in developing new conservation programs and help existing conservation program managers implement programs more effectively and efficiently to meet the goals of Congress and the Administration.

CEAP does not quantify the environmental benefits of any single conservation program or approach; instead, it attempts to understand how conservation efforts are working and what future improvements are needed. CEAP assessments are being developed for cropland, grazing lands, wetlands, and wildlife. To date, five watershed cropland reports have been released: Upper Mississippi River Basin, Missouri River Basin, Ohio-Tennessee River Basin, Chesapeake Bay, and Great Lakes Basin.[26] The reports have shown that conservation practices adopted on cropland have an effect in reducing sediment, nutrients, and pesticides from farm fields.[27] Despite these gains, the reports also find that additional measures are needed within the watersheds studied.

One of the recommended approaches is through targeting conservation programs resources to areas that have high need for additional treatment—acres most prone to runoff or leaching. While a targeted approach could increase the effectiveness of conservation programs, it could also reduce the availability of funds in certain areas considered to be at a lower risk. As additional reports continue to be released, their potential outcomes could prove useful in shaping future policy debates surrounding environmental issues in the farm bill.

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[24] USDA, "Secretary Vilsack Signs Historic Agreement with EPA and State of Minnesota Encouraging Farmers to Protect Rivers, Streams and Lakes," press release, January 17, 2012, http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2012/01/0010.xml.

[25] A draft proposal between USDA and EPA was made public in a BNA article, however, no official announcement has been released. Linda Roeder, "EPA, USDA Develop Framework to Promote Conservation Practices," *BNA Daily Environment Report*, August 2, 2011, pp. 148 DEN A-1.

[26] The reports are publically available here: http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/technical/nra/ceap.

[27] The results vary by watershed; however, preliminary results from the national CEAP cropland assessment show that over 50% of cropland acres are under adequate conservation treatment. The practices put in place on these acres are shown to have a beneficial impact in reducing losses of nitrogen, phosphorus, and sediment to water resources.

Conclusion

As Congress debates conservation provisions in the next farm bill the focus continues to be on overall federal spending and agriculture's share. Conservation funding has grown to represent a sizable portion of the overall farm bill baseline and could see reductions during reauthorization. Many in the conservation community see this as inevitable; however, they do not want to see a reduction in conservation that is disproportionate to other areas of agricultural spending. While most producers are in favor of conservation programs, it is unclear how much of a reduction in other farm program spending they would be willing to support to further conservation efforts. Recent reports and studies have shown that conservation measures are effective in addressing environmental concerns; however, spending reductions, program efficiencies, and federal policies surrounding environmental regulation and compliance will likely drive conservation farm bill discussion in the 113th Congress.

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