

**STATEMENT OF ARLEN L. LANCASTER, CHIEF
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U.S. DEPARTMENT OF AGRICULTURE
BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**

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Chairman Oberstar, Ranking Member Mica and Members of the Committee, thank you for the opportunity to appear before the Committee to discuss the Clean Water Restoration Act of 2007 (H.R. 2421) and the activities of the Natural Resources Conservation Service (NRCS). Through the technical assistance and program assistance that NRCS delivers, our employees work in partnership with private landowners and our conservation partners to take proactive steps to restore, enhance, maintain and improve our Nation's valuable wetland resources.

Farmers and ranchers know that sound, profitable farming and maintaining clean water supplies go hand in hand; and through our technical assistance, cost-share, easement, and stewardship programs, we are assisting the agriculture and forestry sectors to realize their tremendous potential to provide positive environmental benefits.

Based on data from the NRCS National Resources Inventory (NRI), an annual statistical survey of natural resource conditions and trends on nonfederal land in the 48 contiguous States, America's farmers and ranchers are protecting and restoring wetlands at unprecedented rates. Between 1997 and 2003, agricultural producers across the Nation achieved an average net gain of 44,000 acres of wetlands each and every year. Several USDA programs that I will describe contribute significantly to the accomplishment of the President's goal for an overall increase in wetlands by protecting, improving, and restoring 3 million acres of wetlands by 2009. On Earth Day last year, 2007, progress toward the 3 million-acre goal stood at nearly 2.8 million acres.

Producers who participate in USDA conservation programs have proven themselves as good stewards of the land and NRCS local employees work closely with them and other Federal and State partners to improve our Nation's wetlands. The scale of wetlands conservation produced by these partnerships is far larger than acreages protected and mitigated under the Clean Water Act.

As HR 2421 changes two fundamental elements of the Clean Water Act, we cannot currently be certain how it may affect NRCS programs and the producers we serve. HR 2421 changes the definition of waters of the United States. The bill also appears to extend the current focus of the Act on protecting navigable waters to regulating "activities affecting these waters." Where we can already determine an effect on NRCS programs, we say so below. Further clarity requires further study. I look forward to working with the Committee to ensure that regulatory requirements effectively serve their purposes without hindering conservation through active management.

USDA's Conservation Programs

The focus of NRCS's conservation efforts is squarely centered upon working lands and upon ensuring that these lands continue to produce valuable agricultural commodities and contribute to local economies, while at the same time protecting soil quality, water quality, wetlands, fish and wildlife habitat and other natural resources. One of the mission areas assigned to NRCS by Congress is to help farmers, ranchers and other private landowners enhance, maintain, improve and restore our Nation's wetland resources. We have authorities to accomplish these activities through both conservation compliance and wetland restoration.

Conservation Compliance

In 1985, the Highly Erodible Land Conservation (HEL) and Wetland Conservation (Swampbuster) compliance provisions were introduced, with amendments added in subsequent Farm Bills. The purpose of these provisions is to remove certain incentives to produce agricultural commodities on converted wetlands and highly erodible land, unless the highly erodible land is protected from excessive soil erosion.

One result of implementation of the HEL provision is a reduction in total soil erosion of 43 percent between 1982 and 2003. Concomitant reductions in nutrient runoff associated with soil erosion have reduced the quantities of nitrogen and phosphorous entering the Nation's waters.

Swampbuster applies to the conversion of wetlands for the production of agricultural commodities. A producer's failure to comply with Swampbuster results in the loss of eligibility for USDA benefits. We implement the Swampbuster provision by providing farmers with wetland determinations on their fields based on criteria outlined by Congress in the 1985 Food Security Act. NRCS maintains a list of the plants and soils associated with wetlands and uses these technical tools, in conjunction with an evaluation of the hydrology of the area, to conduct wetland determinations. These determinations stay in effect as long as the land is used for agricultural purposes or until the producer requests a review. Equipped with a wetland determination, farmers are able to manage their farming operations and protect their wetland resources, while maintaining their eligibility for USDA payments.

The wetland conservation provisions have sharply reduced wetland conversions for agricultural uses, from 235,000 acres per year before 1985 to 27,000 acres per year from 1992 through 1997. Our reviews of Swampbuster efforts indicate continued increasing producer compliance levels for the program.

The changes outlined in HR 2421 for the definition for navigable waters would have no impact on the Swampbuster provision, which is governed by the wetlands provisions in the 1985 Food Security Act and not the Clean Water Act.

I would be remiss if I did not mention that USDA has proposed a third compliance mechanism for the next Farm Bill. The Sodsaver proposal would discourage conversion of rangeland and native grassland in a manner similar to the current Swampbuster provisions for the conversion of wetlands.

Wetlands Reserve Program

NRCS programs also contribute to the creation, improvement, and restoration of wetlands. In 2004, on Earth Day, President Bush set as a goal the overall increase in our Nation's wetlands by creating, improving, and protecting at least 3 million wetland acres by 2009. One of the principal programs available to private landowners to achieve that goal is the Wetlands Reserve Program (WRP). This program is a voluntary program through which landowners are paid to remove eligible lands from agricultural production if those lands are restored to wetlands and protected, in most cases, with a long-term or permanent easement. Landowners receive compensation for the rights they forgo associated with protecting the land, and are provided with assistance to defray all or part of the restoration expenses. The goal of WRP is to maximize wetland functions and values and wildlife benefits. One of the important functions and values of wetlands is improved water quality and quantity. Properly functioning wetlands have a tremendous positive impact on water quality. Private landowners have enrolled over 1.9 million acres in this program through FY 2007, an amount equivalent to the combined size of the States of Delaware and Rhode Island. Demand for WRP continues to grow as producers seek to restore, enhance and create wetlands on their property.

Conservation Reserve Program

The Conservation Reserve Program (CRP) is a voluntary program administered by the Farm Service Agency (FSA) to help agricultural producers safeguard environmentally sensitive land. Producers enrolled in CRP plant perennial vegetation to improve water quality, control soil erosion, and enhance wildlife habitat. In return, FSA provides participants with rental payments and cost share assistance. Contract duration for CRP is between 10 and 15 years.

CRP protects millions of acres of topsoil from erosion and is designed to safeguard the Nation's natural resources. By reducing water runoff and sedimentation, CRP protects groundwater and helps improve the condition of lakes, rivers, ponds, and streams. The perennial vegetative cover planted on CRP lands is a major contributor to increased wildlife populations in many parts of the country.

A majority of the land enrolled in CRP consists of environmentally sensitive upland fields. USDA, however, has also enrolled about 2.0 million acres of wetlands with associated protective buffers that support 2 million ducks per year and over 1.9 million acres of other buffers and filter strips to protect rivers, streams, and other waterways from chemical and fertilizer runoff and soil erosion.

Environmental Quality Incentives Program

NRCS utilizes its technical assistance authorities and financial assistance programs to help producers achieve their conservation goals. NRCS implements the Environmental Quality Incentives Program (EQIP) to help farmers and ranchers implement structural and management conservation practices on their land. The 2002 Farm Bill reauthorized EQIP and substantially increased its funding. Between FY 2002 and FY 2006, close to 185,000 participants received almost \$3.1 billion in cost share and incentive payments under EQIP. This successful program has seen increasing demand (many States have significant application backlogs) as producers implement conservation practices to attain their conservation goals and provide public benefits.

In addition, many producers rely on USDA programs such as EQIP to assist them in meeting regulatory requirements. As an example, animal feeding operations may use EQIP, as well as the Conservation Technical Assistance Program (CTAP), to develop comprehensive nutrient management plans (CNMPs). These plans help ensure that animal manure is applied to land at a rate that does not exceed crop needs. Since 2002, NRCS has helped producers develop 32,000 CNMPs, which can help animal feeding operations comply with regulatory requirements should they fall under the purview of the Clean Water Act's Concentrated Animal Feeding Operation (CAFO) provision. Currently, about 20,000 farm operations across the country are potentially subject to the CAFO rule, promulgated by the Environmental Protection Agency, of which about 15,000 are projected to need permits for discharge to "waters of the United States." Expanding the definition of "waters of the United States" could potentially result in more animal feeding operations having to obtain Clean Water Act permits because more CAFOs could be found to discharge pollutants to covered waters. We note that compliance costs to such producers are not reflected in the current estimates of the cost of the rule.

In fiscal year 2007, NRCS made the decision to use authorities under the Farm Bill to allow the use of EQIP financial assistance funds for CNMP development so that our drive to write plans for all livestock farmers that need them will be accelerated. To even further accelerate the production of CNMPs, NRCS is partnering with EPA, Purdue University, the University of Tennessee and the University of Missouri to enhance the Manure Management Planner software technology that will lessen the time it takes to produce a CNMP, enhance the accuracy of the output, and make the plan easier for the farmer to understand and use.

To ensure that these efforts, as well as other conservation programs are having the beneficial impacts intended by Congress, in 2003 NRCS initiated the Conservation Effects Assessment Project (CEAP). The objective of this effort is to provide decision-makers with a scientific accounting of environmental benefits achieved through conservation programs. This initiative involves not only NRCS, but also the Agricultural Research Service, the Cooperative State Research Education and Extension Service, other Federal agencies, and scientists at several land grant universities. Research and assessment efforts are currently underway and results will be available in the near future.

Summary

In total, USDA believes that NRCS authorities for wetlands compliance and restoration activities under the Farm Bill would not be affected by HR 2421. Since our authorities are not connected to the Clean Water Act, the change in definition would not impact the implementation of USDA's programs. It is possible that enactment of HR 2421 would lead to more producers falling under the regulatory purview of the Clean Water Act, which in turn could lead to increased compliance costs for producers. However, at this time we are not able to provide a detailed analysis of its impact on U.S. agriculture.

As we look ahead, it is clear that the challenges before the Nation to protect and improve wetland resources will require the dedication of all available resources – the skills and expertise of the NRCS staff, the contributions of volunteers, and continued collaboration with partners including local, State and Federal agencies. We will continue to provide farmers and ranchers the best information possible to better enable them to make informed decisions about wetland resources.

This concludes my statement. I will be glad to answer any questions that Members of the Committee might have.