

Summary of Farm Bill Conservation Provisions

Based on final legislative language enacted by Congress

The sequence follows that presented in the bill.

Definitions and HEL issues

- Adds several definitions that apply to nearly all conservation programs included in the 1985 Food Security Act (the framework for conservation in virtually all farm bills). These new definitions include:
 - Beginning farmer or rancher
 - Farm
 - Indian Tribe
 - Integrated pest management
 - Livestock
 - Nonindustrial private forest land
 - Person or legal entity (for payment limitation purposes)
 - Socially disadvantaged farmer or rancher
 - Technical assistance
- Revises the good faith component of HEL provisions to include identification of reviewers, specifically requiring the technical concurrence of NRCS at the state and area level.
- Adjusts the penalty for HEL violation to be commensurate with the seriousness of the violation.
- Removes a prior provision concerning temporary variance from the plan as well as an expedited procedure for temporary variances.
- Adds reviewer provision for wetland determinations similar to the provision for HEL

Conservation Reserve Program

- Broadens the purpose to include addressing issues raised by State, regional, and national conservation initiatives.
- Reduces acreage cap to 32 million acres.
- Adds Chesapeake Bay Region as priority area without the three state limit of prior law
- Includes alfalfa grown in rotation, in the 4 out of 6 years history required for eligibility
- Adds flooded farmland and aquaculture ponds to wetland pilot
- Transition assistance to beginning and socially disadvantaged farmers.
- Land enrolled in CREP and continuous enrollment elements of CRP can be exempted from county level acreage cap if the county government concurs. [Located in Administrative Requirements for Conservation Programs – page 161 of report]

WRP

- Lifts cap to be 3,041,200 acres [implies \$1.3 billion in funding for enrolling added acres]
- For land to be eligible for WRP it must have remained under the same ownership for a minimum of 7 years.
- Establishes term for payment of WRP easements as follows:
 - Valued at \$500,000 or less – from 1 to 30 annual payments
 - Valued at more than \$500,000 – at least 5 and up to 30 annual payments
 - Allows for Secretarial waiver to allow for a lump sum payment where appropriate to address program purposes
- Restoration payments for WRP under a cost share agreement limited to \$50,000 per year.
- Authorizes a wetlands reserve enhancement program (WREP) as a means of providing focused, targeted resource benefits and to leverage Federal funds. [Similar to CREP in CRP]
- Creates a “reserved rights” pilot within WREP to allow a landowner to reserve grazing rights within a warranty easement deed where compatible and consistent with a conservation plan and the program purpose.

Conservation Stewardship Program (CSP)

- Restructures old Conservation Security Program into new “Conservation Stewardship Program” including revisions of eligibility for land, producers, and practices as well as removing tiers and simplifying payments
- Defines agricultural operation as all acres of the operation of a producer.
- Nonindustrial private forest land is eligible for the program except that no more than 10 percent of the annual acres enrolled nationally in any year may be private nonindustrial forest land.
- Precludes from payment eligibility land that has been converted to cropland prior to date of enactment unless devoted to crop production for 4 of the past 6 year
- Uses attainment of a “stewardship threshold” for a resource concern as basis for enrollment and a target for achieving another resource concern during the term of a contract.
- Contract terms are limited to 5 years, with renewal to achieve further conservation attainment.
- Coordinates CSP with certification for organic production.
- Requires continuous enrollment and identification of 3 to 5 priority resource concerns within a watershed or area within a state.
- Requires development of reliable measures of conservation attainment.
- Provides for stewardship payments based on installation costs, income foregone, and expected environmental benefits.
- Provides supplemental payments for resource conserving crop rotations
- Adds \$1.1 billion over baseline for the new CSP [the dollar amount is not specified in the act, but is derived from program features].
- Directs enrollment of 12,769,000 acres each fiscal year and requires CSP to be managed so as to cost, on average, \$18 per acre.
- Funds existing CSP contracts through their full terms.

Farm and Ranch Lands Protection Program (FRPP)

- Changes program purpose from protecting topsoil to protection of the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of the land.
- Includes in the eligible land provisions those lands that further a State or local policy for farmland protection. Also includes forest land where it contributes to economic viability of an agricultural operation or serves as a buffer from development.
- Changes role of Secretary to facilitate and provide funding for farmland protection rather than be the direct purchaser of conservation easements.
- Requires the eligible entity to provide at least 25 percent of the cost of the conservation easement.
- Federal share of cost is limited to no more than 50 percent of the fair market value of the easement.
- Specifically allows for landowner contribution [donation] as part of the non-Federal share of the cost of acquiring a conservation easement.
- Directs that the fair market value be based on an appraisal using an industry approved standard. [Replaces use of the yellow book]
- Uses a contingent right of enforcement to protect the Federal investment rather than the process being a Federal acquisition of property
- Restructures program to emphasize use of longer term and renewable cooperative agreements. [Terms differ by type of entity—minimum of 5 years for those certified and from 3 to 5 years for others].
- Establishes a certification process for eligible entities, and includes a requirement for the Secretary to review the certification of eligible entities every three years.
- Allows eligible entities to use their own terms and conditions for conservation easements, consistent with the purposes of the program. Requires use of an impervious surface requirement in easements, with the eligible entity specifying the nature of the requirement.

- See “funding” below

Farm Viability

- Reauthorizes the farm viability program through 2012

Grasslands Reserve Program

- Authorizes additional 1,220,000 acres to be enrolled during FY 2009-2012
- Acreage translates to about \$300 million over the four-year period.
- Uses 10, 15 and 20 year rental agreements as well as permanent easements as methods for enrollment, with 40 percent of funds used for rental contract and 60 percent for easements. [Removes use of 30 year agreements or easements and removes the 40 contiguous acre minimum size for a contract or easement]
- Gives priority for enrollment to certain expiring CRP acres
- Expands eligible land to include tribal lands.
- In eligible lands, adds reference grasslands that contain historical or archaeological resources and grasslands that address issues raised by state regional and national conservation priorities.
- Substitutes within the prohibitions clause actions inconsistent with maintaining grazing land in place of ‘breaking the soil surface”
- Clarifies the evaluation criteria concerning conversion to be conversion to uses other than grazing.
- Includes a payment limitation of \$50,000 per year per person for rental contracts and the same limitation for restoration agreement payments.
- Compensation for an easement is based on the lowest of fair market value, a geographical cap, or the offer by the landowner.
- Significant revision of program provisions including delegation of duties under the program to eligible entities through transferring ownership of an easement or via cooperative agreement to own, write, and enforce an easement.
- Provides a set of minimum requirements for cooperative agreements similar to those under FRPP.

Environmental Quality Incentives Program

- Adds forest management as a program purpose and adds energy conservation and forest land as resources to benefit from installation of conservation practices.
- Includes non-industrial private forest land as eligible and provides linkage with the national organic program
- Adds pollinator habitat and animal carcass management to residue, nutrient, and pest management and air quality, invasive species as concerns to promote through payments for income foregone.
- A contract term may be up to 10 years, with the minimum being 1 year after completion of practice implementation.
- Payments are authorized up to 75 percent of cost and up to 100 percent of income foregone.
- Provides for up to 90 percent cost sharing for limited resource, socially disadvantaged or beginning farmers and ranchers, and requires at least a 25 percent premium above the otherwise applicable rate.
- Retains the 60 percent requirement for funds devoted to livestock related conservation activities.
- Includes payments related to organic production practices, with payments limited to \$20,000 per year or \$80,000 during any 6 year period.
- Revises process for evaluation of offers to: improve cost-effectiveness, comprehensive treatment of resource concerns, best address the program purpose, and that improve conservation systems already in place on the operation or complete a conservation system.

- Includes as an acceptable plan of operation, a plan developed to acquire a permit under an air or water regulatory program, under certain conditions.
- Revises payment limit to be \$300,000 instead of the current \$450,000 during any six-year period, but provides authority for a waiver for projects of special environmental significance (including methane digesters).
- See “funding” below

Conservation Innovative Grant program

- Retains innovative approaches for the grant program
- Keeps the program as discretionary for the Secretary, with the funding to come from funds available for EQIP [and other programs under chapter 4]
- Specifically adds reference to projects that provide environmental and resource conservation benefits through increased participation by specialty crop producers.
- Adds a carve out for air quality amounting to \$37.5 million annually

Agricultural Water enhancement Program (AWEP)

- Replaces the Ground and Surface Water Conservation Program with an Agricultural Water Enhancement Program to focus on water quality and quantity through partnership agreements arrived at through a competitive process. Program begins in FY 2009
- Includes as potential partners agricultural and silvicultural producer groups or associations, States or local units of governments, recognized Indian tribes.
- Authorizes higher priority to proposals that:
 - Have high percentage of agricultural land and producers in an area
 - Result in high level of agricultural water related activities
 - Enhance agricultural activity
 - Include monitoring and evaluation
 - Help producers meet regulatory requirements that reduce the economic scope of the operation.
- Gives priority to certain proposals from states with water quantity concerns, including conversion of irrigated land to dryland farming, and to better leverage Federal funds with funds from partners.
- Specifically identifies areas experiencing exceptional drought conditions during the past two calendar years and can capture surface water through irrigation ponds or small on-farm reservoirs. [No more than 40 acres in size]
- Allows the Secretary to waive the payment limits of conservation program benefits for participating producers if needed to fulfill the program objectives. [Allows enrollment of land that would otherwise be ineligible for other conservation programs]
- Requires that any activity under the program be consistent with state water law.
- Provides total of \$280 million through 2012 for AWEP as follows:
 - \$73 million for each of FY 2009 and FY 2010
 - \$74 million for FY 2011
 - \$60 million for FY 2012 and each fiscal year thereafter.
- Manager’s report language suggests priority to the Eastern Snake Plain Aquifer region, Puget Sound, the Ogallala Aquifer, the Sacramento River watershed, the Upper Mississippi River Basin, the Red River of the North Basin, and the Everglades.

WHIP

- Limits program to apply only on agricultural land, non-industrial private forest land, and tribal lands. [Previously did not limit to agricultural lands]
- Changes landowners to be limited to owners of above types of land.
- Projects addressing State, national, or regional conservation initiatives get priority. [Manager’s report language asks that the program be used to address a number of specific wildlife initiatives at the State, regional, or national level.]

- Increases from 15 to 25 percent the proportion of program funds that may be devoted to increased cost sharing for long term agreements [at least 15 years]
- Limits payments to \$50,000 per year

Grassroots Source Water Protection Program

- Reauthorizes and provides \$20 million per year as the amount authorized for appropriation.

Great Lakes Program

- Revises the Great Lakes Program for Soil Erosions and Sediment Control to specifically provide assistance to implement the Great Lakes Regional Collaboration Strategy to Restore and Protect the Great Lakes.
- Adds priority to projects that reduce soil loss in degraded rural watersheds or improve water quality for downstream watersheds.
- Continues authorization for appropriation at \$5 million per year.

Chesapeake Bay Program

- Establishes a new program for implementing conservation measures on agricultural lands in the Chesapeake Bay Watershed. It is intended to be carried out through all other USDA agricultural conservation programs but applied to the Chesapeake Bay effort.
- Gives special consideration to producer applications for assistance in the following river basins:
 - Susquehanna River
 - Shenandoah River
 - Potomac River
 - Patuxent River
- Encourages the Secretary to be a member of the Chesapeake Bay Executive Council
- Provides \$188 million for the program through 2012, with the funds to remain available until expended. Annual amounts are:
 - \$23 million for FY 2009
 - \$43 million for FY 2010
 - \$72 million for FY 2011
 - \$50 million for FY 2012

[Ten year total budget authority is \$438 million, which is about \$372 million in outlays].

Voluntary Public Access (Open Fields)

- Establishes a grant program to enable states and tribes to encourage private landowners to make land available to the public for wildlife dependent recreation.
- Provides \$50 million for the program over a five year period.
- Requires a 25 percent reduction in grant amount if the opening date for migratory bird hunting in the state is not consistent for residents and non-residents.

Funding and related items [funding covered under specific topics where applicable]

- Budget Authority for FRPP totals \$743 million over 5 years with annual funding as follows:
 - \$97 million for FY 2008
 - \$121 million for FY 2009
 - \$150 million for FY 2010
 - \$175 million for FY 2011
 - \$200 million for FY 2012
- Raises EQIP budget authority to amount to \$7.325 billion over five years as follows:
 - \$1,200 million in FY 2008
 - \$1,337 million in FY 2009
 - \$1,450 million in FY 2010
 - \$1,588 million in FY 2011
 - \$1,750 million in FY 2012

- Continues funding for WHIP at \$85 million per fiscal year totaling \$425 million over the five year period.
- Provides authority to the Secretary to accept non-Federal contributions to support conservation programs, to be available without appropriation. [Placement in subtitle H enables provision to apply to all conservation programs]
- Raises the minimum per state amount for qualified regional equity states to be \$15 million per year, and requires the Secretary to consider the demand in each state for the covered programs.
- Requires a review of the fund allocation formulas for conservation programs.
- Provides for 5 percent of EQIP funds and 5 percent of CSP acres to be used to assist beginning farmers or ranchers and the same amount to assist socially disadvantaged farmers or ranchers. Allows repooling of funds (and acres) at a specific date during the fiscal year.
- Requires a report to Congressional committees concerning payments of \$250,000 or more for each of the following programs: WRP, FRPP, and GRP. The report to include information on areas of special environmental significance for EQIP, and use of waivers for the AGI limitation and payment limitation.

Technical Assistance

- Clarifies the purpose of technical assistance to producers to be consistent, science-based, site-specific practices to achieve conservation objectives on land active in agriculture, forestry, or related uses.
- Specifically adds use of an agreement with a third party provider as an avenue for providing technical assistance.
- Requires the Secretary to provide national criteria for the certification of third party providers and to approve any unique certification standards established at the state level.
- Directs that technical assistance funds for farm bill conservation programs be made available for provision of technical assistance through third party providers.
- Directs that the term of agreements with providers be from 1 year after all activities under the agreement have been completed and up to 3 years. The agreements can be renewed.
- Requires that payment rates for third party providers be fair and reasonable.
- Calls for review of conservation practice standards.
- Includes specific provision to provide adequate technical assistance to specialty crop, organic, and precision agriculture producers.

Cooperative Conservation

- Adds a cooperative conservation provisions to enable producers to come together with partners to leverage resources and better address common resource concerns.
- Purposes include addressing conservation priorities; encourage cooperation in meeting requirements, cooperation in installing practices, and to promote development and demonstration of innovative conservation practices and delivery methods.
- Covers all conservation programs except CRP, WRP, GRP, and FRPP. [Means it covers EQIP, CSP, WHIP, and some of the smaller programs like Great Lakes, Grassroots Source, Chesapeake Bay]
- Eligible partners include state and local governments, tribes, producer associations, farmer cooperatives, institutions of higher education, and nongovernmental organizations with a history of working cooperatively with producers to address conservation on eligible land.
- Uses cooperative agreements based on a competitive process. The multiyear agreements would be up to 5 years in length.
- Gives priority to applications that: have high percentage of producers involved and working agricultural land covered by the agreement, leverage the Federal resources, deliver high percentage of applied conservation to address water quality or water conservation, and provide innovative conservation methods and delivery.

- Allows adjustment of covered program elements if needed to achieve the purposes of the initiative, and to give preferential enrollment to producers (if eligible) to participate in the initiative.
- Provides for use of 6 percent of program funds to be used for the cooperative conservation efforts.

Ecosystem Services

- Provides for new authority for environmental services markets.
- Includes guidelines for
 - Procedures for measuring environmental services benefits
 - Protocol to report environmental services benefits
 - A registry to collect, record, and maintain the benefits measured
- Requires development of a verification system for producers, including a role for third parties for independent verification of benefits.
- Gives priority for guidelines for landowner participation in carbon markets.
- Requires consultation with Federal and state agencies and non-governmental interests, including producers, financial institutions involved in environmental trading, institutions of higher education with appropriate expertise, and private sector representatives with relevant experience or expertise.
- Does not make any reference to funding or even authorization for appropriation

Other

- Includes provision for a streamlined application process to minimize complexity and to eliminate redundancy.
- Establishes a conservation experienced services program to enable experienced conservationists to assist with technical services to producers and other aspects of program delivery
- Updates elements of State Technical Committees, but does not include Fish and Wildlife Service (DOI) among the required members on the STC. Adds owners of private nonindustrial forest land and agricultural producers representing variety of crops and livestock or poultry raised in the state.
- Specifically indicates that any local working group established for conservation programs under the farm bill is considered a subcommittee of the STC
- Provides \$15 million for each fiscal year from 2008 through 2012 for the Agricultural Management Assistance (AMA) program. Adds Hawaii as an eligible state.
- Updates certain aspects of the Soil Conservation and Domestic Allotment Act to more broadly reflect natural resource concerns, such as water quality. Defines technical assistance.
- Provides lump sum of \$100 million for the Small Watershed Rehabilitation Program
- Reauthorizes and updates the Soil and Water Resources Conservation Act of 1977 and calls for an appraisal and program report to be prepared and transmitted to Congress
- Revises certain aspects of the Resource Conservation and Development Program concerning the planning process and technical assistance.
- Directs funds to the Bureau of Reclamation for salinity control activities in the Colorado River Basin
- Provides \$175 million for the Desert Terminal Lakes program under the Interior Department.

Miscellaneous

- Participants in the High Plains Water Study (Ogallala Aquifer) would not become ineligible for program benefits under the Act [note that this means all titles] solely for participation in a study of recharge potential.
- Named the National Plant Materials Center in Beltsville, MD as the Norman A. Berg National Plant Materials Center

- Continues conservation programs in FY 08 under the provisions of current law in effect the day prior to enactment. [Has effect of allowing use of FY 08 funding to be used prior to rulemaking process]
- Requires promulgation of program regulations within 90 days of enactment. Suspends certain aspects of rulemaking requirements (paperwork reduction, notice of rulemaking, and public participation) and allows for use of an interim rule effective on publication, while having public comment during implementation.

The following two provisions are located outside of the conservation title, but are significant conservation features.

Conservation Loan Guarantee Program

- In credit title of conference report
- Establishes loan or loan guarantee program to assist producers to finance the cost to the borrower for applying conservation systems needed for the operation.
- Conservation activities must be included in a conservation plan approved by the Secretary [means an NRCS approved conservation plan]
- The Manager's report specifically states that the conservation loan program is to complement financial assistance offered through programs in the conservation title and that the Secretary shall give priority to loan applicants who are waiting funding under these other conservation programs.
- Broadly available to producers, but gives priority to beginning and socially disadvantage producers, those converting to organic production systems, and producers applying systems to address compliance requirements.
- Specifically exempts the conservation loan program applicants from the general credit provision that an applicant be unable to obtain credit elsewhere.
- Requires that the applicant be a U.S. citizen and be knowledgeable about agriculture.
- The guarantee is limited to 75 percent of the principal of the loan.
- Requires the Secretary to ensure that loans made or guaranteed are distributed across diverse geographic regions.

Conservation Easement Tax Deduction

- Extends the conservation easement tax deduction for donations from December 31, 2007 until December 31, 2009. [NOTE: No longer applies after 12/31/2009 unless enacted as part of some subsequent law.]
- Is effective retroactively to January 1, 2008