

# **CONSERVATION**

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# **CONSERVATION**

1 **SEC. 2000. DEFINITIONS.**

2 Section 2001 of the Food Security Act of 1985 (16 U.S.C. 3801) is amended by-

3 (1) redesignating paragraphs (2) through (18) as (3) through (19);

4 (2) inserting a new paragraph (2) that reads as follows:

5 A(2) BEGINNING FARMER OR RANCHER.-The term >beginning farmer or rancher=,

1 means a beginning farmer or rancher as defined in section 343(8) of the Consolidated  
2 Farm and Rural Development Act (7 U.S.C.1991(8)).@;

3 (3) redesignating paragraphs (14) to (19) (as redesignated) as (15) to (20);

4 (4) inserting a new paragraph (14) that reads as follows:

5 A(14) LIMITED RESOURCE FARMER OR RANCHER.-The term >limited resources  
6 farmer or rancher,@ means a limited resources farmer or rancher, as defined by the  
7 Secretary.@";

8 (5) redesignating paragraphs (17) to (20) (as redesignated) as (18) to (21); and

9 (6) inserting a new paragraph (17) that reads as follows:

10 A(17) SOCIALLY DISADVANTAGED FARMER OR RANCHER.- The term >socially  
11 disadvantage farmer or rancher= means a person as defined in section 355(e)(2) of the  
12 Consolidated Farm and Rural Development Act (7 U.S.C.2003(e)(2)).@.

## 13 **Subtitle A-Conservation Security Enhancement**

### 14 **Program**

#### 15 **SEC. 2001. COMPREHENSIVE CONSERVATION ENHANCEMENT**

#### 16 **PROGRAM.**

17 Section 1230(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3830(a)(1)) is amended  
18 by striking A2002@ and inserting A2012@.

#### 19 **SEC. 2002. COMPLIANCE AND PERFORMANCE.**

20 Section 1230A of the Food Security Act of 1985 (16 U.S.C. 3830a) is amended to read as  
21 follows:

1       AFor every conservation program under this title, the Secretary shall develop  
2 procedures-

3           A(1) to monitor compliance with program requirements by landowners and eligible  
4 entities; and

5           A(2) to measure program performance and to demonstrate whether the long term  
6 conservation benefits of the program are being achieved. @.

7       **Subtitle B. Highly Erodible Land and Grassland**  
8       **Conservation**

9       **SEC. 2101. Highly Erodible Land and Grassland Conservation.**

10       (a) In General. CSubtitle B of title XII of the Food Security Act of 1985 (16 U.S.C.  
11 3811 et seq.) is amended-

12           (1) by striking the subtitle heading and inserting the following:

13       **A**Subtitle B-**Highly Erodible Land and Grassland**  
14       **Conservation**

15       **APART I-HIGHLY ERODIBLE LAND**

16       **CONSERVATION**@; and

17           (2) by adding at the end the following:

18       **APART II-GRASSLAND CONSERVATION**

1 **ASEC. 1216. PROGRAM INELIGIBILITY.**

2 A(a) Definition of Grassland.-In this section, the term >grassland= means rangeland  
3 and native grassland not previously used for crop production for the 6 crop years  
4 preceding the effective date of *farm bill 2007*, as determined by the Secretary.

5 A(b) Ineligibility.-

6 A(1) IN GENERAL.-Notwithstanding any other provision of law, grassland on which  
7 an agricultural commodity is produced shall be permanently ineligible for any part of  
8 a payment, loan or benefit that is based on the acreage of grassland, or the production  
9 from that acreage, as determined by the Secretary.

10 A(2) APPLICABLE LOANS AND PAYMENTS.-As of the effective date of the amendment  
11 to this subtitle by *farm bill 2007*, payments, loans and benefits described in paragraph  
12 (1) are those payments, loans and benefits authorized under-

13 A(A) title I of the Farm Security and Rural Investment, 2002 (7 U.S.C. 7901 et.  
14 seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or  
15 any other Act administered by the Secretary, in the case of direct payments,  
16 counter-cyclical payments, marketing assistance loans, and any other type of price  
17 support or payment made available under those Acts;

18 A(B) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.)  
19 or any other provision of law administered by the Farm Service Agency.

20 A(C) this title;

21 A(D) the Federal Crop Insurance Act, (7 U.S.C. 1501 et seq.); and

22 A(E) agricultural disaster assistance, as determined by the Secretary.

1           A(3) BENEFIT REDUCTION.-The Secretary shall determine through rulemaking how  
2           to reduce a payment, loan, or other benefit covered under paragraph (1).

3           A(c) CRP EXEMPTION.-Land enrolled into the conservation reserve program under  
4           subchapter B, Chapter 1 during any of the 6 crop years preceding the effective date of  
5           *farm bill 2007* shall be considered to have been used for crop production for the purposes  
6           of the prohibition under subsection (b)(1).

7           A(d) Prohibition on Delegation.-The Secretary shall have, and shall not delegate to any  
8           private person or entity, authority to determine whether a person has complied with this  
9           part.@.

10          (b) Conforming Amendments.C

11           (1) Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C.  
12           1981 et seq.) is amended by inserting at the end the following:

13           **ASEC. 379E CONSERVATION CROSS COMPLIANCE.**

14           A(a) IN GENERAL.-Grassland that has been converted for agricultural production in  
15           violation of section 1216(b) of the Food Security Act of 1985 (as amended by *farm bill*  
16           *2007*) shall not be eligible for any new farm program loan made or guaranteed by the  
17           Secretary.

18           A(b) IMPLEMENTATION.-The Secretary shall implement the provisions of  
19           subsection (a) through rulemaking to determine how to reduce the amount of a loan or  
20           loan guaranteed.

21           (2) Section 502(d) of the Federal Crop Insurance Act (7 U.S.C. 1502(d)) is  
22           amended by inserting at the end the following:

1           A(3) CONSERVATION CROSS COMPLIANCE.-Acreage that has been converted  
2           for agricultural production in violation of section 1216(b) of the Food Security Act of  
3           1985 (as amended by *farm bill 2007*) shall not be eligible for any policy or plan of  
4           insurance made available pursuant to this Act.®.

5           (3) Section 1231(b)(1)(A)(ii) of the Food Security Act of 1985 (16 U.S.C.  
6           3831(b)(1)(A)(ii)) is amended by inserting A part I of® before A subtitle B®.

7           (4) Section 1238C(c) of the Food Security Act of 1985 (16 U.S.C. 3838c(c)) is  
8           amended by striking A subtitle B or C® and inserting A part I of subtitle B or subtitle  
9           C®.

10           (5) Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) is amended in each of subsections

## 11           **Subtitle C-Conservation Reserve**

### 12           **SEC. 2201. CONSERVATION RESERVE PROGRAM.**

13           (a) Eligible Land. C Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is  
14           amended C

15           (1) in subsection (a), by striking A 2007® and inserting A 2012®; and

16           (2) in subsection (b) C

17           (A) in paragraph (1)(B), by striking the period at the end and inserting a  
18           semicolon;

19           (B) in paragraph (4) C

20           (i) in subparagraph (C), by striking A; or® and inserting a semicolon; and

21           (ii) in subparagraph (D), by striking A and® at the end;

1 (iii) in subparagraph (E) by inserting after the semi colon Aor@; and

2 (iv) by adding at the end the following:

3 A(F) the land consists of at risk landscapes, as determined by the Secretary,

4 including-

5 A(i) partial fields (as determined by the Secretary); and

6 A(ii) irrigated land in areas in which water availability is limited; or@.

7 (b) Maximum Enrollment.-Section 1231(d) of the Food Security Act of 1985 (16

8 U.S.C. 3831(d)) is amended by striking A2007@ and inserting A2012@.

9 (c) Conservation Priority Areas.-Section 1231(f) of the Food Security Act of 1985 (16

10 U.S.C. 3831(f)) is amended -

11 (1) in paragraph (1), by striking A(1)@ and all that follows through AOn

12 application@ and inserting the following:

13 A(1) WATERSHEDS.C

14 A(A) WATERSHEDS OF SPECIAL ENVIRONMENTAL SENSITIVITY.-On application@.;

15 (2) in paragraphs (2), (3), and (4), by striking Asubsection@ each place it appears

16 and inserting Aparagraph@;

17 (3) in paragraph (3), by redesignating subparagraphs (A) and (B) as clauses (i) and

18 (ii) respectively;

19 (4) in paragraph (4), by striking Aparagraph (1)@ and inserting Asubparagraph

20 (A)@;

21 (5) by redesignating paragraphs (2) through (4) as subparagraphs (B) through (D)

22 respectively; and



1 (6) by adding at the end the following:

2 A(2) CROPLAND PLANTED TO A BIOMASS CROP.-In enrolling land in the conservation  
3 reserve, the Secretary shall give priority to whole fields of cropland planted to a  
4 perennial crop that is used for cellulosic energy production.®.

5 (d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN  
6 CONSERVATION RESERVE. CSection 1231(h)(1)(A) of the Food Security Act of 1985 (16  
7 U.S.C. 3831(h)(1)(A)) is amended by striking A2007® and inserting A2012®.

8 (e) USE OF CRP LAND FOR BIOMASS RESERVE.-Section 1232 of the Food Security Act of  
9 1985 (16 U.S.C. 3832) is amended-

10 (1) by designating subsections (b) and (c) as (c) and (d), respectively; and

11 (2) by inserting a new subsection (b) as follows:

12 A(b) BIOMASS RESERVE.-

13 A(1) Notwithstanding any other provision of this section and section 1235A, under  
14 the terms of a contract entered into under this subchapter, during the term of the  
15 contract, an owner or operator may plant whole fields of cropland enrolled into the  
16 CRP to a perennial crop used for cellulosic energy production.

17 A(2) LIMITATION.-Cropland planted under subparagraph (A) may not be harvested  
18 until after nesting seasons of wildlife that inhabit the area (as determined by the  
19 Secretary).

20 A(3) NOTICE UPON APPLICATION.-An owner or operator desiring to plant cropland to  
21 a perennial crop used for cellulosic energy production under this subsection shall  
22 provide the Secretary with notice of the intent of the owner or operator at the time the

1 application for enrollment of the cropland into the conservation reserve is made.

2 A(4) FUTURE APPLICABILITY.-

3 A(A) IN GENERAL.-Cropland enrolled in the CRP may not be planted to a  
4 perennial crop that can be used for cellulosic energy production-

5 A(i) until after the effective date of the regulations implementing the biomass  
6 reserve; and

7 A(ii) unless the contract under which the cropland is enrolled was entered  
8 into after the effective date described in clause (i).

9 A(B) LIMITATIONS BY SECRETARY.-The Secretary may establish additional  
10 restrictions (including measures to limit the effects on the conservation benefits of  
11 the contract) on the use of cropland planted to a perennial crop that can be used for  
12 cellulosic energy production, as the Secretary determines is appropriate.@.

13 (f) ANNUAL RENTAL PAYMENTS FOR BIOMASS RESERVE.CSection 1234(c) of the Food  
14 Security Act of 1985 (16 U.S.C. 3834(c)) is amended by adding at the end the following:

15 A(5) BIOMASS RESERVE.CIn the case of cropland enrolled in the conservation  
16 reserve under this subchapter, and that is planted to a perennial crop that can be used  
17 for cellulosic energy production, annual rental payments in the year in which the crop  
18 is harvested shall be reduced by an amount commensurate with the economic value of  
19 the harvest.@.

20 (g) CONTINUOUS SIGNUP.-Section 1234 of the Food Security Act of 1985 (16 U.S.C.  
21 3834) is amended-

22 (1) in subsection (c) by adding at the end the following:

1 A(6) LANDS ELIGIBLE FOR CONTINUOUS SIGNUP.-Lands eligible for continuous  
2 signup include at risk landscapes, as determined by the Secretary, such as-

3 A(A) partial fields that are a part of fragile cropland (as determined by the  
4 Secretary); and

5 A(B) irrigated land in areas in which water availability is limited.@.

6 (h) AUTHORIZATION.-Subchapter B of the Food Security Act of 1985 is amended by  
7 adding at the end:

8 **ASEC. 1236. PERIOD OF AUTHORIZATION.**

9 AThis subchapter shall be authorized for the 2008 through 2012 fiscal years.@.

10 **Subtitle DCWetlands Reserve Program**

11 **SEC. 2301.WETLANDS RESERVE PROGRAM.**

12 (a) ESTABLISHMENT AND PURPOSE.-Section 1237(a) of the Food Security Act of 1985  
13 (16 U.S.C. 3837(a)) is amended to read:

14 A(a) ESTABLISHMENT AND PURPOSES.-

15 A(1) ESTABLISHMENT.-The Secretary shall establish a wetlands reserve program to  
16 assist owners of eligible lands in restoring and protecting wetlands.

17 A(2) PURPOSES.-The purposes of the wetlands reserve program are-

18 A(A) to restore, to create, to protect, or to enhance wetlands on lands that are  
19 eligible under subsections (c) and (d); and

20 A(B) to purchase flood plain easements.@.

21 (b) Maximum Enrollment.-Section 1237(b)(1) of the Food Security Act of 1985 (16

1 U.S.C. 3837(b)(1)) is amended-

2 (1) by striking A2,275,000 acres@ and inserting A3,525,000 acres@; and

3 (2) by striking Acalendar@ and inserting Afiscal@.

4 (c) ELIGIBLE LANDS.-Section 1237(c) of the Food Security Act of 1985 (16 U.S.C.  
5 3837(c)) is amended as follows:

6 A(c) ELIGIBILITY.-For purposes of enrolling land into the wetland reserve program  
7 established under this subchapter during the 1991 through 2012 fiscal years, land shall be  
8 eligible to be placed into such reserve if the Secretary, in consultation with the Secretary  
9 of the Interior at the local level, determines that-

10 A(1) in the case of wetlands-

11 A(A) the land maximizes wildlife benefits and wetland values and functions;

12 A(B) the land is farmed wetland or converted wetland, together with adjacent  
13 lands that are functionally dependent on such wetlands, except that converted  
14 wetlands where the conversion was not commenced prior to December 23, 1985,  
15 shall not be eligible to be enrolled in the program under this section; and

16 A(C) the likelihood of the successful restoration of such land, and the resultant  
17 wetland values, merit inclusion of the land into the program taking into  
18 consideration the cost of such restoration; or

19 A(2) in the case of flood plain lands-

20 A(A) the flood plain land has been damaged by flooding at least once within the  
21 previous calendar year, or has been subject to flood damage at least twice within  
22 the previous 10 years; or

1           A(B) other lands within the flood plain would contribute to the restoration of the  
2 flood storage and flow, erosion control, or that acquisition of such lands would  
3 make management of the easement more effective.®.

4           (d) INELIGIBLE LANDS.®Section 1237(e) of the Food Security Act of 1985 (16 U.S.C.  
5 3837(e)) is amended as follows:

6           A(e) INELIGIBLE LAND.-The Secretary may not acquire easements on-

7           A(1) in the case of wetlands-

8           A(A) land that contains timber stands established under the conservation reserve  
9 under subchapter B; or

10           A(B) pasture land established to trees under the conservation reserve under  
11 subchapter B; or

12           A(2) in the case of flood plain lands-

13           A(A) land on which implementation of restoration practices would not be  
14 productive due to Aon-site® or Aoff-site® conditions;

15           A(B) land that is subject to an existing easement or deed restriction, and the  
16 easement or deed provides sufficient protection or restoration of the flood plain's  
17 functions and values, as determined by the Secretary; or

18           A(C) land for which purchase of an easement would not meet the purposes of the  
19 enumerated in subsection (a), as determined by the Secretary.®.

20           (e) EASEMENTS AND AGREEMENTS.-Section 1237A of the Food Security Act of 1985  
21 (16 U.S.C. 3837a) is amended-

1 (1) in subsection (a)(2) by inserting Aif applicable@ after A(2)@;

2 (2) in subsection (b)-

3 (A) in the stem by inserting Aor flood plain land@ after Avalues of wetland@;

4 (B) in paragraph (1)(B) by inserting Aor flood plain land@ after Awetland@;

5 (C) in paragraph (3) by inserting Aor flood plain lands@ after Awetlands@;

6 (3) (A) by redesignating subsections (c)-(g) as (g)-(k), respectively; and

7 (B) by inserting new subsections (c), (d), (e), and (f), as follows:

8 A(c) EASEMENT PURCHASE COSTS.-When enrolling eligible land through an entity

9 described in subsection (d)-

10 A(1) the share of the Secretary of the cost of purchasing a conservation easement or  
 11 other interest in eligible land shall not exceed 50 percent of the appraised fair market  
 12 value of the conservation easement or other interest in eligible land (through an  
 13 appraisal method determined by the Secretary through regulations); and

14 A(2) an entity described in subsection (d) may include a charitable donation by the  
 15 private landowner from which the eligible land is to be purchased of not more than 25  
 16 percent of the appraised fair market value of the conservation easement or other  
 17 interest in eligible land.

18 A(d) EASEMENT TITLE.-

19 A(1) TITLE HOLDER OF EASEMENT.-The title holder of an easement obtained under  
 20 this subchapter may be, in addition to, or in lieu of, the Secretary-

21 A(A) any agency of any State or local government or an Indian tribe (including a  
 22 farmland protection board or land resource council established under State law); or

1 A(B) any organization thatC

2 A(i) is organized for, and at all times since the formation of the organization  
3 has been operated principally for, 1 or more of the conservation purposes  
4 specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal  
5 Revenue Code of 1986;

6 A(ii) is an organization described in section 501(c)(3) of that Code that is  
7 exempt from taxation under section 501(a) of that Code;

8 A(iii) is described in section 509(a)(2) of that Code; or

9 A(iv) is described in section 509(a)(3), and is controlled by an organization  
10 described in section 509(a)(2), of that Code.

11 A(e) ACCEPTANCE OF CONTRIBUTIONS.CThe Secretary may accept and use  
12 contributions of non-Federal funds to administer the program under this subchapter.

13 A(f) Protections and implementation.

14 A(1) Protections.-In the case of a landowner that conducts activities and practices  
15 approved by the Secretary under this subsection, and the activities or practices result  
16 in a net conservation benefit for a listed or candidate species, the Secretary shall  
17 cooperate with the Secretary of the Interior and the Secretary of Commerce, as  
18 appropriate, to make available to the landowner safe harbor or similar assurances and  
19 protection under sections 7(b)(4) and 10(a), as applicable, of the Endangered Species  
20 Act of 1973 (16 U.S.C. 1536(b)(4), 1539(a)).

21 A(2) Implementation.-If the assurances and protection achieved under paragraph  
22 (1) involves the implementation of additional activities or practices under the

1 easement plan of the owner, the cost of implementing the additional activities or  
2 practices, as well as the cost of any permit, shall be considered part of the easement  
3 plan for purposes of financial assistance under this subchapter.@; and

4 (4) adding at the end the following:

5 A(1) WETLANDS RESERVE ENHANCEMENT PROGRAM.-

6 “(1) IN GENERAL.-The provisions of this subchapter that limit payments to any  
7 person, and section 1305(d) of the Agricultural Reconciliation Act of 1987 (7 U.S.C.  
8 1308 note), shall not be applicable to payments received by a State, political  
9 subdivision, or agency thereof in connection with agreements entered into under a  
10 special wetlands reserve enhancement program carried out by that entity that has been  
11 approved by the Secretary.

12 A(2) AGREEMENTS.-The Secretary may enter into agreements with States (including  
13 political subdivisions and agencies of States) regarding payments described in  
14 paragraph (1) that the Secretary determines will advance the purposes of this  
15 subchapter.@.

16 (f) DUTIES OF THE SECRETARY.-Section 1237C of the Food Security Act of 1985 (16  
17 U.S.C. 3837c) is amended-

18 (1) in subsection (a)(1) by inserting Aor flood plains land@ after Awetland@;

19 (2) by striking subsection (c) and inserting:

20 A(c) RANKING OF OFFERS.-

21 A(1) IN GENERAL.-When evaluating offers from landowners, the Secretary may  
22 consider-



1           A(A) the conservation benefits of obtaining an easement or other interest in the  
2 land;

3           A(B) the cost-effectiveness of each easement or other interest in eligible land, so  
4 as to maximize the environmental benefits per dollar expended; and

5           A(C) whether the landowner or another person is offering to contribute  
6 financially to the cost of the easement or other interest in the land to leverage  
7 Federal funds.

8           A(2) CONSERVATION BENEFITS.-In determining the acceptability of easement offers,  
9 the Secretary may take into considerationC

10           A(A) in the case of wetlands-

11           A(i) the extent to which the purposes of the easement program would be  
12 achieved on the land;

13           A(ii) the productivity of the land;

14           A(iii) the on-farm and off-farm environmental threats if the land is used for  
15 the production of agricultural commodities;

16           A(B) in the case of flood plain lands-

17           A(i) the extent to which the purposes of the easement program would be  
18 achieved on the land;

19           A(ii) whether the land has been repeatedly flooded over the last ten years;

20           A(iii) the extent to which an easement on the flood plain land would  
21 contribute to the restoration or management of land in the area surrounding the

1 flood plain land; and

2 A(iv) other factors, as determined by the Secretary. @.

3 (g) CHANGES IN OWNERSHIP; AGREEMENT MODIFICATION; TERMINATION.-Section 1237E

4 is amended by adding at the end:

5 A(c) LAND EXCHANGE.-When the Secretary determines that it is in the best interest of  
6 the Government, the Secretary may, pursuant to the authority under 7 U.S.C. 428a, allow  
7 land subject to a flood plain easement to be exchanged for other land in the area  
8 surrounding the flood plain land that is subject to the easement. @.

9 (h) AUTHORIZATION.-Subchapter C is amended by adding at the end:

10 **ÅSEC. 1237G.-TEMPORARY ADMINISTRATION OF WETLANDS RESERVE**

11 **PROGRAM.**

12 A(a) INTERIM ADMINISTRATION.-

13 A(1) IN GENERAL.-During the period beginning on the date of enactment of this  
14 section and ending on the termination date provided under paragraph (2), to ensure  
15 that technical assistance, cost-share payments, and other payments continue to be  
16 administered in an orderly manner until such time as the technical assistance, cost-  
17 share payments, and other payments can be provided through final regulations issued  
18 to implement the wetlands reserve program, as amended by *farm bill 2007*, the  
19 Secretary shall, to the extent the terms and conditions of the programs under clauses  
20 (i) and (ii) of subparagraph (A) are consistent with the wetlands reserve program, as  
21 amended by *farm bill 2007*, continue to-

22 A(A) provide technical assistance, cost-share payments, and other payments

1 under the terms and conditions of -

2 A(i) the flood plains easements authorities, section 403 of Pub. L. 95-334 (16  
3 U.S.C. 2203); and

4 A(ii) this subchapter as it existed 1 day before the date of enactment of  
5 *farmbill 2007*; and

6 A(B) use for those purposes C

7 A(i) any funds available in the fiscal year from those programs; and

8 A(ii) as the Secretary determines to be necessary, any funds authorized to be  
9 used to carry out the wetlands reserve program, as amended by *farm bill 2007*.

10 A(2) TERMINATION OF AUTHORITY.-The authority of the Secretary to carry  
11 out paragraph (1), and the authority for the programs described clauses (i)-(ii) of  
12 paragraph (1)(A), shall terminate on the effective date of the final regulation  
13 implementing the wetlands reserve program, as amended by *farm bill 2007*.

14 A(b) PERMANENT ADMINISTRATION.-Effective beginning on the termination  
15 date provided under subsection (a)(2), the Secretary shall provide technical assistance,  
16 cost-share payments, and incentive payments for the purchase of easements, cost share  
17 payments, and technical assistance for private landowners on private lands in accordance  
18 with final regulations issued to carry out the wetlands reserve program, as amended by  
19 *farm bill 2007*.@

20 **ASEC. 1237H. PERIOD OF AUTHORIZATION.**

21 AExcept as provided in section 1237G (a), this subchapter shall be authorized for the  
22 2008 through 2012 fiscal years.@

1 (j) The flood plains easement function in section 403 of Pub. L. 95-334 (16 U.S.C.  
2 2203) is repealed as of the effective date of the final regulations for the wetlands reserve  
3 program, as amended by *farm bill 2007*.

## 4 **SUBTITLE E-CONSERVATION SECURITY**

### 5 **PROGRAM**

#### 6 **SEC. 2401. CONSERVATION SECURITY PROGRAM.**

7 (a) Section 1238 of the Food Security Act of 1985 (16 U.S.C. 3838 ) is amended to  
8 read as follows:

#### 9 **SEC. 1238. DEFINITIONS.**

10 AIn this subchapter:

11 A(1) CONSERVATION PRACTICE.-The term >conservation practice= means a  
12 conservation farming practice that-

13 A(A) requires planning, implementation, management, and maintenance; and

14 A(B) promotes 1 or more of the purposes described in section 1238A(a).

15 A(2) CONSERVATION SECURITY CONTRACT.-The term >conservation security contract=  
16 means a contract, as described in section 1238A(e).

17 A(3) CONSERVATION PLAN.-The term >conservation plan= means a plan described in  
18 section 1238A(c).

19 A(4) MASTER TIER.-The term >master tier= means a level of conservation practice

1 described in section 1238A(d)(4)(B).

2 A(5) NONDEGRADATION STANDARD.-The term >nondegradation standard= means the  
3 level of measures required to adequately protect, and prevent degradation of, 1 or more  
4 natural resources, in accordance with the quality criteria determined by the Secretary.

5 A(6) PROGRESSIVE TIER .-The term >progressive tier= means a level of conservation  
6 practice described in section 1238A(d)(4)(A).

7 A(7) PRODUCER.-

8 A(A) IN GENERAL.CThe term >producer= means an owner, operator, landlord,  
9 tenant, or sharecropper that-

10 A(i) shares in the risk of producing any crop or livestock; and

11 A(ii) is entitled to share in the crop or livestock available for marketing from a  
12 farm (or would have shared had the crop or livestock been produced).

13 A(B) HYBRID SEED GROWERS.-In determining whether a grower of hybrid seed is a  
14 producer, the Secretary shall not take into consideration the existence of a hybrid seed  
15 contract.

16 A(8) RESOURCE-CONSERVING CROP ROTATION.-The term >resource-conserving crop  
17 rotation= means a crop rotation that-

18 A(A) includes at least 1 resource-conserving crop (as defined by the Secretary);

19 A(B) reduces erosion;

20 A(C) improves soil fertility and tilth;

1 A(D) interrupts pest cycles; and

2 A(E) in applicable areas, reduces depletion of soil moisture (or otherwise reduces  
3 the need for irrigation).

4 A(9) RESOURCE MANAGEMENT SYSTEM.-The term >resource management system=  
5 means a system of conservation practices and management relating to land or water use  
6 that is designed to prevent resource degradation and permit sustained use of land, water,  
7 and other natural resources, as determined by the Secretary.

8 A(10) SECRETARY.-The term >Secretary= means the Secretary of Agriculture.@

9 (b) Section 1238A of the Food Security Act of 1985 (16 U.S.C. 3838a) is amended-

10 (1) in subsection (a) by striking A2003 through 2011" and inserting A2008 through  
11 2012";

12 (2) in subsection (b)(1) by striking Asecurity plan@ each place it occurs and  
13 inserting Aplan@;

14 (3) by amending subsection (b)(3)(C) to read as follows:

15 A(C) PRIVATE LANDS PROTECTION.-Land enrolled in the private lands protection  
16 program under subchapter B, Chapter 2 shall not be eligible for enrollment in the  
17 conservation security program.@";

18 (4) in subsection (b)(4) by striking Asecurity plan@ and inserting Aplan@;

19 (5) in subsection (c) by striking Asecurity plan@ each place it appears and inserting  
20 Aplan@;

21 (6) in subsection (d)-

1 (A) in paragraph (1)(A) by striking everything from AThe Secretary@ through  
2 the end of the paragraph and inserting:

3 AThe Secretary shall establish, and offer to eligible producers, 2 tiers of  
4 conservation practices, 1 of which tiers a producer must select to establish the  
5 duties of the producer under a conservation security contract. @;

6 (B) by striking paragraph (1)(B) and inserting:

7 A(B) EVALUATION OF CONSERVATION PLANS.-

8 A(i) IN GENERAL.-When evaluating proposed conservation plans by  
9 producers, the Secretary may consider-

10 A(I) the conservation benefits of the offer;

11 A(II) the cost-effectiveness of implementation of the conservation plan, so  
12 as to maximize the environmental benefits per dollar expended; and

13 A(III) whether the producer, or another person is offering to contribute  
14 financially to the cost of the contract to leverage Federal funds.

15 A(C) RANKING OF CONSERVATION PLANS.-In evaluating conservation plans, the  
16 Secretary shall, in consultation with the State Conservationist of State in which the  
17 producer resides, accord a higher priority to conservation plans that C

18 A(i) encourage the use by producers of cost-effective conservation practices;

19 A(ii) address natural resource concerns on the agricultural operation of the  
20 producer; and

21 A(iii) address other concerns and priorities, as determined by the Secretary. @;

22 (C) by striking paragraph (4);

1 (D) by redesignating paragraph (5) as paragraph (4) and amending paragraph (4)  
2 (as redesignated) as follows:

3 A(4) TIERS.CSubject to paragraph (5), to carry out this subsection, the Secretary  
4 shall establish the following 2 tiers of conservation practices under a conservation  
5 security contract:

6 A(A) PROGRESSIVE TIER CONSERVATION PRACTICES.-A conservation plan for  
7 land enrolled under the progressive tier level of conservation practices shall-

8 A(i) be for a period of 5 years; and

9 A(ii) include conservation practices appropriate for the agricultural operation,  
10 that, at a minimum (as determined by the Secretary)-

11 A(I) have, prior to the date of application, addressed water and soil quality  
12 concerns for the entire agricultural operation, at a level that meets the  
13 appropriate nondegradation standard;

14 A(II) would address at least 1 additional significant resource of concern  
15 for the entire agricultural operation, as determined by the Secretary, at a level  
16 that meets the appropriate nondegradation standard; and

17 A(III) cover active management of conservation practices that are  
18 implemented or maintained under this tier.; and

19 A(B) MASTER TIER CONSERVATION PRACTICES.-A conservation plan for land  
20 enrolled under the master tier level of conservation practices shall-

21 A(i) be for a period that is not less than 5, nor more than 10 years, at the  
22 election of the producer; and



1           A(ii) include conservation practices appropriate for the agricultural operation  
2 that, at a minimum (as determined by the Secretary)-

3           A(I) have, prior to the date of application, addressed all existing resource  
4 concerns for the entire agricultural operation, at a level that meets the  
5 appropriate nondegradation standard; and

6           A(II) cover active management of conservation practices that are  
7 implemented or maintained under this tier; and

8           A(iii) perform additional activities, including -

9           A(I) higher levels of conservation treatment;

10          A(II) participate in an on-farm conservation research, demonstration,

11          A(III) other conservation activities, as determined by the Secretary. @;

12          and

13          (E) in paragraph (6)-

14           (i) by redesignating paragraph (6) as paragraph (5);

15           (ii) by striking Acontracts@ and inserting Apractices@ ; and

16           (iii) by striking A(5) and inserting A(4)@;

17          (7) in subsection (e)(1) by striking Asecurity plan@ and inserting Aplan@;

18          (8) in subsection (e)(3)(A)(ii) by striking Asecurity plan@ and inserting Aplan@

19          (9) in subsection (e)(4) -

20           (A) in subparagraph (A) by striking Aat the option of a producer,@; and

21           (B) by amending subparagraph (B) to read as follows:

22           A(B) PROGRESSIVE TIER RENEWALS.

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1           A(i) IN GENERAL.-In the case of a conservation security contract of a  
2           producer containing progressive tier level conservation practices, the  
3           producer may renew the contract only if the producer agrees to apply  
4           additional conservation practices that meet the nondegradation standard on  
5           land already enrolled in the conservation security program.

6           A(ii) In the case of a conservation security contract of a producer that  
7           contained progressive tier level conservation practices, the producer may  
8           neither obtain a renewal of the contract nor obtain a new contract for the  
9           same conservation practices.@.

10       (c) Section 1238B of the Food Security Act of 1985 (16 U.S.C. 3838c) is amended by  
11       striking Asecurity plan@ each place it appears and inserting Aplan@.

12       (d) Section 1238C of the Food Security Act of 1985 (16 U.S.C. 3838c) is amended-  
13       (1) in subsection (b)-

14           (A) by amending paragraph (1) to read as follows:

15       A(1) CRITERIA FOR DETERMINING AMOUNT OF PAYMENTS.-

16           A(A) IN GENERAL.-The amount of a payment a producer would receive for  
17           performing either the progressive tier or master tier level of conservation practices  
18           shall be determined by the Secretary through rulemaking.

19           A(B) COSTS OF PRACTICES.-The Secretary shall establish the criteria for  
20           determining payment amounts under subparagraph (A) based on factors such as  
21           income foregone by the producer and costs incurred by the producer to implement  
22           the progressive tier or master tier level of conservation practices.@;

1 (B) by striking paragraph (2); and

2 (C) by redesignating paragraph (3) as paragraph (2); and

3 (2) by striking subsection (f); and

4 (3) in subsection (g) by striking "A2003 through 2007" and inserting "A2008 through  
5 A2012".

6 (e) Subchapter 2 of chapter 1 of the Food Security Act of 1985 (16 U.S.C. 3838-  
7 3838c) is amended by adding at the end-

8 **ASEC. 1238D. PERIOD OF AUTHORIZATION.**

9 AThis subchapter shall be authorized for the 2008 through 2012 fiscal years.@.

10 **Subtitle F-Private Lands Protection Program**

11 **SEC. 2501. PRIVATE LANDS PROTECTION PROGRAM.**

12 (a) Subchapter B, Chapter 2, Subtitle D of title XII of the Food Security Act of 1985  
13 (16 U.S.C. 3811 et seq.) is amended to read as follows-

14 **ASUBCHAPTER B-PRIVATE LANDS PROTECTION**  
15 **PROGRAM**

16 **ASEC. 1238H. DEFINITIONS.-**

17 In this Subchapter:

18 A(a) ELIGIBLE ENTITY.CThe term Aeligible entity@ meansC

19 A(1) any agency of any State or local government or an Indian tribe (including a  
20 farmland protection board or land resource council established under State law); or

1 A(2) any organization thatC

2 A(A) is organized for, and at all times since the formation of the organization  
3 has been operated principally for, 1 or more of the conservation purposes specified  
4 in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code  
5 of 1986;

6 A(B) is described in section 501(c)(3) of that Code as being exempt from  
7 taxation under section 501(a) of that Code;

8 A(C) is described in section 509(a)(2) of that Code; or

9 A(D) is described in section 509(a)(3), and is controlled by an organization  
10 described in section 509(a)(2), of that Code.

11 A(b) ELIGIBLE LAND.C

12 A(1) IN GENERAL.CThe term Aeligible land@ means private farm, ranch, or forest land thatC

13 A(A) has prime, unique, or other productive soil;

14 A(B) contains historical or archaeological resources;

15 A(C) is grassland, land that contains forbs, or shrub land (including improved  
16 rangeland and pastureland);

17 A(D) is located in an area that has been historically dominated by grassland,  
18 forbs, or shrub land, and the land potentially could provide habitat for animal or  
19 plant populations of significant ecological value if the land isC

20 A(i) retained in the current use of the land; or

21 A(ii) restored to a natural condition;

22 A(E) the enrollment of which would protect, restore, or enhance species habitat,

1 or otherwise measurably increase the likelihood of recovery of species that are-

2 A(i) listed as endangered or threatened under section 4 of the Endangered  
3 Species Act of 1973 (16 U.S.C. 1533); or

4 A(ii) not listed as endangered or threatened under section 4 of the Endangered  
5 Species Act of 1973 (16 U.S.C. 1533), but are-

6 A(I) candidates for a listing as endangered or threatened;

7 A(II) a State-listed species; or

8 A(III) named as a special concern species, as determined by the Secretary;

9 A(F) is incidental to lands described in sub paragraphs (A)-(E), if the incidental  
10 land is determined by the Secretary to be necessary for the efficient administration  
11 of an agreement or easement; and

12 A(G) other lands, as determined by the Secretary.

13 A(c) INDIAN TRIBE. The term AIndian tribe@ has the meaning given the term in  
14 section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.  
15 450b).

16 A(d) PROGRAM. The term Aprogram@ means the private lands protection program  
17 under section 1238I(a).

18 **SEC. 1238H. PRIVATE LANDS PROTECTION PROGRAM.**

19 A(a) IN GENERAL.-The Secretary shall establish and carry out a private lands  
20 protection program to restore and to protect farm, ranch and forest lands by limiting  
21 nonagricultural uses of the land and restoring, enhancing, and conserving eligible land.

22 A(b) ENROLLMENT.-The Secretary may either directly, or through an eligible entity,

1 obtain an interest in eligible land through-

2 A(1) a 10-year restoration agreement;

3 A(2) a 30-year or permanent easement; or

4 A(3) in a State that imposes a maximum duration for easements, an easement for  
5 the maximum duration allowed under State law.

6 A(c) ASSISTANCE.-The Secretary shall provide payments and technical assistance as  
7 provided in section 1238I.

8 A(d) COST SHARE AND RESTORATION.-Cost share payments and technical assistance  
9 shall be made available for restoration, maintenance and improvement of lands subject to  
10 easements under this subchapter.

11 A(e) ACCEPTANCE OF CONTRIBUTIONS.-The Secretary may accept and use  
12 contributions of non-Federal funds to administer the program under this subchapter.

13 A(f) EASEMENT TITLE.-The title holder of an easement obtained under this subchapter,  
14 in addition to the Secretary, or in lieu of the Secretary, may be an eligible entity.

15 **ASEC. 1238I EASEMENTS, AGREEMENTS, AND DUTIES.**

16 A(a) REQUIREMENTS OF LANDOWNERS.-

17 A(1) In general.-To become eligible to enroll land in the program through the grant  
18 of an easement, the landowner or eligible entity, as applicable, shall-

19 A(A) create and record an appropriate deed restriction in accordance with  
20 applicable State law;

21 A(B) provide proof of unencumbered title to the underlying fee interest in the  
22 land that is subject of the easement;

1 A(C) grant the easement to either the Secretary or an eligible entity;

2 A(D) comply with the terms of the easement and the restoration agreement; and

3 A(E) explicitly consent in writing to granting a security interest in the land to  
4 either the Secretary or an eligible entity.

5 A(2) RESTORATION AGREEMENTS.-

6 A(A) IN GENERAL.-If a restoration plan is required by the Secretary, the  
7 landowner or eligible entity, as applicable, shall-

8 A(i) with the assistance of the Secretary, develop a restoration plan;

9 A(ii) provide a written statement of consent to such an agreement that is  
10 signed by persons holding a security interest in the land; and

11 A(iv) implement the restoration plan.

12 A(B) TERMS OF RESTORATION AGREEMENT.-A restoration plan shall contain-

13 A(i) a statement of the conservation measures and practices that will be  
14 undertaken in regard to the land under the easement;

15 A(ii) restrictions on the use of the land under the easement; and

16 A(iii) a statement of the respective duties of the Secretary, landowner, or  
17 eligible entity.

18 A(C) VIOLATION.-Upon the violation of the terms or conditions of an easement  
19 or restoration agreement entered into under this section-

20 A(i) the easement shall remain in force; and

21 A(ii) the Secretary may require the owner to refund all or part of any  
22 payments received by the owner under this subchapter, with interest on the

1 payments as determined appropriate by the Secretary.

2 A(b) REQUIREMENTS OF THE SECRETARY.-

3 A(1) PROTECTIONS FOR PERFORMING APPROVED PRACTICES.-

4 A(A) PROTECTIONS.-In the case of a landowner or eligible entity that conducts  
5 activities and practices approved by the Secretary under this chapter, and the  
6 activities or practices result in a net conservation benefit for a listed or candidate  
7 species, the Secretary shall cooperate with the Secretary of the Interior and the  
8 Secretary of Commerce, as appropriate, to make available to the landowner or  
9 eligible entity safe harbor or similar assurances and protection under sections  
10 7(b)(4) and 10(a), as applicable, of the Endangered Species Act of 1973 (16 U.S.C.  
11 1536(b)(4), 1539(a)).

12 A(B) IMPLEMENTATION.-If the assurances and protection achieved under  
13 subparagraph (A) involves the implementation of additional activities or practices  
14 under the restoration plan of the landowner or eligible entity, the cost of  
15 implementing the additional activities or practices, as well as the cost of any  
16 permit, shall be considered part of the restoration plan for purposes of financial  
17 assistance under this subchapter.

18 A(2) RESTORATION AGREEMENTS.-The Secretary may provide technical assistance  
19 and payments to landowners or eligible entities in complying with the terms and  
20 conditions of the easement and restoration plan.

21 A(3) PAYMENTS.-

22 A(A) PERMANENT EASEMENT PAYMENTS.-In return for the granting of a



1 permanent easement or an easement for the maximum duration allowed under  
2 applicable State law by a landowner under this subchapter, the Secretary shall  
3 make payments to the landowner in an amount equal to-

4 A(i) not more than the fair market value of the land, less the fair market value  
5 of the land encumbered by the easement; and

6 A(ii) not more than 100 percent of the eligible costs of restoration.

7 A(B) 30 YEAR EASEMENT PAYMENTS.-In return for granting a 30 year easement  
8 by a landowner, the Secretary shall make payments to the landowner in an amount  
9 equal to-

10 A(i) not more than 75 percent of the fair market value of the land, less the fair  
11 market value of the land encumbered by the easement; and

12 A(ii) not more than 75 percent of the eligible costs of restoration.

13 A(C) 10 YEAR RESTORATION AGREEMENT PAYMENTS.-In return for executing a  
14 10 year restoration agreement, the Secretary shall make payments to the landowner  
15 in an amount equal to not more than 50 percent of the eligible costs of restoration.

16 A(D) EASEMENTS ACQUIRED THROUGH ELIGIBLE ENTITIES.-When enrolling  
17 eligible land through an eligible entity-

18 A(i) the share of the Secretary of the cost of purchasing a conservation  
19 easement or other interest in eligible land shall not exceed 50 percent of the fair  
20 market value of the land, less the fair market value of the land encumbered by  
21 the easement; and

22 A(ii) an eligible entity may include a charitable donation by the private

1 landowner from which the eligible land is to be purchased of not more than 25  
2 percent of the appraised fair market value of the conservation easement or other  
3 interest in eligible land.

4 A(4) EVALUATION AND RANKING.-In evaluating applications for easements and  
5 restoration agreements, the Secretary shall establish criteria to rank applications and  
6 accord a higher priority to applications that would-

7 A(A) provide public recreational use, including hunting, fishing, and wildlife  
8 viewing, of the land;

9 A(B) maintain agricultural or forested use of the land;

10 A(C) improve biological diversity; and

11 A(D) leverage Federal dollars with funding from non-federal sources.

12 A(5) ELIGIBLE ENTITIES ESCROW ACCOUNT.- Except for an eligible entity under  
13 section 1238H(a)(1), when enrolling acres in the program through an eligible entity,  
14 the Secretary shall require the establishment and funding of an escrow account to  
15 provide for monitoring and enforcement of the easement.@.

16 **ASEC. 1238J. MODIFICATION, TRANSFER, OR TERMINATION OF**  
17 **EASEMENT.**

18 A(a) Modification.-The Secretary may modify an easement acquired from, or a related  
19 agreement with, an owner or eligible entity under this subchapter if-

20 A(1) the current owner of the land agrees to such modification; and

21 A(2) the Secretary determines that such modification is desirable-

22 A(A) to carry out this subchapter;

1           A(B) to facilitate the practical administration of this subchapter; or  
2           A(C) to achieve such other goals as the Secretary determines are appropriate and  
3           consistent with this subchapter.

4           A(b) TITLE TRANSFER.-The Secretary may transfer title of ownership to an easement  
5           under this subchapter to an eligible entity to hold and enforce an easement under this  
6           subchapter, in lieu of the Secretary, subject to the right of the Secretary to conduct  
7           periodic inspections and enforce the easement, ifC

8           A(1) the Secretary determines that granting the transfer would promote protection  
9           of eligible land;

10          A(2) the owner authorizes the eligible entity to hold and enforce the easement; and

11          A(3) the eligible entity assuming the title agrees to assume the costs incurred in  
12          administering and enforcing the easement, including the costs of restoration or  
13          rehabilitation of the land as specified by the owner and the eligible entity.

14          A(4) the eligible entity, except for an eligible entity under section 1238H(a)(1),  
15          contributes to an escrow account in an amount determined by the Secretary to provide  
16          for monitoring and enforcement of the easement.@.

17          A(c) Termination.-

18          A(1) IN GENERAL.-The Secretary may terminate an easement ifC

19                  A(A) the current owner of the land agrees to such termination; and

20                  A(B) the Secretary determines that such termination would be in the public  
21                  interest.@.

22          **ASEC. 1238K.-TEMPORARY ADMINISTRATION OF PRIVATE LANDS**

1 **PROTECTION PROGRAM**

2 A(a) INTERIM ADMINISTRATION.C

3 A(1) IN GENERAL.C During the period beginning on the date of enactment of this  
4 section and ending on the termination date provided under paragraph (2), to ensure  
5 that technical assistance, cost-share payments, and other payments continue to be  
6 administered in an orderly manner until such time as the technical assistance, cost-  
7 share payments, and other payments can be provided through final regulations issued  
8 to implement the private lands protection program, as amended by *farm bill 2007*, the  
9 Secretary shall, to the extent the terms and conditions of the programs under clauses  
10 (i)-(iii) are consistent with the private lands protection program, as amended by *farm*  
11 *bill 2007*, continue to-

12 A(A) provide technical assistance, cost-share payments, and other payments  
13 under the terms and conditions of the-

14 A(i) the grass lands reserve program, sections 1238N-1238Q of the Food  
15 Security Act of 1985 (16 U.S.C. 3838n,q);

16 A(ii) farmland protection program, sections 1238H and 1238I of the Food  
17 Security Act of 1985 (16 U.S.C. 3838h, 3838i); and

18 A(iii) healthy forests reserve program, sections 501-508 of the Healthy  
19 Forests Restoration Act of 2003 (16 U.S.C. 6571-6578);

20 A(B) use for those purposes C

21 A(i) any funds available in the fiscal year from those programs; and

22 A(ii) as the Secretary determines to be necessary, any funds authorized to be

1 used to carry out the private lands protection program, as amended by *farm bill*  
2 *2007*.

3 A(2) TERMINATION OF AUTHORITY.-The authority of the Secretary to carry  
4 out paragraph (1), and the authority for the programs described clauses (i)-(iii) of  
5 paragraph (1)(A), shall terminate on the effective date of the final regulation  
6 implementing the private lands protection program, as amended by *farm bill 2007*.

7 A(b) PERMANENT ADMINISTRATION.- Effective beginning on the termination  
8 date provided under subsection (a)(2), the Secretary shall provide technical assistance,  
9 cost-share payments, and incentive payments to private landowners in accordance with  
10 final regulations issued to carry out the private lands protection program as amended by  
11 *farm bill 2007*..@.

12 **ÅSEC. 1238L. PERIOD OF AUTHORIZATION.**

13 AExcept as provided in section 1238K, this chapter shall be effective for the 2008  
14 through 2012 fiscal years.@@.

15 (b) CONFORMING AMENDMENTS.

16 (1) The farmland protection program, sections 1238H and 1238I of the Food  
17 Security Act of 1985 (16 U.S.C. 3838h, 3838i), is-

18 (A) authorized until the effective date of the final regulations for the private  
19 lands protection program as amended by *farm bill 2007*; and

20 (B) repealed as of the effective date of the final regulations for the private lands  
21 protection program, as amended by *farm bill 2007*.

22 (2) The healthy forests reserve program, sections 501-508 of the Healthy Forests

1 Restoration Act of 2003 (16 U.S.C. 6571-6578) is-

2 (A) authorized until the effective date of the final regulations for the private  
3 lands protection program, as amended by *farm bill 2007*; and

4 (B) repealed as of the effective date of the final regulations for the private lands  
5 protection program as amended by *farm bill 2007*.

6 (3) The grass lands reserve program, sections 1238N-1238Q of the Food Security  
7 Act of 1985 (16 U.S.C. 3838n,q) is-

8 (A) authorized until the effective date of the final regulations for the private  
9 lands protection program, as amended by *farm bill 2007*; and

10 (B) repealed as of the effective date of the final regulations for the private lands  
11 protection program, as amended by *farm bill 2007*.

12 (c) Section 1238J of the Food Security Act of 1985 (16 U.S.C. 3838j) is redesignated  
13 as section 1240Q.

## 14 **SUBTITLE G-ENVIRONMENTAL QUALITY**

### 15 **INCENTIVES PROGRAM**

#### 16 **SEC. 2601. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

17 (a) Sec. 1240 of the Food Security Act of 1985 (16 U.S.C. 3839aa) is to read as  
18 follows:

19 A(a) The purpose of the environmental quality incentives program established by this  
20 chapter is to provide a consolidated program to address multiple resource concerns in  
21 order to promote conservation and environmental quality improvement of natural

1 resources by producers engaged in agricultural production, and private landowners  
2 engaged in sustainable forest management practices and other conservation practices, by-

3 A(1) assisting producers and landowners in complying with local, State, and  
4 national regulatory requirements concerning-

5 A(A) soil, water, and air quality;

6 A(B) habitat for fish and wildlife, including threatened and endangered species;

7 A(C) surface and ground water conservation;

8 A(2) avoiding, to the maximum extent practicable, the need for resource and  
9 regulatory programs by assisting producers and landowners to protect soil, water, air,  
10 and related natural resources and meeting environmental quality criteria established by  
11 Federal, State, tribal, and local agencies;

12 A(3) providing flexible assistance to producers and landowners to install and  
13 maintain conservation practices that enhance soil, water, non-industrial private forests,  
14 fish and wildlife habitat, and related natural resources (including grazing land);

15 A(4) assisting producers to make beneficial, cost effective changes to cropping  
16 systems, grazing management, nutrient management associated with livestock, pest or  
17 irrigation management, or other practices on agricultural land; and

18 A(5) consolidating and streamlining conservation planning and regulatory  
19 compliance processes to reduce administrative burdens on producers and landowners  
20 and the cost of achieving environmental goals;

21 A(6) assisting cooperative conservation and environmental efforts on a regional and  
22 watershed basis, such as enhancing water quality and water conservation on the scale

1 of a watershed or irrigation district; and

2 A(7) other purposes, as determined appropriate by the Secretary.

3 (b) Section 1240A of the Food Security Act of 1985 (16 U.S.C. 3839aa-1) is amended  
4 to read as follows:

5 **ASEC. 1240A. DEFINITIONS.-**

6 AIn this chapter:

7 A(1) CONSERVATION PRACTICES PLAN.-The term >conservation practices plan= means a  
8 plan that every producer and private landowner participating under this program shall  
9 submit under section 1240E for all practices covered by the agreement.

10 A(2) ELIGIBLE LAND.-

11 A(A) IN GENERAL.-The term >eligible land= means, as determined by the  
12 Secretary-

13 A(i) land on which agricultural commodities or livestock are produced;

14 A(ii) private, non-industrial forest land; and

15 A(iii) land that can be enhanced or restored to provide wildlife habitat, other  
16 than land in urban areas, as determined by the Secretary.

17 A(B) INCLUSIONS.-The term >eligible land= includesC

18 A(i) cropland, including organically farmed land;

19 A(ii) grass land;

20 A(iii) range land;



1 A(iv) pasture land; and  
2 A(v) other land that the Secretary determines poses a serious threat to the quality  
3 of-  
4 A(I) soil, air, water, or related natural resources; or  
5 A(II) fish and wildlife habitat, including habitat that contributes to the  
6 recovery of threatened and endangered species.

7 A(3) LAND MANAGEMENT PRACTICE.-The term >land management practice= means a  
8 practice that the Secretary determines best protects the land from degradation, in the most  
9 cost-effective manner, including-

10 A(A) soil erosion prevention, site-specific nutrient or manure management,  
11 integrated pest management, irrigation management, tillage or residue management,  
12 grazing management;

13 A(B) air and water quality, and water quantity management;

14 A(C) enhancing the health and protection of private nonindustrial forest lands;

15 A(D) reestablishing native vegetation; and

16 A(E) controlling invasive species.

17 A(4) LIVESTOCK.-The term >livestock= means dairy cattle, beef cattle, laying hens,  
18 broilers, turkeys, swine, sheep, and other such animals as are determined by the  
19 Secretary.

20 A(5) PRACTICE.-The term >practice= means 1 or more structural practices, land  
21 management practices, wildlife habitat practices, and comprehensive nutrient

1 management practices (as determined by the Secretary).

2 A(6) PRIVATE LANDOWNER.-The term >private landowner= means a person-

3 A(A) that is not a local, State or Federal government, a division of government, or

4 an organization owned by government, as determined by the Secretary; and

5 A(B) that owns eligible land.

6 A(7) PRODUCER.-The term >producer= means a rancher, an owner, an operator, a

7 landlord, a tenant, or a sharecropper thatC

8 A(A) shares in the risk of producing any crop or livestock; and

9 A(B) is entitled to share in the crop or livestock available for marketing from a farm

10 or ranch (or would have shared had the crop or livestock been produced).

11 A(8) PROGRAM.-The term >program= means the environmental quality incentives

12 program established under this chapter.

13 A(9) STRUCTURAL PRACTICE.-The term >structural practice= means a practice that the

14 Secretary determines best protects the land from degradation, in the most cost-effective

15 manner, including-

16 A(A) the establishment of a site-specific animal waste management facility, terrace,

17 grassed waterway, contour grass strip, filterstrip, tailwater pit, and constructed

18 wetland; and

19 A(B) the capping of abandoned wells on eligible agricultural land.

20 A(10) THREATENED OR ENDANGERED WILDLIFE.-The term >threatened or endangered

21 wildlife= means a species of animal that is listed as threatened or endangered under

22 section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

1 A(11) WILDLIFE HABITAT PRACTICE.-The term >wildlife habitat practice= means a  
2 practice determined by the Secretary to best protect, restore or enhance fish and wildlife  
3 habitat, in the most cost-effective manner, on individual private lands and across  
4 ecosystems.@.

5 (c) SEC. 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa-2) is amended as  
6 to read as follows:

7 **A SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF PROGRAM.**

8 A(a) ESTABLISHMENT.C

9 A(1) IN GENERAL.C During each of the 2002 through 2012 fiscal years, the Secretary  
10 may enter into agreements with producers and private landowners in which the  
11 producers and private landowners perform one or more practices in exchange for  
12 technical assistance, cost-share payments, and incentive payments provided by the  
13 Secretary.

14 A(2) ELIGIBLE ASSISTANCE.-A producer or private landowner that implements a  
15 practice in accordance with this chapter may receive-

16 A(A) a cost-share payment or incentive payment; and

17 A(B) technical assistance.

18 A(b) PRACTICES AND TERM.-

19 A(1) PRACTICES.-A agreement under this chapter may apply to 1 or more structural  
20 practices, land management practices, wildlife habitat practices, and comprehensive  
21 nutrient management practices.

1 A(2) TERM.-A agreement under this chapter shall have a term thatC

2 A(A) at a minimum, is equal to the period beginning on the date on which the  
3 agreement is entered into and ending on the date that is 1 year after the date on  
4 which all practices under the agreement have been implemented; but

5 A(B) does not to exceed 10 years; or

6 A(C) is of a duration of time as determined by the Secretary depending on the  
7 practice involved.

8 A(c) RANKING OF OFFERS.-

9 A(1) IN GENERAL.-When evaluating offers from producers and private landowners,  
10 the Secretary may consider-

11 A(A) the conservation benefits of the offer;

12 A(B) the cost-effectiveness of implementation of the conservation practices  
13 plan, so as to maximize the environmental benefits per dollar expended; and

14 A(C) the amount the producer or private landowner is offering to contribute  
15 financially to the cost of the agreement to leverage Federal funds.

16 A(d) PAYMENTS.C

17 A(1) CRITERIA FOR DETERMINING AMOUNT OF PAYMENTS.-

18 A(A) IN GENERAL.-The amount of a cost share or incentive payment that a  
19 producer or private landowner would receive for performing one or more practices  
20 under a agreement shall be determined by the Secretary through rulemaking.

21 A(B) COSTS OF PRACTICES.-The Secretary shall establish the criteria for

1 determining payment amounts under subparagraph (A) based on factors such as  
2 income foregone by the producer or private landowner and costs incurred by the  
3 producer or private land owner to implement the practice.

4 A(C) LIMITATION ON COST SHARE.-Except as provided in clause (i), the cost-  
5 share payments provided to a producer or private landowner proposing to  
6 implement 1 or more practices under the program shall be not more than 75 percent  
7 of the cost of the practice, as determined by the Secretary.

8 A(i) INCREASED COST SHARE.-The Secretary may increase the amount of cost  
9 share payments provided to a producer under this paragraph to not more than 90  
10 percent if the producer is a beginning farmer or rancher, a socially  
11 disadvantaged farmer, or a limited resource farmer.

12 A(ii) COST-SHARE ASSISTANCE FROM OTHER SOURCES.-Except as provided in  
13 clause (iii), any cost-share payments received by a producer from a State or  
14 private organization or person for the implementation of 1 or more practices on  
15 eligible land of the producer shall be in addition to the payments provided to the  
16 producer under this chapter.

17 A(iii) OTHER PAYMENTS.-A producer or private landowner shall not be  
18 eligible for cost-share payments for practices on eligible land under the program  
19 if the producer or private landowner receives cost-share payments or other  
20 benefits for the same practice on the same land under any program administered  
21 by the Secretary, as determined by the Secretary.

1       A(e) INCENTIVE PAYMENTS.-The Secretary may make incentive payments available to a  
2 producer or private landowner in an amount and at a rate determined by the Secretary to  
3 be necessary to encourage the producer or private landowner to perform or develop 1 or  
4 more practices, consistent with the criteria contained in subsection (d)(1)(B).

5       A(f) MODIFICATION OR TERMINATION OF AGREEMENTS.-

6           A(1) VOLUNTARY MODIFICATION OR TERMINATION.-Subject to paragraph (2), the  
7 Secretary may modify or terminate a agreement entered into with a producer or private  
8 landowner under this chapter if-

9           A(A) the producer or private landowner agrees to the modification or  
10 termination; and

11           A(B) the Secretary determines that the modification or termination is in the  
12 public interest.

13           A(2) INVOLUNTARY TERMINATION.-The Secretary may terminate a agreement under  
14 this chapter if the Secretary determines that the producer or private landowner violated  
15 the agreement.

16       A(g) ALLOCATION OF FUNDING.-

17           A(1) IN GENERAL.-Of the funds made available to this chapter in section 1241(a)(5)  
18 (as redesignated in section 2901(a)(6)) for each of fiscal years 2008 through 2012, 60  
19 percent of the funds made available for cost-share payments and incentive payments  
20 shall be targeted at practices relating to livestock production.

21           A(2) EXCEPTION.-The funding limitation described in paragraph (1) shall not

1 include funding for the regional water enhancement program under section 1240I of  
2 this chapter.

3 A(h) FUNDING FOR FEDERALLY RECOGNIZED NATIVE AMERICAN INDIAN TRIBES AND  
4 ALASKA NATIVE CORPORATIONS.-The Secretary may enter into alternative funding  
5 arrangements with federally recognized Native American Indian Tribes and Alaska  
6 Native Corporations (including their affiliated membership organizations) if the  
7 Secretary determines that the goals and objectives of the program will be met by such  
8 arrangements, and that statutory limitations regarding agreements with individual  
9 producers as defined under this subtitle will not be exceeded by any Tribal or Native  
10 Corporation member.

11 A(i) KLAMATH BASIN.-The Secretary may provide funding to carry out water  
12 conservation activities in the Klamath Basin, California and Oregon.®.

13 (d) SEC. 1240C of the Food Security Act of 1985 (16 U.S.C. 3839aa-3) is amended in  
14 paragraph (1) by inserting Aand private landowners® after Aproducers®.

15 (e) SEC. 1240D of the Food Security Act of 1985 (16 U.S.C. 3839aa-4) is amended to  
16 read as follows:

17 **A SEC. 1240D. DUTIES OF PRODUCERS AND PRIVATE LANDOWNERS.**

18 ATo receive technical assistance, cost-share payments, or incentive payments under the  
19 program, a producer or private landowner shall agreeC

20 A(1) to implement a conservation practices plan (including a comprehensive  
21 nutrient management plan, if applicable) that describes conservation and  
22 environmental purposes to be achieved through 1 or more practices that are approved

1 by the Secretary;

2 A(2) not to conduct any practices on the land that would tend to defeat the purposes  
3 of the program;

4 A(3) in the case of the violation of a term or condition of the agreement at anytime  
5 the producer or private landowner has control of the landC

6 A(A) if the Secretary determines that the violation warrants termination of the  
7 agreementC

8 A(i) to forfeit all rights to receive payments under the agreement; and

9 A(ii) to refund to the Secretary all or a portion of the payments received by  
10 the producer or private landowner under the agreement, including any interest  
11 on the payments, as determined by the Secretary; or

12 A(B) if the Secretary determines that the violation does not warrant termination  
13 of the agreement, to refund to the Secretary, or accept adjustments to, the payments  
14 provided to the producer or private landowner, as the Secretary determines to be  
15 appropriate;

16 A(4) in the case of the transfer of the right and interest of the producer or private  
17 landowner in land subject to the agreement, unless the transferee of the right and  
18 interest agrees with the Secretary to assume all obligations of the agreement, to refund  
19 all cost-share payments and incentive payments received under the program, as  
20 determined by the Secretary;



1 A(5) to supply information as required by the Secretary to determine compliance  
2 with the program conservation practices plan and requirements of the program; and

3 A(6) to comply with such additional provisions as the Secretary determines are  
4 necessary to carry out the conservation practices plan. @.

5 (f) SEC. 1240E of the Food Security Act of 1985 (16 U.S.C. 3839aa-5) is amended-

6 (1) by striking the section heading and inserting:

7 **SEC. 1240E. CONSERVATION PRACTICES PLAN@;** and

8 (2) in subsection (a)-

9 (A) in the stem-

10 (i) by inserting Aor private landowner@ after Aproducer@; and

11 (ii) by inserting Aconservation practices@ before Aplan@;and

12 (B) in paragraph (2) by inserting Aconservation practices@ before Aplan@.

13 (g) SEC.1240F of the Food Security Act of 1985 (16 U.S.C. 3839aa-6) is amended-

14 (1) by amending paragraph (2) to read as follows:

15 A(2) providing the producer or private landowner with information and training  
16 to aid in implementation of the conservation practices plan. @.

17 (h) SEC. 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa-7) is repealed.

18 (i) SEC. 1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa-8) is amended-

19 (1) by redesignating the section as 1240G;

20 (2) in subsection (a) by striking Aagricultural production@, and inserting Aand use  
21 by producers and private landowners@;

1 (3) in subsection (b)-

2 (A) in paragraph (1) by inserting Aor private landowners@ after Aproducers@;

3 (B) in paragraph (2)(A) by striking Apollution reduction@ and inserting

4 Aconservation activities, especially tools that assist small-scale producers;

5 (C) in paragraph (2)(B) by-

6 (i) inserting Aand addressing regional resource concerns@ after Asoil@; and

7 (ii) striking Aand@; and

8 (D) in paragraph (3)-

9 (i) by striking Aagricultural production@ and inserting Aand use by

10 producers and private landowners@; and

11 (ii) adding at the end the following:

12 A(C) technology transfer; and

13 A(D) farmer workshops and demonstration projects.@; and

14 (4) by adding at the end a new subsection (d) that reads as follows:

15 A(d) Funding.-From the funds made available to carry out this chapter under section

16 1241(a)(5) (as redesignated in section 2901(a)(6)), the Secretary shall use \$100,000,000

17 to carry out this section for each of fiscal years 2008 through 2012.@.

18 (j) section 1240I is redesignated as 1240H.

19 (k) Chapter 4 is amended by adding at the end the following-

20 **ASEC 1240I.-REGIONAL WATER ENHANCEMENT PROGRAM.**

21 A(a) DEFINITIONS.-In this section-

22 A(1) Partner.

1           A(A) IN GENERAL.-The term >partner= means a person who is eligible to enter  
2           into an agreement with the Secretary to conduct a coordinated conservation project  
3           dealing with water quality and water conservation issues on a regional scale.

4           A(B) PARTNERS.-a partner may be a-

5           A(i) state government;

6           A(ii) federally-recognized Indian tribe;

7           A(iii) non-governmental organization;

8           A(iv) local unit of government;

9           A(v) a water district;

10          A(vi) producer associations;

11          A(vii) other persons, as determined by the Secretary; and

12          A(viii) any combination of the above.

13          A(2) Working Agricultural Land.-The term >working agricultural land= includes-

14          A(A) crop land;

15          A(B) pasture land;

16          A(D) grazing land; and

17          A(E) orchard land.

18          A(b) ESTABLISHMENT.-The Secretary shall establish a cooperative conservation  
19          program, titled the Regional Water Enhancement Program (RWEP), within the  
20          environmental quality incentives program to improve water quality and water  
21          conservation on a regional scale to benefit working agricultural lands and other lands  
22          surrounding working agricultural lands.

1 A(c) PURPOSE .-The purpose of the RWEPP shall be to improve water quality and water  
2 conservation on a regional scale to benefit working agricultural lands and other lands  
3 surrounding working agricultural lands, including fish and wildlife habitat, by selecting  
4 and providing coordinated program assistance to water quality and water conservation  
5 projects administered by partners at geographic levels beyond that of individual working  
6 agricultural lands, such as-

7 A(1) watersheds; and

8 A(2) irrigation and drainage districts.

9 A(d) PRIORITY ISSUES AND PROJECT ADMINISTRATION.-

10 A(1) CONSULTATION.-Partners, working with the Natural Resources Conservation  
11 Service at the State level and its advisory State Technical Committee, shall identify  
12 key water quality or water conservation priorities for a specific region, such as a  
13 watershed, in which a project would be conducted.

14 A(2) GRANT PROCESS.-The Secretary may award grants to partners that propose  
15 projects that-

16 A(A) are selected through a competitive selection process;

17 A(B) focus on a limited number of water quality and water conservation issues  
18 identified under paragraph (1);

19 A(C) include performance incentives to-

20 A(i) encourage a high percentage of producer participation in a project area;

21 and

22 A(ii) achieve cooperative conservation outcomes; and

1           A(D) identify performance targets that must be achieved before funding for a  
2           project may be renewed.

3           A(3) PROJECT RENEWALS.-Selected projects may be renewed depending on the  
4           evaluation of the Secretary about the achievement by the project of the performance  
5           targets established for the project.

6           A(e) FUNDING.-

7           From the funds made available to carry out this chapter under section 1241(a)(5) (as  
8           redesignated in section 2901(a)(6)), the Secretary shall use \$175,000,000 to carry out this  
9           section for each of fiscal years 2008 through 2012.

10       **ASEC. 1240J.-TEMPORARY ADMINISTRATION OF ENVIRONMENTAL**  
11       **QUALITY INCENTIVES PROGRAM.**

12       A(a) INTERIM ADMINISTRATION.-

13           A(1) IN GENERAL.-During the period beginning on the date of enactment of this  
14           section and ending on the termination date provided under paragraph (2), to ensure  
15           that technical assistance, cost-share payments, and other payments continue to be  
16           administered in an orderly manner until such time as the technical assistance, cost-  
17           share payments, and other payments can be provided through final regulations issued  
18           to implement the environmental quality incentives program, as amended by *farm bill*  
19           2007, the Secretary shall, to the extent the terms and conditions of the programs under  
20           clauses (i)-(v) of subparagraph (A) are consistent with the environmental quality  
21           incentives program as amended by *farm bill 2007*, continue to-

22           A(A) provide technical assistance, cost-share payments, and other payments

1 under the terms and conditions of the-

2 A(i) the Agricultural Management Assistance program, section 524 (b) of the  
3 Federal Crop Insurance Act (7 U.S.C. 1524(b));

4 A(ii) this chapter as it existed one day before the date of enactment of *farm*  
5 *bill 2007* ;

6 A(iii) the Forest Land Enhancement program, section 4 of the Cooperative  
7 Forestry Assistance Act of 1978, (16 U.S.C. 2103); and

8 A(iv) the ground and surface water conservation initiative under this chapter  
9 as it existed one day before the date of enactment of *farm bill 2007* ;

10 A(v) the wildlife habitat incentives program, section 1240N of the Food  
11 Security Act of 1985, (16 U.S.C. 3839bb-1); and

12 A(B) use for those purposes-

13 A(i) any funds available in the fiscal year from those programs; and

14 A(ii) as the Secretary determines to be necessary, any funds authorized to be  
15 used to carry out the environmental quality incentives program as amended by  
16 *farm bill 2007*.

17 A(2) TERMINATION OF AUTHORITY.-The authority of the Secretary to carry  
18 out paragraph (1), and the authority for the programs described clauses (i)-(iv) of  
19 paragraph (1)(A), shall terminate on the effective date of the final regulation  
20 implementing the environmental quality incentives program, as amended by *farm bill*  
21 *2007*.

22 A(b) PERMANENT ADMINISTRATION.- Effective beginning on the termination

1 date provided under subsection (a)(2), the Secretary shall provide technical assistance,  
2 cost-share payments, and incentive payments for structural practices, land management  
3 practices, and wildlife habitat practices performed on private lands in accordance with  
4 final regulations issued to carry out the environmental quality incentives program as  
5 amended by *farm bill 2007*.

6 **ASEC. 1240K. PERIOD OF AUTHORIZATION.**

7 Except as provided in section 1240J, this chapter shall be authorized for the 2008  
8 through 2012 fiscal years. @.

9 (I) CONFORMING AMENDMENTS.

10 (1) The agricultural management assistance program, section 524(b) of the Federal  
11 Crop Insurance Act (7 U.S.C. 1524(b)) is-

12 (A) authorized until the effective date of the final regulations for the  
13 environmental quality incentives program, as amended by *farm bill 2007*; and

14 (B) repealed as of the effective date of the final regulations for the  
15 environmental quality incentives program, as amended by *farm bill 2007*.

16 (2) The forest land enhancement program, section 4 of the Cooperative Forestry  
17 Assistance Act of 1978 (16 U.S.C. 2103) is-

18 (A) authorized until the effective date of the final regulations for the  
19 environmental quality incentives program, as amended by *farm bill 2007*; and

20 (B) repealed as of the effective date of the final regulations for the  
21 environmental quality incentives program, as amended by *farm bill 2007*.

22 (3) The wildlife habitat incentives program, section 1240N of the Food Security

1 Act of 1985, (16 U.S.C. 3839bb-1) is-

2 (A) authorized until the effective date of the final regulations for the  
3 environmental quality incentives program, as amended by *farm bill 2007*; and

4 (B) repealed as of the effective date of the final regulations for the  
5 environmental quality incentives program, as amended by *farm bill 2007*.

6 (4) ground and surface water conservation, section 1240(H) as redesignated in  
7 subsection (j)) (16 U.S.C. 3839aa-9) is-

8 (A) authorized until the effective date of the final regulations for the  
9 environmental quality incentives program, as amended by *farm bill 2007*; and

10 (B) repealed as of the effective date of the final regulations for the  
11 environmental quality incentives program, as amended by *farm bill 2007*.

## 12 **Subtitle H. Emergency Landscape Restoration**

### 13 **Program.**

#### 14 **SEC. 2801. EMERGENCY LANDSCAPE RESTORATION PROGRAM.**

15 (a) Chapter 5, subtitle D of the Food Security Act of 1985 is amended by adding at the  
16 end the following:

#### 17 **~~A~~SEC.1240R-EMERGENCY LANDSCAPE RESTORATION PROGRAM**

18 A(a) Definitions.CIn this section-

19 A(1) PUBLIC ASSISTANCE POOL.-The term >public assistance pool= means-

20 A(A) organizations that are eligible for technical assistance and cost share



1 payments under this section and that assist working agricultural lands, including-

2 A(i) a neighborhood association;

3 A(ii) a city, county, or regional government, including a watershed council  
4 and a conservation district; and

5 A(iii) other persons, as determined by the Secretary.

6 A(2) PRIVATE ASSISTANCE POOL.-The term >private assistance pool means persons  
7 who are eligible for technical assistance and cost share payments under this section,  
8 including producers, ranchers, operators, or landlords on working agricultural lands.

9 A(3) RECIPIENT POOLS.-the term >recipient pools= means a public assistance pool  
10 and a private assistance pool.

11 A(4) SECRETARY.-The term >Secretary= means the Secretary of Agriculture;

12 A(b) PURPOSES.-The purposes of the emergency landscape restoration program are to  
13 rehabilitate watersheds and working agricultural lands adversely affected by natural  
14 catastrophic events, by-

15 A(1) providing a source of assistance for restoring land back to its productive state;

16 A(2) preventing further impairment of land and water;

17 A(3) further protecting natural resources; and

18 A(4) streamlining and simplifying legal authorities and funding for rehabilitating  
19 watersheds and rehabilitating working agricultural lands.

20 A(c) ESTABLISHMENT.-The Secretary shall carry out an emergency landscape  
21 restoration program under which technical assistance and cost share payments are made  
22 available to persons that are eligible under one of the recipient pools as defined in

1 subsection (a) to carry out remedial activities to restore landscapes damaged byC

2 A(1) fire;

3 A(2) drought;

4 A(3) flood; and

5 A(4) other resource-impacting natural events, as determined by the Secretary.

6 A(d) PRIORITIZATION.-The Secretary shall provide the highest priority for those  
7 activities that protect human health and safety.

8 A(e) TECHNICAL ASSISTANCE AND COST SHARE.-

9 A(1) IN GENERAL.-The Secretary shall provide technical assistance and cost share  
10 payments in amounts of up to 75% of the cost of remedial activities to rehabilitate  
11 watersheds and working agricultural lands, as described in paragraph (2).

12 A(2) REMEDIAL ACTIVITIES.-Remedial activities that are eligible for technical  
13 assistance and cost share payments under this section include-

14 A(A) removing debris from streams and agricultural lands;

15 A(B) restoring destabilized streambanks;

16 A(C) establishing cover on critically eroding lands;

17 A(D) restoring fences;

18 A(E) constructing conservation structures;

19 A(F) providing water for livestock in drought situations;

20 A(G) rehabilitating farm land;

21 A(H) carrying out emergency water conservation measures; and

22 A(I) other remedial activities as determined by the Secretary.

1 A(f) AUTHORIZATION OF APPROPRIATIONS.C

2 A(1) IN GENERAL.-There are authorized to be appropriated to the Secretary to carry  
3 out this section such sums as are necessary for each of fiscal years 2008 through 2012,  
4 to remain available until expended.

5 A(2) COMMODITY CREDIT CORPORATION.-Subject to the specific appropriation of  
6 funds to carry out this section, the Secretary may use the facilities and authorities of  
7 the Commodity Credit Corporation to carry out this section.

8 A(f) TEMPORARY ADMINISTRATION OF EMERGENCY LANDSCAPE  
9 RESTORATION PROGRAM .

10 A(1) IN GENERAL.-During the period beginning on the date of enactment of this  
11 section and ending on the termination date provided under paragraph (2), to ensure  
12 that technical assistance, cost-share payments, and other payments continue to be  
13 administered in an orderly manner until such time as the technical assistance, cost-  
14 share payments, and other payments can be provided through final regulations issued  
15 to implement the emergency landscape restoration program, *as amended by farm bill*  
16 *2007*, the Secretary shall, to the extent the terms and conditions of the programs under  
17 clauses (i) and (ii) of subparagraph (A) are consistent with the emergency landscape  
18 restoration program as amended by *farm bill 2007*, continue to-

19 A(A) provide technical assistance, cost-share payments, and other payments  
20 under the terms and conditions of the-

21 A(i) Emergency Conservation Program, sections 401-402 of Pub. L. 95-334,  
22 (16 U.S.C. 2201, 2202); and

1           A(ii) Emergency Watershed Program, section 403 of Pub. L. 95-334 (16  
2           U.S.C. 2203); and

3           A(B) use for those purposes -

4           A(i) any funds available in the fiscal year from those programs; and

5           A(ii) as the Secretary determines to be necessary, any funds authorized to be  
6           used to carry out the emergency landscape restoration program, as amended by  
7           *farm bill 2007*.

8           A(2) TERMINATION OF AUTHORITY.-The authority of the Secretary to carry  
9           out paragraph (1), and the authority for the programs described clauses (i)-(ii) of  
10          paragraph (1)(A), shall terminate on the effective date of the final regulation  
11          implementing the emergency landscape restoration program, as amended by *farm bill*  
12          *2007*.

13          A(3) PERMANENT ADMINISTRATION.C Effective beginning on the termination  
14          date provided under paragraph (2), the Secretary shall provide technical assistance,  
15          cost-share payments, and incentive payments in accordance with final regulations  
16          issued to carry out the emergency landscape restoration program, *as amended by farm*  
17          *bill 2007* .

18          **ASEC. 1236. PERIOD OF AUTHORIZATION.**

19          AExcept as provided in section 1240R(f), this section shall be authorized for the  
20          period of the 2008 through 2012 fiscal years.@.

21          (b) CONFORMING AMENDMENTS.-

22          (1) The emergency conservation program, sections 401-402 of Pub. L. 95-334, (16

1 U.S.C. 2201, 2202) is-

2 (A) authorized until the effective date of the final regulations for the emergency  
3 landscape restoration program as amended by *farm bill 2007*; and

4 (B) repealed as of the effective date of the final regulations for the emergency  
5 landscape restoration program as amended by *farm bill 2007*.

6 (2) The emergency watershed program, section 403 of Pub. L. 95-334 (16 U.S.C.  
7 2203) is-

8 (A) authorized until the effective date of the final regulations for the emergency  
9 landscape restoration program as amended by *farm bill 2007*; and

10 (B) repealed as of the effective date of the final regulations for the emergency  
11 landscape restoration program as amended by *farm bill 2007*.

## 12 **Subtitle IC Funding and Administration**

### 13 **SEC. 2901. FUNDING AND ADMINISTRATION.**

14 (a) Funding.-Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is  
15 amended-

16 (1) in the matter preceding paragraph (1), to read as follows:

17 A(a) IN GENERAL.-The Secretary shall use the funds, facilities, and authorities of  
18 the Commodity Credit Corporation to carry out the following programs under subtitle  
19 D (including the provision of technical assistance) for each of fiscal years 2008  
20 through 2012 (or in the case of paragraph (3), for each of fiscal years 2008 and  
21 subsequent fiscal years):@;

1 (2) by amending paragraph (3) to read as follows:

2 A(3) The conservation security program under subchapter A of chapter 2-

3 A(A) using to the maximum extent practicable \$2,799,000,000 for the period of  
4 the 2008-2012 fiscal years;

5 A(B) using to the maximum extent practicable \$5,678,000,000 for the period of  
6 the 2013-2017 fiscal years; and

7 A(C) for fiscal year 2018 and each subsequent fiscal year to maintain at any 1  
8 time not more than the total acreage that was enrolled at the conclusion of fiscal  
9 year 2017. @;

10 (3) by amending paragraph (4) to read as follows:

11 A(4) the private lands protection program under subchapter B of chapter 2, using to  
12 the maximum extent practicable \$187,000,000 for each of fiscal years 2008 through  
13 2012. @;

14 (4) by striking paragraph (5);

15 (5) by redesignating paragraph (6) as paragraph (5);

16 (6) by amending paragraph (5) (as redesignated) to read as follows:

17 A(5) The environmental quality incentives program under chapter 4, using to the  
18 maximum extent practicable-

19 A(A) \$1,765,000,000 for each of fiscal years 2008 and 2009; and

20 A(B) \$1,795,000,000 for each of fiscal years 2010 through 2012. @;

21 (7) by inserting a new paragraph (6) that reads as follows:

22 A(6) Market-based approaches to conservation under section 1245, using to the

1 maximum extent practicable \$10,000,000 for each of fiscal years 2008 through

2 2012.; and

3 (8) by striking paragraph (7).

4 (b) CONSERVATION ACCESS.-Section 1241 of the Food Security Act of 1985 (16 U.S.C.

5 3841) is amended-

6 (1) by striking subsection (d); and

7 (2) by inserting:

8 A(d) CONSERVATION ACCESS.-

9 A(1) IN GENERAL.-In the case of every program described in subsection (a) except  
10 as provided in paragraphs (2), for every fiscal year in which funding is made available  
11 for the program, 10% of the funds available for a fiscal year shall be used by the  
12 Secretary to assist-

13 A(A) beginning farmers or ranchers, as defined in section 343(8) of the  
14 Consolidated Farm and Rural Development Act (7 U.S.C.1991(8)); and

15 A(B) socially disadvantaged farmers or ranchers as defined in section  
16 355(e)(2) of the Consolidated Farm and Rural Development Act (7  
17 U.S.C.2003(e)(2)).

18 A(2) ACREAGE PROGRAMS.-In the case of the conservation reserve and wetlands  
19 reserve programs, 10% of the acreage authorized to be enrolled in any fiscal year  
20 shall be used to assist persons described in subparagraphs (A) and (B) of paragraph  
21 (1).

22 A(3) REPOOLING.-In any fiscal year, amounts not obligated under this subsection by

1 a date determined by the Secretary through rulemaking shall be available for payments  
2 and technical assistance to all persons eligible for payments or technical assistance in  
3 that fiscal year under a program authorized under this title.

4 A(4) CONSERVATION INNOVATION GRANTS.-Funding under paragraph (1) for  
5 conservation innovation grants as described in section 1240G, may be used for  
6 technology transfer, farmer to farmer workshops, and demonstrations of innovative  
7 conservation practices.

8 A(5) LIMITED RESOURCE FARMERS OR RANCHERS.-The Secretary shall undertake  
9 efforts to assist limited resource farmers and ranchers, as defined by the Secretary to-

10 A(A) take full advantage of the programs and services offered by the Secretary;  
11 and

12 A(B) become economically viable producers of agricultural commodities and  
13 stewards of working agricultural lands.

14 A(6) TECHNICAL ASSISTANCE.-The Secretary shall offer, to the maximum extent  
15 practicable, higher levels of technical assistance to beginning farmers or ranchers and  
16 socially disadvantaged farmers or ranchers than is otherwise made available to  
17 producers participating in programs under this title.

## 18 **Subtitle J-Market Based Approaches to Conservation**

### 19 **SEC. 3001.-MARKET BASED APPROACHES TO CONSERVATION.**

20 Subtitle E of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended by  
21 adding at the end:

### 22 **ASEC. 1245.-MARKET BASED APPROACHES TO CONSERVATION.**



1 A(a) FINDINGS.B

2 A(1) Many conservation and environmental benefits produced on U.S. farms and  
3 private forest lands do not have an assigned value in the market place or lack a private  
4 market altogether.

5 A(2) While private markets for environmental goods and services are emerging,  
6 their viability has been hampered by several barriers. The Federal government can  
7 help overcome these barriers and promote the establishment of markets for  
8 agricultural and forestry conservation activities.

9 A(3) Generating substantial private-sector demand for environmental goods and  
10 services hinges on the ability to use environmental credits generated by agricultural  
11 and forest conservation activities.

12 A(b) PURPOSE.-The purpose of this section is to facilitate the development and effective  
13 operation of private sector market-based approaches for environmental goods and  
14 services produced by agriculture and forests.

15 A(c) IMPLEMENTATION.-To carry out the purposes of this section, the Secretary may  
16 conduct research and analysis; contract with universities or other entities; and award  
17 grants and cooperative agreements to:

18 A(1) develop uniform standards for quantifying environmental benefits

19 A(2) establish reporting and credit registries; and

20 A(3) promote actions that facilitate the development and functioning of  
21 environmental service markets involving agriculture and forestry.

22 A(d) CREATION OF THE FOREST AND AGRICULTURE ENVIRONMENTAL SERVICES

1 STANDARDS BOARD.-

2 A(1) The President shall establish a Forest and Agriculture Environmental Services  
3 Standards Board (Board) to develop uniform standards for quantifying environmental  
4 services from land management and agricultural activities in order to facilitate the  
5 development of credit markets for forest and agriculture based conservation and land  
6 management activities.

7 A(2) The President may designate a member of the Board as the Chair of the Board  
8 established in paragraph (1) .

9 A(3) The Board shall be comprised of at least seven Federal members including the  
10 Secretaries of Agriculture, Interior, Energy, Commerce, and Transportation; the  
11 Administrator of the Environmental Protection Agency; the Commander of the Army  
12 Corps of Engineers; and other representatives as determined by the President.

13 A(4) The Board is authorized to form subcommittees to address specific issues and  
14 establish a decision-making process whereby the agencies represented on the Board  
15 can agree to abide by the decisions of the Board.

16 A(5) Federal agencies are authorized to adopt board standards for quantifying  
17 environmental services that establish credits to meet requirements of environmental  
18 and conservation programs under authorities such as-

19 A(A) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

20 and

21 A(B) the Endangered Species Act (16 U.S.C. 1531-1544).

22 **Subtitle K-Payment Limits, Direct Attribution, and**

# 1 **Adjusted Gross Income Limitation**

## 2 **SEC. 3101.-PAYMENT LIMITS, DIRECT ATTRIBUTION, AND ADJUSTED** 3 **GROSS INCOME LIMITATION.**

4 (a) DEFINITIONS.-In this subtitle-

5 (1) Average Adjusted Gross Income.-The term >average adjusted gross income=,  
6 with respect to a person or legal entity means the 3-year average of the adjusted gross  
7 income or comparable measure of the income of the person or legal entity over the 3  
8 preceding tax years, as determined by the Secretary.

9 (2) LEGAL ENTITY.-The term >legal entity= means an entity that is created under  
10 Federal or State law and that-

11 (A) owns land or an agricultural commodity; or

12 (B) produces an agricultural commodity.

13 (3) PAYMENT.-The term >payment= means a payment provided under a program  
14 under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830-  
15 3839bb-3).

16 (4) PERSON.-The term >person= means a natural person, and does not include a  
17 legal entity.

18 (b) PAYMENTS FOR CONSERVATION PRACTICES.-The total amount of payments that a  
19 person or a legal entity (except a joint venture or a general partnership) may receive  
20 directly or indirectly in any year shall not exceed-

21 (1) In the case of the conservation reserve program under subchapter B, chapter 1,  
22 subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831-3835a),

1 \$100,000 for annual rental payments ; and

2 (2) in the case of other programs under subtitle D, title XII of the Food Security  
3 Act of 1985 (16 U.S.C. 3837-3839bb-3)-

4 (A) in the case of the wetlands reserve program under subchapter C, chapter 1,  
5 (16 U.S.C. 3837-3837e), \$50,000 for easement payments, except with respect to  
6 payments for 30 year or perpetual easements;

7 (B) in the case of the conservation security program under subchapter A, chapter  
8 2, subtitle D, title XII of the Food Security Act of 1985 (16 U.S.C. 3838-3838c)-

9 (i) \$35,000 for progressive tier practices; and

10 (ii) \$45,000 for master tier practices; and

11 (C) in the case of the environmental quality incentives program under chapter 4,  
12 \$450,000 for all contracts entered into during any 6 year period (excluding funding  
13 arrangements with federally recognized Native American Indian Tribes or Alaska  
14 Native Corporations under section 1240B(h)), regardless of the number of contracts  
15 entered into under the chapter.

16 (c) DIRECT CONTRIBUTION.-

17 (1) IN GENERAL.-In implementing the provisions of subsection (b), the Secretary  
18 shall issue regulations as are necessary to ensure that the total amount of payments are  
19 attributed to a person by taking into account the direct and indirect ownership interests  
20 of the person in a legal entity that is eligible to receive such payments.

21 (2) PAYMENTS TO A PERSON.-Every payment made directly to a person shall be  
22 combined with the person=s pro rata interest in payments received by a legal entity in

1 which the person has a direct or indirect ownership interest.

2 (3) PAYMENTS TO A LEGAL ENTITY.-

3 (A) IN GENERAL.-Every payment made to a legal entity shall be attributed to  
4 those persons who have a direct or indirect ownership interest in the legal entity.

5 (B) ATTRIBUTION OF PAYMENTS.-

6 (i) PAYMENT LIMITS.-Except as provided in clause (ii), payments made to a  
7 legal entity shall not exceed the amounts specified in subsection (b).

8 (ii) EXCEPTION.-Payments made to a joint venture or a general partnership  
9 shall not exceed, for each payment specified in subsection (b), the amount  
10 determined by multiplying the maximum payment amount specified in  
11 subsection (b) by the number of persons and legal entities (other than joint  
12 ventures and general partnerships) that comprise the ownership of the joint  
13 venture or general partnership.

14 (4) FOUR LEVELS OF ATTRIBUTION FOR EMBEDDED ENTITIES.

15 (A) IN GENERAL.-Attribution of payments made to legal entities shall be  
16 traced through four levels of ownership in entities.

17 (B) FIRST LEVEL.-Any payments made to a legal entity (a first-tier entity) that  
18 is owned in whole or in part by a person shall be attributed to the person in an  
19 amount the Secretary determines to represent the direct ownership in the first-  
20 tier entity by the person.

21 (C) SECOND LEVEL.-Any payments made to a first-tier entity that is owned in  
22 whole or in part by another legal entity (a second-tier entity) shall be attributed

1 to the second-tier entity in proportion to the second-tier entity's ownership in  
2 the first-tier entity. If the second-tier entity is owned in whole or in part by a  
3 person, the amount of the payment made to the first-tier entity shall be attributed  
4 to the person in amount the Secretary determines to represent the indirect  
5 ownership in the first-tier entity by the person.

6 (D) THIRD AND FOURTH LEVELS.-The Secretary shall attribute payments at the  
7 third and fourth tiers of ownership in the same manner as specified in  
8 subparagraph (B) unless the fourth-tier of ownership is that of a fourth-tier  
9 entity and not that of a person, in which case the Secretary shall reduce the  
10 amount of the payment to be made to the first-tier entity in the amount that the  
11 Secretary determines to represent the indirect ownership in the first-tier entity  
12 by the fourth-tier entity.

13 (d) ADJUSTED GROSS INCOME LIMITATIONS.-

14 (1) IN GENERAL.-A person or legal entity shall not be eligible to receive any  
15 payment specified in subsection (b) during a year if the average adjusted gross income  
16 of the person or legal entity for the preceding 3 years exceeds \$2,500,000, unless not  
17 less than 75 percent of the average adjusted gross income of the person or legal entity  
18 is derived from farming, ranching, or forestry operations, as determined by the  
19 Secretary.

20 (2) SPECIAL RULES.-The Secretary shall issue regulations that provide a method to  
21 determine average adjusted gross income in the case of a-

22 (A) legal entity that is not required to file a Federal income tax return; or

1           (B) person or legal entity that did not have taxable income in one or more of the  
2 tax years used to determine the average adjusted gross income.

3           (3) CERTIFICATION.-A person or legal entity shall provide to the Secretary-

4           (A) certification by a certified public accountant or another third party that the  
5 average adjusted gross income of the person or legal entity does not exceed the  
6 limitation specified in paragraph (1); or

7           (B) other information and documentation regarding the adjusted gross income of  
8 the person or legal entity.

9           (4) COMMENSURATE REDUCTION-In the case of a benefit described in subsection (b)  
10 made in a year to legal entity, the amount of the benefit shall be reduced by an amount  
11 that is commensurate with the direct and indirect ownership interest in the legal entity  
12 of each person who has an average adjusted gross income in excess of the limitation  
13 specified in paragraph (1) or (2).