

TITLE II – CONSERVATION SECTION BY SECTION

SUBTITLE – A CONSERVATION PROGRAMS OF THE FOOD SECURITY ACT OF 1985. SEC. 2101. CONSERVATION RESERVE PROGRAM.

- CRP is extended until 2012. Secretary is given authority to address issues raised by State, regional and national conservation initiatives.
- Extends maximum enrollment period to 2012. Strikes specific enumeration of Pennsylvania, Maryland and Virginia, but maintains Chesapeake Bay Region as a Conservation Priority Area.
- Extends Pilot Program for Enrollment of Wetland and Buffer Acreage in CRP to 2012.
- Allows a producer to conduct prescribed grazing for the control of invasive species on CRP lands.
- Requires NASS to survey annually the per-acre estimates of county average market dry-land and irrigated cash rental rates for all counties with 20,000 acres or more of crop and pastureland. These surveys will be kept on the USDA website and made available to the public.
- Allows the Secretary to modify a CRP contract to facilitate the transition of CRP land from a retiring owner to a beginning or socially disadvantaged farmer or rancher in order to return some or all of the land to sustainable grazing or crop production. Also allows the beginning or disadvantaged farmer or rancher to make land improvements and to begin the Organic certification process one year before the CRP contract expires.
- Requires the retiring landowner to sell or lease the CRP land to the beginning or disadvantaged farmer for production purposes, requires the beginning or disadvantaged farmer to develop and implement a comprehensive conservation plan, allows the beginning or disadvantaged farmer to enroll in CSP or EQIP before taking ownership of the land.
- Allows the Secretary to terminate a contract that has been in effect for 5 years at any time.

SEC. 2102. WETLAND RESERVE PROGRAM.

- The new purposes of WRP are to restore, create, protect or enhance wetlands on eligible lands and for the Secretary to purchase floodplain easements.
- Increases the maximum enrollment to 3,775,000 acres if the contingent reserve is available. If not, maximum enrollment shall not exceed 2,275,000 acres. The goal shall be to enroll 250,000 acres a year; of this amount, 10,000 acres shall be enrolled s floodplain easements; changes the limitation from the calendar year to the fiscal year.
- Flood plain lands are eligible if the land has been damaged by flooding at least once in the preceding calendar year or has been damaged by flooding at least twice in the past 10 years or the enrollment of other land within the floodplain would aid in flood storage, flow or erosion control.
- Flood plain lands where restoration practices would not be productive or is subject to an existing easement or deed restriction which provides protection or restoration of the flood plain's functions or values are not eligible.
- Returns appraisal process to what was in place on Jan. 1, 2003.
- USDA shall share the cost of necessary maintenance activities in addition to other activities in the plan if it's in the public interest.
- When considering easement offers for flood plains, the Secretary may consider whether the purposes of the easement program would be achieved on the land; whether the land has been repeatedly flooded; the extent to which the easement would help restore or manage the land surrounding the flood plain; and other factors.

- WRP is authorized through FY 2012.

SEC. 2103. CONSERVATION SECURITY PROGRAM.

- No new contracts may be entered into under the previous CSP. However, payments and modifications to existing contracts may be continued to be made until those contracts expire. Modification on old CSP contracts may conform to old or new CSP requirements at the option of the producer.
- A new Conservation Security Program shall go into effect for FY 2012 through 2017.
- The new program collapses the tier-based payment structure and replaces it with a stewardship base payment structure which allows a producer to graduate to higher levels of more intensive conservation practices and corresponding payments.
- The new CSP helps producers comprehensively address priority resources of concern. The Secretary shall ensure that no more than 5 priority resources of concern are identified at the State level which include environmental or wildlife habitat concerns affected by farming. Such priority resources of concern shall be identified as primary, secondary or tertiary.
- In order to participate, a producer must already be addressing at least one priority resource of concern to the minimum level of management intensity. The producer must also have a conservation plan that includes a schedule of new practices to increase the management intensity for addressing the priority resource of concern.
- There are two types of payments the producer shall be eligible for: the stewardship base payment, which will reflect the degree to which the producer is addressing the priority resources of concern at the time they enter into the contract. This amount must reflect the cost of maintaining the existing level of management intensity of that resource of concern. The new practice payment shall cover no more than 75% of the cost of implementing new practices.
- A producer or entity may not receive more than \$150,000 in stewardship and new practice payments over the 5 year term of a contract.
- Private agricultural land and land owned by Tribes is eligible. Lands enrolled in CRP, WRP, and GRP are not eligible. CSP payments may not be based on land that had not been in production 4 to 6 years prior to Oct. 1, 2011. Lands that had been in production during this period may be the basis of payments if they were enrolled in CRP or were used for long-term crop rotation practices.
- Acceptable economic uses of CSP land are those that maintain the agricultural nature of the land and are consistent with the goals of the program.
- CSP contracts shall be for 5 year terms.
- The producer cannot change their contract to increase stewardship or new practice payments during the term of the contract unless a change is required to achieve the purposes of the program.
- The Secretary can allow one, 5-year renewal if the producer complied with the terms of the contract and agrees to implement new practices or to increase the management intensity of existing contracts.
- A producer may participate in CSP, CRP and WRP if appropriate reductions in payments and other adjustments are made to the CSP contract. A producer may also shift acres from CSP to CRP or WRP.
- A producer may transfer the duties and rights under a CSP to a new landowner if the Secretary is appropriately notified. Otherwise, all CSP duties and rights will be terminated with the transfer.

- If a producer violates a term of the contract, that warrants a termination, the producer must forfeit all rights to receive payments and refund all or a portion of the payments already received. If the violation does not warrant termination, the Secretary can adjust or require a refund of payments received.

SEC. 2104. GRASSLAND RESERVE PROGRAM.

- Allow additional enrollment of 5,000,000 acres if contingency fund available, no new acres if no contingency fund adopted.
- Land may be enrolled in both the CRP and GRP if the Secretary determines it is of high ecological value and under significant threat of conversion. The number of CRP acres enrolled in a calendar year shall not exceed 10 percent of the total number of acres enrolled in GRP for that same year. Land enrolled in GRP shall not be eligible for CRP payments.
- Authorizes the Secretary to enter into agreements with States and political subdivisions to advance the purposes of the GRP.
- Requires the Secretary to transfer of title of easement ownership to a third party to enforce the easement.

Sec. 2105. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

- The purpose of EQIP is amended to include the promotion of forest management and energy conservation as compatible goals with environmental quality.
- The definition of land management practice is changed to include forest management and silvicultural practices.
- Forest management practices are defined as activities that may be needed to improve water quality, increase in-stream flows, restore forest biodiversity, or control invasive species.
- Alpaca is added to the definition of livestock.
- “Producer” is defined as someone who earns income from the production or management of a commodity or livestock regardless of ownership or who bears the economic risk of loss.
- Reauthorizes cost-share and incentive payments through 2012.
- Expands the activities for which a producer can receive incentive payments to include technical services from an approved third party provider, energy efficiency improvements and the implementation of renewable energy systems.
- The Secretary shall set incentive payments in an amount and rate necessary to encourage producers to perform one or more practices, receive technical services, develop a comprehensive nutrient management plan, or implement energy efficiency improvements or renewable energy systems.
- Changes existing law to increase the amount of cost-share payments to include socially disadvantaged farmer or ranchers, and changes the amount from not more than 90 percent of the cost of the practice to the lesser of 90% of the cost or 15% more than the rates offered to other farmers and ranchers.
- Extends 60% allocation of cost-share and incentive payments for livestock production practices through FY 2012.
- Changes the evaluation of applications for cost-share and incentive payments. The Secretary is directed to prioritize applications based on: overall cost-effectiveness and the effectiveness and comprehensiveness of the project in addressing designated resource concerns. The Secretary shall develop evaluation criteria to ensure that national, State and local priorities are addressed. The

Secretary shall evaluate applications with those which address conservation activities for similar agriculture operations.

- The evaluation process must be as streamlined as possible for applications that involve operations with substantial and sound management systems and seek a single or limited number of practices to improve the performance of that system.
- Duties of producers: Practices prohibiting the receipt of payments are extended to forest land.
- Plan requirements: The program plan requirements are changed to include program practices, terms and conditions to implement the program, a description of purposes, a comprehensive nutrient management in the case of CAFOs, or a forest management plan or other plan approved by the forester in the case of forest lands.
- To avoid duplication, the Secretary may consider a water or air quality permit as the equivalent of a plan of operations.
- Special rules for water conservation: the Secretary may only provide assistance for water conservation or irrigation only if the assistance will yield a net savings on ground or surface water and increase flows consistent with the law of the farm's State.
- Conservation Innovation Grants: forest management is added as an eligible grant activity.
- Eligible projects include those which ensure the efficient and effective transfer of technologies and provide benefits through increased participation of specialty crop producers.
- A new pilot program for the Chesapeake Bay watershed is established to assist producers in comprehensive planning before they submit applications for any of the conservation programs. Assistance may be provided through certified third party providers. Assistance under this pilot is intended to help the producer choose the appropriate type of financial assistance that would address the resource needs of their farm consistent with the goals of the area where the farm is located. A report on the effectiveness of the pilot shall be published.
- Conservation Innovation grants shall be funded with \$20,000,000,000 from EQIP for each of FY 2008-2012. Of this amount, \$5,000,000 each fiscal year shall be used for outreach for organic and specialty crop producers, and \$5,000,000 for each fiscal year shall be available for the comprehensive conservation planning pilot program.

SEC. 2106. REGIONAL GROUND AND SURFACE WATER ENHANCEMENT PROGRAM.

- Changes the purpose of the existing ground and surface water conservation program to allow cooperative agreements between the Secretary, producers, government entities and Tribes in achieving regional water quality and quantity goals in water quality priority areas.
- \$100,000,000 is available for each of fiscal years 2008 through 2012, contingent upon availability of the reserve fund. Otherwise, \$60,000,000 will be available for each fiscal year 2008-2012.

Sec. 2107. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

- Increases appropriations authorization from \$5,000,000 each fiscal year to \$20,000,000 each fiscal year through 2012.

Sec. 2108. CONSERVATION OF PRIVATE GRAZING LAND.

- Extended through 2012.

SEC. 2109. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.

- Extended through 2012.

SEC. 2110. FARM AND RANCLAND PROTECTION PROGRAM.

- Adds forest land that is incidental to a farm as eligible land. Changes the definition of eligible land to no longer specifically include land that has prime, unique or other productive soil; historic or archaeological resources; or is subject to a pending offer for purchase from an eligible entity.
- A State or local entity is “qualified” under the terms of the program if it has provided funds to purchase perpetual easements or other interests in land on at least 10 properties over a period of at least 3 calendar or fiscal years; the entity is authorized under State law and has the capacity to monitor and enforce easements or other interests in land in perpetuity; and the entity has control policies to assure that the average purchase of easements and other interests in land do not exceed fair market value.
- While the program previously allowed the Secretary to purchase easements and other interests in land, the new program allows the Secretary to facilitate such purchases by eligible entities. Such purchases shall protect the agricultural production capacity of the lands by limiting non-agricultural uses and shall give highest priority to protecting lands with prime, unique or other productive soils that are at risk of non-farm development.
- Grants to qualified entities shall be distributed among States based on demonstrated need for farm and ranchland protection and on the contribution of funds by State and local entities. Any funds not granted to qualified State or local entities may be made available to other eligible entities as matching funds for easement purchases.
- The Secretary shall establish a process to certify eligible entities. Certification requirements must at a minimum include strategic planning and clear objectives, demonstrated long-term commitment and viability, a track record of funds management and accountability, a history of successfully completing agricultural conservation projects, and the use of a conservation plan for any highly erodible cropland for which a conservation easement or interest is purchased. Certification shall be reviewed every three years and may be revoked if it fails to meet the qualifications.
- Under the agreement between the qualified entity and the Secretary, the entity may use a combination of its own funds and funds provided by the Secretary to purchase easements. The agreement may stipulate how the entity uses funds provided by the Secretary. However, the agreement must allow the qualified entity to determine its own criteria and priorities in purchasing easements and use its own terms and conditions for easement purchases. The terms and conditions must be adequate under State law to allow effective enforcement of the easements and include a requirement consistent with agricultural activities regarding impervious surfaces.
- There is no federal contingent right of enforcement or reversionary interest in the purchase of the easement or interest in land.
- A conservation plan is required for any cropland for which an easement or other interest is purchased. If the easement or interest is perpetual, the Secretary may not require the conversion of the cropland to less intensive uses if soil erosion can be reduced to a “T” or below under the plan.
- The Secretary cannot assign a higher priority to an application solely because it costs less the program less.
- Fair market value shall be determined under the method used by the Secretary as of Jan. 1, 2003

SEC. 2111. FARM VIABILITY PROGRAM.

- Reauthorized through 2012.

SEC. 2112. REAUTHORIZATION OF THE WILDLIFE HABITAT INCENTIVE PROGRAM.

- Under previous law, WHIP received a \$5,000,000 per year authorization of Approps, and additionally received CCC funds. Title II allows the authorization for appropriations to expire, and continues CCC funding at the 2007 level of \$85,000,000 each fiscal year through 2012.

SUBTITLE B – CONSERVATION PROGRAMS UNDER OTHER LAWS.

SEC. 2201. AGRICULTURAL MANAGEMENT ASSISTANCE PROGRAM.

- Adds Virginia as an eligible State.
- Provides for an additional \$20,000,000 million in funding should the contingency reserve become available. Otherwise keeps current funding at \$20,000,00.
- 50% of available funds shall be used for construction or improvement of watershed management or irrigation structures, planting trees for windbreaks or improving water quality, and mitigating risk through diversification or various conservation practices; 40% may be used for any activity relating to the previously mentioned activities, including entering ag trade options, futures, or hedging; and 10% shall be used for organic certification cost share assistance.

SEC. 2202. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

- Clarifies that an area plan must be developed through a locally led process, and that the planning process must be conducted by a local council.
- Changes technical assistance services from providing assistance for long-term implementation to providing assistance for area plans and projects; also changes to providing services of USDA programs in a local community.
- The Secretary shall designate a coordinator to provide technical assistance to councils.
- The program evaluation requirement is repealed.

SEC. 2203. SMALL WATERSHED REHABILITATION PROGRAM.

- Provides \$65,000,000 in CCC funds for FY 2008; and \$65,000,000 per fiscal year for 2009 through 2012, pending contingency fund availability.
- Authorizes appropriations for fiscal years 2007 through 2012 at current funding level of \$85,000,000 per year.

SUBTITLE C – ADDITIONAL CONSERVATION PROGRAMS

SEC 2301. CHESAPEAKE BAY PROGRAM FOR NUTRIENT REDUCTION AND SEDIMENT CONTROL.

- Defines the Chesapeake Bay watershed as all tributaries, backwaters side channels and their watersheds which drain in to the Chesapeake Bay.
- Requires the Secretary to develop a comprehensive plan to restore and protect the bay watershed.
- The plan will provide for proven technologies and innovative approaches to improve water quality and quantity; restore, enhance and preserve wildlife habitat; and increase economic opportunity for rural communities and producers.
- The plan must be developed in consultation with relevant federal agencies, and must be provided to Congress two years after this bill's enactment.
- A total of \$100,000,000 is authorized to be appropriated over fiscal years 2008 through 2012. The federal share for any individual project shall not exceed \$5,000,000, and the non-federal share shall be at least 35%.

- It is the sense of Congress that USDA is authorized and should be a member of the Chesapeake Bay Executive Council.

SUBTITLE D – ADMINISTRATION AND FUNDING.

SEC. 2401. FUNDING OF PROGRAMS UNDER THE FOOD SECURITY ACT OF 1985.

- CSP: CSP contracts entered into before Oct. 1, 2007 shall be funded in the amount of \$1,454,000,000 for FY 2007 through 2012 and \$1,927,000,000 for FY 2007 through 2017. CSP contracts entered into on or after Oct. 1, 2011, shall be funded in the amount of ___ for FY 2012, and ___ for the period of FY 2013 through 2017.
- Farm and Ranchland Protection Program: \$300,000,000 each FY 2008 through 2012, if contingent reserve available. If not, \$150,000,000 in FY '08, \$200,000,000 in FY '09, \$240,000,000 in FY '10, \$280,000,000 in FY '11, and \$300,000,000 in FY '12.
- EQIP: \$2,000,000,000 for each FY 2008 through 2012, if contingent reserve is available. If not, \$1,550,000,000 in FY '08, \$1,700,000,000 in FY '09, \$1,800,000,000 in FY '10, \$1,900,000,000 in FY '11 and \$2,000,000,000 in FY '12.
- WHIP is funding is continued through 2012 at \$85,000,000 each FY.

SEC. 2402. IMPROVED PROVISION OF TECHNICAL ASSISTANCE UNDER CONSERVATION PROGRAMS.

- The Secretary is to direct each State to review and make sure that technical assistance specifications are complete and relevant. In its assessment, the State must consult with specialty crop producers, crop consultants, cooperative extension and land grant universities, NGO's and other qualified entities. If revisions to the specifications are necessary, the State must set up an expedited process for making those changes.
- In order to address concerns of specialty crop growers, the technical assistance specifications must allow the range of conservation practices and mitigation measures available to specialty crop growers.
- To provide adequate technical assistance to specialty crop growers, the Secretary must develop programs that meet the needs of specialty crop growers using cooperative agreements with other federal agencies and NGOs, and include program specifications that allow the use of local resources in providing technical assistance.

SEC. 2403. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.

- The paragraphs under "Administration of CCEP" Sec. 1243 of the '85 Act regarding acreage limitations for CRP and WRP, tenant protections, and technical assistance provided by other sources are moved to the end of the next section, Sec. 1244 "Administrative Requirements for Conservation Programs."
- "Administration of CCEP" is renamed "Cooperative Conservation Partnership Initiative."
- The Secretary will enter into 2 to 5 year agreements with eligible entities to preferentially enroll producers in specified conservation programs. This will allow multiple producers and others to cooperate on improving specific resources of concern related to farming on a local, State or regional scale. These agreements are also intended to increase participation of specialty crop growers in conservation programs.
- CSP, EQIP, FRPP, RWEP, and WHIP are all programs covered by this section.

- Eligible partners are States, State agencies, State subdivisions including counties and conservation districts, Tribes, NGOs and associations with histories of working with farmers on agriculture conservation issues.
- Grants and agreements will be awarded under a competitive process. Not more than 25% of the cost share shall come from non-federal sources. However, a project that offers to cover a higher percentage of the costs may be given a higher priority.
- Of the funds provided for CSP, EQIP, FRPP, RWEPP, WHIP, 10% shall go towards grants and agreements. 90% of these funds shall be allow for State Conservationists, with the advice of State Technical Committees, to select projects at the State level.

SEC. 2404. REGIONAL EQUITY AND FLEXIBILITY.

- Raises the base amount of conservation funds that a State must receive in order to receive priority funding for conservation programs from \$12,000,000 to \$15,000,000.

SEC. 2405. SINGLE, SIMPLIFIED APPLICATION PROCESS FOR CONSERVATION PROGRAMS.

- As additional administrative requirements (1244), the Secretary must establish a single, simplified application process for initial requests of assistance. Applicants should not be required to provide information that is already available to the Secretary, and the process itself must minimize complexity and redundancy.

SEC. 2406. ANNUAL REPORT ON PARTICIPATION BY SPECIALTY CROP PRODUCERS IN CONSERVATION PROGRAMS.

- The Secretary must submit a report to the House and Senate Agriculture Committees regarding specialty crop producer participation in conservation programs that tracks participation by crop and livestock type, includes a plan to improve access of specialty crop producers to conservation programs, and describes the results of this plan.

SEC. 2407. PROMOTION OF MARKET-BASED APPROACHES TO CONSERVATION.

- The Secretary may research, analyze and enter into contracts and agreements to promote the development of uniform standards for quantifying environmental benefits, promoting the establishment of credit registries and third party verification, and facilitating private sector market based approaches for agriculture and forest conservation activities.
- The Environmental Services Standards Board is established to develop uniform standards for quantifying environmental services in order to help develop credit markets agriculture and forest conservation activities.
- Board members will be: The Secretaries of Agriculture, Interior, Energy, Commerce, Transportation, the Administrator of EPA, the Commander of the Army Corp of Engineers, and anyone selected by the President.
- Performance standards set by the Board may be adopted by Federal agencies to quantify environmental services or establish environmental and conservation credits.
- \$50,000,000 is authorized to be appropriated for this section.

SEC. 2408. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES.

- Changes the existing composition of State technical committees to include NRCS, FSA, and at least 12 producers representing a variety of crops, livestock or poultry grown in the State. Removes the Soil Conservation Service, the Ag Stabilization and Conservation Service, the

Farmers Home Administration, other agency personnel with relevant expertise, and persons knowledgeable about conservation as representatives who may serve on the Committee.

- The State technical committees shall convene subcommittees to provide technical guidance and implementation recommendations.