

**STATEMENT OF DAVE WHITE  
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UNITED STATES DEPARTMENT OF AGRICULTURE BEFORE THE**

**SUBCOMMITTEE ON CONSERVATION, CREDIT, ENERGY AND RESEARCH  
HOUSE COMMITTEE ON AGRICULTURE**

**OCTOBER 7, 2009**

**FARM BILL CONSERVATION PROGRAMS IMPLEMENTATION**

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to share our experiences in implementing the Conservation Title of the Food, Conservation, and Energy Act of 2008 (Farm Bill). Many observers describe the 2008 Farm Bill as an evolutionary Farm Bill, incorporating important modifications and improvements over the previous Farm Bill but not containing revolutionary changes or new approaches. In the Conservation Title, we had plenty of new things to keep us busy over the past year. The 2008 Farm Bill provided \$4.2 billion in new funding for conservation programs over the life of the Farm Bill. Over two-thirds of NRCS's annual budget is now mandatory funding, authorized in the Farm Bill. The bill authorized new programs such as the Conservation Stewardship Program, the Agricultural Water Enhancement Program, and the Chesapeake Bay Watershed Program. It introduced air quality and organic agriculture components to the Environmental Quality Incentives Program, and made significant operational changes to the Wetlands Reserve Program, the Farm and Ranch Lands Protection Program, and the Cooperative Conservation Partnership Initiative. It also brought the Agricultural Management Assistance Program under the payment eligibility auspices of the Farm Bill.

As we reflect back on the fiscal year that just ended last week, I am happy to report that NRCS has successfully launched the new programs and implemented the changes to existing programs in the 2008 Farm Bill. We faced obstacles along the way, particularly with changes to the adjusted gross income payment limitation that led to deleterious delays in obligating funding.

Nevertheless, as of September 30, 2009, we obligated 96.3% of the mandatory Farm Bill funding available for our programs in fiscal year 2009. We are also working on finalizing regulations for all Farm Bill programs. And we launched some initiatives that will improve the agency's capacity going forward, including a renewed focus on the field and an administrative streamlining effort. We also are completing a workforce planning effort to ensure that we have the right people in the right places to optimally serve our customers. We are also initiating new watershed-based conservation efforts in the Chesapeake Bay and Mississippi River basins.

I will go into more detail about our progress in publishing regulations for our Farm Bill programs. Then I will update where we stand on actual implementation of the programs, before closing with some more about the challenges and opportunities I just mentioned.

## **Farm Bill Implementation – Regulatory Actions**

Just prior to the end of the Bush Administration, NRCS published a number of regulatory documents, updating program rules based on changes in the 2008 Farm Bill. These interim final rules enabled NRCS to implement the programs authorized by the 2008 Farm Bill in fiscal year 2009. *Appendix One* is a list of all Farm Bill regulatory documents published prior to January 20, 2009.

With the change in Administrations, NRCS re-evaluated the published regulations to assess whether the policies were consistent with the Obama Administration's approach to voluntary conservation program delivery. Although NRCS determined it was not necessary to withdraw any of the regulations, we did decide it was necessary to issue critical amendments to several of the interim final rules for financial assistance programs and conservation easement administration.

Our changes restored the appropriate relationship that NRCS has with its partnering entities and with participating landowners and operators. Since the changes addressed the programs' fundamental relationship structure, we determined that these amendments could not wait until we had comprehensively reviewed and responded to public comment in the development of the final rules. The following is a description of the critical amendments:

- Amendments to both the Farm and Ranch Lands Protection Program (FRPP) and the Grasslands Reserve Program (GRP) interim final rules clarified that the contingent right of enforcement, a new right created by changes in the Farm Bill, did not trigger Federal real property acquisition requirements. In the original interim final rules for these programs, NRCS held that the contingent right of enforcement triggered Federal real property acquisition requirements, such as the Department of Justice title standards. This interpretation appeared counter to the financial assistance relationship intended by Congress when NRCS contributes funds towards the purchase of an easement to be held by a non-Federal entity.
- A June 2009 amendment to the Wetlands Reserve Program (WRP) interim final rule re-established the operational relationship between NRCS and its clients. The January interim final rule introduced several overly burdensome responsibilities upon landowners and hindered the agency's ability to complete restoration activities on all its easement lands. In particular, the rule placed responsibility for full wetlands restoration on the landowner and considered a landowner in violation if the property was transferred to a new landowner prior to completion of the restoration activities. These new provisions were not necessitated by the 2008 Farm Bill and created a tone counter to the assistance nature of the program. The June amendment to the interim final rule reaffirmed NRCS's commitment to ensuring that all lands enrolled in WRP are restored and protected for the duration of the easement period.
- Amendments that adjusted the land eligibility criteria for both the Environmental Quality Incentives Program (EQIP) and the Wildlife Habitat Incentive Program

(WHIP) were issued after we determined that the interim final rules unnecessarily restricted landowners and operators from obtaining assistance on their entire operation. These restrictions were preferences of the previous Administration and not required by the 2008 Farm Bill. The EQIP amendment published in May 2009 re-established policy to enable producers who lease public lands to use EQIP funds on their whole operation. The WHIP amendment published in July 2009 expanded the definition of agricultural lands to enable participants to obtain WHIP funding on agricultural production lands and on those lands capable of being used for production. The WHIP interim final rule had limited the use of funds just to lands in agricultural production.

*Appendix Two* is a complete list and description of regulatory documents published since January 20, 2009. With the publication of each of these amendments, NRCS requested new public comment on the interim final rules. We have been collecting and analyzing the comments not just for the amended rules but for all of the interim final rules published for our Farm Bill programs. *Appendix Three* is a schedule for completion of the final rules for all of the programs.

### **2008 Farm Bill Conservation Program Implementation**

NRCS offers programs that provide financial and technical assistance to eligible producers for implementation of approved conservation practices and enhancements on private agricultural lands, non-industrial forestlands, and tribal lands. Financial assistance programs include: the Environmental Quality Incentives Program, the Wildlife Habitat Incentive Program, the Agricultural Management Assistance (AMA) Program, the Conservation Security Program (CSP), and the Conservation Stewardship Program. Efforts authorized as part of EQIP include: Conservation Innovation Grants (CIG), the Cooperative Conservation Partnership Initiative (CCPI), the Agricultural Water Enhancement Program (AWEP), the Organic Program Initiative, and the Air Quality Initiative.

Beyond financial assistance programs, the 2008 Farm Bill maintained easement programs as a key component of NRCS's portfolio of conservation programs. NRCS's easement programs are: the Farm and Ranch Lands Protection Program (FRPP), the Grassland Reserve Program (GRP), the Wetland Reserve Program (WRP), the Wetland Reserve Enhancement Program (WREP) and the Healthy Forests Reserve Program (HFRP).

A number of the financial assistance programs and initiatives listed above were new in the 2008 Farm Bill, including the Conservation Stewardship Program, CCPI, AWEP, the Chesapeake Bay Watershed Program, HFRP, the Organic Program Initiative, and the Air Quality Initiative. These new efforts drew impressive producer interest and application numbers. We also used EQIP and AWEP authority to offer another new initiative-- funding for the construction of ring dikes in Minnesota and North Dakota. Ring dikes

constructed around farm operations greatly improve water quality by avoiding the runoff of agricultural waste and chemicals into watersheds in flood prone areas.

The 2008 Farm Bill authorized the new Conservation Stewardship Program, an update on the old Conservation Security Program. The 2008 Farm Bill made a number of improvements to the old program that will expand the program's availability, enhance its environmental effectiveness, and improve financial accountability and field verification of producer accomplishments. NRCS initiated the first nationwide continuous sign-up for the new CSP on August 10, 2009, with a September 30, 2009 cutoff date. During this initial ranking period, NRCS received 21,281 applications covering an estimated 33 million acres. The acreage is just an estimate at this time, we will have firm numbers on November 1, 2009. We are currently processing and reviewing and ranking applications in preparation for awarding contracts.

Following is a summary of fiscal year 2009 implementation of NRCS financial assistance programs:

**Program FY 2009 Implementation Highlights as of October 1, 2009**

<b>Summary of Financial Assistance Programs FY 2009 Program Implementation</b>						
<b>Program</b>	<b>Number of Applications</b>	<b>Number of Contracts</b>	<b>Obligation Amount</b>	<b>Allocation Amount</b>	<b>Percent Obligated</b>	<b>Acres</b>
<b>EQIP (all)</b>	106,384	31,965	\$731,099,112	\$740,784,201	98%	10,003,583
<b>CIG</b>	390	55	\$18,400,000	\$20,000,000	92%	n/a
<b>Organics</b>	1,745	1,203	\$30,122,668	\$50,000,000	60%	n/a
<b>Air Quality</b>	1,638	888	\$24,667,849	\$24,184,385	98%	n/a
<b>Ring Dikes (EQIP)</b>	254	113	\$5,291,682	\$5,674,602	93%	n/a
<b>Ring Dikes (AWEP)</b>	23	20	\$955,429	\$1,382,400	69%	n/a
<b>AWEP</b>	3,807	1,704	\$60,385,178	\$61,229,000	99%	488,380
<b>Ches. Bay</b>	2,037	826	\$18,592,739	\$18,800,000	99%	110,327
<b>WHIP</b>	7,353	3,706	\$52,018,780	\$54,564,896	95%	812,496
<b>AMA</b>	566	214	\$6,179,956	\$6,108,019	99%	13,874
<b>CSP (Security)</b>	n/a	20,683	\$246,140,247	\$250,249,035	98%	17,413,831
<b>CSP (Stewardship)</b>	21,281	TBD	TBD	TBD	TBD	TBD
<b>WRP</b>	1,146	840	\$404,611,000	\$449,491,000	90	150,000
<b>FRPP</b>	1062	354	\$112,915,000	\$113,439,000	99.5	78,888
<b>HFRP</b>	94	8	\$1,256,457	8,055,000	16	810
<b>GRP Easement only</b>	444	72	\$24,703,705	\$24,724,200	99	56,689

Sources—EQIP through CSP: ProTracts, as of October 1, 2009

WRP through GRP: USDA's Foundation Financial Information System, as of Oct. 1, 2009

The 2008 Farm Bill made a major operational modification to FRPP, changing it from a land acquisition program to a cost-share program. While we were able to deliver the program in its new form successfully and obligate the full FRPP allocation, we continue to review its administration and look for ways to improve our delivery of FRPP.

The 2008 Farm Bill increased the maximum enrollment in WRP to 3,041,200 acres. To date, NRCS has enrolled approximately 2,175,000 acres in the program, nearly 150,000 acres of which were enrolled during FY 2009. To meet the total enrollment, NRCS will need to accelerate its efforts and enroll about 300,000 acres each year through fiscal year 2012. In recognition of the challenge and opportunity that this presents, we have convened a group of State Conservationists, Assistant State Conservationists, and contracting personnel to improve and expand our enrollment and restoration capacity. This group is charged with developing an implementation plan to reach the maximum enrollment authorized in the 2008 Farm Bill.

Two other significant changes to WRP were included in the 2008 Farm Bill. It authorized a 30-year contract option for acreage owned by Indian tribes, which provides for broader program participation by Tribes. The 2008 Farm Bill also introduced the Reserved Rights Grazing Pilot under WREP.

For GRP, the total acreage enrolled under the 2002 Farm Bill was 725,352 acres. The 2008 Farm Bill changed GRP to an acreage-based program and authorized enrollment of an additional 1,220,000 acres through 2012, bringing the total acreage goal to 1,945,352. For fiscal year 2009, NRCS obligated 99 percent of the total program allocation of \$48 million. Approximately 72 participants enrolled 56,689 acres in GRP easements. An estimated 100,000 acres were enrolled as rental contracts. The remaining 1,063,311 acres will be enrolled through fiscal year 2012.

Going into fiscal year 2009, we harbored concerns that demand for our conservation program assistance may decline, given a national economy in recession and new program rules for farmers and ranchers to become accustomed to. I can report, however, that we have not seen any measurable decrease in demand. In fact, for nearly all programs, there was an increase in applications compared to fiscal year 2008. We believe this is an indicator of the continued success and popularity of a voluntary approach to private lands conservation.

Program-by-program information on 2008 Farm Bill implementation is included in *Appendix Four*.

### **Assistance to Beginning and Socially Disadvantaged Farmers and Ranchers**

I am pleased to report that of the fiscal year 2009 funds made available for EQIP, we met or exceeded the five percent targets established in the Farm Bill for both beginning and socially disadvantaged farmers and ranchers. And although the final sign-up results are

not yet known, I am confident that we will achieve the national 5 percent targets established in 2009 CSP acres and associated funds for beginning and socially disadvantaged farmers or ranchers, as well.

Both programs utilized separate application pools and increased outreach efforts, including advertisements through newspapers, magazines, local publications, radio, personal contacts, meetings, newsletters, churches, organizations, and community advocacy groups. National information products were developed to assist in distributing information at the State and field levels.

NRCS will continue to build upon the successes we have achieved and seek additional ways to improve access and equity to programs for historically underserved farmers and ranchers. In 2009, we established additional set-asides in other programs besides EQIP and CSP. As of September 24, 2009, with more than 97 percent of the program signup completed, we know:

- For socially disadvantaged farmers and ranchers, the following percentages of funds were obligated: EQIP – 6%; AMA – 13%; AWEP – 5%; and WHIP – 8%.
- For beginning farmers and ranchers, the following percentages of funds were obligated: EQIP – 15%; AMA – 19%; AWEP – 9%; and WHIP – 11%.

### **Farm Bill Implementation Challenges**

Implementation of the 2008 Farm Bill in fiscal year 2009, while ultimately broadly successful, was not without its challenges. Chief among these was the delayed completion of the adjusted gross income (AGI) limitation web service that significantly hampered our ability to make conservation program payments to producers. In addition, we received the results of an USDA Office of Inspector General (OIG) audit of the old Conservation Security Program. OIG's findings, and our corrective actions to address the findings, led to additional workload on our State and field office personnel.

### **Adjusted Gross Income Limitation Tool**

The 2008 Farm Bill provided new requirements for adjusted gross income (AGI) that required changes to the existing AGI web service that is used to determine of program participant eligibility and related commensurate payment reduction, as determined by membership attribution. Given the complexity of the changes needed to be made to the AGI web service, the Department was unable to launch the updated service in fiscal year 2009. The unavailability of the web service created a challenging situation for NRCS as we scrambled to develop interim solutions.

Upon realizing that the AGI web service would be unavailable for payments to be made in fiscal year 2009, we worked to create temporary protocols to help us electronically determine the conservation AGI eligibility for AMA, FRPP, EQIP, WHIP, and WRP. This allowed us to begin making the majority of payments on prior year contracts in June 2009.

Fiscal year 2009 EQIP contracts presented additional complications because of the differences between the program payment limitations under the 2002 and 2008 Farm Bills. We developed another temporary workaround that allowed us to begin making payments on new EQIP contracts in late August. Since then, we have been able to make payments to producers on both old and new contracts for all of our financial assistance programs. NRCS has nearly synchronized the recently completed AGI web service into its systems. It will be available soon for the processing of fiscal year 2010 payments.

### Conservation Security Program OIG Audit

In fiscal year 2006, OIG conducted an audit concerning NRCS administration of the Conservation Security Program. The audit assessed whether NRCS properly determined participant and land eligibility; effectively handled the sign-up, application, evaluation, and approval processes; accurately calculated program payments; and successfully prevented producers from receiving payments from multiple Conservation Security Program contracts.

At the conclusion of the audit, OIG made the following recommendations to NRCS:

- Improve program design and controls in future sign-ups.
- Review all current Conservation Security Program contracts to validate program eligibility and payment accuracy and take appropriate action in accordance with NRCS policy.
- Review the agricultural operation delineation determinations on all current Conservation Security Program contracts and take appropriate action in accordance with NRCS policy.
- Obtain from ProTracts a list of participants that are receiving payments on multiple contracts and take corrective action in accordance with NRCS policy.

NRCS has taken the following aggressive actions in order to address the OIG recommendations:

- Implemented improvements in program design and controls in the Conservation Security Program 2008 signup that are also being used in the new Conservation Stewardship Program.
- Set a deadline of September 30, 2009 for a complete review of all active Conservation Security Program contracts. Qualified NRCS personnel from outside the contract location reviewed all contracts. Corrective action on any improper contracts will be completed by December 31, 2009. No fiscal year 2010 payments will be made on improperly developed contracts until corrective actions have been completed.
- Developed a nationally consistent audit tool to determine deficiencies in contracts and needed corrective actions.

We are confident that these actions and the improved business tools incorporated into the new Conservation Stewardship Program will eliminate the types of errors identified in the OIG audit of the Conservation Security Program.

## Looking Ahead

With the 2009 fiscal year having drawn to a close, NRCS has turned its attention to 2010. Implementation of the 2008 Farm Bill will continue unabated. We will publish final rules for all of our conservation programs. We will award the first Conservation Stewardship Program contracts. We will also be evaluating the first year of implementation for new programs and initiatives and making adjustments.

Along with all of these important activities, I'd like to discuss some innovative efforts that we have embarked upon to renew our commitment to improving the delivery of our programs and the quality of our environmental outcomes.

### Conservation Delivery Streamlining

In early 2009, NRCS began an agency-wide effort to create and implement a more effective, efficient, and sustainable business model for delivery of science-based conservation assistance. Called the National Conservation Delivery Streamlining Initiative (NCDSI), the effort focuses on increasing the time NRCS employees spend in the field working with farmers and ranchers.

The NCDSI has two key objectives: 1) reduce administrative and clerical workload on field staff by 80 percent; and 2) enable field staff to spend 75 percent of their time in the field.

To achieve these objectives, we are redesigning our tools, processes, and staffing structure to strengthen our technical expertise and to make smarter use of information technology. We will employ the following major strategies to ensure conservation assistance processes are fully integrated agency-wide:

- We will clearly define and streamline the processes we use to provide conservation assistance to producers.
- We will make sure the technology we provide to our field staff better supports the work they do.
- We will provide our planners and technical staff with the science, data, and technology they need for conservation planning and application.
- We will use alternative approaches to staffing and financial assistance program delivery that are more efficient and enhance customer service.

We will begin implementing the NCDSI in 2010 with an expected completion date of 2015.

### Landscape Conservation

NRCS understands that in some cases, "random acts of conservation" have not sufficed to address critical resource concerns at a landscape scale. We are committed to working in



a targeted fashion across landscapes, watersheds and ecosystems to get address environmental concerns that have been identified as national priorities. In addition to existing efforts such as the Chesapeake Bay Watershed Program, the Colorado Salinity Program, and the California Air Shed effort in the San Joaquin Valley, following are two examples of new landscape-scale initiatives for fiscal year 2010:

*Mississippi River Basin Healthy Watersheds Initiative (MRBI)*

On September 24, Secretary Vilsack announced the MRBI, a new targeted effort to address resource concerns, including water quality and wildlife habitat, in the Mississippi River Basin. MRBI will help agricultural producers implement conservation and management practices that avoid, control, and trap nutrient runoff. The initiative is performance oriented, which means that measurable conservation results are required in order to participate. By focusing on priority watersheds in these 12 states in the basin, USDA, its partner organizations, State and local agencies, and agricultural producers will coordinate their resources in areas requiring the most immediate attention and offer the best return on the funds invested.

In addition to other federal, State, and partner funding, NRCS is targeting \$80 million annually over the next four years through CCPI, CIG, and WREP. These funds are in addition to other NRCS program funding and assistance such as Environmental Quality Incentives Program, Wildlife Habitat Incentives Program, and the Conservation Stewardship Program. The MRBI will be available in Arkansas, Kentucky, Illinois, Indiana, Iowa, Louisiana, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

MRBI will focus on 8-digit or smaller hydrologic units (watersheds) that contribute high loads of nutrients in the Mississippi River Basin. Priority watersheds for the initiative will be identified by NRCS in consultation with conservation partner organizations and State Technical Committees. Watersheds will be selected using an evaluation process that will include information from the Conservation Effects Assessment Project, the USGS Spatially Referenced Regression on Watersheds Attributes, state-level nutrient reduction strategies and priorities, and available monitoring and modeling of nitrogen and phosphorus levels in the Basin. Using this watershed evaluation process will ensure water quality and nutrient issues are improving as part of MRBI.

*Great Lakes Restoration Initiative*

To accelerate the restoration of the Great Lakes, the President's FISCAL YEAR 2010 budget includes a new \$475 million interagency Great Lakes Restoration Initiative (GLRI) to address issues that affect the Great Lakes, such as invasive species, non-point source pollution, and toxics and contaminated sediment. The GLRI, administered by the Environmental Protection Agency, builds upon five years of work of the Great Lakes Interagency Task Force and stakeholders, guided by the Great Lakes Regional Collaboration Strategy. If funded at \$475 million, NRCS' provisional allocation of \$33.6 million will help address non-point source pollution, invasive species, and habitat resource concerns. The Interagency Task Force is currently working on a comprehensive Great Lakes Multi-year Restoration Action Plan advances the GLRI by strategically

identifying yearly goals, objectives and targets for programs and projects to focus on the most significant environmental problems in the Great Lakes ecosystem.

### **Conclusion**

Thank you for the opportunity to describe our successes and challenges in implementing the Conservation Title of the Farm Bill. We look forward to building upon the successes and meeting the challenges to improve the technical and financial assistance that we provide to the nation's farmers and ranchers in 2010. I am happy to respond to any questions at this time.

## Appendix One

### **2008 Farm Bill Implementation**

#### **Regulatory and other Documents Published Before January 20, 2009**

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**Agricultural Management Assistance (AMA) Program Interim Final Rule:**  
published in the Federal Register on November 20, 2008

**Chesapeake Bay Watershed Notice of Availability of Funds:** published in the Federal Register on January 22, 2009 – implemented through EQIP

**Conservation Innovative Grants (CIG) Notice of Availability of Funding:** published in Grants.gov January 16, 2009

**Environmental Quality Incentives Program (EQIP) Interim Final Rule:** published in the Federal Register on January 15, 1009

**Farm and Ranch Lands Protection Program (FRPP) Interim Final Rule:** published in the Federal Register on January 16, 1009

**Healthy Forests Reserve Program (HFRP) Proposed Rule:** published in the Federal Register on January 14, 2009

**Regional Equity (RE) Interim Final Rule:** published in the Federal Register on January 13, 2009

**State Technical Committee (STC) Interim Final Rule:** published in the Federal Register on November 25, 2008

**Technical Service Provider Assistance (TSP) Interim Final Rule:** published in the Federal Register on January 16, 2009

**Wetlands Reserve Program (WRP) Interim Final Rule:** published in the Federal Register on January 15, 2009

**Wildlife Habitat Incentive Program (WHIP) Interim Final Rule:** published in the Federal Register on January 16, 2009

## Appendix Two

### **2008 Farm Bill Implementation Regulatory Documents Published after January 20, 2009**

#### **Agricultural Management Assistance Program; Correction-**

Corrects the application of payment limitation provisions as they apply to joint operations. This document did not reopen the public comment period.

Status: Published March 12, 2009

Public comment period closed January 20, 2009

#### **Agricultural Water Enhancement Program Notice of Request for Proposals; reopening and extension of proposal submission deadline-original deadline March 2; new deadline April 1**

Status: Published March 26, 2009

#### **Conservation Practice Technical Assistance Notice with Request for Comment**

The 2008 Act, requires that NRCS: (1) review conservation practice standards, including engineering design specifications, in effect on June 18, 2008; ensure the completeness and relevance of the standards to local agricultural, forestry, and natural resource needs; and ensure that the standards provide for the optimal balance between meeting site-specific conservation needs and minimizing risks of design failure and associated costs of construction and installation. NRCS conducted an internal review of the conservation practice standards and met with various stakeholder groups to obtain their input about how to improve the completeness and relevance of the standards. This notice provides the results of the preliminary review to the public and requests comments about how to improve the conservation practice standards.

Status: Published June 12, 2009

Public comment period was opened for 60 days from date of publication then reopened for an additional 30 days to September 14, 2009

#### **Conservation Stewardship Program (CSP) Interim Final Rule with Request for Comment**

Status: Published July 29, 2009

Public comment period is open through October 28, 2009

#### **Cooperative Conservation Partnership Initiative (CCPI) Notice of Request for Proposals; Request for public comment**

Status: Published March 10, 2009

Deadlines: Public comment by April 8<sup>th</sup>

Proposal submission by April 23<sup>rd</sup>

**Environmental Quality Incentives Program; Correction, request for comment and extension of public comment period** – Corrects the application of payment limitations as they apply to joint operations and seeks public comment on using EQIP for furthering

the nation's efforts with renewable energy production and energy conservation, climate change mitigation and facilitating adaptation, and carbon sequestration.

Status: Published March 12, 2009

Public comment period extended to April 17, 2009

**Environmental Quality Incentives Program Interim Final Rule Amendment**

This document reestablishes policy that enables certain producers, who lease public lands, to be able to use EQIP funds on the public lands.

Status: Published May 29, 2009

Public comment period opened through June 29, 2009. Submitted comments are limited to contents of the amendment.

**Farm and Ranch Lands Protection Program; Interim Final Rule amendment and extension of public comment period;** This document clarifies the “contingent right of enforcement” and reopens the public comment period through August 3. In addition, NRCS is incorporating preamble language that seeks public input on how FRPP can be used to further the nation's interest in renewable energy production, energy conservation, carbon sequestration and mitigating climate change and facilitating climate change adaptation.

Status: Published July 2, 2009

**Grassland Reserve Program Interim Final Rule:** Approved for publication during the Bush Administration and published in the Federal Register January 21, 2009

**Grassland Reserve Program; Interim Final Rule amendment** and reopening of public comment period; This amendment clarifies the “contingent right of enforcement” language, removes the prohibition of producing energy for off farm use, and reopens the public comment period for 30 days from date of publication. In addition, NRCS is incorporating preamble language that seeks public input on how GRP can be used to further the nation's interest in renewable energy production, energy conservation, carbon sequestration and mitigating climate change and facilitating climate change adaptation.

Status: Published on August 21, 2009

Public comment period is open to September 21, 2009

**Healthy Forests Reserve Program; Reopening and extension of public comment period**

Status: Published February 18, 2009

Public comment period extended from February 13, 2009, to March 20, 2009

**State Technical Committees Notice of Standard Operating Procedures with Request for public comment** The 2008 Act requires the Secretary to develop standard operating procedures to standardize the operation of State Technical Committees.

Status: Published April 7, 2009.

Public comment period closed June 8, 2009. This document will be incorporated into the NRCS directives system.

**Wetlands Reserve Program; Interim Final Rule Amendment and reopening of public comment period;** This amendment ensures NRCS is able to restore all lands enrolled in the program despite events subsequent to enrollment, corrects the eligibility criteria related to closed basin lakes and potholes, and notifies the public of the agency's continued dedication to proactive restoration. This document reopens the public comment period.

Status: Published June 2, 2009

Public comment period opened through July 2, 2009

**Wildlife Habitat Incentive Program; Correction, request for comment and extension of public comment period -** Corrects the application of payment limitations as they apply to joint operations and seeks public comment on using WHIP for furthering the nation's efforts with renewable energy production and energy conservation, climate change mitigation and facilitating adaptation, and carbon sequestration.

Status: Published March 12, 2009

Comment period extended to April 17, 2009

**Wildlife Habitat Incentives Program Interim Final Rule amendment**

This document expands the definition of agricultural lands to enable producers to enroll all lands included in their farming operation. The Interim Final Rule limited application to lands that were used for production.

Status: Published July 15, 2009

Comment period reopened until August 14, 2009 Public comments limited to the definition of agricultural land.

## **Appendix Three**

### **2008 Farm Bill Implementation Final Rule Completion Schedule**

The following final rules are tentatively scheduled to be published by the end of the first quarter of fiscal year 2010:

Agricultural Management Assistance Program (AMA)  
Regional Equity (RE)  
State Technical Committees (STC)  
Technical Service Provider Assistance (TSP)

The following final rules are tentatively scheduled to be submitted for OMB review by the end of the first quarter of fiscal year 2010:

Environmental Quality Incentives Program (EQIP)  
Farm and Ranch Lands Protection Program (FRPP)  
Grassland Reserve Program (GRP)  
Healthy Forests Reserve Program (HFRP)  
Wetlands Reserve Program (WRP)  
Wildlife Habitat Incentive Program (WHIP)

The CSP Final Rule is scheduled for completion in early 2010.

## **Appendix Four**

### **Program-by-Program Review of 2008 Farm Bill Implementation**

#### Environmental Quality Incentives Program (EQIP)

As indicated above, the 2008 Farm Bill introduced or continued a number of distinct components to EQIP. Each of these components is treated separately below. The base EQIP program offers contracts with a minimum term that ends one year after the implementation of the last scheduled practices and a maximum term of ten years. These contracts provide financial assistance to implement conservation practices. Owners of land in agricultural production or persons who are engaged in livestock or agricultural production on eligible land may participate in the EQIP program. Program practices and activities are carried out according to an EQIP program plan of operations developed in conjunction with the producer that identifies the appropriate conservation practice or measures needed to address the resource concerns. The practices are subject to NRCS technical standards adapted for local conditions.

Changes to EQIP in the 2008 Farm Bill allowed us to place additional emphasis on private non-industrial forest land. We encouraged owners of this land type to participate in EQIP to develop forest management plans and to implement forestry practices to increase conservation efforts on these lands.

We successfully obligated nearly the entire EQIP allocation of \$1.067 billion for fiscal year 2009 (a small amount was retained for future cost overruns). Nationwide, we received 106,384 applications and approved 30,965 as contracts. These contracts represent 11,651,207 acres. As required by the Farm Bill, 60 percent of EQIP funding is used for livestock-related practices.

#### EQIP Conservation Innovation Grants

Conservation Innovation Grants was first authorized in the 2002 Farm Bill as a component of EQIP. Through CIG, EQIP funds are used to award competitive grants to non-Federal governmental or non-governmental organizations, federally-recognized Indian tribes, or individuals. Applications are accepted from all 50 States, the Caribbean Area (Puerto Rico and the Virgin Islands), and the Pacific Islands Area (Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). Selected applicants may receive grants of up to 50 percent of the total project cost. Applicants must provide non-Federal funding for at least 50 percent of the project cost, of which up to one-half (25 percent of the total project cost) may come from in-kind contributions.

On January 16, 2009 NRCS announced the availability of \$20 million for the national-level CIG in fiscal year 2009. Four separate categories were offered—"Natural Resources," "National Technologies," "Grant Leveraging," and "Chesapeake Bay Watershed." Over 390 proposals were received, a record number. Fifty-five applications were selected for awards. An additional \$5.5 million was made available by States for



state-level CIG awards. Since 2004, NRCS has awarded \$108 million to 316 projects through CIG.

### EQIP Organic Program Initiative

The 2008 Farm Bill included authority for use of EQIP to help organic growers farm under the standards of the National Organic Program (NOP). The Organic Program Initiative makes available financial and technical assistance to help producers, both those transitioning to organic production and those already certified as organic, meet their conservation goals. As of September 9, 2009, there were 1201 approved contracts for fiscal year 2009 under this initiative, and approximately \$30,280,294 had been obligated. Another sign-up period will be held in the beginning of fiscal year 2010.

### EQIP Air Quality Initiative

The 2008 Farm Bill authorized NRCS to provide eligible producers with technical and financial assistance to address air quality challenges through EQIP. Funds are used to address the primary air quality natural resource concerns associated with Environmental Protection Agency (EPA) “non-attainment” areas for the ambient air quality standards of: particulate matter 2.5, particulate matter 10, and 8-hour ozone.

Just over \$24 million was obligated to producers through this new initiative in fiscal year 2009. Out of nearly 1,600 applications were submitted, 900 contracts were approved.

### Chesapeake Bay Watershed Program

The 2008 Farm Bill authorized the Chesapeake Bay Watershed Program (CBWP) to protect and restore the health, heritage, natural resources, and social and economic value of the Nation’s largest estuarine ecosystem. The CBWP funding—\$23 million in EQIP funds for fiscal year 2009—is used to improve water quality and conserve water quantity while restoring, enhancing, and conserving soil, air, and related resources. As of September 30, 2009, we obligated 95 percent of the \$23 million available for fiscal year 2009.

As of August 31, 2009, in this first year of the initiative, over 765 contracts were developed with farmers to install a variety of pre-selected conservation practices such cover crops, conservation tillage, buffer and filter strips, stream bank fencing, grassed waterways, nutrient management, and tree planting. These contracts cover more than 98,000 acres of farmland. NRCS is focusing CBWP funding on legislatively mandated (by the 2008 Farm Bill) river basins (Susquehanna, Shenandoah, Potomac, and Patuxent Rivers) and other high-priority sub-watersheds. These sub-watersheds were selected based on nitrogen, phosphorous, and sediment loads delivered to the Bay; stream impairment; partner resources; and ability to demonstrate results.

### EQIP Ring Dike Initiative

In an effort to improve water quality in flood prone areas in Minnesota and North Dakota, NRCS allocated \$5.7 million through EQIP and \$1.4 million through AWEP for installation or enhancement of ring dikes around farmsteads. Ring dikes are earthen structures that protect the farmstead from overland flooding, reducing the potential for chemical, hydrocarbon, and agricultural wastes to enter flood waters.

The signup for this special initiative was conducted between June 15 and July 15, 2009. Agricultural producers were eligible to receive up to 75 percent of the cost of building the dike to protect their farmstead. Beginning, limited resource, and socially disadvantaged farmers were eligible to receive up to 90 percent of the cost of dike installation.

For the EQIP funding, 254 applications were submitted, 113 of which were approved as contracts. For AWEP, there were 23 applications, 20 of which were approved as contracts.

### Conservation Activity Plans Pilot

The 2008 Farm Bill provides authority to use EQIP financial assistance for payment of practices and conservation activities involving the development of plans appropriate for the eligible land of a program participant. Specifically, NRCS is authorized to use EQIP for the development of comprehensive nutrient management plans and other plans that further the purposes of the program. EQIP payments are made directly to program participants for development of approved conservation plans by certified technical service providers (TSPs).

For fiscal year 2009, NRCS approved the use of 12 types of CAPs on a pilot basis in volunteering states. The pilot volunteer states are: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, and Wyoming.

An evaluation of fiscal year 2009 effort will be conducted and results of this evaluation will be used to improve and expand the CAP initiative for fiscal year 2010.

<b>Conservation Activity Plans</b>	<b># of States Piloting</b>
Comprehensive Nutrient Management Plan	18
Forest Management Plan	24
Grazing Management Plan	10
Integrated Pest Management Plan	4
Irrigation Water Management Plan	8
Agricultural Energy Management Plan	8
Comprehensive Air Quality Management Plan	0

Drainage Water Management Plan	1
Conservation Plan Supporting Transition from Irrigation to Dry-land Farming Plan	1
Conservation Plan Supporting Organic Transition	15
Fish and Wildlife Habitat Management Plan	4
Pollinators Habitat Conservation Plan	0

Cooperative Conservation Partnership Initiative

Authorized in the 2008 Farm Bill, CCPI is a voluntary conservation initiative through which NRCS enters into partnership agreements with eligible entities that want to enhance focused conservation efforts on agricultural lands, nonindustrial private forestlands, and Tribal lands. Eligible producers, who participate in a project area identified in an approved partner agreement, may apply for program assistance. Eligible programs include EQIP, WHIP, and CSP.

CCPI gives NRCS another mechanism to bolster locally-led conservation. For the pilot year of CCPI in fiscal year 2009, NRCS set aside six percent of both WHIP and EQIP funds for implementation of CCPI. In fiscal year 2010, in addition to WHIP and EQIP funds, six percent of CSP acres will be set aside for participation in the CCPI program.

Agricultural Water Enhancement Program

AWEP is a voluntary conservation initiative that provides financial and technical assistance to agricultural producers to implement agricultural water enhancement activities for the purposes of conserving surface and ground water and improving water quality. As part of EQIP, AWEP operates through contracts with producers to plan and implement conservation practices in project areas established through partnership agreements that work to leverage partner resources with NRCS funding.

AWEP represents a new operational concept and a new way to work with partners. We believe that this initial year was very successful. 3,828 applications were submitted, of which 1,380 covering 378,535 acres were approved as contracts. In response to concerns voiced by some program applicants, we intend to establish a team to review the fiscal year 2009 implementation of AWEP. Recommendations from this team will be used to improve the program for fiscal year 2010.

Wildlife Habitat Incentives Program

WHIP is a voluntary program for developing or improving high-quality habitat to support fish and wildlife populations of National, State, Tribal, and local significance. Through WHIP, NRCS provides technical and financial assistance to private and Tribal landowners for the development of upland, wetland, aquatic, and other types of wildlife habitat.

The 2008 Farm Bill made two changes of great consequence to WHIP. First, it restricted WHIP practices to private lands, when public lands had been eligible under the 2002 Farm Bill. Second, it reduced the maximum annual payment to \$50,000. As of September 28, 2009, 94 percent of the fiscal year 2009 WHIP allocation had been obligated. Of the 7,412 applications submitted, 3,711 representing 810,370 acres were approved as contracts.

#### Agricultural Management Assistance

The AMA program provides assistance to agricultural producers to voluntarily address issues such as water management, water quality, and erosion control by incorporating conservation into their farming operations. Producers may construct or improve water management structures or irrigation structures; plant trees for windbreaks or to improve water quality; and mitigate risk through production diversification or resource conservation practices, including soil erosion control, integrated pest management, or transition to organic farming.

AMA was brought under the payment eligibility criteria of the Farm Bill in 2008. The bill also added Hawaii as the sixteenth State eligible for AMA funding. The other 15 states are: Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. For fiscal year 2009, the entire AMA allocation of \$7.5 million was obligated. Out of 569 applications submitted, 210 representing 13,728 acres were approved as contracts.

#### Conservation Security Program

The Conservation Security Program, authorized in the 2002 Farm Bill, provides assistance to producers to promote the conservation and improvement of soil, water, air, energy, plant and animal life, and other conservation purposes. It is a voluntary conservation program that supports ongoing stewardship of private agricultural lands by providing payments for maintaining and enhancing natural resources.

Although the Conservation Security Program was not re-authorized in the 2008 Farm Bill, NRCS continues to make payments to prior year contract participants. In fiscal year 2009, obligations totaled over \$246 million with payments made on 20,683 contracts. Payments under this program will continue until the last contracts expire at the end of fiscal year 2017.

#### Conservation Stewardship Program

In the 2008 Farm Bill, Congress replaced the old Conservation Security Program with the new Conservation Stewardship Program. CSP encourages land stewards to improve their conservation performance by installing and adopting additional activities, and improving, maintaining, and managing existing activities on agricultural land, nonindustrial private

forest land, and Tribal land. Following is a list of improvements of the new CSP program over the old Conservation Security Program.

- CSP is now implemented nationwide with a continuous sign-up process that has periodic cut-off periods for ranking and funding of applications. The old program was only available in select watersheds each year.
- Nonindustrial private forest land has been added as an eligible land use.
- NRCS State Conservationists have management responsibility for an acreage allocation with associated funding based on proportion of eligible land and conservation needs. This shifts a significant portion of the programmatic decision making from the national level to the States. State Conservationists, in consultation with State Technical Committees and local working groups, will focus their CSP programs on natural resources that are of specific concern in their State, or on specific geographic areas within the State. Applications are evaluated relative to other applications that address similar priority resource concerns. This process facilitates a competitive application selection process among applicants who face similar resource challenges.
- Retrospective payments allow for on-site field verification for all pre-approved applications to substantiate that participants' representations are accurate prior to contract obligation and payment.
- Participation is based on how producers define their operation for other USDA programs. This change fixes a significant issue with the old program and helps ensure that CSP participants are the people responsible for day-to-day management and decision making on the agricultural operation.
- Direct payment attribution to real persons will ensure compliance with producer payment limitations, while accommodating multiple contracts per participant.

With broadened availability, CSP will expand the nation's agricultural and forestry producers' ability to reach greater levels of conservation performance. The conservation benefits derived from maintaining and enhancing natural resources will assist in improving the quality of soil and water, assist in addressing global climate change, and may encourage environmentally responsible energy production.

NRCS initiated the first nationwide continuous sign-up for the new CSP on August 10, 2009, with a September 30, 2009 cutoff date. We are currently reviewing and ranking applications in preparation for awarding contracts. A second signup cut-off is tentatively scheduled for mid-January 2010.

In preparation for CSP implementation, NRCS developed outreach strategies at the National, State, and local levels to ensure potential applicants who control eligible land are aware they may be eligible to apply for CSP. Special outreach efforts were made to eligible producers with historically low participation rates, such as historically underserved producers. States made an effort to reach all eligible producers through various means, including newspapers, magazines, local publications, radio, personal contacts, meetings, newsletters, churches, organizations, and community advocacy groups. National information products were developed to assist in distributing

information at the State and field levels, including the producer self-assessment checklist and a postcard for mass mailing. The personal mass mailing effort was done to increase distribution of CSP information to potential participants.

The pilot ranking period for CSP will help us determine certain aspects of how we will administer the program in the future. For issues like payments and enhancements, it is a constantly evolving effort to put in place the most relevant and effective methods for helping producers get conservation on the ground.

To manage program funding and meet legislative requirements, NRCS is using the first ranking period as a payment discovery period to arrive at a uniform payment rate per land use conservation performance point. Using enrollment data from the signup, unique conservation performance payment rates will be determined for each land use type after ranking decisions are made. It is anticipated the information gained will assist in arriving at set payment rates for future years' contracts.

Innovative conservation activities, specifically enhancements, hold the key to CSP's environmental success. From a program equity and outreach perspective, enhancements need to provide viable opportunities for producers to increase their conservation performance across all land uses, operation sizes and types, and production systems, including specialty crops and organic production. NRCS will institute a continuous improvement process to develop innovative enhancements, while engaging others in identifying enhancement opportunities, as well.

During the first CSP ranking period, NRCS received 21,281 applications covering an estimated 33 million acres. The acreage is just an estimate at this time, we will have firm numbers on November 1, 2009. We are currently processing and reviewing and ranking applications in preparation for awarding contracts.

#### Farm and Ranch Lands Protection Program

FRPP provides matching funds to help purchase development rights to keep productive farm and rangeland in agricultural uses. Working through existing state and local programs, USDA partners with State, Tribal, or local governments and non-governmental organizations to acquire conservation easements or other interests in land from landowners. USDA provides up to 50 percent of the fair market easement value of the conservation easement.

The 2008 Farm Bill made a significant modification to FRPP by changing the program from a Federal land acquisition program to a cost-share program. This means that, while the Federal government maintains a contingent right of enforcement, it no longer appears on the easement deed as a grantee and is no longer a co-owner of the easement.

In fiscal year 2009, NRCS obligated the total program allocation of \$105 million, helping entities enroll an estimated 70,000 acres on 350 parcels.

### Grassland Reserve Program

GRP is a voluntary conservation program that emphasizes support for working grazing operations, enhancement of plant and animal biodiversity, and protection of grassland under threat of conversion to other uses. Participants voluntarily limit future development and cropping uses of the land while retaining the right to conduct common grazing practices and operations related to the production of forage and seeding, subject to certain restrictions during nesting seasons of bird species that are in significant decline or are protected under Federal or State law.

For GRP, the total acreage enrolled under the 2002 Farm Bill was 725,352 acres. The 2008 Farm Bill changed GRP to an acreage-based program and authorized enrollment of an additional 1,220,000 acres through 2012, bringing the total acreage goal to 1,945,352. For fiscal year 2009, NRCS obligated 99 percent of the total program allocation of \$48 million. Approximately 72 participants enrolled 56,689 acres in GRP easements. An estimated 100,000 acres were enrolled as rental contracts. The remaining 1,063,311 acres will be enrolled through fiscal year 2012.

### Healthy Forests Reserve Program

HFRP is a voluntary program established for the purpose of restoring and enhancing forest ecosystems to: 1) promote the recovery of threatened and endangered species, 2) improve biodiversity; and 3) enhance carbon sequestration. The 2008 Farm Bill made three significant changes to HFRP. The first change allows NRCS to enroll lands in permanent easements. The second change stipulates that 40 percent of HFRP funding must be expended on cost-share agreements, and 60 percent on easements. The third major change allows for a 30-year contract option for Tribes and Tribal members.

For fiscal year 2009, NRCS obligated \$2.1 million dollars out of the \$9.75 in no-year money available annually under the 2008 Farm Bill. Nine 30-year or permanent easements covering approximately 1,100 acres have been enrolled in the program. Prior to 2009, there were six restoration agreements covering 684,707 acres and two easements covering 1,000 acres.

We were unable to use the full HFRP allocation in fiscal year 2009. HFRP is a complex new program that requires significant start-up time to establish partnership roles, contracting procedures, ranking criteria, and criteria for appraisals. With many of these tasks complete, we are confident in our ability to obligate the full HFRP allocation in future years.

### Wetland Reserve Program

WRP is a voluntary program offering landowners the opportunity to protect, restore, and enhance wetlands on their property. NRCS provides technical and financial support to help landowners with their wetland restoration efforts. NRCS's goal is to achieve the

greatest wetland functions and values, along with optimum wildlife habitat, on every acre enrolled in the program.

The 2008 Farm Bill modified WRP's authorizing language to add a 30-year contract option for acreage owned by Indian tribes. Prior to fiscal year 2009, easements and restoration cost-share agreements were the only enrollment options available for WRP participants. Because the placement of easements on Tribal lands caused legal and administrative impediments to Tribal participation, the newly authorized WRP 30-year contract provides for broader program participation by Tribes. In fiscal year 2009, four Indian Tribes in Nebraska enrolled 2,156 acres of Indian lands in WRP through the 30-year contract option.

The 2008 Farm Bill also changed the methodology for establishing WRP easement compensation. The compensation is now the lowest of : 1)The fair market value of the land or an area-wide market analysis or survey; 2) The geographical area rate cap (GARC); or 3) The offer made by the landowner. Previously, the compensation was based on an appraisal methodology commonly referred to as "Yellow Book."

Another change in the 2008 Farm Bill requires that the ownership of land not have changed in the prior seven years for the land to be eligible for the WRP (the limit was just one year under the 2002 Farm Bill). The WRP interim final rule includes a provision allowing for waivers to the 7-year ownership requirement. Only the NRCS Chief can provide a waiver to the 7-year provision. As of September 16, 2009, 259 waiver requests have been submitted to the Chief for consideration. 243 of these requests have been approved. For the 16 denied requests, the landowners did not provide adequate assurances that the land was not acquired for the express purpose of enrolling it in WRP. The majority of requests for a waiver were for the following reasons: 1) the current landowner purchased property that had been in the family for more than seven years from another family member; or 2) the current landowner received the property as a result of estate planning of their parents; or 3) the current landowner purchased property that they had farmed for a number of years prior to purchase.

The 2008 Farm Bill increased the maximum enrollment in WRP to 3,041,200 acres. To date, NRCS has enrolled approximately 2,175,000 acres in the program, nearly 150,000 acres of which were enrolled during FY 2009. To meet the total enrollment, NRCS will need to accelerate its efforts and enroll about 300,000 acres each year through fiscal year 2012. In recognition of the challenge and opportunity that this presents, we have convened a group of State Conservationists, Assistant State Conservationists, and contracting personnel to improve and expand our enrollment and restoration capacity. This group is charged with developing an implementation plan to reach the maximum enrollment authorized in the 2008 Farm Bill.

Finally, the 2008 Farm Bill provides for WRP enrollment of agricultural areas subject to flooding from the natural overflow of a closed basin, lake, or pothole. This program is available in the prairie pothole regions of Iowa, Minnesota, Montana, North Dakota and



South Dakota. For fiscal year 2009, approximately \$2 million was allocated for the Devil's Lake area in North Dakota.

#### Wetlands Reserve Enhancement Program

The Wetlands Reserve Enhance Program (WREP) allows NRCS to enter into agreements to carry out special projects that that will improve or expand WRP activities, including wetlands restoration, creation, or enhancement, or easement management. WREP focuses on projects that include significant partnership contributions.

The 2008 Farm Bill established the Reserved Rights Grazing Pilot under WREP. For fiscal year 2009, Alabama and Nebraska participated in the pilot, obligating more than \$2.4 million covering 4,607 acres.