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OVERSIGHT AND ACCOUNTABILITY OF 2018 FARM BILL CONSERVATION PROGRAMS

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INTRODUCTION

Passed by Congress roughly every five years, the U.S. Department of Agriculture (USDA) reauthorization, known colloquially as the “farm bill,” is a massive piece of legislation that sets the nation’s food and agriculture policy. It is also the single-largest source of federal conservation funding for private lands. The latest version of the farm bill, signed into law by President Donald Trump in December 2018, authorized nearly \$900 billion in federal spending, including \$60 million to support conservation programs.¹ In addition to its spending on private-lands conservation programs, other portions of the bill—including the crop insurance and commodity titles—also carry significant implications for conservation.

Through the farm bill, taxpayers make a significant and important investment to protect America’s natural resources and encourage environmental stewardship. However, to ensure that conservation policies achieve their desired outcomes and generate good returns on investment for taxpay-

ers, effective monitoring and enforcement is crucial. Accordingly, this policy brief provides an overview of conservation programs and examines the current state of their implementation through a free-market and limited-government lens. It then argues that a commitment to conservation is compatible with conservative ideology. However, market forces must be harnessed effectively and oversight must be enhanced to yield positive outcomes for the public and ensure a worthwhile investment for taxpayers.

CONSERVATION COMPLIANCE: A FREE-MARKET APPROACH

Since their introduction in the New Deal era, U.S. farm-support programs have included measures to prevent soil erosion and encourage good land-management practices. In 1985, then-President Ronald Reagan signed into law a provision known as “conservation compliance,” which requires recipients of federal farm subsidies to undertake certain basic steps to protect soil and wetlands as a condition to receive subsidies.

The concept of conservation compliance is fairly straightforward. In order to receive subsidies from the federal government, farmers and ranchers must ensure they will not plant or produce any agricultural commodity on converted wetlands (known as the “swampbuster” provision), nor will they farm highly erodible land unless they develop a conservation plan in coordination with the United States Department of Agriculture’s (USDA) Natural Resources Conservation Service (NRCS) (known as “sodbuster”). Today, conservation-compliance standards are attached to many agricultural subsidies, including crop insurance premium subsidies; commodity subsidies like the Agricultural Risk Coverage (ARC) and Price Loss Coverage (PLC) programs; and the Market Facilitation Program (MFP), which provides payments to farmers affected by tariffs and the associated loss of export markets.

Making federal assistance contingent upon certain criteria is a well-established theme in conservative policymaking. For example, Republicans long have sought to attach work requirements to eligibility for welfare and food stamps. In fact, the hallmark of the Republican House-passed 2018 farm bill was a provision requiring able-bodied adults receiving benefits through the Supplemental Nutrition Assistance Program (SNAP) to work or participate in work training for 20 hours per week. (These SNAP reforms were ultimately stripped from the final bill in conference committee.) Similarly, one of the greatest conservative environmental achievements of recent decades, President Reagan’s Coastal Barriers Resources Act (CBRA), protects coastal barrier islands and barrier beaches by withdrawing all government subsidies for development in certain environmentally sensitive areas.

FIGURE I: USDA AGRICULTURAL CONSERVATION PROGRAM BY TYPE

| Type | Program(s) |
|--|--|
| Farm Bill Agricultural Conservation Programs | |
| Working Lands —programs allow private land to remain in production, while implementing various conservation practices to address natural resource concerns specific to the area. | <ul style="list-style-type: none"> • Environmental Quality Incentives Program (EQIP) • Conservation Stewardship Program (CSP) |
| Land Retirement —programs provide federal payments to agricultural landowners for temporary changes in land use or management to achieve environmental benefits. | <ul style="list-style-type: none"> • Conservation Reserve Program (CRP) • Conservation Reserve Enhancement Program (CREP) • Farmable Wetlands (FW) program • CLEAR30 • Soil Health Income Protection Pilot (SHIPPI) |
| Easement —programs impose a permanent land-use restriction that is voluntarily placed on the land in exchange for a government payment. | <ul style="list-style-type: none"> • Agricultural Conservation Easement Program (ACEP) • Healthy Forests Reserve Program (HFRP) |
| Compliance —prohibits a producer from receiving most federal farm program benefits (including conservation assistance) when conservation requirements for highly erodible lands and wetlands are not met. | <ul style="list-style-type: none"> • Highly erodible land conservation (sodbuster) • Wetland conservation (swampbuster) • Sod saver |
| Partnership and Grants —programs that use partnership agreements to leverage program funding with non-federal funding or provide grants to states or research organizations. | <ul style="list-style-type: none"> • Regional Conservation Partnership Program (RCPP) • Conservation Innovation Grants (CIG) • Voluntary Public Access and Habitat Incentive Program (VPAHIP) |
| Other —programs and provisions that do not fit easily into the above categories. Authority is generally derived from farm bill legislation. | <ul style="list-style-type: none"> • Grassroots Source Water Protection (GSWC) • Grazing Land Conservation Initiative (GLCI) • Desert terminal lakes • State technical committees |
| Non-Farm Bill Conservation Programs | |
| Technical Assistance —programs provide landowners with science-based conservation information and technical (e.g., engineering and biological) expertise unique to the region and land use type. Usually does not include financial assistance. | <ul style="list-style-type: none"> • Conservation Operations (includes Conservation Technical Assistance, Snow Survey, Soil Survey, and Plant Materials Centers) |
| Emergency —programs provide disaster assistance for private farm and forest land rehabilitation and impairments to watersheds. Programs are usually funded through supplemental appropriations acts. | <ul style="list-style-type: none"> • Emergency Conservation Program (ECP) • Emergency Watershed Protection (EWP) program (includes floodplain easements) • Emergency Forest Restoration Program (EFRP) |
| Other —programs that do not fit easily into the above categories. Authority is generally derived from non-farm bill legislation. | <ul style="list-style-type: none"> • Agricultural Management Assistance (AMA) • Water Bank program • Soil and Water Resources Conservation Act (RCA) • Resource Conservation and Development Program (RC&D) |

SOURCE: Congressional Research Service

Notes: Generally programs that are authorized under Title XII of the Food Security Act of 1985, as amended, are considered to be farm bill programs. Most non-farm programs are authorized outside of farm bill legislation. Amendments to these program may occur in farm bills, but their program authority and funding authority is provided separate from omnibus farm bills.

Conservation compliance makes sense from a limited government perspective because its participation is purely voluntary, and it can effectively reduce the size and scope of federal subsidies. Agricultural producers who wish to plant on highly erodible lands or drain wetlands remain free to do so. However, eligibility for federal subsidies provides a strong incentive for producers to institute sound land-management practices instead. Healthy wetlands and soil can be considered “public goods” because they provide significant benefits, both environmental and economic, to all of society. Thus, conservation compliance provides an effective tool to

encourage the preservation of public goods without violating the property rights of farmers and ranchers.

Additionally, as R Street Institute President Eli Lehrer has argued, conservation compliance is crucial because it effectively mimics the conditions of a free-market agriculture economy and sets the stage for privatization of farm-support programs. In a true free market, farmers would have little financial incentive to destroy wetlands or plant on marginal lands. However, the current subsidy system distorts planting decisions and encourages farmers to produce as much of cov-

ered commodities as possible in order to reap subsidies. Not only does this harm the environment, it also makes privatization of the market extremely difficult. No private insurer operating under conventional conditions would ever agree to write a policy that covers natural wetlands and highly erosion-prone areas because they are highly unsuitable for crops. Therefore, it would become politically impossible to move away from the subsidy system and privatize the crop insurance market—as most free-marketers wish—without conservation compliance standards.²

OUTLINE OF FARM BILL CONSERVATION PROGRAMS

In addition to conservation compliance, the 2018 farm bill authorizes several voluntary, incentive-based programs through the NRCS that support agricultural producers who adopt conservation practices.

These programs fall into several primary categories. The largest portion of conservation program funding—more than 50 percent—goes to **working lands programs**. These programs provide payments to farmers who implement various conservation practices to address natural resource concerns on lands that remain in agricultural production. The two main working lands programs are the **Environmental Quality Incentives Program (EQIP)** and the **Conservation Stewardship Project (CSP)**. The EQIP provides financial assistance to farmers who adopt or install certain specific conservation practices on working lands, including practices like cover crops, conservation tillage, nutrient management and fences to exclude livestock from streams. The CSP, the largest U.S. conservation program, provides financial and technical assistance to producers to maintain and implement new conservation practices if they meet farm-wide stewardship requirements on working lands. It also provides an annual payment to participating farmers that is tied to the operation-level environmental benefits they produce.³

Land retirement programs authorize the USDA to make payments to farmers who voluntarily retire land from agricultural production. The primary land retirement program is the **Conservation Resource Program (CRP)**, which provides 10-15-year contracts to farmers who remove land from production to improve wildlife habitat and soil and water quality. Finally, **easement programs** provide permanent easements for preservation of wetlands and the protection of agricultural land from commercial or residential development through partnerships with American Indian tribes, state and local governments, and nongovernmental organizations. The primary easement program is the **Agricultural Conservation Easement Program (ACEP)**.⁴ The chart below provides a complete picture of all conservation programs authorized in the 2018 farm bill.

ACCOUNTABILITY OF CONSERVATION SPENDING

Accountability is a cornerstone of conservative ideology and good governance. Voluntary conservation programs that serve a public good are consistent with free-market thought, if they are accountable to taxpayers and subject to appropriate oversight. Unfortunately, although there has been some recent progress to better tie conservation spending to environmental outcomes, evidence clearly shows that conservation programs are not being monitored effectively, nor are they being implemented across the board.⁵

Recent reports from the USDA's Office of the Inspector General (OIG) and the Government Accountability Office (GAO) illustrate that conservation compliance is largely failing to achieve its desired goals due to ineffective enforcement.⁶ For example, the OIG revealed that the NRCS did not use random samples to conduct spot checks for compliance during 2012-2015, and 10 states were omitted from compliance checks entirely. On average, the NRCS reviews just 1 percent of tracts subject to conservation compliance—though that percentage varies significantly among states. And even when compliance checks are conducted, violations routinely have not been identified. Between 2003 and 2015, for example, 19 U.S. states did not report a single violation in the Highly-Erodible Land Compliance (HELCS), or sodbuster, program. Additionally, even among states that have reported at least one sodbuster violation, nine have not done so since 2008—including several states with a large number of sensitive acres.⁷ Conservation compliance is rendered nearly meaningless when producers have no reasonable expectation that they will be audited and held accountable. Lack of effective monitoring and enforcement across the country means that taxpayers are continuing to subsidize environmentally damaging practices.⁸

Additionally, when it comes to working lands programs, not enough is done to tie conservation spending to measurable outcomes and ensure effective implementation. There has been a recent push by many in the agricultural community to better measure outcomes and adopt “pay-for-performance” or “pay-for-success” conservation approaches, which resulted in some progress in the 2018 farm bill. However, more needs to be done to ensure that conservation programs achieve measurable public benefits.

Last year's farm bill made small strides on the agriculture data front by instructing the USDA to issue a report to Congress within the next year on how the agency can aggregate disparate data on conservation practices and their effects into a single database without compromising privacy.⁹ Better aggregation and utilization of data is the first step toward measuring performance and ensuring that conservation practices are working both for taxpayers and the environment. However, it is just the first step. After the USDA releases its report, Congress must continue to use its over-

sight powers to ensure the agency acts on its recommendations and uses data to make conservation programs more cost effective.

RECOMMENDATIONS TO IMPROVE OVERSIGHT AND ACCOUNTABILITY

As policymakers monitor 2018 farm bill implementation, they should remain focused on the following goals to ensure accountability in conservation spending and to increase environmental gains per-program-dollar.

- 1. Achieve stronger monitoring and enforcement of conservation compliance standards:** Farmers have little incentive to meet conservation compliance standards when they know they have a 99 percent chance of never being audited. Policymakers should provide a dedicated, mandatory funding stream to the USDA to boost enforcement capabilities. The NRCS should also increase its spot-check percentage from around 1 percent of farms in each state to 5 percent, which was previously required.¹⁰ While this requires an investment upfront, it may produce long-term savings, since it allows subsidies paid to noncompliant producers to be returned to taxpayers and reduces downstream taxpayer liabilities that result from subsidizing harmful practices.
- 2. Harness data to measure the impact of conservation practices:** Without accurate information on the environmental impact of conservation practices, it is impossible to ensure taxpayers get a good return on investment for conservation funding. Policymakers should build on the momentum from the 2018 farm bill and the growing public appetite for precision agriculture to better harness data on conservation outcomes. Following the release of the USDA's report to Congress on data within the next year, steps should be taken to create a secure data warehouse within the agency that can be accessed by researchers and used to identify effective conservation practices.
- 3. Utilize better tools for the USDA to measure and evaluate conservation programs:** The House-passed version of the 2018 farm bill included critical provisions that would have directed the USDA to use up to 1 percent of funding available for new enrollment of farm bill conservation programs to support enhanced measurement and evaluation. It also would have strengthened accountability by requiring the USDA to issue an annual progress report to Congress and the general public. Unfortunately, this provision was removed from the final bill in conference committee. Policymakers should look to Reps. John Faso (R-N.Y.) and Marcia Fudge's (D-Ohio) Healthy Fields

and Farm Economies Act as a bipartisan roadmap to empower the USDA to make smarter conservation investments.¹¹

- 4. Rethink and rein in the subsidy system:** No discussion of agricultural conservation investment is complete without examining the subsidy system that distorts planting decisions and creates perverse incentives for landowners. Even with strict conservation compliance standards in place, federal subsidies for crop insurance, "shallow loss" programs like ARC and PLC, and the growing bailout payments for farmers impacted by the trade war all incentivize overproduction. This leads producers to plant on marginal or highly sensitive lands and expands the use of environmentally damaging fertilizers. Policymakers should strive to enact a more market-based farm-support system that protects farmers from deep and catastrophic losses, rather than shielding them from shallow losses or minor dips in revenue.

CONCLUSION

Through the farm bill, taxpayers spend billions on programs designed to protect vital public goods like natural wetlands and healthy air and soil. However, without better information and effective oversight mechanisms, we cannot be sure these expenditures provide valuable returns to the public. In a budget-constrained environment and with the national deficit approaching \$1 trillion, policymakers must find ways to stretch precious dollars further and ensure that taxpayers' investments generate the best possible environmental outcomes. This will require Republicans and Democrats to work together.

Contrary to popular belief, effective conservation programs need not violate producers' property rights or increase the size and scope of government. Instead, by strengthening oversight and accountability measures and harnessing market forces, policymakers can simultaneously improve the effectiveness of our conservation programs while also reducing taxpayer liability.

ABOUT THE AUTHOR

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ENDNOTES

1. Economic Research Service, "Agriculture Improvement Act of 2018: Highlights and Implications," U.S. Dept. of Agriculture, Aug. 20, 2019. <https://www.ers.usda.gov/agriculture-improvement-act-of-2018-highlights-and-implications>.
2. Eli Lehrer, "Conservation Compliance: The Obscure Environmental Provision Key to Protecting Taxpayers and Privatizing Crop Insurance," *R Street Policy Study* No. 5, October 2012. <https://www.rstreet.org/wp-content/uploads/2018/04/RSTREET5-1.pdf>.
3. Megan Stubbs, *Agricultural Conservation in the 2018 Farm Bill*, Congressional Research Service, April 18, 2019. <https://fas.org/sgp/crs/misc/R45698.pdf>.
4. Ibid.
5. See, e.g., "Enforcement of Conservation Compliance for Highly Erodible Lands," National Sustainable Agriculture Coalition, June 5, 2018. <http://sustainableagriculture.net/wp-content/uploads/2018/06/CFRA-NSAC-Conservation-compliance-special-report.pdf>.
6. See, e.g., Max Schnepf, "Conservation Compliance: A Retrospective...and Look Ahead," Environmental Working Group, 2012. http://static.ewg.org/pdf/conservation_comp_maxs.pdf?_ga=1.180451047.1373537909.1481568681.
7. Office of Inspector General, "USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations—Interim Report," U.S. Dept. of Agriculture, March 2016. https://www.usda.gov/oig/webdocs/50601-0005-31_Interim.pdf.
8. "Fiscal Benefits of Strengthening Agricultural Conservation Compliance Standards," Taxpayers for Common Sense, March 2018. <https://www.taxpayer.net/wp-content/uploads/2018/03/Report-Fiscal-benefits-of-strengthening-conservation-compliance.pdf>.
9. Annie Shapiro, "Farm Bill Conference Report Takes First Step to Harness Agriculture Data and Secures Conservation Wins," AGree, Dec. 12, 2018. <http://foodandagpolicy.org/sites/default/files/AGree%20Press%20Release%20on%202018%20Farm%20Bill%20Conference%20Report.pdf>.
10. "Enforcement of Conservation Compliance for Highly Erodible Lands." <http://sustainableagriculture.net/wp-content/uploads/2018/06/CFRA-NSAC-Conservation-compliance-special-report.pdf>.
11. <https://www.congress.gov/bill/115th-congress/house-bill/4751>.