

2008 Farm Bill: Fifty Provisions to Know about Rural Development, Conservation, Food, and Energy

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Sources of Information

1. 2008 Farm Bill provisions –
<http://agriculture.senate.gov/>
2. USDA – Economic Research Service, side-by-side comparison of farm bill provisions
<http://www.ers.usda.gov/FarmBill/2008/Overview.htm>

50 Provisions of the 2008 Farm Bill Kansas Lawyers Should Know

The 2008 Farm Bill – formally the Food, Conservation, and Energy Act of 2008 – had a long and difficult road to passage. But after final enrollment, a second Presidential veto and another Congressional over-ride vote to deal with the missing trade title issue – the bill will become law sometime in June. The bill involves fifteen titles, hundreds provisions, and over 630 pages of legislative text. It will shape the economic and political structure of agriculture and rural America for many years. Every section of the bill is important to someone, but this discussion identifies fifty provisions with particular importance for rural attorneys, focused in particular on the issues of rural development, conservation, food and energy.

A. Conservation

1. Conservation Stewardship Program - \$1.1 billion in new funding, \$12 billion over 10 years, enroll 115 acres by 2017, program streamlined and available nationwide [§ 2301]
2. Increased Funding for Environmental Quality Incentives Program (EQIP) – additional \$3.4 billion over 10 years [2501 et seq.]

3. Wetland Reserve Program (WRP) – \$1.3 billion in new and restored funding, to add 1.2 million acres over 5 years [§ 2201 et seq.]
4. Wildlife Habitat, Grassland Reserve and Farmland Protection – the bill includes new funding for a variety of programs to assist landowners protect fragile and unique land resources [§ § 2602, 2401, 2403]

5. Conservation Reserve Program transition incentives for beginning farmers - \$25 million over 10 years to encourage owners of CRP land coming back into production to rent or sell to beginning farmers [§ 2111]

6. Cooperative Conservation Partnerships

Initiative – new mandatory requirement 6% of all USDA working lands conservation funding be delivered through state and local partnerships, including NGO's, focus on local and innovative solutions to agro-environmental problems, 90% of funding allocated by states
[§ 2707]

7. Report on long-term nature of conservation easements – requires USDA prepare comprehensive study for Congress by January 2010 on the long-term nature and effects of using conservation easements [§ 2210]
8. Two year extension of tax incentives for conservation donations – expanded tax treatment under § 170 [§ 15302] see <http://www.lta.org/publicpolicy/index.html>

9. Environmental Services Markets – There is much attention to expanding environmental services for which landowners may be paid. One example is the market for carbon credits relating to farm practices. The law requires the Secretary to develop technical guidelines and protocols for being able to determine how to report, measure and verify environmental services, such as carbon sequestration from agriculture [§ 2709]

B. Credit

10. Improves Beginning Farmer down payment loans – provides lower interest rates, better terms, and higher maximums for first-time land purchases, to increase number of borrowers using program [§ 5004]

11. Beginning Farmer Development Program – provides \$75 million over 4 years for USDA to establish competitive grants for education, extension, outreach, and assistance for new farming opportunities [7410]

12. Beginning Farmers Individual Development Accounts Pilot – new 15 state pilot program to promote matched savings accounts, proceeds to be used for capital expenditures for farms, including land acquisition [§ 5301]
13. Beginning Farmers contract land sales – makes permanent and nation-wide the USDA pilot program to provide federal loan guarantees for private land contract sales [§ 5005]

14. Conservation loan guarantees – revises conservation loan program and provides priorities for beginning farmers [§ 5002]

C. Rural Development

15. Rural Broadband Access – improves program for expanding access to broadband in rural areas to assist businesses, farms and families, simplifies applications [§ 6022]

16. Micro-enterprise assistance – provides 415 million to create new rural micro-enterprise assistance program for low and moderate income individuals to establish new small businesses in rural areas, long-terms loans of less than \$50,000 [§ 6022] The program is patterned after the Center for Rural Affair’s work in Nebraska and could play a critical role in supporting rural based food entrepreneurs.

17. Studies of Rural Needs – the bill authorizes several studies of the special needs of rural areas including a study on rural power generation, § 6113 and a study of rural transportation needs, § 6206

18. New definition of “rural” and new rural coordinator – the bill makes significant changes in what is defined as “rural” for purposes of program eligibility, § 6018, and creates a new position within the agency of a coordinator for chronically underserved rural areas, § 14218.

19. New Era Rural Technology Program - the bill includes a new research and education program designed to support efforts of community colleges to create job training programs related to topics such as biofuels and wind energy. § 7137.

20. Regional Rural Development Collaboration – a major new initiative of the farm bill is designed to support the development of regional rural development investment initiatives, with funding for planning and for re-granting in approved regions. § 6028

D. Forestry

21. Community Forestry and Open Space Conservation – provides matching funds for county and local governments and non-profits to purchase private forests threatened by development [§ 8003]
22. Healthy Forest Reserve – provides for long-term conservation easements on privately owned working forests [§ 8205]

E. Energy

23. Biomass – creates and funds new program to encourage farmers to plant and grow biomass crops in area around biomass facilities, provides matching payments for biomass delivered to facilities [§ 9001 and § 9011]

24. Funding for popular § 9006 energy grants and loans – provides \$250 million in mandatory funding for grants and loan guarantees for renewable energy and energy efficiency systems for farmers and ranchers

[§ 0001

25. Rural Energy for America – the bill authorizes the Secretary to create a program to assist farmers, REC’s, local governments and others to develop programs for energy conservation and production. It authorizes over \$250 million to support this program over four years. § 9007

26. Comprehensive Study on Biofuels – In recent months US policy to use of food crops for biofuels has come under increasing scrutiny and criticism from officials in other countries concerned about the impact US policy is having on world food supplies and prices. The bill requires the involved US agencies to work with the National Academy of Sciences to report to Congress within 6 months on the impact of US policies [§ 15322]

27. Rural Energy Self Sufficiency – the bill authorizes creation of a new funding source in USDA Rural Development to provide grants to eligible rural communities to access local energy use, to develop ideas to reduce energy consumption from conventional sources and to increase local energy generation from renewable sources. § 9009

28. Wind turbines on CRP land – the expansion of wind energy production is creating new economic opportunities for many rural landowners. The new bill includes a provision which authorizes the Secretary to allow the installation of wind turbines on land under CRP contract, subject to conservation considerations. § 2108.

F. Organic Agriculture

29. Cost Sharing - The bill provides \$22 million over five years for cost-share assistance to farmers to offset the costs of becoming USDA certified organic. First authorized in 2002 farm bill at \$5 million.

[Section 10301]

30. Organic Agriculture Research and Extension Initiative - The bill provides \$78 million in mandatory funds for competitive grants to producers and research institutions to develop needed organic production and marketing information. [Section 7206]

31. Organic Conversion - Producers are eligible for cost-sharing and incentive payments in addition to technical assistance, as a subset of EQIP. Funding is limited to \$20,000 per year with a cap of \$80,000 per producer. It is too early to know what effect this might have. EQIP cost-sharing for organic conversion was included in the 2002 farm bill but little used. Local administration of EQIP, demand for EQIP funds, and the small number of producers, make organic conversion funding a low priority.
[Section 2503]

32. Crop Insurance - Organic producers currently pay a surcharge of five percent, so few producers participate in crop insurance. The farm bill sets in motion processes for USDA that should have the effect of ending the current discriminatory treatment for organic crops. [Section 12001]

33. Organic Production and Market Data Initiatives - The Senate bill provides \$5 million in mandatory funding to USDA to develop segregated data and price and yield information for the organic industry. This information is critical for the Risk Management Agency and USDA to develop suitable crop insurance products for the organic industry. [Section 10302]

34. Organics and Conservation - The Senate increases Conservation Security Program (CSP) funding by \$2 billion over five years. Language was added to better integrate organic practices into the CSP by giving organic farming enhanced consideration in the application process. A “crosswalk” is created between organic certification and CSP applications to allow easier access for organic farmers applying to CSP, by saving applicants from having to apply separately. [§ 2301 – see § 1238h(h)]

35. Increased funding for the National Organic Program- One major limitation on the organic program has been a lack of funding for USDA to develop organic initiatives. Section 10303 more than doubles current funding of \$5 million per year, and provides \$6.5 million in 2009, \$8 million in 2010, \$9.5 million in 2011 and \$11 million in 2012.

36. Organic products eligible for export promotion - One important program to expand export markets for American farm products is the Market Access Program or MAP. Both the Senate and House farm bills increase the funding for MAP and specifically make organic agricultural commodities eligible for MAP promotions. [Section 3102]

G. Direct Marketing and Local Foods

37. Farmers Market Promotion – The bill provides \$33 million over four years for grants to local governments, non-profits and other organizers, to expand farmers’ markets, roadside stands, community-supported agriculture (CSAs), and other direct producer-consumer marketing. The program was authorized in 2002 but funded for \$1 million only the last two years. USDA was able to fund less than 5% of applications. [§ 10106]

38. Expand Senior's Farmers Market Nutrition Coupons - federal nutrition assistance programs, like the Senior Farmers' Market Nutrition Program (SFMNP), provide coupons to low-income seniors for purchasing eligible foods at farmers' markets, roadside stands, and CSAs. The farm bill increased annual funding for this program by more than 35 percent, to \$20.6 million. [§ 4231]

39. Improve EBT access at farmers markets - A challenge for low-income families is using electronic benefit transfer cards at farmers markets. Many markets do not have the proper infrastructure to allow for EBT purchases. The bill modified the FMPP to require the Secretary of Agriculture to use at least 10 percent of program funding to support the use of EBT systems at farmers' markets. The technology will help all market patrons who want to use credit or debit cards.

40. Distribution of Locally Grown Foods -
USDA Rural Development value-added
development grants and Business and Industry
Loans will be available to process and
distribute locally grown food. [Section 6015]
Loan recipients, often referred to as
aggregators, can use money to work with
retailers to get more locally grown fruits and
vegetables into underserved communities.

41. Appropriate Technology Transfer for Rural Areas - Section 6016 authorizes \$5 million for each year over the life of the farm bill for ATTRA. This program provides needed technical assistance to farmers seeking information on farmers markets, organics, renewable energy and other sustainable farming practices.

42. Interstate sales of state inspected meat - The bill allows meat products produced at state inspected facilities to be sold in interstate commerce. The provision, a key priority of National Association of State Departments of Agriculture (NASDA), is controversial to the meat industry and some food safety officials. Passage could open new markets for organic livestock farms. [Section 11015]

43. Specialty crop block grants - A major initiative for specialty crops - e.g. fruits and vegetables, through increased purchases for nutrition and feeding programs. One key initiative is to significantly increase state block grants to promote specialty crops. History in Iowa shows significant funds will be used to support organic agriculture.

[Section 10109, provides over \$250 million over five years for block grants.

44. Protecting Socially Disadvantaged Farmers – most USDA programs have built in provisions to insure some of the funding and other opportunities are made available to socially disadvantaged and limited resource producers. The USDA has been haunted by a legacy of discrimination in the delivery of many of its programs to minority, women and low income citizens (see e.g. *Pigford*). The 2008 farm bill includes an extensive set of provisions designed to protect the interests of these producers. See §§ 14001 – 14013, including a new requirement of a receipt for the denial of services by the FSA, NRCS and RD.

H. Expand Access to Healthy Foods

45. Purchasing local food by schools - The bill eliminates the federal prohibition on local preferences in procuring food in the National School Lunch Program. School districts wanting to use locally-grown agricultural products, had been prohibited from geographic preferences. The bill eliminates the prohibition and provides communities flexibility to structure school lunch procurement rules to encourage buying local products. [§ 4302]

46. Value-Added Product Grants to local foods - the bill modifies a popular Rural Development program to provide grants to farmers and farm organizations to facilitate aggregation and marketing locally grown foods. The Secretary is required to reserve 10 percent of funds each fiscal year for local and regional supply networks. The program can be used for feasibility studies, business planning and for working capital and support staff. [§ 6202]

47. Funding for Community Food Projects (CFP)
- the bill includes \$5 million a year for competitive grants to eligible nonprofits to improve community access to food through innovative projects such as farm-to-cafeteria programs, school-to-garden programs, and urban greenhouse initiatives, to help strengthen the links among farmers, consumers, students, and the local community. [§ 4402]

48. Healthy Urban Food Enterprise Development Center - the bill provides \$3 million to establish a center for research and technical assistance to increase access to healthy affordable foods, including locally-produced agricultural products in underserved communities. The Center may provide sub-grants to establish or assist enterprises that process, distribute, aggregate, store and market healthy affordable foods. [§ 4402]

49. Expand Fresh Fruit and Vegetable program - in 2002 Sen. Harkin created the Fresh Fruit and Vegetable Program, to provide free fresh fruits and vegetables to low-income children in elementary schools. The farm bill invests more than \$1 billion in the program, with annual funding of \$150 million indexed to inflation. The funding will serve free, fresh nutritious fruits and vegetables to 3 million low-income children nationwide, including more than 45,000 children in Iowa. [§ 4304]

50. Study on food deserts - the bill authorizes the Secretary to spend up to \$500,00 to conduct a study on the existence of food deserts and their impact on the limited access to affordable and nutritious food, particularly in predominantly low-income neighborhoods and communities.
[§ 7527]

The Future

- A number of important opportunities are available to influence federal agricultural policy to support healthy foods and lifestyles:
- Implementation of the 2008 farm bill changes,
 - Election of a new administration supportive of addressing obesity problems and food access
 - Reauthorization of the Childhood Nutrition Act in 2009 with Sen. Harkin leading
 - Support for innovative state and local food projects