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# Expiration and Extension of the 2008 Farm Bill

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## Summary

Farm bills, like many other pieces of legislation, have become more complicated and politically sensitive. They are taking longer to enact than in previous decades. Legislative delays have caused the past two farm bills (the 2002 and 2008 farm bills) to expire for short periods, and to be extended for months or a year while a new farm bill was developed.

The 2008 farm bill (the Food, Conservation, and Energy Act of 2008, P.L. 110-246) expired twice; the first time was from October 1, 2012 through January 1, 2013, and the second time was from October 1, 2013, through February 6, 2014. Some programs ceased new operations, while others were able to continue. However, neither expiration lasted long enough for the farm commodity programs to revert to an outdated “permanent law” that would have raised support prices and increased federal outlays.

On January 2, 2013, the 2008 farm bill was extended for one year (P.L. 112-240). All provisions that were in effect on September 30, 2012, were extended through FY2013 or for the 2013 crop year. On February 7, 2014, the Agricultural Act of 2014 (2014 farm bill; P.L. 113-79) was enacted to cover the 2014-2018 crop years and other programs through September 30, 2018.

Farm bill expiration does not affect all programs equally. For example:

- An appropriations act or a continuing resolution can continue some farm bill programs even though a program’s authority has expired. Programs using *discretionary* funding—and programs using *appropriated mandatory* funding like the Supplemental Nutrition Assistance Program (SNAP) account—can be continued via appropriations action.
- Most farm bill programs with *mandatory* funding, with the exception of SNAP, generally cease new operations when they expire (e.g., the Conservation Reserve Program (CRP), Market Assistance Program, and Specialty Crop Block Grants). However, existing contracts under prior-year authority can continue to be paid.
- The mandatory farm commodity programs of the 2008 farm bill not only ended with the 2013 crop, but without congressional action an outdated and expensive “permanent law” from the 1938 and 1949 farm bills stood ready to be implemented to cover the 2014 crop, beginning with dairy, on January 1, 2014.
- Crop insurance is an example of a permanently authorized and funded mandatory program that does not expire.
- Lastly, a subset of mandatory conservation programs had been extended through FY2014 prior to expiration and did not expire like other programs (e.g., the Environmental Quality Incentives Program, EQIP).

The one-year extension of the 2008 farm bill was budget-neutral. Congress extended those programs using an existing budget baseline. However, a subset of farm bill programs did not continue because they did not have a baseline. To be continued, those programs needed budgetary offsets. Likewise, budget reductions targeted in the 2014 farm bill were not achieved in the extension.

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## Background on Extension and Expiration

Congress periodically establishes agricultural and food policy in a multiyear omnibus farm bill.<sup>1</sup> Provisions in the Food, Conservation, and Energy Act of 2008 (2008 farm bill; P.L. 110-246) generally expired beginning on September 30, 2012. But the American Taxpayer Relief Act (P.L. 112-240; January 2, 2013) extended all 2008 farm bill provisions that were in effect on September 30, 2012, for one additional year—that is, for FY2013 and the 2013 crop year.<sup>2</sup>

Parts of the 2008 farm bill expired again in October 2013 and, technically, implementation of an outdated permanent law would have been imminent for dairy in January 2014, had it not been for the stated resolve to complete the conference negotiations.<sup>3</sup> After the passage of the Agricultural Act of 2014 (2014 farm bill; P.L. 113-79) on February 7, 2014, expiration will not be an issue again until 2018.

Expiration of the 2008 farm bill was an issue because the 112<sup>th</sup> Congress made limited progress on a farm bill in 2012. The Senate passed S. 3240, but the House committee-reported bill (H.R. 6083) never reached the floor. Concern over budgetary reductions complicated the bills' progress. This impasse led to the one-year extension in P.L. 112-240.

Similar difficulties faced the farm bill in 2013. The Senate passed S. 954 on June 10, 2013. The House rejected a committee-reported bill (H.R. 1947) on June 20, mostly over disagreements about the nutrition title. The House passed a “farm-only” bill (H.R. 2642) on July 11 without the nutrition title, and on September 19 passed a stand-alone nutrition bill (H.R. 3102). The House subsequently adopted a resolution (H.Res. 361) that combined the texts of H.R. 2642 and H.R. 3102 into one bill (H.R. 2642) for purposes of a conference committee with the Senate. The final 2014 farm bill was not conferenced and enacted until February 7, 2014.<sup>4</sup>

What happens if Congress does not enact a new farm bill? Does the fiscal year, calendar year, or crop year matter? Will some programs cease to operate? What is “permanent law” and what does it affect? Do the Supplemental Nutrition Assistance Program (SNAP) and crop insurance benefits end? This report answers these and other questions about the expiration of a farm bill.

## Funding Sources Affect Consequences of Expiration

Farm bills include a wide range of authorities, some of which are authorized and funded in the farm bill (mandatory spending), while others are only authorized in the farm bill for their scope but wait for appropriations acts to determine their funding (discretionary spending). These differences affect how the farm bill is constructed and funded under normal circumstances. They also affect what happens when the farm bill expires or when annual appropriations are delayed.

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<sup>1</sup> An omnibus bill addresses several areas of law that previously were treated separately. The 2014 farm bill has 12 titles (or topics); e.g., the farm commodity subsidies were in the original 1933 farm bill (Title I); nutrition assistance programs have been in the farm bill since 1973 (Title IV); bioenergy programs became a title in 2002 (Title IX). See CRS Report RS22131, *What Is the Farm Bill?*

<sup>2</sup> A crop year refers to the year in which a commodity is harvested. The extension applied to covered commodities harvested in 2013. The first commodity to be affected by the 2014 crop year is dairy, beginning on January 1, 2014.

<sup>3</sup> *Farm Futures*, “Farm Bill Process Far From Over,” January 6, 2014, at <http://farmfutures.com/story-farm-bill-process-far-0-106882>.

<sup>4</sup> For a summary of the law, see CRS Report R43076, *The 2014 Farm Bill (P.L. 113-79): Summary and Side-by-Side*.

## Discretionary Funding

Without a new farm bill or extension, it may appear that many programs would not have statutory authority to receive appropriations (an “authorization of appropriations”),<sup>5</sup> but appropriations law allows the continued operation of a program where only appropriations action has occurred.

The Government Accountability Office (GAO) says there is no constitutional or statutory requirement for an appropriation to have a prior authorization.<sup>6</sup> Congress distinguishes between authorizations and appropriations, but this is a congressional construct.<sup>7</sup> GAO says that “the existence of a statute imposing substantive functions upon an agency that require funding for their performance is itself sufficient legal authorization for the necessary appropriations.”<sup>8</sup> For expired authorizations, GAO says that “appropriation of funds for a program whose funding authorization has expired ... provides sufficient legal basis to continue the program.”<sup>9</sup>

Discretionary spending is authorized throughout the farm bill. Discretionary programs include most rural development, credit, research, and education programs, and some conservation and nutrition programs.<sup>10</sup> The Supplemental Nutrition Assistance Program (SNAP)—a mandatory program—also requires an appropriation. Some smaller research, bioenergy, and rural development programs receive both mandatory and discretionary funding, but most is usually discretionary.<sup>11</sup> Most agency operations are financed with discretionary funds.

The Congressional Budget Office (CBO) compiles a list of programs with expired authorizations of appropriations. Eighteen agricultural programs received more than \$37 million in FY2012 under expired authorizations of appropriations.<sup>12</sup> More than 100 farm bill programs briefly lost their authorization for appropriations at the end of FY2012 and until the one-year extension was passed on January 1, 2013; they received \$2.3 billion in FY2012.<sup>13</sup> Farm bill discretionary programs generally were continued under the FY2013 appropriation (P.L. 113-6), the continuing resolution for FY2014 (P.L. 113-46), and the full-year FY2014 appropriation (P.L. 113-76).

<sup>5</sup> An “authorization of appropriations” is a recommendation to the appropriations committee. It is not binding and has no bearing on budget enforcement for an authorizing bill. Appropriators may choose to not fund a program, or may choose to exceed the authorization. Authorization amounts may be specific or indefinite (“such sums as necessary”).

<sup>6</sup> Government Accountability Office, Office of the General Counsel, *Principles of Federal Appropriations Law* (also known as the *GAO Red Book*), Volume I (3d ed. 2004), p. 2-41, at <http://www.gao.gov/legal/redbook/redbook.html>.

<sup>7</sup> CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*.

<sup>8</sup> *GAO Red Book*, Volume I, p. 2-41.

<sup>9</sup> *Ibid.*, p. 2-69.

<sup>10</sup> For nutrition funding, the Commodity Supplemental Food Program and administrative funds for the Emergency Food Assistance Program are discretionary, as are some aspects of other nutrition programs. The Special Supplemental Program for Women, Infants, and Children (WIC) also is discretionary, but is not considered a farm bill program.

<sup>11</sup> For example, see §7311 of P.L. 110-246 having mandatory funding language and an authorization for appropriation: “(h) Funding. (1) In general. Of the funds of the Commodity Credit Corporation, ... \$50,000,000 for each of fiscal years 2009 through 2012 ... (2) Authorization of appropriations. In addition to funds made available under paragraph (1), there is authorized to be appropriated ... \$100,000,000 for each of fiscal years 2008 through 2012.”

<sup>12</sup> Congressional Budget Office, *Unauthorized Appropriations and Expiring Authorizations*, Jan. 2012, at [http://www.cbo.gov/sites/default/files/cbofiles/attachments/01-13-UAEA\\_Appropriations.pdf](http://www.cbo.gov/sites/default/files/cbofiles/attachments/01-13-UAEA_Appropriations.pdf). See Table 1, “Summary of FY2012 Appropriations with Expired Authorizations, by House Authorizing Committee” (or Table 2, or Table 3); and Appendix A, “List of Programs Funded in Fiscal Year 2012 With Expired Authorizations of Appropriations.”

<sup>13</sup> *Ibid.* See Appendix B, “List of Authorizations of Appropriations Expiring During Fiscal Year 2012,” pp. 1-9, and Table 4, “Summary of Authorizations of Appropriations Expiring on or Before September 30, 2012, by House Authorizing Committee” (and Table 5, by Senate Authorizing Committee), pp. 12-13.

## Mandatory Funding

Most farm bill programs with mandatory funding have an expiration date either on their program authority or their funding authority. These include SNAP, farm commodity programs, some conservation programs, agricultural trade programs, and foreign food aid programs. For the most part, without reauthorization or extension, these programs would cease to operate or undertake new activities. Some exceptions to that rule are:

- SNAP, which can be continued via appropriations action even if its authorization for appropriations is expired.
- Crop insurance, which is permanently authorized, and
- Some conservation programs, which were extended separately through FY2014.

Mandatory spending is used primarily for the farm commodity programs, crop insurance, nutrition assistance programs, and some conservation and trade programs. Some smaller research, bioenergy, and rural development programs sometimes receive mandatory funding, but their combined share—however important to their own operations—is less than 1% of the total. Nutrition assistance was the largest category in 2013, with 79% of mandatory funding available to write the 2014 farm bill (\$764 billion in the 10-year CBO May 2013 baseline for FY2014-FY2023). Other primary programs with mandatory funding were crop insurance (9%, or \$84 billion), conservation (6%, or \$62 billion), and farm commodity programs (6%, or \$59 billion).<sup>14</sup>

Programs relying on mandatory funding—provided by the farm bill—are perhaps the most at risk for interruption, since their authorization and funding both require farm bill action. Yet, unlike discretionary programs, many farm bill programs with mandatory funding have their own source of funding via the CBO baseline. The enacted extension in January 2013 continued these programs for one additional year until September 30, 2013, or in the case of the farm commodity programs through crop year 2013. The baseline required no cost to extend the farm commodity, conservation, trade, and nutrition programs.<sup>15</sup>

However, another subset of mandatory programs did not have baseline beyond FY2012. Because these programs lacked built-in budgetary resources, offsets were needed to provide future funding.<sup>16</sup> This group included certain agricultural disaster assistance programs, certain conservation programs, specialty crop research and grants, organic research and certification, beginning and socially disadvantaged farmer programs, rural development, bioenergy, and farmers market promotion programs. The extension did not provide these programs any mandatory funding, although many would have been funded in the new farm bill.<sup>17</sup> The extension added an “authorization of appropriation” for discretionary funding in FY2013. But neither the full-year appropriation for FY2013 (P.L. 113-6) nor the continuing resolution for FY2014 (P.L. 113-46) provided any discretionary funding for these programs. Therefore, these programs remained in an expired state throughout 2013 due to a lack of funding.

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<sup>14</sup> See CRS Report R42484, *Budget Issues That Shaped the 2014 Farm Bill*.

<sup>15</sup> However, to extend the Milk Income Loss Contract (MILC) program at the higher support rate that existed in the 2008 farm bill before September 2012, an additional \$110 million of mandatory funding was needed beyond the available baseline. The offset for this authority was a reduction of \$110 million from a nutrition education program.

<sup>16</sup> CRS Report R41433, *Expiring Farm Bill Programs Without a Budget Baseline*.

<sup>17</sup> *Ibid.*

## **Brief History of Farm Bill Formulation, Enactment, and Extension**

Farm bills, like other legislation, have become more complicated and politically sensitive. They are taking longer to enact than in previous decades. For example, the 1973 farm bill was enacted less than two months after being introduced. In contrast, the 2008 farm bill took more than a year from when it was introduced. It was complicated by revenue provisions from other committees of jurisdiction, temporary extensions, and presidential vetoes. The 2014 farm bill took more than 18 months from its introduction.<sup>18</sup> It spanned the 112<sup>th</sup> and 113<sup>th</sup> Congresses; the House rejected a bill, then passed two separate components before procedurally combining them for conference.

Both the 2008 farm bill and the 2002 farm bill had expired for about three months (from October through December in 2012 and 2007, respectively) before extensions were enacted. In each case, the fiscal year began under a continuing resolution before the farm bill extended occurred. The extensions of the 2002 farm bill were for relatively short periods totaling about five months while final negotiations continued. However, the extension of the 2008 farm bill was for a full year since the 112<sup>th</sup> Congress ended and the legislative process needed to restart in the 113<sup>th</sup> Congress. **Appendix A** contains a history of major legislative action on farm bills since 1965.

### **Timelines**

Enacting farm bills after the end of the fiscal year (in which a farm bill expired) is commonplace. In the past 48 years, only the 1973 and 1977 farm bills were enacted before September 30. Farm bills in 1965, 1970, 1981, 1985, and 1990 were enacted by December 31, a few months after the end of the fiscal year but still before spring-planted crops covered by the new law were planted. The most recent four farm bills have been enacted later, in April (1996), May (2002), June (2008), and February (2014), prior to the first crop harvested and covered by the farm bill.

The House and Senate have taken turns as the first chamber to take action on a farm bill. Since 1965, the Senate was first to mark up a farm bill in 1973, 1977, 1981, 2012, and 2013. The House was first to mark up farm bills in 1965, 1970, 1985, 1990, 1995 (and 1996), 2001, and 2007.

Since 1965, 8 out of 12 farm bills were introduced in the first session of a two-year Congress (the odd-numbered year); the exceptions are the 1970, 1990, and 2014 farm bills.<sup>19</sup> The April and July introductions in 2012 for the 2014 farm bill were the latest such dates during a two-year Congress.<sup>20</sup> Until the development of the 2014 farm bill that began in 2012, no farm bill has started in one Congress and needed to be reintroduced in a subsequent Congress. Enactment of the past five farm bills (1990-2014) have been in the second session (the even-numbered year), although except for the 1990 farm bill, some action had occurred in the prior year. Only the 1970 and 1990 farm bills were enacted after an election during a lame-duck Congress.

A nutrition title has been part of each enacted farm bill since and including the 1973 farm bill. Since then, H.R. 2642 (as introduced and initially passed in 2013) has been the only chamber-passed proposal to exclude nutrition programs.

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<sup>18</sup> These dates include span only the official introduction of a bill marked up by committee until the bill was signed by the President. They do not include background hearings before committee markup, which would extend the time line.

<sup>19</sup> Technically, the 2014 farm bill (H.R. 2642) was introduced in 2013 (the first session of the 113<sup>th</sup> Congress), but many observers consider it a reintroduction of the bills started in 2012 (the second session of the 112<sup>th</sup> Congress).

<sup>20</sup> An exception is the 1970 bill, which was passed in four months and predates the complexity of modern farm bills.



## Extensions

Extensions of a prior farm bill are less common. Since 1970, only the two most recent farm bills—the 2002 farm bill and the 2008 farm bill—have required extensions as their successors were being written and enactment was delayed. The 1965 farm bill was extended for one year, but that extension occurred more than a year before expiration and the reauthorization process began.

The 1996 and 2002 farm bills may appear to have been delayed, but their predecessors did not require extensions. The 1990 farm bill did not need to be extended because its original expiration dates had been extended by amendments in budget reconciliation.<sup>21</sup> The 1996 farm bill did not need to be extended because the 2002 farm bill was enacted earlier than necessary.<sup>22</sup>

Extensions are rare in part because appropriations can continue discretionary programs and the SNAP program. The primary concern regarding extension becomes the expiration of mandatory programs whose funding is included in the farm bill. Most provisions can be continued by temporary extensions. However, those that expire before the end of the farm bill and those that do not have continuing funding in the baseline budget cannot be as easily extended unless offsets are included, which can complicate extension.<sup>23</sup>

When the 2002 farm bill expired, portions (but not all) of it were extended six times for less than a year, beginning in December 2007. The first of those extensions, in December 2007, continued authority for many expiring programs for about three months.<sup>24</sup> Because final agreement was pending, five more month- or week-long extensions were needed. These extended all 2002 farm bill provisions that were in effect on September 30, 2007, with a few exceptions. Dairy and sugar programs were included, as were price support loan programs for wool and mohair. But the direct, counter-cyclical, and marketing loan programs for the 2008 crop year for all other supported commodities specifically were *not* extended (i.e., the primary supported commodities such as feed grains, oilseeds, wheat, rice, cotton, and peanuts).<sup>25</sup> The first extension in December 2007 did not address permanent law, but the second and subsequent extensions in 2008 did extend the 2002 farm bill's suspension of permanent law.

When the 2008 farm bill expired on September 30, 2012, the appropriations continuing resolution (P.L. 112-175, §§101, 111) continued the discretionary programs, SNAP, and certain related nutrition programs. Certain other mandatory programs such as the Market Assistance Program and the Conservation Reserve Program ceased to operate insofar as new activity. The farm commodity programs operated to finish the 2012 crop year, but could not continue if the 2013

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<sup>21</sup> The 1996 farm bill was not pressured by the 1990 farm bill's original expiration date of the 1995 crop year. Budget reconciliation in 1993 extended the farm commodity programs through at least 1996 and in some cases the 1997 crops.

<sup>22</sup> The 1996 farm bill was to be effective until September 30, 2002, and through the 2002 crop year. The 2002 farm bill superseded the last year of the 1996 farm bill by beginning with the 2002 crop year.

<sup>23</sup> An example of a program without budget baseline beyond FY2012 is the Farmers Market Promotion Program. An example of an expired provision is the agriculture disaster assistance program that expired in 2011; it also does not have baseline funding. For more, see CRS Report R41433, *Expiring Farm Bill Programs Without a Budget Baseline*.

<sup>24</sup> P.L. 110-161, §751: "Except as otherwise provided in this Act ... , authorities provided under the Farm Security and Rural Investment Act of 2002 ... (and for mandatory programs at such funding levels), as in effect on September 30, 2007, shall continue, and the Secretary of Agriculture shall carry out the authorities, until March 15, 2008."

<sup>25</sup> Other programs that were *not* included in the extensions were peanut storage payments, agricultural management assistance, community food projects, the rural broadband program, value-added market development grants, federal procurement of biobased products, the biodiesel fuel education program, and the renewable energy systems program.

crop year began without reauthorization or extension. On January 1, 2013, the entire 2008 farm bill, as it existed on September 30, 2012, was extended for the 2013 fiscal year and the 2013 crop year (P.L. 112-240). This avoided reverting to permanent law for the farm commodity programs, which for the dairy programs was imminent. Provisions in the extension continued the dairy price support program until December 31, 2013. Programs that did not have budget authority in the baseline for FY2013 were not provided additional mandatory funding.

The end of 2013 somewhat repeated the situation at the end of 2012. Most of the farm bill expired again on October 1, 2013. Some programs ceased new operations, while others were able to continue under appropriations. From January 1, 2014, until enactment on February 7, 2014, the dairy program technically had reverted to an outdated 1949-era permanent law, though USDA did not implement it since a conference agreement was imminent.<sup>26</sup> For SNAP and the discretionary programs, farm bill expiration coupled with the two-week lapse in FY2014 appropriations (the “government shutdown”) during October 2013 did cause challenges for some operations.

## Farm Commodity Support Programs

The farm commodity price and income support programs raise farm income by making payments and reducing financial risks from uncertain weather and market conditions. Government-set target prices offer payments when market prices fall below support levels.<sup>27</sup>

Originally, the last year for the 2008 farm bill’s commodity programs was the 2012 crop year—that is, crops harvested during 2012 and marketed during the following year. Dairy price supports and export incentives were to expire on December 31, 2012, and the milk income loss contract (MILC) on September 30, 2012.

The one-year extension in the American Taxpayer Relief Act (P.L. 112-240) covered the 2013 crop year for all covered commodities as they were available for the 2012 crop year. The extension continued the farm commodity programs that were in effect in 2012, including the \$5 billion per year “direct payment” payment program, which paid farmers a fixed amount regardless of price or yield conditions. It also extended the dairy price support program until December 31, 2013, and the MILC program until September 30, 2013.<sup>28</sup>

The new effective deadlines for enacting the farm bill were January 1, 2014, for dairy, and when the first supported commodity would have been harvested in the 2014 crop year.

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<sup>26</sup> *Bloomberg News*, “USDA Preparing for New Farm Law as Price Threat Looms,” January 13, 2014, at <http://www.bloomberg.com/news/2014-01-13/usda-preparing-for-new-farm-law-as-price-threat-looms.html>.

<sup>27</sup> For more background, see CRS Report RL34594, *Farm Commodity Programs in the 2008 Farm Bill* and CRS Report R42759, *Farm Safety Net Provisions in a 2013 Farm Bill: S. 954 and H.R. 2642*.

<sup>28</sup> MILC was extended until August 31, 2013, at the 45% support rate that existed under the 2008 farm bill, and at the 34% support rate for the month of September 2013 like the 2008 farm bill envisioned for the last month of its authorization. A budgetary offset was required to extend the Milk Income Loss Contract (MILC) program at the 45% support rate. The 34% payment rate already was in the baseline for FY2013; an additional amount (scored at \$110 million) was needed to increase the payment rate from 34% to 45%. The offset for this mandatory budget authority was a reduction of \$110 million from a nutrition education program (CBO score of the Taxpayer Relief Act of 2012, footnote “e,” at <http://cbo.gov/sites/default/files/cbofiles/attachments/American%20Taxpayer%20Relief%20Act.pdf>).

In December 2013, the House passed a one-month extension of the farm bill that would have extended program authorities until January 31, 2014 (H.R. 3695). The intent was to avoid the uncertainty of permanent law for dairy programs while conference negotiations were completed. The Senate did not act on the extension. From January 1, 2014, until enactment of the 2014 farm bill on February 7, 2014, the dairy program technically had reverted to the outdated 1949-era permanent law, though USDA did not implement it since conference negotiations were proceeding.<sup>29</sup> USDA had indicated that a short-term extension was not necessary if a new farm bill was completed in January, since the rollout of procedures to implement permanent law would take a month or more.<sup>30</sup>

## Possible Reversion to Permanent Law

Farm commodity support policy has evolved over time via successive farm bills that update and supersede prior policies. However, a set of non-expiring provisions remain in statute and are known as “permanent law.” These provisions were enacted primarily in the Agriculture Adjustment Act of 1938 and the Agricultural Act of 1949, as amended by subsequent farm bills. As more modern farm bills evolved away from using the permanent law provisions, they have suspended permanent law, but only for the duration of each farm bill.<sup>31</sup> If no action is taken before expiration, the suspension of permanent law expires, and the essentially mothballed permanent law policies would resume.

The House farm bill (H.R. 2642) that was part of the conference negotiations would have repealed the 1938 and 1949 permanent laws. In their place, the new farm commodity program would have become the permanent law since it would have applied to “the 2014 crop year and each succeeding crop year.” The Senate bill (S. 954) continued the long-standing suspension of permanent law, as did the initial House bill (H.R. 1947). The enacted 2014 farm bill did not repeal permanent law but continued to suspend it.

Proposals to repeal permanent law have been rare, though some have had support (**Appendix B**).

## Description of Permanent Law

The commodity support provisions of the 1938 and 1949 permanent laws are commonly viewed as being so radically different from current policy—and inconsistent with today’s farming practices, marketing system, and international trade agreements—as well as potentially costly to the federal government that Congress is unlikely to let permanent law take effect. Permanent law provides mandatory support for basic crops through nonrecourse loans. It does not authorize more modern support approaches such as loan deficiency payments, counter-cyclical payments, revenue-based payments, decoupled direct payments, or milk income loss contracts.

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<sup>29</sup> *Bloomberg News*, “USDA Preparing for New Farm Law as Price Threat Looms,” January 13, 2014 (footnote 26).

<sup>30</sup> *Washington Post*, “Farm Bill won’t be approved until January,” December 11, 2013, at <http://www.washingtonpost.com/blogs/post-politics/wp/2013/12/11/farm-bill-wont-be-approved-until-january/>.

<sup>31</sup> For the 2008 farm bill (P.L. 110-246), see §1602: “(a) The following provisions of the Agricultural Adjustment Act of 1938 ... [and] the Agricultural Act of 1949 shall not be applicable to the 2008 through 2012 crops ... ” The American Taxpayer Relief Act extended the suspensions that were effective for the 2012 crop year to the 2013 crop year. For the 2014 farm bill, similar suspension language is in P.L. 113-79, §1602, for the 2014 through 2018 crops.

### Dairy Policy and Permanent Law

Dairy is discussed extensively when farm bill expiration arises, not only because it would be the first commodity to revert to permanent law, but also because of the scale of market effects and costs of intervention that could result.

Milk is supported in permanent law by compelling USDA to purchase manufactured dairy products (nonfat dry milk, cheddar cheese, and butter) in sufficient quantities to raise demand in order to raise the farm price of milk to the desired support level (the Dairy Product Price Support Program). Under permanent law, those purchase prices (\$37.20/cwt., based on November 2013 data) would have been almost four times as high as the 2008 farm bill's effective support price (\$9.90/cwt.) and, after adjusting for grades of milk, were well above market prices (\$21.30/cwt. for all milk in Nov. 2013; **Table I**). The White House indicated that these price differentials could make permanent law cost \$12 billion per year for dairy (White House, *The Economic Importance of Passing a Comprehensive Food, Farm, And Jobs Bill*, Nov. 2013, p. 26, at [http://www.whitehouse.gov/sites/default/files/docs/farm\\_bill\\_report\\_11202013.pdf](http://www.whitehouse.gov/sites/default/files/docs/farm_bill_report_11202013.pdf)).

The high purchase price mandated under permanent law could result in the government outbidding commercial markets for a sizeable share of processor output, and that subsequently could raise the retail price of milk. In December 2012, the possibility that milk prices eventually might double became known as the “dairy cliff.”

However, USDA might need time to implement new regulations, and the effect could take weeks or months (Andrew M. Novakovic, “Is Reverting to the 1949 Agricultural Act Really a Possibility for Dairy Price Supports?,” Program on Dairy Markets and Policy (Cornell), Dec. 2013, at <http://www.idfa.org/files/resources/pdmp-113-04-1949.pdf>).

Nonetheless, without instructions from Congress to the contrary, USDA would be required to implement permanent law if the suspension of permanent law in the farm bill expires. Under the one-year extension, the deadline for when permanent law for the dairy price support program would have taken effect was January 1, 2014.

The Milk Income Loss Contract (MILC) Program expired September 30, 2013, and the Dairy Export Incentive Program was extended through December 31, 2013. Another major component of dairy policy, the Federal Milk Marketing Order system, is permanent (CRS Report R42736, *Dairy Policy Proposals in the Next Farm Bill*).

### Government Costs under Permanent Law

A 1985 USDA report analyzed possible economic consequences of permanent law and found significant market intervention and increased government expenditures.<sup>32</sup> Since then, no agency has released a comprehensive budget estimate of reverting to permanent law. Neither the Congressional Budget Office, the U.S. Department of Agriculture (USDA), nor the Food and Agriculture Policy Research Institute (FAPRI)<sup>33</sup> have made official estimates.

However, the White House issued an estimate for dairy in 2013. It suggested that permanent law could cost the government over \$12 billion per year for dairy<sup>34</sup>—compared with projected 2008 farm bill outlays of less than \$100 million per year<sup>35</sup>—and result in milk prices doubling.<sup>36</sup> This is consistent with an extrapolation of the 1985 USDA report using modern prices and production levels that suggests outlays between \$10 billion to \$12.5 billion per year for dairy.<sup>37</sup>

<sup>32</sup> USDA Economic Research Service, *Possible Economic Consequences of Reverting to Permanent Legislation or Eliminating Price and Income Supports*, AER-526, January 1985, pp. 65-67 and pp. 21-35, at <http://naldc.nal.usda.gov/download/CAT85844031/PDF>.

<sup>33</sup> FAPRI was created by Congress to provide university-based research, analysis, and baselines of agricultural policy.

<sup>34</sup> White House, *The Economic Importance of Passing a Comprehensive Food, Farm, And Jobs Bill*, November 2013, p. 26, at [http://www.whitehouse.gov/sites/default/files/docs/farm\\_bill\\_report\\_11202013.pdf](http://www.whitehouse.gov/sites/default/files/docs/farm_bill_report_11202013.pdf).

<sup>35</sup> CBO, “USDA Mandatory Farm Programs—May 2013 Baseline,” at <http://cbo.gov/publication/44202>.

<sup>36</sup> Ibid. See also, for example, the *New York Times*, “With Farm Bill Stalled, Consumers May Face Soaring Milk Prices,” Dec. 20, 2012, at <http://www.nytimes.com/2012/12/21/us/milk-prices-could-double-as-farm-bill-stalls.html>.

<sup>37</sup> The 1985 USDA-ERS report estimated that USDA would need to remove (that is, purchase) 13%-17% of milk production to raise market prices to support levels mandated under permanent law (p. 33). Milk prices nearly would (continued...)

## *Implementing Permanent Law*

Without statutory instructions to the contrary, USDA would be required to implement permanent law if the farm bill expires and its associated suspension of permanent law expires. USDA outlined in 2008 how it would implement permanent law in the absence of a new farm bill.<sup>38</sup>

However, given the nature of permanent law and the differences compared to current law, USDA may need time to develop the processes to implement permanent law and thus may not be ready to implement it immediately upon reversion. Therefore, although permanent law immediately may become the “law of the land” once a farm bill expires and new farm output is ready to be marketed, the practical effect of implementing permanent law may be more gradual.<sup>39</sup> However, the duration of an implementation delay is unknown since it has not occurred, and depends on administrative actions. Counting on a delay of a definite time may have risks.

Nonetheless, USDA Secretary Vilsack indicated in 2013 that it could take at least a month to implement permanent law. He said that a short-term farm bill extension may not be necessary if a new farm bill was enacted during January 2014: “What I have indicated to Senator Stabenow is that it is unlikely, given the complexity of what would be required to implement the [permanent] law, that we would have that in place through the month of January.”<sup>40</sup>

## *Use of Parity Prices and Production Controls*

Support under permanent law uses the concept of “parity prices.” Parity refers to the relationship between prices that farmers receive for their products and prices they pay for inputs. Support prices would be set to guarantee producers 50% to 90% of parity using the 1910-1914 ratio as a benchmark.<sup>41</sup> However, productivity gains and technological advances over the past 100 years have made parity ratios out of touch with (and possibly irrelevant to) modern farming practices.<sup>42</sup>

Under permanent law, nonrecourse loan rates could be as high as 90% of parity, but not less than 50% of parity for corn, wheat, and rice, and 65% of parity for cotton. Milk support would be

(...continued)

have doubled from a market price about \$13/cwt. in 1985 to a support price of \$24/cwt. in 1990. The report estimated that by 1990, removing 270 million cwt. from a market production of 154 billion pounds of milk (17.5% of production) would cost about \$6.5 billion per year (p. 34). An extrapolation of these amounts to 2013 levels could indicate a possible, albeit unofficial, cost range. For example, assuming the same elasticity (responsiveness of the quantities demanded and produced to price changes) and purchase ratios needed to achieve a near doubling of prices, and using the midpoint of the removal ratio from the 1985 study (15%), removing 300 million cwt. out of about 200 billion pounds of 2013 production at a \$37/cwt. support price could cost, unofficially, over \$11 billion per year for dairy.

<sup>38</sup> USDA memorandum, “The Effects of Failure to Enact a New Farm Bill: Permanent Law Support for Commodities and Lapse of Other USDA Programs,” February 29, 2008, at <http://www.usda.gov/documents/fbpaper022908.doc>.

<sup>39</sup> Andrew M. Novakovic, “Is Reverting to the 1949 Agricultural Act Really a Possibility for Dairy Price Supports?,” Program on Dairy Markets and Policy (Cornell), Information Letter 13-04, December 2013, available at <http://www.idfa.org/files/resources/pdmp-il13-04-1949.pdf>.

<sup>40</sup> USDA Secretary Vilsack, unofficial transcript from “Secretary Vilsack Reacts to No Farm Bill,” at *AgriPulse*, “Audio Update for Thursday,” December 12, 2013. See also footnote 3, footnote 26, and footnote 30.

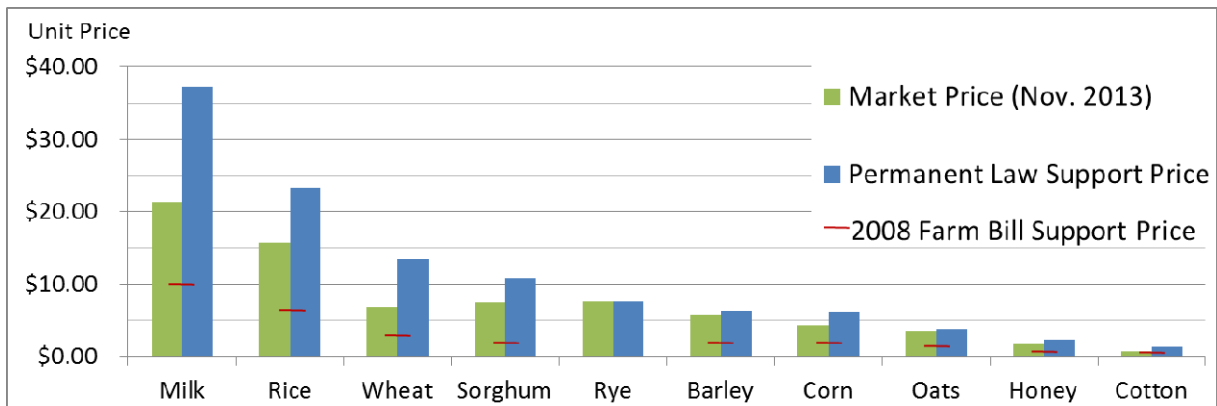
<sup>41</sup> Parity prices are computed under the provisions of Title III §301(a) of the Agricultural Adjustment Act of 1938, as amended by the Agricultural Acts of 1948, 1949, and 1956. Permanent law requires USDA to estimate and publish parity prices regularly. See USDA National Agricultural Statistics Service, *Agricultural Prices*, published monthly at <http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1002>.

<sup>42</sup> USDA-ERS, AER-526 (1985), at pp. 1-2.

between 75% and 90% of parity.<sup>43</sup> Even if support levels were set at the lower end of the range in permanent law (e.g., 50%-75% of parity prices), permanent law supports could have been above 2013 market prices for all supported commodities and resulted in federal greater outlays than under the 2008 farm bill (**Figure 1** and **Table 1**).

For example, in November 2013, the “all milk” market price was \$21.30 per hundredweight (cwt.). At this price, no support was needed under the 2008 farm bill effective support level of \$9.90/cwt.<sup>44</sup> But under permanent law, even this market price was well below the \$37.20/cwt. calculated minimum support level (75% of parity; **Figure 1**).<sup>45</sup>

**Figure 1. Permanent Law Support Prices Compared with the 2008 Farm Bill and 2013 Market Prices**



**Source:** CRS, using USDA-NASS *Agricultural Prices*, November 27, 2013, at <http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1002>.

Under permanent law, nonrecourse loan rates for wheat, rice, cotton, corn, and other feed grains function as farm price supports. Unless commercial markets pay more than the nonrecourse loan prices, farmers could put their crops under loan and forfeit the commodities to USDA when the nine-month loans mature. However, to avoid forfeiture problems, USDA has permanent authority allowing farmers to repay nonrecourse loans for less than the principal (loan rate) plus interest, similar to marketing loans in the modern commodity program.<sup>46</sup>

Additional production controls exist for wheat and cotton. Permanent law requires USDA to announce acreage allotments and marketing quotas during the prior crop year, and to hold producer referenda on implementing marketing quotas.<sup>47</sup> A two-thirds affirmative vote for marketing quotas results in the highest levels of support, with mandatory restrictions on acreage (and the quantity eligible for support).

<sup>43</sup> 7 U.S.C. 1441; 7 U.S.C. 1444; 7 U.S.C. 1444b; 7 U.S.C. 1445; 7 U.S.C. 1446.

<sup>44</sup> A simplification, since the 2008 farm bill does not specify an all-milk farm support price. Rather, support prices for butter, nonfat dry milk, and cheese are set to achieve an indirect support price for farm milk of about \$9.90 per cwt.

<sup>45</sup> The parity support level correlates to a lower grade of milk (Class III or IV) than the “all milk” price, which includes higher grades of fluid milk. The corresponding and higher “all milk” price associated with a \$37/cwt. support price would have been around \$40/cwt. (Novakovic, p. 4).

<sup>46</sup> Added to permanent law in Section 1009 of the Food Security Act of 1985 (7 U.S.C. 1308a).

<sup>47</sup> In anticipation of farm bill expiration and recognizing deadlines required by permanent law if it were implemented, USDA announced that no marketing quotas would be required for wheat or cotton for the 2014 crop year.

**Table 1. Parity Prices and Supports for Farm Products Under Permanent Law**  
(based on USDA data in *Agricultural Prices*, November 2013)

Commodity <sup>a</sup>	Description	Permanent Law Provisions		2008 Farm Bill Support Price <sup>b</sup>	Market Price
		Parity Price	Min. Support Price		
Milk, All, Cwt.	Purchases of milk and butterfat products at 75%-90% of parity.	\$49.60	75% of parity = \$37.20	\$9.90 <sup>c</sup>	\$21.30
Wheat, Bu.	Nonrecourse loans and direct purchases. Acreage allotments. Quotas approved: loan rate=65%-90% of parity. Quotas not approved: loan rate=50% parity. Quotas not announced: loan=75%-90% parity.	\$18.00	75% of parity = \$13.50	\$2.94	\$6.80
Upland cotton, Lb.	Nonrecourse loans and direct purchases. Acreage allotments. Quotas approved: loan rate=65%-90% of parity. Quotas not approved: loan rate=50% parity. Quotas not announced: loan=65%-90% of parity.	\$2.04	65% of parity = \$1.33	\$0.52	\$0.786
Rice, Cwt.	Permanent authority repealed by 1981 farm bill, but restored by 1996 farm bill. Loan=50%-90% of parity.	\$46.80	50% of parity = \$23.40	\$6.50	\$15.70
Corn, Bu.	Nonrecourse loans and direct purchases. Acreage allotments are not authorized. Loan rate = 50%-90% of parity.	\$12.30	50% of parity = \$6.15	\$1.95	\$4.29
Sorghum, Bu.	Support for sorghum, barley, oats, and rye is set based on the feeding value of each in relation to corn.	\$21.50	50% of parity = \$10.75	\$1.95	\$7.42
Barley, Bu.		\$12.60	50% of parity = \$6.30	\$1.95	\$5.84
Oats, Bu.		\$7.51	50% of parity = \$3.76	\$1.39	\$3.43
Rye, Bu.		\$15.20	50% of parity = \$7.60	none	\$7.67 <sup>d</sup>
Honey, Lb.	Purchases of honey at 60%-90% of parity.	\$4.00	60% of parity = \$2.40	\$0.69	\$1.72 <sup>e</sup>

**Source:** Compiled by CRS, using USDA-NASS *Agricultural Prices*, November 27, 2013, at <http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1002>; and based on USDA, "The Effects of Failure to Enact a New Farm Bill: Permanent Law Support for Commodities and Lapse of Other USDA Programs," February 2008 memorandum, at <http://www.usda.gov/documents/fbpaper022908.doc>.

- Permanent law mandates support for the commodities listed in the table. Wool, mohair, and peanuts formerly were included, but supports were repealed. Parity support is not allowed for oilseeds or sugar.
- The 2008 farm bill support prices listed in this table are the marketing loan rates (rather than target prices, which are another form of income support).
- The 2008 farm bill does not specify a support price for milk, but rather support prices for butter, nonfat dry milk, and cheddar cheese at levels to achieve an indirect support price for farm milk of about \$9.90 per cwt.
- The most recent market price for rye is for the 2012 marketing year (*Agricultural Prices*, August 2013).
- The market price for honey is implied from the "price as a percent of parity" published in *Agricultural Prices*.

As implied by **Table 1**, not all commodities in the 2008 (or 2014) farm bill that receive federal support are covered by permanent law. The commodities that would lose mandatory support include soybeans and other oilseeds, peanuts, wool, mohair, sugar beets and sugar cane, dry peas, lentils, and small and large chickpeas. Parity-based supports once existed for wool, mohair, and peanuts, but were repealed. Parity support is not allowed for oilseeds or sugar. A different set of commodities could receive support under discretionary authority given to the Secretary of

Agriculture in the Agricultural Act of 1949 and the CCC Charter Act. But for budgetary and other reasons, such discretionary authority rarely has been used.

## **Legislative Options Under Permanent Law**

Some see the existence of permanent law as an assurance for farm bill supporters that the farm commodity programs will be revisited every time a farm bill expires. Congress is not likely to let a farm bill expire without taking some action eventually, given the undesirable consequences of permanent law. Permanent law, however badly it may be perceived, has stayed on the books, and each new farm bill has suspended it for the duration of the farm bill. Several legislative options exist as a farm bill approaches expiration:

1. Pass a new farm bill (and reinstate the suspension of permanent law).
2. Pass an extension of the current farm bill (with its suspension of permanent law).
3. Do nothing (revert to permanent law).
4. Suspend permanent law (but no new farm bill or extension).
5. Repeal permanent law, and then do one of the following:
  - a. pass a new farm bill (with or without a new permanent law provision);
  - b. pass an extension of the current farm bill;
  - c. do nothing (no new farm bill).

The existence of an outdated permanent law likely forces Congress to take action, because inaction has unacceptable consequences—that is, reverting to a policy that almost everyone would regret. If Congress cannot reach agreement on a new farm bill, then the path of least resistance probably is extending the current farm bill rather than doing nothing and reverting to permanent law—but this, too, requires legislative action, which may pose other challenges.

For those who oppose the farm commodity programs, repealing permanent law would allow Congress to debate farm supports without the permanent law consequence of inaction. But repealing permanent law requires legislative action. Some believe that it is easier to negotiate and pass a new farm bill than to deal with the question of repealing permanent law.

Proposals to repeal permanent law are discussed in **Appendix B**.

## **Crop Insurance**

The federal crop insurance program protects producers against losses in crop revenue or yield through federally subsidized policies purchased by producers. The program is permanently authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.). A reauthorization of the program is not needed in the farm bill. Producers who grow a crop that is ineligible for crop insurance may be eligible for a direct payment under USDA's Noninsured Crop Disaster Assistance Program (NAP). Like crop insurance, NAP has permanent authority under Section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).



## Conservation Programs

In 2013, USDA administered more than 20 agricultural conservation programs.<sup>48</sup> These programs addressed natural resource concerns on private agricultural and forested lands through technical and financial assistance. Many conservation programs had different expiration dates for program and funding authority (**Table 2**). Because of this and appropriations peculiarities, they were affected differently by the 2008 farm bill expiration and extension.

**Table 2. Conservation Program Expiration in the 2008 Farm Bill, as Extended**

<b>Programs Authorized to Receive Mandatory Funding<sup>a</sup></b>	<b>Expiration of Funding Authority</b>
Agricultural Management Assistance	No expiration date <sup>b</sup>
Agricultural Water Enhancement Program	No expiration date
Chesapeake Bay Watershed Program	September 30, 2013
Conservation Reserve Program (CRP)	September 30, 2013
Conservation Stewardship Program (CSP)	September 30, 2014 <sup>c</sup>
Environmental Quality Incentives Program (EQIP)	September 30, 2014 <sup>c</sup>
Farmland Protection Program (FPP)	September 30, 2014 <sup>c</sup>
Grassland Reserve Program (GRP)	September 30, 2013 <sup>d</sup>
Healthy Forest Reserve Program (HFRP)	September 30, 2013 <sup>d</sup>
Watershed Rehabilitation Program	September 30, 2009 <sup>e</sup>
Wetlands Reserve Program (WRP)	September 30, 2013 <sup>d</sup>
Wildlife Habitat Incentives Program (WHIP)	September 30, 2014 <sup>c</sup>
<b>Programs Authorized to Receive Annual Appropriations<sup>f</sup></b>	<b>Expiration of Appropriations Authority</b>
Conservation Operations (including Conservation Technical Assistance)	No expiration date
Conservation of Private Grazing Land	September 30, 2013
Emergency Conservation Program	No expiration date
Emergency Watershed Program	No expiration date
Grassroots Source Water Protection Program	September 30, 2013
Great Lakes Basin Program for soil erosion and sediment control	September 30, 2013
Resource Conservation & Development (RC&D) program	No expiration date
Snow Surveys	No expiration date
Soil Surveys	No expiration date
Watershed and Flood Prevention Operations	No expiration date
Watershed Rehabilitation Program	September 30, 2013
Voluntary Access and Habitat Incentives Program	September 30, 2013

**Source:** CRS.

- a. All of these programs were either reauthorized or created in Title II of the 2008 farm bill. Many were initially authorized by the Food Security Act of 1985 (P.L. 99-198), as amended, or in subsequent farm bills.

<sup>48</sup> For additional information on agricultural conservation programs, see CRS Report R40763, *Agricultural Conservation: A Guide to Programs*.

- b. AMA has permanent mandatory funding authority for \$10 million annually. The 2008 farm bill authorized an annual increase of \$5 million through FY2012. The additional \$5 million was extended through FY2014.
- c. Mandatory funding authority was extended through FY2014 in the FY2012 Agriculture Appropriations Act.
- d. Some mandatory farm bill conservation programs have limited or no baseline funding beyond FY2012. These programs require offset funding or appropriated funding to operate.
- e. The Watershed Rehabilitation Program was authorized to receive \$100 million in mandatory funding in FY2009 to remain available until expended.
- f. Though some discretionary programs have expired authority to receive appropriations, they are not prohibited from receiving annual appropriations. See “Discretionary Funding” for additional explanation. Not all discretionary programs listed here received appropriations in FY2014.

For many conservation programs, program authority is permanent under the Food Security Act of 1985, but the authority to receive mandatory funding expires. The one-year 2008 farm bill extension allowed programs with expired mandatory funding authority to continue until September 30, 2013, if the program had baseline beyond FY2012. The Conservation Reserve Program’s (CRP’s) funding and program authority expired at the end of FY2012 and was extended to the end of FY2013 in the one-year farm bill extension. Because CRP had baseline beyond FY2012, the program continued in FY2013 at the original authorized rate of enrollment—up to 32 million acres at any one time. Without reauthorization or a further extension of mandatory funding and program authority, expired conservation programs were unable to sign new contracts or enroll additional acres after September 30, 2013. All existing contracts and agreements stayed in force for the contract period, and payments continued to be made.

Other expired mandatory conservation programs had limited baseline beyond FY2012 as a result of previous reductions in annual appropriations. For example, the Wetlands Reserve Program (WRP) had authority under the 2008 farm bill to enroll no more than 3.04 million acres before FY2012, and did not include budgetary baseline beyond FY2012. Temporary reductions in FY2011 and FY2012 annual appropriations acts limited USDA’s ability to enroll the authorized level of acres. This resulted in limited baseline being carried forward into FY2013, whereas it would have otherwise been expended by the end of FY2012. With the one-year extension, WRP was able to use this additional baseline to enroll a limited number of acres within its original authorized acreage cap.

A different set of mandatory conservation programs had no baseline beyond FY2012 and therefore required offset funding in order to be continued (e.g., Healthy Forest Reserve Program and Voluntary Public Access and Habitat Incentives Program, VPAHIP).

Other budget enforcement rules and appropriations dynamics affected particular farm bill conservation programs. The Congressional Budget Office used the last year of authorization to determine the 10-year funding baseline for the farm bill reauthorization. Because the FY2012 Agriculture Appropriations Act (P.L. 112-55) reduced spending for select mandatory conservation programs and could have reduced the multi-year budget baseline, it extended the funding authority expiration date for five of these programs, including Agricultural Management Assistance (AMA),<sup>49</sup> the Conservation Stewardship Program (CSP), the Environmental Quality Incentives Program (EQIP), the Farmland Protection Program (FPP), and the Wildlife Habitat Incentives Program (WHIP). This allowed appropriators to score savings in FY2012, but not

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<sup>49</sup> AMA has permanent mandatory funding authority under the Federal Crop Insurance Act, as amended, for \$10 million annually. The 2008 farm bill authorized an annual increase of \$5 million until FY2012. It is this additional \$5 million increase that was extended to FY2014 in the FY2012 agriculture appropriations act.

affect the overall farm bill baseline since program authority for many of the reduced programs was extended to 2014.<sup>50</sup> Thus, even without a reauthorization of the 2008 farm bill, the five programs continued to operate.

Several conservation programs also have permanent program authority, but are authorized to receive discretionary funds appropriated annually. Funding for these programs varies and is based on appropriated levels. Some discretionary programs with authorization to receive appropriations expired at the end of FY2013. Similar to other discretionary programs with expired authority, the program can continue as long as it receives appropriated funding. **Table 2** separates the conservation programs by funding authority type—mandatory and discretionary.

Other farm bill provisions affecting agricultural conservation also expired. The adjusted gross income requirement that limited eligibility for conservation programs,<sup>51</sup> no longer applied to conservation programs during the expiration period. However, compliance activities and regional equity funding requirements continued for programs authorized beyond September 30, 2013.<sup>52</sup>

## SNAP and the Other Nutrition Programs

As discussed earlier, expiration and extension of SNAP (and the related nutrition programs in the 2008 farm bill) hinge on whether funding is available. The nutrition authorizations in the 2008 farm bill expired after September 30, 2012, and were extended another year by P.L. 112-240. They expired again after September 30, 2013, yet operations for the most part were able to continue under the short-term appropriations continuing resolution (P.L. 113-46) and the full-year FY2014 appropriation (P.L. 113-76).

The impact on operations is based on factors related to their authorizing statutes, appropriations actions, and the terms of a farm bill extension (if applicable).<sup>53</sup>

The 2008 farm bill reauthorized a number of domestic food assistance programs, including the Supplemental Nutrition Assistance Program (SNAP, formerly food stamps), the Emergency Supplemental Food Assistance Program (TEFAP), the Commodity Supplemental Food Program (CSFP), the Food Distribution Program on Indian Reservations (FDPIR), the Senior Farmers' Market Nutrition Program, the Bill Emerson Hunger Fellowship Program, Community Food Projects, Nutrition Assistance block grants for American Samoa and Puerto Rico, and Hunger-

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<sup>50</sup> For additional information, see CRS Report R41964, *Agriculture and Related Agencies: FY2012 Appropriations*.

<sup>51</sup> 7 U.S.C. 1308-3a(e).

<sup>52</sup> Conservation compliance is the requirement that, in exchange for certain USDA program benefits, a producer agrees to maintain a minimum level of conservation on highly erodible land and not convert wetlands to crop production. The regional equity provision (16 U.S.C. 3841(d)) mandated that each state receive annually a minimum aggregate amount of funding (\$15 million) for EQIP, WHIP, FPP, and GRP.

<sup>53</sup> For example, the extension in P.L. 112-240 for the most part continued the current law policies for SNAP and the other programs in the SNAP account that had existed on or before September 30, 2012. The exception was that the farm bill extension contained a change to the mandatory funding of the SNAP-related program, the Nutrition Education and Obesity Prevention Grant Program, reducing the program's FY2013 by \$110 million. Also, the extension continued the FY2012 SNAP Employment and Training (E&T) change in mandatory program spending (CHIMP), amending a \$90 million source of mandatory funding to \$79 million.

Free Communities grants.<sup>54</sup> With regard to expiration or extension, these programs fell into one of three categories:

1. Programs that were permanently authorized and funded,
2. Programs that can be continued solely by appropriations action, or
3. Programs or authorities which would have expired without extension or reauthorization.

These categories are elaborated upon below. The majority of farm bill nutrition programs (and the majority of nutrition spending) falls in the second category

## Permanently Authorized and Funded Programs

The 2008 farm bill included an expansion of the Fresh Fruit and Vegetable Program (FFVP, “snack” program), and permanently funded it through Section 32.<sup>55</sup> As a result, the Fresh Fruit and Vegetable Program did not expire.

## Programs Continued via Appropriations Action<sup>56</sup>

Appropriations can allow a program to continue even if the underlying authorization has not been extended. Because many of the nutrition programs are funded by the SNAP account, appropriated funds for SNAP would be enough to extend operations for most of the programs in the Food and Nutrition Act of 2008.<sup>57</sup> As such, the first weeks of FY2014—with an expired farm bill extension and lapsed appropriations—presented unique circumstances (see the text box below).

The farm bill nutrition provisions listed below could have continued to operate if funds were appropriated to the SNAP account, but would have expired in the absence of a SNAP account

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<sup>54</sup> New authorizations were created for the Fresh Fruit and Vegetable Program and some programs within the SNAP program. For an overview of these farm bill programs, please see CRS Report R42353, *Domestic Food Assistance: Summary of Programs*. Note that the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), Special Milk Program, and Special Supplemental Program for Women, Infants, and Children (WIC) programs were not authorized in the farm bill. These programs are authorized by the Russell National School Lunch Act and Child Nutrition Act statutes; these statutes were most recently reauthorized by P.L. 111-296 (the Healthy, Hunger-Free Kids Act of 2010) through FY2015. These child nutrition and WIC programs have typically been in the jurisdiction of the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Education and the Workforce.

<sup>55</sup> Section 32 (of the act of August 24, 1935; 7 U.S.C. 612c) refers to a permanent appropriation of 30% of customs receipts. Section 32 receives about \$8 billion annually, though most of it supports the child nutrition programs. About \$1 billion is available annually to support mostly commodities typically not covered by price support programs (such as meats, poultry, fruits, vegetables, and fish). USDA often donates these surplus commodities to various nutrition assistance programs. See CRS Report RL34081, *Farm and Food Support Under USDA's Section 32 Program*.

<sup>56</sup> This section discusses FY2014, after the farm bill extension expired and the FY2014 CR was enacted. Note that the same continuity of operations was true for FY2013, i.e., the SNAP account and CSFP continued operations based on the provision of funding through the FY2013 continuing resolution (P.L. 112-175) and the subsequent full-year appropriation (P.L. 113-6).

<sup>57</sup> Because of changes made in the 2008 farm bill, many of the programs that would have expired at the end of 2002 farm bill do not have the same status at the close of FY2012. More of those expiring provisions could now be continued with a SNAP appropriation.

appropriation. The CR (P.L. 113-46) and the full-year appropriation (P.L. 113-76) continued funding for the SNAP account, so these programs continued to operate:

- Most aspects of SNAP operations (except for the Healthy Incentives Pilot).
- Purchase and distribution of TEFAP commodities (administrative costs could continue with appropriations for the Commodity Assistance Program account).
- Most aspects of FDPIR (except as listed below).
- Nutrition assistance funding for Puerto Rico, American Samoa, and Commonwealth of Northern Mariana Islands.
- Community Food Projects (administered by the National Institute of Food and Agriculture).

For CSFP, the authority to fund commodity purchases and administrative costs would have expired without an extension of the authority or without an appropriation. However, all program operations continued under CSFP appropriations.

#### **SNAP and the October 2013 Government Shutdown**

During October 2013, there was a period where both the farm bill extension (P.L. 112-240) had expired, and Congress had not provided FY2014 appropriations.<sup>58</sup> SNAP operations did continue during this lapse. This continuity of operations was possible due to USDA's reliance on authority and funds provided in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), cited in the Food and Nutrition Service's contingency plan.<sup>59</sup> Regular operations resumed once a continuing resolution was enacted (P.L. 113-46, enacted October 17, 2013).

**Note:** This ARRA authority ended after October 31, 2013, and, under current law, it would not now be available if there were a lapse in SNAP appropriations.<sup>60</sup>

### **Programs That May Expire Without Reauthorization or Extension**

For the Senior Farmers' Market Nutrition Program (SFMNP), the 2008 farm bill contained both the authority and the funding (a transfer from the Commodity Credit Corporation). Therefore, authority and funding for this program expired after September 30, 2012. Once P.L. 112-240 was enacted, the funding and authority to operate the SFMNP was extended through September 30, 2013. However, it expired again when that extension expired.<sup>61</sup>

The following programs required either (a) an extension of the authority and specific appropriations language or (b) specific appropriations to operate. (No appropriations were made for these programs in FY2013 or FY2014; their authorities were extended by P.L. 112-240 but expired on September 30, 2013. Therefore, these authorities are not operational.)

<sup>58</sup> CRS Report RS20348, *Federal Funding Gaps: A Brief Overview*

<sup>59</sup> USDA Food and Nutrition Service, Contingency Plan, October 1, 2013, <http://www.usda.gov/documents/usda-fns-shutdown-plan.pdf>, p. 2.

<sup>60</sup> See CRS Report R43257, *Background on the Scheduled Reduction to Supplemental Nutrition Assistance Program (SNAP) Benefits*.

<sup>61</sup> It has been said that due to the seasonal nature of the SFMNP, expiration of the farm bill during the fall and/or winter months may not significantly affect this program.

- Hunger-Free Communities grants.
- SNAP pilot projects to evaluate health and nutrition promotion. This authority and funding was used to operate the Healthy Incentives Pilot program. The program could have continued to use existing funding beyond FY2013 but any additional funding would have needed specific authorization and appropriation.
- FDPIR's "Traditionally and Locally Grown Food Fund." Since it was not implemented, only an extension of the authorization with appropriations or a specific appropriation would extend it.
- Nutrition Information and Awareness Pilot Program. This authority was provided in the 2002 farm bill and reauthorized in the 2008 farm bill, but it was inactive.
- Several authorities relating to USDA's purchase and national processing of commodity foods.

## **Trade and Foreign Food Aid Programs**

Several agricultural trade and international food aid programs would have expired without the new farm bill.

The trade programs with mandatory funding that were affected were export credit guarantees (including those for emerging markets), facilities credit guarantees, export market promotion (the Market Access Program and the Foreign Market Development Program), dairy export subsidies, and technical assistance for specialty crops. Without new mandatory program authority, the Commodity Credit Corporation would not have been able to enter into agreements to guarantee U.S. commercial banks against defaults by foreign purchasers of U.S. agricultural commodities, fund grants to trade associations for the promotion of U.S. agricultural exports in foreign markets, or fund activities to address sanitary and phytosanitary (SPS) barriers to U.S. agricultural exports.

The international emergency and non-emergency food aid programs that were affected were the Food for Peace Act, which is reauthorized in the farm bill,<sup>62</sup> and the related agricultural technical assistance (the Farmer-to-Farmer program) in sub-Saharan African and Caribbean countries. Authority to provide commodities and pay transportation costs under the Food for Progress program was affected, as was authority to replenish stocks of the Bill Emerson Humanitarian Trust—a reserve of commodities and cash used to meet unanticipated food aid needs. The authorization of appropriations for the McGovern-Dole International Food for Education and Child Nutrition Program was affected, though the annual appropriation continued to fund this discretionary program.

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<sup>62</sup> The Food for Peace Act was known formerly as the Agricultural Trade Development and Assistance Act (P.L. 480).

# Appendix A. Farm Bill Legislative Action Since 1965

## Table A-1. Major Legislative Action on Farm Bills Since 1965

	House Cmte.	House Passage	Senate Cmte.	Senate Passage	Conference Report Approval			Public Law
					Conf. Report	House Passage	Senate Passage	
<b>1965 farm bill</b>	7/20/1965	8/19/1965	9/7/1965	9/14/1965	10/6/1965	10/8/1965	10/12/1965	11/4/1965
<b>Food and Agricultural Act</b>	H.R. 9811	H.R. 9811	Amdt. to H.R. 9811	Amdt. to H.R. 9811	H.Rept. 89-1123	H.R. 9811	H.R. 9811	P.L. 89-321
Covers 1966-1969 crops	H.Rept. 89-631	Vote of 221-172	S.Rept. 89-687	Vote of 72-22		Vote of 219-150	Voice vote	
<b>Omnibus extension</b>	One-year extension of the 1965 farm bill until 12/31/1970							10/11/1968
Covers 1970 crops								P.L. 90-559
<b>1970 farm bill</b>	7/23/1970	8/5/1970	9/4/1970	9/15/1970	10/9/1970	10/13/1970	11/19/1970	11/30/1970
<b>Agricultural Act of 1970</b>	H.R. 18546	H.R. 18546	Amdt. to H.R. 18546	Amdt. to H.R. 18546	H.Rept. 91-1594	H.R. 18546	H.R. 18546	P.L. 91-524
Covers 1971-1973 crops	H.Rept. 91-1329	Vote of 212-171	S.Rept. 91-1154	Vote of 65-7		Vote of 191-145	Vote of 48-35	
<b>1973 farm bill</b>	6/20/1973	7/19/1973	5/23/1973	6/8/1973	7/31/1973	8/3/1973	7/31/1973	8/10/1973
<b>Agriculture and Consumer Protection Act</b>	H.R. 8860 introduced	Amdt. to S. 1888	S. 1888 introduced	S. 1888	H.Rept. 93-427	S. 1888	S. 1888	P.L. 93-86
Covers 1974-1977 crops or until 6/30/1977	6/27/1973 H.Rept. 93-337	Vote of 226-182	S.Rept. 93-173	Vote 78-9		Vote of 252-151	Vote 85-7	
<b>1977 farm bill</b>	5/13/1977	7/28/1977	1/18/1977	5/24/1977	9/9/1977	9/16/1977	9/9/1977	9/29/1977
<b>Food and Agriculture Act of 1977</b>	H.R. 7171 introduced	Amdt. to S. 275	S. 275 introduced	S. 275	S.Rept. 95-418	S. 275	S. 275	P.L. 95-113
Covers 1978-1981 crops or until 9/30/1981	5/16/1977 H.Rept. 95-348	Vote of 294-114	5/16/1977 S.Rept. 95-180	Vote 69-18		Vote of 283-107	Vote 63-8	
<b>1981 farm bill</b>	5/18/1981	10/22/1981	4/7/1981	9/18/1981	12/9/1981	12/16/1981	12/10/1981	12/22/1981
<b>Agriculture and Food Act of 1981</b>	H.R. 3603 introduced	S. 884	S. 884 introduced	S. 884	H.Rept. 97-377	S. 884	S. 884	P.L. 97-98
Covers 1982-1985 crops or until 9/30/1985	5/19/1981 H.Rept. 97-106	Vote of 192-160	5/27/1981 S.Rept. 97-126	Vote 49-32	12/10/1981 S.Rept. 97-290	Vote of 205-203	Vote 67-32	
<b>1985 farm bill</b>	4/17/1985	10/8/1985	9/30/1985	11/23/1985	12/17/1985	12/18/1985	12/18/1985	12/23/1985
<b>Food Security Act of 1985</b>	H.R. 2100 introduced	H.R. 2100	S. 1714	H.R. 2100	H.Rept. 99-447	H.R. 2100	H.R. 2100	P.L. 99-198
Covers 1986-1990 crops or until 9/30/1990	9/13/1985 H.Rept. 99-271	Vote of 282-141	S.Rept. 99-145	Vote 61-28		Vote of 325-96	Vote 55-38	

	House Cmte.	House Passage	Senate Cmte.	Senate Passage	Conference Report Approval			Public Law
					Conf. Report	House Passage	Senate Passage	
<b>1990 farm bill</b>	2/5/1990	8/1/1990	7/6/1990	7/27/1990	10/22/1990	10/23/1990	10/25/1990	11/28/1990
<b>Food, Agriculture, Conservation, and Trade Act of 1990</b>	H.R. 3950 introduced	H.R. 3950	S. 2830	S. 2830	H.Rept. 101-916	S. 2830	S. 2830	P.L. 101-624
Covers 1991-1995 crops or until 9/30/1995	7/3/1990 H.Rept. 101-569	Vote of 327-91	S.Rept. 101-357	Vote 70-21		Vote of 318-102	Vote 60-36	
<b>Omnibus Budget Act of 1993</b>	Extended dairy until 1996; wheat, feed grains, cotton, rice, peanuts, wool and mohair until 1997; honey until 1998							8/10/1993 P.L. 103-66
<b>1996 farm bill</b>	8/4/1995	—	9/28/1995	—	—	—	—	—
<b>Freedom to Farm Act</b>	H.R. 2195 introduced		unnumbered bill					
	9/20/1995 fails cmte.							
<b>Balanced Budget Act of 1995</b>	10/26/1995	10/26/1995	10/28/1995	10/28/1995	11/16/1995	11/20/1995	11/17/1995	12/6/1995
	H.R. 2491 includes H.R. 2195	H.R. 2491 Vote of 227-203	S. 1357 includes Senate bill	Amdt. to H.R. 2491 Vote 52-47	H.Rept. 104-347	H.R. 2491 Vote of 235-192	H.R. 2491 Vote 52-47	Vetoed
<b>1996 farm bill (cont.)</b>	1/5/1996	2/29/1996	1/26/1996	2/7/1996	3/25/1996	3/29/1996	3/28/1996	4/4/1996
<b>Federal Agriculture Improvement and Reform Act of 1996</b>	H.R. 2854 introduced	H.R. 2854	S. 1541 introduced	S. 1541 Vote 64-32	H.Rept. 104-494	H.R. 2854 Vote of 318-89	H.R. 2854 Vote 74-26	P.L. 104-127
Covers 1996-2002 crops or until 9/30/2002	2/9/1996 H.Rept. 104-462	Vote 29-17		3/12/1996 Amdt. to H.R. 2854 Voice vote				
<b>2002 farm bill</b>	7/26/2001	10/5/2001	11/27/2001	2/13/2002	5/1/2002	5/2/2002	5/8/2002	5/13/2002
<b>Farm Security and Rural Investment Act</b>	H.R. 2646	H.R. 2646	S. 1731	Amdt. to H.R. 2646	H.Rept. 107-424	H.R. 2646	H.R. 2646	P.L. 107-171
Covers 2002-2007 crops or until 9/30/2007	8/2/2001 H.Rept. 107-191	Vote of 291-120	12/7/2001 S.Rept. 107-117	Vote 58-40		Vote of 280-141	Vote 64-35	
<b>Deficit Reduction Act of 2005</b>	Extended the early-expiring MILC program for 2 years from 9/2005 through 8/2007, and two conservation programs (EQIP and Conservation Security Program) until FY2010.							2/8/2006 P.L. 109-171
<b>Short-term extensions</b>	Extended the 2002 farm bill until 3/15/2008, with exceptions. But did not extend the direct and counter-cyclical farm commodity programs. See Division A, §751.							12/26/2007 P.L. 110-161
	Continued extension until 4/18/2008, added extension of suspension of permanent law.							3/14/2008 P.L. 110-196
	Continued extension until 4/25/2008 (P.L. 110-200)							4/18/2008
	Continued extension until 5/2/2008 (P.L. 110-205)							4/25/2008
	Continued extension until 5/16/2008 (P.L. 110-208)							5/2/2008
	Continued extension until 5/23/2008 (P.L. 110-231)							5/18/2008



	House Cmte.	House Passage	Senate Cmte.	Senate Passage	Conference Report Approval			Public Law
					Conf. Report	House Passage	Senate Passage	
<b>2008 farm bill</b>	5/22/2007	7/27/2007	11/2/2007	12/14/2007	5/13/2008	5/14/2008	5/15/2008	5/21/2008
<b>Food, Conservation, and Energy Act of 2008</b>	H.R. 2419 introduced	H.R. 2419	S. 2302	Amdt. to H.R. 2419	H.Rept. 110-627	H.R. 2419	H.R. 2419	Enrolling error omits Title III
	7/23/2007 H.Rept. 110-256	Vote of 231-191	S.Rept. 110-220	Vote 79-14		Vote of 318-106	Vote of 81-15	Vetoed
Covers 2008-2012 crops or until 9/30/2012						5/21/2008 Passed over veto 316-108	5/22/2008 Passed over veto 82-13	5/22/2008 P.L. 110-234
					Re-passed as new bill w/ Title III	5/22/2008 H.R. 6124 Vote of 306-110	6/5/2008 H.R. 6124 Vote of 77-15	6/18/2008 Vetoed
						6/18/2008 Passed over veto 317-109	6/18/2008 Passed over veto 80-14	6/18/2008 P.L. 110-246
<b>FY2012 Agriculture Appropriations Act</b>	Extended five conservation programs until FY2014 (AMA, CSP, EQIP, FPP, and WHIP)							11/18/2011 P.L. 112-55
<b>American Taxpayer Relief Act of 2012</b>	One-year extension of the 2008 farm bill until 9/30/2013 and for the 2013 crop year (dairy price support extended until 12/31/2013, and MILC until 9/30/2013. Did not provide funding for programs without mandatory baseline.							1/2/2013 P.L. 112-240 Title VII
<b>2014 farm bill</b>	7/11/2012	—	4/26/2012	6/21/2012	—	—	—	—
(112 <sup>th</sup> Congress)	H.R. 6083		S. 3240	S. 3240				
	Vote of 35-11		Vote of 16-5	Vote of 64-35				
	9/13/2012		8/28/2012					
	H.Rept. 112-669		S.Rept. 112-203					
(113 <sup>th</sup> Congress)	5/15/2013	6/20/2013	5/14/2013	6/10/2013	1/27/2014	1/29/2014	2/4/2014	2/7/2014
<b>Agricultural Act of 2014</b>	H.R. 1947	H.R. 1947	S. 954	S. 954	H.Rept. 113-333	H.R. 2642	H.R. 2642	P.L. 113-79
	Vote of 36-10	Failed by 195-234	Vote of 15-5	Vote of 66-27		Vote of 251-166	Vote of 68-32	
Covers 2014-2018 crops or until 9/30/2018	5/29/2013	7/11/2013	9/4/2013					
	H.Rept. 113-92	H.R. 2642	S.Rept. 113-88					
		Vote of 216-208						
		9/19/2013						
		H.R. 3102						
		Vote of 217-210						
		9/28/2013						
		H.Res. 361						
		combines House bills						

Source: CRS. Includes only major legislative actions. Excludes subsequent revisions, except for extensions.

### ***Presidential Vetoes***

Presidential vetoes of farm bills are not common. Two complete farm bills have been vetoed as stand-alone measures (1956 and 2008), the latter being vetoed twice. Another farm bill was vetoed as part of a larger budget reconciliation package (1995).

The first veto of a farm bill was in 1956 when President Eisenhower vetoed H.R. 12, the first version of the Agricultural Act of 1956. The second and third vetoes were in 2008 by President George W. Bush. The 2008 farm bill was vetoed and overridden twice. After the initial veto of the bill (H.R. 2419), Congress overrode the veto and enacted P.L. 110-234, but accidentally enrolled the law without Title III (the trade title). Congress immediately reintroduced the same bill with the trade title as H.R. 6124. President Bush vetoed this version as well, and Congress again overrode the veto to enact P.L. 110-246, a complete 2008 farm bill that included the trade title. The overrides in 2008 were the only time that a farm bill was enacted by overriding a veto.

A 1995 budget reconciliation package that included the first version of what became the 1996 farm bill was vetoed by President Clinton, but the veto was not necessarily due to the farm bill.

## Appendix B. Suspensions of “Permanent Law” and Proposals to Repeal It

The “permanent law” provisions for the farm commodity programs were enacted primarily in the Agriculture Adjustment Act of 1938 and the Agricultural Act of 1949. Subsequent farm bills into the 1970s continued to use and amend the permanent law provisions. As more modern farm bills evolved away from using the permanent law provisions, those provisions have been suspended for the duration of each farm bill, rather than being repealed.

If no action is taken when a farm bill expires, then the suspension of permanent law also expires. An “expiration of the suspension” would allow the essentially mothballed policies of permanent law to resume. Some see the existence of permanent law—and the undesirable policy and budget consequences that could result—as an assurance that the farm commodity programs will be revisited every time a farm bill expires.

### Suspension

Throughout the 1950s and 1960s, farm bills generally used and amended the 1938 and/or 1949 acts. Amendments sometimes were made permanent and sometimes only applied to specific years. As farm commodity policy continued to evolve away from parity-based price supports and quotas, farm bills in the 1970s gradually began to move away from using the permanent law provisions. Yet, the 1970 and 1973 farm bills, for example, generally were written into the 1938 and/or 1949 farm bills, as amended, with provisions that were applicable only for the new period of the farm bill.<sup>63</sup> Thus, while those farm bills might not have directly suspended permanent law in the same way that more modern farm bills have, they nonetheless supplanted some portion of the permanent law parity-based support system for the life of the farm bill, albeit from within the body of the permanent law itself.

Beginning with the 1977 farm bill, direct suspension or nonapplicability language began to be used regarding the permanent laws.<sup>64</sup> This approach has continued through the 2014 farm bill.<sup>65</sup>

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<sup>63</sup> For example, a form of suspension that occurs within the permanent law itself is in the 1970 farm bill (P.L. 91-524), where §501 reads, “Effective only with respect to the 1971, 1972, and 1973 crops of feed grains, section 105 of the Agricultural Act of 1949, as amended, is further amended to read as follows: ‘Sec. 105. Notwithstanding any other provision of law—(a)(1) The Secretary shall make available to producers loans and purchases on each crop of corn at such level, not less than \$1.00 per bushel nor in excess of 90 per centum of the parity price ... ’”

<sup>64</sup> For example, direct suspension of permanent law can be found in the 1977 farm bill (P.L. 95-113) in §§409-410, 503-504, 601, and 703; in the 1981 farm bill (P.L. 97-98) in §§304-305, 402, and 501; in the 1985 farm bill (P.L. 99-198) in §§312, 402, and 502; in the 1990 farm bill (P.L. 101-624) in §§302-305, 402, 502, and 801; in the 1996 farm bill (P.L. 104-127) in §171; in the 2002 farm bill (P.L. 107-171) in §1602; and in the 2008 farm bill (P.L. 110-246) in §1602.

<sup>65</sup> In the 2008 farm bill (P.L. 110-246) §1602 reads: “(a) The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 2008 through 2012 crops ... and shall not be applicable to milk ... through December 31, 2012: (1) Parts II through V of subtitle B of title III (7 U.S.C. 1326 et seq.). (2) In the case of upland cotton, section 377 (7 U.S.C. 1377). (3) Subtitle D of title III (7 U.S.C. 1379a et seq.). (4) Title IV (7 U.S.C. 1401 et seq.). (b) The following provisions of the Agricultural Act of 1949 shall not be applicable ... (1) Section 101 (7 U.S.C. 1441). (2) Section 103(a) (7 U.S.C. 1444(a)). (3) Section 105 (7 U.S.C. 1444b). (4) Section 107 (7 U.S.C. 1445a). (5) Section 110 (7 U.S.C. 1445e). (6) Section 112 (7 U.S.C. 1445g). (7) Section 115 (7 U.S.C. 1445k). (8) Section 201 (7 U.S.C. 1446). (9) Title III (7 U.S.C. 1447 et seq.). (10) Title IV (7 U.S.C. 1421 et seq.), other than sections 404, 412, (continued...) ”

## Repeal

Proposals to repeal permanent law have been relatively rare, though some have passed the floor in each chamber.<sup>66</sup>

For example, proposals to repeal permanent law advanced perhaps the farthest during the development of the 1996 farm bill. Repeal provisions may have had saliency then because of a perceived intent of the “Freedom to Farm” reform plans. If Agricultural Market Transition Act (AMTA) payments were to end in 2002 at the end of the farm bill, then the existence of permanent law could have been an obstacle. Whether or not repeal was a condition of the plan during its development, repeal was dropped in favor of continued suspension during conference negotiations in 1996.

More specifically regarding the 1995-1996 developments, the initial bill considered by the House Agriculture Committee in 1995 would have continued to suspend permanent law (H.R. 2195, Title IV). After failing in committee, the text of that bill, including the suspension provision, was incorporated into a broader House-passed budget reconciliation package (H.R. 2491, §1105). However, the Senate-passed version of the 1995 reconciliation package included a provision to repeal permanent law (S. 1357, §1101). The conference agreement for the reconciliation package adopted the Senate approach for repeal (H.R. 2491, §1109). The conference agreement passed both the House and Senate, but was vetoed, albeit not because of the farm bill provisions.

The next year, a stand-alone 1996 farm bill was introduced and passed in the House with the provision to repeal permanent law (H.R. 2854, §109). The repeal provision also was in the Senate-reported bill (S. 1541, §19). However, the Senate-passed version (S. 1541, §109) did not repeal permanent law but continued to suspend permanent law. The conference agreement for the 1996 farm bill (H.R. 2854, §171) followed the Senate-passed version and continued the suspension of permanent law.

Other bills from 1995 to 2001 proposed repealing permanent law, but were not formally considered. In 1995, several bills were introduced to restructure government agencies. First, a bill was introduced to abolish USDA, eliminate all price support authorities including those of permanent law, and transfer certain powers to the Department of Commerce (H.R. 1354, S. 586). A broader government-wide restructuring bill also was introduced that would have repealed permanent law (H.R. 1923). A separate agricultural reform bill was introduced that would have phased down agricultural supports and eventually repealed permanent law (H.R. 2010). Two other bills to repeal permanent law were introduced in 1995 (H.R. 2523 and H.R. 2787). In 1997-1998, H.R. 502 and S. 2573 would have repealed permanent law. Other bills to repeal permanent law were H.R. 328 in 1999 and S. 1571 in 2001. None of these bills advanced beyond being referred to committee.

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(...continued)

and 416 (7 U.S.C. 1424, 1429, and 1431). (11) Title V (7 U.S.C. 1461 et seq.). (12) Title VI (7 U.S.C. 1471 et seq.). (c) Suspension of Certain Quota Provisions... (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat ... through 2012.” The American Taxpayer Relief Act applies the suspensions that were effective in 2012 until comparable dates in 2013. For the 2014 farm bill, similar suspension language is in P.L. 113-79, §1602, for the 2014 through 2018 crops.

<sup>66</sup> The listing of bills in this appendix to repeal permanent law is not necessarily exhaustive. It is based on a full-text search of bills since 1989 for the word “repeal” within 20 words of “Agricultural Adjustment Act of 1938” or “Agricultural Act of 1949.”

Other bills in various Congresses have been introduced with targeted repeal provisions for certain commodities, but not comprehensive repeal. These bills are not discussed here.

In the 112<sup>th</sup> Congress during consideration of the 2012 farm bill, an amendment was submitted, but not actually introduced on the floor, to replace the suspension of permanent law with the repeal of those provisions (S.Amdt. 2379 to S. 3420).

In 2013, the House-passed farm bill (H.R. 2642) would have repealed the 1938 and 1949 permanent laws (§1602). In their place, the House-proposed farm commodity program would have become the permanent law since it would have applied to “the 2014 crop year and each succeeding crop year” (§§1107, 1202, 1204, 1205, 1206, 1301). The Senate bill (S. 954) continued the long-standing suspension of permanent law, as did the initial House-rejected bill (H.R. 1947). The enacted 2014 farm bill continues to suspend permanent law (P.L. 113-79, §1602).

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