H. R. 5627

To amend the Food Security Act of 1985 to improve the environmental quality incentives program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2018

Mr. HUFFMAN (for himself, Mr. BLUMENAUER, Mr. Grijalva, and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Food Security Act of 1985 to improve the environmental quality incentives program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Farmers Conserving Agricultural Resources through EQIP Act” or the “Farmers CARE Act”.

SEC. 2. PURPOSES.

Section 1240 of the Food Security Act of 1985 (16 U.S.C. 3839aa) is amended to read as follows:
SEC. 1240. PURPOSES.

The purpose of the environmental quality incentives program established by this chapter is to assist producers in implementing conservation systems, practices, and activities on their operations in order to—

“(1) improve water quality, with special emphasis on reducing nutrient pollution and protecting sources of drinking water;

“(2) avoid, to the maximum extent practicable, the need for resource and regulatory programs by assisting producers in protecting soil, water, air, and related natural resources and meeting environmental quality criteria established by Federal, State, tribal, and local agencies;

“(3) conserve ground and surface water to sustain or improve in-stream flows;

“(4) enhance the quality of soil fertility and health;

“(5) control invasive species;

“(6) enhance critical aquatic and terrestrial wildlife habitat for at-risk species;

“(7) reduce the amount and toxicity of pesticides and other agricultural chemicals found on food and in water or the air;

“(8) reduce the nontherapeutic use of medically important antibiotics in food-producing animals in
order to preserve the effectiveness of antibiotics used
in the treatment of human and animal disease;
“(9) help producers adapt to climate change,
increase resiliency to climate change impacts, and
reduce greenhouse gas emissions;
“(10) address additional priority resource con-
cerns, as determined by the Secretary; and
“(11) enhance biodiversity and wildlife.”.

SEC. 3. DEFINITIONS.

(a) ORGANIC SYSTEM PLAN.—Section 1240A of the
Food Security Act of 1985 (16 U.S.C. 3839aa–1) is
amended by striking paragraph (2) and redesignating
paragraphs (3) through (5) as paragraphs (2) through
(4), respectively.

(b) PRACTICE.—Section 1240A of the Food Security
Act of 1985 (16 U.S.C. 3839aa–1) is further amended in
paragraph (3)(B) (as redesignated by subsection (a))—

(1) in clause (i), by striking “; and” and insert-
ing a semicolon;

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following
new clause:
“(ii) comprehensive conservation plan-
ing; and”.

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SEC. 4. ESTABLISHMENT AND ADMINISTRATION.

(a) Establishment.—Section 1240B(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(a)) is amended by striking “2002 through 2019” and inserting “2019 through 2023”.

(b) Term.—Section 1240B(b)(2) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(b)(2)(B)) is amended by striking “10 years” and inserting “5 years”.

(c) Priority.—Section 1240B(c) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(c)) is amended to read as follows:

“(c) Priority.—If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall assign a higher priority to a program application which will achieve the environment and conservation values using practices and systems the assessed cost of which is lower.”.

(d) Payments.—

(1) Limitation on substantial and primary benefits.—Section 1240B(d) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(d)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (B), by striking “or” at the end;
(ii) in subparagraph (C)(ii), by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following:

“(D) 50 percent of the cost of a practice that substantially benefits the producer, as determined by the Secretary.”; and

(B) by adding at the end the following:

“(7) PRIMARY BENEFIT TO PRODUCER.—A producer shall not be eligible for payments for a practice on eligible land under the program that primarily benefits the producer, as determined by the Secretary.”.

(2) INCREASED PAYMENTS FOR CERTAIN PRACTICES.—Section 1240B(d)(3) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(d)(3)) is amended to read as follows:

“(3) INCREASED PAYMENTS FOR CERTAIN PRACTICES.—The Secretary shall provide supplemental payments and enhanced technical assistance to producers implementing land management and vegetative practices at a level that, as determined by the Secretary, results in highly cost-effective treatment of priority resource concerns, including—
“(A) residue and tillage management;
“(B) contour farming;
“(C) cover cropping;
“(D) integrated pest management;
“(E) nutrient management;
“(F) stream corridor improvement;
“(G) invasive plant species control;
“(H) contour buffer strips;
“(I) riparian herbaceous and forest buffers;
“(J) filter strips;
“(K) stream habitat improvement and management;
“(L) grassed waterways;
“(M) wetland restoration and enhancement;
“(N) pollinator habitat; or
“(O) conservation crop rotation.”.

(3) LIMITATION ON PAYMENTS FOR CERTAIN PRACTICES.—Section 1240B(d) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(d)) is further amended by adding at the end the following new paragraph:

“(8) LIMITATION ON PAYMENTS FOR CERTAIN PRACTICES.—A producer who owns or operates a
large confined animal feeding operation (as defined by the Secretary) shall not be eligible for payments under this chapter to construct an animal waste management facility or any associated waste transport or transfer device.”.

(e) ALLOCATION OF FUNDING.—Section 1240B(f) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(f)) is amended to read as follows:

“(f) ALLOCATION OF FUNDING.—

“(1) IN GENERAL.—Of the funds made available for payments for each of fiscal years 2019 through 2023—

“(A) not less than 10 percent shall be targeted at practices relating to improvement of fish and wildlife habitat; and

“(B) not less than 5 percent shall be provided to producers who participate in an independent animal welfare certification program.

“(2) INDEPENDENT ANIMAL WELFARE CERTIFICATION PROGRAM.—In this subsection, the term ‘independent animal welfare certification program’ means an entity approved by the Secretary of Agriculture that uses qualified third-party on-farm auditors to routinely assess a producer’s 100-percent compliance with specific animal welfare standards.
exceeding industry standards (based on industry
guidelines), subject to the following conditions:

“(A) The standards’ protocols are made
public.

“(B) The standards include, at a min-
imum, provisions for space allowance, environ-
mental enrichment and ability to engage in nat-
ural behaviors, pain control and physical alter-
nations, handling, and responsible antibiotic
use.

“(C) Routine caging, crating or tethering
of animals is prohibited.

“(D) Auditors have no vested or financial
interest in audit outcomes.

“(E) Auditors possess a background in
animal welfare science or have received equiva-
lent training, and are able to recognize, review,
and apply established farm animal welfare
standards and protocols.”.

(f) WATER CONSERVATION OR IRRIGATION EFFI-
CIENCY PRACTICE.—

(1) AVAILABILITY OF PAYMENTS.—Section
1240B(h)(1) of the Food Security Act of 1985 (16
U.S.C. 3839aa–2(h)(1)) is amended to read as fol-

ows:
“(1) Availability of payments.—The Secretary may provide payments under this subsection to a producer for a water conservation or irrigation practice that promotes ground and surface water conservation on the agricultural operation of the producer by—

“(A) improvements to irrigation systems;

“(B) enhancement of irrigation efficiencies;

“(C) conversion of the agricultural operation to—

“(i) the production of less water-intensive agricultural commodities; or

“(ii) dryland farming;

“(D) improvement of the storage of water through measures such as water banking and groundwater recharge;

“(E) enhancement of fish and wildlife habitat associated with irrigation systems, including pivot corners and areas with irregular boundaries;

“(F) enhancement of frost protection methods to—

“(i) mitigate damage to fish and wildlife habitat;

“(ii) enhance water efficiency; or
“(iii) promote alternative frost protection methods that do not rely on ground and surface water; and

“(G) establishment of other measures, as determined by the Secretary, that improve groundwater and surface water conservation in agricultural operations.”.

(2) PRIORITY.—Section 1240B(h)(2) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(h)(2)) is amended—

(A) in subparagraph (A), by striking “; or” and inserting “; and”; and

(B) by amending subparagraph (B) to read as follows:

“(B) any associated water savings remain in the original source of such water for the useful life of the practice.”.

(3) DUTY OF PRODUCERS.—Section 1240B(h) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(h)) is amended by adding at the end the following new paragraph:

“(3) DUTY OF PRODUCERS.—The Secretary may not provide payments to a producer for a water conservation or irrigation practice under this chapter unless the producer agrees not to use any associated
water savings to bring new land, other than incidental land needed for efficient operations, under irrigated production, except where the producer is participating in a watershed-wide project that will effectively conserve water, as determined by the Secretary.”.

(g) Payments for Conservation Practices Related to Organic Production.—

(1) Payments Authorized.—Section 1240B(i)(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(i)(1)) is amended by striking “subsection” and inserting “chapter”.

(2) Eligibility Requirements.—Section 1240B(i)(2) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(i)(2)) is amended to read as follows:

“(2) Eligibility Requirements.—As a condition for receiving payments under this subsection, a producer shall agree to develop and implement conservation practices for certified organic production that are consistent with the regulations promulgated under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) and the purposes of this chapter.”.
(3) Payment Limitations; Coordination

with Organic Certification; Planning.—Section 1240B(i) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(i)) is amended—

(A) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (2) the following new paragraphs:

“(3) Coordination with Organic Certification.—The Secretary shall establish a transparent means by which producers may initiate organic certification under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) while participating in a contract under this chapter.

“(4) Planning.—

“(A) In General.—The Secretary shall provide planning assistance to producers transitioning to certified organic production consistent with the requirements of the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) and the purposes of this chapter.

“(B) Avoidance of Duplication.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activi-
ties for a producer participating in a contract under this chapter and initiating or maintaining organic certification consistent with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).”.

(h) PAYMENTS FOR CONSERVATION PRACTICES RELATED TO ANTIBIOTIC USE.—Section 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa–2) is amended by adding at the end the following new subsection:

“(j) PAYMENTS FOR CONSERVATION PRACTICES RELATED TO ANTIBIOTIC USE.—

“(1) PAYMENTS AUTHORIZED.—The Secretary shall provide payments under this chapter to livestock producers for three years, to assist in a transition to modified animal management and production systems, for practices leading to the reduction in the need for antibiotics, including modification of systems and spaces to—

“(A) improve sanitation;

“(B) improve ventilation; or

“(C) support the implementation of improved animal management techniques at the operation.

“(2) DUTY OF PRODUCER.—The Secretary shall not make payments under this chapter for practices
related to antibiotic use unless the producer agrees
to provide information to the Secretary documenting
the resulting reduction in antibiotic use in the oper-
ation of the producer.”.

(i) Payments for Conservation Practices Re-
lated to Pasture-Based Production Systems.—
Section 1240B of the Food Security Act of 1985 (16
U.S.C. 3839aa–2), as amended by subsection (h), is fur-
ther amended by adding at the end the following new sub-
section:

“(k) Payments for Conservation Practices Re-
lated to Pasture-Based Production Systems.—
“(1) Payments authorized.—The Secretary
shall provide payments under this subsection for
conservation practices, on some or all of the oper-
ations of a producer, related—
“(A) to pasture-based livestock or poultry
production systems in which animals—
“(i) are primarily raised on pasture,
grassland, or other vegetative environ-
ments;
“(ii) have the ability to exercise spe-
cies-specific natural behaviors;
“(iii) have access to appropriate shelter, healthy vegetation, potable water, and adequate protection from predators; and
“(iv) are managed under an approved prescribed grazing plan where animals are regularly and systematically moved to fresh pasture in such a way as to—
“(I) maximize the quantity and quality of forage growth;
“(II) maximize the quality of soil fertility and tilth;
“(III) improve manure distribution and nutrient cycling;
“(IV) increase the sequestration of carbon dioxide;
“(V) improve the quality and quantity of cover for wildlife and pollinators;
“(VI) provide permanent cover to protect the soil from erosion; and
“(VII) improve water quality and infiltration; or
“(B) to the transition of such operation to a pasture-based livestock or poultry production system.
“(2) ELIGIBILITY REQUIREMENTS.—As a condition for receiving payments under this subsection, a producer shall agree to implement at least 3 practices and either—

“(A) develops and carries out a grazing management plan that includes intensive management rotational grazing; or

“(B) develops and implements conservation practices that are consistent with intensive rotational grazing practices for pasture-based systems.

“(3) PAYMENT PRIORITIES.—In determining the amount and rate of payments under paragraph (2)(B), the Secretary may accord great significance to practices that—

“(A) improve the quality of soil fertility and tilth;

“(B) protect water quality;

“(C) increase the sequestration of carbon dioxide;

“(D) accelerate water infiltration; and

“(E) expand pollinator habitat and protection.”.

(j) COMPREHENSIVE CONSERVATION PLANNING.—

Section 1240B of the Food Security Act of 1985 (16
U.S.C. 3839aa–2), as amended by subsection (i), is fur-
ther amended by adding at the end the following new sub-
section:

“(l) **COMPREHENSIVE CONSERVATION PLANNING.**—
The Secretary shall provide technical and financial assist-
ance to producers under the program to develop a com-
prehensive conservation plan for the agricultural operation
of the producer.”.

SEC. 5. EVALUATION OF APPLICATIONS.

(a) **Evaluation Criteria.**—Section 1240C(a) of
the Food Security Act of 1985 (16 U.S.C. 3839aa–3(a))
is amended by striking “national, State, and local con-
servation priorities” and inserting “priority resource con-
cerns identified under subsection (d)”.

(b) **Prioritization of Applications.**—Section
1240C(b) of the Food Security Act of 1985 (16 U.S.C.
3839aa–3(b)) is amended—

(1) in paragraph (1), by striking “achieving the
anticipated conservation benefits of the project” and
inserting “addressing priority resource concerns
identified under subsection (d)”; and

(2) in paragraph (2), by striking “designated
resource concern or resource concerns” and inserting
“priority resource concerns identified under sub-
section (d), including, in the case of applications
from nutrient-impacted watersheds, the degree to which nutrient loadings would be reduced as a result of the proposed project”.

(c) GROUPING OF APPLICATIONS.—Section 1240C(c) of the Food Security Act of 1985 (16 U.S.C. 3839aa–3(c)) is amended by striking “for evaluation purposes or otherwise evaluate applications relative to other applications for similar farming operations” and inserting “proposing to address the same priority resource concerns for evaluation purposes”.

(d) PRIORITY RESOURCE CONCERNS.—Section 1240C of the Food Security Act of 1985 (16 U.S.C. 3839aa–3) is amended by adding at the end the following new subsection:

“(d) PRIORITY RESOURCE CONCERNS.—For the purposes of this section, the Secretary shall, in consultation with the appropriate State and local governments, identify priority resource concerns in a particular watershed or other appropriate region or area within a State.”.

SEC. 6. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

PLAN.

Section 1240E(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–5(a)) is amended to read as follows:

“(a) PLAN OF OPERATIONS.—To be eligible to receive payments under the program, a producer shall sub-
mit to the Secretary for approval a plan of operations that—

“(1) specifies the priority resource concerns to be addressed;

“(2) specifies the type, number, and sequencing of conservation systems, practices, or activities to be implemented to address the priority resource concerns;

“(3) includes such terms and conditions as the Secretary considers necessary to carry out the program, including a description of the purposes to be met by the implementation of the plan and a statement of how the plan will achieve or take significant steps toward achieving the relevant resource management system quality criteria, as determined by the Secretary;

“(4) in the case of a confined livestock feeding operation, provides for development and implementation of a comprehensive nutrient management plan, if applicable;

“(5) in the case of a producer located within a nutrient-impacted watershed, identifies methods by which the producer will limit nutrient loss; and

“(6) in the case of forest land, is consistent with the provisions of a forest management plan.
that is approved by the Secretary, which may include—

“(A) a forest stewardship plan described in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a);

“(B) another practice plan approved by the State forester; or

“(C) another plan determined appropriate by the Secretary.”.

SEC. 7. DUTIES OF THE SECRETARY.

Section 1240F(2) of the Food Security Act of 1985 (16 U.S.C. 3839aa–6(2)) is amended by striking “information” and inserting “technical assistance, information,”.

SEC. 8. LIMITATION ON PAYMENTS.

Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended to read as follows:

“SEC. 1240G. LIMITATION ON PAYMENTS.

“(a) LIMITATION ON TOTAL PAYMENTS.—Subject to subsection (b), a person or legal entity may not receive, directly or indirectly, cost-share or incentive payments under this chapter, in the aggregate, for all contracts entered into under this chapter by the person or entity (excluding funding arrangements with Indian tribes under this chapter), regardless of the number of contracts en-
tered into under this chapter by the person or entity, that—

“(1) during any fiscal year exceed $40,000; and

“(2) during any five-year period exceed $200,000.

“(b) Waiver Authority.—In the case of contracts under this chapter for projects of special environmental significance, as determined by the Secretary, the Secretary may waive the limitation otherwise applicable under subsection (a)(1).

“(c) Prevention of Duplication.—The Secretary shall not approve a contract or provide payments to any individual for a practice that has already been paid for as part of a previously approved and completed contract for any particular parcel of land.”.