

115TH CONGRESS
2D SESSION

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Farmers Conserving
5 Agricultural Resources through EQIP Act” or the “Farm-
6 ers CARE Act”.

7 **SEC. 2. PURPOSES.**

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

1 **“SEC. 1240. PURPOSES.**

2 “The purpose of the environmental quality incentives
3 program established by this chapter is to assist producers
4 in implementing conservation systems, practices, and ac-
5 tivities on their operations in order to—

6 “(1) improve water quality, with special empha-
7 sis on reducing nutrient pollution and protecting
8 sources of drinking water;

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

15 “(3) conserve ground and surface water to sus-
16 tain or improve in-stream flows;

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

19 “(5) control invasive species;

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

22 “(7) reduce the amount and toxicity of pes-
23 ticides and other agricultural chemicals found on
24 food and in water or the air;

25 “(8) reduce the nontherapeutic use of medically
26 important antibiotics in food-producing animals in

1 order to preserve the effectiveness of antibiotics used
2 in the treatment of human and animal disease;

3 “(9) help producers adapt to climate change,
4 increase resiliency to climate change impacts, and
5 reduce greenhouse gas emissions;

6 “(10) address additional priority resource con-
7 cerns, as determined by the Secretary; and

8 “(11) enhance biodiversity and wildlife.”.

9 **SEC. 3. DEFINITIONS.**

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

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

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

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

22 (3) by inserting after clause (i) the following
23 new clause:

24 “(ii) comprehensive conservation plan-
25 ning; and”.

1 **SEC. 4. ESTABLISHMENT AND ADMINISTRATION.**

2 (a) ESTABLISHMENT.—Section 1240B(a) of the
3 Food Security Act of 1985 (16 U.S.C. 3839aa–2(a)) is
4 amended by striking “2002 through 2019” and inserting
5 “2019 through 2023”.

6 (b) TERM.—Section 1240B(b)(2) of the Food Secu-
7 rity Act of 1985 (16 U.S.C. 3839aa–2(b)(2)(B)) is
8 amended by striking “10 years” and inserting “5 years”.

9 (c) PRIORITY.—Section 1240B(c) of the Food Secu-
10 rity Act of 1985 (16 U.S.C. 3839aa–2(c)) is amended to
11 read as follows:

12 “(c) PRIORITY.—If the Secretary determines that the
13 environmental values of two or more applications for pay-
14 ments are comparable, the Secretary shall assign a higher
15 priority to a program application which will achieve the
16 environment and conservation values using practices and
17 systems the assessed cost of which is lower.”.

18 (d) PAYMENTS.—

19 (1) LIMITATION ON SUBSTANTIAL AND PRI-
20 MARY BENEFITS.—Section 1240B(d) of the Food
21 Security Act of 1985 (16 U.S.C. 3839aa–2(d)) is
22 amended—

23 (A) in paragraph (2)—

24 (i) in subparagraph (B), by striking
25 “or” at the end;

1 (ii) in subparagraph (C)(ii), by strik-
2 ing the period at the end and inserting “;
3 or”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(D) 50 percent of the cost of a practice
7 that substantially benefits the producer, as de-
8 termined by the Secretary.”; and

9 (B) by adding at the end the following:

10 “(7) PRIMARY BENEFIT TO PRODUCER.—A pro-
11 ducer shall not be eligible for payments for a prac-
12 tice on eligible land under the program that pri-
13 marily benefits the producer, as determined by the
14 Secretary.”.

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

19 “(3) INCREASED PAYMENTS FOR CERTAIN
20 PRACTICES.—The Secretary shall provide supple-
21 mental payments and enhanced technical assistance
22 to producers implementing land management and
23 vegetative practices at a level that, as determined by
24 the Secretary, results in highly cost-effective treat-
25 ment of priority resource concerns, including—

- 1 “(A) residue and tillage management;
2 “(B) contour farming;
3 “(C) cover cropping;
4 “(D) integrated pest management;
5 “(E) nutrient management;
6 “(F) stream corridor improvement;
7 “(G) invasive plant species control;
8 “(H) contour buffer strips;
9 “(I) riparian herbaceous and forest buff-
10 ers;
11 “(J) filter strips;
12 “(K) stream habitat improvement and
13 management;
14 “(L) grassed waterways;
15 “(M) wetland restoration and enhance-
16 ment;
17 “(N) pollinator habitat; or
18 “(O) conservation crop rotation.”.

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

24 “(8) LIMITATION ON PAYMENTS FOR CERTAIN
25 PRACTICES.—A producer who owns or operates a

1 large confined animal feeding operation (as defined
2 by the Secretary) shall not be eligible for payments
3 under this chapter to construct an animal waste
4 management facility or any associated waste trans-
5 port or transfer device.”.

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

9 “(f) ALLOCATION OF FUNDING.—

10 “(1) IN GENERAL.—Of the funds made avail-
11 able for payments for each of fiscal years 2019
12 through 2023—

13 “(A) not less than 10 percent shall be tar-
14 geted at practices relating to improvement of
15 fish and wildlife habitat; and

16 “(B) not less than 5 percent shall be pro-
17 vided to producers who participate in an inde-
18 pendent animal welfare certification program.

19 “(2) INDEPENDENT ANIMAL WELFARE CERTIFI-
20 CATION PROGRAM.—In this subsection, the term
21 ‘independent animal welfare certification program’
22 means an entity approved by the Secretary of Agri-
23 culture that uses qualified third-party on-farm audi-
24 tors to routinely assess a producer’s 100-percent
25 compliance with specific animal welfare standards

1 exceeding industry standards (based on industry
2 guidelines), subject to the following conditions:

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

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

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

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

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

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

22 (1) AVAILABILITY OF PAYMENTS.—Section
23 1240B(h)(1) of the Food Security Act of 1985 (16
24 U.S.C. 3839aa–2(h)(1)) is amended to read as fol-
25 lows:

1 “(1) AVAILABILITY OF PAYMENTS.—The Sec-
2 retary may provide payments under this subsection
3 to a producer for a water conservation or irrigation
4 practice that promotes ground and surface water
5 conservation on the agricultural operation of the
6 producer by—

7 “(A) improvements to irrigation systems;

8 “(B) enhancement of irrigation efficiencies;

9 “(C) conversion of the agricultural oper-
10 ation to—

11 “(i) the production of less water-in-
12 tensive agricultural commodities; or

13 “(ii) dryland farming;

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

17 “(E) enhancement of fish and wildlife
18 habitat associated with irrigation systems, in-
19 cluding pivot corners and areas with irregular
20 boundaries;

21 “(F) enhancement of frost protection
22 methods to—

23 “(i) mitigate damage to fish and wild-
24 life habitat;

25 “(ii) enhance water efficiency; or

1 “(iii) promote alternative frost protec-
2 tion methods that do not rely on ground
3 and surface water; and

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

8 (2) PRIORITY.—Section 1240B(h)(2) of the
9 Food Security Act of 1985 (16 U.S.C. 3839aa-
10 2(h)(2)) is amended—

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

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

15 “(B) any associated water savings remain
16 in the original source of such water for the use-
17 ful life of the practice.”.

18 (3) DUTY OF PRODUCERS.—Section 1240B(h)
19 of the Food Security Act of 1985 (16 U.S.C.
20 3839aa-2(h)) is amended by adding at the end the
21 following new paragraph:

22 “(3) DUTY OF PRODUCERS.—The Secretary
23 may not provide payments to a producer for a water
24 conservation or irrigation practice under this chapter
25 unless the producer agrees not to use any associated

1 water savings to bring new land, other than inci-
2 dental land needed for efficient operations, under ir-
3 rigated production, except where the producer is
4 participating in a watershed-wide project that will
5 effectively conserve water, as determined by the Sec-
6 retary.”.

7 (g) PAYMENTS FOR CONSERVATION PRACTICES RE-
8 LATED TO ORGANIC PRODUCTION.—

9 (1) PAYMENTS AUTHORIZED.—Section
10 1240B(i)(1) of the Food Security Act of 1985 (16
11 U.S.C. 3839aa–2(i)(1)) is amended by striking
12 “subsection” and inserting “chapter”.

13 (2) ELIGIBILITY REQUIREMENTS.—Section
14 1240B(i)(2) of the Food Security Act of 1985 (16
15 U.S.C. 3839aa–2(i)(2)) is amended to read as fol-
16 lows:

17 “(2) ELIGIBILITY REQUIREMENTS.—As a condi-
18 tion for receiving payments under this subsection, a
19 producer shall agree to develop and implement con-
20 servation practices for certified organic production
21 that are consistent with the regulations promulgated
22 under the Organic Foods Production Act of 1990 (7
23 U.S.C. 6501 et seq.) and the purposes of this chap-
24 ter.”.

1 (3) PAYMENT LIMITATIONS; COORDINATION
2 WITH ORGANIC CERTIFICATION; PLANNING.—Section
3 1240B(i) of the Food Security Act of 1985 (16
4 U.S.C. 3839aa–2(i)) is amended—

5 (A) by striking paragraph (3) and redesignig-
6 nating paragraphs (4) and (5) as paragraphs
7 (5) and (6), respectively; and

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

10 “(3) COORDINATION WITH ORGANIC CERTIFI-
11 CATION.—The Secretary shall establish a trans-
12 parent means by which producers may initiate or-
13 ganic certification under the Organic Foods Produc-
14 tion Act of 1990 (7 U.S.C. 6501 et seq.) while par-
15 ticipating in a contract under this chapter.

16 “(4) PLANNING.—

17 “(A) IN GENERAL.—The Secretary shall
18 provide planning assistance to producers transi-
19 tioning to certified organic production con-
20 sistent with the requirements of the Organic
21 Foods Production Act of 1990 (7 U.S.C. 6501
22 et seq.) and the purposes of this chapter.

23 “(B) AVOIDANCE OF DUPLICATION.—The
24 Secretary shall, to the maximum extent prac-
25 ticable, eliminate duplication of planning activi-

1 ties for a producer participating in a contract
2 under this chapter and initiating or maintaining
3 organic certification consistent with the Organic
4 Foods Production Act of 1990 (7 U.S.C. 6501
5 et seq.).”.

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

10 “(j) PAYMENTS FOR CONSERVATION PRACTICES RE-
11 LATED TO ANTIBIOTIC USE.—

12 “(1) PAYMENTS AUTHORIZED.—The Secretary
13 shall provide payments under this chapter to live-
14 stock producers for three years, to assist in a transi-
15 tion to modified animal management and production
16 systems, for practices leading to the reduction in the
17 need for antibiotics, including modification of sys-
18 tems and spaces to—

19 “(A) improve sanitation;

20 “(B) improve ventilation; or

21 “(C) support the implementation of im-
22 proved animal management techniques at the
23 operation.

24 “(2) DUTY OF PRODUCER.—The Secretary shall
25 not make payments under this chapter for practices

1 related to antibiotic use unless the producer agrees
2 to provide information to the Secretary documenting
3 the resulting reduction in antibiotic use in the oper-
4 ation of the producer.”.

5 (i) PAYMENTS FOR CONSERVATION PRACTICES RE-
6 LATED TO PASTURE-BASED PRODUCTION SYSTEMS.—
7 Section 1240B of the Food Security Act of 1985 (16
8 U.S.C. 3839aa–2), as amended by subsection (h), is fur-
9 ther amended by adding at the end the following new sub-
10 section:

11 “(k) PAYMENTS FOR CONSERVATION PRACTICES RE-
12 LATED TO PASTURE-BASED PRODUCTION SYSTEMS.—

13 “(1) PAYMENTS AUTHORIZED.—The Secretary
14 shall provide payments under this subsection for
15 conservation practices, on some or all of the oper-
16 ations of a producer, related—

17 “(A) to pasture-based livestock or poultry
18 production systems in which animals—

19 “(i) are primarily raised on pasture,
20 grassland, or other vegetative environ-
21 ments;

22 “(ii) have the ability to exercise spe-
23 cies-specific natural behaviors;

1 “(iii) have access to appropriate shel-
2 ter, healthy vegetation, potable water, and
3 adequate protection from predators; and

4 “(iv) are managed under an approved
5 prescribed grazing plan where animals are
6 regularly and systematically moved to fresh
7 pasture in such a way as to—

8 “(I) maximize the quantity and
9 quality of forage growth;

10 “(II) maximize the quality of soil
11 fertility and tilth;

12 “(III) improve manure distribu-
13 tion and nutrient cycling;

14 “(IV) increase the sequestration
15 of carbon dioxide;

16 “(V) improve the quality and
17 quantity of cover for wildlife and polli-
18 nators;

19 “(VI) provide permanent cover to
20 protect the soil from erosion; and

21 “(VII) improve water quality and
22 infiltration; or

23 “(B) to the transition of such operation to
24 a pasture-based livestock or poultry production
25 system.

1 “(2) ELIGIBILITY REQUIREMENTS.—As a condi-
2 tion for receiving payments under this subsection, a
3 producer shall agree to implement at least 3 prac-
4 tices and either—

5 “(A) develops and carries out a grazing
6 management plan that includes intensive man-
7 agement rotational grazing; or

8 “(B) develops and implements conservation
9 practices that are consistent with intensive rota-
10 tional grazing practices for pasture-based sys-
11 tems.

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

16 “(A) improve the quality of soil fertility
17 and tith;

18 “(B) protect water quality;

19 “(C) increase the sequestration of carbon
20 dioxide;

21 “(D) accelerate water infiltration; and

22 “(E) expand pollinator habitat and protec-
23 tion.”.

24 (j) COMPREHENSIVE CONSERVATION PLANNING.—

25 Section 1240B of the Food Security Act of 1985 (16

1 U.S.C. 3839aa-2), as amended by subsection (i), is fur-
2 ther amended by adding at the end the following new sub-
3 section:

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

9 **SEC. 5. EVALUATION OF APPLICATIONS.**

10 (a) EVALUATION CRITERIA.—Section 1240C(a) of
11 the Food Security Act of 1985 (16 U.S.C. 3839aa-3(a))
12 is amended by striking “national, State, and local con-
13 servation priorities” and inserting “priority resource con-
14 cerns identified under subsection (d)”.

15 (b) PRIORITIZATION OF APPLICATIONS.—Section
16 1240C(b) of the Food Security Act of 1985 (16 U.S.C.
17 3839aa-3(b)) is amended—

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

22 (2) in paragraph (2), by striking “designated
23 resource concern or resource concerns” and inserting
24 “priority resource concerns identified under sub-
25 section (d), including, in the case of applications

1 from nutrient-impacted watersheds, the degree to
2 which nutrient loadings would be reduced as a result
3 of the proposed project”.

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

11 (d) PRIORITY RESOURCE CONCERNS.—Section
12 1240C of the Food Security Act of 1985 (16 U.S.C.
13 3839aa–3) is amended by adding at the end the following
14 new subsection:

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

20 **SEC. 6. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM**
21 **PLAN.**

22 Section 1240E(a) of the Food Security Act of 1985
23 (16 U.S.C. 3839aa–5(a)) is amended to read as follows:

24 “(a) PLAN OF OPERATIONS.—To be eligible to re-
25 ceive payments under the program, a producer shall sub-

1 mit to the Secretary for approval a plan of operations
2 that—

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

5 “(2) specifies the type, number, and sequencing
6 of conservation systems, practices, or activities to be
7 implemented to address the priority resource con-
8 cerns;

9 “(3) includes such terms and conditions as the
10 Secretary considers necessary to carry out the pro-
11 gram, including a description of the purposes to be
12 met by the implementation of the plan and a state-
13 ment of how the plan will achieve or take significant
14 steps toward achieving the relevant resource man-
15 agement system quality criteria, as determined by
16 the Secretary;

17 “(4) in the case of a confined livestock feeding
18 operation, provides for development and implementa-
19 tion of a comprehensive nutrient management plan,
20 if applicable;

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

24 “(6) in the case of forest land, is consistent
25 with the provisions of a forest management plan

1 that is approved by the Secretary, which may in-
2 clude—

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

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

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

10 **SEC. 7. DUTIES OF THE SECRETARY.**

11 Section 1240F(2) of the Food Security Act of 1985
12 (16 U.S.C. 3839aa–6(2)) is amended by striking “infor-
13 mation” and inserting “technical assistance, informa-
14 tion,”.

15 **SEC. 8. LIMITATION ON PAYMENTS.**

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

18 **“SEC. 1240G. LIMITATION ON PAYMENTS.**

19 “(a) **LIMITATION ON TOTAL PAYMENTS.**—Subject to
20 subsection (b), a person or legal entity may not receive,
21 directly or indirectly, cost-share or incentive payments
22 under this chapter, in the aggregate, for all contracts en-
23 tered into under this chapter by the person or entity (ex-
24 cluding funding arrangements with Indian tribes under
25 this chapter), regardless of the number of contracts en-

1 tered into under this chapter by the person or entity,
2 that—

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

4 “(2) during any five-year period exceed
5 \$200,000.

6 “(b) WAIVER AUTHORITY.—In the case of contracts
7 under this chapter for projects of special environmental
8 significance, as determined by the Secretary, the Secretary
9 may waive the limitation otherwise applicable under sub-
10 section (a)(1).

11 “(c) PREVENTION OF DUPLICATION.—The Secretary
12 shall not approve a contract or provide payments to any
13 individual for a practice that has already been paid for
14 as part of a previously approved and completed contract
15 for any particular parcel of land.”.

○