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# The 2012 Farm Bill's Reach: Unintended Consequences of a Failure to Update or Extend the 2008 Act

Eric Schuck and Dawn Thilmany McFadden [1]

## INTRODUCTION

In the absence of Congressional action, the *Food, Conservation and Energy Act of 2008* (a.ka. the '2008 Farm Bill') will expire on September 30, 2012. However, the potential expiration of the provisions of the 2008 Farm Bill does not mean producers will operate in a policy vacuum. Rather, the provisions of 'permanent' – so-called because they were enacted without expiration dates – legislation takes effect. For most commodity producers, the relevant legislation is the *Agricultural Act of 1949* as well as certain provisions of the *Agricultural Adjustment Act of 1938*. In contrast, for most others impacted by the 2008 Act, the implications represent greater uncertainty about the delivery of programs.

The most striking differences between the 1949 and 2008 Farm Bills are seen through what is not included in the permanent legislation. The 2008 Farm Bill can basically be divided into three areas: nutrition/food security, conservation, and commodity support. The 1949 Agricultural Act is essentially only a commodity support program, and a much narrower one than the 2008 Farm Bill. To evaluate the potential consequences of reversion to the 1949 Act, each of the three main programmatic areas will be discussed in turn.[2]

## NUTRITION/FOOD ASSISTANCE

In Fiscal Year 2011, approximately $100 billion were committed to USDA food assistance programs. This represented over 60% of USDA resources and supported over 25% of all Americans – nearly 14% of all Americans participated in the Supplemental Nutrition Assistance Program alone. Beyond these nutrition programs, there are programs that touch a far wider swath of the U.S. population, particularly youth and seniors.

[1] Professor, Department of Economics, Linfield College, T J Day Hall, McMinnville, OR 97128, (503) 883-2385, eschuck@linfield.edu, and Faculty Affiliate, DARE, CSU; and Professor at Department of Agricultural and Resource Economics, Colorado State University, Fort Collins, CO 80523-1172, (970) 491-7220, thilmany@lamar.colostate.edu.

[2] This is meant only to provide a brief overview. For a more complete analysis, examine "Possible Extension or Expiration of the 2008 Farm Bill, Congressional Research Service Report R42442," by Jim Monke, Megan Stubbs and Randy Aussenberg.

For the purpose of this discussion, USDA nutrition and food assistance programs can be divided into three main areas:

1. General food security (represented by the Supplemental Nutrition Assistance Program, a.k.a. "SNAP"),
2. School food programs (including Fresh Fruit and Vegetable, School Lunch, School Breakfast, Summer Food Services and Milk Support), and,
3. Food security for women, infants and children ("WIC").

Of these three areas, SNAP is specifically connected to the 2008 Farm Bill. The various 'school' food programs as well as WIC are authorized under the *Healthy, Hunger-Free Kids Act of 2010* and have statutory authority until Fiscal Year 2015. Consequently, only SNAP and programs tied to SNAP are specifically at risk if the 2008 Farm Bill expires. However, while this is a point of concern, SNAP (as well as related food assistance and security programs) are considered 'entitlements' and as such can continue to operate even without extension or replacement of the 2008 Farm Bill provided funds are appropriate to do so. As of 31 July 2012, the House and Senate had agreed in principle to pass a continuing resolution to fund government operations for the first 6 months of Fiscal Year of 2013. Given this agreement, it would appear SNAP and related programs will not be immediately affected by failure to extend or to replace the 2008 Farm Bill. Failure either to appropriate funds after March 2013, or to extend/replace the 2008 Farm Bill could, however, lead to a lapse in the overall SNAP program.

**CONSERVATION**

Most USDA conservation programs were granted permanent statutory authority under the *Food Security Act of 1985* and consequently either have no expiration date or have expiration dates that are not directly tied to the 2008 Farm Bill (typically due to deficit-reduction programs that spread program funding out over longer intervals to reduce costs). Conservation programs that fall into either of these categories, and subsequently will not be affected by the expiration of the 2008 Farm Bill, include:

- The Conservation Stewardship Program,
- The Environmental Quality Improvement Program,
- The Farmland Protection Program, and
- The Wildlife Habitat Incentives Program.

Some programs, however, will be affected by expiration of the 2008 Farm Bill, either because they lose funding authority or they lose authorization authority. This includes some of the most critical conservation programs. Specifically, the Conservation Reserve Program, Grassland Reserve Program, Wetlands Reserve Program and Voluntary Access and Habitat Incentives Program all expire with the 2008 Farm Bill on September 30, 2012 either due to loss of funding or authorization authority. While existing contracts under these programs would continue to be honored until their expiration, no new enrollments would be pursued.

**COMMODITY SUPPORT**

The effects that would result from the expiration of the 2008 Farm Bill and reversion to the 1949 Act would be felt most strongly at the farm level in terms of commodity support programs. While crop insurance and most categories of disaster assistance are all permanently authorized under the *Crop Insurance Reform Act of 1994* and are not affected by expiration of the 2008 Farm Bill, basic commodity support programs would be radically altered by reversion to the 1949 Act. The 1949 support programs are very different from modern programs primarily because they are much more limited. Current policies – counter-cyclical payments, direct payments, and loan deficiency payments – are simply not available under the 1949 Act. Instead, the suite of program options for producers under the 2008 Bill reduces to a single program choice, non-recourse loans available from the Commodity Credit Corporation through the Farm Services Agency. In terms of specific details, there are three main areas of difference in commodity programs between the 1949 Act and current legislation: eligibility, payment methods and payment rates. Each of these will be discussed in turn.

*Eligibility*

Eligibility for support under the Agricultural Act of 1949 is defined in Title I Section 101 of the Act as follows:

> The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop.

For the purpose of the Act, 'basic commodities' are defined as corn, cotton, peanuts, rice, tobacco[3] and wheat, a much narrower definition from current program crops in that former earlier legislation omits barley, soybeans and various oilseeds as well as a whole range of other commonly produced crops.[4] Commodities that are not specifically called out as 'basic commodities', however, may be covered as 'non-basic commodities' under Title II and Title III of the Act. More specifically, Title II extends coverage of the act to wool (including mohair), tung nuts, honey, Irish potatoes, milk, butterfat, and the products of milk and butterfat, while Title III effectively covers all other commodities provided producers vote to accept the support and to abide by marketing orders. As such, reversion to the 1949 Act may or may not omit many commodities which are currently eligible for price supports depending upon whether or not these crops are included under Title II or Title III.

However, reversion to the 1949 Act does appear to change the relative standing of certain crops (specifically soybeans and oilseeds) compared to other crops by defining them as 'non-basic' rather than 'basic' commodities. This difference in standing is reflected primarily in differences in payment rates, a topic which will be discussed under 'Payment Rates'. Additionally, since the 1949 Act makes no reference to base acreage of commodities (with the exception of rice for the purpose of apportioning acreage nationally), the 1949 Act appears to provide for wider eligibility for commodity support than is seen under current legislation.

*Payment Methods*

The principal payment methods under the 1949 Act are dramatically different from current legislation. The main payment mechanism is non-recourse loans administered through the Commodity Credit Corporation rather than the current mixture of Direct Payments and Counter-Cyclical Payments. Under a non-recourse loan, producers offer up their crop as commodity for a 9-month loan and are paid for the crop at a specified target rate. At the end of the 9-month period, producers can elect either to market their crop and pay off the loan or surrender the crop as payment to the Commodity Credit Corporation. Barring certain exceptions for deficiencies in quantity or quality, the Commodity Credit Corporation has no choice but to accept the crop and cannot seek recompense for the loan in any other form (hence the term 'non-recourse'). Historically, the use of non-resource loans led to the USDA holding rather significant quantities of commodities in storage, stocks whose existence tended to exert downward pressure on commodity prices. Additionally, by making the Commodity Credit Corporation effectively the 'purchaser of last resort', returning to non-recourse loans as the primary price supports could impose significant burdens on the Farm Services Agency as the agents of the Commodity Credit Corporation, burdens which are at present unknown.

*Payment Rates*

The last, and potentially most critical, difference between the 1949 Act and current legislation relates to payment rates. Payments to producers under the 1949 Act are tied to the concept of the Parity Index. Introduced in the Agricultural Adjustment Act of 1938, the main idea behind 'parity' is that a unit of a commodity in current prices should have equivalent purchasing power as the commodity possessed historically. By way of example, this means that if a producer could sell a bushel of wheat and then use that money to buy a shovel and a bucket in 1914 (the baseline year chosen in the *Agricultural Adjustment Act of 1938*), a bushel sold at current prices should generate income sufficient to purchase an equivalent bundle of goods and services. Unfortunately, given the much lower yields that prevailed in 1914 compared to modern yields, parity prices tend to overstate the relative value of crops by understating productivity gains. For example, according to the June 2012 National Agricultural Statistics Service Crop Price reports, expected market prices for corn and wheat were \$6.25/bushel and \$6.37/bushel, respectively. The corresponding parity prices for each crop were \$11.80/bushel and \$18.10/bushel, respectively. Under the 1949 Agricultural Act, loan rates for each of these crops would range from 90% to 75% of the parity price depending upon the relative supply of each commodity in the market: the lower the supply percentage relative to 'normal' supply levels as determined by the Secretary of Agriculture the higher the payment rate percentage, and vice versa. As a result, payment is set at 90% of parity for supply levels up to 102% of

[3] Tobacco is specifically listed in the 1949 Act, but these provisions appear to be superseded by the 1994 Fair and Equitable Tobacco Reform Act which phases out tobacco as a program crop.

[4] Other crops may be eligible for inclusion if the Secretary of Agriculture elects to include them under one of the other Titles. This is not automatic.

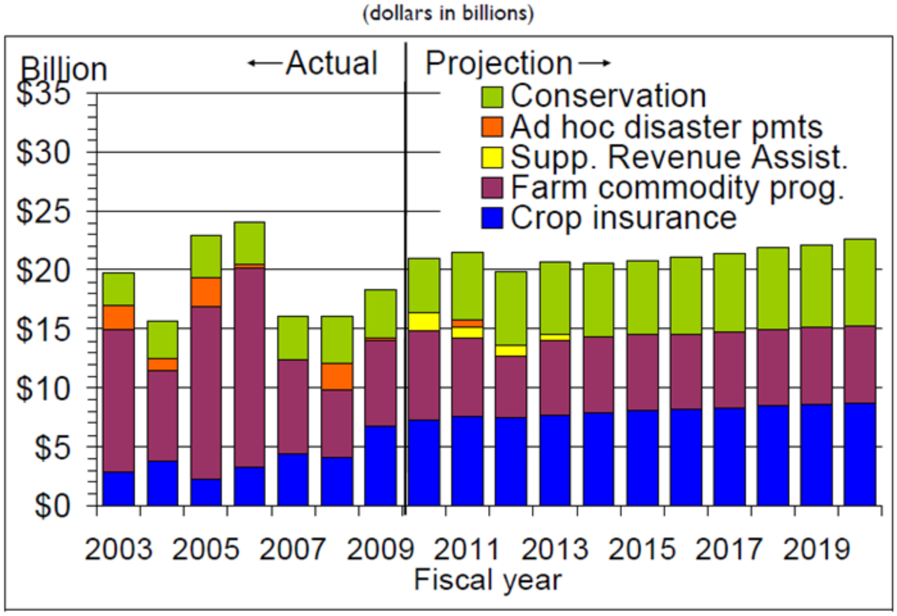
'normal' supply and declines to 75% of parity for levels over 130% of 'normal' supply. The rate at which payment drops from 90% to 75% of parity depends upon whether a crop is 'basic' or 'non-basic'. Parity prices are typically 2-3 times current market prices for most commodities. Reversion to parity prices would be potentially devastating to the Treasury due both to the markedly higher payment rates and the significantly higher productivity of modern producers as the Commodity Credit Corporation would have to pay both higher rates on more output than was anticipated in the 1949 Act. Furthermore, differences in payment percentages between 'basic' and 'non-basic' commodities could provide incentives to produce commodities in response to the value of the program rather than actual market demand for a crop, so market distortions may have far-reaching implications on downstream and upstream agribusinesses.

**SUMMARY**

Failure to extend or to replace the 2008 Farm Bill would lead to a reversion to the 1949 Farm Bill as the last permanent agricultural policy legislation. The 1949 Farm Bill is much narrower than more recent Farm Bills, and does not include support for most nutrition or conservation programs, although it does appear many of these programs would continue in some form due to other legislation or restrictions. The Conservation Reserve Program is a notable exception to this. The main effect of reversion to the 1949 Bill would be felt in commodity support programs. The 1949 Farm Bill supports and stabilizes commodity prices and output by employing methods that have the potential to lead both to significantly higher government holdings of commodities and markedly higher costs to the government due to the way commodity support prices are calculated under the 1949 Act. While the level of compensation to producers may appear to be very attractive, the much narrower set of program options may result in less, not more, government intervention in agricultural markets as producers find themselves more reliant upon the Commodity Credit Corporation/Farm Services Agency as the 'buyer of last resort'. On balance, the 1949 Agricultural Act represents a bygone era in American agricultural policy whose return would present many challenges for contemporary producers and whose cost would greatly outstrip current programs.

**Figure 1. Spending for Farm Commodity, Conservation, Crop Insurance & Disaster**

(dollars in billions)




**Source:** Based on CRS Report R41317, *Farm Safety Net Programs: Issues for the Next Farm Bill*, using the August 2010 CBO baseline projections for FY2010-FY2020.