

**The Effects of Failure to Enact a New Farm Bill:
Permanent Law Support for Commodities and Authorization
Lapse of Other USDA Programs**

Introduction

This memorandum describes what would happen to the programs authorized by the Food, Conservation, and Energy Act of 2008 (“2008 FB”) if, by September 30, 2012, either a new farm bill or an extension of the current farm bill is not enacted into law.

The first part of the memorandum focuses on the impacts on commodity programs. It explains how provisions of the Agricultural Adjustment Act of 1938 (“1938 Act”)¹ and the Agriculture Act of 1949 (“1949 Act”),² which have been repeatedly suspended by several farm bills, would again become legally effective if, by September 30, 2012, either a new farm bill or an extension of the current farm bill is not enacted into law.³ Often described as a reversion to “permanent law,” such an occurrence would dramatically narrow the universe of producers who receive support, and would do so in a way that most producers would view as irrational. For instance, those wheat producers who happen to have historical acreage allocations would receive dramatically increased benefits, and all other wheat producers would become ineligible.

The second part of this memorandum focuses on the effects on other programs that are administered by USDA if, by September 30, 2012, either a new farm bill or an extension of the current farm bill is not enacted into law. This discussion will reveal that many conservation, energy, trade, nutrition, and other programs would be eliminated or substantially curtailed.

Current Commodity Programs.

Direct and Counter-cyclical Program (“DCP”) payments are authorized for the 2008 through 2012 crops of: wheat, corn, grain sorghum, barley, oats, upland cotton, long grain rice, medium grain rice, peanuts, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, and sesame seed. Marketing Assistance Loans and Loan Deficiency Payments (“MAL/LDP”) are authorized for the 2008 through 2012 crops of: wheat, corn, grain sorghum, barley, oats, upland cotton, extra-long staple cotton, long grain rice, medium grain rice, peanuts, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, graded wool, nongraded wool, mohair, honey, dry peas, lentils, small chickpeas, and large chickpeas. Nonrecourse loans are also authorized for the 2008 through 2012 crops of sugar beets, and sugar cane. Recourse loans are authorized for high moisture corn, grain sorghum, and seed cotton. A dairy price support purchase program is authorized through September 30, 2012, at which time the program will terminate. Milk income loss contract program (“MILC”) payments are authorized for dairy producers through September 30, 2012. Finally, the Average Crop Revenue Program is authorized through September 30, 2012.⁴

¹ 7 U.S.C. 1281 *et seq.*

² 7 U.S.C. 1421 *et seq.*

³ Most recently, Section 1602 of 2008 FB suspended certain quota provisions of the 1938 Act and parity price support provisions of the 1949 Act for the 2008 through 2012 crops of “covered commodities,” peanuts, and sugar; and for milk through December 31, 2012.

⁴ All of these programs are authorized in Title I of 2008 FB.

None of these programs could be carried out after September 30, 2012, without either the enactment of a new farm bill or an extension of 2008 FB.

Permanent Law for Commodities.

The applicable provisions of the 1938 Act regarding permanent law pertain only to the marketings of, and acreage allotments for, wheat and upland cotton. The 1938 Act was formulated in an era in which United States markets and world export markets were substantially different than the situation that exists in 2008. When effective, the 1938 Act requires that the Secretary of Agriculture (“Secretary”) determine the optimum level of production for a crop of a commodity for a marketing year. If supplies are excessive, the Secretary would announce a national marketing quota for the crop. If quotas are announced for a crop, producers of that crop vote to either approve or disapprove quotas. Depending upon the outcome of the referendum, different types of benefits and marketing restrictions will be in place. For upland cotton (if a marketing quota is in place) and for wheat (regardless whether or not a marketing quota is in place), a national acreage allotment is determined and is dispersed on a State basis, then on a county basis and eventually to producers in a county who had a history of planting the applicable commodity. If a marketing quota were in effect, limitations on the amount of acreage that may be planted on a farm to wheat or upland cotton would be determined, taking into account whether or not a farm had an allotment in 1958. Producers who violate these restrictions would be subject to statutory penalties and ineligible for price support benefits under the 1949 Act. Moreover, acreage allotments for wheat have not been declared since 1971; USDA does not possess acreage reports dating back to 1971; and it is unclear how USDA could meaningfully translate these historical allotments into future program payments.

The permanent authority for price support to producers of agricultural commodities is provided in the Agricultural Act of 1949. Title I of the 1949 Act is applicable to a “basic agricultural commodity” which is defined in § 408(c)⁵ to mean corn, cotton, rice, and wheat. A nonbasic commodity is defined in Title II as honey, milk, oilseeds, and sugar.⁶ A nonbasic commodity is defined in Title III and in § 408(d) to mean any agricultural commodity other than a basic agricultural commodity.⁷ Whether to designate a commodity as a nonbasic commodity eligible for permanent price support is left to the Secretary’s discretion. The Secretary is required to “make available through loans, purchases, or other operations,” permanent price support at levels equivalent to a percentage of parity price support for named basic commodities – wheat, corn, rice, and upland cotton, and for named nonbasic commodities – honey and milk. The other named nonbasic commodities – oilseeds and sugar – are not eligible for price support, as discussed in a subsequent section. Although the Secretary must provide a level of support that is equivalent to parity price support for a named basic and nonbasic commodity, the Secretary has considerable discretion as to the level of support to provide, and how that support should be provided (e.g., through loans, purchases, or other operations).

⁵ 7 U.S.C. 1428(c).

⁶ Section 201(a) of the 1949 Act (7 U.S.C. 1446(a)).

⁷ 7 U.S.C. 1447, 1428(d). Authority for permanent price support is also provided in § 302 for storable nonbasic commodities. Because “storable” is not defined, we treat nonbasic and storable nonbasic commodities the same in our analysis.

In addition to the permanent price support provisions in Titles I, II, and III of the 1949 Act, parts of Title IV, and Titles V, and VI would also become effective if permanent law is not suspended again. Among several other provisions, the farmer-owned reserve, agricultural commodities utilization, and emergency livestock feed programs, as well as the entire acreage base and yield system in Title V, would again regulate the production, harvesting, and marketing of agricultural commodities.

There are two key issues concerning permanent law. First, for each named basic and nonbasic commodity, at what point in time during a crop year are the permanent law provisions in the 1938 and 1949 Acts triggered? The date when permanent law becomes effective for a commodity is not uniform across commodities. Second, for each named basic and nonbasic commodity, at what rate of the parity price support for a commodity should the Secretary choose, and by what means (loans, purchases, or other operations) should the support be provided?

The 1938 Act operates on a marketing year basis, rather than a crop year basis. Thus, if marketing quotas were to be in effect, marketings of specific crops would be limited on an annual basis (e.g., the 2012 wheat marketing year is June 1, 2012 through May 31, 2013; and the cotton marketing year is August 1, 2012 through July 31, 2013), rather than a crop year basis. To illustrate: if a producer has wheat production from harvests conducted in three different years (2009, 2010 and 2011), the marketing limitations applicable to the producer for the 2012 marketing year would limit the quantity of wheat that may be sold in that year regardless of the year in which the commodity was harvested.

Price support loan rates under the 1949 Act, in contrast, are crop year specific. Crops planted for harvest in 2012 are 2012 crops. For example, winter wheat that will be harvested in crop year 2012 has already been planted in some areas of the United States. Other fall-seeded crops such as oats and barley have already been planted for harvest in crop year 2012. Spring-seeded crops such as corn, peanuts, cotton and rice, will be planted this spring for harvest later in crop year 2012.

What follows is a discussion of when permanent law is triggered, and the amount of parity price support applicable, to a specific commodity. The effects of the 1938 and 1949 Acts are summarized for specific commodities. First, basic commodities – corn, cotton, rice, and wheat – covered under Title I of the 1949 Act, are discussed. Second, nonbasic commodities – dairy, honey, peanuts, sugar, and any other commodities identified by the Secretary – covered under Titles II and III of the 1949 Act, are discussed.

Basic Commodities – Title I of the 1949 Act

Wheat. If the section is not again suspended, by April, 2013, pursuant to § 332 of the 1938 Act,⁸ the Secretary will have to announce whether marketing quotas will be in effect for the 2013 wheat marketing year. With a suspension of wheat marketing quotas, producers would be able to freely market wheat without any limitation and no marketing quota penalties would be imposed for overmarketings. But, unless § 333 of the 1938 Act⁹ is again suspended, acreage allotments

⁸ 7 U.S.C. 1332.

⁹ 7 U.S.C. 1333. Acreage allotments for wheat have not been declared since 1971, and have not been declared for the 2012 crop. USDA does not possess acreage reports dating back to 1971.

must be established by the Secretary. Absent a suspension of § 333, wheat producers who limit the planting of wheat on a farm to not more than the acreage allotment would be eligible for 1) support at parity price support levels through loans, purchases, or other operations, and 2) participation in other programs authorized under the 1949 Act such as a farmer-owned reserve, among other authorities. A level of support equivalent to 65 to 90 percent of the parity price support for wheat, as determined by the Secretary, would be provided through loans, purchases, or other operations.¹⁰ Such benefits would only be made available to producers who produce wheat on a farm on acreage that is equal to or less than the allotment established for the farm.¹¹ A producer who does not have an allotment, or who plants wheat on acreage that is greater than the allotment, would not receive such benefits. In sum, producers that would be eligible for parity price support for their 2013 crop of wheat must have 1) an allotment on the farm established in 1958, 2) planted wheat on the farm in 2010, 2011 and 2012 crop years, and 3) planted wheat on the farm in 2013 in amount that is not in excess of the farm's 2013 allotment.

Upland Cotton. If the section is not again suspended, pursuant to § 342 of the 1938 Act,¹² the Secretary will have to announce whether marketing quotas will be in effect for the 2013 upland cotton 2013 marketing year. If marketing allotments were not imposed for the 2013 crop of upland cotton, acreage allotments would not be applicable.¹³ A level of support equivalent to 65 to 90 percent of the parity price support for upland cotton, as determined by the Secretary, would be provided through loans, purchases, or other operations.¹⁴

Corn. Marketing allotments for corn were repealed in 1954.¹⁵ Acreage allotments were made inapplicable to corn in 1958.¹⁶ A level of support equivalent to 50 to 90 percent of the parity price support for corn, as determined by the Secretary, would be provided through loans, purchases, or other operations.¹⁷

Rice. Acreage allotments and marketing quotas for rice were repealed in 1981.¹⁸ A level of support equivalent to 50 to 90 percent of the parity price support for rice, as determined by the Secretary, would be provided through loans, purchases, or other operations.¹⁹

Oats, Rye, Barley and Grain Sorghum. Loans, purchases, or other operations would be made available with respect to all production at a level of support that is fair and reasonable in relation to the level of price support for corn, taking into consideration the feeding value of the feed grain in relation to corn,²⁰ and other factors such as the availability of funds, supply and demand in the market place, etc.²¹

¹⁰ § 101(a) of the 1949 Act (7 U.S.C. 1441(a)).

¹¹ § 107(6) of the 1949 Act (7 U.S.C. 1445(6)).

¹² 7 U.S.C. 1342.

¹³ § 344 of the 1938 Act (7 U.S.C. 1344). In contrast, in the case of wheat, the declaration of acreage allotments is not contingent on the declaration of marketing quotas.

¹⁴ § 103(a) of the 1949 Act (7 U.S.C. 1444(a)).

¹⁵ Pub. L. 83-690, 68 Stat. 902 (1954).

¹⁶ Pub. L. 85-835, 72 Stat. 994 (1958).

¹⁷ § 105(a) of the 1949 Act (7 U.S.C. 1444b(a)).

¹⁸ § 601 of Pub. L. 97-98, 95 Stat. 1242 (1981).

¹⁹ § 101(e) of the 1949 Act (7 U.S.C. 1441(e)).

²⁰ § 105(a) of the 1949 Act (7 U.S.C. 1444b(b)).

²¹ § 401 of the 1949 Act (7 U.S.C. 1421).

Nonbasic Commodities – Titles II and III of the 1949 Act

Title II

The permanent authority for providing support at a rate equivalent to parity price support to producers of oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine), honey, sugar beets, and sugarcane is found in § 201(a) of the 1949 Act.²² Again, §1602(b)(8) of 2008 FB²³ suspended this authority with regard to the 2008 through 2012 crops of these commodities, and for milk, suspension was extended through December 31, 2012.²⁴

As amended, Title II of the 1949 Act sets forth the criteria for establishing a rate of support equivalent to a percentage of parity price support only for honey and milk. Although the original 1949 Act covered commodities in addition to honey and milk, as a result of amendments to the Act, price support may not be offered for sugar (including sugar cane and sugar beets) or oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, and mustard seed).

Title III of the 1949 Act cannot provide permanent law authorities for oilseeds or sugar, either; the authorities in Title III are expressly inapplicable to honey, oilseeds, sugar and milk.²⁵

Milk. Neither marketing allotments nor acreage allotments of the 1938 Act apply to milk. A rate of support equivalent to 75 to 90 percent of the parity price support for milk, as determined by the Secretary, would be provided through purchases.²⁶

Honey. Neither marketing allotments nor acreage allotments of the 1938 Act apply to honey. A rate of support equivalent to 60 to 90 percent of the parity price support for honey, as determined by the Secretary, would be provided through loans, purchases, or other operations.²⁷

Title III

The Secretary is authorized, in § 301 of the 1949 Act²⁸ to make available through loans, purchases, or other operations support at a rate that does not exceed 90% of the parity price support for a nonbasic commodity under Title III. Those nonbasic commodities designated in Title II of the 1949 Act are not within the scope of Title III. A nonbasic commodity in Title III can, if so identified by the Secretary, be any commodity other than 1) basic commodities (wheat, corn, rice, and upland cotton), and 2) nonbasic commodities under Title II (oilseeds, honey, sugar (beets and cane) and milk). The Secretary has discretion under Title III to determine which commodities are appropriate for price support under this Title, taking into account factors such as the availability of funds, supply and demand in the market place, etc., under section 401

²² 7 U.S.C. 1446.

²³ 7 U.S.C. 7992(b)(8).

²⁴ § 201(b) of the 1949 Act (7 U.S.C. 1446(b)); suspended at 7 U.S.C. 7992(b)(8).

²⁵ § 201(a) of the 1949 Act (7 U.S.C. 1446).

²⁶ § 201(c) of the 1949 Act (7 U.S.C. 1446(c)).

²⁷ § 201(b) of the 1949 Act (7 U.S.C. 1446(b)).

²⁸ (7 U.S.C. 1447).

of the 1949 Act.²⁹ The Secretary is also given discretion in § 302 of the 1949 Act³⁰ to determine support for a nonbasic storable commodity at a rate that does not exceed 90% of the parity support price for the commodity.

Summary of Permanent Law Support for Commodities

Based on Parity Price Statistics Compiled by the National Agricultural Statistics Service-February, 2012.

Commodity/Program	Current Suspension expires: ³¹	Range of Parity Price Support	Current Farm Price (Dec. 2011)
Milk- Designated Nonbasic Commodity §201, Act of 1949	Dec. 31, 2012	75-90% of \$49.80 (\$ cwt) (\$37.35-\$44.82)	\$19.80
Wheat §107, Act of 1949	April 1, 2012	65-90% of \$16.60 (\$ bu) (\$10.79-\$14.94)	\$7.3
Upland Cotton §103(a), Act of 1949	June 1, 2012	65-90% of \$1.94 (\$ lb) (\$1.26-\$1.75)	\$0.913
Corn §101, Act of 1949	May 1, 2012	50-90% of \$10.50 (\$ bu) (\$5.25-\$9.45)	\$6.20
Feed Grains (based on corn price) §105, Act of 1949	June 1, 2012	Oats, 50-90% of \$6.84 (\$ bu) (\$3.42-\$6.16)	\$3.40
		Rye, 50-90% of \$13.50 (\$ bu) (\$6.75-\$12.15)	\$7.77
		Barley, 50-90% of \$11.60 (\$ bu) (\$5.80-\$10.44)	\$5.40
		Grain Sorghum, 50-90% of \$18.50 (\$ cwt) (\$9.25-\$16.65)	\$10.90
Rice §101, Act of 1949	June 1, 2012	50-90% of \$44.60 (\$ cwt) (\$22.30-\$40.14)	\$14.20
Honey-Nonbasic Commodity, §201(b), Title II, of Act of 1949	December 31, 2012	60-90% of \$3.67 (\$ lb) (\$2.20-\$3.30)	\$1.60*
Nonbasic Commodities Title III, Act of 1949	June 1, 2012	Not greater than 90% of parity price of the nonbasic commodity. A nonbasic commodity under Title III can be any commodity other than oilseeds, honey, milk and sugar.	

²⁹ 7 U.S.C. 1421.

³⁰ 7 U.S.C. 1448.

³¹ The suspension of permanent price support law varies by commodity depending on the date designated by statute (e.g. milk and honey) or by harvest date for the applicable commodity. If the harvest date applies, the date is 2 months prior to the actual date on which the commodity is harvested.

Commodity/Program	Current Suspension expires: ³¹	Range of Parity Price Support	Current Farm Price (Dec. 2011)
Commodity Certificates §115, Act of 1949		Authority was suspended in 1996 FB, reauthorized in 2002 FB and 2008 FB, and terminated as of end of 2009 crop year.	NA
*For all commodities except honey, farm price for December 2011 from NASS Agricultural Prices. For honey, average farm price for December 2009 from NASS Agricultural Prices.			

Commodity/Program	Current Suspension expires	Description
Farmer Owned Reserve §110, Act of 1949	December 31, 2012	Wheat & feed grains – government storage & release
Agricultural Commodities Utilization §112, Act of 1949	December 31, 2012	Secretarial discretion as to set aside or diversion; converting commodities into industrial hydrocarbons; provide payments for above.
Terms for regular price support operations- Discretion of Secretary, Powers of CCC Parts of Title IV, Act of 1949	December 31, 2012	Provides administrative authorities for operation of commodity programs that existed prior to April 4, 1996 (1996 farm bill enactment).
Acreage Base and Yield System Title V, Act of 1949	December 31, 2012	Establishes an acreage base and yield system for pre-1996 farm bill commodity programs
Emergency Livestock Feed Assistance Title VI, Act of 1949	December 31, 2012	Disaster assistance for livestock.

Other USDA Programs

General Principles

The remainder of this memorandum will describe the effects on other programs administered by USDA (conservation, trade, nutrition, etc.) if, by September 30, 2012, either a new farm bill or an extension of the current farm bill is not enacted into law.

Generally, many mandatory programs would be severely impacted. For these programs, either the program authority or authorizations to receive mandatory funding for specific periods of time (usually on a FY basis) expire on September 30, 2012. Because a high percentage of their programs receive mandatory funding, perhaps the energy³² and trade program areas would be most severely impacted.

In general, for programs that receive annual appropriations, the impacts would be less severe if a new law is not enacted by September 30, 2012. These programs are funded by FY 2012 appropriations through September 30, and a continuing resolution could provide funding for the last quarter of calendar year 2012 and beyond.³³ Even if the explicit program or funding authorization were to lapse after September 30, many of these programs would have been implicitly reauthorized beyond FY 2012 by their inclusion in FY 2012 appropriations. Conversely, a program that has an expiring program or funding authorization, but has not been covered in FY 2012 appropriations, would not be implicitly reauthorized. Further, these programs could be implicitly reauthorized in the future by receiving funding in a FY 2013 appropriations bill. A continuing resolution which continues FY 2012 funding would not provide implicit reauthorization, but would continue funding beyond the expiration of the authorization of appropriations.³⁴

Finally, there are several terms or conditions of programs that, while not directly affecting program or funding authority, because they will expire at the end of FY 2012, will adversely impact administration of the programs unless reauthorized in FY 2012. Such provisions are normally reauthorized in farm bills. For example, the authority of the Secretary to carry out the adjusted gross income limitation test for participation in commodity and conservation programs under § 1001D of the FSA of 1985³⁵ would terminate on September 30, 2012, unless either a new farm bill is enacted or the current farm bill is extended.³⁶ Expiring

³² Several energy programs authorized in Title IX of 2008 FB are authorized to receive mandatory and discretionary funds. The authorizations for discretionary funding also would terminate on September 30. Examples include the Biorefinery Assistance, Rural Energy for America, and Biobased Markets, programs.

³³ Although the vast majority of the programs that are funded in the agricultural appropriations bill are discretionary, food stamps, nutrition programs, and CCC net realized losses are also funded in the annual agricultural appropriations bill.

³⁴ See Principles of Federal Appropriations Law, volume II, chapter 8, subchapter D, section 4, third Edition, by the General Accountability Office.

³⁵ 7 U.S.C. 1308-3a(e).

³⁶ There are several terms and conditions that are part of programs not discussed in the body of the second part of this memorandum that would also expire on September 30, 2012. Examples include: 1) user fees for cotton statistics and estimates under § 3a, Act of May 3, 1927 (7 U.S.C. 473a); 2) foreign market efforts of the national dairy promotion and research board under § 113(e), Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)); 3) biodiesel fuel education program under § 9004, 2008 FB (7 U.S.C. 8104); 4) biomass research and development program in § 310, Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note); 5) national agricultural

terms and conditions of programs will be cited in each section discussed in the remainder of this memorandum.

Conservation

Although most conservation programs are authorized to receive mandatory funding,³⁷ because of funding authorizations extended through FY 2014 in the FY 2012 agricultural appropriations bill,³⁸ four programs, conservation stewardship program (CSP),³⁹ environmental quality incentives program (EQIP),⁴⁰ farmland protection program (FPP),⁴¹ and wildlife habitat incentives program (WHIP),⁴² would continue to receive mandatory funds through FY 2014. Programs such as WHIP, FPP, the grasslands reserve program (GRP),⁴³ the Chesapeake Bay watershed program,⁴⁴ and voluntary public access and habitat incentive program,⁴⁵ have permanent program authorizations, but their authorizations for mandatory funding are periodic, expiring at the end of the FY in 2014 in the case of WHIP and FPP, and 2012 in the case of the GRP, Chesapeake Bay watershed program, and voluntary public access and habitat incentive program.⁴⁶

Mandatory funding authorizations for the conservation reserve program (CRP),⁴⁷ grassland protection program (GRP), and wetlands reserve program (WRP),⁴⁸ would expire on September 30, 2012. Both the program authorization for the conservation reserve program and the authorization to enroll new acreage in the program would expire on September 30, 2012.⁴⁹ The wetlands reserve program authority is permanent, but its authorization for enrollment of new acreage would also expire on September 30, 2012.⁵⁰ Acreage currently enrolled in both the CRP and WRP would continue to receive technical assistance and funding.

In the case of conservation programs receiving mandatory funding, funding for technical assistance is obtained through the mandatory funds authorized for the program.

research, extension, education, and economics advisory board under § 1408(h), Research, Extension, and Teaching Policy Act (7 U.S.C. 3123(h)); and 6) § 8, renewable resources extension act of 1978 (16 U.S.C. 1671 note).

³⁷ Title XII of the Food Security Act of 1985 (FSA of 1985) (16 U.S.C. 3801 et seq.).

³⁸ General Provision § 716 of the Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. 112-55 (2011).

³⁹ 16 U.S.C. 1238E et seq.

⁴⁰ 16 U.S.C. 3839aa et seq.

⁴¹ 16 U.S.C. 3838i.

⁴² 16 U.S.C. 3839bb-1.

⁴³ 16 U.S.C. 3838n.

⁴⁴ § 1240Q of the FSA of 1985 (16 U.S.C. 3839bb-4).

⁴⁵ § 1240R of the FSA of 1985 (16 U.S.C. 3839bb-5).

⁴⁶ See § 1241(a) (4), (5) & (7)) of the FSA of 1985 (16 U.S.C. 3841(a) (7), (5) & (4)) in the case of FPP, GRP, and WHIP, respectively, § 1240Q(h) of the FSA of 1985 (16 U.S.C. 3839bb-4(h)) in the case of the Chesapeake Bay Watershed Program, and § 1240R(f) of the FSA of 1985 (16 U.S.C. 3839bb-5(f)) in the case of the voluntary public access and habitat incentive program.

⁴⁷ 16 U.S.C. 3831 et seq.

⁴⁸ 16 U.S.C. 3873.

⁴⁹ 16 U.S.C. 3831(a) & (d).

⁵⁰ 16 U.S.C. 3837(a) & (c).

The program authorizations and part of the mandatory funding authorizations for agricultural management assistance are permanent, and would not be affected if neither an extension of 2008 FB nor a new farm bill is enacted by September 30, 2012.⁵¹

Four discretionary conservation programs – healthy forests reserve,⁵² grassroots source water protection,⁵³ conservation of private grazing land program,⁵⁴ and great lakes basin program⁵⁵ – have permanent program authorizations, but the authorization of appropriations would expire at the end of FY 2012.

Compliance activities would continue unabated for programs that are authorized beyond September 30, 2012. The regional equity funding requirements⁵⁶ would continue to apply to all conservation programs authorized under Title XII of the FSA of 1985 that are authorized beyond September 30.

Trade

Congress has mandated that the Secretary permanently carry out certain trade and international development programs. These programs are authorized to receive mandatory funding on a FY basis, and their funding authorizations would expire on September 30, 2012. These programs include: export credit guarantees,⁵⁷ export credit guarantees for emerging markets,⁵⁸ market access,⁵⁹ foreign market development cooperator,⁶⁰ technical assistance for specialty crops,⁶¹ food for progress,⁶² dairy export incentives,⁶³ facilities credit guarantees,⁶⁴ and local and regional food aid procurement projects⁶⁵.

Authority to finance sales or to provide other assistance under the Food For Peace Act would expire on December 31, 2012. Several terms or conditions contained in the Food for Peace Act⁶⁶ would be severely impacted due to their expiration if either an extension of 2008 FB or a new farm bill is not enacted by September 30, 2012. The authorization of minimum levels of assistance for the program under Title II in § 204(a),⁶⁷ the authority for the food aid consultative group in § 205,⁶⁸ and the authority to finance sales and enter into agreements under Public Law 480 programs in § 408,⁶⁹ would expire. The authorization for appropriations under

⁵¹ §524(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1524 (b)(4)).

⁵² 16 U.S.C. 6571.

⁵³ 16 U.S.C. 3839bb-2.

⁵⁴ 16 U.S.C. 3839bb.

⁵⁵ 16 U.S.C. 3839bb-3.

⁵⁶ §1241(d) (7 U.S.C. 3841(d)).

⁵⁷ 7 U.S.C. 5622.

⁵⁸ 7 U.S.C. 5622 note.

⁵⁹ 7 U.S.C. 5623.

⁶⁰ 7 U.S.C. 5723(a).

⁶¹ 7 U.S.C. 5680.

⁶² 7 U.S.C. 1736o.

⁶³ 15 U.S.C. 713a-14.

⁶⁴ 7 U.S.C. 5622 note.

⁶⁵ 7 U.S.C. 1726c.

⁶⁶ 7 U.S.C. 1691 et seq.

⁶⁷ 7 U.S.C. 1724.

⁶⁸ 7 U.S.C. 1725(f).

⁶⁹ 7 U.S.C. 1736b.

Title II in § 208(f)⁷⁰ and to carry out Food for Peace Act programs in sub-Saharan African and Caribbean countries in § 501(e)⁷¹ would expire on September 30, 2012.

The authority to reallocate sugar quota import shortfalls in § 359k of the 1938 Act⁷² would expire. Authority to replenish stocks of the Bill Emerson humanitarian trust⁷³ and to administer the trust would expire on September 30, 2012.

Finally, the McGovern-Dole food for education program,⁷⁴ is currently funded by the Consolidated and Further Continuing Appropriations Act, 2012 through September 30, 2012. The program authority is permanent.

Supplemental Nutrition Assistance Program

Except as noted below, the programs of the supplemental nutrition assistance program, and food distribution programs authorized by the Food and Nutrition Act of 2008, the emergency food assistance program authorized by the Emergency Food Assistance Act of 1983, and the commodity supplemental food program, authorized by the Agriculture and Consumer Protection Act of 1973, would be largely unaffected if neither a new farm bill nor an extension of the current farm bill were enacted by September 30, 2012.

- § 25(h), Food and Nutrition Act of 2008,⁷⁵ increases access to healthy, affordable foods to underserved communities;
- § 27, Food and Nutrition Act of 2008,⁷⁶ authorizes through FY 2012 purchase of commodities for Emergency Food Assistance Program.
- § 209, Emergency Food Assistance Act of 1983,⁷⁷ authorizes the Secretary to make grants to entities to increase distribution of perishable food products;
- § 4405, Food, Conservation, and Energy Act of 2008,⁷⁸ funding for Hunger Free Communities program.

Nutrition Programs and Activities

The special nutrition programs authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966, including the special supplemental nutrition program for women, infants, and children and the school lunch and breakfast programs, would be largely unaffected if neither a new farm bill nor an extension of the current farm bill were enacted by September 30, 2012. Most of these programs are controlled by the Child Nutrition

⁷⁰ 7 U.S.C. 1726b(f).

⁷¹ 7 U.S.C. 1737(e).

⁷² 7 U.S.C. 1359kk.

⁷³ 7 U.S.C. 1736f-1 et seq.

⁷⁴ 7 U.S.C. 1736o-1.

⁷⁵ 7 U.S.C. 2034(h).

⁷⁶ 7 U.S.C. 2036.

⁷⁷ 7 U.S.C. 7511A.

⁷⁸ 7 U.S.C. 7517.

reauthorization, which is on a different schedule from the farm bill and were reauthorized in FY 2010.⁷⁹ The exceptions to this general rule are noted below.

- § 5(d)(2), Agriculture and Consumer Protection Act⁸⁰ regarding amounts of cheese and nonfat dry milk annually to be provided by the Commodity Credit Corporation to the commodity supplemental food program;
- § 1114(a)(2)(A), Agriculture and Food Act of 1981⁸¹ authorizes contracting with private companies to further process bonus commodities into end food products;
- § 5(a)(1), Agriculture and Consumer Protection Act of 1973⁸² authorizes minimum per-case cost payments to State agencies for the commodity supplemental food program.

Rural Development, Rural Housing, and Rural Utilities

Nearly all of the programs administered by the agencies of the Rural Development Mission Area (Rural Housing Service (“RHS”), Rural Business – Cooperative Service, and Rural Utilities Service (“RUS”)) are authorized under the following statutes: Consolidated Farm and Rural Development Act (CON Act),⁸³ Rural Electrification Act of 1936,⁸⁴ Housing Act of 1949,⁸⁵ and 2008 FB.

The essential community facilities programs administered by RHS, and the water and wastewater disposal programs administered by RUS, are supported by several authorities in the CON Act. The authorization of appropriations for several of these authorities would expire at the end of FY 2012.⁸⁶ However, the program authorizations for these programs are permanent law⁸⁷ and would remain in effect even if neither an extension of 2008 FB nor a new farm bill were enacted by September 30, 2012.

The business and cooperative programs administered by the Rural Business Cooperative Service are authorized in either the CON Act or 2008 FB. The authorizations for the business

⁷⁹ Healthy, Hunger Free Kids Act of 2010, Pub. L. 111-296, 124 STAT 3183 et seq. (2010).

⁸⁰ 7 U.S.C. 612c note.

⁸¹ 7 U.S.C. 1431e(a).

⁸² 7 U.S.C. 612c note.

⁸³ 7 U.S.C. 1921 et seq.

⁸⁴ 7 U.S.C. 901 et seq.

⁸⁵ The authorizations for the single family and multifamily housing programs of the Rural Housing Service contained in the Housing Act of 1949 were not addressed in 2008 FB and are not within the jurisdictions of the House and Senate Agriculture Committees. Therefore, these programs will not be affected in anyway by Congress’ actions or lack of action on the farm bill.

⁸⁶ These include 1) water, waste disposal, and wastewater facility grants in section 306(a)(2)(B)(vii); 2) rural business opportunity grants, § 306(a)(11); 3) tribal college and university essential community facilities grants, § 306(a)(25); 4) emergency and imminent community water assistance grants, § 306A(i)(2); 5) water systems for rural and native villages in Alaska, § 306D(d)(1); 6) grants to nonprofit organizations to finance household wells, § 306E(d); 7) rural cooperative development grants, § 310B(e)(12); 8) grants to broadcasting systems, § 310B(f)(3); and 9) appropriate technology transfer for rural areas, § 310B(i)(4).

⁸⁷ § 306(a)(1) of the CON Act (7 U.S.C. 1926(a)(1)).

and industry loan guarantee program are permanent law.⁸⁸ Mandatory funding for the rural micro entrepreneur assistance program,⁸⁹ would terminate as of September 30, 2012.

The electric and telecommunications programs are administered by RUS. The authorization for the electric program under Title III of Rural Electrification Act of 1936 is permanent law.⁹⁰ The authorization for the broadband program under Title IV of the Rural Electrification Act of 1936 would expire as of September 30, 2012.⁹¹ However, the broadband programs received discretionary funding for FY 2012, and thus received an implicit program authorization.⁹²

Finally, the program authority for the northern Great Plains regional authority⁹³ and the national rural development partnership,⁹⁴ would expire on September 30, 2012.

FSA Farm Loan Programs

There are a couple of terms and conditions of credit programs that would terminate absent new authorization in a new farm bill or extension. The maximum amounts of direct and guaranteed loans authorized in § 346 (b)(1) of the CON Act would terminate on September 30, 2012, as would the set-asides of direct loan funds for beginning farmers and ranchers authorized in § 346(b)(2) of the CON Act.⁹⁵

Crop Insurance

The Federal crop insurance program administered by the Risk Management Agency on behalf of the Federal Crop Insurance Corporation is authorized in the Federal Crop Insurance Act.⁹⁶ The core authorities to operate the Federal crop insurance program are permanent law.

⁸⁸ § 310B(a) & (g) of the CON Act (7 U.S.C. 1932(a) & (g)).

⁸⁹ §379E(d)(1) of the CON Act (7 U.S.C. 2008s(d)(1)).

⁹⁰ 7 U.S.C. 931.

⁹¹ 7 U.S.C. 950bb.

⁹² See § 601(k) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb).

⁹³ § 383N of the CON Act (7 U.S.C. 2009bb-13).

⁹⁴ §378 of the CON Act (7 U.S.C. 2008m).

⁹⁵ 7 U.S.C. 1994(b)(1)-(2).

⁹⁶ 7 U.S.C. 1501 et seq.

Hence, the basic operation of the Federal crop insurance program would not be affected if neither an extension of 2008 FB nor a new farm bill were enacted by September 30, 2012.

Energy

Several energy programs received mandatory and discretionary funding authorizations that would terminate absent the enactment of a new farm bill or extension of 2008 FB in the case of mandatory funding, and enactment of a FY 2013 appropriations bill by September 30, or a continuing resolution in the case of discretionary funding. Mandatory funding for the biobased markets program,⁹⁷ biorefinery assistance program,⁹⁸ bioenergy program for advanced fuels,⁹⁹ biodiesel fuel education program,¹⁰⁰ rural energy for America program,¹⁰¹ biomass research and development program,¹⁰² and biomass crop assistance program,¹⁰³ would terminate on September 30, 2012. Only the biomass crop assistance program does not have an authorization for discretionary funding. Except for the biobased markets program, the other energy programs, which receive discretionary funding, have implicitly received funding authorization beyond September 30, 2012, because these programs were covered in FY 2012 appropriations.

97 7 U.S.C. 8102.

98 7 U.S.C. 8103.

99 7 U.S.C. 8105.

100 7 U.S.C. 8106.

101 7 U.S.C. 8107.

102 7 U.S.C. 8108.

103 7 U.S.C. 8111.