

CONGRESS/WATER RESOURCES**Senate Farm Bill****June 28, 2024****Special Report #2615**

On June 11, Senator John Boozman (R-AR), ranking member of the Senate Committee on Agriculture, Nutrition, and Forestry, released a Republican-drafted framework for the delayed Farm Bill. Under the framework, Title II Conservation programs would enhance “the voluntarily, locally led conservation delivery system trusted by producers to meet their unique conservation, natural resource and wildlife habitat concerns. It does so by reinvesting Inflation Reduction Act (IRA) conservation dollars into farm bill conservation programs...This investment allows for new conservation initiatives...to address drought, water quality, wildlife habitat biodiversity, soil erosion and improved climate resiliency. The climate priorities will remain accessible through these programs, allowing producers and states to seek cost-share assistance for carbon sequestering or greenhouse gas reducing practices to continue to do so, while allowing the unique and varied resource concerns of all America’s producers to benefit from increased conservation funding.” The framework would increase funding by 25% for conservation programs such as the Environmental Quality Incentives Program (EQIP), the Conservation Stewardship Program (CSP), the Agriculture Conservation Easement Program (ACEP), the Regional Conservation Partnership Program (RCPP) and the watershed programs. It would improve the ability of conservation programs to address long-term drought. It would create a new Forest Conservation Easement Program and a State Soil Health Grant Program, to address emerging conservation and climate goals. It would increase the federal cost share for easement protections.

Title VI on rural development would provide “significant new mandatory funding to fund critical water infrastructure and community facilities.” It would continue “current mandatory investments to support rural development loans and grants.” It would stand up “a new cybersecurity circuit rider program to defend rural water and wastewater systems against cyber threats.” It would allow “eligible, high functioning water systems to aid separate water systems in securing funding, enabling improved operations of water and wastewater facilities.” It would reauthorize the Rural Decentralized Water Systems Program. It would authorize federal grants for water quality testing and support the purchase, installation, and maintenance of water filtration systems “in order to safeguard against harmful contaminants found in drinking water of rural communities with persistent water challenges.” See <https://www.agriculture.senate.gov/newsroom/rep/press/release/boozman-unveils-senate-ag-republicans-framework-answering-call-to-put-more-farm-in-the-farm-bill> and WSW #2608.

House Farm Bill

On June 18, the Congressional Budget Office released a report updating its baseline projections for what the federal budget and economy would look like over the next ten years if the laws governing taxes and spending remained unchanged. The projections that the U.S. Department of Agriculture (USDA) would only spend \$12B in discretionary funds on the Commodity Credit Corporation (CCC), including funds transferred to conservation programs through the Natural Resource Conservation Service (NRCS), contradicted the assumptions made in the House for \$50B in funding offsets by limiting the USDA’s CCC authority. See E&E News 6/21/24; <https://www.cbo.gov/publication/60039>

On May 24, the House Agriculture Committee approved the Farm, Food, and National Security Act (H.R. 8467) in a 33-21 vote along party lines. Partisan divisions over the Farm Bill primarily focused on changes to the Thrifty Food Plan for calculating Supplemental Nutrition Assessment Program (SNAP) benefits, restrictions on the Secretary of Agriculture’s use of the Commodity Credit Corporation, and the removal of climate-smart requirements on integration of Inflation Reduction Act (IRA) funding. H.R. 8467 would provide more than \$20B in funding to Natural Resource Conservation Service (NRCS) programs by reallocating funds from the Inflation Reduction Act (IRA) and removing provisions requiring the funds to be used for projects that reduce greenhouse gas emissions.

Title II - Conservation

Section 2101 would expand the duration of Conservation Reserve Program (CRP) contracts up to 30 years for eligible lands “devoted to conservation buffers that improve water quality by reducing sediment loadings, nutrient loadings, and harmful algal blooms.”

Sec. 2103 would amend the Conservation Reserve Enhancement Program (CREP) to increase the focus on local leadership and state partnerships by codifying the State Acres for Wildlife Enhancement (SAFE) Initiative and combining it with CREP to create a new State Partnership Initiative enrollment option. The State Partnership Initiative would maintain all the existing authorities of both programs and existing acreage caps. State allocations would be based on historical allocations. Sec. 2103 would also increase maximum payments from \$50,000 to \$125,000 per year.

Sec. 2106 would direct USDA to utilize the land capability classification system based on soil quality to approve acreage rental rates for CREP enrollment, rather than the current Environmental Benefits Index. The provision would also incentivize the enrollment of marginal lands by paying a higher rental rate for land capability classes III through VII. It would use science-based targeting of acreage for enrollment, while protecting marginal and unfarmable land for conservation and wildlife habitat, so that young and beginning farmers are not competing with the federal government for arable farmland. It restores the EQIP minimum livestock allocation at 50% and maintains the wildlife habitat minimum allocation at 10%.

Sec. 2201 would define and incorporate precision agriculture as part of EQIP. Sec. 2202 would add precision agriculture technologies to USDA's existing Conservation Loan and Guaranteed Loan Program, with up to a 90% guarantee to incentivize the private sector to engage in water conservation and irrigation and energy efficiency practices.

Sec. 2303 directs the USDA to establish a grant program to support states and tribes with NRCS-consistent soil health programs, with one-year grants up to \$5M.

Sec. 2404 would encourage public access to wetland reserve easements through agreements with states and tribes, authorizing \$3M for FY25-29.

Sec. 2405 would amend the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003(a)) by adding technical and financial assistance to local organizations for remedial actions on completed works related to design deficiencies, unforeseen site conditions, or structural damage from an extreme storm event. It also directs USDA to engage with other federal agencies to streamline permitting and other procedures. It directs USDA to collect data related to flood control and conservation measures and to make it publicly available.

Sec. 2406 would authorize Emergency Conservation Program (ECP) advance payments of up to 75% for rehabilitation or replacement of fencing or other farmland or conservation structures, and up to 50% for repairs. It clarifies that wildfire damage "includes any wildfire that is not caused naturally, including a wildfire that is caused by the Federal Government, if the damage is caused by the spread of the fire due to natural causes."

Sec. 2407 expands the Emergency Watershed Program by authorizing USDA to restore, monitor, and maintain vegetative cover and hydrologic functions of floodplain easements; to enter into contracts with landowners, states, tribes, and nongovernmental organizations; and to authorize landowners to carry out compatible activities on the land subject to a floodplain easement, "including such activities as hunting and fishing, managed timber harvest, water management, or periodic haying or grazing" where appropriate.

Sec. 2503 directs USDA and NRCS to establish an Office of Conservation Innovation to gradually improve conservation practice standards. It also creates additional opportunities for the certification of third-party and non-federal providers of conservation technical assistance.

Sec. 2504 directs USDA to identify a source water protection coordinator in each state to collaborate with community water systems and state technical committees to encourage practices that protect source waters for drinking water.

Sec. 2602 would amend the Agricultural Conservation Easement Program (ACEP) by increasing the federal cost-share for agricultural land easements from 50% to 65%, allow a 90% cost-share for socially disadvantaged farmers and ranchers with 50% or more ownership, and clarify the certification process for experienced entities.

Sec. 2603 expands the Wetland Reserve Easements to include both tribes and landowners who are socially disadvantaged farmers and ranchers. It directs the USDA to report to Congress within 2 years on stewardship strategies, an inventory of existing stewardship needs of all wetland reserve easements, the planned use of compatible uses, contracts, agreements, and wetland reserve easement plans to ensure that each stewardship need is addressed.

Sec. 2701 would establish the Forest Conservation Easement Program (FCEP), modeled after the ACEP, to provide an entity-held easement option for working forests. It would replace the Healthy Forests Reserve Program, repealed in Sec. 2902.

Sec. 2803 would expand authorization of the RCPP to include flood resiliency projects and would allow for up to 10% of an RCPP agreement to reimburse the partner for administrative expenses.

Title IV - Rural Development

Sec. 6402 would extensively clarify the Rural Water and Wastewater Circuit Rider program in 7 U.S.C. 1926(a)(22), adding an explicit purpose and eligible entities, populations, and uses of funds, and maintaining authorization of \$25M for FY25-29. The purpose would be to provide a network of expert rural water circuit riders in all 50 states, which work one-on-one with eligible rural water and wastewater systems in major assistance categories. "The program is intended to

help rural water systems operate effectively and efficiently and achieve long-term sustainability and compliance with certain Federal laws and requirements, including the Safe Drinking Water Act and the Clean Water Act.”

Entities eligible for USDA grants include “nonprofit organizations that have demonstrated experience providing technical assistance and disaster recovery assistance from water and wastewater utilities nationwide. Awardees shall rely on personnel that possess active water and wastewater operators’ licenses or overall knowledge of water utilities necessary to carry out eligible activities.”

The grant funds may be used for areas with populations of 10,000 or fewer inhabitants for such technical assistance as (1) board training; (2) managerial and financial operations to enhance the long-term sustainability of rural water and wastewater systems, including partnerships, consolidation, and regionalization; (3) physical operation and maintenance of rural water and water infrastructure; (4) water treatment; (5) regulatory compliance; (6) facility security; (7) loan application and reporting; (8) cybersecurity; or (9) other areas the USDA deems appropriate.

The funds may also be used for areas with populations of 50,000 or fewer inhabitants for disaster and recovery assistance, including: (1) directing on-site personnel and equipment to eligible utilities; (2) coordinating in statewide emergency response networks; (3) facilitating the development of action plans between utilities, local governments, the Federal Emergency Management Authority (FEMA), and the state emergency management agencies; (4) resilience and mitigation planning; (5) GIS mapping; (6) updating vulnerability assessments, preparation of emergency response plans, communication protocols, hazard recognition, and evaluation skills; (7) conducting preliminary damage assessments of critical infrastructure; (8) addressing outstanding deficiencies focused on resolving health-based regulatory, operational, financial, and managerial deficiencies that impact the sustainability of the affected utilities; (9) application and reporting assistance for federal and state requirements including FEMA and insurance recovery claims; (10) providing for disaster readiness, support, and response activities targeted to disadvantaged communities that lack the financial resources and human capital necessary to adequately address significant health, safety, or sanitary concerns; and (11) other areas the USDA deems appropriate. Not more than 5% of a grant award may be used to purchase or reimburse rental costs of emergency equipment.

Sec. 6403 would offer 0-1% interest loans, fee waivers, refinancing assistance, or principle or interest loan forgiveness for distressed rural water, wastewater, or wastewater disposal systems located in socially disadvantaged communities, or persistent poverty counties, colonias, or tribal areas. The purpose of the program is to: (1) ensure the entity has the necessary resources to maintain public health, safety or order; (2) address financial hardship for the entity and the customers and community it serves; and (3) identify the financial stability of the entity, including operational practices, revenue enhancements, policy revisions, partnerships, regionalization, consolidation of water systems, or contract services. It would require the applicant to receive financial planning assistance and prepare a long-term financial plan.

Sec. 6407 would modify the Rural Decentralized Water Systems program, updating eligibility requirements and loan terms, and adding loans and subgrants for performing qualified water quality testing of individual household water well systems and individually-utilized household decentralized wastewater systems in rural areas. It would also provide technical assistance to eligible individuals for the installation or replacement of well systems, interpreting qualified water tests, or addressing ground well water contamination.

Sec. 6408 would add precision agriculture to assistance programs for rural entities (7 U.S.C. 1932(a)) and Sec. 6409 would add tribes to solid waste management grants (7 U.S.C. 1932(b)).

Sec. 6430 would modify the Rural Water and Wastewater Technical Assistance and Training Programs (7 U.S.C. 1926(a)(14)) to add disaster and recovery assistance.

Title VIII - Forestry

Sec. 8204 would amend the Water Source Protection Program (16 U.S.C. 6542) by clarifying the project requirements and priorities of the program. A project would be designed to: (1) protect and restore watershed health, water supply and quality, a municipal or agricultural water supply system, and water-related infrastructure; (2) protect and restore forest health from insect infestation and disease or wildfire; or (3) any combination of those purposes. Priority would be given to projects that: (a) provide risk management benefits associated with drought, wildfire, post-wildfire conditions, extreme weather, flooding, resilience to climate change, and watershed and fire resilience, including minimizing risks to watershed health, water supply and quality, and water-related infrastructure, including municipal and agricultural water supply systems; (b) support aquatic restoration and conservation efforts that complement existing or planned forest restoration or wildfire risk reduction efforts; or (c) provide quantifiable benefits to water supply or quality and include the use of nature-based solutions, such as restoring wetland and riparian ecosystems.

It would add non-federal adjacent lands within the same watershed on a voluntary basis, without changing ownership of the land. It would also add additional non-federal end water users such as acequia associations, local or regional water delivery, stormwater, and wastewater facilities, and land-grant mercedes, and authorize the partnership agreements to

benefit another end user. It expands the list of eligible partnership agreements to include Good Neighbor agreements. It authorizes the use of an existing watershed plan to reduce redundancy for the water source management plan. It authorizes USDA to waive the 50-50 matching funds requirement at the Secretary's discretion. It also sets aside up to 10% of authorized funds for non-federal partner planning and technical assistance efforts in developing and implementing a water source management plan.

Title X - Regulatory Reform

Sec. 10213 provides a safe harbor for authorized federal, state, and tribal entities for aerial application of fire retardants and water enhancers for wildfire suppression, control, or prevention activities, if conducted in accordance with the EPA-USFS Federal Facility Compliance Agreement. The safe harbor applies to applications conducted while seeking an NPDES permit under the CWA.

Title XII - Miscellaneous

Sec. 12412 would direct USDA to prepare a report to Congress listing all existing authorities and programs that could be made available to provide assistance to agricultural producers in Texas that have suffered economic losses due to the failure of Mexico to deliver water under the 1944 Rio Grande Treaty.