The "New" Farm Legislation of 2008: An Overview

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The Food, Conservation and Energy Act (FCEA) of 2008 (PL 110-246) is now being implemented and has far-reaching impacts for Oklahoma and Oklahoma agriculture. Commonly referred to as "the farm bill," the new Act is expected to cost $307 billion over five years (2008 to 2012). The largest share of expenditures is for nutrition programs (68 percent); followed by commodity programs (11 percent); and conservation programs (8 percent).

Highlights of FCEA 2008:

1. New focus (specific titles added) on Horticulture and Organic Agriculture, Livestock, Commodity Futures, and Crop Insurance and Disaster Assistance.
2. Existing commodity programs were reauthorized but with reductions in payment limits and some program payment rate changes. A new revenue assurance program and disaster assistance program were added.
3. More funds will go to conservation programs with substantial growth in the renamed Conservation Security Program (CSP), Environmental Quality Incentives Program (EQIP), Farm and Ranch Protection Program (FRPP), Grasslands Reserve Program (GRP), and Wetlands Reserve Program (WRP).
4. Country Of Origin Labeling (COOL) is fully implemented by September 2008 with additional commodities and revised labeling, record-keeping, and compliance rules.
5. More than two-thirds of the act's funds go to nutrition programs, with more funding for food stamps, food banks, locally-produced food, and school and seniors' food programs.
6. Energy provisions include more support for cellulosic ethanol and less for grain ethanol, with a new sugar-for-bioenergy program.
7. Funding for Agricultural Research and Extension activities are made more competitive, with increased opportunities for the private sector and nonland-grant colleges of Agriculture to pursue scarce Federal dollars.
8. The Cooperative State Research, Education, and Extension Service (CSREES) is to be reorganized with the creation of a new National Institute of Food and Agriculture (NIFA).

Key provisions are summarized below. However, many of these provisions will be detailed in other Fact Sheets. Prior to making any production and participation decisions, producers and landowners should check with local Farm Service Agency or Natural Resource Conservation Service offices for the latest details.

Commodity Programs

The FCEA Commodity Title extended the Direct Program (DP) and Countercyclical Program (CCP) and added the Average Crop Revenue Election (ACRE) program as an option.

The ACRE Program is authorized for 2009 to 2012 as an alternative to the CCP program and may be elected in any year beginning in 2009. However, once a producer enrolls a farm in ACRE, the farm must remain in the ACRE program for the remainder of the 2008 Act. ACRE provisions will apply to all eligible commodities raised on the farm.

There are two triggers for activating ACRE payments: Actual State Revenue must fall below the State ACRE Guarantee <u>and</u> actual farm revenue must fall below the Farm ACRE Guarantee for the crop year for the covered commodity. See Fact Sheet AGEC-1011 for specific details of the ACRE program. Adjustments are allowed to the ACRE Program Guarantee for irrigation. The State ACRE Guarantee cannot change more than 10 percent from the previous year.

In other commodity program changes, dry peas, lentils, and small and large chickpeas will be eligible for CCP and ACRE programs in 2009. Payment yields will be based on 1998 to 2001 average yields adjusted to 1981 to 1985 average yields. Yields less than 75 percent of county average yields are assigned 75 percent of the county average yield. Those areas with insufficient county yield history will be allowed to use the dry pea yield ratios.

Direct payments are based on 83.3 percent of base acres for 2009 to 2011 for all covered commodities and peanuts and 85 percent of base acres for all eligible commodities including peanuts in 2008 and 2012. CCP payments remain based on 85 percent of established eligible acres. Producers who choose ACRE will receive a reduction of 20 percent in direct payments and 30 percent in marketing loan rates. Commodity program payment rates are shown in Table 1.

The marketing loan program is reauthorized under the 2008 Act. Modifications to the marketing loan program

Table 1. Commodity Program Rates for Selected Commodities.

Commodity	*Target Price*		*Direct Payment Rate and 2008–12*	*Loan Rate*	
	2008–09	*2010–12*		*2008–09*	*2010–12*
Corn (bu)	$2.63	$2.63	$0.28	$1.95	$1.95
Cotton (lb)	$0.7125	$0.7125	$0.0667	$0.52	$0.52
Peanuts (ton)	$495.00	$495.00	$36.00	$355.00	$355.00
Rice (cwt)	$10.50	$10.50	$2.35	$6.50	$6.50
Soybeans (bu)	$5.80	$6.00	$0.44	$5.00	$5.00
Wheat (bu)	$3.92	$4.17	$0.52	$2.75	$2.94

include payment levels and methods of calculating posted county prices and payment limits. The posted county price (PCP) upon which a loan deficiency payment or loan repayment is made may be a 30-day moving average of locally–adjusted terminal prices instead of simply the previous day's price.

Program Payment Limits

The commodity program payment limits were modified in the 2008 Act. Producers are not eligibile for commodity program payments if nonfarm average adjusted gross income (AGI) exceeds $500,000. Producers will not receive direct payments if farm income exceeds $750,000 average AGI (based on IRS reported 3-year average AGI). Categories of eligible farming income are listed in the bill. DP and CCP limits remain as they were passed in the 2002 Act, with the exception that limits are now tracked to individuals, instead of entities. For ACRE payments, the new limit is $65,000 plus the amount of the reduced direct payment due to the 20 percent cut in direct payments under the ACRE program. The benefits from loan deficiency payments or marketing loan gains under the loan program will not be subject to payment limits.

State and local governments are not eligible for payments, with exceptions of payments to entities that support a public school (limited to $500,000). To be eligible for program payments, an individual must be actively engaged in the farming operation, contributing substantial capital, land or machinery, or providing labor or management to the operation.

Crop Insurance and Disaster Assistance

The federal crop insurance program is modified under FCEA (Title XII). The goal of these modifications is to attain cost savings, greater compliance, special treatment of organic farmers, expanded research and development, timing shifts in premium due dates and company expense reimbursement, and regular opportunities for the Risk Management Agency (RMA) to evaluate the industry. Cost savings are expected by adjusting the national loss ratio from 1.075 to 1.0, and making corresponding adjustments in premium rates to equal projected indemnities. Increases in catastrophic and noninsured crop assistance program administrative fees are included in the legislation.

Title XV of the new bill authorizes the Supplemental Agricultural Disaster Assistance Trust Fund to eliminate the need for Ad hoc disaster assistance that has been authorized to cover agricultural losses in some part of the nation almost every year through the past several Acts.

The Trust Fund supports five new disaster assistance programs which are authorized under both Title XII and Title XV. These are the Supplemental Revenue Program (SURE), the Livestock Forage Disaster Program (LFP), the Livestock Indemnity Program (LIP), the Tree Assistance Program (TAP), and the Emergency Assistance Program for livestock, honey bees, and farm–raised fish.

What farms are eligible for SURE payments?

- Farm is located in a county (or contiguous county) covered by a qualifying national disaster declaration by the USDA Secretary;

Or

- Whole farm must have a 50 percent loss in expected revenue (planted acres x adjusted Actual Production History (APH) or Counter-cyclical program (CCP) yield times the insurance price guarantee);

And

- The farm must suffer at least a 10 percent eligible production loss on at least one crop of economic significance (any crop that contributed, or is expected to contribute, 10 percent or more of the total expected value of all crops grown by the producer);

And

- Producer must purchase either private crop insurance or FSA's Noninsurable Crop Disaster Assistance Program (NAP) coverage for all mechanically harvested crops (planted or intended) that are of economic significance;

And

- Producer must meet Adjusted Gross Income (AGI) limits.

SURE participation will require insurance (crop insurance if available or Noninsured Crop Assistance Program — NAP) for all crops (with an exception for 2008 if producers pay a nominal administrative fee). A difference from past disaster assistance is that this program encompasses losses over the entire farm and all crops in determining a total farm revenue program guarantee. For specific details about SURE, see Fact Sheet AGEC-1012.

Conservation

Most conservation programs in the 2002 Act were reauthorized in the new Act but with some modifications and growth in the overall level of authorized funding. In terms of payment limits, program funding was modified to reflect attribution to individuals receiving them.

The reserve programs, including the Conservation Reserve Program (CRP) and the Wetlands Reserve Program (WRP), were both reauthorized through 2012. The acreage cap in the CRP falls from 39.2 million acres to 32 million acres nationwide beginning in 2010. The WRP cap grows from 2.275 million acres to 3.041 million acres nationwide and includes a change in rules for compensating landowners that could make WRP enrollments more attractive.

On working lands, a major change in program name and payment structure remakes the Conservation Security Program into the Conservation Stewardship Program (CSP). The "tiered" payment approach of the 2002 CSP has been replaced. Payments will be made to compensate producers for installing and adopting conservation practices based on environmental benefits and costs of applying the conservation practices. Enrollment in the new CSP is targeted at nearly 12.8 million new acres per year at an average cost of implementation of $18 per acre.

The Environmental Quality Incentives Program (EQIP) continues to provide cost-share and technical assistance for adopting new conservation practices. New priorities include conservation practices related to organic production and transition, payments to producers to address air quality concerns, and a new Agricultural Water Enhancement Program under EQIP to address water quality and water conservation needs. Organic transition programs and beginning and socially disadvantaged farmer funds are provided for in the legislation. The funding authorization for EQIP grows from $1.3 billion per year in 2007 to $1.75 billion per year by 2012.

Energy

The new energy provisions shift Federal emphasis from grain ethanol to cellulosic ethanol. The FCEA allocates $1 billion over the life of the bill to fund programs encouraging renewable energy investments in new technology, new feedstocks, and facilities. This includes authorizations for programs like the Biomass Research and Development Program and Biorefinery Assistance.

Horticulture and Organic Agriculture

Title X of the Act authorizes approximately $1 billion to support the Horticulture and Organic Agriculture industry. Horticultural and organic commodity market prices and shipment information will be enhanced with a new market news service and for organic marketing data collection and publication. Fresh produce safety concerns are addressed by including funds to educate both the public and the fresh produce industry. Funding is authorized to support farmers' markets, agritourism and other direct producer-to-consumer enterprises, and to support the use of electronic benefits transfers for the federal nutrition programs (such as in the food stamp program).

A key provision in Title X is increased funding for the Specialty Crop Block Grants program. Building upon the Specialty Crops Competitiveness Act of 2004, grants are provided to the states to support marketing, research, education, food safety, and pest and disease management.

Livestock

The new Act adds a livestock Title (XI) to emphasize the industry's contribution and provide basic protection for farmers producing livestock and poultry. Under the Title, producers will be allowed to decline arbitration clauses in livestock and poultry contracts. Should litigation over contract disputes become necessary, language enables producers to petition for local court jurisdiction. Contracts may be canceled within three days after acceptance by producers. Swine and poultry contracts must disclose the possibility of large capital investments over the life of the contract. Other protections regarding unfair practices are specified. Country Of Origin Labeling (COOL) mandates are supported with September 30, 2008 as the implementation date for mandatory labeling.

Credit

The Credit Title of FCEA (V) authorizes programs supporting farm ownership, operating loans, and loans for cost–share conservation programs. The majority of the credit programs give priority to beginning and socially disadvantaged farmers.

Nutrition

The Nutrition Title (Title IV) gets more than two-thirds of the funds in the new act. Reforms in the Food Stamp Program, newly-renamed the "Supplemental Nutrition Assistance Program" (SNAP), provides additional money with an increase in the minimum standard deduction and the minimum benefit for recipients. The revised provisions index asset limits and exclude retirement accounts and education funds. The title also now allows the full cost of dependent care to be deducted, and excludes special combat pay as income so some lower-paid soldiers may be eligible for food stamp support. A pilot program will be established to support more fresh fruits and vegetables purchased by food stamps.

Other provisions in the Nutrition Title provide more support for USDA to fight fraud cases. Coupons are eliminated and replaced with Electronic Benefit Transfer (EBT) cards that can be also be used at Senior Farmers Markets. The Seniors Farmers Market Nutrition Program receives $20 million in new funding during the next 10 years. The Snack Program receives additional funding of $1.02 billion to assist participating schools, now expanded to all states, in providing healthy snack foods to students at after-school activities.

USDA nutrition monitoring and a demonstration project to evaluate obesity strategies, especially for children in low-income communities, are supported. Innovative Community Food Projects will receive an additional $5 million in funding. The Food Distribution Program on Indian Reservations will be studied to see if it meets dietary guidelines, as well as providing $5 million per year for native and locally grown food purchases. The Commodity Supplemental Food Program for low-income elderly is extended. USDA's Emergency Food Assistance Program is increased to provide for the purchase of commodities at these levels: fiscal year 2008, $190 million; fiscal year 2009, $260 million; and formula funding for fiscal years 2010 through 2012.

Summary

The New FCEA 2008 commodity programs and permanent disaster assistance programs combined with crop insurance provide the potential for increased risk protection. The interaction of these programs is complex and producers are encouraged to conduct individual farm analysis before making any participation decisions. The act continues the trend of increasing support for nutrition programs. In part because the bill was debated and passed during a period of relatively high commodity prices, commodity program supports levels were not increased even though production expenses and thus risk has increased. Coupled with the general economic environment of 2008 and 2009, producers are also encouraged to improve and maintain their risk management strategies, as the absence of historic levels of government stocks will increase price volatility. Finally, producers and landowners are again reminded to check with their local FSA and NRCS offices before making any production or participation decisions.

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