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The 2018 Farm Bill: Much Debate, More of the Same

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Many view the 2018 Farm Bill as going no further than maintaining the status quo. In this issue of The NC State Economist, two professors dive deeper and find new provisions they say are important to both North Carolina farmers and stakeholders.

The 2018 Farm Bill, more formally known as the Agriculture Improvement Act of 2018, was signed into law on December 20, 2018—and viewed by many as largely a "status quo" bill.

Unlike the previous 2014 Farm Bill, in which several safety-net programs under the Commodity Title (Title I) were eliminated or substantially changed, there are no dramatic structural and programmatic changes in the 2018 Farm Bill. In general, even after some intense debate in both Houses of Congress, programmatic changes in the current bill are mainly "enhancements" aimed at improving the benefits farmers can receive (especially during adverse production years).

Nonetheless, important provisions under some (not all) of the major titles of the bill are outlined below.

Commodity Program Changes

As alluded to above, the new 2018 Farm Bill continues the major Title I farm programs included in the 2014 Farm Bill: Price Loss Coverage (PLC), Agriculture Risk Coverage (ARC) and Marketing Assistance Loans (MAL) with Loan Deficiency Payments (LDP).

The sign-up timing for producers to select ARC or PLC is one of the major changes for Title I commodities in the current bill. In the 2014 Farm Bill, it was a one-time election that could not be changed over the five-year life of the bill. For the 2018 Farm Bill, however, there is a one-time election per eligible commodity for 2019 and 2020, and then an annual election beginning with the 2021 crop year. PLC remains the default option.

Therefore, starting in 2021, farmers can change their ARC or PLC election each year, which allows them to pick a safety-net program that better matches market conditions and provide better risk protection for each year. This flexibility relieves farmers of much of the pressure in having to effectively make a five-year commodity program decision.

According to Congressional Budget Office (CBO) projections, most growers of major commodities are likely to find PLC to be more advantageous. This reflects decreases in the revenue triggers associated with the ARC program. These decreases, in turn, reflect decreases in average farm revenues due to price declines over the last 5 years.

For the PLC program, there are some changes in the 2018 Farm Bill with respect to the reference prices and the payment yield calculation. The statutory reference prices for covered commodities remain the same as in the 2014 Farm Bill.

However, the new bill now includes an effective reference price (ERP) mechanism that allows the statutory reference price to increase by up to 115%. The ERP is calculated as 85% of the 5-year Olympic average[1] of the national marketing year average price (NMYAP). If this ERP is higher than the statutory reference price, then this ERP value will be used, up to the maximum of 115% of the statutory reference price. For example, with the statutory reference price for corn at $3.70 per bushel, the ERP mechanism allows the reference price to increase up to $4.26 (=$3.70 + 15%). However, based on low commodity prices in the past five years (as well as low projected prices over the life of the new bill), the likelihood of this ERP mechanism to trigger is low for the major commodity crops (corn, soybeans and wheat).

Another change to the PLC program is the opportunity to update the payment yields used in calculating PLC payments. Note that payment yields have been based most recently on the 2008-2012 national average yields (or even earlier). The 2018 Farm Bill gives farmers the option to update their payment yields based on more recent 2013-2017 yields (see the box to the below).

Updated Formula for Payment Yields

The updating formula for the option in the 2018 Farm Bill for farmers to update their payment yields is somewhat complex.

1. Multiply the average producer yield for the 2013-2014 crop year by 90%. For calculating the average producer yield in this step, crop years with zero (or below county average) yields could be replaced by a county-level "plug-yield".
2. Then multiply the value obtained from the first step with an "update" factor (or ratio), calculated by taking the national average yield from 2008-2012 and dividing it by the 2013-2017 national average yield. The update ratio is also limited to be between 0.9 and 1.0.

Even if the update formula seem complicated, the decision of whether or not to update payment yields is easy:

If the new payment yield value based on the formula above is greater than the old PLC payment yield, then a producer should update to receive higher PLC payments in the future.

[1] A five-year Olympic average is computed by first eliminating the highest and lowest observations, and then taking the average over the remaining three years.

What About the ARC Program?

For the ARC program, both the county-level ARC (ARC-CO) and the less popular individual-level ARC (ARC-I) have been re-authorized in the 2018 Farm Bill. Several "upgrades" were incorporated in ARC-CO that will generally increase the ARC-CO revenue guarantee, and consequently increase the likelihood of ARC-CO payments. For example, in calculating the county revenue benchmark (e.g., five-year Olympic average of county yields multiplied by the Olympic average NMYAP), a "plug-in yield" equivalent to 80% of the transitional county yield[2] can be used to replace years with low yields.

In addition, trend adjustment factors (as is used in crop insurance) can be applied to the Olympic average county yield calculations as well. The effective reference price (ERP) defined above for the PLC program can also be used as a "floor" when calculating the 5-year Olympic average NMYAP. The new legislation also allows the USDA to utilize historical yields taken from the federal crop insurance program if yields from the National Agricultural Statistics Service (NASS) are not available.

Other ARC-CO related changes to take note are the following:

1. ARC-CO payments will now be based on the physical location of the farm, rather than the administrative county;
2. A separate irrigated vs. dryland ARC-CO guarantee and payment will be calculated for every county; and
3. The main source of county yield data in ARC-CO is now based on Risk Management Agency (RMA) crop insurance data, rather than from the National Agricultural Statistics Service (NASS). FSA rules and guidelines still need to be developed (or revised) to clearly implement this procedural change.

Other Changes of Note

The 2018 Farm Bill also includes new language regarding base acres. In particular, base acres that have all been planted to grass or pasture for all years from 2009-2017 will not be receiving any commodity program payments, but these base acres (and associated program yields) will remain on file with FSA (i.e., the historical base is maintained).

Other Commodity Title changes include increases in loan rates for the Marketing Assistance Loan (MAL) and Loan Deficiency Payment (LDP) programs. This is the first increase in MAL loan rates since 2002, and is expected to improve the ability of farmers to get larger loans for managing cash flow and paying operating loans. Much of the debate surrounding the 2018 legislation involved the role of payment limits and income means testing. The individual payment limit for commodity programs remains the same at $125,000 per individual family member "actively engaged" in the farm (excluding MAL and LDP payments) but allows the definition of family to extend to multiple family members including nieces, nephews, and first-cousins. The requirements for "active engagement"—which is required for payment eligibility—remain vague and likely to be difficult to enforce. The Adjusted Gross Income limit for eligibility to receive commodity program payments remains at $900,000 but is doubled for married families.

The 2018 Farm Bill also increased the payout limit for the Non-Insured Crop Disaster Program (commonly known as NAP) for non-RMA-insurable crops to $300,000 (from $125,000).

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[2] This is a county yield figure calculated by the Risk Management Agency (RMA) for crop insurance eligible crops in a county, based on historical average county yields. Transitional county yields are used when an insured farmer does not have sufficient history planting the insurance eligible crop (e.g., a beginning farmer planting the crop for the first time).

Conservation Program Changes

Some of the major debates prior to the signing of the 2018 Farm Bill involved language in the Conservation Title. One issue was the proposed elimination of the Conservation Stewardship Program (CSP) in the House version of the bill. In the end, the CSP remains in the Conservation Title, but the acreage-based funding provisions of the CSP has been terminated and converts to a specific "overall" funding level for each year, similar to the Environment Quality Incentives Program (EQIP).

In general, the authority for the CSP has been renewed with a greater focus on assistance for cover crops, soil health and conservation, grazing management, resource-conserving crop rotations and grassland conservation.

In addition to changes in the CSP, the new Farm Bill also enhanced the Conservation Reserve Program (CRP) by allowing for an annual increase in the CRP acreage enrollment cap from the current 24 million acres to 27 million acres by 2023. However, annual CRP rental payments have been limited to 85% of the average county rental rate for general sign-ups, and 90% of the county average for continuous CRP enrollment.

Nutrition Program "Changes"

One of the biggest areas of controversy and debate in the development of the 2018 Farm Bill was the Supplemental Nutrition Assistance Program (SNAP) within the Nutrition Title. The House version of the bill sought to increase work requirements and to change category eligibility and other benefit calculations, while the Senate version did not incorporate these proposed changes.

Although there was a lot of rhetoric, media coverage and delay in the passage of the bill due to this specific debate, in the end, the House conceded all controversial changes to SNAP and accepted the Senate provisions in order to complete the Farm Bill in a timely manner. In general, there was **virtually no change** in the Nutrition Title except for some changes in program integrity language.

Credit Title Changes

The Credit Title of the Farm Bill extended and reauthorized several US Department of Agriculture (USDA) loan programs. Changes of note are significant increases in the loan limits for direct loans from the Farm Service Agency (FSA) and for guaranteed loans (i.e., loans from another bank, but guaranteed by the FSA). For example, **direct ownership loan limits increased from $300,000 to $400,000,** and **guaranteed loan limits increased from $700,000 to $1.75M.**

Crop Insurance Program Changes

Consistent with the "status quo" nature of the 2018 Farm Bill, there are only a few notable changes to the Crop Insurance Title:

1. Multi-county enterprise units are now allowed so that farmers can insure a single crop planted across county lines (before, enterprise units could not cross those lines.)
2. Cover crop termination rules have been clarified in a way that would reduce the likelihood of losing insurance coverage of the subsequently planted commercial crop.
3. Improvements to the Whole Farm Revenue Protection (WFRP) were also enacted in the Bill, such as reducing paperwork for producers with WFRP coverage less than $1 million, longer-lasting discounts for beginning farmers and improved WFRP training for crop insurance agents.

New Hemp Provisions

The treatment of hemp production in the 2018 Farm Bill has been one of the most discussed topics in this legislation. Essentially, the bill legalizes the production of industrial hemp in the U.S., but with restrictions.

As a background, industrial hemp has not been considered a legal crop since the 1950s because it is taxonomically the same plant as marijuana (Cannabis sativa L.). The difference is that industrial hemp contains no more than 0.3% of tetrahydrocannabinol (THC), the psychoactive substance found in marijuana. By comparison, marijuana typically contains 5%-20% THC.

The 2018 Farm Bill established a "state-federal" framework whereby interested states (or Indian Tribes) must submit a plan to USDA in order to regulate and oversee hemp production in their area of jurisdiction. After USDA approval, interested growers need to follow these rules and regulations for legally producing industrial hemp.

At the time of writing, guidelines for states to submit their regulatory plans have not been established; as such, interested industrial hemp growers still need to follow existing state licensing rules and regulations (if there is one in place). North Carolina already has a regulatory framework in place, dating back to the 2014 Farm Bill, so interested North Carolina growers will need to follow these regulations until a new regulatory plan has been approved by USDA.

One of the more important hemp provisions allows interstate commerce of legally-produced hemp and hemp products. Essentially, a state can prohibit sale of hemp or hemp products within its borders, but must allow legal hemp and hemp products to move freely within the state. Thus, interested hemp growers can now buy legal hemp seeds or clones from other states without fear of it being stopped where hemp sale is prohibited.

Another important hemp-related provision in the bill is that hemp is now considered as an "agricultural commodity." This makes hemp growers eligible for crop insurance (once such an insurance product is developed by RMA), and also allows bankers and other businesses to legally transact with licensed hemp growers.

Conclusion

As is clear from the preceding discussion, there are no major new programs or initiatives in the Agriculture Improvement Act of 2018, except perhaps for the industrial hemp provisions. Many of the changes in the commodity, credit and crop insurance titles are minor, and are meant to enhance existing programs to better benefit our nation's farmers.

There was a lot of debate and controversy with regard to the conservation and nutrition titles in the run-up before passage of the Farm Bill, but these issues were eventually resolved and produced a largely "status quo" bundle of legislation. Perhaps political realities and the results of the mid-term elections contributed to this result.

At this time, implementation rules are still to be finalized and North Carolina growers should be on the lookout for further details from USDA in order to make informed decisions going forward.

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