



H.R. 6849 – To amend the commodity provisions of the Food, Conservation, and Energy Act of 2008 to permit producers to aggregate base acres and reconstitute farms to avoid the prohibition on receiving direct payments, counter-cyclical payments, or average crop revenue election payments when the sum of the base acres of a farm is 10 acres or less, and for other purposes

FLOOR SITUATION

H.R. 6849 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Bob Etheridge (D-NC) on September 9, 2008. The House Committee on Agriculture ordered the bill to be reported, as amended, by voice vote on September 18, 2008.

H.R. 6849 is expected to be considered on the floor of the House on September 24, 2008.

**Note: House Agriculture Committee Chairman Peterson (D-MN) and Ranking Member Goodlatte (R-VA) are cosponsors of this legislation.*

SUMMARY

H.R. 6849 would allow farmers to aggregate base acres in order to ensure that the sum of their base acres is more than 10 base acres.

This will allow them to receive direct payments, counter-cyclical payments, or average crop revenue election payments. Based on an interpretation of the 2008 Farm Bill by the USDA, these payments were prohibited to any farm with less than 10 base acres without the ability to aggregate or combine farms.

BACKGROUND

Section 1101(d)(1) of the Food, Conservation, and Energy Act (PL 110-296) includes a provision regarding the treatment of farms with limited base acres. In short, this re-authorization of the Farm Bill prohibited farms with less than 10 base acres from receiving direct payments, counter cyclical payments, or average revenue election payments.

The joint explanatory statement for the conference report highlights the manager's intent to ensure that this provision wouldn't limit the ability of farmers to aggregate or combine farms for the purpose of having more than 10 base acres and, therefore, qualify for the payments. The joint explanatory statement for the conference report notes: "The Managers intend for the Department to allow for aggregation of farms for purposes of determining the suspension of payments on farms with 10 base acres or less. The Managers expect for the Department to review farms in this category on an annual basis rather than prohibiting payments to these farms for the life of the farm bill." Therefore, farmers that own several leases, for example, that add up to a total of more than 10 base acres (despite not having one farm of more than 10 base acres) would not be prohibited from receiving the payments.

After passage of the conference report, however, the Department of Agriculture (USDA) published a notice in the federal register (73 FR 36840) that stated "to be assured that producers on farms with base acres of 10 acres or less are prohibited from receiving payments as provided in the 2008 Farm Bill, Farm Service Agency County Committees (COC) will not approve requests for farm combination reconstitutions of farms having base acres of 10 acres or less if the request was received after the date of enactment of the 2008 Farm Bill (May 22, 2008). However, as an exception to the above rule, a farm with a total of 10



LEGISLATIVE DIGEST

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base acres or less may combine with another farm if one of the farms undergoes a change in land ownership. To qualify for this exception the owners of each of the farms participating in the new combination must be identical and have identical shares in both farms.”

Members of House and Senate Agriculture Committees have expressed concerns to the USDA that this notice runs counter to the intent of the conference report and common practice, since it would prohibit farmers that own several leases that add up to more than 10 acres from being eligible for the payments.

**Note: Along with 23 Senators, Senate Agriculture Committee Chairman Harkin (D-IA) and Senator Chuck Grassley (R-IA) sent a letter to the Department of Agriculture stating their opposition to the Department's interpretation of this provision*

(http://216.40.253.202/~usscanf/index.php?option=com_content&task=view&id=1772&Itemid=2.)

COST

The Congressional Budget Office had not scored this legislation as of September 24, 2008.

STAFF CONTACT

For questions or further information contact Conference Policy Office at 6-2302.