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# **A Minnesota Lawmaker’s Guide to the Agri-Environmental Policy Landscape**

Minnesota farmers make production decisions based on many factors, including the incentives and disincentives provided by state and federal laws. Agri-environmental laws require or encourage farmers to adopt or continue practices that protect natural resources. This report identifies, classifies, and summarizes the major state and federal agri-environmental laws.

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## Introduction

The vitality of Minnesota agriculture—defined in this report as crop, livestock, and poultry production only—depends on natural resources like soil, air, and water. At the same time, agricultural production inevitably impacts these same resources.

Recognizing this connection, state and federal lawmakers have adopted many laws that directly or indirectly address agriculture's relationship with the natural environment. Collectively, these laws may be referred to as agri-environmental laws or policies.

This report identifies, summarizes, and categorizes agri-environmental laws. The focus is on laws, both state and federal, that impact the operations of Minnesota farmers. Local laws are not included.

Federal laws—whether implemented by the state or local government or the federal government itself—also impact the production decisions of Minnesota farmers. For a short description of the major federal agri-environmental laws and their impact on Minnesota farmers, see Appendix A.

## Agri-Environmental Laws

Agri-environmental laws require or encourage farmers to minimize or eliminate pollution by avoiding, incorporating, or continuing certain production practices. Agri-environmental laws may be voluntary (e.g., a grant that offsets a farmer's cost to voluntarily reduce soil erosion) or involuntary (e.g., enforceable regulations concerning runoff from animal feedlots). Many of these laws also apply to a wider swath of the population; lawmakers have targeted others directly to the agricultural community.

Viewed in the context of federal and state legislative history, agri-environmental laws are relatively new. The U.S. Congress expanded the Federal Insecticide, Fungicide, and Rodenticide Act in 1970 to begin regulating pesticides not only to protect farmers from adulterated or misbranded products but also to safeguard nonfarmers and the environment.<sup>1</sup> Congress enacted the Clean Water Act in 1972 and defined certain animal feedlots as a potential point source<sup>2</sup> of water pollution. Coinciding with greater public awareness of agriculture's potential impact on soil, water, and air quality, in 1985 Congress began incorporating agri-environmental subsidies

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<sup>1</sup> U.S. Environmental Protection Agency, *Federal Insecticide, Fungicide, and Rodenticide Act (FIRFA) Enforcement*, <http://www.epa.gov/oecaerth/civil/fifra/index.html> (accessed November 17, 2008).

<sup>2</sup> Point source pollution is pollution that comes from a single, identifiable source such as a manmade ditch that carries liquid manure or other feedlot runoff to a nearby creek. Nonpoint source pollution is all other pollution, or pollution that is not easily traceable to its source such as dispersed rainwater runoff from cropland that carries soil, fertilizer, or pesticide to the creek. These two types of water pollution are treated very differently under the Clean Water Act, which regulates only point sources directly.

(e.g., the Conservation Reserve Program) and punitive measures (e.g., “Sodbuster”) into the federal farm support system.<sup>3</sup>

During roughly the same period, Minnesota policymakers enacted the animal feedlot pollution control rules (1971), pesticide control laws (1976), the state cost-share program for private land conservation activities (1977), the Groundwater Protection Act (1989), and the agricultural best management practices loan program (1994).

## Minnesota’s Major Agri-Environmental Laws

Minnesota policymakers in both the legislative (statutes) and executive (rules) branches have adopted dozens of measures that collectively form the current set of state agri-environmental laws. Many are based on requirements in federal pollution control laws (e.g., municipal sewage fertilizer restrictions). Lawmakers created others not because of federal mandates or funding arrangements but rather in response to Minnesota pollution issues (e.g., the Minnesota Groundwater Protection Act).

Often the public goal of maintaining environmental integrity overlaps with the parallel goal of safeguarding public health (e.g., animal carcass disposal restrictions designed to protect underground drinking water resources).

In the next section, relevant Minnesota laws are summarized and categorized into three policy types: regulations, subsidies, and other. Each entry includes the statute and/or rule citation, the main entity or entities in charge of implementing the law, a general description of the law, and a brief discussion of the law’s practical impact on Minnesota farmers.

*NOTE: This document is a guide for Minnesota lawmakers. Complex laws are summarized very briefly with many details omitted for the sake of brevity. Farmers and other affected parties should not rely on this guide as a basis for complying with state (or federal) law but should instead use the provided citations to obtain the text of the law or rule; contact the appropriate government entity for more information; and/or consult an attorney.*

### Regulations

Agri-environmental regulations allow Minnesota policymakers to either control or outright prohibit farming practices that have the potential to harm natural resources. In this context, “regulations” include both statutes and agency rules. Farmer compliance is mandatory. Failure to comply may result in warnings; fines; corrective action orders; permit revocation; administrative, civil, or criminal penalties; or other enforcement actions. Whether regulations are effective depends in large part on the strength of policy design, the extent of farmer

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<sup>3</sup> U.S. Department of Agriculture, Economic Research Service, *Agri-Environmental Policy at the Crossroads: Guideposts on a Changing Landscape*, January 2001; Zachary Cain and Stephen Lovejoy, “History and Outlook for Farm Bill Conservation Programs,” *Choices*. The American Agricultural Economic Association (4<sup>th</sup> Quarter 2004).

awareness and buy-in, the availability of technical assistance, and the adequacy of law enforcement.

Often, agri-environmental regulations require a farmer to demonstrate knowledge of and/or compliance with the relevant rules and best management practices before the state will permit the farmer to perform certain actions, such as constructing a new animal feedlot or applying certain pesticide products.

In Table 1, Minnesota's agri-environmental regulations are further subcategorized as laws that regulate: (1) livestock and manure; (2) crop production; (3) the treatment of wetlands;<sup>4</sup> and (4) agriculture's use of other water resources.

See the end of Table 1 on page 17 for a list of agency acronyms.

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<sup>4</sup> Wetlands are low-lying areas commonly referred to as swamps, marshes, or bogs. More precisely, wetlands are those "lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes: (1) have a predominance of hydric soils; (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (3) under normal circumstances support a prevalence of such vegetation." [Minn. Stat. § 103G.005](#), subd. 19.

**Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
<b>Livestock and Manure</b>				
Animal feedlot waste management <a href="#">(Minn. Stat. ch. 116, Minn. Rule ch. 7020)</a>	PCA	All animal feedlot <sup>5</sup> owners—regardless of the number or type of animals raised—must comply with minimum feedlot management standards. The extent of regulation generally corresponds to the size of the feedlot operation.	Standards; permits; technical assistance; periodic inspections; administrative, civil, and criminal penalties with statutory requirements for advance notice and forgiveness of administrative penalties	<p>All Minnesota feedlot owners and manure handlers must comply with a basic set of pollution-prevention requirements that include feedlot and manure storage area construction specifications; minimum setbacks from open water, wells, schools, and community and childcare centers; standards for stockpiling, storing, and land-applying manure as fertilizer; and runoff treatment or prevention measures. Most new or expanding feedlots, large operations, and those with existing pollution problems must obtain and comply with the more involved terms of a state/federal pollution discharge permit.</p> <p>The PCA may not require the owner of certain feedlots to perform expensive improvements unless a cost-share subsidy of at least 75 percent of the project cost is available from state, federal, or other sources or the feedlot is an imminent threat to public health.</p>

<sup>5</sup> Animal feedlot is defined as “... a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.” ([Minn. Rules part 7020.0300](#), subp. 3)

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
Land application of manure <a href="#">(Minn. Rule ch. 7020)</a>	PCA	In general, manure and wastewater from animal feedlots must be disposed of or applied to the land in a manner that will not pollute groundwater (e.g., underground aquifers that supply drinking water) or surface water (e.g., lakes, rivers, streams) resources. Disposal via roadside ditch is prohibited.	Standards; permits; technical assistance; periodic inspections; administrative, civil, and criminal penalties	All feedlot owners and manure handlers are required to manage and apply manure in a manner that prevents water pollution, including applying manure in a quantity that will not exceed the estimated nitrogen needs of the crop grown on the land and adhering to required setbacks from lakes, drainage ditches, open tile inlets, sinkholes, wells, streams, and grassed waterways. Large feedlots and applicators applying manure from large feedlots may also need to physically test the receiving soil for phosphorous levels prior to application, develop and maintain a formal manure management plan, and keep manure application records.  A farmer may hire an MDA-licensed commercial animal waste technician to transport and apply manure in compliance with state law.
Livestock water access <a href="#">(Minn. Rule ch. 7020)</a>	PCA	Owners and operators of some large animal feedlots may not allow their animals to enter any lake, river, stream, creek, or other water body regardless of whether the water body is located entirely on the feedlot property or not.  Smaller feedlots must be fenced to keep the animals out of certain DNR-designated lakes.	Standards; administrative, civil, and criminal penalties	The restrictions do not apply to livestock raised on pastureland. However, pasture operations are subject to general state water pollution prohibitions and must prevent or abate any water quality violations resulting from poor pasture management practices.

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
Ambient air quality standards <a href="#">(Minn. Stat. § 116.0713, Minn. Rule ch. 7009 and part 7020.2002)</a>	PCA	No person may emit a pollutant in an amount that adversely affects public health or the ability of others to enjoy life or property. The legal threshold is the ambient air standard as established for each regulated air pollutant.	Technical assistance; feedlot permit condition; administrative and criminal penalties	<p>Feedlot owners are subject to Minnesota’s state hydrogen sulfide standard, as approved by the EPA under authority of the federal Clean Air Act. The level of hydrogen sulfide in the air due to the feedlot may be measured by sensors stationed at the property line shared with an aggrieved neighbor unless the farmer has obtained an air quality easement from that neighbor. Feedlots are temporarily exempt from the hydrogen sulfide standard while manure is removed from a barn or manure storage facility and for seven days after the removal, provided the operator notifies the PCA or, if applicable, the county feedlot officer.</p> <p>Certain farmers are statutorily exempt from odor-related and other nuisance lawsuits by the state’s Right-To-Farm law. <a href="#">(Minn. Stat. § 561.19)</a> These farmers are also exempt from a law that requires a polluter or emitter of obnoxious odor to notify the PCA and take all reasonable steps to abate the pollution or odor. <a href="#">(Minn. Stat. § 116.061)</a></p>
Animal carcass disposal <a href="#">(Minn. Stat. § 35.82, Minn. Rule ch. 1719)</a>	BAH/PCA	A person must promptly dispose of dead animals using legal methods. Available disposal methods depend on the animal and may include burial, incineration, composting, or rendering.	Standards; permits; administrative, civil, and criminal penalties	A farmer disposing of livestock mortalities must adhere to the requirements provided by law. For instance, carcasses must be buried at least five feet above the seasonal high water mark and covered with at least three feet of soil to keep scavengers away. A special BAH permit is required to compost cattle, horses, or exotic animals. A farmer transporting his or her own livestock mortalities to another site for disposal is exempt from the general requirement that vehicles transporting carcasses

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
				must be enclosed, leak-proof, and permitted by the BAH.  Certain feedlot owners must prepare an animal mortality plan.
Feedlot discharge effluent standards <a href="#">(Minn. Rule ch. 7053)</a>	PCA	Large, federally regulated feedlots may not discharge any runoff. All other feedlots must control or treat manure and process wastewater runoff so as to satisfy state effluent limits.	Standards; permit modification or revocation; administrative, civil, and criminal penalties	A farmer that may discharge liquid runoff into surface waters must treat the runoff so that the monthly average biochemical oxygen demand <sup>6</sup> meets state requirements of no more than 25 mg/L. If the feedlot discharges into a lake, the runoff also must have an average monthly total phosphorous concentration of less than 1 mg/L. The owners of certain small, open lot feedlots who signed agreements with the state have until October 1, 2010, to comply. Federal and state feedlot effluent limits do not apply to a discharge resulting from a severe storm.
Minnesota Environmental Policy Act <a href="#">(Minn. Stat. ch. 116D, Minn. Rule ch. 4410)</a>	PCA/LGU	State law requires an environmental review of proposed public or private projects that require some form of local or state government approval if the project will physically manipulate the natural environment.	Civil actions; environmental review as a prerequisite for project approval	A livestock farmer who proposes a new feedlot or expansion of an existing feedlot that requires a local or state permit or other form of authorization, may be required to provide information necessary to estimate the environmental impact. A livestock farmer who can demonstrate via the assessment document that he or she has taken steps to avoid or minimize negative environmental impacts is more likely to receive project approval, although the

<sup>6</sup> Biochemical oxygen demand is a measure of how much dissolved oxygen is consumed by microorganisms in the process of breaking down organic material in feedlot runoff, tree leaves, or other sources of organic matter. When bacteria and fungi consume an abnormally large amount of the available oxygen in a water body, populations of aquatic organisms with a poor tolerance for low oxygen levels may decline or die off completely.

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
		<p>Some project types must undergo environmental review (e.g., construction of a nuclear waste storage facility), others are exempt (e.g. construction of a single-family home). For those projects in between, the appropriate government agency may initiate environmental review either on its own initiative or in response to a citizen petition.</p>		<p>decision-making body is not required to turn down the proposed project based solely on environmental assessment findings. If this initial assessment reveals that the feedlot may have a significant environmental impact, the farmer may be required to pay for an additional, involved, and costly environmental impact study before the governing body may act on the feedlot authorization.</p> <p>Whether environmental review is required for a specific feedlot project depends on the size of the operation and whether the feedlot is located in such environmentally sensitive locations as shorelands, floodplains, and vulnerable drinking water supply areas.</p>
<b>Cropping</b>				
<p>Riparian farming  <a href="#">(Minn. Stat. ch. 103F,</a>  <a href="#">Minn. Rule ch. 6120)</a></p>	<p>DNR/LGU</p>	<p>State law restricts development, farming, and other activity in DNR-identified “shoreland districts” (i.e., land that abuts a rural lake, pond, or flowage of 25 acres or more or any river with a drainage area of at least two miles).</p>	<p>Local planning/zoning ordinance; local enforcement measures</p>	<p>A crop farmer whose land abuts a protected water body must maintain a 50-foot permanent vegetative buffer between their crops and the ordinarily high water mark. Haying or livestock grazing is allowed on this 50-foot strip so long as permanent vegetative cover is maintained. The farmer also must maintain permanent vegetation on any steep slope or bluff area in the shoreland district.</p> <p>Instead of maintaining vegetative cover, the farmer has the option of cropping this riparian shoreland strip according to the terms of a conservation plan. Regardless of which option the farmer chooses, he</p>

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
				or she must apply fertilizer, pesticide, and animal waste so as to minimize any impact on the riparian zone and water body.
Excessive soil loss (Minn. Stat. § 103F.405, Minn. Rule ch. 8400)	LGU/BWSR	Excessive soil erosion is prohibited if a local soil loss ordinance is in effect.	Subsidized erosion control agreement or civil penalty	A farmer who incorporates BWSR-approved best practicable erosion control practices is exempt; so is a farmer whose local government (i.e., municipality or county) has not adopted a soil loss ordinance. A local government cannot require a farmer or other person with excessive soil erosion to implement soil conservation practices unless accompanied by a state cost-share subsidy of 50 percent to 75 percent of the project cost.
Public road ditch farming (Minn. Stat. § 160.2715)	LGU/DNR/ MnDOT	Plowing or planting row crops in a public roadside right-of-way is generally prohibited.	Criminal penalty	A farmer may harvest hay from a roadside ditch only if the farmer has complete (i.e., fee simple) ownership of the land. Before haying a state or federal right-of-way, the farmer must get permission from the applicable public land manager.
Groundwater Protection Act (Minn. Stat. ch. 103H, Minn. Rules, ch. 7060)	MDA	The Groundwater Protection Act requires a multiagency effort to identify and protect susceptible groundwater areas, monitor groundwater quality, develop and revise drinking water pollutant thresholds, and address the sources of contamination via voluntary or, if necessary, regulatory measures.	Information dissemination; voluntary or mandatory pollution control measures; warnings; administrative actions; civil and criminal penalties	Affected farmers are encouraged to adopt best management practices designed to reduce or eliminate the potential for groundwater contamination from agricultural chemicals and practices. If these voluntary practices are proven ineffective in reducing groundwater pollution, the MDA may adopt and enforce groundwater protection requirements that farmers must implement with or without state financial assistance. The MDA has not developed mandatory groundwater protection requirements to date.

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
				<p>Farmland located in certain sensitive groundwater areas is automatically eligible for enrollment in the Reinvest in Minnesota cropland retirement program (see <a href="#">page 22</a>).</p> <p>Landowners who adhere to their local SWCD's plan for preventing groundwater degradation from surface water recharge are shielded from liability for any groundwater degradation caused by such recharge.</p>
<p>Agricultural chemicals                      (Minn. Stat. chs. 18B, 18C, and 18D; various Minn. Rules)</p>	<p>MDA</p>	<p>State laws govern the registration, sale, storage, use, and disposal of pesticides and fertilizers in Minnesota. Prior to use or distribution in the state, nearly all pesticide products and most nonagricultural fertilizers must be approved by the MDA.</p> <p>Many pesticide/fertilizer distributors or applicators must be MDA licensed or certified.</p>	<p>Licensure; administrative, civil, and criminal penalties</p>	<p>A farmer must apply, store, and dispose of a pesticide or fertilizer according to the directions and limitations provided on the product's label. Failure to do so is a violation of state and federal law.</p> <p>Although many pesticides may be applied by anyone, an MDA-issued certification is required before a farmer may purchase or apply pesticides that the federal EPA has deemed a heightened threat to the environment. Though not specifically required by state law, federal law requires farmers who apply these "restricted-use" pesticides to keep application records for two years.</p> <p>A farmer does not need a license to apply fertilizer on his or her own land, however he or she may store no more than 6,000 gallons of liquid fertilizer on site without an MDA-issued permit and approved spill containment safeguards. A person who stores bulk fertilizer, regardless of the amount</p>

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
				<p>or form, must have a contingency plan that describes how a spill or other incident would be handled.</p> <p>The application of manure (i.e., fertilizer) from a large animal feedlot may be subject to manure management requirements contained in Minnesota’s feedlot rules.</p> <p>The state also coordinates programs to collect unused farm and other pesticides and empty agricultural pesticide containers.</p>
<p>Agricultural chemical spill liability and cleanup cost assistance  <a href="#">(Minn. Stat. chs. 18D and 18E)</a></p>	<p>MDA</p>	<p>A person responsible for a pesticide or fertilizer spill that causes unreasonable damage to the environment must immediately report the spill to the MDA and take all reasonable actions to mitigate the damage.</p> <p>A person who does so may be eligible for state financial assistance to offset cleanup costs.</p>	<p>Financial assistance; administrative, civil, and criminal penalties</p>	<p>If a farmer immediately reports a spill and takes all reasonable corrective actions—either voluntarily or in response to an MDA order—the farmer is responsible for the first \$1,000 but the state may pay for up to 80 percent of additional cleanup costs up to a maximum payment of \$279,200. The state may deny or reduce payment if the spill resulted from a violation of state agricultural chemical control laws. The farmer is liable for all state cleanup costs incurred if the farmer is unwilling or unable to clean up the spill. The only exception is when the farmer proves the spill resulted from an act of God, war, or sabotage.</p> <p>A farmer is not liable for cleanup costs or groundwater contamination if the farmer applied or had others apply the fertilizer or pesticide in compliance with the product label and any other applicable state law. A farmer certified to apply</p>

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
				restricted-use pesticides is not required to report a spill to the MDA if the amount of pesticide involved, when added to the quantity of pesticide applied to the area during the preceding 12 months, does not exceed the maximum amount that may be applied to one acre of cropland according to the product label—that is unless the release occurred into or near public surface or groundwater resources.
Chemigation (Minn. Stat. §§ 18B.08, 18C.205, Minn. Rule ch. 1505)	MDA	It is illegal to apply pesticide or fertilizer through an irrigation system unless the person holds an MDA-issued permit and complies with specific pollution-prevention standards.	Permits; administrative, civil, and criminal penalties	Before applying pesticide or fertilizer through an irrigation system, a farmer must have an MDA-issued permit to operate the equipment and must pay a separate fee for each water source used (e.g., each well, spring, river, etc.). Each chemigation operator on the farm must have his or her own individual permit. A permitted operator must ensure that effective pollution prevention equipment (e.g., backflow preventer/check valve, low pressure shutdown switch) is used to prevent chemical backflow into the water source. The chemigation operator also must keep the chemical tank a specified distance from the water source and create and maintain application, maintenance, and inspection records.
Biosolid/sewage sludge fertilizer (Minn. Rule ch. 7041)	PCA	Only licensed applicators may apply sewage sludge (i.e., a nutrient-rich byproduct of the wastewater treatment process) to agricultural land. The PCA must approve most sludge	Licensure; technical assistance; administrative, civil, and criminal penalties	A farmer must hire a licensed sludge applicator. A licensed applicator may spray, spread, inject, or incorporate sludge on cropland or pasture only if the application will not result in excessive pollutant (e.g., arsenic, lead) loading or soil nitrogen levels that exceed crop or other plant needs. Mandatory

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
		applications in advance.		soil conditions, slope-specific restrictions, and setbacks from water bodies, tile inlets, and sinkholes are also established in law. Sludge may not be applied in June, July, or August unless a crop is currently growing or will be seeded within two weeks after application.
Endangered species protection (Minn. Stat. § 84.0895, Minn. Rule ch. 6134)	DNR	In general, it is illegal to take, import, transport, or sell a wild animal or plant that the DNR has listed as endangered or threatened with extinction throughout all or a significant portion of its range.	Criminal penalty	Endangered plants located on agricultural land or in adjoining ditches or roadways are not protected under the law. In addition, it is legal to kill endangered plants on property adjacent to agricultural land as the result of a pesticide or other agricultural chemical application so long as reasonable care was taken to avoid any such impact.
<b>Wetlands</b>				
Wetland Conservation Act (WCA) (Minn. Stat. §§ 103G.222-103G.2373, Minn. Rule ch. 8420)	LGU/BWSR	In general, draining, filling, or excavating a wetland is prohibited unless the activity is exempt under state law or the wetland is replaced by a new or rehabilitated wetland of equal public value as approved by the local unit of government. <sup>7</sup>	Technical assistance; administrative, civil, and criminal penalties	Several activities that impact wetlands on agricultural land are explicitly exempt under the act, including draining, filling, and cropping most seasonally flooded basins and wet meadows or shrub swamps less than two acres in size, so long as the activity does not result in the farmer losing eligibility for federal farm program benefits. (See Conservation Compliance, Sodbuster and

<sup>7</sup> The WCA applies to nonpublic wetlands only. A DNR-issued permit is generally required before a person may perform work that impacts a larger public waters wetland. A “public waters wetland” is any wetland not classified and protected as a (general) public waters resource that is a shallow marsh, deep marsh, or open water wetland ten acres in size or greater in an unincorporated area or 2.5 acres or greater in an incorporated area (Minn. Stat. § 103G.005, subd. 15a). Nonpublic wetlands are all other wetlands in the state. As with nonpublic/WCA wetlands, farmers may crop or pasture a public waters wetland on their property during a drought and may fill a public waters wetland to accommodate a wheeled irrigation boom so long as the public waters wetland is not drained as a result.

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
				<p>Swampbuster on page 33.)</p> <p>If replacement is required by law, wetlands on farmland may be replaced at a rate of one acre for each acre of wetland lost. All other wetlands must be replaced at a ratio of 2:1. Other farming activities allowed by law include: using dry wetland beds for pasture or cropping during periods of drought so long as drainage equipment or buildings are not installed, filling a wetland to accommodate wheeled irrigation booms so long as normal drainage is not impeded, and noxious weed control.</p>
<b>General Water</b>				
<p>Water use (Minn. Stat. §§ 103G.265-103G.271, 103G.295, Minn. Rule ch. 6115)</p>	<p>DNR</p>	<p>A permit is required to withdraw well water (or divert/pump surface water) in excess of 10,000 gallons per day or 1,000,000 gallons per year. In general, the law also requires the use of a flow meter to accurately measure the amount of water appropriated, recordkeeping, and periodic water usage reporting.</p>	<p>Permits; administrative, civil, and criminal penalties</p>	<p>A farmer using/appropriating more than the threshold water amount (for crop irrigation, livestock watering and sanitation purposes, fish farming, etc.) must first obtain a permit from the DNR. Before the DNR issues an irrigation well permit, it must solicit the advice of the local soil and water conservation district. The DNR also must determine that the proposed withdrawal would not lower groundwater levels below the reach of any code-compliant wells in the area. If the DNR does not have sufficient groundwater data available at its disposal to evaluate the impact of the farmer's proposed irrigation appropriation, the farmer may need to perform a pumping test and provide other additional information.</p>

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
				<p>Though the DNR generally charges all users based on the quantity of water used, there are several specific exemptions for agricultural users. If a permit-holding farmer does not withdraw any water in a given year or the DNR suspends the farmer's ability to withdraw water for more than a week during the crop-growing season, the farmer is charged a \$20 minimum fee—other users must pay a minimum fee of \$100. Similarly, the maximum permit fee for agricultural irrigation is capped at \$750.</p> <p>The DNR may modify or restrict an agricultural irrigation permit during the growing season only if the authorized withdrawal amount would endanger a neighbor's drinking water well or another domestic water supply. Additionally, a large withdrawal for agricultural irrigation is one of a small number of groundwater appropriation uses that is exempt from mandatory legislative review.</p>
<p>Agricultural well construction  <a href="#">(Minn. Stat. ch. 103I,</a>  <a href="#">Minn. Rule ch. 4725)</a></p>	<p>MDH</p>	<p>Property owners must notify the MDH or a delegated local government of a plan to construct a new well on their property. The owner is also required to hire a licensed contractor to seal any unused well and must notify a potential purchaser of the land of the location and status of all wells on the property.</p>	<p>Technical assistance;                      administrative orders;                      criminal penalties</p>	<p>Several well location restrictions pertain to farming operations, including minimum separation distances from animal feedlots and buildings (50 to 100 feet), manure storage areas (50 to 100 feet), fertilizer or pesticide storage areas (up to 150 feet), and chemigation tanks near irrigation wells (20 feet).</p> <p>While most property owners must hire a state-licensed contractor and pay a notification fee to the MDH before constructing a new well that will not</p>

**Continued - Table 1: Minnesota Agri-Environmental Regulations**

Law	Primary Entity	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
				be used for personal use, a farmer may construct a drive-point well for agricultural purposes (e.g., irrigation, livestock watering) without hiring a contractor or paying the fee. However, the farmer must notify the MDH of the well's location and construct the well according to state requirements.
Water quality standards ( <a href="#">Minn. Rule ch. 7050</a> )	PCA	A person may not discharge any waste into lakes, rivers, streams, wetlands, or other surface waters so as to cause a nuisance.	Standards; administrative, civil, and criminal penalties	A farmer may not allow soil, manure runoff, fertilizers, or pesticides to enter a surface water body and cause excessive suspended solids, excessive growth of aquatic plants, aquatic habitat degradation, or any other offensive or harmful effect.
<p><b>Agency acronyms:</b> Minnesota Department of Agriculture (MDA); Minnesota Pollution Control Agency (PCA); Minnesota Department of Natural Resources (DNR); Soil and Water Conservation Districts (SWCD); Local Government Unit (LGU), which depending on the law may include counties, municipalities, local law enforcement officers, joint powers boards, local road authorities, and/or SWCDs and other local water management entities; Minnesota Department of Health (MDH); Minnesota Board of Animal Health (BAH); Board of Water and Soil Resources (BWSR); Minnesota Department of Transportation (MnDOT); and U.S. Environmental Protection Agency (EPA).</p>				

## Subsidies

Farmers make production decisions based on several factors. As a for-profit enterprise, a significant factor is the likely impact on the farm's financial viability. Agri-environmental subsidies fully or partially offset a farmer's cost of providing environmental benefits. An example of an environmental benefit is the protection of water resources via erosion control.

Some subsidized agricultural practices may increase a farmer's bottom line by improving soil productivity and/or lowering input costs. Others pay farmers to make pollution control upgrades that are necessary to comply with state or federal agri-environmental regulations (e.g., a state cost-share grant awarded to a farmer in order to install pollution controls and comply fully with state feedlot pollution control rules).

Agri-environmental subsidies generally take the form of cost-sharing grants, land rental payments, the purchase of conservation easements,<sup>8</sup> or technical assistance with the development and implementation of conservation practices. State subsidies are sometimes paired with federal, local, or private funds to leverage state dollars (e.g., in certain high-priority watersheds, federal Conservation Reserve Program payments may be combined with state Reinvest in Minnesota program payment(s) to form the Conservation Reserve Enhancement Program).

Farmer willingness to participate in agri-environmental subsidy programs tends to outpace the level of available funding.

In Table 2, Minnesota's agri-environmental subsidies are further subcategorized as laws that (1) finance conservation or pollution control practices on working agricultural land, and (2) those that finance the temporary or permanent idling of agricultural land.

State and federal funding is fluid; not all of the programs listed are currently active.

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<sup>8</sup> A conservation easement is a set of restrictions a landowner voluntarily places on his or her property in order to preserve its environmental values. A private landowner conveys a conservation easement to a government agency or nonprofit conservation organization qualified to hold and enforce easements in exchange for cash or property tax abatement. For more information see House Research publication *Conservation Easements* at <http://www.house.leg.state.mn.us/hrd/pubs/conease.pdf>.

**Table 2: Minnesota Agri-Environmental Subsidies**

Law	Primary Agency	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
<b>Working Lands</b>				
State Cost-Share Program (Minn. Stat. § 103C.501, Minn. Rule ch. 8400)	SWCD/ BWSR	Awards grant funds to private landowners to offset the cost of installing approved soil conservation or water protection practices.	Grant funds; technical assistance; contracts; administrative penalties	An eligible farmer may receive financial and technical assistance to partially offset the cost of installing a BWSR-approved conservation practice that addresses high-priority erosion and water quality (i.e., sedimentation and nutrient/chemical loading) issues. Eligible practices include grassed waterways, filter strips, feedlot runoff controls, shoreland protection, and sealing of unused wells. The farmer is responsible for the ongoing operation and maintenance of subsidized conservation practices. Failure to comply may result in required repayment of state assistance plus a penalty. The farmer must maintain the practice for at least ten years. Practices that increase land productivity without providing environmental benefits are not eligible.
Agricultural Best Management Practices (AgBMP) Loan Program (Minn. Stat. § 17.117)	LGU/MDA	Provides low-interest loans to farmers, agricultural supply businesses, rural landowners, and rural water cooperatives for the purchase of capital equipment or the installation of best management practices that reduce or eliminate nonpoint source water pollution or other adverse environmental impacts.	Low-interest loans; contracts	Offers farmers access to inexpensive financing to address water pollution problems including but not limited to excessive erosion and nutrient or pesticide runoff. Crop farmers are eligible, as are feedlot owners with fewer than 1,000 animal units and an existing manure management problem. Local units of government administer the program and determine which proposed projects are eligible.

**Continued - Table 2: Minnesota Agri-Environmental Subsidies**

Law	Primary Agency	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
				Unlike the cost-share program, a farmer may use the proceeds of an AgBMP loan to purchase capital equipment (e.g., a no-till drill that reduces cropland erosion). A farmer could also use an AgBMP loan to fund his or her required share of a project partially funded by the state cost-share program.
Sustainable agriculture demonstration grants and loans (Minn. Stat. §§ 17.115 and 17.116)	MDA	Provides grant funds of up to \$25,000 for on-farm research or demonstration of practices that both increase the farmer's bottom line and incorporate environmental stewardship and the conservation of natural resources.  Provides low-interest loans of up to \$25,000 to farmers for the purchase of new or used machinery or the installation of equipment used to make environmental improvements or enhance farm profitability.	Financial assistance	Grant priority is given to projects that are farmer initiated; others must demonstrate significant farmer collaboration. Eligible activities include enterprise diversification and organic production, conservation tillage, and nutrient and pesticide management. Ineligible expenditures include the purchase of farm equipment or building construction—the sustainable agriculture loans are available for these purposes.
Clean Water Partnership Program (Minn. Stat. §§ 103F.701-103F.761)	LGU	The state awards competitive matching funds and provides technical assistance to local governments so they may identify and address nonpoint sources of water pollution including runoff from urban areas, cropland, pastureland,	Education; financial and technical assistance	Farmers located in the watershed of an impaired lake, river, or stream may receive pollution control assistance from their county, watershed district, SWCD, or other LGU. This assistance may include information on farm pollution sources and mitigation practices, technical assistance with drafting nutrient management plans, financial assistance to implement cropland/pastureland

**Continued - Table 2: Minnesota Agri-Environmental Subsidies**

Law	Primary Agency	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
		and smaller animal feedlots.		nutrient and erosion control best management practices, or assistance with feedlot pollution control.
Clean Water Legacy Act ( <a href="#">Minn. Stat. ch. 114D</a> )	PCA/LGU	Provides a framework for interagency and private party cooperation on federal Clean Water Act-mandated activities including the identification of polluted lakes, rivers, and streams and the restoration of these impaired waters to their intended use(s).	Increased funding for existing state agri-environmental subsidies (e.g., AgBMP and state cost-share); education, financial, and technical assistance	<p>Farmers located in the watershed of an impaired lake, river, or stream may see an increase in the amount of educational, technical, and financial assistance available to them to address pollution problems on their cropland, pastureland, and/or smaller feedlots. Depending on the impairment identified (e.g., turbidity, fecal coliform), crop and/or livestock farmers in the watershed may be assigned a maximum amount of pollution that they may collectively contribute to the watershed each day. State assistance is intended to help farmers voluntarily incorporate pollution control practices and take other steps to meet this requirement.</p> <p>State agencies are required to use existing regulatory authorities and promote the development and use of new, nonregulatory measures to address pollution when applicable regulations are not available. State agencies are also directed to monitor and enforce pollution control cost-sharing contracts. If a farmer or other cost-share recipient fails to comply with the terms of the contract, the responsible agency must recoup the amount of assistance provided plus a 50-percent penalty.</p>
Nonpoint Source Engineering	SWCD/ BWSR	Funds regional engineers and technicians who assist private	Technical assistance	Farmers may receive technical and engineering assistance through their local SWCD to design and

**Continued - Table 2: Minnesota Agri-Environmental Subsidies**

Law	Primary Agency	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
Assistance Program (Minn. Stat. § 103C.401)		landowners with a variety of nonpoint source pollution management practices.		initiate conservation practices that decrease or eliminate agricultural erosion, runoff, and other nonpoint sources of water pollution.
<b>Land Retirement</b>				
Reinvest in Minnesota (Minn. Stat §§ 103F.51–103F.531, Minn. Rule ch. 8400)	SWCD/ BWSR	Eligible farmers may choose to retire sensitive farmland either permanently or temporarily in exchange for state payment(s). Eligible land includes riparian agricultural lands, marginal cropland, pastured hillsides, and land located in areas susceptible to ground water contamination.	Conservation easements; contracts; administrative penalties	Farmers who otherwise could earn income by continuing to crop or graze livestock on environmentally sensitive lands are compensated for taking that portion of their private land out of production.  A participating farmer relinquishes the right to farm the land and agrees to manage it according to a conservation plan. Additional program funds are available to assist the landowner in implementing the plan, including such activities as restoring drained wetlands and planting native plants and/or trees.
Permanent Wetland Preserve Program (Minn. Stat. § 103F.516)	SWCD/ BWSR	A private landowner may sell to the state a perpetual easement and commit to preserving (and if necessary, restoring) a wetland on their property.	Easement purchases; contracts; administrative penalties	In exchange for payment based on the township’s average farmland value, the farmer must agree not to plant crops, graze livestock, or spray chemicals in or around the wetland. The farmer must control noxious weeds and allow state employees to enter the property for inspection and correction of any contractual violations. A farmer may enroll up to four adjacent upland acres for each acre of wetland preserved.
Wetland Preservation Program (Minn. Stat.	LGU/ BWSR	In participating counties, the owner of a wetland located in a	Restrictive covenants; property tax exemptions;	Eligibility is limited to wetlands in areas both (1) identified by the county or local water

**Continued - Table 2: Minnesota Agri-Environmental Subsidies**

Law	Primary Agency	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
§ 103F.612+)		high priority area may place a restrictive covenant on a wetland and surrounding upland areas in exchange for a property tax exemption.	protection from eminent domain actions and assessment for public projects	management organization as a high priority wetland area and (2) located within a high priority wetland region identified by BWSR. In exchange for the property tax exemption, the farmer must agree to preserve the wetland and maintain permanent vegetation on at least a one-rod upland buffer around the wetland. The covenant is considered permanent and runs with the land, however the landowner may terminate the covenant but only after providing notice to the county and waiting no less than eight years from the date of notice.
Wetland establishment and restoration cost-share program (Minn. Stat. §§ 103F.902 and 103F.903)	LGU/BWSR	Provides private landowners in high-priority wetland areas of the state with grant funds to restore or establish a wetland on their property in exchange for a permanent conservation easement.	Financial assistance; conservation easement; contracts	An eligible farmer located within a state- or local-government-designated high priority wetland area can apply to his or her local unit of government for state funds of up to \$20,000 or 50 percent of the farmer's cost to establish or restore a wetland on his or her property. In exchange for the cost-share funding, the farmer must grant the state a permanent conservation easement on the wetland property by which the farmer forgoes the legal right to drain, farm, or otherwise develop the new or restored wetland.
<p><b>Agency acronyms:</b> Minnesota Department of Agriculture (MDA); Minnesota Pollution Control Agency (PCA); Minnesota Department of Natural Resources (DNR); Soil and Water Conservation Districts (SWCD); Local Government Unit (LGU), which depending on the law may include counties, municipalities, joint powers boards, and/or SWCDs and other local water management entities; Minnesota Department of Health (MDH); Minnesota Board of Animal Health (BAH); and the Board of Water and Soil Resources (BWSR).</p>				

**Other**

One state agri-environmental law is neither a regulation nor a subsidy, yet it has the potential to impact certain Minnesota farmers.

**Table 3: Other Minnesota Agri-Environmental Laws**

Law	Primary Agency	Description	Enforcement/ Assistance Mechanism	Farmer Impact and Exceptions
Minnesota Environmental Rights Act (MERA) ( <a href="#">Minn. Stat. § 116B</a> )	N/A	Provides citizens, business entities, and governmental bodies the right to sue to protect the state’s natural resources from pollution, impairment or destruction.	Civil action	A farmer whose operation fits the statutory definition of family farm, family farm corporation, or bona fide farm corporation is shielded from MERA lawsuits.

## Appendix A: Federal Laws

**Table 1A: Major Federal Agri-Environmental Regulations**

Law	Description	Enforcement/Assistance Mechanism	Farmer Impact and Exceptions
<p>Clean Water Act (CWA)                      (33 U.S.C. § 1251 <i>et seq.</i>)</p>	<p>The CWA seeks to restore and/or preserve the chemical, physical, and biological integrity of the nation’s surface waters by addressing the sources of water pollution. The CWA directly regulates point sources of pollution (i.e., identifiable water pollution generators like wastewater treatment facilities and factories). States are responsible for identifying and addressing all other sources of water pollution, including runoff from urban areas, cropland, pastureland, and smaller animal feedlots.</p> <p>The CWA serves as the foundation for several Minnesota agri-environmental laws, including the animal feedlot and biosolid fertilizer regulatory programs and the AgBMP loan program.</p>	<p>Permitting of point source pollution activities; water quality standards; administrative, civil, and criminal penalties</p>	<p>The identification of impaired waters and the establishment of allowable pollution levels are carried out at the state and local government levels, as codified in Minnesota’s Clean Water Legacy Act (see page 21).</p> <p>Under a separate CWA provision, farmers may need a permit issued by the U.S. Army Corps of Engineers before dredging or filling a wetland on or adjacent to their property. However, standard farming practices including plowing, harvesting, seeding, and minor wetland drainage generally are exempt.</p>
<p>Clean Air Act (CAA)                      (42 U.S.C. § 7401 <i>et seq.</i>)</p>	<p>The CAA regulates stationary and mobile sources of certain air pollutants via permits and the establishment of ambient air quality standards and air pollution discharge thresholds. The focus is on major pollution sources that emit more than the threshold quantity of a regulated pollutant or pollutants (e.g., factories and power plants).</p> <p>States are also responsible for controlling air pollution under the CAA. The CAA requires</p>	<p>National ambient air quality standards; state implantation plans; civil and criminal penalties</p>	<p>While farming operations are not explicitly exempt from the CAA, most farming activities do not generate an amount of air pollution sufficient to trigger CAA requirements. However, CAA regulations may apply to large feedlots or other farming operations that emit more than the allowable amount of regulated air pollutants including dust/particulate matter, nitrogen oxide, and such ozone precursors as volatile organic compounds and ammonia.</p>

**Continued - Table 1A: Major Federal Agri-Environmental Regulations**

Law	Description	Enforcement/Assistance Mechanism	Farmer Impact and Exceptions
	<p>Minnesota to develop and enforce Environmental Protection Agency (EPA)-approved ambient air quality standards (see page 7) which are enforced as both state and federal law.</p>		<p>Livestock or poultry odor is generally regarded as a nuisance issue and is not regulated under the CAA.</p> <p>An EPA-approved state law exempts farmers from a state requirement to obtain a permit to burn certain solid waste generated from the farmer's home or farming operation so long as regularly scheduled trash collection is not available.</p> <p>Emissions from Minnesota animal feedlots may be regulated under state air pollution and animal feedlot permit requirements (see page 7).</p>
<p>Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. § 136 <i>et. seq.</i>, 40 C.F.R, pt. 170)</p>	<p>FIFRA regulates the registration, use, storage, and disposal of household, agricultural, and other pesticides for the protection of consumers, human health, and the environment. Associated regulations establish mandatory worker protection standards intended to reduce the risk of illness or injury resulting from farm workers' occupational exposure to pesticides.</p> <p>States carry out many of the FIFRA licensing and enforcement requirements; FIFRA forms the basis for Minnesota's state pesticide registration and handling laws (see pages 11 to 13 ).</p>	<p>Permits; civil and criminal penalties</p>	<p>Farmers must follow all application directions and other instructions or safeguards printed on a pesticide product's label. Failure to do so constitutes a violation of federal and state law.</p> <p>A farmer must obtain an MDA-issued private applicator certification before using any pesticide product the EPA has identified as requiring additional safeguards to prevent environmental damage or harm to human health (see page 11).</p> <p>A farmer who uses pesticides and employs farm workers or pesticide handlers who are exposed to the pesticide must warn workers of an upcoming application, prevent workers from entering the application area for a specified period of time, provide the workers with pesticide safety training</p>

**Continued - Table 1A: Major Federal Agri-Environmental Regulations**

Law	Description	Enforcement/Assistance Mechanism	Farmer Impact and Exceptions
			and facts about each pesticide application at a central location, and provide decontamination supplies within a quarter-mile of all workers.
Safe Drinking Water Act (SDWA) (42 U.S.C. ch. 6A, subc. XII; 40 C.F.R)	Establishes health-based standards for public drinking water and authorizes public water suppliers to protect public health by identifying and mitigating natural and man-made sources of pollution to the underground aquifers and surface waters that supply public drinking water.	Standards; administrative orders; administrative, civil, and criminal penalties	While public water suppliers are the regulated entity under SDWA, farmers may be indirectly affected by the wellhead protection plans authorized by the SDWA and required for drinking water wells under Minnesota’s Ground Water Protection Act (see page 10). The MDA has developed voluntary best management practices to help farmers control agricultural nutrient and chemical leaching or runoff from their property.
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C §§ 9601-9675) and Emergency Planning and Community Right-to-Know Act (EPCRA) (42 U.S.C. §§ 11001-11050)	Both CERCLA and EPCRA (a.k.a. Superfund) require a person to report to the federal, state, or local government a large release of certain substances into the environment. CERCLA imposes strict liability for any associated cleanup costs and environmental damage.	Civil penalties; reporting requirements	Both CERCLA and EPCRA mandate reporting when air pollutants such as hydrogen sulfide and ammonia are emitted in amounts that meet or exceed the threshold reporting level of 100 pounds per day or 18.3 tons per year. Farmers are no longer required to report large air pollution releases from animal waste to the federal government, however larger federally regulated feedlots still must report these releases to their local unit of government. All farmers must continue to report large releases of hazardous substances to soil or water resources.
Endangered Species Act (16 U.S.C. § 1531 <i>et seq.</i> )	Prohibits taking <sup>9</sup> without a permit, any animal species the federal government has listed as endangered or threatened.	Permits; civil and criminal penalties	Farmers may not kill or otherwise “take” a protected species (e.g., a grey/timber wolf, as of the date of publication) that damages crops or

<sup>9</sup> Taking is defined as harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting an endangered species.

**Continued - Table 1A: Major Federal Agri-Environmental Regulations**

Law	Description	Enforcement/Assistance Mechanism	Farmer Impact and Exceptions
			<p>harasses or kills their livestock unless the farmer kills the animal in the defense of human life.</p> <p>A state reimbursement program is available to farmers who sustain crop losses due to elk or livestock losses due to grey wolves. (<a href="#">Minn. Stat. §§ 3.737; 3.7371</a>)</p>

**Table 2A: Federal Agri-Environmental Subsidies**

Law	Description	Enforcement/Assistance Mechanism	Farmer Impact and Exceptions
<b>Working Lands</b>			
Environmental Quality Incentives Program (Pub. L. No. 110-246)	A voluntary program that offsets a farmer's cost of implementing conservation practices and/or addressing existing pollution problems.	Financial and technical assistance	A participating farmer receives payment(s) to partially offset the cost of addressing a pollution issue via one or more conservation practices (e.g., grassed waterways, filter strips, and manure storage systems). For annual conservation practices such as nutrient management or conservation tillage, the farmer may receive payments for up to three years. The contract may require the farmer to maintain the practice for up to ten years.
Conservation Stewardship Program (Pub. L. No. 110-246)	Though the program design is not final as of the date of this publication, this program may identify and reward those farmers who employ high conservation standards, similar to its precedent, the Conservation Security Program.	Financial and technical assistance; plans and contracts	Farmer impact is unknown until the U.S. Department of Agriculture (USDA) program rule is final.
Wildlife Habitat Incentives Program (Pub. L. No. 110-246)	A voluntary program that encourages farmers to create high quality wildlife habitat on their property.	Technical and financial assistance; contracts	Eligible farmers receives payments to fully or partially cover their cost of developing and maintaining high quality upland, wetland, riparian, and/or aquatic wildlife habitat for five, ten, or 15 years.
Grassland Reserve Program (Pub. L. No. 110-246)	A voluntary program to protect livestock-grazing lands from conversion to cropping or other forms of development. Participating	Technical and financial assistance; conservation easements; contracts	Farmers may enroll restored, improved, or natural grassland, rangeland, and pasture including prairie. Payments are based on the land's value for grazing. Rental agreements last from ten to 20 years;

**Continued - Table 2A: Federal Agri-Environmental Subsidies**

<b>Law</b>	<b>Description</b>	<b>Enforcement/Assistance Mechanism</b>	<b>Farmer Impact and Exceptions</b>
	landowners receive payment(s) in exchange for restoring and/or protecting eligible grasslands from development.		easements are permanent. Restoration cost-share assistance is capped at 50 percent for previously cropped grassland and 90 percent for virgin grassland.
Conservation Technical Assistance (Pub. L. No. 110-246)	A voluntary program providing conservation planning, design, and implementation assistance to private landowners and governments on topics such as soil erosion, water conservation, gully control, soil productivity, and animal waste management.	Technical assistance	Farmers can get field-specific advice or engineering and other services as they plan and implement conservation practices on their farmland, either voluntarily or as required per a USDA conservation requirement or an applicable state, federal, or local environmental law.
<b>Land Retirement</b>			
Conservation Reserve Program (CRP) (General and Continuous Enrollment) (Pub. L. No. 110-246)	<p>A voluntary program in which participating farmers are paid annually in exchange for temporarily (ten to 15 years) idling environmentally sensitive crop or pasture lands and establishing permanent land cover. In the standard program, the USDA uses competitive criteria and farmer bids to select program acres from all eligible applicants.</p> <p>In contrast, no competitive criteria or limited sign-up periods are used in the continuous version; acres are enrolled—subject to available funding—as long as the land is</p>	Financial and technical assistance; a contract that includes penalties for early land withdrawal	Farmers are compensated for setting aside vulnerable acres that they could otherwise use to grow crops or raise livestock. Participating farmers also receive financial assistance to offset the cost of planting approved grasses and/or trees to prevent erosion, provide wildlife habitat, and perform regular maintenance (e.g., weed control).

**Continued - Table 2A: Federal Agri-Environmental Subsidies**

Law	Description	Enforcement/Assistance Mechanism	Farmer Impact and Exceptions
	suitable for certain high-priority practices such as riparian buffers, wetland restoration, and grassed waterways.		
Conservation Reserve Enhancement Program (CREP) (Pub. L. No. 110-246)	A partnership between the state of Minnesota and the USDA to enhance and target the federal CRP to high priority, environmentally sensitive agricultural land in the Minnesota River watershed (CREP 1) and the Red River, Lower Mississippi River, and Missouri/Des Moines River watersheds (CREP II). CREP combines perpetual or 45-year RIM (state) easements with 15-year CRP (federal) easements.	Financial and technical assistance; a contract that includes penalties for early land withdrawal	In addition to annual CRP payments, participating farmers receive a front-loaded RIM payment from the state and are eligible for up to 100 percent cost-sharing for conservation practices on enrolled land (i.e., up to 50 percent each from the state and federal governments).
Wetland Reserve Program (WRP) (Pub. L. No. 110-246)	A voluntary program offering farmers the opportunity to retire eligible agricultural land to protect, restore, and enhance wetlands on their property in exchange for technical and financial assistance.	Technical and financial assistance; conservation easements; contracts	Eligible farmers may enter into a ten-year wetland restoration cost-share agreement or sell the federal government a 30-year or permanent conservation easement on the wetland property, forgoing the ability to farm the wetland. All three options include a restoration cost-share assistance component.
Wetland Reserve Enhancement Program (WREP) (Pub. L. No. 110-246)	Similar to the CREP, WREP combines the federal WRP program with the state RIM program to provide additional incentive for eligible farmers to retire and restore wetlands on their property.	Technical and financial assistance; conservation easements; contracts	In exchange for permanently retiring and restoring farmable wetlands, eligible farmers located in high-priority areas receive both federal WRP annual payments and a state RIM payment.

**Continued - Table 2A: Federal Agri-Environmental Subsidies**

<b>Law</b>	<b>Description</b>	<b>Enforcement/Assistance Mechanism</b>	<b>Farmer Impact and Exceptions</b>
Reinvest in Minnesota – Wetland Reserve Program Partnership (RIM) (Pub. L. No. 110-246)	Similar to WREP (above) but available statewide. The program is competitive; BWSR selects applicants using geographic and environmental criteria.	Technical and financial assistance; conservation easements; contracts	Participating farmers receive payment for both the 30-year WRP easement and the perpetual RIM easement. USDA and BWSR also pay the farmer’s conservation practice costs.

**Table 3A: Federal Agri-Environmental Compliance Mechanisms<sup>10</sup>**

Law	Description	Enforcement/Assistance Mechanism	Farmer Impact and Exceptions
Conservation Compliance, Sodbuster and Swampbuster (Pub. L. No. 110-246)	A farmer who crops highly erodible land (without a USDA-approved erosion management plan) or damages a wetland may lose eligibility for many federal financial support programs including commodity, conservation, and disaster relief payments as well as subsidized loans.	Subsidy eligibility is tied to natural resource protection standards	Farmer should check with their local USDA-FSA office before plowing additional acreage or impacting a wetland on their property in a manner that would make agricultural commodity production possible.
Crop Production on Native Sod, or “Sodsaver” (Pub. L. No. 110-246)	A new program that would deny subsidized crop insurance and federal noninsured crop disaster assistance for five years to a farmer located in the Prairie Pothole region who tills up native sod to plant annual row crops.	Subsidy eligibility on certain acres tied to natural resource protection standards	This program only applies to certain Minnesota farmers if the governor chooses to opt-in. As of the date of publication, the USDA had not published final program details and Governor Pawlenty had not made a decision.

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<sup>10</sup> Compliance mechanisms tie farmer eligibility for many federal farm support programs to certain environmental requirements