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Insuring a Future for Small Farms

Mary Beth Miller

Carolina Farm Stewardship Association

D. Lee Miller

Harvard University

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INSURING A FUTURE FOR SMALL FARMERS
Mary Beth Miller and D. Lee Miller

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Insuring a Future for Small Farms

Mary Beth Miller* & D. Lee Miller**

Introduction

All farmers face systemic risk from bad weather and the vagaries of the market.¹ Farmers with small, diversified operations must also contend with treacheries as unique as the farms they threaten. As a beginning farmer and coordinator of a farm incubator in North Carolina, you see and hear these stories all the time. An independent slaughter facility serving 600 small poultry farmers shuts down three weeks before the national celebration of poultry that is Thanksgiving.² An ice storm cancels a bustling weekend farmers market after produce has been picked, washed, and packed, and then collapses a high tunnel holding the next month's harvest.³ Coyotes destroy one third of a heritage-breed turkey flock in a single night.⁴ A soil-borne fungus prevents planting and renders a field barren for six years.

Whole-Farm Revenue Protection (“WFRP”), a pilot

* Lomax Farm Coordinator at the Carolina Farm Stewardship Association, and Co-owner of Blue Merle Farm in North Carolina

** Clinical Fellow at the Harvard Law School Food Law and Policy Clinic. The authors wish to thank the editors for their excellent work. Opinions do not necessarily reflect those of the Carolina Farm Stewardship Association or the Harvard Law School Food Law and Policy Clinic.

¹ See generally Mario J. Miranda & Joseph W. Glauber, *Systemic Risk, Reinsurance, and the Failure of Crop Insurance Markets*, 79 AM. J. OF AGRIC. ECON. 206 (1997), http://www2.econ.iastate.edu/classes/econ642/Babcock/Miranda-Glauber_SystemicRisk.pdf.

² See, e.g., *North Carolina Poultry Processor Closing: Farmers in Bind*, U.S. NEWS (Nov. 3, 2017), <https://www.usnews.com/news/best-states/north-carolina/articles/2017-11-03/north-carolina-poultry-processor-closing-farmers-in-bind>.

³ See, e.g., Debbie Roos, *Farmers Don't Get Snow Days! This Winter a Challenging One for Area Farmers*, N.C. STATE UNIV., <https://growingsmallfarms.ces.ncsu.edu/2014/02/farmers-dont-get-snow-days-this-winter-a-challenging-one-for-area-farmers/> (last visited Apr. 18, 2018).

⁴ See, e.g., Jeannette Beranger et al., *How to Raise Heritage Turkeys on Pasture: Protecting Heritage Turkeys from Predators*, THE LIVESTOCK CONSERVANCY 73, 73 (2007), <https://livestockconservancy.org/images/uploads/docs/ALBCTurkey-8.pdf>.

program created by the 2014 Farm Bill and administered by USDA's Risk Management Agency ("RMA"), enables farmers to protect against financial ruin after events like these.⁵⁷ With a few tweaks, WFRP could become an even stronger safety net against weather extremes and natural disasters, as well as the market and supply-chain disruptions that endanger small, diversified operations. As WFRP expands its reach, it would enable more small, diversified farms to access credit and find the security to invest in expansion. Congress has an opportunity to make needed reforms in WFRP in the upcoming farm bill, and they have a good reason to follow through: as small, diversified farms flourish, they bring economic, social, and environmental benefits that justify the public investment in their financial security.

WFRP has only been available since 2015, and few scholarly papers have considered the role of whole-farm policies in catalyzing small farm viability.⁶ Section I of this essay highlights why small, diversified farms deserve public support and how whole-farm revenue policies can fill a need by providing insurance tailored to these farms. Section II provides an overview of the first three years of WFRP. Section III explores four concrete opportunities for Congress to improve upon WFRP through the next farm bill by increasing program awareness and education, aligning incentives for agents to write whole-farm policies, mitigating and reversing conflicts between coverage and

⁵ *Whole Farm Revenue Protection for Diversified Farms*, NAT'L SUSTAINABLE AGRIC. COAL., <http://sustainableagriculture.net/publications/grassrootsguide/credit-crop-insurance/whole-farm-revenue-protection-for-diversified-farms/> (last visited Apr. 18, 2018).

⁶ Several studies have examined the potential to replace existing commodity and crop insurance programs with a whole-farm revenue approach. However, these studies are limited to scenarios where producers have significant program base acreage, making whole-farm coverage less advantageous relative to status quo. Area-based whole-farm designs help reduce adverse selection and moral hazard while reducing recordkeeping burdens, but do little to benefit producers for whom product differentiation and crop diversity are key to their marketability. See Lekhnath Chalise et al., *Developing Area-Triggered Whole-Farm Revenue Insurance*, 42 J. OF AGRIC. AND RESOURCE ECON. 27, 28 (2017), http://ageconsearch.umn.edu/record/252753/files/JARE_Jan2017_3_Chalise_27-44.pdf; see J. MARC RAULSTON ET AL., AGRIC. & FOOD POLICY CENTER TEXAS A&M UNIVERSITY DEP'T OF AGRIC. ECON., THE FARM LEVEL IMPACTS OF REPLACING CURRENT FARM PROGRAMS WITH A WHOLE FARM REVENUE PROGRAM 1,2 (2011), <http://ageconsearch.umn.edu/record/98785/files/SAEA2011%20Raulston.pdf>.

conservation activities, and simplifying program access for small farms. The section ends by outlining how WFRP could be used as a basis for more ambitious public support for small, diversified farms.

I. Support for Small, Diversified Farms

Like most definitions in agriculture, what should qualify as a “small” farm necessarily varies among geographic areas and production systems. USDA’s definition of a farm with \$350,000 or less in gross annual sales provides enough of a reference point for the purposes of this essay. By this count, the average small farm controls 231 acres.⁷ Within this universe of small farms, those that earn between \$10-250k in gross sales account for slightly more than one third of all farms in the United States.⁸

Like “small”, USDA has a definition of “diversified”,⁹ although what we mean by diversified farms is better illustrated by examples from our home state of North Carolina. At Four Leaf Farm, Tim and Helga MacAller grow specialty fruits and vegetables, ornamental plants, and microgreens intensively on two acres, cultivating well over fifty varieties of plants in a single year.¹⁰ Over seventeen years, they have built a thriving business that provides fresh, organically grown food to the community and employs aspiring young farmers throughout the year.¹¹ Jillian and Ross Mickens of Open Door Farm got their start on a farm incubator

⁷ U.S. DEP’T OF AGRIC., 2012 CENSUS OF AGRICULTURE HIGHLIGHTS, FAMILY FARMS 1 (2015) https://www.agcensus.usda.gov/Publications/2012/Online_Resources/Highlights/NASS%20Family%20Farmer/Family_Farms_Highlights.pdf.

⁸ U.S. DEP’T OF AGRIC., 2012 CENSUS OF AGRICULTURE ECONOMIC CLASS OF FARMS BY MARKET VALUE OF AGRICULTURAL PRODUCTS SOLD AND GOVERNMENT PAYMENTS: 2012 AND 2007, https://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1_Chapter_1_US/st99_1_003_003.pdf.

⁹ For the purposes of the WFRP program that is the subject of this essay, diversification is measured by counting the number of distinct commodities a farm produces. To be included, the commodity must account for a percent of total revenue equal to the operations total revenue, divided by the number of commodities grown, divided again by 3. U.S. DEP’T OF AGRIC., RISK MGMT. AGENCY, WHOLE FARM REVENUE PROTECTION 2 (2017), <https://www.rma.usda.gov/pubs/rme/wfrpfactsheet.pdf>.

¹⁰ See *Four Leaf Farm*, <http://www.fourleaffarm.org/>, (last visited Apr. 18, 2018).

¹¹ *Id.*

six years ago, with almost no prior agricultural experience.¹² After three seasons at the incubator, they purchased land where they now grow vegetables, cut flowers, and microgreens.¹³ Daniel Dayton runs Old Milburnie Farm, specializing in mushrooms, seasonal vegetables, and pasture-raised pork and poultry on ten acres, where he regularly hosts community dinners.¹⁴

Embedded in these operations, and the many other small, diversified farms throughout the country, are a set of economic, social, and environmental benefits that farm policy, as enacted by the farm bill, should go out of its way to support. For example, small farm size is linked to a stronger middle class, reduced unemployment, greater socioeconomic stability, and higher rates of civic engagement.¹⁵ Small, diversified farms account for 46 percent of all direct-to-consumer sales through farmers markets, roadside stands, or community-supported agriculture (“CSA”) programs.¹⁶ In other words, small farms have a disproportionate role in driving local food economies, which shorten the supply chain and put a greater share of each food dollar in the farmers’ pockets.¹⁷ This money is often reinvested in local business by way of seed, equipment, livestock, and feed purchases,¹⁸ creating a “multiplier” effect where each dollar spent generates more value

¹² See *Our Story*, OPEN DOOR FARM, <https://www.opendoorfarmnc.com/about.html>, (last visited Apr. 18, 2018).

¹³ *Id.*

¹⁴ See *Old Milburnie Farm*, <http://www.oldmilburniefarm.com/>, (last visited Apr. 18, 2018).

¹⁵ See UNION OF CONCERNED SCIENTISTS, GROWING ECONOMIES: CONNECTING LOCAL FARMERS AND LARGE-SCALE FOOD BUYERS TO CREATE JOBS AND REVITALIZE AMERICA’S HEARTLAND 1, 1-2 (2016), <https://www.ucsusa.org/sites/default/files/attach/2016/01/ucs-growing-economies-2016.pdf>; see Thomas A. Lyson et al., *Scale of Agricultural Production, Civic Engagement, and Community Welfare*, 80 SOC. FORCES 311, 311 (2001).

¹⁶ U.S. DEP’T OF AGRIC., 2012 CENSUS OF AGRICULTURE HIGHLIGHTS, SMALL FARMS 2 (2016), https://www.agcensus.usda.gov/Publications/2007/Online_Highlights/Fact_Sheets/Farm_Numbers/small_farm.pdf.

¹⁷ JEFFREY K. O’HARA, MARKET FORCES: CREATING JOBS THROUGH PUBLIC INVESTMENT IN LOCAL AND REGIONAL FOOD SYSTEMS, UNION OF CONCERNED SCIENTISTS 17 (2011), http://www.ucsusa.org/sites/default/files/legacy/assets/documents/food_and_agriculture/market-forces-report.pdf.

¹⁸ UNION OF CONCERNED SCIENTISTS, *supra* note 18, at 2.

as it moves through the local economy.¹⁹ The upshot is tremendous opportunity for rural economic development through the vehicle of small, diversified farms. And as the average American farmer approaches retirement age,²⁰ a new generation of growers is taking root on small farms. 97 percent of all beginning farmers²¹ run “small” farms.²²

Small and diversified go hand in hand. Compared to larger operations, small farms are more likely to implement environmentally sustainable agronomic systems²³ and maintain diversified production that promotes biodiversity.²⁴ At the Elma C. Lomax Incubator Farm in Concord, NC, we train small farmers how to rotate multiple plant varieties and choose disease-resistant cultivars; incorporate cover crops in field management and minimize synthetic inputs; use season extension techniques and high tunnels; and diversify revenue streams with niche specialty crops, among many other things. These practices add to biodiversity, soil health, ecosystem stability, and a farmer’s capacity to adapt to unexpected weather and changes in consumer

¹⁹ See generally DAVID SWENSON, LEOPOLD CTR FOR SUSTAINABLE AGRIC., SELECTED MEASURES OF THE ECONOMIC VALUES OF INCREASED FRUIT AND VEGETABLE PRODUCTION AND CONSUMPTION IN THE UPPER MIDWEST 16 (2010), <https://www.leopold.iastate.edu/files/pubs-and-papers/2010-03-selected-measures-economic-values-increased-fruit-and-vegetable-production-and-consumption-upper-mid.pdf>.

²⁰ U.S. DEP’T OF AGRIC., 2012 CENSUS OF AGRICULTURE: RACE, ETHNICITY, AND GENDER PROFILES, UNITED STATES FARMS WITH WOMEN PRINCIPAL OPERATORS COMPARED WITH ALL FARMS 1, 2, 4 (2015), https://www.agcensus.usda.gov/Publications/2012/Online_Resources/Race_Ethnicity_and_Gender_Profiles/cpd99000.pdf.

²¹ See *Beginning Farmer and Rancher Loans*, U.S. DEP’T OF AGRIC., [HTTPS://WWW.FSA.USDA.GOV/PROGRAMS-AND-SERVICES/FARM-LOAN-PROGRAMS/BEGINNING-FARMERS-AND-RANCHERS-LOANS/INDEX](https://www.fsa.usda.gov/programs-and-services/farm-loan-programs/beginning-farmers-and-ranchers-loans/index) (last visited Apr. 18, 2018) (defining “beginning farmer” as those who have operated a farm or ranch for fewer than 10 years); The Federal Crop Insurance Act reserves Beginning Farmers benefits to those with five or fewer crop years. 7 U.S.C. § 1502(b)(3).

²² *Beginning Farmers and Age Distribution of Farmers*, U.S. DEP’T OF AGRIC., ECON. RESEARCH SERV. (Apr. 13, 2017), <https://www.ers.usda.gov/topics/farm-economy/beginning-disadvantaged-farmers/beginning-farmers-and-age-distribution-of-farmers/>.

²³ Gerard D’Souza & John Ikerd, *Small Farms and Sustainable Development: Is Small More Sustainable?*, 28 J. OF AGRIC. & APPLIED ECON. 73, 76-77 (1996).

²⁴ Kristina Belfrage et al., *Effects of Farm Size and On-Farm Landscape Heterogeneity on Biodiversity—Case Study of Twelve Farms in a Swedish Landscape*, 39 AGROECOLOGY AND SUSTAINABLE FOOD SYSTEMS 170, 177-179, 183 (2015).

demand, which in turn, improve resilience and mitigate risk.²⁵ Diversified farms are more resilient farms, economically and ecologically.²⁶

The Role of Insurance

For all their benefits, the characteristics of small, diversified farms that make them reliable producers of public goods also make them difficult to insure through traditional yield or revenue policies. Commodity-specific policies do not effectively serve the needs of operations growing many different crops.²⁷ A diversified farmer would need to insure each crop separately—a headache on its own—and would not capture the benefit of mitigating risk through diversification.²⁸ Many small, diversified farms, like those profiled above, sell into multiple markets at different price points.²⁹ For them, traditional insurance cannot effectively manage either yield or price risk.

Yet small, diversified farms need insurance. Because small farms operate on even tighter margins than the industry as a whole, moderate to severe losses can cause a farmer to default on her operating loans or mortgage, fail to cover personal expenses, or ultimately file for bankruptcy.³⁰ This creates a double bind for small farms. Many banks require proof of insurance before approving a loan,³¹ but crop insurance has been difficult or

²⁵Gail Feenstra et al., *What is Sustainable Agriculture?*, U.C. DAVIS, AGRIC. SUSTAINABILITY INST., SUSTAINABLE AGRIC. RES. AND EDUC. PROGRAM, <http://asi.ucdavis.edu/programs/sarep/about/what-is-sustainable-agriculture> (last visited Apr. 18, 2018).

²⁶ *Id.*

²⁷ *Id.*

²⁸ See ERIK. J. DONOGHUE ET AL., ECON. RES. SERV., DOES RISK MATTER FOR FARM BUSINESSES? THE EFFECT OF CROP INSURANCE ON PRODUCTION AND DIVERSIFICATION 7 (2005), <https://ageconsearch.umn.edu/bitstream/19397/1/sp05od02.pdf>.

²⁹ See Becky Krystal, *Farmers market prices tend to be higher in the city: Why?*, THE WASHINGTON POST (June 18, 2016), https://www.washingtonpost.com/lifestyle/food/farmers-market-prices-tend-to-be-higher-in-the-city-why/2016/06/16/27233ea6-2f4b-11e6-9de3-6e6e7a14000c_story.html?noredirect=on&utm_term=.3a811522beb6.

³⁰ Robert Hoppe, *Profit Margin Increases with Farm Size*, U.S. DEP'T OF AGRIC., ECON. RES. SERV. (Feb. 2, 2015), <https://www.crs.usda.gov/amber-waves/2015/januaryfebruary/profit-margin-increases-with-farm-size/>.

³¹ See ANNA JOHNSON & GLEN READY, CENTER FOR RURAL AFFAIRS, NEW OPTION FOR

impossible to access without scale. Perhaps the greatest promise of an insurance product for small, diversified farms is that it expands access to credit, thereby increasing solvency and opening credit lines for further investment. Enter WFRP.

II. Whole Farm Revenue Protection

WFRP is a pilot program developed by RMA to meet the 2014 Farm Bill's inclusion of a revenue protection policy for diversified farms.³² Congress specified that the whole farm program include both a diversification incentive³³ and market-readiness provision.³⁴ When policies were first made available for 2015, Secretary of Agriculture Vilsack touted that WFRP "gives farmers more flexibility, promotes crop diversity, and helps support the production of healthy fruits and vegetables."³⁵

To achieve this broader access, WFRP provides coverage for many types of farm operations that other federal insurance programs ignore. In so doing, it provides a template that future farm bills can build upon. The current iteration of WFRP already improves upon previous whole farm revenue programs, Adjusted Gross Revenue ("AGR") and AGR-Lite, which had been around since the late 1990s.³⁶ Researchers credit the underutilization of AGR and AGR-Lite to its limited geographical availability, program complexity and, above all, insufficient coverage rates that protected a maximum of 80 percent of expected revenues.³⁷

FARM RISK MANAGEMENT: WHOLE FARM REVENUE PROTECTION USAGE IN NEBRASKA 2 (2017), <https://www.cfra.org/sites/www.cfra.org/files/publications/WFRP%20Report.pdf>.

³² See Agricultural Act of 2014, Pub. L. No. 113-79, 128 Stat. 649 (2014) (codified as amended at 7 U.S.C. § 1522(c)(19)).

³³ *Id.* at § 1522(c)(19)(C).

³⁴ *Id.*

³⁵ *New Pilot Program Offers Coverage for Fruits and Vegetables, Organic and Diversified Farms*, U.S. DEP'T OF AGRIC. (May 21, 2014), <http://www.usda.gov/wps/portal/usda/usdahome?contentid=2014/05/0100.xml>.

³⁶ See U.S. DEP'T OF AGRIC., RISK MGMT. AGENCY, ADJUSTED GROSS REVENUE I (2014), <https://www.rma.usda.gov/pubs/rme/agr2014.pdf>; U.S. DEP'T OF AGRIC., RISK MGMT. AGENCY, ADJUSTED GROSS REVENUE-LITE I (2014), <https://www.rma.usda.gov/pubs/rme/agr-lite.pdf>.

³⁷ DENNIS A. SHIELDS, CONG. RESEARCH SERV., R43494, CROP INSURANCE PROVISIONS IN THE 2014 FARM BILL (P.L. 113-79) 8 (2014), <http://nationalaglawcenter.org/wp->

WFRP begins to address the shortcomings of AGR and AGR-Lite by increasing coverage levels up to 85 percent and removing payment rate limits, meaning that producers are indemnified for 100 percent of covered losses.³⁸ The market-readiness provision covers some of the labor-intensive post-production expenses—e.g., packing, packaging, washing, and labeling—necessary to bring crops out of the field.³⁹ Finally, WFRP increases the premium subsidy up to 80 percent.⁴⁰

Whole-farm policies, 2014-2017⁴¹

Crop Year	Policy	Policies Sold	Total Liabilities (millions)	Total Premium (millions)	Federal Subsidy (millions)	Indemnities (millions)	Loss Ratio
2014	AGR + ARG-L	840	\$525	\$20	\$11	\$55	2.87 (AGR); 2.71 (AGR-L)
2015	WFRP	1,126	\$1,146	\$53	\$38	\$69	1.30
2016	WFRP	2,228	\$2,332	\$119	\$84	\$165	1.39
2017	WFRP	2,845	\$2,866	\$145	\$103	\$33*	.23*

*Indemnity and loss ratio data will fluctuate until the claim filing window closes.

When WFRP was first offered in 2015, it covered 1200

[content/uploads/assets/crs/R43494.pdf](https://www3.rma.usda.gov/apps/sob/current_week/insplan2014.pdf).

³⁸ U.S. DEP'T OF AGRIC., *supra* note 12, at 2.

³⁹ *See id.* at 3.

⁴⁰ *Frequently Asked Questions: Whole Farm Revenue Protection (WFRP) Plan*, U.S. DEP'T OF AGRIC., RISK MGMT. AGENCY (Aug. 31, 2017), <https://www.rma.usda.gov/help/faq/wfrp2018.html>.

⁴¹ U.S. Dep't of Agric., Risk Mgmt. Agency, Federal Crop Insurance Corporation Commodity Year Statistics for 2014 (2018), https://www3.rma.usda.gov/apps/sob/current_week/insplan2014.pdf [hereinafter 2014 Federal Crop Insurance]; U.S. DEP'T OF AGRIC., RISK MGMT. AGENCY, FEDERAL CROP INSURANCE CORPORATION Commodity Year Statistics for 2015 (2018), https://www3.rma.usda.gov/apps/sob/current_week/insplan2015.pdf [hereinafter 2015 Federal Crop Insurance]; U.S. DEP'T OF AGRIC., RISK MGMT. AGENCY, FEDERAL CROP INSURANCE CORPORATION Commodity Year Statistics for 2016 (2018), https://www3.rma.usda.gov/apps/sob/current_week/insplan2016.pdf [hereinafter 2016 Federal Crop Insurance]; U.S. DEP'T OF AGRIC., RISK MGMT. AGENCY, FEDERAL CROP INSURANCE CORPORATION Commodity Year Statistics for 2017 (2018), https://www3.rma.usda.gov/apps/sob/current_week/insplan2017.pdf [hereinafter 2017 Federal Crop Insurance].

farms, insuring over a billion dollars in production value, more than twice the coverage of the AGR programs it replaced.⁴² Program participation more than doubled over the following two years and in 2017, insured revenue reached almost \$3 billion.⁴³ Over its first two years, the loss ratio fell by half compared to AGR policies, meaning that WFRP comes much closer to RMA's mandate to provide insurance at rates that are actuarially sound.⁴⁴

Early Administrative Refinements

As WFRP entered its second crop year in 2016, RMA updated the policy in an effort to improve access and coverage.⁴⁵ First, RMA made WFRP universally available.⁴⁶ AGR and AGR-Lite used a checkerboard approach that excluded large swathes of the Midwest, South, and Plains, and in its first year WFRP excluded five states and some counties in states where policies were available.⁴⁷ WFRP is now available in every state and every county.⁴⁸

Second, RMA took a first step toward increasing access for beginning farmers by modestly adjusting production history requirements that excluded farmers who could not produce such histories because they began farming recently.⁴⁹ The program also enrolls new farmers who take over 90 percent of an existing operation,⁵⁰ which recognizes the importance of supporting producers during the growing wave of intergenerational farm

⁴² See 2015 Federal Crop Insurance, *supra* note 44.

⁴³ See 2017 Federal Crop Insurance, *supra* note 46.

⁴⁴ See 2015 Federal Crop Insurance, *supra* note 44; see 2016 Federal Crop Insurance, *supra* note 45.

⁴⁵ *Historic Changes to Whole Farm Revenue Protection*, RURAL ADVANCEMENT FOUNDATION INTERNATIONAL (Aug. 27, 2015), <http://rafiusa.org/blog/rma-announces-historic-changes-to-whole-farm-revenue-protection/>.

⁴⁶ See *id.*

⁴⁷ See NAT'L SUSTAINABLE AGRIC. COAL., FARMING FOR THE FUTURE: A SUSTAINABLE AGRICULTURE AGENDA FOR THE 2012 FOOD & FARM BILL 28 (2012), http://sustainableagriculture.net/wp-content/uploads/2008/08/2012_3_21NSACFarmBillPlatform.pdf.

⁴⁸ U.S. DEP'T OF AGRIC, *supra* note 12, at 1.

⁴⁹ See *id.* at 2.

⁵⁰ *Historic Changes to Whole Farm Revenue Protection*, *supra* note 52.

transitions. Finally, beginning farmers and ranchers receive an automatic 10 percent increase in premium subsidy levels.⁵¹

III. Farm Bill Opportunities

Despite impressive growth to date WFRP remains broadly underutilized.⁵² The remainder of this essay proposes farm bill reforms that would improve WFRP to meet the needs of small, diversified operations. Targeting this tranche of farms, WFRP could easily surpass the benchmarks set in its first years. In turn, expanding WFRP participation would strengthen the risk pool, help achieve and maintain actuarial soundness, and manifest trust among farmers and insurance providers that the program is here to stay. Growth in program participation, we believe, is the best long-term solution to overcome institutional barriers. Once agents and underwriters see WFRP as a permanent program, a virtuous cycle of investment in agent training and specialized software will attract still broader participation.⁵³

First, however, Congress should demonstrate its support through reforms to WFRP that increase program awareness, encourage agents to write whole-farm policies, mitigate and reverse conflicts between coverage and conservation activities, and simplify program access for small farms.

Immediate Opportunity: Expand and improve WFRP education and outreach.

Farmers and their advisers lack awareness and information on WFRP, contributing to its broad underutilization.⁵⁴ Risk management education is nothing new, and Congress has established and funded efforts to provide education on risk

⁵¹ U.S. DEP'T OF AGRIC., FED. CROP INSURANCE CORP., WHOLE-FARM REVENUE PROTECTION PILOT HANDBOOK: 2016 AND SUCCEEDING CROP YEARS 39 (2016), http://www.fma.usda.gov/handbooks/18000/2016/16_18160-1h.pdf.

⁵² See JOHNSON & READY, *supra* note 35, at 5.

⁵³ *Id.* at 10.

⁵⁴ See NAT'L SUSTAINABLE AGRIC. COAL., AN AGENDA FOR THE 2018 FARM BILL 43 (2017), <http://sustainableagriculture.net/wp-content/uploads/2017/10/NSAC-2018-Farm-Bill-Platform-FINAL.pdf>.

management strategies generally, and crop insurance specifically, through the National Institute of Food and Agriculture's Risk Management Education ("RME") program⁵⁵ and RMA's Risk Management Education Partnerships ("RME") and Risk Management Education in Targeted States ("RMETS") programs.⁵⁶

Each program makes grants to both public and private entities that provide education and outreach on risk management, including several recent projects that specifically target WFRP.⁵⁷ However, in 2016 their combined budgets totaled only \$13.7 million. The next farm bill provides an opportunity for Congress to increase its investment in risk management education through these existing programs, and to direct that NIFA and RMA should prioritize projects that focus on whole farm risk management strategies. Beyond increased funding, Congress should ensure that there is adequate reporting and evaluation built into each funded project so that the most successful educational materials and outreach strategies can be identified and replicated in future years.

Immediate Opportunity: Create a simplified policy for small farms.

Farmer advocates identify the complexity and number of WFRP documentation requirements as a significant barrier preventing broader participation.⁵⁸ Documentation includes: extensive revenue history forms to write the policy, three interim reports submitted during the growing season, and a variety of worksheets.⁵⁹ For small farms, this additional recordkeeping can consume more time than the benefit of carrying insurance.⁶⁰

⁵⁵ 7 U.S.C. § 1524 (2012).

⁵⁶ 7 U.S.C. § 1522.

⁵⁷ See, e.g., Risk Management Education Partnership Program, U.S. DEP'T OF AGRIC., RISK MGMT. AGENCY <https://www.rma.usda.gov/aboutrma/agreements/awards/2017/2017partnerships.html> (last visited Apr. 19, 2018).

⁵⁸ See, e.g., JOHNSON & READY, *supra* note 35, at 10.

⁵⁹ See NAT'L SUSTAINABLE AGRIC. COAL., *supra* note 61, at 78.

⁶⁰ See *RAFI Producer Survey on Whole Farm Revenue Protection*, RURAL

Congress can address this barrier by creating a simplified WFRP policy for small farms.

There is recent precedent for such a move in the Microloan program. Introduced in 2013, and expanded in the 2014 Farm Bill,⁶¹ the Microloan Program streamlines the application process required for larger loan programs.⁶² For example, farmers may demonstrate farming experience and production history using more flexible means.⁶³ The next farm bill should include a similar mandate that RMA develop a WFRP policy for small farms. Congressman Rick Nolan (D-MN) recently introduced a marker bill that would create a streamlined WFRP policy for farms insuring under \$1 million in annual revenue.⁶⁴

Immediate Opportunity: Remove barriers and incentivize adoption of resource-conserving practices.

A farmer's coverage should not be threatened by the use of resource-conserving agronomic practices, which inherently lower on-farm risks especially over time. In order to meet the terms of their insurance contract, farmers must follow "good farming practices." Because these practices include, inter alia, strict planting and harvest deadlines, they can retard or even prevent adoption of conservation practices like cover cropping.⁶⁵ The

ADVANCEMENT FOUND. INT'L. (July 1, 2015), <http://rafiusa.org/blog/rafi-producer-survey-on-whole-farm-revenue-protection/>.

⁶¹ Agricultural Act of 2014, Pub. L. No. 113-79, § 5106(a), 128 Stat. 649, 837-38 (2014) (codified as amended at 7 U.S.C. § 1943(c)).

⁶² See Press Release, U.S. Dep't of Agric., USDA Expands Microloans to Help Farmers Purchase Farmland and Improve Property (Jan. 19, 2016), <https://www.usda.gov/media/press-releases/2016/01/19/usda-expands-microloans-help-farmers-purchase-farmland-and-improve>.

⁶³ SARAH TULMAN ET AL., U.S. DEP'T OF AGRIC., ECON. RESEARCH SERV., USDA MICROLOANS FOR FARMERS: PARTICIPATION PATTERNS AND EFFECTS OF OUTREACH 1 (2016), https://www.ers.usda.gov/webdocs/publications/81871/err222_summary.pdf?v=42761.

⁶⁴ See Crop Insurance Modernization Act of 2018, H.R. 4865, 115th Cong. § 2(e) (2018).

⁶⁵ Gabrielle Roesch-McNally et al., *The trouble with cover crops: Farmers' experiences with overcoming barriers to adoption*, RENEWABLE AGRIC. AND FOOD SYSTEMS 1, 9 (2017), https://www.cambridge.org/core/services/aop-cambridge-core/content/view/732DAC57E92E1C9EFC5A451F7EAF454A/S1742170517000096a.pdf/trouble_with_cover_crops_farmers_experiences_with_overcoming_barriers_to

farm bill should specify that all NRCS-approved conservation activities are considered “good farming practices” and prohibit the insurance industry’s practice of using contract “terms and conditions” to undermine this safe harbor,⁶⁶ ensuring that practices like cover cropping never threaten coverage.⁶⁷

Although such a safe harbor for conservation activities mitigates some existing challenges, Congress should take additional action requiring RMA to make WFRP’s diversification incentives more robust. One such proposal by the Farm Bill Law Enterprise would reserve the highest subsidy rates for farmers who adopt advanced conservation practice bundles or resource-conserving crop rotations, as determined by NRCS.⁶⁸ Another approach, proposed by NRDC, would create a pilot program tying subsidy rates to practices shown to improve soil health and mitigate climate risks.⁶⁹

Immediate Opportunity: Create WFRP evangelists by improving insurance agent compensation.

All federal crop insurance policies, whole-farm or otherwise, are sold by independent crop insurance agents and assigned to RMA-approved private insurance companies.⁷⁰ The

[adoption.pdf](#).

⁶⁶ See Peter Lehner & Nathan A. Rosenberg, Legal Pathways to Carbon-Neutral Agriculture, 47 *Envtl. L. Rep. News & Analysis* 10845, 10876 n.223 (2017).

⁶⁷ The Crop Insurance Modernization Act, *supra* note 73. The Act would implement this change by amending Section 508 of the Federal Crop Insurance Act, codified at 7 U.S.C. § 1508. See Nathaniel Levy, *Improving Soil Health Through Crop Insurance*, FARM BILL LAW ENTERPRISE (Apr. 13, 2018), <http://www.farmbilllaw.org/2018/04/13/improving-soil-health-crop-insurance/>.

⁶⁸ See EMILY BROAD LEIB ET AL., FARM BILL LAW ENTERPRISE, DIVERSIFIED AGRICULTURAL ECONOMIES 17 (2018), http://www.farmbilllaw.org/wp-content/uploads/2018/03/FBLE_Diversified-Agricultural-Economies_Final.pdf.

⁶⁹ See CLAIRE O’CONNOR, NAT. RES. DEF. COUNCIL, SOIL MATTERS: HOW THE FEDERAL CROP INSURANCE PROGRAM SHOULD BE REFORMED TO ENCOURAGE LOW RISK FARMING METHODS WITH HIGH REWARD ENVIRONMENTAL OUTCOMES 3 (2013), <https://www.nrdc.org/sites/default/files/soil-matters-IP.pdf>.

⁷⁰ See Bruce Babcock, *The Politics and Economics of the U.S. Crop Insurance Program*, in NAT’L. BUREAU OF ECON. RES., THE INTENDED AND UNINTENDED EFFECTS OF U.S. AGRICULTURAL AND BIOTECHNOLOGY POLICIES 83-112, at 107-09 (Joshua S. Graff Zivin & Jeffrey M. Perloff eds., University of Chicago Press 2012), <http://www.nber.org/chapters/c12109.pdf>. There is strong evidence that this dynamic makes independent crop insurance agents, rather than crop insurance company owners, the

insurance companies bid for agents' books of business, and each insurance company receives revenue from underwriting gains and administrative and operating ("A&O") subsidies in relation to the value of the policies assigned.⁷¹ Thus, agent compensation ultimately depends on the value of the policies they write.

Due to their complexity, it takes more time to write WFRP policies than other crop insurance policies, creating opportunity costs for agents who could be writing simpler policies with higher values.⁷² As a result, agents are less likely to seek out or create opportunities to sell them.⁷³ Congress should correct this prejudice against WFRP by requiring RMA to develop alternative compensation schemes for agents who write whole-farm policies, for example by setting a flat commission per policy or by paying agents based on the time spent writing the policy.

A Vision for WFRP

As we consider immediate reforms, it is worth sparing a moment to consider what a farm bill could do with a program like WFRP if it were truly dedicated to the long-term success of small, diversified farms. We envision a program that is altogether removed from RMA and the private crop insurance companies it uses to deliver its products. The characteristics that make small, diversified farms unique, resilient, and valuable public assets—commitment to environmental stewardship and biodiversity, reliance on local economies and food systems, a young and diverse workforce—are the same traits that cause these farms to be unintelligible or simply ignored by traditional credit agencies and crop insurance companies. The government pays an enormous price to outsource crop insurance program delivery, while the insurance industry captures about one third of total federal crop

residual beneficiaries in the crop insurance industry.

⁷¹ *Id.* at 86.

⁷² See Memorandum from the Nat'l Sustainable Agric. Coal. to Leiann Nelson, Senior Underwriter, U.S. Dep't of Agric., Risk Mgmt. Agency (April 25, 2015), <http://sustainableagriculture.net/wp-content/uploads/2015/04/NSAC-WFRP-Recommendations-Final.docx>.

⁷³ See *id.*

insurance outlays.⁷⁴ Yet this expense has failed to buy adequate delivery for small farms. As we note above, private actors lack robust incentives to service small farms with complex operations. A “public option,” administered and delivered through FSA, addresses all the issues we have identified and many others.

FSA is a logical choice for a revenue guarantee program for small farms. FSA already serves small farms through points of contact that include microloans, the Non-Insured Crop Disaster Assistance (“NAP”), and outreach through efforts like the “Bridges to Opportunity” program.⁷⁵ There are over 2,100 FSA offices nationwide including in nearly every rural county,⁷⁶ and farmers are connected to FSA from the time they first acquire a farm number at their local FSA office. A whole-farm program administered by FSA disentangles farmers’ needs from insurance agent incentives, strengthens working relationships between farmers and FSA, and it puts FSA into a position of insuring the livelihoods of those who are willing to sustain rural communities while investing in local soil and water quality through conservation practices. For small farmers, FSA could be more than the “Lender of Last Resort,” but the “Insurer of First Opportunity.”

Conclusion

Our farmers are aging and we need a new generation that not only takes their place, but that is ready to meet the public’s demand for nutritious and local foods grown in healthy soil. We need a farm bill that updates the social contract between farmer and eater, and that embraces the opportunities that small, diversified farms offer to farmers and their communities. When we invest in small, diversified farms, we invest in the promise

⁷⁴ JOSEPH W. GLAUBER, TAXPAYERS FOR COMMON SENSE, CROP INSURANCE AND PRIVATE SECTOR DELIVERY: REASSESSING THE PUBLIC-PRIVATE PARTNERSHIP 1 (2016), http://www.taxpayer.net/images/uploads/downloads/Crop_Insurance_and_Private_Sector_Delivery_1.pdf.

⁷⁵ *USDA’s Farm Service Agency Expands Bridges to Opportunity Nationwide*, U.S. DEP’T OF AGRIC., FARM SERV. AGENCY (Jan. 11, 2017), https://www.fsa.usda.gov/newsroom/news-releases/2017/nr_20170111_rel_0006.

⁷⁶ *Id.*

of jobs that cannot be exported, stewardship of local natural resources, revitalization of rural communities and shortening the distance food travels. The next farm bill, and the ones that follow in the years to come, have an opportunity to improve and build on the Whole Farm Revenue Protection program so that it becomes a pillar of small farms throughout the country.