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FOOD, CONSERVATION AND ENERGY ACT OF 2008: WETLANDS RESERVE PROGRAM (WRP)

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What is the Wetlands Reserve Program?

The Wetlands Reserve Program (WRP) exists to help landowners cost-effectively address environmental concerns about natural resources, such as wetlands, wildlife habitat, water, and soil. This voluntary program provides financial incentives and technical assistance to landowners who agree to restore and protect wetlands by removing marginal lands from agricultural production.

The goal of the WRP is to maximize wetland functions, values, and wildlife habitat on all enrolled acres. Wetlands provide multiple beneficial functions, such as:

- fish and wildlife habitat provision
- sediment and chemical filtration that improves water quality
- flood reduction
- groundwater recharge
- biodiversity protection
- educational, scientific, and recreational opportunities

Accordingly, the program requires that at least 70% of the enrolled land be restored to the original natural condition; the remaining 30% may be restored to other-than-natural conditions.

Congress established the WRP under the 1990 Farm Bill. The National Resources Conservation Service (NRCS) administers the program, with help from the Farm Service Agency (FSA) and other Federal agencies; the Commodity Credit Corporation (CCC) funds it. Maximum federal enrollment is currently set at 3.041 million acres, with the goal of enrolling 250,000 acres per fiscal year through 2012.

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What has changed for the 2008 Farm Bill?

Previous Legislation	2008 Farm Bill
Capped WRP area at 2.275 million acres. Through FY 2007, 1.947 million acres were enrolled.	Raises WRP cap to 3.041 million acres through FY 2012.
Wetlands could be restored through permanent easements, 30-year easements, restoration cost-share agreements, or any combination of these options. Easement payments were based on agricultural value of land prior to 2005. Subsequently, they have been based on market value of land.	Retains provisions. Adds 30-year contract for Tribes. Prohibits enrollment of land if ownership has changed during previous 7 years with certain exceptions.
Acreage limitations required total WRP and CRP acreage not exceed 25% of county's farmland acreage.	Retains and expands acreage limitations to require that in addition to overall cap, WRP easements are not to exceed 10% of county's farmland acreage.
Eligibility included farmed wetlands or land that was previously converted from wetland to farmland, and buffer acreage adjacent to wetlands. Lands converted from wetland to agricultural production after Dec 23, 1985, were not eligible for WRP enrollment.	Expands eligible land in WRP to include cropland or grassland that was used for agricultural production prior to flooding from natural overflow of closed basin lake or pothole.
Secretary determined acceptability of easement offers based on: • extent to which purposes of easement program would be achieved • productivity of the land • on-farm and off-farm environmental threats of using land for agricultural production	The Secretary also may consider: • environmental benefits • cost-effectiveness with goal of maximizing benefits relative to costs • whether landowner offers to contribute financially to cost of easement Consideration to be given to likelihood of success of easement, offsite environmental benefits, and damages avoided by wetland restoration.
For easements, compensation was not to exceed fair market value of land less fair market value encumbered by easement. Compensation could be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by owner and Secretary.	Easement payments are not to exceed lowest of: • fair market value of land, using appraisal or area-wide market analysis or survey • geographical cap, as determined by Secretary • offer made by landowner Easements greater than $500,000 are to be paid in 5 to 30 annual installments, unless Secretary grants waiver allowing lump-sum payment, to further purposes of program. Easements of less than $500,000 will continue to be paid in 1 to 30 installments. Limits total restoration cost-share payments to $50,000 annually to an individual or legal entity.

Table continued….

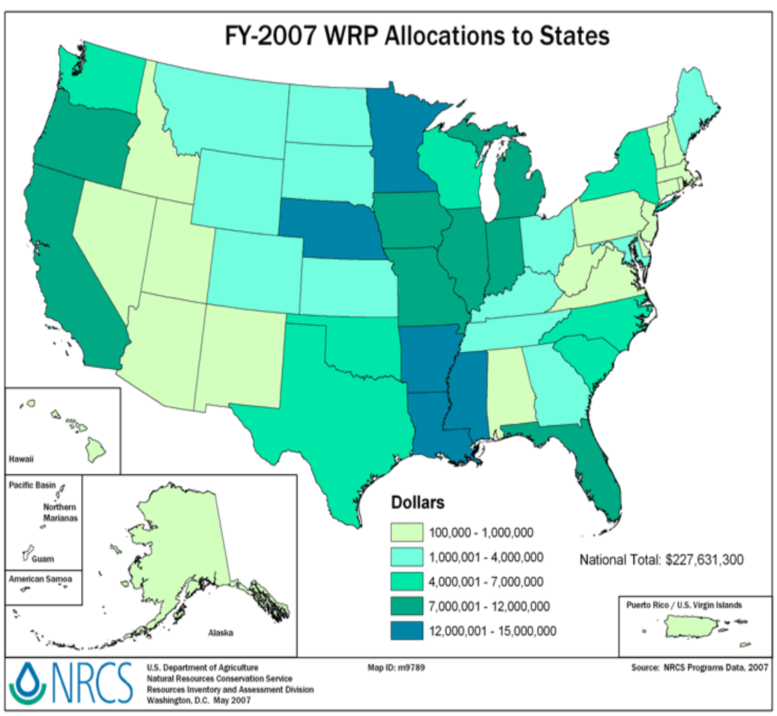
No similar provision.	Creates Wetland Reserve Enhancement Program that allows States (including political subdivision or agency of State), nongovernmental organizations, or Indian tribes to partner with USDA in selection and funding of contracts, as long as selected contracts meet purposes of WRP. WREP includes pilot program that allows landowners to retain grazing rights when consistent with long-term wetland enhancement and protection goals.
No similar provision.	Requires Secretary to submit report, no later than Jan 1, 2010, that evaluates implications of long-term nature of easements on USDA resources. Report to include data on: • number and location of easements • assessment of impacts that oversight of agreements has on resources, including technical assistance • assessment of uses and values of agreements with partner organizations • any other information relevant to program costs and impacts

Source: USDA ERS (2008)

How does it affect Colorado?

For the previous 2002 Farm Bill, NRCS Colorado funded 62 contracts that covered 11,200 acres of wetlands. As of October 16, 2008, there will be $150 million available nationally to fund WRP projects.

The map below shows federal WRP funding allocated to Colorado vs. other states in fiscal year 2007. The national average project cost per acre is approximately $1,700 per acre, and the average project size is 191 acres. Generally, enrolled lands are high-risk agricultural lands that may be restored to wetlands in



flood-prone areas. Various wetland types may be restored, including floodplain forest, prairie potholes, and coastal marshes.

Water and soil erosion topped national producer conservation goals in a 2006 Farm Foundation poll, favored by 84% and 88% of producers respectively. The survey asked what types of federal assistance producers preferred to meet water quality protection goals. Colorado producers' responses were very similar to those of producers nationally: 20.1 percent of Colorado producers and 19 percent nationally favored technical assistance only, while 62.6 percent of Colorado producers and 65 percent nationally favored a combination of technical and financial assistance. Some producers (7.5 percent in Colorado and 7 percent nationally) preferred no federal assistance, while others (9.8 percent in Colorado and 9 percent nationally) had no opinion.

How does WRP work?

Eligible landowners file an application for an easement or rental agreement with the USDA to restore and protect wetlands by voluntarily limiting future agricultural uses of the land. Landowners retain private ownership of the land and control of land access and undeveloped uses, such as hunting. The owner also retains responsibility for the land, including property taxes and control of noxious weeds and pests, and may sell or lease the land. NRCS gets access rights for the purposes of restoration, management, and monitoring. The three types of agreements are as follows:

1. In a permanent easement, the participant surrenders agricultural use rights to the land in perpetuity while retaining land ownership and other rights not covered by the easement. In exchange, the participant receives a payment of the lowest of: 1) the difference between the appraised fair market value of the larger land parcel before the easement is in place less the appraised fair market value of the larger land parcel after the easement is in place, 2) an established payment cap or 3) an offer by the landowner. USDA pays both the amount of the easement and the cost of the wetland restoration. Easements with values less than $500,000 will be paid out over 1-30 years, while easements with values greater than $500,000 will be paid out over 5-30 years.

2. A 30-year easement limits the term of the easement to 30 years. The USDA pays 75% of what would be paid for a permanent easement and up to 75% of the restoration costs. For both permanent and 30-year easements, the USDA pays the costs associated with establishing the easement, such as recording it in the local land records office, survey and appraisal fees, and title insurance.

3. A restoration cost-share agreement is an agreement for a specific period of time (typically ten years or more) to restore damaged wetlands without putting an easement on the property. The USDA pays up to 75% of the restoration cost. Participants may also receive additional incentives from organizations other than the USDA, such as conservation districts or private conservation organizations.

Furthermore, landowners may continue to receive assistance after completion of restoration activities in the form of review of restoration measures, clarification of the technical and administrative aspects of project management needs, and basic biological and engineering advice on how to achieve the best results.

What happens to the land?

For land under a WRP easement, the participant controls access to the land and may lease it for uses that do not impact the restrictions listed in the easement deed, such as hunting, fishing, and other undeveloped recreational activities. Participants may additionally request evaluation of whether other prohibited activities, such as haying, grazing, or harvesting of wood products, are compatible uses for the site. These uses may be allowed if they are determined to protect and enhance the wetland functions and values. These requests for compatible uses may be made throughout the life of the project agreement. Additionally, NRCS retains the right to cancel a previously approved use if that use is deemed to harm the functions and values of the WRP project.

What are the policy implications?

In the 1990s, federal conservation policy shifted away from traditional supply control programs to other policy types such as land retirement programs and working lands programs. In the 2002 Farm Bill, land retirement programs saw special emphasis on wetlands conservation. Currently, the 2008 Farm Bill de-emphasizes land retirement programs, such as the WRP and CRP; instead, it highlights working lands programs that are potentially less expensive per acre.

However, land retirement programs can achieve greater environmental benefit per acre. In such a program, producers receive incentives to convert the land out of agricultural use entirely and into other, more environmentally beneficial uses. These programs are most suited to acreage on which the environmental costs are high relative to benefits from production. This typically occurs for one of two reasons: either the land has low productivity when used for crops, or the environmental benefits are especially high in an original or non-cropped state. Other benefits to land retirement programs include ease of monitoring and enforcement, and benefits to wildlife species whose habitats require large continuous parcels of land. Land retirement programs may also increase commodity prices in the same manner as a supply control program: decreasing the amount of cropped acreage tightens the supply of the commodity and causes prices to rise.

Land retirement programs require comparatively greater program costs because the program payments are equivalent to renting the land at its full agricultural value. These programs are also difficult to maintain in times when demand and prices are high because farmers have an incentive to bring those lands back into production. This has two consequences: first, that environmental benefits that had been gained while the land was retired are lost when that land is returned to production, and second, that program rental rates on lands that remain in the program need to be higher to compete with higher commodity prices, which means that fewer acres are likely to be funded. Furthermore, it may take more time and restoration cost to return the land to a state where the environmental benefits will reach desired levels with these programs than with working lands programs. Another challenge is slippage, where surrounding lands are converted to cropland to make up for the land retired into the program; this offsets benefits gained by retiring land. Finally, retiring the lands from production reduces producer flexibility to respond to changing commodity market circumstances; for example, lands currently in CRP cannot be farmed to take advantage of the current high commodity prices.

Who is eligible?

Landowners must show evidence that they own the land subject to the easement. Eligible landowners have owned the land for at least 12 months prior to enrolling it in the program unless the land was inherited, the landowner exercised their right of redemption after foreclosure, or they can prove the land was not acquired for the purpose of enrolling it in the program.

WRP-eligible land must be restorable and suitable for wildlife benefits, including:

- wetlands farmed under natural conditions
- farmed wetlands
- prior converted cropland
- farmed wetland pasture
- land that has become a wetland as a result of flooding
- range land, pasture, or production forest land where the hydrology has been significantly degraded and can be restored
- riparian areas which link protected wetlands
- lands adjacent to protected wetlands that contribute significantly to wetland functions and values
- previously restored wetlands that need long-term protection.

Some types of land are ineligible for WRP contracts. This includes wetlands converted after December 23, 1985; lands with timber stands established under a Conservation Reserve Program (CRP) contract; federal lands; and lands with conditions that make restoration impossible.

National enrollment is limited by year. The 2008 Farm Bill raised the national cap to 3.041 million acres. The national NRCS office uses a resource-based formula to determine allocations. This formula considers how many wetlands were lost in a state, whether the state impacts migratory birds, how many acres of wetlands are potentially restorable, impacts on water quality and threatened or endangered species, and prior year state WRP performance. Enrollment may also be capped at the state level.

Moreover, producers who do not meet the following conditions may be denied eligibility in order to keep farm support and conservation programs from creating conflicting outcomes:

1. The conservation compliance provision, wherein the producer must "implement and maintain a Natural Resource Conservation Service (NRCS)-approved soil conservation system on highly erodible land (HEL) that is currently in crop production and was cropped before 1985."

2. The sodbuster, which means that highly erodible land must not be put into production unless an approved soil conservation system has been implemented, and

3. The swampbuster provision, which requires that producers not convert wetlands to agricultural commodity production after November 28, 1990 or produce commodities on wetlands converted after December 23, 1985.

Producers who do not meet these requirements risk losing not only their WRP eligibility, but all Federal farm program payments on the land in question.

As with most Farm Bill programs, participants are subject to the Adjusted Gross Income (AGI) limitation: participating individuals or entities must not have an AGI exceeding $1 million for the three tax years preceding the year in which the contract is approved. An exception is made when at least 2/3 of AGI comes from farming, ranching, or forestry operations.

How do I apply?

Applications are accepted on a continuous basis at the participant's local NRCS or conservation district office. Potential participants may obtain applications directly through these offices or through the USDA's website at http://forms.sc.egov.usda.gov/eforms/formsearchservlet. To use this website, enter “Natural Resources Conservation Service” in the Agency field, “Wetlands Reserve Program” in the Program Name field, and “AD-1135” in the Form Number field.

Application evaluation takes place on the state level according to state-determined ranking criteria. These ranking criteria can be obtained from the local and state NRCS office online at http://www.co.nrcs.usda.gov/programs/wrp/wrp.htm.

After an application is filed, the NRCS evaluates the eligibility of both the land and the landowner. Data associated with the ranking process are collected on a site visit, during which the site is also evaluated for the presence of hazardous substances and a preliminary restoration plan is created. Funding decisions are made at the state level, based on a total point score on the ranking criteria. State Conservationists develop state criteria based on national guidelines. Ranking of offers is based on cost and ecological considerations; separate ranking lists are kept for each enrollment type. Furthermore, the State Conservationist has the authority to enroll projects outside of the ranking process if they are in a designated “special project” area. In this way, the NRCS may begin a WRP initiative in an area that has been deemed important for wetland restoration activities regardless of the individual site ranking.

Who do I contact for further information?

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Sources

Aillery, Marcel. (2006). “Conservation Program Design: Contrasting Working-Land and Land Retirement Programs.” United States Department of Agriculture Economic Research Service Economic Brief Number 4. 1-6.

Cain, Zachary and Stephen Lovejoy. (2004). “History and Outlook for Farm Bill Conservation Programs.” *Choices*. American Agricultural Economics Association.

Claassen, Roger. (2006). “Chapter 5.3: Compliance Provisions for Soil and Wetland Conservation.” *Agricultural Resources and Environmental Indicators*. Economic Research Service/ USDA. 184-193.

Hellerstein, Daniel. (2006). “Chapter 5.2: USDA Land Retirement Programs.” *Agricultural Resources and Environmental Indicators*. EIB-16. Economic Research Service/USDA.

Johnson, Renee et al. (2008). "CRS Report for Congress: Comparison of the 2008 Farm Bill Conference Agreement with the House and Senate Farm Bills." Congressional Research Service. Online. Available: http://www.nationalaglawcenter.org/assets/crs/RL34228.pdf. 09-25-08.

Lubben, Bradley D., Nelson L. Bills, James B. Johnson, and James L. Novak. (2006). "The 2007 Farm Bill: U.S. Producer Preferences for Agricultural, Food, and Public Policy." National Public Policy Education Committee. Farm Foundation, University of Nebraska Lincoln, National Public Policy Education Committee (NPPEC). Publication number 2006-01. Online. Available: http://www.farmfoundation.org/news/articlefiles/375-2007%20Farm%20Bill%20Producer%20Survey%20FINAL.pdf. 10-13-08.

Pease, James, David Schweikhardt and Andrew Seidl. (2008). "Conservation Provisions of the Food, Conservation and Energy Act of 2008: Evolutionary Changes and Challenges." *Choices*. Agricultural and Applied Economics Association. 36-40.

Pritchett, James, Emily Scott, Andrew Seidl, and Wendy Umberger (2007). "Colorado Preferences for Federal Agricultural Policy and the 2007 Farm Bill." Technical Report TR07-06. Colorado State University Agricultural Experiment Station, Colorado State University Cooperative Extension Service.

United States Department of Agriculture (USDA). (2008). "Farm Bill Implementation: Progress as of October 2008." News Release No. 0266.08. Online. Available: http://www.usda.gov/wps/portal/usdahome?contentidonly=true&contentid=2008/10/0266.xml. 10-17-08.

United States Department of Agriculture (USDA) Economic Research Service (ERS). (2008). "2008 Farm Bill Side-by-Side: Title II: Conservation." 2008 Farm Bill. Online. Available: http://www.ers.usda.gov/FarmBill/2008/Titles/TitleIIConservation.htm 09-08-08.

USDA ERS. (2008) "Wetlands Reserve Program (WRP)." Briefing Rooms: Farm and Commodity Policy: Glossary. Online. Available: http://www.ers.usda.gov/briefing/farmpolicy/glossary.htm#crp. 09-23-08.

United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS). (2007). "Fact Sheet: Wetlands Reserve Program." Farm Bill 2002. Online. Available: http://www.nrcs.usda.gov/programs/wrp/2007_ContractInfo/2007WRPFactSheet.pdf. 09-15-08.

USDA NRCS. (2007). "FY-2007 WRP Allocations to States." FY-2007 Conservation Program Allocations to States by Program. Online. Available: http://www.nrcs.usda.gov/programs/2007_allocations/m9789wrp_alloc.gif. 09-14-08.

USDA NRCS. (2007). "Key Points: Wetlands Reserve Program." Farm Bill 2002. Online. Available: http://www.nrcs.usda.gov/programs/wrp/2007_ContractInfo/2007WRPKeyPoints.pdf. 09-15-08.

USDA NRCS. (2007). "Program Description: Wetlands Reserve Program." Farm Bill 2002. Online. Available: http://www.nrcs.usda.gov/programs/wrp/2007_ContractInfo/2007WRPProgramDescription.pdf. 09-15-08.

USDA NRCS. (2007). "Questions and Answers: Wetlands Reserve Program." Farm Bill 2002. Online. Available: http://www.nrcs.usda.gov/programs/wrp/2007_ContractInfo/2007WRPQAs.pdf. 09-15-08.

Villano, Marta. NRCS Colorado Program Analyst. Interview. 09-26-08.