

For: State and County Offices

Announcing Preliminary 2008 Farm Act Provisions and Authority to Continue

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

On May 22, 2008, the Food, Conservation, and Energy Act of 2008 (2008 Act) became law.

The 2008 Act generally:

- updated certain CRP provisions
- provided new authority for the Farmable Wetlands Program (FWP), cost-share for thinning tree stands, and transition incentives
- provided authority to continue CRP operations under previous authorities through September 30, 2008.

B Purpose

This notice provides a brief overview of the 2008 Act’s CRP related provisions.

2 CRP Related Provisions

A In General

Enrollment authority is extended through FY 2012. General authority was added to address issues raised by State, region, and national conservation initiatives.

B Eligible Land

Cropping history period will shift from 1996 – 2001 to 6 years before enactment of the 2008 Act except for FWP.

Disposal Date	Distribution
January 1, 2009	State Offices; State Offices relay to County Offices and NRCS State Offices

2 CRP Related Provisions (Continued)

C Maximum Enrollment

Enrollment authority remains at 39.2 million acres for FY 2008 and FY 2009. For FY's 2010 – 2012, the enrollment authority is set at 32 million acres.

D Multi-Year Grasses and Legumes

Alfalfa grown in certain long-term rotations may be considered an agricultural commodity for purposes of meeting CRP cropping history requirements.

E FWP

Significant changes were made including:

- adding as eligible, constructed wetlands to provide nitrogen removal in tile-drained areas
- adding as eligible, land devoted to commercial pond-raised aquaculture with 1 year of cropping history between CY 2002 through 2007
- adding as eligible, intermittently-flooded land, provided the land:
 - was actually cropped during at least 3 of 10 crop years between January 1, 1990, and December 31, 2002
 - is subject to natural overflow of a prairie wetland
- enrollment limits of:
 - 40 acres for wetlands and for constructed wetlands
 - 20 acres for intermittently-flooded land
 - 40 acres per tract.

Note: There is no statutory limit for commercial pond-raised aquaculture.

F Duties of Owners and Operators, Haying and Grazing, etc.

Authority for managed grazing has been removed and new authority for routine grazing has been added. The frequency of routine grazing is to be decided by local resource conditions and may provide for more frequent routine grazing during the same year.

G Duties of Owners and Operators, Conservation Plans

Clarifies conservation plan requirements to include management by the participant throughout the contract term to implement the conservation plan.

2 CRP Related Provisions (Continued)

H Federal Percentage of Cost-Sharing Payments

Authority is added to make cost-share payments for 2 to 4 years for thinning of tree stands for the benefit of wildlife and other resource conditions on the land.

I Annual Rental Payments

Criterion is added to accept offers (when all other factors are equal) to residents in the county or contiguous county.

NASS is required to conduct annual surveys of dry-land and irrigated cash rental rates for cropland and pastureland in all counties within the 50 States with 20,000 acres or more of cropland and pastureland. Estimates are to be published on a publicly available web site.

J Payment Limitation

Direct attribution and AGI provisions apply.

K Transition Authority

There is new authority for contract modifications to facilitate a transition of land enrolled in CRP from a retired or retiring owner or operator to a beginning farmer or rancher, socially disadvantaged farmer or rancher, or limited resource farmers or rancher for returning some or all of the land into production using sustainable grazing or crop production methods. Provisions include:

- up to 1 year before CRP contract expiration:
 - the covered farmer or rancher could make conservation land improvements
 - begin certification under the Organic Foods Production Act
- the retired or retiring owner or operator must sell or lease (or a long-term lease with option to purchase)
- development of a conservation plan
- an opportunity to enroll in CSP or EQIP
- making payments for not more than 2 years after termination to the retired or retiring owner or operator if the owner or operator receiving the land is not a family member
- opportunity to re-enroll using continuous signup practices.

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2 CRP Related Provisions (Continued)

L Acreage Limitation

Adds additional authority to grant a waiver to exclude acreage enrolled under continuous or CREP provided that county Government concurs.

3 Action

A National Office Action

Policy and guidance will be developed to implement provisions of the Act. The process will include the following:

- meeting with interested farm, commodity, conservation, and environmental groups
- meeting with interested members of Congress
- convening a multi-agency working group, which includes representatives of State and County Offices, to develop issues for revised policies and guidance
- preparing necessary National Environmental Policy Act (NEPA) and Federal Register documents to implement any revised provisions
- developing user requirements
- conducting appropriate National training.

B State and County Office Action

State and County Offices shall:

- familiarize themselves with the provisions of this notice
- use the provisions of this notice when responding to producer questions
- make sure producers understand that the provisions of this notice:
 - are informational only
 - are subject to interpretation
 - do not include policy decisions
 - will be supplemented with final policy at the appropriate time
- read and follow the provisions of this notice.