An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a light blue color. The hourglass is centered on the page.

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*Wildlife Habitat Incentives Program: Status and Current Issues*

Megan Stubbs, Analyst in Agricultural Conservation and National Resources Policy

December 11, 2008

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**CRS Report for Congress**

*Prepared for Members and Committees of Congress*

## Summary

The Wildlife Habitat Incentives Program (WHIP) is a voluntary program that provides technical and financial assistance to eligible lands to improve and develop wildlife habitat and enhance wildlife populations. Participants enter into contracts, usually 5 to 10 years in duration, with the U.S. Department of Agriculture's (USDA's) Natural Resources Conservation Service (NRCS), which pays up to 75% of the contract implementation cost. Since its initial authorization in the 1996 farm bill, WHIP has enrolled more than 4 million acres through 25,600 contracts. Eligible acreage includes privately owned agricultural land, tribal land, and nonindustrial private forest land. Some selected issues for the 111<sup>th</sup> Congress include mandatory funding levels, a change in program eligibility requirements, a continuing backlog of unfunded applications, and species-specific funding.

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## Program Overview

The Wildlife Habitat Incentives Program (WHIP) was originally authorized in Section 387 of the 1996 farm bill (P.L. 104-127, 16 U.S.C. 3839bb-1) and was reauthorized and amended in both the 2002 and 2008 farm bills.<sup>1</sup> The current WHIP authority extends through FY2012. The purpose of WHIP is to enable eligible participants to develop habitat for upland wildlife, wetland wildlife, threatened and endangered species, fish, and other types of wildlife in an environmentally beneficial and cost-effective manner. USDA's Natural Resources Conservation Service (NRCS) establishes national priorities that reflect national wildlife concerns. These priorities, along with other resource factors, are used at the national level to allocate funding to states. The current national priorities, set in 2008 by NRCS, are as follows:

- promote the restoration of declining or important native wildlife habitats;
- protect, restore, develop, or enhance wildlife habitat of at-risk species (candidate species, and state and federally listed threatened and endangered species);
- reduce the impacts of invasive species on wildlife habitats; and
- protect, restore, develop, or enhance declining or important aquatic wildlife species' habitats.

NRCS also works at the state and local level to set wildlife priorities. Each state develops a WHIP Plan to establish priorities and coordinate NRCS activities with those of other agencies and groups. State technical committees advise NRCS state conservationists<sup>2</sup> on WHIP priorities and the state WHIP Plan. This coordination also encourages the leveraging of other state, federal, and private sources of funding to address state and local wildlife concerns. Generally, states select two to six priority habitat types, which consistently include one or more upland and riparian habitats. Priorities set at the national, state, and local levels are factors in deciding which contracts will be accepted.

## Eligibility and Program Requirements

Privately owned agricultural land, tribal land, and nonindustrial private forest land may be eligible under WHIP. Applicants must have control of the land under consideration. Applications can come from individuals, groups, or businesses. Prior to enactment of the 2008 farm bill, WHIP was unique among farm bill conservation programs in that eligible land was not required to be in agricultural production. The 2008 farm bill amended the purpose of WHIP to developing wildlife habitat on private *agricultural* land (see "Selected Issues" section, below). The number of acres that can be enrolled in WHIP is not limited. However, the total amount of individual payments made to a person or legal entity (both directly or indirectly) through WHIP may not exceed \$50,000 per year. This payment limitation was also added in the 2008 farm bill.

NRCS receives applications on a continuous basis throughout the year, but application selection and funding dates vary by state. Applications are ranked and selected at the state level, based on

<sup>1</sup> P.L. 107-171, Sec. 2502, and P.L. 110-246, Sec. 2602, respectively.

<sup>2</sup> The NRCS state conservationist is a high-ranking civil servant responsible for management and direction of all NRCS operations within a state.

national and state priorities (as discussed above). Applicants work with NRCS to produce a wildlife development plan. The plan assesses the condition of wildlife habitat on the land, makes recommendations for habitat improvements through various practices, and becomes the basis of the contract between NRCS and the participant. Examples of practices authorized under WHIP include native grassland seeding, prescribed burns, hardwood planting, and fish passage structure installation.

NRCS provides cost-share payments based on the implementation of practices identified in the contract. These payments can cover up to 75% of the cost of implementing the practice. Contracts usually vary in length from 5 to 10 years depending on the number and type of practices being installed. In FY2008, more than 646,000 acres were enrolled through more than 3,000 contracts.<sup>3</sup> WHIP also provides additional cost-share (up to 100% of the cost) to landowners who are willing to enter into contracts of 15 years or longer for practices affecting essential plant and animal habitat. The 2002 farm bill limited funding for these contracts to no more than 15% of the amount authorized annually for WHIP. This limit was increased in the 2008 farm bill to no more than 25% of the authorized annual funding. NRCS reports that, on average, it reimburses participants approximately \$14,900 for each long-term contract lasting 15 years or longer. Between FY2004 and FY2007, long-term contracts totaled close to 500, accounting for almost 4% of WHIP contracts and 10% of WHIP acreage. Short-term contracts (less than 5 years) are also allowed, but only to install practices needed for a wildlife emergency (such as drought).<sup>4</sup>

## Program Funding

The 1996 farm bill authorized WHIP funding of \$10 million annually from FY1996 through FY2002. The 2002 farm bill significantly increased the authorized funding level to a total of \$345 million between FY2003 and FY2007.<sup>5</sup> The 2008 farm bill increased the authorized funding levels further to a total of \$425 million between FY2008 and FY2012. Funding under WHIP is mandatory (not subject to annual appropriations) and receives authorized amounts each year under the borrowing authority of USDA's Commodity Credit Corporation (CCC).<sup>6</sup> However, Congress has chosen to limit WHIP funding below authorized levels to a total of \$279 million between FY2003 and FY2008. Total funding approved between FY2003 and FY2008 was 35% below that of total authorized funding levels.<sup>7</sup> Most of these reductions are requested annually through the President's budget and adopted in annual agriculture appropriations bills. **Table 1** compares the authorized and actual funding levels for WHIP. At the start of FY2008, the authority for WHIP expired pending the passage of the 2008 farm bill. Congress passed several extension bills allowing the program to continue operation at full authorized funding levels until the 2008 farm bill was enacted in May 2008.

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<sup>3</sup> USDA, NRCS, *FY-2008 Wildlife Habitat Incentives Program Allocations, Obligations, and Unfunded Applications*, December 4, 2008, [http://www.nrcs.usda.gov/programs/whip/FY08contract\\_info/whipfy08contractinfo.html](http://www.nrcs.usda.gov/programs/whip/FY08contract_info/whipfy08contractinfo.html).

<sup>4</sup> These short-term contracts can only be approved by the NRCS state conservationist.

<sup>5</sup> See **Table 1** for annual amounts.

<sup>6</sup> The CCC is administered by a Board of Directors from agencies of the Department of Agriculture. It has no staff, and all work on its behalf is performed by staff of agencies within USDA. For WHIP, NRCS provides staff.

<sup>7</sup> For more information, see CRS Report R40000, *Agriculture and Related Agencies: FY2009 Appropriations*.

**Table 1. WHIP Funding and Reductions, FY2003-FY2008**  
(\$ in millions)

Fiscal Year	2003	2004	2005	2006	2007	2008	Total
Authorized Funding Level	\$30	\$60	\$85	\$85	\$85	\$85	\$430
Actual Funding	\$24	\$38	\$46	\$43	\$43	\$85	\$279
Funding Reduction	\$6	\$22	\$39	\$42	\$42	\$0	\$151

**Source:** USDA, NRCS, *Summary of Authorized and Actual Funding Levels for 2002 Farm Bill Programs*.

Annual funding received by WHIP is allocated to the states by NRCS using a formula based on natural resource need, efficiency and performance measures, and regional equity. States that receive the largest WHIP allocations vary from year to year. **Table 2** highlights these states and their funding between FY2003 and FY2008. Why these particular states receive the highest level of funding from year to year may be due to several different factors. One factor could be the regional equity provision in the 2002 farm bill, which mandates that each state receive annually a minimum aggregate amount of funding for specified conservation programs.<sup>8</sup> In FY2007, all four states that received the highest level of funding fell under this provision. A second factor could be the location of species-specific initiatives. Since FY2004, NRCS has conducted a series of species-specific habitat initiatives that can increase funding in certain states.<sup>9</sup>

**Table 2. Four Largest WHIP Allocation Recipient States, FY2003-FY2008**  
(\$ in thousands)

Fiscal Year	Highest Allocation	2 <sup>nd</sup> Highest Allocation	3 <sup>rd</sup> Highest Allocation	4 <sup>th</sup> Highest Allocation	Total Allocation
2003	Rhode Island \$830	Mississippi \$619	South Carolina \$619	Oklahoma \$596	\$21,184
2004	California \$1,465	Alaska \$1,149	Rhode Island \$1,029	Washington \$1,009	\$27,828
2005	California \$1,768	Alaska \$1,582	Arkansas \$1,565	New Hampshire \$1,448	\$34,860
2006	Rhode Island \$1,805	New Hampshire \$1,687	Alaska \$1,472	Connecticut \$1,450	\$32,509
2007	Alaska \$3,491	Rhode Island \$3,354	Hawaii \$2,777	New Hampshire \$2,186	\$39,916
2008	California \$2,813	Massachusetts \$2,574	Wisconsin \$2,080	Texas \$1,801	\$57,811

**Source:** USDA, NRCS, *WHIP Contract and Funding Information*, <http://www.nrcs.usda.gov/programs/whip/>.

**Notes:** Allocations in this table represent financial assistance allocated to states only. Technical assistance, administrative, and technology costs are not included.

<sup>8</sup> The regional equity provision was first instituted in the 2002 farm bill (P.L. 107-171, Sec. 2701) and reauthorized in the 2008 farm bill (P.L. 110-246, Sec. 2703). The provision affects not only WHIP but also the Environmental Quality Incentives Program, Farmland Protection Program, and Grassland Reserve Program. The 2008 farm bill increased the minimum level of funding to each state for these combined four conservation programs from \$12 million to \$15 million.

<sup>9</sup> The topic of species-specific initiatives is discussed further in the "Selected Issues" section.

NRCS partners with local public agencies, nonprofit organizations, and other technical service providers to compound the amount of available funds for technical and financial assistance. Each state WHIP Plan (as described in the “Program Overview” section) seeks to leverage other state, federal, and private dollars in a coordinated effort to address wildlife habitat. In FY2007, according to NRCS, partners contributed over \$762 million to assist WHIP participants with approved wildlife habitat improvement practices on enrolled acres.

## Selected Issues

### Mandatory Funding Levels

The 2008 farm bill reauthorized WHIP through September 30, 2012, with a maintained authorized funding level of \$85 million annually. As shown in **Table 1**, the authorized funding level has remained at \$85 million annually since FY2005; however, annual appropriations acts have reduced the actual funding levels by almost one-half.<sup>10</sup> With the 111<sup>th</sup> Congress facing tighter budget constraints, similar cuts to WHIP could be considered either in the appropriations process or if budget reconciliation is required.

### Program Eligibility

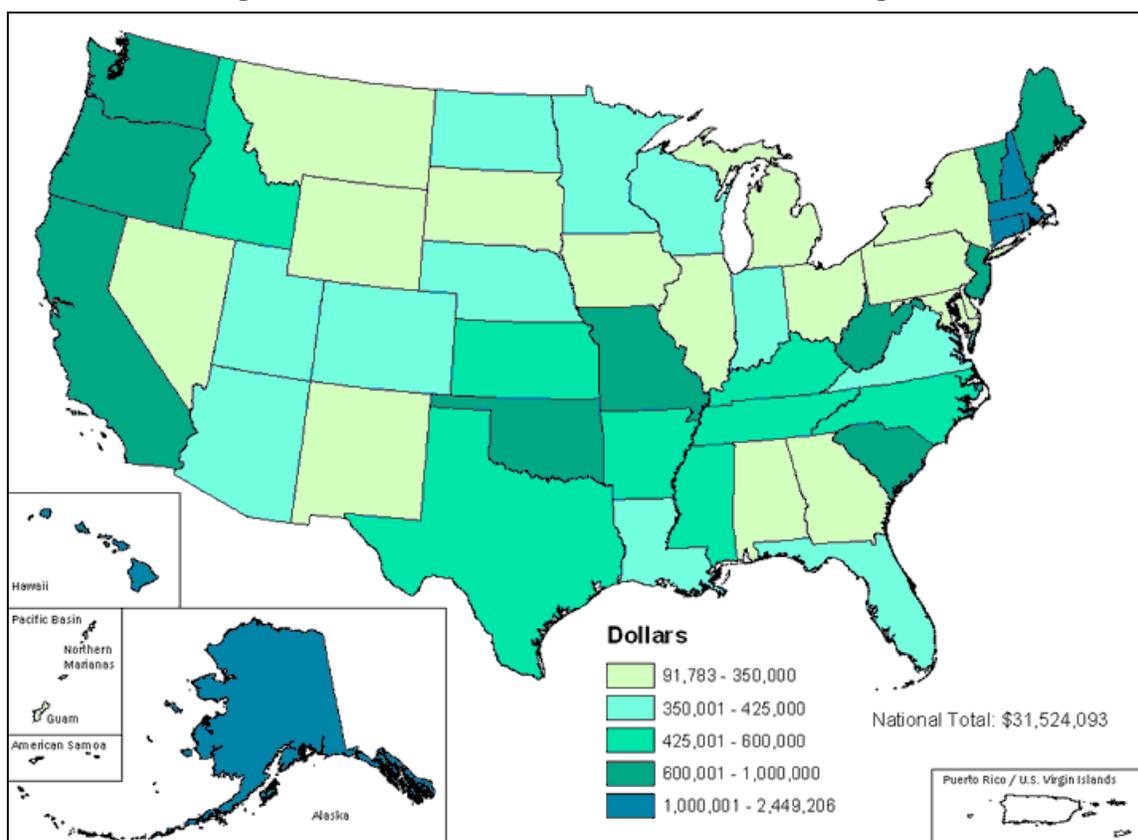
The 2008 farm bill placed new limitations on lands eligible to be enrolled in WHIP, which will likely reduce the number of eligible acres in traditionally high participation states. Language was added requiring WHIP to be used “for the development of wildlife habitat on private agricultural land, nonindustrial private forest land, and tribal lands.” The addition of this language reverses the previous interpretation by NRCS, which extended eligibility to *all* privately owned land, tribal land, state/local government land, or federal land.<sup>11</sup> By previously offering support for wildlife habitat projects on all land and aquatic areas, WHIP provided an assistance option to landowners who were unable to meet the specific eligibility requirements of other USDA conservation programs. The new requirement of agricultural production will likely shift financial assistance for WHIP contracts away from the traditionally large allocation states (see **Table 2** and **Figure 1**) to more agriculturally intensive states. The impact of the change in eligibility cannot fully be analyzed until NRCS releases a revision of WHIP rules and policy.

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<sup>10</sup> FY2008 is an exception because Congress passed several extension bills allowing the program to continue operation at full authorized funding levels until the 2008 farm bill passed. Funding levels authorized in extensions were not reduced by appropriations.

<sup>11</sup> State and local government land could only be used on a limited basis, and federal lands were only eligible when the primary benefit was on private lands and the project could not meet its objectives without involving the federal land.

Figure 1. FY2007 WHIP Financial Assistance Obligated



Source: USDA, NRCS, [http://www.nrcs.usda.gov/programs/whip/FY07contract\\_info/WHIP\\_fy2007\\_Contract.html](http://www.nrcs.usda.gov/programs/whip/FY07contract_info/WHIP_fy2007_Contract.html).

## Unfunded Application Backlog

As stated earlier, the 2002 farm bill significantly increased mandatory funding for WHIP. One reason for this funding expansion was the sizable number of pending applications that exceed available funding. Limitations on funding in annual appropriations have reduced this authorized increase and contributed to the continuing backlog of unfunded applications.<sup>12</sup> **Table 3** shows the percentage of total contracts funded for FY2003-FY2008. Though the backlog gap is narrowing, WHIP continues to have a backlog of over 1,600 applications.<sup>13</sup> Some considered the large unfunded application backlog a strong argument for additional funding in the 2008 farm bill; however, authorized levels remain at \$85 million annually. If Congress again limits annual funding through appropriations or budget reconciliation, the actual level of funding could be significantly less than the authorized level and increase the backlog. On the other hand, the recent eligibility changes from the 2008 farm bill will reduce the number of eligible acres for WHIP and possibly reduce the backlog of unfunded applications.

<sup>12</sup> The backlog of unfunded applications does not include applications that are incomplete or rejected. Applications in the backlog represent complete and eligible applications that could be ranked and funded at the state level if funding were available.

<sup>13</sup> At the conclusion of FY2008, states with the highest average of unfunded applications are: Oklahoma (397), Iowa (143), Arkansas (136), Kentucky (103), and Alabama (103).

**Table 3. Funded and Unfunded WHIP Contracts, FY2003-FY2008**

	Total Contracts Funded	Total Contracts Unfunded	Percentage of Contracts Funded
2003	2,123	3,660	37%
2004	3,017	3,033	50%
2005	3,342	2,182	61%
2006	2,717	2,178	56%
2007	2,107	3,243	40%
2008 <sup>a</sup>	3,495	1,688	67%

**Source:** USDA, NRCS, *WHIP Contract and Funding Information*, <http://www.nrcs.usda.gov/programs/whip/>.

- a. In FY2008, WHIP was fully funded at the authorized level of \$85 million. Congress passed several extension bills allowing the program to continue operation at full authorized funding levels until the 2008 farm bill was enacted.

## Species-Specific Funding

Many wildlife organizations (e.g., Pheasants Forever and Ducks Unlimited) focus their efforts on certain species or habitat. Other organizations representing broader wildlife interests (e.g., Association of Fish and Wildlife Agencies) are supportive of localized priority funding levels with the occasional national species-specific focus. The interest of these organizations in additional species-specific or habitat-specific funding was partially addressed in the 2008 farm bill through additional language regarding priority for certain conservation initiatives. The farm bill encourages, but did not require, USDA to give priority to WHIP projects that address issues raised by state, regional, and national conservation initiatives.<sup>14</sup> The farm bill's conference report (H.Rept. 110-627) further directed USDA to consider the goals and objectives of wildlife conservation initiatives<sup>15</sup> when establishing state and national program priorities, scoring criteria, focus areas, and other special initiatives, and to work with other state and federal agencies to complement wildlife conservation initiatives through USDA programs. The extent to which USDA will follow this directive language remains to be seen. However, any progress will likely be monitored by several interested wildlife organizations.

<sup>14</sup> WHIP has a history of funding species-specific habitat initiatives beginning in FY2004 with a Salmon Habitat Restoration Initiative. National species-specific initiatives have dropped off in recent years, while state and local level initiatives have continued.

<sup>15</sup> H.Rept. 110-627 listed examples of state, regional, and national conservation initiatives, including the "North American Waterfowl Management Plan, the National Fish Habitat Action Plan, the Greater Sage-Grouse Conservation Strategy, the State Comprehensive Wildlife Conservation Strategies (also referred to as the State Wildlife Action Plans), the Northern Bobwhite Conservation Initiative, and State forest resource strategies."

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