



## **CRS Report for Congress**

# **Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA): Effects of Hurricanes Katrina and Rita on Implementation**

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### **Summary**

The Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA), enacted in 1990 and administered by the U.S. Army Corps of Engineers, has funded wetland restoration projects for more than 10 years. By law, CWPPRA allocates 70% of appropriated funds (\$58 million of \$83 million in FY2005) to projects in Louisiana. Louisiana wetland protection and restoration proponents largely view the program as an established success in enhancing coastal wetlands by implementing numerous relatively inexpensive and smaller-scale projects. At the same time, many of these proponents also have worked to develop and seek administration and congressional support for a more substantial multibillion-dollar coastal Louisiana restoration program consisting of far larger projects. Their efforts have intensified in the aftermath of two highly destructive hurricanes that struck Louisiana in 2005, both because the scale of the CWPPRA program is insufficient to counter the large wetlands losses that resulted, and because wetlands could play a more prominent role in reducing the impacts of future hurricanes on developed areas. If Congress enacts a larger restoration program in periodic water resource development legislation, it may also conclude that CWPPRA should be more directly integrated with that effort. Additionally, Congress may consider amending CWPPRA to redirect or expand it as a response to these hurricanes.

### **Introduction**

The Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA), also called the Breaux Act after an initial sponsor, was enacted to respond to the loss of coastal wetlands, especially in Louisiana.<sup>1</sup> It authorizes up to \$100 million annually until 2019 for three purposes: 70% is for restoration of Louisiana coastal wetlands, 15% is for

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<sup>1</sup> P.L. 101-646, 104 Stat. 4778 (Title III), 16 U.S.C. 3951-3956.

coastal wetlands restoration in other states, and 15% is to support the North American Wildlife Habitat Management Program. This report is limited to the Louisiana component.<sup>2</sup> The Louisiana effort is administered by a task force that includes five federal agencies and the state of Louisiana and is chaired by the U.S. Army Corps of Engineers. The almost 80 projects that have been funded through CWPPRA generally have not generated much controversy, perhaps because they are products of the program's extensive collaborative planning process and because they are limited in scale. Congress has not made major amendments to CWPPRA since the initial enactment other than extending the authorization period. However, in the aftermath of the 2005 hurricanes, it may consider changes. (For more information on how the state's coastal wetlands were affected by the hurricanes, see CRS Report RS22276, *Coastal Louisiana Ecosystem Restoration After Hurricanes Katrina and Rita*, by Jeffrey A. Zinn.)

## The Law and Program

Congress authorized CWPPRA to create and restore coastal wetlands in Louisiana as a response to rapid rates of land loss as wetlands were converted to open water. The human and natural causes, geographic patterns, and rapid rates of loss had been documented in numerous studies and reports since the 1960s. This documentation continues to be used by restoration advocates to argue that wetlands protection and restoration is an immediate need; it is also used to argue that restoration is a national issue deserving federal funding and involvement because of the many roles that coastal Louisiana plays in the national economy.<sup>3</sup> (For a general overview of the rates and causes of wetland loss, activities to document those losses and identify possible solutions, and efforts to authorize and fund a more extensive federal restoration effort, see CRS Report RL32673, *Coastal Louisiana: Attempting to Restore an Ecosystem*, by Jeffrey A. Zinn.)

CWPPRA created a task force to guide the program. The task force is chaired by the U.S. Army Corps of Engineers and includes representatives from the U.S. Fish and Wildlife Service (Department of the Interior), Natural Resources Conservation Service (Department of Agriculture), Environmental Protection Agency, National Marine Fisheries Service (National Oceanic and Atmospheric Administration, Department of Commerce), and the Governor's Office from the state. The task force annually identifies projects and uses priorities that it has set to select the projects to be funded. The list of selected projects is submitted to Congress with each Corps budget submission. The Corps also provides administrative support for the program and tracks the status of each project. Another duty of the task force is to issue to Congress a status report every three years that provides an evaluation of the effectiveness of the projects. The most recent such report was issued in 2003. The next report, like the 2003 report, reportedly will be a relatively short overview of the program rather than a detailed project-by-project review, like the 2000 report.

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<sup>2</sup> The other two components are administered by the U.S. Fish and Wildlife Service as parts of the North American Wetlands Conservation Fund.

<sup>3</sup> Louisiana Coastal Wetlands Conservation and Restoration Task Force, *Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA): A Response to Louisiana's Land Loss*, 2006, 16 pp. An abridged summary of these arguments is presented on pages 1-3, under the subtitles of "energy scarcity," "navigation security," and "fisheries and a flyway."

The task force is at the center of a broad-based collaborative effort to identify and establish priorities for projects. This effort attempts to involve all interested parties, and serves to generate strong local endorsement.<sup>4</sup> The effort emphasizes the local benefits that will result from projects, especially those benefits that result from improved habitat. As a result of this effort, most of the funded projects possess widespread support and engender little controversy. However, the length of this process has meant that the projects selected in 2006 were being considered before the hurricanes struck in 2005, and the ongoing selection process for 2007 is the first one in which the effects of the hurricanes will be part of the decision-making process.

The task force also seeks to apply a wide range of both traditional and innovative restoration techniques, including river diversions, marsh creation, sediment trapping, and barrier island stabilization. CWPPRA projects can be initiated relatively rapidly compared to more substantial Corps projects because of their small scope and the nature of the CWPPRA process. The typical amount of time from start of design through construction is three to five years, which contrasts with the much longer time frames typically associated with traditional Corps projects. Operating projects are monitored, and the feedback is used to improve project design and performance.

CWPPRA legislation also requires the state to prepare and periodically update a coastal wetlands conservation plan.<sup>5</sup> The state can receive a grant for up to 75% of the cost of preparing the plan, and federal agencies (Corps, EPA, and FWS) are to provide technical support for the plan development. The goal, as specified in the legislation, is to reach no net loss of coastal wetlands as a result of implementing the actions in the plan. Eight program elements are specified in the statute. Terms of plan approval by federal officials are specified. The three federal agencies that supported state efforts to prepare this plan are supposed to periodically report to Congress on the status of the plan, including an evaluation of the effectiveness and accomplishments of projects carried out under it.

Funding is provided primarily by the federal government, which pays 85% of the project costs. The state of Louisiana pays the remainder. It has a strong incentive to prepare and maintain the wetlands conservation plan described in the previous paragraph; if it does not, the state cost share for all projects is 25%, rather than 15%. The state, through its Department of Natural Resources, must pay at least 20% of its portion (that is, 3% of the total project costs) in cash, and the remainder can be in-kind contributions, such as lands, easements, or rights-of-way. CWPPRA places several limits on how funds may be spent. For example, almost all funds go to construction, as no more than \$5

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<sup>4</sup> Detailed presentations of the process by which the projects are identified and selected can be found at [<http://www.lacoast.gov/ppl/index.htm>], visited May 18, 2006.

<sup>5</sup> In November 2005, Louisiana enacted legislation to replace the Wetland Conservation and Restoration Authority with a Coastal Protection and Restoration Authority, which has a broader mandate to combine flood control efforts with coastal restoration initiatives. The new authority issued its initial report, *Annual Coastal Protection and Restoration Plan: Fiscal Year 2007*, in April 2006. The report includes a chapter on CWPPRA and other federal matching projects and programs, and a chapter on projects and programs that involve only the state. Each program discussion includes activities in FY2006, needs in FY2007, and the funding amount to be provided by the state in FY2007.

million can be spent on studies and planning associated with maintaining and updating the project list each year. In addition, the state may not receive more than \$2.5 million annually, or \$10 million in total, to prepare its conservation plan.<sup>6</sup>

CWPPRA is funded from revenues accumulated in the Sports Fish Restoration and Boating Safety Trust Fund, which derives revenues from several sources. The largest sources are the sale of gas for motor boats and the sale of fishing equipment. Income into the fund has been increasing; it has grown from \$263 million in FY1991 to just over \$500 million in FY2005. The allocation for the Louisiana portion of the program — appropriated to the Corps from the U.S. Fish and Wildlife Service, which maintains the fund — started at \$33 million in FY1992, and has generally increased from year to year, reaching just over \$63 million in FY2006. The CWPPRA law limits annual funding for the Louisiana portion of the program to a maximum of \$70 million.

## The Louisiana Experience

The CWPPRA program has been very active in Louisiana. Currently, 164 high-priority projects have been identified, and the 2007 selection process is ongoing. As of 2006, 138 projects had been approved. The task force reports that 78 projects have been constructed, are under construction, or have been approved for construction.<sup>7</sup> These projects are located throughout coastal Louisiana, with the largest number in the Calcasieu/Sabine area in the western part of the state (18) and in Terrebonne Parish in the central part of the state (14). The task force credits these projects with having reestablished more than 32,000 acres, protected more than 38,000 acres, and enhanced (specific functions have been intensified/improved) more than 320,000 acres. The total cost of these projects is \$625 million. An additional 47 projects with an estimated cost of more than \$913 million are in some stage of engineering or design and will be seeking approval for construction. These projects, when completed, would establish or protect almost 33,000 acres and enhance almost 195,000 acres. However, more funds will be needed before these additional projects can all be constructed.

Coastal wetlands in Louisiana were being converted to open water at a declining annual rate on average before the 2005 hurricanes, according to the U.S. Geological Survey (USGS).<sup>8</sup> CWPPRA projects could be a factor contributing to this decline as they continue to partially offset the losses. Other factors contributing to this declining loss rate may include reduced levels of some human activity, especially the declining intensity of additional oil and gas drilling and pipeline installations, and the fact that so many acres of wetlands have been lost already.

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<sup>6</sup> The state will have considerably more funds to devote to wetland restoration as a result of section 384 of the Energy Policy Act of 2005 (P.L. 109-58), which creates a new program to assist coastal states to mitigate the impacts of offshore energy activities, and the Gulf Mexico Energy Security Act (P.L. 109-432), which will share 37.5% of certain federal revenues from offshore oil and gas activities with affected coastal states.

<sup>7</sup> Louisiana Coastal Wetlands Conservation and Restoration Task Force. *Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA): A Response to Louisiana's Wetland Loss*. 2006, 16 p. Most of the information in this paragraph comes from this report.

<sup>8</sup> Other USGS studies concluded that the average annual loss rate was more than 28,000 acres between 1956 and 1978, and about 22,000 acres between 1978 and 1990.

The USGS estimates that Hurricanes Katrina and Rita caused almost 140,000 acres of wetlands to be converted to open water between October 2004 and October 2005. This is a larger acreage than had been and will be reestablished and protected under all the completed, active, and planned projects, as summarized in the data above. It is also equal to more than nine years of wetland loss at the average annual rate of 15,300 acres that USGS documented between 1990 and 2000.<sup>9</sup> The losses from these hurricanes are not uniformly distributed across Louisiana's coast. Where the storm damage was most concentrated, USGS reports that the amount of loss is greater than total predicted losses over the next 50 years. However, the CWPPRA projects are more evenly distributed throughout coastal Louisiana. It is possible that in some areas where damage was limited and annual loss rates have been small, these projects may be largely offsetting losses.

Interest in thinking about coastal Louisiana as a larger integrated landscape or system rather than a large number of individual sites (and projects) is growing. This theme was at the heart of a 2005 report from the National Research Council, which recommended that a detailed map depicting the expected future landscape of coastal Louisiana be developed from a set of goals to which all interests can agree. This map would then serve as a basis to guide more specific decisions and choices about the restoration effort.<sup>10</sup> Planning at a landscape scale would help decision makers determine the interrelated benefits of projects. With such a vast expanse of wetlands, it seems highly likely that many projects would not provide these benefits without this type of planning effort. This recommendation from the NRC was endorsed in at least one subsequent report, and is recognized less directly in the recent task force report, cited in footnote 3. Although the CWPPRA program follows state and federal plans to set priorities and select projects, it does not appear to take an overarching approach that considers the entire landscape.

## **After the Hurricanes: Options for CWPPRA**

CWPPRA is widely viewed by wetland protection advocates as a successful program for several reasons, including (1) projects can move relatively quickly through planning, design and construction; (2) projects can include a wide range of restoration and protection techniques; and (3) project development is a collaborative process involving many federal, state, and local interests that tends to result in strong support for the projects that are approved. The 2006 task force report describes it as a program for "holding the line" against the continuing loss of wetlands while awaiting legislation and engineering work to implement the larger projects that would most likely be authorized in Water Resources Development Act (WRDA) legislation.<sup>11</sup>

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<sup>9</sup> Loss estimates have been calculated by U.S. Geological Survey's National Wetland Research Center, which has published a number of reports describing past and predicted loss rates.

<sup>10</sup> National Research Council, Ocean Studies Board, Committee on Restoration and Protection of Coastal Louisiana. *Drawing Louisiana's New Map: Addressing Land Loss in Coastal Louisiana*. 2005, 204 p. This study was prepared at the request of Louisiana's Office of the Governor, which asked the Council to review the Corps' *Louisiana Coastal Area (LCA, Louisiana — Ecosystem Restoration Study)* released in November 2004 to examine its "effectiveness for long-term, comprehensive restoration development and implementation."

<sup>11</sup> For more information on WRDA, see CRS Report RL33504, *Water Resources Development Act (WRDA): Corps of Engineers Authorization Issues*, coordinated by Nicole T. Carter.

In the wake of the 2005 hurricanes, some advocates may see CWPPRA as already established and having potential, if expanded, to play a more significant part by using natural features to protect south Louisiana from the full brunt of future storms. The most recent CWPPRA Task Force report, cited earlier and written in the spring of 2006 after the hurricane, sums up the current situation as follows: “In some areas, the losses incurred from these two hurricanes [Katrina and Rita] exceeded estimates of future land loss over the next 50 years. The land loss crisis will not wait while details of large restoration projects are developed.” In this context, the Task Force identifies and endorses many qualities of the CWPPRA program, which include “responsive, interagency approach, predictable funding, fiscally responsible, complementary, science-based, and community involvement.”

The destruction caused by the hurricanes has greatly increased the demand, primarily from Louisiana, for an accelerated restoration for coastal Louisiana wetlands. This expanded need could be partially met by the CWPPRA program, although some may believe that other approaches would result in a more effective wetland restoration effort. If the program were expanded by increasing the authorized funding ceiling, it could lead to a larger number or size of the projects, and therefore have the potential to result in greater accomplishments. An advantage for restoring wetlands through CWPPRA is that the program is already operating, although the implications of scaling it up, such as pressures on staff resources and how an expanded effort might alter the project selection process, have not been widely discussed in Congress. Another question is whether changes in this program might include giving greater consideration to making decisions about projects at the landscape scale.