

CRS Report for Congress

Received through the CRS Web

Conservation Reserve Program: Status and Current Issues

Jeffrey Zinn

Senior Analyst in Natural Resources Policy
Resources, Science, and Industry Division

Summary

The Conservation Reserve Program (CRP), enacted in 1985, enables producers to retire highly erodible or environmentally sensitive cropland, usually for 10 years. Congress reauthorized and amended the CRP in the 1996 Federal Agriculture Improvement and Reform Act (P.L. 104-127; 16 U.S.C. 3811, et seq.). The law caps enrollment at 36.4 million acres and makes funding mandatory through the commodity Credit Corporation. There were 32.8 million acres enrolled on October 1, 2000.

Since 1996, land has been enrolled through general signups, continuous enrollment of smaller parcels with high environmental benefits, and state programs that supplement federal efforts. USDA officials have stated that acres enrolled since 1996 have much higher average environmental benefits and lower average costs than earlier ones. As the next farm bill debate approaches, Congress is likely to debate: (1) increasing the overall size of the CRP; (2) offering shorter-term contracts or economic uses of enrolled lands as new options; (3) changing environmental targets; and (4) responding to a recent tax ruling. The program is widely supported, so reauthorization is not likely to be an issue. This report will be updated periodically.

Background

Before the Conservation Reserve Program (CRP)

Producers responded to expanding demand by bringing additional land into production through the 1970s. Excessive rates of erosion, characterized as rivaling the 1930s dust bowl, were one byproduct of this expansion. When the boom ended in the early 1980s, producers were left with excess capacity. Compounding woes for farmers was a widespread farm credit crisis with declining land values. Federal programs at that time allowed farmers to receive payments for acres not planted, referred to as annual set

asides, but did not include any multi-year efforts that could provide more enduring benefits for either conservation or the producer's bottom line.

The CRP Before the 1996 Farm Act

Congress enacted the CRP in the 1985 farm act to fill this void. Program proponents sought to reduce excessive erosion, stabilize land prices, and slow chronic excess production. CRP allows producers who cultivate highly erodible or environmentally sensitive land in 2 of the preceding 5 years to bid to retire it from production, usually for 10 years. Participants receive rental and cost sharing payments from the Farm Service Agency (FSA) and technical assistance from the Natural Resources Conservation Service (NRCS). Enrollment is generally limited to 25% of the cropland in a county. FSA allowed enrollment only through signups during specified time periods when funds were available. Signups between 1992 and 1996 were limited by a lack of appropriations.

The 1985 legislation's goal was to enroll between 40 and 45 million acres of cropland, about 10% of the national total, before 1995. By 1990, almost 34 million acres had been enrolled in 9 signups. Enrollment peaked at 36.4 million acres in 1993. During this period, the enrollment cap was lowered to 38 million acres to create a budget savings. Participation was concentrated in the drier Plains states, where many counties bumped against the 25% cropland enrollment limit.

FSA repeatedly responded to congressional mandates—in the 1990 farm act, other authorizing legislation, and appropriations legislation—to change criteria for participation and procedures for program operation. Initially, FSA had one criterion for acceptance: erosion reduction. More than 22 million acres were enrolled in 1986 and 1987 under this criteria. Since 1988, FSA has repeatedly altered the program's formula for accepting bids with a growing emphasis on various environmental benefits. Congress endorsed this changing emphasis in the 1990 farm act. FSA started to compare all bids using an evolving formula called the Environmental Benefits Index (EBI) in March 1991.

The 1996 Farm Act

Discussions of possible changes to the CRP began in 1993. The pressure for Congress to act was driven largely by a need to decide on the future of the program before the earliest contracts ended in 1995. Almost all interest groups supported reauthorization. Many in Congress agreed, and the decision to continue the program was never in doubt. Groups differed, however, on how the program should be amended. Most farm interests called for minimal modifications. Environmental groups generally sought a greater emphasis on environmental benefits, while wildlife groups sought to enroll larger blocks of land for habitat. All these interests argued that if the program was not reauthorized, a substantial portion of the participating land would return to production, negating many environmental and conservation benefits, and depressing some commodity prices.

Provisions in the 1996 farm act made several changes, but left decisions on priorities for future enrollment largely to the Department. The changes include:

- ! Making the CRP an entitlement financed by the Commodity Credit Corporation and extending program authority through 2002;

- ! Limiting total enrollment at any time to 36.4 million acres;
- ! Allowing contracts to be terminated with 60 days' notice on land that does not contain high environmental values or high erosion potential and that has been enrolled at least 5 years before enactment; and
- ! Limiting conservation requirements for land returning to production to those that are placed on nearby cropland with similar characteristics.

Enrollment Since 1996

USDA has used the final rule, published on February 19, 1997, to guide subsequent signups. Analysis accompanying the final rule estimated 230 to 240 million acres were eligible. Eligible acres must have been planted or be considered to have been planted in at least 2 of the past 5 years, and must also meet at least one of the following criteria:

- ! Have an Erosion Index (EI) greater than 8, or be considered highly erodible land under the conservation compliance provisions;
- ! Be considered a cropped wetland;
- ! Be devoted to a highly beneficial environmental practice, such as filter strips, riparian buffers, shelter belts, or wetland protection areas;
- ! Be subject to scour erosion;
- ! Be located in a national or state priority area for the CRP; or
- ! Be cropland associated with or surrounding non-cropped wetlands.

FSA uses an Environmental Benefits Index (EBI) to compare all bids. The index assigns points for each of the following factors:

- ! Cost to enroll the acres (weighting determined after signup);
- ! Wildlife habitat benefits (up to 100 points);
- ! Water quality benefits (up to 100 points);
- ! On-farm benefits from reduced erosion (up to 100 points) ;
- ! Likely long-term benefits beyond the contract period (up to 50 points);
- ! Air quality benefits from reduced wind erosion (up to 35 points); and
- ! Benefits of enrollment in conservation priority areas help to improve adverse water quality, wildlife habitat, or air quality (up to 25 points).

Each factor is divided into more specific categories. For example, in the most recent general signup, wildlife benefits included up to 50 points for providing habitat cover, up to 15 points for benefitting endangered species, up to 10 points for being close to water, for being near protected areas, or for restoring wetlands that provide nesting habitat, and up to 5 points for enhancing wildlife habitat. Cost is treated differently because the weight it carries is determined after the bidding process is concluded. Points are also awarded for costs; 10 points are awarded if no government cost share to establish conservation plantings is required (giving a small advantage to land that is already enrolled where these plantings are in place) and up to 15 points for bids that are below the maximum acceptable rental rate.

The 1996 farm act requires that rental rates be limited to local market values. FSA released maps that show the maximum acceptable rates, by county. The rates can be adjusted for site-specific productivity factors. In addition, the rental rate may be increased by up to \$5 per acre per year if the landowner agrees to perform certain maintenance.

Each signup has attracted high interest. The 15th signup, in March 1997, attracted almost 300,000 bids to enroll 23.3 million acres. FSA accepted bids on 16.1 million acres, including 11.7 million acres of land already in the CRP. All bids that exceeded an EBI of 259 were accepted. The 16th signup, completed in November 1997, attracted more than 125,000 bids to enroll 9.5 million acres. FSA accepted bids on 5.9 million acres, including 3.9 million acres that were currently or formerly enrolled. All bids that exceeded an EBI of 247 were accepted. The 18th signup, completed in December, 1998, attracted more than 90,000 bids to enroll 7.1 million acres. FSA accepted bids on 5.0 million acres, including 2.1 million currently or formerly enrolled acres. All bids that exceeded an EBI of 245 were accepted. The 20th signup, completed in February 2000, attracted more than 56,000 bids to enroll almost 3.5 million acres. FSA accepted bids on almost 2.5 million acres, including more than 200,000 acres that are currently enrolled. All bids exceeding an EBI of 246 were accepted. In December, 2000, the Department announced that there would be no general enrollment in FY2001.

FSA allows the alternative of continuous enrollment for lands, usually much smaller parcels, that offer specified high environmental benefits, including filter strips, riparian buffers, shelter belts, living snow fences, field windbreaks, grassed waterways, salt tolerant vegetation, and shallow water areas for wildlife. NRCS has supported continuous enrollment with its buffer initiative to enroll 2 million miles that provide these benefits by 2002. Through March, 2001, almost 1.5 million acres had been enrolled.

A second alternative way to enroll land is through a state-initiated enhancement program under which higher rents are paid to attract greater participation in a specified area, typically a watershed. Most of the 15 approved programs have set a target of enrolling 1000,000 acres. The FSA web site includes detailed information on each of the approved programs. The Maryland program, the first one approved, will cost the state \$25 million and the federal government \$170 million. Through March, 2001, almost 150,000 acres had been enrolled. The Department held back almost 3.2 million acres from the total of 36.4 million to enroll land under these two options.

The CRP Today

The CRP contained almost 31.5 million acres under active contracts at the end of FY2000. Participation by state continues to be concentrated in the drier portions of the Great Plains; the most enrolled acres are located in Texas (3.9million acres), Montana (3.2 million acres), North Dakota (2.9 million acres), and Kansas (2.8 million acres).

The participation ceiling of 25% of a county's cropland has capped enrollment in 135 counties; 33 of these counties are located in Texas. Also, participants have planted 2.7 million acres to trees, making the CRP the largest federal tree planting program in history. Half the acreage planted to trees is in Georgia and Mississippi.

The CRP has reduced erosion on all enrolled acres from more than 20 tons to about 2 tons per acre per year, according to NRCS statistics. Viewed another way, this program has reduced overall erosion nationwide by more than 22% (an estimated 700 million tons per year) although less than 10% of cropland is enrolled. Other conservation benefits NRCS has documented include 8,500 miles of filter strips and more than 1.7 million acres of wildlife practices. The Department anticipates that other conservation benefits will grow with the increased use of the continuous enrollment and the CREP.

FSA reported that the average rental rate for the accepted bids was \$39 per acre in the 15th signup and \$45 in the next two regular signups, and almost \$53 in the 20th signup. FSA has calculated a large increase in environmental benefits over land enrolled earlier; the average EBI for the CRP lands, excluding costs, before the 15th signup would have been 74, while it was 138 for the bids accepted in that signup, 163 in the 16th signup, 170 in the 18th signup, and 176 in the 20th signup. (Including costs, successful bids exceeded 259 in the 15th signup, 247 in the 16th signup, 245 in the 18th signup, and 246 in the 20th signup, as noted earlier.)

After a CRP contract expires, federal payments cease, and producers are under no obligation to maintain the conservation values established under the contract, unless they decide to plant annual commodities on highly erodible land (about 75% of the land enrolled in the CRP meets this definition) and receive farm program benefits. They must fully implement an approved conservation plan within 2 years, or risk losing the benefits.

The almost \$1.7 billion FY2001 estimated cost of the CRP will be more than half of all federal conservation spending. Critics consider it to be an expensive program with temporary benefits. Proponents counter that these costs are offset by large conservation and environmental benefits. Estimates of the annual value of these benefits have ranged up from slightly less than \$1 billion. Some analysts have estimated that this value approaches or exceeds program costs in some areas, and with the larger benefits and lower average costs in recent signups, the program could be more efficient in the future.

Current Issues

Increasing the Overall Size of the CRP

Several members and senators have stated that they would like to see the enrollment cap raised. In the 106th Congress, several Members introduced bills that would have raised the cap or allowed higher enrollments if funds were appropriated. Supporters of increases believe the CRP could help farmers currently stressed by low commodity prices by removing land from production while providing stable income. Such a change would be expensive; based on past costs, every million acres added to the reserve would have additional total cost of approximately \$500 million, or an annual cost approaching \$50 million. Several groups have proposed raising the cap in the next farm bill; most proposals would increase it to 40 and 45 million acres (and some much higher), and some would emphasize certain types of land, such as stream buffers. Other proposals would replace the ceiling with an annual enrollment goal. Still other proposals would allow new types of land to be eligible for the program, building on the recently-enacted pilot program to enroll up to 500,000 acres of small isolated wetlands in six upper Midwest states. USDA's Economic Research Service analyzed the characteristics of the land that would be likely to be enrolled and found that it would have a slightly lower EBI because the erosion reduction factor would decline, on average.

The Department has held back land from general enrollments so it can be enrolled through the continuous signup and state enhancement programs, or CREPs. Some are concerned that reserving these acres makes them unavailable to others who are bidding to enroll during the regular signups or in states where there is no approved CREP. The

continuous signup has proven very popular in a few states, but pressure may grow to reduce the number of acres that have been reserved for these two programs, especially if the current pace of enrollment continues. To increase the pace of enrollment, USDA announced a new set of four financial incentives, which could be up to \$100 million in FY2000, and total up to \$350 million through FY2002, to encourage more participation in the continuous enrollment.

Offering Shorter-Term Contracts

Other proposals would allow additional acres to be enrolled under contracts with different characteristics such as a contract term of 5 years or less, with a larger initial payment or other incentives, to address current problems, or that would allow specified economic uses in return for smaller payments. Some argue that such options could compromise the environmental goals of the program, and diminish the potential for long-term conservation benefits, especially at a time when interest in enrolling under the 10 year contracts remains high. USDA under the Clinton Administration considered, then rejected, a proposal for a 3 to 5 year set aside program that would not be part of the CRP. If Congress decides to allow contracts with different characteristics, it will also either need to provide USDA with direction as to which bidders should receive priority attention, and how those priorities would relate, if at all, to the current structure for reviewing bids, based on the EBI, or leave these decisions to the discretion of the Secretary.

Changing Environmental Targets

Benefits of the CRP continue to evolve, changing the mix of acres that are enrolled in the program. FSA has adjusted the categories and points awarded under the EBI before every signup since it was first used in 1991. Some of those changes, such as the points provided for wildlife protection and enhancement after the 1996 farm bill have been major, but most are smaller. Further adjustments can be anticipated; they may be directed by Congress or taken as an Administration initiative. For example, the Department estimates that the CRP could play a significant role in sequestering carbon dioxide, and thereby contributing to efforts to reduce global warming. The total estimated potential for cropland to mitigate carbon dioxide is 120 to 270 million metric tons per year, and the CRP could be responsible for up to 12.2 million metric tons, according to a 1998 assessment prepared by USDA. This role seems to be attracting more congressional attention.

Taxing CRP Payments

The Sixth U.S. Circuit Court of Appeals issued a ruling in March 2000 that requires CRP participants within that district to pay 15.3% self-employment taxes on enrolled land. It is widely believed that the IRS will pursue similar cases in other areas. Bills to overturn this decision were introduced in the 106th Congress in the House (H.R. 4064 sponsored by Representative Jerry Moran) and in the Senate (S. 2344 sponsored by Senator Brownback). The 107th Congress is likely to revisit this issue. (For more information on this topic, see CRS Report RS20564, *Conservation Reserve Payments and Self-Employment Taxes*, by Marie Morris.)