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Conservation Reserve Program: Status and Current Issues

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Summary

The Conservation Reserve Program (CRP), enacted in 1985, provides payments to farmers to take highly erodible or environmentally sensitive cropland out of production for ten years or more to conserve soil and water resources. It is the federal government's largest private land retirement program. The program is administered by the Farm Service Agency of the U.S. Department of Agriculture (USDA), with technical assistance provided by USDA's Natural Resources Conservation Service. Congress most recently reauthorized and amended the CRP through FY2007 in the 2002 Farm Bill, the Farm Security and Rural Investment Act (P.L. 107-171, 16 U.S.C. 3831 et seq.).

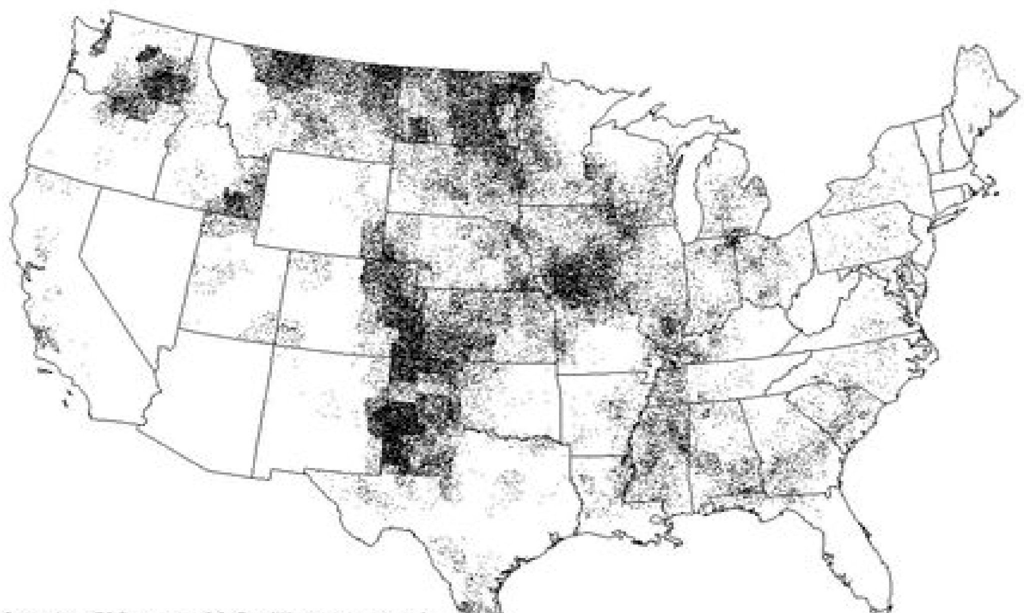
The 2002 law increased the CRP enrollment cap from 36.4 million acres to 39.2 million acres, added wildlife resources as a program purpose, and allowed participants to extend some contracts up to 15 years. In May and June, 2003, USDA's Farm Services Administration (FSA) held the first general signup since the 2002 Farm Bill was enacted. This allowed landowners to submit bids to enroll acreage in the program. In August 2003, FSA announced that it had accepted 2 million acres into CRP from that signup and that the next general signup period will be early in 2004. This report will be updated periodically.

What Is the Conservation Reserve Program (CRP)?

The Conservation Reserve Program (CRP) is the largest federal land retirement program for private land. It was first enacted by Congress in 1985 to help control soil erosion, stabilize land prices and control excessive agricultural production. Since then, program purposes have been expanded to include environmental goals such as increasing wildlife habitat. The program is administered by USDA's Farm Services Agency (FSA), with technical assistance from USDA's Natural Resources Conservation Service (NRCS) and funding from USDA's Commodity Credit Corporation (CCC). Information on the program is available from FSA at [http://www.fsa.usda.gov/dafp/cepd/default.htm].

Under CRP, participants retire land from production for 10-15 years and maintain the land in accordance with an approved conservation plan. In exchange they receive annual rental payments as well as federal cost-share payments of up to 50% of the cost of carrying out approved conservation practices. According to FSA, the CRP had about 34 million acres enrolled as of June 2003 (largely concentrated in the drier portions of the Great Plains). States with the most enrolled acres are located in Texas (4 million acres), Montana (3.4 million acres), North Dakota (3.3 million acres), Kansas (2.7 million acres), and Colorado (2.2 million acres). Up to 25% of a county's cropland may be enrolled in CRP; this limit has capped enrollment in over 100 counties, 23 of which are located in Texas. Acreage accepted under the latest general signup will increase the acreage enrollment to 34.4 million.

Acreage under CRP contract, October 2000



One dot=500 acres; 33.5 million acres total.
Source: USDA, ERS, based on CRP contract data.

After a CRP contract expires, federal payments cease. If the land in question is "highly erodible" (about 75% of the land enrolled in the CRP meets this definition) and participants decide to return the land to production, they must manage this land under an approved conservation system if they wish to retain eligibility for specified federal farm programs (including commodity payments).

The 2002 Farm Bill and the CRP

The 2002 Farm Bill made the following changes to the CRP:

- reauthorized the CRP through 2007;
- increased the national CRP enrollment cap to 39.2 million acres, reserving 4 million acres within that cap for continuous or Conservation Reserve Enhancement Program signup and 1 million acres for farmable wetlands (see below for discussion of these subprograms of CRP);
- authorized a new nationwide program to enroll farmable wetlands and wetland buffer acreage;

- increased the number of years land must be planted in order to be eligible for the CRP to four of the six years preceding enactment of the Farm Bill in May 2002;[1]
- Made certain orchard, berry, and vineyard lands eligible for enrollment; and
- Allowed managed haying and grazing on CRP lands in accordance with a conservation plan, in return for reduced payments.

How Participants Enroll in CRP

There are four ways of enrolling land in the CRP. (In addition to these programs, USDA has announced that there will be an initiative for planting bottomland hardwood trees under the CRP later this year.)

- *General Signup*: Specified enrollment periods during which landowners compete nationally to enroll lands, usually whole fields, in the CRP program. Applicants evaluate their land according to FSA's Environmental Benefits Index, or EBI (see below) and submit bids to FSA for enrollment; generally, applications with the most environmental benefits are approved. The most recent general signup (also known as signup number 26), was conducted in May and June of 2003.

- *Continuous Signup*: Land devoted to certain conservation practices with specified high environmental benefits (usually parts of fields) may be enrolled in the CRP without competition at any time. In addition to annual rental payments and cost-share assistance, these lands are eligible for additional incentive payments.

- *Conservation Reserve Enhancement Program (CREP)*: This is a joint Federal-State program currently available in parts of 23 states, under which the state contributes funds so that higher rents are paid to attract greater participation in a specified area (typically a watershed). CREP targets areas significant to the state or the nation that have agriculture-related environmental problems, such as Maryland's Chesapeake Bay. The program may provide higher payments than the CRP program and allows some options (such as permanent easements and contract extensions) that are unavailable under CRP. Signup is continuous.[2]

- *Farmable Wetlands Program*: The 2002 Farm Bill authorized this program to be nationwide (it was initially enacted as a pilot program for six states in the 2001 Agricultural Appropriations bill). It allows farmable wetlands - those that have been partially drained or are naturally

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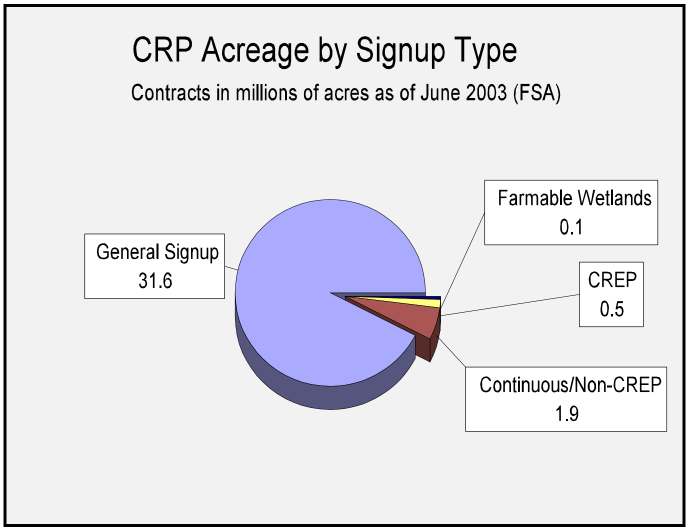
[1] Previously, land had to have been cropped in two of the five years preceding enrollment to be eligible for CRP.

[2] States with land enrolled in CREP include Arkansas, California, Delaware, Illinois, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Vermont, Virginia, Washington, West Virginia and Wisconsin.

dry enough to allow crop production in some years but otherwise meet the definition of a wetland – to be enrolled in CRP on a continuous basis. Up to 100,000 acres may be enrolled from any state (this may be increased to 150,000 acres after three years). Wetlands may be up to ten contiguous acres, of which not more than five may be eligible for payments.



Most acres are enrolled through general sign-ups

The vast majority of acreage in CRP – 31 million of the 34 million acres enrolled as of 2002 – is enrolled under general sign-ups. These sign-ups are always competitive. For example, the 26th general signup in 2003 yielded over 71,000 offers to enroll over 4 million acres. FSA accepted about 38,600 bids to enroll 2 million acres at an average payment of $56.53 per acre.

General Signup 26. To have been eligible for enrollment in General Signup 26, cropland (including field margins) must have been planted to an agricultural commodity 4 of the previous 6 crop years from 1996 to 2001. In addition it was required to meet one of the following three criteria: (1) to have an Erodibility Index (EI) greater than eight[3]; (2) to be land subject to an expiring CRP contract; or (3) to be located in a national or state CRP conservation priority area. Contracts that expired during 2002 had been made eligible for one-year extensions; and participants were required to retain existing ground covers, if feasible, when expiring contracts were re-enrolled.

The Environmental Benefits Index (EBI). As the purposes of the CRP have been expanded from soil erosion to include broader environmental goals, FSA has adjusted the categories and points awarded under the EBI. For example, FSA announced in June that, for the first time, it will award points to projects which have the potential to sequester carbon (reducing greenhouse gas emissions).

For General Sign-up 26, the index assigned points for each of the following factors:

- Cost to enroll the acres (weighting determined after signup);
- Wildlife habitat benefits from planted cover crops (up to 100 points);
- Water quality benefits from reduced erosion (up to 100 points);

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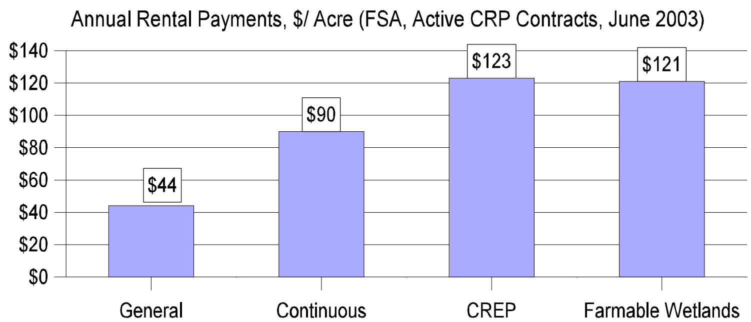
[3] The Erodibility Index is based on soil characteristics, climate and topography. Land with an EI of 8 or greater is considered “highly erodible land” because it usually requires a much greater conservation effort to retain its agricultural productivity.

- On-farm benefits from reduced erosion (up to 100 points) ;
- Likely benefits beyond the contract period (up to 50 points); and
- Air quality benefits from reduced wind erosion (up to 45 points).

Each factor is divided into more specific categories. For example, the 45 points for air quality benefits include up to 25 points for reducing wind erosion, up to ten points for sequestering carbon, and up to ten points depending on the soils in and location of acreage offered. Cost is treated differently because the weight it carries is determined after the bidding process is concluded. Offers that included a willingness to accept less than the maximum rental rate for acreage (thereby reducing the cost to the government), as well as offers to re-enroll land, may have received additional points.

Federal Payments and Cost



Payments vary by program. Acreage enrolled in CREP, continuous enrollment, or the farmable wetlands programs is generally eligible for higher payments than acres enrolled under general signups because of their higher environmental benefits, location and prevailing rental rates, and additional financial incentives for participation.

FSA estimated CRP would cost $1.9 billion in FY2003 and $2 billion in FY2004.[4] NRCS estimates that, prior to signup 26, monetized CRP benefits (such as increased wildlife habitat and small game hunting) totaled about $1.4 billion per year. This figure does not include non-monetized benefits such as improved groundwater quality and wetland restoration. Critics allege that CRP is an expensive program, and that its benefits are temporary since participants are under no obligation to continue conservation practices after contracts end. Proponents counter that the estimated benefits document CRP's worth, and that not all of CRP's benefits have been or can be monetized. Moreover, they feel that it provides an incentive (especially for small farmers) to carry out land and water conservation practices they otherwise might not be able to afford, and that these practices have public benefits.

CRP Results

FSA estimates that, compared with 1982 erosion rates, CRP has reduced erosion by over 440 million tons per year on the 34 million acres enrolled in the program.[5] Other conservation benefits NRCS has documented on these lands include the sequestration of

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[4] Fiscal Year 2004 Budget of the U.S. Government, *Appendix*, page 100. These figures do not include technical assistance costs.

[5] All figures derived from FSA statistics calculated prior to the 26th General Signup.

over 16 million metric tons of carbon annually; over 3.2 million acres of wildlife habitat established; and a reduction in the application of nitrogen (by 681,000 tons) and phosphorus (by 104,000 tons). Also, participants have planted about 2.7 million acres to trees, making it the largest Federal tree-planting program in history.[6]

Current Issues

Some perennial, long-term questions about the CRP continue to be raised. For example: is the right land being enrolled? Are the size of the environmental benefits and the geographic distribution of program enrollments acceptable? Is the amount of land being reserved for options to the general signup (such as CREP) appropriate? More specific issues this Congress may address include:

Technical Assistance. Due to an unsolved dispute between Congress and the Administration on technical assistance funding, other mandatory conservation programs now pay for CRP technical assistance. NRCS will fund technical assistance for the 2003 CRP signup (estimated at $30 million[7]) by drawing funds from other conservation programs. The same issue will affect next year's planned general CRP signup. To protect other programs' funding, Representatives Lucas (R-OK) and Holden (D-PA) have introduced H.R. 1907. It would ensure that certain specified mandatory agricultural conservation programs pay for their own technical assistance funding and not for other programs' technical assistance needs. The bill has passed subcommittee and been referred to the House Agriculture Committee.

Managed Haying and Grazing. In accordance with section 2101 of the 2002 Farm Bill, CRP participants may now perform managed haying and grazing on CRP acreage. In the past, FSA required that CRP land be retired from crop production except in emergency situations. Payments will be reduced by 25% for land on which haying and grazing is performed, and the haying and grazing schedule must not occur during birds' primary nesting and broodrearing seasons. Some CRP participants may think these requirements are too limiting.

Taxes on CRP Payments. Farmers would like to treat CRP payments as "rental income" so it would not be subject to self-employment taxes, but the IRS ruled that under certain conditions CRP payments are income and therefore are subject to such taxes. On March 3, 2000, the Sixth Circuit endorsed the IRS' view in *Wuebker v. Commissioner*,[8] reversing an earlier tax court ruling.[9] This issue was not addressed in the 2002 Farm Bill. On June 24, 2003, Sen. Brownback introduced the Conservation Reserve Program Tax Fairness Act of 2003 (S.1316) which would clarify that CRP payments are not subject to self-employment taxes. As of this writing, no action on the bill has been taken.

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[6] CRP Benefit-Cost Assessment, February 2003, and FY2002 CRP annual statistics.

[7] Testimony of James R. Moseley, Deputy Secretary of Agriculture, before the Subcommittee on Conservation, Credit, Rural Development, and Research of the House Committee on Agriculture, June 4, 2003.

[8] 205 F.3d 897 (6th Cir. 2000). See also CRS Report RS20564, *Conservation Reserve Payments and Self-Employment Taxes*, by Marie Morris.

[9] 110 T.C. 31 (1998), *reversed* 205 F.3d 897 (6th Cir. 2000).