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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. It is the federal government's largest private land retirement program. The program is administered by the Farm Service Agency (FSA) of the U.S. Department of Agriculture (USDA), with technical assistance provided by USDA's Natural Resources Conservation Service. The CRP also has several subprograms, the best-known of which is the Conservation Reserve Enhancement Program (CREP).

The 2008 farm bill (P.L. 110-246) reauthorized CRP through FY2012 but reduced the maximum acreage level to 32 million acres, down from the previous cap of 39.2 million acres. Haying and grazing conditions on CRP land were amended, and incentives were authorized to assist socially disadvantaged and beginning farmers in leasing or purchasing land under a CRP contract.

April 2009 national enrollment stands at 33.7 million acres, a decrease of approximately 900,000 acres from October 2008 and a decrease of 3 million acres from September 2007. Most of the decline in CRP acreage resulted from expiring contracts in North Dakota and South Dakota. There was no CRP general sign-up in 2008, although there was a continuous sign-up. No general sign-up is planned for 2009; there is a continuous enrollment sign-up underway for FY2009.

For FY2009, projected outlays total $1.95 billion. This projected total includes $1.765 million for rental payments, $97 million in cost-share payments, and $87 million for incentive payments. The average per-acre rental payment for general sign-up is $44, and the average rental rate for CREP totals $128 per acre.

Between 2007 and 2010, 27.8 million acres under CRP contracts will expire. Contracts for approximately 23 million (83%) of these acres have been renewed or extended. By September 30, 2009, approximately 3.9 million acres will expire. USDA announced that a sign-up for contract extensions will begin May 18 and run through June 30, 2009. Of the expiring 3.9 million acres, however, only about 1.5 million will be offered extension contracts, so that the total acreage under contract will conform to the new 32 million-acre limit by October 1, 2009. About 55% of the eligible expiring acreage is in four states: Colorado, Kansas, Montana, and Texas.

This report will be updated periodically.

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CRP General Background

The Conservation Reserve Program (CRP) is the federal government's largest 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. 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). The FSA makes annual rental payments based on the agriculture rental value of the land, and provides cost-share assistance for up to 50% of the participant's costs in establishing various approved conservation practices. There are also one-time sign-up bonuses and incentives for socially disadvantaged farmers and ranchers, new and beginning famers and ranchers, and limited-resource farmers and ranchers. Participants enroll in CRP contracts for 10 to 15 years.

Participants bid to retire land from production for 10-15 years. Contracts are awarded by FSA based on their assessment of the land's environmental value using an Environmental Benefits Index (EBI). If the land is accepted, the landowner may enroll the land, receive annual rental payments for it, and maintain the land under an approved conservation plan. 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 a NRCS-approved conservation system to be eligible for some federal farm programs (including commodity payments).

Enrolling in CRP

There are two types of sign-ups for enrolling land in the CRP: general and continuous. As of April 2009, there were 752,595 CRP contracts nationally on 421,838 farms (nearly 20% of all farms) under all CRP programs. These data compare to 788,118 CRP contracts on 443,615 farms in September 2007. Contracts under continuous sign-ups now exceed the number of contracts under general sign-ups (383,933 versus 368,602).[1]

Land eligible for CRP enrollment must be either (1) cropland that is planted or considered planted to an agricultural commodity in four of the previous six crop years from 1996 to 2001, or (2) certain marginal pastureland that is enrolled in the Water Bank Program or suitable for use as a riparian buffer or for similar water quality purposes. The 2008 farm bill modified the land eligibility requirements so that alfalfa and other multi-year grasses and legumes are to be considered agricultural commodities when grown in a rotation practice approved by FSA. The farm bill also clarified that when alfalfa is grown in an approved rotation practice, it is to be considered an agricultural commodity and can be used to fulfill the requirement that land be cropped in four of six previous years in order to be eligible.

[1] The five states with the largest number of acres under CRP contract are Colorado, Kansas, Montana, North Dakota, and Texas. These five states account for about 46% of the total national enrollment.

General Sign-up

General sign-ups are specified enrollment periods during which landowners compete nationally to enroll their land in the CRP. Approximately 87.5% of CRP acreage (29.5 million of 33.7 million acres) is enrolled through general sign-up. Applicants must meet certain eligibility criteria, evaluate their land according to FSA's Environmental Benefits Index, and submit bids to FSA for enrollment. FSA accepts applications that demonstrate the highest environmental benefits. These general sign-ups are always competitive. For the CRP's most recent general sign-up (number 33), which ran from March 27 to April 28, 2006, USDA selected 1 million acres of the 1.4 million acres offered. This most recently enrolled acreage includes about 673,000 acres of land located within conservation priority areas, about 629,000 acres with an erodibility index of eight or greater (highly erodible), and about 265,000 acres to be restored to rare and declining habitats. There was no general sign-up held in FY2008 and none is planned for FY2009.

Environmental Benefits Index (EBI)

As the CRP has been expanded to include broader environmental goals, FSA has adjusted the categories and points awarded under the EBI. For example, FSA announced in June 2003 that, for the first time, it could award points to projects that have the potential to sequester carbon (reducing greenhouse gas emissions). Other factors include wildlife habitat benefits from planted cover crops, water quality benefits from reduced erosion, and whether benefits will endure beyond the contract period. Offers that included a willingness to accept less than the maximum rental rate for acreage, as well as offers to reenroll land, may have received additional points. FSA ranks all applications nationally, and then sets an EBI score cutoff above which applications will be accepted.

Continuous Sign-up (Includes Bobwhite Quail and Non-Floodplain Wetlands)

Environmentally desirable land devoted to specific conservation practices with high environmental benefits may be enrolled in the CRP at any time for 10-15 years under continuous sign-up.[2] Offers are automatically accepted (provided the land and producer meet certain eligibility requirements) and are not subject to competitive bidding. Contracts usually include additional incentive payments. Within the continuous sign-up program there are some options tailored to certain conservation needs, such as restoring floodplain wetlands and native hardwood trees in wetlands. In August 2004, the Administration announced two more initiatives: a 250,000-acre initiative to restore bobwhite quail habitats in the Midwest and the Southeast, and a 250,000-acre initiative to restore wetlands located outside floodplains (including Great Plains playa lakes). There are currently (April 2009) 4.2 million acres enrolled under continuous sign-ups (including CREP acreage, discussed below). The 2008 continuous sign-up (number 36) added 282,000 acres, bringing the total enrolled acreage under continuous sign-ups to 4.1 million acres. The continuous sign-up underway for FY2009 (number 37) has added 176, 000 acres to date, compared to last year's 184,000 acres through April.

[2] Specific conservation practices include filter strips, riparian buffers, grass waterways, shelterbelts, field windbreaks, living snow fences, salt-tolerant vegetation, shallow water areas for wildlife, wetland restoration, and wellhead protection areas.

Conservation Reserve Enhancement Program (CREP)

CREP is a joint federal-state continuous sign-up program available in parts of 28 states. CREP targets geographic areas with agriculture-related environmental problems, such as Maryland's Chesapeake Bay and Florida's Everglades. Some states (e.g., New York and Ohio) have multiple CREPs, each targeting a different area of the state. USDA provides 80% of the funding, and a non-federal entity (typically the state) contributes the remainder. States may automatically enroll up to 100,000 acres. Unlike the general sign-up, CREP both encourages landscape-scale conservation efforts and offers the flexibility to address locally identified needs. As of April 2009, over 1.1 million acres were enrolled in CREP, nearly 100,000 acres more than in September 2007.

Farmable Wetlands Program (FWP)

As authorized under the 2002 farm bill, farmable wetlands—those wetlands that have been partially drained, or are naturally dry enough to allow crop production in some years, but otherwise meet the definition of a wetland—may be enrolled in the 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). The farm bill reserved one million acres for farmable wetlands enrollment. In April 2009, there were 187,335 acres enrolled, approximately 14,000 acres more than in September 2007.

The 2008 farm bill expanded land eligibility for FWP from land that was cropped during at least 3 of the immediately preceding 10 crop years, as well as contiguous buffer acreage to protect the wetlands, to include:

- land on which constructed wetland is to be developed that will receive flow from a row-crop agriculture drainage system and is designed to provide nitrogen removal in addition to other wetland functions;
- land devoted to commercial pond-raised aquaculture in any year during calendar years 2002-2007;
- intermittently flooded land, provided the land had a cropping history in three years between 1990 and 2002 and was subject to natural overflow of prairie wetland; and
- buffer acreage that enhances wildlife benefits. On a single tract of land, enrollment is now set at a maximum of 40 contiguous wetland acres. "Flooded farmland" has a 20-acre limit. No commercial use of the land is permitted.

Other CRP Programs

Several other CRP initiatives support additional specific conservation practices. These include acreage in upland bird habitat buffers, bottomland hardwood trees, non-flood plain and playa wetlands, longleaf pine plantings, the Prairie Pothole duck nesting habitat, and state acres for wildlife enhancement. **Table 1** provides acreage data for these programs as of December 2008 and cumulative acreage totals for each program.

Table 1. CRP Initiatives and Acreage Enrollment
(April 2009)

CRP Initiative and Acreage Goal	Acreage added in 2009	Cumulative Acreage
Farmable wetland program (up to 1 million acres)	4,524	187,335
Upland bird habitat buffers (250,000 acres)	4,958	205,228
Bottomland hardwood trees (500,000 acres)	2,683	45,450
Non-flood plain and playa wetlands (250,000 acres)	5,534	53,459
Flood-plain wetlands (500,000 acres)	9,225	128,414
Long-leaf pine plantings (250,000 acres)	8,323	70,315
Prairie Pothole duck nesting habitat (100,000 acres)	12,038	56,201
State acres for wildlife enhancement (500,000 acres)	78,585	171,177

Source: Farm Service Agency.

Current Issues

CRP Provisions in the 2008 Farm Bill

The 2008 farm bill (P.L. 110-246) reauthorized the CRP with a maximum acreage cap of 32 million acres, down from a cap of 39.2 million acres established in the 2002 farm bill (P.L. 107-171). The farm bill further directs the Secretary of Agriculture to give priority (where environmental benefits are equal) in contract bids to producers who reside in the county where the CRP acreage is located.

The farm bill also amended the pilot program for wetland and buffer acres in CRP. Each state can enroll up to 100,000 acres, up to a national maximum of 1 million acres. This maximum may be raised to 200,000 in each state following a review of the program. Eligible lands for the program include (1) wetlands that have been cropped in three of the immediately preceding 10 crop years; (2) land on which a constructed wetland is to be developed to manage fertilizer runoff; and (3) land that has been devoted to commercial pond-raised aquaculture.

The farm bill permits 50% cost-share payments on land used for hardwood trees, windbreaks, shelterbelts, and wildlife corridors for contracts entered into after November 1990. Contracts extend from a minimum of two years up to four years. Funding of $100 million also is authorized to cover cost sharing for the thinning of trees to improve the management of natural resources on the land.

The 2008 farm bill modifies the criteria for evaluating CRP contract applications. Evaluation criteria include the extent to which a CRP contract application would improve soil resources, water quality, or wildlife habitat. The bill also allows the Secretary to establish different criteria in various states or regions that lead to improvements in soil quality or wildlife habitat. Preference in new CRP contracts will be given to land owners and operators who are residents of the county or a contiguous county in which the land is located.

The legislation also establishes incentives to increase the participation of beginning and socially disadvantaged farmers and ranchers. The CRP Transition Option is designed to facilitate the transition of land to beginning and socially disadvantaged farmers and ranchers for the purpose of returning the land to production using sustainable grazing or crop production methods. To encourage this program, CRP contract holders can receive two extra years of rent payments for leasing or selling that land to a beginning or socially disadvantaged farmer. The National Organic Certification Cost Share Program can be used in conjunction with the CRP option to defray the costs, up to $750 per year, of organic certification for producers and handlers of organic produce.

It authorizes CRP contract modifications to assist these producers in leasing or purchasing land under a CRP contract from a retired or retiring farm owner or operator. The provision authorizes $25 million for assistance in making these land transfers.

Other CRP provisions in the 2008 farm bill include redefining the Chesapeake Bay region as a priority area without limiting the region to the states of Pennsylvania, Maryland, and Virginia. While the new program apples to all watersheds draining into the Chesapeake Bay, the Susquehanna, Shenandoah, Potomac, and Patuxent Rivers will get funding priority.

FY2010 Budget Issues

The Administration's FY2010 budget requests a termination of incentive payments to CRP landowners who enroll in state hunting access programs because the incentive payments duplicate existing funding for these state programs. Both CRP incentive payments and the Voluntary Public Access and Habitat Incentive Program support state-run programs that open private land to public access for sporting purposes. The budget request would continue funding for the Voluntary Access Program—authorized in the 2008 farm bill—but would discontinue enrollment for the incentive payments.

Managed Haying and Grazing

Managed haying and grazing are permitted activities under certain conditions. A disaster declaration, for example, may permit contract holders to harvest hay or to graze their cattle for certain periods. Where such activity is permitted, contract payments may be reduced. The 2008 farm bill modifies the managed haying and grazing regulation (Section 2108) to permit routine grazing to control invasive species under specific conditions and also permits the installation of wind turbines under certain conditions. Where routine harvesting is permitted, state technical committees are required to coordinate to ensure appropriate environmental management. When such activities are permitted, rental payments will be reduced by an amount commensurate with the economic value of the authorized activity. The farm bill also prescribed grazing for control of invasive species as a permissible activity.

Haying and Grazing for Critical Feed Use (CFU)

On May 27, USDA announced that 24 million acres of CRP land could be used in 2008 for a critical feed use (CFU) program of managed haying and grazing following primary bird nesting season. This contract modification is restricted to the least environmentally sensitive land and will limit the scope and frequency of any managed haying and grazing. The National Wildlife Federation (NWF) and six state NWF chapters sought an injunction against USDA for failure to conduct an appropriate environmental review of the proposed CFU program. On July 8, the U.S. District Court for the Western District of Washington issued a temporary restraining order (TRO).

On July 24, the court issued a permanent injunction suspending the CFU provision except for those who had been approved by or had applied to FSA prior to the TRO, or who had invested at least $4,500 toward haying or grazing equipment and preparation prior to the TRO. Where the application was approved prior to the TRO, haying and grazing had to be completed by November 10. For subsequent approvals, haying and grazing had to end by September 30 and October 15, respectively. There have been no stated plans to authorize a CFU exemption for FY2009.

Expiring CRP Contracts and Reenrollment and Extension Policy

Approximately 28 million acres under CRP contract will expire between 2007 and 2010. Contracts covering 5.9 million acres expired in 2008, with 3.9 million more acres expiring in 2009, and 4.5 million acres in September 2010. Approximately 83% of this expiring acreage has been reenrolled or had contracts extended as of October 2008. Of the 15.7 million contract acres that expired September 30, 2007, 13.6 million (86.6%) were approved for extensions or new enrollment contracts. Approximately 4.8 million of the 5.9 million acres expiring in 2008 also have extensions or new contracts (81.6%). Contracts were extended or renewed based on the Environmental Benefit Index (EBI) score and the land's location within national priority areas.[3] FSA ranked individual contracts into one of five tiers based on the environmental benefits of the original EBI score. Eligible participants ranking in the first tier (81%-100%of the EBI) could reenroll their land in new 10-year contracts. Farmers and ranchers in this top tier with wetlands enrolled were eligible for 15-year contracts. Only acreage under general sign-up contracts is eligible. Eligible participants ranking in the second tier (61%-80% of the EBI) could extend their contracts for five years. Third-tier participants (21%-40% of the EBI) could receive three-year extensions. Eligible participants in the bottom tier could extend their expiring contracts by two years.

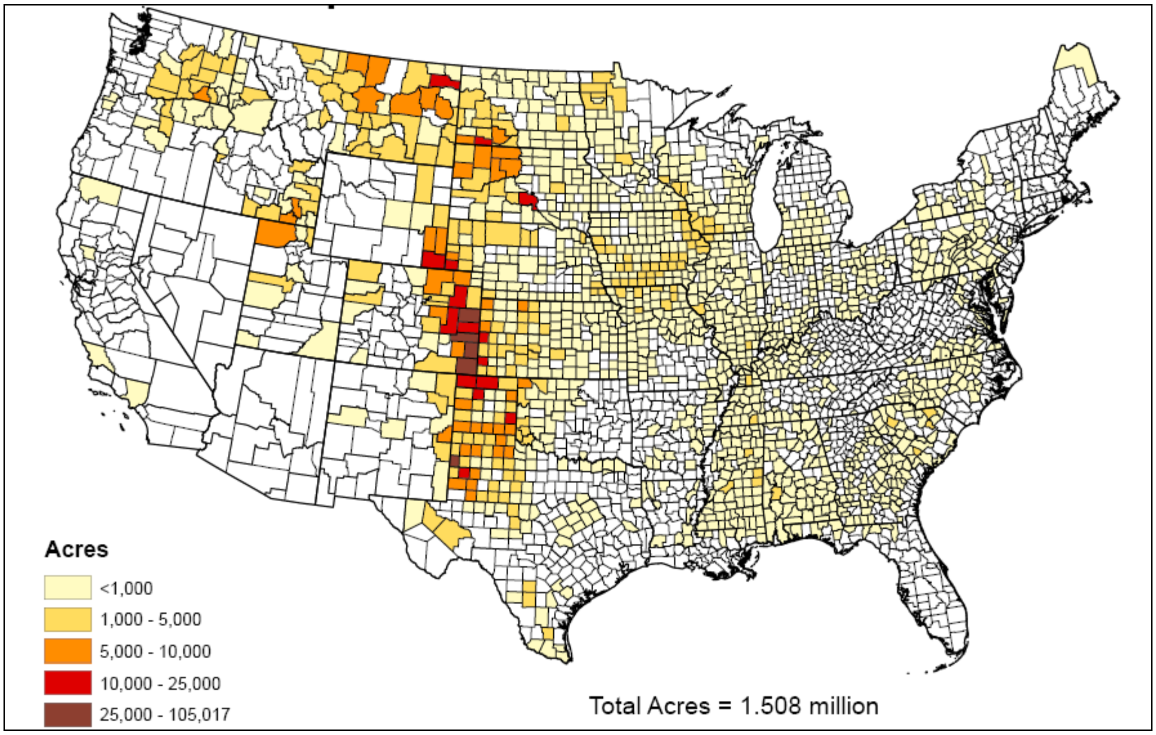
Participants with contracts expiring between 2008 and 2010 were also notified by FSA that they could choose to reenroll or extend by June 30, 2006. Of the 12.1 million acres expiring in 2008-2010, 9.6 million (80.3%) had been approved for reenrollment or extension as of December 2007. The high commodity prices in 2008 potentially discouraged some eligible producers from reenrolling or extending their contracts. Other producers, however, may have judged the high commodity prices as a temporary phenomenon and decided to reenroll or extend their contracts. Approximately 75% of the acreage expiring in 2010 has been reenrolled or extended. This compares to approximately 82% reenrollment and extension for acreage expiring in 2008 and 2009. Continuing lower commodity prices could remove some of the incentive for eligible producers not to renew contracts going forward.

USDA announced a sign-up for voluntary extensions beginning May 18 and running through June 30, 2009. Of the expiring 3.9 million acres, approximately 100,000 acres are under continuous sign-up and will be reenrolled if the producer wishes to do so. However, only about 1.5 million acres enrolled under the general sign-up will be offered contract extensions (**Figure 1**). Acreage eligible for contract extensions must score in the top 30% of the EBI or have an Erodibility Index (EI) of 15 or higher. Participants who are eligible for contract extensions will be notified by letter from their county Farm Service Agency office. The reduction in contract extensions is necessary

[3] National Priority Areas named in CRP authorizing legislation are the Chesapeake Bay, Long Island Sound, and the Great Lakes Region. USDA established two other national priority areas: Prairie Pothole Region in the Northern Great Plains, and Longleaf Pine Region in the southeast.

to ensure that the total acreage under contract will conform to the new 32 million-acre limit by October 1, 2009. Contract extensions ranges from two to five years at the same per-acre payment rate. Colorado, Kansas, Montana, and Texas have the largest number of eligible acres with a 30% EBI or a ranking of 15 on the EI. These four states account for 55% of the total national acres eligible for extension.

Figure 1. FY2009 Expiring Acreage Eligible for Contract Extensions



Source: USDA Farm Service Agency.

Contract Termination and Penalty Fees

High grain prices in the first half of 2008 appeared to make contract terminations attractive to some producers. Under current law, however, a producer wishing to terminate a contract early faces a penalty fee of 25% on rent payments paid, plus repayment, with interest, of all the funds already paid to the producer. This includes any cost-share payments. CRP acreage is also seen in some quarters as a potential resource for renewable fuel feedstocks.

In July 2008, Secretary Schafer stated that there would be no penalty-free terminations. Penalties would apply to any contract holder who reenrolls or extends acreage and then decides to terminate the contract. An expiring contract that is extended and then later terminated would have penalties based on the original contract, not just the period since contract extension. Expiring acreage that is reenrolled is under a new contract, and would incur penalties only on the period covered by the new contract.

Tax Status of CRP Payments

CRP rental payments are regarded by the Internal Revenue Service (IRS) as income from the business of farming. As such, they are subject to self-employment Social Security taxes. Producers, however, would like to treat CRP payments as rental income not subject to the self-employment tax of 15.3%. The IRS position was supported by the Sixth Circuit Court in March 2000 in *Wuebker v. Commissioner*, 205 F.3d897. In December 2006, the IRS issued Notice 2006-108 reinforcing its position that CRP payments are subject to self-employment taxes. Section 15301 of the 2008 farm bill exempts CRP payments from self-employment taxes for disabled and retired contract holders after December 31, 2007.[4]

Effects of the CRP on Local Economies

Retiring land in rural, largely agricultural economies could result in fewer farmers and fewer farming-related jobs in these areas. A USDA report found that, although high CRP enrollment was associated with some job loss in rural areas between 1986 and 1992—the years the CRP was first underway—this was generally not the case during the 1990s. However, the report noted that national trends could mask regional adjustments, and that "local economic adjustments might be sizeable."[5] Losing existing CRP acreage or halting new enrollments may also have effects on local economies where hunting and fishing are important economic activities.

According to FSA data, the CRP had 33.6 million acres enrolled in CRP as of December 2008, including the various subprograms (e.g., Conservation Reserve Enhancement Program, Farmable Wetlands). This is a decline of about 3 million acres over the total acreage enrolled in September 2007. By statute, CRP enrollment is capped at 25% of a county's cropland. Approximately 130 counties have at least 22.5% enrolled, although this can include counties with very small total acreage of cropland. Of these 130 counties, 80 have at least 25% enrolled. The farm bill exempts CREP from the county total cap.

Program Costs and Benefits

Acres enrolled in CREP, continuous enrollments, or the farmable wetlands program are generally eligible for higher payments than acres enrolled under general sign-ups because of their higher environmental benefits, location and prevailing rental rates, and additional financial incentives for participation. However, such contracts involve much smaller acreage on average. CREP payments average $127 per acre and $117 for the FWP, versus an average per-acre payment of approximately $44 for the general sign-up acreage.

CRP payments under all programs in FY2008 were approximately $1.8 billion. The Congressional Budget Office estimated CRP contract obligations would cost $1.92 billion in FY2007 and $2.4 billion annually through 2017. NRCS estimated that, prior to 2003, monetized CRP benefits (such as increased wildlife habitat and small game hunting) averaged about $1.4

[4] For more detail on the tax treatment of CRP payments, see CRS Report RS22910, *The 2008 Farm Bill: Analysis of Tax-Related Conservation Reserve Program Proposals*, by Carol A. Pettit.

[5] U.S. Department of Agriculture, Economic Research Service Report to Congress. *The Conservation Reserve Program: Economic Implications for Rural America*. September 2004.

billion per year. This figure does not include non-monetized benefits such as improved groundwater quality and wetland restoration.

Rental Rates for CRP Acreage

The average rental rate for all CRP land was $51.39 per acre as of April 2009. Rental rates range from an average of $44 for general sign-up acreage to over $128 for CREP acreage. CRP rental rates are based on the three-year average of local dry-land cash rental rates. An up-front signing incentive payment (SIP) of $100 to $150 per acre (depending on contract length) is available for eligible participants who enroll certain practices. The one-time SIP is made after a contract is approved and all payment eligibility criteria have been met. A practice incentive payment (PIP) equal to 40% of the eligible installation costs is also available for eligible participants who enroll certain practices on their acreage.

Rental rates for CRP contracts became an important issue to some producers when commodity prices rose in 2008. The producers claimed that CRP rental rates were significantly lower than the producers could get by renting their land out for production. Many producers pressured USDA for penalty-free contract terminations. If rental rates are too low, there is some chance that producers will decline to enroll their land, of, if enrolled, decline to renew their contracts at expiration. Putting CRP acreage back into production could have significant environmental effects. Although land put back into production would have to be managed under an environmental plan to be eligible for various agricultural assistance programs, there would still be an environmental cost in terms of increased sediment losses, nitrogen and phosphorus run-off if fragile land were put back into production.[6] The 2008 farm bill (Section 2110) directs USDA to conduct an annual survey of per-acre estimates of the average market dry land and irrigated land cash rental rates and to post these rates on a publicly accessible USDA Website.

CRP Environmental Results

FSA estimates that, compared with 1982 erosion rates, the CRP has reduced erosion by more than 454 million tons per year on the 34.6 million acres enrolled in the program. Through April 2006, CRP had also restored two million acres of wetlands and 2.5 million acres of buffers. Other conservation benefits NRCS has documented on these lands include the sequestration of more than 48 million metric tons of carbon annually; more than 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] For an examination of the potential environmental costs in Iowa as projected corn prices rose, see Silvia Secchi and Bruce Babcock, "Impact of High Corn Prices on CRP Acreage," *Iowa Ag Review*, Center for Agriculture and Rural Development, Iowa State University, Spring , 2007, at http://www.card.iastate.edu/iowa_ag_review/spring_07/article2.aspx.

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