Order Code RS21613
Updated August 16, 2007

CRS Report for Congress

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. The CRP has several subprograms, the best-known of which is the Conservation Reserve Enhancement Program (CREP). In 2004, USDA announced two CRP initiatives: one to enroll 250,000 acres of bobwhite quail habitat and a second to enroll 250,000 acres of non-floodplain wetlands. Landowners may apply to enroll in these initiatives any time through December 31, 2007, or until the enrollment caps are reached.

The July 27 House-passed farm bill (H.R. 2419) reauthorizes the CRP at the current acreage cap of 39.2 million acres and makes provisions to facilitate the transition of land under CRP contracts from retired farmers to new and beginning farmers and socially disadvantaged farmers. The bill also directs the National Agricultural Statistical Service to conduct annual surveys of cash rental rates and to make these rates publicly available.

Secretary Johanns has announced that there will be no general CRP sign-up in FY2007 and perhaps none in FY2008. Between 2007 and 2010, 27.8 million acres under CRP contracts will expire. Contracts for approximately 23 million (86%) of these acres have been renewed or extended. This report will be updated periodically.

Current Issues

House-Passed Farm Bill. On July 27, the House passed its version of the 2007 farm bill (H.R. 2419). The bill reauthorizes the CRP at its current acreage cap of 39.2 million acres established in the 2002 farm bill (P.L. 107-171). Other provisions include steps to facilitate the transition/sale of land subject to a CRP contract from a retired or retiring owner or operator to a beginning farmer or rancher, socially disadvantaged farmer or rancher, or limited resource farmer or rancher. This provision would permit the acquiring farmer or rancher to return some or all of the land to production under sustainable grazing or crop production methods. These groups of farmers and ranchers would also be eligible to reenroll any applicable partial field conservation practice eligible for enrollment under the continuous sign-up requirement or part of an approved comprehensive conservation plan.

Another provision in H.R. 2419 directs the National Agricultural Statistical Service to conduct an annual survey of per acre estimates of the average market dry land and irrigated land cash rental rates. Each county with 20,000 acres or more of cropland would be included in the survey, and the estimates would be publicly available on a USDA Website.

Expiring CRP Contracts and Reenrollment Policy. Approximately 28 million acres under CRP contract will expire between 2007 and 2010. Of the 15.5 million contract acres scheduled to expire by September 30, 2007, 13.5 million (86.4%) have been approved for extensions or new enrollment contracts as of July 2007. Contracts were extended or renewed based on the Environmental Benefit Index (EBI) score and the land's location within national priority areas.[1] 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 was eligible. Expiring continuous sign-up acres are eligible for reenrollment in the year the contract expires.

Extensions range from two to five years. 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. These 160,000 participants had a deadline of June 30, 2006, to decide whether to apply for reenrollment. Of the 12.1 million acres expiring 2008-2010, 9.4 million (77.8%) are currently approved for reenrollment or extension as of July 2007. These amounts are subject to change.

Some observers of conservation policy believe that reenrollments could offer an opportunity to refine the CRP in ways that enhance the program's capacities for preserving natural resources and improving environmental benefits from agricultural lands.

Contract Termination and Penalty Fees. With current interest in growing biomass for alternative fuels, CRP acreage is seen in some quarters as a potential resource for renewable fuel feed stocks. The Administration's farm bill proposal suggested the possibility of an "early-out" for CRP contract holders who agreed to plant crops suitable

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[1] 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.

for biofuel production. Under current law, however, a producer wishing to terminate a contract early faces a penalty fee plus repayment, with interest, of all the funds already paid to the producer. This includes any cost-share payments. In March 2007, Secretary Johanns announced that there would be no penalty-free release of acreage from the CRP in 2007. He delayed any decision on penalty-free releases for FY2008. National and state agribusiness and livestock and poultry producers are advocating for a penalty-free release from CRP contracts. This issue may be addressed in the 2007 farm bill deliberations in the Senate.

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 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. In response, the Conservation Reserve Program Tax Fairness Act of 2007 (S. 1155/H.R. 2659) has been introduced in the 110th Congress. The bill would clarify that CRP payments should not be subject to self-employment taxes.

Effects of the CRP on Local Economies. Retiring land in rural, largely agricultural economies could result in fewer farmers and fewer farm supply businesses in those areas. A USDA report found that population trends were largely unaffected by high CRP enrollment. It also 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."[2] Losing existing CRP acreage or halting new enrollments may also have effects on local economies where hunting and fishing are important activities. The biomass production potential for CRP land may raise similar economic impact issues for local areas where there is high CRP acreage enrollment.

CRP General Background

The Conservation Reserve Program (CRP) is the federal government's largest land retirement program for private land.[3] 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 (e.g., planting a cover crop on the land to reduce erosion).

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

[3] This report is an updated and revised version of a report originally written by former CRS analyst Barbara Johnson.

Participants enroll in CRP contracts for 10 to 15 years. The 2002 farm bill authorized the CRP to enroll 39.2 million acres at any one time through 2007.

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. According to FSA data, the CRP had 36.8 million acres enrolled as of July 2007, including the various subprograms (e.g., Conservation Reserve Enhancement Program, Farmable Wetlands).[4] Up to 25% of a county's cropland may be enrolled in the CRP. More than 80 counties have reached this limit.

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 be eligible for some federal farm programs (including commodity payments).

Enrolling in the CRP

There are four types of sign-ups for enrolling land in the CRP: general, continuous, Conservation Reserve Enhancement Program (CREP), and Farmable Wetlands Program (FWP). As of July 2007, there were 782,570 CRP contracts nationally on 441,179 farms (approximately 21% of al farms).

General Sign-up. General sign-ups are specified enrollment periods during which landowners compete nationally to enroll land in the CRP. Nearly 90% of CRP acreage (33.0 million of 36.8 million) is enrolled through general sign-ups. 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 show the highest environmental benefits. These 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 one million acres of the 1.4 million acres offered. The most recently accepted 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.

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 may award points to projects which 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 (thereby reducing the cost to the government), as well

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[4] States with the most enrolled acres are Texas (4.1 million acres), Montana (3.5 million acres), North Dakota (3.4 million acres), Kansas (3.3 million acres), and Colorado (2.5 million acres).

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.[5] 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. The 2002 farm bill reserved four million acres (of the 39.2 million enrollment limit authorized) for land to be enrolled under continuous sign-up or CREP sign-up (see below). 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. On August 4, 2004, the Administration announced two more initiatives: a 250,000-acre initiative to restore bobwhite quail habitat in the Midwest and the Southeast, and a 250,000-acre initiative to restore wetlands located outside floodplains (including Great Plains playa lakes). These two initiatives begin October 1, 2004 and continue through December 31, 2007. There are currently 2.9 million acres enrolled under continuous sign-ups (excluding CREP acreage).

Conservation Reserve Enhancement Program (CREP). This 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 (including 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, thereby avoiding the need for landowners to compete in the general sign-up. Unlike the general sign-up, CREP both encourages landscape-scale conservation efforts and offers the flexibility to address locally identified needs. Generally, CREP rental payments are higher to attract participation. Landowners may bid to enroll in CREP at any time. As of July 2007, 961,829 acres were enrolled in CREP.

Farmable Wetlands Program (FWP). As authorized under the 2002 farm bill, this allows 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 — to 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. Currently, there are 167,614 acres enrolled.

Program Costs

Acreage enrolled in CREP, continuous enrollment, or the farmable wetlands programs is generally eligible for higher payments than acres enrolled under general sign-

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[5] 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.

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 $121 per acre and $118 for the FWP, versus an average per acre payment of approximately $44 for the general sign-up acreage.[6]

Total outlays for the CRP as of July 2007 were $1.819 billion. The Congressional Budget Office estimates CRP contract obligations will cost $1.92 billion in FY2007 and $2.4 billion through 2017.[7] NRCS estimated that, prior to 2003, 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 the CRP is an expensive program, and that its benefits can be temporary since participants are under no obligation to continue conservation practices after contracts end. Proponents counter that the estimated benefits document the CRP's worth, and that not all of the CRP's benefits have been or can be monetized.

Rental Rates for CRP Acreage. The average rental rate for all CRP land was somewhat more than $49 per acre as of July 2007. Rental rates ranged from an average of $44 for general sign-up acreage to $121 for CREP acreage. CRP rental rates are based on the three-year average of local dry-land cash rental rates. Certain monetary incentives, such as an incentive to perform particular maintenance obligations, may also apply. Producers can offer land at that market rate or may offer a lower rental rate to increase the likelihood that their offer will be accepted. CRP cost-sharing assistance is available to eligible participants for up to 50% of the eligible costs of establishing the approved practice.

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 36.7 million acres enrolled in the program. 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.[8] Through April 2006, the CRP has restored two million acres of wetlands and 2.5 million acres of buffers. Some observers have noted that the benefits are unevenly distributed. CRP lands are scattered across the nation, which can make it more difficult to restore wildlife populations and improve water quality in important watersheds. Some enrolled lands may be planted to less appropriate cover types which may provide more limited wildlife benefits.

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[6] Approximates FY2008 payments, before adjustments for haying/grazing, non-compliance, terminations, part-year contracts, and contracts not yet recorded.

[7] Congressional Budget Office, March 2007 Baseline.

[8] CRP Benefit-Cost Assessment, February 2003, and FY2005 CRP annual summary.