

**Agreement
between
The State of Ohio
and
The U.S. Department of Agriculture
Commodity Credit Corporation
concerning the implementation of the Ohio Lake Erie
Conservation Reserve Enhancement Program**

This Agreement is entered into between the United States Department of Agriculture (USDA), Commodity Credit Corporation (CCC), and the State of Ohio (Ohio) to implement a Conservation Reserve Enhancement Program (CREP) for the enhancement of water quality by reduction of sediment. The CREP is part of the national Conservation Reserve Program (CRP), operated by USDA for CCC.

I. PURPOSE

The purpose of this Agreement is to allow, where deemed desirable by USDA, CCC, and Ohio, certain acreage in the targeted watersheds to be enrolled in the CRP under the Ohio Lake Erie CREP.

The general goals for the Ohio Lake Erie CREP are: to significantly reduce the amount of sediment entering the targeted watersheds from agricultural sources through a voluntary, incentive-based program; to assist Ohio in achieving the sediment reduction goals for agriculture in the targeted area; and to significantly reduce the amount of sediment entering those watersheds. The reduction of sediment through the establishment of permanent vegetative cover will also enhance the associated wildlife habitat.

The primary goals of this Agreement are to achieve through financial and technical assistance, to the extent practicable, the following:

1. Provide an opportunity for eligible producers in the targeted watersheds to voluntarily establish up to 67,000 acres of filter strips, riparian buffers, hardwood tree plantings, wildlife habitat, field windbreaks, and restoration of cropped wetland areas, through financial and technical assistance within the targeted watersheds (exhibit #A).
2. Out of this 67,000 acre potential enrollment:
 - a. Provide an opportunity for eligible producers in Ohio to voluntarily restore and enhance riparian habitat corridors next to wetlands, streams, drainage ditches, and other watercourses by enrolling approximately

65,600 acres of riparian-forested buffers, grass filter strips, hardwood tree plantings, and wildlife habitat.

b. Provide an opportunity for eligible producers in the targeted watersheds to voluntarily restore approximately 700 acres of cropped wetlands to reduce field runoff and sediment pollution to surface waters.

c. Provide an opportunity for eligible producers in the targeted watersheds to voluntarily establish approximately 700 acres of field windbreak to address impacts associated with wind erosion.

The specific objectives of this Agreement are to achieve, to the extent practicable, the following:

For the first ten years of this Agreement, reduce sediment loading to Western Lake Erie by progressive 15,000 metric tons per year increments (15,000 tons the first year, 30,000 tons the second year, etc.) with a total reduction of 825,000 metric tons over ten years.

For the next ten years reduce sediment loading to Western Lake Erie by 150,000 metric tons per year (150,000 tons in year eleven, 150,000 tons in year twelve, etc.) so that after twenty years there will be a total cumulative reduction of 2,325,000 metric tons over twenty years.

Protect 5,000 linear miles of streams from sedimentation.

This Agreement is not intended to supersede any rules or regulations, which have been, or may be, promulgated by USDA, CCC, Ohio, or any other governmental entity participating in this Ohio Lake Erie CREP. This Agreement is intended to aid in the administration of the Conservation Reserve Program (CRP).

AUTHORITY

A. Federal

The USDA is provided the statutory authority to perform the activities contemplated by this Agreement by the provisions of the Food Security Act of 1985, as amended (1985 Act) (16 U.S.C. 3830 et seq.), and the regulations at 7 CFR part 1410. The relevant legislation authorizes new enrollments through December 31, 2002. Other authorities may also apply.

B. State

Various participating agencies of the State of Ohio are provided the statutory authority to perform all activity contemplated by this Agreement by the

provisions of the Ohio Revised Code Chapter 1515, and Sections 126.07 and 1501.02 of the Ohio Revised Code. Other authorities may also apply.

III. PROGRAM ELEMENTS

USDA, CCC, and Ohio agree that:

A. The Ohio Lake Erie CREP will consist of a continuous sign-up CRP component and a State of Ohio Incentive Program. The Ohio Lake Erie CREP will enroll no more than 67,000 acres in the CRP State Incentive Program (SIP).

B. The Ohio Lake Erie CREP will target enrollment of 65,600 acres in riparian area practices, 700 acres of cropped wetland restoration, and 700 acres of field windbreak within the Western Lake Erie Watershed. The Ohio Lake Erie CREP encompasses the Western Lake Erie drainage areas of 27 Northwestern Ohio counties as delineated in exhibit #A: Western Lake Erie Watershed Project Area. All eligible acres are within portions of the CRP Great Lakes National Conservation Priority Area.

C. Land may, on a continuous basis, be enrolled in the Ohio Lake Erie CREP if it meets CRP cropping and land ownership requirements, land eligibility criteria, conservation practice criteria, and any other Lake Erie CREP and CRP criteria set forth in the CRP regulations, this Agreement, Handbook 2-CRP, and the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG). Acreage enrollment limitations for eligible practices shall not exceed those specified in paragraph E of this section. USDA and Ohio may, if they agree jointly in writing, provide further restrictions on enrollment eligibility in particular cases.

D. Conservation plans for the land enrolled in the CRP under the Ohio Lake Erie CREP shall meet criteria of the CRP regulations, 2-CRP, and FOTG. The eligibility criteria described in paragraph E of this section shall be used to determine which lands may be enrolled in the CRP under the Ohio Lake Erie CREP. For the purposes of these enrollments, the following standard CRP practices shall be used:

1. For land to be devoted to a wetland restoration practice:

CRP Practice CP23 (Wetland Restoration)

2. For land to be devoted to a riparian area practice that is located adjacent to watercourses and/or drainage ditches as defined by the FOTG (grass waterways as defined by the FOTG will not be considered riparian area for the purpose of this Agreement and so are not considered to meet water quality objectives):

CRP Practice CP3A (Hardwood Tree Planting)

CRP Practice CP4D (Permanent Wildlife Habitat-noneasement)

CRP Practice CP21 (Filter Strip)

CRP Practice CP22 (Riparian Buffer)

CRP Practice CP23 (Wetland Restoration)

3. For land to be devoted to a field windbreak practice:

CRP Practice CP5A (Field Windbreak Establishment-noneasement)

E. The following enrollment criteria, in addition to other applicable CRP criteria, shall apply:

1. Land to be devoted to CP23 wetland restoration may be enrolled only if comprised of predominately (greater than 50 percent) hydric soils or non-hydric soils comprised of predominately (greater than 50 percent) hydric inclusions. Enrollment of the lands must help address soil erosion and/or filtering of water associated with field runoff.

2. Lands to be devoted to cropped wetland restoration shall not be enrolled unless it can be restored to wetland status such that under the FOTG it will be considered an acceptable CP23 wetland restoration.

3. For all practices, the practice will be implemented in accordance with the 2-CRP and the FOTG and applicable regulations. In no case may an installed riparian area practice exceed an average of 300 feet in width. Riparian area practices devoted to CP3A hardwood tree planting, CP4D wildlife habitat, or CP22 riparian buffer, and between 150 feet and 300 feet maximum average width, must be located on predominately (greater than 50 percent) alluvial floodplain soils as determined by the County Soil Survey. Riparian area practices devoted to CP21 filter strip between 100 feet and 300 feet maximum average width must be located on predominately (greater than 50 percent) alluvial floodplain soils as determined by the County Soil Survey.

4. No acreage may be enrolled under or per contract unless it equals or exceeds 0.1 acre.

5. Enrollments, otherwise restricted by this Agreement, may also be extended a modest additional width, as permitted by CCC. The modest additional width shall not exceed ten (10) percent of the area needed to attain water quality objectives. In no case shall the width of the practice exceed an average 300 feet in width.

6. For lands devoted to CP3A hardwood tree planting, the type spacing and planting requirements must be consistent with CP22 riparian buffer standards and must ensure that water quality standards are met.

7. For lands to be devoted to CP4D wildlife habitat, no more than 5,000 acres in total may be enrolled. The practice must meet or exceed the water quality objectives that would be derived from land planted to a CP21 filter strip.

F. The following special criteria shall apply to the Ohio Lake Erie CREP State Incentive Program and to the relationship between it and CRP; CRP lands to be enrolled shall only be accepted under this Ohio Lake Erie CREP if:

1. The CRP contract has a minimum of 14 year term (CRP contracts cannot exceed 15 years in length).

2. The eligible producer enters the State program in accordance with section V. of this Agreement.

G. Eligible producers will not be denied the opportunity to offer eligible acreage for enrollment during other CRP enrollment periods.

H. CRP contracts executed under this Agreement will be administered in accordance with the CRP regulations at 7 CFR part 1410, and the provisions of this Agreement and any conditions required by the CCC.

IV. FEDERAL COMMITMENTS

Subject to the availability of funds and statutory limitations USDA and CCC agree to:

A. Determine producer eligibility for participation in the CRP under the Ohio Lake Erie CREP consistent with the regulations at 7 CFR Part 1410, and administer those CRP contracts that are executed.

B. Consistent with the CRP regulations, pay up to 50 percent of the eligible reimbursable costs of CRP conservation practices. Cost share reimbursements to participants from all sources may not, by law, exceed 100 percent of the participants out of pocket expenses.

C. For acreage enrolled devoted to CP23 wetland restoration, make as an additional rental payment, a one-time incentive payment equal to 25 percent of the eligible reimbursable cost of restoring the hydrology of the site. This is the only one-time payment to be made to eligible participants who install CP23 wetland restoration, and supersedes any other one-time incentive payment offered for this practice other than those provided for in F and G.

D. On a continuous basis through December 31, 2002, enroll land that meets

the eligibility criteria set forth in the CRP regulations at 7 CFR Part 1410 and this Agreement.

E. Make annual rental payments otherwise applicable to the land under the CRP contract based on the County posted CRP dryland soil rental rates established according to the CRP regulations at 7 CFR Part 1410, plus incentive payments and maintenance payments as provided in paragraphs F and G, respectively, of this section. No other incentive payments shall be included in the calculation of the annual rental payment.

F. As part of the annual rental payment, make incentive payments as a percentage of the weighted average soil rental rate based on the three predominate soils offered, in an amount equal to:

1. For land devoted to wildlife habitat (CP4D) and filter strips (CP21), 55 percent.
2. For land devoted to wetland restoration (CP23), riparian buffer (CP22), field windbreak (CP5A), or hardwood tree planting (CP3A), 75 percent.

G. As part of the annual rental payment, make a maintenance payment which would otherwise apply under the CRP. This payment is not in addition to any other offered maintenance payment, but is instead the only maintenance payment to be made to eligible participants under the contract.

H. Work cooperatively with the State and producers in the development and review of conservation plans for land accepted for enrollment in the CRP under the Ohio Lake Erie CREP.

I. Conduct required status reviews to ensure compliance with the CRP contract.

J. In cooperation with Ohio, provide information to producers concerning the Ohio Lake Erie CREP and technical assistance for implementing the Ohio Lake Erie CREP.

K. Permit successors-in-interest to contracts enrolled under the Ohio Lake Erie CREP in the same manner as allowed for other CRP contracts.

V. STATE COMMITMENTS

Ohio agrees or states:

A. The State of Ohio's obligations under this Agreement are limited to the contract period defined as the remainder of the current operating biennium; work shall commence immediately upon entering into this Agreement and shall terminate at midnight on June 30, 2001, unless the contract is terminated sooner or renewed as herein provided. The terms and conditions of this Agreement may be renewed by the State of Ohio, to the extent possible, to

match federal allocations to the Lake Erie CREP through December 31, 2002.

B. At the option of the State of Ohio and with written concurrence of CCC the Agreement may be renewed under the same terms and conditions for the biennium beginning July 1, 2001, and ending December 31, 2002. Any purchase orders issued against the Agreement, or any renewal thereto, shall not be valid unless the Director of the State's OBM shall first certify, under Section 126.07 of the Revised Code, that there is a sufficient balance in the user agencies appropriations not already obligated to pay existing obligations.

C. The State of Ohio shall use its best efforts to secure funding for its obligations under this Agreement to match federal allocations to the Lake Erie CREP through December 31, 2002. In the event funds are not appropriated in the current capital biennium, or any succeeding biennium, for the State of Ohio's obligations hereunder, this Agreement shall automatically terminate.

D. The State of Ohio's obligation is limited to \$4,000,000 for the 2000 and 2001 fiscal years of the State's biennium operating budget. A total of \$2,000,000 is available during each of the two fiscal years for a total of \$4,000,000.

E. The State will seek eligible producers willing to offer eligible and appropriate land for enrollment in the Ohio Lake Erie CREP.

F. As a condition for participation in the Ohio Lake Erie CREP, the State will enroll producers in the State Incentive Program. Producers must enter into a separate agreement with the State of Ohio to enroll in the State Incentive Program as a contingent for enrollment in the CRP under the Ohio Lake Erie CREP. The State Incentive Program will extend the period of conservation and benefits obtained from enrollment in the CRP for an additional period to run at the end of the CRP period and consecutively with the end of that period as follows:

1. An additional 5 years for land enrolled using the Wildlife Habitat (CP4D) practice or the Filter Strip (CP21) practice.
2. An additional 15 years for Hardwood Tree Planting (CP3A), Field Windbreak (CP5A), and Riparian Buffer (CP22) practices.
3. Either 0, 5, or 15 years, as determined by the producer, for Wetland Restoration (CP23).

G. The State of Ohio will enter into agreements with each Soil and Water Conservation District (SWCD) within the Ohio Lake Erie CREP to make the one-time bonus incentive payments for enrollment into the CREP set out in paragraph H. The Ohio Division of Wildlife (ODW) will enter into separate

contractual agreements with producers for additional bonus incentive payments if required or warranted.

H. The State of Ohio and its affiliates shall make one-time incentive payments to producers participating in the State Incentive Program and the Ohio Lake Erie CREP in the amounts specified by this paragraph. The one-time payment shall be made after Ohio has been notified by the applicable USDA service center that the CRP contract has been approved. The one-time payment may be divided among all participants in the same manner as the annual rental payment as determined by the State of Ohio. The amount shall be as follows:

1. A one-time payment of \$200 per acre (from the SWCD) for land devoted to a Filter Strip (CP21).

2. A one-time payment of \$500 per acre (from the SWCD) for land devoted to hardwood tree planting (CP3A), wildlife habitat (CP4D), field windbreaks (CP5A), or riparian buffer (CP22).

3. A one-time payment of \$500 per acre (from the SWCD) for land devoted to Wetland Restoration (CP23) and enrolled in the State Incentive Program for a 0, 5, or 15 year contract extension.

4. A one-time payment of \$40 per acre (from ODW), for planting warm season grasses where 100% of the seeding is warm season grasses. Additional incentives from other than CCC sources may also be provided directly to producers for installation of warm season grass by the State or other contributors.

5. An additional one-time payment, not to exceed \$500 per acre (from the ODW), for land devoted to Wetland Restoration (CP23) and enrolled in the State Incentive Program for either a 5 or 15 year contract extension. The one-time payment shall be made after Ohio has been notified by the applicable USDA service center that the CRP contract has been approved. The one-time payment may be divided among all participants in the same manner as the annual rental payment.

I. The State will pay all costs for the required annual monitoring of the Ohio Lake Erie CREP.

J. The State will develop, implement, and pay for an outreach program as provided in the Ohio Lake Erie CREP proposal.

K. The State will provide technical assistance, such as but not limited to assistance in developing conservation plans; assisting producers in locating approved vendors, seed, and seedlings to install approved practices; coordinating efforts of State and local agencies to provide needed services for

practice completion; and compliance monitoring of installed practices.

L. The state will provide such additional contribution if any, as may be needed so that its contribution shall amount to a total of 20 percent of the overall costs of implementing the Ohio Lake Erie CREP through a combination of State budgetary allocations, in-kind services, and eligible match funding. Costs may include funds expended for program administration, producer payments, bonus incentive payments, technical assistance in the field, local program assistance, and state and local expenditures for agricultural nonpoint source pollution related to goals in the project area. The State of Ohio shall use its best efforts to secure funding for its obligations under this Agreement and to contribute at least 20 percent of the overall costs of the Lake Erie CREP.

M. The State will coordinate the Ohio Lake Erie CREP with other local natural resource conservation programs.

N. The State will temporarily release the participant from any contractual or easement restrictions on crop production during the CRP contract period if such release is determined necessary by the U.S. Secretary of Agriculture in order to address a national emergency.

O. The State will within ninety (90) calendar days of the end of each Federal fiscal year, provide a report to USDA summarizing the status of enrollments under this Agreement and progress in fulfilling the other commitments of this Agreement. The annual report to USDA will include, but not be limited to, the level of program participation; the results of the annual monitoring of the Ohio Lake Erie CREP; a detailed summary of the Ohio expenditures; and recommendations to improve the Ohio Lake Erie CREP.

VI. MISCELLANEOUS PROVISIONS

A. Funding commitments by USDA and Ohio are subject to the availability of funds. In the event either party is subject to funding limitation, that party will notify the other party expeditiously and appropriate modifications may be made to this Agreement or either party may exercise its right to terminate. If either party can not fulfill its financial obligations under the Agreement, the other party may immediately cease accepting new contracts.

B. All CRP contracts under the Ohio Lake Erie CREP shall be subject to the limitations set forth in the regulations at 7 CFR Part 1410 including, but not limited to, those regarding such matters as economic use, transferability, violations, and contract modifications.

C. Neither Ohio nor USDA shall assign or transfer any rights or obligations under this Agreement without the prior written approval of the other party.

D. Contracts entered into under the Ohio Lake Erie CREP may not be assigned

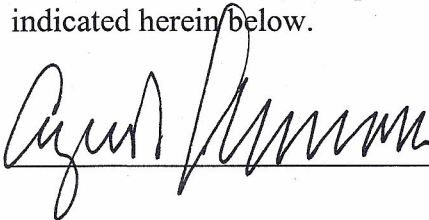
or transferred without approval of the landowners and CCC.

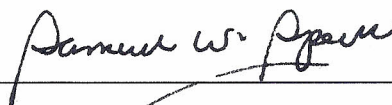
E. Any amendments to this Agreement shall be in writing and shall be executed by the same parties who executed the original Agreement, or their successors in office.

F. Ohio and USDA agree that each party will be responsible for its own acts and/or omissions and results thereof to the extent authorized by law and shall not be responsible for the acts or omissions of any others and the results thereof.

G. This Agreement may be terminated by either party at any time after written notice. Such termination will not alter existing contractual obligations under this Agreement, between participants, Ohio, and CCC.

In Witness Whereof, the parties here to have set their hands as of the dates indicated herein below.

 _____ 4/20/2000 ✓
Date

 _____ 3/14/00
Samuel W. Speck
Director
Department of Natural Resources
State of Ohio
Date

