

RECORD OF DECISION

For

Conservation Reserve Program Supplemental Environmental Impact Statement

**U.S. Department of Agriculture
Commodity Credit Corporation**

On behalf of the Commodity Credit Corporation, the Farm Service Agency (FSA) prepared a Final Supplemental Environmental Impact Statement (SEIS) for the Conservation Reserve Program (CRP) and the Notice of Availability (NOA) was published in the Federal Register (FR) on June 18, 2010 (75 FR 34737-34738). This document presents the Record of Decision (ROD) regarding FSA implementation of certain changes to CRP according to the provisions of the Food, Conservation, and Energy Act of 2008, Public Law (PL) 110-246 (2008 Farm Bill). The CRP is implemented through FSA on behalf of the Commodity Credit Corporation (CCC) and the SEIS is being completed in accordance with the National Environmental Policy Act (NEPA; PL 91-190, 42 United States Code [U.S.C.] 4321 et seq.) and Agency regulations (7 Code of Federal Regulations [CFR] Part 799). In 2003, a Programmatic Environmental Impact Statement (PEIS) was completed to evaluate the environmental consequences of implementing the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) provisions for CRP and a Record of Decision was published May 8, 2003 (68 FR 24848-24854). This SEIS tiers from the 2003 PEIS and, with certain exceptions, only evaluates those changed provisions in the 2008 Farm Bill governing CRP not previously addressed. This decision record summarizes the reasons for FSA selecting the Proposed Action Alternatives based on the program's expected environmental and socioeconomic impacts and benefits as documented in the SEIS, all of which were considered in this decision.

Decision

Based on a thorough evaluation of the resource areas affected by CRP, a detailed analysis of the alternatives for each of the nine discretionary provisions, and a comprehensive review of public comments on the Draft SEIS, FSA has decided to implement the Preferred Alternatives identified below for CRP in accordance with the provisions of the 2008 Farm Bill. This decision was made after comparing overall environmental impacts and other relevant information with regard to the reasonable alternatives considered in the CRP SEIS. The following briefly describes the purpose and need for the proposed changes and the alternatives considered.

Purpose and Need for the Proposed Action

The purpose of the Proposed Action is to establish the basis for regulations to implement applicable changes to CRP as specified in the 2008 Farm Bill. The need for the Proposed Action is to fulfill the FSA responsibility, as assigned by the Secretary of Agriculture (hereinafter referred to as Secretary), to administer certain conservation provisions of the 2008 Farm Bill.

Overview of CRP

CRP is the Federal Government's single largest conservation program for private lands. Through voluntary partnerships between individuals and the Federal Government, CRP provides incentives and assistance to farmers and ranchers for establishing conservation practices that have a beneficial impact on resources both on and off the farm. CRP encourages participants to voluntarily plant permanent vegetative cover on land that is subject to erosion or has the potential to provide other environmental benefits, such as water or air quality or wildlife habitat. This vegetation safeguards millions of acres of American topsoil from erosion, provides food and habitat for wildlife, and protects water quality by reducing runoff and sedimentation.

CRP provides annual rental payments and cost-share assistance to participants for establishing long-term, resource-conserving covers on eligible land. CRP, in most cases, makes annual rental payments based on the dry land agricultural rental value of the land, and provides cost-share assistance for up to 50 percent of the participant's costs in establishing approved conservation practices. In some cases additional financial incentives are provided. Participants enroll in CRP contracts for 10 to 15 years. FSA administers the program, with technical support provided by the Natural Resources Conservation Service (NRCS), U.S. Forest Service, Cooperative State Research and Education Extension Service, State forestry agencies, local Soil and Water Conservation Districts, and others.

Alternative Selection

This SEIS tiers from the 2003 PEIS and, with certain exceptions, only evaluates those changed provisions in the 2008 Farm Bill governing CRP not previously addressed. The provisions assessed in the SEIS are:

- Provision 1 (National Conservation Initiatives): In General 1985 Act, Sec. 1231(a): program purposes now explicitly recognize "addressing issues raised by State, regional, and national conservation initiatives."
- Provision 2 (Maximum Enrollment): 1985 Act, Sec. 1231(d): Enrollment authority remains at 39.2 million acres for fiscal year (FY) 2008 and FY 2009 and, for FY 2010 – 2012, the Secretary may maintain up to 32 million acres.
- Provision 3 (Alfalfa Crop History): Multi-Year Grasses and Legumes 1985 Act, Sec. 1231(g): clarifies that alfalfa in an approved rotation practice with an annual agricultural commodity can be used to fulfill the requirement that eligible land be cropped in four of the six years previous to 2008.
- Provision 4 (County Acreage Limitation Exception): 1985 Act, Sec. 1243(b): Additional authority to except cropland limit in cases limited to cropland enrolled under Continuous Signup or Conservation Reserve Enhancement Program (CREP), provided that county government agrees.
- Provision 5 (Conservation Plan Management): Duties of Owners and Operators, Conservation Plans 1985 Act, Sec. 1232(b): Clarifies conservation plan requirements to include management by the participant throughout the contract term to implement the conservation plan.

- Provision 6 (Harvesting CRP): Duties of Owners and Operators, Haying and Grazing, etc. 1985 Act, Sec. 1232(a) (7): Removes authority for managed grazing and harvest, and adds new authority for routine grazing and managed harvest (including biomass) or other commercial use of forage on the land. Authorizes prescribed grazing for control of invasive species, and emergency haying and grazing. These activities must not defeat the purpose of the CRP contract and must be consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting season for birds). A rental payment reduction commensurate with the economic value of the harvest activity is imposed, including both harvest activities and other authorized uses such as installation of wind turbines. Additional specific provisions include: managed harvest, emergency harvest and grazing, and routine grazing including prescribed grazing.
- Provision 7 (National Agricultural Statistics Service [NASS] Cash Rental Rates): Annual Rental Payments 1985 Act, Sec. 1234(c): Requires NASS annual surveys of per-acre estimates of county average market dry-land and irrigated cash rental rates for cropland and pastureland in all counties within the 50 States with 20,000 acres or more of cropland and pastureland.
- Provision 8 (Socially Disadvantaged Farmer/Rancher Incentives): Incentives for Certain Farmers and Ranchers 2008 Act, Sec 2708: Adds incentives for socially-disadvantaged farmers and ranchers and Indian tribes to increase access to conservation programs.
- Provision 9 (Pollinators Conservation): Pollinators 2008 Act, Sec 2708: Using any conservation program, the Secretary may, as appropriate, encourage the development of habitat for native and managed pollinators; and use of conservation practices (CPs) that benefit native and managed pollinators.

Alternatives Eliminated from Further Study

One alternative was initially formulated and considered during the alternatives development process that would maintain the total authorized enrollment acreage at 39.2 million acres as established in the 2002 Farm Bill; however, this alternative was eliminated from further consideration as it is inconsistent with legislation in the 2008 Farm Bill. The 2008 Farm Bill amends Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) by adding:

“During fiscal years 2010, 2011, and 2012, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any one time.”

Because the only discretion afforded by the 2008 Farm Bill concerning enrolled acres is below the 32 million acre level, it is not possible to meet the purpose and need of the Proposed Action by proposing to enroll any acreage above that level into CRP.

Alternatives Analyzed

The following list contains action alternatives for each provision determined to be reasonable, which were evaluated in detail in the CRP SEIS. The No Action Alternative, used as a baseline for comparison of the Proposed Action, would continue to implement existing CRP provisions, but maximum program acreage is 32 million acres, which is the existing condition.

List of Reasonable Action Alternatives Analyzed

Provision	Alternative 1	Alternative 2
<p>Provision 1 (National, Regional or State Conservation Initiatives)</p>	<p>This alternative would establish three new conservation initiatives (Water Resource Protection, Highly Erodible Land and Regional Restoration of Critical Wildlife Habitat Initiatives) over the course of three FYs (2010-2012). The establishment of these initiatives may require pay-as-you go (PAYGO) offsets in the U.S. Department of Agriculture (USDA) budget and reduce the acres available for General Signup for the same FYs. The establishment of new Continuous Signup conservation initiatives in addition to the seven existing initiatives would require reducing acres available for General Signup by an estimated 500,000 acres each year for FY 2010 to FY 2012, assuming the new initiatives do not include incentives such as 20 percent rental rate, signing, or practice incentives payments. State and regional needs would continue to be addressed by CREP, State Acres for Wildlife Enhancement (SAFE), and State Conservation Priority Areas (CPAs).</p>	<p>Under this alternative, no new national conservation initiatives would be established and the existing wetland initiative would be reduced. Wetland initiatives acreage includes Wetland Restoration Initiative - Floodplain (CP23) and Wetland Restoration, Non-floodplain Initiative (CP23A). These targeted wetland initiatives total 750,000 acres.</p>
<p>Provision 2 (Maximum Enrollment)</p>	<p>The maximum acreage limit would be maintained at 32 million acres apportioning 24 million for General Signup and eight million acres for Continuous Signups distributed with 2.0 million in CREP, 2.5 million in Continuous, 0.75 million in Farmable Wetlands Program (FWP), 1.0 million in SAFE and 1.75 million in initiatives.</p>	<p>Total enrolled areas would be reduced to 24 million acres, with 20 million acres for General Signup and four million acres for Continuous Signup. This reduction would be achieved by General Signup of 2.5 million acres in FY 2010, 2.5 million acres in FY 2011, and 3.5 million acres in FY 2012; seven million acres of General Signup acreage are thereby reduced through lower enrollment for this period, while CREP stays at constant levels.</p>

**List of Reasonable Action Alternatives Analyzed
(Continued)**

Provision	Alternative 1	Alternative 2
Provision 3 (Alfalfa Crop History)	Under Alternative 1, alfalfa alone in rotation with an eligible commodity would meet the CRP crop history requirement if the rotation interval is eight years consisting of at least six years of alfalfa and two years of eligible commodity.	For Alternative 2, alfalfa alone in rotation with an eligible commodity would meet the CRP crop history requirement, if the rotation interval is 12 years, consisting of at least 10 years of alfalfa and two years of eligible commodity.
Provision 4 (County Acreage Limitation Exception)	The Secretary retains the existing discretion to exceed the 25 percent total county cropland CRP and Wetlands Reserve Program (WRP) enrollment limit, but in addition under Alternative 1 may exceed the 25 percent total county cropland enrollment limit for additional Continuous, FWP, or CREP enrollment provided the effected county agrees, in addition to discretionary exceptions already allowed.	Alternative 2 would be the same as Alternative 1 except additional combined Continuous, FWP or CREP combined with WRP enrollment up to a new county cropland limit of no more than 50 percent would be imposed.
Provision 5 (Conservation Plan Management)	Conservation Plan management is required throughout the contract term and mid-contract management (MCM) tasks are to be completed only if included in the approved Conservation Plan, not on an individual CP basis. Existing provisions governing producer obligations for Conservation Plan development and implementation, cost-share and prohibition on MCM during the Primary Nesting Season (PNS) would still apply.	Conservation Plan management is required throughout the contract term, including MCM tasks if specified by the approved Conservation Plan, but would require additional MCM on certain CPs as determined by individual State Technical Committees. Existing provisions governing producer obligations for Conservation Plan development and implementation, cost-share and prohibition on MCM during the PNS would still apply.
Provision 6 (Harvesting CRP)	Only CPs that are currently authorized for managed haying or grazing, incidental grazing (gleaning), and harvest (biomass) would be authorized for routine grazing (including gleaning) and managed harvest. Managed haying is used for livestock feeding and is subject to the established duration and at a frequency for each State set forth in 2-CRP, and outside the beginning and ending dates for the primary nesting and brood rearing season as set forth by the State Technical Committee. Biomass harvest is the removal of material, thinnings, or invasive species from CRP for uses other than a livestock food source. No changes were made in the 2008 Farm Bill to emergency haying and grazing provisions. Emergency haying and grazing is authorized in response to natural disaster such as flood or drought	Alternative 2 would be the same as Alternative 1 and the same definitions apply, except CPs authorized for managed harvest or routine and prescribed grazing may be changed contingent on additional NEPA analysis.

**List of Reasonable Action Alternatives Analyzed
(Continued)**

Provision	Alternative 1	Alternative 2
<p>Provision 6 (Harvesting CRP) (Continued)</p>	<p>for the purposes of animal feed. Any change to the established PNS, period (timing) of routine grazing and harvest, length of harvest, and frequency of routine grazing and harvest by States requires individual analysis under the National Environmental Policy Act (NEPA) by those State Technical Committees desiring changes. Prescribed Grazing of specified CPs, except for CP23, CP23A, non-grass related CP25, CP27, CP31, or CP39-41, for control of invasive species other than kudzu would be allowed under this alternative and would occur only in accordance with a control plan included in the Conservation Plan. If implemented, no payment reduction would be associated with prescribed grazing to control invasive plants. Payment reduction commensurate with the economic value of the harvest or grazing activity would be estimated on a percentage basis related to percent of the year the authorized activity would occur, currently proposed at 25 percent. The FSA has determined installation of wind turbines has a net neutral cost impact to CRP participants, thus no payment reduction for installation of wind turbines would be imposed.</p>	
<p>Provision 7 (NASS Cash Rental Rates)</p>	<p>For General Signup contracts, dated December 1, 2009, and later, updated NASS rental rates would be used. Continuous Signup Incentives may be increased 20 percent. Maintenance incentives for General Signup practices are reduced to zero.</p>	<p>For all new contracts, dated December 1, 2009 and later, updated NASS rental rates would be used. Continuous Signup Incentives would remain the same. Maintenance incentives for General Signup practices are reduced to zero.</p>
<p>Provision 8 (Socially Disadvantaged Farmer/Rancher Incentives)</p>	<p>Alternative 1 would make beginning, limited resource, and socially disadvantaged farmers and ranchers and Indian tribes eligible for cost share rates at least 25 percent above otherwise applicable rates (up to 90 percent) and would provide advance payments of up to 30 percent of the amount determined for the purchase of materials and services. The USDA budget would require a PAYGO offset.</p>	<p>Alternative 2 would make beginning, limited resource, and socially disadvantaged farmers and ranchers and Indian tribes eligible for signup incentives, most likely for CPs that currently are eligible for Signup Incentive Payments (SIPs). The USDA budget would require a PAYGO offset.</p>

List of Reasonable Action Alternatives Analyzed (Continued)		
Provision	Alternative 1	Alternative 2
Provision 9 (Pollinator Conservation)	Alternative 1 would establish a new Pollinator Habitat CP, with an enrollment goal of up to five percent. Specific existing CPs would be modified to include plant species and other beneficial practices specifically for pollinators.	Only the CPs for wildlife, grass, buffer strips, windbreaks, shelterbelts, and trees would be modified to include plant species and other beneficial practices for pollinators.

Public Involvement

Responses to the Final SEIS public comments and FSA’s analyses supporting this Record of Decision are presented in the following discussion.

Although not related to the current CRP SEIS, in an interim rule published in the Federal Register on June 29, 2009 (74 FR 30907-30912), FSA requested comments on detailed environmental and other needs and goals on which CRP resources should be focused or targeted, if any unintended barriers to enrollment existed (outside of statutory provisions), and the steps that the CCC should take to remove such barriers or to streamline program participation. Comments gathered in response have been considered by FSA in development of the alternatives analyzed in the CRP SEIS and this Record of Decision.

A public notice announcing a “Notice of Intent to Prepare a Supplemental Environmental Impact Statement for the Conservation Reserve Program” was published in the Federal Register September 3, 2009 (74 FR 45606-45607), with the comment period ending October 19, 2009. Nine public scoping meetings were held in September and October 2009 to solicit comments for the development of alternatives and to identify environmental concerns. The FSA performed a density analysis of likely participation to determine those areas that would utilize the program, and meetings were planned at the locations and dates listed below. The meetings consisted of a presentation on the proposed changes, a description of the existing program and preliminary alternatives, followed by a comment period that was documented by court reporters. A project website was created where interested persons could access information on the proposed changes, the places and times of meetings, and for making comment online.

List of Public Scoping Meetings		
Date / Time	Public Scoping Meeting City	Public Scoping Meeting Location
15 September 2009 5:30 – 7:30pm	Spokane, Washington	Hilton Garden Inn Spokane Airport 9015 West SR Highway 2 Spokane, WA 99224
17 September 2009 5:00 – 7:00pm	Great Falls, Montana	Hampton Inn Great Falls 2301 14th St. SW Great Falls, MT 59404
21 September 2009 5:00 – 7:00pm	Moorhead, Minnesota	America Inn Lodge & Suites and Event Center of Moorhead 600 30th Ave. S. Moorhead, MN 56560
23 September 2009 5:00 – 7:00pm	Manhattan, Kansas	Clarion Hotel 530 Richards Drive Manhattan, KS 66502
September 25, 2009 5:00 – 7:00pm	Springfield, Illinois	Hilton Garden Inn, Springfield 3100 S. Dirksen Parkway Springfield, IL 62703
29 September 2009 5:00 – 7:00pm	Oklahoma City, Oklahoma	Oklahoma City Marriott Hotel 3233 N.W. Expressway Oklahoma City, OK 73112
1 October 2009 5:00 – 7:00pm	Clovis, New Mexico	La Quinta Inn & Suites Clovis 4521 N. Prince St. Clovis, NM 88101
6 October 2009 5:00 – 7:00pm	Albany, Georgia	Hilton Garden Inn Albany 101 S. Front Street Albany, GA 31701
8 October 2009 5:00 – 7:00pm	Harrisburg, Pennsylvania	Courtyard by Marriott Harrisburg/Hershey 725 Eisenhower Blvd. Harrisburg, PA 17111

This SEIS has taken into consideration comments gathered in the scoping process initiated with the September 3, 2009, Notice of Intent (NOI) and the June 29, 2009, Interim rule with request for comments to develop the alternatives proposed for the administration and implementation of CRP. Comments were also received from two Federal agencies and one State agency. FSA compiled and reviewed all of the comments submitted.

The availability of the Draft SEIS was announced in the Federal Register on February 19, 2010 (75 FR 7438-7440). This Notice of Availability (NOA) marked the beginning of a 45-day public comment period soliciting comments from interested persons and agencies. Comments were

