

U.S. Department of Agriculture: Publication of Interim Rule Amending and Updating the Conservation Reserve Program



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The U.S. Department of Agriculture's Commodity Credit Corporation ("CCC") recently published in the Federal Register an "interim rule" to revise the terms and conditions of the Conservation Reserve Program and implement amendments to the program required by the Agriculture Improvement Act of 2018, Pub. L. 115-334 (i.e., the 2018 Farm Bill). See 84 Federal Register 66813 (Friday, December 6, 2019).

The interim final rule is effective as of December 6, 2019, though the CCC will consider comments received on or before February 4, 2020.

The Conservation Reserve Program (or "CRP") is authorized by the Food Security Act of 1985 (Pub. L. 99-198). The CRP's purpose is to "cost-effectively assist[] producers in conserving and improving soil, water and wildlife resources, restoring wetlands by converting highly erodible and other environmentally sensitive land generally devoted to the production of agricultural commodities to a long-term vegetative cover, or improving conditions of certain grasslands." 84 Fed. Reg. 66813. The CRP is implemented, on a voluntary basis, by participants that enroll land under contract with USDA. CRP participants must maintain approved cover, including grasses and trees, or water cover, in exchange for annual rental payments and financial assistance to install certain specified conservation practices. CRP contracts vary, but generally run 10-15 years.

The Conservation Reserve Program is administered by the Farm Service Agency on behalf of the CCC. The CRP is one of the largest and most successful conservation programs. Begun in 1985, the USDA notes that the CRP "protects more than 20 million acres of American topsoil from erosion." U.S. Dep't of Agriculture, Farm Service Agency, Conservation Reserve Program: Fact Sheet (Dec. 2019).

Some, but not all, of the CCC's proposed revisions to the CRP implementing rules include:

- Addition and removal of definitions, and revision of definitions to provide clarity;
- Removal of duplicative references and duplicative requirements;
- Changes to the cropping history requirements and revisions to the eligible land provisions to ensure consistency with the 2018 Farm Bill;
- Addition of requirements for participants in the CRP program to carry out thinning and other practices on land devoted to trees;
- Addition of acreage enrollment limitations regarding incentive payments for farmable wetlands;
- Revision of prohibitions for activities authorized on CRP covered grasslands; and

- Revisions to clarify that the provisions regarding termination of a CRP contract are applicable to termination whether in whole or in part.

Additionally, the CCC added two new CRP pilot programs that were included in the 2018 Farm Bill:

- CLEAR 30: Applies to certain land devoted to specific practices and enrolled in CRP in the last year of the CRP contract. The practices are limited to those continuous sign-up practices dedicated to water quality protection by helping to reduce sediment loadings, nutrient loadings, and harmful algal blooms.
- SHIPP: Authorizes enrollment of certain cropland in the prairie pothole region of a State on a pilot basis. To be eligible the cropland must have been planted (or considered planted) with an agricultural commodity during each of the 3 preceding crop years.

A copy of the interim rule can be found [here](#) and a copy of the CRP Fact Sheet can be accessed [here](#).