

AMENDMENT #3 TO THE LAKE ERIE
CONSERVATION RESERVE ENHANCEMENT PROGRAM
AGREEMENT

BETWEEN THE U.S. DEPARTMENT OF AGRICULTURE,

THE COMMODITY CREDIT CORPORATION

AND

THE STATE OF OHIO

The purpose of this amendment to the agreement between the U.S. Department of Agriculture, the Commodity Credit Corporation, and the State of Ohio is to enhance the Lake Erie Conservation Reserve Enhancement Program Project and increase environmental benefits dated April 20, 2000

Section I. PURPOSE, is amended to read:

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 (LE) CREP.

The general goals for the Ohio Lake Erie CREP are: to significantly reduce the amount of sediment and nutrients entering the targeted watersheds from agricultural sources through a voluntary, incentive-based program; to assist Ohio in achieving the sediment and nutrient reduction goals for agriculture in the targeted area; to significantly reduce the amount of sediment and nutrients entering those watersheds; to reduce flooding severity and intensity; and to enhance wildlife habitat.

All or part of 27 Northwestern Ohio counties in the Lake Erie watershed are included in this CREP (Exhibit A). This area is known to contribute a high level of sediments and nutrients to the Western Basin of Lake Erie and its tributaries due to intensive cultivation and other agricultural activities. The entire LE CREP target area is within the FSA designated CRP Great Lakes National Conservation Priority Area (CPA).

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

Provide an opportunity for eligible producers in the targeted watersheds to voluntarily establish up to 67,000 acres of:

- Riparian area practices

- Hardwood tree plantings
- Wildlife habitat enhancement practices
- Field windbreaks
- Wetland area practices
- Filter and recharge area practices
- Certain escarpment area practices
- Restoration of rare and declining habitat

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

- Reduce sediment loading to Western Lake Erie by 825,000 metric tons over ten years.
- Improve water quality and wildlife habitat by enrolling 5,000 linear miles of streams in buffer practices.
- Reduce phosphorus loading by 20% upon reaching enrollment goals.
- Restore 6,000 acres of wetlands to improve water quality, reduce flooding, and restore wildlife habitat.
- Enhance targeted wildlife habitats (riparian, oak openings, hardwood tree planting, and wetlands) by at least 10% to benefit neo-tropical migrant birds, migratory waterfowl, state and federally listed threatened and endangered species, grassland birds and other wildlife.

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).

Section II. AUTHORITY is amended to read:

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, 2007. This agreement will provide for enrollment of CRP contracts under this CREP until that deadline, or the 67,000 acre enrollment target is reached, whichever comes first. 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.

Section III. PROGRAM ELEMENTS is amended to read as follows:

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.

B. Eligible cropland and eligible marginal pastureland may be, on a continuous basis, enrolled in the Ohio Lake Erie CREP if they meet land eligibility criteria, and conservation practice criteria, according to FSA CRP National Directives and the terms of this Agreement.

C. Conservation plans for the land enrolled in the CRP under the Ohio Lake Erie CREP shall meet criteria of the CRP regulations and FSA CRP National Directives. The eligibility criteria described in this paragraph shall be used to determine which lands may be enrolled in the CRP under the Ohio Lake Erie CREP. For the purposes of this CREP, only the following CRP practices are available:

- CP1 Establishment of Permanent Introduced Grasses and Legumes (Escarpment and Filter & Recharge Areas only) (1,500 acre goal)
- CP2 Establishment of Permanent Native Grasses (Escarpment and Filter & Recharge Areas only) (510 acre goal)
- CP3A Hardwood Tree Planting (Escarpment and Riparian Zones only) (1,175 acre goal)
- CP4D Permanent Wildlife Habitat (1,113 acre goal)
- CP5A Field Windbreak Establishment (4,293 acre goal)
- CP21 Filter Strips (12,300 acre warm season grass (WSG) goal)
- CP21 Filter Strips (32,298 acre cool season grass (CSG) goal)
- CP22 Riparian Buffer (5,700 acre goal) (Cropland and Marginal Pastureland)
- CP23 Wetland Restoration (4,361 acre goal)
- CP23A Wetland Restoration, Non-Floodplain (1,500 acre goal)
- CP25 Rare and Declining Habitat (1,500 acre goal)
- CP29 Marginal Pastureland Wildlife Habitat Buffer (500 acres)

- CP30 Marginal Pastureland Wetland Buffer (250 acres)

(Exhibit B provides current and future enrollment goals by practice).

1. Eligible Cropland – Riparian Areas

For this CREP, certain practices are available for riparian areas and drainage ditches provided the cropland is immediately adjacent to a stream or river or eligible drainage ditches and provided the practices are otherwise in accordance with CRP National Directives and additional requirements indicated under the terms of this Agreement. An eligible drainage ditch is defined as having a minimum bottom width of 3 feet, and a minimum side slope ratio of 2 feet to 1 foot.

Available cropland riparian area practices are:

- CP3A
- CP4D
- CP21
- CP22

2. Eligible Marginal Pastureland – Riparian Areas

The following practices are available for riparian areas and eligible drainage ditches provided the marginal pastureland is immediately adjacent to a stream or river or eligible drainage ditch and is otherwise eligible in accordance with FSA CRP National Directives and additional requirements provided under the terms of this Agreement. An eligible drainage ditch is defined as having a minimum bottom width of 3 feet, and a minimum side slope ratio of 2 feet to 1 foot.

Available marginal pasture land riparian area practices are:

- CP22
- CP29

3. Additional Eligibility Criteria for all Riparian Area CREP Practices

In addition to meeting land and practice eligibility requirements according to FSA CRP National Directives, eligible cropland and marginal pastureland may only be enrolled under this CREP if:

- Cropland and marginal pastureland practices enrollments are limited to a maximum average width of 300 feet.

- Cropland enrollments exceeding an average width of 150 feet up to a maximum average width of 300 feet are, in total, comprised of greater than 50 percent alluvial floodplain soils as determined by CCC.

4. Eligible Cropland in Escarpment Areas

Eligible cropland may be enrolled in the following practices:

- CP1
- CP2
- CP3A

Provided, the land is both determined by CCC to be located within an escarpment area, and meets at least one of the following criteria:

- “C” or steeper slope class for the predominant soil;
- “B” or steeper slope class with a “2” erosion designation for the predominant soil;
- “B” or steeper slope class with a 4% or greater slope for the predominant soil; or
- Area is identified by the “escarpment symbol” in the official NRCS soil survey legend.

Note: For this CREP, an “escarpment area” is a geologic land form that is a steep slope separating two comparatively level surfaces.

Additional Escarpment Area Eligibility Provision Requirements are:

- All practices are limited to a maximum average width of 350 feet;
- All enrollments are limited to, as part of the practice, not more than 10 feet upslope and/or 10 feet down-slope from the escarpment;
- All practices must be either adjacent to a riparian area or a 100-year floodplain (as defined by FEMA maps or soil survey alluvial soil maps as determined by CCC); and
- All practices must be located within a State or National CRP Conservation Priority Area.

5. Eligible Cropland in Filter and Recharge Areas

The following practices shall be available for eligible filter and recharge areas:

- CP1
- CP2

Eligible filter and recharge areas are those as determined by CCC with upland cropland filter areas where substantial sheet flow accumulates in or leaves cropped fields; or where concentrated flow, (i.e., gathered surface flow), leaves a cropped field; or where surface flow enters a watercourse via a concentrated drainage way, drop structure, culvert or subsurface drain (tile) inlet.

Additional Filter and Recharge Area eligibility provision requirements are that the filter and recharge areas must meet all of the following to be eligible, as determined by CCC:

- The site must have concentrated flow areas (carrying suspended sediment).
- The site must have sheet and/or rill erosion areas.
- All practices shall be limited to a minimum enrollment of 100 feet by 100 feet; and
- Maximum enrollment for all practices is the smaller of:
 - 4 acres
 - Maximum allowed under the contributing area/filter area table as determined by CCC.

6. Eligible Cropland – Targeted Rare and Declining Habitat Acres

For this CREP, practice CP25 is available provided the cropland is eligible according to FSA CRP National Directives, State FSA CP25 Practice Standard Requirements, and this Agreement, in all of the following counties:

- Lucas
- Fulton
- Henry

Note: Ohio CP25 includes some wetland restoration practice measures as necessary per State FSA CP25 Practice Standard Requirements on appropriate sites - - these restoration requirements shall apply to CP25 practices on appropriate sites under this CREP as determined applicable by CCC.

7. Eligible Cropland – Wetland Restoration Areas

The following practices shall be available for enrollment for cropland sites suitable for wetland restoration as determined by CCC:

- CP23

- CP23A

Eligible wetland restoration practice sites for CP23 and CP23A are sites that are eligible according to FSA CRP National Directives and include either of the following:

- Greater than 50 percent hydric soils
- Non-hydric soils comprised of greater than 50 percent hydric soil inclusions

Note: In order to be eligible, enrollment of lands in CP23 or CP23A must also help address soil erosion and/or filtering of water associated with field runoff as determined by CCC.

8. Eligible Marginal Pastureland Practices – Wetland Areas

Practice CP30 is available for enrollment for areas designated as wetland areas as determined by CCC, in accordance with FSA CRP National Directives.

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

D. The following criteria shall apply to the Ohio Lake Erie CREP State Incentive Program and to the relationship between it and CRP; CRP lands may be enrolled in the Ohio Lake Erie CREP State Incentive Program if:

1. The eligible producer enters the State program in accordance with Section V. of this Agreement, and
2. The eligible land is enrolled in any of the following practices:
 - CP3A
 - CP22
 - CP23
 - CP23A
 - CP25
 - CP30 (only if for the purpose of restoring hydrology of the site to the extent practicable)

E. 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.

F. Eligible producers will not be denied the opportunity to offer eligible acreage for enrollment into the CRP during general or continuous CRP enrollment periods.

G. No lands may be enrolled under the revised LE CREP until the USDA CREP Program Manager approves a detailed LE CREP Supplement to FSA CRP National Directives which will provide a thorough description of this program and applicable practices.

H. The continuous sign-up CRP contracts for acres enrolled in this CREP will be for a minimum of 14 years, but may not exceed a maximum of 15 years.

Section IV FEDERAL COMMITMENTS is amended to read:

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 CRP regulations, and administer those CRP contracts that are executed.

B. Consistent with the CRP regulations and FSA CRP National Directives, pay 50 percent of the eligible reimbursable costs of approved CRP conservation practices. Cost share reimbursements to participants from all sources may not exceed 100 percent of the

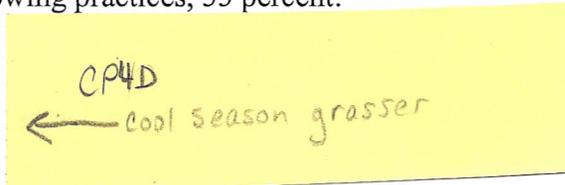
C. On a continuous basis through December 31, 2007, enroll land that meet the eligibility criteria set forth in the CRP regulations at 7 CFR Part 1410 and this Agreement.

D. Make annual rental payments otherwise applicable to the land under the CRP contract according to FSA National Directives, plus incentive payments and maintenance payments as provided in paragraphs F, G, H, I, and J, respectively, of this section. For marginal pastureland, the base rental rates for cropland will be used. No other incentive payments shall be included in the calculation of the annual rental payment. All such incentive and maintenance payments shall be considered rental payments for payment limitation purposes.

E. 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 cropland enrolled in the following practices, 55 percent:

- CP1
- CP4D
- CP21 (cool season grasses)



CP4D
← cool season grasses

2. For cropland enrolled in the following practices, 75 percent:

- CP2

- CP4D
- CP21 (warm season grasses)

← CP4D warm season grasses

3. For marginal pastureland enrolled to the following practice, 75 percent:

- CP29

4. For eligible lands devoted to wetland restoration, 100 percent:

- CP23
- CP23A
- CP30

5. For cropland devoted to the following practices, 125 percent:

- CP3A
- CP5A
- CP22
- CP25

6. For marginal pastureland devoted to the following practice, 125 percent:

- CP22

F. As part of the annual rental payment, make a maintenance payment according to FSA CRP National Directives.

G. Consistent with FSA CRP National Directives make up to a 50 percent cost-share for mid-contract management practices, as determined by CCC.

H. Make a one-time Signing Incentive Payment (SIP), for the same CRP practices as listed in and in accordance with FSA CRP National Directives. SIP allowances will be considered to be, and treated as, a rental payment for payment limitation purposes.

I. Make a one-time Practice Incentive Payment (PIP), for the same CRP practices as listed in and in accordance with FSA CRP National Directives. This payment will be considered a rental payment for payment limitation purposes.

J. For acreage enrolled in practice CP23 or CP23A, 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 or CP23A wetland restoration, and supersedes any other one-time incentive payment offered for this practice other than those provided for in F and G of this section. This payment will be considered to be, and treated as, a rental payment for payment limitation purposes.

K. 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.

L. Conduct normal annual compliance reviews to ensure compliance with the CRP contract.

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

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

Section V. STATE COMMITMENTS is amended to read:

Ohio agrees to:

A. Seek eligible producers willing to offer eligible and appropriate land for enrollment in the Ohio Lake Erie CREP.

B. Enter into a separate agreement with participants to qualify them for the State Incentive Program under the terms of this Agreement. The State Incentive Program will extend the period of conservation and environmental benefits of applicable CRP practices as indicated below for an additional 15 years beginning at the end of the CRP contract period for all participants who choose the State Incentive Program:

- CP3A
- CP22
- CP23
- CP23A
- CP25
- CP30

C. Make a one-time \$500 per acre incentive payment to all CREP participants voluntarily participating in the State Incentive Program and the Ohio Lake Erie CREP, pursuant to paragraph B of this section. The one-time payment shall be made after Ohio has been notified by the applicable FSA county office of CRP contract approval.

D. Make, with either State or private CREP partner funding, a one-time payment of up to \$40 per acre issued through the Ohio Department of Natural Resources, Division of Wildlife), to participants, provided that warm season grasses are planted in one or more of the following practices:

- CP2
- CP4D
- CP21
- CP25

- CP29
- CP30

Additional incentives may also be provided directly to participants for installation of warm season grasses by the State or other CREP partners, as applicable, and such direct payments to participants will be credited as part of the State's 20 percent matching funding (per paragraph K of this section) and reported as part of the required annual report to FSA.

E. Make a one-time, up-front \$100 per acre tree planting bonus payment, through Soil and Water Conservation Districts (SWCDs), to participants who enroll land in one or more of the following practices:

- CP3A
- CP5A
- CP22 (cropland and marginal pastureland)
- CP25 (oak savanna only)

F. Make, with either State or private CREP partner funding, a one-time incentive payment for contiguous enrollments up to \$250 per acre in the Tiffin and Blanchard watersheds for the following riparian practices:

- CP3A
- CP22

G. Make a one-time incentive payment not to exceed \$500 per acre (not to exceed \$5,000 per tract), to approved participants for enrollments of one or more of the following wetland area practices:

- CP23
- CP23A
- CP25 (wetlands only)

H. Provide a minimum of \$500,000 to SWCDs for a CREP Outreach and Enrollment Program that will be credited toward the State's 20 percent matching funds (per paragraph K of this section) and an annual summary of funds dispersed (per paragraph N of this section) as part of the annual report to FSA.

I. Pay all costs for the required annual monitoring of the Ohio Lake Erie CREP and provide a detailed annual report to FSA.

J. 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 provided needed services for practice completion; and compliance monitoring of installed practices.

K. 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 will 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. For purposes of the 20 percent obligation, the State's contribution will be deemed to include cash and in-kind contributions of private and public partners, including SWCDs, local government, and non-governmental organizations that may be attributed to the attainment of the LE CREP purposes and goals. 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.

L. Coordinate the Ohio Lake Erie CREP with other local natural resource conservation programs.

M. 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.

N. 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 non-Federal CREP program expenditures; and recommendations to improve the Ohio Lake Erie CREP.

Section VI. MISCELLANEOUS PROVISIONS is amended to read:

A. All funding commitments by USDA and Ohio are subject to the availability of funds, including funds committed by the SWCDs and the private partners. 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. Agreements between owners or operators and the State may impose additional conditions not in conflict with those under the CRP regulations and policies, but only if approved by CCC.

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, or their designees.

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 and/or omissions of any others and the results thereof.

G. This Agreement shall remain in force and effect until terminated by CCC or Ohio. This Agreement may be terminated by either party at any time for any reason after written notice. Such termination will not alter existing contractual obligations under this Agreement, between participants, Ohio, and CCC.

IT IS SO AGREED:

FOR THE U.S. DEPARTMENT OF AGRICULTURE AND THE COMMODITY
CREDIT CORPORATION



John Johnson
Deputy Administrator for Farm Programs
USDA Farm Service Agency

8-4-06

Date

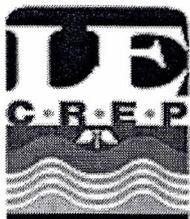
FOR THE STATE OF OHIO

Samuel W. Speck

8/1/06

Samuel W. Speck
Director
Department of Natural Resources
State of Ohio

Date

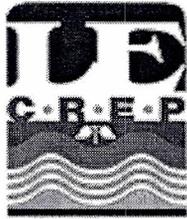


**LAKE ERIE
Conservation Reserve
Enhancement Program**

*ODNR, SWCDs & USDA
helping landowners protect
the region's natural resources*

**Exhibit A – Lake Erie CREP
Participating Counties**

1. Allen
2. Ashland
3. Auglaize
4. Crawford
5. Defiance
6. Erie
7. Fulton
8. Hancock
9. Hardin
10. Henry
11. Huron
12. Lucas
13. Lorain
14. Marion
15. Medina
16. Mercer
17. Ottawa
18. Paulding
19. Putnam
20. Richland
21. Sandusky
22. Seneca
23. Shelby
24. Van Wert
25. Williams
26. Wood
27. Wyandot



**LAKE ERIE
Conservation Reserve
Enhancement Program**

*ODNR, SWCDs & USDA
helping landowners protect
the region's natural resources*

**Exhibit B – Lake Erie CREP
Conservation Practice Goals**

Lake Erie CREP Conservation Practices	Current Enrollment (acres)	Future Enrollment (acres)	Total Enrollment Goal (acres)
CP1- Est. of Permanent Introduced Grasses & Legumes		1,500	1,500
CP2- Est. of Permanent Native Grasses		510	510
CP3A- Hardwood Tree Planting	175	1,000	1,175
CP4D- Permanent Wildlife Habitat	113	1,000	1,113
CP5A- Field Windbreak Establishment	1,793	2,500	4,293
CP21- Filter Strip (Cool season grass)	16,798	15,500	32,298
CP21- Filter Strip (Warm Season grass)	768	11,532	12,300
CP22- Riparian Buffer	1,700	4,000	5,700
CP 23 – Wetland Restoration	2,111	2,250	4,361
CP 23A- Wetland Restoration (non-floodplain)		1,500	1,500
CP 25- Rare & Declining Habitat		1,500	1,500
CP 29 – Marginal Pastureland Wildlife Habitat Buffer		500	500
CP 30 – Marginal Pastureland Wetland Buffer		250	250
TOTALS:	23,458 ac.	43,542 ac.	67,000 ac.