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# **Programmatic Environmental Assessment**

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## **Proposed Amendment to the Lake Erie Conservation Reserve Enhancement Program for Ohio**



**Farm Service Agency  
United States Department of Agriculture**

Draft  
*September 2006*



# COVER SHEET

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**Proposed Action:** The United States Department of Agriculture (USDA), Commodity Credit Corporation (CCC) and the state of Ohio have agreed to implement an Amendment to the Lake Erie Conservation Reserve Enhancement Program (CREP), a component of the Conservation Reserve Program. USDA is provided the statutory authority by the provisions of the Food Security Act of 1985, as amended (16 U.S.Code 3830 et seq.), and the Regulations at 7 Code of Federal Regulations 1410. In accordance with the 1985 Act, USDA/CCC is authorized to enroll lands through December 31, 2007. The Farm Service Agency (FSA) of USDA proposes to enter into a CREP agreement with the state of Ohio. CREP is a voluntary land conservation program for state agricultural landowners.

**Type of Document:** Programmatic Environmental Assessment

**Lead Agency:** USDA, FSA

**Sponsoring Agency:** Ohio Farm Service Agency

**Cooperating Agency:** USDA, Natural Resource Conservation Service

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**Comments:** This Programmatic Environmental Assessment was prepared in accordance with USDA FSA National Environmental Policy Act implementation procedures found in 7 CFR 799, as well as the National Environmental Policy Act of 1969, Public Law 91-190, 42 U.S.C. 4321-4347, 1 January 1970, as amended. Once this document is finalized a Notice of Availability will be printed in the Federal Register. Following the Notice of Availability FSA will provide a public comment period prior to any FSA decision. A copy of this Programmatic Environmental Assessment can be found at: <http://www.fsa.usda.gov/dafp/cepd/epb/assessments.htm>

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# 1 **EXECUTIVE SUMMARY**

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2 This Programmatic Environmental Assessment describes the potential environmental  
3 consequences resulting from the proposed implementation of a supplement to Ohio's  
4 Lake Erie Conservation Reserve Enhancement Program. The environmental analysis  
5 process is designed to ensure the public is involved in the process and informed about the  
6 potential environmental effects of a Federal action and to help decision makers take  
7 environmental factors into consideration when making decisions related to an action.

8 This Programmatic Environmental Assessment has been prepared by the United States  
9 Department of Agriculture, Farm Service Agency in accordance with the requirements of  
10 the National Environmental Policy Act of 1969, the Council on Environmental Quality  
11 regulations implementing the National Environmental Policy Act, and 7 Code of Federal  
12 Regulations 799 Environmental Quality and Related Environmental Concerns –  
13 Compliance with the National Environmental Policy Act.

## 14 **Purpose and Need for the Proposed Action**

15 The purpose of the Proposed Action is to implement an amendment to Ohio's Lake Erie  
16 Conservation Reserve Enhancement Program. The amendment would make available  
17 additional conservation practices to participating producers who enroll lands in the  
18 program. The amendment is needed to encourage enrollment to meet the 67,000 acre  
19 program goal and to address the program's goals of improving water quality, controlling  
20 soil erosion, and protecting wildlife habitat.

## 21 **Proposed Action and Alternatives**

22 The Proposed Action would implement an amendment to Ohio's Lake Erie Conservation  
23 Reserve Enhancement Program. By the end of fiscal year 2005, only about 24,000 acres  
24 of land had been enrolled in the program. In order to encourage additional enrollment  
25 and meet its environmental improvement goals, the proposed amendment would make  
26 available additional conservation practices to program participants. As with the existing  
27 Lake Erie Conservation Reserve Enhancement Program, agricultural production practices  
28 would be discontinued on up 67,000 acres of eligible farmland in the Lake Erie  
29 watersheds of northwestern Ohio and conservation practices would be established on  
30 those lands. This document has been prepared to analyze the potential environmental  
31 consequences associated with the additional conservation practices proposed by the  
32 amendment.

1 In addition to the Proposed Action, a No Action Alternative is analyzed. Under the No  
 2 Action Alternative, the Lake Erie Conservation Reserve Enhancement Program would  
 3 remain in place and the additional conservation practices proposed by its amendment  
 4 would not be made available to producers. The impacts of the Lake Erie Conservation  
 5 Reserve Enhancement Program were assessed in a programmatic environmental  
 6 assessment completed in 2005. The results of that assessment are summarized in  
 7 abbreviated form in this document for those resource areas potentially impacted by the  
 8 proposed amendment.

9 **Summary of Environmental Consequences**

10 It is expected that there would be long term positive impacts associated with the  
 11 implementation of the Proposed Action. Temporary minor negative impacts to some  
 12 resources may occur during preparation of lands for the establishment of conservation  
 13 practices. A summary of the potential impacts is given in Table ES-1.

14

15 **Table ES-1 Summary of Environmental Consequences**

Resource	Proposed Action	No Action Alternative
<b>Biological Resources</b>	Long term positive impacts to vegetation, wildlife, and threatened and endangered species are expected to occur as a result the Proposed Action. The additional conservation practices made available by the Proposed Action would make possible the establishment of native grasses, wetlands and wildlife habitat thus increasing plant species diversity and reestablishing native vegetative communities and habitat for wildlife and protected species. Improved water quality is also expected to positively impact wildlife and protected species. By making additional conservation practices available to participating producers, enrollment in the program is expected to increase resulting in positive impacts on a larger geographic scale.	The existing Lake Erie Conservation Reserve Enhancement Program allows for the establishment of conservation practices which would provide long term positive impacts to vegetation, wildlife, and threatened and endangered species through the restoration of wetlands and establishment of wildlife habit. Under the No Action Alternative the additional benefits to biological resources that are expected to result from the conservation practices proposed by the amendment would not occur.

**Table ES-1 -- Summary of Environmental Consequences (cont'd.)**

Resource	Proposed Action	No Action Alternative
<b>Water Resources</b>	<p>Long term positive impacts to surface water quality, wetlands and floodplains are expected to occur as a result of the implementation of the Proposed Action. The additional conservation practices made available by implementing the proposed action would target escarpment areas and make possible the establishment of buffers in marginal pasturelands. These conservation practices would reduce runoff of sediment, nutrients, and agricultural chemicals. Implementation of the proposed amendment may result in an increase in program enrollment, potentially resulting in positive effects on a larger geographic scale. During the establishment of conservation practices, activities that remove vegetation or disturb soil may result in temporary minor increases in runoff which may temporarily affect surface water quality.</p>	<p>The existing Lake Erie Conservation Reserve Enhancement Program would provide long term positive impacts to surface water, wetlands, and floodplains through the restoration of wetlands and establishment of filter strips and riparian buffers. Under the No Action Alternative the additional benefits to water resources that are expected to result from the conservation practices proposed by the amendment, such as the targeting of escarpment areas, would not occur.</p>
<b>Soil Resources</b>	<p>Long term positive impacts to topography and soils are expected to result from the implementation of the Proposed Action. The additional conservation practices proposed by the amendment would target escarpment areas would make available the establishment of permanent vegetation and buffers in marginal pasturelands. These practices are expected to stabilize soils, reduce erosion by wind and water, and stabilize topography. Implementation of the proposed amendment may result in an increase in program enrollment, potentially resulting in positive effects on a larger geographic scale.</p>	<p>Long term positive impacts to soil resources are expected to result from the existing Lake Erie Conservation Reserve Enhancement Program. Establishment of filter strips and buffer areas, wetlands, and field windbreaks are expected to reduce soil erosion and stabilize soils. Under the No Action Alternative the additional benefits to soil resources that are expected to result from the conservation practices proposed by the amendment, such as the targeting of escarpment areas, would not occur.</p>

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**Table ES-1 -- Summary of Environmental Consequences (cont'd.)**

<b>Resource</b>	<b>Proposed Action</b>	<b>No Action Alternative</b>
<b>Recreational Resources</b>	Implementation of the Proposed Action is expected to have long term positive impacts on recreational resources such as hunting, fishing, and wildlife watching through improvements to water quality and restoration of wetlands and rare and declining habitat. If implementation of the proposed amendment resulted in an increase in acres enrolled in the program, positive impacts to recreational resources would be expected to occur on a larger geographic scale than under the No Action Alternative.	Long term positive impacts to recreational resources are expected to occur as a result of water quality and wildlife habitat improvements. Under the No Action Alternative the benefits of the additional conservation practices proposed by the amendment (including establishment of rare and declining habitat, permanent native vegetation, and wildlife habitat buffers) would not be realized.

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## ACRONYMS AND ABBREVIATIONS

Acronym or Abbreviation	Term
Amendment	Proposed Amendment to the Lake Erie Conservation Reserve Enhancement Program
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CP	conservation practice
CREP	Conservation Reserve Enhancement Program
CRP	Conservation Reserve Program
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FIRMS	flood insurance rate maps
FSA	Farm Service Agency
LE CREP	Lake Erie Conservation Reserve Enhancement Program
NEPA	National Environmental Policy Act
NRCS	Natural Resources Conservation Service
ODNR	Ohio Department of Natural Resources
PEA	Programmatic Environmental Assessment
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service

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## 1.0 PURPOSE AND NEED

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### 1.1 Background

The United States Department of Agriculture (USDA) Farm Service Agency (FSA) administers the Conservation Reserve Program (CRP), the Federal government's largest private land environmental improvement program. CRP is a voluntary program that supports the implementation of long term conservation measures designed to improve the quality of ground and surface waters, control soil erosion, and enhance wildlife habitat on environmentally sensitive agricultural land.

The Conservation Reserve Enhancement Program (CREP) was established in 1997 under the authority of CRP to address agriculture related environmental issues by establishing conservation practices (CPs) on agricultural lands using funding from State, Tribal, and Federal governments as well as non-government sources. CREP addresses high priority conservation issues in defined geographic areas such as watersheds. Producers who enroll their eligible lands in CREP receive financial and technical assistance for establishing CPs on their land as well as annual rental payments. Once eligible lands are identified, site specific environmental reviews and consultation with and permitting from other Federal agencies are completed as appropriate.

### 1.2 The Proposed Action

FSA proposes to implement an amendment (Amendment) to the Lake Erie CREP Agreement for the State of Ohio (LE CREP). The LE CREP was proposed in 2003 (USDA 2003a) and a Programmatic Environmental Assessment (PEA), which evaluated the impacts of the program, *Final Programmatic Environmental Assessment for the Implementation of the Conservation Reserve Enhancement Program for the Western Ohio Lake Erie Region* (LE CREP PEA), was completed in March of 2005 (USDA 2005).

By the end of fiscal year 2005, only 23,953 acres had been enrolled in the LE CREP. In order to encourage additional enrollment and to meet its environmental improvement goals, an amendment to the LE CREP Agreement is proposed. The Amendment would make additional CPs available to program participants. These practices would be available on 67,000 acres in the same counties as the LE CREP. This document has been

1 prepared to analyze the potential environmental consequences associated with the  
2 additional CPs proposed by the Amendment.

### 3 **1.3 Purpose and Need**

4 The purpose of the proposed action is to implement an Amendment to the LE CREP.  
5 Under the Amendment, additional CPs would be made available to producers who enroll  
6 eligible farmland in CREP. The Amendment is needed to encourage enrollment to meet  
7 the 67,000 acre program goal and to address the CREP goals of improving water quality,  
8 controlling soil erosion, protecting wildlife habitat, and assisting the State in complying  
9 with environmental regulations that are related to agriculture.

### 10 **1.4 Regulatory Compliance**

11 This PEA is prepared to satisfy the requirements of the National Environmental Policy  
12 Act (NEPA; Public Law 91-190, 42 U.S. Code 4321 et seq.); implementing regulations  
13 adopted by the Council on Environmental Quality (CEQ; 40 Code of Federal Regulations  
14 [CFR] 1500-1508); and FSA implementing regulations, Environmental Quality and  
15 Related Environmental Concerns – Compliance with NEPA (7 CFR 799). The intent of  
16 NEPA is to protect, restore, and enhance the human environment through well informed  
17 Federal decisions. A variety of laws, regulations, and Executive Orders apply to actions  
18 undertaken by Federal agencies and form the basis of the analysis presented in this PEA.

### 19 **1.5 Organization of PEA**

20 This PEA assesses the potential impacts of the Proposed Action and the No Action  
21 Alternative on potentially affected environmental and economic resources. Chapter 1.0  
22 provides background information relevant to the Proposed Action, and discusses its  
23 purpose and need. Chapter 2.0 describes the Proposed Action and alternatives. Chapter  
24 3.0 describes the baseline conditions (i.e., the conditions against which potential impacts  
25 of the Proposed Action and alternatives are measured) for each of the potentially affected  
26 resources. Chapter 4.0 describes potential environmental consequences on these  
27 resources. Chapter 5.0 describes potential cumulative impacts and irreversible and  
28 irretrievable resource commitments. Chapter 6.0 lists the preparers of this document.  
29 Chapter 7.0 contains a list of the persons and agencies contacted during the preparation of  
30 this document and Chapter 8.0 contains references.

1 **2.0 DESCRIPTION OF PROPOSED ACTION AND**  
2 **ALTERNATIVES**

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3 FSA proposes to implement an Amendment to Ohio’s LE CREP by making additional  
4 CPs available to participating producers. This change is proposed to maximize  
5 enrollment in CREP in order to meet the program’s goals. Only those activities proposed  
6 in the Amendment, the impacts of which were not analyzed in the LE CREP PEA (USDA  
7 2005), are addressed in this PEA. Table 2-1 contains details of the LE CREP and those  
8 proposed in its Amendment.

9 **2.1 Proposed Action**

10 The Amendment does not propose change to the LE CREP area boundaries, acreage  
11 goals or funding. As with the LE CREP, the Amendment would enroll a maximum of  
12 67,000 acres in the 27 counties in Ohio’s Lake Erie watersheds: Allen, Ashland,  
13 Auglaize, Crawford, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lorain,  
14 Lucas, Marion, Medina, Mercer, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca,  
15 Shelby, Van Wert, Williams, Wood, and Wyandot.

16 The Amendment would make additional CPs available for producers who enroll lands in  
17 the program. Those CPs proposed for implementation under the Amendment which were  
18 not proposed in the LE CREP are:

- 19 ○ CP1, Permanent Introduced Grasses & Legumes (Escarpment Only)
- 20 ○ CP2, Permanent Native Grasses (Escarpment Only)
- 21 ○ CP21A, Filter Strip (filter and recharge area)
- 22 ○ CP23A, Wetland Restoration (non-floodplain)
- 23 ○ CP25, Rare and Declining Habitat
- 24 ○ CP29, Marginal Pastureland Wildlife Habitat Buffer
- 25 ○ CP30, Marginal Pastureland Wetland Buffer

26 Descriptions of the CPs, as well as land eligibility criteria are available in the FSA  
27 Handbook: Agricultural Resource Conservation Program for State and County Offices  
28 (USDA 2003b). As with the LE CREP, preparation of lands for the establishment of  
29 CPs may include removal of existing vegetation; use of equipment to prepare lands;  
30 application of nutrients, minerals, seed and approved herbicides and pesticides; and  
31 restoration of local hydrology. No land preparation activities beyond those associated  
32 with the LE CREP are anticipated.

1 **2.2 No Action Alternative**

2 Under the No Action Alternative, the LE CREP would remain in place and the additional  
 3 CPs proposed by its Amendment would not be made available to producers. The impacts  
 4 of the LE CREP were assessed in a PEA completed in 2005 and are discussed in this  
 5 PEA in order to provide a baseline against which the impacts of the Preferred Alternative  
 6 can be assessed.

7 **2.3 Resources Eliminated from Analysis**

8 CEQ regulations (40 CFR §1501.7) state that the lead agency shall identify and eliminate  
 9 from detailed study the issues which are not important or which have been covered by  
 10 prior environmental review, narrowing the discussion of these issues in the document to a  
 11 brief presentation of why they would not have a dramatic effect on the human or natural  
 12 environment.

13 The Amendment proposes to make available additional CPs to participating producers.  
 14 Because the Amendment does not include changes to funding level or geographic area,  
 15 the Socioeconomic and Environmental Justice impacts of the proposed action would be  
 16 the same as those resulting from the LE CREP. Cultural Resources and Air Quality are  
 17 not expected to be impacted by the Amendment because it does not propose changes to  
 18 land preparation techniques or additional acreage beyond the geographic area assessed by  
 19 the LE CREP PEA (USDA 2005). In consideration of this and in accordance with these  
 20 regulations, these resource areas have been eliminated from detailed analysis in this PEA.

21 **Table 2-1 Summary of Components of the 2003 LE CREP**  
 22 **Agreement and its Proposed Amendment**

	<b>LE CREP Agreement</b> <sup>1,2</sup>	<b>Proposed Amendment</b> <sup>3</sup>
<b>Acreage</b>	67,000 acres	No Change
<b>Geographic Area</b>	All or part of 27 counties in the Ohio's Lake Erie Watershed	No Change
<b>Conservation Practices</b>	<ul style="list-style-type: none"> <li>○ CP3A, Hardwood Tree Planting</li> <li>○ CP4D, Permanent Wildlife Habitat (non-easement)</li> <li>○ CP5A, Field Windbreak Establishment (non-easement)</li> <li>○ CP21, Filter Strips</li> <li>○ CP22, Riparian Buffer</li> <li>○ CP23, Wetland Restoration</li> </ul>	Additional Conservation Practices <ul style="list-style-type: none"> <li>○ CP1, Permanent Introduced Grasses &amp; Legumes (Escarpment Only)</li> <li>○ CP2, Permanent Native Grasses (Escarpment Only)</li> <li>○ CP21A, Filter Strip (filter and recharge area)</li> <li>○ CP23A, Wetland Restoration (non-floodplain)</li> <li>○ CP25, Rare and Declining Habitat</li> <li>○ CP29, Marginal Pastureland Wildlife Habitat Buffer</li> <li>○ CP30, Marginal Pastureland Wetland Buffer</li> </ul>
<b>Funding</b>	State and Federal funding for incentives and rental payments as detailed in the Lake Erie CREP Agreement	No Change

Sources: <sup>1</sup> USDA 2003a, <sup>2</sup> USDA 2005, <sup>3</sup> USDA 2006

## 1 **3.0 AFFECTED ENVIRONMENT**

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2 This chapter describes relevant existing environmental conditions for resources  
3 potentially affected by the proposed action. In compliance with guidelines contained in  
4 NEPA and CEQ regulations, the description of the affected environment focuses on those  
5 environmental resources potentially subject to impacts. Section 2.3 provides a discussion  
6 of those resources which have been eliminated from detailed analysis in this PEA.

### 7 **3.1 Biological Resources**

#### 8 **3.1.1 Definition of Resource**

9 Biological resources include plant and animal species and the habitats in which they  
10 occur. For this analysis, biological resources are divided into the following categories:  
11 vegetation; wildlife; and protected species including threatened, endangered, and  
12 sensitive species and their designated critical habitat.

#### 13 **3.1.2 Affected Environment**

##### 14 **Vegetation**

15 Ohio lies within the Eastern Broadleaf Forest Province (Bailey 1995). Its northwestern  
16 counties, which drain into Lake Erie, historically supported a variety of vegetative  
17 communities including beech forests, maple-birch-beech forests and elm-ash swamps.  
18 Today, much of the native vegetation has been cleared and extensive crop and livestock  
19 production and urban and industrial development characterize the area (EPA 2006a). A  
20 detailed description of the vegetation of the area including lists of commonly occurring  
21 species is found in Section 3.1.3 of the LE CREP PEA.

##### 22 **Wildlife**

23 The Ohio Department of Natural Resources Division of Wildlife provides management  
24 oversight to wildlife species in Ohio including land acquisition and management, harvest  
25 regulations and licensing, and research. Among the more common wildlife species that  
26 are hunted or considered watchable wildlife in the CREP area are: the American Crow,  
27 Bald Eagle, beaver, Bobolink, Canada Goose, cottontail rabbit, coyote, Eastern  
28 Meadowlark, Field Sparrow, Grasshopper Sparrow, Mourning Dove, opossum, raccoon,  
29 red fox, Ring Necked Pheasant, skunk, and Willow Flycatcher (Ohio Department of  
30 Natural Resources [ODNR] 2006a). Section 3.1.3 of the LE CREP EA provides  
31 additional discussion on the area's wildlife.

## 1 **Protected Species**

2 For this analysis, protected species include those designated by the U.S. Fish and Wildlife  
3 Service as threatened or endangered and their critical habitats as defined by the  
4 Endangered Species Act. Section 3.1.3 of the LE CREP PEA provides detailed  
5 descriptions of the Federally listed threatened and endangered animals of the area. These  
6 include Indiana bat, Bald Eagle, Piping Plover, Lake Erie water snake, copperbelly water  
7 snake, clubshell, Northern riffleshell, white cat's paw pearlymussel and Karner blue  
8 butterfly. There is designated critical habitat for the Piping Plover in the CREP area.  
9 Additionally, there are two threatened plant species: Eastern prairie fringed orchid  
10 (*Platanthera leucophaea*) and lakeside daisy (*Hymenoxys herbacea*) (USFWS 2006a).

11 The Eastern prairie fringed orchid historically occurred in a variety of habitats including  
12 mesic prairies and wetlands. It is in decline due to loss of its habitat and competition  
13 from non-native species (USFWS 2006b). The lakeside daisy is a plant of prairie  
14 grassland underlain by limestone. The primary threat to this species is loss of habitat to  
15 limestone quarrying (USFWS 2006c).

## 16 **3.2 Water Resources**

### 17 **3.2.1 Definition of Resource**

18 For this analysis, water resources include surface water, wetlands, and floodplains. The  
19 Clean Water Act, the Safe Drinking Water Act, and the Water Quality Act are the  
20 primary Federal laws that protect the nation's waters including lakes, rivers, and  
21 wetlands.

22 Surface water includes streams, rivers, and reservoirs. Impaired waters are defined by  
23 EPA as those surface waters with levels of pollutants that exceed State water quality  
24 standards (EPA 2006b). Every two years, States must publish lists, called the 303(d)  
25 lists, of those rivers, streams and lakes that do not meet their designated uses because of  
26 excess pollutants.

27 Wetlands are defined by the U.S. Army Corps of Engineers (USACE) as areas that are  
28 characterized by a prevalence of vegetation adapted to saturated soil conditions.  
29 Wetlands can be associated with groundwater or surface water and are identified based  
30 on specific soil, hydrology, and vegetation criteria defined by USACE (USACE 1987).

1 Floodplains are defined by the Federal Emergency Management Agency (FEMA) as  
2 those areas that are subject to inundation by a “100-year” flood, a flood that has a 1  
3 percent chance of being equaled or exceeded in any given year. Federal agencies are  
4 required to avoid, to the extent possible, adverse impacts associated with the occupancy  
5 and modification of floodplains and to avoid direct and indirect support of floodplain  
6 development.

## 7 3.2.2 Affected Environment

### 8 **Surface Water**

9 Surface waters affected in the LE CREP region were identified in the LE CREP PEA and  
10 include the following watersheds: Auglaize, Black-Rocky, Blanchard, Cedar-Portage,  
11 Huron-Vermilion, Lake Erie, Lower Maumee, Ottawa-Stony, Raisin, Sandusky, St.  
12 Joseph, St. Marys, Tiffin, and Upper Maumee. The watersheds comprise approximately  
13 7,040,832 acres. For figures showing the boundaries of these watersheds and the  
14 acreages of each, see Section 1.2 of the LE CREP PEA.

15 Since the preparation of the LE CREP PEA, the list of impaired waters has been updated.  
16 Table 3-1 shows the total number of impairments as well as the type of impairment for  
17 each watershed. The highlighted cells show the impairments that have changed since  
18 completion of the LE CREP PEA (EPA 2004).

### 19 **Wetlands**

20 According to the ODNR, there are approximately 315,996.50 acres of wetlands in the  
21 counties of the CREP region. For the acreages of wetlands within each county, refer to  
22 Section 3.3.3 of the LE CREP PEA. Types of wetlands include: Woods Hydric, Open  
23 Water, Shallow Marsh, Shrub Scrub, Wet Meadow, and Farmed Wetland (ODNR 1999).

### 24 **Floodplains**

25 In accordance with EO 11988, Federal agencies must review FEMA flood insurance rate  
26 maps (FIRMs) or other available floodplain maps to determine whether a proposed action  
27 is located or will impact 100-year floodplains. FIRMs are generally developed for  
28 developed and densely populated areas with flood potential and are not available for  
29 much of the CREP area. Currently only Cuyahoga and Medina counties are mapped

1 (FEMA 2006). Additional floodplain studies and maps of the remaining counties in the  
2 CREP project area may be available at the Ohio Soil and Water Conservation  
3 Commission, Ohio DNR - Geographic Information Management Systems, or town  
4 planning offices. Soil survey maps, aerial photography, and topographical maps may  
5 also be consulted where no floodplain maps are available.

## 6 **3.3 Soil Resources**

### 7 **3.3.1 Definition of Resource**

8 Soil resources include the topography of the terrain as well as the characteristics of the  
9 soils.

### 10 **3.3.2 Affected Environment**

11 The LE CREP area lies in portions of three of Ohio's five physiographic regions. In each  
12 of these the topography is generally flat. The Lake Plains Region, which borders Lake  
13 Erie coast, was once the bottom of an ancient lake and is thus extremely flat. The shore  
14 of Lake Erie is characterized by dunes and ridges resulting from changes in water levels.  
15 The Till Plain Region, which encompasses most of the western half of Ohio to its border  
16 with Indiana, is characterized by rolling topography created by glacial moraines. Bogs,  
17 kettle lakes and small hills mark the Glaciated Appalachian Plateau Region (ODNR  
18 2006b).

19 The soils of the area are glacial in origin and lie in five soil regions, named for the most  
20 common soils series in each area (ODNR 2006c). A map depicting the distributions of  
21 these soil regions is found in Appendix F of the LE CREP PEA. Soils of the Hoytville-  
22 Nappanee-Paulding-Toledo region are generally fine, very deep and range from  
23 somewhat poorly to very poorly drained. The Conotton-Conneaut-Allis series are fine,  
24 fine-silty, and loamy, are moderately to very deep and poorly drained. Soils of the  
25 Blount-Pewamo-Glynwood region are fine, very deep and range from somewhat to very  
26 poorly drained. Bennington-Cardington-Centerburg soils are fine, very deep and  
27 moderately well drained. Mahoning-Canfeld-Rittman-Chili soils are fine to loamy, very  
28 deep and moderately to well drained (NRCS 2006).

29

Table 3-1 Impaired Waters by Watersheds in the LE CREP Area

Watershed	Total Number of Impairments	General Impairment Name																										
		Other Habitat Alterations and Algal Blooms	Organic Enrichment/Low DO	Sediment/Siltation	Flow Alteration	Nutrients	Cause Unknown	Fish Consumption Advis. (Hg, PCB)	Pathogens	Unionized Ammonia	Unknown Toxicity	Priority Organics**	Oil and Grease	Thermal Modifications	Total Toxics	Chlorine	Turbidity/TDS	Taste and Odor	Noxious/Nuisance Aquatic Plants	Non-priority Organics and Raw Sewage	Impaired Biotic Communities	Fish Kills	E.Coli	Natural Limits (Wetlands)	Dissolved Oxygen	Phosphorus	Fish/Macroinvertebrate Communities Rated Poor	Beach Closures
Auglaise	55	7	7	5	4	6	2	9	6	3	2	1	-	-	-	-	-	-	-	-	2	-	1	-	-	-	-	-
Black-Rocky	36	3	5	5	1	5	1	4	6	2	2	1	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-
Blanchard	7	2	1		4	2	1	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cedar-Portage	24	3	4	5	2	1	-	3	3	-	1	-	1	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-
Huron-Vermilion	29	5	3	4	3	6	1	-	4	-	-	-	1	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-
Lake Erie	*	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Lower Maume	32	8	1	6	6	3	-	1	2	2	-	-	-	-	2	-	1	-	-	-	-	-	-	-	-	-	-	-
Ottawa-Stony	34	3	-	1	2	1	-	5	3	1	-	5	-	1	1	-	1	-	-	2	-	1	-	2	1	3	1	
Raisin	*	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Sandusky	48	6	6	10	9	9	2	3	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
St. Joseph	61	6	-	1	-	1	-	20	-	-	-	-	-	-	-	-	1	1	-	-	9	-	21	-	-	1	-	-
St. Marys	37	3	-	1	1	2	-	10	-	1	-	-	-	-	-	-	1	-	-	-	6	-	12	-	-	-	-	-
Tiffin	26	5	4	6	1	2	1	-	1	-	1	-	-	-	-	-	-	1	1	-	-	-	-	1	1	1	-	-
Upper Maumee	47	3	-	2	2	3	-	21	-	2	-	-	-	-	1	-	1	-	-	-	5	-	7	-	-	-	-	-

\*Number of Impairments are not available

\*\* Includes pesticides

Source: EPA 2004

1 **3.4 Recreation**

2 **3.4.1 Definition of Resource**

3 Recreational resources are those activities or settings either natural or manmade that are  
4 designated or available for recreational use by the public. In this analysis, recreational  
5 resources include lands and waters utilized by the public for hunting, fishing, and wildlife  
6 viewing.

7 **3.4.2 Affected Environment**

8 There are numerous recreational activities available within the CREP area to include 11  
9 state parks, 2 state forests, and 17 preserves. In addition, the Sandusky, Maumee, and  
10 Chagrin Rivers are included in the State’s Scenic Rivers Program. Recreational activities  
11 available include boating, hiking, wildlife viewing, fishing, and hunting. For a map of  
12 these recreational areas, refer to the LE CREP PEA.

13

14

## 1 **4.0 ENVIRONMENTAL CONSEQUENCES**

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### 2 **4.1 Biological Resources**

#### 3 4.1.1 Level of Impact

4 Impacts to biological resources would be considered significant if implementation of the  
5 Amendment resulted in reducing wildlife populations to a level of concern, removing  
6 lands with unique vegetation characteristics, or incidental take of protected species or  
7 their habitat.

#### 8 4.1.2 Alternative A – Preferred Alternative

9 Implementation of the Amendment is expected to result in long term positive impacts to  
10 vegetation, wildlife, and protected species beyond those resulting from the LE CREP.  
11 The Amendment is proposed to increase enrollment in CREP to its 67,000 acre goal. All  
12 biological resources would benefit from an increase in the acreage of lands enrolled in  
13 CREP. Each of the proposed CPs is expected to result in increased vegetation species  
14 diversity and the re-establishment of native vegetative communities on enrolled land.  
15 Wildlife and protected species are expected to benefit from these habitat improvements.

16 Establishment of native grasses (CP2), wetland restoration (CP23A), and the  
17 reestablishment of rare and declining habitat (CP25) would restore the natural vegetation  
18 and vegetative communities in the CREP area that have been lost to agricultural  
19 development. These practices would benefit wildlife and protected species by converting  
20 agricultural land into habitat. Establishing wetland buffers adjacent to marginal  
21 pastureland (CP30) would protect existing and newly established wetlands from runoff of  
22 sediment, organic wastes and other pollutants. This practice as well as others designed to  
23 reduce sedimentation and filter runoff (CP21A, CP29) would benefit wildlife and  
24 protected species by stabilizing soils and improving water quality.

25 All Federally protected species could benefit from the restoration of their rare and  
26 declining habitats (CP25). The Eastern prairie fringed orchid and the lakeside daisy  
27 could also benefit from the restoration of habitats realized through the establishment of  
28 permanent native grasses (CP2) and wetland restoration (CP23A). The improvements to  
29 water quality that are expected to result from implementation of the Amendment (see  
30 section 4.2 of this report for a discussion of impacts to water quality) would directly  
31 benefit the threatened and endangered mollusks and snakes that potentially occur in the

1 CREP area. Foraging habitat for Bald Eagles, Piping Plovers, and Indiana bats are also  
2 expected to be improved by benefits to water quality.

### 3 4.1.3 Alternative B – No Action Alternative

4 If the proposed Amendment were not implemented the additional CPs it proposes would  
5 not be available to producers. This could result in fewer than the maximum number of  
6 acres being enrolled in CREP. Under the No Action Alternative, producers could still  
7 enroll their lands in CREP but only in those CPs originally proposed by the LE CREP  
8 (see Table 2-1). Long term positive impacts to biological resources including vegetation,  
9 wildlife and protected species would occur as a result of the CPs proposed in the original  
10 LE CREP but the additional benefits of restoration of natural habitats (CP2, CP23A,  
11 CP25) would not be recognized.

## 12 4.2 Water Resources

### 13 4.2.1 Level of Impact

14 Impacts to water resources would be considered significant if implementation of the  
15 proposed Amendment resulted in changes to water quality, threatened or damaged unique  
16 hydrologic characteristics, or violated established laws or regulations.

### 17 4.2.2 Alternative A – Preferred Alternative

18 Implementation of the Preferred Alternative would have long term positive effects on  
19 surface water, wetlands, and floodplains. Activities such as vegetation clearing and soil  
20 disturbances, which may occur during the installation of CPs, could result in temporary  
21 and minor localized negative impacts to water quality from runoff associated with these  
22 activities. The use of filter fencing or similar best management practices would reduce or  
23 eliminate these impacts.

24 The CPs proposed under the Amendment, as well as those analyzed in the LE CREP  
25 PEA, are designed to improve surface water quality. Establishing grasses (CP1 and CP2)  
26 would stabilize soils and reduce soil erosion and the runoff of nutrients and chemicals  
27 associated with agriculture. The establishment of filter strips (CP21A) and restoring  
28 wetlands (CP23A) adjacent to watercourses would stabilize stream banks and provide  
29 areas for retention of sediment and nutrient runoff from adjacent lands. Additionally, a  
30 reduction in the use of fertilizers and pesticides is expected to occur as a result of

1 removing eligible lands from agricultural production, reducing nitrogen, phosphorous,  
2 and other agricultural chemicals in runoff.

3 Implementation of the proposed CP23A (wetland restoration) is expected to increase  
4 wetland acreage in the CREP area resulting in the containment of sediments and nutrients  
5 from runoff and reduction in stream bank destabilization. Additionally, wetlands provide  
6 valuable wildlife habitat. The positive impacts of restoring wetlands on wildlife and  
7 aquatic species are discussed in Section 4.1, Biological Resources.

8 Minor improvements in floodplain areas and stream profiles would occur from  
9 implementation of CP23A (wetland restoration) which would increase floodwater storage  
10 capacity. CPs that involve construction activities, substantial earth movement, diking, or  
11 other means of altering the flowage area would need to be reviewed and appropriate  
12 public notice provided. Applicable development permits must be obtained from local  
13 authorities prior to construction activities within a floodplain.

#### 14 **4.2.3 Alternative B – No Action Alternative**

15 Under the No Action Alternative, the additional CPs proposed under the Amendment  
16 would not be implemented. Eligible lands within the CREP area could still be enrolled in  
17 the program and CPs analyzed in the LE CREP PEA could be implemented. As analyzed  
18 in the LE CREP PEA, these CPs would result in improved water quality.

### 19 **4.3 Soil Resources**

#### 20 **4.3.1 Level of Impact**

21 Impacts to soil resources would be considered significant if implementation of the  
22 Amendment resulted in increased erosion or affected unique topographical or soil  
23 conditions.

#### 24 **4.3.2 Alternative A – Preferred Alternative**

25 Implementation of the Amendment is expected to result in long term positive impacts to  
26 topography and soil resources similar to those described in section 4.4.1 of the LE CREP  
27 PEA (USDA 2005) including stabilizing soils and reducing erosion by wind and water.  
28 In addition to those benefits, the targeting of escarpment areas for CP1 and CP2 and the  
29 availability of buffer areas and filter strips (CP21A, CP29, CP30) would provide the  
30 benefits of stabilizing topography and reducing soil loss beyond those CPs currently

1 available in the LE CREP (see Table 2-1). As described in section 4.4.1 of LE CREP  
2 PEA temporary minor impacts to soils could occur during ground disturbing activities  
3 associated with the installation of CPs. However, these impacts are not expected to differ  
4 from those that could occur as a result of the establishment of currently available CPs or  
5 from agriculture-related ground disturbing activities that could be occurring on lands  
6 eligible for enrollment in CREP.

### 7 **4.3.3 Alternative B – No Action Alternative**

8 Under the No Action Alternative, producers could still enroll their lands in CREP but  
9 only in those CPs originally proposed by the LE CREP (see table 2-1). Long term  
10 positive impacts to soil resources would occur as a result of the CPs proposed in the  
11 original LE CREP (USDA 2003a) but the additional benefits of targeting escarpment  
12 areas (CP1, CP2) and establishing filter strips and buffers (CP21A, CP29, CP30) would  
13 not be recognized. If the proposed Amendment were not implemented the additional CPs  
14 it proposes would not be available to producers, potentially resulting in less than the  
15 maximum number of acres being enrolled in CREP.

## 16 **4.4 Recreation**

### 17 **4.4.1 Level of Impact**

18 Impacts to recreation would be considered significant if they drastically increased,  
19 reduced or removed available public lands designated for recreation or significantly  
20 degraded other aspects of recreation. Impacts to environmental conditions such as water  
21 or biological resources within or near public recreational land in such a way to affect its  
22 use would also be considered significant.

### 23 **4.4.2 Alternative A – Preferred Alternative**

24 Implementation of the Preferred Alternative would have a positive long term impact on  
25 recreational resources by increasing hunting, fishing and watchable wildlife species. An  
26 increase in water quality would allow for an improvement in habitat conditions for  
27 aquatic species that in turn will increase populations of game fish.

### 28 **4.4.3 Alternative B – No Action Alternative**

29 Under the No Action Alternative, additional CPs proposed in the Amendment would not  
30 be available. Eligible lands could still be enrolled in those CPs defined in the LE CREP  
31 PEA which would improve water quality and enhance wildlife habitat in the area.

1 **5.0 CUMULATIVE EFFECTS AND IRRETRIEVABLE**  
2 **COMMITMENT OF RESOURCES**

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3 **5.1 Cumulative Effects**

4 CEQ regulations stipulate that the cumulative effects analysis consider the potential  
5 environmental impacts resulting from “the incremental impacts of the action when added  
6 to other past, present and reasonably foreseeable actions regardless of what agency or  
7 person undertakes such other actions.” Cumulative effects most likely arise when a  
8 relationship exists between a Proposed Action and other actions expected to occur in a  
9 similar location or during a similar time period. Actions overlapping with or in proximity  
10 to the Proposed Action would be expected to have more potential for a relationship than  
11 those more geographically separated. Similarly, actions that coincide, even partially, in  
12 time tend to have potential for cumulative effects.

13 The Amendment to the LE CREP proposes only to make additional CPs available to  
14 producers participating in the program. The Amendment does not affect lands beyond  
15 those analyzed in the 2005 LE CREP PEA. Section 5.1 of that document describes the  
16 Federal programs designed to prevent degradation of natural resources including the  
17 Wildlife Habitat Incentives Program, Grassland Reserve Program, Environmental Quality  
18 Incentives Program, Farm and Ranch Lands Protection Program, Grazing Lands  
19 Conservation Initiative and Wetlands Reserve Program. The analysis concludes that:  
20 *the proposed action, when considered with these past, present and reasonably*  
21 *foreseeable actions, is expected to result in positive impacts to the biological, water, soil,*  
22 *and recreational resources of the CREP area (USDA 2005).*

23 **5.2 Irreversible and Irretrievable Commitment of Resources**

24 Irreversible and irretrievable resource commitments are related to the use of  
25 nonrenewable resources and the effect that the use of these resources has on future  
26 generations. Irreversible effects primarily result from the use or destruction of a specific  
27 resource that can be replaced within a reasonable time frame. Irretrievable resource  
28 commitments involve the loss in value of an affected resource that cannot be restored as a  
29 result of the action. Section 5.2 of the LE CREP PE describes the potential loss of  
30 agricultural land as an irretrievable commitment of resources. No additional

1 commitments of such resources are expected to result from the implementation of the  
2 proposed Amendment.

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1 **6.0 LIST OF PREPARERS**

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5 B.S., Biology, Mary Washington College, 1998

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1 **7.0 PERSONS AND AGENCIES CONTACTED**

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Name	Organization
Todd Brace	U.S. Department of Agriculture
Jerry Hines	U.S. Department of Agriculture
Mary Knapp	U.S. Fish and Wildlife Service, Ohio Field Office
Matthew Ponish	U.S. Department of Agriculture
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30

**APPENDIX A:**  
Amendment to LE CREP

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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)

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

- CP2
- CP4D
- CP21 (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

\_\_\_\_\_  
Date

FOR THE STATE OF OHIO

\_\_\_\_\_  
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**

<b>Lake Erie CREP Conservation Practices</b>	<b>Current Enrollment (acres)</b>	<b>Future Enrollment (acres)</b>	<b>Total Enrollment Goal (acres)</b>
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
<b>TOTALS:</b>	<b>23,458 ac.</b>	<b>43,542 ac.</b>	<b>67,000 ac.</b>

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**APPENDIX B:**  
Conservation Practices

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## National CRP Practices

A summary of the CRP Practices proposed in the Amended LE CREP Agreement is provided below. Requirements, policy, and other detailed information for each practice can be found in the FSA Handbook: Agricultural Resource Conservation Program (USDA 2003b).

<b>Practice</b>	<b>Title</b>	<b>Purpose</b>
<b>CP1</b>	<i>Establishment of Permanent Introduced Grasses and Legumes</i>	The purpose of this practice is to establish a vegetative cover of introduced grasses and legumes on eligible cropland that will enhance environmental benefits.
<b>CP2</b>	<i>Establishment of Permanent Native Grasses</i>	The purpose of this practice is to establish a vegetative cover of native grasses on eligible cropland that will enhance environmental benefits.
<b>CP21A</b>	<i>Filter Strips, Filter and Recharge Area</i>	The purpose of this practice is to remove nutrients, sediment, organic matter, pesticides, and other pollutants from surface runoff and subsurface flow by deposition, absorption, plant uptake, denitrification, and other processes, and thereby reduce pollution and protect surface water and subsurface water quality while enhancing the ecosystem of the water body.
<b>CP23A</b>	<i>Wetland Restoration, Non-Floodplain</i>	The purpose of this practice is to restore the functions and values of wetland ecosystems that have been devoted to agricultural use. The level of restoration of the wetland ecosystem shall be determined by the producer in consultation with NRCS or TSP.
<b>CP25</b>	<i>Rare and Declining Habitat</i>	The purpose of this practice is to restore the functions and values of critically endangered, endangered, and threatened habitats. The extent of the restoration is determined by the specifications developed at the State level.
<b>CP29</b>	<i>Marginal Pastureland Wildlife Habitat Buffer</i>	The purpose of this practice is to remove nutrients, sediment, organic matter, pesticides, and other pollutants from surface runoff and subsurface flow by deposition, absorption, plant uptake, denitrification, and other processes, and thereby reduce pollution and protect surface water and subsurface water quality while enhancing the ecosystem of the water body. By restoring native plant communities, characteristics for the site will assist in stabilizing stream banks, reducing flood damage impacts, and restoring and enhancing wildlife habitat.
<b>CP30</b>	<i>Marginal Pastureland Wetland Buffer</i>	The purpose of this practice is to remove nutrients, sediment, organic matter, pesticides, and other pollutants from surface runoff and subsurface flow by deposition, absorption, plant uptake, denitrification, and other processes, and thereby reduce pollution and protect surface water and subsurface water quality while enhancing the ecosystem of the water body. The practice will enhance and/or restore hydrology and plant communities associated with existing or degraded wetland complexes. The goal is to enhance water quality, reduce nutrient and pollutant levels, and improve wildlife habitat.

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**APPENDIX C:**  
Correspondence and Comments

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