

How EPA is Letting the RFS Become a Driver of Land Conversion

Congress included land-clearing protections in the Renewable Fuel Standard (RFS) so that biofuels policy wouldn't become a driver for converting native grasslands and wetlands to feedstock production, but in failing to enforce these protections, EPA is letting the RFS lead to loss of even more native grasslands and wetlands.

The RFS contains critical protections against converting untilled lands to cropland for the sake of biofuels feedstock production; to be eligible to grow feedstocks, lands had to be “cleared or cultivated” by the date of enactment (December 19, 2007), and “non-forested.” But in effect, the EPA has chosen not to enforce these protections, letting biofuel feedstock production become another driver of land conversion.

Aggregate Compliance

In its 2010 draft rule to implement the RFS, EPA's original proposal was to require biofuel facilities to check that their feedstocks were grown on eligible cropland. But under intense pressure from the ethanol industry, EPA developed what it called an ‘aggregate compliance approach’ to the land-clearing protections in the RFS. Developed with input from USDA, aggregate compliance had three key presumptions—that crop prices wouldn't drive conversion; that land not already converted must be so marginal as to be not worthwhile to farm; and that any conversion would occur only at minimal levels.¹ These presumptions may have been true under historic crop prices, but have proven dubious under high crop prices since passage of the RFS. Under aggregate compliance, EPA set a national baseline for eligible cropland in 2007 of 402 million acres; if cropland in subsequent years exceeds the 402 million acre baseline, EPA is to require biofuel facilities to keep records and report where its feedstock were grown. EPA also set a threshold for further investigation of 397 million acres; if cropland acreage exceeds the threshold, EPA is to re-assess the presumptions on which aggregate compliance is based. EPA also established an aggregate compliance approach for Canada, with a threshold for further investigation set at 121 million acres.¹

In addition to providing no enforcement of the RFS' protections against land conversion, EPA's aggregate compliance approach contains a critical methodological flaw: it does not account for the significant amount of cropland that is lost to development. One recent estimate is that over four million acres of cropland was lost to development between 2002 and 2007.² By not reducing the 2007 baseline by the amount of cropland lost, EPA's approach systematically obscures the amount of new land that is brought into cultivation.

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Photo (left): Jim Ringelman, Ducks Unlimited. (right) Corn field encroaches on a wetland.



Land Conversion

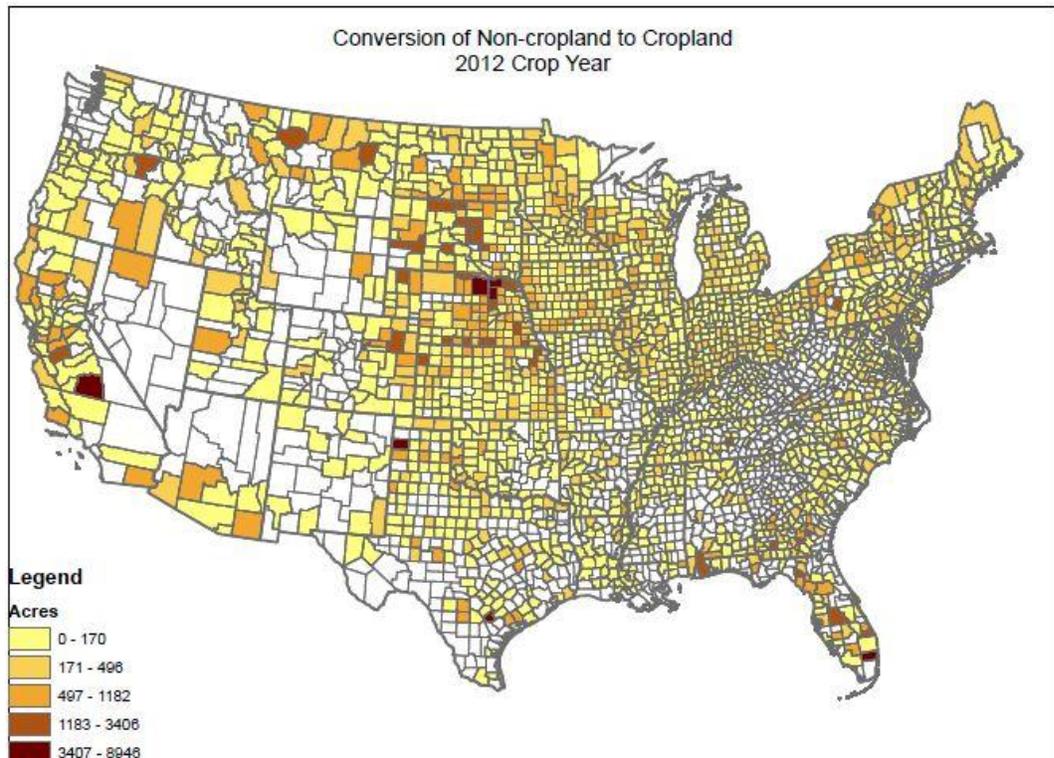
Unfortunately, the high crop prices since passage of the RFS have led to widespread conversion of untilled land. Although discounted by the ethanol industry, evidence of the conversion of native grasslands and other untilled lands comes from a range of sources. In 2008, when USDA surveyed corn and soybean farmers about their corn plantings, 16% of farmers said that they brought previously untilled land into production between 2006 and 2008, and that this land represented 30% of their additional corn acreage; farmers said that most of this previously untilled land had been in uncultivated hay. In other words, these were native prairies plowed up to plant more corn.³

In Canada, land conversion has been happening at such high rates that its total cropland is very close to exceeding the threshold that EPA set for further investigation (121 million acres). In its final 2013 determination of aggregation compliance for Canada, EPA concluded that Canada's 2012 total cropland was 120,900 acres—just 100,000 acres short of its threshold.⁴

In 2013, USDA Farm Service Agency (FSA) released data on “new breakings”—or the conversion to cropland of land that hadn't been farmed before—that had occurred between 2011 and 2012. In that one year alone, almost 400,000 acres of previously uncultivated land was converted to cropland. Obviously not all this land is converted to feedstock production, but USDA's county-level map shows that concentrations of conversions are found in ethanol-producing regions, particularly in the Prairie Pothole Region centered in the Dakotas, but also including NE Nebraska, and parts of Iowa, MN and Montana. Nebraska had over 54,000 acres of new breakings, with highest density occurring in the northeastern part of the state—much of that likely to be native grasslands.⁵

Ecologically, it is devastating to lose even more native grasslands. Less than two percent of the tallgrass prairies remain. These remaining prairies should be saved for the biodiversity, history, and beauty they contain—and for the wildlife habitat, carbon sequestration, and water quality they provide.

Clearly, enforcing the RFS' protections against land conversion won't stop all land conversion, but it would decrease one driver of native grasslands loss—and protect critical wildlife habitat.



Source: [Farm Service Agency, USDA, 2013](#).

¹EPA. 40 CFR Part 80. RIN 2060-A081 Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program Preamble to the Final Rule.

² American Farmland Trust. “[Farming on the Edge](#).”

³ USDA, Economic Research Service. 2011. [The Ethanol Decade: An Expansion of US Corn Production](#), 2000-2009.

⁴ 40 CFR Part 80 Regulation of Fuels and Fuel Additives: 2013 Renewable Fuel Standards; Final Rule.

⁵ USDA. 2013. [Farm Service Agency](#).