

Farm and Ranch Lands Protection Program Final Rule Review

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FRPP Plan and Application Period

State Conservationist develops an FRPP plan each year

- Input from State Technical Committee
- Identify Cooperating Entities
- Establish one or more ranking periods

State Conservationist announces Ranking Period
30 days prior to ranking date

Landowner Eligibility

Landowner Eligibility

- Meets AGI
 - \$1,000,000 or less in the year of funding
- Conservation Compliance
 - Highly Erodible Lands (HEL) must have a conservation compliance plan and it must be recognized in the easement deed.

Land Eligibility

- Privately owned and meets one of the criteria
 - Prime, unique or statewide or locally important soils
 - Historical or archaeological resources
 - Land furthering a State or local policy consistent with the program
- Other Considerations
 - Cropland, pastureland, wetlands and incidental lands
 - 66% of land may be forest land
 - Hazardous Materials record search
 - Severed Mineral Rights

FRPP Eligible Entity

Determine Eligibility if the Entity Applicant

- Cooperating Entity
 - Tribal government
 - State or local gov't
 - Non governmental organization (501 (c) 3
 - Must have an established farmland protection program.
 - Have pending offer(s) with the landowner(s)
 - The ability to acquire, hold, manage and enforce easements
 - Have adequate staff or agreements with others to monitor
 - Have matching cash funds available (min 25% of FRPP)

Ranking

Ranking of Parcels

- STC will have one or more application and ranking periods in a year
- All parcels offered from all entities within the application period are ranked or competed with each other
- STC makes awards to entities based on ranking of parcels (highest to lowest)

Award of Funds

Award and Obligation of Funds

- STC enters into a cooperative agreement with the entities based on the parcel ranking
 - 3 year agreement for non-certified entities (FY 11,12,13)
 - 5 year agreement for certified entities (FY 11,12,13 14,15)
 - Agreements may be amended in subsequent years to add parcels and funding.
 - States will not be amending FY 09 or FY 10 FRPP agreements
 - NRCS is discussing a process to amend only the FY11 agreements where an entity may become certified after execution of the 3 year agreement.

Certification

Entity Certification

- Final Rule clarified Entity Certification Requirements
 - STC recommends certification to the Chief
 - Makes NRCS job easier but monitoring is crucial
 - Entity must have the capacity to implement FRPP will minimal input from NRCS
 - Entity in non-compliance has 180 days to correct
 - STC may start decertification process if entity does not implement corrections.

Certification

- Certified Entities
 - Acquire, hold and manage 25 conservation easements
 - 5 must be FRPP easements
 - Five year average closing efficiency of 18 months or less
 - 50% of the parcels closed in 18 months or less.
 - Entity executes the entire acquisition process without prior NRCS review (appraisal, deed and title)
 - NRCS will review 10% of the acquisitions for compliance
 - Non-compliance the STC can decertify the entity
 - STC recommends entity for certification to the NRCS Chief who has final authority to approve or deny certification

Certification

- Specific process policy for certification of NGO's and States is being drafted
- NRCS is reviewing the Land Trust Accreditation Commission's process of accrediting NGO's to expedite NRCS' certification of accredited entities
- Entity may request certification when submitting application for funding
- The entity may request a waiver for certification when minimum requirements are not met:
 - 25 easements or 5 FRPP easements
 - 18 month or less average closing on FRPP easements

Easement Acquisition

- Entity submits deed to NRCS for review at NHQ
- Entity submits title commitment for review at State
 - For FY06, 07 and 08 funded parcels, OGC will provide a preliminary commitment
- Entity orders appraisal and submits to NRCS State office for technical review
- STC signs deed signature page to accept the deed
- Entity closes, makes payment and submits all easement documents to NRCS for reimbursement.
- Entity may request an advance of funds 14 days prior to closing.

Easement Acquisition Certified Entity

Easement Acquisition Certified Entity

- The certified entity has demonstrated the ability to implement a FRPP funded easement acquisition without review by NRCS prior to the easement closing and filing of the deed.
- After filing the easement deed, the entity will submit the filed deed, appraisal report, appraisal technical review and the title insurance policy to the NRCS State office for reimbursement.
- NRCS will review a minimum of 10% of the parcels for compliance.

Adding and Substituting Parcels

- Parcels may be amended to the agreement anytime during the fiscal year of funding
- Substitute parcels cannot be moved back to a prior fiscal year to expend unused funds.
- Substitute or new parcels cannot be added to an agreement after the close of the fiscal year.

End of Fiscal Year Parcel Rollover

STC notifies entities the unfunded parcels will be purged from the database unless the entity requests consideration for funding these in the next fiscal year.

QUESTIONS?

Public Comments on Certification 1491.4(d) through (f)
will be open thru February 23, 2011.

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