NRCS
Natural Resources Conservation Service
United States Department of Agriculture

Farm Bill 2002

Questions and Answers

September 2004

Farm and Ranch Lands Protection Program

Q. What is the Farm and Ranch Lands Protection Program (FRPP)?

A. FRPP is a voluntary Federal program that helps farmers and ranchers keep their land in agriculture. The program provides matching funds to State, Tribal, and local governments and non-governmental organizations with existing farm and ranch land protection programs to purchase conservation easements. The Natural Resources Conservation Service (NRCS) is designated as the lead agency in implementing this program.

Q. What are the major changes to FRPP in the 2002 Farm Bill?

A. The Farm Security and Rural Investment Act of 2002 (Farm Bill) expands the program beyond state and local governments to include non-governmental organizations as eligible entities. It also makes farm and ranch land containing historical and archaeological sites eligible. The 2002 Farm Bill also allows a State, Tribal, or local government or non-governmental organization to supplement its share of the easement cost through a landowner's donation.

Q. What is a conservation easement?

A. A conservation easement is an interest in land, as defined and delineated in a deed, whereby the landowner conveys specific rights, title, and interests in a property to a State, Tribal, or local government or non-governmental organization. The landowner retains those rights, title, and interests in the property which are specifically reserved to the landowner in the easement deed, such as the right to farm.

Q. What is a purchase of agricultural conservation easement (PACE) program?

A. A PACE program, sometimes referred to as a purchase of development rights program, is a voluntary farmland protection program that compensates landowners for voluntarily limiting future development of their land for non-agricultural uses. PACE programs, which are generally operated by Federal, State, and local governments or non-governmental organizations, enable landowners to sell development rights on their land to a government agency or non-governmental organization, such as a land trust, while retaining full ownership.

Q. How does a landowner participate in FRPP?

A. A landowner submits an application to an entity—a State, Tribal, or local government or a non-governmental organization—that has an existing farm or ranch land protection program. In exchange for payment, participating landowners agree not to convert their land to non-agricultural uses and to develop and implement a conservation plan for any highly erodible land. The NRCS State Conservationist, with advice from the State Technical Committee, awards funds to qualified entities to conduct their farm and ranch land protection programs. These entities acquire perpetual conservation easements from landowners.

Q. How is the value of a conservation easement determined?

A. The value of a conservation easement usually is determined through a professional appraisal. A qualified appraiser assesses the difference between the fair market value of the property, often using comparable sales, and its restricted value under the easement.

Q. What restrictions are found in a typical easement?

A. The easements generally restrict non-farm development and subdivisions. Some farm-related housing may be allowed. Generally, there are few restrictions on improvements and construction related to the farming operation. The easements become part of the land deed and are recorded in the local land records.

Q. Are all agricultural conservation easements the same?

A. The basic purpose and structure of all agricultural conservation easements are the same. However, each easement is tailored to the specific farm being protected. Exact language in the easement may reflect future expansion plans of the landowners, including the needs of their heirs.

Q. How do the easements affect other rights of ownership?

A. The landowner controls the land and use of the land according to the agricultural conservation easement. The land still is owned by the landowner and can be transferred, deeded, or sold, just as any other property. The easement does not require any provisions for public access, unless such access was negotiated as part of the easement purchase transaction.

Q. Does a conservation easement affect a farmer's ability to borrow money?

A. A farm loan usually is based on the ability of the farm operation to carry the loan. Therefore, a conservation easement, which only affects non-farm development activities, not the farm operation, should not have a bearing on the farmer's ability to borrow operating funds. If a lending institution holds a lien on a property, it must review the sale of the conservation easement just as it would need to approve any transaction on the property.

Q. What are the local property tax implications of protecting farmland with conservation easements?

A. Because the landowner still owns the property, he or she still is responsible for paying any associated property taxes. Since many states have programs that tax farmland based on its use or farm value, the net effect of the easement on local property tax revenues is little to none.

Q. How are the proceeds from the sale of a conservation easement treated for tax purposes?

A. The easement sale proceeds are treated as any other capital gain for Federal, State, and local income tax purposes. Some State or local programs have provisions that allow for installment purchases or have used securable tax-exempt bonds as a method of payment.

Q. What is the role of the Federal, State, Tribal, and local governments and non-governmental organizations?

A. Cooperating governmental or non-governmental organizations process the easement acquisition, hold, manage, and enforce easements. A Federal contingent right interest in the property must be incorporated in each easement deed to protect the Federal investment if the cooperating entity terminates, defaults, or divests itself from the easement.

Q. How much is a State, Tribal, or local government or non-governmental organization required to contribute?

A. The NRCS share of the conservation easement cannot exceed 50 percent of the appraised fair market value of the conservation easement. As part of its share of the cost of purchasing a conservation easement, a cooperating entity may include a charitable donation by the landowner not to exceed 25 percent of the appraised fair market value of the conservation easement. As a minimum, the cooperating entity shall provide, in cash, 25 percent of the appraised fair market value or 50 percent of the purchase price of the conservation easement.

Q. Could the Adjusted Gross Income provision of the 2002 Farm Bill impact my participation in FRPP?

A. Yes, if you are an individual or entity that has an average adjusted gross income exceeding $2.5 million for the three tax years immediately preceding the application year, you are not eligible to receive program benefits or payments. However, an exemption is provided in cases where 75 percent of the adjusted gross income is derived from farming, ranching, or forestry operations.

For More Information

If you need more information about FRPP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at: http://www.nrcs.usda.gov/programs/farmbill/2002/

Visit USDA on the Web at:
http://www.usda.gov/farmbill

Note: This is not intended to be a definitive interpretation of farm legislation. Rather, it is preliminary and may change as USDA develops implementing policies and procedures. Please check back for updates.