FARMLAND INFORMATION CENTER

FACT SHEET

FARM AND RANCH LANDS PROTECTION PROGRAM

American Farmland Trust

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NRCS

DESCRIPTION

The Farm and Ranch Lands Protection Program (FRPP) is a voluntary federal conservation program that provides matching funds to eligible entities to buy permanent conservation easements on farm and ranch land. The program was originally enacted in the Federal Agriculture Improvement and Reform Act of 1996. It was reauthorized and expanded in the Farm Security and Rural Investment Act of 2002. The Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill P.L.110-234) changed the purpose of the program from protecting topsoil to protecting "…the agricultural use and related conservation values of eligible land by limiting nonagricultural uses…" (16 U.S.C.§3838i). It also expanded the types of eligible entities and categories of eligible land. Most importantly, the 2008 Farm Bill changed the nature of the program from a federal real estate acquisition program to a federal financial assistance program that provides funds to entities for easement acquisitions. Funding for the FRPP comes from the Commodity Credit Corporation, the same federal entity that finances farm income support payments and conservation payments. The USDA Natural Resources Conservation Service (NRCS) manages the program.

ELIGIBILITY

Land and Landowner

To qualify for the FRPP the land must be part of a privately owned farm or ranch and must:

- Contain prime, unique or other productive soil—at least 50 percent unless otherwise determined by the State Conservationist, contain historical or archaeological resources, or support a state or local policy consistent with the purpose of the program;
- Be included in a pending offer from a state, tribal or local government or non-governmental organization's farmland protection program;
- Be covered by a conservation plan on any highly erodible cropland;
- Be large enough to sustain agricultural production;
- Be accessible to markets for what the land produces;
- Be near parcels of land that can support long-term agricultural production; and
- Be owned by an individual, legal entity or Indian Tribe that does not exceed the Adjusted Gross Income (AGI) limitation.*

Eligible land includes cropland, rangeland, grassland, pasture land or forest land that contributes to the economic viability of an agricultural operation or serves as a buffer to protect an agricultural operation from development. Forest land must not comprise more than 66 percent of the acreage submitted in the pending offer. Forest land in excess of 10 acres or 10 percent of the easement area, whichever is greater, must have a forest management plan before closing. Other incidental land may be considered eligible if inclusion is necessary for the efficient administration of a conservation easement.

Cooperating Entities

To be eligible to apply to the program, entities must:

- Be federally recognized Indian tribes, states, units of local government or non-governmental organizations that buy agricultural conservation easements for the purpose of protecting agricultural use; and
- Have pending offers for acquiring conservation easements.

For the purposes of the FRPP, "non-governmental organization" means a tax-exempt organization formed for the conservation purposes set forth in Internal Revenue Code Section 170(h)(4)(A). These purposes include the preservation of land areas for outdoor recreation, natural habitat, open space—including farmland and forest land—and the preservation of historic resources. The 2008 Farm Bill amended the definition of eligible entities to add churches, universities and hospitals. In addition, eligible entities must demonstrate:

- A commitment to long-term conservation of agricultural lands;
- A capacity to acquire, manage and enforce easements;
- Sufficient staff to monitor and enforce easements; and
- Available funds.

The 2008 Farm Bill established "certified entities" as a special class of eligible entities that have demonstrated a capacity to complete land projects using FRPP funds and an ongoing commitment to monitoring and stewardship. Certified entities can enter into longer cooperative agreements that can obligate funds for up to five years.

* Individuals or entities that have an average AGI exceeding $1.0 million for the three tax years preceding the year the contract is approved are not eligible to receive program benefits or payments. An exemption is provided in cases where 66 percent of the AGI is derived from farming, ranching or forestry operations.

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For additional information on farmland protection and stewardship, contact the Farmland Information Center. The FIC offers a staffed answer service, online library, program monitoring, fact sheets and other educational materials

www.farmlandinfo.org

(800) 370-4879

NRCS

APPLICATION PROCESS AND FUND ALLOCATION

The NRCS Chief allocates FRPP funds each year following Congressional budget approval. NRCS State Conservationists announce the availability of FRPP funds and set deadlines for ranking applications from eligible entities. Technically, FRPP operates with a continuous sign-up, but applications will be evaluated once a year, likely in late winter or early spring.

The NRCS State Conservationist ranks proposals using national and state criteria. National ranking criteria are developed by the Chief in consultation with the national program manager and consider:

- Percent of prime, unique and important farmland;
- Percent of cropland, pastureland, grassland and rangeland;
- Ratio of total acres in the parcel to be protected to average farm size in the county;
- Decrease in the percentage of acreage of farm and ranch land in the county between the last two USDA Censuses of Agriculture;
- Percent population growth;
- Population per square mile;
- Proximity to other protected land;
- Proximity to other agricultural operations and infrastructure; and
- Additional criteria as determined by the Chief.

State and local criteria are developed by the State Conservationist with advice from the state technical committee—a technical advisory group made up of individuals who represent natural resource sciences and occupations from state and federal agencies and the private sector. State and local criteria may include but are not limited to:

- Location in an area zoned for agriculture;
- Entity's experience managing and enforcing easements;
- Additional social, economic, historical and archaeological, and environmental benefits supplied by the project;
- Degree to which enrollment may help achieve national, state and regional conservation goals or enhance existing conservation projects;
- Diversity of natural resources to be protected;
- Land Evaluation and Site Assessment score;
- Existence of a farm or ranch succession plan established to encourage farm viability for future generations; and
- Landowner willingness to allow public access for recreational purposes.

The State Conservationist must now make the national and state ranking criteria available to the general public.

The State Conservationist determines the NRCS share awarded for a given project. The NRCS may pay up to 50 percent of the appraised fair market value of the easement. Cooperating entities now must provide at least 25 percent of the final negotiated purchase price. For a summary of FRPP final allocations by state to date, see pages 4 and 5.

COOPERATIVE AGREEMENTS

When a proposal from an entity is approved, the NRCS executes a cooperative agreement on behalf of the Commodity Credit Corporation. The cooperative agreement describes the transaction, the project cost, an estimate of the federal share and responsibilities of each party. Cooperative agreements can obligate funds for up to five years for certified entities and three years for other eligible entities. It includes an attachment listing the parcels selected by the State Conservationist. During their duration, cooperative agreements will be amended each fiscal year to include the list of projects receiving FRPP funds.

Eligible entities are able to use their own conservation easement deed. The NRCS, however, can establish minimum requirements as a condition for receiving funding. The easement, for instance, must contain a right of enforcement clause for the United States, which empowers the NRCS to inspect and enforce the easement if the eligible entity fails to uphold it. The right of enforcement is considered a "vested property right" and cannot be condemned by state or local governments, but this right has not been acquired by the NRCS. Instead, it is a condition the eligible entity must meet in order to receive FRPP funds. This interpretation means that federal real property acquisition requirements no longer apply.

Land subject to the easement must be managed in accordance with a conservation plan for highly erodible land developed in accordance with the standards in the NRCS Field Office Technical Guide and approved by the local conservation district. Conservation easements also must include a limit on impervious surfaces. In general, the NRCS requires a limit of 2 percent of the eased area, but the State Conservationist may grant waivers on a case-by-case basis not to exceed 10 percent.

HISTORY

The federal government's efforts to stem farmland conversion began with the passage of the

Farmland Protection Policy Act (FPPA) in 1981. The FPPA directs federal agencies to evaluate the extent to which federally funded projects lead to the conversion of agricultural land and to consider less harmful alternatives. The regulations were issued in 1994 but have failed to effectively prevent farmland conversion.

The Farms for the Future Act, adopted as part of the 1990 Farm Bill, set the precedent for federal funding by authorizing the Resources Conservation Demonstration Program. This program provided guaranteed loans and subsidized interest payments to state and local farmland protection programs. A pilot program in Vermont saved the state approximately $10.7 million in interest payments over three years.

The Federal Agriculture Improvement and Reform Act (the 1996 Farm Bill) established a Farmland Protection Program (FPP), which superseded the Farms for the Future Act, to protect farmland from conversion to nonagricultural uses. It authorized up to $35 million in matching funds over six years to state, tribal and local programs for the purchase of agricultural conservation easements and other interests in productive farmland.

The Farm Security and Rural Investment Act of 2002 (the 2002 Farm Bill) expanded the FPP to include non-governmental organizations as eligible entities, make farm and ranch land containing historical and archeological sites eligible and allow landowner donations to count as part of the entity's match. The rule renamed the program to Farm and Ranch Lands Protection Program.

The Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) changed the purpose of the program from protecting topsoil to protecting agricultural use and the conservation values of agricultural land from nonagricultural development. It expanded the types of eligible entities and categories of eligible land and changed the nature of the program from a federal real estate acquisition program to a program that provides financial assistance to entities for easement purchases. Lastly, the 2008 Farm Bill increased funding for the program. Congress authorized the following funding for each fiscal year:

- Fiscal Year 2008 $97,000,000
- Fiscal Year 2009 $121,000,000
- Fiscal Year 2010 $150,000,000
- Fiscal Year 2011 $175,000,000
- Fiscal Year 2012 $200,000,000

FUNCTIONS & PURPOSES

The FRPP provides financial support to state, local and private farm and ranch land protection efforts. These programs protect agricultural land from residential and commercial development by acquiring agricultural conservation easements on productive farmland. Conservation easements allow farmers to free capital tied up in their land while still maintaining the right to use the land for agriculture. Income from the sale of conservation easements may be used to reinvest in agricultural operations, invest for retirement and/or reduce debt. By removing the speculative value of the land, these programs may also help keep agricultural land affordable for beginning farmers. In addition, the FRPP encourages good stewardship by requiring the implementation of conservation plans on highly erodible cropland.

BENEFITS

- Provides much-needed financial assistance to state, local and private farmland protection efforts.
- Encourages the development of new farm and ranch land protection programs.
- Encourages good stewardship by requiring the implementation of conservation plans on highly erodible cropland.
- Makes the protection of farm and ranch land from conversion to other uses an NRCS issue.
- Fosters national awareness about farm and ranch land protection.

DRAWBACKS

In general, the NRCS will not enroll land previously protected by a permanent conservation easement OR land owned by an eligible entity unless ownership is transferred to a private landowner before the NRCS disburses the full FRPP payment. This has complicated and sometimes precluded preacquisitions by public entities and land trusts.

- FRPP participants and immediate family members cannot serve as voting board members for the land trust or public easement acquisition program that holds their easement. This provision has barred further service from valued board members and will prevent landowners with first-hand experience in selling easements from serving land protection organizations.
- The AGI limitation has prevented individuals and corporations who own key agricultural lands from participating.

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NRCS

FEDERAL FARM AND RANCH LANDS PROTECTION PROGRAM ALLOCATIONS

State	1996	1997	1998	2000	2001	2002	2003
Alabama	$0	$0	$0	$0	$0	$0	$1,221,901
Alaska	$0	$0	$0	$0	$0	$0	$0
Arizona	$0	$0	$0	$0	$0	$1,750,000	$0
Arkansas	$0	$0	$0	$0	$0	$0	$0
California	$2,080,000	$416,300	$1,042,000	$0	$1,117,400	$2,470,500	$3,213,682
Colorado	$1,040,000	$0	$1,042,000	$0	$540,200	$2,099,700	$3,491,161
Connecticut	$1,040,000	$0	$1,042,000	$0	$623,500	$2,101,035	$2,034,693
Delaware	$1,040,000	$0	$1,385,000	$0	$617,300	$1,956,500	$2,812,604
Florida	$453,000	$0	$625,000	$0	$729,600	$1,000,000	$3,230,596
Georgia	$0	$0	$0	$0	$0	$1,095,900	$1,136,839
Hawaii	$0	$0	$0	$0	$0	$0	$0
Idaho	$0	$0	$0	$0	$212,200	$450,000	$904,958
Illinois	$0	$0	$0	$0	$520,000	$1,319,430	$1,439,727
Indiana	$0	$0	$0	$0	$0	$901,200	$101,402
Iowa	$0	$0	$0	$0	$289,100	$766,311	$382,017
Kansas	$0	$0	$0	$0	$0	$165,000	$488,702
Kentucky	$416,000	$0	$729,000	$0	$635,800	$2,878,500	$3,136,810
Louisiana	$0	$0	$0	$0	$0	$0	$21,020
Maine	$0	$0	$375,000	$0	$663,800	$972,000	$1,141,447
Maryland	$1,555,000	$104,300	$1,457,997	$0	$718,400	$2,622,400	$5,032,549
Massachusetts	$1,040,000	$208,300	$1,250,000	$0	$637,800	$2,304,200	$2,932,471
Michigan	$1,040,000	$364,300	$1,094,000	$0	$562,200	$2,238,600	$3,102,026
Minnesota	$0	$0	$0	$0	$0	$0	$1,302,625
Mississippi	$0	$0	$0	$0	$0	$0	$0
Missouri	$0	$0	$0	$0	$0	$408,000	$1,218,553
Montana	$0	$0	$0	$0	$103,200	$1,338,400	$2,003,840
Nebraska	$0	$0	$0	$0	$0	$0	$0
Nevada	$0	$0	$0	$0	$0	$0	$0
New Hampshire	$0	$104,300	$234,000	$250,000	$527,900	$1,856,467	$1,954,102
New Jersey	$1,040,000	$208,300	$1,458,000	$0	$765,600	$2,300,928	$4,476,298
New Mexico	$0	$0	$0	$0	$0	$0	$1,423,893
New York	$416,000	$104,300	$1,458,000	$0	$440,900	$1,650,782	$2,847,539
North Carolina	$159,000	$0	$313,000	$0	$598,100	$2,193,428	$2,168,361
North Dakota	$0	$0	$0	$0	$0	$0	$701,100
Ohio	$0	$0	$0	$0	$0	$1,612,800	$2,428,786
Oklahoma	$0	$0	$0	$0	$26,000	$0	$1,199,957
Oregon	$0	$0	$0	$0	$0	$0	$1,188,484
Pennsylvania	$1,664,000	$281,300	$1,458,000	$0	$665,800	$2,870,316	$5,027,444
Rhode Island	$520,000	$0	$703,000	$0	$527,300	$1,328,600	$1,282,460
South Carolina	$0	$0	$0	$0	$299,500	$534,950	$1,186,487
South Dakota	$0	$0	$0	$0	$0	$0	$0
Tennessee	$0	$0	$0	$0	$0	$0	$0
Texas	$0	$0	$0	$0	$480,500	$0	$1,320,503
Utah	$0	$0	$0	$0	$116,500	$40,500	$1,157,901
Vermont	$1,040,000	$104,300	$1,250,000	$0	$3,452,800	$1,859,600	$2,036,124
Virginia	$104,000	$0	$0	$0	$521,800	$1,496,131	$921,344
Washington	$208,000	$0	$469,000	$0	$588,800	$2,088,422	$1,947,491
West Virginia	$0	$0	$0	$0	$0	$400,000	$1,003,992
Wisconsin	$145,000	$104,300	$615,000	$0	$518,000	$1,635,200	$1,803,867
Wyoming	$0	$0	$0	$0	$0	$0	$809,644
Pacific Basin	$0	$0	$0	$0	$0	$0	$0
Puerto Rico	$0	$0	$0	$0	$0	$0	$0
Total	$15,000,000	$2,000,000	$17,999,997	$250,000	$17,500,000	$50,705,800	$77,235,400

Figures represent funds for easement acquisitions (i.e., financial assistance) and technical assistance. Historically, technical assistance has represented approximately 3% of funds allocated to the states.

There were no allocations in fiscal year 1999.

Source: USDA Natural Resources Conservation Service Easement Programs Division

FEDERAL FARM AND RANCH LANDS PROTECTION PROGRAM ALLOCATIONS

2004	2005	2006	2007	2008	2009	Cumulative Total	State
$1,063,321	$48,104	$1,645,209	$964,625	$1,073,396	$570,387	$6,586,943	Alabama
$7,507	$0	$54,071	$443,128	$363,497	$716,873	$1,585,076	Alaska
$687,639	$18,492	$5,470	$6,982	$7,881	$131,178	$2,607,642	Arizona
$0	$1,676	$156,001	$5,698	$6,422	$20,618	$190,415	Arkansas
$3,713,015	$5,865,805	$2,444,060	$2,462,827	$6,149,543	$3,755,987	$34,731,119	California
$3,499,863	$4,527,904	$2,307,342	$2,112,600	$2,861,397	$5,700,954	$29,223,121	Colorado
$2,970,308	$3,420,407	$3,132,506	$2,925,228	$3,067,797	$5,909,290	$28,266,764	Connecticut
$4,212,200	$4,100,865	$3,179,442	$3,092,174	$6,330,496	$5,767,819	$34,494,400	Delaware
$2,855,047	$4,500,562	$1,695,786	$1,678,077	$2,278,271	$1,510,964	$20,556,903	Florida
$1,440,697	$1,588,207	$801,432	$943,664	$1,166,923	$22,582	$8,196,244	Georgia
$2,406	$2,153,520	$1,886,349	$1,116,459	$1,122,092	$339,710	$6,620,536	Hawaii
$370,492	$56,200	$618,563	$418,210	$44,096	$1,094,344	$4,169,063	Idaho
$1,767,477	$1,779,871	$1,783,486	$1,435,226	$1,848,022	$1,876,114	$13,769,353	Illinois
$7,075	$754	$824	$0	$0	$2,231	$1,013,486	Indiana
$266,660	$1,055,670	$8,370	$34,537	$7,211	$247	$2,810,123	Iowa
$119,420	$76,100	$500,126	$1,330,436	$1,364,872	$1,036,832	$5,081,488	Kansas
$2,862,143	$3,745,262	$2,452,218	$2,959,715	$2,651,474	$3,189,464	$25,656,386	Kentucky
$998	$16,437	$1,398	$6,313	$0	$1	$46,167	Louisiana
$1,566,500	$38,769	$944,359	$1,103,324	$2,272,702	$376,641	$9,454,542	Maine
$6,658,459	$8,720,347	$3,010,946	$2,962,099	$2,914,415	$4,338,428	$40,095,340	Maryland
$4,526,816	$4,746,323	$3,757,318	$3,961,185	$5,941,764	$6,094,039	$37,400,216	Massachusetts
$2,684,099	$4,163,108	$1,811,745	$1,695,365	$2,486,416	$3,012,459	$24,254,318	Michigan
$1,135,953	$1,593,018	$563,489	$701,843	$2,659,023	$3,061,214	$11,017,165	Minnesota
$0	$0	$0	$0	$0	$0	$0	Mississippi
$670,130	$628,505	$9,593	$1,256,358	$82,330	$26,436	$4,299,905	Missouri
$2,287,642	$1,260,781	$1,567,468	$935,414	$2,099,410	$2,780,313	$14,376,468	Montana
$539,022	$10,942	$139,244	$8,164	$9,738	$1,481,913	$2,189,023	Nebraska
$566,900	$1,260,437	$1,530,121	$1,960,423	$8,751	$3,626,948	$8,953,580	Nevada
$3,195,205	$3,507,384	$3,378,274	$3,339,447	$1,357,352	$3,962,125	$23,666,556	New Hampshire
$5,714,994	$6,439,064	$4,120,272	$4,740,488	$8,486,474	$6,838,653	$46,589,071	New Jersey
$434,700	$680,480	$306,922	$428,372	$27,506	$624,658	$3,926,531	New Mexico
$3,301,635	$5,713,403	$2,241,158	$1,772,001	$1,443,633	$2,530,397	$23,919,748	New York
$2,399,224	$3,664,957	$1,757,731	$1,614,567	$2,657,991	$3,021,553	$20,547,912	North Carolina
$446,496	$370,213	$415,655	$5,683	$8,467	$5,567	$1,953,181	North Dakota
$3,346,079	$3,974,570	$2,008,037	$2,856,580	$3,514,186	$3,379,364	$23,120,402	Ohio
$1,390,598	$861,287	$719,557	$79,698	$113,235	$308,892	$4,699,224	Oklahoma
$175,131	$675,783	$4,826	$574,492	$14,986	$8,066	$2,641,768	Oregon
$4,244,350	$6,899,419	$2,840,139	$3,067,978	$6,225,588	$5,823,055	$41,067,389	Pennsylvania
$2,675,154	$3,506,411	$3,816,524	$2,916,852	$1,563,560	$5,432,162	$24,272,023	Rhode Island
$1,666,904	$1,623,621	$2,369,293	$1,211,644	$430,601	$2,823,699	$12,146,699	South Carolina
$0	$271,271	$2,047	$161	$6,802	$5,219	$285,500	South Dakota
$917,922	$518,522	$551,655	$752,600	$971,002	$1,035,750	$4,747,451	Tennessee
$1,559,561	$712,585	$1,998,599	$1,525,682	$4,085,557	$2,212,904	$13,895,891	Texas
$1,201,142	$1,334,346	$473,673	$1,327,614	$526,616	$922,004	$7,100,296	Utah
$3,519,873	$3,553,722	$3,138,224	$3,048,322	$3,009,047	$3,372,551	$29,384,563	Vermont
$1,421,900	$1,733,381	$931,724	$1,091,895	$2,188,704	$1,801,825	$12,212,704	Virginia
$1,716,240	$2,112,853	$1,190,602	$1,181,980	$2,017,850	$6,096,996	$19,618,234	Washington
$1,628,585	$2,052,080	$1,933,575	$2,248,675	$2,873,475	$5,624,854	$17,765,236	West Virginia
$2,088,000	$3,592,567	$1,571,197	$1,678,137	$2,644,803	$1,501,091	$17,897,162	Wisconsin
$1,014,288	$1,245,344	$549,893	$741,616	$2,184,345	$3,848,714	$10,393,844	Wyoming
$0	$0	$0	$0	$0	$0	$0	Pacific Basin
$0	$6,341	$0	$0	$0	$0	$6,341	Puerto Rico
$90,539,770	$110,427,670	$72,326,513	$72,724,558	$95,169,717	$117,624,085	$739,503,510	**Total**

Figures represent funds for easement acquisitions (i.e., financial assistance) and technical assistance.
Historically, technical assistance has represented approximately 3% of funds allocated to the states.

There were no allocations in fiscal year 1999.

Source: USDA Natural Resources Conservation Service Easement Programs Division