



## Summary of Changes to the Farm and Ranch Lands Protection Program in the 2008 Farm Bill

The following is a brief summary of the legislative changes made to the federal Farm and Ranch Lands Protection Program (FRPP) in the Food, Conservation and Energy Act of 2008.

### Title:

- Changes the name of the program to the Farmland Protection Program

### Eligibility:

- Expands eligible entities to include those described in paragraph (1) of section 509(a) of the Internal Revenue Code;
- Expands eligible lands in two ways:
  - (1) adds a third category of eligible land in addition to land that has prime, unique or other productive soil or contains historical or archeological resources; land may now be considered eligible if its protection furthers a state or local policy consistent with the purposes of the program;
  - (2) adds forest land on a farm or ranch that either contributes to the economic viability of the agricultural operation, or serves as a buffer to protect the agricultural operation from development.

### Purpose:

- Broadens the program's purpose from protection of topsoil to protection of "the agricultural use and related conservation values of eligible land;"
- Clarifies that USDA is not acquiring a federal property interest, by stipulating that the Secretary of Agriculture shall "facilitate and provide funding for the purchase of conservation easements or other interests in eligible land."
- Requires that easements purchased with program funding include a federal contingent right of enforcement.

### Cost-share Assistance:

- Federal share continues to be limited to a maximum of 50% of appraised fair market value of the easement;
- Language on non-federal share has been changed as follows:
  - (1) Eligible entity must provide at least 25% of the acquisition purchase price;
  - (2) A charitable donation or qualified conservation from the landowner of any amount may be included as part of the non-federal share.

### Appraisals:

- Allows eligible entities to use an "industry approved" appraisal method, provided the method is approved by USDA; this provision is *effective on the date of enactment of the 2008 Farm Bill*.

### Cooperative Agreements:

- Continues use of cooperative agreements, but increases their length to:
  - (1) a minimum of 3 and maximum of 5 years for non-certified entities;
  - (2) a minimum of 5 years for certified entities;
- Allows substitution of qualified projects;
- Allows eligible entities to use their own easement terms and conditions, so long as those terms and conditions:
  - (1) Are consistent with the purposes of the program;

- (2) Permit effective enforcement of the easement;
- (3) Include a limit on impervious surfaces that is consistent with the agricultural activities to be conducted;
- Stipulates that, in the event of a violation of a cooperative agreement:
  - (1) The agreement shall remain in force; and
  - (2) USDA may require the entity to refund all or part of the funds received.

Certification:

- Creates a process for certification of eligible entities;
- Certification allows an eligible entity:
  - (1) A longer-term cooperative agreement;
  - (2) Opportunity to submit proposals for cost-share assistance throughout the duration of its cooperative agreement;
- To be certified, an eligible entity must demonstrate that, for the duration of the cooperative agreement, it:
  - (1) Has a plan for administering easements that is consistent with the program purposes;
  - (2) Has the capacity and resources to monitor and enforce easements;
  - (3) Has policies and procedures to ensure:
    - The long-term integrity of conservation easements;
    - Timely completion of easement acquisitions;
    - Timely and complete evaluation and reporting;
- Requires USDA to conduct a review every 3 years of certified entities; if the certified entity no longer meets the certification requirements, USDA may:
  - (1) Allow the entity at least 180 days to address non-compliance;
  - (2) Revoke certification if entity fails to address non-compliance.

Funding:

- Substantially increases funding for the program, as follows:
  - FY 2008: \$ 97,000,000
  - FY 2009: \$121,000,000
  - FY 2010: \$150,000,000
  - FY 2011: \$175,000,000
  - FY 2012: \$200,000,000