

# **Floodplain Reserve Program**

Summary of Discussion Draft

## **1 APPLICABILITY**

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The program is available to landowners and qualified sponsors when a federal or local agricultural emergency has been declared.

## **2 ADMINISTRATION**

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The Natural Resource Conservation Service (NRCS) administers the program. The NRCS State Conservationists will seek advice from the State Technical Committee on program administration. NRCS may enter into cooperative agreements with federal or state agencies, conservation districts, and private conservation organizations for assistance in program administration. NRCS shall consult with U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Federal Emergency Management Administration in determining land eligibility and program implementation. NRCS may allocate funds to carry out the program. NRCS may designate priority areas to address flood-related public safety concerns, assist landowners in meeting nonpoint source pollution concerns, and other conservation needs. Where the President declares an area to be a major disaster area, FEMA will lead assistance in coordination with NRCS. Where watershed impairments exist on USDA Forest Service land, the Forest Service will coordinate assistance. In all other instances, program assistance and coordination is at the discretion of the State Conservationist. Adds the State Hazard Mitigation Officer, or their designee, to the State Technical Committees.

## **3 DEFINITIONS**

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Defines relevant terms.

## **4 PROGRAM REQUIREMENTS**

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NRCS may purchase floodplain easements from eligible landowners who voluntarily cooperate. Floodplain easements purchased under this program are permanent. To participate in the program, a landowner must agree to the implementation of a Floodplain Reserve Plan of Operations (FRPO). NRCS may provide cost-share assistance for conservation practices and activities. NRCS may make assistance available upon request and at the discretion of the NRCS State Conservationist. Sets forth requirements for sponsors to participate. FRP assistance shall be applied in coordination with the Emergency Watershed Protection Program and prioritize assistance to alleviate exigency situations. Sets forth prohibited expenditures. Sets forth authorized expenditures for repair of structural, enduring, long-life conservation

practices, and other eligible practices. Sets forth required decision-making documentation. Land accepted for enrollment will be canceled if land is transferred or sold prior to the easement being perfected. Defines “farmed floodplain.” Allows NRCS to enroll acres adjacent or contiguous to eligible FRP land to maximize wildlife benefits. Requires land to be configured in and size that allow for the efficient management of the area for the program purposes. Allows land enrolled in CRP or WRP to be enrolled in the FRP so long as the CRP and WRP contract(s) are terminated or otherwise modified. Sets forth ineligible land.

## **5 APPLICATION PROCEDURES**

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Sets forth procedures for application.

## **6 ESTABLISHING PRIORITY FOR ENROLLMENT OF PROPERTIES IN FRP**

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Sets forth considerations for evaluating easement and/or restoration cost-share agreement offers from landowners. Sets forth priorities for acquiring easements. Gives discretion to the State Conservationist to determine eligibility and suitability of land for enrollment in the FRP. Sets forth funding priorities.

## **7 ENROLLMENT PROCESS**

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Sets forth process of voluntary enrollment into the FRP.

## **8 COMPENSATION FOR EASEMENTS**

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Sets forth standards for compensation and reimbursement of landowner’s expenses. Establishes that the federal contribution towards the implementation of emergency measures may not exceed 75 percent of the construction costs. If the area qualifies as a limited resources area, the federal contribution may not exceed 90 percent of such costs.

## **9 FLOODPLAINS RESERVE ENHANCEMENT PROGRAM**

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Allows establishment of third-party “enhancement” programs to target and leverage resources to address high priority floodplains for protection and restoration.

## **10 COST-SHARE PAYMENTS**

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Establishes that NRCS may pay up to 100 percent of the cost of installing and establishing the conservations practices or activities identified in the FRPO – not to exceed \$50,000 per year on any single easement.

## **11 EASEMENT PARTICIPATION REQUIREMENTS**

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Sets forth landowner requirements to maintain the FRP goals and objectives in perpetuity and grant NRCS certain rights to the property to maintain the easement for the purposes of the program.

## **12 THE FRPO DEVELOPMENT**

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Establishes that the local NRCS representative is responsible for the development of the FRPOs. Sets forth restoration and cost considerations for the development of the FRPO in line with the goals of the program. Allows FRPOs to be reviewed, revised and supplemented as needed through the duration of the enrollment.

## **13 MODIFICATIONS**

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Establishes protocols for FRPO modifications by mutual agreement with the Chief of NRCS and the participant. Requires any modification to meet FRP regulations and program objectives.

## **14 TRANSFER OF LAND**

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Establishes that if land is transferred prior to perfection of the enrollment and restoration contract, the enrollment is void.

## **15 VIOLATIONS AND REMEDIES**

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Establishes that NRCS has the right to enter the easement area and shall give notice to the landowner and time to remedy any violation of the easement agreement. Establishes that failure to correct violations and/or failure to comply with the terms of the easement agreement may result in withheld or refunded funds.

## **16 PAYMENTS NOT SUBJECT TO CLAIMS**

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Payments shall be made without regard to any claim or lien in favor of any creditor, except agencies of the U.S. Government.

## **17 ASSIGNMENTS**

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Participants may assign the right to receive cash payments, in whole or in part.

## **18 APPEALS**

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Establishes protocols for appealing any administrative determination concerning eligibility.

## **19 SCHEME AND DEVICE**

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Participants who employed a scheme or device to defeat the purposes of the FRP may be required to refund payment.

## **20 MARKET-BASED CONSERVATION INITIATIVES**

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Allows the NRCS to accept and use contributions of non-federal funds to support the program. Encourages participants to consult with NRCS prior to entering into environmental credit agreements.