

74 FR 49850-01, 2009 WL 3073723(F.R.)
NOTICES
DEPARTMENT OF AGRICULTURE
Natural Resources Conservation Service

The Secretary of Agriculture's Determination of the Primary Purpose of
the State of Florida's Agricultural Best Management Practices Program

Tuesday, September 29, 2009

AGENCY: Natural Resources Conservation Service, United States Department of Agriculture.

***49850** ACTION: Notice of Determination.

SUMMARY: The Natural Resources Conservation Service (NRCS) is providing public notice that the Secretary of Agriculture has determined that cost-share payments made under the State of Florida's Agricultural Best Management Practices Program are primarily for the purpose of conserving soil and water resources or protecting and restoring the environment. NRCS was assigned technical and administrative responsibility for reviewing the State of Florida's Agricultural Best Management Practices Program and making appropriate recommendations for the Secretary's determination of primary purpose. The Secretary made the determination for certain specific programs that are part of the State of Florida's Agricultural Best Management Practices Program ([71 FR 76965](#)).

This supplants the earlier determination and covers all cost-share components of the State of Florida's Agricultural Best Management Practices Program. This determination is in accordance with [Section 126 of the Internal Revenue Code of 1954](#), as amended ([26 U.S.C. 126](#)), and permits recipients of cost-share payments to exclude such payments from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Charles H. Bronson, Commissioner of Agriculture, Florida Department of Agriculture and Consumer Services, The Capitol, Tallahassee, Florida 32399; or Gregory K. Johnson, Director, Financial Assistance Programs Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 5241 South Building, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: Under [Section 126\(a\)\(10\) of the Internal Revenue Code](#), gross income does not include the "excludable portion" of payments received under any program of a State under which payments are made to individuals primarily for the purpose of protecting or restoring the environment. In general, a cost-share payment for selected conservation practices is exempt from Federal taxation if it meets the following three tests: (1) It was for a capital expense, (2) it does not substantially increase the operator's annual income from the property for which it is made, and (3) the Secretary of Agriculture certified that the payment was made primarily for conserving soil and water resources, protecting or restoring the environment, improving forests, or providing habitat for wildlife.

The Secretary of Agriculture evaluates a conservation program on the basis of criteria set forth in 7 CFR part 14, and makes a "primary purpose" determination for the payments made under the program. The objective of the determinations made under part 14 is to provide maximum conservation, environmental, forestry improvement, and wildlife benefits to the general public from the operation of applicable programs. Final determinations are made on the basis of program, category of practices, or individual practices. Following a primary purpose determination by the Secretary of Agriculture, the Secretary of the Treasury determines if the payments made under the conservation program substantially increases the annual income derived from the property benefited by the payments.

Determination

As provided for by [Section 126 of the Internal Revenue Code](#), the Secretary examined the authorizing legislation, regulations, and operating procedures regarding State of Florida's Agricultural Best Management Practices Program. In accordance with the criteria set out in 7 CFR part 14, the Secretary has determined the primary purpose of cost-share payments made under the State of Florida's Agricultural Best Management Practices Program is conserving soil and water resources, or protecting and restoring the environment.

The State of Florida uses the Agricultural Best Management Practices Program to provide overall water resources benefits and to protect the environment. The Florida Department of Agriculture and Consumer Services provides cost-share reimbursement for select Best Management Practices that have potential water conservation, sediment control, and water quality benefits. The objectives of the program are met through cost-shared construction of specific engineered structures, land treatment, management practices, and acquisition of specific equipment to meet environmental needs on private farmland.

A "Record of Decision" for the State of Florida's Agricultural Best Management Practices Program has been prepared and is available upon request from Gregory K. Johnson, Director, Financial Assistance Programs Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 5241 South Building, Washington, DC 20250.

Signed this 23rd day of September 2009, in Washington, DC.

Dave White,

Chief, Natural Resources Conservation Service.

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