

71 FR 76965-03, 2006 WL 3749711(F.R.)

NOTICES

DEPARTMENT OF AGRICULTURE  
Natural Resources Conservation Service

The Secretary of Agriculture's determination of the Primary  
Purpose of Specified State of Florida Conservation Programs

Friday, December 22, 2006

AGENCY: Natural Resources Service (NRCS), USDA.

**\*76965** ACTION: Notice of determination.

SUMMARY: The Natural Resources Conservation Service (NRCS) is providing public notice that the Secretary of Agriculture has determined the cost-share payments made under specific State of Florida conservation programs are primarily for the purposes 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 conservation programs and making appropriate recommendations for the Secretary's determination of primary purpose. The programs are:

- Program for Citrus, Cow/Calf, Dairies and Other Agriculture in the Lake Okeechobee Priority Basins;
- Program for Indian River Area Citrus Groves;
- Program for Interim Measures for Tri-County Agricultural Area Farms;
- Program for Interim Measures for Florida Producers of Container-Grown Plants;
- Program for Best Management Practices for Shadehouse Grown Leatherleaf Ferns;
- Nitrogen Best Management Practices Program for Florida Ridge Citrus;
- Nitrogen Interim Measure for Florida Citrus;
- Nitrogen Interim Measure for Bahiagrass and Bermuda Grass; and
- Florida Conservation Reserve Enhancement 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 from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Mr. Charles H. Bronson, Commissioner of Agriculture, Florida 32399, or Branch Chief, Environmental Improvement Programs, Natural Resources Conservation Service, 1400 Independence Avenue SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: Under [\\*76966 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 three tests: (1) It was 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 increase 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 the identified programs. 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 conservation programs (listed below) is conserving soil and water resources, or protecting and restoring the environment.

- Program for Citrus, Cow/Calf, Dairies and Other Agriculture in the Lake Okeechobee Priority Basins;
- Program for Indian River Area Citrus Groves;
- Program for Interim Measures for Tri-County Agricultural Area Farms;
- Program for Interim Measures for Florida Producers of Container-Grown Plants;
- Program for Best Management Practices for Shadehouse Grown Leatherleaf Ferns;
- Nitrogen Best Management Practices Program for Florida Ridge Citrus;
- Nitrogen Interim Measure for Florida Citrus;
- Nitrogen Interim Measure for Bahiagrass and Bermuda Grass; and
- Florida Conservation Reserve Enhancement Program.

The State of Florida uses the identified programs to provide an overall water resource benefit and to protect the environment. The Florida Department of Agriculture and Consumer Services provides reimbursement for select Best Management Practices that have potential water conservation, sediment control, and water quality benefits. The

objectives of the programs are met through cost-shared construction of specific engineered structures, land treatment, management practices, and/or acquisition of specific equipment to meet environmental needs on private farmland.

A "Record of Decision" for each identified program has been prepared and is available upon request from the Branch Chief, Environmental Improvement Programs, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Washington, DC 20250.

Arlen L. Lancaster,

Chief

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