

**Finding of No Significant Impact for the Programmatic Environmental Assessment (EA)
on the
Interim Final Rule for the Farm and Ranch Lands Protection Program (FRPP)**

I. AGENCY ROLE AND RESPONSIBILITY - United States Department of Agriculture (USDA) – Natural Resources Conservation Service (NRCS)

In accordance with the NRCS regulations (36 Code of Federal Regulations 650) implementing the National Environmental Policy Act (NEPA), NRCS has completed an environmental review of the following proposed action.

The proposed action is promulgation of the Interim Final Rule for FRPP as required by the Food, Conservation, and Energy Act of 2008 (hereafter referred to as the 2008 Act).

II. NRCS DECISION TO BE MADE

As Chief of the NRCS, I must make the following decision:

1. Develop rules to implement FRPP.

I must also determine if the Agency's preferred alternative (Alternative 2) will or will not be a major Federal action significantly affecting the quality of the human environment. The Programmatic EA accompanying this finding has provided the analysis needed to assess the significance of the potential impacts from the selected alternative. The decision on which alternative is to be implemented and the significance of that alternative's impacts are under Part VI of this finding.

III. PURPOSE AND NEED FOR ACTION

The purpose of the FRPP is to enable NRCS to provide Federal assistance to reduce the conversion of productive farm and ranch land to non-agricultural uses. NRCS' underlying need for action (rule promulgation) is to implement the FRPP according to the statutory requirements mandated by Congress in the 2008 Act. The need to which the program is responding is the need to purchase conservation easements or other interests as authorized by Congress in order to:

- (1) Help protect the Nation's agriculture use related conservation values and provide the food and fiber necessary for the continued welfare of the people of the United States;
- (2) Slow the irrevocable conversion of the Nation's farmland from actual or potential agricultural use to nonagricultural use;
- (3) Maintain the ability of the United States to produce food and fiber in sufficient quantities to meet domestic needs and the demands of our export markets;
- (4) Sustain rural economic stability and development;
- (5) Maintain, restore, and enhance ecosystems; and

- (6) Protect historic landscapes and scenic beauty.

IV. ALTERNATIVES CONSIDERED IN THE PROGRAMMATIC EA

Two alternatives were analyzed in the Programmatic EA and are characterized as follows:

Alternative 1: No Action – No Implementation of FRPP

Alternative 2: Agency Preferred Alternative – FRPP is implemented according to the new 2008 Act requirements under Interim Final Rule developed by NRCS.

V. NRCS' DECISION AND FACTORS CONSIDERED IN THE DECISIONS

Based on the evaluation in the Programmatic EA, I have chosen to select Alternative 2 as the Agency's Preferred Alternative. I have taken into consideration all of the potential impacts of the proposed action incorporated herein by reference from the Programmatic EA and balanced those impacts with considerations of the Agency's purpose and need for action.

In accordance with the Council on Environmental Quality's (CEQ) "40 Most Asked Questions" guidance on NEPA, Question 37(a), NRCS has considered "which factors were weighed most heavily in the determination" when choosing the Agency Preferred Alternative (Alternative 2) to implement. Specifically, I acknowledge that based on the Programmatic EA, potential impacts to soil, water, air, plants, fish and wildlife, and human resources were heavily considered in the decision. As a result, the Agency's Preferred Alternative (Alternative 2) would result in an overall net beneficial impact to the human environment based on all factors considered.

VI. FINDING OF NO SIGNIFICANT IMPACT

To determine the significance of the action analyzed in this Programmatic EA, the Agency is required by NEPA, 40 CFR 1508.27 and NRCS 36 CFR Part 650 to consider the context and intensity of the proposed action. Based on the Programmatic EA, review of the NEPA criteria for significant effects, and based on the analysis in the Programmatic EA, I have determined that the action to be selected, Alternative 2 (Agency Preferred Alternative), would not have a significant effect upon the quality of the human environment. Therefore, preparation of an Environmental Impact Statement (EIS) on the final action is not required under Section 102(2)(c) of the NEPA, CEQ implementing regulations (40 CFR Part 1500-1508, 1508.13), or NRCS environmental review procedures (7 CFR Part 650). This finding is based on the following factors from CEQ's implementing regulations at 40 CFR Part 1508.27 and from NRCS regulations at 7 CFR Part 650:

- 1) The Programmatic EA evaluated both beneficial and adverse impacts of the proposed action. It is anticipated though that Alternative 2 will result in a direct socioeconomic impact by providing funds to farmers to protect valuable farm and ranch lands. It is also anticipated for there to be long term beneficial impacts for environmental resources (i.e., soil, air, water, animals, plants and human resources). Alternative 2 does not result in

significant impacts to the human environment, particularly when focusing on the significant adverse impacts which NEPA is intended to help decisionmakers avoid, minimize, or mitigate. Therefore, there are no significant adverse effects associated with Alternative 2 either directly from this rulemaking action, indirectly, or cumulatively from implementation of FRPP.

- 2) Alternative 2 does not significantly affect public health or safety as discussed in Section 4. The indirect effects associated with the application of conservation practices associated with FRPP easement lands containing Highly Erodible Land are anticipated to provide long term beneficial impacts to improve natural ecosystem functions. Specifically, soil, water, air, fish and wildlife, plants, and cultural resource issues will be improved through selection of Alternative 2.
- 3) As analyzed in Section 4, there are no anticipated significant effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas from selection of Alternative 2. NRCS regulations (7CFR Part 650) and policy (GM 420 Part 401) require that NRCS identify, assess, and avoid effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. In accordance with these requirements, it is not anticipated that implementing FRPP would have adverse effects on these resources.
- 4) The effects on the human environment are not considered controversial for Alternative 2. Public comments from 52 Farm Bill Forums were reviewed in preparing the Programmatic EA, and there were no issues raised by the public considered to be controversial.
- 5) Alternative 2 is not considered highly uncertain and does not involve unique or unknown risks. NRCS has implemented FRPP for the previous 11 years as discussed in the Programmatic EA. The 2008 Act will continue along the course of the existing program with minor changes noted in the Programmatic EA. The effects of the conservation practices that may be applied are analyzed from a broad scale national perspective in the Programmatic EA and have been detailed in the practice effects network diagrams incorporated by reference in the Programmatic EA. The conservation practices are also vetted through NRCS practice standards development system. Practice standards are developed based on field application and periodic monitoring, review, and revision as new technologies emerge to ensure they perform as anticipated.
- 6) Alternative 2 will not establish a precedent for future actions with significant effects, nor does it represent a decision in principle about future considerations. The proposed action will be carried out through fiscal year 2012, at which time the Farm Bill will be revised to address the issues relevant at that time.

- 7) Alternative 2 will not result in individually or cumulatively significant impacts on the environment as discussed in Section 4.8. Particularly when focusing on the significant adverse impacts which NEPA is intended to help decisionmakers avoid, minimize, or mitigate, Alternative 2 does not result in significant adverse cumulative impacts to the human environment. Alternative 2 is, however, anticipated to result in beneficial long-term impacts as a result of protection of valuable agricultural lands through the purchase of conservation easements under FRPP.
- 8) Alternative 2 will not cause the loss or destruction of significant scientific, cultural, or historical resources as addressed in Section 4.6 of the Programmatic EA. NRCS follows the procedures developed in accordance with a nationwide programmatic agreement between NRCS, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers, which called for NRCS to develop consultation agreements with State Historic Preservation Officers and federally recognized tribes (or their designated Tribal Historic Preservation Officers). These consultation agreements focus historic preservation reviews on resources and locations that are of special regional concern to these parties.
- 9) Alternative 2 will not adversely affect endangered or threatened species, marine mammals, or critical habitat as discussed in Section 4.5 of the Programmatic EA. NRCS regularly consults with the Fish and Wildlife Service and/or National Marine Fisheries Service to ensure these species are not jeopardized or that there are no adverse modifications to designated critical habitat. Alternative 2 may protect, enhance, conserve, and restore endangered and threatened species and their critical habitat through FRPP easements.
- 10) The proposed action does not violate Federal, State, or local law requirements imposed for protection of the environment as noted in Section 4.0 of the Programmatic EA. The major laws identified with the selection of Alternative 2 include the Clean Water Act, Clean Air Act, Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act, National Historic Preservation Act, the Marine Mammal Protection Act, the Executive Order on Environmental Justice, and the Migratory Bird Treaty Act. Alternative 2 is consistent with the requirements of these laws.

Based on the information presented in the attached FRPP Programmatic EA, I find in accordance with CFR Part 1508.13 that the selection of the Preferred Alternative (Alternative 2) is not a Major Federal Action significantly affecting the quality of the human environment requiring preparation of an EIS.



Arlen L. Lancaster
Chief, Natural Resources Conservation Service
U.S. Department of Agriculture

JANUARY 9, 2009
Date