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**DEPARTMENT OF AGRICULTURE**

**Natural Resources Conservation Service**

**[Docket No. NRCS-2015-0008]**

**The Secretary of Agriculture's Determination of the Primary Purpose of the Southwest Florida Water Management District's Facilitating Agricultural Resource Management Systems Program, Mini-FARMS Program, Flow Meter Reimbursement Program, Quality of Water Improvement Program, and Back- Plugging Funding Assistance Initiative**

**AGENCY:** Natural Resources Conservation Service (NRCS), USDA.

**ACTION:** Notice of Determination

**SUMMARY:** The Natural Resources Conservation Service is providing public notice that the Secretary of Agriculture has determined that cost-share payments made by the Southwest Florida Water Management District (SWFWMD) through its Facilitating Agricultural Resource Management Systems (FARMS) Program, Mini-FARMS Program, Flow Meter Reimbursement Program, Quality of Water Improvement Program (QWIP), and Back-Plugging Funding Assistance Initiative are primarily for the purpose of conserving soil and water resources or protecting and restoring the environment. SWFWMD is a political subdivision of the State of Florida. NRCS was assigned technical and administrative responsibility for reviewing SWFWMD's FARMS Program, Mini-FARMS Program, Flow Meter Reimbursement Program, QWIP, and Back- Plugging Funding Assistance Initiative, and for making appropriate recommendations for the Secretary's determination of primary purpose. The Secretary made the determination for the State of Florida's Agricultural Best Management Practices Program, which is a counterpart to SWFWMD's FARMS Program (74 FR 49850).

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.

**ADDRESSES:** A “Record of Decision” for SWFWMD’s FARMS Program, Mini-FARMS Program, Flow Meter Reimbursement Program, QWIP, and Back-Plugging Funding Assistance Initiative has been prepared and is available upon request from Mark Rose, Director, Financial Assistance Programs Division, Natural Resources Conservation Service, 1400 Independence Avenue, S.W., Room 5237 South Building, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Robert Beltran, Executive Director, Southwest Florida Water Management District, Phone: (352) 796-7211; or Mark Rose, Director, Financial Assistance Programs Division, Natural Resources Conservation Service. Phone: (202) 720-1844.

**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, or a political subdivision 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 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 determination 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 SWFWMD, a political subdivision of the State of Florida, and its FARMS Program, Mini-FARMS Program, Flow Meter Reimbursement Program, QWIP, and Back-Plugging Funding Assistance Initiative. 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 SWFWMD’s FARMS Program, Mini-FARMS Program, Flow Meter Reimbursement Program, QWIP, and Back- Plugging Funding Assistance Initiative is conserving soil and water resources, or protecting and restoring the environment. The FARMS and Mini-FARMS programs are implemented through Rule 40D-26 of the Florida Administrative Code. SWFWMD implements the FARMS and Mini-FARMS Programs to provide overall water resource benefits and to protect the environment. SWFWMD provides cost-share reimbursement for select best management practices that have potential water conservation, natural system restoration, and water quality benefits. The objectives of the

programs are met through cost-shared construction of specific engineered structures, as well as acquisition of specific equipment to meet water conservation and environmental needs. FARMS is a cost-share program to reduce groundwater use through water conservation best management practices (BMP) in agricultural operations. The Mini-FARMS program reimburse growers for on-farm installation of select agricultural practices that have potential water conservation, sediment control, and water improvement benefits up to a \$5,000 per project cap. Projects that exceed \$5,000 would be considered for funding through the FARMS program.

Chapter 40D-2, F.A.C. contains the SWFWMD water use permit regulations that implements the Flow Meter Reimbursement Program. Through its Flow Meter Reimbursement Program, SWFWMD provides cost-share funding for flow meter equipment and installation in the Dover/Plant City Water Use Caution Area. The program provides cost share for flow meter equipment installed on operational withdraw points, inflow lines, catchment facilities, tail water recovery or rainfall capture ponds and storage facilities that have been in existence prior to June 16, 2011.

Flow meters on all withdrawal points are required as a condition of all permits with crops that utilize frost/freeze protection water quantities in the Dover/Plant City Water Use Caution Area to ensure that withdrawals will not cause any unmitigated adverse impacts on the water resources and existing legal users, and that the use continues to be in the public interest.

Chapter 373 of the Florida Statutes enables SWFWMD to implement QWIP. Section 373.206 of the Florida Statute authorizes SWFWMD to implement the Back Plugging Funding Assistance

Initiative to identify and plug highly mineralized wells of poor water quality to minimize effects upon an aquifer or water bodies. SWFWMD's QWIP and Back-Plugging Funding Assistance Initiative provide reimbursement for the plugging of groundwater wells that have poor water quality. Properly plugging poor quality groundwater wells enhances water conservation, natural system restoration, and water quality benefits. SWFWMD provides financial assistance to properly plug abandoned and deteriorating artesian wells in order to comply with Chapter 373 of the Florida Statutes. Plugging wells involves filling the abandoned well with cement or bentonite.

Signed this 1st day of May, 2015, in Washington, D.C.

Jason A. Weller,  
Chief,  
Natural Resources Conservation Service.

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