

Oklahoma Forest Resources Development Program

Forestry Cost-Share Program Guidelines

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Cost-Share Practices, Components and Specifications FRDP Part 2

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FRDP PART 1 COST-SHARE PROGRAM GUIDELINES

Introduction

Forestry cost-share programs have generally proven successful at both the national and state levels in stimulating landowner involvement in practicing good forestry. Because of the long-term nature and high capital costs of forestry investments, many landowners are unable or unwilling to significantly improve their lands without some form of financial incentives. Federal funding for the Forestry Incentives Program (FIP) and Stewardship Incentives Program (SIP) was never sufficient to meet the demand. As of October 1, 2002, these programs were eliminated, while the new Forest Land Enhancement Program (FLEP) is expected to provide the federal forestry incentives of the future.

In terms of state-level programs, eight in the southern region have existing state or industry-funded cost-share programs to supplement federal cost-share funding. The remaining states are developing programs in order to accommodate FLEP. An Oklahoma program to improve the productivity of our forests, reforest our lands and expand the use of trees in helping solve our environmental problems will serve the people of the state in the following ways:

- Insuring a sustainable supply of timber and forest products
- Aiding the economic well-being of Oklahoma by providing jobs and revenue
- Enhancing the aesthetics of the state
- Providing suitable habitat for a variety of forest-related wildlife species
- Aiding in purifying the air and generating oxygen
- Conserving topsoil by controlling erosion
- Enhancing water quality and protecting our watersheds
- Reducing the impact of production agriculture on the environment
- Protecting crops, livestock and rural homesteads
- Protecting highways from blowing snow

Major Forestry Needs in Oklahoma

Oklahoma's forests are under increasing pressure to help meet the nation's timber supply needs in a sustainable fashion, while simultaneously meeting landowner objectives and providing a variety of public benefits. Timber harvesting demand has shifted heavily to non-industrial private forestlands in eastern Oklahoma, and is expanding into forest areas not traditionally considered commercial.

This increased pressure has created both opportunity and problem. Many landowners now have markets in places where one never existed before and there is greater incentive to invest in forestland improvements. Unfortunately, only a small percentage of landowners take advantage of the services of a professional forester and use a written management plan that considers forest regeneration during harvest. As a result, diameter-limit cutting, high-grading, stand conversion and lack of quality forest regeneration often result.

Regeneration of the State's forests remains a priority issue in Oklahoma to assure forest sustainability over the long term. It is estimated that only two or three acres out of ten which are harvested on NIPF lands are *intentionally* regenerated with appropriate desirable species.

In eastern Oklahoma, 2.6 million acres of timberland are less than 60% stocked with desirable tree species and need treatment to improve productivity. Another 500,000 acres of cleared land or marginal sites would be better suited to trees. Timber growth could be increased by 70% with planting and timber stand improvement practices on these lands.

Water quality issues remain at the forefront of Oklahoma's environmental agenda. Tree planting and active forest management practices provide long-term benefits in water quality, wildlife habitat, aesthetics and forest health.

The U.S. Forest Service estimates there are 158,000 non-industrial private owners of 5,959,000 forest acres in Oklahoma. Many private landowners need information and technical assistance to help them make better decisions about the management of their lands. They often respond to incentives that make expensive forest improvement practices more affordable.

Outside the commercial forest area of eastern Oklahoma, an estimated 72,000 agricultural property owners have opportunities to use trees and forests to generate income, reduce environmental impacts of agricultural practices, enhance wildlife habitat, modify harsh environments, restore riparian areas to protect water quality, protect crops and livestock, blend forestry and agriculture through agroforestry, and even to maintain and restore forest ecosystems threatened by invasive species.

Cost-Share Program Authorities

Oklahoma's Legislature authorized the Department of Agriculture, Food and Forestry (ODAFF) to administer a state forestry cost-share program in 1996. Statutory language is codified in the Oklahoma Forestry Code, O. S. Title 2 Article 16, Sections 16-10 through 16-13 (see Appendix B). Although this law went into effect on November 1, 1996, no state funding has yet been provided. The original program concept was to obtain funding from a variety of sources, including donations and federal program funds, and not to rely solely on state appropriations.

The Federal Cooperative Forestry Assistance Act of 1978, as amended, provides the basis for state/federal cooperation in the delivery of forestry programs to landowners. The 2002 Farm Bill, the federal Farm Security and Rural Investment Act of 2002 (P.L. 107-171, May 13, 2002), created the Forest Land Enhancement Program (FLEP) in Section 4 of this Act. FLEP will be administered by the states in cooperation with the U.S. Forest Service, and authorizes use of federal funds for education, technical assistance, financial assistance (cost-shares) and program administration to guarantee the long-term sustainability of the Nation's forest resources.

Forestry Services intends to develop its cost-share program in cooperation with the Forest Stewardship Committee and with Board of Agriculture concurrence so that it can be used to administer any program funding for forestry practices on private lands, regardless of source. For example, federal funds have been allocated to help forest landowners recover from the December

2000 ice storm; Congress has funded the new Forest Land Enhancement Program; Forestry Services is administering a federal wildfire-damaged fence-replacement program; and a portion of a federal redcedar control demonstration project will be used for landowner cost-shares. Rather than developing a new “program” for each source of funding, we plan to structure an umbrella program – the Oklahoma Forest Resource Development Program (FRDP) – to administer these various programs, hoping that we can generate support for continuation of the cost-share program and attract donations and additional funding support.

Purpose

The overall purpose of the Oklahoma Forest Resources Development Program (FRDP), working in concert with FLEP, is to provide a coordinated and cooperative Federal, State and local sustainable forestry program for the establishment, management, maintenance, enhancement and restoration of forests on non-industrial private forest land. Its objectives are to sustain our natural resources, to promote good land management practices, to encourage proper silviculture and to promote the use of trees to help solve environmental problems on private lands. Practices that are implemented on private lands provide significant public benefits, and justify the involvement and support of the state in this endeavor.

The structure of the FRDP that follows establishes a basic framework for administration of cost-share funds with eligible landowners in Oklahoma. It is intended to be in accordance with federal requirements and to complement, rather than merely duplicate, other programs of assistance while meeting state needs. The expertise of a program advisory committee and the foresters and other employees responsible for actual implementation will establish the actual program requirements to meet specific funding guidelines.

Definitions

Applicant: An eligible person who applies for cost-share assistance from the Oklahoma Dept. of Agriculture, Food and Forestry - Forestry Services Division.

Area Forester: The administrative director of an assigned region of the state in the Forestry Services Division of the State Department of Agriculture, Food and Forestry.

Artificial regeneration: A forestry practice designed to establish a stand of commercial forest trees through tree planting or direct seeding.

Available funds: Monies in the Forestry Cost-Share Fund that are not yet obligated for cost-share practices.

Best Management Practices or BMPs: The State's guidelines intended to protect water quality during the conduct of forestry activities.

Board: The Oklahoma Board of Agriculture.

Catastrophic natural event: A destructive natural event, which includes, but is not limited to, wildfire, insect infestations, disease outbreaks, droughts, floods, windstorms, freezing, ice storms, hail, sleet, mudslides, landslides and tornadoes.

Chemical release: To apply herbicides to competing vegetation through single stem injection or spraying in order to eliminate competition with desirable trees as part of a site preparation or crop tree release practice.

Committee: The group designated by the Secretary of Agriculture that provides oversight of the State's forestry cost-share program, equivalent to the Forest Stewardship Coordinating Committee established under section 19(b) of the Cooperative Forestry Assistance Act.

Component: A specific activity funded under the program that is designed to help the landowner achieve his or her practice objectives.

Controlled burning: The controlled application of fire to vegetative cover under specified conditions and following appropriate precautionary measures which causes the fire to be confined to a predetermined area and accomplish land management objectives.

Cost-share or C/S: A program payment, on a reimbursable basis, to an eligible participant that covers a percentage of the cost for implementation of a state-approved activity or practice authorized under the program.

Cost-share agreement: A written agreement between an eligible person and the State Department of Agriculture wherein the eligible person agrees to maintain the cost-shared practices for the prescribed maintenance period approved by the Committee.

Direct attribution: The method of allocating payments to joint landowners, under the assumption that all owners receive an equal share unless legally recorded otherwise.

Division: The Forestry Services Division of the State Department of Agriculture, Food and Forestry.

Eligible land: Those lands that are eligible for forestry cost-share assistance in Oklahoma.

Eligible person: Any individual owner of lands who meets the requirements defined in the guidelines and may apply for cost-share assistance.

Eligible practices: Those forestry practices that have been approved by the Committee for cost-share assistance.

Forest Land Enhancement Program or FLEP: The federal forestry cost-share and landowner assistance program administered by the USDA Forest Service and State Foresters.

Forest management plan: The written plan prepared by a natural resource professional that meets the standards established by the Department and which includes specific recommendations and practice prescriptions.

Forestry cost-share fund: The revolving fund established in the State Treasury for the purpose of the program.

Forestry Incentives Program or FIP: The federal forestry cost-share program formerly administered by the NRCS in cooperation with the State Foresters, but discontinued by Congress in 2002.

Forestry Services: The division of the State Department of Agriculture, Food and Forestry that administers state forestry programs in Oklahoma.

Forest Stewardship Coordinating Committee: See the term *Committee*.

Indian tribe: The term as defined in Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) (source: Sec. 4 of the Cooperative Forestry Assistance Act).

Injection: To apply a herbicide to undesirable trees that are competing with desirable species by injecting chemical through the bark into the cambium layer.

Joint owner: A type of land ownership where more than one individual has a legal property interest.

Landowner or Owner: An individual, group, association, corporation, Indian tribe or other legal private entity owning non-industrial private forest land or a person who receives concurrence from the landowner for practice implementation and who holds a lease on the land for a minimum of ten years. Corporations whose stock is publicly traded or owners principally engaged in the primary processing of raw wood products are excluded (source: FLEP Rule).

Legal description: The designated part of a section, township and range where a cost-shared forestry practice will be carried out.

Maximum payment limitation: The limit on cost-share payments a landowner may receive during the State fiscal year.

Mechanical treatment: To use heavy equipment to disturb or destroy competing vegetation that would otherwise compete with desirable trees established through tree planting.

Natural regeneration: A forestry practice designed to establish a stand of commercial forest trees through natural seeding.

Natural resource professional: Any person recognized by the State Forester as having the knowledge and skills to develop management plans, an understanding of the economic and environmental interrelationships of forestry and/or agroforestry resources, and the ability to identify appropriate activities to manage, protect or enhance such resources.

Non-industrial private forestlands: Rural lands with existing tree cover or which are suitable for growing trees that are owned by any landowner as defined above.

Obligated funds: Monies in the forestry cost-share fund that have been committed to cover the costs of approved applications.

Oklahoma Forestry Code: The statutory language that governs the forestry programs of the State Board of Agriculture, including the forestry cost-share program. The Code is codified as Title 2, Article 16 of the Oklahoma Statutes.

Practice: A prescribed, natural resource management activity that is consistent with the management plan and practice plans and implemented through the program to enhance the multiple resource values and benefits and that results in improved conditions on non-industrial private forest lands. A practice may consist of multiple components.

Practice plan: The plan prepared by a service representative and approved by the State Forester that documents the specific practices that are to occur and technical standards that are to be met as a result of landowner application for cost-share. A practice plan may be a stand-alone document or part of a management plan. The practice plan is the basis for determining acceptable performance upon completion of a cost-shared practice.

Performance report: The form submitted by the landowner and forester to document completion of a cost-shared practice.

Pre-commercial thinning or non-commercial thinning: Cutting or removing excess non-merchantable stems in a forest stand to favor the remaining crop trees, and no income is generated from the thinning.

Program year: The period from July 1 through June 30, the State fiscal year.

Project: The specific cost-shared practice or activity carried out by the landowner, on a specified number of acres in a specific location.

Site: The specific field or forest stand or portion of a tract on which the forestry practice will be installed.

Site preparation: To ready a tract of land for tree planting or natural regeneration by reducing or eliminating competing vegetation through the use of chemical or mechanical treatments, or prescribed fire.

Slippage: The amount of cost-share funds turned back to the forestry cost-share fund as a result of cancellations or where actual costs are less than approved costs.

State Forester: The Director of the Forestry Services Division of the State Department of Agriculture, Food and Forestry.

State Office: The Oklahoma City office of the Forestry Services Division of the State Department of Agriculture, Food and Forestry.

Stewardship Incentives Program or SIP: The federal forestry cost-share program authorized in the 1990 Farm Bill that is administered by the U.S. Forest Service, Farm Services Agency and State Foresters, but discontinued by Congress in 2002.

Successor-In-Interest: The new landowner who has agreed in writing to assume the maintenance responsibilities for cost-shared practices for the remainder of the ten-year period.

Tract: Specific acreage on which a forestry cost-share project is to be conducted.

Unobligated funds: Those funds in the forestry cost-share revolving fund that have not been allocated to fund approved applications.

Advisory Committee

State statutes specify that a Forestry Cost-Share Program Advisory Committee will help establish the basic policies and procedures for the cost-share program in Oklahoma. In lieu of establishing a separate committee, the Forest Stewardship Coordinating Committee will fulfill this role. The primary duties of the Committee are to advise ODAFF Forestry Services in the following areas:

- To recommend program policies, procedures and guidelines
- To recommend emphasis areas as appropriate
- To help solicit funding as opportunities permit
- To recommend cost-share rates and practices to be offered
- The Committee may allocate a percentage of available funds for specific practices or specific target areas, and may otherwise set priorities for practices that will be funded
- Depending upon the source of cost-share funding available, the Committee may recommend limits on eligible counties, eligible landowners, the practices to be offered and cost-share rates that meet specific program guidelines and intent

ODAFF Forestry Services Responsibilities

Forestry Services will administer the FRDP in cooperation with the Committee. Specific agency responsibilities include:

- Develop cost-share program guidelines
- Coordinate and cooperate with other federal, state and local programs and entities
- Provide program information to landowners
- Accept and process applications for funding
- Develop or approve forest management plans and practice plans
- Provide technical forestry assistance on approved practices
- Track cost-share allocations, inspect completed work and process payments
- Maintain accomplishment records and prepare reports as needed
- Manage the appeals process

The Forestry Cost-Share Fund

The Legislature established a revolving fund in the State Treasury (“Forestry Cost-Share Fund”) that is available to receive appropriations or other funds for operation of the program. All funds that are appropriated, donated or otherwise acquired for a state cost-share program *in advance* are credited to this fund.

Cost-share payments are processed from landowner claims and are paid from this fund (if applicable) on State-issued warrants. Unused funds that were allocated to applications that are cancelled or that result from program “slippage” will remain in the revolving fund and will not be lost. In cases where the source of cost-share funding is a federal program and state expenditures are reimbursed after the fact, landowner claims will be paid from the Agriculture revolving fund rather than the forestry cost-share fund.

The Committee will help determine whether to allocate funding by county, Forestry Services Area or some other grouping, or whether funding will be managed on a statewide basis.

Land and Landowner Eligibility

Eligible Persons or Entities

The following applicants are eligible if they own non-industrial private forestland in Oklahoma:

- Private individuals, groups, trusts and associations
- Federally recognized American Indian tribes or other Native American groups, provided that all tribal or group members request cost-sharing if they are on tribal or native land associations
- Corporations or other legal entities without publicly traded stock
- Forest landowners who engage in primary processing of raw wood products on a part-time or intermittent basis

Where land is owned jointly by more than one individual, group, association or corporation, as tenants in common, or tenants by the entirety, or otherwise, the joint owners shall be considered as one eligible landowner and shall be entitled to receive cost-share payments. Joint ownerships are not eligible unless all owners or duly authorized agents sign the cost-share agreement.

Individual owners who share in a joint ownership, but also possess distinct, separate property in their own name, are entitled to participate as individuals, and the joint ownership does not affect the eligibility. The test on ownership rests with the way the property deed is recorded.

ODAFF employees and family members are eligible to participate as landowners. However, all needs determinations, plans, inspections and certifications will be carried out by employees outside the immediate District or Area so as to avoid a conflict of interest.

Ineligible Persons or Entities

The following persons or entities are not eligible for funding, although private individual landowners who are stockholders in such businesses are eligible:

- Federal, state or local governmental agencies or related entities
- Corporations with publicly traded stock
- Private entities that are principally engaged in primary processing of raw wood products or that provide public utility services of any type or any subsidiary of such entities, including but not limited to:
 - Sawmills, pulp mills, paper mills, plywood plants, oleoresin plants
 - Power companies, railroads

Eligible Lands

Ownership Size. Landowners must own at least 10 contiguous acres of land in Oklahoma to participate. The Area Forester may submit a request to waive the ten-acre minimum for consideration and approval by the State Forester. Waiver requests will only be considered for ownerships of at least five (5) acres that are economically feasible to treat for forestry purposes, and which provide quantifiable public benefits or where the applicant is a limited resource

landowner. The request must be in writing and accompany the application. There is no maximum ownership size. The *minimum* size tract to be treated that is eligible for cost-share assistance shall be 5 acres, except for certain practices recommended by the Committee, such as windbreak or erosion control plantings, riparian buffers or living snow fences.

Productivity Requirement. There is no minimum forest productivity requirement to be eligible to participate in the program.

Designated Counties. Unless designated otherwise, applications for cost-share assistance will be accepted statewide. Depending upon the source of cost-share funding available and focus of the program, the Committee may recommend certain counties or lands as eligible or ineligible. For example, disaster funding resulting from the December 2000 ice storm will be available only to forest landowners in counties that were severely damaged by the ice storm.

Relationship With Federal or Other Cost-Share Programs. No FRDP cost-shares will be provided if the landowner is already receiving cost-shares on the same acres for the same or similar forestry practices during the same State Fiscal Year (July 1 through June 30). The landowner will certify on the application form that they are not receiving cost-share funds from other sources for similar practices on the same acres. No cost-shares will be provided to repeat practices on the same site for the same landowner that have been implemented under any other federal, state or local government programs, or private sector programs, except where such practices are failed without fault of the landowner.

Relationship With Best Management Practices. No cost-share funds will be spent on sites that are not in compliance with the State's Forestry Best Management Practice Guidelines. A landowner may apply and be approved for cost-share assistance on a site with a BMP problem. However, no cost-share payments will be authorized until the problems have been corrected, and no cost-share funds shall be used to bring the land into BMP compliance.

Program Compliance With State and Federal Law

The forestry cost-share program will be developed, promoted and delivered in full consideration and compliance with state and federal nondiscrimination laws. USDA and ODAFF are equal opportunity providers and employers. In accordance with Federal law and U.S. Department of Agriculture policy, this agency is prohibited from discriminating on the basis of race, color, religion, national origin, age, sex, disability, political affiliation, sexual orientation or marital or family status. To file a complaint of discrimination, write the USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD).

Management Plan Requirements

To qualify for cost-share payments, landowners must have a written forest management plan that covers the land on which cost-shared practices will be applied. This plan should identify and describe activities to be carried out by the owner to protect soil, water, air, range and aesthetic quality, recreation, timber, water, wetland or fish and wildlife resources on the lands in a manner that is compatible with the objectives of the owner.

Landowners may find it to their advantage to have the plan in hand when making an application for cost-sharing. If they do not have a plan, they may request cost-share assistance to develop a plan by a private consultant under Practice FRDP-1. Otherwise, the Forester will prepare a plan after the application is received. This plan must be completed before the application package will be forwarded to the State Office for funding consideration. Completion of the plan in no way assures approval of cost-share funding. Landowners must certify in writing their intent to comply with the management plan recommendations.

Existing management plans, such as Tree Farm or Forest Stewardship plans, may have been prepared by any competent natural resource professional, provided that the following components approved by the Commissioner of Agriculture and State Forester have been addressed, and an Area Forester of ODAFF Forestry Services has approved the plan:

1. Basic landowner information (name, mailing address, phone numbers, and legal description of the property)
2. Description of the landowner's multiple-use objectives
3. Appropriate property maps (these may include a soils map, a general property or stand map, a topographic map or other maps of use to the owner that contain ownership boundaries, areas to be treated and important physical or cultural features)
4. Site-specific soils information
5. Threatened and endangered species information
6. Forest health and wildfire protection information
7. Well-integrated forest management recommendations that meet landowner objectives while also assuring forest health and sustainability
8. Information on water quality and forestry best management practices
9. Specific practice prescriptions that contain detailed information and component specifications

Cost-Share Rates

The standard cost-share rate for approved practices will be 75% of the actual cost not to exceed the maximum rates recommended by the Committee (see practice descriptions and specifications in Part 2). The Committee also has the flexibility to recommend cost-share rates, as well as practice and eligibility standards, that meet the intent of specific cost-share funding sources. The Committee may recommend adjustments in cost-share rates to provide incentives for certain practices, such as hardwood reforestation, wetlands reforestation, riparian area reforestation, practices in priority watersheds or others they determine are high priority.

Non-federal program funds and other donated assistance may be used to supplement cost-shares under the program; however, the total of all funds and assistance will not exceed 100 percent of the actual cost of implementation.

The term “applicable cost-share rate” is the rate in effect when a cost-share application is actually approved for funding. This rate carries through until the project is completed.

Maximum Payment Limitations

The maximum payment limitation for all FRDP payments is \$10,000 per landowner per State fiscal year (July 1 through June 30), whether for one or for multiple practices. In addition, a landowner may not receive FLEP cost-shares to treat a total of more than 1,000 acres during the fiscal year, whether on lands they own in Oklahoma or in other states.

Because a “landowner” is defined for the program as each group and each individual directly or indirectly receiving a payment, the payment limitation applies to each. The limit applies to a partnership as a whole as well as to the members as individuals (see example below).

Payment Limitation Example for the ABC Corporation and its Members

Program payments for the ABC Corporation total \$10,000 for the current year. Landowner “A” also applies for cost-sharing assistance as an individual, and would be limited to \$5,000 during the current fiscal year.

	<u>Partnership</u>	<u>Individual</u>	
Landowner “A” shares = .50	\$5,000	+	\$5,000 (Individual limit)
Landowner “B” shares = .25	2,500		
Landowner “C” shares = .25	2,500		
Total = 1.00	\$10,000		
	(Partnership limit)		

Where forestland is owned jointly, the joint owners will be considered as one eligible landowner that is entitled to receive up to the maximum payment. Applications and agreements with jointly held ownerships will include only one tax identification number.

For the purposes of the maximum payment limitation, a cost-share payment will be divided according to “direct attribution,” with all joint owners considered as receiving an equal share, unless specifically recorded otherwise on the property deed and Maximum Payment Limitation form filed with the application.

Additional applications will not be accepted from a landowner who has already been approved for the maximum funding, even though approved practices have not been completed and payments have not been processed. The actual date shown on the check is considered to be the date of payment for the purpose of determining the “maximum payment limitation.”

Application Policies and Procedures

Applications will be accepted on a continuous basis. Application shall be made on the Application for Forestry Cost-Share Assistance (Form FRDP-1a). The landowner must provide proof of ownership at the time of application (e.g., copy of tax receipt or property deed). A leaseholder that has a long-term lease on the land to be treated must provide a copy of the lease agreement with the application.

Applications will be accepted only for annual agreements. There will be no Long-Term Agreements (LTAs) issued. A landowner may not apply for additional funding until approved applications are completed.

Landowners may not begin a cost-shared practice before receiving approval in writing. No cost-share payments will be made for work done prior to the written notice of practice approval, except in the case where a seedling order for an approved practice predates the approval.

Batching, Evaluating and Prioritizing Applications

Forestry Services will use a ranking system to help focus limited Program funding on priority practices. All eligible applications will be held, reviewed and ranked on a monthly basis. An evaluation form will be used to determine a point score for each application. This rating system will consider the following factors: estimated treatment cost per acre; size of the tract to be treated; general site quality for the practices requested; relative contribution of the practices to national, state and local priorities; and the amount of time the application has been on file.

Area Foresters will compile a list of applications in point score order, and submit the prioritized list to the Program Coordinator in the State Office.

Cost-Share Approvals

The State Office retains all funding control and final approval of applications. The State Office will approve applications based upon the prioritized lists provided by the Area Foresters each month.

To determine an approximate allocation for each Area, the total available funds will initially be divided evenly between Forestry Services' four administrative Areas. These Area targets will be used when selecting the applications to be approved. The State Office may shift the allocation to some extent between Areas in cases where partial funding of an application will reduce its cost-effectiveness, or in consideration of funding demands and priorities.

Approval of an application shall obligate funding and constitutes an agreement by the State and the landowner to cost-share a completed practice on a reimbursable basis upon verification that the practices have been implemented according to specifications.

Applications for cost-shares will not be approved unless cost-share funds are actually available.

Applications Pending File

The Area Forester will hold un-funded applications in an "Applications Pending File" for consideration at the next evaluation period. Applications may continue to be considered until funding becomes available, or until the applicant cancels the application or in the event that the landowner fails to respond to a reminder notice issued every 12 months. Cancellation of a pending application will occur only after notifying the landowner through certified mail of the intent to cancel. The landowner will be given a minimum of 10 days advance notice prior to cancellation.

The Area Forester will keep track of how long an application has been on file and notify the landowner in writing to determine their continued interest, every 12 months.

When approved, pending applications will be funded at the cost-share rates in effect when the application was first filed.

Practice Expiration Period and Extensions

Landowners must complete cost-shared practices within 12 months of the date after the practice is initially approved. When unusual circumstances occur and a project cannot be completed within this period, the landowner may request an extension from the Forester in writing for up to an additional twelve (12) months. This request must be initiated before the practice expiration date. Under no circumstances will cost-share funding be carried beyond this 12-month extension.

Revisions to Approved Projects

Changes in recommended practices or extent may be made after an application has been submitted or approved for funding.

Based upon the forester's recommendation and an amended management prescription that shows a change in acres, cost-share amount or acreage location, the dollar value of an approved application may be decreased, or increased provided that funding is available. If additional funds are not available, the landowner will have the option of modifying the application or canceling the application and reapplying. The original approval date will remain the same on an application that has been amended. If the landowner chooses to cancel and reapply, the new application date will be used.

Claims and Practice Certification

Landowners should document component costs separately, because payments will be based upon component practices. For example, site preparation costs should be accounted for separately from tree planting costs.

In cases where the landowner performed the practice with his or her own labor, equipment and materials, the applicant shall submit a signed, itemized statement to account for their practice costs. The only eligible costs to be included are:

- Dates and hours of work performed to accomplish the approved practice(s)
- Cost per hour charged for labor
- Type of equipment used and charge for equipment use
- Type and cost of materials used

Expenditures for any of the following materials, services or activities are **not** eligible for cost-sharing or inclusion in determining cost-share rates:

- Cost-sharing when reforestation is accomplished at no cost to the landowner
- Costs of controlling insects and animals, unless necessary for the initial establishment of a stand of trees, or treatment for plant diseases or nematodes
- Engineering fees, consulting fees and permit fees
- Providing land or the right to use water
- Costs of herbicides and other weed control measures, unless necessary for establishing or improving a stand of trees
- Costs of meeting supplemental requirements, such as protection from fire or grazing and similar provisions for which no cost-share rates are established
- Fencing unless funded as a specific component practice
- Loss or reduction in revenue from land
- Other costs of use of land

The Forester will be responsible for conducting compliance checks for all FRDP practices. The Forester may designate trained and competent field personnel to assist with compliance checks. In these cases, the Forester will concur with the findings of a compliance check before notifying the vendor or landowner of the results.

Where performance actually rendered does not meet minimum specifications *due to factors beyond the landowner's control*, the Forester may approve cost-share payment provided that the landowner repeats implemented practices or establishes additional eligible practices as the Forester might require to meet the objectives of the management plan; or the landowner establishes, to the Forester's satisfaction, that a reasonable effort was made to meet the minimum requirements and the practice adequately meets the objectives of the management/practice plan.

The cost-share payment will be issued only to the landowner of record. In all cases of joint ownerships, payment will be made only to the applicant or designated agent who will be responsible for determining the amount due to each participating landowner, disbursing shares and issuing 1099 forms to other owners for their portion of the payment. Landowners should keep records of costs and payments for at least three years after the date of performance certification to satisfy state auditing requirements.

Partial Payments

Partial payments for full completion of component practices will be allowed. *For example*, a landowner approved for site preparation and tree planting on 40 acres may receive a payment for the site preparation component when he/she completes all 40 acres, and then another payment for the tree planting. If an applicant receives a partial payment but fails to complete other essential components of the practice, he/she must reimburse the funds already received as partial payment.

Practice Maintenance Requirement and Spot Checks

Participants are required to maintain cost-shared practices for a period of ten (10) years following the date of practice performance certification unless otherwise required in the specifications. The ten-year period does not apply to recurring components such as prescribed burning, light-disking in openings, herbicide application or other limited duration practices identified in the management plan. Based upon follow-up spot checks, landowners may be required to refund the cost-share payments received if the practices are not maintained according to specifications for the maintenance period, or as otherwise described in the following section.

If a practice fails due to the lack of maintenance by the landowner, the landowner will be responsible for repair and replacement costs to restore the practice. Otherwise, Forestry Services shall have the right to recover the value of the State's portion of the cost of the practice plus any necessary court costs and attorney fees.

Landowners will *not* be required to refund payments for practices that were successfully completed and later failed as a result of floods, drought, wildfire or other natural disaster, through no fault or negligence of the landowner. Such landowners may apply for additional cost-share assistance to restore the practices to their original design and intent. Applications to restore these practices may receive priority for funding.

Refund or Recapture Policy and Procedures

Landowners will be required to refund cost-share payments for the following reasons:

- Participants fail to maintain completed practices for the required maintenance period.
- Participants fail to complete subsequent component practices that are integral parts of the total practice (for example, not planting trees after a site preparation practice).
- Participants sell, convey or otherwise lose control of the land on which there is a continuing obligation to maintain a practice, unless determined by the State Forester to have been beyond the landowner's control, and the new landowner does not agree to assume responsibility for maintaining the practice for the remainder of the maintenance period.
- The landowner destroys the practice.
- Program violations or abuses occur, as determined by the ODAFF.
- Overpayments have occurred for any reason, including if the maximum payment limitation is exceeded.

The Forester may recommend a partial or pro-rated refund in cases where the practice is only partially destroyed or non-functional. Refund payments are due from landowners within 60 days of notice. Payments not received within this time period may be subject to action by the Department's Legal Services Division and an administrative penalty assessed by the Board.

If an owner or successor uses any scheme or device to unjustly benefit from the program, cost-share funds may be withheld or a refund of all or part of any program payments otherwise due or paid that person will be secured. A scheme or device includes, but is not limited to, coercion, fraud or misrepresentation, false claims, or any business dissolution, reorganization, revival, or other legal mechanism designed for or having the effect of evading program requirements.

Underpayments

In the event that an error occurs and the landowner does not receive the full payment to which they are entitled, the Forester will initiate corrective action so that an additional payment is made.

Changes of Ownership

If the property is sold or otherwise changes hands before approved work is begun or completed, the original owner will cancel the application and refund cost-share payments already received. If the new owner agrees to follow through with the project, the new owner becomes a Successor-in-Interest and must submit a new application. The original application will be cancelled.

The landowners involved should sign a Successor-in-Interest form to document this agreement in writing and provide a copy to the Forester. Successors-in-Interest are subject to the maintenance and refund requirements associated with the original agreement.

In the event of the death of the original participant or if a property changes hands and the practice maintenance requirement remains in effect, the heir or new owner will be encouraged to maintain the practice. If the new owner agrees to assume the maintenance responsibilities for cost-shared practices, the new owner becomes a Successor-in-Interest. If the new owner does not wish to continue the practice, the original owner, heir or estate may be required to refund cost-share payments received.

Appeals Process

A landowner who disagrees with a forester's technical determination, or who believes their treatment under the program has been unfair, may file an appeal. All appeals shall be made by the landowner in writing within 30 days of the initial determination and sent to the Area Forester who received the original application for funding. The appeal shall contain the following information:

- Name, address and telephone number of landowner.
- A statement of the facts of the case including reasons why the initial determination was believed to be incorrect, and, if applicable, why the forester failed to consider all the facts for the initial determination.
- Name and address of any known parties who may be adversely affected.
- Copies of receipts and other documents related to the application and program payments that have direct bearing on the appeal.

The Area Forester and Forester involved in the case shall have 14 calendar days to investigate and respond in writing to the landowner with a determination on the appeal. A landowner who is dissatisfied with this determination may file a second appeal in writing to the Area Forester. The Area Forester will then refer the case to the State Office for review, in consultation with the Program Coordinator and Committee, if necessary. The State Office shall have up to 60 days to investigate and respond to the landowner in writing with a determination. A landowner who is dissatisfied with the State Office determination may appeal in writing to the State Board of Agriculture, whose decision shall be final.

The following program-related decisions may not be appealed:

- Payment rates, payment limits and cost-share percentages
- Designation of eligible practices or counties
- Overall program funding decisions

- Technical standards and criteria that apply to all persons

A landowner who believes he/she has been discriminated against in a federal program will be directed to follow the USDA process. To file a complaint of discrimination, write USDA, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call 202-720-5964.

Tax Implications for Landowners

To comply with IRS 1099 reporting regulations, the State Office must have current address and social security/tax ID number information on file for all approved applicants. Landowners with an approved application are required to submit a *State of Oklahoma Vendor/Payee* form with their cost-share agreement. The State Office will retain this form indefinitely.

Although payments from government cost-share programs must be reported, some program payments, when approved by the IRS, may be excluded from federal gross income. State FRDP cost-share payments have not yet been approved by the IRS for this consideration.

Cancellations

Landowners with a valid or approved application may cancel their application at any time, but must do so in writing to the Area Forester.

Case Files

Foresters providing technical assistance to landowners under the program shall create and maintain landowner case files on all approved cases. Individual files shall contain copies of the approved application, performance certifications, receipts, map with legal description, management plan and prescription and other pertinent records.

Performance Reports

Foresters are responsible for keeping records and reporting completed activities related to FRDP through the normal accomplishment reporting system. The Program Coordinator is responsible for maintaining the database of accomplishments for approved and completed practices, and preparing reports as required.

Open Records

General program information, plans, guidelines, forms, compiled accomplishment or financial reports or similar material of a public nature will be made available on request, under guidelines described in the Department's Open Records Policy. Requests for information related to an individual's participation in the program will be managed according to federal guidelines, must be in writing, and will be referred to the ODAFF Legal Services Division.

APPENDIX A – FORMS

- FRDP-1a Application For Forestry Cost-Share Assistance
- FRDP-1b Performance Report and Certification
- FRDP-2 Maximum Payment Limitation Review
- FRDP-3 Eligibility Worksheet
- FRDP-8 FRDP Cost-Share Application Evaluation Worksheet
 Forestry Cost-Share Agreement

Form FRDP-1a

**OKLAHOMA FOREST RESOURCE DEVELOPMENT PROGRAM
APPLICATION FOR FORESTRY COST-SHARE ASSISTANCE**

Use this form to apply to the Oklahoma Dept. of Agriculture, Food and Forestry for cost-share funding to carry out approved forestry practices on eligible lands in Oklahoma. Fill in all blanks and send the completed application to the Department's Area Forester who serves the county where your property is located.

Applicant Information (Please print or type)

Name (First, Middle Initial, Last) _____

Mailing Address _____

City, State, Zip+4 _____

Daytime Telephone _____ Other Telephone _____

Social Security Number or Tax ID Number _____ Total Acres Owned _____

Type of Applicant (check only one): Individual Association Corporate
 Joint (all or a rep must sign)
 Other (describe) _____

Property Information (Where practices will be installed)

County _____ Legal Description _____ Sec _____ T _____ R _____

Practices Requested (Shaded boxes for Forester's use only)

Practice/Component Title	Extent Requested	Code	Extent Needed	Rate	C/S Requested
				Total	

Certifications/Agreement. In making this application, I (we) hereby certify that:

- (a) I am an eligible landowner and understand this to mean a private individual, group, association or corporation owning land suitable for forestry purposes, and, where the land is owned jointly, the joint owners shall be considered as one eligible landowner;
- (b) I am the legal owner of the property on which the services are requested;
- (c) I am not receiving cost-share funding from any other federal, state or private program for the same or similar forestry practices on this tract;
- (d) I, if an owner in joint tenancy or tenancy in common or if a member of a group or association owning the lands, have no knowledge of any application which has been filed for cost-share assistance to be used on lands described in this application;
- (e) I/my organization have not treated more than 1,000 acres with FLEP funds this fiscal year on any lands in the U.S. and have not received more than \$100,000 in FLEP funds since the program began;
- (f) I will maintain the land subject to this agreement in forestry usage as outlined in the Forest Management Plan for a minimum of ten (10) years from the date of Performance Certification, and authorize Forestry to access the property during this period to inspect cost-shared practices as needed;
- (g) I agree that I will bear all costs prior to reimbursement;
- (h) I will comply with Program provisions, applicable Department regulations and the terms of this agreement and the Forest Management Plan, and, if I fail to do so, the Department shall have the right to recover the State's cost in the agreement plus court costs and reasonable attorney fees; and
- (i) I agree to refund all or part of the cost-share assistance paid to me as determined by the State Forester if, before the expiration of the required practice maintenance period, I destroy the practice, voluntarily relinquish control or title to the land on which the approved practice has been established and the new owner or operator of the land does not agree in writing to properly maintain the practice for the remainder of the period.

Landowner(s) or Authorized Agent's Signature(s) _____ Date _____

Attach the following to this application – Maximum Payment Limitation Review form, proof of ownership (FSA farm number or tax receipt) and Power of Attorney or Power of Estates for legal representative (if applicable).

Forester Action: The practices and acres shown above are needed and practical as outlined in the Forest Management Plan.
 The practices and acres shown above are not needed or practical.

Signature _____ Date _____ Telephone _____

Remarks:

Date received by Area Forester: _____ Final action by Area Forester:
 Approved/forwarded to State Office on _____
 Cancelled/Denied (state reason) _____

Date received by State Office _____	Approved for funding by State Office on _____
Approval No. (FY - #) _____ - _____	Agreement/practice approval expires on _____

Participation is open to all eligible applicants without regard to race, color, religion, national origin, age, sex, marital status, or mental or physical handicap.

PERFORMANCE REPORT AND CERTIFICATION

Landowner Information

Name (First, Middle Initial, Last) Mailing Address City, State, Zip+4 Social Security Number or Tax ID Number County	
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Approved Practices (Shaded boxes for Forester's use only)

Practice/Component Title	Code	Extent Approved	Extent Completed	Rate	C/S Payment
				Total	

PART 1. Landowner Request For Payment

I have completed the above practices according to program specifications and the forest management plan. I am submitting all receipts showing work completed and actual payments for carrying out these practices, and hereby request reimbursement.

Landowner Signature and Date _____
 (Return signed form to your Area Forester with original receipts and cost documentation)

PART 2. Forester Approval and Certification

I certify that the practices and extent shown above have been performed satisfactorily according to Program specifications. Upon my signature, I recommend that the total cost-share payment shown above be issued in accordance with Department policy at the established rate for the completed practices as per the attached receipt(s).

Forester Signature and Date _____

PART 3. Forester Disapproval

The above practices have **not** been performed to program specifications and I recommend payment not be issued for the above practices. The landowner/agent has been informed in writing of the deficiencies and corrective actions needed and is aware of the procedures for appeal of my determination.

Forester Signature and Date _____

PART 4. For State Office Use

Cost-share payment for above completed practices is authorized for Approval No. _____

Program Coordinator Signature and Date _____

Payment of \$ _____ issued on _____

PO Number _____ Program Code _____ Object Code _____

Form FRDP-3

FOREST RESOURCE DEVELOPMENT PROGRAM ELIGIBILITY WORKSHEET

This form is to help the Forester confirm the eligibility of an applicant for forestry cost-share assistance. The Area Forester or Forester completes the form during the application process.

Applicant Name: _____

County of Ownership: _____

Check "True" or "False" for each item.

	True	False
The applicant actually owns the land or legally represents the owner.		
The landowner is not a federal, state or local government agency or other governmental organization.		
The landowner, if a corporation, is not a publicly traded corporation.		
The landowner is not principally engaged in the manufacture or processing of wood products.		
The landowner is not a public utility or a subsidiary of such entity.		
The landowner owns ten contiguous acres or more of eligible land in Oklahoma, OR qualifies for a waiver of the ten-acre minimum.		
The landowner plans to treat at least five acres under an eligible practice, unless applying for an excepted practice.		
The landowner plans to treat no more than 1,000 acres of eligible land.		
The practice is voluntary, or is not required by federal, state or local government laws or regulations.		
The practice has not been started.		
The practice has not been established and currently does not exist on the site as a result of previous cost-sharing.		
The landowner has a forest management plan or a plan will be developed as part of the application and approval process.		

- Eligible
 Not eligible (An ineligible determination is based upon the items above that are checked "False." Provide additional remarks below.)

Remarks:

Forester Signature and Date

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY
FORESTRY COST-SHARE AGREEMENT**

THIS AGREEMENT between the Oklahoma Department of Agriculture, Food and Forestry, referred to as the Department, and “Landowner,” referred to as Landowner, describes the requirements for participation in the State’s Forest Resources Development Program (FRDP).

AGREEMENT PERIOD

The Agreement period is the “Date of Award” on the Purchase Order through 12 months. In the event that the Landowner is unable to complete the approved forestry practices within this time period, the Landowner may request an extension of up to twelve (12) additional months.

THE LANDOWNER AGREES to implement the approved practices described in the Application for Forestry Cost-Share Assistance according to the plans and specifications provided by the approving Forester. The Landowner further agrees to:

1. Not begin the approved practices until written authorization is received.
2. Discuss needed practice revisions with the Forester and get approval in advance.
3. Maintain the land subject to this agreement in forestry usage as outlined in the forest management plan for a minimum of ten (10) years from the date of Performance Certification.
4. Maintain the cost-shared practices for the required practice maintenance period as described in the management plan and to authorize a Department representative to access the property during this period to inspect the practices as needed.
5. Bear all practice installation costs prior to reimbursement, document component costs separately and provide this documentation with receipts and other proof of expenditures, and not to accept payment of more than \$10,000 during the State fiscal year.
6. Comply with FRDP provisions, applicable Department regulations and the terms of this agreement and the forest management plan, and, failing to do so, the Department shall have the right to recover the state’s cost in the agreement plus court costs and reasonable attorney fees if needed.
7. Refund all or part of the cost-share payment received if, before the expiration of the required practice maintenance period, the landowner fails to maintain the practice, destroys the practice, or voluntarily relinquishes control or title to the land on which the approved practice has been established and the new owner or operator of the land does not agree in writing to properly maintain the practice for the remainder of the agreement period.
8. Sign and return a federal form AD-1048 Certification Regarding Debarment and certify compliance with federal requirements referenced in "General Certifications Required of All Recipients of Federal Funds."

9. Keep records related to this agreement for at least three years after final payment, or until all applicable program audits are completed, and make these records available to the Department for review on request.

THE DEPARTMENT AGREES to reimburse the Landowner up to 75% of the actual practice-installation costs up to the program's approved limits based upon the claim approved by the inspecting Forester.

AUDIT CLAUSE

In accepting any agreement with the State, the Landowner agrees that books, records, accounting procedures, practices or any other items related to the services provided relevant to this agreement are subject to examination by the Department and the State Auditor and Inspector.

EMERGENCY CLAUSE

If unforeseen circumstances necessitate a revision to any provision of this agreement, the provision may be revised or appended upon written agreement of both parties.

TERMINATION CLAUSE

This agreement shall be considered to be in force until the expiration date, including an extension if applicable, or until 30 days after notice has been given by either party of its desire to terminate the agreement.

ACCEPTANCE SIGNATURES

Landowner

Date

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY

John C. Burwell, Director
Forestry Services Division

Date

Terry Peach, President
State Board of Agriculture

Date

FRDP Cost-Share Application Evaluation Worksheet

Landowner _____ Batch Period _____

County _____ Date of Original Application _____

PRIORITY RANKING FACTORS	POINTS	SCORE
A. Total treatment cost per acre: Amount of cost-share funding per acre requested to install the practice(s). <div style="text-align: right; margin-right: 50px;"> Less than \$100 per acre \$100 to \$150 per acre more than \$150 per acre </div>	20 15 10 Total =	
B. Size of tract to be treated: <div style="text-align: right; margin-right: 50px;"> 40 acres or more 20 – 39 acres less than 20 acres </div>	12 8 4 Total =	
C. Relative site productivity/quality for the practices requested: <div style="text-align: right; margin-right: 50px;"> High Medium Low </div>	12 8 4 Total =	
D. State and local practice priority: Relative ranking of the requested practice(s) based upon Stewardship Committee guidance and local conservation needs. High (Management Plans, Reforestation, Water Quality, Risk Reduction) Medium (TSI, Agroforestry, Health, Invasive Species, Event Rehab. Low (Wildlife Habitat)	20 15 10 Total =	
E. Contribution of practice(s) to state and national priorities: Rate the extent to which implementation of the practice(s) will help meet overall program goals. Rate each of these five priority areas 1(low), 3(medium) or 5(high) and add together for total.	<div style="margin-right: 50px;"> Maintain or improve forest health Protect water quality Reduce wildfire risk Contribute to ecosystem sustainability Reduce forest fragmentation </div> 1 3 5 1 3 5 1 3 5 1 3 5 1 3 5 Total =	
F. Time on waiting list Credit will be given for the length of time an application remains on the waiting list beyond its first 12 months. Give one (1) point for each full or partial month beyond one year from the original application date.	Total =	
APPLICATION	TOTAL =	

Evaluator Signature _____ Date _____

APPENDIX B – STATUTES GOVERNING THE STATE COST-SHARE PROGRAM

The statutes creating the forestry cost-share program follow. This is extracted from the Oklahoma Forestry Code, O.S. Title 2 Article 16.

SECTION 16-10. (Authorization of Forestry Cost-Share Program) The State Board of Agriculture is authorized to establish and administer a forestry cost-share program. The forestry cost-share program shall provide monies to private landowners for the purpose of implementing forest conservation or management practices on the land as described in forest management plans approved by the Commissioner of the State Department of Agriculture or meeting certain standards established by the Commissioner. The Board shall promulgate rules governing the cost-share program.

SECTION 16-11. (Forestry Cost-Share Fund -- effective Nov. 1, 1996)

- A. There is hereby created within the State Treasury a cost-share fund for the State Board of Agriculture to be designated the "Forestry Cost-Share Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board to implement and maintain the forestry cost-share program.
- B. The Forestry Cost-Share Fund shall consist of:
 - 1. Money received by the State Department of Agriculture in the form of gifts, grants, reimbursements, donations, forest industry contributions, funds allocated by federal agencies for landowner forestry cost-share programs, and other monies specifically designated for the forestry cost-share program. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Board for the forestry cost-share program; and
 - 2. Interest attributable to investment of money in the Forestry Cost-Share Fund.
- C. All donations or other proceeds received by the Department pursuant to the provisions of this section shall be deposited with the State Treasurer to be credited to the Forestry Cost-Share Fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.
- D. The monies deposited in the Forestry Cost-Share Fund shall at no time become part of the general budget of the Department or any other state agency. Except for any administrative costs incurred in development and implementation of the forestry cost-share program, no monies from the Fund shall be transferred for any purpose to another state agency or any account of the Board or Department or be used for the purpose of contracting with any other state agency or reimbursing any state agency for any expense.

SECTION 16-12. (Application for and Allocation of Cost-Share Funds)

- A. The State Department of Agriculture may require eligible applicants to submit information, forms, and reports necessary to properly and efficiently administer the forestry cost-share program.
- B. Persons may apply to the Commissioner of the Department of Agriculture for cost-share funds to improve forest lands in the State of Oklahoma, in accordance with rules promulgated by the State Board of Agriculture. To be eligible, landowners shall follow a written forest management plan that has been prepared by a professional forester and approved by the Commissioner or that meets standards established by the Commissioner. Applications for funds shall be approved or denied by the Department in accordance with criteria promulgated by the Board.
- C. The Commissioner shall allocate monies from the Fund to eligible landowners on a matching basis.

SECTION 16-13. (Forestry Cost-Share Advisory Committee)

- A. The Commissioner of the State Department of Agriculture shall appoint a forestry cost-share advisory committee, which shall meet at least twice each year to review the implementation of the forestry cost-share program. The committee may seek public input and make recommendations on how best to achieve the purposes of the program. In lieu of appointing a new advisory committee, the Commissioner may use the Forest Stewardship Program Committee.

- B. The committee shall be chaired by the Commissioner, and shall include persons the Commissioner determines shall assist the committee in performing its advisory functions.
- C. A majority of the members of the committee shall constitute a quorum for the transaction of business. Committee members shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.

APPENDIX C – THE COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978

[Act of July 1, 1978, Public Law 95–313, 92 Stat. 365, 16 U.S.C. 2101 et seq., as amended through P.L. 107-195, June 16, 2002]

The following section is taken verbatim from the Cooperative Forestry Assistance Act, as amended by the 2002 Farm Bill. Section 4 of the Act establishes the Forest Land Enhancement Program.

SEC. 4. FOREST LAND ENHANCEMENT PROGRAM.

(a) ESTABLISHMENT.—

(1) **IN GENERAL.**—The Secretary of Agriculture shall establish a forest land enhancement program—

- (A) to provide financial assistance to State foresters; and
- (B) to encourage the long-term sustainability of non-industrial private forest lands in the United States by assisting the owners of nonindustrial private forest lands, through State foresters, in more actively managing the nonindustrial private forest lands and related resources of those owners through the use of State, Federal, and private sector resource management expertise, financial assistance, and educational programs.

(2) **COORDINATION AND CONSULTATION.**—The Secretary, acting through State foresters, shall implement the program—

- (A) in coordination with the State Forest Stewardship Coordinating Committees; and
- (B) in consultation with other Federal, State, and local natural resource management agencies, institutions of higher education, and a broad range of private sector interests.

(b) **PROGRAM OBJECTIVES.**—In implementing the program, the Secretary shall target resources to achieve the following objectives:

- (1) Investing in practices to establish, restore, protect, manage, maintain, and enhance the health and productivity of the nonindustrial private forest lands in the United States for timber, habitat for flora and fauna, soil, water, and air quality, wetlands, and riparian buffers.
- (2) Ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to help meet future public demand for all forest re-sources and provide environmental benefits.
- (3) Reducing the risks and helping restore, recover, and mitigate the damage to forests caused by fire, insects, invasive species, disease, and damaging weather.
- (4) Increasing and enhancing carbon sequestration opportunities.
- (5) Enhancing implementation of agroforestry practices.
- (6) Maintaining and enhancing the forest landbase and leverage State and local financial and technical assistance to owners that promote the same conservation and environmental values.
- (7) Preserving the aesthetic quality of nonindustrial private forest lands and providing opportunities for outdoor recreation.

(c) STATE PRIORITY PLAN.—

- (1) **DEVELOPMENT.**—The State Forester and State Forest Stewardship Coordinating Committee of a State shall jointly develop and submit to the Secretary a State priority plan that is intended to promote forest management objectives in that State.
- (2) **REPORT.**—Not later than September 30, 2006, each State that implemented a State priority plan shall submit to the Secretary a report describing the status of all activities and practices funded under the program as of that date.

(d) OWNER ELIGIBILITY FOR ASSISTANCE.—

- (1) ELIGIBILITY CRITERIA.—To be eligible for cost-share assistance under the program, an owner of nonindustrial private forest lands shall agree—
 - (A) to develop and implement, in cooperation with a State forester, another State official, or a professional resources manager, a management plan that—
 - (i) except as provided in paragraph (2) or (3), provides for the treatment of not more than 1,000 acres of nonindustrial private forest lands;
 - (ii) is approved by the State forester; and
 - (iii) addresses site specific activities and practices; and
 - (B) to implement approved activities and practices in a manner consistent with the management plan for a period of not less than 10 years, unless the State forester approves a modification to the plan.
 - (2) PUBLIC BENEFIT EXCEPTION.—The Secretary may increase the acreage limitation specified in paragraph (1)(A)(i) to not more than 5,000 acres for an owner of nonindustrial private forest lands if the Secretary, in consultation with the State forester, determines that significant public benefits will accrue as a result of the provision of cost-share assistance under the program for the treatment of the additional acreage.
 - (3) PLAN DEVELOPMENT EXCEPTION.—An owner may receive cost-share assistance under the program for the purpose of developing a management plan under subsection (e) that provides for the treatment of acreage in excess of the acreage limitations specified in paragraphs (1)(A)(i) and (2), except that the owner's eligibility for cost-share assistance to implement approved activities and practices under the management plan remains subject to the acreage limitation specified in paragraph (1)(A)(i) or, if the Secretary makes the determination described in paragraph (2), the acreage limitation specified in that paragraph.
- (e) MANAGEMENT PLAN.—
- (1) SUBMISSION AND CONTENT.—An owner of nonindustrial private forest lands that seeks to participate in the program shall submit to the State forester of the State in which the lands are located a management plan that—
 - (A) identifies and describes projects and activities to be carried out by the owner to protect or enhance soil, water, air, range and aesthetic quality, recreation, timber, water, wetland, or fish and wildlife resources on the lands in a manner that is compatible with the objectives of the owner;
 - (B) addresses any criteria established by the State and the applicable Committee; and
 - (C) meets the other requirements of this section.
 - (2) LANDS COVERED.—At a minimum, the management plan shall apply to those portions of the nonindustrial private forest lands of the owner on which any project or activity funded under the program will be carried out. In a case in which a project or activity may affect acreage outside the portion of the land on which the project or activity is carried out, the management plan shall apply to all lands of the owner that are in forest cover and may be affected by the project or activity.
- (f) APPROVED ACTIVITIES.—
- (1) STATE LIST.—The Secretary shall develop for each State a list of approved forest activities and practices eligible for cost-share assistance that meets the purposes of the program. The Secretary shall develop the list for a State in consultation with the State forester and the Committee for that State.
 - (2) TYPES OF ACTIVITIES.—Approved activities and practices under paragraph (1) may consist of activities and practices for the following purposes:
 - (A) The establishment, management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes.
 - (B) The sustainable growth and management of forests for timber production.
 - (C) The restoration, use, and enhancement of forest wetland and riparian areas.
 - (D) The protection of water quality and watersheds through—
 - (i) the planting of trees in riparian areas; and
 - (ii) the enhanced management and maintenance of native vegetation on land vital to water quality.
 - (E) The management, maintenance, restoration, or development of habitat for plants, fish, and wildlife.
 - (F) The control, detection, monitoring, and prevention of the spread of invasive species and pests on nonindustrial private forest lands.
 - (G) The restoration of nonindustrial private forest land affected by invasive species and pests.
 - (H) The conduct of other management activities, such as the reduction of hazardous fuels, that reduce the risks to forests posed by, and that restore, recover, and mitigate the damage to forests caused by, fire or any other catastrophic event, as determined by the Secretary.
 - (I) The development of management plans;
 - (J) The conduct of energy conservation and carbon sequestration activities.

(K) The conduct of other activities approved by the Secretary, in consultation with the State forester and the appropriate Committees.

(g) REIMBURSEMENT OF ELIGIBLE ACTIVITIES.—

- (1) IN GENERAL.—In the case of an eligible owner that has an approved management plan, the Secretary shall share the cost of implementing the approved activities and practices that the Secretary determines are appropriate.
- (2) RATE.—The Secretary shall determine the appropriate reimbursement rate for cost-share payments under paragraph (1) and the schedule for making those payments.
- (3) MAXIMUM COST SHARE.—The Secretary shall not make cost-share payments under this subsection to an owner in an amount in excess of 75 percent, or a lower percentage as determined by the State forester, of the total cost to the owner to implement the approved activities and practices under the management plan.
- (4) AGGREGATE PAYMENT LIMIT.—The Secretary shall determine the maximum aggregate amount of cost-share payments that an owner may receive under the program.
- (5) CONSULTATION.—The Secretary shall make determinations under this subsection in consultation with the State forester.

(h) RECAPTURE.—

- (1) IN GENERAL.—The Secretary shall establish and implement a mechanism to recapture payments made to an owner in the event that the owner fails to implement an approved activity or practice specified in the management plan for which the

owner received cost-share payments.

- (2) ADDITIONAL REMEDY.—The remedy provided in paragraph (1) is in addition to any other remedy available to the Secretary.

(i) DISTRIBUTION OF COST-SHARE FUNDS.—The Secretary, acting through the State foresters, shall distribute funds available for cost sharing under the program only after giving appropriate consideration to the following factors:

- (1) The public benefits that would result from the distribution.
- (2) The total acreage of nonindustrial private forest lands in each State.
- (3) The potential productivity of those lands, as determined by the Secretary.
- (4) The number of owners eligible for cost sharing in each State.
- (5) The opportunities to enhance nontimber resources on those lands, including—
 - (A) the protection of riparian buffers and forest wet-land;
 - (B) the preservation of fish and wildlife habitat;
 - (C) the enhancement of soil, air, and water quality; and
 - (D) the preservation of aesthetic quality and opportunities for outdoor recreation.
- (6) The anticipated demand for timber and nontimber resources in each State.
- (7) The need to improve forest health to minimize the damaging effects of catastrophic fire, insects, disease, or weather.
- (8) The need and demand for agroforestry practices in each State.
- (9) The need to maintain and enhance the forest landbase.
- (10) The need for afforestation, reforestation, and timber stand improvement.

(j) AVAILABILITY OF FUNDS.—The Secretary shall use \$100,000,000 of funds of the Commodity Credit Corporation to carry out the Program during the period beginning on the date of enactment of the Farm Security and Rural Investment Act of 2002 and ending on September 30, 2007.

(k) DEFINITIONS.—In this section:

- (1) NONINDUSTRIAL PRIVATE FOREST LANDS.—The term “nonindustrial private forest lands” means rural lands, as determined by the Secretary, that—
 - (A) have existing tree cover or are suitable for growing trees; and
 - (B) are owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity so long as the individual, group, association, corporation, tribe, or entity has definitive decision-making authority over the lands.
- (2) COMMITTEE.—The terms “State Forest Stewardship Coordinating Committee” and “Committee” means a State Forest Stewardship Coordinating Committee established under section 19(b).
- (3) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).
- (4) OWNER.—The term “owner” means an owner of non-industrial private forest land.
- (5) PROGRAM.—The term “program” means the forest land enhancement program established by this

section.

- (6) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.
- (7) STATE FORESTER.—The term “State forester” means the director or other head of a State Forestry Agency or equivalent State official.

APPENDIX D – FORESTRY SERVICES TECHNICAL ASSISTANCE OFFICES

STATE OFFICE

2800 North Lincoln Boulevard
P. O. Box 528804
Oklahoma City, OK 73152
405-522-6158 FAX: 405-522-4583

**CENTRAL & WESTERN AREA HQ
AND THE
FOREST REGENERATION CENTER**

Area Forester and Service Forester
830 NE 12th Avenue
Goldsby, OK 73093-9017
405-288-2385 FAX: 405-288-6326

Service Forester - Enid
2901 North Van Buren
Enid, OK 73703-1731
580-237-4810 FAX: 580-237-8230

Service Forester - Woodward
c/o USDA Field Station
2000 18th Street
Woodward, OK 73801-5427
580-254-3213 FAX: 580-256-1322

Service Forester – Burns Flat
P. O. Box 910
Burns Flat, OK 73624-0910
580-562-4882 X 115 FAX: 562-4880

Service Forester - Ardmore
P. O. Box 1844
Ardmore, OK 73402
580-223-3973 FAX: Same

Forest Tree Improvement Center
Route 1, Box 233
Idabel, OK 74745
580-286-3552 FAX: 580-286-2647

SOUTHEAST AREA – Broken Bow

Area Forester and Service Forester
P. O. Box 40
Broken Bow, OK 74728-0040
580-584-3351 FAX: 580-584-3352

District Forester - Battiest
H. C. 72, Box 515
Battiest Route
Broken Bow, OK 74728-9348
580-241-5375 FAX: 580-241-5738

District Forester - Antlers
P. O. Box 339
Antlers, OK 74523-0339
580-298-5122 FAX: 580-298-6324

EAST CENTRAL AREA - Wilburton

Area Forester and Service Forester
P. O. Box 297
Wilburton, OK 74578-0297
918-465-2082 FAX: 918-465-2005

District Forester - Talihina
P. O. Box 368
Talihina, OK 74571-0368
918-567-2021 FAX: Same

NORTHEAST AREA - Tahlequah

Area Forester and Service Forester
22082 South J.F. Davis Lane
Tahlequah, OK 74464-9805
918-456-6139 FAX: 918-456-4155

District Forester - Sallisaw
629 Harriet
Sallisaw, OK 74955-2805
918-775-2587 FAX: 918-775-2666

District Forester and Service Forester – Jay
HCR-63, Box 1470
Jay, OK 74346-9473
918-253-4268 FAX: 918-253-4969

