



## SUSTAINABLE AGRICULTURE COALITION

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### Quick Analysis of Final Rule for Farm and Ranch Lands Protection Program

The final rule for the FRPP was published in the Federal Register on Friday, May 16th and is available there as well as on the USDA/NRCS/Farm bill web-page.

In SAC's comments on the proposed rule we raised two major issues - using FRPP not only to save farmland from development but also to ensure good conservation on the land, and taking steps to help ensure the farms saved from development remain working farms with adequate farm succession planning and a commitment to beginning farmers. We asked for and suggested definitions, ranking criteria, and funding priority language for each of these two issues.

In a nutshell, we made very substantial progress on the farm transfer and beginning farmer issue and a little progress on the conservation issue.

From the preamble to the final rule which discusses the public comment, it is clear that our action alert on this issue (sent out by SAC and others) generated about 13 responses to both issues, plus an additional 6 just on the beginning farmer issue and about an additional 6 just on conservation. In total they received 296 letters with comments, the vast majority of which addressed the issue of the minimum amount of the cash contribution required of participating land trusts.

#### A. Starting with farm succession/beginning farmer, NRCS made 4 specific changes.

##### 1. Added a definition for "farm or ranch succession plan"

"Farm or Ranch Succession Plan is a general plan to address the continuation of some type of agricultural business on the conserved land; the farm or ranch succession plan may include specific intra-family succession agreement or strategies to address business asset transfer planning to create opportunities for beginning farmers and ranchers."

##### 2. Added a national ranking criteria

"(x) History of an eligible entity's commitment to assisting beginning farmers and ranchers, to promoting opportunities in farming and ranching, and to farm and ranch succession transfer."

##### 3. Added a state ranking criteria

"(vii) - same language as in #2 above

##### 4. Added funding priority language

"(j) NRCS may place a higher priority on farms or ranches that have a farm succession plan or similar plan established to encourage farm viability for future generations."

Note, of course, that the ranking criteria and funding priority language is all discretionary. This is true of nearly all the other ranking criteria and funding priority language in the rule. In essence, this is advisory to the State Conservationists and the State Technical Committees as they implement the program within their state boundaries. It is critical, therefore, that follow-up be done in each state to ensure this language actually gets used. That being said, it is a real and important step forward to have this concern addressed for the first time in the farmland protection arena. Also, since NRCS regulations are equivalent to statutory language, this is the first time in law that farm succession plans is defined in federal law.

## B. Comprehensive Conservation

Our specific recommendations to give funding priority to for land on which a comprehensive conservation plan will be implemented, for a definition of conservation planning broader than just soil erosion plans for HEL and incorporating Resource Management System planning, and for clarification of conservation easement language to support conservation planning, were all rejected. Concern was expressed in the preamble that making such changes would potentially subject landowners with HEL to higher standards than contained in the 1985 Act as amended.

However, one addition was made that broadly addressed our concerns, and one important item from the proposed rule is continued in the final:

### 1. Added a new funding priority criteria

"(i) NRCS may place a higher priority on farms or ranches that have or will have a greater variety of natural resources protected."

### 2. Conservation easement discretionary language kept in final rule

"The conservation plan will be developed and managed in accordance with the Food Security Act of 1985, as amended, 7 CFR, part 12 or subsequent regulations, and other requirements as determined by the State Conservationist." (emphasis added)

Again, these are discretionary items and will require vigilance on the part of State Technical Committee members to ensure that states may attention to this concern. According to NRCS staff, currently about half of the states and other participating agencies do in fact require Resource Management System conservation plans for FRPP participants. With the publication of the final rule and the expansion of the program to more states and to NGOs, additional effort will be required to expand the commitment to comprehensive conservation planning.

The SAC comments also called for a cross-reference to financial assistance programs such as CSP, EQIP and Partnerships and Cooperation. This was also rejected, though the preamble does note that State Conservationists may rank FRPP proposals or proposals for other conservation assistance programs higher if they are enrolled or enrolling in both. For CSP or P&C promotion efforts in urban-influences areas it would be helpful to pick up on this "dual enrollment" theme at the state level.

**One final note:** in both the proposed and final rule, as part of the funding priorities section, the word "multifunctional" appears - I'm guessing this may be the first time the word is used in USDA regulations!

"(g) NRCS may place a higher priority on lands that provide multifunctional benefits including social, economic, historical and archeological, and environmental benefits."