

distribution of power and responsibilities on the various levels of government.

Unfunded Mandates Reform Act of 1995

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, NRCS has assessed the effects of this rulemaking action of State, local, and Tribal governments, and the public. This action does not compel the expenditure of \$100,000,000 or more by any State, local, or Tribal government, or anyone in the private sector; therefore, a statement under section 202 of the Act is not required.

Background Related to the Farm and Ranch Lands Protection Program

Urban sprawl continues to threaten the Nation's farm and ranch land. Social and economic changes over the past three decades have influenced the rate at which land is converted to nonagricultural uses. Population growth, demographic changes, large lot development, expansion of transportation systems, and economic prosperity have contributed to increased agricultural land conversion rates. Increased population, growing affluence, and an expanded transportation infrastructure have accelerated the depopulation of the urban centers and have resulted in the conversion of farm and ranch land. Between 1960 and 1990, metropolitan area population grew by 50 percent, while the acreage of developed land increased 100 percent. About 45 percent of new construction between the years of 1994 and 1997 occurred in rural areas, with nearly 80 percent being land bordering urban areas. Overall, this translates to over 2.2 million acres being converted per year (USDA, *Maintaining Farm and Forestland In Rapidly Growing Areas*, 2000).

According to the USDA National Resources Inventory (NRI), urban and built-up areas increased from 65.3 million acres in 1992, to 79 million acres in 1997, equaling an area approximately the size of Ohio. Perhaps more important than the overall rate of land conversion is the location and type of land subject to this change in land use. On average, prime and important farmlands are being converted at a rate of two to four times that of other lands. Based on NRI urban and built-up data for the 1980s, 46 percent of the land converted to urban and built-up uses comes from cropland and pasture, while 38 and 14 percent comes from forest land and range land, respectively. Much of the land being lost is prime, unique, or important farmland located near

cities. Moreover, an end to farm and forest land conversion is not in sight. The National Home Builders Association forecasts an expansion of 1.3 to 1.5 million new homes per year through 2010 (USDA, *Maintaining Farm and Forestland In Rapidly Growing Areas*, 2000).

As a result of these land use changes, there is growing national interest in protecting farm and ranch lands. Once developed, productive topsoil is effectively lost forever, placing the Nation's future food security at risk. Furthermore, land use devoted to agriculture provides other significant public benefits, including environmental quality, historic preservation, and scenic beauty.

Overview of the Farm and Ranch Lands Protection Program

The FRPP is a voluntary program that helps farmers and ranchers keep their land in agriculture. The program provides matching funds to State, Tribal, and local governments, and non-governmental organizations with existing farmland protection programs to purchase conservation easements. NRCS is authorized by statute to purchase conservation easements, or other interests in land. NRCS cannot use FRPP funds to restore historical or archaeological resources, nor share in the cost of installing conservation practices.

Under the FRPP, NRCS solicits proposals from Federally recognized Indian Tribes, States, units of local government, and non-governmental organizations to cooperate in the acquisition of conservation easements on farms and ranches for the purpose of protecting topsoil from conversion to nonagricultural uses. Although NRCS has authority to acquire other interests in land, the FRPP will seek to fund the acquisition of conservation easements.

Discussion of Comments and Changes

The Natural Resources Conservation Service (NRCS), on behalf of the Commodity Credit Corporation (CCC), published a proposed rule on October 29, 2002 at 7 CFR 1491. NRCS received 296 timely filed letters containing nearly 800 comments. Respondents included the following: 1 Congressional representative, 1 Federal agency, 5 State agencies, 5 local governments, 59 non-governmental organizations, and 225 from individuals. Comments were received from California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire,

New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia. Some letters and e-mails did not indicate from which State they originated. Some comments pertained to a specific situation or locality and were not national in scope; therefore, these comments were not addressed in the final rule.

The discussion that follows is organized in the same sequence as the proposed rule.

Subpart A—General Provisions

Section 1491.1 Applicability

This section addresses the scope of the Farm and Ranch Lands Protection Program. The Farm and Ranch Lands Protection Program is available in all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands. One respondent asked whether this final rule governs the policy for fiscal year 2002 applications. This final rule is effective upon publication. Conservation easements recorded on/or following this date will be administered according to this final rule. Cooperative agreements signed on this date or following this date also will be administered according to this final rule. One respondent asked that there be a discussion of how the final rule differs from the Request for Proposals, while one respondent requested that NRCS continue to use national Request for Proposal announcements, as it did under the Farmland Protection Program. The final rule promulgates policy regarding the implementation of the FRPP, while the Request for Proposals, which will continue to be used, announces national fund availability and sets forth nationwide application procedures and ranking criteria.

Three respondents indicated their overall support for the FRPP program and its proposed rule, while two respondents indicated that they did not support FRPP, contending that tax dollars should not be used on programs where the Federal government decides how private lands are to be used, and that a program such as FRPP invites more "boom and bust" land speculation. FRPP is a voluntary program that protects agricultural land from conversion to nonagricultural uses. FRPP, coupled with community planning and zoning, such as the use of agricultural districts, can help curb