

many parcels submitted by numerous cooperating entities, making execution of memoranda of understandings impractical. As a result, NRCS has chosen to retain the current procedures of selecting and evaluating parcels using uniform criteria at the State level.

Another respondent suggested that NRCS utilize a two-step process whereby eligible entities can be certified prior to the identification of eligible lands so that the cooperating entities might be poised to make an offer when eligible farmlands become available. This option is not possible under FRPP because the authorizing legislation requires that the entities have pending offers prior to NRCS awarding funds to eligible entities.

Four respondents requested clarification on how the National and State criteria are used in selecting parcels. The FRPP proposed rule set forth the national criteria used in determining State allocations. The national criteria are based on national agricultural land conversion rates as provided by the National Resources Inventory (NRI), as well as information gathered from interested entities through the FRPP State Plan process. This latter information includes but is not limited, to entity history, entity acquisition strategies, anticipated average FRPP cost per acre, and total acres needing to be protected in that fiscal year. The proposed rule also stated that national criteria, in addition to State criteria, will be used to evaluate parcels. Currently, FRPP policy states that parcels will be evaluated using State criteria and national criteria, with no less than 50 percent of the weight placed on national criteria. While criteria such as the NRI agricultural land conversion rates cannot be used beyond the State level, State conservationists have the flexibility to choose the national criteria which they deem appropriate. NRCS believes that the mix of national and State criteria allows national FRPP objectives to be met, while at the same time providing the NRCS State Conservationist the necessary flexibility needed to evaluate parcels at the State level. One respondent suggested that NRCS adopt a committee approach in developing ranking criteria, such as that used by USDA's Forest Legacy Program, while another respondent requests that NRCS develop a process for obtaining public input on ranking criteria. The final rule allows for the NRCS State Conservationist to develop ranking criteria with the advice from the State Technical Committee. In a majority of States, the NRCS State Conservationist currently develops ranking criteria

based on the advice of the State Technical Committee. NRCS believes this committee approach allows for public input to be obtained.

Several respondents suggested on expanding FRPP ranking criteria. One respondent suggested that an emphasis be placed on watershed protection, while another suggested that agricultural economic viability of a farm or ranch be included as criteria. Another respondent suggested that FRPP criteria consider fish and wildlife habitat and water quality, as well as soils. One respondent questioned the applicability of the criteria, "proximity to other protected clusters" in areas where conservation easements are not utilized, while another respondent, in an area with increasing development pressures, suggested that NRCS consider the rate of land conversion relative to the remaining agriculture in the geographic area. This same respondent, as well as another respondent, suggested that NRCS evaluate parcels relative to specific geographic areas in which they were protecting. For example, the anticipated FRPP cost per acre or acreage to be protected should be considered in relation to the geographic area where the parcel is located. Another respondent suggested that LESA criteria should be modified so that sites near sewage lines, water lines, or other public utility lines should receive a higher ranking. NRCS has not changed the final rule as it relates to parcel ranking and evaluation because the agency believes that the State Technical Committee process, as well as the State Conservationist's ability to choose his or her own criteria to evaluate parcels, provide the NRCS State Conservationist the necessary flexibility to develop criteria and rank eligible parcels for funding.

Nineteen respondents requested that NRCS add the following to the list of possible State criteria: "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 and transfer planning," while another stressed the importance of funding entities who place priority on protecting parcels in zoned agricultural areas. To encourage that these farms and ranches remain agriculturally viable in the future, NRCS has added these suggestions for the NRCS State Conservationists to use in State ranking criteria, if they deem appropriate. Two respondents questioned what is meant by "degree of leveraging guaranteed by eligible entities." One of these respondents suggested that NRCS rephrase this criterion to read as

follows: "Amount of the Federal share to be contributed to the acquisition of the conservation easement relative to the fair market value of the conservation easement." NRCS partially accepts this suggestion and has rephrased the criteria accordingly.

Section 1491.7 Funding Priorities

Several respondents requested that NRCS place a priority on a variety of factors when evaluating parcels. One respondent requested that the highest priority should be given to parcels and areas that protect drinking water sources. Twelve respondents requested that NRCS place a priority on those farms and ranches that have a comprehensive resource management system where all the natural resources are addressed on the farm or ranch, seventeen respondents requested that NRCS place a higher priority on applications from landowners who have developed farm or ranch succession or transfer plans with a preference for plans that will benefit beginning farmers and ranchers. One respondent requested that NRCS place a higher priority on lands and locations where parcel size, soils, markets, local farm infrastructure, proximity of other agriculture, and other considerations make it more likely that the protected lands will constitute or contribute to an economically viable, independent farming operation.

NRCS has incorporated some of these comments in the final rule; however, as indicated previously, the State Conservationist, with advice from the State Technical Committee, develops criteria used to select parcels in accordance with the statutory objectives of FRPP. In addition, the selection of one set of criteria over another is at the discretion of the State Conservationist. For this reason, NRCS has chosen to include these suggested priorities, but continues to encourage and permit the NRCS State Conservationist with advice from the State Technical Committee, to determine the ranking criteria preference based on State natural resource conditions, anticipated funding, geographic priority areas, and other factors deemed to be important in each State.

NRCS also received comments requesting clarification of the meaning of Section 1491.7. For example, one respondent requested clarification of what is meant by on-site and off-site conditions. Examples of what is meant by on-site or off-site conditions are respectively a farm that contains a hazardous waste site, or a ranch that neighbors a commercially zoned area. Where on-site or off-site conditions exist, NRCS may choose not to fund a