

asserting that they conflict with the rights of the Grantee. The respondent notes that since neither NRCS nor CCC are Grantees of the recorded conservation easements with individual landowners, NRCS has no responsibilities under law to monitor, enforce or prosecute violators of easements. Therefore, NRCS should not impose rules and regulations covering these enforcement authorities already legislated by a State legislation under which they are governed. To clarify any confusion regarding the applicability of scheme and device provisions and to address the respondent's concerns, NRCS has removed the term "landowner" from the scheme and device paragraphs. However, NRCS has retained these paragraphs as drafted in the proposed rule in the event a cooperating entity with whom NRCS directly enters into a cooperative agreement commits waste, fraud, or abuse. These paragraphs have been edited to reflect this change in policy.

List of Subjects in 7 CFR Part 1491

Administrative practice and procedure, Agriculture, Soil conservation.

■ For the reasons stated in the preamble, the Commodity Credit Corporation amends chapter XIV by adding a new part 1491 as set forth below:

PART 1491—FARM AND RANCH LANDS PROTECTION PROGRAM

Subpart A—General Provisions

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- 1491.20 Cooperative agreements.
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Authority: 16 U.S.C. 3838h–3838i.

Subpart A—General Provisions

§ 1491.1 Applicability.

(a) The regulations in this part set forth policies, procedures, and requirements for program implementation of the Farm and Ranch Lands Protection Program as

administered by the Natural Resources Conservation Service (NRCS). FRPP cooperative agreements and easements signed on or after May 16, 2003, will be administered according to 7 CFR part 1491.

(b) The NRCS Chief may implement FRPP in any of the 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.

§ 1491.2 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the NRCS Chief.

(b) NRCS shall— (1) Provide overall program management and implementation leadership for FRPP;

(2) Develop, maintain, and ensure that policies, guidelines, and procedures are carried out to meet program goals and objectives;

(3) Ensure that the FRPP share of the cost of an easement or other deed restrictions in eligible land shall not exceed 50 percent of the appraised fair market value of the conservation easement;

(4) Determine land and entity eligibility;

(5) Ensure a conservation plan is developed in accordance with 7 CFR part 12;

(6) Make funding decisions and determine allocations of program funds;

(7) Coordinate with the Office of the General Counsel (OGC) to ensure the legal sufficiency of the cooperative agreement and the easement deed or other legal instrument;

(8) Sign and monitor cooperative agreements for the CCC with the selected entity;

(9) Monitor and ensure conservation plan compliance with highly erodible land and wetland provisions in accordance with 7 CFR part 12; and

(10) Provide leadership for establishing, implementing, and overseeing administrative processes for easements, easement payments, and administrative and financial performance reporting.

(c) NRCS may enter into cooperative agreements with eligible entities to assist NRCS with implementation of this part.

§ 1491.3 Definitions.

The following definitions may be applicable to this part:

Agricultural uses are defined by the State's Purchase of Development Rights (PDR) program, or where no PDR program exists, agricultural uses should

be defined by the State agricultural use assessment program. (If the Agency finds that a State definition of agriculture is so broad that an included use could lead to the degradation of soils, NRCS reserves the right to impose greater deed restrictions on the property than allowable under that State definition of agriculture in order to protect topsoil.)

Chief means the Chief of NRCS, USDA.

Commodity Credit Corporation (CCC) is a Government-owned and operated entity that was created to stabilize, support, and protect farm income and prices. CCC is managed by a Board of Directors, subject to the general supervision and direction of the Secretary of Agriculture, who is an ex-officio director and chairperson of the Board. CCC provides the funding for FRPP, and NRCS administers FRPP on its behalf.

Conservation Easement means a voluntary, legally recorded restriction, in the form of a deed, on the use of property, in order to protect resources such as agricultural lands, historic structures, open space, and wildlife habitat.

Conservation Plan is the document that—

(1) Applies to highly erodible cropland;

(2) Describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules;

(3) Is approved by the local soil conservation district in consultation with the local committees established under Section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 5909h(b)(5)) and the Secretary, or by the Secretary.

Contingent right is an interest in land held by the United States, which the United States may exercise under specific circumstances in order to enforce the terms of the conservation easement or hold title to the easement.

Eligible entities means Federally recognized Indian Tribes, States, units of local government, and certain non-governmental organizations, which have a farmland protection program that purchases agricultural conservation easements for the purpose of protecting topsoil by limiting conversion to non-agricultural uses of the land.

Additionally, to be eligible for FRPP, the entity must have pending offers, for acquiring conservation easements for the purpose of protecting agricultural land from conversion to non-agricultural uses.