



# DELAWARE ASSOCIATION CONSERVATION DISTRICTS

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March 16, 2009

U.S. Department of Agriculture  
Natural Resources Conservation Service  
Program Allocations and Management Support Team  
Regional Equity Comments  
P.O. Box 2890  
Room 5212-S  
Washington, D.C. 20013

RE: Docket Number NRCS-IFR-08006

The Delaware Association of Conservation Districts (DACD) appreciates the opportunity to comment on the Farm and Ranch Lands Protection Program (FRPP) interim final rule that was published in the Federal Register on January 16, 2009. This program is critical to Delaware's Agricultural Land Preservation Program, particularly in light of our waning State budget. FRPP funding is important not only for purchasing easements but also for justifying State funding to leverage these federal dollars. It is therefore unfortunate that bureaucracy has stalled the transfer of these much needed funds to Delaware's program in recent months.

DACD believes that the intent of Congress for FRPP in the 2008 Farm Bill was to rely more heavily on the "eligible entity" for management of the easements in questions. This is to include the contingent right of enforcement for these easements. The Manager's report referenced in the Federal Register and the House version of FRPP clearly defines the intent of Congress, yet NRCS concludes in this interim final rule that it cannot accomplish this intent. It seems clear that should the eligible entity transform such that it could no longer enforce the terms of these easements, NRCS would then step up to realize the agency's right of enforcement. While this situation might be more likely in the case of non-government organizations (NGOs) serving as eligible entities, it is highly unlikely to occur when the eligible entity is a State program mandated by State law as is the case in Delaware. DACD therefore believes that the interim final rule should recognize the difference in these scenarios and thus address NRCS' contingent right of enforcement differently for NGOs than it does for State programs.

DACD applauds the intent of Congress to direct FRPP funds to be "used to assist eligible entities with the purchase of rights in land rather than to purchase these rights directly by the United States." A successful agricultural lands preservation program cannot be operated under two different sets of standards (federal, and State or local), and most State and local programs are designed to deal with the real world circumstances confronting farm and ranch owners. We believe the Delaware Agricultural Lands Preservation Program, operated under the direction of

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the Delaware Agricultural Lands Preservation Foundation and the Delaware Department of Agriculture is a model program that obtains and manages easements in a manner specifically tailored to Delaware. We therefore request changes in the rule that will allow our State program to utilize FRPP funds in our current State program as currently managed, and that contingencies written into the rule are treated as true contingencies rather than the first order of business.

DACD appreciates the opportunity to comment on this rule and would be happy to address any questions or concerns regarding this matter.

Sincerely,



Terry L. Pepper  
President  
DACD