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STATE OF MICHIGAN
DEPARTMENT OF AGRICULTURE
LANSING
August 3, 2009

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Reply to:
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USDA, NRCS
Easement Programs Division, Room 6819-S
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RE: Farm and Ranch Lands Protection Program Comments

Thank you for the opportunity to comment on the recent revisions to the Farm and Ranch Lands Protection Program (FRPP) Interim Final Rule (Docket Number NRCS-IFR-08013) as published on January 16, 2009 and amended July 2, 2009. The State of Michigan's Farmland and Open Space Preservation Office would like to comment on the revisions made, as well as support the comments that were sent by the American Farmland Trust on March 9, 2009 that were not addressed in the recent amendments.

We concur with the American Farmland Trust's suggestion that certification should be used to provide a meaningful way to reduce administrative review for experienced entities and believe that should have been addressed in the recent revisions. We agree that certified entities should have the benefit of using their own scoring system to rank parcels and have minimal appraisal and title oversight by the FRPP staff.

In addition, it is not clear to us why the certification process was created with the only benefit of being a certified entity verses a non-certified entity is an extended cooperative agreement term. This gives little incentive for entities to work towards certification. The certification requirements seem to be tailored to favor the older and better funded farmland preservation programs, such as the requirement of having enrolled a minimum of 50 parcels in FRPP for all years that FRPP has existed. This rule removes the possibility for most farmland preservation programs to work towards certification because it is not possible to meet that requirement.

For example, the State of Michigan's Purchase of Development Rights Program was created in 1974 and purchased its first conservation easement in 1994. The program now holds 104 permanent conservation easements, preserving a total of 20,582 acres. Our program has been working with FRPP since 1998, with FRPP providing funds totaling over 5 million dollars toward the purchase of 21 permanent conservation easements. Despite those achievements, the State of Michigan's program does not qualify as a certified entity.

We also believe that the forest management plan requirement should be revised or removed. To require a forest management plan on at least 10 acres or 10% of the easement area is too restrictive, since many parcels contain several small woodlots that would easily add up to 10 acres in size. The State of Michigan's opinion regarding forest management plans coincides with the American Farmland Trust's suggestion of requiring a forest management plan on forest land of 100 acres or more. This would be a practical requirement due to the need for regulation of forest land that is profitable enough to harvest.

USDA, NRCS
Easement Programs Division

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Our final comment concerns the national ranking factors. Specifically, the national ranking criteria for the decrease in the percentage of acreage of farm and ranch land in the county in which the parcel is located, the percent population growth in the county, and the population density are a concern. In Michigan, all three of these national ranking factors were used. By using all three, the Michigan FRPP program awarded grants for parcels that were located near metropolitan areas of significant development pressure with very high development rights values.

As a matter of example in Michigan, Acme Township submitted three parcels for funding. Their application scored no higher than three points out of the thirty points for the three ranking factors described above because the area is rural, although still subject to development pressure from recreational housing. These criteria in turn penalize farmland preservation programs that are located in smaller communities that have the greatest potential for farmland preservation at a reasonable cost.

The FRPP criteria end up targeting specific areas that are too close to development and therefore are less suitable for preservation. In Michigan, local farmland preservation programs are on the rise and are struggling to find sources for funding. These programs look to FRPP as an important funding source. Unfortunately, with the current scoring criteria, their parcels stand little chance of being selected for funding. We request that these factors be reconsidered in the FRPP Interim Final Rule so that the program focuses less on urbanizing areas. Perhaps having only one of the criteria that focus on urbanizing areas rather than three would be more appropriate.

Thank you for the extended opportunity to comment on the FRPP Interim Final Rule. Please feel free to contact me if you need further explanation of these comments.

Sincerely,



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RAH:k

cc: Katie Kahl, Heart of the Lakes Center for Conservation Policy
Bob Wagner, American Farmland Trust
Brian Bourdages, Grand Traverse Regional Land Conservancy
James Johnson, Michigan Department of Agriculture