



United States Department of Agriculture  
**OFFICE OF INSPECTOR GENERAL**  
 Office of Counsel  
 1400 Independence Avenue, NW  
 Room 441-E, Washington, DC 20250



166

DATE: 3/17/09	
TOTAL PAGES (INCLUDING COVER SHEET): 3	
TO: Easements Programs Division, NRCS	
LOCATION:	
VOICE:	FAX: (202) 720-9689
FROM:	
<input type="checkbox"/> David Gray, Counsel to the Inspector General <input checked="" type="checkbox"/> Christy Slamowitz, Deputy Counsel to the Inspector General <input type="checkbox"/> Paul Fecney, Deputy Counsel to the Inspector General <input type="checkbox"/> Melissa Casey, Staff Assistant <input type="checkbox"/> Cecelia Banks, Legal Assistant <input type="checkbox"/> Shenandoah Bunn, Assistant Counsel <input type="checkbox"/> Michael Ching, Assistant Counsel <input type="checkbox"/> Joanne Howard, Assistant Counsel <input type="checkbox"/> Michael Jones, Assistant Counsel <input type="checkbox"/> Cherry Tolliver, Assistant Counsel <input type="checkbox"/> Jill Sayre, Assistant Counsel <input type="checkbox"/> Albert Stewart, Management Analyst <input type="checkbox"/> Margaret Mathewson-Harris, Paralegal Specialist	
VOICE: (202) 720-9110	FAX: (202) 690-1528
COMMENTS: RE: Docket No. NRCS - EFR - 08006 Interim Final Rule Re: Farm and Ranch Lands Protection Program  (Comments also submitted via e-mail to: frpp2008@wdc.usda.gov)	

Rec'd  
3/17/09

**CONFIDENTIALITY NOTICE**

The document accompanying this facsimile transmission contains confidential information which is legally privileged. The information is intended only for the use of the recipient name above. If you have received this facsimile in error, please immediately notify this office by telephone. You are hereby notified that any disclosure, copying distribution, or taking any action in reliance on the contents of this facsimile information is strictly prohibited.



UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF INSPECTOR GENERAL



Washington D C 20250

MAR 17 2009

TO: Easements Programs Division  
Natural Resources Conservation Service

FROM: Phyllis K. Fong *Phyllis K. Fong*  
Inspector General

SUBJECT: Comments on Interim Final Rule Regarding Farm and Ranch Lands Protection Program (Docket Number NRCS-IFR-08006)

The Office of Inspector General (OIG) has reviewed the Natural Resources Conservation Service (NRCS) and the Commodity Credit Corporation (CCC) interim final rule regarding the Farm and Ranch Lands Protection Program (FRPP), published at 74 Fed. Reg. 2809 (January 16, 2009).

We have the following comments on the interim final rule:

1. Section 1491.3 Definitions. The interim final rule requires a non-governmental organization to have a "dedicated fund" for the administration of conservation easements in order to be eligible as a "certified entity" under the FRPP. See §1491.4(d)(5). The interim final rule defines "dedicated fund" to mean "an account held by an eligible entity **sufficiently capitalized** for the purpose of covering expenses associated with the management, monitoring, and enforcement of conservation easements and where such account cannot be used for other purposes." §1491.3 (emphasis added). However, the rule does not define or explain what is meant by "sufficiently capitalized". We believe eligible entities need more specific guidance to ensure that the dedicated funds have sufficient monies to properly administer their conservation easements and protect the interests of the Federal government. We recommend that NRCS provide additional specific guidance regarding sufficient capitalization of the dedicated fund.
2. Section 1491.22 Conservation easement deeds. The interim final rule specifies that prior to easement closing, NRCS must sign an acceptance of the conservation easement, concurring with the terms of the easement and accepting its interest in the easement deed. See §1491.22(g). The interim final rule also states that the easement deed must include an amendment clause requiring that any change to the easement after its recordation must be consistent with the

purposes of the easement and the FRPP rules. See §1491.22(k). However, the interim final rule does not require NRCS to review amendments or sign an acceptance of amendments to easement deeds. We believe that such a requirement would help protect the interests of the Federal government and recommend that language be added requiring NRCS to review and approve any amendments to easement deeds.

Thank you for the opportunity to comment on this interim final rule. If you have any questions regarding these comments, please contact Mr. William Burke, Audit Program Manager, Farm and Foreign Agricultural Division, on (202) 720-7941