



IOWA
NATURAL HERITAGE
FOUNDATION

for those who follow

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Easement Programs Division
Natural Resources Conservation Service
Wetlands Reserve Program Comments
PO Box 2890, Room 6819-S
Washington, D C 20013

Dear Gentlemen,

The Iowa Natural Heritage Foundation is a land trust that has participated significantly in the wetland programs administered by the NRCS. Since the inception of the programs, we have helped landowners who want to stop farming land where failed tile systems or repetitive flooding have made the site unprofitable. We have assisted them with tax-deferred land exchanges or have found buyers for their easement properties since most farmers do not wish to retain ownership after they have agreed to place an easement on their land.

The wetland programs have been efficiently implemented in Iowa through the partnership of the State NRCS office, the District Conservationists, federal, state and county wildlife agencies and NGO's under the prior rules and their interpretations. Some of the new Interim Final Rules for the Wetlands Reserve Program significantly impair the program goals of enhancing wetland values and functions and maximizing wildlife benefits.

We have the following comments and suggestions on the Interim Final Rules which we believe will better meet the needs of the landowners while keeping within the language of the statute.

Section 1467.4(c)(2) This section sets forth the areas in which the State Conservationist may consider waiving the 7 year ownership rule. Since the wetland programs have been in effect for almost twenty years, some very significant wetland complexes (some protecting thousands of acres) have developed in Iowa, both in the Prairie Pothole region and in the major river basins. In addition, Iowa has numerous wetland easements protecting native prairies, fens and Threatened, Endangered and at-risk species.

We would suggest that when land is offered for enrollment, and is an in-holding or adjacent to these existing wetland complexes or harbor unique land forms, flora or fauna, that the State Conservationist be permitted to accept such applications notwithstanding the length of time the landowner has owned the property. The pressure to develop land for agricultural or urban uses will not abate, which raises the need to permanently preserve these unique areas.

RECOMMENDATION: We recommend that an additional subsection be added to Section 1467.4(c)(2) to provide the State Conservationist the flexibility of accepting an application for enrollment, regardless of the length of ownership if the State Conservationist finds the property is a crucial addition to an existing wetland complex or if the property contains substantially unique land forms, flora and/or fauna in need of permanent protection.

Section 1467.4(d) If a landowner has a valid WRP application on a property and wishes to sell it, this new rule prohibits the buyer from continuing with the enrollment process unless he waits 7 years

Under the prior rule interpretations, "Persons who acquire land after an eligible application to participate has been accepted by NRCS but before the easement is recorded may participate in WRP if a transfer agreement is completed between the seller and buyer and the State Conservationist agrees to work with the new landowner. (Section 514.10 NRCS WRP Handbook). Most farmers who enroll in WRP do not have interests in long term ownership of the property. They are either young farmers who want to trade out of inefficient farm ground (caused by either an out-of-date or broken title system or by a frequent high water table), or are older farmers wanting retire from farming. In either case, there is little interest in holding land they have to pay taxes on and control noxious weed, yet cannot gain farming income.

The 2008 Act increases the ownership period from 12 months to 7 years for land to be eligible for application for enrollment. The new statute only changed the holding period without any additional conditions or limitations. The Section by Section Analysis of the new rules states in part, "Previously, NRCS measured ownership duration at the time of application. However, NRCS determined that as an eligibility criterion, ownership duration should be determined as a part of the eligibility review of the project."

This gratuitous rule change hamstrings the effectiveness of the program by discouraging landowners from enrolling, who do not want long term ownership responsibilities. The purpose of the program is to restore wetlands, enhance water quality and provide habitat for migrating waterfowl and other wetland species. Third parties who want to acquire the property for its recreational use and complete the enrollment process are essential to the landowners and the Program meeting their respective goals.

RECOMMENDATION: We recommend Section 1467.4(d) be revised to reflect the practice as set forth in Section 514.10 of the NRCS WRP Handbook which permits a subsequent eligible landowner to complete the easement process commenced by the selling landowner.

Section 1467.4(f) This new rule states in part that to "[E]nroll in WRP, the CRP contract for the property must be terminated or otherwise modified..." This creates a serious impediment to the WRP program implementation in two ways. First, if a CRP contract is prematurely terminated, the landowner must repay all funds received under the contract, plus interest and penalty. Many contracts have been in place for ten to twenty years. It is financially inconceivable that a landowner would prematurely terminate his CRP contract so that he could enroll in WRP with no assurance of if, or when, his application will be funded. Second, if he could get permission to terminate his CRP contract without penalty, he would have no assurances if, or when, his application would be accepted and once accepted when he would be paid for his easement. Since this process can easily take several years, he would probably tear up the CRP cover on this highly erodible land and farm the property. It makes no sense to include such a provision in a conservation program.

Under the prior rules, the CRP contract remained in place throughout the easement process, and CRP contract payments were paid to the landowner, prorated to the date of filing the easement.

RECOMMENDATION: We recommend Section 1467.4(f) be revised to permit a CRP contract remain in force until the WRP easement is filed.

Thank you for your consideration,



Bruce Mountain
Land Projects Director