

WRP



Ohio Department of Natural Resources

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Office of the Director
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March 12, 2009

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WRP-Easements Programs Division
Natural Resource Conservation Service
Wetlands Reserve Program Comments
P O 2890, Room 6819-S
Washington, DC 20013

RE: Wetlands Reserve Program (WRP) interim final rule

Dear WRP Program Manager:

The Ohio Department of Natural Resources, Division of Wildlife (DOW) would like to respectively submit comments on the interim final rule for the WRP as provided for under *the Federal Register* public notice from January 15, 2009. DOW comments focus on the proposed changes on the eligibility of riparian areas and landowner eligibility criteria.

In Ohio a significant amount of riparian habitat, in conjunction with the eligible wetland habitat, has been effectively protected under the WRP. An excellent example is the work done by Western Reserve RC&D in successfully completing 24 WRP applications that resulted in over forty (40) miles of riparian habitat being permanently protected with conservation easements. A significant amount of the environmental benefits associated with riparian habitat is due to its linear nature. Riparian habitat serves a critical function of connecting and buffering wetlands as well as the adjoining aquatic stream habitat. The riparian habitat compliments and enhances the environmental benefits attributable to wetlands and helps meet the goals of the WRP. Including riparian areas as a primary eligibility criteria for WRP helps bring a more holistic approach to the program.

DOW shares the recommendations provided by Western Reserve RC&D in their comments to the proposed interim final rule and would like to reemphasize them here.

- 1) Reinsert the riparian eligibility component back to page 2331 of the Rules in the Federal Register under Section 1467.4 (e) Land eligibility (3) to allow "riparian areas along streams or other waterways" to qualify as a primary eligibility criteria for WRP. This was moved to page 2332 where riparian areas are now listed as eligible only as a contingency of land being eligible using other criteria. This change will prevent most streamside landowners from qualifying for the program any longer.

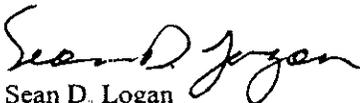


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- 2) Change the wording of the riparian eligibility criteria to allow more flexibility in establishing WRP easements along riparian areas. The previous rules demanded a sometimes cumbersome process of having the landowner establish a separate easement (known as an "anchor easement" here in Ohio) along the ends of the federal WRP easement. This was done to satisfy the rule requirement of "*is a riparian area along streams or other waterways that links or, after restoring the riparian area will link wetlands which are protected by an easement or other device or circumstance that achieves the same objectives as an easement.*" We understand the intent of this rule but we also know that states are interpreting this rule using inconsistent policies. A suggestion to allow consistency of interpretation and a common sense methodology in working with private landowners while maintaining the intent of the WRP rule in protecting wetlands would be to clarify the rule. This can be done by inserting the following wording in **bold** in the rules statement concerning riparian eligibility which is being recommended for insertion on page 2331 of the rules to: *is a riparian area along streams or other waterways that links or, after restoring the riparian area will link wetlands which are protected by **the WRP easement itself and/or an easement or other device or circumstance that achieves the same objectives as an easement***. This would provide a simpler mechanism which serves the same purpose that is likely already being used by some states anyways.
- 3) The following change on Page 2331 concerns rule 1467.4 under (c) Landowner Eligibility (2) concerning the requirement of the 7-year ownership rule. Although we feel the 7- years rule is excessive, we understand that this is a new statute requiring such a rule to be in place. However, clarification of the rule is recommended to give State Conservationists more flexibility when it is known that the landowner had no intent of purchasing property to place it in WRP. A recommendation to give State Conservationists more flexibility would be to added on page 2331 under section 1467.4 (c) (2) (iii) the following words in **bold**: *the Land was acquired under circumstances that give adequate assurances, as determined by NRCS from receiving a statement from the landowner, that such land was not acquired for the purposes of placing it in the program.* Eliminate the wording on the end of the statement where it says, "*such as demonstration of status as a beginning farmer or rancher*." That last statement confuses the issue and appears to constrain the State Conservationist from making any other exceptions on the 7-year rule under this paragraph unless it specifically deals with beginning farmer or rancher.

In only 200 years, Ohio has lost over 95% of its original wetlands and the WRP has been an important tool for landowners and conservation agencies to restore almost 21,000 acres of wetlands back on its landscape. Please consider the above recommendations to ensure that these enrollment opportunities will remain viable

Sincerely,



Sean D. Logan
Director

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