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**MISSOURI DEPARTMENT OF CONSERVATION**  
**Private Land Services Division**  
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# Fax

RECEIVED MAR 16 2009

To: Financial Assistance Programs Division USDA	Date: March 16, 2009
Fax:	From: Missouri Dept of Conservation
Re: <b>Wildlife Habitat Incentive Program</b> <b>(WHIP) Comments</b>	Total pages including cover: 4

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# MISSOURI DEPARTMENT OF CONSERVATION

## Headquarters

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JOHN D. HOSKINS, Director

March 13, 2009

Financial Assistance Programs Division  
 US Department of Agriculture  
 Natural Resources Conservation Service  
 Wildlife Habitat Incentive Program Comments  
 P.O. Box 2890, Room 5237-S  
 Washington, DC 20013

Dear Director:

The Missouri Department of Conservation (Department) is a state agency responsible for the management of fish, forest and wildlife resources in the state of Missouri. The Department provides technical assistance to USDA-NRCS for the implementation of Farm Bill conservation programs including the Wildlife Habitat Incentive Program (WHIP). We offer the following comments for the Wildlife Habitat Incentive Program rule, posted in the Federal Register:

### 1. 636.1 - Applicability

We believe that specific language must be included in the rule that refers to native and managed pollinator habitat. With the present omission, it may be disregarded in individual states.

### 2. 636.3 - Definitions

- **Ag Lands** – We support the current interpretation being used in NRCS policy and we believe it is essential to use that same language in the ag lands definition in the rule. A simple change in national office staff could result in the change in interpretation of the definition of ag lands and adversely affect operator participation as well as NRCS's ability to implement WHIP.
- **At-Risk Species - revert to the language in the existing MOU with AFWA, NRCS and FWS:** "For purposes of this MOU, species at-risk refers to plant and animal species that are: listed as endangered or threatened under ESA; proposed or candidates for listing under ESA; likely to become candidates for listing in the near future; species listed as endangered or threatened (or similar classification) under State law"; and include State species of conservation concern
- **Resource Concern** – We recommend to strike "by producers" at the end of the definition and substitute the term "by participant." This would be more consistent with the rest of language in the rule that refers to "participants."

### 3. 636.4 - Program Requirements

(c) After the word "assistance," add the following: "if after coordination with the state fish and wildlife agency and the USFWS, . . . ." NRCS does not have the capacity or expertise to make these decisions without consultation on varied, diverse, and often-complicated at-risk species issues

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(c)(1) Add term: "currently" at the beginning sentence

(c)(3) This should not refer to only threatened or endangered species, but include at-risk species as defined by NRCS, AFWA and USFWS by MOU

**4. 636.6 - Establishing Priority for Enrollment in WHIP**

(c)(8) This clause will be difficult for USDA field staff to enforce and result in unnecessary contract modifications and re-ranking when applicants cannot complete contracts within two years due to weather or other unforeseen circumstances. This will be difficult to administer and doesn't prevent gaming of the system to outcompete other applicants. A better approach would be to allow states to offer higher cost-share rates during the first 2 years for completion of the contract to encourage landowners to implement conservation practices.

**5. 636.7 - Cost-Share Payments**

(d) We suggest the following change to the language under this section: "NRCS, in consultation with the STC, will identify and provide public notice of the conservation practices eligible for payment under the program. Conservation practices eligible for payment under the program may include development and implementation of conservation activity plans including: grazing, haying, forestry and stubble management."

(k) Insert "national" in front of "WHIP" so it is clear we are talking about the national pool of funds.

**6. 636.9 - Cost-Share Agreements**

(c)(2) Change from "critical habitat" to avoid confusion for ESA consultation to "essential/important plant and animal habitat."

(c)(2) Add after "NRCS" - "as determined in coordination with FWS and state fish and wildlife agency."

**7. 636.10 - Modifications**

(b) We commend NRCS for requiring modifications that are consistent with the purpose of the program.

**8. 636.11 - Transfer of Interest in a Cost-Share Agreement**

(a) Need to add "during the term of the agreement"

(b) Change "producer" to "participant" to be consistent with the rest of the rule.

(d) Add: "by the original participant" to the end of this section to clarify who repays.

**9. 636.18 - Technical Services Provided by Qualified Personnel Not Affiliated with USDA**

(c) Change "producers" to "participants" to be consistent with rule.

**10. 636.19 - Access to Operating Unit**

After "NRCS representative," in the first sentence, add the term "including TSPs," Change "agricultural operation or tract" in the first sentence to "a participant's property"

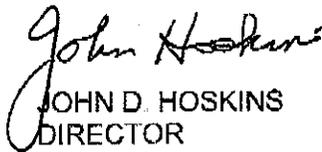
**11. 636.21 - ES Credits for Conservation Improvements**

To be consistent between programs we suggest adding the HFRP language here except modify for cost-share payments instead of easements. Copied directly from the HFRP rule:

"(f) Environmental Services Credits for Conservation Improvements. USDA recognizes that environmental benefits will be achieved by implementing conservation practices, measures, and activities funded through HFRP, and that environmental credits may be gained as a result of implementing activities compatible with the purposes of an HFRP easement, contract, or restoration agreement. NRCS asserts no direct or indirect interest on these credits. However, NRCS retains the authority to ensure the requirements of an HFRP easement, contract, cost-share agreement, or restoration plan are met consistent with §§ 625.9 through 625.13 of this part. Where activities required under an environmental credit agreement may affect land covered under an HFRP easement, restoration cost-share agreement, or contract, an amendment to the restoration agreement or contract, or a compatible use approval under an easement, may be required and participants are highly encouraged to request a compatibility assessment from NRCS prior to entering into such environmental credit agreements."

The Missouri Department of Conservation appreciates the opportunity for comment. If you require additional information, please contact Private Land Programs Supervisor, Bill White at 573-522-4115, Ext. 3512

Sincerely,

  
JOHN D. HOSKINS  
DIRECTOR

c: Mr. Bill White