

WRP



ASSOCIATION of FISH & WILDLIFE AGENCIES

The voice of fish and wildlife agencies

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FAX

To:	WRP Comments	From:	Jim Mark Schaffner
Fax:	202-720-9689	Pages:	11 (including this cover)
cc:		Date:	3/16/09
Re:			

Urgent

For Review

Please Comment

Please Reply

Comments:

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March 13, 2009

Easements Programs Division
Natural Resources Conservation Service
Wetlands Reserve Program Comments,
PO 2890
Room 6819-S
Washington, DC 20013

RE: Federal Register Docket Number NRCS-IFR-08013, Proposed Rule affecting changes to the Wetland Reserve Program

Dear Sir or Madam:

The Association of Fish and Wildlife Agencies (Association) appreciates the opportunity to comment on the proposed rule affecting implementation of the Wetland Reserve Program as provided by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). The Association represents the collective perspectives of the state fish and wildlife agencies, and promotes sound management and conservation. All fifty states are members.

We commend USDA and the Natural Resources Conservation Service (NRCS) for continuing to offer the Wetland Reserve Program (WRP). The WRP has been a successful program for landowners in our member states and for achieving goals as identified in state wildlife action plans. We consider WRP to be a successful USDA program with respect to deterring wetland losses and providing landowners a viable alternative to farming less profitable wetland soils. The 2 million acres presently enrolled in the program provide important habitat for wildlife and are important to groundwater recharge and water quality by filtering agricultural run-off. The program's reauthorization in the 2008 Farm Bill will continue to serve fish and wildlife resources throughout the nation. Therefore, flexibility in implementation should be stressed to ensure that opportunities to further wetland conservation are not missed. The Association is committed to working diligently with our states to help NRCS deliver this program.

Attached, we provide specific comments with respect to this interim rule. In general, we are pleased that **USDA has done the following:**

- Successfully changed the **easement acquisition valuation methodology** from the Uniform Appraisal Standards for Federal Land Acquisition (Yellow Book) to methods and options that will work for landowners in every agricultural landscape across the country.
- Will continue to consult with the US Fish and Wildlife Service (FWS) in determinations of land eligibility and as appropriate throughout the program implementation process

Both actions help to encourage landowner participation, and will assist our member states in program delivery.

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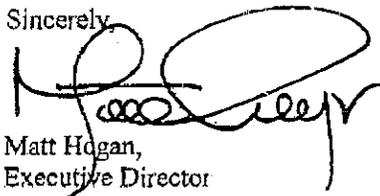
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However, we also have concerns about the following:

- Our members are disappointed that **state and local units of government will no longer be eligible to receive benefits including WRP restoration payments**. NRCS and the states share many of the same conservation goals and objectives with respect to this program. State ownership of WRP easements also provide producers with a viable option for selling WRP easement lands when this is beneficial to their farming operation.
- The **statutory change from 12 months to seven years** is restrictive to responsible landowners; if there is an opportunity to change this in statute, we would be highly supportive of such action and offer our assistance to NRCS in developing new language. In the meantime, however, we encourage NRCS to **exercise the greatest flexibility possible when granting waivers**, as the benefits of enrolling land prior to seven-year ownership (e.g., improved water quality, water control, flood control, wildlife viewing opportunities, etc.) far outweigh any potentially negative outcomes.
- Of great concern to our members is the **designation of hunting and fishing as "compatible use"**. The regulation of hunting and fishing activities, seasons, and bag limits are the statutory responsibility of the state fish and wildlife agencies and the FWS. These state and federal agencies promulgate hunting, fishing and trapping regulations with full consideration of the needs of wildlife, including species that are the focus of recovery efforts. Therefore, **hunting and fishing, as well as trapping, must be reserved rights of the landowner** in all NRCS programs and easement deeds.
- The 2008 Farm Bill statute continues to allow **riparian areas** to be included within the Wetlands Reserve Program when they link protected wetlands. However, the WRP Interim Rule exhibits a narrower interpretation of the **statutory phrase "together with land that is eligible"** regarding the enrollment of riparian areas. We have provided specific comments attached regarding these areas, as they provide important habitat for many species of wildlife.
- The statute and Interim Rule provides for the pilot of a Wetlands Reserve Enhancement Program (WREP) that allows **grazing rights to be reserved to the landowner with a reduction in easement payment**. This will be an important tool to protect and restore areas critical to wetland dependent wildlife. We **recommend that an ecological condition be integrated into the easement document**, developed in coordination with state WREP partners (including at minimum the FWS and the state fish and wildlife agency). NRCS and the WREP state partners should periodically determine whether the wetland functions are being achieved. We offer our assistance in the development of such an ecological condition.

Again, thank you for your consideration of our comments and specific recommendations for the implementation of the Wetland Reserve Program as authorized in the 2008 Farm Bill. Please do not hesitate to contact Mrs. Jen Mock Schaeffer at jenmock@fishwildlife.org or at 202-624-7890 with any questions about our comments, or if we can further assist with this provision.

Sincerely,



Matt Hogan,
Executive Director

**Wetland Reserve Program
Comments on Interim Final Rule
Submitted by the Association of Fish and Wildlife Agencies**

Specific Comments Regarding the Proposed Rule:

1467.2 Administration

- **We commend USDA** for inclusion of 1467.2 (f) – consultation with the US Fish and Wildlife Service (FWS) is important and this provision should remain in the final rule

1467.3 Definitions

- To ensure consistency with other NRCS programs, we recommend that definitions for “at-risk species” and “wildlife” be added to the WRP rule; consistent definitions for these terms should be used across programs.
- The definition of at-risk species provided below originated from the Memorandum of Understanding between the Association, the FWS and NRCS whose purpose is to strengthen cooperation among the Parties to proactively conserve at-risk plant and animal species and their habitats; to identify and create more opportunities to work together to help pre-empt the need to list additional species under the ESA; to foster the recovery of species already listed; and to address similar needs for State species of conservation concern
- **The Association recommends the following definitions be incorporated into the final rule:**
 - **At-risk species** means any plant and animal species that are listed as endangered or threatened under the Federal Endangered Species Act (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 State species of conservation concern.
 - **Wildlife** means non-domesticated birds, fishes, reptiles, amphibians, invertebrates and mammals.”
 - The terms “**environmental benefits**” and “**environmental threats**” are used in Section 1467.6, but these terms are not defined. In order to better support the program purposes, and with contemporary definitions of activities beneficial to the environment often including renewable energy development, these terms should be clearly defined; we provide suggestions below for incorporation into the final rule.
 - **Environmental Benefits** means those components of the WRP wetland restoration process that will address and allow for the maximum restoration effect to wetland wildlife, local flora, watershed protection, water quality improvements, ground water recharge, contaminant removal and the upstream and downstream societal benefits realized in floodwater retention that would not be realized without such a wetland restoration
 - **Environmental Threats** means those on-site or in the surrounding land, water and air management practices that may have an intrinsic and sometimes long-term adverse effect to the WRP wetland restoration process that will prevent the maximum restoration effect from occurring. These factors include but are not limited to on-site

and surrounding conditions that would degrade and eventually place at risk the establishment, maintenance and perpetuation/protection of habitat conditions and components regionally important and at times, seasonally critical to wetland wildlife and local flora and for maximizing the environmental benefits of the WRP

- In the definition of “**converted wetland**” the phrase “and before such action such land was wetland . . .” is confusing and redundant. The term “converted wetland” itself implies that the land was once a wetland. In addition, the phrase “and such land was neither highly erodible land nor highly erodible cropland” is restrictive to landowners because some bogs and other wet areas containing high organic matter are highly erodible when dry. There is no basis in statute for either of these restrictive phrases. Thus we recommend striking them so the definition reads as follows in the final rule:
 - **Converted wetland** means a wetland that has been drained, dredged, filled, leveled, or otherwise manipulated (including any activity that results in impairing or reducing the flow, circulation, or reach of water) for the purpose, or to have the effect of, making the production of an agricultural commodity possible if such production would not have been possible but for such action.
- The definition of “**maintenance**” should be clarified to communicate that approved maintenance activities are eligible for cost-share payments. We suggest the following:
 - **Maintenance** means work performed to keep the enrolled area functioning for program purposes for the duration of the enrollment period. Maintenance includes actions and work to manage, **conduct cost-share eligible activities that will prevent deterioration, repair damage or replace conservation practices on enrolled lands, as approved by NRCS. Maintenance includes but is not limited to operational and management cost-share activities that create, maintain or perpetuate wetland functions and values that provide seasonal habitat for migratory birds, at-risk species, and other wetland wildlife (for example: water level management, prescribed burning, vegetation successional control, forest stand and timber stand improvement, trail and levee mowing, etc).** NRCS often provides landowners with a Compatible Use Authorization to allow these maintenance activities.
- We recommend the addition of a definition for “**trust lands**” that includes Hawaiian Homelands and Pacific Insular Areas. Although the rule does not include a definition of tribal lands eligible for WRP, the definition of *landowner* includes “. . . trust holders of acreage owned by Indian tribes.” *Indian tribes* are defined in the rule, and for clarity we recommend inclusion of *trust lands* as well. Section 6105 of the Farm Bill, entitled Substantially Underserved Trust Areas, refers to the definition of trust lands found in 38 USC Section 3765 (Veteran's Benefits) as follows:
 - **Trust lands** means land that:
 - (A) is held in trust by the United States for Native Americans;
 - (B) is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);
 - (C) is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (U.S.C. Title 43, 1602 (g), (j)); or
 - (D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary

- The definition of **Wetland Reserve Plan of Operations (WRPO)** should be a living document that can be modified and updated as appropriate to reflect the needed activities required to restore, maintain, and repair wetland values and functions. To this end, we recommend modifying the WRPO in the final rule to read as follows:
 - **Recommended definition:** Wetland Reserve Plan of Operations (WRPO) means the conservation plan that identifies how the wetland functions and values will be restored, improved, enhanced, maintained, repaired, and protected and which is approved by NRCS. The WRPO should be a living document that is updated as necessary to ensure and protect wetland habitat, functions and values continue.
- The term "**compatible use**" is not listed in the definition section yet the term is used throughout the rule. For clarity and consistency, we recommend including the following definition of compatible use in the rule:
 - **Recommended definition:** *Compatible use* includes those activities, uses or measures that do not interfere with the timely implementation or full effectiveness of conservation practices as described in the restoration plan.

Furthermore, the Association supports designation in the rule of hunting and fishing, as well as trapping, as **reserved rights of the landowner** in all NRCS programs and easement deeds. The regulation of hunting and fishing activities, seasons and bag limits are the statutory responsibility of the state fish and wildlife agencies and the FWS. These state and federal agencies promulgate hunting, fishing and trapping regulations with full consideration of the needs of wildlife, including species that are the focus of recovery efforts. Therefore, hunting and fishing, as well as trapping, must be **reserved rights of the landowner** in all NRCS programs and easement deeds.

1467.4 -- Program Requirements

- **1467.4(c)(2)** – We are concerned that the new landowner requirements requiring ownership of the offered tract for the previous seven years will limit potential enrollment of wetlands with high ecological value and will drastically increase the number of applicants on the waiting list. If there is an opportunity to change the statute, we would support such a change and offer our assistance in developing improved language. However, in the interim, we strongly support the use of waivers by NRCS in fulfilling the program's purposes while addressing landowner and natural resource needs and suggest the following:
 - **Recommendation:** NRCS should exercise the greatest flexibility possible for the State Conservationist to grant waivers where it is clear that the land was not acquired for the intent of enrolling it in the program, and, regardless of tenure, when:
 - cropped wetland on a recently purchased tract is being offered because it is not economically viable for agricultural production;
 - enrollment provides a habitat for at-risk species, threatened or endangered species, candidates as listed by FWS or state wildlife agencies, or species of greatest conservation need as identified in State Wildlife Action Plans;
 - proposed actions provide demonstrable greater good (significant wildlife habitat or water quality/control benefit), including when currently enrolled landowners purchase adjacent land where conservation activities can be expanded for greater benefit; or
 - land was previously enrolled and ownership was transferred within the family

1467.4 (c) (2) (iii)

We recommend that NRCS exercise caution in discerning between exceptions for beginning farmers/ranchers and exclusions for new landowners. A literal interpretation of the seven-year ownership requirement could keep some beginning farmers/ranchers from being eligible for the program. Consequently, additional guidance maybe necessary to successfully implement this provision without adverse affects on beginning farmers/ranchers and landowners whose ownership tenure is less than seven years. Intentionally preventing beginning farmers and ranchers from signing land up for WRP is contrary to 2008 farm bill language that allows this class of producer to purchase expiring Conservation Reserve Program (CRP) land and use other farm bill programs as part of the conservation plan to put the best of it back into production.

1467.4 (d)

This section now requires the producer to perfect the WRP easement before it can be sold or transferred. Perfecting a WRP easement generally takes about a year to complete. By not allowing a transfer or sale prior to that time removes some options from producers who want to divest themselves of financial losses and purchase more productive, replacement land. This requirement has no basis in statute and does not reflect the intent of Congress. We recommend that producers be allowed to sell their land at any time during the application process.

1467.4 (e) - Land eligibility.

- (e) (1) – Add “trust lands” after “private lands” to accommodate Hawaiian Homelands/Trust Lands/etc. See definition provided above in Section 1467.3.
- (e)(3) (ii) (B) – For greater clarity and inclusion of eligible lands, we suggest that the last word be changed to “or” and a part (C) be added:
 - Recommendation: Change “...functionally dependent on the cropland or grassland; and” to “...functionally dependent on the cropland or grassland; or” and add part “(C)” as follows:
 - (C) Other land described in paragraph (e)(6); and
- (e)(5) – We recommend striking the references to the Prairie Pothole Region. While the statute includes a requirement for the Secretary to conduct a survey to determine interest and allocation for the Prairie Pothole Region, there is no basis in statute for enrollment criteria on 30-year easements to be restricted to the Prairie Pothole Region, thus the criteria can apply more broadly to lands in other geographic areas and convey a far greater benefit
 - Recommendation: Strike “it is located in the Prairie Pothole Region as defined under §1467.3 of this part” so that (e)(5) reads “Land under paragraph (e)(3)(ii)(B) of this section may be considered for enrollment into 30-year easements if it meets the criteria under (e)(3) of this section, and the size of the parcel offered for enrollment is a minimum of 20 contiguous acres. Such land meets the requirement of likelihood of successful restoration only if the soils are hydric and the depth of water is 6.5 feet or less at the time of enrollment.”
- (e)(6) – The requirement for all other eligible lands in this section to be adjacent or contiguous to lands eligible under (e)(3) and (e)(5) is not a based in statute and we believe is a narrow interpretation of the statutory phrase “together with land that is eligible...” This is a change in the interpretation of the same statutory language under the previous rule; we do not find a clear explanation for these changes or how this “...more clearly comports with statutory intent...” (as stated in the preamble on page 2324) or furthers the program purpose of restoring and protecting wetlands. In addition, as currently written, riparian area eligibility is greatly restricted, but these are important habitats for many species of wildlife and provide corridors for movement through otherwise uninhabitable landscapes. The changes we suggest in this section and in (e)(3) allow riparian areas to be eligible for

enrollment as long as they meet the statutory criteria of linking protected areas; though latitude should be provided to the State Conservationist to waive the requirement of linking only protected areas when special circumstances (such as benefit to at-risk species or water quality/flood control gains) support doing so. We further recommend expanding this section to allow NRCS to also enroll land that maximizes wetland benefits by adding parts (e)(6)(iv) and (e)(6)(v) as provided below.

- **Recommendation:** Strike "If land offered for enrollment is determined eligible under paragraph (e)(3) and (e)(5) of this section, then" and "adjacent or contiguous to such eligible land together with the eligible land, if such land" so that it reads "NRCS may also enroll land that maximizes wildlife benefits and:" and add part (e)(6)(iv) and (e)(6)(v) as follows:
 - (iv) Wetlands that have been restored under a private, state or federal restoration program with an agreement, easement or deed restriction with a duration of less than 30 years.
 - (v) Other wetlands that would not otherwise be eligible but would significantly add to the wetland functions and values of the eligible land.

1467.4 (g) – Ineligible land.

- (g) (4) – To clarify eligibility for Hawaiian Homelands or trust lands, we suggest the following:
 - **Recommendation:** Add "unless held in trust" at the end so that it reads "Lands owned in fee title by a State, including an agency or a subdivision of a State, or a unit of local government, unless held in trust;"

1467.5 – Application procedures

- (b) – **Preliminary agency actions.** Because assessments may be done by inter-agency teams, and because NRCS may designate FWS or state wildlife agency personnel to conduct assessments for the technical expertise they can provide to NRCS during assessment and comprehensive evaluation of wildlife habitat restoration opportunities, we recommend this language be expanded to include FWS and state fish and wildlife agency personnel as follows:
 - **Recommendation:** Strike "an" and make "representative" plural and add "including FWS, and/or state fish and wildlife agency personnel" after "NRCS" so that it reads "... landowner consents to NRCS representatives, including FWS, and/or state fish and wildlife personnel entering upon the land..."

1467.6– Establishing priority for enrollment of properties in WRP

- 1467.6 (a) (2) and (a)(6) – For clarity of intent, we have provided definitions for environmental benefits and environmental threats in Section 1467.3. This helps clarify that priority for enrollment should go to lands that maximize benefits to the natural resources per dollar expended.

1467.7(1) Easement. "... the landowner's obligations if the land is sold before restoration to an ineligible landowner;..." We recommend deleting this portion of the section for reasons articulated in our comments on 1467.10(e)(1)-(4) below.

1467.8 – Compensation for easements and 30-year contracts

- (b)(2)(ii) – In cases where easements or 30-year contracts are valued at more than \$500,000, the proposed rule provides that payments be made in at least five, but not to exceed thirty annual payments. We believe that the lack of a lump-sum payment option will dissuade some landowners from enrolling larger tracts. Larger tracts have proved to be more

economical per acre to restore, and provide more opportunities to restore a variety of habitats for various wetland wildlife species and their life history traits such as breeding, foraging, aestivating, or hibernation depending on the season, which is particularly important when threatened or endangered or at-risk species are found on or in close proximity to the tract. Thus, we recommend that NRCS exercise the greatest flexibility in making lump-sum payment exceptions when it may preclude an applicant from participating in the program

- **Recommendation:** To the end of the second sentence, add "or would not preclude the applicant from participating in the program" so that it reads "NRCS may provide compensation in a single payment for such easements or 30-year contracts when, as determined by the Chief, it would further the purposes of the program or would otherwise preclude the applicant from participating in the program."

1467.9 Wetlands Reserve Enhancement Program

- (b) **Reserved Rights Pilot.** The statute and Interim Final Rule provides for the pilot of a Wetlands Reserve Enhancement Program (WREP) that allows grazing rights to be reserved to the landowner with a reduction in easement payment. This will be an important tool to protect and restore areas critical to wetland dependent wildlife. We recommend that an ecological condition be integrated into the easement document, developed in coordination with state WREP partners including, at minimum, the FWS and the state fish and wildlife agency. NRCS and the WREP state partners should periodically determine whether the wetland functions are being achieved to help evaluate the success of the pilot. We offer our assistance in the development of such an ecological condition and in implementation of this new provision.

1467.10 Cost-share payments.

- (b) – As written, it is unclear whether cost-share payments are available for maintenance activities to protect the long-term values of restored WRP wetlands, though maintenance activities are eligible.
 - **Recommendation:** Insert "including maintenance" such that it reads "Cost-share payments may be made only upon a determination by NRCS that an eligible conservation practice or component of the conservation practice has been implemented in compliance with appropriate NRCS standards and specifications; or an eligible activity, including maintenance, has been implemented in compliance with the appropriate requirements detailed in the WRPO. Identified conservation practices or activities may be implemented by the participant, NRCS, or other NRCS designee."
- (d) – It is unclear as written that another partner may pay for additional work that will benefit the wetland that is not being funded by NRCS as part of the WRP. As an example, there are projects where NRCS may pay a conservation practice but not for additional enhancements; in such cases other state or federal partners may pay for the enhancements.
 - **Recommendation:** Insert "or enhancements" at end to read "A participant may seek additional cost-share assistance from other public or private organizations as long as the conservation practices or activities funded are in compliance with this part. In no event shall the participant receive an amount that exceeds 100 percent of the total actual cost of the restoration or enhancements."
- (e) (1) through (e) (4): While we understand NRCS must use eligibility requirements as identified in Statute, once the easement is perfected it becomes the responsibility of the Federal Government to ensure the original investment is secured and maintained. Therefore, landowner eligibility should no longer be a consideration. Additionally, the Federal

Government should not be absolved of responsibility and commitments to fully restore wetlands enrolled in this program, regardless of change in ownership following the perfection of an easement. Furthermore, there is no basis in Statute for this subsection. Thus we recommend that this entire subsection (e) should be stricken from the final rule as it unnecessarily and unfairly hinders landowners who have no control over land activities and actions occurring after sale, detracts from the long term viability of the program, and does not fulfill the intent of Congress.

1467.11 Easement and 30-year contract participation requirements.

- (a) (2) (ii) – The regulation of hunting and fishing activities, seasons, and bag limits are the statutory responsibility of the state fish and wildlife agencies and the FWS. These state and federal agencies promulgate hunting, fishing and trapping regulations with full consideration of the needs of wildlife, including species that are the focus of recovery efforts. Therefore, **hunting and fishing, as well as trapping, must be reserved rights of the landowner in all NRCS programs and easement deeds.**
 - **Recommendation: Strike “hunting and fishing” so that it reads “The right to permit compatible uses of the easement area, including such activities as managed timber harvest, or periodic haying or grazing, if such use is consistent with the WRPO and the long-term protection and enhancement of the wetland resources for which the easement was established.”**
- (a) (2) (iii) – This section should clearly identify the rights NRCS is assuming and what are the reserved rights of the landowner in order to avoid misinterpretations. As written, this indicates NRCS is purchasing and holding all rights in the easement, but this is typically not the case.
 - **Recommendation: Change the word “All” to “Certain” and insert “except” with the list of exceptions as shown below to accurately describe the transaction so that it reads: (iii) “Certain rights, title and interest in the easement area, except:**
 - A. **Title.** Record title, along with the Landowner’s right to convey, transfer, and otherwise alienate title to these reserved rights.
 - B. **Quiet Enjoyment.** The right of quiet enjoyment of the rights reserved on the easement area.
 - C. **Control of Access.** The right to prevent trespass and control access by the general public subject to the operation of State and Federal law.
 - D. **Recreational Uses.** The right to recreational uses, including hunting, fishing, and trapping and including leasing of such rights for economic gain, pursuant to applicable State and Federal regulations that may be in effect at the time.
 - E. **Subsurface Resources.** The right to oil, gas, minerals, and geothermal resources underlying the easement area, provided that any drilling or mining activities are to be located outside the boundaries of the easement area, unless activities within the boundaries are specified in accordance with the terms and conditions of EXHIBIT C in the Warranty Deed Form CCC-1255 once the easement has been perfected.”
- (a) (2) (iv) – For clarity in implementation and consistency with (a)(4)(iv), we suggest the following:
 - **Recommendation: At the end of the statement, add “in accordance with the terms of the easement and related agreements” so that it reads “The right to ensure restoration, protection, enhancement, maintenance, and management activities**

on the easement area in accordance with the terms of the easement and related agreements.”

- o (b)(2)(ii) -- The Association supports designation in the rule of hunting and fishing, as well as trapping, as **reserved rights of the landowner** in all NRCS programs and easement deeds not as a “compatible use.” The regulation of hunting and fishing activities, seasons and bag limits are the statutory responsibility of the state fish and wildlife agencies, the FWS, and sometimes Tribal agencies when appropriate. These state, federal and tribal agencies, promulgate hunting, fishing and trapping regulations with full consideration of the needs of wildlife, including species that are the focus of recovery efforts. Therefore, hunting and fishing, as well as trapping, must be **reserved rights of the landowner** in all NRCS programs and easement deeds.
- o (b)(2) (iii) – For clarity in implementation and consistency with (a)(4)(iv), we suggest the following:
 - **Recommendation:** At the end of the statement, add “in accordance with the terms of the easement and related agreements” so that it reads “The right to ensure restoration, protection, enhancement, maintenance, and management activities on the enrolled area, in accordance with the terms of the easement and related agreements.”

1467.12 (a), 1467.13 (a) (1), and 1467.13 (b) – These sections, and some other sections mention input from FWS and Conservation Districts. However, there is no mention of input from the state fish and wildlife agency. Many of our member states have good working relationships with their local NRCS offices which should be fostered to continue and grow. Additionally, state fish and wildlife agency personnel are the local experts on the needs of wildlife and their habitats.

- o **Recommendation:** Add “state fish and wildlife agency and other agency resource partners” to these sections to ensure that this beneficial partnership is recognized in the rule and should be further fostered through NRCS policy.

1467.14(a) – Transfer of land. Offers voided.

- o The option available under the previous WRP rule for the State Conservationist to extend the offer of enrollment to the new landowner was removed in the interim final rule and new landowner restrictions were added. We recommend retaining the option of extending the offer to a new landowner in the final rule under the same conditions and acknowledging that the new landowner must be an eligible landowner by adding the following language at the end of 1467.14(a):

“At the option of the State Conservationist, an offer can be extended to the new eligible landowner, if the new eligible landowner agrees to the same or more restrictive easement and contract term and conditions.”