

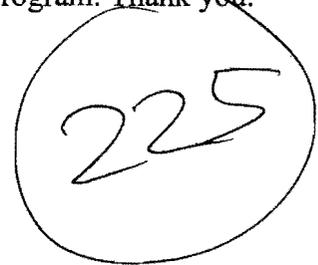
Decker, Denise - Washington, DC

From: Gildo Tori [gtori@ducks.org]
Sent: Friday, March 13, 2009 4:17 PM
To: RA.dcwashing2.wrp
Cc: Wrinn, Dan; Bob Hoffman; Ross Melinchuk; Joseph Satrom; Chris Unkel
Subject: WRP Comments - Docket Number NRCS-IFR-08013
Importance: High
Attachments: DU-GLARO WRP Comments.pdf



Robin, attached is DU's Great Lakes/Atlantic Regional Office comments on Wetlands Reserve Program Interim Final Rule, Docket Number NRCS-IFR-08013. Thank you for this opportunity and we appreciate your attention, consideration, and action on this important NRCS Program. Thank you.

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Robin Heard
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Re: Comment on Wetlands Reserve Program Interim Final Rule, Docket Number NRCS-IFR-08013

Ducks Unlimited, Inc.'s Great Lakes/Atlantic Regional Office (DU-GLARO) is located in Ann Arbor, Michigan, and is responsible for 18 states in the northeast/midwest portion of the United States. We appreciate the opportunity to provide comment on the interim final rule affecting implementation of the Wetlands Reserve Program as provided by the Food, Conservation and Energy Act of 2008. Ducks Unlimited is the world's largest and most effective waterfowl conservation organization with more than 650,000 members in the U.S. Ducks Unlimited's mission is the conservation of wetlands and associated habitats for the benefit of North American waterfowl, other wildlife and people. The Wetlands Reserve Program has played a critical and important role in helping achieve DU's mission.

DU-GLARO holds a strong interest in the efficient and effective implementation of the federal Wetlands Reserve Program. We have played a supportive role both in developing past Farm Bills that included WRP, as well as partnering with NRCS to deliver this popular program to landowners. During deliberations for this current Farm Bill, DU worked tirelessly with our partners to reauthorize and secure full funding for WRP and to modify the appraisal methodologies NRCS used to determine easement compensation. We are pleased that both of these issues were resolved as part of the 2008 Farm Bill, and that the appraisal methodologies prescribed in the 2009 Interim Final Rule are consistent with the appraisal modifications many conservation organizations supported.

However, even with these positive actions, DU-GLARO remains concerned that the following provisions of the 2008 statute and 2009 Interim Final Rule will continue to hamper the efficient and effective implementation of the popular Wetlands Reserve Program across the nation:

Specific to the interim rule, we offer the following comments highlighted below for your consideration.

- 1) Section 1467.4(c)(2) - Indicates that, for easement applications, a landowner must have been the owner of such land for the 7-year period prior to the time the land is determined eligible for enrollment.

While we realize this section is a statutory change and perhaps not subject to further interpretation, we must voice our concern over this change because we

feel that it is discriminates against many private landowners. The WRP interim rule indicates that only private land and land owned by Indian Tribes are now eligible for enrollment in the program. The 7-year ownership rule will, in and of itself, make many private landowners ineligible for the program even though they and the land in consideration would meet the other eligibility requirements. This defeats the purpose of the program. We feel that the term of ownership requirements for WRP should be no more restrictive than other USDA conservation programs. For example, there is no term of ownership eligibility requirement for the Grassland Reserve Program or the Farm and Ranch Lands Protection Program and the Conservation Reserve Program requires only a 12 month ownership prior to submittal of an offer.

Section 1467.4(i), (ii), and (iii) provide the State Conservationist with the authority to issue exemptions to the 7-year ownership rule. We would especially like to see a waiver granted to landowners who have existing WRP lands and subsequently purchases eligible adjacent lands. *Therefore, we encourage additional flexibility for exemptions in order to limit the exclusion of lands that would otherwise meet the remainder of the WRP eligibility requirements.*

2) Section 1467.4(e)(1) - loss of eligibility of state and local governments to receive WRP program funds.

Under the 2008 statute and 2009 rule, state and local governments are no longer eligible to own lands enrolled in the program. These provisions have completely hampered NRCS' ability to develop innovative partnerships with state/tribal/private partners because they render state and local governments ineligible to receive any program funds.

Implementation of the WRP program has always included a variety of partnerships with state, tribal and local governmental agencies, including divisions of labor and TA funds to complete the restoration work and manage the properties. In many cases, WRP projects are completed as joint projects, with WRP paying 75% of project costs and the state/other partners contributing the remaining 25%. These cooperative WRP projects have provided great assistance to states in reaching their State Wildlife Action Plan objectives, as well as other national fish and wildlife plans, joint ventures and partnership projects.

We therefore recommend that the Secretary be allowed to waive the private/tribal ownership requirement and permit state and local governments eligible to receive WRP FA and TA payments to advance these nationally endorsed cooperative plans and joint ventures.

3) Section 1467.4(e)(ii) – Addresses eligible land criteria of 1:1 hydric to non-hydric land.

Many wetlands in agricultural landscapes are degraded by increased nutrient and sediment inflow because they lack sufficient upland buffers. *We recommend that the hydric:non-hydric buffer ratio be increased to 1:3 to match the current*

acceptable ratio allowed under the Conservation Reserve Program. This will also provide consistency among Farm Bill conservation programs.

- 4) Section 1467.8(a)(3) - Indicates methods to be used to determine the lowest value of compensation for easements and 30-year contracts.

We commend NRCS for making changes to the methods used to determine compensation for easements and 30-year contracts. We are confident that the new methodology will out perform the old “yellow book” appraisal process and will provide a means of just compensation in a timely manner and increase overall interest in the program. **Thank you!**

- 5) Section 1467.8(b)(2)(ii) - Indicates that for easements or 30-year contracts valued at more than \$500,000, the Secretary may provide compensation in at least 5, but not more than 30 annual payments. 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.

We recommend that NRCS provide compensation in a single payment whenever requested by a participant. All participants further the purposes of the program because they have already gone through due diligence and have met all of the program eligibility requirements and ranked higher than unfunded applicants. Each individual participant’s financial situation will likely differ to some degree and therefore, we encourage NRCS to work to accommodate those needs whenever possible.

- 6) Section 1467.11 (b)(2)(ii) - Easement and 30-year contract participation requirements: Compatible Uses – Hunting and Fishing

In past WRP statute and rules, hunting and fishing were rights that remained with the landowner, and not government-granted compatible uses. DU-GLARO feels strongly that hunting and fishing remain private rights belonging solely to the landowner, governed by applicable state and federal hunting/fishing regulations. **Therefore, we recommend that hunting and fishing be struck from this section labeling them as compatible uses granted by the United States through NRCS.**

- 7) Other Issues: Separation of funds for easement acquisition and completion of restoration work; FA and TA ratios.

The NRCS practice of separating the obligation of funds for easement acquisition and restoration work causes costly program delays, frustration for the landowner, and negative publicity associated with WRP. In difficult financial times, it also makes it hard for NRCS to honor the commitment it makes to landowners to pay for the restoration of obligated lands. The final rule should authorize NRCS to obligate funds for the purchase of easements and restoration work at the same time. **We recommend that the new rule should allow NRCS to obligate restoration funds based on a signed plan of operations as part of the easement acquisition process, with the option to adjust the amount obligated for**

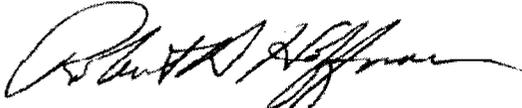
restoration based on a finalized plan and contract. We also recommend NRCS match FA and TA funds in appropriate ratios so that WRP can be delivered at its maximum per state.

8) Other Issues: Management Funds for WRP.

DU-GLARO would like to encourage the provision of funds for management of WRP lands by the landowner and cooperating partners. Because of the long term easements on these lands, and the need for periodic management of wetlands to sustain their productivity, we encourage NRCS to make management funds available to the landowner, similar to the Mid-contract Management program under the Conservation Reserve Program. WRP management funds would ensure that these wetlands remain at the peak of their productivity, ensuring tax payers investment is providing high quality ecological goods and services that wetlands can provide. *We therefore request that USDA-NRCS consider establishing a WRP Management Fund to address this issue.*

Again, thank you for consideration of our recommendations for implementation of the Wetland Reserve Program in the Food, Conservation and Energy Act of 2008. Please don't hesitate to contact Gildo Tori at gtori@ducks.org or 734-954-0410 or Dan Wrinn at dwrinn@ducks.org or 202-347-1530 with any questions about our comments.

Sincerely,



Robert D. Hoffman, Ph.D
Director
Great Lakes/Atlantic Region
Ducks Unlimited, Inc.