



RC & D

Western Reserve Resource Conservation & Development Council

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John Niedzialek, Coordinator

Re: Interim WRP Final Rule Docket Number NRCS-IFR-08013

538

WRP-Easements Programs Division
NRCS
Wetlands Reserve Program Comments
Room 6819-S
Washington, DC 20013

6/24/09

Dear WRP Program Manager:

The Western Reserve RC&D Council would like to take this opportunity to comment on the proposed Wetland Reserve Program Rules. Several proposed rule changes will have a detrimental effect on how private landowners can qualify for WRP in Ohio and across the country. The Western Reserve RC&D Council has worked in partnership with Soil and Water Conservation Districts, Land Trusts, Park Districts, and other private organizations on 24 successful WRP applications in Northeast Ohio where over 40 miles of streamside/wetland property have been protected. The proposed rules will virtually put an end to future enrollments along riparian areas in Ohio. Due to this, the following changes are recommended:

- 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.
- 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*

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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 add 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.

Thank you for giving us the opportunity to comment on the WRP rules. We feel the above changes would streamline the efforts of USDA and partnering organizations in implementing the program while encouraging landowners to take the necessary steps to protect riparian areas and wetlands resulting in both water quality and wildlife habitat benefits for citizens throughout our country. We feel WRP is an excellent program and would like to continue to assist landowners in our region with new applications utilizing our many Partners if they meet eligibility requirements.

Sincerely,



Albert J. Dispenza, President

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