



# FAX TRANSMITTAL

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DATE: 06/02/09

TO: JOHN GLOVER, ACTING DIRECTOR, NRLS EASEMENTS PROGRAMS  
DIVISION

FAX: 202-720-9689 PAGES (INCLUDING COVER) 4

FROM: DAVID J. STOUT

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SUBJECT:

COMMENTS ON AMENDMENT TO WETLANDS RESERVE PROGRAM  
INTERIM FINAL RULE

COMMENTS:

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# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



In Reply Refer To:  
FWS/DHRC/BFA/041570

JUL 02 2009

John Glover, Acting Director  
Easement Programs Division  
United States Department of Agriculture  
Natural Resources Conservation Service  
Wetlands Reserve Program Comments  
Room 6819-South Building  
Washington, DC 20013

Dear Mr. Glover:

The Fish and Wildlife Service (Service) has reviewed the Natural Resources Conservation Service (NRCS) interim final rule amendment for the Wetlands Reserve Program (WRP) and offers the attached comments for your consideration. The comments are submitted in response to the publication of the amendment and reopening of public comments on the WRP interim final rule in the Federal Register on June 2, 2009, (Vol. 74, No. 104, Pages 26281-26285). We appreciate the opportunity to review the amendment and provide additional comments on the interim final rule and to work closely with NRCS on the implementation of WRP since its establishment in the 1990 Farm Bill. Please contact me at (703) 358-2555 or Dave Walker, Farm Conservation Programs Coordinator at (703) 358-2310, if you have any questions or need further information.

Sincerely,

*Robin News Elliott*  
for David J. Stout  
Chief, Division of Habitat and Resource  
Conservation

Attachments

TAKE PRIDE  
IN AMERICA 

**Fish and Wildlife Service Comments on the Amendment to the Interim Final Rule****For the****Wetlands Reserve Program****Docket Number NRCS-IFR-08013**

July 2, 2009

**GENERAL COMMENTS**

The Service appreciates and supports the changes to the Wetlands Reserve Program (WRP) interim final rule made by the Natural Resources Conservation Service (NRCS) through the amendment. The changes will help ensure that lands enrolled in the program can achieve the resource benefits for which they were selected. The amendment includes changes that address some of the comments on the WRP interim final rule submitted by the Service on March 16, 2009. For those Service comments not addressed by the amendment, we request their continued consideration by the NRCS in development of the final rule for WRP.

With the reopening of the public comment period, the Service offers the following modifications or reiterations of comments submitted by the Service on March 16, 2009. Consistent with our previous comments, we are urging flexibility in program implementation and a broader interpretation of the statute in the rule. We also want to ensure that efforts to clarify or improve administration of the program that are unrelated to implementation of statutory changes to the program will contribute to, and not detract from, achieving the purposes of the WRP.

**SPECIFIC COMMENTS****Page 26284 of the Amendment, Section 1467.4(e)(5)**

The amendment continues the restriction contained in the WRP interim final rule that limits WRP eligibility for lands flooded by the natural overflow of a closed basin lake or pothole to the Prairie Pothole Region of the Northern Great Plains. The statute does not restrict enrollment in WRP to any specific geographic area. Therefore, the Service believes that land outside of the Prairie Pothole Region that meets all the criteria for program eligibility under this provision, including the revision contained in the amendment, should be eligible for enrollment in WRP.

**Section 1467.4(e)(6) - Land Eligibility**

The amendment did not address the discretionary change made by NRCS that restricts enrollment of riparian areas and other wetlands to only those contiguous or adjacent to the primary eligible lands under 1467.4 9e)(3) and 1467.4(e)(5). As stated in our previous comments on the interim final rule, this change is not a statutory requirement, and will unnecessarily remove an important tool for protecting and restoring wetlands and riparian areas.

Section 1467.14(a) – Transfer of land

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 on entering into a contract or purchase agreement to sell the land were added. The Service recommends deleting the new landowner restrictions regarding sale of the land subject to the offer and retaining the option of extending the offer to a new landowner under the same conditions and acknowledging that the new landowner must be an eligible landowner by revising the language in 1467.14(a) as follows:

**“Any transfer of the property prior to the enrollment of the easement, 30-year contract or restoration cost-share agreement, shall void the offer of enrollment. 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 terms and conditions.”**