



April 17, 2009

Financial Assistance Programs Division  
Natural Resources Conservation Service  
Wildlife Habitat Incentive Program Comments  
PO Box 2890  
Room 5237-S  
Washington, DC 20013

Re: Docket ID: NRCS-2009-0001  
comments submitted on the Wildlife Habitat Incentive Program  
Submitted via rulemaking website at <http://www.regulations.gov>

Dear Sir or Madam:

The Izaak Walton League of America is a private, non-profit conservation organization that for more than 85 years has supported strong federal conservation policies on private lands, especially agricultural lands. Our nationwide membership lives, works and recreates in rural communities. We have a decades-long record of support for farm families and collaborative efforts to achieve conservation that sustains agriculture, habitat, and all natural resources.

**IWLA comments:**

§ 636.3 Definitions.

To best meet the purpose and requirement of the Wildlife Habitat Incentive Program specified in Sections 636.1(a) and 636.4(b)(1), the definition of Agricultural Lands must anticipate all appropriate and applicable areas that will serve the program's goal. The definition must not be too limited and thereby enable ineligibility determinations for areas that in fact are integral to best addressing habitat needs.

Additionally, the Food, Conservation, and Energy Act of 2008 amended Section 1240N(b)(1)(E) of the Food Security Act of 1985 to specifically provide eligibility to pivot corners and irregular areas:

*(b) INCLUSION OF PIVOT CORNERS AND IRREGULAR AREAS.—Section 1240N(b)(1)(E) of the Food Security Act of 1985 (16 U.S.C.*

3839bb–1(b)(1)(E)) is amended by inserting before the period at the end the following: “, including habitat developed on pivot corners and irregular areas”.

We request modifying the definition of Agricultural Lands per below:

***Agricultural lands* means cropland, grassland, rangeland, pasture, and other land, determined by NRCS to be suitable for fish and wildlife habitat development, on which agricultural and forest-related products or livestock are produced. Other land includes cropped woodland, marshes, wetlands, streams, riparian areas, irrigation canals, shelterbelts, buffer strips, waste land, pivot corners and irregular and incidental areas included in the agricultural operation, and other types of agricultural land used for production of livestock.**

The Interim Final Rule’s pre-amble specifically requests public comment on the current definition of “*at-risk species*.” The Izaak Walton League of America agrees that the current definition is inadequate to best identify, assist, and conserve species in greatest need. We propose changing the definition as stated below:

***At-risk species* means any plant or animal species as determined by the State Conservationist with advice from the State Technical Committee, the U.S. Fish and Wildlife Service, the state agency responsible for fish and wildlife, and in consulting the State Wildlife Action Plan, and to include species listed as endangered or threatened under the Endangered Species Act and proposed or candidate species for listing under the Endangered Species Act.**

#### § 636.6 Establishing priority for enrollment in WHIP.

As referenced in the pre-amble of the IFR, the Food, Conservation, and Energy Act of 2008 Section 2602(d) provides the Secretary discretionary authority to give priority to projects that would address issues raised by State, regional, and national conservation initiatives:

*‘(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES.—In carrying out this section, the Secretary may give priority to projects that would address issues raised by State, regional, and national conservation initiatives.*

Furthermore, the Managers Statement accompanying the 2008 Act provided additional detail on the intent of Congress:

The substitute allows the Secretary to provide priority to projects that address issues raised by State, regional, and national conservation initiatives. These 'State, regional and national conservation initiatives' may include such things as the North American Waterfowl Management Plan, the National Fish Habitat Action Plan, the Greater Sage-Grouse Conservation Strategy, the State Comprehensive Wildlife Conservation Strategies (also referred to as the State Wildlife Action Plans), the Northern Bobwhite Conservation Initiative, and State forest resource strategies. The Managers intend for the Secretary to consider the goals and objectives identified in relevant fish and wildlife conservation initiatives when establishing State and national program priorities, scoring criteria, focus areas, or other special initiatives. The Managers expect the Department to work with conservation partners and State and Federal agencies, to the extent practicable, to complement the goals and objectives of these additional plans through USDA programs.

However, neither the statute nor the Managers Statement specifies the authority presumed in 636.6(a), wherein it is stated that the "Chief may limit program implementation in any given year to specific geographic areas or to address specific habitat development needs." In so much as this declaration is open to various interpretations, including the possible intention of limiting WHIP eligibility to merely a few specific areas to the exclusion of other states, we believe it needs correction.

We request that Section 636.6(a) be amended to more fully incorporate the intent of Congress and to better provide clarity to NRCS personnel and program participants, so as to read in its entirety:

**(a) NRCS, in consultation with Federal and state agencies and conservation partners, may identify priorities for enrollment in WHIP that will complement the goals and objectives of relevant fish and wildlife conservation initiatives at the state, regional, and national levels. These conservation initiatives may include such things as the North American Waterfowl Management Plan, the National Fish Habitat Action Plan, the Greater Sage-Grouse Conservation Strategy, the State Comprehensive Wildlife Conservation Strategies (also referred to as the State Wildlife Action Plans), the Northern Bobwhite Conservation Initiative, and State forest resource strategies.**

In addition, we believe the priority to benefit wildlife habitat for at-risk species (under our requested amended definition) should be specifically referenced where establishment of enrollment priorities are described. To achieve this, we request Section 636.6(c)(1) be amended to read:

**(1) Contribution to resolving an identified habitat concern of national, regional, or state importance, including habitat to benefit at-risk species;**

§ 636.8 The WHIP plan of operations (WPO).

Where we have above requested that the statutorily specified priority for certain conservation initiatives (Section 2602(d) of the Food, Conservation, and Energy Act of 2008) be more fully described in the Rule, we further request amending section 636.8(a)(2) to read:

**(2) Fish and wildlife habitat concerns identified in State, regional, and national conservation initiatives described in § 636.6(a); or**

**Conclusion:**

The Izaak Walton League of America requests adoption of the changes and clarifications we have detailed above. We thank you for your consideration of these comments. Please direct any inquiries regarding this submission to Brad Redlin, IWLA Agricultural Program Director, [bredlin@iwla.org](mailto:bredlin@iwla.org), (651) 649-1446 ext. 13.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Redlin', with a long horizontal line extending to the right.

Brad Redlin  
Izaak Walton League of America  
Agricultural Program Director  
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St. Paul, MN 55104