



June 26, 2023

Attn: FWS–HQ–NWRS–2022–0092

U.S. Fish and Wildlife Service
5275 Leesburg Pike
MS: PRB (JAO/3W)
Falls Church, VA 22041–3803.

The Izaak Walton League of America (League) appreciates the opportunity to comment on the U.S. Fish and Wildlife Service’s (FWS) proposed new regulations on drain tile setbacks on wetland easements. The League has over 42,000 members across the country. Our members care about water quality and enjoy a wide variety of outdoor recreation.

Background

The proposed regulations would codify how the FWS establishes drain tile setbacks in wetland easement contracts acquired through the Small Wetlands Acquisition Program. The proposal states the setback would be based on the best available science and consider soil, diameter and depth of the tile, and the topography of the area. The proposal only applies to setbacks provided by the FWS on the date of the final rule.

The proposed regulations would permit drain tile to be installed on land that has a FWS wetland easement, provided the protected wetland is not directly or indirectly drained. The FWS would establish setback distances and provide that to the landowner. The proposal states that the FWS will not seek legal redress if the setback fails to protect the wetland areas from drainage, provided that the installed tile has not been modified, enhanced, or replaced.

League comments

The League urges extreme caution on this proposal. Wetland easements are acquired with Duck Stamp dollars through the Small Wetlands Acquisition Program. The intent of a wetland easement is to provide permanent protection of a wetland’s functions and values. Allowing drain tile into an area with a wetland easement seems counterproductive to us.

The Prairie Pothole Region (PPR) is the most important area for waterfowl and other migratory birds on the continent. The PPR produces up to 75 percent of the ducks in North America. Waterfowl raised in the PPR support hunting activities across the country. This results in an estimated 30,000 jobs and \$1 billion in annual economic benefits.

The PPR is a unique landscape. Thousands of small, isolated wetlands were created by glaciers more than ten thousand years ago. The seasonal fluctuation of these isolated wetlands is what makes them productive and important to waterfowl and other wildlife. These small wetlands are critical to improving water quality by filtering pollutants and sediment from runoff from rains and snowmelt.

Wetland easements are a voluntary legal agreement between the FWS and a willing landowner. Wetlands in a FWS easement, specifically for waterfowl management, cannot be drained, filled, leveled, or burned. If the protected wetland naturally dries out it can be farmed, grazed, or hayed. Current FWS wetland easements include provisions that prohibit any effects to protected wetland areas. The League urges continuation of this critical provision.

The U.S. Supreme Court's recent *Sackett* ruling puts America's small, isolated wetlands at even greater risk. Expansion of tile drainage in the PPR has resulted in the loss of hundreds of seasonal and temporary wetlands. The League urges the FWS to do everything possible to protect every wetland currently under a permanent wetland easement. By doing so, these wetlands will continue to provide habitat for waterfowl and wildlife, improve water quality, help reduce flooding and increase recreational opportunities.

The League has a long history of fighting to protect America's wetlands. This is from the League's 2022 Conservation Policies: https://www.iwla.org/docs/default-source/about-iwla/2022-policy-book-final.pdf?sfvrsn=cb779d0d_2 (Section Y, Page 87)

The League urges local entities, individual states, and the U.S. Congress to strengthen and/or pass legislation to protect all of America's valuable wetlands, including isolated wetlands. Furthermore, the League urges these same governing bodies to pass legislation that would strengthen and implement new conservation programs to bolster support by producers for wetland and water protection in their management plans.

The Izaak Walton League of America thanks you for the opportunity to comment on this proposal and ask that we be kept informed on all future developments regarding this proposal.

Sincerely,



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