



# U.S. FISH AND WILDLIFE SERVICE TRANSMITTAL SHEET

<b>PART</b>  504 FW 1, 2, 3, 4, 5 & 640 FW 1	<b>SUBJECT</b>  Department of Agriculture Programs Inventory Property Disposal Program Debt Cancellation Conservation Contract Program Wetlands Reserve Program Wetland Conservation - Swampbuster USDA Conservation Programs Management of Non-Owned Lands Partners for Fish and Wildlife Program	<b>RELEASE NUMBER</b>  431
<b>ORIGINATING OFFICE</b> Division of Fish and Wildlife Management and Habitat Restoration		<b>DATE</b>  September 24, 2003

**EXPLANATION OF MATERIAL TRANSMITTED:**

These chapters are the Service Partners for Fish and Wildlife Program policy. They establish goals, requirements, limitations, and priorities for habitat improvement projects and technical assistance provided to private landowners.

  
**Deputy** DIRECTOR

**FILING INSTRUCTIONS:**

**Remove:**

504 FW 3, 01/11/95, FWM 168  
 None  
 504 FW 7, 02/17/95, FWM 175  
 504 FW 6, 02/17/95, FWM 174  
 504 FW 8, 02/17/95, FWM 176  
 Appendix 1, 504 FW 8, 02/17/95, FWM 176  
 Appendix 2, 504 FW 8, 02/17/95, FWM 176

**Insert:**

504 FW 1, 09/24/03, FWM 431  
 504 FW 2, 09/24/03, FWM 431  
 504 FW 3, 09/24/03, FWM 431  
 504 FW 4, 09/24/03, FWM 431  
 504 FW 5, 09/24/03, FWM 431  
 None  
 None  
 640 FW 1, 09/24/03, FWM 431

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**3.1 What is the purpose of this chapter?** This chapter establishes our policy for assisting the U.S. Department of Agriculture (USDA) in implementing the Wetlands Reserve Program. As used in this chapter, the terms “we,” “our,” and “Service” refer to the Fish and Wildlife Service.

**3.2 What is the Wetlands Reserve Program?** The Wetlands Reserve Program (WRP) is a voluntary program under which USDA may purchase conservation easements from, or enter into restoration cost-share agreements with, eligible landowners who voluntarily cooperate in the restoration, enhancement, and protection of wetlands and associated lands. The WRP is administered by the USDA Natural Resources Conservation Service (NRCS). NRCS must consult with the Service in the implementation of the program and in establishing program policies. In addition, the 2002 Memorandum of Understanding between USDA and the Department of the Interior states that where a specific statutorily stipulated role is identified, such as the Service’s role under the Wetlands Reserve Program, the 2002 Memorandum of Understanding between the USDA and the Department of the Interior will be the means for interagency collaboration. NRCS may also consult with other Federal or State agencies, conservation districts, or other organizations in its program administration. To participate in the WRP, landowners must agree to the implementation of a Wetlands Reserve Plan of Operations (WRPO).

**3.3 What are the authorities for this chapter?**

- A. Food Security Act of 1985.
- B. Food, Agriculture, Conservation, and Trade Act of 1990.
- C. The Federal Agriculture Improvement and Reform Act of 1996.
- D. Farm Security and Rural Investment Act of 2002 (the Farm Bill).
- E. 7 CFR 1467.

**3.4 Who is responsible for implementing the WRP within the Service?**

**A. Assistant Director - Fisheries and Habitat Conservation** has the lead role in coordinating our activities related to the WRP, and represents the Service in consultations with USDA agencies regarding activities related to the WRP.

**B. Chief, Division of Fish and Wildlife Management and Habitat Restoration:**

(1) Plans, develops, and monitors our WRP policies and procedures.

(2) Prepares guidance, technical assistance, and training on WRP activities for Regional Partners for Fish and Wildlife coordinators.

(3) Provides copies of the NRCS WRP manual, and all amendments thereto and revisions thereof, to Regional Partners for Fish and Wildlife coordinators.

(4) Provides technical assistance to NRCS regarding the WRP manual.

(5) Participates in regulation, guidance, and manual discussions and decisions.

(6) Represents the Service in dealings with USDA agencies on matters relating to the WRP and coordinates the resolution of issues elevated to the Washington Office by Service staff, USDA field staff, and private landowner appeals.

(7) Participates in NRCS headquarters reviews of the WRP.

(8) Collects and analyzes data on accomplishments and the costs and benefits of Service activities related to the WRP.

**C. Regional Directors** will implement the WRP within their Region. Each Regional Director will designate a **Regional Partners for Fish and Wildlife coordinator** who will:

(1) Provide copies of the NRCS WRP manual, and all amendments thereto and revisions thereof, to the State/Ecoregion Partners for Fish and Wildlife coordinators.

(2) Provide technical guidance to field offices regarding WRP assistance to NRCS and private landowners, and ensure that our employees adhere to the guidance in the Service Manual and the NRCS WRP manual.

(3) Provide sufficient field staff to support NRCS in completing the required site evaluations, developing WRPO’s, and making compatible uses assessments.

(4) Maintain working relationships with NRCS regional conservationists and work with them to resolve any issues that may arise.

(5) Evaluate the effectiveness of the WRP in the Region and make required reports to the Assistant Director - Fisheries and Habitat Conservation.

(6) Inform the Division of Fish and Wildlife Management and Habitat Restoration of any WRP implementation problems or issues that cannot be resolved at the State or Regional level.

(7) Work with the Regional realty officers and refuge representatives to plan and implement coordinated land

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acquisitions proposed by State/Ecoregion Partners for Fish and Wildlife coordinators and local refuge managers.

**D. State/Ecoregion Partners for Fish and Wildlife coordinators** will coordinate and implement the WRP at the field level and will:

- (1) Implement the policies described in this chapter.
- (2) Respond to requests for consultation on eligibility determinations, WRPO development, and compatible use assessments, within 5 working days of receipt of NRCS's request for assistance.
- (3) Serve as the Service representative on the NRCS State technical committee. Service representatives at NRCS State technical committee meetings provide technical assistance to the State conservationists on subjects that include, but are not limited to: ranking criteria and process; compatible use guidelines; geographic area easement payment caps; unique wetland habitat complexes for the State; minimum or maximum project area sizes; and long-term monitoring procedures, operation, and maintenance criteria.
- (4) Provide each NRCS State conservationist with the name, address, and telephone number of the State/Ecoregion Partners for Fish and Wildlife coordinator(s) and the Service representative(s) for each county in the State.
- (5) Provide technical assistance to NRCS area or county offices as requested.
- (6) Maintain a current copy of the NRCS WRP manual and all amendments thereto and revisions thereof.
- (7) Provide financial assistance through cooperative agreements on habitat improvement projects that will significantly improve habitat for Federal trust species in established priority areas of the Nation, in accordance with Partners for Fish and Wildlife habitat improvement policy in 640 FW 1.
- (8) Notify the NRCS district conservationist if we are unable to participate in an onsite review and/or development of a WRPO.
- (9) Review NRCS draft WRPO's and provide any necessary recommendations for final WRPO's, within 5 working days of receipt, to the NRCS (variations to this time frame may be negotiated with the district conservationist who provides the draft WRPO).
- (10) Keep track of all WRP projects in the State and annually review the adequacy of coordination with NRCS.
- (11) Work with the Regional Partners for Fish and Wildlife coordinator, Regional realty officer, Regional refuges representative, and the affected refuge manager to plan and

implement coordinated land acquisitions, in accordance with the Memorandum of Understanding, October 22, 1996, Regarding Coordination of Implementation of the Wetlands Reserve Program, and the October 16, 1996, Solicitor's memorandum on the same subject

(12) Advise the Regional coordinator of any WRP implementation issues or problems that cannot be resolved at the State level.

(13) Participate in the development of agreements with NRCS to implement WRPO's when Federal trust species in Service priority areas will benefit from the agreement.

**3.5 What is the effect of a WRPO?** The effect of a WRPO is to restore, protect, enhance, maintain, and manage the hydrologic conditions of inundation or saturation of the soil, native vegetation, and natural topography of eligible lands. NRCS may provide cost-share assistance for activities that promote restoration, protection, enhancement, maintenance, and management of wetland functions and values. Such activities may be undertaken by the landowner or by NRCS's designee.

**3.6 How is the WRPO developed?** The local NRCS representative develops the WRPO in consultation with the NRCS State technical committee and with consideration of site-specific technical input from the Service and the conservation district. The WRPO is developed to ensure cost-effective restoration and to maximize wildlife benefits and values. It specifies the manner in which the enrolled land is to be restored, protected, enhanced, maintained, and managed, to accomplish the goals of the program.

**3.7 Who determines if land is eligible for enrollment in the WRP?** NRCS determines if land is eligible for enrollment in the WRP. NRCS also determines if the land may be included in the program, based on the likelihood of successful restoration of wetland functions and values when considering the costs of acquiring the easement and of restoration, protection, enhancement, maintenance, and management. Land is only considered eligible for enrollment in the WRP if NRCS determines, in consultation with the Service, that:

**A.** The land maximizes wildlife benefits and wetland values and functions.

**B.** The likelihood of the successful restoration of the land and the resultant wetland values merit inclusion of the land in the program, taking into consideration the cost of such restoration.

**C.** The land is identified by NRCS, pursuant to regulations and implementing policies pertaining to wetland conservation in 7 CFR 12, as:

(1) Wetlands farmed under natural conditions, farmed wetlands, prior converted cropland, commenced conversion

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wetlands, farmed wetland pastures, and lands substantially altered by flooding so as to develop wetland functions and values.

(2) Former or degraded wetlands that occur on lands that have been used or are currently being used for the production of food and fiber, including rangeland and forest production lands, where the hydrology has been significantly degraded or modified and will be substantially restored.

(3) Riparian areas along streams or other waterways that link or, after restoring the riparian area, will link wetlands that are protected by an easement or other device or circumstance that achieves the same objectives as an easement.

(4) Land adjacent to the restored wetland that would contribute significantly to wetland functions and values, including buffer areas, established (created) wetlands and noncropped natural wetlands, but not more than the State conservationist, in consultation with the NRCS State technical committee, determines is necessary for such contribution.

(5) Other wetlands that would not otherwise be eligible but would significantly add to the wetland functions and values.

(6) Wetlands that have been restored under a private, State, or Federal restoration program and that have an easement or deed restriction with a duration of less than 30 years.

**3.8 What lands are ineligible for enrollment in the WRP?**

A. Converted wetlands if the conversion was commenced after December 23, 1985.

B. Lands that contain timber stands established under a Conservation Reserve Program (CRP) contract or pasture land established to trees under such a contract.

C. Lands owned by an agency of the United States.

D. Lands subject to easement or deed restriction with a duration of 30 years or more prohibiting the production of agricultural commodities.

E. Lands where implementation of restoration practices would be futile due to onsite or offsite conditions.

**3.9 Are there any other limitations on enrollment of lands in the WRP?**

A. **Percentage limitations.** Except for areas devoted to windbreaks or shelterbelts, after November 28, 1990, no more than 25 percent of the total cropland in any county, as determined by FSA, may be enrolled in the CRP and the WRP, and no more than 10 percent of the total cropland in the county may be subject to an easement acquired under the

CRP and the WRP. NRCS and FSA must concur before a waiver of either the 25-percent limit or the 10-percent limit can be approved for an easement proposed for enrollment in the WRP.

**B. CRP lands.** Lands subject to an existing CRP contract may be enrolled in the WRP only if the land and the landowner meet the requirements of 7 CFR 1467, and the enrollment is requested by the landowner and agreed to by NRCS. To enroll in the WRP, the CRP contract for the property must be either terminated or modified in accordance with terms and conditions agreed to by FSA and the landowner.

**C. Configuration.** To be enrolled in the WRP, eligible land must be configured in a size and with boundaries that allow for the efficient management of the area for easement purposes and that otherwise promote and enhance program objectives.

**D. Adjacent landowners.** The State conservationist may exclude otherwise eligible lands if the participation of the adjacent landowners is essential to the successful restoration of the wetlands and those adjacent landowners are unwilling to participate.

**3.10 How are priorities established for enrollment of eligible lands in the WRP?** NRCS places priority on the enrollment of those eligible lands that will maximize wildlife values (especially related to enhancing habitat for migratory birds and other wildlife); have the least likelihood of re-conversion and loss of these wildlife values at the end of the WRP enrollment period; and involve State, local, or other partnership matching funds and participation.

**3.11 What are the ranking considerations for enrollment of eligible lands in the WRP?** The State conservationist, in consultation with the Service and the NRCS State technical committee, ranks eligible lands based on estimated costs of restoration and easement acquisition; availability of matching funds; significance of wetland functions and values; estimated success of restoration measures; and the duration of a proposed easement, with permanent easements being given priority over nonpermanent easements. The NRCS electronic Conservation Programs Manual, Wetlands Reserve Program, states that WRP ranking criteria will emphasize (1) habitat for migratory birds and other wetland dependent wildlife, including songbirds, shorebirds, and waterfowl, (2) habitat for declining species, and (3) water quality. NRCS may place higher priority on certain geographic regions of the State where restoration of wetlands may better achieve NRCS State and regional goals and objectives.

**3.12 To enroll land in the WRP, must the landowner grant an easement to the Federal Government?** To enroll land in the WRP, the landowner must grant an easement to the United States. The easement must require that the

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easement area be maintained in accordance with WRP goals and objectives for the duration of the term of the easement, including restoration, protection, enhancement, maintenance, and management of wetland and other land functions and values. In addition, the easement must grant to the United States, through NRCS, the right of access to the easement area; the right to permit compatible uses of the easement area, including such activities as hunting and fishing, managed timber harvest, or periodic haying and grazing, if such use is consistent with the long-term protection and enhancement of the wetland resources for which the easement was established; and all rights, title, and interest in and to the easement area, subject to compatible uses reserved to the landowner.

**3.13 Can an easement be modified?** After an easement has been recorded, no modification may be made except by mutual agreement between the NRCS Chief and the landowner. The NRCS Chief must consult with the Service and the conservation district prior to making any modifications to easements. The NRCS Chief may approve modifications to facilitate the practical administration and management of the easement area or the program, as long as the modification will not adversely affect the wetland functions and values for which the easement was acquired. In addition, modifications must result in equal or greater environmental and economic values to the United States.

**3.14 Can NRCS delegate easement responsibilities?** NRCS may delegate easement management, monitoring, and enforcement responsibilities to other Federal and State agencies. NRCS may also enter into cooperative agreements with Federal and State agencies, conservation districts, and private conservation organizations to assist NRCS with educational efforts, easement management and monitoring, outreach efforts, and program implementation.

**3.15 Can a WRPO be modified?** The State conservationist may approve modifications to the WRPO that do not affect provisions of the easement, following consultation with the landowner and the NRCS State technical committee and consideration of site-specific technical input from the Service and the conservation district. Any WRPO modification must meet WRP objectives and must result in equal or greater wildlife benefits, wetland functions and values, and ecological and economic values, to the United States. Modifications to the WRPO that are substantial and that affect provisions of the easement require agreement from the landowner and execution of an amendment to the easement.

**3.16 What is the Service's role in implementation of the WRP?** We advise NRCS on implementation of the program and establishment of program policies. Working closely with the NRCS throughout the WRP application and implementation phases, we also:

A. Advise on land eligibility for program enrollment.

B. Assist the State conservationist and the NRCS State technical committee with ranking lands proposed for enrollment in the WRP (paragraph 3.11).

C. Provide site specific technical input on proposed WRPO's and any proposed modifications thereof, including, but not limited to, wildlife benefits and wetland functions and values.

D. Evaluate the environmental benefits of restoration projects and assist with restoration planning.

E. Evaluate proposed compatible uses.

F. Advise NRCS on proposed modifications of easements, including their effect on wetland functions and values.

G. Provide site-specific technical input regarding proposed modifications of WRPO's.

**3.17 What are the Service's objectives for providing assistance to the WRP?** Our objective is to maximize the ecological benefits for Federal trust species and the Nation's wetland resources. By providing NRCS with technical advice, we can help ensure that each habitat restoration uses state-of-the-art methods, is ecologically sound, and provides maximum benefits to Federal trust species.

**3.18 How will the Service provide technical and financial assistance to the WRP?** We will provide technical assistance to NRCS in implementing the WRP by utilizing Partners for Fish and Wildlife Technical Assistance (1121-TA) funds. We may also utilize Partners for Fish and Wildlife Habitat Restoration (1121-HR) funds on the following types of WRP participation options under the following conditions:

**A. Permanent Easements.** NRCS has the authority to fund 100 percent of the cost of restoration of enrolled land as provided in the WRPO, when the land is subject to a permanent easement. However, under the Service's "15 Percent" Pilot Program (see 640 FW 1), in instances where there is a direct benefit to migratory birds or other special trust resources that would not be addressed by the easement or WRPO, we may expend 1121-HR funds. For example, we could contribute 1121-HR funds for specific vegetation plantings that are not necessary for a successful restoration but will add value to the site for unique, declining, or listed species.

(1) Hypothetical example: NRCS is enrolling and restoring a 3-acre pothole wetland and 1 acre of the surrounding upland. The upland area is being restored to native prairie with a standard mix of species typical of the area. The Partners for Fish and Wildlife Program may spend 1121-HR funds to acquire and plant dusty rose silverdrops in the upland area. Dusty rose silverdrops are the preferred host plant for the western blue skipback, a butterfly species that is declining across its range.

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(2) In the hypothetical example above, the addition of the dusty rose silverdrops exceeds the requirements of the easement or the WRPO because, although this plant species is native to prairies, its inclusion is not essential to the restoration of the site. The expenditure of 1121-HR funds is adding value to the restoration for a unique species of butterfly and is not simply replacing NRCS funds. No more than a total of 15 percent of a State's annual on-the-ground allocation may be used to fund projects under the "15 Percent" Pilot Program. (See 640 FW 1.) It is not expected that instances such as the one above will represent the majority of the Partners for Fish and Wildlife Program work in any individual office.

**B. Conservation (30-year) Easements.** We may also use 1121-HR funds where there is a direct benefit to migratory birds or other special trust resources that would not otherwise benefit from the WRPO or the easement, at a conservation (30-year) easement site. Such expenditures must also be included in the maximum 15 percent of a State's annual on-the-ground allocation for secondary use of funds projects under the "15 Percent" Pilot Program. (See 640 FW 1.)

**C. Restoration Cost-Share Agreements.** NRCS has the authority to fund 75 percent of the total restoration costs for lands enrolled in a restoration cost-sharing agreement. The landowner provides the remaining 25 percent of the restoration costs. Where there is a direct benefit to migratory birds or other special trust resources that would not be included in the WRPO, we may use 1121-HR funds to fund the landowner's portion of the restoration costs, not to exceed 25 percent of the total restoration costs.

**3.19 Can the Service partner with USDA to acquire interests in WRP lands?** We can participate with NRCS in coordinated acquisitions of WRP easements and fee title purchases where appropriate. Regional Partners for Fish and Wildlife coordinators work with Regional realty officers and refuge representatives to plan and implement coordinated land acquisitions proposed by State/Ecoregion Partners for Fish and Wildlife coordinators and local refuge managers. We conduct coordinated acquisitions in accordance with the Memorandum of Understanding, October 22, 1996, Regarding Coordination of Implementation of the Wetlands Reserve Program, and the October 16, 1996, Solicitor's memorandum on the same subject.