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National Resource Conservation Service Wetland Conservation Compliance Interim Rule: February 5th Association of State Wetland Managers, Inc., Comments

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The Association of State Wetland Managers (“ASWM”) submitted February 5th comments to the United States Department of Agriculture Natural Resources Conservation Service (“NRCS”) addressing the Wetland Conservation Compliance Interim Rule (“Interim Rule”). See Docket ID USDA-2018-0010.

ASWM describes itself as a “nonprofit professional organization that supports the use of sound science, law, and policy in development and implementation of state and tribal wetland programs.”

NRCS previously published the interim rule for the Highly Erodible Land Conservation and Wetland Conservation Compliance (“HELCWCC”) regulations of the Food Security Act of 1985 (“FSA”). The interim rule clarifies the processes for delineating, determining and certifying wetlands on subject lands in order to determine ineligibility for certain United States Department of Agriculture (“USDA”) program benefits. 83 Fed. Reg. 63046 (Dec. 7,2018).

The HELCWCC compliance programs are typically denominated as “Sodbuster” and “Swampbuster,” respectively. The interim rule focuses on wetlands.

The ASWM comments address:

- Pre-1996 Wetland Determinations (requesting that USDA discontinue the certification of pre-1996 wetland determinations and resume the use of up-to-date, technically rigorous methods for wetland determinations. . .)
- Definitions (adding definitions that include those for pothole, playa, and pocosin)
- Minimal Effects (encouraging NRCS to put in place a consistent, science-based methodology and process for completing off-site assessments of such wetlands)
- Wetland Hydrology Criteria (asking NRCS to incorporate the use of spring imagery when making wetland determinations)
- Precipitation Data (recommending that NRCS utilize 30-year precipitation data that reflects current conditions)
- Environmental Assessment (NRCS must meet the reasonable expectation to describe why the current and future use of pre-1996 determinations is a valid approach in implementing Swampbuster consistent with the public’s interest)

A copy of the comments can be found [here](#).