Kentucky Waterways Alliance
Healthy waterways.
Healthy communities.

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Working to Protect, Restore, and Celebrate Kentucky's Waterways

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September 24, 2026

U.S. Department of Agriculture
Natural Resources Conservation Service
1400 Independence Ave SW
Washington, DC 20250
Docket ID NRCS-2026-0067

RE: Docket ID NRCS-2026-0067 Comments on Highly Erodible Land and Wetland Conservation

Dear Secretary and National Leader,

Kentucky Waterways Alliance opposes any weakening of wetland conservation protections and urges USDA to withdraw or substantially revise the July 29, 2026 interim rule. USDA should require scientific verification of older wetland determinations whose accuracy and certification status remain unresolved, including field assessments where necessary.

KWA works to protect, restore, and celebrate Kentucky's waterways through advocacy, watershed partnerships, and restoration. Kentucky's wetlands support our mission by filtering polluted runoff, storing floodwater, and sustaining wildlife. Reliable wetland determinations protect these resources while helping farmers balance sustainable conservation and economic growth.

Our principal concerns are the potential for inaccurate maps to facilitate wetland drainage, the resulting harm to Kentucky waters and communities, and USDA's decision to proceed without evaluating those consequences.

Inaccurate maps can leave wetlands unprotected

NRCS's wetland conservation program depends on accurate maps to identify the wetlands farmers must conserve to remain eligible for USDA benefits. When a map leaves out a wetland, a farmer may drain it believing the work complies with program requirements. The result is that wetland's flood storage, water quality, and habitat benefits can disappear while public agricultural subsidies continue.

The interim rule risks allowing errors in older maps to become lasting gaps in wetland protection. Accepting those maps without checking their accuracy gives farmers unreliable information and leaves downstream communities exposed to the consequences. Providing notice and an opportunity to appeal does little to resolve a wetland omission neither the farmer nor the agency has identified.

Kentucky farmers need dependable information before investing in drainage improvements. NRCS should verify older determinations whose accuracy and certification status remain unresolved, using soils information, historical imagery, hydrologic evidence, and field assessments where necessary. USDA should protect

producers who relied on valid certifications while ensuring unresolved older maps accurately identify the wetlands Swampbuster is intended to conserve.

Kentucky's remaining wetlands warrant stronger safeguards

Kentucky has little room for avoidable wetland loss. The Kentucky Division of Water cites an estimated loss of approximately 81 percent of the Commonwealth's historic wetlands by the late 1980s. Its assessment data also identified diminished hydrologic function in 224 of 364 wetlands evaluated during 2011–2017. Although they do not measure the acreage potentially affected by this rule, these historical findings demonstrate extensive loss and degradation, which could be made worse is enacted.

Further drainage could reduce floodwater storage, pollutant retention, and habitat within agricultural watersheds. Western Kentucky deserves particular attention because it contains the state's largest wetland density. Effects will depend on each wetland's location, condition, and connections to surrounding waters.

The region's bottomland wetlands also support fish, amphibians, migratory birds, and outdoor recreation. Clarks River National Wildlife Refuge illustrates the value of these habitats and the public investment in conserving them. USDA should consider how losses in surrounding agricultural landscapes could affect broader watershed and habitat functions.

Certifying inaccurate wetland maps could facilitate harmful drainage in Kentucky

USDA's treatment of older wetland determinations could allow producers to rely on maps which omit wetlands when planning drainage improvements. If those determinations are accepted as certified without verifying their accuracy, installation of drain tile and other drainage could damage unrecognized wetlands while producers retain eligibility for USDA benefits. This is a foreseeable consequence USDA should evaluate before removing substantive mapping safeguards.

Kentucky research illustrates the potential water quality implications. A Kentucky Geological Survey pilot study performed in 2015 in McLean County found higher nitrate concentrations in tile drainage from fields receiving poultry litter than from unamended fields. The limited study does not establish pollution attributable to this rule, but it documents a local pathway through which agricultural drainage can carry nutrients to receiving waters.

Inaccurate certification could compound this risk by facilitating drainage of wetlands which otherwise retain or process pollutants. NRCS should verify unresolved older determinations before producers rely on them for drainage projects, including field assessments where necessary. USDA should also evaluate how its certification changes could affect wetland hydrology and downstream water quality in Kentucky.

Evaluate potential harm before accepting weaker safeguards

KWA disagrees with USDA's conclusion that it lacks discretion to evaluate the rule's environmental consequences or consult under the Endangered Species Act. The law protects valid certifications, but USDA must still determine whether unresolved older maps qualify for certification. Its responsibility to establish map sufficiency standards requires judgment, and the agency has not adequately explained why those choices leave no discretion to consider environmental consequences.

Accepting inaccurate maps could facilitate wetland drainage, increase nutrient transport, and damage wildlife habitat. USDA should identify affected determinations and acreage in Kentucky and assess these potential harms. Environmental review should evaluate alternatives preserving map accuracy, while species review should determine whether listed species or critical habitat may be affected and consultation is required. These gaps in agency records warrant investigation.

Conclusion

KWA opposes any weakening of wetland conservation protections and urges USDA to withdraw or substantially revise this rule. Accurate maps, scientific verification, and fair treatment of producers are essential to effective conservation. USDA should preserve these safeguards and protect Kentucky's remaining wetlands and the farmers, communities, and wildlife who depend on healthy waterways.

Respectfully,
Nick Hart
Water Policy Director
Kentucky Waterways Alliance