

109TH CONGRESS
1ST SESSION

H. R. 74

To amend the Federal Water Pollution Control Act to impose limitations on wetlands mitigation activities carried out through the condemnation of private property.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mrs. JO ANN DAVIS of Virginia introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to impose limitations on wetlands mitigation activities carried out through the condemnation of private property.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural America Protec-
5 tion Act of 2005”.

1 **SEC. 2. LIMITATIONS ON WETLANDS MITIGATION**
2 **THROUGH CONDEMNATION.**

3 Section 404 of the Federal Water Pollution Control
4 Act (33 U.S.C. 1344) is amended by adding at the end
5 the following:

6 “(u) **LIMITATIONS ON WETLANDS MITIGATION**
7 **THROUGH CONDEMNATION.—**

8 “(1) **IN GENERAL.—**The Secretary or the State
9 (in the case of a State administering a permit pro-
10 gram approved under this section) may not issue a
11 permit under this section to a Federal, State, or
12 local entity where compliance with this section is
13 based on a permit condition requiring mitigation of
14 adverse impacts to wetlands through the acquisition
15 of private property for the creation, restoration, or
16 protection of wetlands if—

17 “(A) the property is being acquired by con-
18 demnation; and

19 “(B) the property is located outside the
20 United States Geological Survey 8-digit code
21 cataloging unit (as defined by the Hydrologic
22 Unit Map of the United States (U.S.G.S.
23 1980)) in which the wetland to be impacted by
24 the permitted activity is located.

25 “(2) **COMPENSATION OF PRIVATE PROPERTY**
26 **OWNERS.—**Notwithstanding paragraph (1), the Sec-

1 retary or the State may issue a permit under this
2 section in the circumstance described in paragraph
3 (1) if the Federal, State, or local entity acquiring
4 the property by condemnation provides to the owner
5 of the property compensation in an amount that
6 equals or exceeds the greater of—

7 “(A) the fair market value of the property;

8 or

9 “(B) the average fair market value of a
10 parcel of property of the size of the property
11 being acquired in the United States Geological
12 Survey cataloging unit in which the wetland to
13 be impacted by the permitted activity is lo-
14 cated.”.

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