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DEPARTMENT OF WILDLIFE AND PARKS

KATHLEEN SEBELIUS, GOVERNOR

March 26, 2009

Easements Programs Division
Natural Resources Conservation Service
Grasslands Reserve Program Comments
P.O. Box 2890
Room 6819-S
Washington, DC 20013

RE: Docket Number NRCS - 08013

Programs Division Staff:

We offer our comments on the **Grassland Reserve Program** Interim Rules 7 CFR Part 1415 issued on January 21, 2009. We appreciate the opportunity to comment on these rules and hope they will help to build on GRP as an effective conservation opportunity for landowners. In addition to our comments, we recognize the comments submitted by Association of Fish and Wildlife Agencies and fully support their findings

General Comments on the Rule:

We commend USDA for recognizing the conservation value of native grasslands with continued focus and prioritization on native grasslands which are critical to conserving biodiversity, threatened and endangered species and species at risk.

Specific Comments Regarding the Proposed Rule:

Page 3870 par. 1415.1 Purpose. We commend USDA for including in the purpose (2) Maintaining and IMPROVING plant and animal biodiversity; and (3) Protecting native grasslands from the threat of conversion. However, "biodiversity" should be defined as: "**Biodiversity** means the variety and variability among living organisms **native to the ecological sub-region and ecological complex**"

Page 3870 par. 1415.2 Administration

- (a)(2) We commend USDA for adaptive management and willingness to be flexible and address high conservation priorities and needs as they arise. We recommend that State Wildlife Action Plans are used in determining national allocation formulas; state fish and wildlife agencies are willing to assist NRCS in providing the most current information regarding information of precipitous declines of at-risk species, emerging priorities, and habitat needs.
- (b)(6) Include input from state technical committees in development of grazing management plans and restoration agreements, further, the grazing management plan should **improve biodiversity**, as emphasized in the program purpose of the GRP program, and the STC can assist in guidance to do so

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Page 3871 par. 1415.3 Definitions

Provide a definition of “biodiversity” Suggested definition: **“Biodiversity** means the variety and variability among living organisms **native to the ecological sub-region and ecological complex”**

Common grazing practices: In the second sentence of this definition, the phrase “maintain the viability of forage or browse resources” is not sufficient with respect to the program purposes; we recommend inserting **“and improve”** after ‘maintain’ as follows: Included are routine management activities necessary to **maintain and improve** the viability of forage or browse resources that are common to the locale of the subject ranching or farming operation”

Conservation Values: Replace the word “provide” with **“maintain and improve”** before ‘ecosystem,’ and insert **“native”** before ‘grassland’ as follows: *Conservation values* “means those natural resource attributes that **maintain and improve** ecosystem functions and values of the grassland area, including but not limited to, habitat for **native** grassland- and shrubland dependent plants and animals, soil erosion control, and air and water quality protection”

Compatible use definition; We recommend that GRP rule include language on compatible use. The regulation of hunting and fishing activities, seasons and bag limits are the statutory responsibility of the state fish and wildlife agencies and the US Fish and Wildlife Service. These state and federal agencies promulgate hunting, fishing and trapping regulations with full consideration of the needs of wildlife, including species that are the focus of recovery efforts. Therefore, hunting and fishing, as well as trapping, must be **reserved rights of the landowner** in all NRCS programs and easement deeds. Recommended definition: **“Compatible use includes those activities, uses or measures that do no interfere with the timely implementation or full effectiveness of conservation practices as described in the restoration plan”**

Grazing management plan: In the second sentence of the definition, the restoration plan is optional, but a grazing management plan should always be associated with a conservation plan. Thus, we recommend rewording this such that the words ‘if applicable’ are moved after ‘restoration plan,’ and moving “conservation plan” before ‘any associated’ as follows: The grazing management plan will include a description of the grazing management system, permissible and prohibited activities, **an associated conservation plan, any associated restoration plan if applicable,** and a description of USDA’s right of ingress and egress.

Functions and values of grasslands and shrublands: Insert **“native”** before ‘plant and animal richness’ as follows: *Functions and values of grasslands and shrublands* means ecosystem services provided, including: Domestic animal productivity, biological productivity, **native** plant and animal richness and diversity, and abundance, fish and wildlife habitat (including habitat for pollinators and native insects), water quality and quantity benefits, aesthetics, open space, and recreation.

Page 3874 par. 1415.4 Program Requirements

- **(h) (2)** – insert **“and other animals”** after “birds” to be consistent with the definition for “nesting season” in 1415.3
- **(h)(5)** NRCS shall follow the most current guidelines from the FWS regarding the document “guidance on avoiding and minimizing wildlife impacts from wind turbines” to minimize wildlife and ecological impacts. Until those guidelines are finalized, we NRCS shall consult with FWS & state fish and wildlife agency on a case-by-case basis to determine compatible use and affects on wildlife and ecological impacts.

Page 3874 par. 1415.5 Land Eligibility

- **(b) (2) (i)** – add “native” before “animal or plant populations”
- **(e)** in second sentence “However, if an applicant . . . insert **“in coordination with U.S. Fish and Wildlife Service (FWS) and state fish and wildlife agencies”** after **“USDA”** and before **“will assess”** so that it reads “However, if an applicant submits an offer for an easement project, USDA, **in coordination with FWS and state fish and wildlife agencies,** will assess the potential impact that the third party rights may have upon the grassland resources.”

Page 3875 par.1415.9 Enrollment of easements and rental contracts.

- (e) Change to: NRCS will proceed with the development of the **grazing and conservation management plans, and restoration plan if applicable** – to support the programs purpose of maintaining and improving plant and animal biodiversity – a conservation plan should be required with GM plan, restoration plan will be site dependent.

Sincerely,

A handwritten signature in black ink that reads "Keith Sexson". The signature is written in a cursive, flowing style.

Keith Sexson
Assistant Secretary of Operations
Kansas Department of Wildlife and Parks