



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



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John Glover, Acting Director
Easement Programs Division
United States Department of Agriculture
Natural Resources Conservation Service
Healthy Forests Reserve Program Comments
P.O. 2890, Room 6819-S
Washington, D.C. 20013

MAR 23 2009

Dear Mr. Glover:

The Fish and Wildlife Service (Service) has reviewed the Commodity Credit Corporation's interim final rule amending regulations for the Grassland Reserve Program (GRP) and offers the attached comments for your consideration. The comments are submitted in response to the publication and request for public comments on the GRP interim final rule in the *Federal Register* on January 21, 2009, (Vol. 74, No. 12, Pages 3856-3879). The interim final rule makes changes to the GRP regulations resulting from enactment of the Food, Conservation and Energy Act of 2008 and incorporates other changes for clarification or program administrative improvement.

We appreciate the opportunity to review and comment on the interim final rule. Please contact me at (703) 358-2011, or Dave Walker, Farm Conservation Programs Coordinator at (703) 358-2310, if you have any questions or need further information.

Sincerely,

David J. Stout
Chief, Division of Habitat and Resource
Conservation

Attachments



Rec'd
3/27/09

Fish and Wildlife Service Comments on the Interim Final Rule for the Grassland Reserve Program

March 23, 2009

Specific Comments

Page 3859, Preamble relating to section 1415.1 - Purpose

The Service commends USDA for continuing to recognize the conservation value of native and naturalized grasslands and for providing States with the authority to prioritize such lands in program ranking criteria. Although the program purpose has been revised, we support and appreciate the opportunity to focus conservation efforts on native grasslands, as these are critical to maintaining and improving biodiversity, particularly with respect to the conservation of threatened, endangered, and other at-risk species.

Page 3864, Preamble relating to section 1415.4 (h)(5) - Program Requirements

The Service appreciates and supports the decision to follow the guidance being developed by the Service on avoiding and minimizing wildlife impacts from wind turbines whenever USDA considers authorizing wind power facilities on GRP lands. We recommend that the discussion on authorizing wind power generation in this section of the preamble separate the adoption of guidance being developed by the Service, with recommendations from the Wind Turbines Advisory Committee, from other USDA requirements that may be related to on-farm wind power development. Since the final Service guidelines may have a title different from the one referenced in the preamble, we recommend revising the section to read:

In addition, USDA will follow the guidelines being developed by the U.S. Fish and Wildlife Service on avoiding and minimizing wildlife impacts from wind turbines. USDA will authorize wind power facilities only when the footprint of the facility and related infrastructure would have a minimal impact on the nature of the grazing lands and other conservation values obtained through the contract or easement.

Page 3870, Section 1415.2 (a)(2) – Administration

The Service supports the flexibility in the national allocation formula for GRP funding that allows additional factors to be included to improve program implementation and periodic modification of the allocation formula to change the emphasis of any factor(s) in order to address a particular natural resource concern. The Service believes that considering issues raised by state, regional and national conservation priorities, as required in determinations of GRP land eligibility under section 1415.5(b)(2)(iii), should also be used to inform the national allocation process. By incorporating fish and wildlife resource priorities for grasslands into the allocation process, the USDA can help

maximize the fish and wildlife benefits from GRP while also emphasizing support for grazing operations, maintaining and improving plant and animal biodiversity, and reducing threats of conversion to uses other than grazing.

Page 3870, Section 1415.2 (a)(3) – Administration

The Service supports making national, state and local level information on program implementation available to the public. We recommend that the final rule include information on how the information will be made available and whether there may be an opportunity for public comment on program implementation beyond the current request for comment on the interim final rule.

Page 3871, Section 1415.2(b)(6) – Administration

The Service recommends that development of conservation plans be added to the State Conservationist's and Farm Service Agency (FSA) State Executive Director's responsibility for developing grazing management plans and restoration agreements. In addition, the final rule should clarify that all plans and restoration agreements must be consistent with program purposes. The following revision to paragraph 1415.2(b)(6) incorporates these recommendations:

Developing grazing management plans, **conservation plans** and restoration agreements **consistent with program purposes and all program emphasis areas.**

Page 3871, Section 1415.3 - Definitions

Conservation plan

The Service recommends that the conservation plan describe the conservation values that the schedule of operations for the implementation and maintenance of practices are designed to address. Each grazing management plan should include a conservation plan component that addresses the protection of related conservation values consistent with the program's statutory purpose of protecting grazing uses and related conservation values by conserving and restoring grassland resources. The Service suggests the following revision to the definition of conservation plan:

“Conservation plan means a record of the GRP participants' decisions and supporting information that will be developed ~~in cases where ranking points are assigned and land is enrolled on the basis of~~ **to address** resource concerns in addition to grazing land uses. The conservation plan **will describe the conservation values of the grassland or shrubland to be addressed and** will include .”

Conservation values

The Service recommends a revision to the definition of conservation values as follows:

Conservation values means those natural resource attributes that **provide sustain and enhance** ecosystem functions and values of ~~the grassland area~~ **grasslands and shrublands**, including but not limited to, **native plant and animal biodiversity**, habitat for grassland- and shrubland-dependent **native** plants and animals, soil erosion control, and air and water quality protection.

Functions and values of grasslands and shrublands

The Service appreciates and supports the inclusion of habitat for pollinators and native insects as a component of fish and wildlife habitat on the list of ecosystem services provided by grasslands and shrublands. We recommend inserting “**native**” before plant and animal richness and diversity in this definition.

Grazing management plan

The grazing management plan should always be associated with a conservation plan that addresses related conservation values. We recommend rewording the second sentence of definition 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.”

Page 3874, Section 1415.4(h)(2) - Program Requirements

Insert “**and other animals**” after “birds” to be consistent with the definition for “nesting season” in 1415.3

Page 3874, Section 1415.4(h)(5) - Program Requirements

This paragraph should include the conditions under which USDA would authorize wind power facilities for on-farm use power generation as described on page 3864 of the preamble to the interim final rule with the revisions recommended by the Service.

Page 3874, Section 1415.4 (i) (1) – Program Requirements

Consistent with program purposes and the following paragraph 1415.4(i)(2), the paragraph should be revised so that it reads:

“The production of crops (other than hay), fruit trees, vineyards, or other agricultural commodity that is inconsistent with maintaining grazing land **and related conservation values.**”

Page 3875, Section 1415.8(i)(2) - Establishing priority for enrollment of properties

The Service recommends inserting “**with advice from the State Technical Committee,**” after USDA so that the determination of whether Conservation Reserve Program (CRP) lands are of high ecological value and under significant threat of conversion is made with input from the State Technical Committee.

Page 3875, Section 1415.8(i)(4) - Establishing priority for enrollment of properties

The Service recommends inserting “**nationally**” after “**accepted**” to clarify that the 10 percent cap on the CRP acres eligible for enrollment in GRP is managed at a national level.

Page 3875, Section 1415.8(j) - Establishing priority for enrollment of properties

The Service recommends revising the paragraph to be consistent with the statute by deleting the phrase “**no more than**” each time it appears in reference to using 60 percent of GRP funds for easements and 40 percent of GRP funds for rental contracts.

Page 3875, Section 1415.9(e) - Enrollment of easements and rental contracts

Consistent with our previous recommendation that grazing management plans include a conservation plan, we recommend the following revision to the second sentence of section 1415.9(e):

“NRCS will proceed with the development of the **grazing and conservation management plans, and** restoration plan if applicable...”

Page 3876, Section 1415.10(h) – Compensation for easements and rental contracts acquired by the Secretary

The Service recommends the addition of language in this section consistent with language used in the proposed rule for the Healthy Forests Reserve Program as follows:

“USDA recognizes that environmental benefits will be achieved by **implementing conservation practices, measures, and activities funded through GRP, and that environmental credits may be gained as a result of implementing activities compatible with the purposes of a GRP easement, contract, or restoration agreement. USDA asserts no direct or indirect interest on these credits, except:**

(1) In the event the participant sells or trades credits arising from GRP funded activities, USDA retains the authority to ensure **GRP purposes and the requirements for GRP rental contracts, easements, or restoration plan** are met and maintained consistent with this part; and

(2) If activities required under an environmental credit agreement may affect land covered under a GRP rental contract, easement, or restoration agreement, **an amendment to the restoration agreement or contract, or a compatible use approval under an easement, may be required and** participants are highly encouraged to request a compatibility assessment from USDA prior to entering into such environmental credit agreements.”