

WETLAND RESERVE PROGRAM COMPATIBLE USE GUIDELINES FOR KENTUCKY

By purchasing a WRP easement, the NRCS acquires all land management rights and responsibilities on the easement. Landowners may request authorization from NRCS to conduct certain management practices through a compatible use agreement. NRCS may also assign compatible use authorizations to the landowner as part of the restoration plan. Compatible use authorizations may only be granted when those uses are consistent with both the long-term protection and enhancement of wetland functions and values of the easement.

The NRCS in consultation with the WRP subcommittee of the State Technical Committee (STC) have developed these guidelines to determine when a compatible use is acceptable. Agencies and organizations represented on WRP subcommittee include Kentucky Department of Fish and Wildlife Resources (KDFWR), Kentucky Division of Forestry (KDF), United States Fish and Wildlife Service (USFWS), and The Nature Conservancy (TNC). The subcommittee will be given the opportunity to comment on guidelines and on individual compatible use agreements, however the NRCS State Conservationist retains the final authority to grant a compatible use authorization.

All compatible use authorizations will be written on the attached form titled "Compatible Use Authorization" AD-1160. Attached to this form will be the special conditions and specifications of the authorization. The special conditions of the authorization will, in detail, specify the use in terms of activity, method, frequency, timing, intensity, and duration. Authorizations can not be granted for the duration of the easement, but will be granted for specific periods of time. The NRCS also retains the right to modify or cancel the compatible use at any time that the NRCS determines the use to be in conflict with program objectives and protection and enhancement of the easement.

The following statement must be incorporated in any compatible use authorization:

"NRCS retains the right to modify or cancel this compatible use authorization at any time if the NRCS determines that such activities do not further the protection and enhancement objectives of the easement, or that the landowner has failed to comply with specified terms and conditions. The landowner engages in such activities at his/her own risk. This authorization does not vest any right of any kind in the landowner. This authorization is null and void after the expiration date specified above. By signing this document, the land owner agrees to the terms described above and on any referenced documents."

A compatible use authorization is required anytime the participant will conduct a management or maintenance activity on the easement. Compatible use authorizations may be requested by the landowner in writing or verbally. A compatible use authorization should be developed without a request if it will be needed for practice implementation, maintenance, or management that the participant intends to conduct.

The following process shall be used for developing compatible use authorization requests.

- A completed wetland restoration plan and plan map must be contained in the state office contract folder prior to requesting a compatible use authorization.
- The District Conservationist (DC) or Other Designated Conservationist (DC) shall use these guidelines to complete the WRP Compatible Use Authorization form AD-1160, including any supporting documentation and special management provisions.
- All Compatible Use Authorization requests shall be completed on the AD-1160 fillable form version so they can be saved and forwarded electronically, as needed.
- All Compatible Use Authorization requests must correspond to the wetland restoration plan map for the easement. The agreement should be developed so that affected fields, acreage, and structures are clearly identifiable.
- The DC shall consult with NRCS, KDFWR, and USFWS biologists as applicable, during the development of the authorization request.
- Prior to obtaining the landowner's signature, the DC is to send to the State Biologist by email the completed AD-1160 (fillable form) and all supporting documentation. If available, an electronic copy of the wetland restoration plan map to which the agreements corresponds will also be sent via email. If an electronic copy of the restoration plan map is not available, the State Biologist will use the wetland restoration plan map in the state office contract folder.
- Upon acquiring the above information from the field office, the State Biologist will send the information via email to the WRP Subcommittee for their review.
- After review, the State Biologist will notify the DC when the authorization is ready for signing. The DC should sign the recommended signature block and the landowner shall sign their signature block.
- After acquiring the landowner signature(s), all compatible use authorizations shall be sent to the WRP Program Manager (Assistant State Conservationist). The Compatible Use Authorization form AD-1160 must be signed by the State Conservationist or designated Assistant State Conservationist prior to becoming effective.

A compatible use authorization is required for any management or maintenance activity on the easement that is not conducted by NRCS. A compatible use authorization is required even if the activity is not covered under the following specific guidelines. Guidelines for additional compatible uses not discussed below must be developed with the WRP subcommittee as they are requested. Therefore, compatible use requests that are not covered under the current compatible use guidelines may take more time to approve.

1) Native Grass Management

Mowing and Grazing

During an establishment period of two years after planting, the easement may be mowed once between May 1st and June 15th as needed to control weed competition at the discretion of the DC with concurrence from a KDFWR, USFWS, or NRCS biologist.

After a two year establishment period, native grasses may only be mowed once annually for hay or other purpose or grazed for one rotation annually. Mowing or grazing heights can not be lower than 8 inches. When using native grasses for grazing, cattle must be

removed from the stand when the average grazing height has been reduced to 8 inches. Grazing and mowing may not occur on the same acreage in the same year. All mowing, haying, or grazing must be done between July 15 and September 1, however, more restrictive mowing and grazing dates may be imposed depending on the presence of threatened or endangered grassland species or other conditions. Additional mowing restrictions will be decided upon by the NRCS District Conservationist (DC) in consultation with a KDFWR or USFWS biologist during the development of the compatible use request.

Chemical Use

Chemical may be used for native grass planting according to the restoration plan. After planting, chemical application will only be allowed when recommended in writing by a KDFWR, USFWS, or NRCS biologist. The written recommendation shall include method and timing of the chemical application. A site visit by the biologist will be required to determine if there is a demonstrated need for chemical application. Since weeds provide a critical habitat component for grassland species of concern, weed control is not a critical objective.

Prescribed Burning

Prescribed burning can be used to maintain native grass stands as early successional habitat. Prescribed burning may only be conducted when recommended in writing by a KDFWR or USFWS biologists to manage native grass stands. Prescribed burning shall not be conducted more frequently than once every three years on the same acreage. Prescribed burns must be conducted according to a KDFWR burn plan and KRS 149.370, KRS 149.375, KRS 149.380, KRS 149.390, KRS 149.400. All areas on the easement not in native grass will be protected from prescribed burns.

Disking

Native grass stands may be disked according to the strip disking criteria in the Kentucky Upland Wildlife Habitat Management (645) practice standard. The detailed requirements of this practice from the 645 standard shall be included on the Compatible Use Authorization.

Disking may also be done on a whole field basis but only when recommended by a KDFWR biologist due to the stand being too thick for optimum wildlife use. Acreage may not be disked more frequently than once during a three year period. When disking is conducted on a whole field basis, not more than 50% of the area established to native grass on the easement shall be disked in any one year.

Strips shall be disked 2-4 inches deep, reducing plant residues on the soil surface to between 30-50%. Strip disking shall occur between September 1st and April 1st. For optimum quail benefits, disk between October 1st and December 31st. However, highly erosive sites shall not be disked during the fall or winter to prevent erosion from occurring over the winter months.

2) Mowing of Dikes and Structures for Water Control

Dikes and structures for water control can be mowed as needed between July 15th and September 1st to control unwanted vegetation.

3) Hardwood Forest Management

Tree harvest on easements will only be allowed when it is beneficial to wetland functions and migratory wildlife. The NRCS in consultation with the WRP subcommittee members will determine when and how thinning cuts will be conducted on newly established stands and on existing stands. A site visit by NRCS and members of the WRP subcommittee will be required to develop a detailed plan for the thinning cut. If the landowner believes that a thinning cut is needed, they should, at that time, submit a compatible use request. Compatible use authorizations will only be granted when it is determined by NRCS and WRP subcommittee members that a thinning cut is needed to enhance wetland functions and migratory wildlife habitat. If a compatible use is authorized, the landowner may recognize any financial gain from trees that can be removed from the site without harming the standing trees that remain.

Management and Maintenance During The Establishment Period

Mowing

The area between trees may only be mowed once annually between July 15th and September 1 to control competition during a three-year establishment period after planting. Mowing height must not be shorter than 8 inches.

Chemical Use

Chemical may only be used before tree planting according to the restoration plan. After tree planting and during a three-year establishment period, herbicide may be applied either as a spot application or strip application to control competition. A site visit by a NRCS DC and a KDOF forester will be required to determine if there is a demonstrated need for chemical applications after planting. Specific information regarding post-planting herbicide application will be developed by the DC in consultation with a KDOF forester and will be included in the compatible use permit.

4) Shallow Water Areas

The NRCS can grant compatible use authorization that will allow the landowner to operate water control structures associated with shallow water areas. If a compatible use authorization is granted to manage SWA or GTR, the landowner assumes risk and liability for flooding land not under a WRP easement when the operation of a structure is not in accordance with the site plan. Specific management requirements follow.

Shallow Water Areas (SWA)

Structures for water control shall be operated to incrementally flooded SWAs after August 15th. SWA should not be flooded to maximum capacity until December 15th. Early, middle, or late season draw down should be conducted according to the NRCS Shallow Water Area Job Sheet. The earliest draw down shall begin after start of the growing season. At least 15% of the pooled area on an easement will be designed and/or managed to provide standing water until July 15th during average years. A tentative five-year flooding and draw down plan for each SWA on an easement must accompany the compatible use request. Development of the plan by the DC, and a NRCS biologist in consultation with a KDFWR or USFWR biologist will ensure that adequate water is present on the easement during critical periods for wildlife.

Green Tree Reservoirs (GTR)

GTR include any areas that are planted to trees and are capable of being manually flooded with water control structures. Newly planted GTR should not be manually flooded until three growing seasons have passed. GTR may not be manually flooded until November 15th or when the trees go dormant which ever is latest. All structures on GTR shall opened by March 1st to allow natural flooding and draw down to occur. Flooding intensity and duration should vary from year to year. GTR may only be manually flooded 4 out of 5 years. A tentative five year flooding and draw down plan for each GTR on an easement will be required to accompany the compatible use request.

Vegetation and Successional Management in SWA and GTR

Early successional vegetation may be maintained in an individual SWA by annually mowing, disking, or planting food plots on 25% of a pool area or five acres which ever is less. The managed area shall be rotated annually. Food plots shall be managed according to the Food Plot section below. Mowing and disking activities should be conducted between July 15th and September 1st.

Flooding, disking, mowing, or herbicide application outside the above mentioned guidelines may only be done if recommended in writing by a KDFWR, UFWS, or NRCS biologist to maintain an early successional vegetative community or to control unwanted vegetation. The written recommendation must include the areas to be managed and the method of management to be done. The written recommendation must be sent to the WRP Program Manager so it can be attached to the Compatible Use Permit. Mowing in GTR will only be allowed according to section 2, Bottomland Hardwood Forest Management.

5) Food Plots and Disking

Food plots may be planted on the easement with the following requirements. Food plots will be marked on a plan map that will accompany the compatible use request for food plots. During the planning process, food plots shall be located so that existing and planned forestland fragmentation is minimized

Upland Wildlife Food Plots:

Annual Food Plots:

Annual food plots may be planted to small grains, corn, sunflowers, soybeans and other annually planted grains. These food plots shall be long and linear, a minimum of 30 to 60 feet wide, and between 0.25 and 10 acres in size. Annual food plots will be established in the spring or fall using normal agricultural tillage methods. Fertilizer and lime application rates can not exceed University of Kentucky soil test recommendation for the specific food plot crop.

The preferred method to manage annual food plots is to plant one third of the food plot annually. This will result in three strips of different successional aged vegetation and provides important food and brood habitat for ground nesting species such as turkey and quail. However, because the newly planted trees on the easement are providing beneficial early successional habitat during their early growth stages, managing food plots on a one third rotational basis may not be necessary. Under this situation, upland annual food plots may be planted each year without rotation until the forest canopy reduces the amount of early successional habitat or until otherwise recommended by a NRCS, KDFWR, or USFWS biologist. After this period, annual food plots will be managed on a rotational basis by limiting planting to one third of the food plot annually. Regardless of the annual food plot management method, up to 25% of the area planted each year may be mowed to increase food availability.

Grass and/or Legume Food Plots

Grass/Legume food plots shall be between 1 and 5 acres in size. These food plots will be established in the spring or fall using normal agricultural tillage methods. Grass/Legume food plots may be replanted once every three years if needed. These food plots may only be mowed once a year. Any mowing shall occur between July 15th and September 1st.

Shallow Water Area Food Plots

Pool areas of moist soil units planed for food plots will be counted as part of the 5% of the easement area that may be established in food plots. In an individual shallow water area, only 25% of the pool area or 5 acres, which ever is less may be planted to a food plot annually. These food plots will be established in the spring using normal agricultural tillage methods. Fertilizer and lime application rates can not exceed University of Kentucky soil test recommendations for the specific food plot crop. Anhydrous Ammonia can not be used as a nitrogen source in shallow water areas. The areas planted to food plots must be rotated annually to help maintain high seed production from native vegetation and to help control woody vegetation.

Chemical Use on Food Plots

Use of chemicals will not be allowed on food plots since weeds also provide wildlife food. Reptiles, amphibians, shorebirds, and wading birds that use wetland areas during the spring and summer may be affected by herbicide applications.

Strip Disking

Strip disking may be allowed to maintain early successional habitat. Strip disking will only be allowed on food plots and in SWA pools. Areas that are strip disked must be rotated annually. Strip disking in SWA pools will be according to the Shallow Water Area section above. Strip disking in upland food plots should be cross slope and leave at least 30% residue on the soil surface. Land with more than 7% slope may not be strip disked. A map indicating the areas where strip disking will take place must be attached to the compatible use request.

6) Structures

Well Development and Operation

Developing and maintaining a well and the required components to provide a dependable water source may be allowed as a compatible use. However, the site where the well and any components will be located must be approved. A SWA shall not be manually flooded using a well before August 15th. SWA should not be flooded to maximum capacity until December 15th. Wells should be permitted and operated according to all state regulations and guidelines. All water transfers and pumping should be approved and reported to the Water Withdrawal section of the Kentucky Division of Water.

Hunting and Observation Blinds

Constructing and maintaining temporary hunting blinds will be allowed on the easement area as a compatible use if they are considered portable, non-enduring, and cause no site disturbance to set up or remove.

Blinds that are already in place when the easement is purchased may be maintained according to a compatible use permit. A permit can be authorized provided the maintenance activity does not impact wetland functions or any restoration practices. A compatible use permit shall be requested when maintenance is needed. The permit request should include details about the maintenance that will be conducted.

7) Noxious Weed Control

Control of federal, state, and locally listed noxious weeds is the participant's responsibility according to the Warranty Easement Deed. Federal and state listed noxious weeds are identified by USDA's Animal and Plants Health Inspection Service

(APHIS) at <http://www.aphis.usda.gov:80/ppq/weeds/weedhome.html> and the Kentucky Department of Agriculture in KRS 249.

If a landowner is **required** by a Statutory responsible entity to control a noxious plant that exists on a WRP easement, the landowner would need to contact the NRCS who will issue a compatible use permit based on a plan that would best meet the requirements of the regulator and the needs of the WRP easement.

When the landowner **desires** to control noxious or invasive weeds, the landowner shall request a compatible use permit through the local NRCS office. Before a participant can control weeds, a site visit must be conducted by NRCS and a biologist from the Kentucky Department of Fish and Wildlife Resources or United States Fish and Wildlife Service to determine if control is needed and the method of control. NRCS may agree to bare the cost of **invasive** weed control.

8) Subsurface Resources

The WRP Warranty Easement Deed reserves to the landowner the right to oil, gas, minerals, and geothermal resource underlying the easement area, provided that any drilling or mining activities are to be located outside the boundaries of the easement area. In Kentucky, compatible use authorizations will not be allowed for drilling or mining activities on the easement area.