

**Comments of the National Wildlife Federation on the
USDA Interim Final Rule on the Grassland Reserve Program
July 20, 2004**

Grassland Reserve Program Comments
c/o Easement Division
USDA Natural Resources Conservation Service
PO Box 2890
Washington, DC 20013-2890

VIA email: FarmBillRules@usda.gov

Dear Colleagues,

Please accept these as the comments of the National Wildlife Federation on the Interim Final Rule for the Grassland Reserve Program as published in the Federal Register, May 21, 2004. The National Wildlife Federation is the Nation's largest member-supported wildlife conservation organization.

USDA Should Emphasize Native Plant Communities and High Quality, Native Prairies in Selecting Lands for Protection

We believe that USDA should, in establishing Grassland Reserve Program priorities, establish a clear preference for regional native plant communities, and for high quality, well-managed native prairies. These regional native plant communities are generally better hosts for native wildlife, because the native wildlife have evolved and adapted to the native plants. Native grassland communities also represent some of the rarest types of habitat due to extensive past conversion and development, and some of the types most threatened by ongoing conversion and development.

An unplowed, native prairie that has been relatively well managed can contain several hundred plant species, and can support a wide variety of wildlife species. Protecting and managing those high quality prairies is also important in maintaining native seed sources and promoting biodiversity. In contrast, introduced grasslands can mimic some of the uses with respect to some species of wildlife, but can never replicate the many and diverse benefits provided by a diverse native prairie.

This strong preference for native, unbroken, well-managed prairies should be clearly stated in guidance given to state Farm Service Agency and Natural Resources Conservation Service offices to aid them in developing appropriate selection criteria. That would help the state-level USDA offices in focusing GRP efforts on unique grasslands or specific geographic areas, as is contemplated under the rules (Sec. 1415.8(f)).

We recognize that, in some locations and in some instances, protecting non-native grasslands can provide substantial habitat benefits as well, especially in areas where there are very few native grasslands remaining. Therefore, we would not suggest a requirement for native plants under the program. A strong preference, versus a requirement, for native plantings would allow for those instances where non-native plantings can provide substantial habitat as well.

The determination of whether remnant native grasslands are so rare, or non-native plant communities so valuable as habitat, that they are acceptable for the GRP could be made at the state NRCS and FSA level, with input from the NRCS State Technical Committee. However, federal program guidelines should specifically provide a preference for the protection and restoration of native plant communities, and high-quality, well-managed prairies, as the program's top priority.

USDA Should Prioritize the Most Threatened Grassland Communities

In providing national and state priorities for the selection of lands for protection under the GRP, USDA should clearly focus the program on the most threatened grasslands (that is, areas where there has been recent conversion or development activity, and where there is the strongest threat of future conversion and development). USDA, at the federal and state level, should make use of the most recent information available on rates of recent conversion or development. At the state level, USDA should seek the advice of the State Technical Committee on areas and types of grasslands that are most threatened by conversion or development.

USDA Should Tighten the Definition of “Natural” Grasslands

The federal guidance in support of native plant communities and high-quality, well managed native prairies is especially important given the broad definition USDA has proposed for ‘natural’ grasslands. There are many introduced species that are not noxious, but are certainly invasive, and that are adapted to grasslands and can perpetuate themselves. Some of them, like smooth brome grass, have been introduced specifically for grazing purposes, and have proven very adept at out-competing native prairie plant communities at that site and invade adjoining areas, thereby substantially reducing the biodiversity and the wildlife value of the grasslands.

The Grassland Reserve Program should not promote or aid the introduction or protection of such invasive plant species. Instead, USDA should adopt a definition of “natural” grassland that specifically excludes species that pose a threat to native grassland communities. USDA should adopt such a definition at the national level, and encourage the NRCS and FSA state-level offices, with advice from the State Technical Committee and wildlife experts, to identify other species in their state that pose a threat to grassland communities. The use of GRP funds to pay for the introduction of a non-native species that can harm a native plant community and the wildlife that depend upon it runs counter to the law’s intent.

USDA Should Provide a Clear Preference for Local, Native Seed Sources in Restoration Agreements

For reasons similar to those expressed above with respect to the selection of lands for protection, we support the language included in Section 1415.11 (Restoration Agreements), that provides a priority for using native seeds. We note that it is also important for USDA to provide a clear preference for the use of *local*, native seed sources in its restoration agreements. As is noted above, native plants generally provide the best habitat for native wildlife. Local seed sources are often those best-adapted to the climate and growing conditions of an area. A clear focus on native, local seed sources would also have the economic benefit of providing a market for farmers willing to produce native, local plant seeds.

Non-local native seeds should only be used where local native seeds are not available. Non-native seeds should only be used in those extremely rare instances where native seeds are not available, or where introduced plants provide some particularly valuable wildlife benefit not available with native plantings.

State-Level Priorities and Allocations

The preamble to the rule indicates USDA intends to focus GRP on non-urban area lands, because of expense of acquiring development rights in urban areas and the better opportunities to leverage money for urban-area lands with other programs. We agree with that focus, but the rules themselves don’t reflect that stated intent and should be revised to do so.

As we have noted in earlier comments, USDA should provide clear priority in scoring GRP applications in favor of applications that would benefit protected species, including those on federal or state lists of threatened or endangered species. This would ensure that the GRP also aids in the achievement of other national goals with respect to rare and declining species.

In determining state-level allocations, USDA need to carefully consider how to weigh ‘demand’ versus the other priorities, and how to appropriately measure that demand (number of applications versus dollars requested versus acres requested). Different regions are in very different situation with respect to

each. With the rules providing for the carryover of applications from year to year, we suggest USDA use a system that measures the extent of the backlog of unfunded but acceptable applications in each state as a measure of program demand.

The rules should encourage USDA state offices to establish selection criteria that award higher priority to instances where the agreement would help protect larger areas (e.g., larger parcels, multiple applications in one area, or applications to protect land adjacent to an already-protected grassland). Given the large scale at which grasslands operate to provide benefits to wildlife and other resources, the program should give general priority for the protection of larger versus smaller areas.

Easements and Land Rights

We disagree with USDA interpretation that statutory authority for a non-USDA entity to ‘hold’ an easement does not imply that entity holding the legal rights (and responsibilities) of the easement. The language and intent of the statute seems clear (Sec. 1238Q), allowing a private organization or State agency “to hold and enforce an easement.” In some regions and with some potential participants, allowing an easement to be held in the name of (and not merely enforced and administered by) a private organization could make a substantial difference in the number and quality of applicants. While USDA would need to maintain some assurance that the easement will continue and be enforced, it could do that through a secondary assignment of rights under an easement offered by a private organization. A private organization or State agency is required to assume the costs of administering and enforcing the easement under the law, and without the option of holding/owning the easement, there would seem to be no reason for a third party to assume the cost of administering and enforcing an easement. Easements owned and enforced by third parties should provide all the benefits of USDA-held easements, without the administrative and enforcement costs.

Management Of GRP Lands

We strongly support the provision requiring a conservation plan for each agreement (Sec. 1415.4(c)). The conservation plan is an important part of obtaining the benefits of the program.

We support the rule’s stated intent that participants be required to manage GRP acreage to move toward a certain natural resource condition. Should USDA provide a GRP agreement or easement on land with a monoculture (which, in our view, it should not do), the participant should be required to undertake plantings and management that move the land towards a more native plant mix, wherever possible. We would note that the term ‘improve’ is subject to a vast difference in interpretation (many landowners consider the replacement of native grasses and forbs with introduced forage grasses an ‘improvement’). In our view, the program should require management that restores diverse native plant communities wherever possible, and provides more and better wildlife habitat.

We generally support the rule’s stated intent of requiring periodic manipulation of the vegetation to maximize wildlife benefits and a diverse plant species mix. However, we would caution that although native grasslands east of the Rocky Mountains evolved with a mix of ruminants and fire, and typically benefit from periodic disturbance, those same conditions were not always present in the arid West. Conservation plans need to be tailored to the individual ecosystems involved.

While we strongly support the adoption of sustainable energy alternatives, including wind energy, we support the rule’s prohibition of industrial windmills on GRP acreage. The structures themselves can actually introduce disturbance in the grassland, and their presence can disrupt the wildlife benefits otherwise provided for bird species adapted to grasslands. Some species of open grassland birds like prairie chickens, for example, will not nest in proximity to wind (or other) towers. Landowners can adequately provide for present or future wind development on their property in their selection of acres they offer into the program.

USDA Should Retain Certain Positive Features of the Interim Final Rule

The language in Sec. 1415.5(d) providing a minimum of 40 contiguous acres for enrollment makes good sense, as does the state-level waiver provision allowing for specific smaller parcels, and the flexibility to set higher minimums at the state level where appropriate.

The continuous signup provision of rule would give landowners the flexibility to apply for a GRP contract or easement at a time when it is convenient for them. This provision is much better than narrow signup windows, which can come during planting, harvesting, calving, haying, or other especially busy times of the year for farmers and ranchers. Continuous signup also helps spread the USDA field office workload throughout the year.

The provisions allowing acceptable applications to be carried over from year to year is also valuable and important. The provision will reduce both applicant and staff time by eliminating redundant applications. We suggest the process be handled like the Wetlands Reserve Program (i.e., GRP applications would be scored and the applicants advised of where they rank relative to other applicants). That would give landowners information on how likely (and how soon) their application might be funded. It would also provide the USDA, the public and policymakers with a measure of how much demand there is for this program.

Yours in Conservation,

Duane Hovorka