

SUSTAINABLE AGRICULTURE COALITION
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July 20, 2004

Easement Division
Natural Resources Conservation Service
P.O. Box 2890
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E-mail: FarmBillRules@usda.gov (attn: Grassland Reserve Program)

RE: Grassland Reserve Program Interim Final Rule, 69 Fed. Reg 29173 (May 21, 2004)

Dear Richard Swenson:

I am submitting this letter and attached comments on the Grassland Reserve Program (GRP) Interim Final Rule on behalf of the Sustainable Agriculture Coalition. The Sustainable Agriculture Coalition represents family farm, rural development, and conservation and environmental organizations that share a commitment to federal policy reform to promote sustainable agriculture and rural development. Coalition member organizations include the Agriculture and Land Based Training Association, American Natural Heritage Foundation, C.A.S.A. del Llano (Communities Assuring a Sustainable Agriculture), Center for Rural Affairs, Dakota Rural Action, Delta Land and Community, Inc., Future Harvest/CASA (Chesapeake Alliance for Sustainable Agriculture), Illinois Stewardship Alliance, Innovative Farmers of Ohio, Institute for Agriculture and Trade Policy, Iowa Environmental Council, Iowa Natural Heritage Foundation, Kansas Rural Center, Kerr Center for Sustainable Agriculture, Land Stewardship Project, Michael Fields Agricultural Institute, Michigan Agricultural Stewardship Association, Midwest Organic and Sustainable Education Service (MOSES), The Minnesota Project, National Catholic Rural Life Conference, National Center for Appropriate Technology, Northern Plains Sustainable Agriculture Society, Ohio Ecological Food and Farm Association, Organic Farming Research Foundation, and the Sierra Club Agriculture Committee.

Many of these organizations have a strong commitment to promoting grass-based agriculture and work directly with farmers and ranchers on grazing systems and management and marketing of grass-based products. SAC member organizations have also developed consumer and public information and outreach activities on the health and environmental benefits of grass-based agriculture. For example, Future Harvest/CASA has produced a publication entitled *Amazing Grazing* a directory for consumers of local sources for products from pasture-raised animals in Maryland, Virginia, and West Virginia. The Kansas Rural Center has a Clean Water Farms Project that provides financial assistance and information to livestock producers who are establishing managed rotational grazing systems or converting cropland to pasture land, both

actions which reduce confinement feeding and lessen the potential for pollution problems. The Iowa Natural Heritage Foundation works on numerous projects and has produced publications to help Iowa farmers increased wildlife diversity on their operations, including publications on prairie management and restoration. The Ohio Ecological Food and Farm Association and the Innovative Farmers of Ohio conduct beginning farmer workshops on livestock fencing, lamb weaning, and other aspects of pasture-based livestock and poultry productions systems, as well as farm tours focused on pasture-based milk production and grass-fed, pastured livestock and poultry production systems. The Land Stewardship Project co-sponsors grazing workshops and operates a Stewardship Food Network for its farmer and rancher members with information provided to consumers looking for products from grass-based livestock and other sustainable production systems. The Center for Rural Affairs recently hosted a USDA official, who is working on the grass-fed labeling claim, on a tour of a Nebraska farm whose owners have established a grass-based production system. The Sustainable Agriculture Program of the National Center for Appropriate Technology includes the ATTRA program, a national sustainable agriculture information system. The ATTRA staff includes technical experts on grass-based animal production systems and ATTRA has produced over a dozen publications specifically addressing grass farming issues. This is only a sampling of the work involving sustainable grassland farming and ranching undertaken by these organizations and other SAC member organizations.

We thank you for this opportunity to comment on the Grassland Reserve Program Interim Final Rule. We believe that this Rule has numerous positive features but does need some revisions. With additional modifications and adjustments to the Rule, the GRP could serve to promote grass-based farming and ranching through the conservation of grasslands and contribute to the increase of biodiversity and populations of plants and animals that depend on grassland habitats.

Sincerely,

Martha L. Noble

Martha L. Noble
Senior Policy Analyst

**Sustainable Agriculture Coalition Comments on
Grassland Reserve Program Interim Final Rule, 69 Fed. Reg. 29173 (May 21, 2004)**

1. Allocation of GRP Funds to the States rather than National Selection of Applications: We strongly support the decision of the USDA in the Interim Final Rule (IFR) to provide for state allocation of GRP funds with a role for the states in establishing priorities for enrollment in the GRP.

The statutory goals of the GRP, particularly maintaining and increasing animal and plant biodiversity, require attention to local conditions and features of grassland ecology that vary with climate, soil types, and other regional factors and to state and local initiatives for grassland ecosystem protection. In addition, the restoration of cropland to grazing land in many areas may benefit from co-ordination with state and non-profit technical assistance programs, state and local initiatives to increase processing and marketing for grass-based agricultural products, and other federal conservation programs, such as the Conservation Security Program, which are administered through “locally led” processes with input from conservation districts and NRCS State Technical Committees. We agree with the process provided in the IFR of authorizing the states to make these decisions.

2. Factors for Determining the Amount of Funds to be Allocated to the States: We recommend the USDA not adopt a demand factor for allocating funds that is based simply on the number of applications, acres offered, and funding needs for pending applications. This demand factor is already partially accounted for in the factor of the number of grazing operations in the state. Instead, we recommend that an additional factor be included that recognizes and provides additional funding to those states which develop initiatives for simultaneously achieving multiple program goals of the GRP.

In the preamble to the IFR, USDA indicates that it is establishing a formula for allocating GRP funds to the states which includes factors used in FY2003, including the number of grazing operations, acres of grassland under the threat of conversion, and biodiversity considerations. In addition, USDA is now including another factor in the allocation determination, i.e. the state demand for funds as measured by the number of applications for enrollment in the GRP. In our opinion, to a great extent this factor is captured by the number of grazing operations in the state and the acres of grassland under threat of conversion.

Instead of incorporating this redundancy into the allocation formula, we recommend that USDA include a state funding allocation factor that rewards those states which establish GRP criteria and initiatives that provide for achieving multiple goals of the GRP simultaneously. For example, a state which enrolls GRP acreage under contracts that both restore grassland from row crop use and incorporate a conservation plan that includes significant protection for plant and wildlife protection should be encouraged over a state which focuses on contracts for grassland restoration without close attention to wildlife needs. A state which makes the effort to identify and provide program outreach to multiple farmers and ranchers in order to enroll an ecologically significant area of grassland in a local area, with conservation plans to address plant and wildlife needs, will meet the program goals of protecting grazing operations and promoting biodiversity. A state which designs GRP priorities to establish GRP easement acreage adjacent to grassland

under protection from other initiatives is another example where grazing operations will be promoted or restored and protected from future conversion, along with an overall increase in the promotion of biodiversity not only on the land enrolled in the GRP but on the adjacent preserved land.

3. Focus of GRP on Non-urban Area Lands: We strongly support the position of USDA in the preamble to the IFR that the GRP be focused on preventing grassland conversion and promoting grassland restoration outside of developing urban areas.¹ We recommend that IFR Section 1415.8 be revised to include a specific priority for the enrollment of grasslands in non-urban areas.

We agree with USDA that the Farm and Ranch Lands Protection Program (FRPP) is more appropriately designed than the GRP to leverage state, local, and non-profit funding for agricultural land preservation, including grassland preservation, in urbanizing areas. In addition, administration of the FRPP also allows for much greater involvement of local and state government planning expertise and methods, such as land evaluation and site assessment systems and agricultural protection areas, which provide for the identification and preservation of farmland in coordination with comprehensive development plans.

In addition, in order to achieve the statutory priority for the GRP of supporting plant and animal biodiversity, the program should be designed to give priority to the enrollment of sufficient acreages of grasslands in a given area to meet the needs of plants and wildlife dependent on grassland ecosystems. The price of land in urbanizing areas is generally much higher than that in non-urbanizing areas. Therefore, a greater amount of grassland acreage with value as plant and wildlife habitat is more likely to be enrolled in the GRP if program funds are focused on non-urbanizing areas.

We also note that urbanizing areas provide good markets for small scale organic crop production, community supported agriculture, farmers' market production, and other direct market farming operations for high value fruits, vegetables, flowers, and other crops. Over all it makes economic sense to promote this type of agriculture on smaller acreages in urbanizing areas, while promoting grazing operations, preventing conversion of grassland to row crops and other uses, and increasing biodiversity in areas with less developmental pressure.

4. Definition of "Natural" Species: We recommend that the definition of "natural" species in Section 1415.3 of the IFR be revised to exclude species that pose a threat to native grassland communities and that "natural" not include "native" species. We recommend that the definition of "natural" be modified to provide that, in addition to excluding "noxious weeds" from the definition of natural species, the term "natural" also exclude any introduced species that poses a threat to native grassland communities. We recommend that the definition further require that NRCS and FSA consult with NRCS State Technical Committees and plant and wildlife experts in the state to determine which species defined as "natural" under Section 1415.3 of the IFR may pose a threat to native grassland communities. We note that the comments of the National Wildlife Federation provides the example of smooth brome grass as a "natural" species that has been introduced for grazing purposes but has also proven very adept at out-competing

¹ 69 Fed. Reg. at pp. 29178-29179.

native prairie plant communities at that site and invaded adjoining areas, thereby substantially reducing the biodiversity and the wildlife value of relatively rare native grassland habitat. In our opinion, the use of the GRP funds to pay for the establishment of introduced species that destroy native species and decrease biodiversity runs counter to the legislative intent of the GRP, even if the introduced species is useful to a grazing operation.

We also recommend that the term “natural” species be defined as an introduced species that can adapt to the ecological site and perpetuate itself in the community without cultural treatment, with the word “native” removed from the definition. Section 1415.3 includes a separate definition for the term “native” species. It is inappropriate to include the native species within the definition of natural species, given that there are important distinctions between the two both ecologically and legally. In addition, as discussed in the subsequent sections of these comments, we are recommending that some sections of the IFR be revised to include a clear distinction between native grassland species and introduced “natural” grassland species, a recommendation which requires that the definition of “natural” be revised.

5. Establish a Clear Priority in for Native Plant Grassland Communities. We recommend that Section 1415.8(c) of the IFR be revised to include a clear priority for enrolling regional native grassland plant communities and for high quality, well-managed native prairies and that Section 1415.8(f) be revised to provide that the USDA “shall” with advice from NRCS State Technical Committees emphasize enrollment of these unique native grasslands.

Grassland communities composed primarily of native plant species, especially high quality, unplowed native prairie, are among the rarest and most threatened habitats in the United States, due to the conversion of this grassland to cropland and to develop pressures. When well-managed, with close attention to grazing regimes and, in some regions, the need for periodic burning, these habitats can be used for grazing operations while also supporting a diverse community of grassland plants and animals. In addition, many of the native plant species in these grasslands and animal species dependent on grassland habitat are listed as threatened or endangered on federal or state plant and wildlife lists or may be on the verge of listing. The GRP should be used to help graziers meet the conservation requirements of federal and state wildlife laws, as well as to help prevent plant and animal species from reaching such low populations levels that they are listed as endangered or threatened. Therefore, we recommend that USDA revise Section 1415.8(c) to emphasize that native grassland be given a priority over “natural” grassland and also revise Section 1415.8(f) *to require* that state offices of NRCS and FSA, with advice from State Technical Committees, emphasize the enrollment of unique *native* grasslands, as well as recommending that the state offices also emphasize specific geographic areas of the state.

Not all states retain significant areas of native grassland but those states may have areas that could be restored to native grassland or areas with natural grasslands that provide significant ecological benefits, while supporting economical grazing operations. We are not recommending that such grasslands be made ineligible for the GRP and that only native grasslands may be enrolled, but we are recommending that a preference be given for native grassland species, both for preservation and restoration.

6. Priority for Local Native Seed Sources in Restoration Agreements: We strongly support the provision in Section 1415.11(f) of a priority for the use of local, native seeds in restoration agreements. This support is in keeping with our recommendation for the highest priority for enrollment of native prairie and other native grasslands. Clearly, if a native prairie needs restoration work, native seed should be used. In addition, many native plant species are ecologically adapted to be grazed and, of course, as native species are also generally adapted to the local soil types, climate regime, etc. Restoration agreements should require that such native species be given a preference in all grassland restoration plans. One example is the big bluestem in Missouri, a tall warm-season, sod forming native grass species that has been identified by the Missouri Department of Conservation as a nutritious native grass that grows under a wide variety of conditions and is excellent for cattle production, wildlife habitat, and beautification of the local landscape.² In the Western regions, many native grass species are more drought tolerant than introduced species. A priority for GRP participation should be used to those applicants who wish to restore converted grasslands with native species or incorporate more native species into grasslands needing improvements. A clear focus in the GRP regulation on the use of local, native seed sources will also have the economic benefit of providing a market for farmers and ranchers willing to produce native, local plant seeds.

Non-local native seeds should be used only where local native seeds are not available. Non-native seeds may be used when native seeds are not available or where introduced plants provided a particular wildlife benefit not provided by available native seeds.

We also recommend that in its program manuals and guidance to the NRCS State Conservationists, NRCS recommend that the State Conservationist provide in GRP materials for farmers and ranchers information on native grassland species in the state and sources of native seeds.

7. Priority for Enrollment of GRP Tracts Sufficient to Provide Value as Animal and Plant Habitat: We recommend that USDA waivers of the 40-acre minimum tract requirement be accompanied by a clear statement of the need in the state or region for smaller tracts and a priority for enrollment of multiple applications with adjacent lands or single applications with land adjacent to pre-existing agricultural preservation areas. We are supportive of the general requirement provided in the statute that 40 contiguous acres is the minimum acreage that will be accepted for enrollment in the GRP. We appreciate the consideration of USDA in providing a requirement in IFR Section 1415.5(d) that USDA will review any increase in the minimum size requirement at the state level to ensure that increased minimum does not unfairly discriminate against small farmers and ranchers.

On the other hand, we are also concerned that states not be given waivers by USDA to enroll smaller acreages if the result is a significant decrease in the use of GRP funds to support plant

² See, e.g. *Native Grasses*, a Missouri Conservation Commission publication for Missouri livestock producers encouraging the establishment of native grasses in their operations, posted on the web at <http://www.conservation.state.mo.us/landown/grass/native2/>; *Lesser Prairie Chicken (Tympanuchus pallidicinctus)*, NRCS Fish & Wildlife Habitat Management Leaflet No. 6 (1999)(recommendations for native grasses that can be used in managed rotational grazing systems that provide suitable habitat for lesser prairie chickens), posted on the web at <http://www.westgov.org/wga/initiatives/HighPlains/leaflet.htm>.

and animal biodiversity effectively. Larger tracts of grassland will generally support larger, more diverse populations of grassland plants and animals. Therefore, we recommend that the IFR be revised to provide that if a state is given approval by USDA to lower the minimum tract size for enrollment, that the state also provide a clear priority for applicants whose tracts are adjacent to other GRP lands or to other grasslands subject to agricultural conservation easements or other grassland preservation measures.

8. GRP Conservation Plans: We strongly support the requirement in IFR Section 1415(c) for a conservation plan with every GRP agreement. We recommend that the IFR be revised to incorporate specific requirements to ensure that lands in enrolled in the GRP meet the statutory requirement of supporting plant and animal biodiversity. The GRP legislation noted three primary goals of the GRP: promoting grazing operations, protecting grasslands from conversion threats, and promoting plant and animal biodiversity. These goals could be more efficiently fostered and the GRP could be better designed to achieve its statutory purposes, if the IFR were revised to provide for the simultaneous achievement of these goals. We are concerned that in both the preamble and the IFR, USDA appears to view each goal in isolation. Under that approach, a state could approve a significant number of its GRP applications with conservation plans that provide for the establishment or continuation of measures that promote “grassland values” defined simply as in the number of grazing operations or a higher level of grassland based domestic animal production, without measures for the conservation or increase of plant and animal biodiversity. We recommend that USDA clearly provide in the IFR a priority for GRP applicants who agree to implement conservation plans that preserve or restore diverse native grassland plant communities where possible and provides for the improvement of wildlife habitat.

8. Exclusion of industrial windmills from GRP land. We support the IFR’s prohibition of industrial windmills on GRP land. Many of SAC’s member organizations are strong supporters of wind energy as a truly renewable form of energy. Many farmers and ranchers also welcome the additional income received from leasing their land as sites for industrial windmills. We are also aware that to avoid excessive bird and bat mortality and decrease other adverse impacts on wildlife, industrial windmills should be sited and operated with measures to minimize these impacts. In the case of GRP lands, farmers and ranchers are already receiving additional compensation in the form of GRP rental or easement payments. In light of this additional income and the GRP purpose of supporting plant and animal biodiversity, we agree that it is appropriate to prohibit industrial windmills on GRP land to avoid interference with bird nesting and other wildlife activities.

9. Delete IFR Section 1415.2(e) under which the USDA Secretary may waive any provision of the IFR. We strongly object to the inclusion of a broad, general waiver provision for any part of the GRP rule provided in Section 1415.2(e) and we urge the USDA to delete this subsection. Section 1415.2(e) provides that the Secretary may waive any provision of the IFR if he or she deems the application of that provision to a particular limited situation to be inappropriate and inconsistent with the environmental and cost-efficiency goals of the GRP. This provision essentially swallows the rule and provides only vague limitations on ad-hoc administration of the GRP. The purpose of the regulation is to give program participants and others certainty as to the priorities, procedures, and requirements for program participation and

the use of program funds. We are troubled by the inclusion of a general, overarching provision allowing the USDA to waive the regulation on a case-by-case basis based on vague, general program goals. If a participant is not meeting the terms of the GRP agreement and conservation plan, the rule provides for a process by which USDA can terminate the agreement and impose remedies against the alleged violator. In turn, the USDA also has obligations to the program participants which should be safeguarded through evenhanded application of the regulation. The inclusion of this waiver provision is an invitation to ad-hoc administration of the program and may also on its face constitute a violation of the Administrative Procedures Act. We urge the USDA to delete this provision.