

## Appendix N: 2014 Region 3 Farm Program Guidance

### I. Farming Program Plan

1. The use of farming as a management tool must be justified and managed as defined within a specific Farming Program Management Plan (FPMP) that supports the biological purposes for that unit and the biological integrity, diversity, and environmental health policy of the National Wildlife Refuge System and incorporates the current Region 3 Farm Program Guidance.
  - A. Each station's FPMP will be completed and submitted to the Area Supervisor for approval by January 1, 2015. This plan will remain in effect until significant changes in the station's farm program trigger an update.
  - B. This station-specific plan may be a stand-alone plan or incorporated as an appendix into a draft Comprehensive Conservation Plan (CCP) or Habitat Management Plan (HMP).
    - i. All HMPs currently in the development process for stations with a farming program will have an associated station-specific FPMP included.
  - C. Stations utilizing force account farming (without the use cooperators) must follow the sections of the Farm Program Guidance pertaining to their farming program and must still complete a FPMP as described in I.1.

### II. Selection of Farming Permittees

The Region 3 farming team recognizes the fact that the Refuge Manual (5 RM 17 Administration of Special Uses) addresses the following selection processes. However, the following recommendations are more restrictive to ensure a regionally consistent and transparent farming program.

1. Beginning in calendar year 2015, selection of farming permittees will be from one of the following three options:
  - A. Competitive Bid Process (recommended over other solicitation methods)
    - i. All parameters and special conditions/requirements shall be included in the announcement. This will preclude the need for any deductions as applicants for the farming opportunity will be offering their sealed bid based on the known special use conditions and other requirements.
    - ii. The announcement shall ensure that the opportunity to farm on USFWS lands is fairly distributed.
    - iii. All sealed bids will be opened on the same day at a time and place open to the public.
    - iv. The Refuge or District reserves the right to reject any or all bids. Appropriate justification and documentation is required if this action is pursued.
  - B. Lottery Process

- i. All parameters and special conditions/requirements shall be included in the announcement.
- ii. The announcement shall ensure that the opportunity to farm on USFWS lands is fairly distributed.
- iii. See Section III for establishment of farming rates.
- iv. Specific deductions that would deviate from the determined prevailing rate that will apply to the individual USFWS farm unit must be determined prior to and be part of the announcement for the farming opportunity. (See Section IX In-Kind Services for further guidance.)
- v. The actual drawing for the permittee will be conducted at a time and place open to the public.
- vi. The Refuge or District reserves the right to reject any or all permittee selections. Appropriate justification and documentation is required if this action is pursued.

C. Priority System

- i. After completing the bid or lottery process and a permittee has not been obtained, the refuge manager may utilize a priority system as described in Refuge Manual Chapter 5 RM 17 – Administration of Specialized Uses.
  - ii. In certain site-specific situations, the priority system may be utilized initially with sufficient justification and prior approval (concurrence) from the Area Supervisor.
  - iii. See Section III for establishment of farming rates.
2. The selection process will be conducted at least once every five years, after the initial selection process is completed.

**III. Establishment of Farming Rates**

1. Through a Competitive Bid Process, the local market sets the farming rates.
2. The USFWS office shall establish the farming rate by consultation with other public agencies or agricultural extension agents within that county. This includes crop share rates and average cash rental rates. Documentation of this process is required.
3. Coordination with public agencies or agricultural extension agents to determine farming rates will be made prior to Special Use Permit renewal to reflect rate changes.

**IV. FSA Program Guidance**

1. Cooperative farmers (permittees) operating on NWR's/WMD's may enroll and participate in Farm Service Agency (FSA) programs.

2. Project Leaders are responsible for knowing if permittees are enrolled in any FSA programs for refuge system lands and, if enrolled, are receiving appropriate payments.
3. Project Leaders should provide local FSA office(s) with a copy of each farming special use permit for each crop year to use when calculating benefits based on the share split agreed upon in the special use permit.
4. Project Leaders have the option of working with the FSA office to eliminate/reduce base acres to take all/some refuge system tracts out of FSA programs.

#### **V. Special Use Permits Required for Administering Farming Programs**

The Region 3 team acknowledges that there is a farming agreement form in the Refuge Manual but we are striving for consistency among commercial activities on refuge lands.

1. A Special Use Permit (SUP) (FWS Form 3-1383-C) will be used to administer farming agreements on Region 3 FWS stations. The following site can be used to access the appropriate SUP:  
<http://www.fws.gov/refuges/visitors/permits.html>
2. The SUP will be signed by the refuge manager.
3. All attachments to the SUP must be signed and dated by the permittee.
4. Any changes to the existing original SUP must have prior approval by the refuge manager and permittee and must have a signed and dated addendum to document such changes.
5. Issuance of SUPs on annual basis is recommended.
6. The refuge manager is authorized to issue SUPs for multiple years if warranted under the following stipulations.
  - A. Refuge manager **will not** be required to get Refuge Supervisor approval for multiple year permits up to three years.
  - B. Refuge manager **will** be required to get Refuge Supervisor approval for permits proposed to last four or five years.
7. If SUPs are issued for multiple years, the permits will be reviewed annually.
8. If the SUP is written for multiple years, then specific language **will be** required in the special conditions of the permit, as indicated in Section XI.7.
9. Refuge manager should take measures to ensure that permittees understand general conditions and requirements prior to issuing the SUP.
10. Refuge manager is responsible for monitoring activities of the permittee to assure adherence to the SUP conditions and take corrective actions if needed.

#### **VI. Farming on newly acquired properties with land use rights in purchase agreements**

1. Upon approval of the Region 3 Farm Program Guidance (2014) , the following will apply to newly acquired lands in R3.
  - A. When the Service is purchasing either fee title or easements, Realty negotiations with willing sellers for all new lands will include the following in reference to agricultural land use rights. (This will require the realty specialist and refuge manager to work closely together to make sure the landowner understands the requirements of the policy.)
    - i. The landowner/tenant is exempt from Region 3 farming policy through December 31 of the acquisition year.
    - ii. If the purchase agreement allows the landowner agricultural land use rights beyond December 31 of the purchase year then the former landowner/tenant will be required to follow all Region 3 Farming Policies. In this case, the refuge manager **will not** be required to get Area Supervisor approval to select the former landowner/tenant as the cooperative farmer, since the agricultural land use provision is in the purchase agreement. However, the refuge manager will be required to inform the Area Supervisor that the former landowner/tenant is the permittee.
    - iii. If the purchase agreement does not state the landowner retains agricultural land use rights into subsequent years, but the refuge manager wants to have the former landowner/tenant farm the property, then the refuge manager can use the Priority System for selection with Area Supervisor approval.
  - B. In the case that the land is being donated or transferred to the Service from another agency (federal or state), NGO or other partner, either in fee title, lease, easement, cooperative agreement or other legal instrument, existing agricultural agreements with the cooperator/farmer will be honored. The permittee will be exempt from Region 3 Farm Program Guidance through December 31 of the acquisition year. R3 Farming Policies will apply in the subsequent years covered by the initial farming agreement.

## VII. Pesticide Use

**The term pesticide is inclusive of both herbicides and insecticides.**

1. Refuge managers must adhere to the current Region 3 Pesticide Use Policy.
2. Refuge managers are encouraged to minimize number and quantity of pesticides used.
3. An approved Pesticide Use Proposal (PUP) is required for every pesticide used prior to application.
4. Refuge managers are authorized to approve PUPs of one-year duration for ground applications of pesticides containing the active ingredients on the current field station approval list according to current regional guidelines and all label conditions.
5. Pesticide use will be limited to the Field Station Approval List unless refuge manager provides justification to the Area Supervisor and receives written concurrence prior to initiating a PUP for pesticides not on the current Field Station Approval List.

6. A valid Intra-Service Section 7 Consultation Form (coordinate with Ecological Services office as appropriate) must be completed and attached to the current year's PUP for each pesticide used.
7. A copy of the approved PUP must be provided to permittee prior to application of that pesticide.
8. Neonicotinoid treated seed guidance:
  - A. Refuge Managers will exhaust all alternatives before allowing the use of neonicotinoid treated seeds on National Wildlife Refuge System Lands in 2014 and 2015.
  - B. Refuge managers need to eliminate the use of neonicotinoid treated seed on National Wildlife Refuge System Lands in Region 3. The strategy is to start the transition in calendar year 2014 and be "neonicotinoid seed free" in calendar year 2016. In 2014 and 2015 there will be some flexibility for the transition and take in to account the availability of non-treated seed. During the two transition years refuge managers will need to have an approved PUP before allowing the planting of neonicotinoid treated seed on refuge lands under their management. Please give special attention to the "justification" section of the PUP. The PUP will become part of the official record and should clearly state the need to use treated seed during this transition period. Refuge Managers must provide justification to the Area Supervisor and receive written concurrence prior to initiating a PUP for the use of neonicotinoid treated seeds (see VII.5.).
  - C. All crop seeds treated with neonicotinoid chemicals must be planted (incorporated) beneath the soil surface due to having a high toxicity to birds. No residue seeds can be left above ground. Any treated seeds that are spilled and/or left above ground at the time of planting must be picked-up and removed or replanted underground immediately. The refuge/district must conduct random field spot checks at the time in which these treated seeds are planted in order to best ensure that the treated seeds are planted beneath the soil surface. To accommodate this process, any Region 3 field station that uses neonicotinoid treated seed must complete a Region 3 Treated Seed Incorporation Monitoring Statement (Appendix A). This Statement will document that all treated seed has been incorporated beneath the soil surface, thus adhering to Service policy. This guidance also applies to fungicide treated seed as indicated in the Region 3 Pesticide Use Policy.
  - D. Seeds treated with neonicotinoid chemicals are listed as toxic to aquatic invertebrates. Therefore, field stations using neonicotinoid treated seeds must develop specific Best Management Practice guidelines to be included in the submitted PUP and implemented in the special use conditions of the SUP.
  - E. Seed treatment chemicals cannot be mixed or applied to the crop seeds on refuge/district lands. Seeds must be treated off-site.
  - F. Neonicotinoids are a class of insecticides chemically similar to nicotine. They are marketed and distributed in various forms including sprays, powders and seed treatments. Trade names containing neonicotinoids may include (but are not limited to) Acceleron®, Acetamiprid®, Actara®, Adage®, Adjust®, Admire®, Advantage®, Alpine®, Arena®, Assail®, Belay®, Calypso®, Celero®, Centric®, Clutch®, Confidor®, Cruiser®, Dinotefuran®, Encore®, Flagship®, Gaucho®, Helix®, Inside®, Intruder®, Legend®, Merit®, Meridian®, Nipsit®,

Platinum<sup>®</sup>, Poncho<sup>®</sup>, Pravado<sup>®</sup>, Premise<sup>®</sup>, Regent<sup>®</sup>, Safari<sup>®</sup>, Scorpion<sup>®</sup>, Titan<sup>®</sup>, Touchstone<sup>®</sup>, Tristar<sup>®</sup>, and Venom<sup>®</sup>.

Active ingredients include: *acetamiprid, clothianidin, dinotefuran, imidacloprid, nithiazine, sulfoxaflor, thiacloprid, and thiamethoxam.*

9. Refuge manager may require permittee to provide notification prior to all pesticide applications.
10. Refuge manager should evaluate posting of fields after pesticide application.

#### **VIII. Use of Genetically- Modified (GMO) Crops**

1. All use of genetically-modified crops will occur under the guidance of the 2011 Regional Environmental Assessment (Use of Row Crop Farming and Genetically-modified, Glyphosate-tolerant Corn and Soybeans on National Wildlife Refuges and Wetland Management Districts)
2. The use of genetically-modified crops will be limited to genetically-modified, glyphosate-tolerant (GMGT) corn and soybeans.
3. The use of GMGT corn and soybeans will be allowed only for the purpose of habitat restoration.
4. The use of GMO crops is not allowed for any other farming purposes, including, habitat management, supplemental food, and attracting wildlife for viewing and photography.
5. The use of GMGT corn and soybeans would be limited to five years for any individual tract in preparation for habitat restoration.
6. Refuge Managers are required to demonstrate that their proposed use of GMGT crops is essential for habitat restoration.
  - A. Refuge Managers proposing to use GMGT crops must complete an Eligibility Questionnaire for Genetically Modified Crops.
  - B. The Regional Chief of Refuges will review all requests for authorization to use GMGT corn and soybeans and will approve or deny requests based on the Questionnaire.
7. Refuge Managers proposing to use GMGT crops must have a current farming compatibility determination that addresses the use of GMGT crops for habitat restoration.

#### **IX. In-Kind Services**

1. Definition of in-kind services: Actions required of the permittee outside of the actual farming process of site preparation, planting, tending, and harvesting of crops that would typically be covered by station funds.
2. In-kind services are only allowed if related to the farming program on the specific unit in which the farming activity occurs as defined in the station's FPMP.

3. These are acceptable in-kind services:
  - A. Routine maintenance of refuge farm fields such as mowing or spraying field edges to reduce noxious weed encroachment (IPM technique).
  - B. Routine maintenance of refuge farm roads and access points that are associated with the specific farm field, which are only open to refuge staff and the cooperative farmer(s).
  - C. BMPs such as establishment of grass waterways, buffer strips, and/or fire breaks in order to better manage refuge agricultural fields.
4. Consult with Area Supervisor on other proposed in-kind services.
5. In-kind services will be identified in the SUP and the station FPMP.
6. Stations that wish to utilize in-kind services as part of their farming operations are required to have Standard Operating Procedures (SOP) for administering in-kind services included in their FPMP and must use one of the two following methods;
  - A. In the lottery or priority permittee selection methods, the acceptable in-kind services may be identified in the SUP and the refuge manager may choose to allow appropriate deductions for these services.
  - B. The competitive bid process for permittee selection is recommended if the cost for in-kind services resulting from IX.4. is to be considered in an SUP. However, with Regional Chief approval, the refuge manager may also apply appropriate deductions for these in-kind services for SUPs associated with lottery or priority system permittee selections.
7. Refuge manager will document the process (see 5 RM 17 and 6 RM 4).

**X. Best Management Practices (BMPs)**

1. The goal of Region 3 field stations should be to provide leadership in the implementation and demonstration of BMPs and other conservation practices in the farming program.
2. Each station with a farming program must document BMPs for their station in a habitat management plan, farm plan, or station SOP and must identify BMPs in special conditions of SUPs.
3. Refuge managers must coordinate with local extension office to develop site-specific BMPs.
4. Refuge managers are encouraged to implement sustainable agricultural practices.

**XI. Standard Special Conditions to Be Included in All SUPs:**

1. Permittees are required to implement and/or maintain site specific BMPs:
  - A. *[INSERT LIST]*
2. An approved Pesticide Use Proposal is required before pesticide application and permittee is required to follow the associated guidelines.

3. Managers must use one of the statements below:
  - A. **For habitat restoration:** The only GMO crops allowed are glyphosate-tolerant corn and soybeans.
  - B. **For all other purposes:** GMO crop use is not allowed.
4. No neonicotinoid-treated seed can be used (this statement to be included when the use of neonicotinoid treated seeds has actually ceased on the station in 2014, 2015, or 2016).
5. Permittee is required to report pesticide use by [INSERT DATE].
6. Permittees are required to notify refuge manager if enrolled in FSA program(s).
7. If the SUP is written for multiple years then the following language is required:
  - A. The permittee agrees that agricultural crops of the type and acreages must be planted, cultivated, and harvested in accordance with special conditions specified above during the first year of operation. If this agreement is for more than one year the conditions (to include but not limited to) type of crop, acreage, herbicide use, approved seed treatment, etc. may be altered or modified annually, following the first year of operation. Changes in the agreement must be made prior to planting season by an addendum, which is attached to and becomes part of the agreement.
    - i. The Service must provide the permittee those changes to the agreement prior to [INSERT DATE] by a written addendum.
    - ii. The permittee then has until [INSERT DATE] to accept or turn down those changes.
    - iii. If the changes are agreed upon by the permittee, the addendum is signed and attached to the SUP and becomes part of the agreement. If the changes are not accepted, the selection process will begin again.
8. **Suggested:** Permittee may be required to post fields after pesticide application.
9. **Suggested:** Permittee will provide notification prior to pesticide application.
10. **Suggested:** A seed label for all crops planted must be provided to the refuge manager no later than two weeks prior to planting.

## **XII. Regional Office Support and Monitoring**

1. Regional Office will provide an Annual Pesticide Use Policy and associated field approval list in January of each year even if there are no changes.
2. Regional Office should conduct a certain level of monitoring of submitted field station PUPs.
3. Regional Office will disseminate newly acquired lands farming guidance to realty specialists to include in purchase agreements and initial discussion with landowners.

4. Pursue allocating appropriate proportions of collection receipts to the field stations where the collections originated.
5. Regional Office will conduct station farming program reviews on a regular basis to evaluate Regional implementation of the farming guidelines (similar to safety audits).
6. Regional Office will conduct a yearly Project Leader call concerning farming issues at the close of each farming season, preferably in November.
7. Regional Office will evaluate whether there are contracting issues associated with in-kind services
8. The Farm Team is to remain intact and the team charter extended and reconvene at least annually to:
  - A. Address new/additional farming issues
  - B. Amend farming guidelines and provide needed amended language to Regional Management Team by December 31 of each calendar year.
  - C. Assist the Regional Management Team as needed with pertinent farming issues, field reviews and Project Leader conference calls.
9. Regional Office will pursue any needed Solicitor review of suggested guideline that may be required.
10. Regional Office will develop a permanent Sharepoint site to store all pertinent farming documents.

**Appendix A**  
**Region 3 Treated Seed**  
**Incorporation Monitoring Statement**

Refuge or WMD:

Name of FWS representative inspecting the field(s):

Title of FWS representative inspecting the field(s):

Description and acreage of area to be planted with treated seed:

Purpose of the planting:

Trade and Active Ingredient Name(s) of seed treatment:

Pesticide Use Proposal number(s):

Date(s) of planting:

Date(s) of inspections:

Date and time of final comprehensive inspection:

***I certify: ( check all that apply)***

***a) \_\_\_ refuge staff conducted random field spot checks when the treated seeds were being planted***

***b) \_\_\_ all crop seeds were planted in-furrow or picked-up and removed or replanted underground immediately.***

***c) \_\_\_ a final comprehensive inspection was made after planting was completed and no uncovered treated seeds remain on Refuge/WMD lands.***

***Field Inspector Signature:***

***Date:***

***Project Leader Signature:***

***Date:***

***Project Leader printed name:***