From: Burgess, Angela
To: Matt Kales
Subject: Re: GRSG CCAA/SGI doc
Date: Friday, March 27, 2015 2:28:12 PM
Attachments: 2015_3_27_CCAA_SGI (2).pdf

FYI - Updated the NRCS logo to USDA one, as requested by NRCS public affairs...They're holding until we get the go ahead on our end from leadership.

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On Fri, Mar 27, 2015 at 1:18 PM, Matt Kales <matt_kales@fws.gov> wrote:

> Thanks.
>
> **From:** Burgess, Angela [mailto:angela_burgess@fws.gov]
> **Sent:** Friday, March 27, 2015 1:13 PM
> **To:** Matt Kales
> **Subject:** GRSG CCAA/SGI doc
>
> Latest doc attached, with WLFW FAQ attached at beginning.
>
> **Angela Burgess**
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United States Department of Agriculture

Working Lands for Wildlife

Greater Sage-Grouse

ESA Predictability

Frequently Asked Questions

What is Working Lands for Wildlife? Working Lands for Wildlife (WLFW) is a partnership between the USDA Natural Resources Conservation Service (NRCS), the U.S. Fish and Wildlife Service (FWS) and farmers, ranchers and forest landowners. The partnership provides participants with Endangered Species Act (ESA) predictability for their voluntary conservation activities. These efforts will help restore populations of specific declining species and strengthen rural economies by protecting the productivity of working lands.

Why should I enroll? WLFW provides technical and financial assistance to voluntarily implement conservation practices for the greater sage-grouse, while continuing to manage the property as working lands. These conservation practices and associated conservation measures were selected cooperatively by NRCS and FWS to benefit this species. WLFW also provides ESA predictability relative to these practices.

Where do I go to get started? Contact your local NRCS service center. An NRCS planner will determine if your property has habitat that is suitable or can be improved (or created) to benefit the greater sage-grouse. If so, the NRCS planner will work with you to develop a conservation plan that includes a combination of conservation practices and measures.

Greater Sage-Grouse

What am I responsible for if I create more habitat for the greater sage-grouse? Through WLFW, participants receive ESA predictability connected to the WLFW conservation practices and measures with “incidental take” coverage through July 30, 2040. By taking this step, the FWS encourages the long-term implementation of the conservation practices and measures.

For the duration of practice implementation, the participant must adhere to the conservation measures tied to each conservation practice and maintain any existing habitat and created habitat. No additional actions or responsibilities under ESA are required for implementation of the conservation practices and conservation measures identified through WLFW.

What are my responsibilities for managing the greater sage-grouse and its habitat after my WLFW contract ends? You are encouraged to continue the conservation practices and measures after the contract ends. If you voluntarily continue the WLFW conservation practices and measures beyond the contract duration as outlined in the conservation plan, you will have no additional responsibilities under the ESA through July 30, 2040. If you change the management of the land that supports the greater sage-grouse and stop following the WLFW conservation practices and measures, you will not be covered by the ESA predictability provided by the WLFW agreement. You may want to discuss anticipated management changes with your local NRCS service center.

What if I want to pursue activities on my land that aren’t covered by WLFW? The specific conservation practices covered under WLFW relate to routine agricultural operations and actions that benefit working landscapes and wildlife conservation. WLFW does

not cover activities such as development for residential or industrial land uses, conversion to intensive commercial timber management, installation of energy-related infrastructure, or any other non-traditional agricultural activity. If you have specific questions, please contact your local NRCS service center at http//offices.usda.gov.

How is WLFW predictability different from the assurances of a Safe Harbor Agreement (SHA)? A SHA is a voluntary agreement between a farmer, rancher or forest landowner and FWS benefiting a particular, listed species through specific conservation measures. These are usually related to all management actions on a property that can impact the species. Through a SHA, FWS agrees to not request more than the agreed-to conservation actions and allows a certain level of "incidental take" related to the specified management actions. The participant may also return the habitat maintained or created to the original (baseline) condition at the end of the agreement.

Under WLFW, no baseline condition of the species is documented, which is different than a SHA. The participant cannot return the habitat maintained or created to the original condition AND continue to be qualified for predictability. The predictability under WLFW is tied specifically to the implementation of the conservation practices developed by the NRCS–FWS partnership and the landowner conservation plan.

Does my participation in WLFW preclude my participation in a SHA if the greater sage-grouse is listed? No. A logical next step may be to move from the WLFW partnership to a SHA which will usually address other management actions in addition to agricultural uses, and allows for a return to the original baseline conditions.

How is the predictability provided to me under WLFW different from the assurances received under a Candidate Conservation Agreement with Assurances (CCAA)?
A CCAA is a voluntary agreement between FWS and a farmer, rancher or forest landowner to benefit a species by specific land management actions that address threats to the species. Through a CCAA, FWS agrees to not request more than the agreed-to conservation practices and allows a certain level of "incidental take". The predictability provided by CCAA and WLFW can be similar; however, WLFW only covers specific agricultural actions. Landowners who want to implement other conservation practices and are managing their properties for other purposes not identified under WLFW are encouraged to enter into a CCAA.

Does my participation in WLFW preclude my participation in a CCAA?
No. Landowners may enroll in a CCAA to address threats to the species on their land, to cover diverse management actions in addition to agriculture and to be provided assurance regarding those actions. For more information on CCAAs and how they can provide regulatory assurances for landowners, contact your local FWS office.

What is incidental take? **"Take"** is defined as: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or to attempt to engage in any such conduct; may include significant habitat modification or degradation if it kills or injures wildlife by significantly impairing essential behavioral patterns including breeding, feeding, or sheltering.

"Incidental take" is defined as: Take that results from, but is not the purpose of, carrying out an otherwise lawful activity.

Does WLFW offer predictability for state regulations? No. The predictability offered under WLFW applies only to the ESA and not to any other state or federal law or regulation.

For more information about WLFW, visit http://goo.gl/mE74va or contact your local NRCS service center. Visit www.nrcs.usda.gov, to learn more about NRCS conservation programs.

CCAAs and SGI

	Candidate Conservation Agreement with Assurances (CCAA)	NRCS Sage-grouse Initiative (SGI)
Purpose of the Tool	Conserve proposed and candidate species and species likely to become candidates. Potentially remove the need to list species under the Endangered Species Act (ESA).	Conserve sage-grouse by removing enough threats to species to preclude the need to list.
Participants	Any non-federal landowners (public and/or private).	Any non-federal landowners (public and/or private).
Benefits for Landowners	ESA assurances*. Technical assistance. Improved grazing conditions often result from conservation measures that benefit sage-grouse.	ESA predictability*. Technical and financial assistance. Improved grazing conditions often result from NRCS conservation practices that benefit sage-grouse.
Regulatory Certainty for Enrolled Landowners	Assurances that additional measures and restrictions, beyond those agreed to in the CCAA, would not be required, as long as they are properly implementing their conservation measures. A permit issued under section 10 of the ESA authorizes the incidental take should the covered species be listed.	Predictability that additional measures and restrictions would not be required, as long as they are properly implementing their conservation practices. In the unlikely event that changes to practices become necessary, they would be required only of future enrollees. Should the species be listed, incidental take that may result from the conservation practices would be authorized through section 7 of the ESA.
Species Covered	Proposed, candidate, or species likely to become candidates.	Sage-grouse only.
Activities Covered	Potentially any and all management activities occurring on a property, if permit issuance criteria are met.	Routine agricultural, ranching, and silvicultural operations and actions that provide benefits for both working landscapes and wildlife.
Regulatory Standard	The benefits of the conservation measures, combined with the benefits if similar conservation measures were to be implemented on other necessary properties, would remove the need to list the species covered by the CCAA.	No regulatory standard. However, an ESA section 7 conference report on the SGI conditioned the conservation practices to avoid and minimize expected incidental take to the extent feasible.
Financial Assistance	None. However, funding for implementation may be available from other FWS programs or Federal and State agencies.	Financial assistance for plan implementation may be available to qualifying landowners but is not required for incidental take coverage. ESA predictability is tied to the conservation practices implemented rather than to the financial assistance provided.
Landowner Personal Information	Physical address, phone number, or other personal identifying information is protected by the Privacy Act. The landowner's name and general property location (town or county) may or may not be required to be published during the public review process, depending on the CCAA permit structure.	Any gathered personal information is fully protected by the privacy provision in the Farm Bill. Aggregated data may be shared with the USFWS, but only in a manner that maintains individual privacy.

***See discussion of ESA assurances and predictability on back**

Note: Implementation of CCAAs and SGI may vary depending on location.
For specific information, please contact your local NRCS and/or FWS office.

Regulatory Certainty with NRCS's SGI and FWS's CCAAs

3/23/2015

There is essentially no difference in the level of regulatory certainty for enrolled landowners under the Sage-Grouse Initiative (SGI) and greater sage-grouse Candidate Conservation Agreements with Assurances (CCAAs) for grazing. Under section 7 of the Endangered Species Act, the Natural Resources Conservation Service and the U.S. Fish and Wildlife Service conducted in-depth analysis of the effects of SGI's conservation practices on the greater sage-grouse, agreed on conditions to avoid and minimize impacts, and concluded that the program would be beneficial to the sage-grouse without additional measures. This approach provides landowners enrolled in SGI with predictability that the practices they agree to implement would not be modified and additional measures would not be added without their consent. Should new circumstances require changes to conservation practices, those modified practices would apply only to those landowners who enroll in SGI after the changes are made. For CCAAs, the Service provides assurances to enrolled landowners that they will not require any additional measures or restrictions, as long as the CCAA is being properly implemented. Therefore, should the greater sage-grouse become listed, landowners enrolled in SGI, a CCAA, or both, will be able to continue their land management practices as described in their respective plan with no additional measures or restrictions.

Note: Implementation of CCAAs and SGI may vary depending on location.
For specific information, please contact your local NRCS and/or FWS office.