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being applied. Grasslands, savannas, many wetlands, some deserts, and tundra are considered to be rangeland. Certain communities of low forbs and shrubs, such as mesquite, chaparral, mountain shrub, and pinyon-juniper, are also included as rangeland.

Rental contract means the legal document that specifies the obligations and rights of a participant in GRP, including the annual rental payments to be provided to the participant for the length of the contract to maintain or restore grassland functions and values under the GRP.

Restoration means implementing any conservation practice, system of practices or activities to restore functions and values of grasslands and shrublands. The restoration may re-establish grassland functions and values on degraded land, or on land that has been converted to another use.

Restoration agreement means an agreement between the program participant and the USDA or eligible entity to carry out activities and conservation practices necessary to restore or improve the functions and values of that land. A restoration agreement will include a restoration plan.

Restoration plan is the portion of the restoration agreement that includes the schedule and conservation practices and activities to restore the functions and values of grasslands and shrublands, including protection of associated streams, ponds, and wetlands. The restoration plan incorporates the requirement that program participants will maintain GRP-funded conservation practices and activities for their expected lifespan as described in the plan.

Right of enforcement means a property interest in the easement the Chief may exercise on behalf of the United States under specific circumstances in order to enforce the terms of the conservation easement. The right of enforcement provides that the Chief has the right to inspect and enforce the easement if the eligible entity fails to uphold the easement or attempts to transfer the easement without first securing the consent of the Secretary.

Secretary means the Secretary of the U.S. Department of Agriculture, or his or her designee.

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Shrubland means land that the dominant plant species is shrubs, which are plants that are persistent, have woody stems, a relatively low growth habitat, and generally produces several basal shoots instead of a single bole.

Significant decline means a decrease of a species population to such an extent that it merits conservation priority, as determined by the NRCS State Conservationist in consultation with the State Technical Committee.

State Technical Committee means a committee established by the Secretary in a State pursuant to 16 U.S.C. 3861.

Tribal lands means any lands owned by Indian Tribes, which are defined consistent with Section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U. S. C. 450b(e)).

USDA means the U.S. Department of Agriculture, and its Agencies and Offices, as applicable.

[74 FR 3870, Jan. 21, 2009, as amended at 74 FR 42174, Aug. 21, 2009]

§ 1415.4 Program requirements.

(a) Except as provided for under § 1415.17, only landowners may submit applications for easements. For rental contracts, applicants must own or provide written evidence of control of the property for the duration of the rental contract.

(b) The easement or rental contract will require that the area be maintained in accordance with GRP goals and objectives for the term of the easement or rental contract, including the conservation, protection, enhancement, and, if necessary, restoration of the grassland functions and values.

(c) All participants in GRP are required to implement a grazing management plan approved by NRCS. In cases where a participant receives ranking points on the basis of resource concerns other than grazing land concerns, all such resource concerns will be addressed in an applicable conservation plan.

(d) The easement or rental contract must grant USDA or its representatives a right of ingress and egress to the easement or rental contract area. For easements, this access is legally

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described by the conservation easement deed and the GRP grazing management plan. Access to rental contract areas is identified in the GRP grazing management plan.

(e) Easement participants are required to convey unencumbered title that is acceptable to the United States and provide consent or subordination agreements from each holder of a security or other interest in the land. The landowner must warrant that the easement granted the United States or eligible entity is superior to the rights of all others, except for exceptions to the title that are deemed acceptable by the USDA.

(f) Landowners are required to use a standard GRP conservation easement deed developed by USDA or developed by an eligible entity and approved by USDA under §1415.17 of this part. The easement grants development rights, title, and interest in the easement area in order to protect grassland and other conservation values.

(g) The program participant must comply with the terms of the easement or rental contract and comply with all terms and conditions of the grazing management plan and any associated conservation plan or restoration agreement.

(h) Easements and rental contracts allow, consistent with their terms and the program purposes, the following activities as outlined in the grazing management plan:

(1) Common grazing practices, including maintenance and necessary conservation practices and activities (e.g., prescribed grazing; upland wildlife habitat management; prescribed burning; fencing, watering, and feeding necessary for the raising of livestock; related forage and seed production) on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species common to the locality;

(2) Haying, mowing, or harvesting for seed production subject to appropriate restrictions, as determined by the State Conservationist, during the nesting season for birds in the local area that are in significant decline, or are conserved in accordance with Federal or State law;

(3) Fire pre-suppression, rehabilitation, and construction of firebreaks;

(4) Grazing related activities, such as fencing and livestock watering facilities;

(5) Facilities for power generation through renewable sources of energy production provided the scope and scale of the footprint of the facility and associated infrastructure is consistent with program purposes as determined by USDA through analysis of the potential site-specific environmental effects; and

(6) Other activities that USDA determines the manner, number, intensity, location, operation, and other features associated with the activity will not adversely affect the grassland resources or related conservation values protected under an easement or rental contract. This includes infrastructure development along existing rights-of-way, where the easement deed allows the landowner to grant rights-of-way when it is determined by NRCS that granting of such rights-of-way are in the public interest and that grassland resources and related conservation values will not be adversely impacted, and the landowner agrees to a restoration plan for the disturbed area as developed by NRCS, but at no cost to NRCS.

(i) Easement and rental contracts prohibit the following activities:

(1) The production of crops (other than hay), fruit trees, vineyards, or other agricultural commodity that is inconsistent with maintaining grazing land.

(2) Except as permitted under a restoration plan, the conduct of any other activity that would be inconsistent with maintaining grazing uses and related conservation values protected under an easement or rental contract.

(j) Rental contracts may be terminated by USDA without penalty or refund if the original participant dies, is declared legally incompetent, or is otherwise unavailable during the contract period.

(k) Participants, with the agreement of USDA, may convert a rental contract to an easement, provided that funds are available and the project meets conditions established by the USDA. Land cannot be enrolled in both

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a rental contract option and an easement enrollment option at the same time. The rental contract shall be terminated prior to the date the easement is recorded in the local land records office.

(l) Rental contract participants are required to suspend any existing cropland base and allotment history for the land under another program administered by the Secretary.

(m) Easement participants are required to eliminate any existing cropland base and allotment history for the land under another program administered by the Secretary.

[74 FR 3870, Jan. 21, 2009, as amended at 74 FR 42174, Aug. 21, 2009]

§ 1415.5 Land eligibility.

(a) GRP is available on privately owned lands, which include private and Tribal land. Publicly owned land is not eligible.

(b) Land is eligible for funding consideration if the NRCS State Conservationist determines that the land is:

(1) Grassland, land that contains forbs, or shrubland (including improved rangeland and pastureland) for which grazing is the predominant use; or

(2) Located in an area that has been historically dominated by grassland, forbs, or shrubland, and the State Conservationist, with advice from the State Technical Committee, determines that it is compatible with grazing uses and related conservation values, and—

(i) Could provide habitat for animal or plant populations of significant ecological value if the land is retained in its current use or is restored to a natural condition;

(ii) Contains historical or archeological resources; or

(iii) Would address issues raised by State, regional, and national conservation priorities.

(c) Incidental lands, in conjunction with eligible land, may also be considered for enrollment to allow for the efficient administration of an easement or rental contract. Incidental lands may include relatively small areas that do not specifically meet the eligibility requirements, but as a part of the land unit, may contribute to grassland functions and values and related

conservation values, or its inclusion may increase efficiencies in land surveying, easement management, and monitoring by reducing irregular boundaries.

(d) Land will not be enrolled if the functions and values of the grassland are already protected under an existing contract, easement, or deed restriction, or if the land already is in ownership by an entity whose purpose is to protect and conserve grassland and related conservation values. This land becomes eligible for enrollment in the GRP if the existing contract, easement, or deed restriction expires or is terminated and the grassland values and functions are no longer protected.

(e) Land on which gas, oil, earth, or other mineral rights exploration has been leased or is owned by someone other than the applicant may be offered for participation in the program. However, if an applicant submits an offer for an easement project, USDA will assess the potential impact that the third party rights may have upon the grassland resources. USDA reserves the right to deny funding for any application where there are exceptions to clear title on the property.

§ 1415.6 Participant eligibility.

To be eligible to participate in GRP, an applicant, except as otherwise described in §1415.17:

(a) Must be a landowner for easement participation or be a landowner or have control of the eligible acreage being offered for rental contract participation;

(b) Agree to provide such information to USDA that is necessary or desirable to assist in its determination of eligibility for program benefits and for other program implementation purposes;

(c) Meet the Adjusted Gross Income requirements in 7 CFR part 1400 of this title, unless exempted under part 1400 of this title; and

(d) Meet the conservation compliance requirements found in part 12 of this title.

§ 1415.7 Application procedures.

(a) Applicants, except as otherwise described under §1415.17, may submit an application through a USDA Service Center for participation in the GRP.