



United States
Department of
Agriculture



Working Lands for Wildlife

Lesser Prairie-Chicken (Threatened)

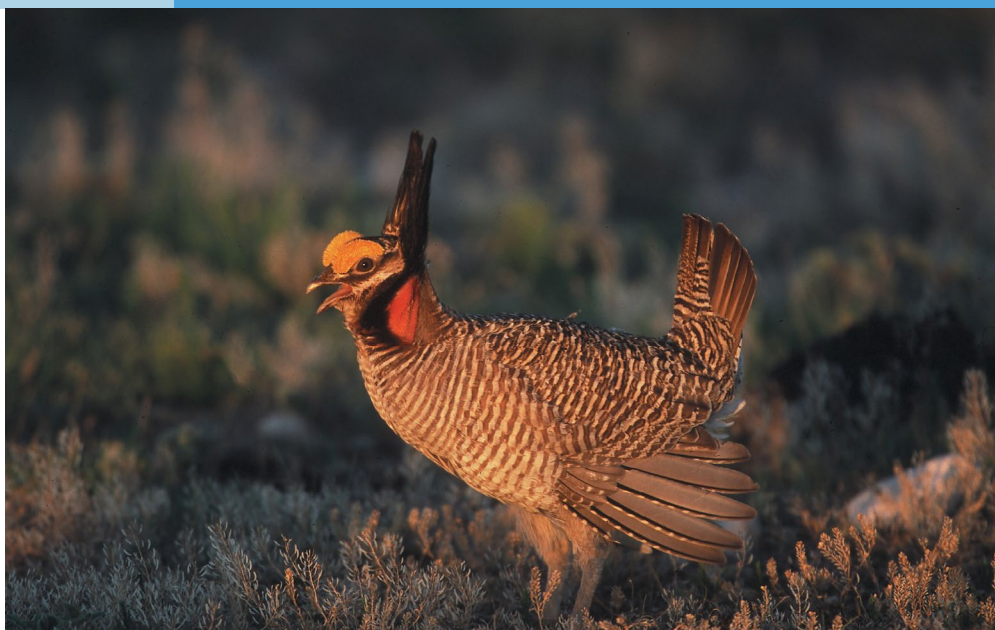
ESA Predictability **Frequently Asked** **Questions**

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 lesser prairie-chicken, 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 lesser prairie-chicken. If so, the NRCS planner will work with you to develop a conservation plan that includes a combination of conservation practices and measures.

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.



Lesser Prairie-Chicken

What happens if I agree to create more habitat for the lesser prairie-chicken? The program provides technical and financial assistance for farmers, ranchers and forest landowners. Through WLFW, participants receive ESA predictability connected to the WLFW conservation practices and measures with “incidental take” coverage through November 22, 2043. By providing this predictability, the FWS encourages the long-term implementation of the conservation practices and measures.

For the duration of the WLFW contract, participants must follow measures tied to each conservation practice and maintain all existing or created habitat. There are no additional ESA actions or responsibilities required for the WLFW conservation practices and measures.

What are my responsibilities for managing the lesser prairie-chicken and its habitat after my WLFW contract expires?

You are encouraged to continue the conservation practices and measures after the contract ends. If you choose to continue using 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 November 22, 2043. If you change the management of the land that supports the lesser prairie-chicken and stop following the WLFW conservation practices and measures, you will not be covered by the ESA regulatory predictability provided by the WLFW agreement. If you have specific questions, please contact 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. 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? 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 prior to listing by engaging in 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 wanted to implement other conservation practices and are managing their properties for other purposes not identified under WLFW have enrolled in several statewide and issue specific CCAAs; they will continue to implement agreed upon management actions until the CCAA period expires. With the listing of the lesser prairie-chicken, these CCAA enrolled landowners are issued a permit that covers the take that may result from specific management actions agreed to in the CCAA .

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.

What is the relationship between WLFW and the Lesser Prairie Chicken Special 4(d) Rule? The special rule 4(d) was published by the Service concurrent with the listing rule. This rule allows for incidental take of the lesser prairie-chicken associated with conservation practices in a conservation plan developed by NRCS in connection with the Lesser Prairie-Chicken Initiative (LPCI) and other NRCS programs and actions focused on conserving the species.

Landowners who participate in the activities described above that are part of the special rule would be exempt from the take prohibitions of the ESA and no additional actions would be required by the landowner. Beginning in 2010, the efforts of NRCS and landowners provided sufficient evidence to the Service

that the LPCI was consistent with the conservation needs of the chicken. The Service has therefore eliminated the need for additional permits and provided regulatory coverage for landowners participating in NRCS programs when they are designed to produce a benefit to the species.

How does the special 4(d) Rule cover agricultural practices on previously cultivated lands?

The special rule allows for incidental take of the lesser prairie-chicken associated with the continuation of routine agricultural practices on existing cultivated lands. The 4(d) special rule exempts from further regulations/permits actions that are conducted during the continuation of routine agricultural practices, as specified below, on cultivated lands that are in row crop, seed-drilled untilled crop, hay, or forage production.

These lands must meet the definition of cropland as defined in 7 CFR 718.2, and, in addition, must have been cultivated, meaning tilled, planted, or harvested, within the 5 years preceding the proposed routine agricultural practice that may otherwise result in take. The special rule does not cover new conversion of grasslands into agriculture (crops). The following actions are identified as “routine agricultural practices”: (1) Plowing, drilling, disking, mowing, or other mechanical manipulation and management of lands. (2) Routine activities in direct support of cultivated agriculture, including replacement, upgrades, maintenance, and operation of existing infrastructure such as buildings, irrigation conveyance structures, fences, and roads; and (3) Use of chemicals in direct support of cultivated agriculture when done in accordance with label recommendations.

The Service's purpose in providing a broad exemption as conditioned in the 4(d) special rule for agricultural activities is to promote conservation of the species by encouraging landowners and farmers to continue managing the remaining landscape in ways that meet the needs of their operation while simultaneously providing habitat and food resources for the lesser prairie-chicken.