Section II

Threatened and Endangered Species

This subsection summarizes NRCS responsibilities regarding consideration of threatened and endangered species during all conservation planning and technical assistance activities.

The Endangered Species Act (ESA) requires NRCS and other federal agencies to ensure that their actions do not jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of their habitats. To comply with the Act, the effects of NRCS–assisted practices on listed species and their habitats must be assessed. This requires an awareness of the location of threatened or endangered species and their habitat requirements. Fact sheets on each listed species are found on the following pages.

Threatened and endangered species policy requires NRCS to routinely determine if a given action may affect a listed species. While providing assistance, NRCS conducts an environmental evaluation to determine if the installation of one or more conservation practices will have a probable effect on a species listed as threatened or endangered, or result in the destruction or adverse modification of its habitat. Record potential impacts to threatened or endangered species on the NRCS-CPA-52 Form as well as in the Con-6 notes.

It is NRCS policy that formal consultation with the USDI – Fish and Wildlife Service (USFWS) regarding the effects of planned practices on threatened and endangered species is not required when only technical assistance (no financial assistance) is involved. However, in no case will NRCS advocate the installation of conservation practices or implementation of management systems that may adversely affect such species. It is specifically NRCS policy, to comply with Section 7(a)(1) of the ESA, that we will "assist in the conservation of threatened and endangered species and consistent with legal requirements, avoid or prevent activities detrimental to such species.

Landowners/operators will be informed of the requirements of the Endangered Species Act, including Section 9, which holds private landowners/operators personally liable for actions which could result in "take" of a listed species. Informal consultation with the USFWS may be used at any time to help determine potential effects of planned practices on threatened/endangered species. When providing site–specific assistance, the landowner's consent must be obtained prior to initiating informal consultation with the USFWS.

When financial assistance is involved and NRCS determines that the planned action has absolutely "no effect"--either positive or negative--on listed species or their habitats, no further consultation is necessary. Document very thoroughly how this decision was reached. If NRCS determines that a planned action "may affect, but is not likely to adversely affect," listed species, we must initiate informal consultation with USFWS and obtain concurrence that the action has a negligible probability of harming such species. Landowner consent is required before initiating informal consultation with USFWS.

If it is determined a proposed action "may adversely affect" a listed species, NRCS will advise the landowner of the requirements of the Endangered Species Act and recommend alternative conservation treatment that avoids the adverse effects. Further assistance will be provided only if one of the alternative conservation treatments is selected for installation, or at the request of the landowner, NRCS will initiate formal consultation with the USFWS to assist the landowner in complying with the Act. Field offices should obtain input from the state office when developing alternative conservation treatments intended to avoid adverse effects to threatened or endangered species.

Formal consultation under Section 7 of the Act should be established with the USFWS when NRCS determines a proposed action may adversely affect a listed species and only at the landowner's request.

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However, NRCS cannot provide assistance with a proposed action that may affect a listed species unless consultation with the USFWS is established. If the landowner does not request NRCS to formally consult with USFWS, discontinue all planning, including FSA/FACTA that would adversely affect threatened and endangered species habitat.

The formal consultation process with USFWS will be initiated through channels. The Assistant State Conservationist for Field Offices will inform the state office of all actions that will have a potential adverse effect on threatened and endangered species habitat. The state conservationist will consult with USFWS to determine degree of impact to threatened and endangered species and to formulate alternatives if practicable.

Information about threatened and endangered species on cooperators' lands may be provided to other agencies at their request, but no additional information should be provided beyond that which is normally collected to comply with the Act.

The complete list of threatened and endangered species is found in the publication entitled Endangered and Threatened Wildlife and Plants, 50 CFR 17.11 and 17.12, U.S. Fish and Wildlife Service, October 1, 1998. A copy of this publication is on file at the state office or can be obtained from the USFWS. For further information regarding NRCS policy on threatened and endangered species, refer to General Manual, Title 190, Part 410.22--Threatened and Endangered Species of Plants and Animals. The following page lists Montana's threatened and endangered species.

NRCS concern for threatened and endangered species is not limited to those listed in the Federal Register by the U.S. Fish and Wildlife Service. Animal and plant species designated by state agencies as rare, threatened, or endangered are also considered during the environmental evaluation process. The Montana Natural Heritage Program and the Montana Department of Fish, Wildlife, and Parks have published lists of these species. These lists are found in each NRCS field office reference file.

Field office reference files also contain *"Montana Outdoors"* magazine articles describing several of Montana's federally listed threatened and endangered species when such species occur within the field office area. The March/April 1991 issue contains an article entitled "Dinosaurs of the Deep," which describes pallid sturgeon habitat and the March/April 1988 issue describes eight other threatened and endangered species found in Montana.

Information about threatened and endangered species and species of special concern can be found at the following website:

http://mtnhp.org/

For more information about the current list of threatened and endangered species call the Montana Ecological Services Office, U.S. Fish and Wildlife Service at (406) 449-5225.

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Restrictions for Conservation Practice Implementation in Greater Sage-Grouse Habitat for Compliance with the "Conference Report for the Natural Resources Conservation Service Sage-Grouse Initiative (SGI)"

NRCS initiated a $21 million Sage-grouse Initiative (SGI) in March, 2010, to restore and conserve declining populations of sage-grouse and their habitat. The SGI is being implemented using primarily EQIP and WHIP funds.

Because the sage-grouse is listed as a Candidate Species under the Endangered Species Act (ESA), NRCS voluntarily used the "conferencing" provisions under Section 7 of the ESA to assess the potential benefits and adverse effects of specific NRCS conservation practices to be implemented and maintained by landowners under the SGI.

During development of the conference report, USFWS worked closely with NRCS to determine the effects of 40 conservation practices; those that are beneficial and those that could adversely affect sage-grouse and their habitat. Conservation measures (CM) were developed to avoid, minimize or mitigate the potential adverse effects that could result from implementation of the practices in SGI conservation plans.

The purpose of this document is to outline the conditions (CM in the conference report) that are required to be applied to NRCS technical and financial assistance in sage-grouse habitat. These conditions are program neutral. They apply to the conservation practice standards listed below and to all assistance provided by NRCS beyond the Sage-Grouse Initiative (SGI).

NRCS National Bulletin 190-12-22, dated September 13, 2010, requires NRCS to collaborate with State Wildlife Agencies to develop blanket requirements to limit physical disturbance of sage-grouse as indicated in CM 1, and the other Conservation Measures, of the Sage-Grouse Conference Report (Report). See Table 1 below.

The NRCS policy for Federally Listed Candidate Species states, *"ii) Federal Candidate Species NRCS Technical Assistance or NRCS Action – When NRCS concludes that a proposed action "may adversely affect" Federal candidate species identified in (7)(i)(A) above, NRCS will recommend only alternative conservation treatments that will avoid adverse effects, and to the extent practicable, provide long-term benefit to the species."*

To avoid a "may adversely affect" decision, the Report (Page 32) states that for Conservation Measure 1, *"NRCS shall coordinate with the various State Wildlife Agencies to identify appropriate restrictions on the placement, extent, configuration, and timing of conservation practice standards and the area where these practice restrictions would apply so as to avoid or minimize physical disturbance to sage-grouse where they may occur. For example, State Wildlife Agencies my recommend that certain activities will not be allowed such as placement of practices that cause physical disturbance within prescribed distances of a lek."*

The Report (Page 34) also states that for Conservation Measure 9, *"Where the particular "limited use" conservation practice standard is planned* NRCS shall coordinate with the state wildlife agency to develop and implement site-specific guidelines to determine practice applicability, location, extent, configuration and timing to reduce risk to sage-grouse and their habitats. Practices considered "limited use" are depicted with an * in Table 1. Table 2, at the end of this document, summarizes all Conservation Measures agreed to by NRCS and USFWS in the Conference Report.

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Table 1. Agreed-upon Restrictions (NRCS/Montana Fish, Wildlife and Parks) on the Placement, Extent, Configuration and Timing of Conservation Practices Implemented as part of NRCS's Montana Sage-Grouse Strategy to Avoid or Minimize Physical Disturbance to Sage-Grouse.

Conservation Practice	**Restrictions on Placement, Extent, Configuration, Timing – CM1, Conference Report**	**Other Conservation Measures Required in Conference Report (see below Table 2)**
Upland Wildlife Habitat Management (Code 645)	None	None
Prescribed Grazing (Code 528)	None – Emphasize long rest periods whenever possible	CM10
Wetland Wildlife Habitat Management (Code 644)	No creation of wetlands in sage-grouse habitat; only restoration of historic wetland habitat	CM10
Restoration and Management of Rare and Declining Habitats (Code 643)	None	CM10
Access Control (Code 472)	None-Emphasize riparian pasture establishment vs. fencing out narrow stream corridor when applicable	CM3, CM5, CM10
Forage Harvest Management (Code 511)	Use wildlife-friendly haying techniques	CM6
Brush Management: conifer removal (Code 314)	No use of fire where sagebrush is present; reduce slash height to below the sagebrush canopy; don't use this practice on slopes and ridges where conifers normally occur	CM2, CM3, CM5
Forest Slash Treatment (Code 384)	Reduce slash height to below that of the sagebrush canopy	CM2, CM3, CM5
Firebreak (Code 394)	Don't implement during the nesting season; try to establish along existing fragmentation such as ranch trails	CM2, CM3, CM4
Conservation Cover (Code 327)	No sodbusting of native rangeland	CM2, CM3, CM10
Cover Crop (Code 340)	No sodbusting of native rangeland	Cm6
Riparian Herbaceous Cover (Code 390)	None	CM2, CM3, CM10
Conservation Crop Rotation (Code 328)	None	None
Critical Area Planting (Code 342)	None	Cm2, CM3, CM10
Pasture and Hay Planting (Code 512)	Don't create introduced cover on native rangeland (i.e. no sodbusting of native rng.)	CM2, CM3, CM10
Herbaceous Weed Control (Code 315)	None	CM4
Range Planting (Code 550)	No sodbusting of native rangeland	CM2, CM3, CM10
Watering Facility (Code 614)	Avoid placement where sagebrush cover will be reduced in nesting or winter habitat whenever possible	CM2, CM3, CM4, CM7, CM10
Spring Development (Code 574)	None	CM2, CM3, CM10
Pumping Plant (Code 533)	None	CM10

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Water Well (Code 642)	Avoid placement within ¼-mile of lek; avoid placement in nesting or winter habitat if possible	CM2, CM10
Pipeline (Code 516)	None	CM2, CM3, CM4, CM10
Grade Stabilization Structure (Code 410)	No wetland “creation”	CM2, CM3, CM4, CM10
Fence (Code 382)	Mark critical segments; avoid/minimize mowing the route for fence construction	CM2, CM3, CM4, CM6, CM8, CM10
Obstruction Removal (Code 500)	None	CM2, CM3
Fish and Wildlife Structure (Code 734)	None	None
Road/Trail/Landing Closure (Code 654)	None	CM2, CM3
Windbreak/Shelterbelt Establishment (Code 380)*	Not on native rangeland	CM8, CM9
Access Road (560)*	Avoid to the extent possible in native rangeland	CM2, CM3, CM4, CM8, CM9, CM10
Brush Management (Code 314): non-conifer*	No sagebrush removal	CM2, CM3, CM4, CM9, CM10
Grazing Land Mechanical Treatment (Code 548)*	Avoid implementation during nesting season; avoid to the extent possible in sagebrush; focus on clubmoss/blue grama grassland; **only one pass if implemented in sagebrush; see CM9**	CM2, CM3, CM4, CM9, CM10
Prescribed Burning (Code 338)*	No fire in sagebrush	CM2, CM3, CM8, CM9, CM10
Irrigation System, Micro Irrigation (Code 441)*	None -not to be implemented in sagebrush-grassland	CM7, CM9, CM10
Irrigation System, Sprinkler (Code 442)*	None- not to be implemented in sagebrush-grassland	CM7, CM9, CM10
Irrigation System, Surface and Subsurface (Code 443)*	None-not to be implemented in sagebrush-grassland	CM7, CM9, CM10
Irrigation Water Conveyance-Pipeline (Codes 430AA-GG)*	None- not to be implemented in sagebrush-grassland	CM2, CM3, CM4, CM7, CM9, CM10
Irrigation Field Ditch Irrigation System (Code 388)*	None-not to be implemented in sagebrush-grassland	CM2, CM3, CM4, CM7, CM9, CM10
Irrigation Water Management (Code 449)*	Don’t attempt to create brood habitat with irrigation (predation/disease issues)	CM7, CM9, CM10
Pond (Code 378)*	Avoid in sagebrush habitat (West Nile Virus risk); where a pond is the only stockwater alternative for sage-grouse friendly grazing management, design to minimize the risk of mosquito-borne West Nile disease; seeCM9	CM2, CM3, CM4, CM7, CM9, CM10

* Limited Use Practice

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Table 2. Conservation Measures in the "Conference Report for the Natural Resources Conservation Service Sage-Grouse Initiative (SGI)"

Potential adverse effects (AE) to the species as a result of the conservation practice standard	**Conservation Measure recommended to avoid, minimize or mitigate the potential adverse effects**
AE 1: Physical disturbance (including noise) of birds	**CM 1:** NRCS shall coordinate with the various State Wildlife Agencies to identify appropriate restrictions on the placement, extent, configuration, and timing of conservation practice standards and the area where these practice restrictions would apply so as to avoid or minimize physical disturbance to sage-grouse where they may occur. For example, state wildlife agency may recommend that certain activities will not be allowed such as placement of practices that cause physical disturbance within prescribed distances of leks. **TABLE 1, ABOVE, ADDRESSES THIS CM.
AE 2: Temporary soil and vegetation disturbances	**CM 2:** Evaluate the site's potential for soil erosion and invasion by undesirable plants during practice planning and design. Minimize soil and vegetative disturbances during installation of conservation practices. During installation, utilize soil erosion protection measures if potential for off-site soil erosion exists. Following the evaluation of local site conditions, site-specific Ecological Site Descriptions and the specific needs of the sage-grouse will be used to inform the reclamation strategy. Native species will be used whenever possible to meet practice objectives with preference to shrubs, forbs, grasses and grass-like plants preferred by sage-grouse as well as those plants that reflect the potential of the specific ecological site to optimize sage-grouse habitat. Tree species should not be planted. When non-native species are necessary to stabilize disturbed areas, avoid the use of plants identified as either invasive or aggressive. All seed mixes should be State-certified weed free. Timing of planting and post-establishment vegetation management will be designed as per local site conditions to meet NRCS practice specifications and NRCS biologist or State Wildlife Agency recommendations. Machinery associated with the practice should be clean and free of vegetative debris prior to use to prevent the spread of invasive plant species. Newly seeded/planted sites should be rested from livestock grazing for an appropriate period as determined by NRCS to ensure stand establishment.
AE 3: Increased potential for invasive plants	**CM 3:** Evaluate the site's potential for invasion by undesirable plants during practice planning and design. Minimize soil and vegetative disturbances during implementation of conservation practices. Following the evaluation of local site conditions, site-specific Ecological Site Descriptions and the specific needs of the sage-grouse will be used to inform the reclamation strategy. Native species will be used whenever possible to meet practice objectives with preference to shrubs, forbs, grasses and grass-like plants preferred by sage-grouse as well as those species that reflect the potential of the specific ecological site to optimize sage-grouse habitat. Tree species should not be planted. When non-native species are necessary to stabilize disturbed areas, avoid the use of plants identified as either invasive or aggressive. All seed mixes should be State-certified weed free. Timing of planting and post-establishment vegetation management will be designed as per local site conditions to meet NRCS practice specifications and NRCS biologist or State Wildlife Agency recommendations. Machinery associated with the practice should be clean and free of vegetative debris prior to use to prevent the spread of invasive plant species. Newly seeded/planted sites should be rested from livestock grazing for an appropriate period as determined by NRCS to ensure stand establishment.

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AE 4: Removing sagebrush and understory vegetation during implementation of the conservation practice standard	**CM 4:** Design conservation practice standard to minimize or avoid loss of sagebrush during practice installation. For linear practices, limit removal of sagebrush to one side of disturbance and to only the width of removal vehicle. If access for operation and maintenance is required, limit access to one side of disturbance and a limit access to one vehicle width. NRCS shall coordinate with the State Wildlife Agency to determine overall practice applicability, location, extent, configuration, and timing in conservation practice standard's where removal of sagebrush and associated understory vegetation is the objective (brush management, grazing land mechanical treatment, and prescribed burning).
AE 5: Increased fire hazard	**CM 5:** Woody slash shall be treated if significant build up of fuels occurs (typically in phase II and III juniper treatments). Slash piles shall be burned when wildfire risk is low (usually when soils are frozen or saturated). Follow state forestry laws, when applicable, for treating slash to minimize wildfire risk.
AE 6: Accidental mortality to individual sage-grouse	**CM 6:** Plan and design placement of new fences away from occupied and historic leks. If this is not possible, NRCS will require that fences be adequately marked to increase visibility. Identify existing fences that are nearby to an occupied or historic lek and consider removing or relocating the fence to a site further from the lek. NRCS will require, at a minimum, marking all existing fences within ¼-mile from an occupied or historic lek, or in areas where collisions are known to occur. Use escape ramps in all new and existing water facilities that occur in sage-grouse habitat. For haying operations, employee techniques to avoid or minimize mortality, such as flush bars, slower speeds and harvesting patterns that herd wildlife out of the hayland (e.g., from center to outside of field).
AE 7: Increased potential for West Nile virus	**CM 7:** Where a conservation practice standard involves the creation of an open water source, excluding livestock watering tanks, follow recommendations from the State Wildlife Agency and design practice to minimize or eliminate the threat of West Nile virus to the species.
AE 8: Increased potential for predation	**CM 8:** Minimize to the extent possible the removal of existing vegetation when installing practice. Whenever possible when installing fence, use T-posts or cones on posts to reduce perching opportunities for avian predators. Avoid leaving trash or brush piles that could provide cover for predator species. Power lines should be buried whenever possible or use solar systems to supply required power needs.
AE 9: Practice is considered to be of "limited use" for sage-grouse	**CM 9:** Where the particular "limited use" conservation practice standard is planned, NRCS shall coordinate with state wildlife agency to develop and implement site-specific guidelines to determine practice applicability, location, extent, configuration, and timing to reduce risk to sage-grouse and their habitats.
AE 10: Practice implementation in isolation without concurrent grazing management prescribed to address sage-grouse habitat needs, can result in a reduction of sage-grouse habitat quality	**CM 10:** To benefit the quality of sage-grouse habitat, the umbrella systems practice Upland Wildlife Habitat Management (Code 645) for the Sage-Grouse Initiative shall be used to design, implement and install the other facilitating practice standards to ensure that sage-grouse habitat is maintained or improved following application.