



Submitted via Federal eRulemaking Portal

June 13, 2016

Director Dan Ashe
United States Fish and Wildlife Service
5275 Leesburg Pike
Falls Church, VA 22041-3803

Re: Docket ID No: USFWS-HQ-ES-2015-0126 (*Proposed Revisions to the United States Fish and Wildlife Service Mitigation Policy*)

The National Association of State Departments of Agriculture (NASDA) appreciates the opportunity to submit the following comments to the United States Fish and Wildlife Service (FWS) on the Service's proposed rule changes to their wildlife mitigation policy.

NASDA represents the Commissioners, Secretaries, and Directors of the state departments of agriculture in all fifty states and four U.S. territories. State departments of agriculture are responsible for a wide range of programs including food safety, combating the spread of disease and resource conservation.

NASDA members are co-regulators with the federal government on a host of natural resource issues and a key partner in land management. NASDA members conduct data gathering and monitoring and carry out resource improvement projects. Many NASDA members manage natural resource programs, are full National Environmental Policy Act (NEPA) cooperating agencies and work to promote wildlife health and management.

In implementing the changes in the proposed rule, NASDA first and foremost encourages the Service to work with state agencies and acknowledge the role of state and local governments in managing wildlife resources and their habitats. Sections 5.2 (b) and (c) of the proposed rule directs FWS to "consider resources and plans made available by state, local, and tribal governments and seek to apply compatible approaches and avoid duplication of efforts with those same entities." NASDA supports this outreach and looks forward to commencing it as soon as possible so guidance and adoption of mitigation policies has ample state input.

Secondly, NASDA believes the definition of landscape and landscape-scale outlined in the proposed rule will require the FWS to carefully consult with local entities. States are challenged by simultaneous species listings and the numerous, often incompatible, requirements required for different species. The FWS' current lack of large-scale planning creates confusion for stakeholders who are working towards multiple use and prudent management. While this rule could help solve this lack of compatibility, NASDA is concerned this definition of landscape could create less workable management standards and

will not be consistently applied. FWS must work with state entities and provide further guidance on how this new definition will be applied.

Third, the goal of “net conservation gain” is concerning and could significantly impact agriculture. FWS generally considers grazing as an adverse impact on habitat, although in many cases it can benefit habitat. NASDA is concerned this new language would prohibit agricultural actions. Further, FWS has no methodology for assessment of conservation gain or how to measure impacts of specific actions. Section 5.6.1 indicates that “avoiding the impact altogether by not taking a certain action” is a top mitigation method for FWS. Taking no action, even when it could be significantly offset, is not acceptable to NASDA. FWS cannot avoid and significantly reduce actions without considering the overall potential benefits to habitat. NASDA requests further information and clarification on how “no action”, “significant impact”, and “appropriate means” will be explained and implemented.

Finally, it is unclear how the proposed rule will interact with Endangered Species Act (ESA) measures. The 1981 mitigation policy did not apply to species listed under the ESA. NASDA requests further information and clarification on how the proposed rule will be applied under the ESA.

NASDA understands the importance of managing wildlife habitat and requests that FWS provide further information and clarification before issuing a final rule. We encourage FWS to continue to work with us, other state and local entities and producers to further these goals. Please contact Britt Aasmundstad (britt@nasda.org) if you have any questions or would like any additional information at this time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nathan Bowen", with a long horizontal flourish extending to the right.

Nathan Bowen
Director, Public Policy
NASDA