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## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### 7 CFR Part 610

RIN 0578-AA29

#### Conservation of Private Grazing Land

**AGENCY:** Natural Resources Conservation Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** Section 386 of the Federal Agriculture Improvement and Reform Act (FAIRA) of 1996 authorizes the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources. This rule sets forth a policy to implement the conservation technical assistance regulations as they relate to private grazing land conservation assistance.

**EFFECTIVE DATE:** November 12, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mark W. Berkland, Director, Conservation Operations Division, NRCS, P.O. Box 2890, Washington, DC 20013-2890; telephone: (202) 720-1845; fax: (202) 720-4265; submit e-mail to [mark.berkland@usda.gov](mailto:mark.berkland@usda.gov), Attention: Conservation of Private Grazing Land.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This rule has been determined to be significant, and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. Pursuant to Sec. 6(a)(3) of Executive Order 12866, the Natural Resources Conservation Service (NRCS) conducted an economic analysis of the potential impacts associated with this final rule. Copies of this economic analysis may be obtained from Mitch Flanagan, Conservation Operations Division,

NRCS; telephone: (202) 690-5988; fax: (202) 720-4265; e-mail:

[mitch.flanagan@usda.gov](mailto:mitch.flanagan@usda.gov), Attention: Conservation of Private Grazing Land.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this final rule. The Department of Agriculture (USDA) is not required by 5 U.S.C. 553, or any other provisions of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### National Environmental Policy Act

The Conservation of Private Grazing Land (CPGL) Program does not consist of financial assistance, nor does it provide NRCS with the authority or opportunity to control the actions of private landowners and managers. The CPGL Program provides NRCS with the authority to provide management alternatives to landowners and managers about techniques to improve the quality of their grazing lands. The landowners and managers are responsible for determining which actions to take in which there would be positive environmental effects. There is no specific Federal action that would affect the human environment; therefore, there is no basis on which to conduct a meaningful analysis of environmental effects. In addition, the CPGL Program, and this regulation do not result in any irretrievable commitment of resources.

#### Paperwork Reduction Act

No substantive changes have been made to this rule that would affect the record-keeping requirements and estimated burdens previously reviewed and approved under OMB control number 0578-0013. Requesting technical assistance through the CPGL program may result in applying and receiving financial assistance through existing long-term contracting conservation programs. (0578-0013 Long-Term Contracting Paperwork Package). CPGL is not a financial assistance program.

#### Unfunded Mandates Reform Act of 1995

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, NRCS assessed the effects of this rulemaking action on State, local, tribal governments, and the public. The action does not comply with the

expenditure of \$100 million, or more, by any State, local, or tribal governments, or anyone in the private sector, and therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

#### Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994

USDA classified this final rule as "not major" under Section 304 of the Department of Agriculture Reorganization Act of 1994, Public Law 103-354, therefore, a risk assessment is not required.

#### Purpose and Scope

Section 386 of the FAIRA of 1996, 16 U.S.C. 2005b, sets forth policy and authority for the conservation of private grazing land program. This rule sets forth policy for NRCS to implement the new authority when funded, as authorized by FAIRA.

NRCS' CPGL Program will expand the agency's capability to provide technical assistance. It is stated in 7 CFR Part 610 that the NRCS mission promotes the quality of all agricultural lands, including cropland, forestland, and grazing land. This also includes pastureland, rangeland, and grazed forestland so that the long-term sustainability of the resource base is achieved.

Private grazing land constitutes nearly one-half of the non-Federal land of the United States. This land is basic to the environmental, social, and economic stability of rural areas. Private grazing land includes private, State-owned, tribally owned, and any other non-Federally owned land managed to produce forage or browse. Grazing land is found in every State, and constitutes the single largest watershed cover type in the United States. Healthy grazing land is the foundation for economic sustainability of many communities, and is the cornerstone of a healthy environment.

Grazing land is the single largest private land use in the Nation. This land is voluntarily managed by over 1.2 million individuals. Less than 4 percent currently receive voluntary technical assistance through NRCS for the management of these natural resources.

The use of technical assistance is voluntary. The assistance will allow grazing land owners and managers to implement their conservation planning

decisions on private grazing land in order to maintain and improve grazing land resources.

NRCS' technical assistance program provides assistance to private grazing land owners and managers to address soil and water conservation issues. However, the conservation agenda continues to expand as a result of greater scientific understanding of ecosystems. This agenda increases the number of policy actions, as well as Federal, State, and local laws on environmental quality. These policy actions place new requirements on landowners and land users, thus increasing the need for voluntary conservation technical assistance to address emerging resource issues and regulations. Many of today's owners of grazing land have difficulty staying abreast of environmental regulations. Every landowner or manager's actions are important because they have a significant impact on a particular piece of land. These decisions affect neighboring lands, as well as the larger ecosystem and watershed in which they occur.

Since 1935, NRCS has provided technical assistance to landowners and managers to address soil erosion and water quality problems. Section 386 of FAIRA expands current technical assistance authorities to include:

- Using and improving energy-efficient ways to produce food and fiber;
- Improving the dependability and consistency in water supplies;
- Improving and conserving fish habitat and aquatic systems;
- Protecting and improving water quality;
- Conserving and improving habitat for wildlife;
- Sustaining forage and grazing plants;
- Using plants to sequester greenhouse gases;
- Enhancing recreational activities;
- Maintaining or reducing weed, noxious weed, and brush encroachment;
- Enhancing long-term economic opportunities;
- Providing opportunities for improved nutrient management from the land application of animal manure and other by-product nutrient sources;
- Improving the quality of animals produced on these lands; and
- Producing food and fiber from lands that will not support cultivated crop production.

Technical assistance in the past has provided assistance for these authorities when the primary purpose was addressing soil and water conservation issues. With this rule, technical assistance will be provided to

individuals when soil and water conservation issues may not be the primary resource concern, but are of secondary importance. However, in applying this authority, conservation technical assistance is available for wildlife habitat improvement, animal health improvement, forage quality improvement, air quality improvement, and addressing other natural resource issues beyond soil and water conservation. Congress authorized assistance for these additional purposes, realizing there are competing demands on private land grazing resources. These lands can be enhanced by offering technical assistance to individuals, which will provide benefits to all citizens of the United States.

There are approximately 280 million acres of rangeland and 75 million acres of pastureland in need of conservation treatment. An estimated 17 percent of all of these acres have soil-related and water-related resource concerns that could be addressed by NRCS' existing technical assistance program. This leaves 83 percent or 295 million acres in need of conservation treatment not directly related to soil and water conservation.

What happens on the land remains critical to the U.S. economic and environmental well-being, even for those who never set foot on grazing land. Grazing land produces much of our food and water supplies, and provides wildlife habitat that allows many recreational opportunities. There are many types of products derived from animals that are raised on grazing lands: Household products including furniture, clothes, soap, insulation, deodorants, and paints; pharmaceutical products including blood plasma and medical sutures; and manufacturing products including hydraulic fluid, airplane lubricants, machine oils, car polish, and textiles.

#### **Current Technical Assistance Furnished**

NRCS provides technical assistance to land users and others who are responsible for making decisions related to land use, conservation treatment, and resource management. Technical assistance, furnished by NRCS, consists of conservation program delivery through resource planning, and the evaluation and application of conservation practices, including assistance in the technical phases of administering USDA cost-share programs.

NRCS works with the local conservation district to prioritize a request to ensure that technical

assistance is provided in a fair and equitable manner.

Planning assistance includes the evaluation and inventory of soil, water, animal, plant, air, and other resource information needed to make land use, environmental, and conservation treatment decisions. NRCS assists land users in developing conservation plans for farms, ranches, and other land units. The land user's decisions are recorded in the plan, and based on their conservation objectives. These plans document an orderly installation of conservation practices that ultimately make up a conservation system.

Application assistance is provided to help land users apply and maintain planned conservation practices. NRCS assistance for applying the conservation practices and systems may include:

- Design, layout, and evaluation of conservation practices;
- Development of management alternatives and cultural practices needed to establish and maintain vegetation; and
- Planning, construction, and maintenance of other conservation practices needed to protect and enhance natural resources.

NRCS may provide additional assistance to:

- Maintain and improve private grazing land resources that provide multiple benefits. For example, a grazing management plan not only benefits domestic livestock, but it may also benefit wildlife. A grazing management plan prevents overgrazing, maintains the vigor and diversity of the plant community, discourages invasion of weeds, prevents erosion, and protects streambanks and water quality;
- Ensure the long-term sustainability of private grazing land resources. The cyclical economic patterns in the grazing industry affect how intensively grazing land resources are used. The Nutrition Balance Analyzer is a model used to help managers make effective decisions about nutrition management of their livestock. A manager saves an estimated \$10-\$32 per animal per year by improving the production efficiency from use of this technology;
- Implement new grazing land management technologies. Technologies impacting grazing land, as in other industries, are always changing. Technical assistance provided to an individual helps with identifying and implementing new technologies to improve the environmental, economic, and/or social challenges of the private landowners or managers. These new and improved technologies may include new fencing materials, livestock

watering facilities, chemicals to control invasive weeds, livestock health products, grazing management practices, fertilizer technologies, geographic information systems, and other computerized decision support systems;

- Manage resources on private grazing land through conservation planning, including, but not limited to; grazing management, nutrient management, soil quality, and weed and invasive species control. Technical assistance helps the producer adjust management decisions, as new information becomes available;

- Maintain and improve water quality and quantity, aquatic and wildlife habitat, recreational opportunities, and aesthetics on private grazing land;

- Harvest, process, and market private grazing land resources. Technical assistance may be provided to help an individual identify opportunities to develop specialty meats, leather, feathers, wool, and mohair products, or other products that are nontraditional; and

- Identify opportunities to diversify private grazing land enterprises. Many operations have an opportunity to diversify their operation with technical assistance by establishing recreational opportunities that include hunting, fishing, kayaking, canoeing, hiking, biking, picnicking, camping, bird watching, nature photography, or farm and ranch vacations as additional enterprises.

The resources, goals, and objectives vary with each individual. Technical assistance helps landowners understand the land and the tools available to manage their land. Conservation solutions that are developed and implemented are based upon the specific resources and needs of an individual as a result of technical assistance.

Private grazing land owners and managers use technical assistance for planning and implementing resource conservation plans on grazing land. The objectives of planning grazing lands are to assist landowners and managers to understand the basic ecological principles of plant/herbivore interaction, management implications to their land (soil, water, air, plants, and animals) and develop a plan that meets the needs of the resources and owners/managers management objectives.

Conservation plans for grazing land include decisions for managing the plant community to conserve or enhance the soil, water, air, plant, and animal resources. The major objective for grazing land is to design and establish a grazing management plan.

When combining the appropriate conservation practices, the plan sustains the resources to meet landowners' or managers' objectives. Landowners and managers make decisions to implement the necessary conservation practices.

The economic benefits vary between every individual operation. The net financial benefits of increased forage production will vary among producers, depending upon the cost and benefits of implementing grazing land practices. Costs vary from a few dollars to several hundred dollars per acre, depending on the individual situation. If minor adjustments are needed, the cost for the adjustments may be inexpensive. However, if major changes are needed (such as brush control, fence installation, fertilizer, and watering facilities), the costs may be significantly higher. Furthermore, the results will vary due to the climatic differences and other resource differences between grazing land operations. Gaining benefits from proper management may take a few months to several years.

The agency believes that providing voluntary technical assistance to private grazing landowners and operators will also result in public benefits. These benefits include an overall improved quality of life from reduced soil erosion and sedimentation, improved water quality, increased wildlife habitat, and other resource improvements. The benefits provide economic stability to many communities, and keep the Nation's grazing land productive.

#### Discussion of Public Comments

In general, many of the respondents expressed appreciation for the opportunity to comment on the proposed rule. There were a total of 10 respondents to the proposed rule (individuals from Federal agencies, universities, and other organizations). The comments centered on four issues: (1) Educational role of NRCS; (2) partnership between NRCS, Cooperative State Research, Education, and Extension Service (CSREES), and others; (3) funding; and (4) other agency programs and activities.

*Comment:* Five comments expressed concern that NRCS is duplicating the educational activities provided by CSREES.

*Response:* NRCS provides technical assistance on a one-on-one basis to landowners and managers to address natural resource issues. It is this process of transferring technology to the producer that we provide assistance, and is not the same type of "education" provided by the Cooperative Extension System.

*Comment:* Eight comments suggested that a partnership between NRCS, CSREES, and others needs to be initiated or improved to meet the training and educational requirements necessary to address many of the natural resource issues facing grazing land.

*Response:* NRCS values relationships with other Federal, State, local resource agencies, and others with which common objectives are shared, although their missions may differ. NRCS partners with many agencies and organizations to enhance and strengthen conservation efforts throughout the country.

There were a few comments received regarding program funding and other agency programs and activities. Although these comments were reviewed and considered, they were not germane to this rule.

Some minor editorial and other changes in the text were suggested; these comments are not included in an analysis, but most were considered.

#### List of Subjects in 7 CFR Part 610

Soil conservation, Technical assistance, Water resources.

For the reasons stated in the preamble, the Natural Resources Conservation Service amends 7 CFR Part 610 as set forth below:

#### PART 610—TECHNICAL ASSISTANCE

1. The authority citation for Part 610 continues to read as follows:

**Authority:** 16 U.S.C. 590a-f, 590-1, 2005b, 3861, 3862.

2. Accordingly, Title 7 of the Code of Federal Regulations is amended by adding a new Subpart D to Part 610 to read as follows:

#### Subpart D—Conservation of Private Grazing Land

Sec.

610.31 Purpose and scope.

610.32 Technical assistance furnished.

#### Subpart D—Conservation of Private Grazing Land

##### § 610.31 Purpose and scope.

(a) This subpart sets forth the policies for the Conservation of Private Grazing Land (CPGL) Program, as authorized by Section 386 of the Federal Agriculture Improvement and Reform Act of 1996, (Pub. L. 104-127, April 4, 1996) 16 U.S.C. 2005b. Under the CPGL Program, NRCS will provide technical assistance to landowners and managers who request assistance based on locally-established priorities and resource concerns. The purpose of the CPGL Program is to provide technical assistance to private grazing land

owners and managers to voluntarily conserve or enhance grazing land resources to meet ecological, economic, and social demands.

(b) The term "private grazing land" means private, State-owned, tribally owned, and any other non-federally owned rangeland, pastureland, grazed forestland, hayland, and other lands used for grazing.

(c) The NRCS Chief may implement the CPGL Program in any of the 50 States, the District of Columbia, Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, and American Samoa. NRCS will provide assistance in cooperation with conservation districts, or directly to a landowner or operator.

#### **§ 610.32 Technical assistance furnished.**

(a) Provide technical assistance to grazing-land owners and managers to plan and implement resource conservation on grazing land. The objective of planning on grazing land is to assist landowners and managers in understanding the basic ecological principles associated with managing their land. This objective can be met by implementing a plan that meets the needs of the resources (soil, water, air, plants, and animals) and management objectives of the owner or manager. NRCS may provide assistance, at the request of the private grazing-land owner or manager to:

- (1) Maintain and improve private grazing land resources that provide multiple benefits;
- (2) Ensure the long-term sustainability of private grazing land resources;
- (3) Implement new grazing land management technologies;
- (4) Manage resources on private grazing land through conservation planning, including, but not limited to; grazing management, nutrient management, and weed and invasive species control;
- (5) Maintain and improve water quality and quantity, aquatic and wildlife habitat, recreational opportunities, and aesthetics on private grazing land;
- (6) Harvest, process, and market private grazing land resources; and
- (7) Identify opportunities to diversify private grazing land enterprises.

(b) Refer to 7 CFR 610.4 on other items relating to technical assistance.

(c) To receive technical assistance, a landowner or manager may contact NRCS or the local conservation district to seek assistance to solve identified natural resource problems or opportunities. Participation in this program is voluntary.

Signed in Washington, DC, on October 31, 2002.

**Bruce I. Knight,**

*Chief, Natural Resources Conservation Service.*

[FR Doc. 02-28691 Filed 11-8-02; 8:45 am]

**BILLING CODE 3410-16-P**

## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Part 108**

**RIN 3245-AE91**

#### **New Markets Venture Capital Program**

**AGENCY:** Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Small Business Administration ("SBA") makes several amendments to the regulations for the New Markets Venture Capital ("NMVC") program. The majority of the amendments make technical changes to the regulations, to correct typographical errors or to clarify language. SBA also makes five substantive amendments to the regulations, which SBA believes will result in more efficient and effective delivery of NMVC program benefits to the targeted geographic areas. Generally, the five changes will:

Allow a New Markets Venture Capital company ("NMVC company") to include in its regulatory capital SBA-approved organizational and management expenses paid on behalf of the NMVC company before the company is finally approved;

Allow SBA, in selecting recipients for NMVC program assistance, to compare grant applications from specialized small business investment companies ("SSBICs") with NMVC company applications from the same or proximate low-income geographic areas ("LI areas");

Create rules governing fees an NMVC company or its associates may charge for management services provided to small businesses in which the NMVC company invests;

Revise the grant application process for SSBICs so as to make it more parallel with the application process for NMVC companies; and

Add a requirement that NMVC companies must use at least 80 percent of their grant funds (both funds from SBA and grant matching resources) to provide operational assistance to smaller enterprises located in an LI area at the time the operational assistance commenced.

**DATES:** This rule is effective on December 12, 2002.

**FOR FURTHER INFORMATION CONTACT:** Austin J. Belton, Director of New

Markets Venture Capital, (202) 205-7027.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The New Markets Venture Capital Program Act of 2000 ("the Act") was created by the Consolidated Appropriations Act of 2001, Public Law 106-554, enacted December 21, 2000. SBA published in the **Federal Register** a final rule implementing the Act on May 23, 2001 (66 FR 28602) and a technical correction on June 19, 2001 (66 FR 32894).

On May 20, 2002, SBA published in the **Federal Register** a proposed rule making amendments to the regulations implementing the Act (67 FR 35449). SBA received one comment on the proposed rule, which SBA discusses in the following section-by-section analysis. With the exception of a minor clarifying change to the lead-in phrase in section 108.2005(d), SBA has made no changes to the text of the amendments to the regulations as published in the proposed rule.

SBA has conducted a first application round for the NMVC program, and has selected seven companies as conditionally approved NMVC companies. The amendments in this rule would apply to those seven companies as well as to applicants for the NMVC program in future application round(s) and to entities SBA selects for participation in the NMVC program as a result of any future application round(s).

##### **II. Section-by-Section Analysis**

SBA amends three of the definitions in § 108.50. The definitions of "New Markets Venture Capital Company" and "Participation Agreement" are amended to correct typographical errors.

The definition of "Regulatory Capital" is amended to simplify it by consolidating into § 108.230, which addresses private capital, all the current restrictions on what may be included in regulatory capital. The definition states that regulatory capital is private capital, excluding any portion of private capital that the NMVC company designates as grant matching resources.

SBA amends paragraphs (b), (c), and (d) of § 108.230. In paragraph (b), SBA makes a technical change. The word "contributed" is changed to read "paid-in," to indicate more clearly that only capital contributions actually made are considered "contributed capital" for purposes of § 108.230.

SBA amends paragraph (c) by adding a new subparagraph (5) to move to this section language concerning