

# Lesser Prairie-Chicken Endangered Species Act Listing Process Information

The lesser prairie-chicken is a high priority species for the U.S. Fish and Wildlife Service (FWS), state wildlife agencies and many of our partners. The lesser prairie-chicken currently occupies a five-state range that includes Texas, New Mexico, Oklahoma, Kansas and Colorado. The species faces a number of threats including habitat loss, modification, degradation, and fragmentation within its range. Lesser prairie-chickens need large tracts of relatively intact native grasslands and prairies to thrive. The FWS – in cooperation with state wildlife agencies, private landowners and other partners – is working to conserve the lesser prairie-chicken and the native grasslands and prairies that support the species.

## **The Lesser Prairie-Chicken and the Endangered Species Act Listing Process**

The FWS is now in the initial stages of the listing process for the lesser prairie-chicken under the Endangered Species Act (ESA). We anticipate that over the next 18 months, beginning in January 2011, we will be working to develop a proposed listing rule for the lesser prairie-chicken. The determination of whether to list the species as threatened or endangered will depend on the full assessment of the status of the lesser prairie-chicken in light of the five ESA listing factors:

- the present or threatened destruction, modification, or curtailment of habitat or range;
- overutilization for commercial, recreational, scientific, or education purposes;
- disease or predation;
- the inadequacy of existing regulatory mechanisms; and
- other natural or manmade factors

If we find critical habitat to be prudent and determinable, we intend



Lesser prairie-chicken in early light. Photo credit: Kathy Granillo, USFWS.

to propose critical habitat for the lesser prairie-chicken concurrent with the publication of the proposed listing.

The FWS will use the best available science to develop a proposed rule for the lesser prairie-chicken. We are committed to open communications and cooperation with our partners and the public as we move through this process. We will ask our partners to gather and provide scientific information that will help us develop the proposed rule. All information provided by our partners will be considered during the listing process.

Once the listing proposal is complete, we will publish the proposed rule in the Federal Register and a minimum 60-day public comment period will begin. During the comment period, the FWS will conduct one or more public hearings where interested

parties can provide feedback on the proposed rule. Public informational meetings will also be held throughout the species' range to explain the proposed rule and answer any questions.

Ultimately, if the lesser prairie-chicken is proposed for listing, federal agencies will be required to confer with the FWS on any actions that are likely to jeopardize lesser prairie-chickens. There will be no restrictions against take unless the lesser prairie-chicken is listed. Take is defined as harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, collecting, planning or taking part in any conduct that could harm the lesser prairie-chicken or the habitat it needs to survive.

After the FWS reviews all of the public comments and any new scientific information received

during the comment period, we will make a final determination. A final determination may result in our decision to list the lesser prairie-chicken as threatened or endangered, or in the withdrawal of the proposed rule. If the species is listed and we propose to establish areas of critical habitat, we will finalize the critical habitat designation at the time of listing after taking into consideration the public and peer review comments. Under the ESA, we have one year from the date of publication of a proposed rule to make a final determination.

If the lesser prairie-chicken is listed as threatened, we may prepare a special rule known as a 4(d) rule. Section 4(d) of the ESA allows the FWS to prepare a unique definition of prohibited acts for threatened species that may not necessarily include every restriction included in section 9 of the ESA. For example, the FWS has prepared 4(d) rules for other threatened species that have allowed certain routine farming and ranching operations to continue.

Section 7 of the ESA directs federal agencies to use their legal authorities to carry out conservation programs for listed species. Section 7 also requires these agencies to ensure that any actions they fund, authorize, or carry out are not likely to jeopardize the survival of any endangered or threatened species, or to adversely modify the species' designated critical habitat (if any). When a federal agency finds that one of its current or planned activities is likely to adversely affect a listed species or its designated critical habitat, the agency begins formal consultation by providing information to us with regard to the nature of the anticipated effects. If necessary, we will suggest reasonable and prudent measures, such as project modifications or

rescheduling, to allow completion of the proposed activity.

### **Lesser Prairie-Chicken Conservation Efforts**

The FWS, state wildlife agencies and private landowners are currently involved in a number of efforts to conserve the lesser prairie-chicken. We will continue to work with our partners and stakeholders as we move forward with the listing process and other lesser prairie-chicken conservation efforts.

State wildlife agencies, private landowners and energy companies (including some members of the oil and gas industry and other alternative energy development enterprises) are committed to lesser prairie-chicken conservation through Candidate Conservation Agreements with Assurances (CCAAs) and Candidate Conservation Agreements (CCAs). CCAAs provide landowners and energy developers the opportunity to implement conservation practices along with assurances that, if the species is listed, they can continue to manage as outlined in their agreements with no additional requirements. Continuing to enroll landowners and energy companies in the CCAAs and CCAs already established in Texas and New Mexico – and developing similar voluntary agreements with Oklahoma, Kansas and Colorado – is extremely important. The FWS remains committed to developing and implementing these CCAs and CCAAs for the lesser prairie-chicken. We recognize that lesser prairie-chicken conservation efforts rely on continued cooperation and coordination with our partners.

For more information on the listing process, please contact Sarah Quamme, Listing Coordinator for Region 2, at 505-248-6419 or Justin Shoemaker in Region 6 at 303-236-4214.

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