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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1410

RIN 0560-AH44

Conservation Reserve Program— Emergency Forestry Conservation Reserve Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Conservation Reserve Program (CRP) regulations to implement provisions of Public Law 109-148 (2006 Act) that provide for enrollment in the CRP of private non-industrial forest land that experienced a loss of 35 percent or more of merchantable timber in the States suffering forestry damage directly related to hurricanes Katrina, Ophelia, Rita, Dennis, and Wilma.

DATES: *Effective Date:* June 1, 2006.

FOR FURTHER INFORMATION CONTACT: Kiley Barnes, Conservation and Environmental Programs Division, USDA/FSA/CEPD/STOP 0513, 1400 Independence Avenue SW., Washington, DC 20250-0513, Telephone (202) 720-8772; e-mail: kiley.barnes@wdc.usda.gov.

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Background

Section 107 the 2006 Act amended the Food Security Act of 1985 (16 U.S.C. 3831), which provides statutory authority for the CRP, to provide for the Emergency Forestry Conservation Reserve Program (EFCRP) to enroll in the CRP private non-industrial forest land that experienced a loss of 35 percent or more of merchantable timber

in the States suffering forestry damage directly related to hurricanes Katrina, Ophelia, Rita, Dennis, and Wilma. Accordingly, the CRP regulations at 7 CFR part 1410 are changed by adding a new section 1410.12.

The CRP is the Nation's largest private lands conservation program. Compared to the broader CRP which targets certain cropland and marginal pastureland, the EFCRP is designed to focus on the restoration of private non-industrial forest land damaged by 2005 hurricanes. EFCRP shares with the broader CRP the authority to consider certain expected environmental benefits from enrollment. The 2006 Act also authorized an additional factor for EFCRP, mitigation of economic loss. Accordingly, which is discussed in greater detail later, when considering which offers are acceptable for enrollment, Commodity Credit Corporation (CCC) will consider the expected environmental benefits from soil erosion prevention, water quality improvement, and wildlife habitat restoration as well as mitigation of economic loss.

For purposes of eligibility, this new program is available in counties with a Presidential or Secretarial-declared primary disaster designation due to hurricanes during the 2005 calendar year. The eligible owners and operators may enroll applicable private non-industrial forest land in the new EFCRP during calendar year 2006. Private non-industrial forest land, for purposes of EFCRP, means lands with existing tree cover that is owned by an individual, group, association, corporation, Indian tribe, or other private entity or a person who or entity who receives concurrence from the landowner for practice implementation.

Offers for enrollment may be made at local Farm Service Agency (FSA) offices through November 30, 2006. The 2006 Act requires that eligibility for enrollment is limited to owners and operators of private non-industrial forest land that have experienced a loss of 35 percent or more of merchantable timber in a county affected by hurricanes during the 2005 calendar year. All offers will be verified for eligibility. Merchantable timber is defined in the 2006 Act and in the regulations as timber on private non-industrial forest land on which the average tree has a trunk diameter of at least six inches measured at least four-and-one-half feet

above the ground. Under EFCRP, contracts will be for 10 years and will become effective the first day of the month following the month of contract approval by the CCC. Therefore, EFCRP contracts will expire at the end of the month throughout the year, depending upon the month of the effective date, rather than expiring September 30 of the appropriate year as required by section 1410.7(c) and, accordingly, an exception to his requirement was made in section 1410.12(j).

A conservation plan for forestry is a required component of an EFCRP contract and will include provisions for soil erosion, water quality, and wildlife habitat as well as provisions for site preparation and planting, to the maximum practicable, of native species or, if native species are not practicable, with similar species as existed prior to hurricane damage. EFCRP participants will agree to restore trees to the minimum silvicultural level established by the United States Forest Service for the purposes of the practice. As with all CRP contracts, no commercial use of the crop (timber) will be permitted during the contract period, but management activities customary with normal forestry practice such as pruning, thinning, and stand improvement will be permitted as specified in the conservation plan for the property. However, forestry maintenance such as pruning, thinning, and timber stand improvement, in accordance with a conservation plan and in exchange for an applicable reduction in the annual rental payment, as determined by the Deputy Administrator, is permitted.

In determining which offers to accept, CCC will collect data on soil erosion, water quality, wildlife habitat, and mitigation of economic loss and, using a generally-applicable benefits index, CCC will determine the acceptability of all offers.

Regarding the acceptability of offers for EFCRP and as previously indicated, the purposes of the EFCRP include soil erosion prevention, water quality improvement, wildlife habitat restoration, mitigation of economic loss. Accordingly, section 1410.12(g) provides that offers will be evaluated and ranked consistent with those goals. Periodically throughout calendar year 2006, CCC will aggregate the offers and select those offers deemed most desirable.

A conservation plan for forestry is a required component of an EFCRP contract and will include provisions for soil erosion, water quality, and wildlife habitat as well as provisions for site preparation and planting, to the maximum practicable, of native species, or with similar species as existed prior to hurricane damages, as approved by CCC. For each EFCRP contract, the conservation plan will describe the area enrolled, how the site will be prepared, and measures for soil erosion prevention, water quality improvement and wildlife habitat restoration such as wildlife plantings and tree density reduction. In preparing the conservation plan, an assessment will be conducted of resources, environmental documentation, and a schedule outlining the specified dates for planning activities pertaining to the contract. Also included will be the maintenance requirements for the contract length such as weed control, tree thinning, and prescribed burns, if appropriate for the site. As part of the conservation plan, the type of soil on the acreage and acceptable plantings will also be considered.

For offers that are not acceptable, those offers will be "grandfathered" into the next aggregation of offers. This process of evaluating offers and "grandfathering" those offers not acceptable into the next aggregation to be reviewed is scheduled to occur until the final aggregation and offer evaluation which is scheduled to occur after November 30, 2006.

The 2006 Act authorized EFCRP participants the choice of receiving one discounted, lump-sum payment or annual rental payments for the duration of the contract. Total funding is \$404,100,000, which will remain available until expended and includes all financial, cost-share, and technical assistance costs.

As previously indicated, CCC will evaluate all offers based on four factors: Soil erosion prevention, water quality improvement, wildlife habitat restoration, and mitigation of economic loss. Soil erosion prevention and water quality improvement are inherent in any acceptable cover. Wildlife habitat restoration will be evaluated based on the type and density of tree cover that the landowner offers to restore that may be more desirable as wildlife habitat, such as planting longleaf pine and hardwoods (bottomland and upland) as opposed to other softwood species (including loblolly pine). Mitigation of economic loss is an assessment by forestry professionals of the economic loss suffered as a result of the 2005 hurricanes.

The 2006 Act provided that acreage enrolled under this provision does not count towards otherwise applicable limits on the number of acres that may be enrolled in the CRP in any one county or on CRP's maximum acreage enrollment authority. Therefore, the provisions of section 1410.4 do not apply to the new EFCRP provisions which will now be codified at section 1410.12.

Lump sum payments will be calculated using the Office of Management and Budget's (OMB) 2006 nominal 10-year discount rate of 5 percent published under Circular A-94, Discount Rates to Be Used in Evaluating Time-Distributed Costs and Benefits. Payments, it should be noted, are normally issued at the end of the program year. Use of a discount means that one lump-sum payment issued today will be less in absolute terms than 10 equal annual payments issued over time but are equal given the time-value of money. For example, assume a producer enrolls 10 acres into EFCRP with a rental rate of \$30 per acre. Under a lump-sum payment option, the payment would be \$2,317 whereas, over 10 years, an annual rental payment of \$300 would produce \$3,000.

Other programs such as the Emergency Watershed Program authorized under regulations at 7 CFR part 624 or the Emergency Conservation Program authorized under the regulations at 7 CFR part 701 may be available for the removal of debris, downed timber, or for other purposes which are consistent with the purposes of EFCRP. If another Federal program makes a "cost-share" payment, an EFCRP participant is not eligible to receive or retain a EFCRP cost-share payment a result required by the regulations at 7 CFR 1410.40(f). Also, CCC will assure that duplicate payments are not made for the same practice under different programs. Section 1410.12(k) was added to address that issue.

Cost/Benefit Analysis Summary

In analyzing the economic effects of this rule two options have been examined: (1) Using a Benefits Index that selects participants based on economic damages, potential gully erosion, tree species to be established, and wetland acres; and (2) targeting the funds to counties with the greatest timber damage. The full \$404,100,000 appropriated would be exhausted under either scenario.

FSA has chosen to use Option 1 which uses the Benefits Index to select participants for the EFCRP. Use of a Benefits Index to select participants

complies with the instructions in the statute to " * * * consider an equitable balance among the purposes of soil erosion prevention, water quality improvement, wildlife habitat restoration, and mitigation of economic loss." Under either option additional, qualitative environmental benefits are obtained from controlling invasive plant species, establishing longleaf pine stands, and restoring bottomland hardwood stands. Controlling invasive species enhances wildlife habitat, as does establishing longleaf pine and bottomland hardwood forests. Longleaf pine stands are a declining ecosystem and bottomland hardwoods restore floodplain wetlands.

The Agency analysis found that use of the \$404,100,000 appropriated has a 10 year discounted cost of between \$353 million and \$378 million. When adjusted for inflation, the cost ranges from \$341 to \$364 million. When the cost of EFCRP was examined under a high cost scenario, inflation adjusted, discounted costs increased approximately 3 percent, ranging from \$352 to \$372 million. Under the low cost scenario, inflation adjusted, discounted costs decreased approximately 5 percent, with a range between \$323 million and \$351 million dollars.

SUPPLEMENTARY INFORMATION:

Notice and Comment

Section 107(a) of Division B of the 2006 Act requires that these regulations be promulgated and administered without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notice and comment rulemaking and public participation in rulemaking. These regulations are thus issued as final.

Executive Order 12866

This rule is Economically Significant for the purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A Cost/Benefit Analysis was completed and is available from the person cited above.

Small Business Regulatory Enforcement Fairness Act of 1996

Section 107(a) of Division B of the 2006 Act requires that the Secretary use the authority in 5 U.S.C. 808 which allows an agency to forgo SBREFA's usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. Accordingly, this rule is effective upon the date of

filing for public inspection by the Office of the Federal Register.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Review

The environmental impacts of this rule have been considered in a manner that is consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 799. FSA has initiated the completion of a programmatic environmental assessment (PEA) to determine the potential impacts of this action upon the human and natural environments. A copy of the draft and final PEA will be made available for public comment upon their completion. No contracts will be approved by the Agency until all environmental review requirements have been completed.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. This final rule is not retroactive and does not pre-empt State laws. Before any judicial action may be taken with respect to the provisions of the final rule, administrative remedies at 7 CFR parts 11 and 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions that impose “Federal mandates” that may result in expenditures to State, local, or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any 1 year. This rule contains no Federal mandates for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the

requirements of sections 202 and 205 of the UMRA.

Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are: Conservation Reserve Program—10.069.

Paperwork Reduction Act

Section 107(a) of Public Law 109–148 requires that these regulations be promulgated and administered without regard to the Paperwork Reduction Act. This means that the normal 60-day public comment period and OMB approval of the information collections required by this rule do not apply.

List of Subjects in 7 CFR Part 1410

Agriculture, Disaster assistance, Forests and forest products, Grazing lands, Natural resources.

■ Accordingly, 7 CFR part 1410 is amended as follows:

PART 1410—CONSERVATION RESERVE PROGRAM

■ 1. The authority citation for 7 CFR part 1410 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801–3847.

■ 2. Amend § 1410.2 by adding the following definitions in their appropriate alphabetical order:

Merchantable timber means timber grown for commercial purposes on private non-industrial forest land on which the average tree has a trunk diameter of at least 6 inches measured at a point no less than 4.5 feet above the ground.

Present value means the value of a stream of future payments discounted by 5 percent in accordance with Office of Management and Budget Circular A–94 (revised January 2006), Discount Rates to Be Used in Evaluating Time-Distributed Costs and Benefits.

Private non-industrial forest land means, for purposes of § 1410.12, lands with existing tree cover that are owned by a private non-industrial forest landowner and which were damaged by hurricanes occurring in calendar year 2005.

Private non-industrial forest landowner means, for purposes of § 1410.12, an individual, group, association, corporation, Indian Tribe, other legal private entity, or State School Trust, owning non-industrial private forest land or who receives concurrence from the landowner for making the claim in lieu of the owner, and for practice implementation and

who holds a lease on the land for a minimum of 10 years. Corporations whose stocks are publicly traded or owners or lessees principally engaged in the primary processing of raw wood products are excluded from this definition. An owner of land leased to a lessee shall also be excluded who should be excluded under the previous sentence.

State school trust land means land owned by a State with the explicit purpose of supporting public schools.

■ 3. Add § 1410.12, to read as follows:

§ 1410.12 Emergency Forestry Program.

(a) In addition to other allowable enrollments, certain non-industrial private forest land located in Presidential- or Secretarial-declared primary disaster counties that suffered damage from hurricanes in calendar year 2005 may be enrolled through the Emergency Forestry Conservation Reserve Program (EFCRP) provided for in this section.

(b) Owners and/or operators may enroll non-industrial private forest land, as defined in § 1410.2, in the CRP provided that the private non-industrial forest land:

(1) Has merchantable timber (timber on land on which the average tree has a trunk diameter of at least six inches measured at a point no less than four and one-half feet above the ground); and

(2) Has experienced a loss of 35 percent or more of merchantable timber in a 2005 calendar year hurricane-affected county due to 2005 hurricanes.

(c) The provisions of § 1410.4 do not apply to this section.

(d) Any overall acreage enrollment limit imposed on CRP shall not apply to acreage enrolled under this section.

(e) All participants subject to a CRP contract entered into pursuant to this section must agree:

(1) To restore the land, through site preparation and planting of, to the maximum extent practicable, native species or similar species as existing prior to hurricane damages as may be specified in the contract, and comply with other requirements as may be specified in the contract;

(2) To establish temporary vegetative cover; and

(3) That the contract term shall be for a period of 10 years, during which time standing timber may not be harvested from the enrolled land except as may be approved by CCC in the conservation plan as part of the normal maintenance of the forest land.

(f) Offers for contracts under this section shall be submitted under continuous signup provisions as authorized in § 1410.30.

(g) In evaluating contract offers to which this section applies, different factors, as determined by CCC, may be considered for priority purposes. These include but are not limited to soil erosion prevention, water quality improvement, wildlife habitat restoration, and mitigation of economic loss.

(h) In return for a contract entered into under this paragraph, a participant may opt for:

(1) Annual rental payments authorized by § 1410.42, except that the payment rate shall be equal to:

(i) The average rental rate for CRP contracts in the county in which the land is actually located; or

(ii) In the case where no CRP contracts are enrolled in a county, the average rental rate will be the CRP rate applicable to a nearby similarly-situated county.

(2) In lieu of the annual payments provided for in paragraph (h)(1) of this section, lump sum payment equal to the present value of the total amount of annual rental payments that would otherwise be paid under paragraph (h)(1) of this section.

(i) Cost-share assistance authorized under § 1410.40 may be reduced by the value of salvaged timber or timber products which are removed to prepare the site for replanting.

(j) The provisions of § 1410.7(c), which concern enrollment limits, do not apply to contracts to which this section applies.

(k) To avoid duplicate payments, participants under this section are not eligible to receive EFCRP funding for land on which the participant has or will receive funding under any other program that covers the same expenses.

(l) All other requirements of this part shall apply to enrollments under this section.

Signed at Washington, DC, on May 25, 2006.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E6-8527 Filed 6-1-06; 8:45 am]

BILLING CODE 3410-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-23888; Directorate Identifier 2005-SW-03-AD; Amendment 39-14622; AD 2006-11-17]

RIN 2120-AA64

Airworthiness Directives; Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, and D1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS350B, BA, B1, B2, B3, C, D, and D1 helicopters that have a Geneva Aviation, Inc. (Geneva) P132 console (console) installed. This AD requires installing right and left side Geneva cyclic control sticks and modifying the cyclic grips and the co-pilot cyclic stand (receptacle). This amendment is prompted by reports that pilots had restricted cyclic stick travel when using Eurocopter factory-installed cyclic sticks in a helicopter modified under a certain Supplemental Type Certificate (STC) for the installation of a Geneva P132 console. The actions specified by this AD are intended to prevent restricting full lateral movement of the cyclic control during high lateral center of gravity (CG) load operations in high cross winds and during slope takeoffs or landings and subsequent loss of control of the helicopter.

DATES: Effective July 7, 2006.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 7, 2006.

ADDRESSES: You may get the service information identified in this AD from Geneva Aviation, Inc., 20021-80th Ave. South, Kent, Washington 98032; telephone: (800) 546-2210; fax: (800) 546-2220; Internet: <http://www.GenevaAviation.com>.

Examining the Docket

You may examine the docket that contains this AD, any comments, and other information on the Internet at <http://dms.dot.gov>, or at the Docket Management System (DMS), U.S. Department of Transportation, 400 Seventh Street SW., Room PL-401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Vince Massey, Aviation Safety Engineer,

FAA, Seattle Aircraft Certification Office, Systems and Equipment Branch, 1601 Lind Ave. SW., Renton, Washington 98055-4056; telephone (425) 917-6475, fax (425) 917-6590.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified model helicopters was published in the **Federal Register** on February 28, 2006 (71 FR 9979). That action proposed replacing the right and left side Geneva cyclic control sticks and modifying the cyclic grips and the receptacle.

Geneva has issued Service Bulletin GA107-7, dated June 14, 2005 (SB). The SB describes a condition that pilots may encounter regarding restricted cyclic control stick movement in helicopters that have a Geneva P132 console installed under STC No. SH4747NM. The Geneva center console is wider than the factory-installed Eurocopter console and may limit lateral cyclic movement under certain conditions. The SB specifies replacing the Eurocopter factory-installed pilot (right-side) cyclic stick and co-pilot (left-side) cyclic stick with a Geneva-manufactured right-side cyclic stick, part number (P/N) G12316-26, and left-side cyclic stick, P/N G12324-26. For cyclic sticks with a "Bendix" cyclic grip without any cyclic grip flange, which has a 90-degree bend at the top of the cyclic stick, the SB specifies replacing the Eurocopter factory-installed pilot and co-pilot cyclic sticks with a Geneva-manufactured right-side cyclic stick, P/N G12425-26, and left-side cyclic stick, P/N G12426-26, respectively. The SB also specifies modifying the flange at the base of the cyclic grips and the receptacle to prevent inadvertent installation of the factory original co-pilot cyclic stick.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. We have reviewed all available information and determined that AD action is necessary for products of these type designs, modified under STC No. SH4747NM, that are certificated for operation in the United States.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that this AD will affect 122 helicopters of U.S. registry.