

# Rules and Regulations

Federal Register

Vol. 67, No. 11

Wednesday, January 16, 2002

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1410

RIN 0560-AG37

#### Conservation Reserve Program—Good Faith Reliance and Excessive Rainfall

**AGENCY:** Farm Service Agency and Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Conservation Reserve Program (CRP) regulations to provide, under certain conditions, for equitable relief to producers who violated their contract based on a good faith reliance on the action or advice of certain USDA representatives. It also provides that CRP contracts will not be terminated for failure to plant cover when that failure was due to excess rainfall or flooding.

**DATES:** This regulation is effective January 16, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Michaels, (202) 720-8774, or via e-mail at: [crprule@wdc.usda.gov](mailto:crprule@wdc.usda.gov) or on the FSA web page at <http://www.fsa/usda/gov/>.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This final rule has been determined to be not significant and, therefore, was not reviewed by the Office of Management and Budget (OMB).

##### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because 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 Evaluation

In accordance with 7 CFR part 799, an environmental assessment was conducted to determine whether the actions included in this final rule would significantly affect the quality of the human environment. A determination was made that the actions of this final rule would have no significant impact on the human environment and the preparation of an Environmental Impact Statement is not necessary.

##### 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 proposed and final rules with "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 one year. This rule contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local, and tribal government 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, is the Conservation Reserve Program—10.069.

##### Paperwork Reduction Act

The Office of Management and Budget approved the information collection requirements contained in the current regulations at 7 CFR part 1410 under

provisions of 44 U.S.C. chapter 33 and OMB control number 0560-0125 was assigned. This rule will have no impact on the burden approved under that control number.

##### Discussion of Final Rule

The purpose of the Conservation Reserve Program (CRP) is to cost-effectively assist owners and operators in conserving and improving soil, water, and wildlife resources by converting highly erodible and other environmentally sensitive acreage normally devoted to the production of agricultural commodities to a long-term vegetative cover. CRP participants enter into contracts for 10 to 15 years in exchange for annual rental payments and cost-share assistance for installing certain conservation practices. In determining the amount of annual rental payments to be paid, CCC considers, among other things, the amount necessary to encourage owners or operators of eligible cropland to participate in the CRP. Offers are submitted in such a manner as the Secretary prescribes. Acreage is accepted into the CRP based on the eligibility requirements contained in 7 CFR part 1410.

On March 15, 2001, the Agency published a proposed rule, at 66 FR 15048. First, the rule proposed to implement section 755 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (the 2001 Act) (Pub. L. 106-387). The comment period ended on May 14, 2001. This law requires the Secretary to provide equitable relief to someone who violates a CRP contract if they took actions in good faith reliance on the action or advice of an authorized representative of the Secretary. If the Secretary determines that a CRP participant has been injured by such good faith reliance, the Secretary may allow that person some relief from the contract breach, as long as action is taken to correct the violation, and subject to other limitations promulgated in this rule.

The second change that CCC proposed allows the Secretary to not terminate a CRP contract for failure to establish approved vegetative cover or water cover if the failure to establish that cover was due to excessive rainfall or

flooding. Conditions for this waiver were discussed in the proposed rule.

This rule implements these two new statutory amendments by revising the CRP regulations contained in 7 CFR part 1410. These changes will help ensure that the CRP is implemented in a fair and reasonable manner, and that participants are not penalized unjustly.

#### Summary of Comments

CCC did not receive any comments from the public concerning the proposed rule. Three comments came from one individual who is an FSA employee in Kansas. These comments were of an administrative nature and can be addressed in internal agency procedure.

#### Substantive Changes From the Proposed Rule

There were no substantive changes compared to the proposed rule.

#### List of Subjects in 7 CFR Part 1410

Conservation Reserve Program: administrative practices and procedures, agriculture, conservation plan, grazing lands, and natural resources.

For reasons set out in the preamble, 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. In § 1410.2, the definition of “violation” is added to read as follows:

##### § 1410.2 Definitions.

\* \* \* \* \*

*Violation* means an act by the participant, either intentional or unintentional, which would cause the participant to no longer be eligible for cost-share or annual contract payments.

\* \* \* \* \*

3. Section 1410.20(a) is revised to read as follows:

##### § 1410.20 Obligations of participant.

\* \* \* \* \*

(a) \* \* \*

(a)(2) Implement the conservation plan, which is part of such contract, in accordance with the schedule of dates included in such conservation plan unless the Deputy Administrator determines that the participant cannot fully implement the conservation plan for reasons beyond the participant's control and CCC agrees to a modified plan. However, a contract will not be

terminated for failure to establish an approved vegetative or water cover on the land if as determined by the Deputy Administrator:

(i) The failure to plant or establish such cover was due to excessive rainfall or flooding;

(ii) The land subject to the contract on which the participant could practicably plant or establish to such cover is planted or established to such cover; and

(iii) The land on which the participant was unable to plant or establish such cover is planted or established to such cover after the wet conditions that prevented the planting or establishment subside.

\* \* \* \* \*

4. Section 1410.54 is revised to read as follows:

##### § 1410.54 Performance based upon advice or action of the Department.

(a) The provisions of § 718.8 of this title relating to performance based upon the action or advice of a representative of the Department shall be applicable to this part, and may be considered as a basis to provide relief to persons subject to sanctions under this part to the extent that relief is not mandated by the other provisions of this section.

(b) Further, except as provided in paragraph (b) (3) of this section, and notwithstanding any other provision of this chapter, the Deputy Administrator may provide equitable relief to a participant who has entered into a contract under this chapter, and who is subsequently determined to be in violation of the contract, if the participant, in attempting to comply with the terms of the contract and enrollment requirements, took actions in good faith reliance upon the action or advice of an authorized USDA representative, as determined by the Deputy Administrator, provided:

(1) The Deputy Administrator determines that a participant has been injured by such good faith reliance, in which case, the participant may be authorized, as determined appropriate by the Deputy Administrator, to do any one or more of the following;

(i) Retain payments received under the contract;

(ii) Continue to receive payments under the contract;

(iii) Keep all or part of the land covered by the contract enrolled in the applicable program under this chapter;

(iv) Re-enroll all or part of the land covered by the contract in the applicable program under this chapter; or

(v) Any other equitable relief the Deputy Administrator deems appropriate.

(2) If relief under this section is authorized by the Deputy Administrator, the participant must take such actions as are determined by the Deputy Administrator to remedy any failure to comply with the contract.

(3) This section shall not apply to a pattern of conduct, as determined by the Deputy Administrator, in which an authorized USDA representative takes actions or provides advice with respect to a participant that the representative and the participant both know, or should have known, are inconsistent with applicable law (including regulations).

(4) Relief under this paragraph shall be available only for contracts in effect on January 1, 2000, or thereafter.

Signed at Washington, DC, on January 9, 2002.

**James R. Little,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 02–1052 Filed 1–15–02; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001–SW–11–AD; Amendment 39–12597; AD 2002–01–06]

RIN 2120–AA64

#### Airworthiness Directives; Eurocopter France Model AS332L2 Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) for Eurocopter France Model AS332L2 helicopters. This action requires inspecting the main frame for a crack and repairing any unairworthy frame before further flight. This amendment is prompted by a report of cracks on the right-hand (RH) side of a main frame. This condition, if not corrected, could result in failure of the main frame and subsequent loss of control of the helicopter.

**DATES:** Effective January 31, 2002.

Comments for inclusion in the Rules Docket must be received on or before March 18, 2002.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation