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DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

7 CFR Part 636

RIN 0578-AA49

Wildlife Habitat Incentive Program

AGENCY: Natural Resources Conservation Service, United States Department of Agriculture.

ACTION: Interim final rule; amendment; reopening of comment period.

SUMMARY: The Natural Resources Conservation Service (NRCS) published in the Federal Register of January 16, 2009, an interim final rule with request for comment amending the program regulations for the Wildlife Habitat Incentive Program (WHIP) to incorporate programmatic changes authorized by the Food, Conservation, and Energy Act of 2008 (2008 Act). On March 12, 2009, NRCS corrected language in the interim final rule regarding the erroneous application of the payment limitation to joint operations, and extended the comment period to April 17, 2009. This document amends the interim final rule by expanding the definition of agricultural lands to include areas of a farm or ranch that are not currently under production. NRCS is also using the opportunity presented by this rulemaking to reopen the comment period. Comments are limited to the content of this amendment.

DATES: This amendment is effective on July 15, 2009. The comment period for the WHIP Interim Final Rule published on January 16, 2009 (74 FR 2786), extended March 12, 2009 (74 FR 10673), until April 17, 2009, is reopened. Submit comments on or before August 14, 2009.

ADDRESSES: You may send comments (identified by Docket Number NRCS-IFR-08005) using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://regulations.gov> and follow the instructions for sending comments electronically.
- *E-mail:* whip2008@wdc.usda.gov.
- *Mail:* Gregory Johnson, Director, Financial Assistance Programs Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Washington, DC 20250-2890.
- *Fax:* (202) 720-4265.
- *Hand Delivery Room:* USDA South Building, 1400 Independence Avenue, SW., Room 5237, Washington, DC 20250, between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays. Please ask the guard at the entrance to the South Building to call (202) 720-1845 in order to be escorted into the building.

• This interim final rule may be accessed via Internet. Users can access the NRCS homepage at: <http://www.nrcs.usda.gov/>; select the Farm Bill link from the menu; select the Interim Final Rules link from beneath the Farm Bill Public Comments Links title. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA TARGET Center at: (202) 720-2600 (voice and TDD).

To view public comments, ask the guard at the entrance to the South Building to call (202) 720-4527 in order to be escorted into the building.

FOR FURTHER INFORMATION CONTACT: Gregory Johnson, Director, Financial Assistance Programs Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Washington, DC 20013-2890; *Phone:* (202) 720-1845; *Fax:* (202) 720-4265.

SUPPLEMENTARY INFORMATION:

Regulatory Certifications

Executive Order 12866

Pursuant to Executive Order 12866 (FR Doc. 93-24523, September 30, 1993), the interim final rule published on January 16, 2009, is a significant regulatory action, and NRCS conducted an economic analysis of the potential impacts associated with this program. The administrative record is available

for public inspection in Room 5831 South Building, USDA, 1400 Independence Avenue, SW., Washington, DC. NRCS reviewed the economic analysis prepared for the January 16, 2009, interim final rule and determined that the provisions of this interim final rule do not alter the assessment and the findings that were originally prepared. A copy of the analysis is available upon request from Gregory Johnson, Director, Financial Assistance Programs Division, Department of Agriculture, Natural Resources Conservation Service, Room 5237 South Building, Washington, DC 20250-2890 or electronically at: <http://www.nrcs.usda.gov/programs/whip/> under the WHIP Rules and Notices with Supporting Documents title.

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

Section 2904(c) of the 2008 Act requires that the Secretary use the authority in Section 808(2) of Title 5, U.S.C., which allows an agency to forego 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. NRCS hereby determines that it has good cause to do so in order to meet the congressional intent to have the conservation programs, authorized or amended by Title II, in effect as soon as possible. Accordingly, this rule is effective upon filing for public inspection by the Office of the Federal Register.

Executive Order 13175

This interim final rule has been reviewed in accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. NRCS has assessed the impact of this interim final rule on Indian Tribal Governments and has concluded that this rule will not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this interim final rule because NRCS is required by 5 U.S.C. 553, or by any other provision of law, to publish a notice of proposed

rulemaking with respect to the subject matter of this rule.

Environmental Analysis

Availability of the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI). A programmatic environmental assessment has been prepared in association with the January 16, 2009, interim final rule. The provisions of this interim final rule do not alter the assessment and the findings that were originally prepared. The analysis determined that there would not be a significant impact to the human environment and, as a result, an Environmental Impact Statement was not required to be prepared (40 CFR part 1508.13). The EA and FONSI are available for review and comment for an additional 30 days from the date of publication of this amendment to the interim final rule in the Federal Register. A copy of the EA and FONSI may be obtained from the following Web site: http://www.nrcs.usda.gov/programs/Env_Assess/. A hard copy may also be requested from the following address and contact: Matt Harrington, National Environmental Coordinator, Ecological Sciences Division, Natural Resources Conservation Service, 1400 Independence Ave., SW., Washington, DC 20250. Comments from the public should be specific and reference that comments provided are on the EA and FONSI. Public comment may be submitted by any of the following means: (1) E-mail comments to NEPA2008@wdc.usda.gov, (2) e-mail to e-gov Web site: <http://www.regulations.gov>, or (3) written comments to: Matt Harrington, National Environmental Coordinator, Ecological Sciences Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Ave., SW., Washington, DC 20250.

Civil Rights Impact Analysis

NRCS determined through a Civil Rights Impact Analysis that the January 16, 2009, interim final rule disclosed no disproportionately adverse impacts for minorities, women, or persons with disabilities. The provisions of this interim final rule do not alter the assessment and the findings that were originally prepared.

Paperwork Reduction Act

Section 2904 of the 2008 Act requires that the promulgation of regulations and the administration of Title II of this Act shall be made without regard to chapter 35 of Title 44 U.S.C., also known as the

Paperwork Reduction Act. Therefore, NRCS is not reporting recordkeeping or estimated paperwork burden associated with this amendment or the January 16, 2009, interim final rule.

Government Paperwork Elimination Act

NRCS is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. To better accommodate public access, NRCS has developed an online application and information system for public use.

Executive Order 12988

This interim final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this interim final rule are not retroactive. The provisions of this interim final rule preempt State and local laws to the extent that such laws are inconsistent with this interim final rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at 7 CFR parts 614 and 11 must be exhausted.

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

The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Title III, Section 304, requires that for each proposed major regulation with a primary purpose to regulate issues of human health, human safety, or the environment, USDA is to publish an analysis of the risks addressed by the regulation and the costs and benefits of the regulation. NRCS has determined that such a risk assessment does not apply to this interim final rule. NRCS recognizes that although such assessments can be quite helpful, the Act pertains only to a rule that has been designated as a "proposed major regulation." NRCS does not consider "interim final" or "final" rules as falling into the category of proposed major regulations.

Unfunded Mandates Reform Act of 1995

NRCS assessed the effects of the January 16, 2009, rulemaking action on State, local, and tribal governments, and the public. NRCS determined that such action did not compel the expenditure of \$100 million or more in any one year (adjusted for inflation) by any State, local, or tribal governments, or anyone in the private sector. Additionally, the

provisions of this interim final rule do not alter this determination. Therefore, a statement under Section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

Background

NRCS published an interim final rule in the **Federal Register** of January 16, 2009 (74 FR 2786), amending the program regulations for WHIP found at 7 CFR part 636. NRCS published a correction to the interim final rule in the Federal Register on March 12, 2009, to address the incorrect application of the \$50,000 payment limitation to joint operations.

Under the January 16, 2009, interim final rule, NRCS limited the definition of agricultural lands to lands that are currently used to produce agricultural and forest-related products or on which livestock are produced. NRCS adopted this particular definition of "agricultural lands" for WHIP to increase consistency of definitions between similar programs. However, through its adoption of the same definition for agricultural lands, NRCS inadvertently limited the WHIP statute's inherent flexibility to enroll lands that are not eligible for enrollment under other NRCS conservation programs. Traditionally, WHIP has served as a niche program through its ability to improve wildlife habitat on areas that were not otherwise eligible for NRCS assistance.

Additionally, NRCS has precluded landowners from enrolling part of their overall farmstead into WHIP simply because the particular area is not currently used for agricultural production. NRCS has determined that the WHIP statute should not be interpreted so narrowly, especially since it may be these lands that are not currently under production that can most readily be improved for wildlife habitat consistent with the extent of current management of the farm or ranch.

NRCS proposes in this Amendment to the interim final rule an expansion of the definition of "agricultural land" for the purposes of WHIP. In particular, NRCS intends to define agricultural lands to mean cropland, grassland, rangeland, pasture, and other land determined by NRCS to be suitable for fish and wildlife habitat development, on which agricultural and forest-related products or livestock are *or have the potential to be produced*. Agricultural lands may include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of land used for *or have the potential to be used for production*.

■ For the reasons stated in the preamble, NRCS amends part 636 of Title 7 of the CFR as set forth below:

PART 636—WILDLIFE HABITAT INCENTIVE PROGRAM

■ 1. The authority citation for part 1466 continues to read as follows:

Authority: 16 U.S.C. 3839bb-1.

■ 2. Amend § 636.3 by revising the definition of “agricultural lands” to read as follows:

§ 636.3 Definitions.

* * * * *

Agricultural lands means cropland, grassland, rangeland, pasture, and other land determined by NRCS to be suitable for fish and wildlife habitat development on which agricultural and forest-related products or livestock are produced or have the potential to be produced. Agricultural lands may include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of land used for or have the potential to be used for production.

Signed this 8th day of July 2009, in Washington, DC.

Dave White,

Vice President, Commodity Credit Corporation and Chief, Natural Resources Conservation Service.

[FR Doc. E9-16705 Filed 7-14-09; 8:45 am]

BILLING CODE 3410-16-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0633; Directorate Identifier 2009-CE-037-AD; Amendment 39-15964; AD 2009-15-01]

RIN 2120-AA64

Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company) Model G36 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company) Model G36 airplanes. This AD requires you to inspect for any improper installation and/or chafing of the P60/J60 electrical connector,

associated wiring, and fuel line and, if found, correct the installation and replace damaged parts. This AD results from reports of chafing between the wire harness/connector(s) and fuel line. We are issuing this AD to detect and correct chafing between the wire harness/connector(s) and fuel line. This chafing could lead to fuel leaking into the cockpit and fire in the cockpit if wiring arcs through the fuel line.

DATES: This AD becomes effective on July 27, 2009.

On July 27, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive any comments on this AD by September 14, 2009.

ADDRESSES: Use one of the following addresses to comment on this AD.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this AD, contact Hawker Beechcraft Corporation, *Attn:* Piston Technical Support, P.O. Box 85, Wichita, Kansas 67201; telephone: (800) 429-5372; fax: (316) 676-8745; *E-mail:* tmcd@hawkerbeechcraft.com; *Internet:* <http://www.hawkerbeechcraft.com>.

To view the comments to this AD, go to <http://www.regulations.gov>. The docket number is FAA-2009-0633; Directorate Identifier 2009-CE-037-AD.

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; *telephone:* (316) 946-4153; *fax:* (316) 946-4107.

SUPPLEMENTARY INFORMATION:

Discussion

We received reports of chafing between the fuel line and the P60/J60 connector and wiring. One report indicated arcing from a chafing wire harness burned a hole through the fuel tube. Another report resulted from an inspection finding where the P60/J60 connector directly contacted the fuel line.

During the manufacturing of fuel line part number (P/N) 36-920001-13,

protective insulation tube P/N 106242-6-01300, or other post-manufacturing spiral wrap was not installed or was located improperly, thereby allowing chafing electrical wire/connectors to directly contact the fuel line.

This condition, if not corrected, could result in chafing between the wire harness/connector(s) and fuel line. This chafing could lead to fuel leaking into the cockpit and fire in the cockpit if wiring arcs through the fuel line.

Relevant Service Information

We reviewed Hawker Beechcraft Mandatory Service Bulletin SB 28-3967, dated June 2009. The service information describes procedures for inspecting for any improper installation and/or chafing of the P60/J60 electrical connector, associated wiring, and fuel line and, if found, correcting the installation and replacing damaged parts.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires you to inspect for any improper installation and/or chafing of the P60/J60 electrical connector, associated wiring, and fuel line and, if found, correct the installation and replace damaged parts.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because chafing between the wire harness/connector(s) and fuel line could lead to fuel leaking into the cockpit and fire in the cockpit if wiring arcs through the fuel line. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number “FAA-2009-0633; Directorate Identifier 2009-CE-037-AD” at the beginning of your