

**Farm Service Agency, USDA**

**§ 701.157**

**§ 701.152 Availability of funding.**

Payments under §§ 701.153 through 701.157 are subject to the availability of funds under Public Law 109-148.

[71 FR 30265, May 26, 2006. Redesignated and amended at 75 FR 70088, Nov. 17, 2010]

**§ 701.153 Debris removal and water for livestock.**

Subject to the other eligibility provisions of this part, an ECP participant addressing damage in an eligible county from hurricanes during calendar year 2005 may be allowed up to 90 percent of the participant's actual cost or of the total allowable cost for cleaning up structures such as barns, shade houses and above-ground irrigation facilities, for removing poultry house debris, including carcasses, and for providing water for livestock.

[71 FR 30265, May 26, 2006. Redesignated and amended at 75 FR 70088, 70089, Nov. 17, 2010]

**§§ 701.154 [Reserved]**

**§ 701.155 Nursery.**

(a) Subject to the other eligibility provisions of this part except as provided explicitly in this section, assistance may be made available in an eligible county under this section for the cost of removing nursery debris such as nursery structures, shade houses, and above ground irrigation facilities, where such debris was created in calendar year 2005 by a 2005 hurricane.

(b) Notwithstanding § 701.126, an otherwise eligible ECP participant may be allowed up to 90 percent of the participant's actual cost or of the total allowable cost for losses described in paragraph (a) of this section.

[71 FR 30265, May 26, 2006. Redesignated and amended at 75 FR 70088, 70089, Nov. 17, 2010]

**§ 701.156 Poultry.**

(a) Subject to the other eligibility provisions of this part except as provided explicitly in this section, assistance may be allowed under this section for uninsured losses in calendar year 2005 to a poultry house in an eligible county due to a 2005 hurricane.

(b) Claimants under this section may be allowed an amount up to the lesser of:

(1) The lesser of 50 percent of the participant's actual or the total allowable cost of the reconstruction or repair of a poultry house, or

(2) \$50,000 per poultry house.

(c) The total amount of assistance provided under this section and any indemnities for losses to a poultry house paid to a poultry grower, may not exceed 90 percent of the total costs associated with the reconstruction or repair of a poultry house.

(d) Poultry growers must provide information on insurance payments on their poultry houses. Copies of contracts between growers and poultry integrators may be required.

(e) Assistance under this section is limited to amounts necessary for reconstruction and/or repair of a poultry house to the same size as before the hurricane.

(f) Assistance is limited to poultry houses used to house poultry for commercial enterprises. A commercial poultry enterprise is one with a dedicated structure for poultry and a number of poultry that exceeds actual non-commercial uses of poultry and their products at all times, and from which poultry or related products are actually, and routinely, sold in commercial quantities for food, fiber, or eggs. Unless otherwise approved by FSA, a commercial quantity is a quantity per week that would normally exceed \$100 in sales.

(g) Poultry houses with respect to which claims are made under this section must be reconstructed or repaired to meet current building standards.

[71 FR 30265, May 26, 2006. Redesignated at 75 FR 70088, Nov. 17, 2010]

**§ 701.157 Private non-industrial forest land.**

(a) Subject to the other eligibility provisions of this part except as provided explicitly in this section, assistance made available under this section with respect to private, non-industrial forest land in an eligible county for costs related to reforestation, rehabilitation, and related measures undertaken because of losses in calendar year 2005 caused by a 2005 hurricane. To be eligible, a non-industrial private forest landowner must have suffered a

loss of, or damage to, at least 35 percent of forest acres on commercial forest land of the forest landowner in a designated disaster county due to a 2005 hurricane or related condition. The 35 percent loss shall be determined based on the value of the land before and after the hurricane event.

(b) During the 5-year period beginning on the date of the loss, the eligible private non-industrial forest landowner must:

(1) Reforest the eligible damaged forest acres in accordance with a forest management plan approved by FSA that is appropriate for the forest type where the forest management plan is developed by a person or legal entity with appropriate forestry credentials, as determined by the Deputy Administrator;

(2) Use the best management practices included in the forest management plan; and

(3) Exercise good stewardship on the forest land of the landowner while maintaining the land in a forested state.

(c) Notwithstanding §701.126, an ECP participant shall not receive under this section more than 75 percent of the participant's actual cost or of the total allowable cost of reforestation, rehabilitation, and related measures.

(d) Payments under this section shall not exceed a maximum of \$150 per acre for any acre.

(e) Requests will be prioritized based upon planting tree species best suited to the site as stated in the forest management plan.

[71 FR 30265, May 26, 2006. Redesignated and amended at 75 FR 70088, 70089, Nov. 17, 2010]

### Subpart C—Emergency Forest Restoration Program

SOURCE: 75 FR 70889, Nov. 17, 2010, unless otherwise noted.

#### §§ 701.200—701.202 [Reserved]

#### § 701.203 Scope.

(a) Subject to the availability of funds and only for areas, natural disasters, and time periods for the natural disaster and rehabilitation approved by the Deputy Administrator, FSA will provide financial assistance to owners

of nonindustrial private forest land who carry out emergency measures to restore land damaged by a natural disaster on or after January 1, 2010, as determined by FSA.

(b) The objective of EFRP is to make financial assistance available to eligible participants on eligible land for certain practices to restore nonindustrial private forest land that has been damaged by a natural disaster.

#### § 701.204 Participant eligibility.

(a) To be eligible to participate in EFRP, a person or legal entity must be an owner of nonindustrial private forest land affected by a natural disaster, and must be liable for or have the expense that is the subject of the financial assistance. The owner must be a person or legal entity (including an Indian tribe) with full decision-making authority over the land, as determined by FSA, or with such waivers as may be needed from lenders or others as may be required, to undertake program commitments.

(b) Federal agencies and States, including all agencies and political subdivisions of a State, are ineligible for EFRP.

(c) An application may be denied for any reason.

#### § 701.205 Land eligibility.

(a) For land to be eligible, it must be nonindustrial private forest land and must, as determined by FSA:

(1) Have existing tree cover or have had tree cover immediately before the natural disaster and be suitable for growing trees;

(2) Have damage to natural resources caused by a natural disaster, which occurred on or after January 1, 2010, that, if not treated, would impair or endanger the natural resources on the land and would materially affect future use of the land; and

(3) Be physically located in a county in which EFRP has been implemented.

(b) Land is ineligible for EFRP if FSA determines that the land is any of the following:

(1) Owned or controlled by the United States; or

(2) Owned or controlled by States, including State agencies or political subdivisions of a State.