

§ 1465.33 Equitable relief.

(a) If a participant relied upon the advice or action of any authorized NRCS representative and did not know, or have reason to know, that the action or advice was improper or erroneous, the participant may be eligible for equitable relief under 7 CFR part 635, section 635.3. The financial or technical liability for any action by a participant that was taken based on the advice of an NRCS certified TSP is the responsibility of the certified TSP and will not be assumed by NRCS when NRCS authorizes payment.

(b) If a participant has been found in violation of a provision of the AMA contract or any document incorporated by reference through failure to comply fully with that provision, the participant may be eligible for equitable relief under 7 CFR part 635, section 635.4.

§ 1465.34 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any participant will be made without regard to questions of Title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the United States Government. The regulations governing offsets and withholdings found at 7 CFR part 1403 will be applicable to contract payments.

(b) AMA participants may assign any payments in accordance with 7 CFR part 1404.

§ 1465.35 Misrepresentation and scheme or device.

(a) A participant who is determined to have erroneously represented any fact affecting an AMA determination made in accordance with this part will not be entitled to contract payments and must refund to NRCS all payments plus interest, as determined in accordance with 7 CFR part 1403.

(b) A participant will refund to NRCS all payments, plus interest, as determined by NRCS with respect to all NRCS contracts to which they are a party if they are determined to have knowingly:

(1) Adopted any scheme or device that tends to defeat the purpose of AMA;

(2) Made any fraudulent representation;

(3) Adopted any scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under the program; or

(4) Misrepresented any fact affecting an AMA determination.

(c) Where paragraph (a) or (b) of this section applies, the participant's interest in all contracts will be terminated. In accordance with §1465.25(c), NRCS may determine the producer ineligible for future funding from any NRCS conservation programs.

§ 1465.36 Environmental services credits for conservation improvements.

NRCS recognizes that environmental benefits will be achieved by implementing conservation practices funded through AMA, and that environmental credits may be gained as a result of implementing activities compatible with the purposes of an AMA contract. NRCS asserts no direct or indirect interest on these credits. However, NRCS retains the authority to ensure that operation and maintenance requirements for AMA-funded improvements are met, consistent with §1465.21 and §1465.22. Where activities may impact the land under an AMA contract, participants are highly encouraged to request an operation and maintenance compatibility determination prior to entering into any credit agreements. The AMA conservation program contract may be modified in accordance with policies outlined in §1465.24 provided the modifications meet AMA purposes and are in compliance with this part.

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