

Commodity Credit Corporation, USDA

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§ 1466.31 Compliance with regulatory measures.

Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, permits, or other approvals necessary for the implementation, operation, and maintenance of the conservation practices in keeping with applicable laws and regulations. Participants shall be responsible for compliance with all laws and for all effects or actions resulting from the participant's performance under the contract.

§ 1466.32 Access to operating unit.

Any authorized NRCS representative shall have the right to enter an agricultural operation or tract for the purposes of determining eligibility and for ascertaining the accuracy of any representations related to contract performance. Access shall include the right to provide technical assistance, determine eligibility, inspect any work undertaken under the contract, and collect information necessary to evaluate the conservation practice performance, specified in the contract. The NRCS representative shall make an effort to contact the participant prior to the exercising this provision.

§ 1466.33 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, NRCS may accept the advice or action as meeting program requirements and may grant relief, to the extent it is deemed desirable by NRCS, to provide a fair and equitable treatment because of the good-faith reliance on the part of the participant. The financial or technical liability for any action by a participant that was taken based on the advice of a NRCS certified non-USDA TSP is the responsibility of the certified TSP and will not be assumed by NRCS when NRCS authorizes payment. Where a participant believes that detrimental reliance on the advice or action of a NRCS representative resulted in an ineligibility or program violation, but the participant believes that a good faith effort to comply was made, the participant may request equitable

relief under § 635.3 in chapter VI of this title.

(b) If, during the term of an EQIP contract, a participant has been found in violation of a provision of the EQIP contract, the O&M agreement, or any document incorporated by reference through failure to fully comply with that provision, the participant may be eligible for equitable relief under § 635.4 in chapter VI of this title.

§ 1466.34 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person, joint venture, legal entity or tribe shall 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 U.S. Government. The regulations governing offsets and withholdings found at part 1403 of this chapter shall be applicable to contract payments.

(b) EQIP participants may assign any payments in accordance with part 1404 of this chapter.

§ 1466.35 Misrepresentation and scheme or device.

(a) A person, joint venture, legal entity or tribe that is determined to have erroneously represented any fact affecting a program determination made in accordance with this Part shall not be entitled to contract payments and must refund to NRCS all payments, plus interest determined in accordance with part 1403 of this chapter.

(b) A producer who is determined to have knowingly:

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

(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 a program determination, shall refund to NRCS all payments, plus interest determined in accordance with 7 CFR

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1403, received by such producer with respect to all contracts. The producer's interest in all contracts shall be terminated.

(c) In accordance with §1466.26(e), NRCS may determine the producer ineligible for future conservation programs funding.

§ 1466.36 Environmental credits for conservation improvements.

NRCS recognizes that environmental benefits will be achieved by implementing conservation practices funded through EQIP, and environmental credits may be gained as a result of implementing activities compatible with the purposes of an EQIP contract. NRCS asserts no direct or indirect interest on these credits. However, NRCS retains the authority to ensure that operation and maintenance (O&M) requirements for EQIP-funded improvements are met, consistent with §§1466.21 and 1466.22. Where activities may impact the land under an EQIP contract, participants are highly encouraged to request an O&M compatibility determination from NRCS prior to entering into any credit agreements.

PART 1467—WETLANDS RESERVE PROGRAM

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AUTHORITY: 16 U.S.C. 3837 *et seq.*

7 CFR Ch. XIV (1–1–11 Edition)

SOURCE: 74 FR 2328, Jan. 15, 2009, unless otherwise noted.

§ 1467.1 Applicability.

(a) The regulations in this part set forth the policies, procedures, and requirements for the Wetlands Reserve Program (WRP) as administered by the Natural Resources Conservation Service (NRCS) for program implementation.

(b) The Chief, NRCS, may implement WRP in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 1467.2 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Chief.

(b) The Chief is authorized to modify or waive a provision of this part if the Chief deems the application of that provision to a particular limited situation to be inappropriate and inconsistent with the environmental and cost-efficiency goals of the WRP. This authority cannot be further delegated. The Chief may not modify or waive any provision of this part that is required by applicable law.

(c) The State Conservationist will seek advice from the State Technical Committee on the development of the geographic area rate caps of compensation for an easement, a priority ranking process, and related policy matters.

(d) NRCS may delegate at any time easement management, monitoring, and enforcement responsibilities to other Federal or State agencies that have the appropriate authority, expertise, and technical and financial resources, as determined by NRCS to carry out such delegated responsibilities.

(e) NRCS may enter into cooperative agreements with Federal or State agencies, conservation districts, and private conservation organizations to assist NRCS with program implementation, including the provision of technical assistance.

(f) NRCS shall consult with the U.S. Department of the Interior's Fish and Wildlife Service (FWS) at the local