

## § 1469.34

performance of conservation practices in the contract. The NRCS representative will make a reasonable effort to contact the participant prior to the exercise of this provision.

### § 1469.34 Performance based on advice or action of representatives of NRCS.

If a participant relied upon the advice or action of any authorized representative of CCC, and did not know or have reason to know that the action or advice was improper or erroneous, the State Conservationist may accept the advice or action as meeting the requirements of CSP. In addition, the State Conservationist may grant relief, to the extent it is deemed desirable by CCC, to provide a fair and equitable treatment because of the good faith reliance on the part of the participant.

### § 1469.35 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, NRCS will make any payment or portion thereof to any participant 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 7 CFR part 1403 are applicable to contract payments.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing assignment of payment found at 7 CFR part 1404.

### § 1469.36 Misrepresentation and scheme or device.

(a) If the Department determines that a participant erroneously represented any fact affecting a CSP determination made in accordance with this part, the participant's conservation stewardship contract will be terminated immediately in accordance with §1469.25(b). The participant will forfeit all rights for future contract payments, and must refund payments received, plus interest, and liquidated damages as described in §1469.25.

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

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

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a CSP determination, must refund to NRCS all payments, plus interest, and liquidated damages as determined in accordance with §1469.25 received by such participant with respect to all contracts. In addition, NRCS will terminate the participant's interest in all conservation stewardship contracts.

(c) If the producer acquires land subsequent to enrollment in CSP, that land is not considered part of the agricultural operation; however, if the land was previously owned or controlled by them before the date of enrollment and after May 13, 2002, then NRCS will conduct an investigation into the activity to see if there was a scheme or device.

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