

## Commodity Credit Corporation, USDA

## § 1469.36

(2) Eligible conservation practices; and,

(3) Other matters of general applicability.

(c) Before a participant can seek judicial review of any action taken under this part, the participant must exhaust all administrative appeal procedures set forth in paragraph (a) of this section, and for purposes of judicial review, no decision will be a final agency action except a decision of the Chief under these procedures.

### § 1469.32 Compliance with regulatory measures.

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

### § 1469.33 Access to agricultural operation.

Any authorized NRCS representative has the right to enter an agricultural operation for the purpose of ascertaining the accuracy of any representations made in a contract or in anticipation of entering a contract, as to the performance of the terms and conditions of the contract. Access includes the right to provide technical assistance, inspect any work undertaken under the contract, and collect information necessary to evaluate the performance of conservation practices in the contract. The NRCS representative will make a reasonable effort to contact the producer 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 re-

quirements 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 producer erroneously represented any fact affecting a CSP determination made in accordance with this part, are not entitled to contract payments and must refund to CCC all payments, plus interest determined in accordance with § 1469.25.

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

(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 determined in accordance with § 1469.25 received by such producer with respect to all contracts. In addition, NRCS will terminate the participant's interest in all CSP 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.

## **PART 1470—APPLE MARKET LOSS ASSISTANCE PAYMENT PROGRAM**

### **Subpart A—Apple Market Loss Payment Program**

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- 1470.217 Refunds; joint and several liability.
- 1470.218 Violations of highly erodible land and wetland conservation provisions.

AUTHORITY: Sec. 811, Pub. L. 106-387, 114 Stat. 1549; Sec. 741, Pub. L. 107-76, 115 Stat. 704; Sec. 102, Pub. L. 107-117, 115 Stat. 2230; Sec. 10105, Pub. L. 107-171, 116 Stat. 489.

SOURCE: 66 FR 13843, Mar. 8, 2001, unless otherwise noted.

### **Subpart A—Apple Market Loss Payment Program**

#### **§ 1470.1 Applicability.**

(a) The regulations in this subpart are applicable to producers of 1998 and 1999 crop of apple production. These regulations set forth the terms and conditions under which the Commodity Credit Corporation (CCC) shall provide payments to apple producers who have applied to participate in the Apple Market Loss Assistance Payment Program in accordance with section 811 of Public Law 106-387. Additional terms and conditions may be set forth in the payment application that must be executed by participants to receive a market loss payment for apples.

(b) Payments shall be available only for apples produced and harvested in the United States.

#### **§ 1470.2 Administration**

(a) The Apple Market Loss Payment Program shall be administered under the general supervision of the Executive Vice President, CCC, or a designee, and shall be carried out in the field by State and county Farm Service Agency committees (State and county committees) and FSA employees.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this subpart.