

## Commodity Credit Corporation, USDA

## § 1467.1

conditions of the contract. Access shall include 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 shall make a reasonable effort to contact the participant prior to the exercise of this provision.

### § 1466.33 Performance based upon advice or action of representatives of NRCS.

If a participant relied upon the advice or action of any authorized representative of NRCS 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 the requirements of the program 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 Technical Service Provider will remain with the certified Technical Service Provider and will not be assumed by NRCS when NRCS authorizes payment.

### § 1466.34 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person 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 7 CFR part 1403 shall be 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.

### § 1466.35 Misrepresentation and scheme or device.

(a) A producer who 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 7 CFR part 1403.

(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; or

(3) Misrepresented any fact affecting a program determination, shall refund to NRCS all payments, plus interest determined in accordance with 7 CFR part 1403, received by such producer with respect to all contracts. The producer's interest in all contracts shall be terminated.

## PART 1467—WETLANDS RESERVE PROGRAM

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

SOURCE: 60 FR 28514, June 1, 1995, unless otherwise noted. Redesignated at 61 FR 42141, Aug. 14, 1996.

### § 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 (Department) for program implementation and processing outstanding and new applications for enrollment

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during calendar year 1995 and thereafter.

(b) The Chief, Department, 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, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

[60 FR 28514, June 1, 1995. Redesignated and amended at 61 FR 42141, 42143, Aug. 14, 1996]

### § 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 which is required by applicable law.

(c) As determined by the Chief and the Administrator of the Farm Service Agency, the Department and the Farm Service Agency will seek agreement in establishing policies, priorities, and guidelines related to the implementation of this part.

(d) The State Conservationist will consult with the State Technical Committee on the development of the rates of compensation for an easement, a priority ranking process, and related policy matters.

(e) The Department may delegate at any time easement management, monitoring, and enforcement responsibilities to other Federal or State agencies.

(f) The Department may enter into cooperative agreements with Federal or State agencies, conservation districts, and private conservation organizations to assist the Department with educational efforts, easement management and monitoring, outreach efforts, and program implementation assistance.

(g) The Department shall consult with the U.S. Fish and Wildlife Service in the implementation of the program and in establishing program policies.

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The Department may consult with the Forest Service, other Federal or State agencies, conservation districts or other organizations in program administration. No determination by the U.S. Fish and Wildlife Service, the Forest Service, Federal or State agency, conservation district, or other organization shall compel the Department to take any action with the Department determines will not serve the purposes of the program established by this part.

(h) The Chief may allocate funds for such purposes related to: special pilot programs for wetland management and monitoring; acquisition of wetland easements with emergency funding; cooperative agreements with other Federal or State agencies for program implementation; coordination of easement enrollment across State boundaries; coordination of the development of conservation plans; or, for other goals of the WRP found in this part. The Department may designate areas as conservation priority areas where environmental concerns are especially pronounced and to assist landowners in meeting nonpoint source pollution requirements and other conservation needs.

[60 FR 28514, June 1, 1995. Redesignated and amended at 61 FR 42141, Aug. 14, 1996]

### § 1467.3 Definitions.

The following definitions shall be applicable to this part:

*Agricultural commodity* means any crop planted and produced by annual tilling of the soil or on an annual basis by one trip planters, or alfalfa and other multi-year grasses and legumes in rotation as approved by the Secretary. Land shall be considered planted to an agricultural commodity during a crop year if, as determined by the Department, an action of the Secretary prevented land from being planted to the commodity during the crop year.

*Chief* means the Chief of the Natural Resources Conservation Service or the person delegated authority to act for the Chief.

*Commenced conversion wetland* means a wetland or converted wetland for which the Farm Service Agency has determined that the wetland manipulation was contracted for, started, or for