

**§ 1469.24**

(6) New practices that were applied with cost-share assistance through other USDA cost-share programs.

**§ 1469.24 Contract modifications and transfers of land.**

(a) Contracts may be modified:

(1) At the request of the participant, if the modification is consistent with the purposes of the conservation security program, or;

(2) As required by the State Conservationist due to changes to the type, size, management, or other aspect of the agricultural operation that would interfere with achieving the purposes of the program.

(b) Participants may request a modification to their contract to change their tier of participation under a conservation stewardship contract once the measures determined necessary by NRCS to meet the next tier level have been established.

(c) Contract transfers are permitted when there is agreement among all parties to the contract and the contract area remains intact.

(1) NRCS must be notified within 60 days of the transfer of interest and the transferee's acceptance of the contract terms and conditions, or the contract will be terminated.

(2) The transferee must be determined by NRCS to be eligible and must assume full responsibility under the contract, including operation and maintenance of those conservation practices and activities already undertaken and to be undertaken as a condition of the contract.

**§ 1469.25 Contract violations and termination.**

(a) If the NRCS determines that a participant is in violation of the terms of a contract, or documents incorporated by reference into the contract, NRCS will give the participant a reasonable time, as determined by the State Conservationist, to correct the violation and comply with the terms of the contract and attachments thereto. If the violation continues, the State Conservationist may terminate the conservation stewardship contract.

(b) Notwithstanding the provisions of paragraph (a) of this section, a contract termination is effective imme-

diately upon a determination by the State Conservationist that the participant has: submitted false information; filed a false claim; engaged in any act for which a finding of ineligibility for payments is permitted under this part; or taken actions NRCS deems to be sufficiently purposeful or negligent to warrant a termination without delay.

(c) If NRCS terminates a contract due to breach of contract, the participant will forfeit all rights for future payments under the contract, and must refund all or part of the payments received, plus interest, and liquidated damages as determined in accordance with part 1403 of this chapter. The State Conservationist may require only partial refund of the payments received if a previously installed conservation practice can function independently, is not affected by the violation or other conservation practices that would have been installed under the contract, and the participant agrees to operate and maintain the installed conservation practice for the life span of the practice.

(d) If NRCS terminates a contract due to breach of contract, or the participant voluntarily terminates the contract before any contractual payments have been made, the participant will forfeit all rights for further payments under the contract, and must pay such liquidated damages as are prescribed in the contract. The State Conservationist has the option to waive the liquidated damages, depending upon the circumstances of the case.

(e) When making any contract termination decisions, the State Conservationist may reduce the amount of money owed by the participant by a proportion which reflects the good faith effort of the participant to comply with the contract, or the hardships beyond the participant's control that have prevented compliance with the contract including natural disasters or events.

(f) The participant may voluntarily terminate a contract, without penalty or repayment, if the State Conservationist determines that the contract terms and conditions have been fully complied with before termination of the contract.

## Commodity Credit Corporation, USDA

## § 1469.35

(g) In carrying out this section, the State Conservationist may consult with the local conservation district.

### Subpart C—General Administration

#### § 1469.30 Fair treatment of tenants and sharecroppers.

Payments received under this part must be divided in the manner specified in the applicable contract or agreement, and NRCS will ensure that potential participants who would have an interest in acreage being offered receive treatment which NRCS deems to be equitable, as determined by the Chief. NRCS may refuse to enter into a contract when there is a disagreement among multiple applicants seeking enrollment as to an applicant's eligibility to participate in the contract as a tenant.

#### § 1469.31 Appeals.

(a) An applicant or a participant may obtain administrative review of an adverse decision under CSP in accordance with parts 11 and 614, Subparts A and C, of this title, except as provided in paragraph (b) of this section.

(b) Participants cannot appeal the following decisions:

- (1) Payment rates, payment limits, and cost-share percentages;
- (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 their 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 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