

§ 635.2

7 CFR Ch. VI (1–1–10 Edition)

§ 635.2 Applicability.

(a) This part is applicable to all covered conservation programs administered by the Natural Resources Conservation Service, except for the Highly Erodible Land and Wetland Conservation provisions of Title XII, subtitles B and C of the Food Security Act of 1985, as amended, (16 U.S.C. 3811 et seq.). Administration of this part shall be under the supervision of the Chief, except that such authority shall not limit the exercise of authority by State Conservationists of the Natural Resources Conservation Service provided in § 635.6.

(b) The equitable relief available under this part does not apply where the action for which relief is requested occurred before May 13, 2002. In such cases, authority that was effective prior to May 13, 2002, shall be applied.

(c) This part does not apply to a conservation program administered by the Farm Service Agency of the United States Department of Agriculture.

§ 635.3 Reliance on incorrect actions or information.

(a) The Chief, or designee, may grant relief by extending benefits or payments in accordance with § 635.5 when any participant that has been determined to be not in compliance with the requirements of a covered NRCS program, and therefore ineligible for a loan, payment, or other benefit under the covered program, if the participant, acting in good faith, relied upon the action or advice of an NRCS employee or representative of the United States Department of Agriculture, to the detriment of the participant.

(b) This section applies only to a participant who relied upon the action of, or information provided by, an NRCS employee, or representative of USDA, and the participant acted, or failed to act, as a result of that action or information. This part does not apply to cases where the participant had sufficient reason to know that the action or information upon which they relied was improper or erroneous or where the participant acted in reliance on their own misunderstanding or misinterpretation of program provisions, notices or information.

§ 635.4 Failure to fully comply.

(a) When a participant fails to fully comply with the terms and conditions of a covered program, the Chief, or designee, may grant relief in accordance with § 635.5 if the participant made a good faith effort to comply fully with the requirements of the covered program.

(b) This section only applies to participants who are determined by the Chief to have made a good faith effort to comply fully with the terms and conditions of the program and rendered substantial performance.

(c) In determining whether a participant acted in good faith and rendered substantial performance under paragraph (b) of this section, the Chief, or designee, shall consider such factors as whether—

(1) Performance of the primary conservation program requirements were completed; or

(2) The actions of the participant resulted in minimal damages or failure that were minor in nature.

§ 635.5 Forms of relief.

(a) The Chief, or designee, may authorize a participant in a covered program to:

(1) Retain loans, payments, or other benefits received under the covered program;

(2) Continue to receive loans, payments, and other benefits under the covered program;

(3) Continue to participate, in whole or in part, under any contract executed under the covered program;

(4) In the case of a conservation program, re-enroll all or part of the land covered by the program; and

(5) Receive such other equitable relief as determined to be appropriate.

(b) As a condition of receiving relief under this part, the participant may be required to remedy their failure to meet the program requirement or mitigate its affects.

§ 635.6 Equitable relief by State Conservationists.

(a) General nature of the authority. Notwithstanding provisions in this part providing supervision and relief authority to other officials, the State