

(iv) Such other information as may be necessary to assist the applicant in meeting the requirements of this section, including the conditions for proof of diversion.

(2) If the Committee determines that it cannot approve an application it shall notify the applicant promptly. The Committee shall state the reason(s) for failing to approve the application, and request the applicant to submit, if practicable, an amended application correcting the deficiencies in the original application.

(3) The Committee shall establish, and give prompt notice to the industry of a final date by which a producer or dehydrator may modify an approved application, including changing the method of diversion or the quantity of prune plums to be diverted: *Provided*, That any such change shall include information on the location or quantity of such diversion and shall be accompanied by a payment of a second deposit fee, calculated pursuant to paragraph (c)(1) or (c)(2), as applicable, of this section, plus a \$2 per ton service charge for any increase in tonnage to be diverted.

(4) If an applicant cancels an approved diversion application prior to diversion, no part of the deposit fee shall be refunded, except upon approval by the Committee following review of all circumstances in the matter.

\* \* \* \* \*

Dated: April 3, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 03-8649 Filed 4-8-03; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1465

RIN 0578-AA31

#### Agricultural Management Assistance Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements section 2501 of the Farm Security and Rural Investment Act of 2002 (the 2002 Act) which amended section 524 of the Federal Crop Insurance Act which permits CCC to fund the Agricultural Management Assistance (AMA) program. This final rule describes how NRCS intends to implement AMA as

authorized by the amendment in the 2002 Act.

**EFFECTIVE DATE:** May 9, 2003.

**ADDRESSES:** This rule may also be accessed via Internet. Users can access the Natural Resources Conservation Service (NRCS) homepage at <http://www.nrcs.usda.gov>; select Farm Bill 2002, and click on AMA Final rule.

**FOR FURTHER INFORMATION CONTACT:**

Dave Mason, Program Manager, Conservation Operations Division, NRCS, P.O. Box 2890, Washington, DC 20013-2890, telephone: (202) 720-1873; fax: (202) 720-4265; e-mail: [dave.mason@usda.gov](mailto:dave.mason@usda.gov), Attention: Agricultural Management Assistance.

**SUPPLEMENTARY INFORMATION:**

#### Discussion of Program

Section 2501 of the Farm Security and Rural Investment Act of 2002 (the 2002 Act) amended section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524) to permit CCC to fund the Agricultural Management Assistance (AMA) program at the amount of \$20,000,000 for each of the fiscal years 2003 through 2007. Section 524(b) of the Federal Crop Insurance Act of 2000, as amended by section 133 of the Agricultural Risk Protection Act of 2000, authorized the AMA program.

As provided by section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524), as amended by the 2002 Act, the funds, facilities, and authorities of the Commodity Credit Corporation (CCC) are available to NRCS for carrying out AMA. (The Chief of the NRCS is vice-president of the CCC.) Accordingly, where NRCS is mentioned in this rule, it also refers to the CCC's funds, facilities, and authorities where applicable.

The Commodity Credit Corporation (CCC) administers the funds under the general supervision of a Vice President of the CCC who is the Chief of the Natural Resources Conservation Service (NRCS). These funds will be used annually for cost share assistance to producers in 15 States in which participation in the Federal Crop Insurance Program is historically low. The 15 States include Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. The cost share assistance will encourage and assist producers in the selected States to adopt natural resources conservation practices and investment strategies that will reduce or mitigate risks to their agricultural enterprises.

NRCS will use an allocation formula to determine the amount of funds that each state will receive that have been weighted to meet National objectives for the AMA conservation program. The formula used to determine allocation of funds to states consists of ranking factors of natural resource concerns. The formula is similar in nature to ones that have been used for other NRCS conservation programs.

However, this formula is primarily used to allocate funds to the states for practices that will mitigate a producer's risk of production through the implementation of resource conservation practices that reduce soil erosion, utilize integrated pest management principles and assist producers in transition to organic farming based operations. Production and marketing diversification is enhanced by utilizing integrated pest management principles by reducing and applying chemicals for production as needed. Producers who elect to eliminate chemical usage by converting to organic farming will be able to provide products to a growing sector of the American population whose daily diet consists partially or totally of organically produced food items. This allows producers to use marketing diversification as a tool to enhance their operations. AMA is targeted to 15 states that have been historically low in participation in programs that provide opportunities for producers to environmentally and financially implement conservation practices and marketing strategies to provide safeguards against the cyclic economic variances of the agricultural economy.

Other practices that producers may elect to implement include the opportunity to construct or improve watershed management or irrigation structures and plant trees to form windbreaks or improve water quality. Based on national program objectives and state priorities and resource concerns, the State Conservationist in conjunction with advice from the State Technical Committee will determine which practices are eligible for program payments. The practices must meet the purposes set out in section 1465.1 of this rule.

The State Conservationist or designated conservationist with advice from the State Technical Committee and using a locally led process will rank and select applications for contracting based on the state-developed ranking criteria and ranking process. The NRCS representative will work with the applicant to collect the necessary information to evaluate the application using the ranking criteria.

**Executive Order 12866**

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), the Office of Management and Budget has determined that this final rule is not a significant regulatory action.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act is not applicable to this rule because NRCS is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

**Environmental Analysis**

NRCS has determined through an Environmental Assessment (EA) for the Agricultural Management Assistance Program that the issuance of this final rule would not have a significant impact on the human environment. Copies of the Environmental Assessment and the Finding of No Significant Impact may be obtained from Dave Mason, Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013-2890.

**Civil Rights Impact Analysis**

NRCS has determined through a Civil Rights Impact Analysis that the issuance of this final rule will not have a significant effect on minorities. Copies of the Civil Rights Impact Analysis and Finding of No Significant Impact may be obtained from Dave Mason, Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013-2890.

**Paperwork Reduction Act**

Section 2702 (b)(1)(A) of the 2002 Act exempts the promulgation of regulations and the administration of the AMA from the requirements of the Paperwork Reduction Act.

**Executive Order 12988**

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this final rule are not retroactive. Furthermore, the provisions of this final rule preempt State and local laws to the extent such laws are inconsistent with this final rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at 7 CFR parts 614, 780 and 11 must be exhausted.

**Unfunded Mandates Reform Act of 1995**

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, NRCS assessed the effects of

this rulemaking action on State, local, and tribal governments, and the public. This action does not compel the expenditure of \$100 million or more by any State, local, or tribal governments, or anyone in the private sector; therefore a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

**Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994**

USDA classified this final rule as "not major" under section 304 of the Department of Agriculture Reorganization Act of 1994, Pub. L. 104-354. Therefore, a risk assessment is not required.

**Discussion of Comments**

NRCS issued a proposed rule with request for comments on August 28, 2002, in the **Federal Register**, Volume 67, Number 167, Pages 55171-55175.

One comment was received during the comment period on the proposed regulation. The commenter stated that they were interested in organizing a meeting with a group of farmers in Illinois. Since the state of Illinois is not eligible for participation in the program and the comment was not directed to any section of the proposed rule, no changes were made to the rule.

**List of Subjects in 7 CFR Part 1465**

Conservation contract, Conservation plan, Conservation practices, Soil and water conservation.

■ Accordingly, Title 7 of the Code of Federal Regulations is amended by adding a new part 1465 to read as follows:

**PART 1465—AGRICULTURAL MANAGEMENT ASSISTANCE****Subpart A—General Provisions**

Sec.

- 1465.1 Purposes and applicability.
- 1465.2 Administration.
- 1465.3 Definitions.
- 1465.4 Program requirements.
- 1465.5 Conservation practices.

**Subpart B—Contracts**

- 1465.20 Applications for participation and selecting applications for contracting.
- 1465.21 Contract requirements.
- 1465.22 Conservation practice operation and maintenance.
- 1465.23 Cost-share payments.
- 1465.24 Contract modification, extension, and transfer of land.
- 1465.25 Contract violations and termination.

**Subpart C—General Administration**

- 1465.30 Appeals.
- 1465.31 Compliance with regulatory measures.

- 1465.32 Access to operating unit.
- 1465.33 Performance based upon advice or action of representatives of NRCS.
- 1465.34 Offsets and assignments.
- 1466.35 Misrepresentation and scheme or device.

**Authority:** 7 U.S.C. 1524(b), 16 U.S.C. 3801.

**Subpart A—General Provisions****§ 1465.1 Purposes and applicability.**

Through the Agricultural Management Assistance (AMA) program, the NRCS provides financial assistance funds annually to producers in 15 statutorily designated states to construct or improve water management structures or irrigation structures; to plant trees to form windbreaks or to improve water quality; and to mitigate risk through production diversification or resource conservation practices, including soil erosion control, integrated pest management, or transition to organic farming. The AMA Program is applicable in Connecticut, Delaware, Maryland, Massachusetts, Maine, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming.

**§ 1465.2 Administration.**

(a) Administration and implementation of the conservation provisions of AMA Program for the CCC is assigned to the Natural Resources Conservation Service (NRCS). The Farm Service Agency (FSA) is responsible for 'person' determinations under § 1465.23(c) and making cost-share payments.

(b) NRCS will:

- (1) Provide overall management and implementation leadership for the AMA Program;

- (2) Establish policies, procedures, priorities, and guidance for implementation;

- (3) Establish cost-share payment limits;

- (4) Determine eligible practices;

- (5) Develop and approve conservation plans and contracts with selected participants;

- (6) Provide technical leadership for implementation, quality assurance, and evaluation of performance; and

- (7) Make funding decisions and determine allocations of AMA funds.

(c) FSA will:

- (1) Determine 'person' and producer eligibility; and

- (2) Make cost-share payments for practices completed.

**§ 1465.3 Definitions.**

The following definitions apply to this part and all documents issued in

accordance with this part, unless specified otherwise:

*Applicant* means an agricultural producer who has requested in writing to participate in the AMA Program. Producers who are members of a joint operation shall be considered one applicant.

*Chief* means the Chief of NRCS, or designee.

*Conservation district* means a political subdivision of a State, Indian tribe, or territory, organized pursuant to the State or territorial soil conservation district law, or tribal law. The subdivision may be a conservation district, soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or similar legally constituted body.

*Conservation plan* means a record of the participant's decisions, and supporting information, for treatment of a unit of land or water, and includes the schedule of operations, activities, and estimated expenditures needed to solve identified natural resource concerns.

*Conservation practice* means a specified treatment, such as a structural or vegetative practice or a land management practice, which is planned and applied according to NRCS standards and specifications.

*Contract* means a legal document that specifies the rights and obligations of any person who has been accepted for participation in the AMA Program.

*Cost-share payment* means the financial assistance from NRCS to the participant to share the cost of installing eligible practices.

*Designated conservationist* means an NRCS employee whom the State conservationist has designated as responsible for administration of the AMA Program.

*Indian tribe* means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special assistance and services provided by the United States to Indians because of their status as Indians.

*Indian trust lands* means real property in which the United States holds title as trustee for an Indian or tribal beneficiary, or a Indian or tribal beneficiary holds title and the United States maintains a trust relationship.

*Life-span* means the minimum time period in which the conservation practices are to be maintained and used for their intended purpose.

*Liquidated damages* means a sum of money stipulated in the contract that the participant agrees to pay if the participant breaches the contract. The sum represents an estimate of the

anticipated or actual harm caused by the breach, and reflects the difficulties of proof of loss and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy.

*Operation and maintenance* means work that is to be performed by the participant to keep the applied conservation practice functioning for the intended purpose during its life span. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail.

*Participant* means a producer who is a party to an AMA contract.

*Producer* means a person who is engaged in agricultural production.

*Secretary* means the Secretary of the United States Department of Agriculture.

*State Conservationist* means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, or the Pacific Basin Area.

*State Technical Committee* means a committee established by the Secretary in a State pursuant to 16 U.S.C. 3861.

*Technical assistance* means the personnel and support resources needed to conduct conservation practice survey, layout, design, installation, and certification; training and providing quality assurance for professional conservationists; and evaluation and assessment of the AMA Program.

*Unit of concern* means a parcel of agricultural land that has natural resource conditions that are of concern to the participant.

#### § 1465.4 Program requirements.

(a) Participation in the AMA Program is voluntary. The participant, in cooperation with the local conservation district, applies for practice installation for the farm or ranching unit of concern. The NRCS provides cost-share payments through contracts to apply needed conservation practices within a time schedule specified in the contract.

(b) The Chief determines the funds available for financial assistance according to the purpose and projected cost for which the financial assistance is provided in a fiscal year. The Chief allocates the funds available to carry out the AMA Program.

(c) To be eligible to participate in the AMA Program, an applicant must:

(1) Be an agricultural producer;

(2) Have control of the land for the life of the proposed contract period, except that:

(i) An exception may be made by the Chief in the case of land allotted by the Bureau of Indian Affairs (BIA), tribal land, or other instances in which the Chief determines that there is sufficient assurance of control; or

(ii) If the applicant is a tenant of the land involved in agricultural production the applicant shall provide NRCS with the written concurrence of the landowner in order to apply an eligible practice(s);

(3) Submit an application form CCC-1200;

(4) Supply information as required by NRCS to determine eligibility for the AMA Program; and

(5) States, political subdivisions, and entities thereof will not be persons eligible for payment. Any cooperative association of producers that markets commodities for producers shall not be considered to be a person eligible for payment.

(d) Land may only be considered for enrollment in the AMA program if NRCS determines that the land is:

(1) Privately owned land;

(2) Publicly owned land where:

(i) The land is under private control for the contract period and is included in the participant's operating unit;

(ii) Conservation practices will contribute to an improvement in the identified natural resource concern; and

(iii) The participant has provided NRCS with written authorization from the government landowner to apply the conservation practices; or

(3) The land is federally recognized Tribal, BIA allotted, or Indian trust land.

#### § 1465.5 Conservation practices.

(a) The State Conservationist, with advice from the State Technical Committee, will determine the conservation practices eligible for AMA Program payments. To be considered eligible conservation practices, the practices must meet the purposes of the AMA as set out in § 1465.1.

(b) The conservation plan includes the schedule of operations, activities, and estimated expenditures of the practices needed to solve identified natural resource concerns.

#### Subpart B—Contracts

##### § 1465.20 Applications for participation and selecting applications for contracting.

(a) Any producer who has eligible land may submit an application for participation in the AMA Program at a USDA service center. Producers who are members of a joint operation shall file

a single application for the joint operation.

(b) NRCS will accept applications throughout the year. The State Conservationist will distribute information on the availability of assistance and the state-specific goals. Information will be provided that explains the process to request assistance.

(c) The State Conservationist, with advice from the State Technical Committee, will develop ranking criteria and a ranking process to select applications, taking into account local and state priorities.

(d) The State Conservationist or designated conservationist with advice from the State Technical Committee and using a locally led process will rank and select applications for contracting based on the state-developed ranking criteria and ranking process.

(e) The State Conservationist or designated conservationist will work with the applicant to collect the information necessary to evaluate the application using the ranking criteria.

#### **§ 1465.21 Contract requirements.**

(a) In order for a participant to receive cost-share payments, the participant shall enter into a contract agreeing to implement eligible conservation practices.

(b) An AMA contract will:

(1) Incorporate by reference all portions of a unit applicable to the AMA Program;

(2) Be for a duration of 3 to 10 years;

(3) Incorporate all provisions as required by law or statute, including participant requirements to:

(i) Not conduct any practices on the farm or ranch unit of concern that would tend to defeat the purposes of the contract according to § 1465.25;

(ii) Refund any AMA Program payments received with interest, and forfeit any future payments under the AMA Program, on the violation of a term or condition of the contract, consistent with the provisions of § 1465.25;

(iii) Refund all AMA Program payments received on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees to assume all obligations of the contract, consistent with the provisions of § 1465.24; and

(iv) Supply information as required by NRCS to determine compliance with the contract and requirements of the AMA Program.

(4) Specify the participant's requirements for operation and maintenance of the applied

conservation practices consistent with the provisions of § 1465.22; and

(5) Any other provision determined necessary or appropriate by NRCS.

(c) The participant must apply the practice(s) according to the schedule set out in the contract or conservation plan.

#### **§ 1465.22 Conservation practice operation and maintenance.**

The contract will incorporate the operation and maintenance of the conservation practice(s) applied under the contract. The participant must operate and maintain the conservation practice(s) for its intended purpose for the life span of the conservation practice, as identified in the contract or conservation plan, as determined by NRCS. NRCS may periodically inspect the conservation practices during the life span of the practices as specified in the contract to ensure that operation and maintenance is occurring.

#### **§ 1465.23 Cost-share payments.**

(a)(1) The Federal share of cost-share payments to a participant will be 75 percent of the actual cost of an eligible practice. In no instance shall the total financial contributions for an eligible practice from all public and private entity sources exceed 100 percent of the actual cost of the practice.

(2) Participants may contribute their portion of the costs of practices through in-kind contributions, including labor and materials, providing the materials contributed meet the NRCS standards and specifications for the practice being installed.

(3) Cost-share payments will not be made to a participant who has applied or initiated the application of a conservation practice prior to approval of the contract.

(b) The total amount of cost-share payments paid to a person under this part may not exceed \$50,000 for any fiscal year.

(c) For purposes of applying the payment limitations provided for in this section, NRCS will use the provisions in 7 CFR part 1400 related to the definition of a "person" and the limitation of payments, except that:

(i) The provisions in part 1400, subpart C for determining whether persons are actively engaged in farming, subpart E for limiting payments to certain cash rent tenants, and subpart F as the provisions apply to determining whether foreign persons are eligible for payment, will not apply.

(ii) With respect to land under an AMA Program contract which is inherited during the contract period, the \$50,000 fiscal year limitation will not apply to the extent that the payments

from any contracts on the inherited land cause an heir, who was party to an AMA Program contract on other lands prior to the inheritance, to exceed the annual limit.

(iii) With regard to contracts on tribal land, Indian trust land, or BIA allotted land, payments exceeding one limitation may be made to the tribal venture if an official of the BIA or tribal official certifies in writing that no one person directly or indirectly will receive more than the limitation.

(iv) The status of an individual or entity on the date of the application shall be the basis on which the determination of the number of persons involved in the farming operation is made.

(d) The participant and NRCS must certify that a conservation practice is completed in accordance with the contract before NRCS will approve the payment of any cost-share payment.

#### **§ 1465.24 Contract modification, extension, and transfer of land.**

(a) The participant and NRCS may modify a contract if the participant and NRCS agree to the contract modification.

(b) Contracts that run less than ten years may be extended for up to the 10-year limit in order for the participant to complete the practices scheduled in the contract, if such extension is requested by the participant before the contract expires.

(c) The parties may mutually agree to transfer a contract to a new participant. The transferee must be determined by NRCS to be eligible to participate in the AMA Program and shall assume full responsibility under the contract, including operation and maintenance of those conservation practices already installed and to be installed as a condition of the contract.

(d) NRCS may require a participant to refund all or a portion of any assistance earned under the AMA Program if the participant sells or loses control of the land under an AMA Program contract and the new owner or controller is not eligible to participate in the AMA Program or refuses to assume responsibility under the contract.

#### **§ 1465.25 Contract violations and termination.**

(a)(1) If 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 a

participant continues in violation, the State Conservationist may terminate the AMA Program contract.

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, a contract termination shall be effective immediately upon a determination by the State Conservationist that the participant has submitted false information or filed a false claim, or engaged in any act for which a finding of ineligibility for payments is permitted under the provisions of § 1465.35, or in a case in which the actions of the party involved are deemed to be sufficiently purposeful or negligent to warrant a termination without delay.

(b)(1) If NRCS terminates a contract, the participant shall forfeit all rights for future payments under the contract and shall refund all or part of the payments received, plus interest determined in accordance with part 1403 of this chapter. The State Conservationist has the option of requiring only partial refund of the payments received if the State Conservationist determines that 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.

(2) 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 shall forfeit all rights for further payments under the contract and shall pay such liquidated damages as are prescribed in the contract. The State Conservationist will have the option to waive the liquidated damages depending upon the circumstances of the case.

(3) When making all contract termination decisions, NRCS 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.

(4) The participant may voluntarily terminate a contract if NRCS agrees based on NRCS's determination that termination is in the public interest.

(5) In carrying out NRCS's role in this section, NRCS may consult with the local conservation district.

### Subpart C—General Administration

#### § 1465.30 Appeals.

(a) A participant may obtain administrative review of an adverse

decision under the AMA Program in accordance with parts 11 and 614 of this title, except as provided in paragraph (b) of this section.

(b) The following decisions are not appealable:

- (1) Payment rates, payment limits, and cost-share percentages;
- (2) Funding allocations;
- (3) Eligible conservation practices; and
- (4) Other matters of general applicability, including:
  - (i) Technical standards and formulas;
  - (ii) Denial of assistance due to lack of funds or authority; or
  - (iii) Science-based formulas and criteria.

#### § 1465.31 Compliance with regulatory measures.

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

#### § 1465.32 Access to operating unit.

Any authorized NRCS representative shall have the right to enter an operating unit or tract 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 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 will make a reasonable effort to contact the participant prior to the exercise of this provision.

#### § 1465.33 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, the State Conservationist may accept the advice or action as meeting the requirements of the AMA 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.

#### § 1465.34 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 United States Government. The regulations governing offsets and withholdings found in part 1403 of this chapter 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 part 1404 of this chapter.

#### § 1465.35 Misrepresentation and scheme or device.

(a) A producer who is determined to have erroneously represented any fact affecting an AMA 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 part 1403 of this chapter.

(b) A producer's interest in all contracts shall be terminated, and the producer shall refund to NRCS all payments, plus interest determined in accordance with part 1403 of this chapter, received by such producer with respect to all contracts if it is determined that the producer knowingly:

- (1) Adopted any scheme or device that tends to defeat the purpose of the AMA Program;
- (2) Made any fraudulent representation; or
- (3) Misrepresented any fact affecting an AMA Program determination.

Signed in Washington, DC, on March 28, 2003.

**Bruce I. Knight,**

*Vice President, Commodity Credit Corporation, Chief, Natural Resources Conservation Service.*

[FR Doc. 03-8452 Filed 4-8-03; 8:45 am]

**BILLING CODE 3410-16-P**