

in matters of general applicability, such as payment rates, payment limits, and cost-share percentages, the designation of identified priority natural resource concerns, and eligible conservation practices are not subject to appeal.

§ 1466.31 Compliance with regulatory measures.

Participants who carry out conservation practices shall 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 shall be responsible for compliance with all laws and for all effects or actions resulting from the participant's performance under the contract.

§ 1466.32 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 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.

Signed in Washington, DC on May 15, 2003.

Bruce I. Knight,

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

[FR Doc. 03-13024 Filed 5-29-03; 8:45 am]

BILLING CODE 3410-10-P

**NATIONAL CREDIT UNION
ADMINISTRATION**

12 CFR Part 709

**Involuntary Liquidation of Federal
Credit Unions and Adjudication of
Creditor Claims Involving Federally
Insured Credit Unions in Liquidation**

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration (NCUA) is issuing a final rule amending its involuntary liquidation regulation to designate swap agreements (swaps) as qualified financial contracts (QFCs). Treatment of swaps as QFCs will limit swap

counterparty exposure when a federally-insured credit union is placed into involuntary liquidation or a conservatorship and thereby encourage entities to engage in swaps with federally-insured credit unions. Treatment of swaps as QFCs will also help preserve market stability.

EFFECTIVE DATES: This rule is effective June 30, 2003.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: Paul Peterson, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518-6555.

SUPPLEMENTARY INFORMATION:

A. Background

On February 20, 2003, NCUA issued a proposed rule that would add § 709.13 to NCUA's involuntary liquidation regulation to designate swaps as QFCs. 68 FR 8860, February 26, 2003; 12 CFR part 709.

As discussed in the preamble to the proposed rule, section 207 of the Federal Credit Union Act (FCU Act) contains provisions concerning the treatment of QFCs in liquidation or conservatorship. 12 U.S.C. 1787(c)(3), (8). Generally, these QFC provisions enable a QFC counterparty to exercise its contractual rights to terminate and net QFCs and protect itself against the selective assumption of QFCs by a liquidating agent or conservator. QFC treatment limits counterparty exposure and preserves market stability when a credit union with QFCs enters liquidation or conservatorship.

Section 207 of the FCU Act also provides that "the term 'qualified financial contract' means any securities contract, forward contract, repurchase agreement, and any similar agreement that the [NCUA] Board determines by regulation to be a qualified financial contract for purposes of this paragraph." 12 U.S.C. 1787(c)(8)(D)(i). The Board has determined that swaps are similar to those agreements enumerated in the FCU Act's definition and should be recognized as QFCs. *See* H.R. Rep. No. 101-484 at 1 (recognizing that swaps are "similar" to forward contracts, securities contracts, and repurchase agreements), to accompany Pub. L. 101-311 (Bankruptcy: Swap Agreements and Forward Contracts), *reprinted in* 1990 U.S.C.C.A.N. 223. This Board determination that swaps receive QFC treatment will provide greater certainty about the treatment of swaps if a federally-insured credit union is placed into involuntary liquidation or a conservatorship and will encourage