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that such agreement is not in conformity with the regulations as the result of a misunderstanding of the program procedures by a signatory to the agreement, a modification of the agreement may be made by mutual agreement. If persons who are currently eligible to execute the corrected agreement are unwilling to do so, the agreement shall be terminated and all payments paid or payable under the agreement shall be forfeited or refunded, except as may be allowed by the Deputy Administrator in accordance with the provisions of § 752.25.

### § 752.25 Performance based upon advice or action of county or State committee.

The provisions of part 790 of this chapter, as amended, relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this program.

### § 752.26 Setoffs and withholdings.

The regulations issued by the Secretary governing setoffs and withholdings, part 13 of this title, as amended, shall be applicable to this program.

### § 752.27 Debt collection.

Any debts arising under this program are governed with respect to their collection by the Federal Claims Collection Act of 1966 (31 U.S.C. 3701) and the regulations found at chapter II of 4 CFR.

### § 752.28 Appeals.

Any person may obtain review of determinations affecting participation in this program in accordance with part 614 of this title.

[60 FR 67316, Dec. 29, 1995]

### § 752.29 Payments not subject to claims.

Any payments due any person shall be determined and allowed without regard to State law and without regard to any claim or lien against any crop, or proceeds thereof, which may be asserted by any creditor, except as provided in § 752.26.

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### § 752.30 Prohibition against payments.

The regulations in part 796 of this chapter prohibiting the making of payments to program participants who harvest or knowingly permit to be harvested for illegal use marijuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them are applicable to this program.

### § 752.31 Delegation of authority.

No delegation herein to a State or county committee shall preclude the Administrator, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

### § 752.32 Paperwork Reduction Act assigned numbers.

The Office of Management and Budget has approved the information collection requirements contained in these Regulations (§§ 752.8, 752.10 and 752.13) under the provisions of 44 U.S.C. Chapter 35 and OMB number 0560-0062 has been assigned.

## PART 755—REGIONAL PROGRAMS

### Subpart—Appalachian Land Stabilization and Conservation Program

#### Sec.

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AUTHORITY: Sec. 208, 79 Stat. 5, 12; 40 U.S.C. App. 1, 2, 203.

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SOURCE: 30 FR 8669, July 9, 1965, unless otherwise noted.

### Subpart—Appalachian Land Stabilization and Conservation Program

#### § 755.1 Definitions.

As used in this subpart the following terms shall have the following meanings:

(a) *Act* means the Appalachian Regional Development Act of 1965.

(b) *Appalachian Region or the Region* means that area of the Eastern United States consisting of the following counties (including any political subdivision located within such area):

In Alabama, the counties of Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, De Kalb, Elmore, Etowah, Fayette, Franklin, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Pickens, Randolph, Saint Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston;

In Georgia, the counties of Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Dade, Dawson, Douglas, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Heard, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield;

In Kentucky, the counties of Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Elliott, Estill, Fleming, Floyd, Garrard, Green, Greenup, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Monroe, Montgomery, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe;

In Maryland, the counties of Allegany, Garrett, and Washington;

In Mississippi, the counties of Alcorn, Benton, Chickasaw, Choctaw, Clay, Itawamba, Kemper, Lee, Lowndes, Marshall, Monroe, Noxubee, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, Webster, and Winston;

In New York, the counties of Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Schuyler, Steuben, Tioga, and Tompkins;

In North Carolina, the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Davie, Forsyth, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitch-

ell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey;

In Ohio, the counties of Adams, Athens, Belmont, Brown, Carroll, Clermont, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Tuscarawas, Vinton, and Washington;

In Pennsylvania, the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lawrence, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, and Wyoming;

In South Carolina, the counties of Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg;

In Tennessee, the counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Claiborne, Clay, Cocke, Coffee, Cumberland, DeKalb, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Macon, Marion, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Smith, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White;

In Virginia, the counties of Alleghany, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Highland, Lee, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe;

All the counties of West Virginia.

(c) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Administrator* means the Administrator or Acting Administrator of the Farm Service Agency, United States Department of Agriculture.

(e) *Deputy Administrator* means the Deputy Administrator or Acting Deputy Administrator for State and County Operations, Farm Service Agency, United States Department of Agriculture.

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(f) *Director* means the Director or Acting Director of the Farmer Programs Division, Farm Service Agency, United States Department of Agriculture.

(g) *State* means any one of the States in the Appalachian Region.

(h) *State committee* means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State Committee under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(i) *County* means a political subdivision of a State identified as a county.

(j) *County committee* means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(k) *Operator* means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(l) *Occupier* means any person other than the owner or operator who has an interest as tenant or sharecropper in the acreage covered by the contract.

(m) *Farm* means that area of land defined as a farm under the regulations governing Reconstitution of Farms, Allotments, and Bases, part 719 of this chapter, as amended, or, for purposes of contracts entered into pursuant to §755.20, the land covered by the contract.

(n) *Cropland* means that land considered as cropland under the regulations governing Reconstitution of Farms, Allotments, and Bases, part 719 of this chapter, as amended.

(o) *Contract* means a Cost-Share Contract, Appalachian Land Stabilization and Conservation Program.

(p) *Commission* means the Appalachian Regional Commission which is composed of one Federal member (Federal Cochairman) and one member from each participating State in the Appalachian region.

(q) *Federal Cochairman* means the Federal Cochairman of the Appalachian Regional Commission.

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(r) *State Cochairman* means the State Cochairman of the Appalachian Regional Commission as elected by the State members of the Commission from among their number.

[30 FR 8669, July 9, 1965, as amended by Amdt. 2, 30 FR 14099, Nov. 9, 1965; Amdt. 4, 33 FR 16141, Nov. 5, 1968; Amdt. 5, 35 FR 8442, May 29, 1970]

### §755.2 Purposes and objectives.

The general purposes and objectives of the Appalachian Land Stabilization and Conservation Program are to promote economic growth of the Region and to promote the conservation and development of the Region's soil and water resources. This program is a long-term program designed to carry out the policy of the Act by assisting landowners, operators, or occupiers through contracts providing for land stabilization, erosion and sediment control, reclamation through changes in land use, and the establishment of practices and measures for the conservation and development of the Region's soil, water, woodland, wildlife, and recreation resources.

### §755.3 Geographical applicability.

The Appalachian Land Stabilization and Conservation Program will be limited to the States and counties designated as part of the Appalachian Region as defined in §755.1 of the regulations of this part, and then only in counties or areas specifically approved in the State program developed hereunder.

### §755.4 General.

(a) The Appalachian Land Stabilization and Conservation Program will be administered in the field by State and county committees under the general direction and supervision of the Administrator. Members of county committees are hereby authorized to sign contracts on behalf of the Secretary. State and county committees do not have authority to modify or waive any of the provisions of these regulations, or any amendment, supplement, or revision thereto.

(b) Landowners, operators, and occupiers desiring to share in the accomplishment of the purposes and objectives of the program will be given an

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opportunity to participate in the program in accordance with the provisions of the program as set forth in this subpart. An applicant, as a part of his application for assistance, will file an acceptable conservation and development plan for the acreage to be included in his contract, and the measures specified in the plan must be carried out irrespective of whether cost-sharing is offered. The county committee will determine the practices and extent of such practices to be approved for cost-sharing to assist the applicant in carrying out his acceptable plan. A contract shall be entered into setting forth the extent of the approved assistance. An acceptable conservation and development plan will be a plan developed for the land proposed to be placed under contract, on a form prescribed by the Administrator, with technical planning assistance by technicians of the Soil Conservation Service, except in cases where the proposed treatment involves only a single practice of pasture renovation or timber stand improvement or conversion of less than 10 acres of land to grass or trees and such use does not involve critical areas or unusual costs and the conservation and development plan is acceptable to the county committee. In approving contracts, the county committees shall give preference to needy landowners, operators, and occupiers to the extent that such preference is consistent with the development of land treatment programs in the project area.

(c) Detailed information concerning the program as it applies to an individual farm may be obtained from the county FSA office for the county in which the farm is located or from the State FSA office.

[30 FR 8669, July 9, 1965, as amended by Amdt. 4, 33 FR 16141, Nov. 5, 1968]

### § 755.5 State programs.

(a) The State program shall be developed by the State or a political subdivision thereof in accordance with the regulations contained in this subpart. The Farm Service Agency and other applicable agencies of the Department of Agriculture shall cooperate with the State governmental officials in the development of the program. The chairman of the State committee as the

chairman of the State Agricultural Conservation Program Development Group shall be the point of contact with the State governmental officials. The State Agricultural Conservation Program Development Group, which consists of the State ASC Committee (including the State Director of Extension), the State conservationist of the Soil Conservation Service, and the Forest Service official having jurisdiction over farm forestry in the State, shall consult with organizations and agencies within the State that have conservation interests and responsibilities. Upon request of the Governor of the State, a person selected as a direct representative of the Governor may be designated by the Secretary as an additional member of the ACP Development Group with equal authority with other members of the Group in the development of the State program.

(b) The State program shall include the following provisions: (1) Identification of program objectives and areas in the State where the program will be applicable; (2) the designation of practices for which cost-share assistance is requested for each designated area, including specifications for each proposed practice; and (3) the proposed cost-share rates for each practice.

(c) Minimum specifications which practices must meet to be eligible for Federal cost-sharing shall be set forth in the State program, or be incorporated therein by specific reference to a standard publication or other written document containing such specifications. For practices involving the establishment or improvement of vegetative cover, the specifications shall include, where appropriate, liming fertilization, and seeding rates, eligible seeds and mixtures, seeding dates, requirements for cultural operations and inoculation, and other steps essential to the successful establishment or improvement of the vegetative cover. For mechanical or construction type practices, the specifications shall include, where appropriate, the types and sizes of material, installation or construction requirements, and other steps essential to the proper functioning of the structure. For other practices, the specifications shall include those steps essential to the successful performance

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of the practice. Practice specifications may provide minimum performance requirements which will qualify the practice for cost-sharing and maximum limits of performance which will be eligible for cost-sharing. For practices which authorize Federal cost-sharing for applications of liming materials and commercial fertilizers, the minimum applications and maximum applications on which cost-sharing is authorized shall be determined on the basis of a current soil test: *Provided, however,* That if available facilities are not adequate to permit the desired use of soil tests under the program, an alternative basis for determination by the county committee of such application shall be authorized to the extent necessary.

(d) The following practices and uses are authorized:

(1) Establishment of permanent sod waterways to dispose of excess water without causing erosion.

(2) Establishment of a permanent vegetative cover for soil protection or as a needed land use adjustment.

(3) Constructing terraces to detain or control the flow of water and check soil erosion.

(4) Constructing diversion terraces, ditches, or dikes to intercept runoff and divert excess water to protected outlets.

(5) Constructing erosion control, detention, or sediment retention dams, pits, or ponds to prevent or heal gullyng or to retard or reduce runoff of water.

(6) Constructing channel lining, chutes, drop spillways, pipe drops, drop inlets, or similar structures for the protection of outlets and water channels that dispose of excess water.

(7) Streambank or shore protection, channel clearance, enlargement or realignment, or construction of floodways, levees, or dikes, to prevent erosion or flood damage to farmland.

(8) Establishment of a stand of trees or shrubs to prevent erosion.

(9) Establishment of a stand of forest trees or shrubs on farmland for purposes other than the prevention of erosion.

(10) Improvement of a stand of forest trees.

(11) Establishment of contour strip-cropping to protect soil from erosion.

(12) Constructing or sealing dams, pits, or ponds as a means of protecting vegetative cover or to make practicable the utilization of the land for vegetative cover.

(13) Developing springs or seeps for livestock water as a means of protecting vegetative cover or to make practicable the utilization of the land for vegetative cover.

(14) Controlling competitive shrubs to permit growth of adequate desirable vegetative cover.

(15) Improvement of an established vegetative cover for soil or watershed protection.

(16) Treatment of farmland to permit the use of legumes and grasses for soil improvement and protection.

(17) Construction of water facilities for wildlife habitat or protection.

(18) Establishment of vegetative cover to provide habitat, food, or shelter for wildlife.

(19) Conservation practices to develop recreation resources—establishment of picnic and sports area; establishment of camping and nature recreation areas; establishment of hunting and shooting preserve area; establishment of fishing area; establishment of summer water sports area; establishment of winter sports area.

(20) Other practices not covered above which are determined to be needed to accomplish the purpose of the program.

(e) The Soil Conservation Service shall have the same technical responsibility for Appalachian Land Stabilization and Conservation Program practices as it has for the same or similar Agricultural Conservation Program Practices including applicable components of approved recreation practices. The Forest Service is responsible for the technical phases of forestry practices.

(f) Each proposed State program shall be submitted to the Commission by the member thereof representing such State. The estimated amount of funds needed to accomplish the objectives of such program shall be stated in the submission of the proposed program to the Commission. If approved by the Commission, the proposed State

program shall be submitted to the Secretary by the Federal Cochairman. Responsibility is assigned to the Farmer Programs Division, FSA for review and recommendation for approval or disapproval by the Secretary.

(g) Copies of bulletins setting forth the State program as approved by the Secretary shall be available in the office of the county committee.

[30 FR 8669, July 9, 1965, as amended by Amdt. 2, 30 FR 14099, Nov. 9, 1965]

#### § 755.6 Cost-share contract.

(a) *Filing requests.* (1) Landowners, operators, or occupiers in eligible counties shall be furnished information with respect to the program and afforded an opportunity to request a cost-share contract covering those practices which would accomplish the objectives of the program on the farm.

(2) The request shall be on a form and in accordance with instructions prescribed by the Administrator.

(b) *Entering into a contract.* (1) The county committee is authorized to approve the contract on behalf of the Secretary.

(2) The contract must be signed by the owner of the land on which cost-share payments are provided under the contract and by the operator of the farm. The contract shall also be signed by any occupiers who will share in payments in one or more years of the contract period.

(3) There shall be only one contract for a farm.

(4) The final date for signing the contract shall be the date announced by the Administrator.

(c) *Contract period.* (1) The period to be covered by a contract shall be not less than 3 years or longer than 10 years as agreed to by the contract signers and the county committee.

(2) The first year of the contract period shall begin on the date of the approval of the contract and shall end on December 31 of such year. Each subsequent year of the contract period shall be on a calendar year basis.

#### § 755.7 Cost-share payments.

(a) Subject to the conditions and limitations in this subpart, cost-sharing may be authorized for practices needed during the period of the contract to

conserve and develop soil, water, woodland, wildlife, and recreation resources. Payment of the cost-shares shall be made only upon application submitted on a form prescribed by the Administrator. Practices required to be established under the contract which are started after a request for a contract is filed shall be considered as started during the contract period.

(b) Cost-share rates shall not exceed 80 per centum of the average cost of carrying out the land treatment measures or such lower rate as the county committee determines will accomplish the objectives of the program. As a further limitation, cost-sharing may not be authorized in excess of a total amount computed by multiplying the number of acres designated under contract times \$50, unless a representative of the State committee approves an amount in excess of this limitation on the basis that the income potential and benefits derived from expenditures of the additional money warrant the higher limit.

(c) Cost-sharing shall not be approved for more than 50 acres per farm.

(d) The total acreage with respect to which any landowner, operator, or occupier receives cost-sharing payments shall not exceed 50 acres under all contracts in which he has an interest.

(e) Cost-sharing for the practices or components thereof contained in the approved State program is conditioned upon the establishment, maintenance, and performance of the practices in accordance with all applicable specifications and program provisions. The county committee shall specify on the practice approval the date by which the practice must be completed. Subject to the availability of funds, cost-sharing may be authorized for the restoration or replacement of any needed conservation measure if during the contract period the original conservation use is destroyed or rendered unsuitable through no fault of the contract signers.

(f) In addition to the provisions contained in this subpart, cost-sharing payments shall also be subject to the following regulations of the Agricultural Conservation Program (7 CFR 701.1-701.93, as amended):

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Section 701.24 *Failure to meet minimum requirements,*  
Section 701.25 *Conservation materials and services,*  
Section 701.26 *Practices carried out with aid for ineligible persons,*  
Section 701.27 *Division of Federal cost-share,*  
Section 701.33 *Compliance with regulatory measures,*  
Section 701.36 *Depriving others of Federal cost-sharing,*  
Section 701.38 *Misuse of purchase orders,*  
Section 701.39 *Federal cost-shares not subject to claims,* and  
Section 701.40 *Assignments.*

The Agricultural Conservation Program regulations referred to above shall mean the Agricultural Conservation Program regulations applicable to the year in which the contract is approved.

(g) Cost-share payments shall not be made under the program with respect to land owned by the Federal Government, a State, or a political subdivision thereof.

[30 FR 8669, July 9, 1965, as amended by Amdt. 1, 30 FR 9758, Aug. 5, 1965; Amdt. 4, 33 FR 16141, Nov. 5, 1968]

### § 755.8 Modification of contract.

(a) If the farm is reconstituted in accordance with the regulations governing Reconstitution of Farms, Allotments, and Bases, part 719 of this chapter, as amended, or if there is any change in the land covered by a contract entered into pursuant to § 755.20, because of purchase, sale, change of operation, or otherwise, the contract shall be modified. Such modified contract or contracts shall reflect the changes in the number of acres in any resulting farm, the acreage covered by the contract, interested persons, and practices called for under the original contract. If persons who were not signatories to the original contract are eligible and required to sign such modified contract or contracts but are not willing to become parties to the modified contract or for any other reason a modified contract is not entered into, cost-share payments for practices which have not been carried out shall be forfeited with respect to acreage not continued in the program. In addition, with respect to acreage not continued in the program, cost-share payments paid for practices (or components

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thereof) which have been carried out shall be refunded by the owner of such acreage prior to reconstitution unless the county committee with the approval of the State committee determines that the failure to carry out all of the practices called for by the original contract will not impair the practices which have been carried out and the completed practices will provide conservation benefits consistent with the cost-shares which have been paid. Notwithstanding the foregoing, if control of land was lost through eminent domain proceedings or to an agency having the right of eminent domain, any cost-share payments paid under the contract with respect to such land are not required to be refunded.

(b) Except in cases covered by paragraph (a) of this section, if the ownership or operation of the farm or the land covered by the contract changes in such a manner that the contract no longer contains the signatures of persons required to sign the contract as provided in § 755.6, the contract shall be modified to reflect the new interested persons. If such persons are not willing to become parties to the modified contract, or for any other reason a modified contract is not entered into, cost-share payments shall be forfeited and refunded in accordance with the rules in paragraph (a) of this section.

(c) Upon request of the contract signers and approval of the county committee, a contract may be modified to change or add practices, or to make other changes which are consistent with this subpart, the State program, and the conservation and development plan.

(d) Upon request of the contract signers, a contract which would otherwise be in a noncompliance status at the end of the contract period under the provisions of § 755.10(a) of these regulations may be modified to extend the contract period not to exceed a total period of 10 years if the county committee determines that failure to establish the practices specified in the contract was not the result of the fault or negligence of the contract signers.

[30 FR 8669, July 9, 1965, as amended by Amdt. 5, 35 FR 8442, May 29, 1970]

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### § 755.9 Termination of contracts.

The Deputy Administrator may consent to the termination of a contract in cases where the parties to the contract are unable to comply with the terms of the contract due to conditions beyond their control, in cases where compliance with the terms of the contract would work a severe hardship on the parties to the contract, or in cases where termination of the contract would be in the public interest, provided the parties to the contract refund such part of the cost-share payments made under the contract as the Deputy Administrator determines appropriate.

### § 755.10 Noncompliance.

(a) Failure to establish the practices specified in the contract within the time specified by the county committee shall be a violation of the contract and all payments under the contract shall be forfeited and refunded.

(b) Failure to maintain a practice for the contract period or the normal lifespan of the practice, whichever is shorter, in accordance with good farming practices shall be a violation of the contract and any payment made in connection with such practice shall be refunded unless the practice is restored within the time prescribed by the county committee. The normal lifespan of a practice shall be determined by the county committee.

(c) If the county committee finds that any person has adopted or participated in any practice which tends to defeat the purposes of the program, it may withhold, or require to be refunded, all or any part of cost-share payments paid or payable under the program. It shall be considered a practice defeating the purposes of the program if the contract signers do not make available for public use a recreation resource development for which costs are shared. The regulations governing nondiscrimination in federally assisted programs of the Department of Agriculture, part 15 of this title, shall be applicable to this program.

[30 FR 8669, July 9, 1965, as amended by Amdt. 3, 32 FR 12938, Sept. 12, 1967]

### § 755.11 Signatures.

Signatures to contracts and related forms shall be in conformity with the instructions on signatures and authorizations applicable to the Agricultural Conservation Program.

### § 755.12 Filing of false claims.

The making of a fraudulent representation by a person in the payment documents or otherwise for the purpose of obtaining a payment from the county committee shall render the person liable, aside from any additional liability under criminal and civil frauds statutes, for a refund of the payments received by him with respect to which the fraudulent representation was made.

### § 755.13 Delegation of authority.

No delegation in this subpart to a State or county committee shall preclude the Administrator, or his designee, from determining any question arising under the program or reversing or modifying any determinations made by a State or county committee.

### § 755.14 Reporting performance.

The Operator of the farm, in accordance with instructions issued by the Deputy Administrator, shall report to the county committee on Form ACP-245 the extent of compliance with the terms of the contract.

### § 755.15 Handling exceptional cases.

The Deputy Administrator may allow payment for performance not meeting all program requirements, where not prohibited by statute, if in his judgment such action is needed to permit a proper disposition of the case. Such action may be taken only where the person acted in good faith and in reasonable reliance on any instruction or commitment of any member, or employee of the State or county committee or representatives of other Federal agencies assigned responsibility under the program, in meeting his obligations under the contract and in so doing reasonably accomplished the purposes of the contract. The amount of the payment shall be based on the actual performance and shall not exceed the amount to which the person



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would have been entitled if the performance rendered had met all requirements.

### § 755.16 Access to farms and to farm records.

County committeemen or their authorized representatives, or any authorized representative of the Secretary of Agriculture, shall have such access to farms and to records pertaining thereto as is necessary to make acreage determinations and to determine the extent of compliance with the terms of the contract.

### § 755.17 Preservation of cropland, crop acreage and allotment history.

The cropland, crop acreage, and allotment history applicable to the designated acreage shall be preserved, for any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop, for the period covered by the contract and an equal period thereafter so long as the approved practice is maintained on the land.

### § 755.18 Appeals.

Any person may obtain reconsideration and review of determinations made under this subpart in accordance with the Appeal Regulations, part 780 of this chapter (29 FR 8200), as amended.

### § 755.19 Availability of funds.

The provisions of this program are necessarily subject to such legislation as the Congress of the United States may hereafter enact; the payments provided for in this subpart are contingent upon such appropriations as the Congress has or may hereafter provide for such purpose, and the amount of such payments must necessarily be within the limits finally determined by such appropriations.

### § 755.20 Rural community development projects.

(a) Notwithstanding any other provision of this subpart, the county committee, in accordance with instructions issued by the Deputy Administrator, may enter into a contract with a State, county, city, town, or subdivision

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thereof, or a group acting for such a body, which owns, operates, or occupies land in the Appalachian Region. The contracts approved under this section shall be for projects which promote rural community development and conservation of the soil and water resources of the region.

(b) Cost-sharing approved under this section shall not exceed 80 per centum of the cost of carrying out the approved land uses and conservation treatment on 50 acres of land occupied by such owner, operator, or occupier.

[35 FR 8442, May 29, 1970]

## PART 759—SMALL HOG OPERATION PAYMENT PROGRAM

Sec.

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AUTHORITY: 7 U.S.C. 612c.

SOURCE: 64 FR 6496, Feb. 10, 1999, unless otherwise noted. Redesignated at 64 FR 62565, Nov. 17, 1999.

### § 759.1 Applicability.

This part establishes the Small Hog Operations Program. The purpose of this program is to provide benefits to hog operations under clause (3) of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) in order to reestablish their purchasing power in connection with the normal production of hogs for domestic consumption.

### § 759.2 Administration.

(a) This part shall be administered by the Farm Service Agency (FSA) under the general direction and supervision of the Deputy Administrator for Farm Programs, FSA. The program shall be carried out in the field by FSA State and county committees (State and county committees).