

§ 1412.55

crop (for example, cash, pounds, or bushels per acre).

(2) If a lease contains provisions that require the payment of rent on the basis of the amount of crop produced or the proceeds derived from the crop, or the interest such producer would have had if the crop had been produced, or combination thereof, such agreement will be considered to be a share lease.

(3) If a lease provides for the greater of a determinable guaranteed amount or determinable share of the crop or crop proceeds, such agreement will be considered a share lease.

(4) If the lease is a cash lease, the landlord is not eligible for direct or counter-cyclical payments. The leasing of grazing or haying privileges is not considered cash leasing.

(f) For the 2009 through 2012 crop years:

(1) A lease will be considered to be a cash lease if the lease provides for only a guaranteed cash payment for a specified amount, or a fixed quantity of the crop (for example, cash, pounds, or bushels per acre).

(2) If a lease contains provisions that require the payment of rent on the basis of the amount of crop produced or the proceeds derived from the crop, or the interest such producer would have had if the crop had been produced, or combination thereof, such agreement will be considered to be a share lease.

(3) If a lease provides for the greater of a determinable guaranteed amount or determinable share of the crop or crop proceeds, such agreement will be considered a cash lease.

(4) If the lease is a cash lease, the landlord is not eligible for direct, counter-cyclical, or ACRE program payments. The leasing of grazing or haying privileges is not considered cash leasing.

§ 1412.55 Provisions relating to tenants and sharecroppers.

(a) Neither direct nor counter-cyclical nor ACRE program payments will be made by CCC if:

(1) The landlord or operator has adopted a scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under the program. If any of such con-

7 CFR Ch. XIV (1-1-14 Edition)

ditions occur or are discovered after payments have been made, all or any such part of the payments as the State committee may determine must be refunded to CCC; or

(2) The landlord terminated a lease in violation of state law as determined by a state court.

(b) [Reserved]

Subpart F—Contract Violations and Reduction in Payments

§ 1412.61 Contract violations.

(a) Except as provided in paragraphs (b) and (c) of this section, violations of contract requirements will result in the termination of the contract. Upon such termination, all producers subject to the contract forfeit all rights to receive direct, counter-cyclical, and ACRE program payments on the farm for the contract and must refund all payments received, plus interest, to run from the date of the CCC disbursement, as determined in accordance with part 1403 of this chapter.

(b)(1) If there is a violation of § 1412.47 and CCC determines that a violation is not serious enough to warrant termination of the contract under paragraph (a) of this section, payments may be made to the producers specified on the contract, but in an amount that is reduced by an amount equal to the sum of:

(i) The per-acre market value of the fruits, vegetables, and wild rice, as determined by the State Committee, times the number of acres in violation, plus

(ii) The direct, counter-cyclical, and ACRE program payments for each such acre.

(2) Producers must protect land enrolled in DCP from weeds, including noxious weeds, and erosion, including providing sufficient cover if determined necessary by the county committee. The first violation of this provision will result in a reduction in the direct payments for the farm by an amount equal to three times the cost of maintenance of the acreage, but not to exceed 50 percent of the total direct payments for the farm. The second violation of this provision will result in a reduction in the direct payments for the farm by an amount equal to three

times the cost of maintenance of the acreage, not to exceed the total direct payments for the farm. For the 2009 and subsequent crop years, a third violation of this provision will result in a complete reduction of all payments under the DCP or ACRE program contract.

(c) If there is a violation of § 1412.66 due to an inaccurate report of either acreage or production and CCC determines that the violation was not a knowing and willing falsification or misrepresentation by producers on the contract under paragraph (a) of this section, payments may be made to the producers specified on the contract based on determined acreage and production.

[73 FR 79289, Dec. 29, 2008, as amended at 75 FR 19192, Apr. 14, 2010]

§ 1412.62 Fruit, vegetable, and wild rice acreage reporting violations.

(a)(1) If an acreage report of fruits, vegetables, or wild rice planted on base acreage of a farm enrolled in DCP or the ACRE program is inaccurate but within tolerance as provided in paragraph (b) of this section and CCC determines the producer made a good faith effort to comply with the provisions of this section, the producers must accept a reduction in the direct, counter-cyclical, and ACRE program payments for each such acre.

(2) If an acreage report of fruits, vegetables, or wild rice planted on base acreage of a farm enrolled in DCP is inaccurate and exceeds the tolerance as provided in paragraph (b) of this section, but CCC determines the producer made a good faith effort to comply with the provisions of this section, the producers must accept a reduction in the direct, counter-cyclical, and ACRE program payments for the farm in an amount equal to the sum of:

(i) The direct, counter-cyclical, and ACRE program payments in such year for each such acre, plus

(ii) Twice the average dollar value of the direct payment for the covered commodity and peanut base acres reduced because of the fruit, vegetable, and wild rice plantings on such acre, multiplied by the total number of acres in violation.

(3) The contract will be terminated if an acreage report of fruits, vegetables, or wild rice planted on base acres of a farm enrolled in DCP or ACRE program is inaccurate, and the county committee determines the producer did not make a good faith effort to comply with the provisions of this section. Upon such termination, producers subject to such contract must:

(i) Forfeit all rights to receive direct, counter-cyclical, and ACRE program payments for the farm;

(ii) Refund all direct, counter-cyclical, and ACRE program payments received for the farm under the contract, plus interest as determined in accordance with part 1403 of this chapter; and

(iii) Be determined to be ineligible for all program benefits according to part 718 of this title.

(b) For the purposes of this section, tolerance is the amount by which the determined acreage may differ from the reported acreage and still be considered in compliance with program requirements. Tolerance for fruits, vegetables, and wild rice plantings is 5 percent of the reported fruit, vegetable, and wild rice acreage, not to exceed 50 acres.

§ 1412.63 Contract liability.

All signatories to a DCP or ACRE program contract are jointly and severally liable for contract violations and resulting repayments and penalties.

§ 1412.64 Inaccurate representation, misrepresentation, and scheme or device.

(a) Producers must report and certify program matters accurately. Errors in reporting may impact eligibility or extent of eligibility. Benefits under this part will be based on the most correct information available. Producers are responsible for refunding, with interest from the date of the CCC disbursement, any program benefits that were paid based on incorrect program information.

(b) For those cases in which FSA determines that an inaccurate representation or certification is a misrepresentation or scheme or device, such person will be ineligible to receive DCP or ACRE payments and will have the