

## § 1412.304

(i) The designation of shares was executed; and

(ii) The county committee was provided a copy of the lease applicable for the designated years.

(b) When contract acreage is leased on a share basis, neither the landlord nor the tenant shall receive 100 percent of the contract payment for the farm.

(1) A landowner may receive up to 100 percent of the contract payment if no lease exists with respect to the contract acreage. The leasing of grazing or haying privileges is not considered cash leasing.

(2) [Reserved]

(c) The county committee shall approve a contract for enrollment and approve the division of payment when all of the following apply:

(1) The landowners, tenants and sharecroppers sign the contract and agree to the payment shares shown on the contract;

(2) The county committee determines that the interests of tenants and sharecroppers are being protected; and

(3) That the division of payments is not done in a manner to circumvent the provisions of part 1400 of this chapter.

[61 FR 37575, July 18, 1996, as amended at 62 FR 55152, Oct. 23, 1997; 63 FR 31104, June 8, 1998]

### § 1412.304 Provisions relating to tenants and sharecropper.

(a) Contract payments shall not 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 conditions occur or are discovered after payments have been made, all or any such part of the payments as the State committee may determine shall be refunded to CCC; or

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

(b) Notwithstanding the provisions set forth at §1412.302(c), if the landowners, tenants and sharecroppers on a farm fail to reach an agreement regarding the division of contract payments for a fiscal year, the county

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committee shall make the payment at a later date if all persons eligible to receive a share of the contract payment have executed a contract not later than August 1 of the applicable fiscal year and subsequently agree to the division of contract payment.

[61 FR 37575, July 18, 1996, as amended at 62 FR 55152, Oct. 23, 1997; 63 FR 31104, June 8, 1998]

### Subpart D—Contract Violations and Diminution in Payments

#### § 1412.401 Contract violations.

(a) Except as provided in paragraph (b) of this section, if a producer subject to a contract violates a requirement of the contract specified in §§1412.206(c), 1412.402, 1412.403, and 1412.405, the Deputy Administrator shall terminate the contract with respect to the producer on each farm in which the producer has an interest. Upon such termination, the producer shall forfeit all rights to receive future contract payments on each farm in which the producer has an interest and shall refund all contract payments received by the producer during the period of the violation, plus interest with respect to the contract payments as determined in accordance with part 1403 of this chapter.

(b) If the county committee determines that a violation is not serious enough to warrant termination of the contract under paragraph (a) of this section, the county committee may require the producer subject to the contract either, or both of the following:

(1) Refund to CCC that part of the contract payments received by the producer during the period of the violation, plus interest determined in accordance with part 1403 of this chapter; and

(2) If there is a violation of §1412.206, accept a reduction in the amount of current and future contract payments that is equal to the sum proportionate to the severity of:

(i) Market value of the fruit and vegetables planted on each contract acreage; and

(ii) The contract payment for each such acre.

(c) Producers who do not plant a crop on contract acreage must protect any

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such land from weeds and erosion, including providing sufficient cover if determined necessary by the county committee. The first violation of this provision by a producer will result in a reduction in the producer's payment for the farm by an amount equal to 3 times the cost of maintenance of the acreage, but not to exceed 50 percent of the payment for the farm for that fiscal year. The second violation of this provision will result in a reduction in the payment for the farm by an amount equal to 3 times the cost of maintenance of the acreage, not to exceed the payment for the farm for that fiscal year.

[61 FR 37575, July 18, 1996; 61 FR 49050, Sept. 18, 1996]

### **§ 1412.402 Violations of highly erodible land and wetland conservation provisions.**

The provisions of part 12 of this title, apply to this part.

### **§ 1412.403 Violations regarding controlled substances.**

The provisions of § 718.11 of this title apply to this part.

[61 FR 37575, July 18, 1996; 61 FR 49050, Sept. 18, 1996]

### **§ 1412.404 Contract liability.**

All producers receiving a share of the contract payment are jointly and severally liable for contract violations and resulting repayments.

### **§ 1412.405 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 all payments, plus interest determined in accordance with part 1403 of this chapter.

(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 CCC all payments, plus interest determined in accordance with part 1403

of this chapter received by such producer with respect to all contracts. The producer's interest in all contracts shall be terminated.

### **§ 1412.406 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 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.

### **§ 1412.407 Certification.**

As a condition of eligibility for contract payments, the operator or owner must timely submit a report of fruit and vegetable acreage in accordance with part 718 of this title. If such operator or owner does not report all of the fruits and vegetables planted on contract acreage, the contract shall be terminated with respect to such farm unless the provisions of § 1412.401(b)(1) and (2) are applicable.

[61 FR 37575, July 18, 1996; 61 FR 49050, Sept. 18, 1996]

## **Subpart E—Production Flexibility and Conservation Reserve Programs**

### **§ 1412.501 Timing for enrollment and termination of production flexibility contracts.**

(a) At the beginning of each fiscal year, the Secretary shall allow an eligible producer on a farm with acreage enrolled in a Conservation Reserve Program contract in accordance with parts 704 or 1410 of this title that terminates after August 1, 1996, to enter into or modify an existing production