

**§ 1410.52**

**7 CFR Ch. XIV (1-1-08 Edition)**

subject to a CRP contract, as determined by the Deputy Administrator, such new owner or operator, upon the approval of CCC, may become a participant to a new CRP contract with CCC for the transferred land.

(2) For the transferred land, if the new owner or operator becomes a successor to the existing CRP contract, the new owner or operator shall assume all obligations of the CRP contract of the previous participant.

(3) If the new owner or operator is approved as a successor to a CRP contract with CCC, then, except as otherwise determined appropriate by the Deputy Administrator:

(i) Cost-share payments shall be made to the past or present participant who established the practice; and

(ii) Annual rental payments to be paid during the fiscal year when the land was transferred shall be divided between the new participant and the previous participant in the manner specified in §1410.42.

(b) If a participant transfers all or part of the right and interest in, or right to occupancy of, land subject to a CRP contract and the new owner or operator does not become a successor to such contract within 60 days, or such other time as the Deputy Administrator determines to be appropriate, of such transfer, such contract shall be terminated with respect to the affected portion of such land and the original participant:

(1) Forfeits all rights to any future payments for that acreage;

(2) Shall refund all previous payments received under the contract by the participant or prior participants, plus interest, except as otherwise specified by the Deputy Administrator. The provisions of §1410.32(h) shall apply.

(c) Federal agencies acquiring property, by foreclosure or otherwise, that contains CRP contract acreage cannot be a party to the contract by succession. However, through an addendum to the CRP contract, if the current operator of the property is one of the contract participants, such operator may, as permitted by CCC, continue to receive payments under such contract if:

(1) The property is maintained in accordance with the terms of the contract;

(2) Such operator continues to be the operator of the property; and

(3) Ownership of the property remains with such federal agency.

**§ 1410.52 Violations.**

(a)(1) If a participant fails to carry out the terms and conditions of a CRP contract, CCC may terminate the CRP contract.

(2) If the CRP contract is terminated by CCC in accordance with this paragraph:

(i) The participant shall forfeit all rights to further payments under such contract and refund all payments previously received together, plus interest; and

(ii) Pay liquidated damages to CCC in an amount as specified in the contract.

(b) If the Deputy Administrator determines such failure does not warrant termination of such contract, the Deputy Administrator may authorize relief as the Deputy Administrator deems appropriate.

(c) CCC may reduce a demand for a refund under this section to the extent CCC determines that such relief would be appropriate and will not deter the accomplishment of the goals of the program.

(d) Crop insurance purchase requirements in part 1405 of this chapter apply to contracts executed in accordance with this part.

[68 FR 24835, May 8, 2003, as amended at 69 FR 26763, May 14, 2004]

**§ 1410.53 Executed CRP contract not in conformity with regulations.**

If, after a CRP contract is approved by CCC, it is discovered that such CRP contract is not in conformity with this part, these regulations shall prevail, and CCC may, at its sole discretion, terminate or modify the CRP contract, effective immediately or at a later date as CCC determines appropriate.

**§ 1410.54 Performance based upon advice or action of the Department.**

The provisions of §718.8 of this chapter relating to performance based upon the action or advice of an authorized representative of the Department shall be applicable to this part, and may be considered as a basis to provide relief to persons subject to sanctions under

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this part to the extent that relief is otherwise required by this part.

### § 1410.55 Access to land under contract.

(a) Any representative of the U.S. Department of Agriculture, or designee thereof, shall, for purposes related to this program, be provided by the offeror or participant as the case may be, with access to land that is:

(1) The subject of an application for a contract under this part; or

(2) Under contract or otherwise subject to this part.

(b) For land identified in paragraph (a) of this section, the participant or producer shall provide such representatives with access to examine records for the land to determine land classification, erosion rates, or other purposes and to determine whether it is in compliance with the terms and conditions of the CRP contract.

### § 1410.56 Division of payments and provisions about tenants and shareholders.

(a) Payments received under this part shall be divided as specified in the applicable contract and CCC shall ensure that producers who would have an interest in acreage being offered receive treatment that is equitable, as determined by the Deputy Administrator. CCC may refuse to enter into a contract when there is a disagreement among persons seeking enrollment as to a person's eligibility to participate in the contract as a tenant and there is insufficient evidence to indicate whether the person seeking participation as a tenant does or does not have an interest in the acreage offered for enrollment in the CRP.

(b) CCC may remove an operator or tenant from a CRP contract when:

(1) The operator or tenant requests in writing to be removed from the CRP contract;

(2) The operator or tenant files for bankruptcy and the trustee or debtor in possession fails to affirm the contract, to the extent permitted by applicable bankruptcy laws;

(3) The operator or tenant dies during the contract period and the administrator of the estate fails to succeed to the contract within a period of time de-

termined by the Deputy Administrator; or

(4) A court of competent jurisdiction orders the removal from the CRP contract of the operator or tenant and such order is received by FSA, as determined by the Deputy Administrator.

(c) In addition to paragraph (b) of this section, tenants shall maintain their tenancy throughout the contract period in order to remain on a contract. Tenants who fail to maintain tenancy on the acreage under contract, including failure to comply with applicable State law, may be removed from a contract by CCC. CCC shall assume the tenancy is being maintained unless notified otherwise by a party to contract.

### § 1410.57 Payments not subject to claims.

Subject to part 1403 of this chapter, any cost-share or annual payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any creditor, except agencies of the United States Government.

### § 1410.58 Assignments.

Participants may assign the right to receive such cash payments, in whole or in part, as provided in part 1404 of this chapter.

### § 1410.59 Appeals.

(a) Except as provided in paragraph (b) of this section, a participant or person seeking participation may appeal or request reconsideration of an adverse determination in accordance with the administrative appeal regulations at parts 11 and 780 of this title.

(b) Determinations by NRCS assigned to make such determination for the Deputy Administrator may be appealed in accordance with procedures established under part 614 of this title or otherwise established by NRCS.

### § 1410.60 Scheme or device.

(a) If CCC determines that a person has employed a scheme or device to defeat the purposes of this part, or any part, of any program, payment otherwise due or paid such person during the