

§ 752.13

operator has (1) not afforded the tenants and sharecroppers having an interest in the designated acreage an opportunity to participate in the program, or (2) adopted any device or scheme for the purpose of depriving any tenant or sharecropper of their payment or any other right under the program.

(b) The agreement shall be deemed to be in noncompliance if any of the conditions set forth in paragraph (a) of this section occur after the approval of the agreement.

§ 752.13 Determination of compliance.

(a) Determination of the acreage designated under the agreement shall be made in accordance with part 718 of this chapter, as amended.

(b) A representative of the county or State committee or any authorized representative of the Secretary shall have the right at any reasonable time to enter a farm concerning which representations have been made on any forms filed under the program in order to measure the designated acreage, to examine any records pertaining thereto, and to otherwise determine the accuracy of any representations and the performance of any obligations by the signatories of a WBP agreement.

§ 752.14 Annual payments.

(a) Persons on the farm having an interest in the designated acreage shall be eligible for an annual payment.

(b) The annual per acre payment rates for wetlands and for adjacent land shall be those rates which are recommended by the county and State committee and approved for each county by the Deputy Administrator. If the wetlands are subject to a drainage easement with the United States Department of the Interior or a state governmental entity, the payment rates for such wetlands will be 80 percent of the approved county rates which are applicable to wetlands in the county. A listing of all approved rates shall be available for inspection at the county FSA office.

(c) The payment shall be divided among the owner of the designated acreage and any other person having an interest in such acreage, including tenants and sharecroppers, in the man-

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ner agreed upon by them as representing their respective contributions to compliance with the agreement. The county committee shall refuse to approve an agreement if it determines that the proposed division of payment is not fair and equitable. The annual payment and the division of the payment shall be specified in the agreement.

§ 752.15 Adjustment of annual rates.

(a) The county committee shall reexamine the payment rates with respect to each agreement at the beginning of the fifth year of any ten-year initial or renewal period and before the renewal period expires.

(b) An adjustment in the payment rates shall be made for any initial or renewal period taking into consideration the current land rental rates and crop values in the area. No adjustment shall be made in a payment rate which will result in a reduction of an annual payment rate from the rate which is specified in the initial agreement.

§ 752.16 Refunds or forfeitures for non-compliance.

(a) Except as otherwise provided in paragraph (b) of this section, no payment shall be made to any person for any year with respect to any agreement for which it is determined that for such year:

(1) There has been a failure to maintain the wetland character of the designated acreage and devote the adjacent land to the use specified in the agreement as provided in § 752.7 (a);

(2) There has been a failure to comply with the prohibition against draining, burning, filling, or otherwise using the designated acreage in a manner which would destroy the wetland character of the acreage as provided in § 752.7 (b);

(3) There has been a failure to comply with the prohibition against using the designated acreage as a dumping area for draining other wetlands as provided in § 752.7 (c);

(4) There has been a failure to comply with the prohibition against using the designated acreage as a source of irrigation water or as acreage for a set-aside, land diversion, acreage reduction or other program, or to meet the conserving base acreage requirement for

any other program as provided in § 752.7(d);

(5) There has been a failure to comply with the prohibition against harvesting a crop from or grazing the designated acreage as provided in § 752.7(e);

(6) There has been a failure to comply with the provisions relating to haying the designated acreage during periods of severe drought as provided in § 752.7(f);

(7) There has been a failure to comply with the provisions relating to the harvesting of timber products as provided in § 752.7(g); or

(8) There has been a failure to comply with the provisions relating to tenants and sharecroppers as provided in § 752.12.

(b) The regulations governing the making of payments when there has been a failure to comply fully with the provisions of the program, part 791 of this chapter, are applicable to the WBP.

(c) The agreement shall be terminated in any case in which the failure to comply with the provisions of this part requires a refund or forfeiture of the entire annual payment under the agreement for the year and it is determined that the failure to comply is of such a nature as to warrant termination of the agreement. If an agreement is terminated, the persons signing the agreement shall forfeit all rights to further payments under the agreement and shall refund all payments received under the agreement.

§ 752.17 Actions defeating purposes of program.

If the county committee with the concurrence of the State committee, or the State committee, finds that any person has taken any action which tends to defeat the purposes of the program, all or any part of the annual payment which otherwise would be due under the program may be withheld or be required to be refunded.

§ 752.18 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, in addition to any liability under

applicable Federal criminal and civil fraud statutes, for a refund of any payments received by such person as the result of the fraudulent representation.

§ 752.19 Depriving others of payments.

If the State committee finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation) which deprives any other person of a payment to which such person is otherwise entitled under the program, the State committee may withhold or require a refund of all or any part of the program payment which otherwise would be due to the person who employed such scheme or device.

§ 752.20 Modification of an agreement.

(a) Any reconstitution of farms shall be made in accordance with the regulations governing reconstitution of farms, part 719 of this chapter, as amended.

(b) If the farm is reconstituted because of purchase, sale, change of operation, or otherwise, the agreement shall be modified in accordance with instructions issued by the Deputy Administrator with respect to any reconstituted farm which contains all or any part of the original designated acreage. The modified agreement or agreements shall reflect the changes in the number of acres in any reconstituted farm, the designated acreage, interested persons, and division of payments. If persons who were not signatories to the original agreement are required to execute such modified agreement or agreements in accordance with the provisions of § 752.8, but such persons are not willing to become parties to the modified agreement or for any other reason a modified agreement is not executed, the agreement shall be terminated with respect to the designated acreage which is not continued in the program, and all unearned payments shall be forfeited or refunded to FSA. The annual payment for the year in which a reconstitution occurs shall not be considered earned unless the designated acreage is continued in the program and there is a compliance with the agreement for the full agreement year. The persons on the farm prior to the reconstitution who were signatories to the agreement