FSA
HANDBOOK

Direct and Counter-Cyclical Program and Average Crop Revenue Election for 2009 and Subsequent Crop Years

To access the transmittal page click on the short reference.

For State and County Offices

SHORT REFERENCE

1-DCP
(Revision 3)

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

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Direct and Counter-Cyclical Program and Average Crop Revenue Election for 2009 and Subsequent Crop Years 1-DCP (Revision 3)	Amendment 4

Approved by: Deputy Administrator, Farm Programs

Amendment Transmittal

A Reasons for Amendment

Subparagraphs 175 A and C have been amended to provide that other tenants that are producers on noncropland acres only are not required to sign CCC-509ACRE.

Subparagraph 175 B has been amended to remove the reference of intended uses.

Subparagraph 175 has been amended to clarify policy on the benchmark farm yield.

Subparagraph 176 B has been amended to provide that other tenants that are producers on noncropland acres only are not required to sign CCC-509ACRE.

Subparagraph 176 F has been amended to clarify who can withdraw CCC-509ACRE.

Subparagraph 177 B has been amended to add the following ACRE crops:

- white corn
- soybeans with intended use of grain
- white and yellow corn with intended use of seed.

Paragraph 187 has been amended to:

- add additional policy on choosing ACRE payment acres
- clarify examples
- incorporate CCC-528.

Subparagraph 207 B has been amended to clarify calculating ACRE payments.

Subparagraph 426 B has been amended to add BCAP as an eligible use.

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Part 1 Basic Information

1 Handbook Coverage

A Handbook Purpose

This handbook provides instructions for implementing DCP and ACRE authorized by the Food, Conservation, and Energy Act of 2008, as amended. Included in this handbook are instructions about the following:

- enrolling farms in an annual CCC-509
- eligibility and compliance rules for participating in DCP or ACRE.

B Related Handbooks

Related handbooks include the following:

- 1-APP for appeals
- 1-CM for common provisions
- 2-CM for farm reconstitutions
- 3-CM for procedure to update farm, tract, and crop data through a maintenance application
- 2-CP for acreage reports
- 4-CP for acre-for-acre payment reductions and CCC-509 violations
- 6-CP for HELC and WC provisions
- 7-CP for equitable relief provisions
- 2-DCP (Rev. 1) for automated DCP processes
- 1-FI for issuing payments
- 3-FI for depositing remittances

1 Handbook Coverage (Continued)

B Related Handbooks (Continued)

- 6-FI for accounting controls
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- 2-INFO for availability of information
- 5-LP for commodity inspections
- 2-PL for subsidiary files
- 3-PL for web-based eligibility files
- 4-PL for payment limitations and payment eligibility provisions.

C Sources of Authority

Title I of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246), as amended, provides authority for DCP and the ACRE Program. The regulations are in 7 CFR Part 1412.

D DCP and ACRE Purpose

DCP and ACRE provide producers an income safety net in the form of annual direct payments. DCP also offers assistance through counter-cyclical payments when commodity prices are below certain levels. ACRE protects against crop revenue shortfalls resulting from price and/or production declines at the State and farm levels.

2 Automation

A Automation Process

See 2-DCP (Rev. 1) for the complete automation process.

3 STC Responsibilities

A Responsibility

STC shall ensure that STC representatives follow provisions in this handbook.

B Appeals

STC shall handle appeals according to 1-APP.

C Reviews

STC shall require reviews to ensure that County Offices comply with requirements established by the National and State Offices.

D Additional Reviews

STC's may require additional parameters of review as needed to ensure compliance with program requirements.

4 SED Responsibilities

A Responsibility

SED shall ensure that all County Offices follow provisions in this handbook.

B Reviews

SED shall require reviews to ensure that County Offices comply with requirements established by the National and State Office.

C Publicizing DCP and ACRE Provisions

SED shall ensure that CED's publicize DCP and ACRE provisions according to subparagraph 6 C.

D Equitable Relief Authority

See 7-CP for equitable relief provisions.

5 DD Responsibilities

A Responsibility

DD's shall ensure that COC's and CED's follow provisions in this handbook.

B Reviewing County Office Procedures

DD's shall:

- review County Office procedures to ensure that County Offices comply with requirements established by the State Office
- review all CCC-509's disapproved by COC according to paragraph 353
- provide SED with a written report of all reviews
- review the Base Acreage and Yield Adjustment Report to identify unauthorized base and yield adjustments.

C Printing Base Acreage and Yield Adjustment Report

DD's shall print a current Base Acreage and Yield Adjustment Report according to 3-CM. The Base Acreage and Yield Adjustment Report lists base acreage and payment yield adjustments made on farms during the date range selected for which the report was printed. Each adjustment on the Base Acreage and Yield Adjustment Report includes the following:

- farm number
- tract number
- crop name
- adjustment type
- adjustment reason
- date changed
- farm status.

5 DD Responsibilities (Continued)

D How to Review Adjustments

After preparing the Base Acreage and Yield Adjustment Report, DD's shall review base acreage and yield adjustments according to the following.

Step	Action
1	Review all adjustments not included in the previous review.
2	Verify the following: • adjustments were authorized and approved according to procedure • amount of adjustment is correct • base acreage and/or yield is correct.
3	Verify that the frequency of each type of adjustment is reasonable considering: • type of adjustment • number of the same type of adjustments approved in other County Offices in the district.
4	Verify that the total number of adjustments is reasonable.
5	If an excessive number of adjustments for corrections were made, ensure that the cause of the error is: • recognized • alleviated.
6	Considering the type of adjustment, verify that adjustments were made in a timely manner.
7	Ensure that: • all errors are corrected • procedure is uniformly interpreted.

E When to Review Adjustments

DD's shall review current year base acreage and yield adjustments only once before issuing final payments.

Note: The Base Acreage and Yield Adjustment Report may be run as often as necessary.

6 COC Responsibilities

A Responsibility

COC shall ensure that CED follows provisions in this handbook.

B Redelegation of Authority

COC may redelegate authority to approve CCC-505's, CCC-509's, CCC-509ACRE's to CED, in routine cases. Redelegations of authority to sign for COC shall be in writing.

Note: Routine cases include approval of successor-in-interest cases.

C Providing Information

COC shall ensure that producers receive complete and accurate program information about DCP and the ACRE Program by providing information through the following:

- program leaflets, newsletters, and print media
- meetings
- radio, television, and video.

COC shall ensure that DCP and ACRE Program provisions are publicized timely and that outreach efforts are documented, to include information about the following general provisions and other important items:

- planting flexibility, including whether the county is designated as a double-cropping region

- payment calculations

- limitations and restrictions on FAV and wild rice planting, including acre-for-acre payment reduction and violation provisions

6 COC Responsibilities (Continued)

C Providing Information (Continued)

- signature requirement to enroll resulting farms, following a farm reconstitution

- signature requirements for **all** producers on a farm for designating CCC-509 shares, revising CCC-509 for successions-in-interest, and filing AD-1026, CCC-902's, CCC-926, and any other applicable forms

- consequences of not meeting deadlines

- refunding of any unearned partial counter-cyclical payment when actual market prices exceed the projected market prices used in determining the partial payment rates.

Note: The 2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Exhibit 4) may be used to provide some of the information in this subparagraph.

D Appeals

COC shall:

- handle appeals according to 1-APP
- record and document determinations in the COC minutes.

E Documenting Program Determinations

In a timely manner, COC shall ensure thorough documentation of program determinations in the COC minutes and include the following:

- all factors considered
- justification and rationale of all determinations
- reference to applicable handbook procedures.

7 CED Responsibilities

A Responsibility

CED shall ensure that County Offices follow provisions issued by COC, DD, State Offices, and this handbook.

B Automated Processing

CED shall:

- ensure that all automated processes are completed in a timely manner
- report incorrect software calculations, discrepancies, and problems to SED and State Office Program Specialist, through DD.

C Handbook Procedure

CED shall report to SED and the State Office Program Specialist, through DD, incomplete or incorrect procedures in this handbook.

7 CED Responsibilities (Continued)

D Monitoring Signature Deadlines

CED shall ensure that all pertinent information and program deadlines are publicized according to subparagraph 6 C and copies are maintained in appropriate file.

In addition to publicizing program information, CED's shall ensure that:

- signature deadlines are carefully monitored for reconstituted farms, designating payment shares, and necessary supporting documentation, such as AD-1026, CCC-902's, and CCC-926

  Important: Although it is suggested that County Offices attempt to remind producers of deadlines, failure to provide the additional reminder does not constitute misaction/misinformation.

  Note: As allowed by time and resources, County Offices may attempt to contact applicable producers in advance of critical deadlines by using second reminder letters and/or telephone contacts. Those contacts or attempted contacts, if made, shall be documented.

- Producer Payment Selection Reports are processed, as often as necessary, to ensure that payments are issued timely and according to producer requests.

8 Program Technician Responsibilities

A Responsibility

Program technicians shall follow the provisions in this handbook.

B Reporting to CED

Program technicians shall report the following to CED:

- incorrect software calculations and discrepancies
- incomplete or incorrect procedures in this handbook.

9 Basic Program Information

A Covered Commodities

[7 CFR 1412.3] A covered commodity includes wheat, corn, grain sorghum, barley, oats, upland cotton, long grain rice, medium grain rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, pulse crops, and other oilseeds as determined by the Secretary.

Covered commodities are the crops for which base acres have been established according to statutes and regulations. These crops include the following:

- wheat, corn, barley, and oats
- grain sorghum, including dual purpose varieties that could be harvested as grain
- long grain rice
- medium grain rice
- pulse crops, which include the following:
    - dry peas
    - lentils
    - chickpeas, large
    - chickpeas, small
- soybeans and the following “other” oilseeds:
    - canola
    - crambe
    - flax
    - mustard
    - rapeseed
    - safflower
    - sesame
    - sunflowers, including oil and nonoil varieties

9 Basic Program Information (Continued)

A Covered Commodities (Continued)

- upland cotton.

Note: **Peanuts** are **not** defined as a covered commodity in the statute. However, because the provisions are the same for peanuts as for covered commodities for DCP and ACRE Program purposes, peanuts will be considered as included when referencing a covered commodity. Provisions applicable to covered commodities will be considered to apply to peanuts unless otherwise noted. Occasionally, references will be to both covered commodities and peanuts even though provisions are the same.

B Base Acres

[7 CFR 1412.3] "Base acres" are the number of acres established with respect to a covered commodity and peanuts on a farm pursuant to sections 1101 and 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911) as in effect on September 30, 2007, subject to any adjustment in accordance with subpart B of 7 CFR part 1412.

Base acres may be increased if CRP-1 applicable to the farm expires or is released by the Secretary. The adjustment in the base acres of a crop, if any, will be determined by the Secretary. With some exception for double-cropped acres, total base acres on a farm for all covered commodities and peanuts cannot exceed the amount equal to the currently available DCP cropland minus the amount of that cropland which is any of the following:

- in CRP
- in WRP
- enrolled in a Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

Note: Base acres can only be reduced on CCC-505.

9 Basic Program Information (Continued)

C Payment Yield

[7 CFR 1412.3] Payment yield means:

(1) For peanuts, the yield established pursuant to section 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911) as in effect on September 30, 2007.

(2) For covered commodities, the yield established in accordance with 7 CFR part 1412, subpart C, for a farm for a covered commodity.

(3) For designated oilseeds or pulse crops, the yield established in accordance with 7 CFR part 1412, subpart C, for a farm for a crop of a designed oilseed and pulse crop.

D Definition of Contract Period

The contract period is the compliance period set out below for the contract for the particular program year. The "program year" is designated in item 1 of the contract. Contracts for different program years will be referenced by their program year. Thus, for example, a reference to the "2009 Contract" means the contract for the 2009 program year. The compliance periods for the various program years are as follows:

- for the 2009 Contract, the period that begins on October 1, 2008, and carries through September 30, 2009
- for the 2010 Contract, the period that begins on October 1, 2009, and carries through September 30, 2010
- for the 2011 Contract, the period that begins on October 1, 2010, and carries through September 30, 2011
- for the 2012 Contract, the period that begins on October 1, 2011, and carries through September 30, 2012.

E Enrollment Deadline

[7 CFR 1412.41] Eligible producers must execute and submit a CCC-509 and furnish supportive and necessary contractual documents to the county FSA office where the records for the farm are administratively maintained by June 1 of the fiscal year in which the direct and counter-cyclical payments are requested.

10 Payments and Limitations

A Direct Payment Amounts

Subject to limits otherwise provided for, the direct payment for each covered commodity or peanuts will be computed by multiplying the following:

- 83.3 percent (85 percent in 2012) of the covered commodity's or peanut's base acres, times
- the covered commodity's or peanut's program payment yield, times
- the payment rate for the covered commodity or peanuts, times
- the producer's share of the covered commodity or peanuts.

Note: For farms enrolled in ACRE, direct payments are reduced by 20 percent.

B Advance Direct Payments

CCC will make advance direct payments available to producers who request an advance by multiplying the payment amount determined in subparagraph A times 22 percent for CCC-509's enrolled for the applicable 2009 through 2011 program year. These payments may be made as soon as practical after December 1 of the contract period through September of the contract period. For program year 2012, advance direct payments will **not** be available.

C Refunds of Direct Payments

A producer must refund any payment to CCC which exceeds the amount actually earned under the contract, including the refund of unearned payments for a crop year resulting from another owner or producer assuming an interest in the base acres for the crop year. Interest on such refunds shall be assessed according to 2-DCP (Rev. 1).

Note: Interest only accrues from date of disbursement in cases where COC determines misrepresentation, scheme, or device according to paragraph 335.

10 Payments and Limitations (Continued)

D Final Direct Payments

A final direct payment will be made to producers as soon as practical after October 1 following the contract year.

E Counter-Cyclical Payment Amounts

Counter-cyclical payments are authorized for a covered commodity or peanuts when the effective price for the commodity is less than the target price of the commodity. The effective price for a covered commodity or peanuts is equal to the sum of the following:

- higher of the national average market price received by producers during the 12-month marketing year for the covered commodity or peanuts, as determined by the Secretary, or the national average loan rate for the commodity in 7 CFR Part 1412, as applicable

- direct payment rate in effect for the covered commodity or peanuts according to 7 CFR Part 1412.

The amount of a producer's counter-cyclical payment, if any, for each covered commodity or peanuts will be computed by multiplying the following:

- 85 percent of the covered commodity's or peanut's base acres, times

- payment yield for the covered commodity or peanuts, times

- payment rate for the covered commodity or peanuts, times

- producer's share of the payment for the covered commodity or peanuts as designated on CCC-509.

Note: Counter-cyclical payments are **not** available to farms enrolled in ACRE.

10 Payments and Limitations (Continued)

E Counter-Cyclical Payment Amounts (Continued)

Counter-cyclical payments are **not** available for 2009 crops of canola, crambe, flax, mustard, rapeseed, safflower, sesame, or sunflowers, because the sum of the national loan rate and the direct payment rate for those covered commodities is equal to or greater than the target price. Payments for other eligible oilseeds, if any, shall be as determined by the Secretary.

F Partial Counter-Cyclical Payments

CCC may authorize partial counter-cyclical payments for a covered commodity or peanuts, if before the end of the applicable 12-month marketing year for the commodity, the Secretary estimates that counter-cyclical payments will be required. In this event, producers may request a 40 percent partial payment of the projected payment amount, to be made after completing the first 6 months of the marketing year for that crop. Partial counter-cyclical payment is not applicable for program years 2011 and 2012.

G Final Counter-Cyclical Payments

A final counter-cyclical payment for the crop year, if applicable, will be made to producers beginning October 1, or as soon as practical, after the end of the 12-month marketing year for the applicable commodity.

H Refunding Counter-Cyclical Payments

A producer must refund any payment to CCC which exceeds the amount actually earned under CCC-509, including the refund of any unearned partial counter-cyclical payment when actual market prices exceed the projected market prices used in determining the partial payment rates. CCC may, at its discretion, automatically reduce any partial, advance, or final direct payments or counter-cyclical payments earned by, or which would otherwise be received by the producer, affiliated person, or entity according to 7 CFR Part 1403, in any current or future year to help satisfy any obligation to repay any unearned partial, advance, or final direct or counter-cyclical payment for the current year or any other year under this CCC-509. Likewise, such other payments may be withheld in the case of partial or advance payments pending a determination of whether those payments would themselves be subject to a refund because of a recalculation made when final payments are due.

10 Payments and Limitations (Continued)

I Payment Limitations

The provisions of 7 CFR Part 1400 about payment limits and payment eligibility requirements are applicable to CCC-509 as indicated by this regulation.

Payment or Benefit	Limitation per Person or Legal Entity, per Crop, Program, or FY
Direct payments for covered commodities 1/	$40,000
Direct payments for peanuts 1/	$40,000
Counter-cyclical payments for covered commodities 2/	$65,000
Counter-cyclical payments for peanuts 2/	$65,000

1/ If the person or legal entity has a direct or indirect interest in payments earned on a farm that is in ACRE, this limitation will reflect a 20 percent reduction in direct payments on each farm that is participating in ACRE.

2/ Under ACRE, this amount will be a combined limitation for counter-cyclical and ACRE payments. If a person or legal entity has a direct or indirect interest in payments earned on a farm that is participating in ACRE, this limitation will reflect an increase for the amount that the direct payments were reduced.

J Farm With 10 Base Acres or Less

Producers on farms with 10 base acres or less are not eligible for payments for that farm unless that farm is owned by a socially disadvantaged or limited resource farmer.

Note: See paragraph 395.

11 Contract Requirements

A Signing CCC-509

To participate, producers are required to designate shares and sign CCC-509. Signing CCC-509:

- acknowledges the applicability of any provisions of the Federal regulations found in 7 CFR Parts 718, 1400, and 1412

•*--represents agreement with terms and conditions in CCC-509 Appendix.--*

B CCC-509 Requirements

Producers signing CCC-509 for participation agree to:

- comply with HELC and WC provisions

- devote acreage equal to the base acreage to an agricultural or conserving use

- effectively control noxious weeds and otherwise maintain base acres according to sound agricultural practices

- not plant perennial FAV's or harvest annual FAV's (other than mung beans and pulse crops) or wild rice on base acres

  Exceptions: Double-cropping covered commodities or peanuts with wild rice, fruits, or vegetables shall be permitted in any region in which there is a history of this type of double-cropping.

- file an acreage report with respect to all crops and all cropland on the farm, and if enrolled in the ACRE Program, report production of covered commodities on the farm

- notify FSA when there is a transfer of or change of interest of a producer

  Note: See paragraph 398 for payments and refunds for predecessors and successor.

- a certification of compliance with AGI provisions according to 7 CFR Part 1400.

C Transfer of or Change in Farming Interest or Change in Base Acres

A transfer of or change in the interest of any producer or change in any base acres on CCC-509 in a FY for a farm shall result in terminating the contract for FY, unless the producers succeeding to the acreage enter into CCC-509 for the farm and agree to assume all obligations of the contract no later than September 30 of the contract period.

Note: See paragraphs 187, 207, and 397 for the ACRE Program.

12 Eligible Producers

A Background

The Food, Conservation, and Energy Act of 2008 authorizes the Secretary to issue direct, counter-cyclical, and ACRE payments to producers. A producer is defined by statute as "an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced." The statute further requires the Secretary to "provide for the sharing of payments among the producers on a farm on a fair and equitable basis."

B Individuals and Entities Eligible for Payment

The following individuals and entities may share in payments if the individual or entity is entitled to an ownership share of a crop and is:

- an owner on an eligible farm who assumes all or part of the risk of producing a crop on base acres, or if an ACRE Program contract, acreage of a covered commodity or peanuts

- a producer, other than an owner, on an eligible farm with a share-rent arrangement or cash-lease agreement.

Notes: An owner whose only interest is that the owner cash leases land to another is not a producer on that land and, therefore, is ineligible to share in payments for this land.

See:

- paragraphs 187 and 207 for the ACRE Program
- paragraph 352 for information on sharing payments.

C Loss of Interest in a Farm

If a producer loses interest in the base acres or acres of a covered commodity or peanuts on an ACRE Program contact on a farm, the producer is not eligible to retain payments for those acres. Any payments received on the acreage shall be immediately refunded as required by paragraph 398.

13 General Signature Requirements

A Common Management Provisions

Signatures shall be accepted according to 1-CM.

14 Withdrawing CCC-509's

A Withdrawing CCC-509 During the Enrollment Period

The DCP and ACRE Program enrollment period ends on June 1 (August 14, 2009, for 2009) of the applicable year. An approved CCC-509 may be withdrawn by June 1 (August 14, 2009, for 2009) of the applicable year if all producers on CCC-509 request in writing to withdraw CCC-509 and the request to withdraw is filed by June 1 (August 14, 2009, for 2009) of the applicable year.

Notes: See subparagraphs B through E for examples.

Producers must repay all payments received under CCC-509 that was withdrawn during an enrollment period.

See:

- 2-DCP (Rev. 1) for instructions on canceling CCC-509 in the automated system
- subparagraph 176 B
- subparagraph 394 E for withdrawing enrollment.

B Example 1

Situation

Mike Jones signs CCC-509 on April 1, 2009, for the 2009 crop year. Mr. Jones:

- requested 100 percent share of all payments
- received advance direct payments.

On May 1, 2009, Mr. Jones:

- requests in writing to withdraw CCC-509
- refunds all direct payments he received.

COC determines that Mr. Jones requested to withdraw CCC-509 during the contract period.

Result

Mr. Jones is allowed to withdraw CCC-509.

14 Withdrawing CCC-509's (Continued)

C Example 2

Situation

Jane Brown and Joe Green sign CCC-509 on May 15, 2010, for the 2010 crop year. Mrs. Brown and Mr. Green:

- each share 50 percent in payments
- received advance direct payments.

On August 14, 2010, Mrs. Brown and Mr. Green both request in writing to withdraw CCC-509.

Result

Mrs. Brown and Mr. Green are **not** allowed to withdraw CCC-509 because withdrawal is **not** allowed after June 1, 2010.

D Example 3

Situation

Jan Smith signs CCC-509 on April 1, 2009, for the 2009 crop year. Mrs. Smith:

- shares 100 percent in all base acre payments
- receives an advance direct payment
- plants green beans on base acres.

On May 1, 2009, Mrs. Smith planted 100 acres of green beans. Neither the farm nor Mrs. Smith has a FAV history; therefore, if the green beans are harvested, Mrs. Smith will be in violation of the terms and conditions of CCC-509.

On June 1, 2009, before the green beans are harvested, Mrs. Smith:

- requests in writing to withdraw CCC-509
- refunds all direct payments she received.

COC approves the withdrawal of CCC-509. Therefore, Mrs. Smith is not in violation of any of the terms and conditions of CCC-509.

Important: Mrs. Smith is not in violation of the FAV provisions because she elected to withdraw by June 1, 2009.

Result

Mrs. Smith is allowed to withdraw her CCC-509.

14 Withdrawing CCC-509's (Continued)

E Example 4

Situation

Jay Black signs CCC-509 on March 2, 2009, for the 2009 crop year. Mr. Black:

- shares 100 percent in all payments
- received advance direct payments
- plants green beans on base acres.

On April 1, 2009, Mr. Black planted 100 acres of green beans. Neither the farm nor Mr. Black has a FAV history; therefore, if the green beans are harvested, Mr. Black will be in violation of the terms and conditions of CCC-509.

On May 25, 2009, Mr. Black harvests the 100 acres of green beans.

On June 1, 2009, Mr. Black requests in writing to withdraw CCC-509.

Result

After May 25, 2009, Mr. Black is not allowed to withdraw his CCC-509. Mr. Black cannot withdraw CCC-509 to negate the terms and conditions of CCC-509.

15 Terminating DCP or ACRE Program Contracts

A Terminating CCC-509

CCC-509 will be terminated if there is a transfer or change in the interest of any producer or change in any of the base acres on the farm occurring before September 30 of the contract period. Producers may succeed to the acreage and enter into a contract for the farm and agree to assume all obligations of CCC-509 no later than September 30 of the contract period.

CCC-509 may be terminated for violations and other reasons. See paragraphs 196, 335, 398, and 470.

See paragraphs 187 and 207 for ACRE Program contracts.

16-63 (Reserved)

Part 2 Base Acres

Section 1 Non-PTPP Base Acre Reductions

64 Definition and Limitation

A Definition of Base Acres

[7 CFR 1412.3] "Base acres" are the number of acres established with respect to a covered commodity and peanuts on a farm pursuant to sections 1101 and 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911) as in effect on September 30, 2007, subject to any adjustment in accordance with subpart B of 7 CFR part 1412.

B Limitation on Base Acres

The total of the following shall not exceed the DCP cropland acreage on the farm, except to the extent there is an established double-cropping history on the farm:

- all base acres on the farm, including peanut base acres
- any cropland acreage enrolled in:
  - CRP
  - EWP
  - WBP
  - WRP
- any cropland or DCP cropland acreage enrolled in GRP
- any cropland acreage on the farm enrolled in any **Federal** conservation program for which payments are made in exchange for not producing an agricultural commodity.

Notes: Enrollment in State conservation programs has no impact on DCP or ACRE Program payments.

See subparagraph 426 I if the agreement allows haying and/or grazing on the land under normal conditions.

65 Base Acreage Reductions

A Voluntary Permanent Base Acres Reduction

Owners may permanently reduce base acreage at any time. A reduction:

- shall be recorded on CCC-505

  Note: Complete and process CCC-505 according to paragraph 66.

- may be for a part or all of 1 or more crops' base acres

  Note: Base acres for the farm and crop are recorded at the tract level. Therefore, owners must designate the tract level reduction on CCC-505.

- is effective for the program year entered in CCC-505, item 4, when all applicable owners' signatures, including the signatures of owners having an undivided ownership interest, are obtained on CCC-505

  Notes: If CCC-505 is being completed as a result of entering into a CRP agreement, the effective date of CCC-505 is equal to the effective date of CRP-1.

  File a copy of CCC-505 in the CRP folder.

- shall not be reinstated after the reduction in base acres becomes effective

  Note: Reductions of base acres are permanent.

  Exception: Base acres reduced because of cropland enrollment into CRP may be restored to the farm if CRP-1 is voluntarily terminated, expired, or early released before October 1, 2012.

- cannot be made to negate an FAV or wild rice violation or a violation found as the result of a spot check; however, all producers on a farm may choose to withdraw CCC-509 for the applicable year.

Note: Participants must refund any overpayments caused by a reduction.

66 Completing CCC-505

A Instructions

Owners may request a voluntary permanent reduction of base acres by completing CCC-505 according to the following.

Item	Instruction	
1	Enter the State and county code where the farm is administratively located.	
2	Enter farm number where base acres shall be reduced.	
3	**IF CCC-505 is…**	**THEN enter program year…**
	being prepared as a prerequisite for participation in CRP or GRP	• for CRP, equal to the effective date of CRP-1 **Note:** The program year on CCC-505 shall equal FY CRP-1 becomes effective. **Example:** Producer completed and signed CCC-505 during CRP signup 26. If the CRP offer is accepted: • CRP-1 will be effective October 1, 2008 • base acre reduction is effective October 1, 2008 • CCC-505 program year is 2009. • for land enrolled in GRP under: • rental agreement, equal to date CCC-920 is approved by COC • easement, equal to date GRP easement is filed.
	completed for reasons other than CRP or GRP participation	equal to the fiscal year CCC-505 is approved by COC.
4	Enter the reason base acres are being reduced. If “other”, specify reason.	
5	Enter the tract numbers where base acres shall be reduced.	
6	For the tract numbers in item 5, enter commodity for which base acres shall be reduced.	
7	Enter the tract level direct payment yield for the commodity entered in item 6. **Important:** The tract level yield may be different than the farm level yield for the commodity.	
8	Enter the tract level counter-cyclical yield for the commodity entered in item 6. **Important:** The tract level yield may be different than the farm level yield for the commodity.	
9	For the tract numbers in item 5, enter the total base acres for the commodity in item 6 before reduction.	
10	Enter the total base acres for the commodity in item 6 to be reduced on tract numbers in item 5.	

66 Completing CCC-505 (Continued)

A Instructions (Continued)

Item	Instruction
11	For the tract numbers in item 5, enter the total base acres for the commodity in item 6 after reduction (column 9 minus column 10).
12	Enter the total number of base acres to be reduced for the farm number entered in item 2 (total of column 10).
13	Enter the total number of base acres on the farm number in item 2 before reduction.
14	Enter the total number of base acres on the farm number in item 2 after reduction (item 3 minus item 12).
15A	Requestor, if other than owner, shall sign.
15B	If: • the producer/applicant signing is **not** signing in the representative capacity, leave blank • anyone other than the producer/applicant is signing in a representative capacity, enter the title or relationship to the producer/applicant.
15C	Enter date signed.
16A and 17A	Owner or representative shall sign. Only the affected owner shall sign CCC-505.
16B and 17B	If: • the owner signing is **not** signing in the representative capacity, leave blank • anyone other than the owner is signing in a representative capacity, enter the title or relationship to the owner.
16C and 17C	Enter date signed.

18	Enter remarks.
	
	If base acres are being reduced because of enrollment into:
	• CRP, enter CRP-1 number and CRP-1 effective date
	• GRP, enter:
	  • CCC-920 number and beginning date of contract period for land enrolled under rental agreement
	  • System 36 application number and date easement is filed for land enrolled under an easement.
	
	Important: File copy of CCC-505 in the DCP or ACRE Program folder and CRP or GRP folder, as applicable.

19	COC shall indicate if CCC-505 is approved or disapproved.
20	Enter County Office name, address, and telephone number.
21	COC, or representative, shall sign and date.

66 Completing CCC-505 (Continued)

B Processing CCC-505

Process CCC-505's according to the following.

Step	Action
1	Ensure that all base acreages and reductions are listed.
2	Ensure that all affected owner signatures are present and properly executed.
3	If all applicable affected owners do not sign CCC-505, within 30 calendar days, COC shall: • act on the request if a reduction is required to comply with DCP or the ACRE Program • disapprove, sign, and date, if a reduction is not required to comply with DCP or the ACRE Program. If all applicable signatures are obtained, COC or designee may approve CCC-505; however, approval is **not** necessary.
4	Reduce the base acreage that exceeds effective DCP cropland in farm maintenance according to 3-CM. **Note:** Ensure that CCC-505 is properly executed before making these reductions or processing CCC-509.
5	Date stamp and retain CCC-505.

66 Completing CCC-505 (Continued)

C Example of CCC-505

The following is an example of CCC-505.

This form is available electronically.

CCC-505 (02-05-09)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

VOLUNTARY PERMANENT DIRECT AND COUNTER-CYCLICAL PROGRAM (DCP) BASE ACRES REDUCTION

1. STATE AND COUNTY CODE	2. FARM NO.	3. PROGRAM YEAR

4. REASON FOR REDUCTION OF DCP BASE ACRES

☐ CRP Enrollment

☐ Other _____

Note: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246 and any amendments to such act as may follow). The information will be used to determine eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act of 2008, the E-Government Act of 2002, and related authorities. The information collection is exempted from the Paperwork Reduction Act, as it is required for administration of the Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246, Title I, Subtitle F - Administration). The provisions of criminal, civil, and privacy statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

PART A - REQUEST

The undersigned request a permanent reduction of the Direct and Counter-Cyclical Program (DCP) Base Acres established for the following crop(s) for the farm number entered in Item 2. I/We understand that, except for reductions because of enrollment into the Conservation Reserve Program (CRP), this reduction is a permanent reduction of DCP Base Acres, and the DCP Base Acres reduced shall not be returned to the farm.

I/We understand that when the reason for the reduction entered in Item 4 is because of enrollment of cropland into CRP, the reduced DCP Base Acres may be returned to the farm if the applicable CRP contract is voluntarily terminated on or before September 30, 2007, and all other eligibility requirements are met.

5. TRACT NO.	6. COMMODITY	7. DIRECT YIELD	8. COUNTER CYCLICAL YIELD	9. COMMODITY BASE ACRES ON TRACT BEFORE REDUCTION	10. COMMODITY BASE ACRES ON TRACT TO BE REDUCED	11. COMMODITY BASE ACRES ON TRACT AFTER REDUCTION *(Column 9 MINUS Column 10)*
				-	=	
				-	=	
				-	=	
				-	=	
12. Total DCP Base Acres to be Reduced *(Total of Column 10)*						

13. Total DCP Base Acres on Farm Before Reduction	14. Total DCP Base Acres on Farm After Reduction (Item 13 minus Item 12)

15A. Requestor's Signature (By)	15B. Title/Relationship *(of the individual signing in the Representative Capacity)*	15C. Date *(mm/dd/yyy)*
16A. Owner's Signature (By)	16B. Title/Relationship *(of the individual signing in the Representative Capacity)*	16C. Date *(mm/dd/yyy)*
17A. Owner's Signature (By)	17B. Title/Relationship *(of the individual signing in the Representative Capacity)*	17C. Date *(mm/dd/yyy)*

18. REMARKS (If the DCP base acres are being reduced because of cropland enrollment into CRP on or after May 13, 2002, enter the CRP-1 number and the effective date of CRP-1).

PART B- APPROVAL *(COUNTY OFFICE USE ONLY)*

19. REDUCTION IS:

APPROVED ☐ DISAPPROVED ☐

20. COUNTY FSA OFFICE NAME AND ADDRESS *(Including Zip Code)*

21. COC'S SIGNATURE

DATE *(mm/dd/yyy)*

TELEPHONE NUMBER *(Area Code)*:

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

67 Adjusting Base Acres for CRP-1 Expiration, Voluntary Termination, or Early Release

A Policy

The same land cannot be enrolled in both DCP or the ACRE Program and CRP at the same time. However, when CRP-1 expires, voluntarily terminated, or early released after September 30, 2008, and before October 1, 2012, producers may enroll the following acreage and applicable yields, previously enrolled under CRP-1 in FY 2009 through 2012 DCP or the ACRE Program, as applicable:

- CAB's reduced from applicable CRP-15
- PFC acreage that was reduced on CCC-505 to be enrolled in CRP
- base acres that were reduced on CCC-505 to be enrolled in CRP.

Important: Only applicable acreage from CRP-1's that expire, are voluntarily terminated, or early released between **October 1, 2008,** and **September 30, 2012**, is eligible to be enrolled in FY 2009 through 2012 DCP or the ACRE Program, as applicable.

The applicable acreage:

- may be distributed to the tract enrolled into CRP or to the tract from which it was removed

- shall receive a direct and counter-cyclical yield equal to the tract level yield for this crop at the time the applicable acreage was removed.

See 3-CM for updating the farm maintenance system.

Notes: When CAB's or previously reduced PFC acreage is enrolled in DCP or the ACRE Program, CAB's and PFC acreage become base acres.

See Exhibit 2 for the definition of "voluntarily terminated".

67 Adjusting Base Acres for CRP-1 Expiration, Voluntary Termination, or Early Release (Continued)

B Limitation on Base Acres

The total base acres on a farm shall not exceed DCP cropland according to paragraph 64.

Applicable acreage previously under CRP-1 shall not be enrolled in DCP or the ACRE Program unless the total DCP cropland for the farm is sufficient to support the additional base acres. Therefore, County Offices must determine the amount of CAB, previously reduced PFC acreage, or previously reduced base acres that may be enrolled in DCP or the ACRE Program.

Before enrolling acreage previously under CRP-1, a farm may be combined with another farm to increase the amount of DCP cropland to support the additional acreage, if both of the following are met:

- all provisions of 2-CM for farm combinations are met
- the combination is completed before the final date to enroll the applicable acreage previously under CRP-1.

C Timing of Adjustment and Payments

Participants who elect to voluntarily terminate CRP-1 or who have acres affected by early release before the CRP-1 expiration date:

- cannot receive both a CRP payment and DCP or ACRE Program payment on the same land for the same FY
- must elect to receive **either** of the following for FY in which CRP-1 was voluntarily terminated:
    - direct, counter-cyclical, and ACRE payments
    - CRP payment, if applicable.

67 Adjusting Base Acres for CRP-1 Expiration, Voluntary Termination, or Early Release (Continued)

C Timing of Adjustment and Payments (Continued)

Adjustments to base acres on a farm because of CRP-1 that expires, is voluntarily terminated, or early released after September 30, 2008, and before October 1, 2012, may be made according to the following, if all other eligibility requirements are met.

IF CRP-1...	THEN...	AND...
expires before FY 2009	eligible producers may adjust base acres on the farm by enrolling eligible acreage: • after CRP-1 expires • by August 14, 2009	be paid full DCP and ACRE Program payments, as applicable, for FY in which acreage is enrolled in DCP or the ACRE Program.
is voluntarily terminated in FY 2009 through 2012, as applicable, before CRP-1 expiration date	eligible producers may adjust base acres on the farm by enrolling eligible acreage by June 1 (August 14, 2009, for 2009) of the applicable year	
	eligible producers may adjust base acres on the farm by enrolling eligible acreage after September 30 of FY in which CRP-1 is voluntarily terminated, but no later than June 1 (August 14, 2009, for 2009) of the following FY	

Note: Eligible acreage must be enrolled by June 1 (August 14, 2009, for 2009) of the applicable year to be eligible for DCP or ACRE Program payments.

67 Adjusting Base Acres for CRP-1 Expiration, Voluntary Termination, or Early Release (Continued)

D Example 1

Jane Smith enrolled 100 acres of cropland on FSN 56 in CRP during signup. CRP-1 became effective on October 1, 2008. Before enrollment of the 100 acres of cropland into CRP, FSN 56 had:

- 500 acres DCP cropland
- 410 base acres
- 0 CRP acres.

The total amount of base acres plus CRP acres cannot exceed the farm's DCP cropland plus double-cropping history. Accordingly, Jane Smith executed CCC-505 to reduce the base acres on FSN 56 to 400 acres. After enrollment of the 100 acres of cropland into CRP, FSN 56 has:

- 500 acres DCP cropland
- 400 base acres
- 100 CRP acres
- 10 DCP wheat base acres reduced on CCC-505.

On September 1, 2009, Jane Smith voluntarily terminates 2.3 acres from CRP. The 2.3 acres will be used for a horse pasture. The voluntary termination of 2.3 acres from CRP was approved by the applicable CCC official. Once the voluntary termination of the 2.3 acres of CRP is approved, and all other eligibility requirements are met, the County Office shall:

- notify all producers and owners in writing that the 2.3 wheat base acres are available for enrollment into DCP or the ACRE Program

- increase the base acres on FSN 56 to 402.3 if the producer enrolls the base acres by June 1 of FY 2010

- notate the 2.3 base acre reinstatement in the remarks section of CCC-505.

After the modifications to FY 2010 farm records have been completed, FSN 56 has:

- 500 acres DCP cropland
- 402.3 base acres
- 97.7 CRP acres
- 7.7 base acres reduced on CCC-505.

67 Adjusting Base Acres for CRP-1 Expiration, Voluntary Termination, or Early Release (Continued)

E Example 2

Mike Jones enrolled 100 acres of cropland on FSN 119 in CRP during signup. CRP-1 became effective on October 1, 2008. Before enrollment of the 100 acres of cropland into CRP, FSN 119 had:

- 500 acres DCP cropland
- 410 base acres
- 0 CRP acres.

The total amount of base acres plus CRP acres cannot exceed the farm's DCP cropland. Accordingly, Mike Jones executed CCC-505 to reduce the base acres on FSN 119 to 400 acres. After enrollment of the 100 acres of cropland into CRP, FSN 119 has:

- 500 acres DCP cropland
- 400 base acres
- 100 CRP acres
- 10 wheat base acres reduced on CCC-505.

On July 1, 2009, Mike Jones voluntarily terminates 2.3 acres from CRP. The 2.3 acres will be used to build a house and out buildings. The voluntary termination of 2.3 acres from CRP was approved by the applicable CCC official. Because a house and out buildings do not meet the requirements to be considered DCP cropland, and the producer does not have enough available DCP cropland, the County Office shall not make any modifications to base acres or acres recorded on CCC-505 for FSN 119.

After modifications have been made to CRP-1, FSN 119 has:

- 497.7 acres DCP cropland
- 400 base acres
- 97.7 CRP acres
- 10 wheat base acres reduced on CCC-505.

F Example 3

Joe Brown enrolled 10 acres of cropland on FSN 989 in CRP during signup. CRP-1 became effective on October 1, 2008. Before enrollment of the 10 acres of cropland into CRP, FSN 989 had:

- 25 acres DCP cropland
- 20 base acres
- 0 CRP acres.

67 Adjusting Base Acres for CRP-1 Expiration, Voluntary Termination, or Early Release (Continued)

F Example 3 (Continued)

The total amount of base acres plus CRP acres cannot exceed the farm's DCP cropland. Accordingly, Joe Brown executed CCC-505 to reduce the base acres on FSN 989 to 15 acres. After enrollment of the 10 acres of cropland into CRP, FSN 989 has:

- 25 acres DCP cropland
- 15 base acres
- 10 CRP base acres
- 5 wheat base acres reduced on CCC-505.

On May 1, 2009, Joe Brown sold 15 acres of non-CRP land. As a result of the land sale, FSN 989 has:

- 10 acres DCP cropland
- 0 base acres
- 10 CRP acres
- 5 wheat base acres reduced on CCC-505.

On May 15, 2009, Joe Brown voluntarily terminates his CRP-1. Joe Brown will use 7 acres to build a house, out buildings, and a tennis court, and 3 acres will be returned to crop production. The voluntary termination from CRP was approved by the applicable CCC official. Once the voluntary termination of CRP-1 is approved, and all other eligibility requirements are met, the County Office shall:

- notify all producers and owners in writing that the 3 wheat base acres are available for enrollment into DCP or the ACRE Program

- increase the base acres on FSN 989 to 3 if the producer enrolls the base acres by August 14, 2009

- notate the 3 base acre reinstatement in CCC-505.

After the modifications to the applicable FY 2009 farm records are completed, FSN 989 has:

- 3 acres DCP cropland
- 3 base acres
- 0 CRP acres
- 2 wheat base acres reduced on CCC-505.

68-75 (Reserved)

Section 2 Planting Transferability Pilot Project

76 General Information

A Overview

Section 1107 of the Food, Conservation, and Energy Act of 2008 authorizes PTPP, which permits the planting of cucumbers, green peas, lima beans, pumpkins, snap beans, sweet corn, and tomatoes grown for processing on base acres enrolled in DCP or the ACRE Program, in certain States during each of the 2009 through 2012 crop years.

A farm must:

- have DCP cropland that is physically located in a pilot State
- submit CCC-749 and be approved to participate.

Generally, to be eligible to participate in PTPP, producers on a farm must also demonstrate that they:

- have entered into a contract to produce a crop of 1 of the specified commodities for processing

- agree to produce the crop as part of a program of crop rotation on the farm to achieve agronomic and pest and disease management benefits.

The base acres on a farm for a crop year will be reduced by an acre for each acre planted under PTPP. Following the crop year, base acres reduced for PTPP participation are restored. Implementation of PTPP begins with the 2009 crop year.

B Eligible States and Acreage Limitation

Land eligible for PTPP participation must be enrolled in base acres physically located in 1 or more States shown in the following table. The States and the maximum base acres eligible in each PTPP State during each crop year for PTPP are as follows.

State	Acre Limitation
Illinois	9,000
Indiana	9,000
Iowa	1,000
Michigan	9,000
Minnesota	34,000
Ohio	4,000
Wisconsin	9,000

76 General Information (Continued)

B Eligible States and Acreage Limitation (Continued)

If land is physically located in 1 or more States in the table in this subparagraph, yet administratively controlled in another State, CCC-749 shall be filed with the administrative County Office and forwarded to State Offices where the land is physically located.

Note: Annotate on CCC-749 the name of the State where land offered for PTPP participation is physically located.

77 Features of PTPP

A Planting Flexibility Provisions and Prohibitions of DCP and the ACRE Program

Any crop may be planted on DCP cropland in excess of the base acres on a farm.

Generally, however, with some exceptions, the planting of fruits, vegetables (except mung beans and pulse crops), or wild rice, as determined by FSA, is prohibited on base acres of a farm enrolled in a DCP or ACRE Program contract. Harvesting fruits, vegetables (except mung beans and pulse crops), or wild rice, as determined by FSA, is prohibited on enrolled base acres. There are certain exceptions to this general prohibition for double-cropping in certain instances. Those general prohibitions and exceptions continue to apply to 2009 through 2012 crop years.

B PTPP Option for Enrolled Farms

Notwithstanding the prohibition of planting and harvesting fruits, vegetables, or wild rice on enrolled base acres for each of the 2009 and subsequent crop years, PTPP permits, according to limitations and provisions of this section, the planting of the crops identified in subparagraph 76 A for processing in certain States on base acres without violating CCC-509. Base acres on farms participating in PTPP will be reduced an acre (or portion thereof) for every acre (or portion thereof) planted in PTPP, for the year in which the farm is participating in PTPP.

C Crop and Producer Eligibility Provisions of PTPP

Under PTPP, crops permitted on base acres are cucumbers, green peas, lima beans, pumpkins, snap beans, sweet corn, and tomatoes. These crops eligible for PTPP participation must be grown for processing.

77 Features of PTPP (Continued)

C Crop and Producer Eligibility Provisions of PTPP (Continued)

Producers interested in participating in PTPP must:

- first be enrolled under CCC-509
- submit an offer for PTPP participation accompanied by a copy of the processing contract mentioned in paragraph 78 no later than March 1 (March 2, 2009, for 2009) of the contract year.

Notes: Irrespective of whether payments were issued before enrollment in PTPP, participants acknowledge that, for the particular year of PTPP participation, payments will be calculated on or limited to base acres after reduction.

For 2009, signup for PTPP will end before the ACRE enrollment period begins. In the event that CCC-509 is approved after enrollment in PTPP, CCC-509 participants acknowledge that, for the particular year of PTPP participation, payments will be calculated on base acres after reduction.

78 2009 PTPP General Information

A Responsibility of Producers Participating in PTPP to Determine Offer

Participation in PTPP is voluntary. Although FSA can provide information about a particular farm's DCP cropland and base acres, FSA offices will **not** provide advice about the decision to participate in PTPP.

B Agreement of Producers Participating in PTPP

Producers on a farm must:

- first be enrolled under CCC-509 and PTPP signup according to subparagraph 79 A
- do all of the following for the commodity specified in subparagraph 77 C:
    - have entered or enter into a contract to produce the commodity for processing
    - agree to produce the crop as part of a program of crop rotation on the farm to achieve agronomic and pest and disease management benefits
    - report acreage and production of the crop and provide evidence of disposition of the crop.

79 2009 PTPP Signup

A Signup Period

The signup period for 2009 PTPP was February 3, 2009, through March 2, 2009. The signup for 2009 through 2012 begins December 1 of the applicable contract year and ends March 1 of the applicable contract year. There are **no** late-filed provisions for PTPP. CCC-749 must be completed following enrollment on CCC-509 for PTPP participation.

Note: Each State has a limit on the number of acres for which PTPP can be approved. Accordingly, a lottery (paragraph 81) of timely submitted PTPP offers may be conducted to select and approve PTPP offers.

B Availability of Enrolled Farms and Producers

PTPP is only available for enrolled base acres. Offers for PTPP participation will **not** be considered on farms that have **not** first completed enrollment in DCP on CCC-509. For those farms and producers who have enrolled under CCC-509 and who are interested in PTPP, all of the producers who signed CCC-509 must also sign CCC-749 and accompany the offer for PTPP participation with a copy or copies of the contract or agreement to produce the commodity for processing.

The same signature requirements for CCC-509 apply to CCC-749. This means that all producers sharing in base acres with more than a zero share must enroll and sign CCC-749. For those producers with an interest in the farm but a zero share of base acres (before reduction for PTPP), CCC-749 will **not** be approved before all producers have either signed CCC-509 and CCC-749 or have provided supportive and necessary contractual documents, such as cash leases instead of signing for a zero share.

CCC-509 and CCC-749 **not** having all required signatures on or before the applicable enrollment or PTPP signup deadline shall **not** be considered submitted for any PTPP purpose, as applicable, and will **not** be acted on or approved.

Note: The failure of producers to sign either CCC-509 or CCC-749 is **not** a compliance violation or a failure to fully comply. There is no compliance or compliance violations on farms that are **not** enrolled. Additionally, incomplete offers to participate in PTPP are also **not** a failure to comply.

79 2009 PTPP Signup (Continued)

C Withdrawal of CCC-509 or PTPP Offer

Enrolled CCC-509's that are withdrawn during the enrollment period ending June 1 of the contract year (August 14, 2009, for 2009) are likewise considered withdrawn from PTPP for that same year.

Exception: CCC-509's that FSA treats as withdrawn because of the filing of CCC-509ACRE during the specific enrollment period are still considered withdrawn; however, at the time of the ACRE Program CCC-509 enrollment during the same enrollment period, producers on CCC-509 shall do either of the following:

- enroll the farm with base acres reduced according to CCC-749
- enroll CCC-509 and withdraw CCC-749 during this specific enrollment period.

Eligible producers who signed CCC-749 by March 1 of the contract year may withdraw CCC-749 by June 1, 2009. If the withdrawal is by March 1 of the contract year, CCC-509 on the farm that had been enrolled before CCC-749 will be treated the same as if **no** CCC-749 had been submitted.

Eligible producers who sign CCC-749 may withdraw CCC-749 from March 1 through June 1 of the year of the contract if all signatories to CCC-749 agree to the withdrawal. The withdrawal must be provided in writing to FSA.

Note: If producers on CCC-509 are different than those shown on CCC-749, all producers on CCC-509 must agree to the withdrawal of CCC-749.

If CCC-749 is withdrawn:

- before CCC-749 was approved and by June 1 of the applicable contract year (August 14, 2009, for 2009), CCC-509 will be considered enrolled the same as if no offer for PTPP had been made

  Note: Producers on the farm may choose to enroll the farm during the enrollment period that may remain.

- and CCC-749 has already been approved, CCC-509 will also be considered withdrawn.

For farms reconstituted after CCC-509 and CCC-749 are approved, follow subparagraph 82 B.

79 2009 PTPP Signup (Continued)

D Effect of PTPP on Base Acres

If a PTPP offer is approved, the base acres will be reduced for each acre planted to vegetables under contract for that contract year. The total base acres remaining on the farm that were **not** reduced for PTPP participation will be considered enrolled for DCP and ACRE Program purposes.

Notes: The 10-acre provision applies to farms before reductions of base acres for PTPP participation. In other words, the prohibition of payments on a farm having 10 or less base acres applies only if the farm, before base reduction for PTPP, had 10 or less base acres. PTPP participation will **not** result in payment ineligibility if the farm's base acres before the reduction on the farm were greater than 10 acres before the PTPP offer is approved.

Acres **not** planted to vegetables according to CCC-749 will **not** cause a reduction in enrolled base acres.

80 Completing CCC-749

A Instructions for Completing CCC-749

Complete CCC-749 according to this table.

Item	Instruction
Title Box	Enter the applicable contract year.
1	No action required.
2A	Enter the County Office name and address where CCC-749 is being completed.
2B	Enter the County Office telephone number where CCC-749 is being completed.
3	Enter the State code where CCC-749 is being completed.
4	Enter the county code where CCC-749 is being completed.
5	Enter the farm number of the farm where base acres will be reduced for PTPP participation.
6	Enter the total number of base acres on the farm to be reduced for PTPP participation.
7	For the farm entered in item 5, enter the tract number of the tract where base acres will be reduced for PTPP participation.
8	For the tract entered in item 7, enter the name of the applicable crop base acres to reduce for PTPP participation. **Note:** The vegetable planted under PTPP does not need to be planted on the same tracts that had base acres reducted. The vegetable can be planted anywhere on the farm.
9	For the crop entered in item 8, enter the number of base acres to reduce for PTPP participation.
10A	Required participants shall add their name, address, and last 4 digits of their tax identification number. See subparagraph 79 C.
10B	Participants identified in item 10A shall sign.
10C	If the individual signing in item 10B is signing in a representative capacity for the participant in item 10A, a title/relationship shall be listed. If the individual in item 10A is the signatory in item 10B, then no entry is required.
10D	The participant shall enter the date CCC-749 was signed.
11A	COC or designee shall sign CCC-749 when notified to approve.
11B	COC or designee shall enter date of approval.

80 Completing CCC-749 (Continued)

B Example of CCC-749

The following is an example of CCC-749.

This form is available electronically.

CCC-749
(04-22-09)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

REQUEST TO PARTICIPATE IN THE 2012 PLANTING TRANSFERABILITY PILOT PROJECT

1. Vegetables Included in the Pilot Project:
Cucumbers, Green Peas, Lima Beans, Pumpkins, Snap Beans, Sweet Corn, Tomatoes

2A. County FSA Office Name and Address *(Including Zip Code)*
Barron County FSA Office
330 E La Salle Av
Barron, WI 54812

2B. County Office Telephone Number *(Including Area Code)*
715-537-5645

3. State Code	4. County Code	5. Farm Number
55	005	12286

This pilot project is applicable to base acres on land physically located in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin.

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246 and any amendments to such act as may follow). The information requested is necessary for CCC to administer the Planting Transferability Pilot Project. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation and Energy Act of 2008, the E-Government Act of 2002, and related authorities.*

This information collection is exempted from the Paperwork Reduction Act, as it is required for administration of the Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246, Title I, Subtitle F - Administration). The provisions of criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

THIS REQUEST is presented to the Commodity Credit Corporation (CCC) by the undersigned producer(s) in reference to base acres on this farm. The producer(s) on the farm request that base acres on the attached enrolled CCC-509 be reduced by the amount identified in Item 6. The base acres reduced on this farm will be returned at the end of the contract year. By signing this request, the undersigned producers on the farm: (1) shall plant the vegetables in Item 1 on the base acres reduced, (2) shall provide a contract to produce a crop in Item 1 for processing, (3) agree to produce the crop as part of a program of crop rotation on the farm to achieve agronomic and pest and disease management benefits, (4) provide evidence of the disposition of the crop, and (5) authorize FSA to reduce base acres on the farm identified in Item 5 by this amount(s) listed in Item 6 if this offer is accepted.

If CCC approves this CCC-749, the producers signing page 2 of CCC-749 acknowledge that direct, counter-cyclical, and ACRE payments, as applicable, will be based on base acres after reduction. If following approval of the CCC-749 by CCC, this CCC-749 is withdrawn, producers acknowledge that any CCC-509 associated with the CCC-749 is likewise considered withdrawn.

Note: FSA may receive requests for PTPP participation in excess of a State's acreage limitation. In that case, a lottery will be used to determine which offers CCC can approve.

6. Number of Base Acre reduction required to participate in the Planting Transferability Pilot Project: 30.0

7. Tract	8. Crop Base Acres to Reduce	9. Number of Base Acres to Reduce
352	30.0	30.0

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

80 Completing CCC-749 (Continued)

B Example of CCC-749 (Continued)

CCC-749 (04-22-09) Page 2

10A. Owner or Producer's Name and Address *(Including Zip Code)* Bob Fribber 121 Junction Blvd Barron, WI 54812	10B. Signature of Owner or Producer (By) */s/ Bob Fribber*	
	10C. Title/Relationship of the Individual Signing in a Representative Capacity	10D. Date (MM-DD-YYYY) 02-17-2009
10A. Owner or Producer's Name and Address *(Including Zip Code)*	10B. Signature of Owner or Producer (By)	
	10C. Title/Relationship of the Individual Signing in a Representative Capacity	10D. Date (MM-DD-YYYY)
10A. Owner or Producer's Name and Address *(Including Zip Code)*	10B. Signature of Owner or Producer (By)	
	10C. Title/Relationship of the Individual Signing in a Representative Capacity	10D. Date (MM-DD-YYYY)
10A. Owner or Producer's Name and Address *(Including Zip Code)*	10B. Signature of Owner or Producer (By)	
	10C. Title/Relationship of the Individual Signing in a Representative Capacity	10D. Date (MM-DD-YYYY)
10A. Owner or Producer's Name and Address *(Including Zip Code)*	10B. Signature of Owner or Producer (By)	
	10C. Title/Relationship of the Individual Signing in a Representative Capacity	10D. Date (MM-DD-YYYY)
10A. Owner or Producer's Name and Address *(Including Zip Code)*	10B. Signature of Owner or Producer (By)	
	10C. Title/Relationship of the Individual Signing in a Representative Capacity	10D. Date (MM-DD-YYYY)
10A. Owner or Producer's Name and Address *(Including Zip Code)*	10B. Signature of Owner or Producer (By)	
	10C. Title/Relationship of the Individual Signing in a Representative Capacity	10D. Date (MM-DD-YYYY)
11A. Signature of CCC Representative		11B. Date (MM-DD-YYYY)

81 Processing PTPP Offers

A CCC-509 and CCC-749

For 2009, CCC-509 containing all required signatures must be accompanied by CCC-749. Instructions and an example of a completed CCC-749 are in paragraph 80.

B Evaluating CCC-749's Against State Limitation

County Offices shall submit a copy of each CCC-749 to the State Office no later than March 1 of the contract year.

State Offices with PTPP offers that have **not** exceeded the amount indicated in subparagraph 76 B may instruct County Offices to approve all CCC-749's. However, if the State total of PTPP offers exceeds the amount indicated in subparagraph 76 B, a lottery must be used to limit PTPP participation.

State Offices shall inform each County Office with completed CCC-749's of either of the following:

- each CCC-749 may be approved if the number of acres for PTPP participation is equal to or less than the amount in subparagraph 76 B

- a lottery must be used to determine PTPP participation if the number of acres offered for PTPP participation is greater than the amount in subparagraph 76 B.

County Offices with completed CCC-749's and State Offices that will be conducting a lottery shall use this table.

Step	Action
1	State Office specialists shall conduct the lottery by the first Friday in March of the applicable contract year to select the applicants who can be approved for PTPP.
2	State Office specialists shall notify applicable County Offices of the results of the lottery by the first Monday after the first Friday in March of the applicable contract year.
3	County Offices shall notify producers who filed CCC-749 of the lottery results **no** later than 1 week after the Monday identified in step 2 of the applicable contract year.

Note: The lottery must be conducted so that all farms have an equal chance of being selected.

81 Processing PTPP Offers (Continued)

C Limiting PTPP Participation

State Offices that use the lottery method may encounter the situation where the last participant selected in the lottery has more PTPP acres offered than is available. In these cases, the State Office shall instruct the County Office to notify the participant that the number of acres offered for PTPP will be limited. Producers on a farm who cannot have their entire offer for PTPP approved must choose either of the following:

- participate with a reduced offer of base acres for PTPP
- decline to participate in PTPP.

If producers who cannot have their entire offer approved without reduction because of the State limitation fail to respond to the notification or decline to participate in PTPP, the signup shall be considered closed. No further offers for participation shall be considered. The County Office shall notify the State Office of the participant's decision.

82 Changes Occurring Following Enrollment and PTPP Offer Approval

A Basic Rule for Successions

After CCC-509 having an approved CCC-749 is approved, any of the following changes may occur and be considered a basis for successions-in-interest:

- a transfer or change in the interest of a producer on the farm
- sale of land
- foreclosure, bankruptcy, or involuntary loss of the farm
- change in producer shares to reflect changes in shares originally approved on CCC-509.

Note: Successors are **not** eligible for payments in any FY in which they do **not** meet the definition of a producer.

See 2-CM before reconstituting any enrolled farm participating in PTPP.

82 Changes Occurring Following Enrollment and PTPP Offer Approval (Continued)

B DCP and ACRE Participation

Unless CCC-749 is withdrawn according to paragraph 79, DCP or ACRE payments shall be based on temporarily reduced base acres. If payments are issued and the farm subsequently is approved to participate in PTPP, refunds may be applicable. See 67-FI.

Note: CCC-509 shall reflect the temporarily reduced base acres.

C Base Acres Not Participating in PTPP

Base acres on a farm that are **not** reduced because of PTPP participation are subject to existing rules about planting flexibility.

D Base Acre Adjustments for Approved PTPP Requests

County Offices shall follow the procedure in 3-CM for recording base acre adjustments for PTPP participation. Before making any base acre adjustment for approved PTPP requests, County Offices shall print FSA-156-EZ and maintain with CCC-749.

E Reconstitutions

See paragraph 333 for information about reconstitutions of farms participating in PTPP.

83-99 (Reserved)

Part 3 (Reserved)

100-174 (Reserved)

Part 4 ACRE Program

Section 1 ACRE and Features

175 ACRE Overview

A Election Period

Section 1105 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246) authorizes ACRE as an alternative to the counter-cyclical component of DCP. Once ACRE is elected on CCC-509ACRE by all producers on a farm according to the following, it is irrevocable for the effective period of election through the 2012 crop year.

IF an election by all producers on the farm on CCC-509ACRE is in the period of time…	THEN the election is irrevocably effective for…
ending on August 14, 2009	2009, 2010, 2011, and 2012 crop years.
of August 15, 2009, through June 1, 2010	2010, 2011, and 2012 crop years.
of June 2, 2010, through June 1, 2011	2011 and 2012 crop years.
of June 2, 2011, through June 1, 2012	2012 crop year.

Notes: An election may be withdrawn according to subparagraph 176 F.

--**An other tenant that is a producer on noncropland acres only is **not** required to sign CCC-509ACRE.**--

B Comparing DCP and ACRE Program

Similar to DCP, there are 2 components to the ACRE Program. Producers who enroll a farm in the ACRE Program for which there is a valid election under ACRE will receive direct payments, but with a 20 percent reduction and will be eligible for MAL's with a 30 percent reduction in loan rates.

The following compares some features of DCP and the ACRE Program.

Payments		DCP	ACRE
Direct	Payment Rate	100 percent of the DCP direct payment rate.	80 percent of the DCP direct payment rate.
	Payment Formula	Uses farm's base acreage.	Uses farm's base acreage.
	Advances	Available through 2011.	Available through 2011.
Counter-Cyclical	Payment Formula	Uses farm's base acreage.	
	Trigger	Low national market prices.	
	Advances	40 percent advance of projected payment through 2010.	
ACRE	Payment Formula		Uses planted and considered planted acreages of commodity crops and peanuts.
	Triggers		Revenue must be below the historical State average and the farm average.
	Advances		Not available.
Loan Rates		100 percent of MAL rates.	70 percent of MAL rates.

*** * ***

175 ACRE Overview (Continued)

C Election and Subsequent Enrollment

Enrollment in CCC-509 is a 2-step process.

Step	Action
1	Require all owners and producers on a farm to elect the ACRE option on CCC-509ACRE according to paragraph 176. Election does **not** enroll the producers or the farm.
2	Enroll under CCC-509.

Important: Election on CCC-509ACRE does **not** enroll the farm or producers under CCC-509. Prior enrollment on CCC-509 for DCP and an election on CCC-509ACRE shall in no way be construed to be an intention to participate or enroll in the ACRE Program. ACRE Program enrollment is a separate and subsequent step to election. See paragraph 176.

--Note:** An other tenant that is a producer on noncropland acres **only** is **not** required to sign CCC-509ACRE.**--

D Irrevocability of Election

[7 CFR 1412.72] Eligible producers on a farm who elect the ACRE option are making the irrevocable election for all of the farm as constituted on the date of election irrespective of whether the same producers are present on the farm in subsequent years and irrespective of whether there is a change of ownership. That is, the election is binding on the farm, not just the producers on the farm at the time of the election. An election is for the entire farm and not for part of a farm.

Unless timely withdrawn according to subparagraph 176 F, the election of ACRE on CCC-509ACRE is irrevocable. This means that a farm having a valid CCC-509ACRE by the end of an applicable election period will remain subject to ACRE provisions for the effective period of election identified in subparagraph A. The election applies to all covered commodities and peanuts on the farm.

See paragraph 176 for provisions about who must sign and withdraw CCC-509ACRE.

The election of ACRE on a farm's base acres is irrevocable from the end of the election period through the 2012 crop year.

See paragraph 176 for the impact of reconstitutions on election.

175 ACRE Overview (Continued)

E Features of ACRE

Paragraph 207 details the ACRE payment computation.

ACRE payments must trigger on both a State and farm basis for a covered commodity. Factors impacting the payment trigger include the State and farm triggers. In summary, a:

- State trigger occurs for a covered commodity when the State ACRE guarantee exceeds the actual State revenue

- farm trigger occurs when the farm's ACRE guarantee exceeds actual farm revenue.

Participation in ACRE requires production reports for planted acres that must be submitted no later than the last crop reporting date for the covered commodities planted on the farm in the year following the contract year of enrollment in ACRE. The production reports impact eligibility for ACRE payments in the current year and future year's benchmark farm yield for covered commodities.

Note: Procedure is forthcoming for situations when acceptable production evidence is submitted to COC for updating the farm benchmark yield. This procedure will include instructions for hybrid seed corn and sorghum.

F Benchmark Farm Yield for Covered Commodities and Peanuts

A benchmark farm yield is required for each covered commodity and peanuts to determine farm ACRE guarantee.

The farm ACRE guarantee for the crop year for a covered commodity or peanuts is determined by multiplying the average yield per planted acre for the covered commodity or peanuts on the farm for the most recent 5 crop years, excluding each of the crop years with ***--**the highest and lowest yields (benchmark farm yield), by the ACRE guarantee price for the applicable crop year for the covered commodity or peanuts in a State plus per acre producer-paid crop insurance premium for the covered commodity or peanuts.**--***

Notes: For the purposes of this paragraph, the most recent 5 crop years for the 2009 crop year, the years are 2004, 2005, 2006, 2007, and 2008, even if the farm has no production or yield records for any of these years.

In the event a farm submits production reports to support actual yields in any of the initial yield years, continuity is required according to subparagraph G.

175 ACRE Overview (Continued)

F Benchmark Farm Yield for Covered Commodities and Peanuts (Continued)

For each covered commodity and peanuts planted on a farm having a valid CCC-509ACRE, the yield of each of the 5 most recent years will be the higher of either of the following:

- ***--**the initial establishment of the benchmark farm field is 95 percent of the county**--***
  average yield (NASS) for the covered commodity or peanuts

- actual farm yield determined by dividing the total actual production on the farm by the farm's total planted acres provided the continuity rule of subparagraph G is met.

***--**In subsequent years, the farm's actual yield will be used to compute the benchmark farm yield.

Exception: Farms that have zero planted acres (i.e. prevented planted or managerial decision) shall receive the plug yield.**--***

G Continuity of Actual Yield Records

If a farm submits a production report in an attempt to have the actual yield be considered the average yield per acre for a year, the report will only be considered if both of the following apply:

- the report is for a previous crop year for which the farm had planted acres of the covered commodity or peanuts

- there is not a break in continuity for a later year in the benchmark farm yield base period.

  Note: A break in continuity occurs when acreage is reported for a covered commodity or peanuts and no production is reported.

  Exception: Small grains with an intended use of grazing will **not** break continuity because of no production records on acres grazed.

176 ACRE

A Publicizing Availability of ACRE

FSA offices will provide a notice to owners and producers about the availability of ACRE and signup provisions. The notice will include information:

- on the opportunity of owners and producers on a farm to make the election

- about the manner in which the election must be made, submitted, and the time periods for election mentioned in subparagraphs C and D.

The notice mentioned in this subparagraph may be incorporated into newsletters or issued as mailing at the discretion of the office.

176 ACRE (Continued)

B Who Must Sign

[7 CFR 1412.72] ACRE elections on CCC-509ACRE will not be approved unless all producers, including owners, on a farm at time of election have signed the form electing the option. The ACRE election will not be approved before all producers, including owners, on a farm have signed the CCC-509ACRE. A producer's signature with other producers on a CCC-509 enrolled prior to the submission of a CCC-509ACRE will not be deemed evidence of the producer's agreement with those other producers with regard to election. A CCC-509ACRE not having all requisite signatures of producers on a farm by the election deadline of the year in which election is made will not be considered submitted for the purpose of election and will not be acted on or approved.

In all cases, it is the responsibility of the operator and owners of a farm to obtain and submit all necessary signatures of producers on CCC-509ACRE.

COC shall:

- only consider and act on CCC-509ACRE's that are submitted according to this paragraph

- **not** act, approve, or disapprove any CCC-509ACRE that does **not** have signatures of all individuals or entities with an interest in the farm, regardless of whether the individual or entity has a share interest in any crop being produced or grown on the farm, at the time of election.

Example: Bill Smith cash leases Farm 100. Owner John Doe does not have a share interest in any crop or base acres on the farm. In addition, Mary Jones short-term cash subleases 75 acres of forage crop acreage on the farm from Mr. Smith; however, Ms. Jones has no interest in either base acres or covered commodities or peanuts being grown on the farm.

In this example, Mr. Smith, Mr. Doe, and Ms. Jones each would have to sign CCC-509ACRE for a valid election to occur.

Notes: Provided 2-CM requirements are met, a reconstitution could be requested and performed to remove Mr. Smith's leased land from the farm.

Notwithstanding the signature requirements on CCC-509ACRE in this example, provided all other requirements are satisfied, such as cash lease instead of Mr. Smith's signature, Mr. Smith may be the only required signature on an ACRE Program contract. See paragraph 394.

--Note:** An other tenant that is a producer on noncropland acres only is **not** required to sign CCC-509ACRE.**--

176 ACRE (Continued)

C CCC-509ACRE Filing Deadline

Unless an exemption for completing a reconstitution requested by June 1 applies according to subparagraph D, the election periods and effective period of elections for ACRE are as follows.

IF an election by all producers on the farm on CCC-509ACRE is for the election period…	THEN the election is irrevocably effective for the farm's base acres for…
ending on August 14, 2009	2009, 2010, 2011, and 2012 crop years.
of August 15, 2009, through June 1, 2010	2010, 2011, and 2012 crop years.
of June 2, 2010, through June 1, 2011	2011 and 2012 crop years.
of June 2, 2011, through June 1, 2012	2012 crop year.

D Reconstitution of Farm's Impact on Election Period for CCC-509ACRE

If a valid written request for reconstitution is filed by June 1 of the applicable crop year (August 1, 2009, for 2009), farms resulting from that reconstitution shall have until the later of either of the following:

- June 1 of the applicable crop year (August 14, 2009, for 2009) to submit CCC-509ACRE according to subparagraph C

- 30 calendar days following notification to resulting farms, operators, and owners of completing the reconstitution to submit CCC-509ACRE according to subparagraph C without regard to the election **not** being made before June 1 of the applicable crop year (August 14, 2009, for 2009).

Example: A request to divide Farm 100 is filed on July 15, 2009. The reconstitution results in Farms 1001 and 1002. Notification of completing the reconstitution is issued on July 27, 2009. The operators, owners, and producers on Farms 1001 and 1002 have 30 calendar days from July 27, 2009, to make a valid ACRE election on CCC-509ACRE for the 2009 and subsequent crop years and must enroll the farm within 30 calendar days from July 27, 2009. Any CCC-509ACRE filed after this date will be considered an election made in the subsequent election period.

176 ACRE (Continued)

E Impact of Transfers of Land, Successions-in-Interest, and Reconstitutions on Valid CCC-509ACRE

[7 CFR 1412.77] Land subject to an ACRE election will continue to be subject to the election even if there is a transfer of land or change in interest of any producer on the farm. If a new owner or operator or producer purchases or obtains the right and interest in, or right to occupancy of, the land subject to an ACRE election option, such new owner or operator or producer, upon the approval of CCC, may choose to become a participant to a new ACRE Program contract with CCC with respect to such transferred land in accordance with § 1412.41.

A valid election on CCC-509ACRE is unaffected by subsequent changes in:

- producers on the farm
- the constitution of the farm or tracts on the farm.

In the event that a change to a farm's constitution occurs, a copy of the parent farm's valid CCC-509ACRE shall be placed in each resulting farm's farm folder.

Follow 2-CM for reconstitutions. Farms or tracts with a valid ACRE election cannot be combined with farms **not** having a valid ACRE election.

Follow Part 6, Section 3 for ACRE Program contract requirements.

See paragraphs 187, 207, and 397 for the ACRE Program.

176 ACRE (Continued)

F Withdrawing CCC-509ACRE

[7 CFR 1412.72(k)] Any producer with an interest in a farm having made the ACRE election according to subparagraph A may unilaterally revoke the election for all of the farm if the election and revocation are both filed by the producer prior to the election deadline established for the initial year of election. The revocation must be submitted in writing to CCC no later than close of business on the date of the election deadline of the initial year of election. There are no late file provisions available for withdrawal of the ACRE election. No other withdrawals or revocations of the ACRE election will be permitted in order to comply with the irrevocability mandated in law. Accordingly, relief provisions in part 718, subpart D, of this title are not applicable to revocation of the ACRE election.

In the event a valid ACRE election on CCC-509ACRE is withdrawn according to this subparagraph, any CCC-509:

- signed after the filing of CCC-509ACRE will likewise be considered timely withdrawn according to paragraph 394

- that may have existed before the valid election on CCC-509ACRE shall continue to be treated as withdrawn and **not** be recognized for any purpose.

Note: Producers on a farm who have withdrawn CCC-509ACRE according to this paragraph who are interested in participating in DCP must timely file a new CCC-509 according to paragraph 394.

Any and all payments issued under any CCC-509 that is withdrawn must be refunded. See paragraph 14.

--Note:** An other tenant that is a producer on noncropland acres only is **not** required to sign CCC-509ACRE.**--

*--177 Acre Crops

A Crops Eligible for ACRE Payments

The following crops are eligible for ACRE payments:

- barley
- canola
- chickpeas, large
- chickpeas, small
- corn
- cotton, upland
- crambe
- flaxseed
- grain sorghum
- lentils
- mustard seed
- oats
- peanuts
- peas, dry
- rapeseed
- rice, long grain
- rice, medium grain (includes short grain rice)
- safflower
- sesame seed
- soybeans
- sunflower seed
- wheat.**--***

177 Acre Crops (Continued)

B Intended Uses of ACRE Crops

The following provides eligible intended uses for covered commodities and peanuts participating in ACRE.

Crop Name	Type Name	Intended Use
Barley Oats Wheat	All	FG, GR, GS, GZ
Canola	All	SD
Chickpeas, Large	Garbanzo, Kabuli	*--DE, FG, PR, FH, SD
Chickpeas, Small	Garbanzo, Desi	
Corn	White Yellow	FG, GR, SD--*
Cotton, Upland		
Crambe		SD
Flaxseed	All	OL, SD
Grain Sorghum Sorghum Forage Dual Purpose Sorghum	All	FG, GR
Lentils		*--DE, FG, GZ
Mustard Seed	All	PR, SD
Peanuts	All	All
Peas, Dry	Austrian Green Umatilla Wrinkled Yellow	DE, FG, GZ, SD--*
Rapeseed Safflower Sesame Seed		SD
Rice, Long Grain	LGR	
Rice, Medium Grain	MGR SGR	
Soybeans	All	*--GR, SD--*
Sunflower Seed	All	SD

***--177 Acre Crops (Continued)**

C Eligible ACRE Crop Status

For all situations in any crop year, excluding double-cropping, the initial crop is the only crop eligible for ACRE payments.

For double-cropping situations in any crop year, the second crop is also an eligible ACRE crop as long as the second crop meets the double-cropping definition according to 2-CP.

The following are crop status codes for the first character field on FSA-578 that are eligible ACRE.

Code	Description
I	Initial – the first crop planted on the acreage.
D	Covered commodity followed by a different covered commodity – meets double-cropping definition.

Note: 2-CP has very specific rules about crops eligible for double-cropping. State and County Offices shall ensure that double cropping policy has been followed.

D Prevented Planted Crops

Situations will occur when crops are prevented from being planted and a subsequent crop is planted on the acreage that was prevented from being planted. According to 2-CP, land is ineligible for prevented planted credit when that land had a previous or subsequent crop planted that does not meet the double-cropping definition. For ACRE purposes **only**, when the initial crop is a covered commodity that is prevented from being planted and a subsequent crop is planted on the prevented planted acreage, the prevented planted crop will be considered the ACRE crop if **all** of the following apply:

- approved prevented planted by COC
- the prevented planted crop is ineligible for prevented planted credit because of restrictions according to 2-CP.--*****

***--177 Acre Crops (Continued)**

D Prevented Planted Crops (Continued)

Examples: FSN 100 in George County has 100.0 acres of approved prevented planted wheat. The operator of FSN 100 decides to plant 100.0 acres of grain sorghum behind the 100.0 acres of prevented planted wheat. Double-cropping of wheat and grain sorghum is **not** approved in George County. For ACRE purposes only, the 100.0 acres of wheat would be considered the ACRE crop.

FSN 200 in Jackson County has 100.0 acres of disapproved prevented planted wheat. The operator of FSN 200 decides to plant 100.0 acres of grain sorghum behind the 100.0 acres of disapproved prevented planted wheat. Double-cropping of wheat and grain sorghum is **not** approved in Jackson County. For ACRE purposes only, the 100.0 acres of grain sorghum would be considered the ACRE crop.**--***

178-186 (Reserved)

Section 2 ACRE Program Enrollment and Features

187 ACRE Program Requirements and Features

A Overview

See paragraph 394 for procedure about enrollment in the ACRE Program.

Enrollment in the ACRE Program is the second step of a process that first requires a valid election on CCC-509ACRE.

B ACRE Program Contract Requirements

Participants enrolling under an ACRE Program contract agree to all the provisions of subparagraph 11 B. In addition, participants agree to:

- accurately record shares of planted and prevented planted acres reported on FSA-578 so that producers on the farm receive ACRE payments that are fair and equitable, as determined by COC

- accurately submit a report of production for the farm no later than the last acreage reporting date for the covered commodities and peanuts in the year immediately following the crop year of the reported crop acreage, for each covered commodity or peanuts for which an acreage report of planted acres greater than zero acres was filed.

  Notes: Zero production reports are acceptable.

  At FSA's discretion, documentation may be requested to substantiate a production report. Records of production acceptable to FSA may include those specified in:

  - crop insurance and NAP records which may include loss records or take actual yield from the APH data base

  - commercial receipts, settlement sheets, warehouse ledger sheets, or load summaries of the crop that were sold or otherwise disposed of through commercial channels provided the records are reliable or verifiable as determined by FSA

  - documentary evidence, such as contemporaneous measurements, truck scale tickets, and contemporaneous diaries, as is necessary to verify the information provided if the crop has been fed to livestock or otherwise disposed of other than through commercial channels, if the records are reliable or verifiable as determined by FSA

  - loan and LDP records.

C Choosing the Commodity or Commodities for Which the ACRE Program Option Will Apply

[7 CFR 1412.72] If the total number of planted and considered planted acres of all covered commodities and peanuts on a farm exceeds the total base acres of the farm enrolled under a CCC-509, the producers on the farm may choose which commodity or commodities the ACRE Program option will apply to under this section.

***--**If the total of the planted and considered planted acres of covered commodities or peanuts on a farm are in excess of 120 percent (118 percent in crop year 2012) of the farm's total base acres, all producers may choose the number of each planted or considered planted covered commodity and peanuts that may receive an ACRE payment.

Note: Maximum ACRE payment acres are limited by the planted and considered planted acres of **each** covered commodity and peanuts (separated by irrigation status, if applicable) multiplied by 83.3 percent (85 percent in crop year 2012).

On CCC-528, producers on the farm may designate the covered commodity or peanuts that may receive ACRE payments if planted and considered planted acres exceed the limitations designated in this subparagraph. All producers with a share of the covered commodity or peanuts (separated by irrigation status, if applicable) must sign CCC-528. CCC-528 must be completed by the end of the contract period.

If CCC-528 is not signed or if all producers with a share of covered commodities and peanuts can not agree on the allocation by the end of the contract period, COC shall allocate the ACRE payment acres based on the percentage of P&CP acres of a covered commodity and peanuts to the total P&CP acres of covered commodities and peanuts on the farm.

CCC-528 is **not** required if either of the following applies:

- only 1 crop is planted
- the sum of the P&CP acres of covered commodities and peanuts is less than 120 percent (118 percent in crop year 2012) of the total base acres on the farm.**--***

D Farm Example When Total Planted Acres on Farm Does not Exceed Total Bases

In the following example, the total planted acres on the farm equal 240 acres, which is 120 percent of the total base acres on the farm.

- Farm is enrolled in ACRE.
- 300 acres of cropland.
- 100 base acres for corn.
- 100 base acres for soybeans.
- Farm plants 150 acres on corn and 90 acres of beans.

187 ACRE Program Requirements and Features (Continued)

D Farm Example When Total Planted Acres on Farm Does not Exceed Total Bases (Continued)

--The producers on the farm will to eligible to receive ACRE payments on 125 acres of corn and 75 acres of soybeans.--

Note: Producers on a farm do not need to elect which acres and crops may be eligible for ACRE payments when total planted acres on the farm is less than or equal to 120 percent of the total base acres on the farm.

E Farm Example When Total Planted Acres on Farm Exceeds Total Bases

In the following example, the total planted acres on the farm equal 290 acres, which is 145 percent of the total base acres on the farm.

- Farm is enrolled in ACRE.
- 300 acres of cropland.
- 100 base acres for corn.
- 100 base acres for soybeans.
- Farm plants 150 acres on corn; 90 acres of soybeans; and 50 acres of wheat.

The producers on the farm will to eligible to receive ACRE payments on 200 acres (290 planted acres times 83.3 percent, not to exceed the 200 base acres). Producers may *--select up to 125 acres of corn (150 x .833), 75 acres of soybeans (90 x .833), and 41.7 acres of wheat (50 x .833), not to exceed 200 acres for which they may be eligible for ACRE--* payments.

If the producers do not make a selection or do not agree to a selection, then the payment acres will be prorated based on the percentage of planted acres according to the following formula.

- Payment acres are 200 acres.
- Corn planted acres divided by total planted acres is 0.5172 (150 divided by 290).
- Soybean planted acres divided by total planted acres is 0.3103 (90 divided by 290).
- Wheat planted acres divided by total planted acres is 0.1724 (50 divided by 290).
- Corn payment acres are 103.4 acres (0.5172 corn factor multiplied times 200 payment acres).
- Soybean payment acres are 62.1 acres (0.3103 soybean factor multiplied times 200 payment acres).
- Wheat payment acres are 34.5 acres (0.1724 wheat factor multiplied times 200 payment acres).

187 ACRE Program Requirements and Features (Continued)

*--F Completing CCC-528

Complete CCC-528 according to the following.

Item	Instructions
1A	Enter County Office name and address.
1B	Enter County Office telephone number. **Note:** This is an optional entry.
2	Enter applicable crop year.
3	Enter applicable State code.
4	Enter applicable county code.
5	Enter applicable farm number.
6	County Office shall enter total base acres on the farm. Enter in whole numbers and tenths.
7	No entry required.
8	Enter the maximum number of potential ACRE payment acres. Maximum potential ACRE payment acres are calculated by multiplying the planted and considered planted acres for each covered commodity and peanuts (separated by irrigation status) times 83.3 percent (85 percent in crop year 2012). Enter in whole numbers and tenths. No entry is required when the covered commodity or peanuts is not planted. **Note:** If the State has only an "All Yield", an entry should only be made in the "NI" row for the applicable crop.
9	Enter the number of potential ACRE payment acres of each covered commodities and peanuts on the farm. Enter in whole numbers and tenths. **Important:** The total of all item 9 columns shall **not** exceed the number of acres in item 6.
10	Enter the total of all item 9 columns. Enter in whole numbers and tenths. **Important:** Item 10 shall not exceed item 6.
11A	The County Office employee accepting the completed CCC-528 shall sign.
11B	Enter the date the County Office accepted CCC-528.
12A	All producers on the farm with a certified interest in planted and prevented planted covered commodities and peanuts on the farm shall agree to the prioritization. If all producers do not agree or if the prioritization is not completed and filed by the end of the contract period, then the ACRE payment acres for covered commodities and peanuts shall be apportioned based on the percentage of P&CP acres of a covered commodity and peanuts to the total P&CP acres of covered commodities and peanuts on the farm.
12B	If the individual signing in item 12A is signing in a representative capacity for the participant, a title/relationship shall be listed. If the individual in item 12A is the signatory, then no entry is required.
12C	Date the shareholder or person signing in a representative capacity completes the designation.

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187 ACRE Program Requirements and Features (Continued)

*--G Example of CCC-528

The following is an example of CCC-528.

This form is available electronically.

CCC-528 (08-20-09) **U.S. DEPARTMENT OF AGRICULTURE** Commodity Credit Corporation

Designation of Payment Acres for Planted and Considered Planted (P&CP) Crops of Covered Commodities and Peanuts for the Average Crop Revenue Election (ACRE) Program

1A. County FSA Office Name and Address *(Including Zip Code)*: Iriquois County FSA, RT 1, Grenwood, AK 00001

1B. County Office Telephone Number *(Including Area Code)*:

2. Crop Year	3. State Code	4. County Code	5. Farm Number
2009	02	004	47

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1412 and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used for CCC to determine the order of payment of covered commodities and peanuts on farms that are participating in ACRE when P&CP acres of covered commodities and peanuts on the farm exceed base acres. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a proration of payment acres based on the total P&CP acres on the farm.*

This information collection is exempted from the Paperwork Reduction Act, as it is required for administration of the Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246, Title I, Subtitle F - Administration). The provisions of criminal, civil, and privacy statutes may be applicable to the information provided. ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE***

THIS FORM IS USED TO allocate covered commodities and peanut ACRE payment acres when the sum of the P&CP acres of covered commodities and peanuts exceed 120 percent (118 percent in 2012) of the base acres on the farm. For a farm that has P&CP acres of covered commodities and peanuts in excess of 120 percent (118 percent in 2012) of the total base acres on the farm, all producers with an interest in covered commodities or peanuts may choose the number of acres of each P&CP covered commodity or peanuts that may receive an ACRE payment.

This allocation shall occur prior to the end of the contract period. If an allocation is not made by the end of the contract period or if all persons with a share of a P&CP covered commodity or peanuts do not agree to the allocation by the end of the contract period, then CCC shall allocate the ACRE payment acres based on the percentage of P&CP acres of a covered commodity and peanuts to the total P&CP acres of covered commodities and peanuts on the farm.

Note: An allocation is not necessary if one of the following apply:
- only one crop is planted
- the sum of the P&CP acres of covered commodities and peanuts is less than 120 percent (118 percent for 2012) of the total base acres.

6. Total Potential ACRE Payment Acres: 609.3

7. Crop		8. Maximum Potential Payment Acres	9. Number of Acres to Allocate	7. Crop		8. Maximum Potential Payment Acres	9. Number of Acres to Allocate	7. Crop		8. Maximum Potential Payment Acres	9. Number of Acres to Allocate
Barley	I	200.0		Grain Sorghum	I			Rice, Medium Grain	I		
	NI				NI				NI		
Canola	I			Lentils	I			Safflower	I		
	NI				NI				NI		
Chickpeas, large	I			Mustard Seed	I			Sesame Seed	I		
	NI	50.0			NI				NI		
Chickpeas, small	I			Oats	I			Soybeans	I	250.0	109.3
	NI				NI				NI		
Corn	I	500.0	300.0	Peanuts	I			Sunflower Seed	I		
	NI				NI				NI		
Cotton, Upland	I			Peas, Dry	I			Wheat	I		
	NI				NI				NI	300.0	200.0
Crambe	I			Rapeseed	I			**10. Total** ***(Total of all Item 9 columns) Can Not Exceed Item 6***			609.3
	NI				NI						
Flaxseed	I			Rice, Long Grain	I						
	NI				NI						

11A. County Office Signature: Josephine Par Tec

11B. Date: 9-21-09

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

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187 ACRE Program Requirements and Features (Continued)

*--G Example of CCC-528 (Continued)

CCC-528 (08-20-09) Page 2 of 2

12A. Shareholder's Name *(By)*	12B. Title/Relationship *(Individual Signing in a representative capacity)*	12C. Date *(MM-DD-YYYY)*
Bill Jones		09/10/2009
Sheila Jones		09/10/2009
Robert Fredrick	Spouse	09/15/2009
Carl Edwards		09/17/2009
Jeff Burton		09/18/2009

--*

188-195 (Reserved)

196 Violations of ACRE Program Contract

A Failures to Comply Justifying Adverse Action

[7 CFR 1412.78] If a participant fails to carry out the terms and conditions of an ACRE Program contract, CCC may terminate the CCC-509. If the CCC-509 is terminated: (i) The participant will forfeit all rights to further payments under such CCC-509 and refund all payments previously received together with interest; (ii) Pay liquidated damages to CCC in such amount as specified in such contract.

In addition to any of the other rules that apply or other violations that may justify adverse action, if producers on a farm fail to report acreage or production of any covered commodities and peanuts on a farm enrolled in an ACRE Program contract as required in 7 CFR Part 1412 and this handbook:

- ACRE Program contract will be terminated **for the contract year of violation**

  Notes: Termination of an ACRE Program contract in no way impacts the irrevocability of ACRE on CCC-509ACRE.

  A zero production report for planted acreage not harvested is an acceptable production report. However, failure to report production of planted covered commodity or peanut crop acreage is a violation and will result in termination of the ACRE Program contract for the contract year requiring the production report.

- all contract payments for the contract year of violation must be refunded with interest from the date of disbursement

- no contract payments for the year of contract violation will be issued or considered earned

- the farm's record will have a zero entered in the yield history for the crop or crops that did **not** have an acceptable production report submitted. Subsequent attempts to update the yield will **not** be permitted once the violation is determined to have occurred and termination of CCC-509 is made.

Note: The failure to report acreage or production has adverse impacts for the farm that had ACRE elected. A missing or zero yield year shall **not** be changed for any reason. If the farm is later reconstituted in a year following the year of contract violation, the farm's record going into the reconstitution cannot be changed. In other words, the farm (or parent farm) retains the missing or zero yield year.

Notwithstanding the provisions of this subparagraph, on an individual case basis and depending upon circumstances, the Deputy Administrator may impose additional adverse actions according to 7 CFR 1412.78.

Note: See paragraph 335.

196 Violations of ACRE Program Contract (Continued)

B Notice of Termination for Violation

If COC finds that a violation according to subparagraph A occurred, all CCC-509 producers and owners of record on the farm at time of notification must be notified of the violation and the ramifications as mentioned in subparagraph A. The notification:

- shall be 1 letter addressed to all CCC-509 producers
- must have courtesy copies issued to all owners of record at the time of notification, unless the owner was already included in the "address to field"
- shall include the appeal rights according to 1-APP.

Note: At CCC's discretion, the notification can either generally mention that all contract payments must be refunded, which would be followed by separate more specific initial notification letters or demand letters, or the notification can include the specific demand for overpayments and interest.

197-206 (Reserved)

Section 3 ACRE Program Payments

207 Overview

A Division of Payments and Shares on ACRE Program Contract

The direct payment shares shall be based on a producer's share of base acres on the farm according to paragraph 352 as reflected on CCC-509.

Note: Part 6, Section 2 applies to ACRE.

In addition to the provisions mentioned in Part 6, Section 2, for the purpose of determining a producer's share of ACRE Program payments of any covered commodity or peanuts that is planted or considered planted on a farm enrolled in the ACRE Program, the producer's share shall be equal to the FSA-578 share.

The shares and covered commodities listed on CCC-509 and FSA-578 do **not** have to be the same. However, if FSA-578 shows that a producer has a share greater than zero of any covered commodity and that producer is **not** enrolled on CCC-509, that producer is **not** eligible for an ACRE Program payment. Only enrolled producers are eligible for payments. See paragraphs 352 and 397.

Example: Dale Farmer has a share of oats planted on a farm enrolled in ACRE. Dale Farmer is not on the ACRE Program contract. For Dale Farmer to potentially be eligible for an ACRE payment on the oats, Dale Farmer must sign the ACRE Program contract during the contract period.

Dale Farmer's decision or election not to sign the ACRE Program contract, in this example, during the contract period, will only impact Dale Farmer's eligibility for ACRE payments. However, all other eligibility requirements of the ACRE Program contract apply to enrolled participants.

207 Overview (Continued)

B ACRE Program Payment Computation

The following is an example of the ACRE Program payment computation.

Average Crop Revenue Election for the 2009 Crop

TWO TRIGGERS MUST BE MET BEFORE PAYMENTS CAN BE ISSUED

1. STATE TRIGGER	+-10% from prev. yr.	**2009 State ACRE Guarantee** **90%** times **Benchmark State Yield** (2004-08 olympic average planted yield) times **ACRE Guarantee Price** (2007 and 2008 national average market price	**must exceed**	**2009 Actual State Revenue** **100%** times **2009 Actual State Yield** times **2009 ACRE Price** (higher of 2009 national average market price or 70% of national loan rate)
2. FARM TRIGGER		**2009 Farm ACRE Guarantee** **100%** times **Benchmark Farm Yield** (2004-08 olympic average planted yield) times **ACRE Guarantee Price** (2007 and 2008 national average market price) plus **2009 Producer-paid Crop Insurance Premium**	**must exceed**	**2009 Actual Farm Revenue** **100%** times **2009 Actual Farm Yield** times **2009 ACRE Price** (higher of 2009 national average market price or 70% of national loan rate)

FARM PAYMENT = 83.3% of farm's planted and prevented acres 1/ times (Benchmark Farm Yield divided by Benchmark State Yield) times

Lesser of:	**2009 State ACRE Guarantee**	minus	**2009 Actual State Revenue**
	2009 State ACRE Guarantee	times	**25%**

In exchange for participating in ACRE: (1) a producer forgoes direct payments); (2) the direct payment is reduced by 20%; and (3) the loan rate is reduced by 30%.

Payments are issued at end of marketing year (no advance payments).

1/ The total number of planted acres for which a producer may receive ACRE payments may not exceed the total base acres for the farm.
If the total number of planted acres exceeds the total base on the farm the producers may elect which planted acres to enroll in ACRE. **April 22, 2009**

C Farm Payment Calculation

If payments are required to be made for a crop, the payment for each eligible crop on the farm is determined by multiplying:

- the farm's planted and prevented acres for the crop by 83.3 percent (85 percent in 2012) times
- the benchmark farm yield divided by the benchmark State yield times
- the State ACRE guarantee minus the actual State Revenue (not to exceed the State ACRE guarantee times 25 percent).

--Note:** The total number of planted and prevented planted acres of the covered commodity and peanuts on the farm for which the producers on a farm may elect to receive ACRE payments may not exceed the total bases acres on the farm. If the total number of planted and prevented planted acres of the covered commodity or peanuts exceed the total base acres on the farm, the producers on the farm must**-- elect which crops and planted acres to enroll in the program. See paragraph 187 C.

207 Overview (Continued)

D Producer Payment Calculation

The payment for each eligible producer on the farm will be computed by multiplying:

- the farm payment calculated according to subparagraph C times
- the producer's share determined according to subparagraph A.

208-254 (Reserved)

Part 5 (Reserved)

255-330 (Reserved)

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Part 6 Annual Enrollment

Section 1 General Information

331 Annual Enrollment Period

A Enrollment Dates

Enrollment in either DCP or ACRE is on an annual basis. The enrollment period for DCP for FY 2009 began December 23, 2008, and ends August 14, 2009. The 2009 ACRE Program enrollment begins April 27, 2009, and ends August 14, 2009.

ACRE Program enrollment occurs **after** election of ACRE. See paragraph 176 for ACRE.

B Farms With CRP-1

Farms with CRP-1's that expire, are voluntarily terminated, or early released after September 30, 2008, and before October 1, 2012, may enter into or expand CCC-509 to the extent:

- CAB's reduced under CRP-15 were released
- PFC acreage was reduced on CCC-505
- base acres were reduced on CCC-505.

Note: See subparagraph 67 C for adjustments to base acres and yields because of CRP-1 that expires, is voluntarily terminated, or is early released. See 3-CM for updating the farm maintenance system.

C Reconstitution of Enrolled Farms

Farms enrolled during the prescribed annual enrollment period are no longer considered to be enrolled following a farm reconstitution. Farms resulting from a reconstitution are not deemed to have CCC-509 and, therefore, may not earn benefits associated with DCP or the ACRE Program unless timely enrolled in DCP or the ACRE Program.

See paragraph 333 for enrollment of reconstituted farms.

Note: ACRE elections are irrevocable and continue to apply following reconstitutions.

332 Overview of CCC-509

A CCC-509

CCC-509 includes the following for each covered commodity and peanuts on the farm:

- base acres, direct payment acres, direct payment yields, and counter-cyclical payment yields, if applicable
- producer payment shares for direct and, if applicable, counter-cyclical
- advance direct and counter-cyclical payment selections, as applicable

  Note: Although advance direct payments are available under an ACRE Program contract, there are no advance ACRE payments.

- signatures of the producer and CCC representative.

CCC-509 is available at **http://165.221.16.90/dam/ffasforms/currentforms.asp**.

Note: CCC-509's **(11-14-08)** initiated **before** April 27, 2009, are acceptable for DCP. CCC-509's initiated after April 27, 2009, require a version date of **(04-16-09)**, or later for either the DCP or ACRE Program.

For ACRE Program contracts, CCC-509 will also reflect those potentially eligible for ACRE payments even though the producer may not have a share of base acres. See paragraphs 187, 209, and 397.

*--B CCC-509 Appendix

CCC-509 Appendix contains the terms and conditions of CCC-509. By signing CCC-509 participants:

- acknowledge receiving CCC-509 Appendix
- agree to abide by the terms of CCC-509 Appendix.

CCC-509 Appendix is available from the FFAS Employees Forms/Publications Online Website at http://165.221.16.90/dam/ffasforms/currentforms.asp.--*

333 Enrollment and Election Options on Reconstituted Farms

A Authorized Reconstitutions

Subject to the provisions of subparagraph B, the following reconstitutions are allowed, if the request for reconstitution is made before August 1 of the effective FY and all payments for the parent farm or farms made during the current FY, if applicable, have been refunded (or receivables have been established for unearned payments):

- divisions of all farms
- farm combinations in limited situations.

Notes: Parent farms having a valid CCC-509ACRE cannot be combined with farms not having a valid CCC-509ACRE for the same effective year of election.

The validity of an election on CCC-509ACRE's is not impacted by reconstitution. Valid elections on CCC-509ACRE shall continue to be recognized following reconstitution.

CCC-509's may only be withdrawn according to paragraph 14.

Farms participating in PTPP that are subsequently reconstituted shall follow subparagraph B.

333 Enrollment and Election Options on Reconstituted Farms (Continued)

B Enrollment and Election Eligibility and Options Following Reconstitutions

This table discusses enrollment and election eligibility options following reconstitutions.

IF…	THEN by the later of June 1 (August 1, 2009, for 2009) of the contract period or 30 calendar days following issuance of the notification of the completion of the reconstitution…
the parent farms of a reconstitution are enrolled under a DCP or ACRE Program contract	resulting farms may likewise be enrolled in a DCP or ACRE Program contract, as applicable. **Notes:** Notification issued to the operator of record constitutes notice to all producers (operator, owner, and other producers) on the farm regardless of whether copies of the notice are actually sent to all producers. A valid CCC-509ACRE must be effective and apply to a farm before an ACRE Program contract can be enrolled.
a valid CCC-509ACRE exists for the parent farm	CCC-509ACRE shall continue to apply to all farms resulting from the reconstitution. See subparagraph C. **Note:** Valid elections on CCC-509ACRE are not impacted by reconstitutions.
a reconstitution request is filed according to 2-CM by June 1 (August 1, 2009 for 2009)	farms resulting from the reconstitution may: • if a valid CCC-509ACRE had not been filed for the parent farm, file CCC-509ACRE and have CCC-509ACRE considered effective for the same period that would have applied if CCC-509ACRE were filed on the date of filing of the reconstitution request **Example:** A reconstitution request is filed on July 16, 2009. Producers on a farm resulting from that reconstitution that want to elect ACRE for 2009, must submit CCC-509ACRE for the 2009 and subsequent FY's by the later of June 1 (August 1, 2009, for 2009) of the contract period or 30 calendar days following issuance of the notification of the completion of the reconstitution. If such election is made, a copy of the notification of completion of the reconstitution and copy of reconstitution request shall be attached to CCC-509ACRE.

333 Enrollment and Election Options on Reconstituted Farms (Continued)

B Enrollment and Election Eligibility and Options Following Reconstitutions (Continued)

IF…	THEN by the later of June 1 (August 1, 2009, for 2009) of the contract period or 30 calendar days following issuance of the notification of the completion of the reconstitution…
a reconstitution request is filed according to 2-CM by June 1 (August 1, 2009 for 2009) (Continued)	• enroll under either a DCP or ACRE Program contract, as applicable. **Notes:** Notification issued to the operator of record constitutes notice to all producers (operator, owner, and other producers) on the farm regardless of whether copies of the notice are actually sent to all producers. A valid CCC-509ACRE must be effective and apply to a farm before an ACRE Program contract can be enrolled. See subparagraph C.
a reconstitution of a farm or farms enrolled under a DCP or ACRE Program contract and participating in PTPP is performed	resulting farms may, in addition to any and all other options that may apply according to this table, elect to continue PTPP participation on any of the resulting farms for no more than the acres approved for PTPP on CCC-749's before the reconstitution or reconstitutions. Resulting farms may also elect to enroll under a DCP or ACRE Program contract without any reduction for or participation in PTPP. **Note:** See subparagraph C.

C Evidence of Election (CCC-509ACRE) or PTPP (CCC-749)

If applicable, a copy of the following shall be placed in each resulting farm's reconstitution farm folder:

- evidence of election of parent farm or farms (CCC-509ACRE)
- CCC-749 for parent farm or farms supporting the PTPP for resulting farm or farms.

Note: For 2009, a reconstitution will not allow anyone or any farm to signup for PTPP. For 2009 reconstituted farms, PTPP participation may be continued for according to subparagraph B.

334 Effect of CLU Certification on Active CCC-509's

A Basic Rules

DCP cropland may increase, decrease, or remain the same after CLU is certified. The following are situations that can occur after CLU certification that may affect CCC-509. The DCP cropland:

- increases on a farm that has an active CCC-509; therefore, the base acres are not affected
- decreases on a farm that has an active CCC-509, but the base acres still remain lower than the effective DCP cropland plus double-cropped acres
- decreases on a farm that has an active CCC-509 and the base acres must be reduced on CCC-505 to be equal to or less than the effective DCP cropland plus double-cropped acres.

Note: A farm combination may be requested to avoid reducing base acres on a farm that has a reduction in DCP cropland after CLU is certified.

B When to Update CCC-509

CCC-505 shall not be completed and CCC-509 shall not be updated until the next FY following CLU certification when the farm has an active CCC-509 that will be affected because of a decrease in DCP cropland.

CCC-509 shall be updated immediately after CLU certification in the following situations.

- A reconstitution is requested on a farm that has a reduction in DCP cropland after CLU is certified and, as a result, a reduction of base acres is required.

  Note: A farm combination may be requested to avoid reducing base acres on a farm that had a reduction in DCP cropland after CLU was certified.

- The producers on the farm with the active CCC-509 request that the reduction of DCP cropland be immediately completed in the system.

CCC-509 is not required to be updated when the DCP cropland increases after CLU certification.

334 Effect of CLU Certification on Active CCC-509's (Continued)

C Reconstitutions

When a reconstitution other than those described in subparagraph D is requested on a farm that has a reduction in DCP cropland after CLU is certified and a reduction of base acres is required, the following actions shall be taken before completing the reconstitution:

- cancel CCC-509 according to 2-DCP (Rev. 1)
- request a refund of any payments that have been issued
- adjust the DCP cropland in farm maintenance according to 3-CM
- have the owners complete CCC-505 to permanently reduce base acres and/or CCC-517 to redistribute base acres
- adjust the base acres in farm maintenance according to 3-CM
- after all payments have been refunded, process the reconstitution
- process CCC-509 on the resulting farms according to 2-DCP (Rev. 1).

Note: See subparagraph 333 C.

D Farm Combinations

After CLU certification, a farm that is going to require a reduction of base acres may be combined with a farm that has excess effective DCP cropland to avoid losing base acres. The resulting farm of the combination must meet the definition of a farm according to 2-CM. The following actions shall be taken when a farm combination is requested:

- cancel CCC-509's on each farm involved in the combination according to 2-DCP (Rev. 1)
- request a refund of any payments that have been issued on each of the farms involved in the combination

334 Effect of CLU Certification on Active CCC-509's (Continued)

D Farm Combinations (Continued)

- adjust the DCP cropland in farm maintenance on the affected farms according to 3-CM
- after all payments have been refunded, process the farm combination according to 2-CM
- have the owners complete CCC-505 to permanently reduce base acres and/or CCC-517 to redistribute base acres, if applicable
- process CCC-509 on the resulting farm according to 2-DCP (Rev. 1).

Note: A farm with a valid CCC-509ACRE can only be combined with another farm having a valid CCC-509ACRE. Farms **not** having a valid CCC-509ACRE cannot be combined with farms having a valid CCC-509ACRE.

E Producer Request

The owners on the farm may request that the reduction of DCP cropland and base acreage be immediately completed. In this situation, the following actions shall be taken:

- adjust the DCP cropland in farm maintenance according to 3-CM
- owners shall complete CCC-505 to permanently reduce base acres and/or CCC-517 to redistribute base acres
- adjust the base acres in farm maintenance according to 3-CM
- revise CCC-509 according to 2-DCP (Rev. 1)
- request a refund of any DCP overpayments.

Provided the provisions of paragraph 333 are satisfied, all signatures must be obtained on the new CCC-509 by the later of June 1 of the contract period or 30 calendar days following producer notification of the completion of the reconstitution.

334 Effect of CLU Certification on Active CCC-509's (Continued)

F Example 1

Farm number 153 is located in County A and consists of:

- 55 DCP cropland acres
- 55 effective DCP cropland
- 0 double-cropped acres
- 40 base acres.

CCC-509 has been approved on farm number 153. After the CLU certification, farm number 153 consists of:

- 65 DCP cropland acres
- 65 effective DCP cropland
- 0 double-cropped acres
- 40 base acres.

The DCP cropland shall be increased in farm maintenance according to 3-CM . Because the effective DCP cropland increased after CLU was certified, the base acres will not be affected. CCC-505 is not required and CCC-509 does not require an adjustment.

G Example 2

Farm number 10 is located in County A and consists of:

- 60 DCP cropland acres
- 60 effective DCP cropland
- 0 double-cropped acres
- 45 base acres.

CCC-509 has been approved on farm number 10. After the CLU certification, farm number 10 consists of:

- 55 DCP cropland acres
- 55 effective DCP cropland
- 0 double-cropped acres
- 45 base acres.

Even though there was a decrease in the effective DCP cropland, the base acres are not affected; therefore, CCC-509 does not require an adjustment.

334 Effect of CLU Certification on Active CCC-509's (Continued)

H Example 3

Farm number 1 is located in County A and consists of:

- 75 DCP cropland acres
- 75 effective DCP cropland
- 0 double-cropped acres
- 75 base acres.

CCC-509 has been approved on farm number 1. After the CLU certification, farm number 1 consists of:

- 65 DCP cropland acres
- 65 effective DCP cropland
- 0 double-cropped acres
- 75 base acres.

Procedure in 3-CM instructs County Offices not to adjust the DCP cropland in farm maintenance until the next FY because CCC-509 was approved on farm number 1 before the CLU certification. Unless a farm combination is requested according to subparagraph D or the producer requests the change be made according to subparagraph E, immediately after farm records rollover the next FY the County Office must adjust the DCP cropland according to 3-CM. This will cause the farm to be out-of-balance and the owners must complete CCC-505 before CCC-509 enrollment to permanently reduce 10 base acres.

After CCC-505 has been processed and the base acres have been reduced in farm maintenance according to 3-CM, CCC-509 shall be processed according to 2-DCP (Rev. 1).

334 Effect of CLU Certification on Active CCC-509's (Continued)

I Example 4

Farm number 60 is located in County A and consists of:

- 100 DCP cropland acres
- 100 effective DCP cropland
- 0 double-cropped acres
- 100 base acres.

CCC-509 has been approved on farm number 60. After the CLU certification, farm number 60 consists of:

- 87 DCP cropland acres
- 87 effective DCP cropland
- 0 double-cropped acres
- 100 base acres.

A reconstitution, other than described in subparagraph C, has been requested on farm number 60.

Procedure in 3-CM instructs County Offices to adjust the DCP cropland in farm maintenance immediately upon request of a reconstitution.

Note: In this example, a 13-acre base reduction is required.

The County Office shall take the following action:

- cancel CCC-509 according to 2-DCP (Rev. 1)
- request a refund of any payments that have been issued
- adjust the DCP cropland in farm maintenance according to 3-CM
- have owners complete CCC-517 to redistribute base acres among the tracts, if applicable
- have owners complete CCC-505 to permanently reduce 13 base acres
- adjust the base acres in farm maintenance according to 3-CM
- after all payments have been refunded, process the reconstitution
- process CCC-509 on the resulting farms according to 2-DCP (Rev. 1).

334 Effect of CLU Certification on Active CCC-509's (Continued)

J Example 5

Farm number 643 is located in County A and consists of:

- 55 DCP cropland acres
- 55 effective DCP cropland
- 0 double-cropped acres
- 55 base acres.

CCC-509 has been approved on farm number 643. After the CLU certification, farm number 643 consists of:

- 45 DCP cropland acres
- 45 effective DCP cropland
- 0 double-cropped acres
- 55 base acres.

A farm combination has been requested to avoid losing base acres. Farm number 643 will be combined with farm number 644 which consists of 100 DCP cropland acres, 100 effective DCP cropland plus double-cropped acres, and 50 base acres. CCC-509 has been approved on farm number 644.

Note: In this example, the requested reconstitution combination is permitted because neither farm number 643 nor 644 have a valid CCC-509ACRE.

Procedure in 3-CM instructs County Offices to adjust the DCP cropland in farm maintenance immediately upon request of a reconstitution. The County Office shall take the following action:

- cancel CCC-509's on farm numbers 643 and 644 according to 2-DCP (Rev. 1)
- request a refund of any payments that have been issued on both farms
- adjust the DCP cropland in farm maintenance on farm number 643 according to 3-CM
- after all payments have been refunded, process the farm combination according to 2-CM
- process CCC-509 on the resulting farm according to 2-DCP (Rev. 1).

334 Effect of CLU Certification on Active CCC-509's (Continued)

K Example 6

Farm number 200 is located in County A and consists of:

- 125 DCP cropland acres
- 125 effective DCP cropland
- 0 double-cropped acres
- 125 base acres.

CCC-509 has been approved on farm number 200. After the CLU certification, farm number 200 consists of:

- 115 DCP cropland
- 115 effective DCP cropland
- 0 double-cropped acres
- 125 base acres.

Procedure in 3-CM instructs County Offices not to adjust the DCP cropland in farm maintenance until the next FY when CCC-509 will be affected by the change; however, the owners on farm number 200 requested an immediate change in DCP cropland.

Note: In this example, a 10-acre base reduction is required.

The County Office shall take the following action:

- adjust the DCP cropland in farm maintenance according to 3-CM
- have owners complete CCC-517 to redistribute base acres among tracts, if applicable
- have the owners complete CCC-505 to permanently reduce 10 base acres
- adjust the base acres in farm maintenance according to 3-CM
- revise CCC-509 according to 2-DCP (Rev. 1)
- request a refund of any overpayments.

335 Inaccurate Representation and Misrepresentations and Scheme or Device

A Inaccurate Representation

Producers are required to report and certify to program matters accurately. However, from time to time, errors in reporting or certification are detected which may impact eligibility or extent of eligibility.

If an error was made by a producer that did not meet the requirements of DCP or the ACRE Program, but the producer made a good faith effort to fully comply, equitable relief provisions in 7-CP may be considered.

Program benefits and eligibility determinations shall be based on the most accurate information available. Producers shall be responsible for refunding any program benefits that were paid based on incorrect information.

B Misrepresentations and Scheme or Device

COC's are given the discretion and authority to determine when an inaccurate representation or certification rises to the level of misrepresentation, scheme, or device.

A producer is ineligible to receive DCP or ACRE Program payments and shall have the producer's interest in all contracts terminated if it is determined that such producer has done any of the following:

- adopted any scheme or device that tends to defeat the purpose of DCP or the ACRE Program
- made any fraudulent representation under DCP or the ACRE Program
- misrepresented any fact affecting a DCP or ACRE Program or person determination
- violated or been determined ineligible under 7 CFR 1400.5.

Note: See paragraph 196 for ACRE Program contracts.

335 Inaccurate Representation and Misrepresentations and Scheme or Device (Continued)

B Misrepresentations and Scheme or Device (Continued)

If COC determines a producer erroneously represented any fact affecting a determination to be made by CCC under this contract, direct, counter-cyclical, and ACRE Program payments shall not be allowed on the farm with respect to the payment shares of that producer. If COC determines that the misrepresentation was intentional or fraudulent, or if the producer knowingly adopted any scheme or device which tends to defeat the purposes of CCC-509, the producer shall forfeit all rights to payments on each farm in which the producer has an interest and shall refund to CCC all payments received by the producer during the period of the violation, plus interest.

All producers sharing in DCP or ACRE Program contract payments are jointly and severally liable for any refunds determined according to subparagraph A and CCC will establish claims for the full amount of the refund against each producer according to 7 CFR Part 1403. A signatory to the contract who does not receive any share of DCP or ACRE Program payments shall **not** be liable for the repayment of such refund.

336-351 (Reserved)

Section 2 Division of Payments

352 Eligibility to Receive Payments and Determining Cash or Share Leases

A Sharing of DCP or ACRE Program Payments

[7 CFR 1412.54] Sharing of contract payments. (a) Each eligible producer on a farm will be given the opportunity to annually enroll in a DCP or ACRE Program contract, as applicable, and receive payments determined to be fair and equitable as agreed to by all the producers on the farm and approved by the county committee.

(b) Each producer must provide a copy of their written lease to the county committee and, in the absence of a written lease, must provide to the county committee a complete written description of the terms and conditions of any oral agreement or lease. An owner's or landlord's signature, as applicable, affirming a zero share on a contract may be accepted as evidence of a cash lease between the owner or landlord and tenant, as applicable, as determined by CCC. Such signature or signatures, if entered on the contract to satisfy the requirement of furnishing a written lease, must be entered on the contract no later than as prescribed in § 1412.41.

Note: The completed CCC-509, with signatures, may be considered the written description of terms and conditions of valid leases provided there are no undisclosed terms. See paragraph 394.

(c) When base acres are leased on a share basis, neither the landlord nor the tenant will receive 100 percent of the contract payment for the farm.

(d) CCC will approve a contract for enrollment and approve the division of payment when all of the following apply:

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

(2) CCC determines that the interests of tenants and sharecroppers are being protected; and

(3) CCC determines that the payment shares shown on the contract do not circumvent either the provisions of 7 CFR part 1412 or 7 CFR part 1400.

352 Eligibility to Receive Payments and Determining Cash or Share Leases (Continued)

A Sharing of DCP or ACRE Program Payments (Continued)

Individuals or entities who are producers with a crop share interest on base acres must have a share in direct and counter-cyclical payments. Individuals and entities may share in payments if the individual or entity is entitled to an ownership share of a crop and is:

- an owner on an eligible farm who meets the definition of producer on either base acres or acres of a covered commodity on a farm enrolled under an ACRE Program contract

- a producer, other than an owner, on base acres or acres of a covered commodity or farm enrolled under an ACRE Program contact with a share-rent arrangement or cash-lease agreement who has a crop share interest in those acres.

Note: A landowner or landlord who cash leases land to another is not a producer on the cash rent land.

A producer on a farm with an interest in only nonbase acres shall not share in direct or counter-cyclical payments.

Individuals or entities with a crop share interest in acres of a covered commodity or peanuts planted on a farm enrolled in ACRE must have a share of the crop reported on FSA-578 according to paragraph 187. Individuals or entities wanting ACRE payments must sign an ACRE Program contract. See paragraphs 12, 207, and 397.

Important: The amount of nonbase acres available to be planted to FAV and wild rice without resulting in a payment reduction or violation may be reduced when there is a producer on a farm with interest in only nonbase acres. See:

- paragraph 470 for examples

- 4-CP to calculate nonbase acres on a farm available to be planted to FAV or wild rice without resulting in a payment reduction or violation.

352 Eligibility to Receive Payments and Determining Cash or Share Leases (Continued)

B Review of Leases

[7 CFR 1412.54] 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 sum certain cash payment, 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 a guaranteed amount and share of the crop or crop proceeds, such agreement will be considered a cash lease if the lease provides for both:

(i) A guaranteed amount such as a fixed dollar amount or quantity; and

(ii) A share of the crop proceeds.

(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.

Notes: Lease terms and CCC's view about whether a lease is cash or share impact a decision about who must sign CCC-509. They also could impact claimed shares on CCC-509, or for the ACRE Program, shares of covered commodities reflected on FSA-578.

There are no requirements in DCP or the ACRE Program that specify that leases comport with any sort of reasonableness test. These matters could impact other decisions, such as payment limitation or eligibility provisions.

Important: FSA-578 shares are used to determine shares of ACRE payments. Offices should not enter acreage certifications using defaulted shares from CCC-509 if those share interests do not reflect the actual producer crop share of the covered commodity or peanuts on the farm.

352 Eligibility to Receive Payments and Determining Cash or Share Leases (Continued)

C Current Regulations About Division of Payment Shares

7 CFR 1412.54 regulations provide the following provisions about lease types applicable for DCP or ACRE Program purposes.

Type of Lease	Definition

Cash	A cash lease provides for only a guaranteed sum, certain cash payment, or a fixed quantity of the crop.
	
	Example: Cash, pounds, or bushels per acre.
	
	A fixed or standing commodity payment is the payment a tenant or operator provides a landlord for using the land and the landlord's reduced risk on the crop, including the following:
	
	• a fixed amount of production, such as 10,000 bushels or pounds
	• an amount of production per acre, such as 40 bushels or pounds per acre
	• a guaranteed amount and share of the crop or crop proceeds
	• both a:
	
	  • guaranteed amount, such as a fixed dollar amount of quantity
	  • share of the crop proceeds.

Share	A share lease contains provisions that require any of the following: • payment of rent based on the amount of crop produced • proceeds derived from the crop • interest the producer would have had, if the crop had been produced.

D Example 1

In this example, the lease agreement specifies that the rent is based on a share of the gross revenue of the crop proceeds. The rental amount is equal to $142.80 per acre based on the following variables:

- rent equal to 40 percent of the gross crop value
- guaranteed minimum yield of 170 bushels per acre
- actual price of $2.10 per bushel.

While the landowner does not actually receive 40 percent of the crop produced, this lease shall be considered a cash lease because other rental amount is based on a guaranteed sum or minimum amount.

352 Eligibility to Receive Payments and Determining Cash or Share Leases (Continued)

E Example 2

In this example, the lease agreement specifies that there is a base, or minimum, cash rent amount that must be paid, but the landowner receives a share of the gross revenue in excess of the base value. The rental amount is based on the following variables:

- base, or minimum, cash rent is $100 per acre
- additional rent is 50 percent of the gross revenue in excess of $250 per acre
- yield of 52 bushels per acre
- price of $6.50 per bushel.

While the landowner does not actually receive 50 percent of the crop produced, this lease shall be considered a “combination” lease or cash lease because the lease agreement includes a guaranteed amount and an additional amount based on a share of the crop proceeds.

F Example 3

In this example, the lease agreement specifies that the cash rent is based on a fixed number of bushels; however, the price is based on the value that will be set on a future date, but it is not based on the actual price received by the producer. The rental amount is based on the following variables:

- fixed number of bushels is 55 bushels per acre
- actual price is the price at the local elevator on December 1.

This lease shall be considered a cash lease.

G Payment of Cash Bonuses

Questions have been raised about how payment of cash “bonuses” to landowners impacts program eligibility. Tenants entering into agreements with landowners for the contract period may be considering paying landowners a “bonus” payment because of higher than expected yields or increased market prices. The payment of a bonus to a landowner, in itself, is **not** a violation of DCP or ACRE Program regulations.

352 Eligibility to Receive Payments and Determining Cash or Share Leases (Continued)

H Eligibility to Receive Payment

Each eligible producer on a farm shall have the opportunity to enroll in a DCP or ACRE Program contract. The type of farm lease and the terms of the lease will define the appropriate sharing of payments.

The following defines the general eligibility to receive payment on a farm.

Situation	Eligible to Receive Payment?	
	Lessor	Lessee
Landowner cash leases entire farm to lessee.	No, because the farm has been cash leased to another. Landowner has no share of any crop.	Yes, if all other eligibility requirements are met.
Landowner leases grazing or haying rights or privileges on base acres to another, but land itself is not leased.	Yes, if all other eligibility requirements are met, because the land itself has not been leased, only the right to graze or hay.	No, lessee is not leasing land, the lessee is only leasing the right to graze or hay.
Landowner cash leases all base acres and lessee grazes or hays the land.	No, because all the base acres have been cash leased to the lessee.	Yes, if all other eligibility requirements are met, because the lessee has leased the land, not just grazing or haying rights. The fact that the lessee uses the land for grazing or haying is not relevant.
Landowner share leases all base acres to lessee.	Yes, if all other eligibility requirements are met. However, neither the lessor nor the lessee may receive 100 percent of DCP or ACRE Program payments.	Yes, if all other eligibility requirements are met. However, neither the lessor nor the lessee may receive 100 percent of DCP or ACRE Program payments.
Landowner leases (cash or share lease) only nonbase acres to lessee.	Landowner may be eligible to receive DCP or ACRE Program payments depending on lease arrangements for base acres on the farm.	No, because the lessee leases only nonbase acres. See subparagraph B.

Notes: See paragraph 447 if a crop subject to a commercial grower contract is grown on base acres.

COC shall review grazing and haying leases to determine fair treatment of tenants/sharecroppers.

352 Eligibility to Receive Payments and Determining Cash or Share Leases (Continued)

I Lease Expiration and Eligibility

The time period for lease arrangements vary significantly by different regions and by different crops.

If crops are produced on base acres:

- to be eligible to receive payments, persons must have an entitlement to an owner's share of the crop and that person must share in the risk of production of those crops

- all persons that have an entitlement to an owner's share of the crop and who share in the risk of production of crops on base acres must share in the payments.

An annual crop year lease may have a beginning date in one FY, and an ending date in another FY. However, because the lease is an annual lease for 1 crop year, it shall not be used to claim payments in more than 1 crop year. A producer is only eligible for payments applicable for that 1 crop year, if the lease is for only 12 months.

J Supportive and Necessary Contractual Documents

Supportive and necessary contractual documents must be in the FSA office before approving CCC-509. These include, but are not limited to, those items substantiating shares on CCC-509, such as leases, deeds, signatures, owners, operators, and other tenant signatures. These must be submitted during the enrollment period.

The following may be considered acceptable supportive and necessary contractual documents even if received after the end of the enrollment period:

- signatures from landowners signing to zero shares
- a copy of the cash lease agreement
- CCC-510 from the producer (Exhibit 14).

Reminders: COC's shall **not** approve CCC-509's until the signature from the landowner, a copy of the cash lease, or CCC-510 is received (Exhibit 14).

A valid CCC-509ACRE is required before an ACRE Program contract can be acted on or approved.

352 Eligibility to Receive Payments and Determining Cash or Share Leases (Continued)

K Documents Required for Payment Issuance

The following are required before payments can be issued:

- approved CCC-509
- AD-1026
- CCC-902 determination (**CCC-903**)
- CCC-926
- any other document necessary for the producer to be eligible for payment.

Notes: See 2-CP for acreage reporting requirements. FSA-578 is required; however, advance payments may be available before FSA-578.

Payment limitation and eligibility decisions must be made before any advance or final payment issuance. Under no circumstances will payments be issued to participants who have not had required eligibility determinations made by FSA.

353 Approving CCC-509

A Approving CCC-509 for DCP or ACRE Program Contract and Payment

CCC-509 may be approved if all of the following are met:

- all persons who are producers on base acres on the farm:
  - agree to the payment shares
  - sign CCC-509

  Note: See paragraphs 187 and 207 for ACRE Program contracts.

- owner signature requirements for cash-rented land according to paragraph 395 are met

- COC determines that:

  - producer and payment shares do not attempt to circumvent payment limitation rules

  - interest of tenants, sharecroppers, and landowners are protected according to paragraph 356

  - payment shares:

    - are not in dispute
    - meet division of payment guidelines according to paragraph 356.

    Note: See paragraphs 187 and 207 for ACRE Program contracts.

B Payment Shares' Disapproval

If, for any FY, COC determines that an owner or operator does not meet the terms and conditions of DCP or the ACRE Program, COC shall:

- not approve CCC-509 for payment for such FY

- obtain DD concurrence according to subparagraph B

- notify the owner, operator, and all other persons signing CCC-509 of the payment disapproval

353 Approving CCC-509 (Continued)

B Payment Shares' Disapproval (Continued)

- document COC findings in the COC minutes and file a copy of the minutes in the farm folder

- provide applicable appeal rights.

Note: A decision by COC not to act or render a decision on disputed share contracts is **not** an adverse decision giving rise to any sort of appeal or appealability review.

See paragraph 196 for violations and terminations.

C Revising CCC-509

Except as may be permitted according to paragraphs 397 and 398, revisions to CCC-509 shall **not** be made after June 1 (August 14, 2009, for 2009) of the applicable year.

Note: See 2-DCP (Rev. 1) for County Office procedure for revising CCC-509.

D Completing CCC-770 DCP

See Exhibit 17 for information about the following:

- completing CCC-770 DCP's
- the required number of CCC-770 DCP's to complete.

354 (Reserved)

355 Division of Payments, Rules, and Examples

A Division of Payment Guidelines

There are multiple factors that may influence the proper division of payments. In reviewing CCC-509 or FSA-578 division of payment and shares, COC's should consider the following:

- past history on a farm
- whether the producers claiming a share have control of sufficient DCP cropland and an entitlement to a crop share interest to support the claimed payment share on CCC-509 or FSA-578
- the level of risk in the production of the crop being grown
- whether the shares provide equitable treatment to all of the producers on the farm.

B Example

A landowner has leased his or her farm for a half share of the crop (inputs were divided equally) for the years 1996 through 2008, and the acreage was shared equally by the landowner and tenant. 700 acres of winter wheat are planted each year and 700 acres are summer fallowed.

The landowner and tenant agree to the following shares and have signed CCC-509 for 2009:

	Landowner	Tenant
Wheat	100 percent	0 percent

The landowner is leasing only the 700 acres planted to wheat to the tenant for a 50 percent share of the crop. The landowner will operate the 700 acres of summer fallow.

COC shall **not** approve this contract because of the past history of the farming operation. Shares do not have to be divided equally, but should be consistent with the farm's present operation status.

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356 Protecting Interests of Tenants, Sharecroppers, and Landowners

A Provisions About Tenants and Sharecroppers

[7 CFR 1412.55] Neither direct nor counter-cyclical nor ACRE payments will be made by CCC if:

(a) 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 must be refunded to CCC; or

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

CCC is required to "provide adequate safeguards to protect the interests of tenants and sharecroppers." In addition, COC is charged with ensuring fair treatment of landowners. COC's shall use the following to determine whether CCC-509 shares protect the interests of tenants and sharecroppers.

- COC shall not approve CCC-509 payment shares if COC determines any of the following apply:
  - a landowner or operator denies tenants and sharecroppers an opportunity to participate if the tenant or sharecropper would have shared in the crop planted on base acreage
  - a State court determines a signatory violated State law concerning farm and agricultural property lease provisions
  - a landowner or operator adopts a scheme or device to deprive tenants or sharecroppers of payments that tenants or sharecroppers would otherwise be entitled to receive under DCP or the ACRE Program.

356 Protecting Interests of Tenants, Sharecroppers, and Landowners (Continued)

A Provisions About Tenants and Sharecroppers (Continued)

- To assist COC's in determining whether producers meet landlord and tenant provisions, COC's may:

  - on an annual basis, determine customary crop share rental rates for all crops produced in the county, excluding FAV crops

  - establish a parameter for the county using the lowest owner crop share percentage for any crop in the county as the low end and the highest owner crop share percentage for any crop as the high end of the parameter, excluding FAV shares when establishing the parameter

  - review landlord payment shares for the farm to see whether they are less than the lowest, or exceed the highest customary crop share rental rates for any crop in the county.

    Note: COC's shall recognize that payment divisions that do not fall within the aforementioned parameters may be justifiable and do not necessarily reflect unfair treatment of tenants and sharecroppers.

    Example: COC determines landlord share rental rates for all crops, other than FAV, range from .3333 to .5000. Therefore, COC shall review landlord payment shares to see whether the landlord shares are less than .3333 or greater than .5000. All landlord shares for any crop outside these parameters must be thoroughly documented in the COC minutes.

- If a landowner or operator reduces the number of tenants from the preceding year, the landlord or operator may still earn current year's DCP or ACRE Program payment if the reason for the reduction is any of the following:

  - the landlord or operator purchased the farm for the current year

  - the tenant's lease expired or was legally terminated, and tenant has no further rights to the farm

  - a producer leaves the farm voluntarily.

356 Protecting Interests of Tenants, Sharecroppers, and Landowners (Continued)

B Contract Intimidation

Do not approve CCC-509 if there exists between the operator or landlord, and any tenant or sharecropper, any lease, contract, agreement, or understanding, required or unfairly exacted by the operator or landlord, entered into in anticipation of participating in the program that does any of the following:

- forces tenants or sharecroppers to pay the landlord or operator any payment earned
- changes the status of tenants or sharecroppers to deprive tenants or sharecroppers of any payment or right otherwise received
- unfairly requires a reduction in the size of the tenant or sharecropper producer share.

COC shall use information obtained from tenants and sharecroppers. Do **not** accept the following statements from the landowner or operator at face value without supporting documentation:

- tenants left voluntarily and, therefore, need not be replaced
- tenants requested assignment to a smaller share of the total farm acreage.

357 Division of Payment Disputes

A Policy

It is the responsibility of producers to:

- determine shares on CCC-509 or FSA-578
- submit all necessary signatures or supportive and necessary contractual documentation by deadlines.

Note: While FSA may assist producers, FSA is **not** responsible for determining what correct shares should be or for insuring that producers meet program requirements.

COC's shall **not** be involved in or settle division of payment disputes or act on disputed share CCC-509's.

B Payment Shares Dispute

Payment shares are considered in dispute when there is a disagreement on shares. A disagreement is evident by having conflicting CCC-509's or some other dispute as to shares of covered commodities or peanuts on FSA-578.

Note: Successions-in-interest are not considered payment disputes. See paragraph 398 for successions-in-interest.

Any CCC-509 **not** having all signatures of producers sharing in base acres shall **not** be acted on or approved or disapproved.

357 Division of Payment Disputes (Continued)

C Determining Disputes

There are some cases where it is obvious that payment shares are not in dispute. To determine whether a payment share dispute exists, COC's shall:

- determine whether available documentation supports who should share in payments on the farm

- determine whether the documentation supports what the payment shares should be

- review lease agreements and use them as a guide in determining who should share in the payments on a farm and what the payment shares should be, unless the lease agreement is in conflict with other provisions of this handbook

  Exception: In the event that landowner or landlord cash rents an entire farm to another for an entire crop year, COC may render a determination on CCC-509 signed by the cash rent tenant. See paragraph 358.

- review past history to determine how payments were shared in previous years

  Note: There could be good reasons why previous year shares no longer apply.

- compare previous year's rental agreement to the current year's rental agreement to determine whether rental rates are similar or have changed for the type of acreage being rented.

Disputes may exist when the available evidence does not support claimed payment shares.

Disputes generally do **not** exist when:

- everyone signing CCC-509 for a farm agrees on shares and there is no conflicting CCC-509 also containing all required signatures

- it is obvious that the available evidence supports who should share in payments

- all provisions of this handbook are met.

357 Division of Payment Disputes (Continued)

D Documenting a Dispute

If it is determined there is a disputed CCC-509, COC shall follow these instructions.

IF…	THEN notify…
CCC-509 containing signatures of all producers claiming a share of the contract has been approved and is subsequently challenged by another CCC-509 containing signatures of all producers claiming a share	• all producers on the approved CCC-509 that CCC's approval of CCC-509 is withdrawn and that all payments issued must immediately be refunded **Note:** See 1-APP for producers receiving this adverse decision. • all producers on the previously approved CCC-509, as well those on the challenging CCC-509, that there is a dispute of shares and that CCC will not approve any CCC-509 for the farm until the dispute is settle **Notes:** Copy all parties to this action. A COC notification that it will not act on or approve any CCC-509 where there is a dispute of share shall **not** be considered an adverse decision giving rise to any sort of appeal or appealability review. Appeals or appealability reviews only occur if COC renders a decision to approve or disapprove CCC-509. • producers on all CCC-509's that they are responsible for resolving the dispute of shares and obtaining all necessary signatures of contract participants by the end of the enrollment period.
conflicting CCC-509's show that there is a dispute of shares on CCC-509 and CCC-509 has not yet been approved	• all interested producers that CCC will not approve any CCC-509 for the farm until the dispute is settled **Notes:** To the extent possible, copy all parties, those asserting shares, operator, landowners, etc., with this notification. A COC notification that it will not act on or approve any CCC-509 where there is a dispute of shares shall not be considered an adverse decision giving rise to any sort of appeal or appealability review. Appeals or appealability reviews only occur if COC renders a decision to approve or disapprove CCC-509. • producers on all CCC-509's that they are responsible for resolving the dispute of shares and obtaining all necessary signatures of contract participants by the end of the enrollment period.

357 Division of Payment Disputes (Continued)

E Payment When Disputes Are Settled

Approval of CCC-509 should be handled in the normal manner for disputes resolved by the end of the enrollment period.

Note: All interested parties who might be third parties according to 1-APP must receive a copy of determinations and be provided appeal rights.

If the dispute is settled after September 30 of the applicable FY, CCC-509 may be approved and payments issued accordingly only if CCC-509 was filed before September 30 of the applicable FY with the correct payment shares for all producers sharing in the base acres.

F Signature Requirements

CCC-509 shall not be approved unless all producers sharing in the base acreage have signed the contract. If there is a dispute that is preventing 1 or more producers from signing, producers are responsible for ensuring that, as a condition of contract eligibility, CCC-509 with all necessary signatures of producers with shares entered is submitted to FSA no later than:

- June 1 (August 14, 2009, for 2009) of the applicable year to be considered timely enrolled
- the end of the contract period to be considered at all.

Note: In no case will a contract not containing all required and necessary producer signatures be considered for any purpose or determination. COC shall render no determination or action on such a contract not having all necessary signatures and supportive and necessary contractual documents.

358 Division of Payment Dispute Examples

A Examples

The following are examples and should **not** be construed to be actual situations or rules. The examples are intended to illustrate potential disputes and remedies.

B Basic Farm Data

Unless otherwise annotated, assume the following is applicable for each of the examples in this paragraph.

Farm Data

200 acres of cropland
100 base acres enrolled in DCP
Participated in the prior FY

C Example 1

For FY 2009, a landowner cash leases the entire farm to Producer A. Producer A enrolls the farm in DCP claiming 100 percent of the FY 2009 payment. The landowner disputes Producer A's share and signs another CCC-509 for FY 2009 claiming 100 percent of the payment. The County Office generates CCC-509's for FY 2009, one with 100 percent shares to the landowner and another with 100 percent shares to Producer A.

Under DCP, the landowner who cash leases an entire farm cannot receive a share of the payment for any covered commodity. The landowner's dispute of payment shares is contrary to the lease agreement and regulations governing DCP. COC shall approve the FY 2009 CCC-509 for Producer A, and issue payments accordingly. The landowner's CCC-509 shall be disapproved, and the landowner shall be notified of their appeal rights according to 1-APP. Producer A shall be:

- copied with the adverse decision to landowner
- noticed on all appeals as a third party.

358 Division of Payment Dispute Examples (Continued)

D Example 2

Producer A share rents from Landowner B. Producer A enrolls the farm in the ACRE Program claiming 75 percent of the FY 2009 payment. The landowner disputes Producer A's share and enters into the ACRE Program for FY 2009 claiming 33 percent of the payment. At the request of Producer A and Landowner B, the County Office generated CCC-509's with 75 percent share of the payment to Producer A, 25 percent to Landowner B, another CCC-509 with 67 percent of the payment to Producer A, and 33 percent to Landowner B.

FY 2009 ACRE Program payment shares are in dispute. Producer A and Landowner B shall be informed that COC will not render any determination before the dispute is resolved. See subparagraphs 357 D and E. Producer A and Landowner B must resolve the share dispute before issuing any payments.

If share disputes are **not** resolved, ACRE Program payments (direct and ACRE) will **not** be made.

359-393 (Reserved)

394 CCC-509

A CCC-509 Signatures

[7 CFR 1412.41] Eligible producers must execute and submit a DCP or ACRE program contract and furnish supportive and necessary contractual documents to the county FSA office where the records for the farm are administratively maintained not later than June 1 (August 14, 2009, for 2009) **of the fiscal year in which the direct and counter-cyclical or ACRE payments are requested.**

B Who Must Sign

[7 CFR 1412.41] Under no circumstances will enrollment be permitted except as specified in 7 CFR 1412.41. Contracts will not be approved unless all producers sharing in base acres with more than a zero share have enrolled. For those producers with an interest but a zero share of base acres, the contract will not be approved before all producers have signed the contract or furnished supportive and necessary contractual documents (such as cash leases in lieu of signing for a zero share). A contract not having all requisite signatures of producers having more than a zero share of base acres on or before the enrollment deadline will not be considered submitted to CCC for any purpose and will not be acted on or approved. Those contracts enrolled by a producer on or before June 1 (August 14, 2009, for 2009) **that were not signed by other producers according to this section will be deemed withdrawn and will not be approved. Producers on a farm are solely responsible for ensuring that enrollment occurs.**

COC shall:

- only consider and act on CCC-509's that are enrolled in DCP or the ACRE Program, as applicable, according to this paragraph

- neither approve nor disapprove CCC-509 that does not have signatures of all producers sharing in base acres on the farm

  Exception: CCC-509 with signatures of producers having zero shares may be acted on provided the provisions of subparagraph 352 J are met.

- not consider or recommend equitable relief under any provision for CCC-509 that is not enrolled.

  Note: The failure of producers to sign CCC-509 is **not** a failure to comply. There can be no compliance or compliance violation on a farm that is not enrolled.

394 CCC-509 (Continued)

C Cash Lease Signature Requirements

COC shall determine whether a lease is considered a cash lease according to paragraph 352. If the lease is a cash lease, COC's shall require any of the following if the landowner or landowners receive a zero share of the crop:

- written lease, rental arrangement, or other document signed by the owner that proves that the producer has the land cash leased for FY

  Notes: Keep a copy of the document in the County Office folder.

  If the farm is a multiple ownership farm, and none of the tracts owned by an owner have DCP cropland on them, the signature of that landowner or proof of cash lease provisions do not apply.

- the landowner's signature on CCC-509.

  Note: When both spouses are joint owners of a farm and proof of a cash lease is not provided, the signature of 1 spouse is sufficient for a "0" share, unless the spouse has notified FSA that the other spouse may not sign for both.

- CCC-510, but only if **all** of the following apply:

  - a producer is requesting a payment to be made after June 1

  - the farm was cash leased by the producer in the previous FY and the producer was designated to receive payment on CCC-509 for that same year

    Exception: This provision is **not** applicable if an ownership change on the farm has occurred since the previous FY.

  - COC shall **not** approve CCC-509 until after June 1.

See Exhibit 14 for additional information about using CCC-510.

D No Partial Enrollments

[7 CFR 1412.41] Eligible producers who elect to enter into a contract with CCC must enroll all base acres on the farm. Enrollment of fewer than all base acres on the farm is not allowed.

394 CCC-509 (Continued)

E Withdrawing Enrollment

[7 CFR 1412.41] Eligible producers may withdraw from a DCP or ACRE Program at any time by June 1 (August 14, 2009, for 2009) **of the year of the contract provided all signatories to the contract, including CCC, agree to the withdrawl. CCC-509's enrolled prior to the decision of producers on a farm to elect the ACRE option for a fiscal year on CCC-509ACRE are considered withdrawn pursuant to § 1412.72. Producers electing the ACRE option according to § 1412.72(d) must subsequently decide whether or not to enroll the farm on a CCC-509. Producers on a farm are solely responsible for ensuring that enrollment occurs.**

In the event that a timely withdrawal of a valid CCC-509ACRE is filed according to subparagraph 176 B, any subsequent ACRE Program contract shall likewise be considered withdrawn. Additionally, any CCC-509 that may have preceded CCC-509ACRE in the same enrollment period is also considered withdrawn.

F Expiration of Contracts

[7 CFR 1412.41] All contracts expire on September 30 of the fiscal year of the contract unless:

(1) Withdrawn in accordance with 7 CFR § 1412.41(b);

(2) Terminated in accordance with 7 CFR §§1412.41(d) or (e); or

(3) Terminated at an earlier date by mutual consent of all parties, including CCC.

See paragraph 14.

G Required Signatures on CCC-509

CCC-509's on which all signatures for producers sharing in base acres are not obtained by June 1 (August 14, 2009, for 2009) of the applicable year are not considered filed for any purpose.

--Notes:** See subparagraph 397 D for exceptions.**--

For cash lease situations, signatures or other applicable documentation can be submitted after June 1 (August 14, 2009, for 2009) of the applicable year provided all signature requirements were met by June 1 (August 14, 2009, for 2009) of the applicable contract period for producers sharing in the base acres. See subparagraph C for cash lease signature requirements.

See paragraphs 187 and 207 for ACRE Program contracts.

No action whatsoever will be taken on any CCC-509 that does not contain all required signatures. CCC-509 shall not be disapproved, approved, or considered under any equitable relief provision. Incomplete CCC-509's are not due any sort of decision from FSA.

395 10-Acre Rule Exception Signature Requirements

A Signatures of Owners Certifying Socially Disadvantaged or Limited Resource Farmers or Ranchers on CCC-509

Owners that are applying for the socially disadvantaged or limited resource farmer or rancher exception, so that a producer on the farm may receive payment, must complete, as applicable, CCC-509, items 14 B through D and items 16 A and B if all of the following apply:

- the farm has 10 base acres or less
- 1 of the following apply:
  - the owner is an individual and is a socially disadvantaged or limited resource farmer or rancher
  - the owner is a group of individuals and 50 percent of the ownership interest are socially disadvantaged or limited resource farmers or ranchers
  - the owner is an entity and 50 percent of the ownership interest of the entity are socially disadvantaged or limited resource farmers or ranchers
- the participant on the contract wishes to receive benefits.

Notes: State and County Offices should **not** provide guidance to an owner about either of the following:

- their inclusion in a socially disadvantaged or limited resource group
- propriety of the owner seeking an exception.

If the owner wants to certify that the owner is in a socially disadvantaged or limited ***--**resource group, then the owner shall be provided CCC-509 Appendix and be**--***allowed to make that certification.

396 Other Signature Requirements

A Approving CCC-509 and Advance Payments

Contract participants may receive a 22 percent advance direct payment at anytime after enrollment, but no later than September 30 of the contract period. COC can approve contracts for payments if:

- signature requirements have been met according to paragraph 394
- all required documents have been provided
- the participant has specified the month payments are requested.

Notes: See 2-DCP (Rev. 1) for entering requests for advances in the system.

Advance payments are **not** authorized for 2012.

B Processing Revised CCC-509's

If it is necessary to revise shares on an approved CCC-509 before September 30 of the contract period and before issuing payments, follow these steps.

Step	Action
1	Use automated procedures in 2-DCP (Rev. 1) to remove COC approval date when producer signature requirements have not been met.
2	Use the automated procedure in 2-DCP (Rev. 1) to process share revisions.
3	Print a revised CCC-509 and obtain signatures for producers revising shares.
4	On the revised CCC-509, ENTER "See Attached" in the signature block for owners who previously designated shares and producers whose shares were not affected by a transfer or change in interest of land.
5	Attach the revised CCC-509 to the original CCC-509.

COC shall approve payment shares on the revised CCC-509.

Notes: COC contract approval date should reflect the date COC approves the revised CCC-509 for payment.

See paragraphs 175, 187, and 207 for ACRE Program contracts.

397 Missing Signatures

A Incomplete Enrollments With a Share Greater Than Zero

[7 CFR 1412.41(a)(3)] Under no circumstances will enrollment be permitted except as provided at 7 CFR 1412.41. DCP or ACRE Program contracts will not be approved unless all producers sharing in base acres with more than a zero share have enrolled.

If anyone who has an entitlement to a share of base acres has not signed CCC-509:

- COC shall take no action on CCC-509
- by June 1 (August 14, 2009, for 2009), consider CCC-509 withdrawn.

--Note:** See subparagraph D for exception.**--

See subparagraph 394 G.

If an individual or entity has an FSA-578 share of covered commodity or peanuts and the individual or entity wants to make themselves potentially eligible for ACRE Program payments under an ACRE Program contract, the individual or entity must sign the ACRE Program contract by September 30 of the contract year.

The failure of any producer who does not have a share of base acres but who, according to FSA-578, has a share of covered commodities or peanuts planted or considered planted on a farm enrolled under an ACRE Program contract, to sign the ACRE Program contract during the contract period shall render that producer's share ineligible for ACRE payment consideration for that or any other producer.

See paragraph 207 for ACRE Program contracts.

B Incomplete Enrollments of Persons With an Interest But a Zero Share

[7 CFR 1412.41] For those producers with an interest but a zero share of base acres, the DCP or ACRE Program contract will not be approved before all producers have signed the CCC-509 or furnished supportive and necessary contractual documents (such as cash leases in lieu of signing for a zero share).

CCC-509 with missing signatures of producers with an interest but a zero share of base acres may be acted on and approved if the provisions of subparagraph 352 J are met.

***--397 Missing Signatures (Continued)**

C Undivided Ownership Shares of Owners With Missing Signatures

If all producers other than an owner having less than a majority **undivided ownership** interest in the farm sign, COC may approve CCC-509 if all of the following apply:

- owners representing a majority of the undivided ownership interest shares of the farm signed CCC-509

  Note: Majority interest is greater than 50 percent of the collective undivided interest owners' share.

- shares are acceptable to COC

- documentation indicates the signatories expended a reasonable effort to obtain missing signatures.

Note: Set a refuse payment flag in the CCC-509 automated process for the owner with the missing signature.

D Example for Undivided Ownership Shares of Owners With Missing Signatures

The following example illustrates when to approve payments if all owners with undivided ownership interest do not sign.

Operator A has a 60 percent payment share.
Owner A has a 10 percent payment share.
Owner B has a 10 percent payment share.
Owner C has a 10 percent payment share.
Owner D has a 10 percent payment share.

Each owner has a 25 percent interest of the owners' undivided collective share of the farm. Owners A, B, and C signed CCC-509. Owner D did not sign CCC-509. Because Owners A, B, and C have a majority share of the owners' interest of the farm, approve payments for the owners who signed. Set the refuse payment flag for Owner D.--*****

397 Missing Signatures (Continued)

E Divided Ownership Shares of Owners With Missing Signatures

COC shall not approve CCC-509 for payment if an owner having a **divided** ownership interest share does not sign.

On farms for which 1 or more owners may be unwilling to sign CCC-509, or may be unable to timely sign CCC-509, another owner or producer on the farm may wish to request a farm division according to 2-CM.

Note: Payments may be earned on each resulting farm for which all necessary signatures are obtained by September 30 of the applicable FY. *** * ***

398 Succession-in-Interest

A Basic Rule

[7 CFR 1412.41] A transfer or change in the interest of an owner or producer in the farm or in acreage on the farm subject to a DCP or ACRE Program contract will result in the termination of the contract, and a refund of all direct, counter-cyclical, and ACRE payments, as applicable, issued for the farm. The contract termination will be effective on the date of the transfer or change. Successors to the interest in the farm or crops on the farm subject to the contract may enroll the farm in a new DCP or ACRE Program contract and assume all obligations under the contract, only after all payments previously issued for the farm have been refunded to CCC.

After CCC-509 is approved, any of the following changes may occur and be considered a basis for successions-in-interest:

- a transfer or change in the interest of a producer on the farm
- sale of land
- foreclosure, bankruptcy, or involuntary loss of the farm
- change in participant shares to reflect changes in shares originally approved on CCC-509.

Notes: Successors are not eligible for payments in any FY in which they do not meet the provisions of paragraphs 12 and 352.

See paragraph 400 if a participant who is entitled to a payment dies, becomes incompetent, or disappears.

Exception: Producers who have no share of base acres and who do not appear on an ACRE Program contract may be permitted to sign an ACRE Program contract for their FSA-578 share interest in covered commodities or peanuts on a farm according to paragraphs 207 and 397. Such action shall not be considered a succession-in-interest.

B Farm Reconstitutions

[7 CFR 1412.41] In the event a farm reconstitution is completed of a properly enrolled farm or farms in accordance with 7 CFR part 718, FSA will issue notices to the operator and owners of record on a farm that all producers with an interest in the base acres on the farm must sign a new DCP or ACRE Program contract and provide supporting documentation such as leases and other contractual supportive documents not later than September 30 of the fiscal year direct, counter-cyclical, or ACRE payments are requested, or 30 days after receiving written notification by the county committee indicating the reconstitution is completed. It is the responsibility of the operator and owners on a farm that producers with an interest in base acres are notified of the reconstitution and requirement for a new contract. If all producers have not signed the new DCP or ACRE Program contract by September 30, no producers on the contract will be eligible for a direct, counter-cyclical payment, or ACRE payments for that farm for the year the contract was terminated.

398 Succession-in-Interest (Continued)

B Farm Reconstitutions (Continued)

The provision of this regulation applies only if a written reconstitution request or enrollment of parent farms was filed by June 1 of the applicable year. See paragraph 333.

C Deadline for Notification of Succession

After CCC-509 has been approved, the farm operator, producer, owner, or participant must inform COC of changes in interest when the change occurs either:

- no later than June 1 of the applicable year, if the change occurred before June 1 of the applicable year

- as soon as the change occurs if after June 1 of the applicable year, but no later than the end of the contract period.

Note: It is important that producers understand that if a succession CCC-509 is generated, all necessary signatures must be entered on the succession CCC-509 or the farm will not be considered enrolled. Producers should not wait until the end of an enrollment or contract period to report changes. Failure to report changes timely **and** enter all necessary signatures is a responsibility of those participating on CCC-509. It is **not** FSA's responsibility to obtain signatures.

If a change occurs requiring a succession to CCC-509, but CCC-509 is not revised and signed by all producers sharing in the revised CCC-509 by the end of the contract period:

- none of the predecessors or potential successors are eligible for the applicable year payments on the farm

- all payments under the contract must be refunded.

Notes: See subparagraph G for assessing refunds.

The requirement for a reaffirmed CCC-509 by all producers, whether or not the producer's specific interest or share itself was impacted by succession, is the same as that which is specified in paragraph 397.

398 Succession-in-Interest (Continued)

D Signatures on New CCC-509

Participants having an interest in CCC-509 impacted by a succession-in-interest, even if that specific participant's share did not change, must sign a revised CCC-509 no later than either:

- June 1 of the applicable year, if the succession occurred before the end of the enrollment period
- the end of the contract period if the succession occurred after June 1 of the applicable year.

Before approving the revised CCC-509 for payment, COC's shall ensure that:

- all shares represented on CCC-509 have a valid signature on CCC-509
- payments have been refunded or debt collection activities have been initiated for the predecessor according to subparagraphs E and F.

Attach a copy of the original CCC-509 to the succession-in-interest CCC-509.

Reminder: The failure of participants to sign revised CCC-509's will result in a loss of payments to all producers (predecessors and successors) on the farm.

E Payment Issued, Full Succession

Participants who received payments on a farm and subsequently fail to meet the definition of a producer on the farm for the applicable contract year **shall refund** the payments. Debt collection activities shall be initiated immediately upon loss of interest by the predecessor.

Note: A refund is required, including cases where the predecessor was considered to be a producer at the time payments were issued. See subparagraph J.

398 Succession-in-Interest (Continued)

F Payment Issued, Partial Succession

Participants who received payments on a farm, and who subsequently agreed to a different or reduced payment share on a revised CCC-509, are responsible for refunding the amount of advance direct payments the participant cannot earn for the applicable contract year.

Notes: A refund is required, including cases where the predecessor was considered to be a producer at the time payments were issued. See the example in subparagraph K.

FSA generally does not demand the refund at the time of share revision. This shall in no way be construed to mean a refund of unearned advance payments will not be required.

G Refunds From Predecessors

Debt collection activities shall be initiated for predecessors according to subparagraph E or F, as applicable, **before** COC approves revised CCC-509 for succession.

H Payments to Successors

Successors may earn payments on a farm with respect to payment shares acquired from a predecessor. Debt collection activities shall be initiated for the predecessor according to subparagraph E or F **before** the contract can be approved for the successor.

I Foreclosure Rule

A participant who signs CCC-509 shall be required to make repayment if the farm was foreclosed on and the producer lost control of the farm.

Foreclosure does not void the contract nor the responsibilities of the participant under the contract if the producer continues or resumes operation or control of the farm.

Succession-in-interest rules shall apply to foreclosure.

398 Succession-in-Interest (Continued)

J Example 1: Sale of Land or New Cash Lease

Producer A, the owner of FSN 22, received the FY 2009 advance direct payment. On July 1, 2009, Producer A sold or cash leased FSN 22 to Producer X. Producer X succeeds to CCC-509.

Producer A is required to refund the FY 2009 advance payment. After debt collection activities have been initiated for Producer A, Producer X may receive the advance payment, and the FY 2009 final payment, if Producer X meets all other eligibility requirements and the payment limitation is not exceeded.

Note: See paragraph 446 for payment limitation.

K Example 2: New Share Lease

Producer A, the owner of FSN 22, received an advance of the FY 2009 direct payment, or $8,000 based on a 100 percent share. On July 15, 2009, Producer A and Producer X entered into a share lease arrangement (40 percent, Producer A; 60 percent, Producer B) on the entire farm. Producer A signs a revised CCC-509 with a 40 percent payment share, and Producer X signs CCC-509 for the acquired 60 percent share.

Producer A's recalculated total direct payment amount is now $14,546, based on the revised payment shares. The advance portion of this share for Producer A would be $3,200 (22 percent multiplied times $14,546). Producer X is eligible for an advance payment based on revised shares only if:

- a demand of the over-advance to Producer A is made
- a receivable is created for the demand.

Accordingly, Producer A has been over-advanced; however, Producer A should still earn enough of a final direct payment to avoid overpayment.

Note: See paragraph 446 for payment limitation.

399 Succession-in-Interest Examples

A Example 1

The following data applies to Examples 1 through 6:

FSN:	10
Farmland:	125
DCP Cropland:	100
Base Acres:	100

Producer A, owner/operator of FSN 10, plants 100 acres of wheat for harvest. In April, the wheat failed. Producer A received the advance direct payment. In May, Producer A cash leases FSN 10 to Producer B. Producer B plants 100 acres of cotton.

In this example, Producer B has obtained a share interest in the contract acreage effective with Producer B's date of lease. See paragraph 398.

Producers A and B must come to some decision and agreement about dividing the contract payments. See paragraphs 356 and 357.

Note: In this example, both Producers A and B could claim a share interest in the contract based on the time each had such interest or other factors. COC shall **not** involve itself in helping Producers A and B arrive at a reasonable distribution of shares. See paragraph 357.

B Example 2

Producer A, owner/operator, plants 100 acres of wheat for harvest in November. In April, the wheat failed. Producer A received the advance direct payment. In May, Producer A share leases 50 acres of FSN 10 to Producer B. Producer B plants 50 acres of cotton. Producer A and Producer B are sharing in the crop and have entered the following on CCC-509:

- 75 percent for Producer B
- 25 percent for Producer A.

Both Producer A and Producer B are entitled to share in the payments for the farm. Producer A does not have to refund the FY advance direct payment at this time; however, Producer A may have been over-advanced. However, there has been a succession on base acres for the crop year. Therefore, Producer A may not be entitled to receive 100 percent of the payments.

399 Succession-in-Interest Examples (Continued)

B Example 2 (Continued)

Producers A and B must come to some decision and agreement about dividing the payments. See paragraphs 356 and 357.

Note: In this example, both Producers A and B could claim a share interest based on the time each had such interest or other factors. COC shall **not** involve itself in helping Producers A and B arrive at a reasonable distribution of shares. See paragraph 357.

C Example 3

Producer A, owner/operator, plants no crops. Producer A enrolled and received the advance direct payment. In March, Producer A share leases FSN 10 to Producer B. Producer B plants 50 acres of cotton.

Assuming Producer A cash-leased all 100 acres of FSN 10 to Producer B for the crop year, a succession on all the base acres on the farm has occurred for the year. Producer B is entitled to 100 percent of payments. After debt collection activities have been initiated for Producer A, Producer B would be entitled to the payments because there was a total succession on the base acres for the crop year. See paragraph 357.

D Example 4

Producer A, owner/operator, plants no crops. Producer A received the advance direct payment. In March, Producer A share-leased all of FSN 10 to Producer B. Producer B plants 50 acres of cotton. Producer A and Producer B are sharing in the cotton and have entered the following shares on CCC-509:

- 75 percent for Producer B
- 25 percent for Producer A.

Producer A and Producer B appear to be producers eligible to sign a contract and entitled to share in program payments. Producer A has retained an interest in 25 percent of the base acres and would have to ultimately repay any unearned payment he or she received.

399 Succession-in-Interest Examples (Continued)

E Example 5

Producer A, owner/operator, plants no crops. Producer A received the advance direct payment. In March, Producer A cash leases all of FSN 10 to Producer B for the crop year. Producer B does not plant a crop.

The fact that Producer B did not plant a crop is not the determining factor. Producer A cash-leased the farm to Producer B for the crop year and a crop could have been planted and harvested for the year. Therefore, Producer B would meet the definition of a producer on the farm for the crop year. After debt collection activities have been initiated for Producer A, Producer B would be entitled to program payments.

F Example 6

Producer A, owner/operator, plants and harvests wheat for grain. Wheat harvest is completed in May. Producer A received the advance direct payment. Producer A voluntarily leaves the farm after the completion of the wheat harvest. Producer B cash leases the farm effective June 1 of the applicable year. Producer B may or may not plant a crop. It is, however, possible to plant a crop and harvest it in the crop year.

Producer A and Producer B may each claim a share of program payments. See paragraph 358.

400 Participants Who Are Deceased, Incompetent, or Have Disappeared

A Basic Rule

An individual who has died, disappeared, or been declared incompetent, but meets the definition of a producer for the contract period, is eligible for payments if a completed CCC-509 submitted by June 1 of the applicable year was approved. However, if payment is not to be issued to the participant, FSA-325 must be completed according to this paragraph. This situation is not considered a succession.

B Requesting Payments

FSA-325 must be completed, according to 1-CM, by the individuals or entities requesting payments **earned** by a participant who has died, disappeared, or been declared incompetent. Payments shall be issued to the individuals or entities requesting payment using the deceased, missing, or incompetent participant's ID number. A revised CCC-509 is not required to be completed when payments are issued under the deceased, missing, or incompetent participant's ID number.

Note: CCC-509 shall not be revised to show the estate ID number after September 30 of the applicable year.

401 Reviewing CCC-509's Modified After June 1

A Introduction

Except as may be provided according to paragraphs 397 and 398, subparagraph:

- 353 B specifies that revisions to CCC-509 shall **not** be made after June 1 (August 14, 2009, for 2009) of the applicable year

- 394 A specifies that the final date for participants to provide all necessary signatures on CCC-509 is June 1 of the applicable FY to be eligible for payments for that FY.

2-DCP (Rev. 1) provides procedure or updating producer signature and enrollment date information in the system.

To accommodate the policy provisions about enrollment, CCC-509 software has been modified to:

- allow the enrollment date to be entered after June 1 (August 14, 2009, for 2009)
- ensure that the **actual** date entered is **not** later than June 1 (August 14, 2009, for 2009).

401 Reviewing CCC-509's Modified After June 1 (Continued)

B Updates Affecting Enrollment Date

The enrollment date is automatically removed when any of the following changes are made to data in the farm records management system:

- operator is changed
- other tenant with CCC-509 share is removed from the farm
- owner is added to a tract associated with the farm
- base acres are modified
- direct and/or counter-cyclical payment yields are modified
- an out-of-balance condition is created because of changes to DCP cropland.

In addition, the enrollment date will be removed if CCC-509 base acre shares are revised.

Note: Changes to counter-cyclical advance payment request information will **not** result in the enrollment date being removed from CCC-509's.

Updates to the system for any of these reasons constitute a modification of existing CCC-509's; therefore, the enrollment date is automatically removed from the system when the update occurs.

401 Reviewing CCC-509's Modified After June 1 (Continued)

C State Office Review Process

Except as provided in this handbook, subparagraph 353 D specifies that revisions to CCC-509's shall **not** be made after June 1 (August 14, 2009, for 2009) of the applicable year. Therefore, the All Farms with Enrollment Date Modifications After June 1 Report will be available to State Office specialists that identifies all CCC-509's with an enrollment date that was updated during the previous month. This report is available to State and National Office users **only**. See 2-DCP (Rev. 1) for instructions for printing the report.

Reminder: The enrollment date can be entered in the system after June 1; however, the **date actually entered** cannot be later than June 1 (August 14, 2009, for 2009). See paragraph 402 for additional information about valid situations where the enrollment date should be updated to a date later than June 1 of the applicable year.

State Offices are required to review the All Farms with Enrollment Date Modifications After June 1 Report detailing where the enrollment date has been updated during the previous month. State Offices shall:

- conduct a review of CCC-509's listed on the monthly report to ensure that DCP policy has been administered properly

- take corrective action, if applicable, with County Offices if CCC-509's were updated in error

Note: SED's may delegate the review to DD's.

402 Updating Producer Signature and Enrollment Dates After June 1

A Introduction

County Offices shall ensure that all information recorded in the automated system accurately reflects actual signature, enrollment, and approval date information. See 2-DCP (Rev. 1) for additional information about how data shall be entered in the web-based system.

However, if the signature or enrollment date information is actually **received** after June 1, the system is designed to prevent County Office users from updating the system with that information.

Example: Landowner signed CCC-509 to zero shares on September 30, 2009. The system will **not** allow any date after August 14, 2009, to be entered as a producer signature date.

Because there are some instances where a date after June 1 of the applicable year should be entered in the system for a producer signature or enrollment date, a process has been developed that allows the system to be updated properly with the producer signature and enrollment date information.

B Situations That Warrant Producer Signature or Enrollment Dates To Be Later Than June 1

The enrollment date in the system is determined by the later of the following:

- the last signature date that was obtained for all producers on CCC-509
- date the cash lease or CCC-510 is provided to the County Office.

As specified in subparagraph 352 J, the following documentation is considered supporting documentation even if received after June 1:

- landowner signing CCC-509 to zero shares
- a copy of a cash lease agreement
- CCC-510.

However, system validations do **not** allow County Offices to enter a producer signature or enrollment date later than June 1 of the contract period. Therefore, these cases require State Office intervention so the system can be updated to accurately reflect when the signature was actually obtained and/or when CCC-509 was actually enrolled in DCP.

402 Updating Producer Signature and Enrollment Dates After June 1 (Continued)

C County Office Action

For situations described in subparagraph B, County Offices shall:

- **not** manipulate the system by entering a date **before** June 2 of the calendar year as the signature date for any signature that was obtained after June 1 of that same calendar year

- **not** manipulate the system by entering an incorrect enrollment date for signatures or cash lease documentation that were obtained after June 1 (August 14, 2009, for 2009) of the applicable year

- submit a copy of the completed CCC-509 and cash lease documentation, if applicable, to the State Office with a cover memorandum requesting that the system be updated with either or both of the following:

  - landowner's signature date
  - CCC-509 enrollment date.

D State Office Action

After verifying that the situation warrants intervention based on supporting documentation, State Office Program Specialists shall update the signature and/or enrollment date according *****--to 2-DCP (Rev. 1).--*****

403 Web-Based DCP State Office Administrative Access

A Requesting Web-Based DCP State Office Administrative Access

State Offices may request that 2 users be granted State Office administrative access to web-based DCP. The State Office program specialist in charge of DCP shall select 2 State Office employees who are to have State Office administrative access to DCP, and submit the following information to SLR:

- State Office name
- employee's legal first and last name
- employee's job title
- employee's USDA eAuthentication user ID.

Note: The State Office program specialist in charge of DCP may be 1 of the 2 submitted names. DD's may **not** be 1 of the 2 submitted names.

SLR's shall do 1 of the following:

- disapprove and return the request to the State Office specialist in charge of DCP
- approve the request and FAX the information to 202-690-2130.

  Note: The subject of the FAX should be "Requesting DCP State Office Administrative Access".

SLR may contact Brent Orr, PECD, DCP Program Manager by e-mail at **brent.orr@wdc.usda.gov** with any questions or concerns.

B Changing or Terminating User Roles With DCP State Office Administrative Access

No more than 2 State Office users may be granted DCP State Office administrative access. If a user needs to be changed, use the process outlined in subparagraph A. The request shall include the user information to be added, and the user information to be removed.

404-424 (Reserved)

Part 7 Eligibility and Compliance Rules

Section 1 Farm Eligibility

425 General Information

A Contract Period Compliance

Participants may receive payments with respect to the farm, if the participants agree to comply with program requirements. See paragraph 9 for contract periods.

B Farm Eligibility

A farm is eligible to participate in DCP or the ACRE Program if either of the following applies:

- the farm has base acres calculated for the farm
- the land on the farm was enrolled in CRP-1 that expired, was voluntarily terminated, or early released after September 30, 2008, and either of the following applies:
  - CRP-15 was protecting crop acreage bases
  - CCC-505 was used to reduce PFC acres or base acres, as applicable.

426 Eligible and Ineligible Land Uses for Base Acres

A Cropland and DCP Cropland Requirement

[7 CFR 1412.45] When base acres on a farm are converted to a non-agricultural commercial or industrial use, the total base acres on the farm will be reduced accordingly.

The base acres of covered commodities and peanuts on a farm will be proportionately reduced when it is determined that the land has been subdivided and developed for multiple residential units or other nonfarming uses if, in the judgment of the county committee, the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless either of the following applies:

(1) the producers on the farm demonstrate that the land remains devoted to commercial agricultural production or is likely to be returned to the previous agricultural use and such land has not been divided from the farm with a farm reconstitution performed according to part 718 of this Title, or

(2) a properly constituted or reconstituted farm contains sufficient land that has not yet been subdivided and developed for multiple residential units or other nonfarming uses, and the producers on the farm demonstrate that the land remains devoted to commercial agricultural production or is likely to be returned to the previous agricultural use.

Land subject to the contract must be used for an agricultural or related activity for the applicable FY, and not for a nonagricultural, commercial, or industrial use.

DCP cropland and effective DCP cropland will be determined and updated according to 3-CM for DCP or ACRE Program purposes, including base determinations.

If land use changes in subsequent years:

- the land use shall be updated according to 3-CM
- base reductions shall be processed using CCC-505, as applicable, according to subparagraph D.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

B Eligible Uses

A quantity of land equal to the total base acres for the farm, and any base acres of peanuts for the farm, must be used for an agricultural or conserving use. The following provides examples of land use, considered agricultural or related use, and nonagricultural use.

Agricultural	Nonagricultural
• land meeting DCP cropland definition • sod • farm ponds • aquaculture ponds • nursery acreage devoted to in-ground plants • wildlife habitats • pasture • acreage used to raise domesticated game for restaurants • trees planted for harvest, conservation *--purposes, recreational uses, or BCAP--* • temporary hoop houses for nursery agriculture • temporary nonagricultural uses, such as parking for a field day, etc.	• golf courses and other recreational facilities • land used for commercial development, buildings, or parking lots • strip mines • permanent structures, including those for agricultural uses • land subdivided and developed for multiple residential units or other nonfarming uses if the size of tracts and density of the subdivision is such that the land is unlikely to return to the previous agricultural use

Note: COC's shall submit questionable uses to DAFP, through the State Office, for determinations.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

C Eligible Land

Base acres cannot exceed effective DCP cropland except for established double-cropping. In addition to meeting other eligibility requirements, a farm, before enrollment, must have effective DCP cropland available on the farm greater than or equal to the total base acres for the farm. See 3-CM for the definition of DCP cropland.

D Converting to Nonagricultural Use

DCP cropland converted to nonagricultural use:

- shall be removed from cropland and DCP cropland according to 3-CM
- is not eligible as base acres from the date of conversion.

When conversion of DCP cropland to nonagricultural use results in base acres exceeding effective DCP cropland for the farm, farm owners, the operator, and CCC-509 participants have the following available options.

IF the conversion occurred…	**THEN within 30 calendar days of the conversion…**
before September 30 of FY in which the conversion occurred	all owners must do either of the following: • complete CCC-505 to permanently reduce applicable base acres • withdraw the farm from CCC-509. Failure to reduce applicable base acres or withdraw the farm from CCC-509 shall result in COC terminating CCC-509. Producers cannot withdraw after CCC-509 has expired (September 30 of the applicable FY). If there are less than 30 calendar days remaining before September 30 of FY at the time of the conversion, base acres may be left unchanged for that FY. Base reductions must be made before any enrollment in the immediately subsequent FY.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

D Converting to Nonagricultural Use (Continued)

IF the conversion occurred…	THEN within 30 calendar days of the conversion…
after September 30 of FY in which the conversion occurred	all: • owners must complete CCC-505 to permanently reduce applicable base acres effective for FY the conversion occurred • producers must refund all unearned payments made, plus interest. If owners fail to reduce applicable base acres, COC shall permanently reduce applicable base acres, and conduct a thorough review of the situation to determine whether the case involves misrepresentation and/or a scheme or device that defeats the purpose of the program. See subparagraph 335 A for additional information. **Note:** Because CCC-509 in effect when the conversion occurred has expired, producers do not have the option to withdraw from CCC-509, nor can COC terminate the expired CCC-509.

Important: Reduction in base acres or withdrawal of farm from CCC-509 may result in unearned DCP or ACRE Program payments. All unearned payments shall be refunded.

Example 1: A farm with 200 acres of DCP cropland and 200 base acres is enrolled in FY 2009. FY 2009 advance payments have been made to the producers on the farm. On August 1, 2009, COC discovers 10 acres on the farm had been converted to a nonagricultural building site on May 4, 2009. COC shall notify the owner and operator they must do either of the following within 30 calendar days:

- withdraw the farm from the FY 2009 CCC-509, and refund all payments made for the farm
- owner must permanently reduce base acres by 10 acres, and refund the unearned payments made.

If the producers do not elect either of the options within 30 calendar days, COC shall terminate CCC-509 and request refund of all payments made.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

D Converting to Nonagricultural Use (Continued)

Example 2: A farm with 200 acres of DCP cropland and 200 base acres was enrolled in FY 2008 and is also enrolled in FY 2009. All FY 2008 program payments have been made for the farm. FY 2009 advance payments have been made to the producers on the farm. COC discovers 10 acres on the farm were converted to a nonagriculture building site on August 4, 2008. COC shall notify the owner and operator they must permanently reduce base acres by 10 acres, and refund the unearned payments made.

If the producers do not permanently reduce applicable base acres within 30 calendar days, COC shall:

- permanently reduce 10 base acres
- terminate the FY 2009 CCC-509
- request refund of all unearned payments made for FY's 2008 and 2009.

E Land Enrolled in WBP

Land enrolled in WBP shall not be enrolled in DCP or the ACRE Program. County Offices shall record land enrolled in WBP according to 3-CM.

All land enrolled in WBP may not be cropland. County Offices shall ensure land enrolled in WBP is recorded according to 3-CM.

Important: Enrollment of land into WBP may require the permanent reduction of base acres. Base acres shall **not** exceed effective DCP cropland plus double-cropped acres.

Note: Subparagraph I does not apply to land enrolled in WBP.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

F Land Enrolled in WRP

There are 2 separate statutory provisions affecting producers enrolling land in WRP.

- The statutory provisions of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246), Section 1101(b) requires a reduction of base acres if the sum of the base acres for a farm, together with the following acreage, exceeds the actual cropland for the farm:
  - any acreage on the farm enrolled in CRP or WRP
  - any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.
- WRP provisions require that, in some situations, owners and operators of land subject to WRP conservation easements agree to the permanent retirement of any existing base acres for this land.

NRCS has a policy requiring producers to complete CCC-505 when offering land for enrollment in WRP. NRCS will provide FSA offices with a copy of CCC-505 when WRP easement is recorded. However, base acre reduction is not effective until NRCS notifies FSA that WRP easement has been recorded.

FSA County Offices shall ensure that the provisions of **both of the statutory provisions** specified are met for producers enrolling land in WRP to ensure that USDA is not compensating producers for the value of the base acres retired under WRP and issuing farm program payments on the same acreage under DCP or the ACRE Program. However, a coordinated effort is required with NRCS with certain responsibilities applying to each Agency.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

F Land Enrolled in WRP (Continued)

NRCS requires producers to complete CCC-505 when the producer offers land for enrollment in WRP. FSA County Offices are not responsible for, **and shall not assist** producers in, completing CCC-505 for land being offered in WRP. However when requested, FSA County Offices shall provide producers with:

- a copy of FSA-156-EZ with information about the number of base acres applicable to the farm or farms
- a **blank** FSA-910 with instructions (Exhibit 19)
- a **blank** CCC-505
- aerial maps for the applicable farm or farms.

Although NRCS is responsible for notifying FSA when WRP easements are closed, producers bear responsibility for notifying FSA of changes that affect DCP or ACRE ***--**Program eligibility. CCC-509 Appendix and this handbook specify that changes in the**--*** farming operation that may affect any determination after CCC-509 is signed shall be reported to CCC by all applicable producers by signing a revised CCC-509 to reflect the change no later than September 30 of the applicable year.

Reminder: Although producers may ultimately have up until the end of the contract period to report changes, if the changes cause or require the need for additional signatures or documents, those signatures or documents must also be submitted by the end of the contract period. Accordingly, producers should **not** wait until September 30 to report changes.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

F Land Enrolled in WRP (Continued)

Once the WRP easement is **closed**, NRCS will provide documentation about the WRP agreement including CCC-505 to the applicable FSA County Office. FSA County Offices shall follow the provisions of this table.

Note: If adequate documentation is not provided by NRCS to determine base acre reductions, acres on cropland, and acres on noncropland, FSA County Offices shall immediately contact the applicable NRCS Office to obtain the documentation necessary to update FSA records.

Step	Action
1	**Immediately** update the farm records management system according to 3-CM to record the number of acres enrolled in WRP that are on DCP cropland. See 3-CM for additional information. **Note:** Acres enrolled in WRP that are on non-DCP cropland shall not be included in the WRP field in the farm records management system.
2	• **Immediately** update the farm records management system according to 3-CM to reduce the base acres as specified on CCC-505 **received from NRCS** for FY in which the WRP easement was recorded or WRP cost-share restoration agreement is approved. CCC-505 includes the number of base acres that shall be retired, even if the number of base acres being retired is zero. **Note:** Producers may have elected to reduce base acres to increase the value of the WRP appraisal for a WRP easement. FSA County Offices shall reduce the base acres as specified on CCC-505. In some cases, there may be excess acreage on the farm that may not require base reduction, but the acreage shall be reduced as specified on CCC-505 because those acres were designated for retirement through the WRP easement. • Notify all producers on the farm that a revised CCC-509 that reflects the reduced base acres must be filed by: • June 1 if the reduction occurs **before** June 1 of the applicable year • September 30 if the reduction occurs **after** June 1 of the applicable year. **Note:** This step is required; however an additional reduction may be required as determined in steps 3 through 5. County Offices shall ensure that all steps in this table are followed.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

F Land Enrolled in WRP (Continued)

Step	Action
3	After steps 1 and 2 have been completed, County Offices shall determine whether the number of base acres exceeds the effective DCP cropland plus double-cropped acreage according to paragraph 428. If the base acres still exceed the effective DCP cropland plus double-cropped acreage, then: • an additional reduction to base acres is required • CCC-509 for the applicable FY cannot be enrolled until the reduction of the base acres is completed • County Offices shall follow the provisions of step 4.
4	If an additional base acre reduction is required according to step 3, County Offices shall: • notify the owners of the farm that an additional reduction of base acres is required within 30 calendar days • notify all producers on the farm that a revised CCC-509 must be filed by September 30 of the applicable year that reflects the reduced base acres • ensure that all provisions of 3-CM are met for updating the farm records management system and notifying applicable producers of the revision to the farm records. **Note:** For those farms enrolled by June 1 of the applicable year, signatures on revised CCC-509 must be received no later than September 30 of the applicable FY.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

F Land Enrolled in WRP (Continued)

Step	Action
5	If CCC-505 is not filed by the owners of the farm within 30 calendar days according to step 4: • COC shall initiate CCC-505 reducing the base acreage according to 3-CM • COC shall not approve a revised CCC-509 unless all signature requirements are met by June 1 of the applicable FY **Note:** For those farms enrolled by June 1, signatures on revised CCC-509 must be received no later than September 30 of the applicable FY. • County Office shall notify the producers associated with the farm of the COC determination of the reduction of base acres • County Office shall ensure that all provisions of 3-CM are met for updating the farm records management system and notifying applicable producers of the revision to the farm records.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

G Land Under EWP Flood Plain Easements

Land under the EWP Flood Plain Easement is **not** eligible to be enrolled in DCP or the ACRE Program beginning the date the EWP Flood Plain Easement is filed.

Exception: Cropland under EWP Flood Plain Easement may be eligible for DCP or the ACRE Program in the FY the EWP Flood Plain Easement is filed, provided **both** of the following are met:

- written documentation from NRCS which allows the acreage to be planted to an annual crop for harvest in the FY the easement is filed, is submitted

  Note: Depending on the date the easement is filed, the applicable NRCS manual may not allow planting an annual crop in FY the easement is filed.

  Important: Neither haying nor grazing is considered planting an annual crop.

- all other requirements to enroll the acreage in DCP or the ACRE Program are met.

Note: Even though there may appear to be no advantage, irrespective of whether land is eligible for enrollment, producers may still file CCC-509ACRE for this farm or land.

Cropland acreage under EWP Flood Plain Easement shall be recorded according to 3-CM. The date EWP Flood Plain Easement acreage is recorded in the automated system is dependent upon:

- date EWP Flood Plain Easement is filed
- whether NRCS allows the planting an annual crop for harvest in FY.

All land under EWP Flood Plain Easement may not be cropland. County Offices shall ensure land under EWP Flood Plain Easement is recorded according to 3-CM.

Important: Placement of land under EWP Flood Plain Easement may require the permanent reduction of base acres. Base acres shall **not** exceed effective DCP cropland plus double-cropped acres.

Note: Subparagraph I does not apply to land under EWP Flood Plain Easements.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

H Land Under Federal Conservation Programs or Restrictive Easements Other Than WRP, WBP, or EWP Flood Plain Easements

Land under a Federal restrictive easement or agreement that prohibits **all** of the following shall **not** be enrolled in DCP or the ACRE Program:

- annual planting of a crop for harvest as grain or lint
- haying
- grazing.

Note: See subparagraph I for easement/agreements that allow haying and/or grazing.

Land under a restrictive easement or agreement shall be ineligible for DCP or the ACRE Program beginning FY the cropping, haying, and grazing restrictions are effective.

Cropland acreage under a restrictive easement or agreement shall be recorded according to 3-CM.

Important: Land under a Federal restrictive easement or agreement may require the permanent reduction of base acres. Base acres shall **not** exceed effective DCP cropland plus double-cropped acres.

The placement of land under a restrictive easement or agreement may result in a refund of payments received by the applicable producers.

Example 1: Land is placed under an easement that prohibits all cropping, haying, and grazing of the acreage. The restrictions prohibiting cropping, haying, and grazing are effective beginning the date the easement is filed.

The easement is filed on November 4, 2008. The land under easement is ineligible for DCP beginning FY 2009.

Once the land under easement is not eligible for DCP, the County Office shall:

- record the cropland acreage under easement according to 3-CM
- require a reduction in base acres, if applicable
- request a refund of DCP or ACRE Program payments, if applicable.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

H Land Under Federal Conservation Programs or Restrictive Easements Other Than WRP, WBP, or EWP Flood Plain Easements (Continued)

Example 2: Land is placed under a restrictive easement that prohibits all cropping, haying, and grazing of the acreage. The restrictions prohibiting cropping, haying, and grazing are effective when the producer signs the applicable program agreement.

Notes: The program agreement is signed before the easement is filed.

Submit questionable cases about program agreements to the State Office or National Office for review if necessary.

The program agreement is signed on July 1, 2009. The easement is filed on November 4, 2009. The land under easement is ineligible for DCP or the ACRE Program beginning FY 2009.

Once the land under easement is not eligible for DCP or the ACRE Program, the County Office shall:

- record the cropland acreage under easement according to 3-CM
- require a reduction in base acres, if applicable
- request a refund of DCP or ACRE Program payments, if applicable.

I Haying and Grazing of Cropland Under a Federal Conservation Program or Restrictive Easement Except WRP, WBP, and EWP Flood Plain Easements

Land under any of the following may be eligible for DCP or the ACRE Program provided the easement or agreement, as applicable, allows haying and/or grazing of the acreage on an annual basis under “normal” circumstances.

- easements other than WRP, WBP, or EWP
- conservation programs.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

I Haying and Grazing of Cropland Under a Federal Conservation Program or Restrictive Easement Except WRP, WBP, and EWP Flood Plain Easements (Continued)

For the purposes of this paragraph, "normal" circumstances allow haying and/or grazing on an annual basis, including situations where haying and/or grazing is limited to a specific time period of the year.

Important: The following haying/grazing provisions are **not** considered "normal" circumstances:

- limited only to when emergency conditions exist
- not allowed on an annual basis.

Example 1: Land is placed under an easement that prohibits all cropping. The easement prohibits all haying. However, the easement allows grazing of the acreage every third year of the life of the easement.

The easement terms do not allow grazing on an annual basis; therefore, the land is **not** eligible for DCP or the ACRE Program.

Example 2: Land is placed under an easement that prohibits all cropping. The easement prohibits haying and grazing of the acreage, except in emergency situations, as determined by the easement terms. Accordingly, the land is **not** eligible for DCP or the ACRE Program.

Example 3: Land is placed under an easement that prohibits all cropping. The easement prohibits haying and grazing of the acreage except for the time period of August 1 through September 30 of each year.

The easement terms allow haying or grazing except for specific time period; therefore, the land is eligible for DCP or the ACRE Program, provided **all** other requirements are met.

Land enrolled in CRP or GRP is **not** eligible to be enrolled in DCP or the ACRE Program, see subparagraph J. Land under CRP easement or practice lifespan requirements is **not** eligible to be enrolled in DCP or the ACRE Program, see subparagraph K.

426 Eligible and Ineligible Land Uses for Base Acres (Continued)

J Land Enrolled in CRP or GRP

Land enrolled in CRP or GRP is **not** eligible to be enrolled in DCP or the ACRE Program.

Enrollment of land into CRP or GRP may require:

- reduction of base acres

  Note: See paragraph 428.

- refund of DCP or ACRE Program payments.

Note: Subparagraph I does not apply to land under CRP or GRP.

K Land Under CRP Easement or Practice Lifespan Requirement

Land under CRP easement or practice lifespan requirement:

- is **not** eligible to be enrolled in DCP or the ACRE Program
- shall be maintained in the automated system according to 3-CM.

For CRP signups 10, 11, and 12, participants that enrolled land in CRP to be devoted to certain CRP practices agreed to place the land under 1 of the following:

- 15- or 30-year easement
- 15- or 30-year practice lifespan requirement.

The terms and conditions of the CRP easement and practice lifespan requirements continue:

- after the CRP-1 expires, for the life of the easement or practice lifespan
- the prohibition of cropping, haying, and grazing the acreage.

Note: Subparagraph I does not apply to land under CRP easement or practice lifespan requirement.

427 Acre Reductions for CRP, GRP, or WRP Enrollment

A General Rule

The sum of the following shall not exceed DCP cropland on the farm, except to the extent there is an established double-cropped history on the farm:

- all base acres, including peanut base acres
- cropland enrolled in:
  - CRP
  - EWP
  - WBP
  - WRP
- cropland or DCP cropland enrolled in GRP
- cropland enrolled in any conservation program for which payments are made in exchange for not producing an agricultural commodity.

B When to Determine Reduction Acres for CRP and GRP

County Offices shall calculate the number of acres on a farm that may be enrolled in CRP or GRP without requiring a reduction to base acres at the time the producer submits AD-1153, CRP-2, or CRP-2C.

When the producer determines to reduce base acres on a farm because of enrollment into CRP or GRP, the producer must complete CCC-505 at the time the acres are being offered for CRP or GRP.

Note: Producers may elect to modify the number of acres to be offered for CRP or GRP instead of reducing base acres on the farm.

427 Acre Reductions for CRP, GRP, or WRP Enrollment (Continued)

C When to Determine Reduction Acres for WRP

County Offices shall follow the provisions in subparagraph 426 F immediately upon notification from NRCS that the WRP easement is closed or the cost-share restoration agreement is approved.

Reminder: There are 2 separate statutory provisions affecting producers enrolling land in WRP and County Offices shall ensure that base acres are reduced, if necessary, to satisfy both provisions.

D Determining Reduction Acres

County Offices shall use the following to determine whether enrolling land into:

- CRP or GRP will require a reduction in any of the following:
  - base acres
  - number of acres offered for CRP
  - number of acres offered for GRP
- WRP will require a reduction in base acres according to the Food, Conservation, and Energy Act of 2008 statutory provisions.

Step	Action
1	Print FSA-156-EZ for farm on which the acres are being offered for enrollment into CRP, GRP, or WRP. See 3-CM to print FSA-156-EZ.
2	From FSA-156-EZ, determine the number of double-cropped base acres by subtracting total base acreage from effective DCP cropland acres.
3	Add: • effective DCP cropland from FSA-156-EZ, plus • result of step 2. **Note:** If the result of step 2 is negative, use the effective DCP cropland.
4	From FSA-156-EZ, determine the total base acres for the farm.
5	Subtract result of step 3 from result of step 4.

427 Acre Reductions for CRP, GRP, or WRP Enrollment (Continued)

D Determining Reduction Acres (Continued)

Step	Action		
6	**IF the result of step 5 is…**	**AND the program is…**	**THEN…**
	negative		• 1 or more tracts on the farm are out-of-balance • correct out-of-balance tracts according to 3-CM and return to step 1.
	zero	CRP or GRP	no cropland or DCP cropland acres on the farm can be enrolled into CRP or GRP unless base acres are reduced in an amount equal to the number of acres offered for CRP or GRP. An additional reduction may be required if the farm has double-cropped acreage included in the base acres. See 3-CM for additional information on updating acreage information in the farm records management system. **Note:** Land that does **not** meet the definition of either cropland or DCP cropland may be eligible to be enrolled in GRP. Enrolling this land into GRP has no impact on any of the following: • total cropland on the farm • total DCP cropland on the farm • base acres.
		WRP	no cropland or DCP cropland acres on the farm can be devoted to WRP unless base acres are reduced by the number of acres being recorded for the WRP easement or cost-share restoration agreement. An additional reduction may be required if the farm has double-cropped acreage included in the base acres. See 3-CM for additional information on updating acreage information in the farm records management system.

427 Acre Reductions for CRP, GRP, or WRP Enrollment (Continued)

D Determining Reduction Acres (Continued)

Step	Action		
6 (Cntd)	**IF the result of step 5 is…**	**AND the program is…**	**THEN…**
	greater than zero	CRP or GRP	• cropland acres or DCP cropland acres in an amount equal to the result of step 5 may be enrolled in CRP or GRP without a reduction to base acres on the farm • cropland acres or DCP cropland acres in an amount exceeding the result of step 5 may **not** be enrolled in CRP or GRP without a corresponding reduction in base acres on the farm. **Note:** Land that does **not** meet the definition of either cropland or DCP cropland may be eligible to be enrolled in GRP. Enrolling this land into GRP has no impact on any of the following: • total cropland on the farm • total DCP cropland on the farm • base acres.
		WRP	• cropland acres or DCP cropland acres in an amount equal to the result of step 5 may be devoted to WRP without reduction to base acres on the farm **Note:** NRCS may require the producer to file CCC-505 to reduce the base acres. See subparagraph 426 F. • cropland acres or DCP cropland acres in an amount exceeding the result of step 5 cannot be devoted to WRP unless base acres are reduced on the farm.

427 Acre Reductions for CRP, GRP, or WRP Enrollment (Continued)

E Producer Options

When enrollment in CRP or GRP will result in a reduction of base acres on the farm, the owner shall, at the time AD-1153, CRP-2, or CRP-2C is submitted, elect 1 of the following:

- reduce the number of acres offered for CRP or GRP to an amount that results in no reduction to base acres
- execute CCC-505 to reduce applicable number of base acres on the farm
- reduce a combination of the number of acres offered for CRP or GRP and the number of base acres on the farm.

Notes: When CCC-505 is executed because of land offered for enrollment in CRP or GRP, base acres shall not be reduced until:

- applicable CRP-1 becomes effective
- CCC-920 is approved.

If acres offered for CRP or GRP are not accepted in CRP or GRP, applicable base acres shall **not** be reduced.

Example 1: FSN 1 consists of the following:

- 100 acres effective DCP cropland
- 100 acres cropland
- 0 double-cropped acres
- 90 base acres.

Owner of FSN 1 offers 15 cropland acres for enrollment in CRP during CRP signup 29. The number of cropland acres that may be enrolled in CRP on FSN 1 without requiring a reduction to base acres is 10 acres (100 + 0 – 90 = 10). Therefore, the owner must elect 1 of the following at the time CRP-2 is submitted:

- reduce the number of cropland acres offered for CRP by at least 5 acres
- execute CCC-505 to reduce base acres by at least 5 acres
- reduce a combination of the number of acres offered for CRP and the number of base acres by a total of 5 acres.

427 Acre Reductions for CRP, GRP, or WRP Enrollment (Continued)

E Producer Options (Continued)

Example 2: FSN 200 consists of the following:

- 100 acres effective DCP cropland
- 75 cropland acres
- 25 double-cropped acres
- 125 base acres.

Owner of FSN 200 offers 15 cropland acres for enrollment in CRP during CRP signup 29. The number of cropland acres that may be enrolled in CRP on FSN 200 without requiring a reduction to base acres is 0 acres (100 + 25 – 125 = 0). Therefore, the owner must elect 1 of the following at the time CRP-2 is submitted:

- not offer any cropland acres for enrollment in CRP

- execute CCC-505 to reduce base acres by at least 15 acres

- reduce a combination of the number of acres offered for CRP and the number of base acres by a total of 15 acres.

Example 3: FSN 50 consists of the following:

- 60 acres effective DCP cropland
- 50 acres cropland
- 0 double-cropped acres
- 50 base acres.

Owner of FSN 50 offers 20 cropland acres for enrollment in GRP. The number of cropland acres that may be enrolled in GRP on FSN 50 without requiring a reduction to base acres is 10 acres (60 + 0 – 50 = 10). Therefore, the owner must elect 1 of the following at the time AD-1153 is submitted:

- reduce the number of acres offered for GRP by at least 10 acres

- execute CCC-505 to reduce base acres by at least 10 acres

- reduce a combination of the number of acres offered for GRP and the number of base acres by a total of 10 acres.

427 Acre Reductions for CRP, GRP, or WRP Enrollment (Continued)

E Producer Options (Continued)

Example 4: FSN 300 consists of the following:

- 60 acres effective DCP cropland
- 50 acres cropland
- 0 double-cropped acres
- 50 base acres.

Owner of FSN 300 offers 10 acres of DCP cropland that does not meet the definition of cropland for enrollment in GRP. The number of acres of DCP cropland acres that may be enrolled in GRP on FSN 300 without requiring a reduction to base acres is 10 acres (60 + 0 – 50 = 10). Therefore, the owner is not required to reduce either base acres or the number of acres offered to enroll in GRP.

Example 5: FSN 400 consists of the following:

- 60 acres effective DCP cropland
- 60 acres cropland
- 0 double-cropped acres
- 60 base acres.

Owner of FSN 400 offers 40 noncropland/non-DCP cropland acres for enrollment in GRP. The number of DCP cropland acres that may be enrolled in GRP on FSN 400 without requiring a reduction to base acres is 0 acres (60 + 0 – 60 = 0). However, the acres offered for enrollment in GRP are noncropland/non-DCP cropland acres. Therefore, the owner is not required to reduce either base acres or the number of acres offered to enroll in GRP.

F When to Complete CCC-505 to Reduce Base Acres

When the producer elects to reduce base acres because of enrollment in CRP or GRP, the producer shall complete CCC-505 at the time the acres are offered for CRP or GRP.

If the producer elects to retire base acres for enrollment in WRP, the producer will provide CCC-505 to NRCS. NRCS will provide CCC-505 to FSA when the easement is closed.

Reminder: Even if the producer files CCC-505 with NRCS, FSA is still required to ensure that benefits are not issued to the producer for both programs. County Offices shall follow the provisions of subparagraph 426 F to ensure that base acres are reduced properly.

427 Acre Reductions for CRP, GRP, or WRP Enrollment (Continued)

G Effective Date of Base Acre Reduction for CRP

Base acre reductions required because of CRP participation shall become effective for the same FY the corresponding CRP-1 becomes effective.

The program year entered on CCC-505 shall be the program year in which the corresponding CRP-1 becomes effective. Service Center shall file copy of CCC-505 in both applicable DCP farm folder and CRP folder, when base acres are reduced according to 3-CM because of CRP participation.

Example: Cropland was offered for enrollment in CRP on May 5, 2009. CRP-1 was effective October 1, 2009. CCC-505 to reduce base acres was signed by all owners at the time CRP-1 was submitted (May 5, 2009) with a program year of 2010 (equal to FY of CRP-1).

Base acre reductions will become effective October 1, 2009 (FY 2010). If acres offered for CRP are **not** accepted, base acres shall **not** be reduced.

Important: Reduction of base acres may result in DCP overpayment and request for refund.

H Effective Date of Base Acre Reduction for GRP

Base acre reductions because of GRP participation shall be effective as follows:

- date GRP easement is filed, if land was enrolled using an easement
- date CCC-920 is approved by CCC.

The Service Center shall file copy of CCC-505 in both applicable DCP farm folder and GRP folder.

Important: Reduction of base acres may result in DCP overpayment and request for refund.

427 Acre Reductions for CRP, GRP, or WRP Enrollment (Continued)

I Effective Date of Base Acre Reduction for WRP

Base acre reduction because of enrollment in WRP shall be effective as follows:

- date WRP easement is closed
- date WRP cost-share restoration agreement is approved.

County Offices shall file a copy of CCC-505 in the DCP farm folder.

Important: Reduction of base acres may result in DCP overpayment and request for refund.

J Restoration of Base Acres Reduced for Enrollment in CRP After September 30, 2008

Base acres reduced because of cropland enrollment into CRP after September 30, 2008, may be restored to the farm if CRP-1 is voluntarily terminated, provided there is sufficient DCP cropland available and all other requirements are met.

Note: There is no authority to restore base acres after September 30, 2012.

Important: **To ensure the applicable base acres may be restored to a farm, CCC-505 must include all information required according to paragraph 66, including the information required in CCC-505, item 16. Incomplete CCC-505's may result in base acres not being restored to a farm.**

K Restoration of Base Acres Reduced for Enrollment in GRP

Base acres reduced because of enrollment into GRP may be restored to the farm when both of the following are met, provided there is sufficient DCP cropland available and all other requirements are met:

- land is no longer enrolled in GRP
- life of easement has expired.

Important: **To ensure the applicable base acres may be restored to a farm, CCC-505 must include all information required according to paragraph 66, including the information required in CCC-505, item 16. Incomplete CCC-505's may result in base acres not being restored to a farm.**

428 Protection of Base Acres

A Requirement

[7 CFR 1412.61] Producers must protect land enrolled in DCP or the ACRE Program 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.

B Approved Covers and Practices

STC shall determine measures necessary to protect idle base acres from erosion and propagation of weeds, including noxious weeds, throughout the crop year STC determinations shall be provided to County Offices for publication throughout the program year. Determine, on a State-by-State basis, as follows:

- COC, in conjunction with the District Conservationist of NRCS, may recommend the cover crops or practices
- STC shall consult with State technical committees to determine whether additional practices that further the goals of these organizations and groups can be developed.

C Suggested Covers

Suggested covers include, but are not limited to:

- annual, biennial, or perennial grasses and legumes, including sweet sorghums, sorghum grass crosses, and sudans
- volunteer stands, other than weeds
- crop residue from using no till or minimum till practices
- perennial covers approved for cost-share assistance.

429 Highly Erodible Land Conservation and Wetland Conservation

A HELC/WC Compliance

Producers must certify HELC/WC compliance on AD-1026 and meet the requirements according to 6-CP to qualify for DCP benefits.

COC shall follow procedure in 6-CP for producers determined ineligible because a HELC/WC violation occurred.

B Terminating CCC-509 Shares for HELC/WC Violation

In addition to denying benefits for HELC/WC violations, COC shall determine whether the violation is serious enough to warrant terminating the contract, with respect to the producer determined ineligible according to 6-CP, on each farm in which the producer has an interest.

Producers whose shares are terminated shall be notified by letter of the following:

- CCC-509 is in violation and will be terminated with respect to the producer on each farm in which the producer has an interest
- the producer shall forfeit all rights to receive contract payments, for any year in which they are determined ineligible, on each farm in which the producer has an interest
- the producer shall refund all contract payments received by the producer on each farm the producer has an interest in during the period of the violation, plus interest
- reason for violation
- appeal rights according to 1-APP.

430 Planting Flexibility

A Plantings on Base Acres

Any commodity may be planted on:

- any land, including base acres, on a farm **not** enrolled in CCC-509
- nonbase acres of a farm enrolled in CCC-509
- base acres of a farm enrolled in CCC-509, except for the following:
    - fruits
    - vegetables, other than mung beans and pulse crops
    - wild rice.

See Part 8 for exceptions to FAV and wild rice planting limitations.

431-444 (Reserved)

Section 2 Producer Eligibility

445 General Information

A Eligible Producer

Producers eligible to enter into CCC-509 are:

- an owner of a farm who has a share of contract acreage and assumes all or part of the risk of producing a crop on base acres

- a producer (other than an owner) on base acres with a share- or cash-rent lease for the crop year covered by the FY contract.

Important: A producer on a farm with an interest in only nonbase acres and who has no share interest in any covered commodity or peanuts on the farm is **not** eligible to enter into CCC-509 on that farm.

The amount of nonbase acres available to be planted to FAV and wild rice without resulting in a payment reduction or contract violation may be reduced when there is a producer on a farm with interest in only nonbase acres. See:

- paragraph 472 for examples

- 4-CP to calculate nonbase acres on a farm available to be planted to FAV or wild rice without resulting in a payment reduction or contract violation.

Only producers who sign CCC-509 can be considered to have applied for a direct, counter-cyclical, or ACRE Program payment. Producers who have a reported share of a covered commodity or peanuts reported on FSA-578, but who may not have signed CCC-509, are **not** eligible for any program payments unless they sign CCC-509.

B Terms of Enrollment

Producers who participate in DCP or the ACRE Program must fully comply with the terms and conditions of CCC-509, and in return will receive direct payments and counter-cyclical payments, if applicable.

445 General Information (Continued)

C Signup Dates and Requesting Advance Payments

Eligible producers on a farm with established bases and yields shall have an opportunity to enroll the farm into an annual CCC-509 for each of the years 2009 through 2012 according to the following.

Year of CCC-509	Signup Dates
2009	December 22, 2008, through June 1, 2009
2010	October 1, 2009, through June 1, 2010
2011	October 1, 2010, through June 1, 2011
2012	October 1, 2011, through June 1, 2012

Note: See 1-CM, paragraph 2 if the enrollment deadline falls on a nonworkday.

Advance direct and counter-cyclical payments may be issued to producers who have an approved CCC-509, have filed all requisite forms, and who meet all other eligibility requirements. County Offices shall follow 2-DCP (Rev. 1) to determine when advance direct and counter-cyclical payments can be elected and issued.

D Late-Filed CCC-509's

There are **no** late-filed provisions for program years 2009 through 2012.

445 General Information (Continued)

E Producer Agreement to Program Requirements

Before producers on a farm may receive direct, counter-cyclical, or ACRE Program payments, with respect to the farm, the producers shall agree, during the crop year for which payments are made and in exchange for the payments to:

- maintain compliance with HELC/WC provisions on all their land
- use acreage equal to the base acres for an agricultural or conserving use
- not plant perennial FAV's or harvest annual FAV's (other than lentils, mung beans, and dry peas) or harvest wild rice on base acres

  Note: See Part 8 for exceptions to FAV and wild rice planting limitations.

- timely submit a report of all cropland acreage on the farm on an annual basis
- if participating in PTPP or the ACRE Program, satisfy production and reporting requirements according to Parts 2 and 4, as applicable.

F Enrollment of Base Acres on a Farm

Producers who enroll a farm in DCP shall enroll all base acres on the farm. Enrollment of only part of the base acres of a farm is not allowed.

446 Payment Limitation and AGI

A Payment Limitations

See subparagraph 10 I for payment limitations.

B AGI

See 4-PL for AGI provisions.

447 Commodities Grown Under Contract on Base Acres

A Background

In recent years, the number of and kinds of commercial grower contracts have increased. These contracts differ greatly in the amount of risk borne by the company and the grower.

Under commercial grower contracts, any of the following may occur:

- the grower has no share of the crop but may have risk

  Note: The grower in this instance is actually an independent contractor or custom farmer for the company.

- both the company and the grower share in the crop and in the risk of producing the crops

- only the grower shares in the crop and in the risk of producing the crops.

Note: This paragraph does **not** apply to hybrid seed contracts.

B Eligibility for Payments

The following provides guidance for determining eligibility for payments when crops under a commercial grower contract are produced on base acres.

IF the grower has...	THEN, if otherwise eligible, the grower is...
a share of the crop and has all or some of the risk in producing the crop or crops grown on base acres	eligible to receive all of a DCP or ACRE payment for those acres.
no share of the crop under the grower contract but may have some or none of the risk in producing a crop that is grown on base acres	**not** eligible to receive a DCP or ACRE payment for those acres because the grower does not meet the definition of a producer on those acres.
a share of the crop under the grower contract and also some, but not all of the risk in producing a crop that is grown on base acres	• eligible to receive a portion of a DCP or ACRE payment if all other requirements are met • **not** eligible to receive the entire DCP or ACRE payment for those acres.

Note: Growers who have no share of a crop grown on base acres are always ineligible for payments on those acres, regardless of risk.

447 Commodities Grown Under Contract on Base Acres (Continued)

C COC Review of Commercial Grower Contracts

COC shall:

- determine:
  - whether the signatories to a commercial grower contract meet the definition of producer provided in Exhibit 2 and 7 CFR Part 1412
  - whether a crop that is subject to a commercial grower contract is grown on base acres
  - who shares in the crop and in the risk of producing a crop that is subject to a commercial grower contract and grown on base acres
- ensure that the payment shares on CCC-509 are fair and equitable considering the grower's actual crop share and risk in producing the crop.

Note: In determining whether a grower of hybrid seed is a producer, COC shall not take into consideration the existence of a hybrid seed contract. See paragraph 357.

D COC Approval of Payment Shares

COC shall approve DCP or ACRE Program payment shares if all other eligibility requirements are met and both of the following apply:

- producers with a designated payment share meet the definition of producer on all of base acres on the farm that payment is being requested
- payment shares are established according to this paragraph and criteria in Part 6.

Notes: All producers on the farm must sign CCC-509 designating payment shares to be eligible for payment.

If after filing FSA-578 it is determined that producers who do **not** appear on the ACRE Program contract have certified to having a share interest in a covered commodity or peanuts, those producers must sign CCC-509 for the producer's share of that covered commodity or peanuts to be eligible for ACRE payment consideration. If the producer does **not** sign CCC-509, that share interest will **not** be paid to anyone.

448 Minor Child

A Eligibility of Minor Child

A minor is eligible to participate in DCP or the ACRE Program if the requirements of 1-CM are met.

449 Handling Bankruptcy

A Introduction

This paragraph explains how to handle CCC-509 when a producer files for bankruptcy.

B If Bankruptcy Occurs Before CCC-509 Approval

COC shall follow this table when a producer files for bankruptcy before CCC-509 approval.

Step	Action
1	Contact the regional attorney through the State Office for guidance.
2	Approve CCC-509 if both of the following apply: • regional attorney authorizes CCC-509 approval • producer submitted CCC-509 in a timely manner.
3	See 1-CM for producer signature requirements.

C If Bankruptcy Occurs After CCC-509 Approval

When bankruptcy occurs after CCC-509 approval, contact the regional attorney through the State Office for instructions and guidance.

450 Federal and State Agencies

A Eligibility of Federal Agencies

With the exception of BIA, Federal agencies are ineligible for payments. Other eligible producers on the farm may receive payments.

BIA may accept program payments for eligible producers on tribal and allotted land.

B Eligibility of State Agencies

See 4-PL for the eligibility of State agencies.

451-468 (Reserved)

Part 8 FAV's and Wild Rice

469 Basic Information

A Statutory Provisions

Producers may plant any crop on base acres enrolled in DCP or the ACRE Program, except the following:

- fruits
- vegetables, other than mung beans and pulse crops
- wild rice.

Important: FAV's and wild rice shall be considered planted for harvest at the time of planting. See paragraph 470 for destroying acres before harvest to become compliant with the planting prohibition.

Note: See Exhibit 21 for a list of FAV's.

The planting of FAV's or wild rice on base acres enrolled in DCP or the ACRE Program is prohibited unless the commodity is destroyed without benefit before harvest.

However, producers may plant FAV's and wild rice on base acres enrolled in DCP or the ACRE Program, if 1 of the following exceptions applies:

- in a double-cropping practice with covered commodities or peanuts in any region designated as having a history of double-cropping covered commodities or peanuts with fruits, vegetables, or wild rice (paragraph 472)

- on a farm with a history of planting FAV's or wild rice, except that direct and counter-cyclical payments shall be reduced by an acre for each acre of base acreage planted to a fruit, vegetable, or wild rice (paragraph 476)

- if the producer has an established history of planting a specific fruit, specific vegetable, or wild rice, except that:

  - such plantings on base acreage cannot exceed the producer's average annual planting history for the specific commodity (specific fruit, specific vegetable, or wild rice) for the 1991 through 1995 or 1998 through 2001 crop years, as determined by the producer, excluding years in which the producer did not plant the specific fruit, specific vegetable, or wild rice

  - direct and counter-cyclical payments shall be reduced by an acre for each acre of base acreage planted to the specific fruit, specific vegetable, or wild rice (paragraph 478).

469 Basic Information (Continued)

A Statutory Provisions (Continued)

Failure to comply with FAV and wild rice provisions of this part is a CCC-509 violation. This violation shall result in CCC-509 termination or a reduction in direct, counter-cyclical, and ACRE Program payments according to 4-CP.

See paragraph 470 for compliance determinations, including when prohibited commodities are destroyed before harvest.

B Flexibility Limitation

The exceptions in subparagraph A to the FAV and wild rice prohibitions shall be administered as 3 distinctly separate situations. Any perceived limitation in 1 exemption shall not limit flexibility in another exemption. Using 1 exemption does not preclude or limit the use of the other exemptions.

C Farms Not Enrolled in DCP or the ACRE Program

Base acres are established for each farm according to Part 2. The base acres on a farm are maintained and remain connected to the farm regardless of whether the farm is enrolled in DCP or the ACRE Program.

Planting and harvesting FAV's or wild rice on base acres on a farm that is not enrolled in DCP or the ACRE Program is not a violation of the FAV and wild rice prohibitions.

469 Basic Information (Continued)

D Determining Available Acres for FAV Planting

The County Office shall determine available free acres for planting FAV and wild rice on the farm according to the following.

Reminder: Producers wishing to reduce base acres to avoid an FAV violation or acre-for-acre reduction must do so before planting the FAV crop.

Step	Action	
1	Determine the effective DCP cropland on the farm	
2	Total the base acres for all covered commodities for the farm.	
3	Subtract the result of step 2 from the result of step 1.	
4	**If the result of step 3 is…**	**THEN…**
	equal to zero or negative	there are not any available free acres on the farm for FAV planting. Producers who elect to reduce base acres to plant FAV must reduce the base acres by the following: • number of FAV acres intended to be planted, plus • total double-cropped acreage for the farm. **Note:** The total double-cropped acreage for the farm must be included in the number of acres to be reduced because FAV cannot be planted on base acres and without the reduction to the double-cropped acreage, the producer may be earning payments on acres that are planted to FAV.
	greater than zero	the result is the number of available acres for FAV planting without a violation or acre-for-acre payment reduction. A base acre reduction is required if the total intended FAV acres exceeds the available acres determined in step 3.

470 Compliance Determinations

A Exemptions

Wild rice and all FAV's, including FAV's grown for seed or ornamentals, planted on base acres enrolled in DCP or the ACRE Program shall be considered when determining compliance and payment reductions, with the following exemptions:

- FAV's that are designated as and meet the definition of a home garden

- FAV's **planted and reported** with an intended use of green manure or forage and the producer pays a fee to cover the cost of a farm visit to verify that the crop has not been harvested as FAV

  Note: Forage includes haying, silage, haylage, grazing, and green chop.

- mung beans and pulse crops.

  Notes: Pulse crops include:

  - dry peas
  - lentils
  - small chickpeas (desi garbanzo beans)
  - large chickpeas (kabuli garbanzo beans).

  Dry peas include:

  - Austrian
  - wrinkled seed
  - green
  - yellow
  - umatilla.

Important: Not all peas are dry peas and, therefore, not included in the FAV exemption. Peas grown for the following markets are not dry peas, and are **not** eligible for the FAV dry pea exemption:

- fresh
- canning
- frozen.

Example: Green snap peas intended for the fresh market are not dry peas. Planting green snap peas intended for the fresh market on base acres enrolled in DCP or the ACRE Program is a violation of the FAV prohibition unless 1 of the 3 exemptions in paragraph 469 applies.

470 Compliance Determinations (Continued)

A Exemptions (Continued)

These intentions must be declared when the acreage report is filed. These exemptions shall **not** be used to negate CCC-509 violation or payment reduction. Producers cannot subsequently change the intended use of reported FAV acreage to home garden, green manure, or forage to negate a violation or payment reduction.

See 2-CP for instructions on how to report the acres of:

- peas grown for the fresh, canning, or frozen market
- FAV's with an intended use of home garden, forage, or green manure.

B Timing of Violations

FAV and wild rice violations occur at planting. FAV's and wild rice are considered planted for harvest at the time of planting. Producers **cannot** negate the violation by:

- subsequently filing CCC-505 to reduce base acreage after June 1 of the applicable year
- withdrawing from CCC-509 after June 1 of the applicable year
- changing the intended use of the crop.

Notes: See paragraph:

- 15 for terminating CCC-509 during the contract period
- 65 for base reductions
- 394 for withdrawing enrollment.

Compliance determinations are based on when the fruit, vegetable, or wild rice is planted, not when the crop is harvested.

Examples: FAV's planted in:

- *** * *** September 2009 will be a 2009 compliance determination
- *** * *** October 2009 will be a 2010 compliance determination.

470 Compliance Determinations (Continued)

C Multiple FAV's on Same Acreage in Same FY

Multiple plantings of any FAV on the same acreage in a FY shall be considered only once for compliance purposes. However, FAV's must be planted on the same acreage.

Example: A producer plants and harvests 20 acres of tomatoes. After the tomatoes are harvested, the producer plants and harvests carrots on the same 20 acres. For compliance and payment reduction purposes, only 20 acres of FAV's are considered.

If the carrots and tomatoes were planted on different acreage, there would have been 40 acres of FAV's when determining acreage for compliance and payment reductions.

D Perennial FAV's

Perennial FAV's, such as apples, oranges, strawberries, and nut crops, shall be considered FAV's beginning FY in which they are planted and each succeeding year they are on base acres enrolled in DCP or the ACRE Program. Nut crops are considered FAV's.

Note: See Exhibit 21 for a list of FAV's.

470 Compliance Determinations (Continued)

E Destruction of Nonperennial FAV's and Wild Rice Before Harvest

Nonperennial FAV's and wild rice planted on base acres enrolled in DCP or the ACRE Program that are destroyed without benefit before harvest shall **not** be considered a violation nor shall payments for the farm be reduced for such plantings, if **all** of the following are met:

- producer notifies COC the commodity has been or will be destroyed without benefit **before** harvest
- COC conducts a paid-for farm visit and verifies that the commodity was destroyed without benefit **before** harvest
- producer revises FSA-578 to record the acres remaining for harvest according to 2-CP.

Unless the destruction of the commodity is verified with a paid-for farm visit, COC shall consider FAV and wild rice harvested for compliance and payment reduction purposes.

Important: Left standing is **not** considered destroyed.

Example 1: FSN 25 has 225 acres of cropland with the following:

- 80 acres of wheat base acres
- 80 acres of corn base acres
- 40 acres of soybean base acres.

Neither the farm nor the producer has a history of planting FAV's or wild rice.

Joe Brown enrolls all 200 base acres in FY 2009 DCP. Mr. Brown plants 198 acres of soybeans and 27 acres of potatoes. Mr. Brown notifies COC that 2 acres of potatoes have been destroyed without benefit before harvest and pays for a COC farm visit to verify the destruction.

COC conducts a paid-for farm visit, and verifies that 2 acres of potatoes were destroyed without benefit before harvest. Mr. Brown revises FSA-578 to indicate 25 acres of potatoes planted.

In this example, there is no violation. The FY 2009 payments for the farm are not affected by the 2 acres of destroyed potatoes on base acres.

470 Compliance Determinations (Continued)

E Destruction of Nonperennial FAV's and Wild Rice Before Harvest (Continued)

Example 2: FSN 365 has 225 acres of cropland with the following:

- 80 acres of wheat base acres
- 80 acres of corn base acres
- 40 acres of soybean base acres.

Neither the farm nor the producer has a history of planting FAV's or wild rice.

Mary White enrolls all 200 acres of base acres in FY 2009. Mrs. White plants 195 acres of corn and 30 acres of cucumbers. Mrs. White notifies COC that 5 acres of cucumbers have been destroyed before harvest and pays for a COC farm visit to verify destruction.

COC conducts a paid-for farm visit; however, it **cannot** verify that 5 acres of cucumbers were destroyed before harvest. Mrs. White is in violation. COC shall **not** modify FSA-578 for farm 365. COC shall handle the 5-acre FAV violation according to 4-CP.

470 Compliance Determinations (Continued)

F Destruction of Perennial FAV's and Wild Rice Before Harvest

FAV and wild rice planting violations occur at planting. For compliance determinations, FAV's and wild rice are considered planted for harvest at the time of planting.

The destruction of perennial FAV's or wild rice before harvest does **not** negate the planting violation.

Example: FSN 1101 has 225 acres of cropland with the following:

- 80 acres of wheat base acres
- 80 acres of corn base acres
- 40 acres of soybean base acres.

Neither the farm nor the producer has a history of planting FAV's or wild rice.

Jack Green enrolls all 200 base acres in FY 2010. Mr. Green plants 195 acres of corn and 30 acres of apple trees. Mr. Green notifies COC that 5 acres of apple trees have been destroyed.

Mr. Green is in violation of the FAV and wild rice prohibitions for the 5 acres of apples in 2010. There is no provision to allow the destruction of perennial FAV's or wild rice planted on base acres to negate the planting violation. COC shall **not** modify FY 2010 FSA-578 for Farm 1101. COC shall handle the 5-acre FAV violation according to 4-CP.

471 Examples of Basic Rule

A Basic Farm Data

The following farm data applies to examples 1 through 6 of the basic rule:

- 300 acres of cropland
- 100 base acres for corn
- 100 base acres for wheat
- base acres are enrolled in DCP or ACRE
- there is only 1 producer on the farm
- neither the farm nor the producer has a history of planting FAV's or wild rice
- farm is not administratively located in FAV and wild rice double-cropping region.

B Example 1

Corn Base Acre	Wheat Base Acre	Other Cropland
100 acres corn	100 acres wheat	100 acres carrots harvested

There is no FAV or wild rice violation in this example. Any FAV or wild rice may be planted on nonbase acres. The direct, counter-cyclical, and ACRE payments are unaffected.

471 Examples of Basic Rule (Continued)

C Example 2

Corn Base Acre	Wheat Base Acre	Other Cropland
50 acres lentils 50 acres mung beans	50 acres oats 50 acres dry peas	100 acres carrots harvested

Producers may plant mung beans and pulse crops on base acres. Nonbase acres may be planted to carrots (or any fruit, vegetable, or wild rice). There is no FAV or wild rice violation in this example. The direct, counter-cyclical, and ACRE payments are unaffected.

Note: Lentils and dry peas are a pulse crop.

D Example 3

Corn Base Acre	Wheat Base Acre	Other Cropland
100 acres corn	100 acres wheat	50 acres carrots harvested followed by 50 acres lettuce harvested followed by 50 acres watermelons harvested ---------- 50 acres wild rice harvested

There is no FAV or wild rice violation in this example. FAV's and wild rice are permitted on nonbase acres.

In this example, the same 50 acres were planted and harvested 3 times to a fruit or vegetable (carrots, lettuce, and watermelons). For compliance purposes, there are only 100 acres of FAV's and wild rice on the farm in this example.

Direct, counter-cyclical, and ACRE payments are unaffected.

471 Examples of Basic Rule (Continued)

E Example 4

Corn Base Acre	Wheat Base Acre	Other Cropland
100 acres corn	100 acres wheat	50 acres carrots planted June 15 and harvested July 30
		50 acres watermelon planted August 15 and harvested September 30

There is no FAV or wild rice violation in this example. FAV's and wild rice are permitted on nonbase acres.

In this example, there were never more than 50 acres of fruits or vegetables (carrots and watermelons) on the farm at any given time. However, for compliance purposes, there are 100 acres of FAV's on the farm in this example.

Direct, counter-cyclical, and ACRE payments are unaffected.

471 Examples of Basic Rule (Continued)

F Example 5

Corn Base Acre	Wheat Base Acre	Other Cropland
100 acres wheat	50 acres mung beans 50 acres wild rice harvested	100 acres carrots harvested

This is an example of an FAV and wild rice violation. Planting mung beans on base acres is permitted. Planting carrots (or any fruit, vegetable, or wild rice) is permitted on nonbase acres. Because neither the farm nor the producer has a history of FAV or wild rice plantings, the planting of wild rice (or any fruit, vegetable, or wild rice) on base acres enrolled in DCP or the ACRE Program is prohibited.

A violation, caused by FAV's or wild rice on base acres, may result in penalties ranging from termination of the contract to direct and counter-cyclical payment reductions based on the per acre value of the fruit, vegetable, or wild rice beginning with FAV or wild rice with the highest per acre value.

See 4-CP for payment reductions because of FAV's or wild rice violations on base acres enrolled in DCP or the ACRE Program.

471 Examples of Basic Rule (Continued)

G Example 6

Corn Base Acre	Wheat Base Acre	Other Cropland
100 acres wheat	98 acres mung beans 2 acres carrots planted, but destroyed before harvest	100 acres carrots harvested

There is no FAV or wild rice violation in this example. Planting mung beans on base acres is permitted. Planting carrots (or any fruit, vegetable, or wild rice) is permitted on nonbase acres. Because neither the farm nor the producer has a history of FAV or wild rice plantings, the 2 acres of carrots (or any fruit, vegetable, or wild rice) on base acres enrolled in DCP or the ACRE Program is prohibited.

However, in this example:

- the producer destroyed the 2 acres of carrots planted on base acres before harvest
- COC conducted a paid-for farm visit and verified the 2 acres of carrots were destroyed before harvest
- FSA-578 was modified to record the 2 acres of carrots destroyed without benefit.

Direct, counter-cyclical, and ACRE payments are unaffected because FAV planted on base acres enrolled in DCP or the ACRE Program was destroyed before harvest and verified by a paid-for farm visit.

471 Examples of Basic Rule (Continued)

H Example 7

The following farm data applies to example 7 of the basic rule:

- 300 acres of DCP cropland
- 100 base acres for corn
- 100 base acres for wheat
- base acres are enrolled in DCP or the ACRE Program
- John Smith is the farm owner and is also the farm operator
- Mr. Smith cash rents 60 acres to Tim Jones (Mr. Jones is listed as another tenant)
- Mr. Smith signs CCC-509 for 100 percent of the payments
- neither the producer nor the farm has a history of planting FAV's or wild rice
- farm is not administratively located in FAV and wild rice double-cropping region.

Corn Base Acre	Wheat Base Acre	Other DCP Cropland
100 acres corn (Mr. Smith)	75 acres wheat (Mr. Smith)	60 acres soybeans (Mr. Jones)
	25 acres sweet corn (Mr. Smith)	40 acres sweet corn (Mr. Smith)

This is an example of a FAV violation because 25 acres of sweet corn were planted on base acres.

Mr. Smith has 100 percent share of DCP or ACRE Program payments; therefore, although there is another producer on the farm, Mr. Smith has 100 percent of the base acres on the farm. Because Mr. Smith has all of the base acres on the farm, the 60 acres he cash rented to Mr. Jones has to be nonbase acres. Mr. Jones has no interest in or control of any base acres or covered commodities or peanuts on the farm, is not a signatory to CCC-509, and does not receive any share of DCP or ACRE Program payments for the farm.

Important: If the 60 acres rented to Mr. Jones were base acres, Mr. Jones would have been required to sign CCC-509 and receive a share of the payments for the farm. See Parts 6 and 7 for signature and payment eligibility requirements.

Because Mr. Jones planted a commodity other than FAV's or wild rice on the nonbase acres he cash rents, the amount of nonbase acres available to be planted to FAV's or wild rice without resulting in a violation for the farm is reduced by 60 acres. Accordingly, there are only 40 acres (300 – 200 – 60 = 40) of nonbase acres available to be planted to FAV's or wild rice in this example.

471 Examples of Basic Rule (Continued)

H Example 7 (Continued)

Planting sweet corn (or any fruit, vegetable, or wild rice) is permitted on nonbase acres. Because neither the producer nor the farm has a history of FAV or wild rice plantings, the planting of sweet corn (or any fruit, vegetable, or wild rice) on base acres enrolled in DCP or the ACRE Program is prohibited.

A violation, caused by FAV's or wild rice on base acres, may result in penalties ranging from termination of CCC-509 to payment reductions based on the per acre market value of the fruit, vegetable, or wild rice beginning with FAV or wild rice with the highest per acre value.

See 4-CP for:

- calculating amount of FAV and wild rice plantings on base acres
- determining FAV and wild rice per acre market values to apply
- payment reductions because of FAV's or wild rice planting violations.

I Example 8

The same farm data in example 7 applies to this example, except Mr. Smith rents the 60 acres to Mr. Jones for one-third of the crop produced on the 60 acres.

Corn Base Acre	Wheat Base Acre	Other DCP Cropland
100 acres corn (Mr. Smith)	75 acres wheat (Mr. Smith)	60 acres soybeans (Mr. Jones and Mr. Smith)
	25 acres sweet corn (Mr. Smith)	40 acres sweet corn (Mr. Smith)

This is an example of a FAV and wild rice violation because 25 acres of sweet corn were planted on base acres.

471 Examples of Basic Rule (Continued)

I Example 8 (Continued)

Mr. Smith has 100 percent share of DCP or ACRE Program payments; therefore, although there is another producer on the farm, Mr. Smith has 100 percent of the base acres on the farm. The fact that Mr. Smith shares in the soybeans does not mean the soybeans are on base acres, only that he shares in the crop. Soybeans are a covered commodity. Mr. Jones has no interest in or control of any base acres on the farm, is not a signatory to CCC-509, and does not receive any share of payments from the farm.

Note: If Mr. Jones wants to be eligible for ACRE payments on soybeans, Mr. Jones must satisfy all program requirements, including signing CCC-509. In the event Mr. Jones chose not to sign CCC-509, Mr. Jones' FSA-578 share of soybean crop acreage would not be available for ACRE payment consideration to any other producer.

Important: If the 60 acres rented to Mr. Jones were base acres, Mr. Jones would have been required to sign CCC-509 and receive a share of the payments for the farm. See Parts 6 and 7 for signature and payment eligibility requirements.

Because a commodity other than FAV's or wild rice was planted on the nonbase acres share rented to Mr. Jones, the amount of nonbase acres available to be planted to FAV's or wild rice without resulting in a violation for the farm is reduced by 60 acres. Accordingly, there are only 40 acres (300 – 200 – 60 = 40) of nonbase acres available to be planted to FAV's or wild rice in this example.

Planting sweet corn (or any fruit, vegetable, or wild rice) is permitted on nonbase acres. Because neither the producer nor the farm has a history of FAV or wild rice plantings, the planting of sweet corn (or any fruit, vegetable, or wild rice) on base acres enrolled in DCP or the ACRE Program is prohibited.

A violation, caused by FAV's or wild rice on base acres, may result in penalties ranging from termination of CCC-509 to payment reductions based on the per acre market value of the fruit, vegetable, or wild rice beginning with FAV or wild rice with the highest per acre value.

See 4-CP for:

- calculating amount of FAV and wild rice plantings on base acres
- determining FAV and wild rice per acre market values to apply
- payment reductions because of FAV's or wild rice planting violations.

471 Examples of Basic Rule (Continued)

J Example 9

FSN 400 has:

- 100 acres of effective DCP cropland
- 20 acres of double-cropped acres
- 120 acres of base acres including 10 for wheat, 80 for corn, and 30 for soybeans.

Producer A informs the County Office of the intent to plant 10 acres of FAV. None of the FAV exceptions apply to the farm or producer, therefore the producer is required to reduce base acreage before FAV is planted to avoid an FAV planting violation.

FAV's cannot be planted on base acreage unless 1 of the exceptions applies. Therefore in cases where the base acres exceed the effective DCP cropland on the farm, the base acre reduction must include the double-crop acreage and not just the acres being planted to FAV.

In this example, the producer must reduce the base acres by 30 acres.

472 FAV and Wild Rice Double-Cropping Region Exception

A Double-Cropping Exception

The first exception to the prohibition of FAV's and wild rice on base acres enrolled in DCP or the ACRE Program is the double-cropping exception.

The double-cropping exception provides that FAV's and wild rice may be planted on base acres enrolled in DCP or the ACRE Program without violation or payment reduction if FAV or wild rice, as applicable, is planted in a double-cropping cycle with a covered commodity or peanuts planted in a designated double-cropping region established by STC.

Note: See subparagraph C for double-cropping regions.

B Determining Double-Cropping FAV's/Wild Rice With Covered Commodity/Peanuts

For the purpose of determining FAV and wild rice double-cropping regions, double-cropping FAV's or wild rice with covered commodities or peanuts means planting and harvesting of a covered commodity or peanuts **for grain or lint** in cycle with the planting and harvesting of FAV or wild rice on the same acreage in a 12-month period with the ability to plant and harvest the same 2 crops in the immediately succeeding 12-month period, under normal growing conditions.

FAV or wild rice may be planted before or after the covered commodity or peanuts to be considered double-cropped.

C Double-Cropping Regions

FAV and wild rice double-cropping regions were established by STC, in consultation with CSREES, Land Grant Universities, and other agencies, based on the planting history for the region.

Note: Double-cropping of FAV's or wild rice in cycle with covered commodities or peanuts must be customary for the region.

472 FAV and Wild Rice Double-Cropping Region Exception (Continued)

C Double-Cropping Regions (Continued)

Established FAV and wild rice double-cropping regions:

- must be, at a minimum, an entire county
- borders must follow county lines
- were determined on a county-by-county basis
- shall not be an area greater than the entire county.

To be eligible for this exception, the farm must be administratively located in a county established as FAV and wild rice double-cropping region. Do **not** consider the physical location of the farm in this determination.

D COC Determining FAV and Wild Rice Double-Cropping

COC, in designated FAV and wild rice double-cropping regions, shall, each FY, consider acreage double-cropped for determining FAV/wild rice double-cropped exception if **both** of the following are met:

- a fruit, vegetable, or wild rice is planted in cycle with a covered commodity or peanuts on the same acreage

- both crops were planted with reasonable expectations and realistic possibilities of harvesting each crop in a 12-month period.

Important: For covered commodities, harvesting means **harvested as grain or lint**.

Example 1: Upland cotton is planted, but because of adverse weather, the cotton is abandoned and the acreage is planted to green beans. If this occurs in a designated FAV and wild rice double-cropping region where upland cotton can be planted, harvested for lint, and followed by the planting and harvesting of green beans in a double-cropping situation within a 12-month period, this may be considered double-cropped even though the green beans were planted early.

If the same situation occurs in a designated double-cropping region where upland cotton cannot be planted, harvested for lint, and followed by the planting and harvesting of green beans in a double-cropping situation within a 12-month period, it is **not** double-cropping.

472 FAV and Wild Rice Double-Cropping Region Exception (Continued)

D COC Determining FAV and Wild Rice Double-Cropping (Continued)

Example 2: Wheat is planted and taken for hay before disposition. Carrots are then planted on the same base acres. If this occurs in a designated double-cropping region where carrots could have been planted and harvested following the harvest of the wheat for grain, this may be considered double-cropping.

If wheat cannot be carried to harvest as grain followed by the planting and harvesting of carrots on the same acreage in the same 12-month period, it is **not** double-cropping.

Any fruit, vegetable, or wild rice may be double-cropped with any covered commodity or peanuts; however, COC must be satisfied that both crops could be harvested within a 12-month period, and again during the immediately succeeding 12-month period under normal growing conditions for the county. If COC determines both crops could **not** be harvested in a 12-month period double-cropping cycle under normal growing conditions, the crops shall not be considered double-cropped and this exception shall **not** apply.

E FAV and Wild Rice Double-Cropping Flexibility

FAV's or wild rice planted in a double-cropping situation with a covered commodity or peanuts on a farm administratively located in an established FAV and wild rice double-cropping region is not a violation of the FAV and wild rice prohibitions and shall not affect direct and counter-cyclical payments.

Neither the individual farm nor the producer needs to have an established history of double-cropping FAV's or wild rice in cycle with a covered commodity or peanuts to meet the requirements of this exception.

Any farm administratively located in an established FAV and wild rice double-cropping region may double-crop FAV's or wild rice in cycle with a covered commodity or peanuts.

Provisions of this exception are **not** crop specific. Any fruit or vegetable or wild rice may be double-cropped with any covered commodity or peanuts.

473 Prevented Planting Provisions for FAV and Wild Rice Double-Cropping Exception

A Purpose of Prevented Planted Credit

The purpose of prevented planted credit is to allow a farm to remain eligible for the FAV and wild rice double-cropping exception when a natural disaster or a quarantine imposed by a State or local agency prevents the covered commodity from being planted.

Prevented planting provisions only apply to the covered commodity in a double-cropping practice with FAV or wild rice in an established double-cropping region.

B Definition of Prevented Planting

Prevented planting is the inability to plant crop acreage with proper equipment during the established planting period for the crop. A producer must be able to prove, to COC's satisfaction, that the:

- producer intended to plant the eligible crop acreage
- eligible crop acreage could not be planted because of a natural disaster or a quarantine imposed by a State or local agency.

C Final Planting Dates

The FCIC-established final planting dates shall be used for prevented planting determinations.

Note: Spring wheat does not need to be planted as a replacement for winter wheat when the winter wheat is prevented from planting.

If FCIC-established final planting dates are not available, STC shall establish the final planting date consistent with 1-NAP.

D Applying for Prevented Planting Credit

The producer shall apply for prevented planted credit according to 2-CP.

474 (Reserved)

475 Examples of Double-Cropping Region Exception

A Basic Farm Data

The following farm data applies to the double-cropping examples:

- 100 acres of cropland
- 100 base acres for wheat
- base acres are enrolled in DCP or the ACRE Program
- neither the farm nor producer has a history of FAV or wild rice plantings.

B Example 1

The farm in this example is administratively located in an established FAV and wild rice double-cropping region. COC determined that both commodities (wheat followed by carrots) can be harvested in a double-cropping situation within a 12-month period, and again in the immediately succeeding 12-month period under normal growing conditions.

Wheat Base Acres
100 acres wheat harvested for grain followed by 100 acres carrots harvested

There is no FAV or wild rice violation in this example because all the following are met:

- the farm is administratively located in an established FAV and wild rice double-cropping region

- the carrots were double-cropped with a covered commodity (wheat)

- COC determined both commodities can be harvested in a double-cropping situation within a 12-month period, and again in the immediately succeeding 12-month period under normal growing conditions.

Direct, counter-cyclical, and ACRE payments are **not** affected.

475 Examples of Double-Cropping Region Exception (Continued)

C Example 2

The farm in this example is administratively located in an established FAV and wild rice double-cropping region. COC determined that all commodities (lettuce and carrots followed by soybeans and grain sorghum) can be harvested in a double-cropping situation within a 12-month period, and again in the immediately succeeding 12-month period under normal growing conditions.

Wheat Base Acres
50 acres lettuce harvested and 50 acres carrots harvested followed by 75 acres soybeans harvested for grain and 25 acres grain sorghum harvested for grain

There is no FAV or wild rice violation in this example because all the following are met:

- the farm is administratively located in an established FAV and wild rice double-cropping region
- both the lettuce and carrots were double-cropped with a covered commodity (soybeans or grain sorghum)
- COC determined all commodities can be harvested in a double-cropping situation within a 12-month period, and again in the immediately succeeding 12-month period under normal growing conditions.

Direct, counter-cyclical, and ACRE payments are **not** affected.

475 Examples of Double-Cropping Region Exception (Continued)

D Example 3

The farm in this example is **not** administratively located in an established FAV and wild rice double-cropping region.

Wheat Base Acres
100 acres carrots harvested followed by 100 acres corn harvested for grain

This is an example of a violation of the FAV and wild rice prohibition. The carrots were harvested in a double-cropping situation with a covered commodity; however, the farm is **not** administratively located in an established FAV and wild rice double-cropping region.

To meet the requirements of this exception, the fruit, vegetable, or wild rice must be double-cropped with a covered commodity or peanuts on a farm administratively located in an established FAV and wild rice double-cropping region.

This violation of FAV and wild rice prohibitions may result in penalties ranging from contract termination to payment reductions based on the per acre value of the fruit, vegetable, or wild rice beginning with the fruit, vegetable, or wild rice with the highest per acre value.

See 4-CP for payment reductions because of FAV's or wild rice violations on base acres enrolled in DCP or the ACRE Program.

475 Examples of Double-Cropping Region Exception (Continued)

E Example 4

The farm in this example is administratively located in an established FAV and wild rice double-cropping region. COC determined that both commodities (carrots followed by corn) can be harvested in a double-cropping situation within a 12-month period, and again in the immediately succeeding 12-month period under normal growing conditions.

Wheat Base Acres
100 acres carrots harvested followed by 70 acres corn harvested for grain

The farm in this example is located in an established FAV double-cropping region; however, only 70 of the 100 acres of carrots were planted in a double-cropping situation with a covered commodity (corn).

In this example, planting 30 acres of carrots on base acres that is not in a double-cropping situation with a covered commodity or peanuts is a violation of the FAV and wild rice prohibitions. Accordingly, there **is** an FAV violation on 30 acres in this example.

This violation of FAV and wild rice prohibitions may result in penalties ranging from contract termination to payment reductions based on the per acre value of the fruit, vegetable or wild rice beginning with the fruit, vegetable, or wild rice with the highest per acre value.

See 4-CP for payment reductions because of FAV's or wild rice violations on base acres enrolled in DCP or the ACRE Program.

475 Examples of Double-Cropping Region Exception (Continued)

F Example 5

The farm in this example is administratively located in an established FAV and wild rice double-cropping region. COC determined that the 2 commodities (upland cotton followed by tomatoes) **cannot** be harvested in a double-cropping situation within a 12-month period, and again in the immediately succeeding 12-month period under normal growing conditions.

Wheat Base Acres
100 acres upland cotton failed followed by 100 acres tomatoes harvested

The farm in this example is located in an established FAV and wild rice double-cropping region. The producer planted 100 acres of upland cotton that failed. After the upland cotton failed, the producer planted and harvested 100 acres of tomatoes on the failed upland cotton acreage.

In this example, there is a violation of the FAV and wild rice prohibition for the 100 acres of tomatoes on base acres because COC determined that upland cotton could not be harvested for lint followed by tomatoes in a double-cropping situation within a 12-month period, and again during the immediately succeeding 12-month period under normal growing conditions.

This violation of FAV and wild rice prohibitions may result in penalties ranging from contract termination to payment reductions based on the per acre value of the fruit, vegetable, or wild rice beginning with the fruit, vegetable, or wild rice with the highest per acre value.

See 4-CP for payment reductions because of FAV's or wild rice violations on base acres enrolled in DCP or the ACRE Program.

475 Examples of Double-Cropping Region Exception (Continued)

G Example 6

The farm in this example is administratively located in an established FAV and wild rice double-cropping region. COC determined that both commodities (wheat followed by carrots) can be harvested in a double-cropping situation within a 12-month period, and again in the immediately succeeding 12-month period under normal growing conditions.

Wheat Base Acres
100 acres prevented planted wheat followed by 100 acres carrots harvested

In this example, the producer submitted a request for prevented planted acreage credit for 100 acres of wheat according to this paragraph. COC approved the notice of loss for 100 acres of prevented planted wheat, and the farm maintained eligibility for the FAV and wild rice double-cropping exception.

The harvesting of 100 acres of carrots on base acres enrolled in DCP or the ACRE Program in this example is not a violation of the FAV and wild rice prohibitions because all of the following are met:

- the farm is administratively located in an established FAV and wild rice double-cropping region
- COC approved the notice of loss for prevented planted acreage credit for the farm to maintain eligibility for the FAV and wild rice double-cropping exception
- COC determined that both commodities can be harvested in a double-cropping situation within a 12-month period, and again in the immediately succeeding 12-month period under normal growing conditions.

Note: Direct, counter-cyclical, and ACRE payments are **not** affected.

476 FAV and Wild Rice Farm History Exception

A Farm History Exception

The second exception to the prohibition of FAV's and wild rice on base acres enrolled in DCP or the ACRE Program is the farm history exception.

The farm history exception provides that FAV's and wild rice shall not be limited on a farm with a history of planting fruits, vegetables or wild rice, except that direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of the fruit, vegetable, or wild rice planted on base acres enrolled in DCP or the ACRE Program.

B Established History of Planting FAV's or Wild Rice for the Farm

For the purposes of this exception, the farm has a history of planting FAV's or wild rice if the farm had a history of such plantings under AMTA or there is a record of such plantings on the farm in at least 1 of the 1998 through 2001 crop years.

FAV and wild rice plantings on a farm after 2001 shall **not** establish a history of such plantings for the provisions of this exception.

Provisions of this exception are **farm** specific. The FAV and wild rice planting history is established for the **farm**, not the producer, county, or area.

Provisions of this exception are **not** crop or acreage specific. The specific type of fruit, vegetable, or wild rice and the number of acres planted are not considered when determining the farm's history nor does it limit the type of FAV's or number of acres that may be planted to FAV's or wild rice on the farm's base acres.

476 FAV and Wild Rice Farm History Exception (Continued)

C FAV and Wild Rice Farm History Flexibility and Payment Reductions

FAV's or wild rice on base acres of a farm enrolled in DCP or the ACRE Program that has an established FAV and wild rice planting history:

- is **not** a violation of the FAV and wild rice prohibitions
- shall result in an acre-for-acre reduction in the direct, counter-cyclical, and ACRE payments.

FAV's and wild rice on base acres enrolled in DCP or the ACRE Program will be used to calculate direct, counter-cyclical, and ACRE payment reductions only for FY in which they were planted, except for perennials.

Perennial FAV's planted on base acres will be used to calculate direct, counter-cyclical, and ACRE payment reductions beginning FY in which they are planted and each succeeding year they are on base acreage enrolled in DCP or the ACRE Program.

Provisions of this exception allow planting of any fruit, vegetable, or wild rice on base acres enrolled in DCP or the ACRE Program with a corresponding reduction in direct, counter-cyclical, and ACRE payments. The farm does not have to be in an established FAV and wild rice double-cropping region nor must the producer on the farm have a history of planting any FAV's or wild rice.

477 Examples of Farm History Exception

A Basic Farm Data

The following farm data applies to the farm history examples:

- 300 acres of cropland
- 100 base acres for wheat
- 100 base acres for soybeans
- base acres are enrolled in DCP or the ACRE Program
- the farm has a history of planting FAV's and wild rice based on the 1999 acreage report indicating 2 acres of pumpkins planted for harvest.

B Example 1

The farm in this example is **not** administratively located in an established FAV and wild rice double-cropping region nor does the producer have a history of planting FAV's or wild rice.

<table>
<tr><th>Soybean Base Acres</th><th>Wheat Base Acres</th><th>Other Cropland</th></tr>
<tr><td rowspan="2">100 acres wheat</td><td>50 acres wheat</td><td rowspan="2">100 acres carrots harvested</td></tr>
<tr><td>50 acres carrots harvested</td></tr>
</table>

Because the farm has a history of FAV and wild rice plantings, the 50 acres of carrots on base acres is not a violation of the FAV and wild rice prohibitions. Under the FAV and wild rice farm history exception, an unlimited amount of any fruit, vegetable, or wild rice may be planted on base acres enrolled in DCP or the ACRE Program regardless of what fruit or vegetable or wild rice was planted to establish the farm's history.

The direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of the FAV and wild rice (carrots in this example) on base acreage. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acreage of a farm enrolled in DCP or the ACRE Program.

477 Examples of Farm History Exception (Continued)

C Example 2

The farm in this example is **not** administratively located in an established FAV and wild rice double-cropping region nor does the producer have a history of planting FAV's or wild rice.

Soybeans Base Acre	Wheat Base Acre	Other Cropland
20 acres lettuce harvested	20 acres wild rice harvested	100 acres carrots harvested
80 acres corn	80 acres wheat	

Because the farm has a history of FAV and wild rice plantings, the 20 acres of lettuce and 20 acres of wild rice on base acres is not a violation of the FAV and wild rice prohibitions. Under the FAV and wild rice farm history exception, any fruit or vegetable or wild rice may be planted on the base acres regardless of what fruit, vegetable or wild rice was planted to establish the farm's history.

The direct, counter-cyclical, and ACRE payments will be reduced by an acre for each acre of FAV and wild rice (lettuce and wild rice in this example) on the base acreage. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acreage of a farm enrolled in DCP or the ACRE Program.

477 Examples of Farm History Exception (Continued)

D Example 3

The farm in this example is not administratively located in an established FAV and wild rice double-cropping region nor does the producer have a history of planting FAV's.

Soybeans Base Acre	Wheat Base Acre	Other Cropland
100 acres peanuts	100 acres wheat followed by 50 acres watermelons harvested	100 acres carrots harvested

Because the farm has a history of FAV and wild rice plantings, the 50 acres of watermelons on base acres is not a violation of the FAV and wild rice prohibitions.

In this example, double-cropping watermelons with a covered commodity results in an acre-per-acre reduction in direct and counter-cyclical payments because the farm is **not** administratively located in an established FAV and wild rice double-cropping region.

The direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (watermelons in this example) on the base acreage. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acreage of a farm enrolled in DCP or the ACRE Program.

477 Examples of Farm History Exception (Continued)

E Example 4

The farm in this example is **not** administratively located in an established FAV and wild rice double-cropping region nor does the producer have a history of planting FAV's or wild rice.

Soybean Base Acres	Wheat Base Acres	Other Cropland
100 acres onions harvested followed by 100 acres squash harvested followed by 50 acres tomatoes harvested	100 acres carrots harvested followed by 100 acres watermelons harvested	100 acres cantaloupes harvested followed by 100 acres lettuce harvested

Because the farm has a history of FAV and wild rice plantings, planting the entire acreage of the farm to FAV's is not a violation of the FAV and wild rice prohibitions.

Under this provision, the number of acres of fruits, vegetables, and wild rice on base acres is not limited.

In this example:

- the entire farm acreage is planted, harvested, replanted and harvested to FAV's
- for compliance purposes, there are only 300 acres of FAV's on the farm
- the entire base acres being devoted to FAV's results in zero direct, counter-cyclical, and ACRE payments.

See 4-CP for processing payment reductions because of FAV's or wild rice on base acreage of a farm enrolled in DCP or the ACRE Program.

477 Examples of Farm History Exception (Continued)

F Example 5

The farm in this example is **not** administratively located in an established FAV and wild rice double-cropping region nor does the producer have a history of planting FAV's or wild rice.

Soybean Base Acres	Wheat Base Acres	Other Cropland
100 acres soybeans	98 acres wheat 2 acres watermelons planted but destroyed before harvest	100 acres watermelons harvested

Because the farm has a history of FAV and wild rice plantings, the 2 acres of watermelons on base acres is not a violation of the FAV and wild rice prohibitions.

Any fruit or vegetable or wild rice may be planted on the base acreage regardless of what fruit, vegetable or wild rice was planted to establish the farm's history.

In this example the producer did not want to incur a 2 acre direct, counter-cyclical, and ACRE payment reduction for the 2 acres of watermelons on base acres enrolled in DCP or the ACRE Program. Therefore, the producer destroyed the 2 acres of watermelons on base acres enrolled in DCP or the ACRE Program before harvest and paid for a farm visit to verify the destruction.

There is no acre-for-acre payment reduction because all of the following are met:

- the producer destroyed the 2 acres of watermelons on base acres before harvest
- COC conducted a paid-for farm visit and verified the 2 acres of watermelons were destroyed before harvest
- FSA-578 was modified to record the 2 acres of watermelons destroyed without benefit.

478 FAV and Wild Rice Producer History Exception

A Producer History Exception

The third exception to the prohibition of FAV's and wild rice on base acres enrolled in DCP or the ACRE Program is the producer history exception.

The producer history exception provides that a specific fruit, specific vegetable, or wild rice shall not be limited for a producer with an established planting history of that specific fruit, specific vegetable or wild rice, except that:

- the quantity planted may not exceed the producer's average annual planting history of the specific fruit, specific vegetable or wild rice in the 1991 through 1995 or 1998 through 2001 crop years, as determined by the producer, excluding any crop year with no plantings

- direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of the specific fruit, specific vegetable, or wild rice on base acres enrolled in DCP or the ACRE Program.

B Basic Information

The **producer history exception is producer, crop, and acreage specific**.

For the purposes of this exception, the producer history is determined based on the producer's average annual plantings of the specific fruit, specific vegetable, or wild rice.

The producer's average annual plantings for each applicable commodity shall be determined using:

- FSA-578 or FCI-19 report of FAV and wild rice plantings
- either of the following time periods, as determined by the producer:

  - 1991 through 1995 crop years
  - 1998 through 2001 crop years.

The producer history is based on the number of acres of a **specific** fruit, vegetable, or wild rice, in which the producer had an interest, which was reported as planted for harvest on a farm in at least 1 of the 1991 through 1995 or 1998 through 2001 crop years.

Important: The producer must elect which crop year period, 1991 through 1995 or 1998 through 2001, to use to calculate the average annual plantings.

478 FAV and Wild Rice Producer History Exception (Continued)

B Basic Information (Continued)

If a producer elects 1991 through 1995 crop year period, FAV's and wild rice reported as "ghost crops" in 1991 through 1995 shall be included when determining the producer's FAV and wild rice planting history.

The following crop years shall not be used to determine a producer's FAV and wild rice planting history:

- before 1991
- 1996
- 1997
- after 2001.

FAV's and wild rice on base acres enrolled in DCP or the ACRE Program will be used to calculate payment reductions only for FY in which they were planted, except for perennials.

Perennial FAV's planted on base acres will be used to calculate payment reductions beginning FY in which they are planted and each succeeding year they are on base acres enrolled in DCP or the ACRE Program.

Provisions of this exception allow a specific amount and type of fruit or vegetable or wild rice on base acres enrolled in DCP or the ACRE Program with a corresponding acre-for-acre reduction in payments. The farm does not have to be in an established FAV and wild rice double-cropping region nor must the farm have an established FAV and wild rice planting history.

Provisions of this exception limit the acreage amount of specific fruits, vegetables, or wild rice on all base acres of all farms enrolled in DCP or the ACRE Program in which the producer has an interest, excluding farms meeting the double-cropping or farm history exception.

Important: This provision includes all farms enrolled in DCP or the ACRE Program in other counties in which the producer has an interest.

478 FAV and Wild Rice Producer History Exception (Continued)

B Basic Information (Continued)

The producer with the specific fruit, vegetable, or wild rice producer history must have an interest in the FAV or wild rice planted on base acres for this exception to apply. Other producers on the farm:

- cannot use a producer's FAV or wild rice producer history
- may have an interest in the FAV or wild rice planted on base acres, and not be in violation, provided the producer with the FAV or wild rice producer history also has an interest in the FAV or wild rice planted acreage.

See subparagraphs 480 H through K for examples of applying the FAV and wild rice producer history exception when there is more than one producer on the farm.

C When to Calculate Producer History

COC shall manually calculate producer history only when both the following are met:

- producer plants FAV's or wild rice on base acreage enrolled in DCP or the ACRE Program
- the exceptions in paragraph 473 or 476 do **not** apply.

Examples: A producer plants FAV's on a farm with an FAV and wild rice planting history (paragraph 476). Do not calculate a producer history because the provisions of paragraph 476 apply.

A producer double-crops FAV's with a covered commodity on a farm administratively located in an established FAV and wild rice double-cropping region (paragraph 473). COC determined both crops were planted with reasonable expectations and realistic possibilities of harvesting each crop in a 12-month period. Do not calculate a producer history because the provisions of paragraph 473 apply.

A producer plants FAV's for harvest on base acreage of a farm enrolled in DCP or the ACRE Program that is not administratively located in an established FAV and wild rice double-cropping region. The farm does not have an FAV and wild rice planting history. COC shall determine whether the producer history exception is met before notifying the producer of an FAV violation.

478 FAV and Wild Rice Producer History Exception (Continued)

C When to Calculate Producer History (Continued)

COC shall:

- calculate producer history according to this paragraph before notifying producers of FAV or wild rice violations

- inform producers, through the county newsletter, to contact the County Office to calculate producer history if they intend to plant fruits, vegetables, or wild rice on base acreage enrolled in DCP or the ACRE Program and the exceptions in paragraph 473 or 476 do **not** apply to these plantings.

D How to Calculate Producer History

To determine producer history for a specific fruit, specific vegetable, or wild rice using the 1991 through 1995 crop years:

- review FSA-578's for all farms in which the producer had an interest in any year 1991 through 1995 to determine the specific crops and acreage to attribute to the producer

  Note: Include only the producer's share of the acreage planted and ghost acres.

- for each crop, divide the sum of the acreage for all years 1991 through 1995 by the number of years having planted acreage or ghost acreage of the specific FAV or wild rice as applicable

  Note: Do **not** include prevented planted acreage or years with zero planted acreage.

- for multi-county producers, contact other counties to determine the producer's reported plantings and producer history for 1991 through 1995 crop years.

478 FAV and Wild Rice Producer History Exception (Continued)

D How to Calculate Producer History (Continued)

To determine producer history for a specific fruit, specific vegetable or wild rice using the 1998 through 2001 crop years:

- review FSA-578's for all farms in which the producer had an interest in any year 1998 through 2001 to determine the specific crops and acreage to attribute to the producer

  Note: Include only the producer's share of the planted acreage.

- for each crop, divide the sum of the acreage for all years 1998 through 2001 by the number of years having planted acreage of the specific FAV or wild rice as applicable

  Note: Do **not** include prevented planted acreage or years with zero planted acreage.

- for multi-county producers, contact other counties to determine the producer's reported plantings and producer history for 1998 through 2000 crop years.

County Offices shall not sum the average annual plantings calculated for the commodity using the different crop year periods.

Example: The average annual planting for Lori White for lettuce using 1991 through 1995 crop years is 18 acres. The average annual planting for Ms. White for lettuce using 1998 through 2001 crop years is 13.8 acres. Ms. White must elect either 18 acres or 13.8 acres as her producer planting history for lettuce.

Note: See paragraph 479 for examples of establishing producer history.

478 FAV and Wild Rice Producer History Exception (Continued)

E Basic Rules for the Producer History Exception

Producer history cannot be sold, transferred, inherited, gifted, or borrowed. No other producer shall use another producer's FAV or wild rice producer history. Producer history is based on the annual average plantings for the **producer**. The producer history remains with the producer until that producer ceases to exist.

The following are examples of the basic rules for producer history exception.

Example 1: Producer A has a producer history for 50 acres of tomatoes based on his 1991 through 1995 average annual tomato plantings. Producer A retires from farming. The 50-acre tomato history remains with Producer A. No other producer can use that producer history. When Producer A dies, the producer history no longer exists.

Example 2: Corporation A has a producer history of 50 acres of tomatoes based on its 1998 through 2001 average annual tomato plantings. The producer history is established for Corporation A, **not** the members of the corporation. Changes to the corporation, such as adding new members or changing members' shares, shall not affect the producer history. If the corporation dissolves, each member of the corporation **at the time of dissolution**, will receive a producer history for tomatoes based on their member share in the corporation.

Example 3: Producer B has a producer history for 50 acres of tomatoes based on his 1998 through 2001 average annual tomato plantings. Producer B forms a partnership with his son called Father & Son Partnership. The partnership operates Farm 1. Producer B acquires 100 percent interest in Farm 2. Neither farm has an FAV and wild rice history nor is either farm administratively located in an FAV and wild rice double-cropping region. Producer B may use his producer history both as an individual and as a member of the partnership; however, the combined tomato plantings on both farms cannot exceed 50 acres. If Producer B leaves the partnership, quits farming, or dies, the producer history can no longer be used by the partnership or the son. The son cannot inherit the producer history nor does it transfer to the partnership.

478 FAV and Wild Rice Producer History Exception (Continued)

E Basic Rules for the Producer History Exception (Continued)

Example 4: Partnership C has a producer history of 50 acres of tomatoes based on its 1991 through 1995 average annual tomato plantings. The producer history is established for Partnership C, **not** the members of the partnership. Changes to the partnership, such as adding new members or changing members' shares, shall not affect the producer history. If the partnership dissolves, each member of the partnership **at the time of dissolution**, will receive a producer history for tomatoes based on their member share in the partnership.

Example 5: Producer D has a producer history of 100 acres of potatoes and Producer E has a producer history of 50 acres of potatoes based on their 1998 through 2001 average annual potato plantings. Producers D and E form Corporation DE for FY 2003. The producer history is established for Producers D and E, not the corporation; therefore, the corporation may **not** use the members' producer history.

Example 6: Producer X has a producer history of 100 acres of potatoes based on her 1991 through 1995 average annual potato plantings. Owner Y has no producer history. Owner Y leased FSN 31 to Producer X for FY 2003 for a one-third share of the potato crop and one-third share of the direct and counter-cyclical payments. Neither producer has an interest in any other farm. The farm does not have FAV and wild rice history nor is the farm located in an FAV and wild rice double-cropping region. Producer X plants 100 acres of potatoes on base acres on FSN 31. Owner Y can share in the potato production on FSN 31 and not be considered in violation of FAV and wild rice planting prohibitions because Producer X's history of 100 acres of potatoes is sufficient to cover all 100 acres that he has an interest in.

However, Owner Y is not allowed to use Producer X's producer potato history on any other acreage on the farm that Producer Y does not share in.

479 Examples of Establishing Producer History

A Basic Data

The following examples provide a summary of FAV and wild rice acreage reported on FSA-578.

Assume in 1992 the producer planted 20 acres of lettuce followed by 20 acres of onions on the same acreage. As shown in the examples, 20 acres of each crop is considered planted in 1992 when determining producer history. Assume in 1991 the producer planted the same 5 acres to lettuce 4 times in the crop year. As shown in the examples, 20 acres of lettuce is considered planted in 1991 when determining producer history.

B Example 1

In the following example, the producer had 100 percent interest in FAV's and wild rice reported planted for harvest on the farm.

Year	Crops			
	Acreage Planted to Lettuce	**Acreage Planted to Onions**	**Acreage Planted to Watermelons**	**Acreage Planted to Wild Rice**
1991	20	10	10	20
1992	20	20	0	20
1993	10	0	0	0
1994	20	10	0	0
1995	20	5	0	35
Total	90	45	10	75
1991 through 1995 Annual Average (Excluding Years With No Plantings)	18 (90 ÷ 5)	11.3 (45 ÷ 4)	10 (10 ÷ 1)	25 (75 ÷ 3)

479 Examples of Establishing Producer History (Continued)

B Example 1 (Continued)

Year	Crops			
	Acreage Planted to Lettuce	**Acreage Planted to Onions**	**Acreage Planted to Carrots**	**Acreage Planted to Wild Rice**
1998	10	20	10	30
1999	30	20	0	10
2000	5	0	0	30
2001	10	0	25	10
Total	55	40	35	80
1998 through 2001 Annual Average (Excluding Years With No Plantings)	13.8 (55 ÷ 4)	20 (40 ÷ 2)	17.5 (35 ÷ 2)	20 (80 ÷ 4)

The producer in this example has the following producer history using:

- 1991 through 1995 crop years:
  - 18 acres of lettuce
  - 11.3 acres of onions
  - 10 acres of watermelons
  - 25 acres of wild rice
- 1998 through 2001 crop years:
  - 13.8 acres of lettuce
  - 20 acres of onions
  - 17.5 acres of carrots
  - 20 acres of wild rice.

The producer must elect which crop year period, 1991 through 1995 or 1998 through 2001, to use to determine the producer history for each crop.

The producer may elect a different crop year period for each crop.

Important: County Offices shall **not** sum the average annual plantings calculated for the different crop year periods to calculate a producer's history.

479 Examples of Establishing Producer History (Continued)

C Example 2

In the following example, Producers A and B shared an interest in FAV's and wild rice reported planted on the farm. Producer A had 75 percent interest and Producer B had 25 percent interest.

Year	Crops			
	Acreage Planted to Lettuce	**Acreage Planted to Onions**	**Acreage Planted to Watermelons**	**Acreage Planted to Wild Rice**
1991	20	10	10	20
1992	20	20	0	20
1993	10	0	0	0
1994	20	10	0	0
1995	20	5	0	35
Total	90	45	0	75
1991 through 1995 Annual Average (Excluding Years With No Plantings)	18 (90 ÷ 5)	11.3 (45 ÷ 4)	10 (10 ÷ 1)	25 (75 ÷ 3)
Annual Average for Producer A	13.5 (18 x .75)	8.5 (11.3 x .75)	7.5 (10 x .75)	18.8 (25 x .75)
Annual Average for Producer B	4.5 (18 - 13.5)	2.8 (11.3 - 8.5)	2.5 (10 - 7.5)	6.2 (25 - 18.8)

479 Examples of Establishing Producer History (Continued)

C Example 2 (Continued)

Year	Crops			
	Acreage Planted to Lettuce	**Acreage Planted to Onions**	**Acreage Planted to Carrots**	**Acreage Planted to Wild Rice**
1998	20	0	10	20
1999	40	40	20	30
2000	5	0	0	10
2001	20	20	0	0
Total	85	60	30	60
1991 through 1995 Annual Average (Excluding Years With No Plantings)	21.3 (85 ÷ 4)	30 (60 ÷ 2)	15 (30 ÷ 2)	20 (60 ÷ 3)
Annual Average for Producer A	16 (21.3 x .75)	22.5 (30 x .75)	11.3 (15 x .75)	15 (20 x .75)
Annual Average for Producer B	5.3 (21.3 - 16)	7.5 (30 - 22.5)	3.7 (15 - 11.3)	5 (20 - 15)

Producer A, in this example, has the following producer history using:

- 1991 through 1995 crop years:
  - 13.5 acres of lettuce
  - 8.5 acres of onions
  - 7.5 acres of watermelons
  - 18.8 acres of wild rice
- 1998 through 2001 crop years:
  - 16 acres of lettuce
  - 22.5 acres of onions
  - 11.3 acres of carrots
  - 15 acres of wild rice.

479 Examples of Establishing Producer History (Continued)

C Example 2 (Continued)

Producer B, in this example, has the following producer history using:

- 1991 through 1995 crop years
    - 4.5 acres of lettuce
    - 2.8 acres of onions
    - 2.5 acres of watermelons
    - 6.2 acres of wild rice
- 1998 through 2001 crop years:
    - 5.3 acres of lettuce
    - 7.5 acres of onions
    - 3.7 acres of carrots
    - 5 acres of wild rice.

Each producer must elect which crop year period, 1991 through 1995 or 1998 through 2001, to use to determine the producer history for each crop.

Each producer may elect a different crop year period for each crop.

Important: County Offices shall **not** sum the average annual plantings calculated for the different crop year periods to calculate a producer's history.

480 Examples of Producer History Exception

A Basic Farm Data

The following farm data applies to the producer history examples 1 through 9:

- 300 acres of cropland
- 100 base acres for wheat
- 100 base acres for corn
- base acres are enrolled in DCP or the ACRE Program
- is **not** administratively located in an FAV and wild rice double-cropping region
- does **not** have an established FAV and wild rice planting history.

Producer A has a producer history of 50 acres for carrots and 50 acres for lettuce.

B Example 1

Producer A in this example has no interest in any other farm.

<table>
<tr><th>Corn Base Acres</th><th>Wheat Base Acres</th><th>Other Cropland</th></tr>
<tr><td rowspan="2">100 acres wheat</td><td>50 acres wheat</td><td rowspan="2">100 acres tomatoes harvested</td></tr>
<tr><td>50 acres carrots harvested</td></tr>
</table>

There is no FAV and wild rice violation in this example. FAV's and wild rice are permitted on nonbase acres (100 acres of tomatoes in this example). The 50 acres of carrots on base acres is **not** a violation because Producer A has a producer history of 50 acres of carrots.

Planting FAV's or wild rice on this farm shall **not** establish an FAV or wild rice planting history for this farm for future years. Planting 100 acres of tomatoes shall **not** establish a producer history for tomatoes for Producer A.

Direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (carrots in this example) on base acres. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

480 Examples of Producer History Exception (Continued)

B Example 1 (Continued)

See 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acreage on a farm enrolled in DCP or the ACRE Program.

C Example 2

Producer A in this example has no interest in any other farm.

Corn Base Acres	Wheat Base Acres	Other Cropland
100 acres corn	50 acres lettuce harvested	100 acres carrots harvested
	50 acres carrots harvested	

There is no FAV or wild rice violation in this example. FAV's and wild rice are permitted on nonbase acres (100 acres of carrots in this example. The 50 acres of carrots and 50 acres of lettuce on base acres is **not** a violation because Producer A has a producer history of 50 acres for each commodity.

Planting FAV's or wild rice on this farm shall not establish an FAV or wild rice planting history for this farm for future years. Planting 150 acres of carrots shall **not** increase the producer history for carrots for Producer A.

Direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (carrots and lettuce in this example) on the base acreage. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acreage on a farm enrolled in DCP or the ACRE Program.

480 Examples of Producer History Exception (Continued)

D Example 3

Producer A in this example has no interest in any other farm.

Corn Base Acres	Wheat Base Acres	Other Cropland
100 acres corn	40 acres carrots harvested	100 acres carrots harvested
	60 acres lettuce harvested	

Producer A is in violation of FAV and wild rice prohibitions in this example because he planted 60 acres of lettuce on base acres. His producer history for lettuce is only 50 acres. Producer A violated the FAV and wild rice prohibitions by planting 10 acres more lettuce, on base acres, than the producer's history allows.

Planting 60 acres of lettuce and 140 acres of carrots shall not establish or increase the producer history for such crops for Producer A.

A violation of FAV and wild rice prohibitions may result in penalties ranging from contract termination to payment reductions based on the per acre value of the fruit, vegetable or wild rice beginning with the fruit, vegetable, or wild rice with the highest per acre value.

Direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (carrots and lettuce in this example) on the base acreage. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See to 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acreage of a farm enrolled in DCP or the ACRE Program.

480 Examples of Producer History Exception (Continued)

E Example 4

Producer A in this example has no interest in any other farm.

Corn Base Acre	Wheat Base Acres	Other Cropland
100 acres corn	51 acres carrots planted but 1 acre destroyed before harvest 49 acres lettuce harvested	100 acres tomatoes harvested

There is no FAV or wild rice violation in this example. FAV's and wild rice are permitted on nonbase acres (100 acres of tomatoes in this example).

Producer A has a producer history of only 50 acres for carrots and only 50 acres for lettuce. Producer A planted 51 acres of carrots on base acres. However, in this example:

- the producer destroyed 1 acre of carrots planted on base acres before harvest
- COC conducted a paid-for farm visit and verified the 1 acre of carrots was destroyed before harvest
- FSA-578 was modified to record the 1 acre of carrots destroyed without benefit.

Therefore, there is no FAV or wild rice violation in this example.

Direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (50 acres of carrots and 49 acres of lettuce in this example) on the base acreage. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acreage of a farm enrolled in DCP or the ACRE Program.

480 Examples of Producer History Exception (Continued)

F Example 5

Producer A in this example has no interest in any other farm.

Corn Base Acre	Wheat Base Acres	Other Cropland
100 acres corn	50 acres tomatoes harvest 50 acres lettuce harvested	100 acres watermelons harvested

Producer A is in violation of FAV and wild rice prohibitions in this example because he planted 50 acres of tomatoes on base acreage. Producer A's producer history is for 50 acres of lettuce and 50 acres of carrots. Producer A is in violation of the FAV and wild rice prohibitions because the producer does not have a producer history for tomatoes and the farm does not have an FAV and wild rice planting history.

Planting FAV's or wild rice on this farm shall not establish an FAV or wild rice planting history for this farm for future years. Planting 100 acres of watermelons and 50 acres of tomatoes shall **not** establish a producer history for such crops for Producer A.

A violation of FAV and wild rice prohibitions may result in penalties ranging from contract termination to payment reductions based on the per acre value of the fruit, vegetable or wild rice beginning with the fruit, vegetable, or wild rice with the highest per acre value.

Direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (carrots and lettuce in this example) on the base acreage. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acreage of a farm enrolled in DCP or the ACRE Program.

480 Examples of Producer History Exception (Continued)

G Example 6

Assume for this example that Producer A purchased a new farm (Farm 2) and operates it with 100 percent interest.

Farm 1 and 2:

- are **not** administratively located in an FAV and wild rice double-cropping region
- do **not** have an established FAV and wild rice planting history
- are both enrolled in DCP or the ACRE Program.

Farm 1 data is the same farm data as in Examples 1 through 5.

The following farm data applies to Farm 2:

- 100 acres of cropland
- 100 base acres for soybeans.

Farm 1:

Corn Base Acre	Wheat Base Acres	Other Cropland
100 acres corn	50 acres corn	100 acres carrots harvested
	40 acres carrots harvested	
	10 acres lettuce harvested	

480 Examples of Producer History Exception (Continued)

G Example 6 (Continued)

Farm 2:

Soybean Base Acres
50 acres wheat
40 acres lettuce harvested
10 acres carrots harvested

There is no FAV or wild rice violation in this example.

Producer A harvested a total of 150 acres of carrots (100 acres on nonbase acreage, 40 acres on base acres of Farm 1, and 10 acres on base acreage of Farm 2) and a total of 50 acres of lettuce (10 acres on base acres of Farm 1 and 40 acres on base acres on Farm 2).

The producer history exception allows producers to plant the specific crop on any farm in which the producer has an interest; however, the total base acres of all farms in which the producer has an interest devoted to the specific crop cannot exceed the producer history for this crop.

480 Examples of Producer History Exception (Continued)

G Example 6 (Continued)

Planting FAV and wild rice on these farms shall **not** establish an FAV and wild rice planting history for the farms in future years. Planting 150 acres of carrots shall **not** increase the producer history for carrots for Producer A.

Direct, counter-cyclical, and ACRE payments for each farm shall be reduced by an acre for each acre of FAV and wild rice (carrots and lettuce in this example) on the base acres of the respective farm. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acreage of a farm enrolled in DCP or the ACRE Program.

480 Examples of Producer History Exception (Continued)

H Example 7

Assume for this example that both Producer A and Producer B are on the farm. Neither Producer A nor Producer B has an interest in any other farm. Producer A has an FAV producer history of 50 acres of carrots.

Producer B has no FAV producer history.

Producer A and Producer B each:

- have a share in the acreage planted to wheat
- are signatories to CCC-509 and receive a share of DCP or ACRE payments for the farm.

Producer A has 100 percent interest in the acreage planted to carrots.

Corn Base Acres	Wheat Base Acres	Other Cropland
100 acres wheat	50 acres wheat	100 acres carrots harvested
	50 acres carrots harvested	

There is no FAV and wild rice violation in this example. FAV's and wild rice are permitted on nonbase acres (100 acres of carrots in this example). The 50 acres of carrots on base acres is **not** a violation because Producer A has a producer history of 50 acres of carrots.

Direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (50 acres of carrots in this example) on base acres. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

480 Examples of Producer History Exception (Continued)

I Example 8

Assume for this example that both Producer A and Producer B are on the farm. Neither Producer A nor Producer B has an interest in any other farm. Producer A has an FAV producer history of 50 acres of carrots.

Producer B has no FAV producer history.

Producer A and Producer B each:

- have a share in all acreage on the farm, including the acreage planted to carrots
- are signatories to CCC-509 and receive a share of payments for the farm.

Corn Base Acres	Wheat Base Acres	Other Cropland
100 acres wheat	50 acres wheat	100 acres carrots harvested
	50 acres carrots harvested	

There is no FAV and wild rice violation in this example. FAV's and wild rice are permitted on nonbase acres (100 acres of carrots in this example). The 50 acres of carrots on base acres is **not** a violation because Producer A has a producer history of 50 acres of carrots.

Note: Producer B has no FAV producer history but does have an interest in the carrots harvested on base acres. However, because Producer A's 50 acres of producer history for carrots is applicable to those acres, there is no FAV violation on the farm in this example.

Direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (50 acres of carrots in this example) on base acres. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

480 Examples of Producer History Exception (Continued)

J Example 9

Assume for this example that both Producer A and Producer B are on the farm. Neither Producer A nor Producer B has an interest in any other farm. Producer A has an FAV producer history of 50 acres of carrots.

Producer B has no FAV producer history. Producer B has 100 percent interest in the acreage planted to carrots. Producer A and Producer B each:

- have a share in the acreage planted to wheat
- are signatories to CCC-509 and receive a share of payments for the farm.

Corn Base Acres	Wheat Base Acres	Other Cropland
100 acres wheat	50 acres wheat	100 acres carrots harvested
	50 acres carrots harvested	

There is a 50 acre FAV and wild rice violation on the farm in this example because the producer with the 50 acre producer history for carrots (Producer A) did not have an interest in the acreage planted to carrots.

Note: The producer with the FAV producer history for the FAV planted on base acres must have an interest in the FAV on base acres for the producer history exception to apply to those acres. Other producers on the farm cannot use other producer's FAV producer history.

A violation of FAV and wild rice prohibitions may result in penalties ranging from contract termination to payment reductions based on the per acre value of the fruit, vegetable or wild rice beginning with the fruit, vegetable, or wild rice with the highest per acre value.

Direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (50 acres of carrots in this example) on base acres. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See 4-CP for:

- calculating value per acre

- processing payment reductions because of FAV's or wild rice on base acres of a farm enrolled in DCP or the ACRE Program.

480 Examples of Producer History Exception (Continued)

K Example 10

The following farm data applies to this producer history example:

- 300 acres of cropland
- 200 base acres for wheat
- 100 base acres for corn
- base acres are enrolled in DCP or the ACRE Program
- is **not** administratively located in an FAV and wild rice double-cropping region
- does **not** have an established FAV and wild rice planting history.

Producer A has a producer history of 50 acres for carrots and 50 acres for lettuce. Producer B has no FAV producer history. Neither Producer A nor Producer B has an interest in any other farm. Producer A and Producer B each:

- have a share in the acreage planted to wheat
- are signatories to CCC-509 and receive a share of payments for the farm.

Producer A has 100 percent interest in 40 acres planted to carrots.
Producer B has 100 percent interest in 10 acres planted to carrots.

<table>
<tr><th>Corn Base Acres</th><th>Wheat Base Acres</th><th>Wheat Base Acres</th></tr>
<tr><td rowspan="2">100 acres wheat</td><td>50 acres wheat</td><td rowspan="2">100 acres wheat</td></tr>
<tr><td>50 acres carrots harvested</td></tr>
</table>

There is a 10-acre FAV and wild rice violation on the farm in this example because the producer with the 50 acre producer history for carrots (Producer A) did not have an interest in 10 acres of carrots planted on base acres.

Note: The producer with the FAV producer history for the FAV planted on base acres must have an interest in the FAV on base acres for the producer history exception to apply to those acres. Other producers on the farm cannot use another producer's FAV producer history.

A violation of FAV and wild rice prohibitions may result in penalties ranging from contract termination to payment reductions based on the per acre value of the fruit, vegetable, or wild rice beginning with the fruit, vegetable, or wild rice with the highest per acre value.

480 Examples of Producer History Exception (Continued)

K Example 10 (Continued)

Direct, counter-cyclical, and ACRE payments shall be reduced by an acre for each acre of FAV and wild rice (50 acres of carrots in this example) on base acres. The payment acreage will be reduced beginning with the covered commodity with the lowest value per acre.

See 4-CP for:

- calculating value per acre
- processing payment reductions because of FAV's or wild rice on base acres of a farm enrolled in DCP or the ACRE Program.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification		6, 7, 352, 429, Ex. 4
AD-1153	Application for Long-Term Contracted Assistance Through the _____ Program		427
CCC-505	Voluntary Permanent Direct and Counter-Cyclical Program (DCP) Base Acres Reduction	66	Text, Ex. 19
CCC-509 (4-16-09)	Direct and Counter-Cyclical Program (DCP) Contract and Average Crop Revenue Election (ACRE) Contract		Text, Ex. 2, 4, 14, 17
CCC-509ACRE	Average Crop Revenue Election (ACRE) Program Irrevocable Election		Text, Ex. 14
CCC-509 Appendix (04-24-09)	Appendix to Form CCC-509, Direct and Counter-Cyclical Program (DCP) Contract and Average Crop Revenue Election (ACRE) Contract		11, 332, 395, 426
CCC-510	DCP or ACRE Program Cash Rent Certification Statement	Ex. 14	352, 394, 402
CCC-517	Tract Redistribution Form		334
CCC-528	Designation of Payment Acres for Planted and Considered Planted (P&CP) Crops of Covered Commodities and Peanuts for the Average Crop Revenue Election (ACRE) Program	187	
CCC-576	Notice of Loss and Application for Payment Noninsured Crop Disaster Assistance Program		78
CCC-749	Request to Participate in the 20__ Planting Transferability Pilot Project	80	76, 79, 81, 82, 333

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
CCC-770 DCP	Direct and Counter-Cyclical Program Contract Checklist	Ex. 17	353
CCC-770 Eligibility	Eligibility Checklist		Ex. 17
CCC-902 Continuation	Continuation Sheet for Leased or Owned Land		6, 7, 352, Ex. 4
CCC-902E	Farm Operating Plan for Entity 2009 and Subsequent Program Years		6, 7, 352, Ex. 4
CCC-902I	Farm Operating Plan for Individual 2009 and Subsequent Program Years		6, 7, 352, Ex. 4
CCC-903	Worksheet for Payment Eligibility and Payment Limitation Determinations		352
CCC-920	Grassland Reserve Program Contract		66, 427
CCC-926	Average Adjusted Gross Income (AGI) Statement		6, 7, 352, Ex. 4
CRP-1	Conservation Reserve Program Contract		Text, Ex. 2
CRP-2	Conservation Reserve Program Worksheet		427
CRP-2C	Conservation Reserve Program Worksheet (For Continuous Signup)		427
CRP-15	Agreement for Reduction of Bases, Allotments and Quotas		67, 331, 425
FCI-19	Crop Insurance Acreage Report		478
FSA-156-EZ	Abbreviated 156 Farm Record and Tract Listing		82, 426, 427, Ex. 19
FSA-325	Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent		400
FSA-578	Report of Acreage		Text, Ex. 2, 17
FSA-658	Record of Production and Yield		187
FSA-910	Wetland Reserve Program Projected DCP Base Reduction Worksheet	Ex. 19	426

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviations	Term	Reference
BCAP	Biomass Crop Assistance Program	426
P&CP	planted and considered planted	187
PTPP	Planting Transferability Pilot Project	76-82, 333, 445

Redelegations of Authority

COC may redelegate authority to approve CCC-505's, CCC-509's, and CCC-509ACRE's to CED for routine cases. Redelegation shall be documented in COC minutes.

Definitions of Terms Used in This Handbook

ACRE

ACRE means Average Crop Revenue Election Program addressed in this handbook.

ACRE Guarantee Price

ACRE guarantee price means the simple average of the national average market prices of the covered commodity or peanuts for the most recent 2 crop years as determined by CCC. For example, in 2009, the ACRE guarantee price of a covered commodity or peanuts is equal to the simple average of the national average market prices of the covered commodity or peanuts in 2007 and 2008.

ACRE Payment

ACRE payment is a payment that is limited to the total base acres on a farm and is predicated on specific planted and considered planted acres of a covered commodity or peanuts.

ACRE Price

ACRE price means the higher of either of the following, as determined by CCC, for the covered commodity or peanuts:

- the national average price received by producers during the 12-month marketing year of the covered commodity or peanuts
- 70 percent of the marketing assistance loan rate for the covered commodity or peanuts under Pub. L. 110-246, Section 1202 or 1307.

ACRE Program Guarantee

The ACRE Program guarantee for a crop year of a covered commodity or peanuts is equal to 90 percent of the result of multiplying the benchmark State yield times the ACRE Program guarantee price.

Actual Farm Production

Actual farm production means all of a farm's harvested and appraised production of a covered commodity or peanuts. Appraisals shall be performed by appraisers acceptable to FSA. Appraisals performed according to NAP or crop insurance guidelines are generally deemed acceptable to FSA for DCP and ACRE purposes.

Definitions of Terms Used in This Handbook (Continued)

Actual Farm Revenue

Actual farm revenue means the actual farm yield of a covered commodity or peanuts times the ACRE price for the crop year.

Actual Farm Yield

Actual farm yield means for the current year in which ACRE benefits are sought (but not for trend yields) the amount determined by dividing the actual farm production of a covered commodity or peanuts by the farm's total planted and considered planted acres of the covered commodity or peanuts. For trend yields for purposes of determining an ACRE benchmark farm yield, yields on planted acres only will be considered except to the extent that the farm does not have a sufficient history in the opinion of CCC to make a fair yield determination in which case a yield may be assigned by CCC. Unless CCC decides otherwise, between crop year yields will be weighted based on the amount of actual planted acres on the farm.

Actual State (County) Yield

Actual State (county) yield means the total amount of actual production of the covered commodity or peanuts in a crop year divided by the total planted acres of the covered commodity or peanuts in the State (county).

Actual State Revenue

Actual State revenue means for a crop year of a covered commodity or peanuts the actual state planted yield for the covered commodity or peanuts times the ACRE price.

Agricultural Use Land

Agricultural use land is land for which either of the following apply:

- the land met the definition of cropland at the time it was enrolled in PFC and the land is currently being used for an agricultural or related activity

- the land met the definition of cropland on or after April 4, 1996, and the land continues to be devoted to an agricultural or related activity.

Definitions of Terms Used in This Handbook (Continued)

Approved Status

Approved status is a contract with:

- enrolled shares totaling 100 percent
- producer signatures for all shares
- an enrollment date entered in the system
- a COC approval date entered in the system.

Average Crop Revenue Election (ACRE)

The Average Crop Revenue Election program is authorized by the Food, Conservation, and Energy act of 2008, Section 1105 (7 U.S.C. 8715) according to 7 CFR Part 1412, Subpart G and participation requires the following 2-step process by the producer:

- an election according to 7 CFR Part 1412, Subpart G
- enrollment.

Base Acre Payment

Base acre payment is a direct or counter-cyclical payment that is predicated on a farm's base acres of a specific covered commodity or peanuts.

Base Acres

Base acres mean the number of acres for the covered commodity or peanuts on the farm specified on CCC-509. Base acres may be increased if CRP-1 applicable to the farm expires or is voluntarily terminated. The adjustment in the base acres of a crop, if any, will be determined by the Secretary of Agriculture. The producer's total base acres on the farm for all covered commodities and peanuts can never exceed the amount equal to the currently available cropland plus eligible double-cropping acreage on the farm minus that amount of that cropland that is enrolled in 1 of the following:

- the Department's CRP

- the Department's WRP

- a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

Definitions of Terms Used in This Handbook (Continued)

Benchmark Farm Yield

Benchmark farm yield means, except as otherwise provided, for a covered commodity or peanuts the Olympic average of the average yield per planted acre for the farm for the 5 most recent crop years according to paragraph 175.

Benchmark State Yield

Benchmark State yield means for a covered commodity or peanuts a yield based, to the extent practicable, on data from NASS equal to the Olympic average of the average yield per planted acre for the State for the 5 most recent crop years. The benchmark State yield is used in determining the State ACRE guarantee. CCC may make such adjustments in these yield as it deems needed to provide for a fair yield and insure the integrity of the program.

Commercial Agricultural Production

Commercial agricultural production is the propagation and raising of agricultural products for commercial sale or barter having gross receipts or sales annually in excess of $1,000. This includes pastures and land devoted to approved conserving uses.

Considered Planted

Considered planted is acreage approved as prevented planted according to 7 CFR 718.103 or the acreage considered planted to a covered commodity according to 7 CFR 1412.48.

Definitions of Terms Used in This Handbook (Continued)

Contract Period

Contract period means the compliance period set out below for the contract for the particular program year. The "program year" is designated in item 1 of the contract. Contracts for different program years will be referenced by their program year. Thus, for example, a reference to the "2009 Contract" means the contract for the 2009 program year. The compliance periods for the various program years are as follows:

- for the 2009 Contract, the period that begins on October 1, 2008, and carries through September 30, 2009
- for the 2010 Contract, the period that begins on October 1, 2009, and carries through September 30, 2010
- for the 2011 Contract, the period that begins on October 1, 2010, and carries through September 30, 2011
- for the 2012 Contract, the period that begins on October 1, 2011, and carries through September 30, 2012.

Contract Year

Contract year is the particular year of the particular contract based on the compliance period for the contract. The compliance year will run from October 1 to the following September 30 and will have the same name as the corresponding FY.

Example: The 2009 contract years will be October 1, 2008, through September 30, 2009, and that year will be considered the 2009 crop year. The contract for the 2009 crop year will be considered the contract for the 2009 crop. The same references will apply to all other years.

Contracts

Contracts are CCC-approved standard, uniform forms and appendixes specified by CCC that constitute the agreement for participation in DCP or the ACRE Program, as applicable.

Corn

Corn means field corn or sterile high-sugar corn. Popcorn, corn nuts, blue corn, sweet corn, and corn varieties grown for decoration uses are not corn.

Definitions of Terms Used in This Handbook (Continued)

Counter-Cyclical Payment

Counter-cyclical payment is a payment made to eligible producers on a farm according to 7 CFR Part 1412, Subpart E for covered commodities and peanuts.

Covered Commodity

Covered commodity means wheat; corn; grain sorghum; barley; oats; upland cotton; long grain rice; medium grain rice; dry peas; lentils; small chickpeas (Desi Garbanzo beans); large chickpeas (Kabuli Garbanzo beans); sesame; soybeans; canola; crambe; flax; mustard; rapeseed; safflower; sunflowers; or other oilseeds, if any, as designated by the Secretary of Agriculture.

Crop Year

Crop year means the calendar year in which the crop is normally harvested or in which the majority of the crop, nationwide, would have been harvested.

Cropland

Cropland is land that COC determines meets 1 of the following conditions:

- currently being tilled for the production of a crop for harvest

  Note: Land that is seeded by drilling broadcast or other no-till planting practices shall be considered tilled.

- not currently tilled, but it can be established that this land has been tilled in a prior year and is suitable for crop production

- currently devoted to a 1-row or 2-row shelter belt planting, orchard, or vineyard

- in terraces that, were cropped in the past, even though they are no longer capable of being cropped

- in sod waterways or filter strips planted to a perennial cover or is preserved as cropland according to 7 CFR Part 1410

- land that has newly been broken out for purposes of being planted to a crop that the producer intends to, and is capable of, carrying through to harvest, using tillage and cultural practice that are consistent with normal practice in the area; provided further that, in the event that these practices are not used other than for reasons beyond the producer's control, the cropland determination shall be void retroactive to the time at which the land was broken out.

Definitions of Terms Used in This Handbook (Continued)

CRP Contract Expiration

CRP contract expiration is land that is no longer enrolled in CRP under the applicable contract because the CRP contract period has expired.

DCP

DCP means the Direct and Counter-Cyclical Program addressed in this handbook.

DCP Cropland

DCP cropland is DCP cropland as defined according to 7 CFR Part 718.

Deputy Administrator

Deputy Administrator means the person who holds the position of Deputy Administrator for Farm Programs for FSA, or the successor position if that position is abolished.

Developed

Developed means:

- land that has been approved by the local government for uses other than commercial agricultural uses
- construction activity that has begun to install any aspect of the development, such as utilities or roadways.

Direct Payment

Direct payment is a payment made to eligible producers on a farm for peanuts and covered commodities according to 7 CFR Part 1412, Subpart E.

Dry Peas

Dry peas means Austrian, wrinkled seed, yellow, Umatilla, and green peas, excluding peas grown for the fresh, canning, or frozen markets or similar markets.

Definitions of Terms Used in This Handbook (Continued)

Effective Price

Effective price is the price calculated by the Secretary according to 7 CFR 1412.53 for covered commodities and peanuts to determine whether counter-cyclical payments are required to be made under 7 CFR Part 1412 for a crop year.

Enrolled Status

Enrolled status is a contract with **all** of the following:

- shares with producer signatures totaling 100 percent
- an enrollment date entered in the system
- **no** COC approval date entered in the system.

Extra Long Staple Cotton

Extra long staple cotton is cotton that is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

Excess Base Acres

Excess base acres are the number of base acres of covered commodities and peanuts on the farm that exceed the farm's total DCP cropland.

Farm

Farm is a tract, or tracts, of land that are considered to be a separate operation with the same operator and owner.

Farm ACRE Benchmark Revenue

The farm ACRE benchmark revenue for a crop year of covered commodity or peanuts is the per acre producer-paid crop insurance premium (if any) added to the result of multiplying a farm's expected yield times the ACRE Program guarantee price. Farm ACRE benchmark revenue is used in determining whether a farm triggers ACRE payments for a covered commodity or peanuts.

Definitions of Terms Used in This Handbook (Continued)

Farm ACRE Guarantee

Farm ACRE guarantee means for a crop year of a covered commodity or peanuts the per acre producer-paid crop insurance premium (if any) added to the result of multiplying the benchmark farm yield times the ACRE guarantee price. Farm ACRE guarantee is used in determining whether a farm is eligible for ACRE payments for a covered commodity or peanuts.

Harvested

Harvested means the producer has removed the crop from the field by hand, mechanically, or by grazing of livestock. The crop is considered harvested once it is removed from the field and placed in or on a truck or other conveyance or is consumed by livestock through the act of grazing. Crop normally placed in a truck or other conveyance and taken off the crop acreage, such as hay, are considered harvested when in the bale, whether removed from the field or not.

Home Garden

Home garden is an area of fruits or vegetables on a farm of 2 acres or less and is planted for the consumption and home use of a producer. Home gardens are excluded from acreage considered as FAV. If the total garden acreage on a farm is greater than 2 acres, the entire garden acreage will be considered as FAV.

Initiated Status

Initiated status is a contract that has been started in the automated system but does **not** have either of the following:

- shares with producer signatures totaling 100 percent
- an enrollment date entered in the system.

Landlord

A landlord is someone who rents or leases farmland to another.

Definitions of Terms Used in This Handbook (Continued)

Limited Resource Farmer

Limited resource farmer means a farmer or rancher who meets both of the following criteria:

- the person did not have, counting both direct and indirect interests, total gross farm sales for all farms in which that person has an interest of not more than the triggering level, as defined below, in both of the 2 calendar years that precede the calendar year in which the contract year begins

  Note: The triggering level is an indexed number that was originally for other programs, $100,000. Beginning in October 2004, that number has been adjusted for inflation using the Prices Paid by the Farmer Index compiled by NASS. The triggering level for this contract shall be the indexed number as adjusted for the fiscal year that begins on the first day of the contract period.

- the person's total household income is at or below the national poverty level for a family of 4 or less than 50 percent of county median household income in each of the previous 2 years determined annually using U.S. Commerce Department Data.

For purposes of making these determinations, interested persons are encouraged to use the USDA Limited Resource Farmer and Rancher Only Self Determination Tool at **http://www.lrftool.sc.egov.usda.gov/tool.asp**.

Loan Commodity

Loan commodity means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, soybeans, other oilseeds, wool, mohair, honey, dry peas, lentils, and small chickpeas.

Marketing Year

A marketing year is the 12-month period beginning the calendar year the crop is normally harvested as follows:

- barley, oats, and wheat - June 1 through May 31
- canola, dry edible peas, flaxseed, lentils, and rapeseed - July 1 through June 30
- upland cotton, peanuts, and rice - August 1 through July 31
- corn, crambe, grain sorghum, mustard, safflower, sesame, soybeans, sunflowers, and chickpeas - September 1 through August 31.

Definitions of Terms Used in This Handbook (Continued)

Medium Grain Rice

Medium grain rice includes short grain rice.

Minimum and Maximum Guarantee

Minimum and maximum guarantee means in the case of each of the 2010 through 2012 crop years, the State ACRE guarantee for a crop year for a covered commodity or peanuts shall not decrease or increase more than 10 percent from the State ACRE guarantee for the preceding crop year.

National Average Market Price (in a State)

As determined by CCC for a crop year of a covered commodity or peanuts, the national average market price for a crop year of a covered commodity or peanuts shall equal the higher of either of the following:

- the average price received by producers during the 12-month marketing year of the covered commodity or peanuts
- 70 percent of the marketing assistance loan rate for the covered commodity or peanuts under Pub. L. 110-246, Section 1202 or 1307.

National Loan Rate

National loan rate means the loan rate established according to Sections 1202 (a), (b), and (c) and Section 1307 (b) of Pub. L. 110-246.

Nonagricultural Commercial or Industrial Use

Nonagricultural commercial or industrial use is land that is no longer suitable for producing annual or perennial crops, including conserving uses, or forestry products.

Nonbase Acres

Nonbase acres are the number of DCP cropland acres on the farm minus the total number of base acres on the farm.

Normal Planting Period

Normal planting period is a period during which the crop is normally planted in the area with the expectation of producing a normal crop.

Definitions of Terms Used in This Handbook (Continued)

Oilseeds

Oilseeds is acreage of soybeans, sunflower seed, rapeseed, canola, crambe, safflower, flaxseed, mustard seed, sesame, or other oilseeds designated by CCC.

Operator

An operator is an individual, entity, or joint operation in general control of the farming operations on the farm during the current year as determined by COC.

Other Oilseeds

Other oilseeds is a crop of sunflower seed (oil and confectionary), rapeseed, canola, crambe, safflower, flaxseed, mustard seed, sesame, or, if designated by the Secretary, another oilseed.

Owner

An owner is 1 who has legal ownership of farmland.

Participant

A participant is someone who participates in, or receives payments or benefits in any program.

Pasture

Pasture is land that is used to, or has the potential to, produce food for grazing animals.

Payment Acres

Payment acres means:

- except as provided for each of the 2009 through 2011 crop years, 85 percent of the base acres of a covered commodity or peanuts on a farm according to 7 CFR 1412.71 or subpart B of 7 CFR Part 1412, as applicable, for which direct or counter-cyclical or ACRE payments are made

- for each of the 2009 through 2011 crop years, 83.3 percent of the base acres for a covered commodity or peanuts on a farm according to 7 CFR 1412.71 or subpart B of this part, as applicable, for which direct or ACRE payments are made.

Definitions of Terms Used in This Handbook (Continued)

Per Acre Producer-Paid Crop Insurance Premium

Per acre producer-paid crop insurance premium means the insurance premiums paid by all producers of a farm for insurance on a covered commodity or peanuts, provided that at least some of the insured crop acreage is subject to CCC-509, divided by the total acres of the covered commodity or peanuts subject to the insurance coverage; regardless of whether or not all of the acres insured are included on the farm's FSA-578 or subject to CCC-509.

Example: Producers A, B, and C have an interest in barley on a farm and the farm is enrolled in ACRE. Producers A and B paid crop insurance premiums totaling $800 on 100 insured barley acres. Regardless how many acres of barley are planted, the per acre producer-paid crop insurance premium for barley is equal to $8.

Planted Acres for a State

Planted acres for a State (county) means for:

- corn, sorghum, barley, oats, and wheat, the sum of harvested acres in a State (county), as reported by NASS and the failed acres in a State (county), as reported by producers on FSA-578

- all other crops, the sum of planted acres in a State, as reported by NASS. If NASS data is not available, other sources shall be used as determined appropriate by CCC.

Planted and Considered Planted (P&CP)

Planted and considered planted (P&PC) means, with respect to an acreage amount, the sum of the planted and prevented planted acres approved by COC on the farm for a crop.

Prevented Planting

Prevented planting is the inability to plant crop acreage with proper equipment during the established planting period for the crop.

Definitions of Terms Used in This Handbook (Continued)

Processing

Processing is with respect to uses of a crop, nonfresh intended uses of crops enrolled in the project referred to in 7 CFR 1412.48 for crops being grown according to a contract for canning, pickling, frozen, juice, dry edible bean, or pea, or such other uses deemed by CCC not to be fresh intended uses of crops mentioned in 7 CFR 1412.48.

Producer

Producer means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower using hybrid seed, under contract, to produce a covered commodity or peanuts is eligible for a program payment to which the contract applies, CCC shall ignore the contract with the seed producer and allow the payment to the grower of the hybrid seed. The preceding sentence shall only apply, however, if the grower of the hybrid seed would, but for the contract, be eligible to be considered a producer of the crop.

Pulse Crops

Pulse crops means dry peas, lentils, small chickpeas (Desi Garbanzo beans), and large chickpeas (Kabuli Garbanzo beans).

Rice

Rice is rice excluding sweet, glutinous, or candy rice, such as Mochi Gomi.

Sharecropper

Sharecropper is an individual who performs work in connection with the production of a crop under the supervision of the operator and who receives a share for his or her labor.

Skip-Row or Strip-Crop Planting

Skip-row or strip-crop planting is a cultural practice in which strips or rows of the crop are alternated with strips or rows of idle land or another crop.

Definitions of Terms Used in This Handbook (Continued)

Socially Disadvantaged Farmer or Rancher

Socially disadvantaged farmer or rancher is a member of a group that, as declared and approved by the Deputy Administrator, is considered for these purposes to be a group whose members have been subject generally to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. The groups have been identified to include:

- American Indians and Alaskan Natives
- Asian-Americans
- Black or African-Americans
- Hispanic-Americans
- Women.

Other groups will not be included as a group to which this definition applies unless so declared by the Deputy Administrator. Persons submitting the contract should not check the box for socially disadvantaged farmer or rancher unless they certify that they are members of 1 of the 5 specific groups.

State Acre Guarantee

State acre guarantee means 90 percent times the benchmark State yield times the ACRE guarantee price.

State Conservation Acres

State conservation acres are cropland acres on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the land.

Supportive and Necessary Contractual Documents

Supportive and necessary contractual documents are those documents including, but not limited to those items substantiating the DCP contract, such as leases, deeds, signatures of contract participants, owners, operators, and other tenant signatures when and where applicable.

Target Price

Target price means for peanuts, the price per ton; and for covered commodities, the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) used to determine the payment rate for counter-cyclical payments.

Definitions of Terms Used in This Handbook (Continued)

Tenant

Tenant is someone other than a sharecropper, who does either of the following:

- rents land from another in consideration of the payment of a specified amount of cash or amount of a commodity
- rents land from another in consideration of the payment of a share of the crops or proceeds there from.

Timely Elected

Timely elected is when all signatures of producers on a farm are entered on CCC-509ACRE as required by paragraph 176.

Tract

Tract is a unit of contiguous land under 1 ownership, which is operated as a farm, or part of a farm.

Turn-Area

Turn-area is the area across the ends of crop rows which is used for operating equipment necessary to the production of a row crop. It is also known as turn row, headland, or end row.

Upland Cotton

Upland cotton is planted and stub cotton that is produced from other than pure strain varieties of the Barbadens species, any hybrid thereof, or any other variety of cotton in which 1 or more of these varieties predominate. For program purposes, brown lint cotton is considered upland cotton.

Definitions of Terms Used in This Handbook (Continued)

Voluntarily Terminated

Voluntarily terminated is the termination of CRP-1 when either of the following apply:

- request for termination by applicable participants
- death of CRP participants with no succession to CRP-1.

Important: Termination of CRP-1 for any other reason, including the following, is **not** a voluntary termination:

- violation of CRP-1
- sale of land enrolled in CRP.

WRP Acres

WRP acres are cropland acres on the farm enrolled in a Wetlands Reserve Program administered by NRCS according to 16 U.S.C. 3837, et. seq.

2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder

A 2009 Average Crop Revenue Election (ACRE) Program Fact Sheet

The following is an example of the 2009 Average Crop Revenue Election (ACRE) Program Fact Sheet.

2009 Average Crop Revenue Election (ACRE) Program

Fact Sheet

March 18, 2009

United States
Department of Agriculture
Farm Service Agency
www.fsa.usda.gov

As authorized by the 2008 Farm Bill (Food, Conservation, and Energy Act of 2008), producers on eligible farms may elect to participate in the Average Crop Revenue Election (ACRE) Program.

Under the ACRE Program, producers may receive revenue-based payments as an alternative to receiving price-based counter-cyclical (CC) payments.

Payments		DCP	ACRE
Direct	Payment Rate	100% of the DCP direct payment rate.	80% of the DCP Direct Payment Rate.
	Payment Formula	Uses farm's base acreage.	Uses farm's base acreage.
	Advances	Available through 2011.	Available through 2011.
Counter-Cyclical (CC)	Payment Formula	Uses farm's base acreage.	
	Trigger	Low National Market Prices	
	Advances	40% advance of projected payment through 2010.	
Average Crop Revenue Election (ACRE)	Payment Formula		Uses planted and considered planted (P&CP) acreages of commodity crops and peanuts.
	Triggers		Revenue must be below the historical state average and the farm average.
	Advances		Not available.
Loan Rates		100% of the Market Assistance Loan rates.	70% of the Market Assistance Loan rates.

ELIGIBLE FARMS

Only farms with covered commodity or peanut base acres may participate in the ACRE Program. Farms that are already enrolled in the Direct and Counter-Cyclical Payment Program (DCP) for a crop year, may elect to switch to ACRE before the end of signup. As provided by the 2008 Farm Bill, farms with 10 or less base acres are not eligible for DCP or ACRE Program payments, except for farms, whose owners are socially disadvantaged or are limited resource farmers or ranchers.

ELIGIBLE COMMODITIES

The following planted or considered planted crops may be eligible for ACRE payments:

- wheat, barley, and oats
- grain sorghum and corn
- upland cotton
- Rice (medium and long grain)
- soybeans
- other oilseeds: canola, crambe, flaxseed, mustard seed, rapeseed, safflower, sesame seed and sunflower seed
- peanuts
- pulse crops: dry peas, lentils, and small and large chickpeas (garbanzo beans).

ACRE ELECTION AND ENROLLMENT

The deadline to elect and enroll in the ACRE Program for 2009 has been extended from June 1 to August 14, 2009. After election, producers must then enroll the farm in the ACRE Program to receive payments. Farms that elect the ACRE Program cannot receive CC payments.

Note: If enrolling in ACRE, all producers on a farm must agree to the ACRE Program election.

REPORTING REQUIREMENTS

Producers on participating ACRE Program farms must annually report acreage <u>and</u> production to FSA. Failure to do so may result in ineligibility.

PAYMENT LIMITATION PROVISIONS

Maximum Payment Amounts

Direct payments are limited to $40,000 per person or entity minus the 20 percent direct payment reduction, and CC or ACRE payments are limited to $65,000 plus the 20% direct payment reduction amount. The limitation is attributed to entities and individuals, including indirect amounts received through entities.

Adjusted Gross Income (AGI)

Persons or legal entities whose average **nonfarm** AGI exceeds $500,000 are not eligible for direct, CC or ACRE payments.

Also, persons or legal entities whose average **farm** AGI exceeds $750,000 are not eligible for direct payments under the DCP and ACRE Programs.

2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Continued)

A 2009 Average Crop Revenue Election (ACRE) Program Fact Sheet (Continued)

2009 Average Crop Revenue Election (ACRE) — Fact Sheet

PAYMENTS

Producers on participating ACRE Program farms can receive direct and ACRE payments. Payments will be reduced if base acres are enrolled in a Federal program which prohibits the production or harvesting of crops, such as the Conservation Reserve Program, Grassland Reserve Program and the Wetlands Reserve Program.

Direct Payments

Direct payments are based on the farm's base acres and program yields for covered commodity crops and peanuts. The payment rates for direct payments are 20 percent less than the DCP direct payment rates. Similar to DCP, payment amounts are reduced if fruits or vegetables are planted on base acres, or the acres are used for non-agricultural purposes.

ACRE Payments

ACRE payments are revenue-based payments and are tied to crop production and the National Average Market Price for planted, and considered planted, covered commodity crops or peanuts on the farm. ACRE payment acreage is limited to the total amount of base acres on the farm, and can only be issued for a crop if two triggers are met for the covered commodity crop or peanuts.

State Trigger: The Actual State Revenue for the program year must be less than the State ACRE Guarantee.

Farm Trigger: The participating farm's Actual Farm Revenue for the program year must be less the Farm ACRE Guarantee.

Triggers: The State and the Farm trigger must be met to receive an ACRE payment for the planted or considered planted commodity crop or peanuts.

ACRE State Trigger:

State ACRE Guarantee must exceed the Actual State Revenue

Note: State ACRE Guarantee cannot change by more than 10% from the previous year's guarantee.

State ACRE Guarantee		Actual State Revenue
90 percent multiplied by **Benchmark State Yield** (5 year "Olympic" average) multiplied by **ACRE Guarantee Price** (Previous 2-yr National Average Market Price)	>	**Actual State Yield** multiplied by the ACRE Price: **(the higher of the National Average Market Price** or **70% of the National Loan Rate)**

ACRE Farm Trigger:

Farm ACRE Benchmark must exceed the Actual Farm Revenue

Farm ACRE Guarantee		Actual Farm Revenue
Benchmark Farm Yield (5 year "Olympic" average) multiplied by **ACRE Guarantee Price** plus **Crop Insurance Premium per acre paid by producer**	>	**Actual Farm Yield** multiplied by ACRE price: **(National Average Market Price** or **70% of the National Loan Rate)**

ACRE Payment Calculation: If both triggers are met for a planted or considered planted commodity crop, then an ACRE payment may be calculated for the eligible crop.

ACRE Payment = **P&CP Acres** multiplied by **83.3%*** multiplied by $\frac{\text{Benchmark Farm Yield}}{\text{Benchmark State Yield}}$ (Farm Productivity Index Factor)

multiplied by lesser of:
- State ACRE Guarantee minus Actual State Revenue
- State ACRE Guarantee multiplied by 25%

* 85% in 2012

2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Continued)

A 2009 Average Crop Revenue Election (ACRE) Program Fact Sheet (Continued)

2009 Average Crop Revenue Election (ACRE) — Fact Sheet

Table 1: 2009 ACRE and DCP Rates	ACRE		DCP		
	Direct Rate	National Loan Rate	Direct Rate	National Loan Rate	CC Threshold: Payment will be issued if the National Average Market Price is less than…
Wheat (bu)	0.416	1.93	0.52	2.75	3.40
Barley (bu)	0.192	1.30	0.24	1.85	2.00
Oats (bu)	0.0192	0.93	0.024	1.33	1.416
Corn (bu)	0.224	1.37	0.28	1.95	2.35
Grain Sorghum (bu)	0.28	1.37	0.35	1.95	2.22
Upland Cotton (lb)	0.05336	0.3640	0.0667	0.52	0.6458
Rice (cwt)	1.88	4.55	2.35	6.50	8.15
Soybeans (bu)	0.352	3.50	0.44	5.00	5.36
Other Oilseeds (cwt)	0.64	6.51	0.80	9.30	9.30
Peanuts (ton)	28.80	248.50	36	355	459
Dry Peas (cwt)		3.78		5.40	8.32
Lentils (cwt)		7.90		11.28	12.81
Sm. Chickpeas (cwt)		5.20		7.43	10.36
Lg. Chickpeas (cwt)		7.90		11.28	12.81

Note: Counter-cyclical rate cannot exceed the CC threshold minus the DCP loan rate.

Table 2: Hypothetical State ACRE Guarantee	Corn Example	Your Example
1. Benchmark State Yield (Olympic Average from 5 most recent crop years)	160	
2. ACRE Guarantee Price (Average National Average Market Price from 2 most recent crop years)	4.15	
3. Calculated State ACRE Guarantee for the crop year (90% x Item 1 x Item 2)	597.60	

Note: For subsequent years, the State ACRE Guarantee cannot change by more than 10% from the previous year's Guarantee.

Table 3: Hypothetical ACRE Triggers and Payment Calculation			Corn Example	Your Example
State Trigger	ACRE Program Guarantee	1. Benchmark State Yield (Item 1 from Table 2)	160	
		2. ACRE Guarantee Price (Item 2 from Table 2)	$4.15	
		3. State ACRE Guarantee (Item 3 of Table 2)	$597.60	
	Actual State Revenue	4. Actual State Yield	155	
		5. National Average Market Price	$3.78	
		6. National Loan Rate (see Table 1)	$1.95	
		7. 70% of the National Loan Rate (70% times Item 6)	$1.37	
		8. ACRE Price (Higher of Item 5 or Item 7)	$3.78	
		9. Actual State Revenue (Item 4 times Item 8)	$585.90	
	10. Is Item 3 greater than Item 9? If yes, State trigger has been met and continue to Item 11. If no, the crop is not eligible for ACRE payments.		Yes	
Farm Trigger	Farm ACRE Guarantee	11. Benchmark Farm Yield (Olympic average from 5 most recent crop yrs.)	170	
		12. Crop Insurance Premium per acre paid by producer for the crop	$15	
		13. Farm ACRE Guarantee ((Item 11 x Item 2) plus Item 12)	$720.50	
	Actual Farm Revenue	14. Actual Farm Yield (Production divided by planted acreage)	185	
		15. Actual Farm Revenue (Item 14 times Item 8)	$699.30	
	16. Is Item 13 greater than Item 15? If yes, Farm trigger has been met and continue to Item 17 to calculate the payment. If no, the crop is not eligible for payments.		Yes	
ACRE Payment	17. Maximum Acres (Total base acreage on the farm)		125	
	18. Planted and Considered Planted Acreage for the crop		150	
	19. Payment Acreage (Item 18 times 83.3% (85% for 2012), not to exceed Item 17)		125	
	20. Farm Productivity Index Factor (Item 11 divided by Item 1)		1.0625	
	21. ACRE Program Guarantee minus Actual State Revenue (Item 3 minus Item 9)		$11.70	
	22. 25% of ACRE Program Guarantee (Item 3 times 25%)		$149.40	
	23. Projected ACRE Payment for the crop (Share times Item 19 times Item 20 times lesser of Items 21 and 22)		$1,554	

2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Continued)

A 2009 Average Crop Revenue Election (ACRE) Program Fact Sheet (Continued)

2009 Average Crop Revenue Election (ACRE) Fact Sheet

Table 4: Payment Comparison		Calculation	Corn	
DCP	Direct	Base acres x 83.3% (85% in 2012) x 120 Bu program yield x DCP Direct Rate (Table 1)	$ 3,499	
	CC	Base acres x 85% x program yield x CC rate (see CC Threshold, Table 1)	0 ($3.78 price)	
		Total	$ 3,499	
ACRE	Direct	Base acres x 83.3% (85% in 2012) x 120 Bu program yield x ACRE Direct Rate (Table 1)	$ 2,799	
	ACRE	See Table 3	$ 1,554	
		Total	$ 4,352	

Frequently Asked Questions

Q1: If a farm is already enrolled in DCP and advance direct payments were issued, can the farm still participate in ACRE Program?

Yes, as long as the producers on the farm elect and enroll in the ACRE Program during the sign-up period.

Q2: If a farm misses the 2009 election period, can the producers elect to participate in a later year?

Yes. The producers may elect the ACRE Program in a subsequent year.

Q3: If one producer (owner, tenant, etc) on the farm does not sign the election form, can the farm still participate in the ACRE Program?

No. Without exception, all producers must agree in writing to the ACRE Program election.

Q4: If all producers sign the ACRE Program Election Form, is the farm considered enrolled in the ACRE Program?

No. Producers on the farm must also sign a contract to enroll in ACRE Program by the sign-up deadline.

Q5: Does a producer have to enroll all farms in ACRE?

No. Election and enrollment for the ACRE Program is on a farm by farm basis.

Q6: Can a farm enroll some base acres and not others?

No, the enrollment is for the farm and all of the base acres.

Q7: Can base acres be established to participate in the ACRE Program?

No. There is no authority to establish base acres to participate in the ACRE Program.

Q8: Is crop insurance or NAP required to receive ACRE payments?

No, there are no risk management purchase requirements for the DCP or the ACRE Programs. However, higher levels of insurance due to higher premiums will enhance the ability to meet the "Farm Trigger".

Q9: If both state and farm "triggers" are met, will the ACRE payment calculation provide benefits for prevented planted acres of covered commodity crops or peanuts?

Yes. Prevented planted acres are "considered planted."

Q10: Can ACRE payments be calculated for eligible commodity crops that do not have base acres on the farm?

Yes. ACRE payments are based on planted and considered planted acres of eligible commodity crops, without regard to whether the farm has base acres for that crop. However, the maximum acreage eligible for ACRE payments cannot exceed the total base acres on the farm.

Q11: If the National Average Market Price for a covered commodity crop or peanuts is higher than average, will this result in no ACRE payments?

Not necessarily. Since the ACRE "triggers" are based on revenue (yield and prices) reductions, a significant yield loss for the State could result in ACRE payments.

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2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Continued)

B Average Crop Revenue Election (ACRE) Program Backgrounder

The following is an example of the Average Crop Revenue Election (ACRE) Program Backgrounder.

USDA FSA

Average Crop Revenue Election (ACRE) Program *Backgrounder*

March 18, 2009

Background
The optional Average Crop Revenue Election (ACRE) Program, added under the Food, Conservation, and Energy Act of 2008 (2008 Act), is an alternative revenue-based safety net to the price-based safety net provided by counter-cyclical payments for crop years 2009 through 2012. Producers must first irrevocably elect ACRE by signing form CCC-509 ACRE. Then, producers annually enroll the farm in ACRE by signing form CCC-509 that has been modified to accommodate producers' decision to subsequently enroll the ACRE-elected farm into the annual ACRE Program. The ACRE Program provides producers an option to protect against declines in market revenue. The ACRE Program involves state and farm revenue changes from guarantee revenue levels that are based on national prices, state planted yields, and farm planted yields.

A decision to elect ACRE may be made in any of the crop years 2009-2012; however, the ACRE election is irrevocable and cannot be changed from the time of election through the 2012 crop year. Again, however, election is NOT enrollment. Producers on farms that have elected ACRE still must decide annually whether to enroll in the ACRE Program. Absent enrollment occurring following election, the farm will not be considered enrolled even though the election is effective. Producers may elect the ACRE alternative on a farm-by-farm basis. Because of tradeoffs discussed below and the irrevocable commitment to ACRE, producers are encouraged to review ACRE decision tools from State extension and other sources to help evaluate the choices.

ACRE Tradeoffs
Producers who elect and enroll a farm in ACRE agree to: (1) forgo counter-cyclical payments, (2) a 20-percent reduction in their direct payments, and (3) a 30-percent reduction in the marketing assistance loan rates for all commodities produced on the farm. ACRE payments are tied to current plantings on the farm as opposed to counter-cyclical payments, which are tied to the farm's base acres.

Eligible Producers
To be eligible for ACRE payments, owners, operators, landlords, tenants, or sharecroppers must:

- have base acres on the farm;
- share in the risk of producing a crop on base acres on a farm enrolled in ACRE;
- annually report the use of the farm's cropland acreage and **submit production reports**;
- comply with conservation and wetland protection requirements on all of their land;
- comply with planting flexibility requirements;
- use the base acres for agricultural or related activities; and
- protect all base acres from erosion, including providing sufficient cover as determined necessary by the county FSA committee, and control weeds.

2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Continued)

B Average Crop Revenue Election (ACRE) Program Backgrounder (Continued)

Eligible Commodities for ACRE Payments

Commodities eligible for ACRE payments:

- barley;
- corn;
- grain sorghum, including dual purpose varieties that can be harvested as grain;
- oats;
- canola;
- crambe;
- flaxseed;
- mustard seed;
- rapeseed;
- safflower;
- sesame seed;
- sunflower seed, including oil and non-oil varieties;
- peanuts;
- long grain rice;
- medium grain rice (which includes short grain rice), excluding wild rice;
- soybeans;
- upland cotton;
- wheat;
- dry peas;
- lentils;
- small chickpeas (Garbanzo bean, Desi); and
- large chickpeas (Garbanzo bean, Kabuli).

Direct Payments

Producers on farms enrolled in ACRE are eligible for direct payments. Direct payments for ACRE participants (for the same commodities on which they would have received direct payments under DCP) are reduced by 20 percent compared with direct payments for DCP participants. Direct payment rates for participating DCP and ACRE commodities are as follows:

Commodity	Unit	DCP Direct Payment Rate	ACRE Direct Payment Rate
		Per Unit	
Barley	bushel	$0.24	$0.192
Corn	bushel	$0.28	$0.224
Grain sorghum	bushel	$0.35	$0.280
Oats	bushel	$0.024	$0.0192
Other oilseeds 1/	hundredweight	$0.80	$0.640
Peanuts	ton	$36.00	$28.80
Rice 2/	hundredweight	$2.35	$1.880
Soybeans	bushel	$0.44	$0.352
Upland cotton	pound	$0.0667	$0.05336
Wheat	bushel	$0.52	$0.416

1/ Includes canola, crambe, flaxseed, mustard seed, rapeseed, safflower, sesame seed, and sunflower seed. 2/ Includes long grain rice and medium grain rice (which includes short grain rice).

2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Continued)

B Average Crop Revenue Election (ACRE) Program Backgrounder (Continued)

* Note that pulse crops (dry peas, lentils, small chickpeas, and large chickpeas) are not eligible for direct payments.

For each commodity, the total direct payment for producers on a farm equals 83.3 percent of the farm's base acreage *multiplied by* the farm's direct payment yield *multiplied by* the ACRE direct payment rate. For 2012, the payment percentage increases from 83.3 to 85 percent. The following is an example for corn:

	100 base acres
x	83.3% payment acreage percentage
x	110 bushel per acre direct payment yield
x	$0.224 per bushel ACRE direct payment rate
=	$2,053 direct payment for ACRE participants

Direct payments are not based on producers' current plantings, but instead are tied to base acres and program yields.

ACRE Payment Triggers

ACRE payments are issued when two conditions are met for a commodity. The first condition is met when the Actual State Revenue falls below the State ACRE Guarantee. The second condition is met when the Actual Farm Revenue falls below the Farm ACRE Guarantee.

State ACRE Guarantee

90% *multiplied by* Benchmark State Yield *multiplied by* ACRE Guarantee Price

The Benchmark State Yield is the simple average of yields per planted acre for the most recent 5 crop years, excluding the high and low yields. Separate irrigated and nonirrigated Benchmark State Yields are computed when at least 25 percent of the crop's planted acres is irrigated and 25 percent of the crop's planted acres is nonirrigated. For crop year 2009, the Benchmark State Yields are established using crop years 2004-2008.

The ACRE Guarantee Price is the 2-year simple average of the national marketing year price. For the 2009 crop, the ACRE Guarantee Price is based on the 2007/08 and 2008/09 marketing years. For each commodity, State ACRE Guarantees will be finalized after the 2008/09 marketing year prices are published. The final price estimates are reported by the National Agricultural Statistics Service for most ACRE-eligible commodities.

For the subsequent crop years, the State ACRE Guarantee cannot change by more than 10 percent from the previous year's State ACRE Guarantee.

Preliminary 2009 State ACRE Guarantees, based on projected ACRE Guarantee Prices and preliminary Benchmark State Yields, can be found at: http://www.fsa.usda.gov/dcp

2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Continued)

B Average Crop Revenue Election (ACRE) Program Backgrounder (Continued)

Table 1. Corn and Soybean Example of the State ACRE Guarantee

No.	Item	Description	Corn	Soybeans
(1)	ACRE Adjustment Factor	Statutory	90%	90%
(2)	Preliminary ACRE Guarantee Price		$4.15 per bushel	$9.73 per bushel
(3)	Benchmark State Yield		160 bushels per acre	45 bushels per acre
(4)	State ACRE Guarantee	(1) x (2) x (3)	$597.60 per acre	$394.07 per acre

State ACRE Payment Rate
(State ACRE Guarantee *minus* Actual State Revenue)

The Actual State Revenue is the Actual State Yield *multiplied by* the ACRE Price. The ACRE Price is the higher of the: (a) national loan rate, after being reduced by 30 percent, or (b) national average market year price.

The State ACRE Payment is capped at 25 percent of the State ACRE Guarantee.

Table 2. Corn and Soybean Example of the State ACRE Payment Rate Calculation

No.	Item	Description	Corn	Soybeans
(1)	State ACRE Guarantee	From Table 1	$597.60 per acre	$394.07 per acre
(2)	(a) Reduced National Loan Rate (b) National Average Market Year Price ACRE Price	70% of Loan Rate hypothetical Higher of (a) or (b)	$1.37 per bushel $3.78 per bushel $3.78 per bushel	$3.50 per bushel $8.28 per bushel $8.28 per bushel
(3)	Actual State Yield	Hypothetical	155 bushels per acre	47 bushels per acre
(4)	Actual State Revenue	(2) *multiplied by* (3)	$585.90 per acre	$389.16 per acre
(5)	State ACRE Payment Rate, before Cap	(1) *minus* (4)	$11.70 per acre	$4.91 per acre
(6)	State ACRE Payment Rate Cap	25% of (1)	$149.40 per acre	$98.52 per acre
(7)	State ACRE Payment Rate	Lower of (5) or (6)	$11.70 per acre	$4.91 per acre

Farm ACRE Guarantee and Revenue Loss Trigger
(Benchmark Farm Yield *times* ACRE Guarantee Price *plus* Crop Insurance Premium)

The Benchmark Farm Yield is the simple average of the yields per planted acre for the most recent 5 crop years, excluding the high and low yields. For crop year 2009, the Benchmark Farm Yields are established using crop years 2004-2008. Benchmark Farm Yields will be established using production evidence including crop insurance yields.

The ACRE Guarantee Price, used to compute the State ACRE Guarantee, is also used to compute the Farm ACRE Guarantee.

The Crop Insurance Premium per acre paid by producers on the farm is included in the Farm ACRE Guarantee. For farms that are not insured or farms covered by the Non-insured

B Average Crop Revenue Election (ACRE) Program Backgrounder (Continued)

Assistance Program (NAP) or by a Catastrophic (CAT) policy, this amount will be zero. **Crop insurance or NAP is not required for participation in ACRE.**

The table below shows that this farm example meets the farm revenue shortfall condition for both corn and soybeans.

Table 3. Corn and Soybean Example Showing Farm Revenue Loss Calculation

No.	Item	Description	Unit	Corn	Soybeans
(1)	Benchmark Farm Yield	hypothetical	bushels per acre	170	40
(2)	ACRE Guarantee Price	From Table 1	per bushel	$4.15	$9.73
(3)	Farm ACRE Revenue	(1) x (2)	per acre	$705.50	$389.20
(4)	Crop Insurance Premium 1/	hypothetical	per acre	$ 15.00	$ 10.00
(5)	Farm ACRE Guarantee	(3) + (4)	per acre	$720.50	$399.20
(6)	Actual Farm Yield	hypothetical	bushels per acre	185.0	46.0
(7)	ACRE Price	From Table 2	per bushel	$3.78	$8.28
(8)	Actual Farm Revenue	(6) x (7)	per acre	$699.30	$380.88
	Is Actual less than Guarantee?	Is (8) < (5)?		Yes	Yes

1/ Assumes hypothetical crop revenue coverage at the 75 percent level.

Farm ACRE Payment
83.3% (85% for crop year 2012) *multiplied by* Planted and Considered Planted (P&CP) Acres (not to exceed total base acres)
multiplied by State ACRE Payment Rate
multiplied by (the Benchmark Farm Yield *divided by* the Benchmark State Yield)

A farm ACRE payment for a commodity is issued when both the state and farm revenues for a commodity show a revenue loss. The ACRE Payment Acreage is 83.3% of the P&CP acres for a commodity, unless the sum of the ACRE payment acreage for the farm exceeds the total base. Under this situation, a producer must choose the number of eligible ACRE payment acres for each commodity that may receive ACRE payments, not to exceed the total base on the farm.

2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Continued)

B Average Crop Revenue Election (ACRE) Program Backgrounder (Continued)

Table 4. Corn and Soybean Farm Example of the Farm ACRE Payment

No.	Item	Description	Unit	Corn	Soybeans	Total Farm
(1)	State Payment Rate	From Table 2	per acre	$11.70	$4.91	
(2)	Benchmark State Yield	From Table 1	bushels per acre	160	45	
(3)	Benchmark Farm Yield	From Table 3	bushels per acre	170	40	
(4)	Benchmark Farm/State Yield	(3)/(2)	ratio	1.0625	0.8889	
(5)	Total Base Acres	hypothetical	acres			200.0
(6)	Planted and Considered Planted	hypothetical	acres	150.0	100.0	250.0
(7)	Eligible ACRE Payment Acres	83.3% x (6)	acres	125.0	83.3	208.3
(8)	ACRE Payment Acres 1/		acres	125.0	75.0	200.0
	Farm ACRE Payment	(1) x (4) x (8)		$1,554	$327	$1,881

1/ In this hypothetical example, the producer must reduce total farm-eligible ACRE payment acres by 8.3 (208.3-200.0) acres so that the eligible ACRE payment acres for the farm (208.3) equals the farm's total base (200.0). The producer chose to reduce soybean-eligible ACRE payment acres by 8.3 acres to 75.0 acres.

Timing of ACRE Payments

ACRE payments will be made after the end of the marketing year for the respective commodity, but no sooner than October 1, as required by statute. Advance ACRE payments are not authorized under the 2008 Farm Bill. For crop year 2009, ACRE payments, if applicable, will be made as follows:

October 2010 for wheat, barley, oats, peanuts, upland cotton, corn, grain sorghum, soybeans, sunflower seed, canola, flaxseed, dry peas, lentils, large and small chickpeas;

December 2010 for rapeseed, mustard seed, safflower, crambe, and sesame seed; and

February 2011 for long grain rice and medium/short grain rice.

Farms Ineligible for Payment

The 2008 Farm Bill provides that producers on farms with DCP base acres that total 10.0 acres or less will not receive a direct, counter-cyclical, or ACRE program payment, unless the farm is owned by a socially disadvantaged or a limited resource farmer or rancher.

For this provision's purpose, a socially disadvantaged farmer is a person who is a member of a group whose members have been subjected to racial, ethnic or gender prejudice because of their identity as members of a group without regard to their individual qualities.

2009 Average Crop Revenue Election (ACRE) Program Fact Sheet and Backgrounder (Continued)

B Average Crop Revenue Election (ACRE) Program Backgrounder (Continued)

The groups have been identified to include: (1) American Indians and Alaskan Natives; (2) Asian-Americans; (3) Black or African-Americans; (4) Hispanic-Americans; and (5) Women.

A limited resource farmer or rancher is one who directly or indirectly had gross farm sales of not more than $100,000 in each of the previous two years (to be increased beginning in fiscal year 2004 to adjust for inflation using the Prices Paid by Farmers Index as compiled by USDA's National Agricultural Statistic Service) and has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous years (to be determined annually using U.S. Department of Commerce data).

Status as a limited resource farmer or rancher can be determined using the website for USDA Limited Resource Farmer and Rancher Online Self Determination Tool at http://www.lrftool.sc.egov.usda.gov/tool.asp.

Sign-up Period
The ACRE sign-up period for the 2009 crop will be announced soon. All producers on the farm must first irrevocably elect ACRE by signing form CCC-509 ACRE. Then, producers annually enroll the farm in ACRE by signing a form CCC-509, which has been modified to incorporate the ACRE component of the enrollment. Producers on farms wanting to participate in ACRE must enroll the farm after election. An election does not satisfy the requirement for enrollment and farms previously enrolled in DCP before the ACRE election are not considered enrolled in ACRE.

The following documents are required and applicable determinations must be made before a payment can be issued:

- a farm operating plan (CCC-902 and related forms);
- an average adjusted gross income certification (CCC-926);
- a certification of compliance with highly erodible land and wetland conservation provisions (AD-1026).

A certification of the acreage of all cropland on the farm (FSA-578) and certification of production of all covered commodities is needed before final payments can be issued.

For More Information
Further information on the ACRE and other FSA programs are available at local or State FSA offices or on FSA's Web site at: http://www.fsa.usda.gov/dcp

CCC-510, DCP or ACRE Program Cash Rent Certification Statement

A Introduction

Any document that collects data from a producer, regardless of whether the producer's signature is required, is subject to the Privacy Act and Information Collection Procedures, including clearance of these documents by the following offices:

- National Office program area
- MSD, Forms, Graphics, and Records Section
- OMB.

No State or County Office developed form, worksheet, or other document shall be used to collect information from producers for DCP or the ACRE Program unless it is approved by the National Office DCP/ACRE Program Manager **before** use.

B Completing CCC-510

Important: CCC-510 with a form date of:

- "05-10-07" or earlier is invalid for use for 2009 and subsequent crop years
- "03-10-09" is usable for 2009 DCP (but not ACRE) only
- "04-22-09" is usable for DCP or ACRE for 2009 and subsequent crop years.

CCC-510 is valid for only 1 contract year.

Producers that cash rent land can provide County Offices with CCC-510 if the provisions of paragraph 394 about using CCC-510 can be met. County Offices shall:

- **not** use any other locally developed CCC-510's
- complete items 1 through 3 and reproduce CCC-510 locally for use by producers
- **not complete items 4 through 12**.

Note: This information must be completed by the producer and shall **not** be filled by County Offices under any circumstance.

CCC-510 cannot be used to satisfy signature requirements of CCC-509ACRE.

B Completing CCC-510 (Continued)

Complete CCC-510 according to the following.

Item	Instruction
	The following items can be pre-filled by the County Office before the form is locally reproduced.
1	Enter the State name where the farm is administratively located.
2	Enter the county name where the farm is administratively located.
3	Enter the applicable contract period.
	The following items shall be completed by the operator or tenant (lessee). County Offices are authorized to provide the producer with the farm number for the applicable farm; however the form shall be completed by the producer.
4	Print name of the operator/tenant (lessee).
5	Print name of the landowner or landlord that is leasing the acreage to the lessee.
6	Enter farm number for the applicable farm.
7	Enter number of acres being leased by the lessee.
8	Enter beginning date for the lease.
9	Enter date that the lease expires.
10	Enter information about the terms (such as cash) of the lease.
11A	Lessee or representative shall sign.
11B	If: • the lessee signing is **not** signing in the representative capacity, leave blank • anyone other than the lessee is signing in a representative capacity, enter the title or relationship to the lessee.
11C	Enter date signed.

C Forms Accepted Before Issuance of CCC-510

Using CCC-510 with a version date earlier than March 10, 2009, is **not** authorized for 2009 and subsequent crop years. See subparagraph B.

If the producer provided CCC-510 before issuance of CCC-510, that statement can be accepted if **all of the following apply**:

- the producer meets the requirements of paragraph 394 about using CCC-510
- adequate information has been provided on the statement to allow COC to make an informed determination about approving CCC-509
- statement was provided by the lessee.

If a statement was accepted before issuance of CCC-510 that does **not** meet these requirements, CCC-509 shall **not** be approved until all producer signature requirements have been met.

CCC-510, DCP or ACRE Program Cash Rent Certification Statement (Continued)

D Example of CCC-510

Following is an example of CCC-510.

This form is available electronically.

CCC-510 (04-22-09) **U.S. DEPARTMENT OF AGRICULTURE** Commodity Credit Corporation	1. State Arkansas
DCP OR ACRE PROGRAM CASH RENT CERTIFICATION STATEMENT	2. County Independence
	3. Contract Period 10/1/08 – 09/30/09

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246 and any amendments to such act as may follow). The authority for requesting the following information is the Food, Conservation, and Energy Act of 2008, (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in denial of program benefits. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act of 2008, the Privacy Act of 1974, the E-Government Act of 2002, and related authorities.*

This information collection is exempted from the Paperwork Reduction Act, as it is required for administration of the Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246, Title I, Subtitle F - Administration). The provisions of criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

PART A – CASH RENT INFORMATION AND CERTIFICATION STATEMENT

4. Operator/Tenant *(Lessee) (Print)*:
Benford Edwards

5. Landowner/Landlord *(Lessor) (Print)*:
Michael Bonner

6. FSA Farm Number	7. Number of Acres Leased	8. Lease Commenced on	9. Lease Expires on
2610	200	1/1/09	12/31/09

10. Terms of the Lease Agreement
$20/acre

I certify that I am a cash rent lessee, based on the definitions specified below, with the lessor identified above for the specified farm and that all information entered on this certification is true and correct. Further, I cash leased this farm in the previous fiscal year and I understand that if documentation or information is later produced that contradicts this certification, the CCC-509, for the applicable year could be subject to termination and any contract payments issued deemed unearned. I understand that advance payments on this farm cannot be issued until after June 1 of the contract period.

11A. Signature of Lessee (By)	11B. Title/Relationship of the Individual Signing in a Representative Capacity	11C. Date *(MM-DD-YYYY)*
Cindy Edwards	Spouse	04/27/2009

PART B – LEASE DEFINITIONS FOR DCP PROGRAM PURPOSES

The terms of the lease agreement between the lessee and the lessor determine whether the lease is considered as a share-rent or cash-rent arrangement for the purposes of participation in DCP or ACRE. The following definitions are applicable.

Cash Lease - A lease will be considered 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). If the 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. The leasing of grazing or haying privileges is not considered cash leasing for DCP or ACRE Program purposes.

Share Lease – A lease will be considered a share lease if the 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, of the interest such producer, would have had if the crop had been produced, or combination thereof.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

CCC-770 DCP, Direct and Counter-Cyclical Program Contract Checklist

A Contract Checklist

The concept for CCC-770 DCP dated "02-05-09" is that action required for contract administration and payment processing have been separated. CCC-770 DCP includes action required only during the contract period that is applicable to CCC-509 itself.

Note: See 2-DCP (Rev. 1) for payment processing provisions.

CCC-770 DCP:

- shall be used for the first five CCC-509's completed by each employee excluding any CCC-770 DCP completed for any employee, including COC and STC members, at the beginning of each contract period.

  Note: CED's and/or STC representatives may require additional CCC-770 DCP's if deemed necessary.

- is required for all employees, including COC and STC

- is contract specific, in that separate checklists are **not** required for each producer associated with CCC-509

- is **mandatory**, beginning with the **2009** contract period

  Note: CCC-770 DCP developed by the National Office is the **only** authorized checklist for DCP. County Offices **shall not** use State- or locally-developed checklists for administering DCP.

- does **not** negate STC, SED, State Office, DD, COC, CED, and County Office responsibility for administering all provisions applicable to DCP.

  Reminder: County Offices shall ensure that eligibility has been updated according to CCC-770 Eligibility **before** payments are issued to applicable producers.

B Maintaining CCC-770 DCP

CCC-770 DCP is applicable for the contract period and is separated into 2 parts.

- Part A addresses items that shall be verified **before** issuing advance direct payments.

- Part B addresses items that shall be verified **before** issuing final direct and all counter-cyclical payments.

B Maintaining CCC-770 DCP (Continued)

CCC-770 DCP should be filed in the contract folder and updated throughout the contract period as required action is completed.

Example: Producer A files CCC-509 and all signatures were obtained in January 2009; however, FSA-578 is **not** completed until June 2009. The questions about enrollment and signatures can be completed when the contract is filed; however, the questions about whether FAV's have been planted on the base acreage **cannot** be completed until a complete acreage report is filed.

C Retention Period

All CCC-770 DCP's shall be retained in the DCP contract folder with CCC-509, according to 25-AS, Exhibit 33.6. If a new CCC-770 DCP is initiated because of a revision to CCC-509, the original CCC-770 DCP shall be retained, along with the revised CCC-770 DCP.

Destroy CCC-770 DCP when CCC-509 is destroyed.

Note: Because of several "Hold" litigations, no records are to be destroyed until further notice. Records may be sent to approved FRC's for archival.

D County Office Action

County Offices shall check (✓) the "Yes" or "No" column for all questions on CCC-770 DCP, with the following exceptions:

- a response is **not** required for items 14A, 14B, and 14C unless the answer to item 14 is "Yes"
- "N/A" shall be entered in the "No" column for items:
    - 14B and 14C if the answer to item 14A is "No"
    - 15, if CCC-509 was approved for advance payment processing and there have **not** been any changes to CCC-509 that COC approved.

The County Office employee who completes an item on CCC-770 DCP:

- is affirming that the applicable program provisions have, or have **not**, been met
- shall sign and date CCC-770 DCP.

Note: As an alternative, County Offices may opt to review all items after COC has approved CCC-509.

CCC-770 DCP, Direct and Counter-Cyclical Program Contract Checklist (Continued)

D County Office Action (Continued)

Once a question in the applicable part of CCC-770 DCP has been answered in a manner that supports the approval of the applicable CCC-509, for items:

- 5 through 9, the preparer shall sign item 10
- 13 through 15, the preparer shall sign item 16.

Note: By signing as the preparer, the employee is **not** certifying that they have reviewed all items in the applicable part of CCC-770 DCP.

Additionally, County Offices shall:

- initiate CCC-770 DCP, if CCC-509 is revised, as follows:
  - at any point during the contract period and CCC-770 DCP was previously completed for the farm
  - as 1 of the first five CCC-509's completed by that employee
- **not** enter the COC approval date in the automated system if any item on CCC-770 DCP is answered "No", **except** item 14
- ensure that the automated system is updated immediately by entering or removing the COC approval date, as applicable, to ensure that payments are timely and are **not** issued in error
- see applicable handbook provisions as specified for additional information.

Reminder: County Offices **cannot** rely solely on using CCC-770 DCP for administering DCP. All program provisions **must** be met, **not** just the items included on CCC-770 DCP. CCC-770 DCP is a tool to assist with program administration and includes the major areas where deficiencies have been identified, but it is **not**, nor is it intended to be, inclusive of all DCP program provisions.

E CED Action

CED or their designated representative shall do the following:

- spot-check the first five CCC-770 DCP's completed by each FSA employee
- randomly spot-check a minimum of five CCC-770 DCP's for each FSA employee participating, including STC and COC members.

When spot checking information certified on CCC-770 DCP, CED's or their designated representative shall:

- review each part of CCC-770 DCP that has been completed
- indicate whether or **not** they concur with the certification of items 5 through 9 and/or items 13 through 15, as applicable
- sign and date item 11 and/or 17, as applicable
- report to COC and the STC representative any CCC-770 DCP in which CED does **not** concur with the preparer's determination.

Example: Producer A is the owner-operator of FSN 1 and there are no other producers associated with the farm. Producer A files CCC-509 for FSN 1 on January 10. The DCP program technician completes items 5 through 9 and the COC approval date is updated in the DCP web-based system. CCC-509 is pulled for spot check on March 15.

Since only items 5 through 9 have been completed on CCC-770 DCP, CED shall review CCC-509 to ensure that all program provisions have been met and that the items on CCC-770 DCP have been completed as indicated. CED shall then indicate whether they concur or do **not** concur with the preparer, sign in item 11A, and enter the date of the review in item 11B.

CCC-770 DCP, Direct and Counter-Cyclical Program Contract Checklist (Continued)

F STC or Designee Spot Checks

STC or designee shall spot-check a minimum of 5, **not** to exceed ten, CCC-770 DCP's spot-checked by CED or designee in each Service Center.

STC or their designee shall submit the results of the spot checks to SED.

When spot checking information certified on CCC-770 DCP, STC or their designee shall:

- review each part of CCC-770 DCP that has been completed
- indicate whether or **not** they concur with the certification of items 5 through 9 and/or items 13 through 15, as applicable
- shall sign and date item 12 and/or 18, as applicable.

G National Report

SED's shall report the **total** number of the following to the National Office as of September 30 of each FY:

- CCC-770 DCP's completed
- CCC-770 DCP's spot-checked by CED
- CCC-770 DCP's spot-checked by STC or their designee
- "Do Not Concur" signed by CED
- "Do Not Concur" signed STC or designee.

Submit the national report, in the format provided by the National Office, no later than October 31 each FY.

CCC-770 DCP, Direct and Counter-Cyclical Program Contract Checklist (Continued)

H Example of CCC-770 DCP

Following is an example of CCC-770 DCP.

This form is available electronically.

CCC-770 DCP (02-05-09) **U.S. DEPARTMENT OF AGRICULTURE** Commodity Credit Corporation **DIRECT AND COUNTER-CYCLICAL PROGRAM CONTRACT CHECKLIST** ***County Offices shall ensure that eligibility has been updated according to CCC-770 Eligibility before payments are issued for applicable producers.***	1. State Name	2. County Name
	3. Crop Year	4. Farm Number

PART A – FOR DCP DIRECT ADVANCE PAYMENTS

Office Staff Actions:	Handbook or Other Reference	YES	NO
5. Have all signatures, or other supporting documentation such as a cash lease or cash rent certification statement, been obtained for all tenants and owners associated with the farm?	*1-DCP, Revision 2 paragraphs 352-402*		
6. Has signature authority been verified for all signatures on the CCC-509?	*1-CM, Part 25*		
7. Was the contract enrolled by June 1 of the applicable contract period?	*1-DCP, Revision 2 paragraph 394*		
8. Have the division of payment provisions been satisfied for all producers sharing in the base acres on the CCC-509?	*1-DCP, Revision 2 paragraphs 352-358*		
9. Is the CCC-509 signed, dated, and approved by the COC or an authorized designee?	*1-DCP, Revision 2 paragraph 353*		

10A. Signature of Preparer	Date	10B. Signature of Preparer	Date
10C. Signature of Preparer	Date	10D. Signature of Preparer	Date

11. I concur/do not concur the above items have been verified and updated accordingly: ☐ Concur ☐ Do Not Concur

11A. CED Signature for Spot Check	11B. Date

12. I concur/do not concur the above items have been verified and updated accordingly: ☐ Concur ☐ Do Not Concur

12A. DD Signature for Spot Check	12B. Date

PART B – FOR DCP DIRECT FINAL AND COUNTER-CYCLICAL PAYMENTS
Note: In addition to the items below, the items in Part A must be completed before final direct and any counter-cyclical payments are issued.

Office Staff Actions:	Handbook or Other Reference	YES	NO	N/A
13. Does each producer sharing in the base acreage control enough effective DCP cropland to support their share of the DCP base acres on the CCC-509?	*1-DCP, Revision 2 paragraph 355*			
14. Are FAV's planted on the farm?	*1-DCP, Revision 2 Part 8* *4-CP*			
14A. If "YES", are the FAV's planted on DCP base acreage?				
14B. If "YES", do any of the FAV exceptions apply?				
14C. Has the acre-for-acre reduction and FAV violation, as applicable, been recorded in the compliance system?				
15. If not approved for advance payments, is the CCC-509 signed, dated, and approved by the COC or an authorized designee?	*1-DCP, Revision 2 paragraph 353*			

16A. Signature of Preparer	Date	16B. Signature of Preparer	Date
16C. Signature of Preparer	Date	16D. Signature of Preparer	Date

17. I concur/do not concur the above items have been verified and updated accordingly: ☐ Concur ☐ Do Not Concur

17A. CED Signature for Spot Check	17B. Date

18. I concur/do not concur the above items have been verified and updated accordingly: ☐ Concur ☐ Do Not Concur

18A. DD Signature for Spot Check	18B. Date

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FSA-910, Wetland Reserve Program Projected DCP Base Reduction Worksheet

A Instructions for Completing FSA-910

Landowners shall use FSA-910 to determine whether a DCP base reduction is required based on a proposed number of cropland acres being offered for enrollment in WRP.

Reminder: FSA County Offices shall provide information to landowners with information needed to complete FSA-910. See subparagraph 426 F for additional information.

Landowners should complete FSA-910 according to the following.

<table>
<tr><th>Item</th><th colspan="2">Action</th></tr>
<tr><td colspan="3">Part A - Information About This Farm

Note: Landowners should obtain a copy of FSA-156-EZ to assist with completing FSA-910.</td></tr>
<tr><td>1</td><td colspan="2">Enter “Cropland” acres for the farm from FSA-156-EZ.</td></tr>
<tr><td>2</td><td colspan="2">Enter “DCP Cropland” acres for the farm from FSA-156-EZ.</td></tr>
<tr><td>3</td><td colspan="2">Enter “Effective DCP Cropland” for the farm from FSA-156-EZ</td></tr>
<tr><td>4</td><td colspan="2">Enter “Double Cropped” acres for the farm from FSA-156-EZ.</td></tr>
<tr><td>5</td><td colspan="2">Enter “Total Base Acres” for the farm from FSA-156-EZ.</td></tr>
<tr><td rowspan="4">6</td><td colspan="2">Using FSA-156-EZ, determine whether there is more than 1 tract associated with the farm.</td></tr>
<tr><td>IF there is…</td><td>THEN select…</td></tr>
<tr><td>1 tract on the farm</td><td>“No”.</td></tr>
<tr><td>more than 1 tract on the farm</td><td>“Yes”.</td></tr>
<tr><td>7</td><td colspan="2">Determine the available cropland acreage for the farm by subtracting:

• effective DCP cropland determined in item 3, minus
• total DCP base acreage determined in item 5.

Note: If the result is negative, enter zero.</td></tr>
<tr><td>8</td><td colspan="2">Determine the double-cropped acreage included in DCP base acreage by subtracting:

• total DCP base acreage determined in item 5, minus
• effective DCP cropland determined in item 3.</td></tr>
</table>

FSA-910, Wetland Reserve Program Projected DCP Base Reduction Worksheet (Continued)

A Instructions for Completing FSA-910 (Continued)

Item	Action	
	Part B – Projected DCP Base Reduction	
9	Enter the total number of proposed **cropland** acres, excluding CRP acres, that are being offered for WRP enrollment. **Note:** Do **not** include non-cropland acres that may also be offered for enrollment in WRP. Also, acreage currently in CRP that will be offered for enrollment for WRP shall excluded.	
10	Enter the available cropland acreage for the farm that was determined in item 7.	
11	Determine the initial DCP base reduction for the farm by subtracting: • proposed number of acres being offered in WRP entered in item 9, minus • available cropland acreage for the farm entered in item 10. **Note**: If the result is negative, enter zero.	
12	Determine the revised effective DCP cropland by subtracting: • effective DCP cropland entered in item 3, minus • initial DCP base reduction determined in item 11.	
13	Determine whether the available double-cropped acreage included in DCP base acres is greater than the revised effective DCP cropland.	
	IF the double-cropped acreage determine in item 8 is …	**THEN…**
	greater than the revised effective DCP cropland determined in item 12	select "Yes", and subtract: • revised effective DCP cropland determined in item 12, minus • available double-cropped acres determined in item 8.
	less than the revised effective DCP cropland determined in item 12	select "No" and enter zero.

FSA-910, Wetland Reserve Program Projected DCP Base Reduction Worksheet (Continued)

A Instructions for Completing FSA-910 (Continued)

Item	Action
14	Determine the projected DCP base reduction required for the farm based on the proposed WRP offer by adding: • initial DCP base reduction determined in item 11, plus • required reduction of double-cropped acreage determined in item 13.
15	Landowners have the option of voluntarily retiring DCP base acres through WRP easement in addition to any required reduction. If applicable, enter the number of DCP base acres that are voluntarily retired through enrollment in WRP.
16	Determine the total projected DCP base reduction for the farm based on the proposed WRP offer by adding: • required DCP base reduction determined in item 11, plus • required reduction of double-cropped acreage determined in item 13. Landowners should use the information determined in this item to complete CCC-505, which is required to be filed when an offer for enrollment in WRP is filed. If the proposed number of acres entered in item 9 for enrollment in WRP is increased or decreased, then landowners should prepare another FSA-910 to ensure the correct amount of DCP base acres are reduced. If “Yes” was selected in item 6 indicating there are multiple tracts on the farm, then landowners may also have the option to redistribute DCP base acres to other tracts on the farm to retain DCP base acres for higher valued crops. Landowners should contact the local FSA County Office to obtain additional information about the potential redistribution of DCP base acres.

FSA-910, Wetland Reserve Program Projected DCP Base Reduction Worksheet (Continued)

B Example of FSA-910

Following is an example of FSA-910.

This form is available electronically.

FSA-910 (12-04-06)	**U.S. DEPARTMENT OF AGRICULTURE** Farm Service Agency	A. State:
	WETLAND RESERVE PROGRAM PROJECTED DCP BASE REDUCTION WORKSHEET	B. County:
	This worksheet has been developed to assist landowners with determining whether a base reduction is required for the Direct and Counter-Cyclical Program due to an offer of acreage for enrollment into the Wetland Reserve Program. The use of this worksheet is voluntarily and is not a requirement to participate in either the Direct and Counter-cyclical Program or the Wetlands Reserve Program.	C. Farm Number:

PART A – INFORMATION ABOUT THIS FARM

Determine this information from the FSA-156EZ form obtained from the local FSA Office for the applicable farm.

1. CROPLAND	2. DCP CROPLAND	3. EFFECTIVE DCP CROPLAND	4. DOUBLE-CROPPED ACRES	5. TOTAL DCP BASE ACREAGE

6. Is there more than one tract associated with this farm? *If "YES", see the note in Item 16 if a projected DCP base reduction is required.*	☐ YES ☐ NO
7. Available cropland acreage for the farm. *Effective DCP cropland in Item 3 minus total DCP base acreage in Item 5. If the result is negative, enter 0.* ►	
8. Double-cropped acreage included in total DCP base acres. *Item 5 minus Item 3. If the result is negative, enter 0.* ►	

PART B – PROJECTED DCP BASE REDUCTION

9. Proposed total number of **cropland** acres being offered for WRP enrollment. **Note:** Acreage offered for enrollment in WRP may be on cropland and/or non-cropland acreage. Landowner(s) should only enter the number of acres that are on cropland in this field. Non-cropland acres should not be included on this worksheet.		
10. Available cropland acreage for the farm determined in Item 7.		
11. Initial DCP base reduction for the farm based on the proposed WRP offer recorded in Item 9. *Item 9 minus Item 10. If the result is negative, enter 0.*		
12. Revised effective DCP cropland. *(Item 3 minus Item 11)*		
13. Is the available double-cropped acreage determined in Item 8 greater than the revised effective DCP cropland determined in Item12? ☐ YES. Subtract the revised effective DCP cropland determined in Item12 from the available double-cropped acres for the farm determined in Item 8. ► **Note:** Double-cropped acreage cannot be greater than the effective DCP cropland. Therefore then an additional reduction to DCP base acres is required. ☐ NO. Enter zero. ►		
14. Total projected DCP base reduction required for the farm **based on the proposed WRP offer recorded in Item 9**. *(Item 11 plus Item 13)* ►		
15. Number of additional DCP base acres that are voluntarily retired through enrollment in WRP. ► **Note:** Landowners may opt to retire DCP base acres over and above the required reduction determined in Item 14. If so, enter the number of DCP base acres being retired through the WRP offer.		
16. Total projected DCP base reduction for the farm **based on the proposed WRP offer.** *(Item 14 plus Item 15)* ► **Note:** The number of acres determined in Item 16 should be used to complete the CCC-505 form, which is required to be filed when an offer for enrollment in WRP is filed. If the proposed number of acres entered in Item 9 for enrollment in WRP is increased or decreased, landowners should prepare another worksheet to ensure the correct number of DCP base acres are reduced. If "YES" was selected in Item 6 indicating there are multiple tracts on the farm, landowners may also have the option of redistributing DCP base acres to other tracts on the farm in order to retain DCP base acres for higher valued crops. Landowners should contact the local FSA county office to obtain additional information regarding the potential redistribution of DCP base acres.		

DISCLAIMER: Completion of this worksheet does not obligate the landowner to enroll acreage into WRP and should only be used as a guide to determine whether a DCP base reduction is required based on the proposed number of cropland acres that may be offered for WRP enrollment. If the landowner opts to enroll acreage into WRP, it is recommended that this worksheet be completed by the landowner to determine the number of DCP base acres that are required to be reduced based on the landowner's intentions. If DCP base acres are voluntarily retired through the WRP easement or are required to be reduced based on the acres being enrolled in WRP, landowners must complete a CCC-505, Voluntary Permanent Direct and Counter-Cyclical Program (DCP) Base Acres Reduction, form when the WRP offer is filed. Acres included on the CCC-505 will be reduced from the DCP base acres for the farm when the WRP easement is recorded. This reduction is permanent for the fiscal year in which the WRP offer is recorded and producers are not eligible for DCP payments on the reduced acreage. Reduction of DCP base acres included on a CCC-505 shall not be returned to the farm.

Landowners should contact the local FSA County Office to obtain a blank CCC-505 form, a copy of the FSA-156EZ for the farm, and copies of aerial maps associated with the farm or to obtain additional information regarding reductions of DCP base acres. A blank CCC-505 can also be obtained by visiting the following web site - http://forms.sc.egov.usda.gov/eforms/mainservlet.

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List of FAV's

The following crops are FAV's.

Note: The list may **not** be all inclusive.

acerola ("barbados cherry")	cherimoyas ("sugar apples")
antidesma	canary melon
apples	cantaloupes
apricots	cardoon
aragula	casaba melon
aronia (chokeberry)	cassava
artichokes	cherries
asparagus	chinese bitter melon
atemoya ("custard apple")	chinese mustard
avocados	chicory
babaco papayas	chinese cabbage
bananas	chinese water chestnuts
beans (except soybeans, mung, adzuki, faba, and lupin)	chufes
beets (other than sugar)	citron
blackberries	citron melon
black-eyed peas	coffee
blueberries	collards
bok spare choy	cowpeas
boysenberries	crabapples
breadfruit	cranberries
broccoflower	cressie greens
broccolo-cavalo	crenshaw melons
broccoli	cucumbers
brussel sprouts	currants
cabbage	cushaw
cailang	daikon
caimito	dasheen
calabaza	dates
carambola ("star fruit")	dry edible beans
calaboose	dunga
carob	eggplant
carrots	elderberries elut
cascadeberries	endive
cauliflower	escarole
celeriac	etou
celery	feijoas
chayote	figs

List of FAV's (Continued)

gai lien	mongosteen
gailon	moqua
galanga	mulberries
genip	murcotts
gooseberries	mushrooms
grapefruit	mustard greens
grapes	nectarines
guambana	nuts (except peanuts)
guavas	ny Yu
guy choy	okra
honeydew melon	olallieberries
huckleberries	olives
jackfruit	onions
jerusalem artichokes	opo
jicama	oranges
jojoba	papaya
kale	paprika
kenya	parsnip
kiwifruit	passion fruits
kohlrabi	peaches
kumquats	pears
leeks	peas (except green, yellow, wrinkled, umatillia, and Austrian)
lemons	all peppers
lettuce	persimmon
limequats	persian melon
limes	pimentos
lobok	pineapple
loganberries	pistachios
longon	plantain
loquats	plumcots
lotus root	plums
lychee ("litchi")	pomegranates
mandarins	potatoes
mangos	prunes
marionberries	pummelo
mar bub	pumpkins
melongene	quinces
mesple	radiochio
mizuna	radishes

List of FAV's (Continued)

raisins	swiss chard
raisins (distilling)	sweet corn
rambutan	sweet potatoes
rape greens	tangelos
rapini	tangerines
raspberries	tangos
recao	tangors
rhubarb	taniers
rutabaga	taro root
santa claus melon	tau chai
salsify	tindora
saodilla	tomatillos
sapote	tomatoes
savory	turnip greens
scallions	turnips
shallots	watercress
shiso	watermelons
spinach	white sapote
squash	yams
strawberries	yu choy
suk gat	