

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 22

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Background

Amendments 20, 21, and 22 were provided to change the election method for 2013 ACRE. For 2013, ACRE election and participation is only for 1 year. CCC-509ACRE will **not** be used for 2013. Landowners are **not** required to make the 2013 election because the decision to elect and participate in ACRE only impacts the farm for that 1 single year. For a farm to elect and enroll in ACRE, the only requirement is that 100 percent of the direct shares on the ACRE farm must be obligated by June 3, 2013. As with prior years, other tenants, with a zero direct share, may sign CCC-509 at any time, but no later than September 30, 2013.

B Major Changes

This amendment:

- clarifies the reconstitution policy for 2013 farms that choose to elect and enroll in ACRE

Note: If a farm is in need of a reconstitution, the parent farm or farms must have, by June 3, 2013:

- elected and enrolled in 2013 ACRE or filed FSA-155 if all resulting farms will participate in 2013 ACRE
- filed FSA-155 if some of the resulting farms will participate in 2013 ACRE.
- provides notice that if a farm participates in 2013 ACRE and was subject to an ACRE election in 2012, the benchmark farm yield will be calculated using the yield data provided for the 2012 farm.

Amendment Transmittal (Continued)

C Reasons for Amendment

Subparagraph 65 B has been amended to specify the completion date for CCC-509 in 2013.

Subparagraph 176 B has been amended to include procedure for the election and enrollment of a farm into ACRE.

Subparagraphs 176 D, 333 C, and 398 B have been amended to clarify the requirement that, for the resulting farm to participate in 2013 ACRE, CCC-509 or FSA-155 must be on file by June 3, 2013.

Subparagraph 501 A has been amended to provide guidance on benchmark farm yields for 2013 ACRE farms.

Page Control Chart		
TC	Text	Exhibit
	2-1, 2-2 4-5 through 4-8 6-4.5, 6-4.6 6-157, 6-158 9-1, 9-2	

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.

65 Base Acreage Reductions (Continued)

A Voluntary Permanent Base Acres Reduction (Continued)

- 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 August 3, 2013.

- 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.

B Producer Requested Base Acres Reduction

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 or ACRE overpayments.

Provided the provisions of paragraph 333 are satisfied, all signatures must be obtained on the *--new CCC-509 by the later of June 3, 2013, for ACRE, August 2, 2013, for DCP, or--* 30 calendar days following producer notification of the completion of the reconstitution.

176 ACRE (Continued)

B Who Must Sign

[7 CFR 1412.72] ACRE elections on CCC-509ACRE or CCC-509 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 or CCC-509. A producer's signature with other producers on a CCC-509 enrolled prior to the submission of a CCC-509ACRE or CCC-509 will not be deemed evidence of the producer's agreement with those other producers with regard to election. A CCC-509ACRE or CCC-509 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. This regulatory quote applies only to 2009 through 2012 ACRE.

For 2013:

- the election of ACRE will occur on CCC-509
- CCC-509ACRE is **not** applicable
- signature rules for CCC-509 in paragraph 394 govern the election and enrollment in ACRE.--*

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 or CCC-509, as may be applicable.

COC shall:

- only consider and act on CCC-509ACRE's or CCC-509's that are submitted according to this paragraph
- **not** act, approve, or disapprove any CCC-509ACRE or CCC-509 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.

176 ACRE (Continued)

B Who Must Sign (Continued)

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.

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

C CCC-509ACRE or CCC-509 Filing Deadline

Unless an exemption for completing a reconstitution requested by the end of the ACRE election period 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 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.
of February 19, 2013, through June 3, 2013	2013 crop year.

For 2013, the election of ACRE will occur on CCC-509. Signature rules for CCC-509 govern the election and enrollment in ACRE.

***--D Reconstitution of Farm’s Impact on Election Period for ACRE Only**

If a valid FSA-155 is filed by June 1 of the applicable crop year (August 1, 2009, for 2009 or June 3, 2013, for 2013), farms resulting from that reconstitution shall have until the later of the following:

- June 1 of the applicable crop year (August 14, 2009, for 2009 or June 3, 2013, for 2013) to submit the ACRE election according to subparagraph C
- 30 calendar days following notification to resulting farms, operators, and owners of completing the reconstitution to submit the ACRE election 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 or June 3, 2013, for 2013).--*

176 ACRE (Continued)

***--D Reconstitution of Farm's Impact on Election Period for ACRE Only (Continued)**

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.

***--2013 Example:** A request to divide Farm 300 is filed on May 31, 2013. The reconstitution results in Farms 2001 and 2002. Notification of completing the reconstitution is issued on July 17, 2013. The required signatures, according to paragraph 394, on Farms 2001 and 2002 have 30 calendar days from July 17, 2013, to elect and enroll ACRE on CCC-509. The farm has until August 2, 2013, to enroll in DCP.--*

* * *

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

[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.

For 2013, CCC-509 is the control document for the ACRE election.

A valid election on CCC-509ACRE (CCC-509 for 2013) 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 (CCC-509 for 2013) 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 or CCC-509--

[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.

***--For 2013, CCC-509 is the control document for the ACRE election. The 2013 election or withdrawal of a farm from ACRE is completed on CCC-509. The last day to withdraw from a 2013 election is June 3, 2013.**

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

- signed after the filing of CCC-509ACRE or CCC-509 will likewise be considered timely withdrawn according to paragraph 394
- that may have existed before the valid election on CCC-509ACRE or CCC-509 shall continue to be treated as withdrawn and **not** be recognized for any purpose.

Note: Producers on a farm who have withdrawn CCC-509ACRE or CCC-509 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: Another tenant that is a producer on noncropland acres only is **not** required to sign *--CCC-509ACRE or CCC-509.--*

333 Enrollment and Election Options on Reconstituted Farms (Continued)

--B Enrollment and Election Eligibility and Options Following Reconstitutions for Years 2009 Through 2012 (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)	<ul style="list-style-type: none"> • enroll under either a DCP or ACRE Program contract, as applicable. <p>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.</p> <p>A valid CCC-509ACRE must be effective and apply to a farm before an ACRE Program contract can be enrolled. See subparagraph D.</p>
a reconstitution of a farm or farms enrolled under a DCP or ACRE Program contract and participating in PTPP is performed	<p>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.</p> <p>Note: See subparagraph D.</p>

***--C Enrollment and Election Eligibility and Options Following Reconstitutions for 2013**

For 2013, the control document for the ACRE election is CCC-509.

This table discusses enrollment and election eligibility options following reconstitutions.

IF...	THEN by the later of June 3, 2013, 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	<p>resulting farms may likewise be enrolled in a DCP or ACRE Program contract, as applicable.</p> <p>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.</p> <p>A valid ACRE election must be effective and apply to a farm before an ACRE Program contract can be enrolled.</p>

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333 Enrollment and Election Options on Reconstituted Farms (Continued)

C Enrollment and Election Eligibility and Options Following Reconstitutions for 2013 (Continued)

<p>IF...</p>	<p>THEN by the later of June 3, 2013, or 30 calendar days following issuance of the notification of the completion of the reconstitution...</p>
<p>a valid ACRE election exists for the parent farm</p>	<p>the ACRE election shall continue to apply to all farms resulting from the reconstitution. See subparagraph D.</p> <p>Note: Valid ACRE elections are not impacted by reconstitutions.</p>
<p>a reconstitution request is filed according to 2-CM * * *</p>	<p>farms resulting from the reconstitution may:</p> <ul style="list-style-type: none"> • if a valid ACRE election had not been filed for the parent farm, file the ACRE election and have the election considered effective for the same period that would have applied if the ACRE election was filed on the date of filing of the reconstitution request <p>Example: A reconstitution request is filed on May 20, 2013. Producers on a farm resulting from that reconstitution that want to elect ACRE for 2013, must submit CCC-509 for 2013 by the later of June 3, 2013, or 30 calendar days following issuance of the notification of the completion of the reconstitution. If this election is made, a copy of the notification of completion of the reconstitution and copy of reconstitution request shall be attached to CCC-509.</p> <p>Note: Late-filed enrollment provisions of subparagraph 445.5 C do not apply to the election and enrollment in ACRE.</p> <ul style="list-style-type: none"> • enroll under either a DCP or ACRE Program contract, as applicable. <p>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.</p> <p>A valid ACRE election must be effective and apply to a farm before an ACRE Program contract can be enrolled. See subparagraph D.</p>

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 enrollment of the parent farm was filed by *--June 1 (June 3, 2013, for 2013 ACRE and August 2, 2013, for 2013 DCP) and FSA-155 is--* completed by August 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 by:

- August 1 of the applicable year, if the change requires a reconstitution (paragraph 333)
- September 30, if the change does **not** require a reconstitution.

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.

Part 9 Reporting Production

501 FSA-658's

A Requirement

[7 CFR 1412.66] (a) As a condition of eligibility for payments, the operator or owner must accurately submit a report of all cropland acreage on the farm. (b) Participants enrolled in the PTPP and those enrolled under ACRE must accurately submit a report of production no later than the acreage reporting date for the crop in the year immediately following the crop year of the reported crop acreage, for each crop either enrolled in PTPP or for each covered commodity or peanuts on a farm enrolled in an ACRE program contract for which an acreage report greater than zero acres was filed according to paragraph (a) of this section.

PTPP producers are required to file FSA-578's, FSA-658's, and provide evidence of disposition of the crop (paragraph 78).

Note: Disposition is evidence demonstrating how the harvested commodity was marketed.

Participants enrolling under an ACRE Program contract using CCC-509ACRE are required to file FSA-658's for covered commodities and peanuts planted for harvest on the farm and tract as a condition of payment eligibility. See paragraph 187.

Benchmark farm yields may be updated with FSA-658's according to paragraph 175.

--Farms enrolled in ACRE in 2013 shall use production history filed in previous years if the farm had elected ACRE in a prior year.--

B Producer Responsibilities

Producers are responsible for providing accurate and complete information. It is the producer's responsibility to report the total amount of farm production for:

- each PTPP commodity
- farms enrolled in ACRE, the total farm and tract's harvested production of each covered commodity and peanuts for which FSA-578 with planted acres greater than zero acres is filed.

501 FSA-658's (Continued)

B Producer Responsibilities (Continued)

It is **not** CCC's responsibility to determine a farm's or a producer's amount of production. Producers participating in PTPP or ACRE responsibilities include, but are **not** limited to the following:

- providing an accurate FSA-658 that can be supported by acceptable production records, if production records are requested by FSA
- *--summarizing all the production evidence for a crop on a tract basis--*
- reporting disposition of crops planted for harvest on PTPP crop acreage
- filing FSA-658 by July 15 in the year immediately following the year in which the crop acreage was reported on FSA-578
- retaining production evidence for 3 crop years after the year the production is initially certified.

C Who Can and How to Report

--FSA-658's shall be filed for the farm and tract:--

- similarly to the way FSA-578's are submitted
- by either of the following:
 - operator or owner of the farm for which FSA-578 was filed for the applicable year
 - producer with a share interest in acreage reported on the farm for the applicable year.

Notes: For this subparagraph, "for the applicable year" means the operator, owner, or producer with a share interest in the reported crop acreage for the year of program participation. For example, producers on a farm enrolled in ACRE for 2009 are required to submit a 2009 FSA-658 by July 15, 2010. The operator, owner, and/or producer of record on the farm in 2009 are the persons from whom FSA-658 is required and acceptable. 2010 farm operators, owners, or producers **cannot** report 2009 production for the farm unless they had a 2009 crop year interest in the crop or farm as operator, owner, or a share interest in the 2009 crop acreage.

*--Although operators, owners, or producers may provide production evidence, the operator of the farm shall certify the production amount. This policy applies to 2010 and subsequent years.

Production shall be certified by farm and tract. If production is provided by farm **only**, then the production shall be prorated to the tract level according to 2-DCP (Rev. 1).--*