

Commodity Credit Corporation, USDA

§ 1412.2

1412.78 Violations.

1412.79 Executed ACRE contract not in conformity with regulations.

1412.80 Division of program payments and provisions relating to tenants and sharecroppers.

AUTHORITY: 7 U.S.C. 7911-7918, 7951-7956, 8711-8719, 8751-8756, and 8781; and 15 U.S.C. 714b and 714c.

SOURCE: 73 FR 79289, Dec. 29, 2008, unless otherwise noted.

Subpart A—General Provisions

§ 1412.1 Applicability, statutory changes, interest, and contract provisions.

This part governs: How base acres and farm program payment yields are established or adjusted for the purpose of calculating direct and counter-cyclical payments for wheat, corn, grain sorghum, barley, oats, upland cotton, rice, peanuts, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, pulse crops, and other designated oilseeds as determined and announced by the Commodity Credit Corporation (CCC), for the years 2008 through 2012; the month when producers on a farm may enter into annual Direct and Counter-cyclical Program (DCP) or Average Crop Revenue Election (ACRE) program contracts with CCC for each of the years 2008 through 2012, as applicable; and the peanut crop acreage bases and yields in order to receive 2008 through 2012 direct and counter-cyclical payments. Payments otherwise provided for in this part are subject to changes made by statute in rates, conditions, and eligibility notwithstanding any contract made under this part. However, any such modification may, as determined by the Deputy Administrator, allow producers the opportunity to withdraw from the contract. Also, if any refund comes due to CCC under this part, interest will be due from the date of the CCC disbursement except as determined by the Deputy Administrator. The provisions of this section will apply notwithstanding any other provision of this or any other part. In order to receive payment under this part a participant must comply with the regulations in this part and any ad-

ditional requirements imposed by the program contract.

§ 1412.2 Administration.

(a) The program is administered under the general supervision of the Executive Vice-President, CCC, and will be carried out by Farm Service Agency (FSA) State and county committees (State and county committees).

(b) State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee may take any action required by the regulations of this part that the county committee has not taken. The State committee will also:

(1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation to a State or county committee will preclude the Executive Vice President, or the Deputy Administrator, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator has the authority in individual cases to authorize State and county committees to waive or modify deadlines (except statutory deadlines) and other non-statutory requirements, in cases where lateness or failure to meet such other requirements does not adversely affect operation of the program. Producers and participants have no right to seek an exception under this provision. The Deputy Administrator's refusal to consider cases or circumstances or decisions not to exercise this discretionary authority under this provision will not be considered an adverse decision and is not appealable.

(f) A representative of CCC may execute the FSA forms entitled "Direct and Counter-Cyclical Program Contract" and "Average Crop Revenue

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Election Program Contract” only under the terms and conditions determined and announced by the Executive Vice President, CCC. Any contract that is not executed in accordance with such terms and conditions, including any purported execution prior to or after the dates authorized by the Executive Vice President, CCC, is null and void and will not be considered to be a contract between CCC and the operator or any other producer on the farm.

§ 1412.3 Definitions.

The definitions set forth in this section are applicable for all purposes of administering the DCP. The terms defined in part 718 of this title and part 1400 of this chapter are also applicable, except where those definitions conflict with the definitions set forth in this section.

Where there is a conflict or a difference in definitions specified in this part and those that apply to the Average Crop Revenue Election (ACRE) program specified in subpart G of this part, the regulations of subpart G of this part will apply to the ACRE program.

Average Crop Revenue Election (ACRE) means the program authorized by section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) according to subpart G of this part. Participation in the ACRE program requires a two-step process by the producer, specifically step 1 an election according to subpart G of this part followed by step 2 enrollment according to this part.

Base acres means 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 this part.

Commercial agricultural production means the propagation and raising of agricultural products for commercial sale or barter having gross receipts or sales annually in excess of \$1,000. The term includes pastures and land devoted to approved conserving uses.

Considered planted means acreage approved as prevented planted in accord-

ance with §718.103 of this title or the acreage considered planted to a covered commodity pursuant to §1412.48.

Contract means the CCC-approved standard, uniform forms and appendixes specified by CCC that constitute the agreement for participation in the Direct and Counter-Cyclical Program or ACRE program, as applicable.

Contract year means 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 fiscal year. For example, the 2009 contract year will be October 1, 2008, through September 30, 2009, and that year will be considered, too, 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.

Counter-cyclical payment means a payment made to eligible producers on a farm in accordance with subpart E of this part for covered commodities and peanuts.

Covered commodity means 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.

Crop year means the relevant contract year. For example, the 2009 crop year is the year that runs from October 1, 2008, through September 30, 2009, and references to payments for that year refer to payments made under contracts with the compliance year that runs during those dates.

DCP cropland means DCP cropland as defined in part 718 of this title.

Deputy Administrator means the Deputy Administrator for Farm Programs, FSA, or a designee.

Developed means:

(1) Land has been approved by the local government for uses other than commercial agricultural uses; and

(2) Construction activity has begun to install any aspect of the development, for example utilities or roadways.