

§ 1412.68

7 CFR Ch. XIV (1–1–10 Edition)

either pursuant to §1412.48 or a producer with a share of crop of each covered commodity or peanuts on a farm enrolled in an ACRE program contract must provide a notice of loss to CCC in the administrative FSA office for the farm, within:

(1) For prevented planting claims, 15 calendar days after the final planting date,

(2) For low yield claims and allowable value loss, the earlier of:

(i) 15 calendar days after the damaging weather or adverse natural occurrence or date loss of the crop or commodity becomes apparent for low yield claims or

(ii) 15 calendar days after the normal harvest date.

(b) For each crop for which a notice of loss is filed, producers must provide the following information:

(1) Crop by type or variety, as applicable;

(2) The cause of the crop damage;

(3) Date the loss occurred, as applicable;

(4) Date the damage or loss became apparent;

(5) The existence of a guaranteed payment through a contract or agreement for planted acreage as opposed to delivery of production, if one exists;

(6) Type of crop loss occurred, for example, prevented planting or low yield;

(7) Practices employed to grow the crop, for example, irrigated or non-irrigated;

(8) For prevented planting:

(i) Total acreage intended to be planted to the crop in the administrative county;

(ii) Total acreage planted by the producer to the crop in the administrative county;

(iii) Whether a purchase, delivery, or arrangement for purchase or delivery was made for seed, chemicals, fertilizer, etc.; and

(iv) What and when land preparation measures, for example, cultivation, etc. were completed and indicate what has been done or will be done with the acreage, for example, abandoned, replanted, etc.

(9) For low yield:

(i) Total acreage planted by the producer to the crop in the administrative county;

(ii) Total acreage of the crop in the administrative county affected;

(iii) What and when land preparation measures and practices, for example, cultivation, planting, irrigated, etc. were completed before and after the loss; and

(iv) What will be done with the affected crop acreage, for example, harvested, destroyed and replanted to a different crop, abandoned, etc.

(10) Any such other information requested by CCC to establish the loss.

(c) A notice of loss provided beyond the time specified in paragraph (a) of this section may be considered timely filed if, at the discretion of CCC, provided at such time to permit an authorized CCC representative the opportunity to:

(1) Verify the information on the notice of loss by inspection of the specific acreage or crop involved; and

(2) Determine, based on information obtained by inspection of the specific acreage or crop involved, that an eligible cause of loss, as opposed to other circumstance, caused the claimed damage or loss.

(d) Crop acreage that will not be harvested, that is acreage that is to be abandoned or destroyed, must be left intact and producers must request, in the administrative FSA office for the acreage, a crop appraisal and release of crop acreage by a FCIC- or CCC-approved loss adjustor:

(1) Prior to destruction or abandonment of the crop acreage or

(2) No later than the normal harvest date, as determined by CCC.

§ 1412.68 Compliance with highly erodible land and wetland conservation provisions.

The provisions of part 12 of this title apply to this part.

§ 1412.69 Controlled substance violations.

The provisions of part 718 of this title apply to this part.

Subpart G—Average Crop Revenue Election (ACRE) Program

§ 1412.71 Administration.

(a) All of the provisions of this part apply to this subpart. To the extent

that there is a conflict with the provisions of this part and subpart G of this part, the provisions of subpart G of this part apply.

(b) [Reserved]

§ 1412.72 Availability and election of alternative approach.

(a) As an alternative to receiving counter-cyclical payments under § 1412.53, and in exchange for a 20-percent reduction in direct payments under § 1412.52, as well as 30-percent reduction in established marketing assistance loan rates with respect to all covered commodities and peanuts on a farm, during each of the 2009, 2010, 2011, and 2012 crop years, as applicable, depending on the year the producer initially elects the ACRE option, producers, including owners, on a farm will have until June 1 of 2009 to make an irrevocable election to instead receive ACRE program payments, computed in accordance with the regulations of this part, for the 2009 crop year through and including the 2012 crop year. During each of the 2010, 2011, and 2012, crop years, as applicable, depending on the year the producer initially elects the ACRE option, producers, including owners, on a farm will have until June 1, or such earlier date as may be determined and announced at the discretion of the Deputy Administrator, of 2010, 2011, and 2012, as applicable, to make an irrevocable election to instead receive ACRE program payments, computed in accordance with the regulations of this part, for the initial crop year for which the election is made through and including the 2012 crop year.

(b) If producers elect the ACRE option for a farm in accordance with paragraphs (a) and (d) of this section, any DCP contract enrolled prior to a timely election in a fiscal year will be considered withdrawn according to § 1412.41(b). The producers must still choose whether or not to enroll the ACRE elected farm in an ACRE program contract. DCP payments issued for the fiscal year of such election, including advance and partial program payments, must be refunded. No payments will be made available to participants under an ACRE program contract until such time as refunds have

been remitted and enrollment has occurred as provided in this part, unless the Deputy Administrator determines to collect the refund instead by a setoff against the ACRE payment. Under no circumstances will election be construed to be an intent to enroll or an enrollment in the ACRE program.

(c) If a marketing assistance loan (including marketing assistance loans that have been repaid or immediately repaid) or loan deficiency payment has been computed prior to election of the ACRE option, the persons electing the ACRE option:

(1) Acknowledge that such marketing assistance loan (including any loan repayments) and loan deficiency payments will be recomputed based on reduced marketing assistance loan rates,

(2) Agree to immediately refund to CCC the difference in the amount of marketing assistance loan (including loan repayments) and loan deficiency payments as a result of the ACRE election.

(d) Eligible producers, including owners, on a farm electing ACRE participation by June 1 of:

(1) 2009, will be considered to have irrevocably elected the ACRE option for the 2009, 2010, 2011, and 2012 crop years and, if applicable, withdrew prior enrolled 2009 DCP contracts according to § 1412.41(b);

(2) 2010, or such earlier date determined and announced at the discretion of the Deputy Administrator, will be considered to have irrevocably elected the ACRE option for the 2010, 2011, and 2012 crop years and, if applicable, withdrew prior enrolled 2010 DCP contracts according to § 1412.41(b);

(3) 2011, or such earlier date determined and announced at the discretion of the Deputy Administrator, will be considered to have irrevocably elected the ACRE option for the 2011 and 2012 crop years and, if applicable, withdrew prior enrolled 2011 DCP contracts according to § 1412.41(b); or

(4) 2012, or such earlier date determined and announced at the discretion of the Deputy Administrator, will be considered to have irrevocably elected the ACRE option for the 2012 crop year and, if applicable, withdrew prior enrolled 2012 DCP contracts according to § 1412.41(b).