Commodity Credit Corporation, USDA

§ 1412.47 Planting flexibility.

(a) Any crop may be planted and harvested on base acreage on a farm, except as limited elsewhere in this section. Any crop may be planted on DCP cropland in excess of the base acreage on a farm.

(b) Base acreage may be hayed or grazed at any time.

(c) Planting perennial fruits, vegetables (except mung beans, and pulse crops), or wild rice, as determined by the Deputy Administrator, is prohibited on base acreage of a farm enrolled in a DCP or ACRE program contract. Harvesting non-perennial fruits, vegetables (except mung beans and pulse crops), or wild rice, as determined by the Deputy Administrator, is prohibited on base acreage of a farm enrolled in a DCP or ACRE program contract.

(d) Notwithstanding the provisions of paragraph (c) of this section, perennial fruits, vegetables, and wild rice may be planted on base acreage of a farm enrolled in a contract, and non-perennial fruits, vegetables, and wild rice may be harvested on base acreage of a farm enrolled in a contract if:

1. A producer double-crops fruits, vegetables, or wild rice with a covered commodity or peanuts in any region described in paragraph (e) of this section, in which case direct and counter-cyclical payments will not be reduced for the planting or harvesting of the fruit, vegetable, or wild rice;

2. The farm has a history of planting fruits, vegetables, or wild rice, as determined by CCC, in which case the payment acres for the farm will be reduced on an acre-for-acre basis; or

3. The producer has a history of planting a specific fruit, specific vegetable, or wild rice, as determined by

§ 1412.46 Succession-in-interest.

(a) A succession in interest to a DCP or ACRE program contract is required if there has been a change in the operation of a farm, such as:

1. A sale of land;

2. A change of operator or producer, including a change in a partnership that increases or decreases the number of partners or changes who are partners;

3. A foreclosure, bankruptcy, or involuntary loss of the farm;

4. A change in producer shares to reflect changes in the producer’s share of the crop(s) that were originally approved on the contract; or

5. An other change determined by the Deputy Administrator to be a succession that will not adversely affect nor defeat the purpose of the program.

(b) A succession in interest to the contract is not permitted if CCC determines that the change:

1. Results in a violation of the landlord-tenant provisions specified in §1412.55; or

2. Adversely affects or otherwise defeats the purpose of the program.

(c) If a producer who is entitled to receive direct and counter-cyclical payments dies, becomes incompetent, or is otherwise unable to receive the payment, CCC will make the payment in accordance with part 707 of this title.

(d) A producer or owner of an enrolled farm must inform the county committee of changes in interest in base acres on the farm not later than:

1. August 1 of the fiscal year in which the change occurs if the change requires a reconstitution be completed in accordance with part 718 of this title or

2. September 30 of the fiscal year in which the change occurs if the change does not require a reconstitution be completed in accordance with part 718 of this title.

(e) In any case in which either a direct or counter-cyclical payment has previously been made to a predecessor, such payment will not be paid to the successor, unless such payment has been refunded in full by the predecessor, in accordance with §1412.41(d).

(f) The failure of the party eligible to succeed to the contract to do so will be considered a contract violation.
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CCC, the producer may plant and harvest the specific fruit, specific vegetable, or wild rice for which the producer has a planting history, subject to the following:

(i) The acreage harvested must not exceed the simple average of the sum of acreage of the specific fruit, specific vegetable, or wild rice planted for harvest by the producer during the crop years 1991 through 1995 or 1998 through 2001, as designated by the producer, excluding any year in which the specific fruit, specific vegetable, or wild rice was not planted; and

(ii) The payment acres for the farm will be reduced on an acre-for-acre basis.

(e) Double-cropping for purposes of this section means planting for harvest fruits, vegetables, or wild rice on the same acres in cycle with a covered commodity or peanuts planted and harvested for peanuts, grain, or lint in a 12-month period under normal growing conditions for the region and being able to repeat the same cycle in the following 12-month period. For purposes of this part, the following counties have been determined to be regions having a history of double-cropping covered commodities or peanuts with fruits, vegetables, or wild rice. State committees have established the following counties as regions within their respective States:

- **Alabama**

- **Alaska**
  - None.

- **Arizona**
  - Cochise, Graham, Greenlee, LaPaz, Maricopa, Mohave, Pima, Pinal, and Yuma.

- **Arkansas**

- **California**
  - Alameda, Amador, Butte, Colusa, Contra Costa, Fresno, Glenn, Imperial, Kern, Kings, Madera, Merced, Riverside, Sacramento, San Benito, San Joaquin, Santa Clara, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Yolo, and Yuba.

- **Caribbean Office**
  - None.

- **Colorado**
  - Otero.

- **Connecticut**
  - None.

- **Delaware**
  - All counties.

- **Florida**
  - All counties except Monroe.

- **Georgia**
  - All counties.

- **Hawaii**
  - None.

- **Idaho**
  - None.

- **Illinois**
  - Bureau, Calhoun, Cass, Clark, Crawford, DeKalb, Edgar, Effingham, Gallatin, Iroquois, Jersey, Kankakee, Lawrence, LaSalle, Lee, Madison, Marion, Mason, Monroe, Randolph, St. Clair, Tazewell, Union, Vermilion, White, and Whiteside.

- **Indiana**
  - Allen, Bartholomew, Daviess, Gibson, Hamilton, Jackson, Johnson, Knox, LaGrange, Lake, LaPorte, Madison, Marion, Martin, Miami, Posey, Ripley, Shelby, Sullivan, Vandenberg, and Warrick.
Iowa
Kossuth, Mitchell, Palo Alto, and Winnebago.

Kansas
None.

Kentucky
Daviess.

Louisiana
Avoyelles, Franklin, Grant, Morehouse, Rapides, Richland, and West Carroll.

Maine
None.

Maryland
Baltimore, Calvert, Caroline, Carroll, Dorchester, Harford, Kent, Queen Anne’s, St. Mary’s, Somerset, Talbot, Wicomico, and Worcester.

Massachusetts
None.

Michigan
None.

Minnesota
Blue Earth, Brown, Carver, Chippewa, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, Kandiyohi, Le Sueur, Martin, McLeod, Meeker, Mower, Nicollet, Olmsted, Pope, Redwood, Renville, Rice, Scott, Sibley, Steele, Swift, Waseca, Wabasha, Watonwan, and Winona.

Mississippi
Adams, Calhoun, Carroll, Coahoma, Covington, DeSoto, George, Humphreys, Jefferson Davis, Lowndes, Madison, Marshall, Monroe, Montgomery, Prentiss and Rankin.

Missouri
Barton, Butler, Cape Girardeau, Dade, Dunklin, Jasper, Lawrence, Mississippi, New Madrid, Newton, Pemiscot, Ripley, Scott, and Stoddard.

Montana
None.

Nebraska
None.

Nevada
None.

New Hampshire
None.

New Jersey
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Salem, Somerset, Sussex, and Warren.

New Mexico
Chaves, Curry, Dona Ana, Eddy, Hidalgo, Lea, Luna, Quay, Roosevelt, San Juan, and Sierra.

New York
Cayuga, Genesee, Livingston, Monroe, Ontario, Orange, Orleans, Suffolk, Wayne, and Wyoming.

North Carolina

North Dakota
None.

Ohio
Champaign, Clermont, Fulton, Lucas, Miami, Morgan, Muskingum, Scioto, and Stark.
Oklahoma

Oregon
Morrow and Umatilla.

Pennsylvania
Adams, Bucks, Centre, Chester, Clinton, Columbia, Cumberland, Delaware, Franklin, Indiana, Lancaster, Montgomery, Montour, Northumberland, Schuylkill, Snyder, Union, and York.

Puerto Rico
None.

Rhode Island
None.

South Carolina
All counties.

South Dakota
None.

Tennessee

Texas

Utah
None.

Vermont
None.

Virginia

Washington
Yakima.

West Virginia
None.

Wisconsin
Adams, Calumet, Columbia, Dane, Dodge, Fond du Lac, Green, Green Lake, Iowa, Kenosha, Milwaukee, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Trempealeau, Walworth,
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Wyoming

None.

(f) Any acreage reduction required by paragraph (d) of this section will be applied beginning with the covered commodity or peanuts with lowest direct payment amount per acre until the acreage reduction amount is satisfied. Producers may agree to adjust the acre reduction between covered commodities and peanuts on the farm, only to the extent the total acre reduction amount does not change for the farm, and all producers affected by the adjustment agree to the adjustment in writing.

(g) For the purposes of this part, fruits, vegetables, and wild rice planted on base acreage of a farm under a DCP or ACRE program contract:

(1) Will be considered harvested at the time of planting, unless the producer pays a fee to cover the cost of a farm visit, in accordance with part 718 of this title, to verify that the fruit, vegetable, or wild rice has been destroyed before harvest, as determined by the Deputy Administrator, or

(2) Will not be considered as planted to a fruit, vegetable, or wild rice when reported by a producer on the farm with an intended use of green manure or forage, as determined by the Deputy Administrator, and a fee to cover the cost of a farm visit is paid by the producer, in accordance with part 718 of this title, to verify that the crop has not been harvested.

(h) Unless otherwise specifically included as a covered commodity in accordance with this part, fruits and vegetables include but are not limited to all nuts except peanuts, certain fruit-bearing trees and: Acerola (barbados cherry), antidesma, apples, apricots, aragula, artichokes, asparagus, atemoya (custard apple), avocados, babaco papayas, bananas, beans (except soybeans, mung, adzuki, fava, and lupin), beets—other than sugar, blackberries, blackeye peas, blueberries, bok sparse choy, boysenberries, breadfruit, broccoliflower, broccoli-cavelo, broccoli, brussel sprouts, cabbage, callang; cajimito, calabaza, carambola (star fruit), calaboose, carob, carrots, cascadeberries, cauliflower, celeriac, celery, chayote, cherimoyas (sugar apples), canary melon, cantaloupes, cardoon, casaba melon, cassava, cherries, chinese bitter melon, chicory, chinese cabbage, chinese mustard, chinese water chestnuts, chufes, citron, citron melon, coffee, collards, cowpeas, crabapples, cranberries, cressie greens, crenshaw melons, cucumbers, currants, cushaw, daikon, dasheen, dates, dry edible beans, dunga, eggplant, elderberries, elut, endive, escarole, etou, feijoas, figs, gai lien, gallow, galanga, genip, gooseberries, grapefruit, grapes, guambana, guavas, guy choy, honeydew melon, huckleberries, jackfruit, Jerusalem artichokes, jicama, jojoba, kale, kenya, kiwifruit, kohlrabi, kumquats, leeks, lemons, lettuce, limequats, limes, lobok, loganberries, longon, loquats, lotus root, lychee (litchi), mandarins, mangos, marionberries, mar bab, melongene, messple, mizuna, mongosteen, moqua, mulberries, murgotts, mushrooms, mustard greens, nectarines, ny Yu, okra, olallieberries, olives, onions, opo, oranges, papaya, paprika, parsnip, passion fruits, peaches, pears, peas, all peppers, persimmon, persian melon, pimento, pineapple, pistachios, plantain, plumcots, plums, pomegranates, potatoes, prunes, pummelo, pumpkins, quinces, radiochio, radishes, raisins, raisins (distilling), rambutan, rape greens, rapini, raspberries, recao, rhubarb, rutabaga, santa claus melon, salify, saodilla, sapote, savory, scallions, shallots, shiso, spinach, squash, strawberries, suk gat, swiss chard, sweet corn, sweet potatoes, tangelos, tangerines, tangos, tangors, taniers, taro root, tau chai, teff, tindora, tomatillos, tomatoes, turnips, turnip greens, watercress, watermelons, white sapote, yam, and yam yu choy.

§ 1412.48 Planting Transferability Pilot Project.

(a) Notwithstanding §1412.47, for each of the 2009 and subsequent crop years, the Planting Transferability Pilot Project (Project) will permit, in accordance with the limitations and provisions of this section only, the planting of certain crops in certain States on base acres without violating the DCP or ACRE contract. Base acres on