

§ 1412.402 Eligible producers.

Producers eligible to enter into a contract are:

(a)(1) An owner of a farm who assumes all or a part of the risk of producing a crop;

(2) A producer, other than an owner, on a farm with a share-rent lease for such farm, regardless of the length of the lease, if the owner of the farm enters into the same contract;

(3) A producer, other than an owner, on a farm who cash rents such farm under a lease expiring on or after September 30 of the year of the contract in which case the owner is not required to enter into the contract;

(4) A producer, other than an owner, on an eligible farm who cash rents such farm under a lease expiring before September 30 of the year of the contract. The owner of such farm must also enter into the same contract; or

(5) An owner of an eligible farm who cash rents such farm and the lease term expires before September 30 of the year of the contract, if the tenant declines to enter into a contract for the applicable year. In the case of an owner covered by this paragraph, direct and counter-cyclical payments shall not begin under the contract until the lease held by the tenant ends.

(b) A minor child shall be eligible to enter into a contract only if one of the following conditions exist:

(1) The right of majority has been conferred upon the minor by court proceedings or statute;

(2) A guardian has been appointed to manage the minor's property, and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which a surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1412.403 Reconstitutions.

Farms shall be reconstituted in accordance with part 718 of this title.

§ 1412.404 Notification of base acres.

The owner and all producers on a farm shall be notified in writing of the number of base acres eligible for enrollment in a contract, unless such owner or producer requests in writing

that such owner or producer not be furnished with the notice.

§ 1412.405 Reducing base acreage.

(a)(1) Subject to the limitation in paragraph (a)(ii) of this section, a permanent reduction of all or a portion of a farm's base acreage shall be allowed when all owners of the farm execute and submit a written request for such reduction on a CCC-approved standard, uniform form designated by CCC to the FSA county office where the records for the farm are administratively maintained.

(2) A permanent reduction of all or a portion of a farm's base acreage to negate or reduce a program violation is not allowed.

(b) When base acres on a farm are converted to a non-agricultural commercial or industrial use, the total base acreage on the farm shall be reduced accordingly regardless of the submission of a request for such reduction.

§ 1412.406 Succession-in-interest to a direct and counter-cyclical program contract.

(a) A succession in interest to a contract may be permitted 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;

(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) As otherwise determined by the Deputy Administrator, if the succession 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 set forth in § 1412.505; or

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

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(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 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)(1) In any case in which either a direct or counter-cyclical payment has previously been made to a predecessor, such payment shall not be paid to the successor unless payment has been refunded by the predecessor, or a debt for any amount not refunded to CCC has been established for the predecessor.

(2) A succession in interest shall not increase the liability of CCC.

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§ 1412.407 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) Harvesting non-perennial fruits, vegetables (except lentils, mung beans, and dry peas) or wild rice, as determined by the Deputy Administrator, or designee, is prohibited on base acreage of a farm enrolled in a contract. Planting perennial fruits, vegetables (except lentils, mung beans, and dry peas) or wild rice, as determined by the Deputy Administrator, is prohibited on base acreage of a farm enrolled in a 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 the CCC, in any one of the crop years 1991 through 1995 or 1998 through 2001, in which case the payment acres for the farm shall 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 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 shall 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, but not both, as determined 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 shall 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 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: