

**For:** State and County Offices

**Undivided Interest and Fractionated Share Ownership of Land, Heir Property, and the Impact on Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) Election and Enrollment**

**Approved by:** Acting Deputy Administrator, Farm Programs



**1 Overview**

**A Background**

The Agricultural Act of 2014 (2014 Farm Bill), regulations (7 CFR Part 1412), and 1-ARCPLC specify the following.

- All current producers on farms with base acres have the opportunity to elect ARC or PLC that will be in effect for the 2014 through 2018 crop years. The election **must** be made during the prescribed election period **that ends March 31, 2015**.

**Note:** Follow appropriate guidance provided by DAFP about using registers.

- All current producers on a farm, at the time of ARC or PLC election, **must** sign CCC-857 making an election as described in 1-ARCPLC, paragraph 181.
- The election **must** be on CCC-857 and **must** be a unanimous election of all current producers at the time the election is made in the election period.
- “Current producer” is the person or legal entity meeting the definition of producer on the day that person or legal entity is signing any form or performing any action required.

**Note:** Producers on a farm are responsible for making the determination of who is considered a current producer on the farm and for determining whether or **not** a farm has completed the required election.

- “Producer” is an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop, and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

Disposal Date	Distribution
October 1, 2015 3-27-15	State Offices; State Offices relay to County Offices

## 1 Overview (Continued)

### A Background (Continued)

- ARC or PLC contract enrollments will **not** be approved unless all producers sharing in contract acreage with more than a zero share have signed the contract.

In some instances:

- land is owned by more than 1 person or a legal entity (undivided ownership) and a majority of the undivided owners have not signed leases or other documents affirming the interest of a producer on a farm
- the land of a farm is owned by persons or legal entities with a fractionated ownership interest

**Note:** Fractionated ownership sometimes occurs and the owners of land either cannot be located or have not signed leases to tenants or the owners. In these cases, the owner cannot be reached to affirm the claimed share interest of other producers on the farm. Moreover, in some cases involving land that is under management by BIA, leases specifically exclude the owner's fractionated interest (usually a very small share) on the cash land lease.

- an individual owner dies, the owner did not have an estate, and the land ownership records remain in the deceased individual's name, but the ownership interest in the property is conveyed to heirs of the deceased.

**Note:** In some of these instances, land ownership records will not always reflect the actual undivided ownership interest in the land. A common term to describe this land is "heir property".

### B Purpose

This notice provides policy for processing ARC and PLC election and enrollment that involves land with undivided ownership, fractionated ownership, and heir property.

## Notice ARCPLC-21

### 2 Election and Enrollment of Land Involving Undivided Ownership, Fractionated Ownership, and Heir Property

#### A Undivided Ownership, Fractionated Ownership, and Heir Property Issues and Policy for Election

Following are examples of undivided ownership, fractionated ownership, and heir property issues and policy for election.

Land Ownership	Example	Policy for Election
Undivided Ownership	A producer has elected ARC-CO or PLC for the covered commodities with base acres on a farm. The farm is owned by different landowners with undivided ownership interest in the land. The producer has a lease signed by 4 of these owners representing 80 percent of the undivided interest in the land. There are no other producers known or suspected to exist on the land of the farm. The producer on the farm is unable to obtain a lease or a signature from the remaining 20 percent undivided interest holders of the land. The producer is requesting to complete the ARC or PLC election and enrollment, but is unable to obtain the signatures from all producers with 100 percent interest in the farm.	<p>CCC-857 filed according to 1-ARCPLC, Part 7, by all of the farm's current producers will be viewed as valid and binding for the farm provided the election is not otherwise determined by FSA to be invalid. This includes elections filed by producers who are renting land with undivided ownership or fractionated land ownership assuming all a farm's current producers signed the election as required. The election will be viewed as valid unless:</p> <ul style="list-style-type: none"> <li>owners having a fractionated or undivided ownership interest in the land constituting the farm during the prescribed election period file written notice expressing disagreement with the filed CCC-857 or information showing other producers exist or existed on the farm when CCC-857 was filed; <b>or</b></li> <li>evidence is provided showing the election was invalid for any other reason set forth in 1 ARCPLC.</li> </ul> <p><b>Note:</b> FSA will "assume" elections filed by all current producers on a farm are valid absent specific documentation to the contrary being submitted. FSA reserves the right to invalidate any irrevocable election if at any time FSA determines that election was invalid. See 1-ARCPLC, subparagraph 181 C.</p>
Fractionated Ownership	A producer has a land lease from the BIA showing they have leased 98.9752 percent of the land in the applicable legal description. BIA executed the lease on behalf of the undivided owners of the farm. However BIA cannot lease 100.0000 percent of the land, even though the land is owned undivided, because BIA cannot determine who owns the fractionated share interest and cannot disseminate rental proceeds. This producer is requesting to complete both a program election and enrollment into the ARCPLC program.	
Heir Property	A producer has elected ARC-CO or PLC for the covered commodities with base acres on the farm. The owner of the land died 50 years ago with no will and the estate was never probated. The land ownership is recorded in the name of the deceased in the courthouse records and there is no way to establish ownership. This producer is requesting to complete both a program election and enrollment into the ARCPLC program.	

## **Notice ARCPLC-21**

### **2 Election and Enrollment of Land Involving Undivided Ownership, Fractionated Ownership, and Heir Property (Continued)**

#### **B Policy for Enrollment**

Policy about enrollment of land that has undivided ownership, fractionated land ownership, and heir property will be issued as an amendment to 1-ARCPLC.

Instructions for processing requests for enrollment by producers on farms having persons with interests in the base acres or covered commodities on the farm, both with shares greater than zero and zero share interest, will be issued in a forthcoming amendment to 1-ARCPLC.

Offices will not discourage any producer from enrolling farms. Policy will be issued to cover processing enrollment requests.

### **3 Action**

#### **A State Office Action**

State Office staff and DD's shall ensure that County Office employees are familiar with the provisions of this notice.

#### **B County Office Action**

County Offices shall follow the instructions in this notice for processing any and all elections.