

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice DCP-204

For: State and County Offices

Terminating Base Acres on Land Owned by Federal Agencies

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

7 CFR Part 1412 was effective on December 23, 2008. In addition to announcing DCP provisions for the 2009 and subsequent crop years, the rule provides that land owned by Federal agencies will have base acres terminated effective for the 2009 crop year unless that land is subject to a lease agreement which was executed before December 23, 2008, and is in effect beyond the 2009 crop year.

B Purpose

This notice provides guidance to State and County Office employees about the affect of this rule on land owned by Federal agencies, its impact on DCP participation, and actions that may be required in the event base acre termination is warranted.

Disposal Date	Distribution
December 1, 2009	State Offices; State Offices relay to County Offices

2 Terminating Base Acres on Federally-Owned Land

A Rule

For 2009 and subsequent crop years, base acres will not be established on a tract owned by Federal agencies on or after December 23, 2008. Base acres previously established on a tract owned by a Federal agency will be terminated on or after December 23, 2008. This rule applies to all Federally-owned land, including land held in inventory by FSA.

Note: In some instances, FSA records may reflect that a Federal agency (for example, Bureau of Indian Affairs) is an owner of a tract. This may not be accurate if the Federal agency is merely shown as an owner when in fact the Federal agency holds an easement or is holding the land in trust. Employees shall ensure that base acres are terminated only on **Federally-owned** land.

B Exception

An exception to subparagraph A applies to a tract subject to a lease agreement executed before December 23, 2008. If a Federally-owned tract was subject to a lease agreement before December 23, 2008, then base acres on that tract will not be terminated until the lease expires. Upon expiration of the lease, base acres on the Federally-owned tract shall be terminated according to 3-CM, paragraph 170.

If the original lease executed before December 23, 2008, contained an option to extend the terms of the lease, base acres on the Federally-owned tract shall terminate at the expiration of the original lease that was executed before December 23, 2008, regardless of any exercise of any option to extend the terms that occurred on or after December 23, 2008.

If the original lease has expired and contained a renewal option that was exercised, the renewal option must have been exercised before December 23, 2008, to retain the exception.

Reminder: Base acres must exist on a farm participating in DCP until the end of the contract period. Because of this rule, base acres must be terminated on a farm before the end of the contract period and that farm's DCP contract must be terminated effective with the date of base acre termination.

C Documentation

Until a new form is developed and released, County Office employees shall use CCC-505 as documentation of the termination of base acres. The requestor's and owner's signatures are not required and shall not be requested (Items 15A through D). For the purposes of this notice only, CCC-505, Item 16 shall include the statement, "Base acres on Federally-owned land terminated on this tract as required by Notice DCP-204."

D Notification

Owners and operators of Federally-owned land shall be informed of the termination of base acres on the tract. See Exhibit 1 for an example letter.

2 Terminating Base Acres on Federally-Owned Land (Continued)

E Transfer of Ownership

Base acres will not be re-established on Federally-owned land if ownership is transferred to private or other non Federal ownership.

F State Owned Land

The provisions of this notice do not apply to land owned by States or State entities.

3 Examples of Terminating Base Acres on Federally-Owned Land

A Overview

The following examples show 3 leasing examples involving the termination of base acres on Federally-owned land.

B Example 1

FSN 777
50.0 base acres
Owner: Farm Service Agency

This farm is held in inventory by FSA and is not under lease.

Determination: Because this farm is Federally-owned and does not meet the leasing exception, base acres on this farm shall be terminated immediately.

C Example 2

FSN 1302
100.0 base acres
Owner: US Army Corps of Engineers

Sherwood Forest executed a lease with the Corps of Engineers on January 1, 2008. The lease expired on December 31, 2008. There are no renewal options.

Determination: This farm meets the leasing exception; however, base acres are terminated on January 1, 2009, after the expiration date of the lease. If enrolled before the lease expires, CCC-509 must be terminated because of a change in contract acreage.

3 Examples of Terminating Base Acres on Federally-Owned Land (Continued)

C Example 3

FSN 1701

75.0 base acres

Owner: US Fish and Wildlife Service

Dominique Frederick executed a 3-year lease containing two 3-year renewal options with the US Fish and Wildlife Service on January 1, 2004. On December 31, 2006, Dominique exercised an option to renew the lease through December 31, 2009.

Determination: This farm meets the leasing exception. Because the renewal option was exercised before December 23, 2008, the base acres for this farm will be terminated on January 1, 2010.

4 Farms Having Federally-Owned Land Subject to Base Acre Termination

A Prohibitions

To comply with the rule, if it is determined that farms have Federally-owned land that is subject to base acre termination according to this notice, the termination of the base acres must be implemented before any of the following can occur:

- action on any application or offer to contract base acres on the farm
- there is any reconstitution of the Federally-owned land.

Notes: In the event that a change in land ownership occurs whereby land having base acres later becomes Federally-owned, base acre termination may have to be implemented immediately upon acquisition depending upon factors or circumstances that may not be known until the acquisition occurs. Forthcoming instructions will be issued concerning these situations. In the meantime, if an FSA office learns that land having base acres is acquired by Federal ownership, offices should notify PECD, through the State Office, about the acquisition.

CCC-517 shall **not** apply or be used after December 23, 2008, on farms that have Federally-owned land after December 23, 2008.

5 Action

A State Office Action

SED's and State Office specialists shall ensure that the policies and procedures outlined in this notice are implemented by County Office employees.

B County Office Action

County Office employees shall:

- review leases on Federally-owned land to determine the date that base acres on the tract must be terminated
- terminate base acres on Federally-owned land immediately if the tract is not under lease
- use the letter in Exhibit 1 as a guide to notify owners, operators, and all producers of record at the time of base acre termination of revised base acres and yields for the farm.

Example Base Acre Termination Letter

D. Boot Jones
3 Littleton Road
Somewhere, NV 12345

Date:
Farm Serial Number:

Dear Mr. Jones:

This letter advises you that the farm serial number notated on this letter has been identified as a farm having Federally-owned land.

Regulations effective on December 23, 2008, at 7 CFR Part 1412 (73 FR 79284, December 29, 2008), provide that for the 2009 and subsequent crop years, base acres will not be established with respect to land owned by Federal agencies and any base acres previously established with respect to such land will be terminated.

An exception applies to Federally-owned land that was subject to a lease agreement entered into prior to December 23, 2008. Upon expiration of a lease entered into before December 23, 2008, all base acres established with respect to Federally-owned land will be terminated. To the extent a lease contains an option to extend the terms of the lease, base acres will be terminated as of the date the original lease (executed before December 23, 2008) would expire without regard to any exercise of such an option.

A review of this farm's records indicates that base acres must be terminated.

If you or any producer to which a copy of this notice is being sent believes that we have improperly determined that this farm is subject to termination of base acres, you may appeal this determination and notice to the County Committee by filing a written request no later than 30 days after you receive this notice in accordance with the FSA appeal procedures found at 7 CFR Part 780. If you appeal this determination to the County Committee, you may later appeal an adverse determination of the County Committee to the FSA State Committee or the National Appeals Division. To appeal, please contact the County Committee, in writing, at the following address and explain why you believe this determination is erroneous.

(Insert COC address)

Sincerely,

Lucas Farmer
County Executive Director

cc: *(Insert each name of all owners, operator, or producer of the farm receiving this notice)*