

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct and Counter-Cyclical Program and
Average Crop Revenue Election for 2009
and Subsequent Crop Years
1-DCP (Revision 3)**

Amendment 19

Approved by: Acting Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 405 E has been amended to include a reference to paragraph 445.5.

Subparagraph 470 E has been amended to clarify that cover only, foraging, green manure, grazing, left standing, and silage may be considered destroyed if the provisions of this subparagraph are met.

Subparagraph 510 C has been amended to make the policy in this subparagraph applicable to all years, not just 2010.

Page Control Chart		
TC	Text	Exhibit
	6-177, 6-178 8-7, 8-8 9-11, 9-12	

405 Finality and Types of Relief Applicable to DCP and ACRE (Continued)

E Program Relief

In individual circumstances or cases, under 7 CFR 1412.2, DAFP has the authority to allow STC's and COC's to waive or modify deadlines, except statutory deadlines and basic contract law provisions such as the end of a contract period, and other nonstatutory requirements where DAFP determines the lateness or failure to meet the requirement not adverse to the operation of the program. The regulations specify that producers have no "right" to seek an exception under this provision. At FSA's discretion, FSA may (but does not have to) consider the matter.

***--Note:** See paragraph 445.5.--*

Example: An individual was involved in an automobile accident and suffered short-term memory loss that was documented by a physician. When COC disapproved CCC-509 as being late-filed, COC recognized what it believed were extenuating circumstances and recommended that relief be granted to approve the late-filed enrollment. In turn, STC referred the case to DAFP for consideration.

Result: DAFP approved the case because it was determined that circumstances warranted that action and the relief approved did not give the producer any unfair advantage over others who met the program requirements.

Example: FSA learns of a producer who had an interest in base acres on a farm but did not sign the DCP contract and did not receive a share of DCP payments.

Result: Depending on when the error was first discovered and why, and assuming no other factors such as misinformation or misaction on the part of FSA, DAFP may, at its discretion, grant program relief to producers on CCC-509 as follows.

- Allow timely entered signatures of producers to retain and continue to receive payments based on corrected shares if it can be determined that those who did timely sign did not intentionally misrepresent themselves. FSA will not authorize and not issue payments to the shares not represented by a timely signature, if the share is represented by either a missing signature or a signature for the producer share in discrepancy is entered after the contract period elapsed (September 30).

Note: In instances where a person or legal entity has not signed CCC-509, that person or legal entity is not entitled to any sort of agency decision, eligibility decision, or relief decision, and that person or legal entity has no standing to contest or challenge any decision of FSA because the person or legal entity has made no application or requested a decision from FSA. See 1-APP, paragraph 10.

- If it can be determined that there was no intentional misrepresentation by any of the producers, provided there was a timely submitted CCC-509, allow producers to sign a corrected CCC-509 by the end of the contract period with correct shares and have payments recomputed.

--405 Finality and Types of Relief Applicable to DCP and ACRE (Continued)*F Base Restoration**

Base restorations, except for statutory restorations, are limited to the adjustments shown in this subparagraph. Base adjustments needed during CLU certification are no longer authorized as all CLU's have been certified.

Statutory allowed base adjustments are:

- CRP entered into Section 1231 of the Food Security Act of 1985 with respect to the farm expires or is voluntarily terminated, or was terminated or expired during the period beginning on October 1, 2007, and ending on the date of enactment of the Food Security Act of 1985
- cropland is released from coverage under a conservation reserve contract by the Secretary, or was released during the period beginning on October 1, 2007, and ending on the date of enactment of the Food Security Act of 1985
- eligible pulse crop acreage
- eligible oilseed acreage, if the Secretary designates additional oilseeds.

Example: A County Office employee realized an improper base reduction was entered into the Farm Records Management System.

Result: DAFP may authorize restoration of the base acres as a result of the documentation submitted.--*

406-424 (Reserved)

470 Compliance Determinations (Continued)

E Destruction of Nonperennial FAV's and Wild Rice Before Harvest

Nonperennial FAV's and wild rice planted on base acres enrolled in DCP or the ACRE Program that are destroyed without benefit before harvest shall **not** be considered a violation nor shall payments for the farm be reduced for such plantings, if **all** of the following are met:

- producer notifies COC the commodity has been or will be destroyed without benefit **before** harvest
- COC conducts a paid-for farm visit and verifies that the commodity was destroyed without benefit **before** harvest
- producer revises FSA-578 to record the acres remaining for harvest according to 2-CP.

Unless the destruction of the commodity is verified with a paid-for farm visit, COC shall consider FAV and wild rice harvested for compliance and payment reduction purposes.

***--Important:** Cover only, foraging, green manure, grazing, left standing, and silage may be--* considered destroyed.

Example 1: FSN 25 has 225 acres of cropland with the following:

- 80 acres of wheat base acres
- 80 acres of corn base acres
- 40 acres of soybean base acres.

Neither the farm nor the producer has a history of planting FAV's or wild rice.

Joe Brown enrolls all 200 base acres in FY 2009 DCP. Mr. Brown plants 198 acres of soybeans and 27 acres of potatoes. Mr. Brown notifies COC that 2 acres of potatoes have been destroyed without benefit before harvest and pays for a COC farm visit to verify the destruction.

COC conducts a paid-for farm visit, and verifies that 2 acres of potatoes were destroyed without benefit before harvest. Mr. Brown revises FSA-578 to indicate 25 acres of potatoes planted.

In this example, there is no violation. The FY 2009 payments for the farm are not affected by the 2 acres of destroyed potatoes on base acres.

470 Compliance Determinations (Continued)

E Destruction of Nonperennial FAV's and Wild Rice Before Harvest (Continued)

Example 2: FSN 365 has 225 acres of cropland with the following:

- 80 acres of wheat base acres
- 80 acres of corn base acres
- 40 acres of soybean base acres.

Neither the farm nor the producer has a history of planting FAV's or wild rice.

Mary White enrolls all 200 acres of base acres in FY 2009. Mrs. White plants 195 acres of corn and 30 acres of cucumbers. Mrs. White notifies COC that 5 acres of cucumbers have been destroyed before harvest and pays for a COC farm visit to verify destruction.

COC conducts a paid-for farm visit; however, it **cannot** verify that 5 acres of cucumbers were destroyed before harvest. Mrs. White is in violation. COC shall **not** modify FSA-578 for farm 365. COC shall handle the 5-acre FAV violation according to 4-CP.

510 Establishing Benchmark Farm Yields and FSA-658 Signature Requirements**A Reporting Requirement**

For farms that are participating in the ACRE Program, a benchmark farm yield is **required** for any covered commodity or peanuts planted on the farm in the specific crop year. One of the following persons shall file FSA-658 for the farm to compute the benchmark farm yield:

- farm operator
- farm owner
- tenants and share-croppers, but only for crop production for which the person has a share.

All production from covered commodities and/or peanuts on the farm must be certified.

B Reporting Requirement Deadline

For the initial year of participation in the ACRE Program, production to compute the benchmark farm yield must be reported by July 15 of the subsequent crop year.

C Signature Requirement for FSA-658

As a general rule, FSA-658's shall be signed every year. For benchmark FSA-658's, where information is carried over from 1 year to the next, a producer's signature on FSA-685 is **not** required; however, software may require entering a date. In that case, use the date of the most recent CCC-658, for either benchmark or actual farm yield. See the table in subparagraph D for examples.

--For any year's signatories, if because of policy changes or late release of software a-- signature is **not** obtained, the producer is allowed sufficient time to sign FSA-658, but before an ACRE-ACRE payment is made on the farm.

***--510 Establishing Benchmark Farm Yields and FSA-658 Signature Requirements**

D Examples of FSA Signature Requirements

The following table provides 2010 year examples of when to obtain signatures on CCC-658.

2009 Farm Constitution	2009 Crops Planted	2010 Farm Constitution	2010 Crops Planted	Must producer complete 2010 FSA-658?		Must producer sign 2010 FSA-658?	
				Benchmark	Current Year	Benchmark	Current Year
FSN 123, Tract 1	Corn and Soybeans	FSN 123, Tract 1	Corn and Soybeans	No	Yes, all crops.	N/A	Yes, all crops.
FSN 123, Tract 1	Corn and Soybeans	FSN 123, Tract 1	Corn, Soybeans, and Wheat	No, corn and soybeans; yes, wheat.	Yes, all crops.	N/A, corn and soybeans; yes, wheat.	Yes, all crops.
FSN 125, Tracts 1 and 2	Corn and Soybeans	FSN 1000, Tract 1	Corn and Soybeans	No	Yes, all crops.	N/A	Yes, all crops.
		FSN 1001, Tract 2	Corn and Soybeans	No	Yes, all crops.	N/A	Yes, all crops.
FSN 125, Tracts 1 and 2	Corn and Soybeans	FSN 1000, Tract 1	Corn, Soybeans, and Wheat	No, corn and soybeans; yes, wheat.	Yes, all crops.	N/A, corn and soybeans; yes, wheat.	Yes, all crops.
		FSN 1001, Tract 2	Corn and Soybeans	No	Yes, all crops.	N/A	Yes, all crops.
FSN 130, Tract 3	Wheat and Barley	FSN 1100, Tracts 3, 4, and 5	Wheat and Sunflowers	No, wheat; yes, sunflowers.	Yes, all crops.	N/A, wheat; yes, sunflowers	Yes, all crops.
FSN 135, Tracts 4 and 5	Wheat and Canola						
FSN 140, Tract 6	Corn and Soybeans	FSN 1200 Tracts 6 and 7. Before combination, FSN 145 made the ACRE election and established benchmark farm yields.	Corn and Soybeans	Yes, all crops.	Yes, all crops.	Yes, all crops.	Yes, all crops.
FSN 145 (non-ACRE farm), Tract 7	Corn and Soybeans						

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