

For: State and County Offices

Announcing 2008 DCP and Availability of Software

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

The Food, Conservation, and Energy Act of 2008 (2008 Act) was enacted into law on May 22, 2008. The 2008 Act provides for continuing DCP for 2008 through 2012.

Federal regulations, and program policies and procedures, are currently being drafted and developed, and will be finalized over the next several months.

B Purpose

This notice:

- announces the 2008 DCP enrollment period
- outlines provisions that differentiate 2007 DCP from 2008 DCP
- provides that revised CCC-509, dated June 20, 2008, (Exhibit 1) and CCC-509 Appendix, dated June 20, 2008, (Exhibit 2) to be used for 2008 DCP signup, are available at <http://165.221.16.90/dam/ffasforms/forms.html>.

Disposal Date	Distribution
November 1, 2008	State Offices; State Offices relay to County Offices

Notice DCP-188

2 2008 DCP Provisions

A Beginning Date

The 2008 DCP signup period will start **June 25, 2008**, and will end **September 30, 2008**.

B Changes From the 2002 Act

The 2008 DCP shall be administered exactly like the 2007 DCP, **except** that a producer on a farm may **not** receive direct or counter-cyclical payments if the sum of the base acres on the farm is 10 acres or less with exceptions. This provision and others are discussed as follows.

Note: 1-DCP will be revised to incorporate 2008 Act changes.

- Generally, farms that have 10 base acres or less shall **not** receive direct or counter-cyclical payments **unless** that farm is wholly owned by socially disadvantaged or limited resource farmers or ranchers, as follows:
 - a socially disadvantaged farmer or rancher is a farmer or rancher who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities
 - a limited resource farmer or rancher is a farmer or rancher who meets **both** of the following:
 - directly or indirectly has gross farm sales not more than \$100,000 in both of the previous 2 years (the limit is increased annually beginning in 2004 to adjust for inflation using the Prices Paid by Farmer Index compiled by NASS)
 - has a total household income at or below the national poverty level for a family of 4, or less than 50 percent of county median household income in **both** of the previous 2 years (to be determined annually using Commerce Department Data).
- **Note:** Limited Resource Producer status can be determined in an automated system using the USDA Limited Resource Farmer and Rancher Online Self Determination Tool at <http://www.lrftool.sc.egov.usda.gov/tool.asp>. The automated system calculates and displays the adjusted gross farm sales per year and the higher of the national poverty level or county median household income.
- A producer on a farm may **not** receive direct or counter-cyclical payments if the sum of the base acres of the farm is 10 acres or less, **unless** 1 of the following exceptions is met:
 - the farm is wholly owned by a socially disadvantaged farmer or rancher
 - the farm is wholly owned by a limited resource farmer or rancher.
- If an advance counter-cyclical payment is offered, producers will receive **only** 1 advance payment that will be issued as soon as practical after completion of the first 180 calendar days of the marketing year.

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2 2008 DCP Provisions (Continued)

C 2008 Average Adjusted Gross Income (AGI) Provisions

Each participant receiving a payment **must** have a current certification of AGI or CCC-526 on file. For 2008 DCP only, a producer, by acknowledging receipt of CCC-509 Appendix, subparagraph 3 I, dated June 20, 2008, will certify that there has not been a material change in the producer's AGI that would affect eligibility. However, if changes have occurred in the farming, ranching, or forestry operation that would affect the financial status of the producer, the producer **must** complete a revised CCC-526, dated June 12, 2008.

The \$2.5 million AGI limitation that applied to the 2007 DCP contract will also apply to the 2008 contract.

D 2008 Direct DCP Payments

The 2008 advance Direct DCP payments will be issued, if requested, as soon as practical after contract approval. The final Direct DCP payments will be issued in October 2008.

E New FSA-211 or Other Power of Attorney Required for 2008 DCP

Producers and landowners (grantors) who previously executed FSA-211 or other Power of Attorney, authorizing an attorney-in-fact to act on their behalf for anything other than “**all current and future programs**”, will need to execute a new FSA-211 or other Power of Attorney. Ensure that the new FSA-211 or other Power of Attorney is executed according to 1-CM, paragraph 728 and Exhibit 60, **before** accepting attorney-in-fact signatures on any 2008 DCP documents.

F 2008 DCP Contract Software

Follow 1-DCP, Part 15 for instructions on using the web-based DCP contract software. The software can be accessed at <https://indianocean.sc.egov.usda.gov/DCP/index.jsp>.

Allow producers to select a direct payment advance date of July 2008 or later.

3 Action

A State Office Action

State Offices shall ensure that County Offices:

- are aware of the provisions of this notice
- publicize this information in all available media outlets.

B County Office Action

County Offices shall use:

- all available means to notify producers of the provisions of this notice
- CCC-509 (06-20-08)
- CCC-509 Appendix (06-20-08).

Example CCC-509 (06-20-08)

Following is an example CCC-509 (06-20-08). All items, except signature boxes and items 13 B through 13 D, are populated in the automated contract software. Items 13 B, C, D, and 15 A and B must be completed (as they pertain to farms that have 10.0 base acres or less) by owners if:

- the farm has 10.0 base acres or less
- that owner is an individual and is a socially disadvantaged or limited resource farmer or rancher
- that owner is an entity and all members of the entity are socially disadvantaged or limited resource farmers or ranchers
- the participant on the contract wishes to receive benefits.

A forthcoming 3-PL amendment will inform State and County Offices how to load socially disadvantaged and limited resource farmers and ranchers into the web-based eligibility system.

Example CCC-509 (06-20-08) (Continued)

This form is available electronically.

CCC-509 (06-20-08)	U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation 2008 DIRECT AND COUNTER-CYCLICAL PROGRAM CONTRACT	1. PROGRAM YEAR: 2008 2A. COUNTY FSA OFFICE NAME AND ADDRESS (Including Zip Code) COAHOMA COUNTY FARM SERVICE AGENCY 2655 N STATE ST. ROOM 101 CLARKSDALE, MS 38614-6246 2B. COUNTY OFFICE TELEPHONE NUMBER (Including Area Code) (662) 624-8727x2 FAX (662) 627-5598 3. STATE CODE 4. COUNTY CODE 5. FARM NUMBER 28 027 406																																												
<p>NOTE: The authority for collecting the following information is the Food, Conservation, and Energy Act of 2008. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p>																																														
<p><i>The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the following information is the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in denial of program benefits. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. RETURN THE COMPLETED FORM TO THE FSA COUNTY OFFICE.</i></p>																																														
<p>THIS CONTRACT TO PARTICIPATE is entered into between the Commodity Credit Corporation (CCC) and the undersigned producers on the farm identified above for the commodities identified in Item 6. The terms and conditions of the direct and counter-cyclical program contract and average Adjusted Gross Income Provisions are contained in the CCC-509 Appendix (06-20-08), entitled "Appendix to Form CCC-509, "2008 Direct and Counter-Cyclical Program Contract", and the Regulations in 7 CFR Part 1412 as they applied to 2007 crops. By signing this contract, the undersigned producers on the farm identified in Item 5 are participating in the Direct and Counter-Cyclical Program for the commodities identified in Item 6. By signing this contract, producers: (1) acknowledge receipt of the CCC-509 Appendix (06-20-08), and agree to abide by the terms contained therein, and (2) agree to comply with the regulations governing the applicable program and payment eligibility and limitation provisions; and certify to the accuracy of the information set out on this form.</p>																																														
<p>Items 6 through 9 details the commodity, base acres, and yields for the farm in Item 5.</p> <table border="1" style="width:100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th rowspan="2">6. Commodity</th> <th rowspan="2">7. Base Acres</th> <th rowspan="2">8. Payment Acres</th> <th colspan="2">9. Payment Yield</th> <th rowspan="2">6. Commodity</th> <th rowspan="2">7. Base Acres</th> <th rowspan="2">8. Payment Acres</th> <th colspan="2">9. Payment Yield</th> </tr> <tr> <th>A. Direct</th> <th>B. Counter-Cyclical</th> <th>A. Direct</th> <th>B. Counter-Cyclical</th> </tr> </thead> <tbody> <tr> <td>Wheat</td> <td>29.8</td> <td>25.3</td> <td>33</td> <td>33</td> <td>Upland Cotton</td> <td>192.6</td> <td>163.7</td> <td>674</td> <td>674</td> </tr> <tr> <td>Grain Sorghum</td> <td>52.8</td> <td>44.9</td> <td>44</td> <td>44</td> <td>Soybeans</td> <td>188.7</td> <td>160.4</td> <td>27</td> <td>27</td> </tr> <tr> <td> </td> </tr> </tbody> </table>			6. Commodity	7. Base Acres	8. Payment Acres	9. Payment Yield		6. Commodity	7. Base Acres	8. Payment Acres	9. Payment Yield		A. Direct	B. Counter-Cyclical	A. Direct	B. Counter-Cyclical	Wheat	29.8	25.3	33	33	Upland Cotton	192.6	163.7	674	674	Grain Sorghum	52.8	44.9	44	44	Soybeans	188.7	160.4	27	27										
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FOR FSA USE ONLY																																														
16A. SIGNATURE OF CCC REPRESENTATIVE		16B. DATE (MM-DD-YYYY)																																												
17. REMARKS																																														

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

Example CCC-509 (06-20-08) (Continued)

CCC-509 (06-20-08)		Page 2			
1. PROGRAM YEAR:		3. STATE CODE	4. COUNTY CODE	5. FARM NUMBER	
CONTINUATION OF OWNERS OR PRODUCER'S CROP INFORMATION (From Page 1)					
10. Owner or Producer's Name and Address (Including Zip Code): Identification Number (Last 4 Digits):		11. Commodity	12. Payment Share	11. Commodity	12. Payment Share
13A. Refused Payment Information: <input type="checkbox"/> All Direct Payments are Refused <input type="checkbox"/> All Counter-Cyclical Payments are Refused		13B. Item 10 identifies an owner who is: <input type="checkbox"/> Socially Disadvantaged Farmer or Rancher <input type="checkbox"/> Limited Resource Farmer or Rancher <i>(See CCC-509 Appendix for definitions)</i>		13C. Producer's Initials	
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Example CCC-509 Appendix (06-20-08)

Following is an example of CCC-509 Appendix (6-20-08).

This form is available electronically.

See last page for Privacy Act Statement.

CCC-509 Appendix
(06-20-08)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

APPENDIX TO FORM CCC-509, 2008 DIRECT and COUNTER-CYCLICAL PROGRAM CONTRACT

NOTE: The authority for collecting the information on form CCC-509 is the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). That authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

1 PURPOSE

This Appendix sets forth additional terms and conditions of a 2008 Direct and Counter-Cyclical Program Contract (CCC-509). A producer who signs the Direct and Counter-Cyclical Program Contract agrees to follow the terms and conditions contained in this CCC-509 Appendix, and acknowledges the applicability of any provisions of the federal regulations applicable to the contract including those found at 7 CFR Parts 12, 718, and the regulations at Parts 1400 and 1412 as they applied to the 2007 crops. This Appendix applies to crop year 2008 only.

2 DEFINITIONS

- A Producer** means an owner, operator, landlord, tenant, or sharecropper who *shares in the risk of producing a crop* and is *entitled to share in crop available for marketing* from the farm, or would have shared had the crop been produced. In determining whether a grower using hybrid seed, under contract, to produce a covered commodity or peanuts is eligible for a program payment to which contract applies, the CCC shall ignore the contract with the seed producer and allow the payment to the grower of the crop produced from the seed. The preceding sentence shall only apply, however, if the grower of the crop produced from the seed would, but for the contract, be eligible to be considered a producer of the crop.
- B Base Acres** means the number of acres for the covered commodity on the farm specified on the contract (CCC-509). Base acres may be increased if a Conservation Reserve Program contract applicable to the farm expires or is voluntarily terminated. The adjustment in the base acres of a crop, if any, will be determined by the Secretary of Agriculture.
- C Covered Commodity** means wheat; corn; grain sorghum; barley; oats; upland cotton; long grain rice; medium grain rice; pulse crops; sesame; soybeans; canola; crambe; flax; mustard; rapeseed; safflower; sunflowers; or other oilseeds, if any, as determined by the Secretary of Agriculture. In addition, for purposes of this Appendix for the Contract (CCC-509), peanuts shall be considered to be a "covered commodity."
- D Dry Peas** means Austrian, wrinkled seed, yellow, Umatilla, and green, excluding peas grown for the fresh, canning, or frozen markets.
- E Pulse Crops** means dry peas, lentils, small chickpeas (Desi Garbanzo beans), and large chickpeas (Kabuli Garbanzo beans).
- F Medium Grain Rice** includes short grain rice.
- G All words and phrases** have the meanings assigned to them in the regulations found at 7 CFR Part 718 and the regulations at Parts 1400 and 1412 as they applied to the 2007 crops.

Example CCC-509 Appendix (06-20-08) (Continued)

CCC-509 Appendix (06-20-08)

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3 CONTRACT

By signing CCC-509 the owners and producers on a farm understand and agree that:

- A Only a "producer", as defined in item 2A of this appendix, is entitled to earn direct or counter-cyclical payments. The payment shares for each commodity, as identified on CCC-509, must be representative of each producer's interest in base acres based on farming practices in the area to the satisfaction of the County FSA Committee.
- B The payment shares for a producer may not exceed the producer's applicable interest in base acres;
- C CCC-509 becomes effective when signed by an authorized representative of CCC; however, the contract period is from October 1, 2007 through October 15, 2008 for crop year 2008 represented by the CCC-509. Producers signing CCC-509 are representing compliance with the terms and conditions of the CCC-509 Appendix and federal regulations for the entire contract period;
- D At any time prior to September 30 of the crop year covered by this contract, the contract may be terminated upon written agreement of all producers receiving payment under the contract and, if applicable, each producer shall repay advance direct payments received for the crop year, plus interest;
- E The payments, with respect to the base acres shall be terminated for a producer or owner whose interest in the crops or land on the farm is transferred, in which case each applicable producer shall repay payments received for the crop year and shall not be entitled to earn direct payments or counter-cyclical payments with respect to the farm. The transferee may assume the obligation of the contract if the transferee is otherwise eligible to participate in the program by entering into a revised contract during the period of time prescribed by CCC. In the event a succession-in-interest occurs and the contract obligation is not assumed timely for the crop year, all producers on the contract shall refund to CCC payments received for the crop year in which the succession occurred, plus interest and the farm will be considered not enrolled for that crop year;
- F Changes in the farming operation that may affect any determination after the Direct and Counter-Cyclical Program contract is signed, including, but not limited to, ownership changes, producer changes, or changes in the crop share arrangements on the farm, shall be reported to CCC by all applicable producers signing a revised CCC-509 to reflect the change no later than September 30 of the contract period. The failure of producers to timely report changes and file a revised CCC-509 may result in the loss of payments for all producers on the farm for the crop year covered by the contract. In such event, all producers on the contract shall refund to CCC payments received for the crop year, plus interest and the farm will be considered not enrolled for that crop year;
- G A completed farm reconstitution to divide or combine farms effective for the 2008 crop year shall result in the termination of the contract and, with respect to the base acreage assigned by the Secretary to the resulting farms of a reconstitution, the farm producers must enroll the base acres for a crop year by signing a new Direct and Counter-Cyclical Program Contract (CCC-509) for the resulting farm, by the later of 30 days after notification of the bases and yields of the resulting farm. Producers and owners must sign CCC-509 on or before September 30 of the contract period. The failure of producers and owners to timely enroll the base acres may result in the loss of payments for all producers on the original or new farm for the crop year;
- H Producers will timely file in the manner prescribed by CCC with the County Committee the following, and agree to meet any other certification or filing requirements, as may be required by CCC, if not already on file:
 - (1) A certification of the acreage of all cropland on the farm in accordance with 7 CFR Part 718; and

Example CCC-509 Appendix (06-20-08) (Continued)

CCC-509 Appendix (06-20-08)

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- (2) A farm operating plan in accordance with 7 CFR Part 1400; and
 - (3) A certification of compliance with the highly erodible land and wetland conservation provisions set forth in 7 CFR Part 12.
- I No monies shall be due under this agreement for 2008 crops to any producer whose average adjusted gross income, as specified on the IRS Form 1040 (or other form, as applicable) for the three tax years 2005, 2006 and 2007, was greater than \$2.5 million, unless at least 75 percent or more of such adjusted gross income (AGI) was from farming, ranching, or forestry. This same limit applied to the 2007 crop, based on the AGI average for the three tax years 2004, 2005 and 2006 and producers established their qualifying average adjusted gross income for the 2007 crops by having on file a CCC-526 containing the appropriate certifications for that crop. By filing this agreement (this CCC-509) the producer, unless the next sentence applies, certifies that all assertions made to qualify for the 2007 crop on the CCC-526 are accurate and would also be so if applied to the 2008 crop using the three tax years applicable to the 2008 crop, namely, tax years 2005, 2006 and 2007; that is, the producer certifies, unless the next sentence applies, that there has not been, taking into account the rolling nature of the three year average, a material change in the producer's eligibility for payments under this program. If there has been a change, the producer must file with this CCC-509 a CCC-526 for the 2008 crop year, which would cover the 2005, 2006 and 2007 tax years.
- J Violations of the highly erodible land and wetland conservation provisions of 7 CFR Part 12 may result, at CCC's discretion, in termination of the payments with respect to each producer in violation or a reduction in the contract payment. Upon termination, each producer shall forfeit all rights to receive contract payments on each farm in which the producer has an interest and shall refund to CCC all contract payments received by such producer during the period of violation, plus interest;
- K The provisions of 7 CFR Part 1400 relating to "per person" payment limits and payment eligibility requirements are applicable to this contract as indicated by such regulation. The payment limitation per person for 2008 is \$40,000 for direct payments for covered commodities and peanuts and \$65,000 for counter-cyclical payments for covered commodities and peanuts. Each producer determined by CCC to have adopted a scheme or device designed to evade, or which has the effect of evading such regulations, must refund any contract payment, marketing loan gain, or loan deficiency payment and any other applicable payment received on all farms in which such producer has an interest and shall be ineligible for such payments for the following fiscal year;
- L The regulations at 7 CFR Parts 12, 718, and the regulations at Parts 1400 and 1412 as they applied to the 2007 crops are incorporated by reference as part of this contract;
- M Representatives of CCC may enter the farm to determine if the producers are in compliance with this contract;
- N The base acres must be devoted to an agricultural or related use;
- O Payments are subject to the availability of funds and to limits on payments as may be provided for in the program regulations;

Example CCC-509 Appendix (06-20-08) (Continued)

CCC-509 Appendix (06-20-08)

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P Generally, no producer on a farm that has a total of 10 base acres or less shall be eligible to receive payments on that farm, as determined by the Secretary. However, such a prohibition does not apply to a farm that is wholly owned by a socially disadvantaged or limited resource farmer or rancher. If the farm is owned by a legal entity, such as a corporation, each member of the entity must be a socially disadvantaged or limited resource farmer or rancher. Socially disadvantaged farmers and rancher and limited resource farmers and ranchers are defined as:

- (1) Socially disadvantaged farmer or rancher: a farmer or rancher who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of group without regard to their individual qualities.
- (2) Limited resource farmer or rancher: a farmer or rancher meets both of the following:
 - (a) directly or indirectly has gross farm sales not more than \$100,000 in both of the previous 2 years (to be increased starting in FY 2004 to adjust for inflation using Prices Paid by Farmer Index as compiled by NASS); and
 - (b) total household income at or below the national poverty level for a family of 4, or less than 50 percent of county median household income in both of the previous 2 years (to be determined annually using Commerce Department Data).

A limited resource farmer or rancher can be determined using the website for USDA Limited Resource Farmer and Rancher Online Self Determination Tool at <http://www.lrfstool.sc.egov.usda.gov/tool.asp>;

Q Owners of land that contains rice DCP base acres shall apportion their rice base acres to long grain rice or medium grain rice according to Section 1108 of the Food, Conservation, and Energy Act of 2008 prior to the date an advance rice counter-cyclical payment is issued. For the purpose of this apportionment, medium grain rice includes short grain rice;

R Calculations provided for in this Appendix shall be made by farm, as provided for in the program contract (Form CCC-509) and each farm must have a separate CCC-509 on file for any farm from which a producer wants to generate payments. All payments are subject to the availability of funds and compliance with all applicable laws and regulations. A separate CCC-509 is required for each program year for each farm, from which a producer seeks to generate payment and calculations for each program year will be made separately. There may only be one CCC-509 from any farm from any program year – that is, all producers on the farm must for each program year, file a CCC-509.

4 PLANTING FLEXIBILITY PROVISION

A Producers may plant that part of their cropland in excess of the total base acres on the farm to any commodity. For that part of the cropland equal to the eligible base acres, the producer shall be subject to the restrictions set out below. The producer's total base acres on the farm for all covered commodities can never exceed the amount equal to the currently available cropland on the farm minus that amount of that cropland which is (1) in the Department's Conservation Reserve Program; (2) in the Department's Wetland Reserve Program; or (3) enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

B The planting of fruits (including nuts), vegetables (other than mung beans and pulse crops) or wild rice on base acres on the farm is prohibited and shall result in a violation of the terms of this contract unless one of the following exceptions are met:

- (1) The fruit (including nuts), vegetable or wild rice is planted in a double-cropping practice with a covered commodity or peanuts, as determined by the county committee, in any region designated by CCC in the regulations at 7 CFR Part 1412 as they applied to 2007 crops as having a history of double-cropping covered commodities or peanuts with fruits, vegetables or wild rice, in which case there is no contract violation or reduction in DCP payments;

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- (2) The fruit (including nuts), vegetable or wild rice is planted on a farm that has an established history of planting fruits, vegetables or wild rice, as determined by the county committee, in which case there is no contract violation; however, DCP payment acres shall be reduced by an acre for each acre of base acres planted to a fruit (including nuts), vegetable (other than mung beans and pulse crops) or wild rice; or
 - (3) The producer(s) with an interest in the specific fruit (including nuts), vegetable or wild rice planted has an established history of planting the specific fruit, vegetable or wild rice, and the plantings on base acres do not exceed the producer's average annual planting history for the specific fruit, vegetable or wild rice for either the 1991 through 1995 crop years or the 1998 through 2001 crop years, but not both, as selected by the producer, in which case there is no contract violation; however, DCP payment acres shall be reduced by an acre for each acre of base acreage planted to a fruit (including nuts), vegetable (other than mung beans and pulse crops) or wild rice. When calculating a producer's average annual planting history, all years in which the producer did not plant the specific fruit, vegetable or wild rice, as applicable, shall be excluded.
- C Failure to comply with the fruit, vegetable and wild rice provisions of this section may result in the termination of the contract or a reduction in the DCP payments, at CCC's discretion.
- D Producers shall protect base acreage from erosion and shall control weeds, including noxious weeds, on base acres.

5 2008 DIRECT PAYMENTS

- A The direct payment for each covered commodity will be computed by multiplying: (1) 85 percent of the covered commodity's base acres (the results of which is indicated by the payment acres in Column 8 of CCC-509), by (2) the program payment yield (identified in column 9 A of CCC-509), by (3) the payment rate for the covered commodity (identified in Item 10 of this appendix), by (4) the producer's share of the covered commodity (identified in column 12 of CCC-509).
- B CCC will make advance payments available to producers who request such an advance by multiplying the payment amount determined in paragraph A of this section by 22 percent for contracts enrolled for the 2008 program year. Such payments may be made as soon as practical after contract approval through September of the contract period.
- C A producer must refund to CCC any payment which exceeds the amount actually earned under this contract, including the refund of unearned payments for a crop year resulting from another owner or producer assuming an interest in the base acres for the crop year. Interest on such refunds shall be assessed in accordance with 7 CFR Part 1403 and will accrue from the date of disbursement. In the event a succession-in-interest is timely reported on a revised CCC-509, interest on refunds from predecessors is not charged if such refund is made by September 30, 2008.
- D A final payment for the crop year will be made to producers as soon as practicable after October 1 of the crop year in which the crop is normally harvested.

6 2008 COUNTER-CYCLICAL PAYMENTS

- A Counter-cyclical payments are authorized for a covered commodity when the effective price for the commodity is less than the target price of the commodity. The effective price for a covered commodity is equal to the sum of (1) the higher of the national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary, or the national average loan rate for the commodity, as found in the regulations at 7 CFR Part 1412 as they applied to the 2007 crops, as applicable, and (2) the direct payment rate for the covered commodity, as provided at 7 CFR Part 1412 as they applied to the 2007 crops.
- B The counter-cyclical payment, if any, for each covered commodity will be computed by multiplying: (1) 85 percent of the covered commodity's base acres (the results of which is indicated by the payment acres identified in Column 8 of CCC-509), by (2) the program payment yield (identified in column 9 B of Form CCC-509), by (3) the payment rate for the covered commodity (identified in Item 10 of this appendix), by (4) the producer's share of the covered commodity (identified in column 12 of CCC-509).

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- C The counter-cyclical payment rate for a commodity, when authorized for a crop year, is determined by subtracting the effective price for the commodity from the target price of the commodity.

The direct payment rates, national loan rates, and maximum counter-cyclical payment rates for the 2008 crop year identified in Item 10 of this appendix. Counter-cyclical payments are not calculated for base acres of canola, crambe, flax, mustard, rapeseed, safflower, sesame, or sunflowers, because the sum of the national loan rate and the direct payment rate for those covered commodities is equal to or greater than the target price. Payments for other eligible oilseeds, if any, shall be as determined by the Secretary.

- D For 2008, CCC may authorize partial counter-cyclical payments for a covered commodity, if before the end of the applicable 12-month marketing year for the commodity the Secretary estimates that counter-cyclical payments will be required. In this event, producers may request a partial payment of no more than 40 percent, as determined by the Secretary, of the projected payment amount, to be made after completion of the first 6 months of the marketing year for that crop.
- E A final counter-cyclical payment for the crop year, if applicable, will be made to producers beginning October 1, or as soon as practical, after the end of the 12-month marketing year for the applicable commodity.
- F A producer must refund to CCC any payment which exceeds the amount actually earned under this contract, including the refund of any unearned partial counter-cyclical payment when actual market prices exceed the projected market prices used in determining the partial payment rates. CCC may, in its discretion, automatically reduce any partial, advance, or final direct payments or counter-cyclical payments earned by, or which would otherwise be received by, the producer (or affiliated person or entity as provided in 7 CFR Part 1403) in any current or future year to help satisfy any obligation to repay any unearned partial, advance, or final direct or counter-cyclical payment for the current year or any other year under this contract. Likewise, such other payments may be withheld in the case of partial or advance payments pending a determination of whether those payments would themselves be subject to a refund because of a recalculation made when final payments are due.

7 OTHER PAYMENT PROVISIONS

- A A producer who refuses to receive direct and counter-cyclical payments by indicating such on CCC-509 may subsequently decide to receive payments, provided that the producer signs a revised CCC-509 or otherwise notifies the County FSA Committee in writing on or before September 30, 2008.
- B Payments shall not be earned by any producer on a contract for a crop year, unless payment shares are properly designated and all producers sign the contract in accordance with the regulations at 7 CFR Part 1412 as they applied to the 2007 crops. In cases where a valid payment share dispute exists, direct and counter-cyclical payments shall not be earned by producers involved in the dispute on the farm unless the payment share to dispute is resolved by agreement of the parties and documented in writing to the satisfaction of the County FSA Committee on or before September 30 of the contract period, and the agreed upon payment shares are within program regulations and provisions.
- C Any payment or portion thereof due any producer will be made by CCC without regard to any question of title under state law, and without regard to any claim or lien against the crop, or proceeds therefrom, which may be asserted by a creditor, except agencies of the U.S. Government. Offsets for debts owed to agencies of the U.S. Government shall be made prior to making any payments to producers or their assignees.
- D Payments can be denied by any signatory who CCC determines has violated State law provisions that affect a tenant's right to lease agricultural land, or any person (including a subsequent tenant) who would profit by such a violation.
- E Interest on any refund due CCC shall run from the date of disbursement by CCC.

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8 LOSS OF BENEFITS

- A** If CCC determines a producer erroneously represented any fact affecting a determination to be made by CCC under this contract, direct and counter-cyclical payments shall not be allowed on the farm with respect to the payment shares of that producer. If CCC determines that the misrepresentation was intentional or fraudulent, or if the producer knowingly adopted any scheme or device which tends to defeat the purposes of this contract, the producer shall forfeit all rights to contract payments on each farm in which the producer has an interest and shall refund to CCC all contract payments received by the producer during the period of the violation, plus interest.
- B** All producers sharing in the contract payments are jointly and severally liable for any refunds determined pursuant to paragraph A of this section and CCC will establish claims for the full amount of the refund against each producer in accordance with 7 CFR Part 1403. A signatory to the contract who does not receive any share of the contract payments shall not be liable for the repayment of such refund.
- C** The provisions of this section are in addition to any liability which may be incurred under various criminal and civil fraud statutes, including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

9 MODIFICATIONS

CCC reserves the right to correct all errors in entering data on Form CCC-509 and the results of computations made pursuant thereto. CCC also reserves the right to require refunds of payments as the result of determinations made in accordance with the maximum payment limitations in the regulations at 7 CFR Part 1400 as they applied to 2007 crops.

10 PAYMENT RATE INFORMATION

Direct Payments and Maximum Counter-Cyclical Rates for Covered Commodities and Peanuts, Crop Year 2008						
Commodity	Units	Target Price	Direct Payment Rate	Loan Rate	Minimum Effective Price	Maximum Counter-Cyclical Payment Rate
Wheat	\$/bu.	3.92	0.52	2.75	3.27	0.65
Corn	\$/bu.	2.63	0.28	1.95	2.23	0.40
Grain Sorghum	\$/bu.	2.57	0.35	1.95	2.30	0.27
Barley	\$/bu.	2.24	0.24	1.85	2.09	0.15
Oats	\$/bu.	1.440	0.024	1.330	1.354	0.086
Upland Cotton	\$/lb.	0.7125	0.0667	0.5200	0.5867	0.1258
Rice, Long Grain	\$/cwt.	10.50	2.35	6.50	8.85	1.65
Rice, Medium Grain*	\$/cwt.	10.50	2.35	6.50	8.85	1.65
Soybeans	\$/bu.	5.80	0.44	5.00	5.44	0.36
Other Oilseeds	\$/cwt.	10.10	.80	9.30	10.10	0.00
Peanuts	\$/ton	495.00	36.00	355.00	391.00	104.00

* Medium grain rice includes short grain rice.

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the following information is the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in denial of program benefits. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.

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