

For: State and County Offices

Announcing 2009 DCP Signup

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

The Food, Conservation, and Energy Act of 2008 (2008 Act) was enacted on June 18, 2008. The 2008 Act, Section 1101(d) provides for the continuation of DCP for 2008 through 2012.

B Purpose

This notice:

- announces the date of the 2009 DCP signup period
- outlines some provisions of 2009 DCP
- provides CCC-509 and CCC-509 Appendix to be used for the 2009 through 2012 DCP

Note: CCC-509 and CCC-509 Appendix can be accessed at
<http://165.221.16.90/dam/ffasforms/currentforms.asp>.

- authorizes the issuance of 2009 advance direct payments, when all supporting documentation has been completed and approved
- authorizes COC's and County Offices to:
 - publicize the beginning of DCP signup
 - issue advance payments, if requested.

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

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2 2009 DCP Provisions

A Signup for 2009 DCP

Producers have from **December 22, 2008**, through **June 1, 2009**, to timely file CCC-509. Beginning with the 2009 crop year, regulations no longer provide for a “late-filed” signup period or fee. Accordingly, enrollment is **not** permitted after June 1, 2009. CCC-509 will **not** be approved unless all producers sharing in base acres with more than a zero share have signed and submitted all applicable documentation. For those producers with an interest but a zero share of contract, CCC-509 will **not** be approved before all producers have signed CCC-509 or provided supportive and necessary contractual documents, such as cash leases instead of signing for a zero share.

CCC-509 **not** having all requisite signatures of producers having more than a zero share of contract acreage on or before June 1, 2009, will **not** be considered submitted to CCC for any purpose and will **not** be acted on or approved. CCC-509's submitted by a producer on or before June 1, 2009, that were **not** signed by all producers according to this subparagraph will be considered withdrawn and will **not** be approved. Producers on a farm are solely responsible for ensuring that timely enrollment occurs.

B Sharing Contract Payments

Each eligible producer on a farm will be given the opportunity to annually enroll in a DCP or Average Crop Revenue Election (ACRE) Program contract, as applicable, and receive payments determined to be fair and equitable as agreed to by all the producers on the farm and approved by COC.

Each producer must provide a copy of their written lease to COC and, in the absence of a written lease, must provide to COC a complete written description of the terms and conditions of any oral agreement or lease. An owner's or landlord's signature, as applicable, affirming a zero share on a contract may be accepted as evidence of a cash lease between the owner or landlord and tenant, as applicable, as determined by CCC.

When base acres are leased on a share basis, neither the landlord nor the tenant will receive 100 percent of the contract payment for the farm.

CCC will approve a contract for enrollment and approve the division of payment when all of the following apply:

- the landlords, tenants, and sharecroppers sign the contract and agree to the payment shares shown on the contract
- CCC determines that the interests of tenants and sharecroppers are being protected
- CCC determines that the payment shares shown on the contract do not circumvent either the provisions of DCP regulations or the provisions of 7 CFR Part 1400.

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2 2009 DCP Provisions (Continued)

C Review of Leases

For the 2009 through 2012 crop years, a lease will be considered:

- a cash lease if the lease provides for either of the following:
 - only a guaranteed sum certain cash payment, or a fixed quantity of the crop; for example, cash, pounds, or bushels per acre
 - both a guaranteed amount and a share of the crop or crop proceeds

Note: If the lease is a cash lease, the landlord is **not** eligible for direct, counter-cyclical, or ACRE Program payments. The leasing of grazing or haying privileges is **not** considered cash leasing.

- a share lease if the lease contains provisions that require the payment of rent on the basis of the amount of crop produced or the proceeds derived from the crop, or the interest this producer would have had if the crop had been produced, or combination thereof.

D Direct Payments

The direct payment for each covered commodity or peanuts will be computed by multiplying:

- 83.3 percent of the covered commodity's or peanut's base acres, times
- the covered commodity's or peanut's program payment yield, times
- the payment rate for the covered commodity or peanuts, times
- the producer's share of the covered commodity or peanuts.

As was the case in prior years, producers must refund to CCC any payment that exceeds the amount actually earned under CCC-509, including the refund of unearned payments resulting from another owner or producer assuming an interest in the base acres for the crop year. Interest on these refunds shall be assessed according to 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 this refund is made by September 30, 2009. A final direct payment will be made to producers as soon as practicable after October 1, 2009.

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2 2009 DCP Provisions (Continued)

E Issuing Direct Payments

For those CCC-509's timely enrolled and containing all required signatures, CCC will make advance payments at a rate of 22 percent to those producers who requested the advance payments. The advance payments will be issued as soon as practicable following completion of enrollment.

Before producers can receive payments, each producer must satisfy all other program or payment eligibility requirements including, but not limited to, filing a new farm operating plan and an adjusted gross income certification. A forthcoming notice about farm operating plans and adjusted gross income provisions will be issued at a later date.

F Counter-Cyclical Payments

Counter-cyclical payments are authorized for a covered commodity or peanuts when the effective price for the commodity is less than the target price of the commodity. The effective price for a covered commodity or peanuts is equal to the sum of:

- the higher of the national average market price received by producers during the 12-month marketing year for the covered commodity or peanuts, 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 applicable
- the direct payment rate for the covered commodity or peanuts, as provided at 7 CFR Part 1412.

The "marketing year" shall be either of the following:

- the period identified in 7 CFR Part 718
- in replacement regulations, the marketing year for the relevant commodity.

The counter-cyclical payment, if any, for each covered commodity or peanuts will be computed by multiplying:

- 85 percent of the covered commodity's or peanut's base acres, times
- the program payment yield, times
- the payment rate for the covered commodity or peanuts, times
- the producer's share of the covered commodity or peanuts.

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2 2009 DCP Provisions (Continued)

F Counter-Cyclical Payments (Continued)

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. Counter-cyclical payments are **not** available for 2009 crops of canola, crambe, flaxseed, mustard seed, rapeseed, safflower, sesame seed, or sunflower seed, 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.

CCC may authorize partial counter-cyclical payments for a covered commodity or peanuts, if before the end of the applicable 12-month marketing year for the commodity, the Secretary estimates that counter-cyclical payments will be required. At this time, that decision has **not** been made. Further details about the availability of partial payments will be announced at a later date.

G Contract Period and Effective Date

The 2009 contract period is from October 1, 2008, through September 30, 2009. CCC-509, signed by all producers, becomes effective when signed by an authorized CCC representative. Producers signing CCC-509 represent that they comply with the terms and conditions of CCC-509 Appendix and Federal regulations for the entire contract period.

H CCC-509 Termination

At any time before the end of the contract period, CCC-509 may be terminated upon written agreement of all producers receiving payment under CCC-509 and, if applicable, each producer shall repay advance direct payments received for the crop year, plus interest.

I CCC-509 Changes

Changes that may affect any determination after CCC-509 is signed, including, but not limited to, any of the following, shall be reported to CCC by all applicable producers signing a revised CCC-509 to reflect the change no later than September 30, 2009:

- ownership changes
- producer changes
- changes in the crop share arrangements on the farm.

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2 2009 DCP Provisions (Continued)

I CCC-509 Changes (Continued)

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 CCC-509. In this event, all producers on CCC-509 shall refund to CCC payments received on the farm for the crop year, plus interest, and the farm will be considered **not** enrolled for that crop year.

Note: Further details concerning payments, overpayments, and CCC-509 changes will be announced at a later date.

J Reconstitutions

A completed farm reconstitution that divides or combines farms shall result in the termination of the initial CCC-509 for the parent farm or farms 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 CCC-509 for the resulting farm by the later of June 1, 2009, or 30 calendar days after notification of the bases and yields of the resulting farm. CCC-509 **not** having all requisite signatures of producers having more than a zero share of base acres on or before June 1, 2009, or 30 calendar days after notification of the bases and yields of the resulting farm, will **not** be considered submitted to CCC for any purpose and will **not** be acted on or approved.

Those CCC-509's **not** enrolled by a producer on or before June 1, 2009, or 30 calendar days after notification of the bases and yields of the resulting farm will be deemed withdrawn and will **not** be approved. Producers on a farm are solely responsible for ensuring that enrollment occurs.

In addition, after June 1, 2009, the combination of a farm enrolled in DCP with a farm **not** enrolled in DCP is **not** allowed. 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.

K Farms With 10.0 or Less Base Acres of Covered Commodities and Peanuts (Commonly Known as the 10.0 Base Provision)

Generally, no producer on a farm that has a total of 10.0 base acres or less shall be eligible to receive DCP payments on that farm. However, the 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 individual or entity with any interest in the entity must be a socially disadvantaged or limited resource farmer or rancher. Additional details of this provision will be announced at a later date. Farms that have total bases of 10.0 acres or less may reconstitute and earn payments, if reconstitution rules are met.

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2 2009 DCP Provisions (Continued)

L Compliance

Producers enrolling in 2009 DCP agree to the following certification or filing requirements:

- certification of the acreage of all cropland on the farm
- farm operating plan
- certification of compliance with the highly erodible land and wetland conservation provisions
- certification of compliance with the adjusted gross income provisions.

Enrolled base acres must be devoted to an agricultural or conserving use, and **not** for a nonagricultural commercial, industrial, or residential use. Base acres that are devoted to an agricultural or conserving use through noncultivation of any portion require effective control of noxious weeds and other maintenance measures through sound agricultural practices.

Note: Additional compliance provisions are in CCC-509 Appendix.

M Covered Commodities and Payment Rates

The following table describes covered commodities and payment rates for 2009 DCP.

Covered Commodities Eligible for DCP	Direct Payment Rate
Barley	\$0.24/bu.
Corn	\$0.28/bu.
Grain Sorghum	\$0.35/bu.
Oats	\$0.024/bu.
Other Oilseeds (Canola, Crambe, Flaxseed, Mustard Seed, Rapeseed, Safflower, Sesame Seed, or Sunflower Seed)	\$0.80/cwt.
Peanuts	\$36/short ton
Pulse Crops Large Chickpeas (Kabuli Garbanzo Beans) Small Chickpeas (Desi Garbanzo Beans) Dry Peas Lentils	
Long Grain Rice	\$2.35/cwt.
Medium Grain Rice	\$2.35/cwt.
Soybeans	\$0.44/bu.
Upland Cotton	\$0.0667/lb.
Wheat	\$0.52/bu.

Note: Although peanuts are **not** included in the statutory definition of covered commodities, they are treated as a covered commodity.

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N Base Acres

Base acres in effect on October 1, 2008, will be in effect for 2009 DCP.

Forthcoming instruction will provide guidance for adding pulse crop base to each tract in the Farm Records Management System apportioning rice base to long grain rice and medium grain rice (medium grain rice includes short grain rice).

O Base Acre Termination

For the 2009 and subsequent crop years, land owned by Federal agencies shall have base acres permanently terminated. An exception to this provision is made for Federal land that was subject to a lease agreement entered into before the effective date of this rule. In such an instance, the permanent termination of bases on this land will be effective when the lease expires or is terminated. In all cases, permanent terminations of bases shall be effective before any transfer of ownership of the land from the Federal agency.

P Base Acre Adjustments

Base acres may be adjusted:

- when CRP-1 expires or is voluntarily terminated
- when cropland is released from coverage under CRP by the Secretary
- if the sum of the base acres on the farm plus the following items exceed the DCP cropland on the farm:
 - acreage enrolled in CRP or WRP
 - any acreage enrolled in a Federal conservation program for which payments are made in exchange for **not** producing an agricultural commodity on the acreage
 - the addition of any pulse crop acreage
 - the addition of any additional oilseed acreage.

Note: The base acres on the farm **must** be reduced unless the double-cropping exception applies.

Q Planting Flexibility

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 in this subparagraph.

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2 2009 DCP Provisions (Continued)

Q Planting Flexibility (Continued)

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 CCC-509 unless 1 of the following exceptions is met:

- the fruit (including nuts), vegetable, or wild rice is planted in a double-cropping practice with a covered commodity or peanuts, as determined by COC, in any region designated by CCC in the regulations at 7 CFR Part 1412 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
- 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 COC, 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
- producers 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.

Failure to comply with the fruit, vegetable, and wild rice provisions of this subparagraph may result in the termination of CCC-509 or a reduction in the DCP payments, at CCC's discretion.

R CCC-770 DCP

CCC-770 DCP is required for 2009. CCC-770 DCP (12-11-06) has references that will **not** align with 1-DCP (Rev. 2). An updated version of CCC-770 DCP will be released with 1-DCP (Rev. 2).

3 Average Crop Revenue Election (ACRE) and PTPP

A DCP Enrollment Impact

Enrollment in CCC-509 according to this notice shall **not** be construed to be an election or enrollment in ACRE or PTPP. Producers will have an opportunity to enroll in ACRE and PTPP. Details will be announced at a later date.