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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1412

RIN 0560-AI22

#### Cotton Transition Assistance Program and General Provisions for Agriculture Risk Coverage and Price Loss Coverage Programs

**AGENCY:** Commodity Credit Corporation and Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule implements the new Cotton Transition Assistance Program (CTAP) authorized by the Agricultural Act of 2014 (the 2014 Farm Bill). It also includes general provisions needed to implement CTAP, the Agriculture Risk Coverage (ARC), and Price Loss Coverage (PLC) Programs. ARC and PLC will be implemented through a separate rulemaking and will provide benefits for other commodities. CTAP is a temporary program that provides payments to producers on farms for which cotton base acres were in existence as of September 30, 2013, as adjusted. It will operate for only the 2014 crop year and in certain counties for the 2015 crop year, and is intended to be a transition for producers on farms with upland cotton base acres that were in existence as of September 30, 2013, between the previous Direct and Counter-cyclical Payments Program (DCP) and the new Stacked Income Protection Plan (STAX), which is authorized to begin no later than the 2015 crop year.

**DATES:** *Effective Date:* August 8, 2014.

**FOR FURTHER INFORMATION CONTACT:** Brent Orr; telephone: (202) 720-7641. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 1119 of the 2014 Farm Bill (Pub. L. 113-79) authorizes CTAP for producers on farms “for which cotton base acres were in existence for the 2013 crop year.” CTAP is only authorized for the 2014 crop year, and for the 2015 crop year in counties where STAX is not available. STAX, as specified in section 11017 of the 2014 Farm Bill, is required to become available no later than the 2015 crop year, but is not required to provide coverage for every county in 2015. (USDA’s Risk Management Agency is implementing STAX.) CTAP has some similarities to the direct payment aspect of DCP, for upland cotton only. The new ARC and PLC Programs authorized by sections 1116 and 1117 of the 2014 Farm Bill, respectively, which are being implemented through separate rulemaking, provide benefits for the commodities, other than upland cotton, that were previously covered by DCP.

The 2014 Farm Bill specifies that CTAP payments will be based on the farm’s upland cotton base acres that were “in existence for the 2013 crop year.” Accordingly, the 2014 CTAP payments will be made available to eligible producers on farms for which cotton base acres were in existence as of September 30, 2013, as adjusted. STAX is scheduled to be available in some counties beginning with the 2015 crop year; producers on a farm located in a county where STAX is available will not be eligible for CTAP for the 2015 crop year. In counties where STAX is not available for the 2015 crop year, producers on farms for which 2013 upland cotton base acres were in existence as of September 30, 2013, as adjusted, will be eligible for 2015 CTAP payments after October 1, 2015. This rule specifies the eligibility requirements for CTAP, which are different for 2014 and 2015 because of the provision involving STAX availability. Similar to DCP, producers do not have to actually grow or harvest upland cotton to be eligible for CTAP. However, producers must have an interest in the upland cotton base acres on the farm and must meet or satisfy other payment eligibility requirements (including average adjusted gross income requirements, conservation compliance provisions, and actively

engaged in farming) to be eligible for CTAP.

The regulations for CTAP, ARC, and PLC will be specified in 7 CFR part 1412. Some definitions and requirements for base acres that are needed for all three programs are specified in this rule. For example, as specified in the 2014 Farm Bill, base acres of upland cotton in effect on September 30, 2013, are defined as generic base acres for the purposes of ARC and PLC. As another example, provisions for double cropping and replacement crops are similar to those for DCP, but the definitions are being revised to remove references to DCP and to insert references to CTAP, ARC, and PLC. Additional terms “eligible subsequently planted crop acreage” and “subsequently planted crop acreage” are added as those terms have different applicable meanings under the 2014 Farm Bill. Under section 1114 of the 2014 Farm Bill, subsequently planted crop acreage can be used as payment acres or for attributing generic base acres if the initial crop is any crop other than a covered commodity. These subsequently planted crop acres are termed “eligible subsequently planted crop acreage.” The term “subsequently planted crop acreage” is also added to distinguish it from “eligible subsequently planted crop acreage” by virtue of it following any planted and considered planted (P&CP) covered commodity not in an approved double cropping sequence. To reiterate, “eligible subsequently planted crop acreage” may be used to determine payment acres under ARC or PLC and to attribute generic base acres on a farm; “subsequently planted crop acreage” may be used to facilitate base acre reallocation. Common provisions in 7 CFR 718 that apply to all FSA and CCC programs, including those for base acres and farm reconstitutions, apply to CTAP.

#### Eligible Land and Payment Amounts for CTAP

The eligible land for CTAP in 2014 and 2015 is based on the farm’s upland cotton base acres that were in existence for the 2013 crop year, as of September 30, 2013, adjusted, including, but not limited to, adjustments for expired, terminated, or released Conservation Reserve Program (CRP) land, and limited by the total number of cropland

acres on the farm (cropland is defined in 7 CFR 718.2). A producer's share interest in cropland on a farm must be equal to or greater than that producer's share interest in cotton base acres on the farm for that crop year, as reported on that farm's acreage report. FSA will verify and confirm the producer's share interest in cotton base acres reported on the CTAP application by comparing it to the producer's share interest in the cropland as reported on that farm's acreage report for that crop year. For example, if a farm has 50 base acres of cotton and two producers report equal shares of those 50 base acres of cotton, each must each have a 100 percent share interest in at least 25 reported cropland acres on that farm's acreage report for the same crop year to support their reported share of cotton base acres on that farm.

Section 1119(c) of the 2014 Farm Bill states that the CTAP payment amount is equal to the number of adjusted base acres of upland cotton divided by the national program yield for upland cotton of 597 pounds per acre times the transition assistance rate for upland cotton times the farm's DCP yield, times a specified percentage payment rate. The 2014 Farm Bill specifies that the transition assistance rate of upland cotton is the June 12, 2013, midpoint estimate for the marketing year average price of upland cotton for the marketing year beginning August 1, 2013, less the December 10, 2013, midpoint estimate for the marketing year average price of upland cotton for the marketing year beginning August 1, 2013, as contained in the applicable World Agricultural Supply and Demand Estimates report published by USDA, multiplied by the national program yield for upland cotton of 597 pounds per acre. Mathematically, the 597 pounds per acre cancels out of the above equation. Accordingly, the transition assistance rate can be restated as simply the difference between the August 1, 2013, and the December 10, 2013, midpoint estimates. FSA has calculated the transition assistance rate to be \$0.09 per pound. The payment rates, as specified in the 2014 Farm Bill are: 60 percent for the 2014 crop year and 36.5 percent for the 2015 crop year. Therefore, the payment per base acre of upland cotton for 2014 would be \$0.09, times the farm's DCP yield, times 60 percent. If the farm's DCP yield was 500 pounds, that payment would be \$27.00 an acre. For 2015 it would be \$0.09, times the farm's DCP yield, times 36.5 percent. If the farm's DCP yield was 500 pounds, that payment would be \$16.425 an acre. CTAP payments will be made to eligible producers on or after October 1

of the crop year when upland cotton is or ordinarily would have been harvested. Similar to DCP, payment eligibility is based upon the number of upland cotton base acres, which are not required to be planted to cotton. As discussed earlier, eligibility for CTAP in 2015 is determined in part by the availability of STAX.

#### **Eligible Acreage Reductions for ARC and PLC**

ARC and PLC have similar provisions to the former DCP with regard to planting flexibility and reductions for plantings of fruits, vegetables, and wild rice on base acres. The acreage reduction provisions apply to ARC and PLC, but not to CTAP. However, we are specifying them in this rule so that producers are informed of how generic acres and acreage reductions will be used in the payment calculations for ARC and PLC.

Similar to DCP, the planting or harvesting of perennial or non-perennial fruits, vegetables (except mung beans and pulse crops), or wild rice will result in an acre for acre payment reduction for ARC and PLC (but not CTAP), unless an exception applies for double cropped acreage in approved double cropping counties. Under DCP, the reduction was applied beginning with the covered commodity or peanut acres with the lowest direct payment amount per acre until the acreage reduction amount was met. In addition, producers could agree to adjust the DCP acre reduction between covered commodities and peanuts on the farm, but only to the extent that the total acre reduction amount did not change for the farm, and all producers affected by the adjustment agreed to the adjustment in writing. Under CTAP, ARC, and PLC, as specified in the 2014 Farm Bill, peanuts are now a covered commodity, upland cotton is not a covered commodity, and what were upland cotton base acres under the 2008 Farm Bill are now generic base acres that will be counted as acres of covered commodities if planted (or considered planted). Therefore, determining the acres that have the lowest payment amount per acre for all covered commodities for ARC and PLC on the farm is more complicated than under DCP.

This rule specifies that in determining reductions to base acres that are payment acres for ARC and PLC (only payment acres are reduced, not base acres) the acreage of any fruit or vegetable will first be attributed to cropland not having base acres, followed by base acres, before applying any payment acreage reduction that is required by this rule. The reduction will

be attributed to each of the covered commodities on the farm having payment acres on a pro rata basis to reflect the ratio of the payment acres of the covered commodity on the farm to the total payment acres of all covered commodities on the farm. The reductions are required by the 2014 Farm Bill; the pro rata procedure for determining the reductions is discretionary and within FSA's authority.

#### **CTAP Payment Limits, Eligible Persons and Legal Entities**

As specified in the 2014 Farm Bill and in 7 CFR part 1400, payment limits and average adjusted gross income (AGI) limits apply to CTAP. CTAP payments in each of the 2014 and 2015 program years are limited to \$40,000 per person or legal entity, similar to the \$40,000 per person or legal entity limitation that applied to DCP under the 2008 Farm Bill. A person or legal entity is ineligible for payments if the person's or legal entity's AGI for the applicable compliance program year is in excess of \$900,000. Similar to how AGI provisions applied to members of legal entities in the 2008 Farm Bill, under the 2014 Farm Bill if a person with an indirect interest in a legal entity has AGI in excess of \$900,000, the CTAP payments subject to AGI compliance provisions to the legal entity will be reduced as calculated based on the percent interest of the person in the legal entity receiving the payment. AGI will be calculated based on the average income for the 3 taxable years preceding the most immediately preceding complete taxable year for which benefits are requested. For example, the relevant years used to calculate AGI for 2014 CTAP are the 2010, 2011, and 2012 tax years. For 2015 CTAP the relevant years are the 2011, 2012, and 2013 tax years.

To be eligible for CTAP, each producer is required to be a person or legal entity who is actively engaged in farming and otherwise eligible for payment, as specified in 7 CFR part 1400, and who complies with requirements including, but not limited to, those pertaining to highly erodible land conservation and wetland conservation provisions (commonly referred to as the conservation compliance provisions) specified in 7 CFR part 12.

Appeal regulations specified in 7 CFR parts 11 and 780 apply. FSA program requirements and determinations that are not in response to, or result from, an individual, disputable set of facts in an individual participant's application for assistance are not matters that can be appealed. Crop insurance is not

required as a condition of eligibility for CTAP.

#### **Sharing CTAP Payments Between Multiple Producers on a Farm**

The procedures to determine shared payments will be similar to those used for DCP. Each eligible producer on a farm will be given the opportunity to apply for CTAP and receive CTAP payments determined to be fair and equitable as agreed to by all the producers on the farm and approved by the FSA county committee. Each producer leasing a farm is required to provide a copy of their written lease to the county committee and, in the absence of a written lease, is required to provide to the county committee 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 an application for CTAP may be accepted as evidence of a cash lease between the owner or landlord and tenant, as applicable, as determined by CCC. Such signature or signatures, if entered on the application for CTAP to satisfy the requirement of furnishing a written lease, is required to be entered on the application by October 7, 2014 for 2014 CTAP and by July 31, 2015, for 2015 CTAP. When a farm's 2013 base acres of upland cotton are leased in 2014 or 2015 on a share basis, neither the landlord nor the tenant will receive 100 percent of CTAP for the farm. CCC will approve an application for CTAP and approve the division of payment when all the following, as applicable, occur or have been determined to have occurred:

- (1) Landlords, tenants, and sharecroppers sign the application and agree to the payment shares shown; and
- (2) CCC determines that the interests of tenants and sharecroppers are being protected; and
- (3) CCC determines that the payment shares do not circumvent either the provisions of this rule or the provisions of 7 CFR part 1400.

#### **Signup Deadlines for 2014 and 2015 CTAP**

Section 1119 of the 2014 Farm Bill authorizes CTAP, which is not to be paid before October 1 of the calendar year in which the crop of upland cotton is harvested. This means that FSA cannot make 2014 CTAP payments before October 1, 2014. However, signup for payments can occur earlier. FSA is exercising discretion and establishing a signup deadline of October 7, 2014, for 2014 CTAP so as to not delay CTAP payments. We anticipate that most producers who enrolled 2013 cotton

base acres in 2013 DCP or the Average Crop Revenue Election (ACRE) Program will likely choose to apply for CTAP. For 2015 CTAP, the signup deadline will be July 31, 2015.

Applications for CTAP are independent of any election and participation in ARC or PLC. It is possible for upland cotton base acres eligible for CTAP to also qualify as eligible generic base acres for ARC and PLC, and (more commonly) for a farm to have some cotton base acres eligible for CTAP and base acres for different commodities eligible for ARC and PLC. A producer needs to separately elect and enroll in ARC or PLC to be eligible for those benefits. The application for CTAP has no bearing on ARC or PLC elections or decision to participate in ARC or PLC. Likewise, persons or legal entities that enroll and elect ARC or PLC and who do not file an application for 2014 or 2015 CTAP in accordance with this rule will not be paid for 2014 or 2015 CTAP, even if those acres were eligible for CTAP.

#### **Miscellaneous and Conforming Amendments**

This rule revises 7 CFR part 1412, which had been the regulations for DCP and ACRE, and will now be the regulations for ARC, PLC, and CTAP.

Many of the provisions that applied to DCP and ACRE will also apply to ARC, PLC, and CTAP, and are therefore included in this rule with the required revisions. These include the provisions for planting flexibility and double cropping, and provisions relating to tenants, sharecroppers, offsets, assignments, acreage, and production reporting.

This rule revises definitions in 7 CFR part 1412 as required to implement ARC, PLC, and CTAP. For example, the definition of "contract period" is revised to specify the contract periods for 2014 through 2018 ARC and PLC. (CTAP uses applications; ARC and PLC use contracts.) A definition for generic base acres is added, as specified in the 2014 Farm Bill. The definition of "replacement crop" is revised to refer to both covered commodities and upland cotton, since cotton is no longer a covered commodity. A definition of "temperate japonica rice" is added as a type of medium grain rice, as specified in the 2014 Farm Bill.

#### **Structure of the Regulation**

This rule revises 7 CFR part 1412, adding the regulations for CTAP and some of the regulations for ARC and PLC, and removing all the regulations for DCP and ACRE as discussed above. The revised 7 CFR part 1412 will use a

similar subpart structure to the previous DCP and ACRE regulations. The new title of the part is "Agriculture Risk Coverage, Price Loss Coverage, and Cotton Transition Assistance Program." Subpart A will cover general administration; subpart B will cover base acres; subpart C will cover yields for ARC and PLC; subpart D will cover ARC and PLC contract terms and enrollment provisions; subpart E will cover financial considerations including sharing payments; subpart F will cover violations; subpart G will cover PLC and ARC election; and subpart H will cover CTAP. Subparts C and G will be added in the separate rulemaking to implement the ARC and PLC Programs. This rule includes the sections needed to implement CTAP, and includes some sections that also apply to ARC and PLC, or that involve generic base acres as discussed above. Sections in 7 CFR part 1412 that apply only to ARC and PLC will be added in a subsequent rulemaking.

#### **Notice and Comment**

In general, the Administrative Procedure Act (5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. The regulations to implement the provisions of Title I and the administration of Title I of the 2014 Farm Bill are exempt from the notice and comment provisions of 5 U.S.C. 553 and the Paperwork Reduction Act (44 U.S.C. chapter 35), as specified in section 1601(c)(2) of the 2014 Farm Bill.

#### **Effective Date**

The Administrative Procedure Act (5 U.S.C. 553) provides generally that before rules are issued by Government agencies, the rule is required to be published in the **Federal Register**, and the required publication of a substantive rule is to be not less than 30 days before its effective date. One of the exceptions is when the agency finds good cause for not delaying the effective date. Subsection 1601(c)(2) of the 2014 Farm Bill makes this final rule exempt from notice and comment. Therefore, using the administrative procedure provisions in 5 U.S.C. 553, FSA finds that there is good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This rule allows FSA to provide adequate notice to producers

about the new CTAP regulation so they will be ready to begin sign-up for CTAP in summer 2014, so that payments can be provided as soon as possible on or after October 1, 2014. Therefore, to begin providing benefits to producers in a timely fashion, this final rule is effective when published in the **Federal Register**.

#### **Executive Orders 12866 and 13563**

Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review," direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, "Regulatory Planning and Review," and therefore, OMB has reviewed this rule. This regulatory action is being taken to implement a major budgetary program required by the 2014 Farm Bill. Consistent with OMB guidance, this type of action is considered a budgetary transfer representing a payment from taxpayers to program beneficiaries unrelated to the provision of any goods or services in exchange for the payment. As such, there are no economic gains, because the benefits and payments to those who receive such a transfer are matched by the costs borne by taxpayers. The estimated transfer payments for CTAP provided by this rule are summarized below. The full cost benefit analysis is available on regulations.gov.

#### **Cost Benefit Analysis Summary**

CTAP payments are estimated to be \$572.1 million for 2014 and \$1.6 million for 2015. In 2013, approximately 122,000 producers enrolled upland cotton base acres in DCP and ACRE. For 2014, we estimate a similar number of producers and farms will apply for 2014 CTAP payments totaling \$572.1 million. For 2015, we estimate approximately 18,000 producers with 2013 upland cotton base acres in areas where STAX has not yet been implemented will apply for CTAP payments totaling \$1.6 million.

Some producers with cotton base acres did not enroll those acres in DCP

and ACRE. If those producers apply for CTAP, meaning that every potentially eligible cotton base acre generates a CTAP payment, the estimates would be slightly higher, at \$624 million for 2014 and \$1.8 million for 2015.

There is a payment limit of \$40,000 per year per person or legal entity for CTAP.

#### **Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because CCC is not required by any law to publish a proposed rule for public comment for this rulemaking initiative.

#### **Environmental Review**

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799). FSA has determined that participation in programs similar to those currently found in 7 CFR 1412 will not significantly affect the quality of the human environment (7 CFR part 799.9(d)). Therefore no environmental assessment or environmental impact statement will be prepared.

#### **Executive Order 12372**

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons specified in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, "Civil Justice Reform." This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 are to be exhausted.

#### **Executive Order 13132**

This rule has been reviewed under Executive Order 13132, "Federalism." The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

#### **Executive Order 13175**

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FSA has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under Executive Order 13175. If a Tribe requests consultation, FSA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by the 2014 Farm Bill.

#### **The Unfunded Mandates Reform Act of 1995**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory

actions on State, local, and Tribal governments, or the private sector. Agencies generally need to prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### **Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)**

This rule is a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996, (Pub. L. 104–121, SBREFA). SBREFA normally requires that an agency delay the effective date of a major rule for 60 days from the date of publication to allow for Congressional review. Section 808 of SBREFA allows an agency to make a major regulation effective immediately if the agency finds there is good cause to do so. Section 1601(c)(3) of the 2014 Farm Bill provides that the authority in Section 808 of SBREFA will be used in implementing the changes required by Title I of the 2014 Farm Bill, such as for the changes being made by this rule. Consistent with section 1601(c)(3) of the 2014 Farm Bill, FSA therefore finds that it would be contrary to the public interest to delay the effective date of this rule because it would delay implementation of CTAP as specified in the 2014 Farm Bill. The regulation needs to be effective to provide adequate time for producers to be ready to begin the sign-up process in a timely fashion and make payments as soon as possible after October 1, 2014. Therefore, this rule is effective when published in the **Federal Register**.

#### **Federal Assistance Programs**

The title and number of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

- 10.113—Agriculture Risk Coverage
- 10.112—Price Loss Coverage
- 10.114—Cotton Transition Assistance Program

#### **Paperwork Reduction Act of 1995**

The regulations in this rule are exempt from the requirements of the

Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in subsection 1601(c)(2)(B) of the 2014 Farm Bill, which provides that these regulations be promulgated and administered without regard to the Paperwork Reduction Act.

#### **E-Government Act Compliance**

FSA and CCC are committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### **List of Subjects in 7 CFR Part 1412**

Cotton, Feed grains, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

For the reasons discussed above, CCC revises 7 CFR part 1412 to read as follows:

### **PART 1412—AGRICULTURE RISK COVERAGE, PRICE LOSS COVERAGE, AND COTTON TRANSITION ASSISTANCE PROGRAMS**

#### **Subpart A—General Provisions**

Sec.

- 1412.1 Applicability, changes in law, interest, application, and contract provisions.
- 1412.2 Administration.
- 1412.3 Definitions.
- 1412.4 Appeals.

#### **Subpart B—Establishment of Base Acres for a Farm for Covered Commodities**

- 1412.23 Base acres, generic base acres, and Conservation Reserve Program.
- 1412.24 Limitation of total base acres and generic base acres on a farm.

#### **Subpart D—ARC and PLC Contract Terms and Enrollment Provisions for Covered Commodities**

- 1412.44 Notification of base acres.
- 1412.45 Treatment of generic base acres.
- 1412.46 Planting flexibility.
- 1412.49 Matters of general applicability.

#### **Subpart E—Financial Considerations Including Sharing Payments**

- 1412.51 Limitation of payments.
- 1412.54 Sharing of payments.
- 1412.55 Provisions relating to tenants and sharecroppers.

#### **Subpart F—Violations and Compliance Provisions**

- 1412.61 Contract violations.
- 1412.63 Contract or application liability.
- 1412.64 Inaccurate representation, misrepresentation, and scheme or device.
- 1412.65 Offsets and assignments.
- 1412.66 Acreage and production reports, prevented planting, and notice of loss.

- 1412.67 Compliance with highly erodible land and wetland conservation provisions.
- 1412.68 Controlled substance violations.
- 1412.69 Control of noxious weeds.

#### **Subpart H—CTAP**

- 1412.81 Administration.
- 1412.82 Eligibility and CTAP application.
- 1412.83 Sharing of CTAP payments.
- 1412.84 Impact of CTAP application on ARC or PLC.
- 1412.86 CTAP payments.
- 1412.87 Transfer of land and succession-interest.
- 1412.88 Executed CTAP application not in conformity with regulations.
- 1412.89 Division of CTAP payments and provisions relating to tenants and sharecroppers.

**Authority:** 7 U.S.C. 1508b, 7911–7912, 7916, 8702, 8711–8712, 8751–8752, and 15 U.S.C. 714b and 714c.

#### **Subpart A—General Provisions**

##### **§ 1412.1 Applicability, changes in law, interest, application, and contract provisions.**

(a) This part specifies how base acres, generic base acres, and farm program payment yields are established or adjusted for the purpose of calculating payments for agriculture risk coverage (ARC) and price loss coverage (PLC) for covered commodities: Wheat, oats, and barley (including wheat, oats, and barley used for haying and grazing); corn; grain sorghum; long grain rice; medium grain rice; pulse crops; soybeans; other oilseeds; and peanuts. This part specifies how and when producers on a farm may make a one-time election on a farm to obtain either ARC or PLC (and if ARC, whether to receive ARC payments based on county coverage applicable on a covered commodity-by-commodity basis; or individual coverage applicable to all the covered commodities on a farm).

(b) This part specifies how upland cotton base acres that were in existence for 2013, as adjusted, are determined for the purpose of making CTAP payments in 2014 and 2015 to eligible producers.

(c) Payments otherwise provided for in this part are subject to changes made by law in rates, conditions, and eligibility notwithstanding any contract or application made under this part. However, any such modification may, as determined by CCC, allow producers the opportunity to withdraw their CTAP application or the ARC or PLC contract.

(d) If any refund is due to CCC under this part, interest will be due from the date of the CCC disbursement except as determined by CCC. The provisions of this section will apply notwithstanding any other provision of this or any other part. In order to receive payment under this part a participant is required to

comply with the regulations in this part and any additional requirements imposed by the CTAP application or ARC or PLC contract.

(e) For ARC and PLC, assistance under this part will be based on the administrative county of the farm and for CTAP, assistance under this part will be based on the physical location of the farm, as specified in part 718 of this title.

#### § 1412.2 Administration.

(a) ARC, PLC, and CTAP are administered under the general supervision of the Executive Vice-President, CCC, and will be carried out by FSA State and county committees (State and county committees).

(b) State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee may take any action required by the regulations of this part that the county committee has not taken. The State committee will also:

(1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation to a State or county committee will preclude the Executive Vice President, or the Deputy Administrator, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator has the authority to permit State and county committees to waive or modify deadlines (except deadlines specified in a law) and other requirements not specified by law, in cases where lateness or failure to meet such other requirements does not adversely affect operation of the program.

(1) Producers and participants have no right to a decision requesting an exception for a decision about waiving or modifying deadlines. The Deputy Administrator's refusal to consider waiver or modification cases or circumstances or a decision not to exercise this discretionary authority under this section will not be considered an adverse decision and is not appealable.

(2) CCC's decision not to consider a case under this section will not constitute a failure to act under any law or regulation because participants have no right to a waiver or modification

under this section, they likewise have no right to a decision on a request for waiver or modification.

(f) A representative of CCC may execute the FSA application form titled "Cotton Transition Assistance Program (CTAP) Application" only under the terms and conditions determined and announced by the Executive Vice President, CCC. Any application or contract that is not executed in accordance with such terms and conditions, including any alleged execution prior to or after the dates authorized by the Executive Vice President, CCC, is null and void and will not be considered to be an application or contract between CCC and the operator or any other producer on the farm.

#### § 1412.3 Definitions.

The definitions in this section are applicable for all purposes of administering this part. The terms defined in part 718 of this title and part 1400 of this chapter are also applicable, except where those definitions conflict with the definitions specified in this section. Where there is a conflict or a difference in definitions specified in this part and part 718 of this title or part 1400 of this chapter, the regulations in this part will apply.

*2014 Farm Bill* means the Agricultural Act of 2014 (Pub. L. 113-79).

*Agriculture risk coverage (or ARC)* means coverage provided under subparts D and E of this part.

*Application* means the CCC-approved form used by producers to apply for CTAP under subpart H of this part.

*ARC-CO* means the Agriculture Risk Coverage elected with the county option.

*ARC-IC* means the Agriculture Risk Coverage elected with the individual option.

*Base acres* means, with respect to a covered commodity on a farm, the number of acres in effect on September 30, 2013, as defined in the regulations in 7 CFR part 1412, subpart B that were in effect on that date, subject to any reallocation, adjustment, or reduction. Unless specifically stated otherwise, the term "base acres" includes any generic base acres when P&CP to a covered commodity or are eligible subsequently planted crop acreage.

*Considered planted* means acreage approved as prevented planted in accordance with part 718 of this title.

*Contract or application* means the CCC-approved forms and appendixes that constitute the CTAP application or agreement for participation in ARC or PLC Program, as applicable.

*Contract period* means the compliance period specified for the contract or application for the particular program year, as designated on the contract or application. References to the "contract" or "application" period refer to the compliance period for the particular program year. The compliance period for the each program year is October 1 through September 30. For example, for the 2014 contract (and therefore for the 2014 program), the period that begins on October 1, 2013 and ends on September 30, 2014.

*Contract year or program year* means the particular year of the particular contract based on the compliance period for the contract or application. The compliance year will run from October 1 to the following September 30 and will have the same name as the corresponding fiscal year. For example, the 2014 contract or program year will be October 1, 2013, through September 30, 2014, and that year will also be considered the 2014 crop year. The same references will apply to all other years.

*County coverage* means agriculture risk coverage (ARC-CO) elected under subpart D of this part with the county option.

*Covered commodity* means wheat, oats, and barley (including wheat, oats, and barley used for haying and grazing), corn, grain sorghum, long grain rice, medium grain rice, pulse crops, soybeans, other oilseeds, and peanuts.

*Crop year* means the relevant contract or application year. For example, the 2014 crop year is the year that runs from October 1, 2013, through September 30, 2014, and references to payments for that year refer to payments made under contracts or applications with the compliance year that runs during those dates.

*Deputy Administrator* means the Deputy Administrator for Farm Programs, FSA, or a designee.

*Developed* means:

(1) Land has been approved by the local government for uses other than commercial agricultural uses; and

(2) Construction activity has begun to install any aspect of the development, for example utilities or roadways.

*Direct payment yield for upland cotton* means the farm's upland cotton yield established as specified in the regulations for 7 CFR part 1412 that were in effect as of September 30, 2013.

*Double-cropping* means for covered commodities, notwithstanding the meaning in subparts D and E of this part for fruits and vegetables, the planting of a covered commodity for harvest in a crop year, in cycle with another covered commodity on the same acres for

harvest in the same crop year in counties that have been determined to be areas where there is determined to be substantial, successful, and long-term double cropping of the crop and where the producer has followed customary production techniques and planting deadlines as determined by CCC (that is, using techniques and deadlines used by the majority of farmers in the region to double crop the particular crops involved). In a county determined capable of supporting such double-cropping of the covered commodities, as determined by CCC, both an initial crop and a subsequent crop will be considered planted or prevented planted acres for the purpose of this part. Notwithstanding any of the provisions of 7 CFR part 718, in those instances where the subsequently planted or approved prevented planted covered commodity cannot be recognized as double-cropped acreage under this definition, the subsequently planted crop acreage will not be considered planted or prevented planted.

*Dry peas* means Austrian, wrinkled seed, yellow, Umatilla, and green peas, excluding peas grown for the fresh, canning, or frozen market.

*Eligible subsequently planted crop acreage* means planted acres of a covered commodity that are a replacement crop to any crop other than a covered commodity. Eligible subsequently planted crop acreage is included as payment acres if the crop acreage is planted to a covered commodity as a replacement crop after the failure or prevented planting of any crop other than a covered commodity. Eligible subsequently planted crop acreage is used to determine payment acres and attribution of generic base acres under this part.

*Extra long staple cotton* means cotton that is other than upland cotton and both the following:

- (1) Produced from pure strain varieties of the *Barbadense* species or any hybrid of the species, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and
- (2) Ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type of gin for experimental purposes.

*Fiscal year* means the year running from October 1 to the following

September 30 and will be designated by the same calendar year in which it ends. For example, the 2014 fiscal year begins on October 1, 2013 and ends on September 30, 2014.

*Generic base acres* means the number of base acres for upland cotton in effect on September 30, 2013, as defined in the regulations in 7 CFR part 1412, subpart B that were in effect on that date, subject to any adjustment or reduction under this part. Generic base acres are always the same amount as upland cotton base acres. Any adjustment in generic base acres on a farm will necessarily result in an adjustment in upland cotton base acres on the farm.

*Harvested* means the producer has removed the crop from the field by hand, mechanically, or by grazing of livestock. The crop is considered harvested once it is removed from the field and placed in or on a truck or other conveyance or is consumed by livestock through the act of grazing. Crops normally placed in a truck or other conveyance and taken off the crop acreage, such as hay, are considered harvested when in the bale, whether removed from the field or not.

*Individual coverage* means ARC (ARC-IC) elected under subpart D of this part with the individual option.

*Initial crop* means acreage of a covered commodity or cotton planted or approved as prevented planted for harvest as peanuts, grain, or lint. The initial crop includes reseeded or replanted crop acreage.

*Medium grain rice* means medium grain rice and includes short grain rice and temperate japonica rice.

*Other oilseed* means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or any oilseed designated by the Secretary.

*Payment acres* mean:

- (1) For the purpose of ARC-CO and PLC, subject to planting flexibility provisions as specified § 1412.46, the payment acres for each covered commodity on a farm will be equal to 85 percent of the base acres for the covered commodity on the farm.
- (2) For the purpose of ARC-IC, subject to planting flexibility provisions as specified in § 1412.46, the payment acres for a farm will be equal to 65 percent of the base acres for all of the covered commodities on the farm.
- (3) For the purpose of CTAP under subpart H of this part, the payment acres for a farm are the base acres of upland cotton in effect on a farm on September 30, 2013, subject to any adjustment or reduction under this part.

(3) For the purpose of CTAP under subpart H of this part, the payment acres for a farm are the base acres of upland cotton in effect on a farm on September 30, 2013, subject to any adjustment or reduction under this part.

*Payment yield* means for a farm for—

(1) A covered commodity, the yield established under subpart C of this part; and

(2) Upland cotton, the direct payment yield for upland cotton for the farm as of September 30, 2013.

*Planted and considered planted (P&CP)* means, with respect to an acreage amount, the sum of the planted and prevented planted acres approved by the FSA county committee on the farm for a crop. For the purposes of this part, P&CP is limited to initially planted or prevented planted crop acreage, except for crops planted in an approved double-cropping sequence. Eligible subsequently planted crop acreage, replacement crop acreage, and subsequently planted crop acreage are each not included as P&CP.

*Price Loss Coverage (or PLC)* means coverage provided under subpart D of this part.

*Pulse crop* means dry peas, lentils, small chickpeas, and large chickpeas.

*Reference price* means, with respect to a covered commodity for a crop year, the following for:

- (1) Wheat, \$5.50 per bushel;
- (2) Corn, \$3.70 per bushel;
- (3) Grain sorghum, \$3.95 per bushel;
- (4) Barley, \$4.95 per bushel;
- (5) Oats, \$2.40 per bushel;
- (6) Long grain rice, \$14.00 per hundredweight;
- (7) Medium grain rice, \$14.00 per hundredweight;
- (8) Soybeans, \$8.40 per bushel;
- (9) Other oilseeds, \$20.15 per hundredweight;
- (10) Peanuts, \$535.00 per ton;
- (11) Dry peas, \$11.00 per hundredweight;
- (12) Lentils, \$19.97 per hundredweight;
- (13) Small chickpeas, \$19.04 per hundredweight; and
- (14) Large chickpeas, \$21.54 per hundredweight.

*Replacement crop* means the planting or approved prevented planting of any crop for harvest following the failure of planted crop acreage or prevented planted acreage of a covered commodity not in a recognized double-cropping sequence (as specified in this section). Replacement crops cannot generate payments under this part unless the replacement crop acreage meets the definition of eligible subsequently planted crop acreage as specified in this section.

*Reseeded or replanted crop* means the second planting of a covered commodity on the same acreage after the first planting of that same crop has failed.

*STAX* means Stacked Income Protection Plan, as specified in 7 U.S.C. 1508b. A list of counties having farms



with upland cotton base acres for which STAX will not be made available in 2015 will be available upon request from FSA.

*Subsequently planted crop acreage* means planted acres of a covered commodity following an initial P&CP covered commodity. Subsequently planted crop acreage can be used for base reallocation for ARC and PLC under subpart B.

*Supportive and necessary contractual documents* mean those documents including, but not limited to, those items substantiating the ARC or PLC contract or CTAP application such as leases, deeds, signatures of contract participants, owners, operators, and other tenant signatures, as determined by CCC.

*Temperate japonica rice* means rice that is grown in high altitudes or temperate regions of high latitudes with cooler climate conditions, in the Western United States, as determined by CCC, for the purpose of the—

(1) Reallocation of base acres under subpart B of this part;

(2) Establishment of a reference price of 115 percent times the established reference price of medium grain rice and determining temperate japonica rice's own effective price; and

(3) Determination of the actual crop revenue and ARC guarantee under subparts D and E of this part.

*Upland cotton* means cotton that is produced in the United States from other than pure strain varieties of the Barbados species, any hybrid thereof, or any other variety of cotton in which one or more of these varieties predominate. In other words, it means any cotton that is not extra long staple cotton.

#### **§ 1412.4 Appeals.**

A participant may seek reconsideration and review of any individual program eligibility adverse determination made under this part in accordance with the appeal regulations found at parts 11 and 780 of this title.

#### **Subpart B—Establishment of Base Acres for a Farm for Covered Commodities**

##### **§ 1412.23 Base acres, generic base acres, and Conservation Reserve Program.**

(a) Subject to paragraphs (b) and (c) of this section, CCC will annually adjust the base acres for covered commodities and generic base acres with respect to the farm by the number of production flexibility contract acres or base acres protected by a Conservation Reserve Program (CRP) contract that expired, was voluntarily terminated, or was early released.

(b) The total base acres and generic base acres on a farm cannot exceed the limitation specified in § 1412.24.

(c) Adjustments to (not reallocation of) base acres and generic base acres on a farm in accordance with this section are to be completed by no later than August 1 or other date as determined and announced by the CRP contract expired or was voluntarily terminated.

(d) For the fiscal year in which an adjustment to base acres under this section is made, the producer of the farm may elect to receive ARC or PLC payments, in accordance with any ARC and PLC election made under section 1115 of the 2014 Farm Bill with respect to the base acres added to the farm under this section, or a prorated payment under the CRP contract, but not both. For any farm that had all of its base acres reduced for participation in CRP, if the farm had no base acres or election in effect before an adjustment is made to put base acres of a covered commodity back on the farm, the owners of that farm will have an opportunity to reallocate base acres and the producers will have an opportunity to elect ARC or PLC within 30 days of being notified of the establishment of base acres on that farm before producers enroll base acres on that farm.

##### **§ 1412.24 Limitation of total base acres and generic base acres on a farm.**

(a) The sum of the following cannot exceed the total cropland acreage on the farm, plus approved double-cropped acreage for the farm:

(1) The sum of all base acres and generic base acres (which are equal to upland cotton base acres used for CTAP) established for the farm in accordance with this part; plus

(2) Any cropland acreage on the farm enrolled in a CRP contract in accordance with part 1410 of this chapter; plus

(3) Any cropland acreage on the farm enrolled in a wetland reserve program contract in accordance with part 1467 of this chapter; plus

(4) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(b) The Deputy Administrator will give the owner of the farm the opportunity to select the base acres or generic base acres (which are equal to upland cotton base acres used for CTAP) against which any reduction required in this section will be made. Absent the owner selecting the base acre or generic base acre for reduction, CCC will apply a pro-rata reduction against the base acres or generic base acres before

computing and issuing any payments for the program year when a reduction becomes necessary. If a reduction is made to generic base acres on a farm, a corresponding equal reduction is made to upland cotton base acres.

(c) In applying paragraph (a) of this section, CCC will take into account the practice of double cropping on a farm, as determined by CCC.

(d) For base acre reductions:

(1) Subject to the limitation in paragraph (d)(2) of this section, a permanent reduction of all or a portion of a farm's base acres, including generic base acres (and the equal amount of upland cotton base acres), will be allowed when all owners of the farm execute and submit a written request for such reduction, on a CCC-approved standard, uniform form designated by CCC, to the FSA county office where the records for the farm are administratively maintained.

(2) A permanent reduction of all or a portion of a farm's base acres to negate or reduce a program violation is not allowed.

(e) When base acres on a farm are converted to a non-agricultural commercial or industrial use, the total base acres on the farm will be reduced accordingly regardless of the submission of a request for such reduction.

(f) The base acres and generic base acres (resulting in an equal amount of upland cotton base acres) on a farm will be proportionately reduced when it is determined that the land has been subdivided and developed for multiple residential units or other nonfarming uses if, in the judgment of the county committee, the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless either of the following applies:

(1) The producers on the farm demonstrate that the land remains devoted to commercial agricultural production or is likely to be returned to the previous agricultural use and such land has not been divided from the farm with a farm reconstitution performed according to part 718 of this title; or

(2) A properly constituted or reconstituted farm contains sufficient land that has not yet been subdivided and developed for multiple residential units or other nonfarming uses, and the producers on the farm demonstrate that the land remains devoted to commercial agricultural production or is likely to be returned to the previous agricultural use.



**Subpart D—ARC and PLC Contract Terms and Enrollment Provisions for Covered Commodities****§ 1412.44 Notification of base acres.**

Prior to enrolling the farm in the 2014 ARC or PLC program, the operator and each owner of record of a farm will be notified in writing of the number of base acres eligible for enrollment in a contract, unless such operator or owner of record of a farm requests in writing not to be furnished with the notice. The operator and each owner of record are responsible for notifying all other producers of a farm of the notice.

**§ 1412.45 Treatment of generic base acres.**

(a) ARC and PLC payments will only be made with respect to generic base acres P&CP to a covered commodity or eligible subsequently planted crop acreage for the crop year on a farm.

(b) Generic base acres on a farm will be attributed to a covered commodity as follows:

(1) If a single covered commodity is P&CP or eligible subsequently planted crop acreage and the total P&CP or eligible subsequently planted crop acreage exceeds the generic base acres on the farm, the generic base acres are attributed to that covered commodity in an amount equal to the total number of generic base acres on the farm.

(2) If multiple covered commodities are P&CP or eligible subsequently planted crop acreage and the total number of acres P&CP or eligible subsequently planted crop acreage to all covered commodities on the farm exceeds the generic base acres on the farm, the generic base acres will be attributed to each of the covered commodities on the farm on a pro rata basis to reflect the ratio of:

(i) The P&CP and eligible subsequently planted crop acreage to a covered commodity on the farm; to

(ii) The total P&CP and eligible subsequently planted crop acreage to all covered commodities on the farm.

(3) If the total number of P&CP and eligible subsequently planted crop acreage to all covered commodities on the farm does not exceed the generic base acres on the farm, the number of P&CP and eligible subsequently planted crop acreage to a covered commodity is attributed to that covered commodity.

(c) When generic base acres are P&CP or eligible subsequently planted crop acreage to a covered commodity or when P&CP or eligible subsequently planted crop acreage to a covered commodity is attributed to generic base acres, the generic base acres are in addition to other base acres on the farm.

**§ 1412.46 Planting flexibility.**

(a) Any crop may be planted and harvested on base acres on a farm, except as limited in this section. Any crop may be planted on cropland in excess of the base acres on a farm.

(b) Base acres may be hayed or grazed at any time.

(c) Except as specified in paragraph (d) of this section, the planting or harvesting of perennial or harvesting of non-perennial fruits, vegetables (except mung beans and covered commodities), or wild rice, as determined by CCC, will result in an acre for acre payment reduction when such crop or crops are planted and or harvested, as applicable, on more than:

(1) 15 percent of the base acres of a farm enrolled in ARC or PLC using county coverage; or

(2) 35 percent of a farm enrolled in ARC using individual coverage.

(d) Notwithstanding the provisions of paragraph (c) of this section, perennial fruits, vegetables, and wild rice may be planted or harvested on base acres of a farm and non-perennial fruits, vegetables, and wild rice may be harvested on base acres of a farm if a producer double-crops fruits, vegetables, or wild rice with a covered commodity in any region described in paragraph (e) of this section, in which case payment acres will not be reduced for the planting or harvesting of the fruit, vegetable, or wild rice.

(e) Double-cropping for purposes of this section means planting for harvest non-perennial fruits, vegetables, or wild rice on the same acres in cycle with a planted covered commodity harvested for grain in a 12-month period under normal growing conditions for the region and being able to repeat the same cycle in the following 12-month period. For purposes of this part, the following counties have been determined to be regions having a history of double-cropping covered commodities or peanuts with fruits, vegetables, or wild rice. State committees have established the following counties as regions within their respective States:

**Alabama**

Baldwin, Barbour, Butler, Chambers, Chilton, Clarke, Covington, Cullman, Geneva, Greene, Houston, Jackson, Jefferson, Lee, Madison, Mobile, Montgomery, Randolph, Sumter, Talladega, Walker, and Washington.

**Alaska**

None.

**Arizona**

Cochise, Graham, Greenlee, LaPaz, Maricopa, Mohave, Pima, Pinal, and Yuma.

**Arkansas**

Ashley, Benton, Clay, Craighead, Crawford, Crittenden, Cross, Faulkner, Franklin, Greene, Independence, Jackson, Jefferson, Lawrence, Lee, Lincoln, Logan, Lonoke, Mississippi, Monroe, Phillips, Pulaski, St. Francis, Sebastian, Washington, Woodruff, and Yell.

**California**

Alameda, Amador, Butte, Colusa, Contra Costa, Fresno, Glenn, Imperial, Kern, Kings, Madera, Merced, Riverside, Sacramento, San Benito, San Joaquin, Santa Clara, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Yolo, and Yuba.

**Caribbean Office**

None.

**Colorado**

Otero.

**Connecticut**

None.

**Delaware**

All counties.

**Florida**

All counties except Monroe.

**Georgia**

All counties.

**Hawaii**

None.

**Idaho**

None.

**Illinois**

Bureau, Calhoun, Cass, Clark, Crawford, DeKalb, Edgar, Effingham, Gallatin, Iroquois, Jersey, Kankakee, Lawrence, LaSalle, Lee, Madison, Marion, Mason, Monroe, Randolph, St. Clair, Tazewell, Union, Vermilion, White, and Whiteside.

**Indiana**

Allen, Bartholemew, Daviess, Gibson, Jackson, Johnson, Knox, LaGrange, LaPorte, Madison, Marion, Martin, Miami, Posey, Ripley, Shelby, Sullivan, Vandenberg, and Warrick.

**Iowa**

Kossuth, Mitchell, Palo Alto, and Winnebago.

**Kansas**

None.

**Kentucky**

All counties.

**Louisiana**

Avoyelles, Franklin, Grant, Morehouse, Rapides, Richland, and West Carroll.

**Maine**

None.

**Maryland**

Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Harford, Kent, Prince George's, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester.

**Massachusetts**

None.

**Michigan**

St. Joseph and Kalamazoo.

**Minnesota**

Blue Earth, Brown, Carver, Chippewa, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, Kandiyohi, Le Sueur, Martin, McLeod, Meeker, Mower, Nicollet, Olmsted, Pope, Redwood, Renville, Rice, Scott, Sibley, Stearns, Steele, Swift, Waseca, Wabasha, Watonwan, and Winona.

**Mississippi**

All counties.

**Missouri**

Barton, Butler, Cape Girardeau, Dade, Dunklin, Jasper, Lawrence, Mississippi, New Madrid, Newton, Pemiscot, Perry, Ripley, Scott, and Stoddard.

**Montana**

None.

**Nebraska**

None.

**Nevada**

None.

**New Hampshire**

None.

**New Jersey**

Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Salem, Somerset, Sussex, and Warren.

**New Mexico**

Chaves, Curry, Dona Ana, Eddy, Hidalgo, Lea, Luna, Quay, Roosevelt, San Juan, and Sierra.

**New York**

Cayuga, Columbia, Dutchess, Erie, Genesee, Greene, Livingston, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Putnam, Rensselaer, Saratoga, Schoharie, Seneca, Steuben, Suffolk, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, and Yates.

**North Carolina**

Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Chowan, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Edgecombe, Franklin, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Martin, McDowell, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Richmond, Robeson, Rockingham, Rutherford, Sampson, Scotland, Stanly, Stokes, Tyrell, Union, Vance, Wake, Warren, Washington, Wayne, Wilkes, Wilson, and Yadkin.

**North Dakota**

None.

**Ohio**

Carroll, Champaign, Clermont, Fulton, Henry, Jackson, Lucas, Miami, Morgan, Muskingum, Scioto, Stark, Tuscarawas, and Vinton.

**Oklahoma**

Adair, Alfalfa, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Cleveland, Cotton, Custer, Delaware, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Haskell, Hughes, Jackson, Jefferson, Kay, Kingfisher, Kiowa, LeFlore, Logan, Love, McClain, McIntosh, Major, Marshall, Mayes, Muskogee, Noble, Nowata, Okmulgee, Osage, Pawnee, Payne, Pittsburg, Pottawatomie, Roger Mills, Rogers, Sequoyah, Stephens, Tillman, Tulsa, Wagoner, Washita, Woods, and Woodward.

**Oregon**

Morrow and Umatilla.

**Pennsylvania**

Adams, Bucks, Centre, Chester, Clinton, Columbia, Cumberland, Delaware, Erie, Franklin, Indiana, Lancaster, Montgomery, Montour,

Northumberland, Schuylkill, Snyder, Union, and York.

**Puerto Rico**

None.

**Rhode Island**

None.

**South Carolina**

All counties.

**South Dakota**

None.

**Tennessee**

Bledsoe, Cannon, Chester, Cocke, Coffee, Crockett, Dickson, Dyer, Fayette, Gibson, Giles, Greene, Grundy, Hardeman, Haywood, Jefferson, Knox, Lake, Lauderdale, Lawrence, Lincoln, Madison, Marion, Maury, McNairy, Obion, Overton, Pickett, Putnam, Rhea, Robertson, Rutherford, Sequatchie, Shelby, Sumner, Tipton, Unicoi, VanBuren, Warren, Washington, Wayne, White, Williamson, and Wilson.

**Texas**

Andrews, Atascosa, Austin, Bailey, Bexar, Brazoria, Briscoe, Brooks, Cameron, Castro, Chambers, Childress, Clay, Cochran, Collingsworth, Comanche, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Dimmit, Donley, Duval, Fannin, Floyd, Foard, Frio, Gaines, Hale, Hall, Hansford, Hardeman, Hardin, Hartley, Haskell, Hemphill, Hidalgo, Hockley, Howard, Jefferson, Jim Hogg, Jim Wells, Kent, Kinney, Kleberg, Knox, Lamb, LaSalle, Liberty, Lubbock, Lynn, Martin, Maverick, Medina, Midland, Moore, Motley, Nueces, Ochiltree, Parmer, Pecos, Randall, Reeves, San Patricio, Sherman, Starr, Swisher, Terry, Uvalde, Washington, Webb, Wheeler, Willacy, Wilson, Yoakum, Zapata, and Zavala.

**Utah**

None.

**Vermont**

None.

**Virginia**

Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Brunswick, Buchanan, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesapeake, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Gloucester, Goochland, Grayson, Greene,

Greensville, Halifax, Hanover, Henrico, Henry, Highland, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Southampton, Spotsylvania, Stafford, Suffolk, Surry, Sussex, Tazewell, Virginia Beach, Warren, Washington, Westmoreland, Wise, Wythe, and York.

#### Washington

Yakima.

#### West Virginia

None.

#### Wisconsin

Adams, Calumet, Columbia, Dane, Dodge, Fond du Lac, Green, Green Lake, Iowa, Kenosha, Milwaukee, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Trempealeau, Walworth, Washington, Waukesha, Waushara, and Winnebago.

#### Wyoming

None.

(f) The acreage of any fruit or vegetable specified in paragraph (h) of this section will first be attributed to cropland not having base acres, followed by base acres, before applying any payment acreage reduction required by paragraph (c) of this section. The reduction will be attributed to each of the covered commodities on the farm having payment acres on a pro rata basis to reflect the ratio of the payment acres of the covered commodity on the farm to the total payment acres of all covered commodities on the farm. No reductions are applicable to CTAP payments as specified in subpart H of this part.

(g) For the purposes of this part, fruits, vegetables, and wild rice planted on payment acres of a farm under ARC or PLC Program contract:

(1) Will be considered harvested at the time of planting, unless the producer pays a fee to cover the cost of a farm visit, as specified in part 718 of this title, to verify that the fruit, vegetable, or wild rice has been destroyed before harvest, as determined by CCC, or

(2) Will not be considered as planted to a fruit, vegetable, or wild rice when reported by a producer on the farm with an intended use of green manure or

forage, as determined by CCC, and a fee to cover the cost of a farm visit is paid by the producer, as specified in part 718 of this title, to verify that the crop has not been harvested.

(h) Unless otherwise specifically included as a covered commodity as specified in this part, fruits and vegetables include, but are not limited to, all nuts except peanuts, certain fruit-bearing trees and: Acerola (barbados cherry), antidesma, apples, apricots, aragula, ariona (chokeberry), artichokes, asparagus, atemoya (custard apple), avocados, babaco papayas, bananas, beans (except soybeans, mung, adzuki, faba, and lupin), beets—other than sugar, blackberries, blackeye peas, blueberries, bok spare choy, boysenberries, breadfruit, broccoflower, broccolo-cavalo, broccoli, brussel sprouts, cabbage, cailang, caimito, calabaza, carambola (star fruit), calaboose, carob, carrots, cascadeberries, cauliflower, celeriac, celery, chayote, cherimoyas (sugar apples), canary melon, cantaloupes, cardoon, casaba melon, cassava, cherries, chinese bitter melon, chicory, chinese cabbage, chinese mustard, chinese water chestnuts, chufes, citron, citron melon, coffee, collards, cowpeas, crabapples, cranberries, cressie greens, crenshaw melons, cucumbers, currants, cushaw, daikon, dasheen, dates, dry edible beans, dunga, eggplant, elderberries, elut, endive, escarole, etou, feijoas, figs, gai lien, gailon, galanga, genip, gooseberries, grapefruit, grapes, guambana, guavas, guy choy, honeydew melon, huckleberries, jackfruit, jerusalem artichokes, jicama, joboba, kale, kenya, kiwifruit, kohlrabi, kumquats, leeks, lemons, lettuce, limequats, limes, lobok, loganberries, longon, loquats, lotus root, lychee (litchi), mandarins, mangos, marionberries, mar bub, melongene, mesple, mizuna, mongosteen, moqua, mulberries, murcotts, mushrooms, mustard greens, nectarines, ny Yu, okra, olallieberries, olives, onions, opo, oranges, papaya, paprika, parsnip, passion fruits, peaches, pears, all peppers, persimmon, persian melon, pimentos, pineapple, pistachios, plantain, plumcots, plums, pomegranates, potatoes, prunes, pummelo, pumpkins, quinces, radicchio, radishes, raisins, raisins (distilling), rambutan, rape greens, rapini, raspberries, recau, rhubarb, rutabaga, santa claus melon, salsify, saodilla, sapote, savory, scallions, shallots, shiso, spinach, squash, strawberries, suk gat, swiss chard, sweet corn, sweet potatoes, tangelos, tangerines, tangos, tangors, taniens, taro

root, tau chai, teff, tindora, tomatillos, tomatoes, turnips, turnip greens, watercress, watermelons, white sapote, yam, and yam yu choy.

#### § 1412.49 Matters of general applicability.

(a) The regulations in this part and CCC's interpretation of the regulations in this part and internal agency directives issued to FSA State and county offices are matters of general applicability and are not individually appealable in administrative appeals according to §§ 11.3 and 780.5 of this title. Additionally, the regulations in this part and any decisions of CCC and FSA that are not based on specific facts derived from an individual participant's application, contract, or file are not appealable under part 11 or part 780 of this title. Examples of such decisions include how the program is generally administered, signup deadlines, payment rates, or any other generally applicable matter or determination that is made by CCC or FSA for use in all similarly situated applications. The only extent by which the matters referenced in this section are reviewable administratively in an appeal forum is whether FSA's or CCC's decision to apply the generally applicable matter is factually accurate and in conformance with the regulations in this part.

(b) The relief provisions of 7 CFR part 718 are applicable only to ineligibility and noncompliance decisions. The relief provisions cannot be used to extend a benefit or assistance not otherwise available under law or not otherwise available to others who have satisfied or complied with every eligibility or compliance requirement of the provisions of this part. Equitable relief provisions of part 718 of this title cannot be used to obtain a review of either these regulations, the requirements of this part, the agency's interpretations of this part, or compliance provisions of this part.

#### Subpart E—Financial Considerations Including Sharing Payments

##### § 1412.51 Limitation of payments.

(a) The provisions of part 1400 of this chapter apply to this part. Payments under this part cannot exceed the amounts specified in part 1400 of this chapter.

(b) No person or legal entity may receive, directly or indirectly, more than \$40,000 in CTAP payments in each of the 2014 and 2015 crop years.

(c) For all covered commodities other than peanuts, the total amount of ARC and PLC payments received, directly or indirectly, by a person or legal entity (except a joint venture or general partnership) for any crop year together

with any marketing loan gains or loan deficiency payments for any and all commodities other than peanuts under subtitle B of title I of the 2014 Farm Bill cannot exceed \$125,000.

(d) For peanuts, the total amount of payments received, directly or indirectly, by a person or legal entity (except a joint venture or general partnership) for any crop year together with any marketing loan gains or loan deficiency payments under subtitle B of title I of the 2014 Farm Bill for peanuts cannot exceed \$125,000.

#### **§ 1412.54 Sharing of payments.**

(a) Each eligible producer on a farm may apply for CTAP as specified in subpart H of this part and annually enroll in an ARC or PLC contract, as applicable, and receive assistance and payments determined to be fair and equitable as agreed to by all the producers on the farm and approved by the county committee.

(b) Each person or legal entity leasing a farm who applies for CTAP or elects and enrolls in ARC or PLC is required to provide a copy of their written lease to the county committee and, in the absence of a written lease, is required to provide to the county committee a complete written description of the terms and conditions of any oral agreement or lease. An owner's or landlord's signature affirming a zero share on either an application for assistance or contract under this part, as applicable, may be accepted as evidence of a cash lease between the owner or landlord and tenant, as determined by CCC. For the purposes of obtaining payments under this part, the signature or signatures, if entered on the application or contract to satisfy the requirement of furnishing a written lease, are required to be provided by the application or enrollment deadline established by CCC for the assistance or payment.

(c) When land on which base acres is leased on a share basis, neither the landlord nor the tenant is eligible to receive 100 percent of the CTAP payment or ARC or PLC contract payment for the farm.

(d) CCC will approve an ARC or PLC contract for enrollment and approve the division of payment when CCC is satisfied and determines that all of the following apply:

(1) The landlords, tenants, and sharecroppers sign the contract and agree to the payment shares shown on the contract;

(2) The interests of tenants and sharecroppers are being protected; and

(3) The payment shares shown on the application or contract do not

circumvent either the provisions of this part or the provisions of part 1400 of this chapter.

(4) If any civil dispute between persons, legal entities, or members of legal entities not involving CCC is known or suspected to exist that CCC believes might impact the eligibility of any person or legal entity or administration of ARC, PLC, or CTAP under this part, the Deputy Administrator on CCC's behalf can elect to withhold making any determination on an application or contract until such time as the Deputy Administrator and CCC are satisfied that the dispute is resolved or no longer has any bearing on either the administration of ARC, PLC, or CTAP under this part or any eligible producer or potential eligible producer. A decision withheld under to this paragraph will not be construed to be a decision or adverse decision under any law or regulation nor will it be construed to be a failure of FSA or CCC to act under any law or regulation.

(e) A lease will be considered to be a cash lease if the lease provides for only a guaranteed cash payment for a specified amount, or a fixed quantity of the crop (for example, pounds, or bushels per acre).

(1) If a 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 such producer would have had if the crop had been produced, or combination thereof, the agreement will be considered to be a share lease.

(2) If a lease provides for a guaranteed amount and a share of the crop or crop proceeds, the agreement will be considered a cash lease.

(3) If the lease is a cash lease, the landlord is not eligible for assistance or payments under this part. The leasing of grazing or haying privileges is not considered cash leasing.

(f) Shares of P&CP or eligible subsequently planted crop acreage of covered commodities on generic base acres will be determined based on the attribution in § 1412.45 and shares recorded on the report of acreage filed in accordance with § 1412.66. Shares of PLC and ARC-CO will be determined based on the shares entered on the contract. Shares of ARC-IC payments will be determined based on the shares recorded on the report of acreage filed as specified in § 1412.66. Further, each eligible producer having a share of P&CP or eligible subsequently planted crop acreage of covered commodities on a farm enrolled under an ARC or PLC Program contract has to do both of the following to be eligible for their share of a payment:

(1) Unless otherwise already enrolled on the ARC or PLC Program contract, sign the ARC or PLC Program contract during the contract period; and

(2) Have the producer's share recorded on the report of acreage filed as required by part 718 of this title and § 1412.66 of this part.

(g) In a case where a producer has failed to sign an ARC or PLC Program contract by the signup deadline or contract period established for enrollment and participation for the producer's reported share of P&CP acres or eligible subsequently planted crop acreage of covered commodities on a farm enrolled as specified in this part, that producer's share will not receive any consideration for payment and will not generate any payment to the producer or to any other producer on the farm.

(h) CCC's approval of a CTAP application or ARC or PLC contract or shares under this part based on the representations of persons or legal entities signing the CTAP application, or ARC or PLC contract, or acreage report in no way implies or will be construed as CCC's determination that the representations or assertions made by persons or legal entities signing the CTAP application, or ARC or PLC contract, or acreage report are correct or are approved as legitimate. Any and all assertions and representations of a person, persons, legal entity, or legal entities signing forms, applications, or contracts incidental to program participation in this part are always subject to review and scrutiny or spot check by CCC. CCC can at any time demand documentation to substantiate any representation made by any program participant under this part and recover unearned amounts that are determined to have been paid based on such erroneous representation.

#### **§ 1412.55 Provisions relating to tenants and sharecroppers.**

(a) No payment or assistance authorized under this part will be made by CCC if:

(1) The landlord or operator has adopted a scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under ARC, PLC, or CTAP. If any of such conditions occur or are discovered after payments have been made, all or any such part of the payments as the State committee may determine are required to be refunded to CCC; or

(2) The landlord terminated a lease in violation of State law as determined by a State court.

(b) [Reserved]

**Subpart F—Violations and Compliance Provisions**

**§ 1412.61 Contract violations.**

Violations of contract or application requirements will result in the termination or cancellation of the ARC or PLC contract or CTAP application, as applicable. Upon such termination or cancellation, all producers that signed the contract or application forfeit all rights to receive payments for the ARC or PLC contract or CTAP application and are required to refund all payments received, plus interest as specified in § 1412.1(d) of this part, as determined in accordance with part 1403 of this chapter.

**§ 1412.63 Contract or application liability.**

All producers who signed an ARC or PLC Program contract or CTAP application made according to this part are jointly and severally liable for contract or application violations and resulting repayments and penalties.

**§ 1412.64 Inaccurate representation, misrepresentation, and scheme or device.**

(a) Producers are required to accurately report and certify information provided to CCC for ARC, PLC, and CTAP. Any form containing the signature of a person or legal entity that contains a preprinted certification statement on the form will be construed to be a representation and certification of and from the person or legal entity signing the form regardless of whether or not the person or legal entity personally made the entry or entries on the form. Errors in reporting may impact eligibility or extent of eligibility. Payments under this part will be based on the most correct information available. CCC's issuing payments based on the face of a contract or application does not signify CCC's approval of the representations made by participants. Producers are responsible for refunding, with interest as specified in § 1412.1(d) of this part, any program benefits that were paid based on incorrect program information.

(b) For those cases in which FSA determines that an inaccurate representation or certification is due to a misrepresentation, scheme, or device, the person or legal entity or members of the legal entity will be ineligible to receive ARC, PLC, or CTAP payments and will have the person, legal entity's or member's interest in all contracts or applications terminated if it is determined that such person, legal entity, or member of the legal entity has done any of the following:

(1) Adopted any scheme or device that tends to defeat the purpose of this part;

(2) Made any fraudulent representation;

(3) Misrepresented any fact affecting an ARC or PLC Program contract, CTAP application, or determination made under part 1400 of this chapter; or

(4) Violated or been determined ineligible under § 1400.5 of this chapter.

(c) Any remedies taken by FSA or CCC as specified in this section will be in addition to any other civil or other remedies that may be available, including, but not limited to, those provided in part 1400 of this chapter.

**§ 1412.65 Offsets and assignments.**

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person will be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 1403 of this chapter apply to contract payments.

(b) Any participant entitled to any payment may assign any payments in accordance with regulations governing the assignment of payments in part 1404 of this chapter.

**§ 1412.66 Acreage and production reports, prevented planting, and notices of loss.**

(a) An accurate report of all cropland acreage on the farm is required for ARC, PLC, and CTAP. How to submit the acreage report is specified in part 718 of this title.

(b) Prevented planting acreage credit will only be available to acreage that CCC determines was prevented from being planted due to an eligible cause of loss. Acreage ineligible for prevented planting credit includes acreage not planted due to a management decision. Prevented planting acreage credit is subject to the provisions of part 718 of this title.

**§ 1412.67 Compliance with highly erodible land and wetland conservation provisions.**

The provisions of part 12 of this title apply to this part.

**§ 1412.68 Controlled substance violations.**

The provisions of part 718 of this title apply to this part.

**§ 1412.69 Control of noxious weeds.**

CTAP participants and enrolled ARC and PLC contract participants agree to effectively control noxious weeds and otherwise maintain the land on the farm in accordance with sound agricultural

practices; and use the land on the farm for an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use.

**Subpart H—CTAP**

**§ 1412.81 Administration.**

(a) The provisions of this part apply to this subpart, except for provisions that apply specifically to ARC and PLC only, for example, the yield and planting flexibility provisions apply specifically to ARC and PLC. To the extent that there is a conflict with the provisions of other subparts of this part and this subpart, the provisions of this subpart apply to CTAP.

(b) CTAP payments as specified in this subpart will be made available for:

(1) The 2014 crop year to eligible producers on farms in all counties; and

(2) The 2015 crop year to eligible producers on farms only in counties where STAX is not available.

**§ 1412.82 Eligibility and CTAP application.**

(a) *Eligibility.* In addition to any general eligibility provisions in this part, to be eligible for CTAP the following conditions are required:

(1) The producer is a person or legal entity who is actively engaged in farming and otherwise eligible for payment, as specified in 7 CFR part 1400;

(2) The producer is on a farm that has cotton base acres that were in existence as of September 30, 2013, as adjusted; and

(3) The producer has an interest in the upland cotton base acres on the farm.

(b) *Producer's share interest.* A producer's share interest in cropland on a farm must be equal to or greater than that producer's share interest in cotton base acres on the farm for that crop year, as reported on that farm's acreage report.

(c) *Application.* To apply, submit the application and supportive and necessary contractual documents to the FSA county office:

(1) For 2014 CTAP by October 7, 2014; and

(2) For 2015 CTAP, by July 31, 2015.

**§ 1412.83 Sharing of CTAP payments.**

(a) Each eligible producer on a farm may apply for and receive CTAP payments determined to be fair and equitable as agreed to by all producers on the farm and as approved by the county committee.

(b) The provisions of § 1412.54 regarding the classification of leases apply to CTAP.

(c) Shares of CTAP payments will be determined based on shares recorded on

the application for CTAP payments for the particular program year. The provisions of § 1412.54 apply to shares of CTAP payments.

**§ 1412.84 Impact of CTAP application on ARC or PLC.**

(a) Applications for CTAP do not establish eligibility for ARC or PLC. Interested producers are required to file documents that are specifically required for CTAP as specified on the CTAP application. An application for CTAP will not be considered an intent to participate in ARC or PLC and, conversely, an election or enrollment in ARC or PLC will not establish eligibility for CTAP.

(b) [Reserved]

**§ 1412.86 CTAP payments.**

(a) In the case of producers on a farm who apply for CTAP as specified in this part, and where all other eligibility provisions have been satisfied, CCC will make CTAP payments available to the producers on a farm's application as specified in this subpart.

(b) CTAP payments for upland cotton producers on farms with eligible upland cotton base acres as specified in § 1412.82(a) are equal to:

(1) For 2014, the product of multiplying 60 percent of the farm's upland cotton base acres, times the farm's direct payment yield for upland cotton, times \$0.09, times the producer's share on the approved application; or

(2) Where applicable for 2015 according to this part and subpart, the product of multiplying 36.5 percent of the farm's upland cotton base acres, times the farm's direct payment yield for upland cotton, times \$0.09, times the producer's share on the approved application.

**§ 1412.87 Transfer of land and succession-in-interest.**

(a) A succession in interest application for CTAP is required if there has been a change in the producer shares of upland cotton base acres in § 1412.82(a) for 2014 or 2015, as applicable, due to:

(1) A sale of land;

(2) A change of producer, including a change in a partnership that increases or decreases the number of partners or changes who are partners;

(3) A foreclosure, bankruptcy, or involuntary loss of the farm;

(4) A change in producer shares to reflect changes in the producer's share of the upland cotton base acres relevant to the originally approved application; or

(5) Any other change determined by the Deputy Administrator to be a

succession that will not adversely affect or defeat the purpose of CTAP.

(b) A succession in interest to the CTAP application is not permitted if CCC determines that the change:

(1) Results in a violation of the landlord-tenant provisions specified in § 1412.55; or

(2) Adversely affects or otherwise defeats the purpose of CTAP.

(c) If a producer who is entitled to receive CTAP payments dies, becomes incompetent, or is otherwise unable to receive the payment, CCC will make the payment in accordance with part 707 of this title.

(d) A producer or owner of an enrolled farm is required to inform the county committee of changes in interest in base acres of upland cotton as specified in § 1412.82(b) on the farm not later than:

(1) August 1 of the fiscal year in which the change occurs if the change requires a reconstitution be completed in accordance with part 718 of this title; or

(2) September 30 of the fiscal year in which the change occurs if the change does not require a reconstitution be completed in accordance with part 718 of this title.

(e) In any case in which a CTAP payment has previously been made to a predecessor, such payment will not be paid to the successor, unless such payment has been refunded in full by the predecessor.

**§ 1412.88 Executed application not in conformity with regulations.**

If, after a CTAP application is approved by CCC, it is discovered that such any information contained in the application is not in conformity with the provisions of this part, the provisions of this part will prevail.

**§ 1412.89 Division of CTAP payments and provisions relating to tenants and sharecroppers.**

(a) CTAP payments will be divided in the manner specified in the applicable application approved by CCC. CCC will ensure that 2014 or 2015 producers who would have a 2014 or 2015 reported share interest in cropland on the farm specified in § 1412.82(b) receive treatment that CCC deems to be equitable, as determined by CCC. CCC will refrain from acting on an application if, as determined by CCC, there is a disagreement among any person or legal entity applying as to the person's or legal entity's eligibility to apply as a tenant and there is insufficient evidence to indicate whether the person seeking participation as a tenant does or does

not have a reported share interest in the cropland on the farm sufficient to cover the claimed share interest in cotton base acres of that farm as specified in § 1412.82(b) in 2014 or 2015, as applicable.

(b) CCC may remove an operator or tenant from an application under this subpart and part when the operator or tenant:

(1) Requests, in writing to be removed from the application;

(2) Files for bankruptcy and the trustee or debtor in possession fails to affirm the application, to the extent permitted by the provisions of applicable bankruptcy laws;

(3) Dies during the 2014 or 2015 program year and the Administrator of the estate fails to succeed to the application within a period of time determined by the Deputy Administrator; or

(4) Is the subject of an order of a court of competent jurisdiction requiring the removal from the application under this part and subpart of the operator or tenant and such order is received by FSA, as determined by CCC.

(c) In addition to the provisions in paragraph (b) of this section, tenants are required to maintain their tenancy throughout the crop year in order to remain on an application. Tenants who fail to maintain tenancy on the acreage under the application, including failure to comply with provisions under applicable State law, may be removed from an application by CCC. CCC will assume the tenancy is being maintained unless notified otherwise by a participant specified in the application.

Signed on August 4, 2014.

**Juan M. Garcia,**

*Executive Vice President, Commodity Credit Corporation, and Administrator, Farm Service Agency.*

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**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**19 CFR PART 101**

[CBP Dec. 14-09]

**Technical Amendment to the List of CBP Preclearance Offices in Foreign Countries: Addition of Abu Dhabi, United Arab Emirates**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.