

# FSA Program Guidelines, Facts, and Dates



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## MULTI-COUNTY PRODUCERS

Producers with farming interests in different counties or states must report these interests to the Farm Service Agency (FSA). For purposes of eligible entity determinations, payment limitation, and conservation compliance, one county FSA office will be designated as the control-county. This county will make all determinations pertaining to these program areas for all counties.

## DIRECT AND COUNTER CYCLICAL PROGRAM (DCP)

### Changes in Interest:

Within 30 days, but not later than September 30, of the current fiscal year, a producer or owner must inform the county FSA committee (COC) of changes in interest by completing a CCC 509, Direct and Counter Cyclical Program Contract. Examples of changes include a situation where producers remain the same but shares change or a producer is being added or deleted from the contract.

### Signature Requirements:

All producers, including owners and operators, sharing in the contract payments on a farm, must sign CCC-509 by June 1 (if on a weekend, the next business day) to be eligible for fiscal year payment. When a farm is enrolled timely, producers must submit all other signatures and support documents to the county office by close of business June 1 to earn payments for that fiscal year. If advance payments are requested, all signatures and support documents must be obtained prior to payment. If a reconstitution is involved, a CCC-509 must be signed by at least one producer sharing in the contract within 30 days of the date of the FSA-540, Notice of Base Acreage, Payment Yields and CRP Reduction.

### Reconstitution:

Reconstitution must be requested by August 1. If a reconstitution request is received after DCP payments have been issued, the request may be honored if all DCP payments are refunded. Payments will be re-issued once all parties re-sign a CCC-509.

### Enrollment of Expired Conservation Reserve Program (CRP) Acres:

If a CRP contract ends on or before September 30 of any fiscal year, reduced Contract Base Acres (CABs) may be enrolled in a Direct and Counter Cyclical Program from October 1 through April 1 of the following fiscal year. The acres will then receive both a full DCP payment for the fiscal year the acreage is enrolled or a full or prorated CRP payment for the fiscal year that the CRP-1 ends. If only part or none of the CABs are enrolled, the owner must complete CCC-505 to permanently reduce the CAB.

### Payment Calculations:

Annual payments will be calculated for each contract by multiplying base acreage times 85 percent times the program payment yield times the annual payment rate. For Fiscal Year 2004, two 50 percent payments will be made at the option of the program participant any time prior to September 30, 2003 or one final 100% payment on September 30, 2004. If there is no DCP contract requested by Sept. 30, 2004, the entire FY 2004 payment will **not** be issued.

**Division of Payments:**

To be eligible to receive program payments; producers, tenants, or landowners; must share in the risk of the production of the crop. All persons who share in the risk of production of crops on contract acreage shall share in the payments, equal to their risk share. **A landlord who cash leases an entire farm cannot receive a share of that contract's payments.**

**Planting Flexibility:**

Any crop, **except** fruits and vegetables (FAVs) may be planted in any quantity on base acreage. Any crop, **including** FAVs, may be planted on non-base acreage.

**Fruits and Vegetables:**

Planting fruits and vegetables on base acreage may cause a contract violation and/or payment reduction. Producers may plant FAVs on base acreage if the farm has a history of planting FAVs **or** if the producer has an established history of planting a specific fruit or vegetable. History plantings cause contract payments to be reduced by one acre for each base acre planted to a fruit or vegetable. Producer history plantings cannot exceed the producer's average annual planting history for the specific fruit or vegetable. A producer's average annual planting history for FAV can be either the 1991 through 1995 crop years average of FAV planted **or** the 1998 through 2001 crop years average for FAV crops planted, excluding years with zero acres planted. Producers may voluntarily request a payment reduction based on intended FAV plantings.

**Cropland:**

Land that is planted to a crop, with the intention of that crop being carried through to harvest, is considered to be cropland. Cropland is also land not currently tilled, but has been tilled in a prior year and is suitable to be tilled for crop production. Land that is currently devoted to 1 or 2 row shelterbelt planting, orchard, vineyard, other related crops, terraces that were cropped in the past, sod waterways, or filter strips planted to perennial cover are also considered cropland for program purposes.

**Agricultural/Non-Agricultural Land:**

To remain eligible as contract acreage, a quantity of land equal to the contract acreage shall be used for agricultural or related activity. Some examples of agricultural use are cropland, sod production, farm and aquaculture ponds, nursery acreage devoted to in-ground plants, wildlife habitats, pasture, trees planted for harvest, conservation or recreation purposes. Non-agricultural land includes golf courses and other recreational facilities, commercial development, parking lots and buildings, strip mines and permanent structures including those for agricultural uses.

**Idled Base Acreage:**

Base acreage that is not planted or devoted to a crop during the fiscal year is considered idled contract acreage. This acreage shall be protected from erosion and weeds shall be controlled. Approved covers include: annual, biennial, or perennial grasses and legumes including sweet sorghums, sorghum grass crosses, and sudans; volunteer stands other than weeds, wildlife food plot, crop residue from using no till or minimum till practices, or perennial covers approved for any cost-share assistance. Clean tillage may be used on fields with less than 3 percent slope provided the land is protected from wind and water erosion during the fall and winter with an approved cover.

**Scheme or Device:**

A producer who is determined to have erroneously represented any fact affecting a Direct and Counter Cyclical Program (DCP) determination, shall not be entitled to DCP payments and must refund all DCP payments received, plus interest, with respect to the farm and crops affected. If a producer knowingly adopted a scheme or device that tends to defeat the purpose of the DCP program, the producer shall refund all DCP payments, plus interest, with respect to all contracts. The producer's interest in all contracts shall be terminated.

**CCC LOANS & LDP PAYMENTS**

March 31 (for wheat, oats, & barley) and May 31 (for corn & soybeans) of the year following crop production (March 31, 2004 or May 31, 2004 for the 2003 crop), is the deadline for placing a covered commodity crop under CCC loan or receiving an LDP payment, if authorized.

## CONSERVATION COMPLIANCE

### **Conservation Provisions on Highly Erodible Land:**

All producers must have an approved conservation plan in place before planting an agricultural commodity on highly erodible land, or they must be applying a conservation system on the highly erodible land planted to an agricultural commodity. Producers with approved conservation plans must be actively applying the conservation systems contained in the plan.

Producers farming highly erodible land without a plan may be considered ineligible for USDA program benefits. These producers must work with Natural Resources Conservation Service (NRCS) to develop an approved conservation plan and fully apply the required conservation system to the highly erodible land before they can be determined eligible for USDA program benefits.

### **Swampbuster:**

The drainage or manipulation of an area, whether presently cropland or non-cropland, designated as a “wetland” by NRCS, will result in the loss of all USDA program benefits and eligibility for such benefits for both the producer and the affected acreage. Maintenance of existing drainage is permissible with prior review by NRCS.

Producers are required to file an AD-1026 (Highly Erodible Land Conservation and Wetland Conservation Certification) with FSA **before** doing any drainage or wetland manipulation; identifying area and extent of activity. NRCS will respond on a CPA-026 whether the proposed activity will impact a designated wetland, thereby causing loss of program benefits. This provision applies to both areas currently being farmed and drained as well as new cropland areas.

### **Sodbuster:**

Highly erodible land (HEL) can be brought into crop production **only** under provisions set forth and implemented in a Conservation Plan of Operation (CPO) developed for the specified acreage.

Before producers clear, plow, or otherwise prepare areas not presently under crop production for planting, they are required to file an AD-1026 indicating the area to be brought into production.

If NRCS indicates on a CPA-026 that this area will be highly erodible land, the producer will be required to develop and implement a conservation plan on the affected acreage, before bringing land into production.

### **Conservation Compliance Certification:**

Producers must file an AD-1026 certifying compliance with above provisions prior to applying for program benefits. Program benefits include, but are not limited to: Price Support, Production Flexibility, Conservation Reserve, Environmental Quality Incentive Program, USDA Farm Operating & Real Estate Loans, and catastrophic and buy-up Multi-Peril Crop Insurance. Producers must complete a new AD-1026 each time a change in the farming operation occurs, either in the land farmed or operating arrangement/structure.

## ANNUAL NOTICE TO PRODUCERS PAYMENT LIMITATION

1. No program benefits subject to limitation may be provided to any producer until the necessary payment limitation determinations are made. The producer will remain ineligible until all required forms are provided. Husband & wife are considered to be “one person” unless a written request is received by the county office to consider them separate.
2. Determinations may be initiated by the county FSA committee (COC) or requested by the producer if filed before the end of the sign-up period. Annual plans are not necessary. However, producers must inform the county FSA office of any changes that would affect the number of “persons” on the farm.
3. Entities earning program benefits subject to limitation must provide names, addresses, and ID numbers of its members to COC. Entities are also responsible for informing members of the requirements for designating permitted entities.

4. All payment limitation forms submitted by producers are subject to an end of year review process. If reviewed, producers must submit whatever documentation is required to substantiate the “actively engaged in farming” determination and “person” determinations made earlier.
5. If determined “not actively engaged in farming” the producer is ineligible for any payment or benefit under this notice.
6. Payment limitation rules apply, but are not limited to the following programs: Direct and Counter Cyclical Program; Price Support Loans; Marketing Loan Gains (except honey); Loan Deficiency Payments (except honey); Livestock Feed Program; Conservation Reserve Program; Emergency Conservation Program; Forestry Incentive Program; Environmental Quality Incentives Program; and Disaster programs.
7. The CCC-502 form that producers file through 2003, will remain in effect for future years and producers will not be required to file a new farm-operating plan unless a change occurs that would affect the determination or the producer requests benefits under an annual program. Renting new land, not renting land previously rented, ownership changes on rented or owned land, or changes in crop shares may require an updated CCC-502.
8. The new 2002 Farm Bill has implemented an Adjusted Gross Income Certification. Program participants must certify as to what percentage of their prior three years annual adjusted income, is derived from agriculture activities. Program benefits are not available to individuals who derived less than 75% of his/her income from agriculture sources and exceed \$2.5 million dollars in adjusted gross income.

### **DIRECT DEPOSIT**

Producers who receive USDA payments by direct deposit are reminded to inform their Farm Service Agency (FSA) county office of any change in their bank or bank account. Producers who change banks or accounts will need to file a new direct deposit form.

### **POWER OF ATTORNEY**

Signature authority must be on file in a county office before FSA personnel can accept a signature on any program or related document on behalf of another. However, a husband and wife can sign documents on behalf of each other unless written notification denying a spouse this authority has been provided to the county office. **Exception:** this authority does not include Conservation Reserve Program payment easements, claims, promissory notes or financing statements.

### **ACCOMMODATION POLICY**

Special accommodations will be made for physically handicapped, vision or hearing impaired persons upon request. If accommodations are required, please call your local county FSA office.

### **BARRING FEDERAL DEBTORS**

The Debt Collection Improvement Act of 1996 (DCIA) provides that a person owing a delinquent non-tax debt to the federal government is ineligible for federal financial assistance. This includes obtaining on-farm storage facility loans, direct loans, and guaranteed loans (other than disaster loans from FSA). If you think this may affect you, call your county FSA office for clarification.

### **NON-INSURED CROP DISASTER PROGRAM (NAP)**

The Non-insured Crop Disaster Assistance Program (NAP) provides weather related loss protection for all crops commercially produced for food or fiber, for which Catastrophic Risk Protection (CAT) coverage is not available. Eligible crops include fruits and vegetables, mushrooms, floriculture, ginseng, aqua-culture, ornamental nursery crops, Christmas trees, turf grass, sod, industrial crops, and seed used for human consumption or animal feed.

Also included are honey and maple saps. A \$100 per crop fee, not to exceed \$300 per county or \$900 total, is required. An eligible producer is a landowner, tenant, or sharecropper who shares in the risk of producing an eligible crop. Producers may apply for benefits when loss exceeds 50 percent of the approved yield on specific crops. The payment rate is 55 percent of the average market price recommended by the state FSA committee and approved by the deputy administrator of farm programs.

Eligible NAP disaster conditions are damaging weather including: drought, excess moisture, flooding, hail, freeze, tornado, excess wind, excess heat, fire, or combination. Insect infestation and plant disease are covered if they are a related condition of damaging weather. Also covered is prevented planting if more than 35 percent of the crop is affected.

Ineligible NAP causes of loss are inability to sell crop, inability of the crop to mature in time to meet a specific market, breakdown of equipment, failure to follow good farming practices, neglect or malfeasance of the producer, drifting herbicide, etc. To qualify for crop loss protection, producers of eligible crops shall:

- Annually apply for coverage and pay the applicable \$100 fee before the application closing date.
- Annually file an acreage report after planting and before harvest (varies by crop listed on the following chart).

| <b>CROP</b>   | <b>CLOSING DATE</b> | <b>COVERAGE PERIOD</b> | <b>ACREAGE REPORTING DATE</b>                        |
|---|---------------------|------------------------|--|
| VALUE LOSS CROPS<br>AQUACULTURE<br>CHRISTMAS TREES<br>GINSENG<br>ORNAMENTAL NURSERY<br>SOD  | SEPT 1              | OCT 1 – SEPT 30        | SEPT 30 <sup>TH</sup> PRIOR TO THE ENSUING CROP YEAR |
| CONTROLLED ENVIRONMENT CROPS<br>FLORICULTURE<br>MUSHROOMS   | SEPT                | OCT 1 – SEPT 30        | SEPT 30 <sup>TH</sup> PRIOR TO ENSUING CROP YEAR     |
| ANNUAL FALL SEEDED CROPS  | SEPT 1              | BEGINS OCT 1           | JULY 15 AT THE LATEST                                |
| PERENNIAL FORAGE CROPS  | SEPT 30             | NOV 1 – OCT 31         | JULY 15 AT THE LATEST                                |
| PERENNIAL CROPS (EXCLUDE FORAGE)  | NOV 20              | DEC 20 – SEPT 20       | JULY 15 AT THE LATEST                                |
| HONEY   | DEC 1               | JAN 1 – DEC 31         | JAN 2*   |
| PERENNIAL GRASS/LEGUME SEED CROPS   | JAN 1               | FEB 1 – OCT 31         | JULY 15 AT THE LATEST                                |
| MAPLE SAP   | FEB 1               | MAR 1 – JAN 1          | APRIL 1  |
| ANNUAL SPRING SEEDED  | MAR 15              | VARIES                 | JULY 15 AT THE LATEST                                |
| PASTURE   | MAR 15              | VARIES BY COUNTY       | JULY 15 AT THE LATEST                                |
| * REPORT OF BEE COLONIES MUST BE FILED WITHIN 30 DAYS OF THE DATE THE COLONIES ARE ACQUIRED, BROUGHT INTO COUNTY, OR REMOVED FROM COUNTY. |                     |                        |  |

- Comply with highly erodible land (HELIC) and wetland compliance regulations.
- File a notice of loss within 15 days after the date the disaster condition occurred or damage to the crop was obvious.
- Request an inspection before converting the damaged crop to another use. An appraisal of the entire acreage is required before destroying.
- Furnish verifiable records, by unit, to document production for the year of the loss.
- Furnish actual production records for prior years to establish an approved yield for program purposes.
- Appraisals are required before harvest of crops for which no verifiable records are available such as those sold through farmer’s markets or roadside stands.
- File required forms for a payment limitation “person” determination.
- Be limited to \$100,000 per person for any crop year.

- Have a qualifying gross income not exceeding \$2 million (\$2.5 million for all other programs). Guidelines are as follows: For the previous tax year, if more than 50% of the producer's income is from agricultural operations, only the income from the agricultural operations are counted in the \$2 million limit calculation. However, if less than 50% of the producer's income is from agricultural operations, the producer's total gross income (agricultural plus all non-agricultural income) is included in the limit calculation.
- Losses are determined on "units", with owned and shared as separate units.

NOTE: Production must be kept separate from prior crop year production to avoid eligibility problems. Otherwise, prior year production will need to be measured by an authorized representative of FSA before commingling. Contact the local FSA office for additional details.

## **FOREIGN INVESTORS**

The Agricultural Foreign Investment Act of 1978 requires foreign persons who acquire, transfer, or hold interests in agricultural land to report these holdings and transactions in the county FSA office in which the land is physically located. Foreign persons must also report changes in land use from non-agricultural to agricultural use and vice versa; changes in status of ownership from non-foreign to foreign; and changes in legal addresses. All reports are due within 90 days from the date of the transaction or change in status. Foreign persons who violate the reporting requirement are subject to a penalty of not more than 25% of the fair market value of the land.