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South Dakota FSA News

South Dakota FSA

Room 308
200 4th Street SW
Huron, SD 57350

Phone: 605-352-1160

Fax: 605-352-1195

www.fsa.usda.gov/sd

Craig Schaunaman
State Executive Director

State Office E-mail

sdstate.review@sd.usda.gov

FSA Web Site

<http://www.fsa.usda.gov>

USDA Web Site

<http://www.usda.gov>

All address changes shall
be reported to the
applicable local FSA office.



Annual Notification Newsletter

Foreign Buyers Notification

The Agricultural Foreign Investment Disclosure Act (AFIDA) requires all foreign owners of U.S. agricultural land to report their holdings to the Secretary of Agriculture. The Farm Service Agency administers this program for USDA.

Foreign persons who have purchased or sold agricultural land in the county are required to report the transaction to FSA within 90 days of the closing. Failure to submit the AFIDA form could result in civil penalties of up to 25% of the fair market value of the property. County government offices, realtors, attorneys, and others involved in real estate transactions are reminded to notify foreign investors of these reporting requirements.

Fax Signature Authority

FSA may accept signatures via FAX and electronically scanned signatures obtained by e-mail or Internet as long as all other applicable signature requirements are met, and the applicable program form or document is approved for FAXed and scanned signatures.

Producers are responsible for the successful transmission and receipt of information provided to the Service Center via FAX machine or other electronic transmission.

Changes in Farming Operation

Producers should be reminded that any owner/operator changes shall be reported to FSA timely so that reconstitutions can be completed as needed. This may result in the combining or dividing of tracts or farms.

Reconstitutions commonly result from land ownership changes. There are four specific methods of division.

- The Estate Method which is the division of bases for a parent farm among heirs settling an estate.
- The Designation by Landowner Method which is the division of bases in the manner agreed to by the parent farm owner and purchaser or transferee.
- The Direct and Counter Cyclical Program (DCP) Cropland Method which is the division of bases in the same proportion that the DCP cropland for each resulting tract relates to the DCP cropland on the parent tract.
- The Default Method which is the division of bases for a parent farm with each tract maintaining the bases attributed to the tract level when the reconstitution is initiated in the system.

Note: Average Crop Revenue Election (ACRE) enrolled farms cannot be combined with DCP Farms.

There are also various other types of changes that should be timely reported to your local FSA Office to ensure that program benefits are

issued timely. Incorrect farm data may also affect program eligibility resulting in a refund of program benefits. Changes that should be reported include the following:

- Address changes
- Change from cash rent to share rent and vice versa.
- Changes in membership and shares of an entity.
- Changes in how the farming operation is being conducted (individual transfers all land to a Trust).

Spousal Signature

A husband and wife may sign documents on behalf of each other for FSA and Commodity Credit Corporation programs in which either has an interest, exceptions include claim settlements and lien filings. This option is automatically available unless a written request for exclusion is made to the county office by either spouse.

Controlled Substance

Any person who is convicted under federal or state law of a controlled substance violation could be ineligible for USDA payments or benefits. Violations include planting, harvesting or growing a prohibited plant. Prohibited plants include marijuana, opium poppies, and other drug producing plants.

Highly Erodible Land and Wetland Conservation Compliance

Landowners and operators are reminded that in order to receive payments from USDA, compliance with Highly Erodible Land (HEL) and Wetland Conservation (WC) provisions are required. Farmers with HEL determined soils are reminded of tillage, crop residue, and rotation requirements as specified per their conservation plan. Contact should be made to the USDA Service Center prior to conducting land clearing or drainage projects to insure compliance, which is recorded on form AD-1026 or AD-1026U.

Risk Management

FSA works with the Risk Management Agency (RMA) to prevent fraud, waste, and abuse in the Federal Crop Insurance Program.

- FSA will be assisting RMA and insurance providers in monitoring crop conditions during the season.
- FSA will refer all suspect cases of fraud, waste, or

abuse about Federal Crop Insurance Corporation (FCIC) to RMA.

- Producers may report suspected cases of fraud, waste, or abuse to FSA, RMA, or Office of the Inspector General (OIG).
- FSA will assist RMA with auditing claims as necessary.

Civil Rights/Discrimination Process

As a participant or applicant for programs or activities operated or sponsored by USDA, you have a right to be treated fairly. If you believe you have been discriminated against because of your race, color, national origin, gender, age, religion, disability, or marital or familial status, you may file a discrimination complaint. The complaint should be filed with the USDA Office of Civil Rights within 180 days of the date you became aware of the alleged discrimination. To file a complaint of discrimination write USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 14th and Independence Avenue, SW, Washington DC 20250-9410 or call 202-720-5964 (voice or TDD), USDA is an equal opportunity provider and employer.

Report of Payments to Producers

A summary of all earned payments and/or refunds during the previous calendar year will be mailed to producers during the last week of January. Form CCC 1099-G will be mailed from Kansas City, Missouri (KCMO).

Direct Deposit

The Debt Collection Act of 1996 mandates that future payments from FSA be directly deposited into a producer's savings or checking bank account. A transaction statement will be sent from the FSA office indicating the payment type and amount. All producers were required to have initiated Electronic Funds Transfer (EFT) by January 1, 1999. Any person may request a waiver of EFT if it poses a financial or personal hardship. It is important that any changes in producer's account such as account type, bank mergers, routing number, or account numbers be provided to the county office promptly to avoid possible payment delay.

Foreign Person Rule

It must be established whether a person(s) or legal entities projected to share in applicable program benefits are foreign persons. Before

making any actively engaged in farming or other eligibility determinations, it must be established whether persons or legal entities, projected to share in applicable program benefits, are foreign persons.

A "Foreign person" is someone who is not a citizen of the United States or is not a lawful alien possessing a valid Permanent Resident or Resident Alien Card (I-551).

If an FSA County Committee (COC) questions the citizenship of a person, acceptable proof of citizenship must be provided. Proof of citizenship includes the following:

- Birth Certificate
- Nationalization and citizenship papers
- Certificate of citizenship
- Verification through the nearest Immigration and Naturalization Service office.

Cash Rent Tenant Rule

Any cash-rent tenant shall be ineligible to receive payments unless the cash-rent tenant makes either of the following:

- A significant contribution of active personal labor to the farming operation

- A significant contribution of both of the following to the farming operation: active personal management and equipment.

Beginning Farmers, Limited Resource Producers, & Socially Disadvantaged Individuals

Farm Loans are available to beginning farmers, limited resource producers, and socially disadvantaged individuals.

A beginning farmer is an individual or entity who has not operated a farm for more than 10 years, materially and substantially participates in the operation of the farm, and does not own real farm property that exceeds 30 percent of the median farm size.

Producers who are unable to develop a feasible operating plan at regular rates may request a limited resource interest rate.

A socially disadvantaged applicant or farmer is a member of a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups consist of: American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women.

Average AGI Limitations

A person or legal entity shall not be eligible to receive certain program benefits during the 2009 through 2012 crop, program, or fiscal year (FY) if the average AGI (Adjusted Gross Income) exceeds specified amounts.

The AGI Limitations are as follows:

If Average Adjusted gross...	Then the person or legal entity is ineligible for...
Nonfarm income exceeds \$500,000	Commodity, including Direct and Counter Cyclical Program (DCP) payments, Counter Cyclical (CC) payments, Average Crop Revenue Assistance (ACRE) payments; price support benefits, and disaster assistance program benefits. Note: A person or legal entity with average adjusted gross nonfarm income that exceeds \$500,000 is not eligible for loan gains and LDP payments. However, the person or entity is eligible for MAL's, but the loans must be repaid at principal plus interest, or commodity certificates may exchange for the loan collateral.
Farm Income Exceeds \$750,000	DCP direct payments
Nonfarm income exceeds \$1 million	Conservation program benefits, unless 66.66 percent or more of the average AGI was derived from activities related to farming, ranching, and forestry operations.

Person or Legal Entity Payment Limitations

USDA payments and benefits are subject to producer eligibility and limitation provisions as defined by law. Completed documents and forms to determine eligibility and limitation are reviewed on an annual basis. It is the producer's responsibility to report changes in the farming operation, which may affect payment eligibility and payment limitation.

This table contains the applicable limitations for a person or legal entity for programs that are subject to payment limitation and average AGI.

Program Payment Type	Actively Engaged in Farming	Cash-Rent Tenant	Direct Attribution	Foreign Person	AGI	Limitation (in \$)			
						2009	2010	2011	2012
Commodity Programs									
Counter-cyclical and Average Crop Revenue Program (ACRE) payments on covered commodities except peanuts	X	X	X	X	X	\$65,000 ^{1/}			
Direct payments on covered commodities except peanuts	X	X	X	X	X	\$40,000 ^{2/}			
Conservation Programs									
Conservation Reserve Program (CRP) annual rental payment			X	X	X	\$50,000			
Conservation Security Program (CSP)			X		X	\$200,000			
Environmental Quality Incentive Program (EQIP)			X		X	\$300,000			
Grassland Reserve Program (GRP)			X		X	\$50,000			
Wildlife Habitat Incentives Program (WHIP)			X		X	\$50,000			
Wetland Reserve Program (WRP)			X		X	\$50,000			
Disaster Assistance Programs									
Emergency Livestock Assistance Program (ELAP), Livestock Forage Program (LFP), Livestock Indemnity Program (LIP), and Supplemental Revenue Assistance Payments (SURE)			X		X	\$100,000			
Noninsured Crop Disaster Assistance Program (NAP)			X		X	\$100,000			
Tree Assistance Program (TAP)			X		X	\$100,000			
Price Support Programs									
Loan Deficiency Payments (LDP), Marketing Assistance Loans (MAL), and Market Loan Gains (MLG)				X	X	NO LIMITS			

^{1/} -Under ACRE, this amount will be a combined limitation for counter-cyclical and ACRE payments. If a person or legal entity has a direct or indirect interest in payments earned on a farm participating in ACRE, this limitation will reflect an increase for the amount that the direct payments were reduced.

^{2/} -If the person or legal entity has a direct or indirect interest in payments earned on a farm that is in ACRE, this limitation will reflect a 20 percent reduction in direct payments on each farm that is participating in ACRE.

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