



United States
Department of
Agriculture



FARM SERVICE AGENCY

**Montana State
Producer Handbook**

Fact Sheet

**Direct and Counter-Cyclical Program
Impact of Various Lease Agreements -
According to the 2008 Farm Bill**



June 2008

Overview

In the past, many farmers rented land for a certain cash rent and nothing else. Due to the recent spike in cash grain prices, many renters and landlords are becoming more creative in the way rent is figured. While this is certainly acceptable, it may require the landlords to be party to the DCP contracts in the FSA offices.

Purpose of regulations

The purpose of the federal regulations has always been:

- To protect both landlords and tenants,
- And insure compliance with Payment Limitation rules.

These regulations have been in effect for nearly 10 years but have attracted new interest due to the recent popularity of flexible or combination leases.

Role of county Committees

FSA county committees must review each lease to determine that it is what it is claimed to be.

- If the landlord is in any way sharing in the **risk of producing the crop**, the landlord **must be listed** on the DCP contract for a share.

Share Lease

If rent is based on the amount of crop produced or the income derived from that crop (whether or not the crop is actually grown), or any combination of the two, the lease is considered a **share lease**. In that case, **the landlord must receive a share of the DCP**

contract payment, because the landlord now shares in the risk of the crop.

Example

If the rent is \$60 per acre with an additional rent of \$1 per bushel for yield over 80 bushels per acre, **that is a share lease** because the landlord is sharing the risk that the average yield on his farm will exceed 80 bushels.

Exceptions

There are several exceptions that do not result in a share lease:

- If the lease is not based on an average yield for the farm but for the county at large, that would be acceptable
- If the proceeds are based on an average price to be determined in the future, that is also acceptable
- If the rent is based on the county average yield exceeding 150 bushels per acre or the average price at XYZ elevator on February 1, 2009, that is still a **cash lease**. The landlord has no risk in producing the crop and the price is not based on what is actually received by the renter. The rent is just to be determined by outside factors at a later date.

Bonuses

Another exception to the share rent rule may be a bonus that is paid to the landlord. Based on the terms of the bonus payment and whether or not the bonus is included in the provisions of the

original lease, County Committees have to determine if the lease is a cash lease or a share lease.

Cash Lease Signature Requirements

For a lease considered a cash lease, either of the following is required if the landowner is receiving a zero share of the crop:

- Written lease, written rental arrangement, or other document that proves the producer has the land cash leased for the fiscal year.
- The landowner's signature on the DCP contract (CCC-509).

Written statements from producers certifying that they have a cash lease for a farm are authorized instead of a written lease, rental arrangement, or landowner signature on the CCC-509 if all of the following apply:

- The farm was cash leased by the producer in the previous fiscal year and the producer was designated to receive payment on the CCC-509 for the same year.

An example of a cash rent certification statement would be: "I, John Doe, certify that I am cash renting farm number 123 from the owner, Fred Smith, for the 2008 fiscal year. I cash rented this farm in 2007 and was designated to receive the DCP payments for the same year."

This would be signed and dated by the producer.

Reminder

Farmers also need to remember that it is their responsibility to inform the county FSA office of the type of lease they have and what the correct shares should be for the farm.

For Additional Information

Additional information may be obtained at local FSA offices or through the Montana FSA Web site at www.fsa.usda.gov/mt/

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