January 2007

Fact Sheet

Payment Limitations and Financing Provisions

Overview

Payment limitations are maximum payment amounts established by legislation for specific USDA Farm Service Agency (FSA) programs. Payment limitations vary by program.

Producer Requirements

FSA program benefits may not be provided to any producer until the Payment Eligibility form (CCC-502) has been provided to the local FSA county office and payment eligibility determinations have been made.

Completing CCC-502

It is imperative that producers complete CCC-502 in a manner that accurately reflects **exactly** how the producer is conducting the agricultural operation out on the farm or ranch. Form CCC-502 is available on line at: http://forms.sc.egov.usda.gov/eforms/mainservlet or at your local county FSA office. Other forms available for reporting changes are:

- CCC-502A for an individual
- CCC-502B for joint operations
- CCC-502C for entities such as corporations, Limited Liability Partnerships, Limited Partnerships, and Limited Corporations
- CCC-502D for trusts and estates

Remaining Eligible for Programs

A producer's best option for remaining eligible for payments, and avoiding problems that may result in becoming ineligible for payments, is to file a new or updated CCC-502 as soon as a change occurs even if the change seems insignificant to the producer.

To prevent losing eligibility for payments, producers contemplating any minor or major changes, including estate planning, to their agricultural operations should contact their local county FSA office prior to making those changes.

Payment Limitation Determinations

When payment eligibility determinations are made, several factors are taken into consideration and may include reviewing a producer's contributions of labor, management, capital, equipment and land to the operation.

Evaluations are also done on how a producer's accounts are managed, looking at whether the program applicant keeps farm accounts separate from all other producers or whether the applicant is involved in a partnership, joint venture, corporation, trust, estate, or other legal entity. Most payment eligibility determinations are made at the county level by the local FSA County Committee (COC). However, some farming operations involving a complex business structure require review at the State level.

Payment Limitations for Individual Programs

The limitation for the following programs is per "person" per fiscal year:

- **Direct and Counter Cyclical Program (DCP)** – direct payments are limited to $40,000 – counter-cyclical payments are limited to $65,000;
- **Conservation Reserve Program (CRP)** payments are limited to $50,000;
- **Non-Insured Assistance Program (NAP)** payments are limited to $100,000;
- **Loan-Deficiency** (LDP) payments together with Commodity Marketing Loan Gains are limited to $75,000;
- Total of payments for **wool, mohair**, and **honey** are limited to $75,000;
- **Environmental Quality Incentives Program (EQIP)** payments are limited to $450,000 per "person" for the five year period of 2002-2007.

Definitions

Payment Limitation Overview: A limitation on the total annual payments that a "person" may receive from federal agricultural programs has been in effect since the Agricultural Act of 1970. Financial arrangements regarding borrowed capital may affect payment limitation determinations and result in ineligibility.

Applicable Rules: Depending on the USDA-administered program, producers must meet requirements to be eligible to receive payment. These rules include "person" determinations, actively engaged in farming rules, the cash rent tenant provision, permitted entity requirements, foreign person rule, and adjusted gross income provisions.

"Person" Determination: For an individual or entity to be considered a **separate** "person," the individual or entity must:

- Have a separate and distinct interest in the land or crop involved; and
- Exercise separate responsibility for this interest; and
- Maintain funds or accounts separate from that of any other individual or entity for this interest.
- Business practices and activities that may adversely affect the ability of an individual or entity to meet requirements to be considered a separate "person" include: 1) common bank and loan accounts for multiple farming operations; 2) cross collateralization – the same assets, such as growing crops, program payments, crop and crop insurance proceeds, are pledged by multiple producers as security for a loan or multiple loans; 3) use of accounting ledgers rather than actual bank and supplier accounts; and 4) farm operating loans are guaranteed or secured by assets of other farming operations, individuals, and entities.

Spouses may be determined to be **two** "Persons" only if this determination is requested in writing and the applicable requirements are met by each spouse.

"Actively Engaged in Farming": A producer must be considered "actively engaged in farming" to be eligible for payments and benefits under some programs. To be considered "actively engaged in farming," the producer must provide significant contributions to the farming operation, which are commensurate to the producer's claimed share of the farming operation and the contributions must be **at risk.** Contributions are: capital, equipment, land, labor, and management.

Capital Contributions: For capital to be a significant contribution to the farming operation, the capital must be contributed directly to the farming operation from a fund or account separate and distinct from that of any other individual or entity with an interest in a farming operation.

Borrowed Capital:

- Must be contributed directly to the farming operation and not have been acquired as the result of a loan made to, guaranteed by, or secured by an entity or someone who has an interest in the farming operation.
- Which is secured by assets from other parties or individuals (such as cross-collateralization or third party collateral) will result in ineligibility.
- Equipment and land contributions which are obtained by ineligible borrowed capital will not be considered a significant contribution for the applicable input.

Bank Accounts:

- Producers must have and maintain separate bank accounts.
- Commingled bank accounts and internal "paper" accounts will result in ineligibility.

Information provided in this fact sheet does not supersede National operating procedure or Regulations provided in 7 CFR part 1400.

For Additional information

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

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