



“SCOOP”

ARKANSAS FARM SERVICE AGENCY - - STATE OFFICE

March 2009

COMPLETING PAYMENT ELGIBILITY FORMS

Before 2009 program benefits can be paid, producer must file a new farm operating plan formally known as CCC-502's. Producers farming with their social security number will need to complete a CCC-902I. Producers farming with an employer ID number will need to complete a CCC-902E. Producers are strongly encouraged to be cautious when completing these forms. These forms are a “certification” of how the farming operation will be conducted. Once the farming operation plan is submitted to FSA, the County Committee is required to make an eligibility determination within 60 days. Once the determination is made, the producer will be notified and given applicable appeal rights. Producers are also reminded that since the farm operating plans are only a certification, **producers are subject to providing documentation to prove that they farmed as stated on the certification.** Failure to follow through and farm as stated on the certification could require repayment of all FSA payments with penalties. To assist farm producers in completing the forms, FSA has instruction sheets for each form. You are also encouraged to read the definitions on the forms to help explain each category. Producers are required to update or file a new certification anytime the farm operating plan has changed.

PAYMENT ELIGIBILTY FOR HUSBAND AND WIFE

The 2008 Farm Bill made new eligibility requirements for a husband and wife to earn FSA benefits. For 2009 through 2012, husbands and wives are no longer automatically considered “combined” for payment limitation purposes as in the previous farm bill. Each spouse may now have their own respective limitation.

There is also a new provision for husband and wife farming operations that if both spouses farm together in a joint operation or as an entity then one spouse will not have to meet right hand contributions of active personal labor or active personal labor provided:

- The first spouse is determined actively engaged in farming by meeting left hand and right hand contributions
- And the spouse that is NOT providing the active personal labor or active personal management MUST provide left hand contributions of land, capital, or equipment or a combination.

The requirement of commensurate (equal) share and risk remain applicable.

REVISED CASH RENT TENANT RULES

In addition to the “actively engaged in farming” requirement, if a tenant rents a farm as shown below they must also meet “cash rent tenant” rules to be eligible for payments on that land:

- Cash (includes farms rented for cash and sub-rented for a share)
- A crop share guarantee
- Zero dollars
- Farms in exchange for compensation other than cash

The cash rent tenant rule requires the tenant to make a significant contribution to the farming operation of active personal labor or significant contributions of both active personal management and equipment. If the cash rent tenant is using equipment to qualify, and if the equipment is leased from the same person or legal entity providing the hired labor, the contracts for the lease of equipment and for the hired labor *must be* two separate contracts that reflect fair market value for both. ***In addition, new with the 2008 Farm Bill the cash rent tenant must exercise complete control (exclusive access) over using a significant amount of the equipment during the current crop year.*** If the cash rent tenant meets actively engaged in farming rules, but does not meet cash rent tenant rules, they will be eligible for payment only on owned or share rented land, and a cropland factor will be computed and applied to all payments on all farms.

If the cash rent tenant is a joint operation, each member must make the significant contribution of active personal labor or active personal management to be considered eligible. If one or more members do not make the required contribution, that share shall be determined ineligible. If the cash rent tenant is an entity, the shareholders collectively holding at least 50% interest must make the significant contribution of active personal labor or active personal management in order for the entity to be considered eligible.

INTEREST IN A FARMING OPERATION

Additional rules must be met for payment eligibility concerning capital, land, and equipment when guaranteed, co-signed, or secured by someone who has an “interest in the farming operation.” It is extremely important this information is disclosed in the farm operating plan, and discussed with your local FSA office. FSA rules state the following are considered to have an interest in a farming operation:

- General partners of limited partnership when the limited partner is a producer in the farming operation
- Grantors of revocable trust when the trust is a producer in the farming operation
- Owner or renter of land in the farming operation, whether or NOT the landowner has an interest in the production or proceeds from the production
- Producers who share in the production or proceeds of production from the farming operation
- A member of a joint operation that either owns or rents land in the farming operation or has an interest in the agricultural producers, commodities, or livestock production by the farming operation.

2008 PARTIAL ADVANCE UPLAND COTTON COUNTER-CYCLICAL (CC) PAYMENTS

COF's are now in the process of issuing 2008 advance counter-cyclical (CC) payments to farms with a UPCN base if enrolled and eligible for DCP. Producers who elected an advance CC payment will be issued 40 percent of the payment rate. The rate is .1258 cents per pound.

RICE BASE APPORTIONMENT

FSA now has the instructions and rules for **landowners** to apportion DCP rice bases. The 2008 Act requires that the current rice base on each tract of a farm be apportioned to either long grain or medium grain, and short grain will be included as medium grain. ***Landowners will have until June 1, 2009 to make these apportionments.*** Landowners will be required to complete CCC-748 for each tract on the farm that has a rice base. All owners on the tract must be in agreement as to the method used to attribute the rice base. Failure to agree or to make the election by June 1 will result in the tract receiving the State planted average for years 2003-2006 of 91 percent long grain and 9 percent medium grain. Landowners who do not want to use the State averages may have the base apportioned based upon the planted and prevented planting history for years 2003-2006. FSA will calculate each year's percent of long grain rice planted or prevented planted from the total rice planted on the tract. Any year without rice planted or prevented planted history will receive the State Average. The sum of these averages are divided by four and then multiplied by the current rice base on the tract to receive the long grain base. The medium grain will be the result of the difference. Which ever method chosen by the landowner, the total rice base on the tract, farm, and payment yields will remain the same. The distribution of rice base to the long and medium grain will have an impact on the calculation of counter-cyclical payments.

CONSERVATION PROGRAM MAY IMPACT DIRECT AND COUNTER-CYCLICAL PROGRAM CONTRACTS

Farm producers should always check with their local FSA and NRCS office before enrolling acreage in a conservation program to determine if the conservation enrollment will have an impact on the DCP Program. As a general rule LAND that is enrolled in the conservation program cannot be enrolled in DCP at the same time. If sufficient cropland is not available for the farm to support the conservation enrollment and DCP bases, the landowners will need to decide to reduce the DCP base or reduce the conservation enrollment. Below is a list of conservation programs that may be affected. The list may not include all applicable programs:

- Conservation Reserve Program (CRP)
- Wetland Reserve Program (WRP)
- Water Bank Program (WBP)
- EWP Flood Plain Easement
- Other Federal Conservation Programs or Restrictive Easement Programs

JOINTLY AND SEVERALLY LIABLE

It's very important for DCP producers to be aware that the 2008 Farm Bill has a new provision that **all producers sharing in the DCP contract payments on the farm are jointly and severally liable for any refunds determined as an error in reporting or certification toward the DCP contract.** You may NOT be the producer on the farm that caused the ineligibility determination, but by being a producer who shares in the DCP contract you are liable for his/her debt.

AVERAGE CROP REVENUE ELECTION (ACRE) PROGRAM AND DCP

It is projected producers will be able to sign up for the Average Crop Revenue Election (ACRE) Program in April. Producers who want to enroll for 2009 will have a June 1, 2009 deadline. The details of the program are still pending and will be released as soon as available. However, the FSA National Office has recently advised that producers who want to have the advance direct payment that can be earned by enrolling in ACRE must first enroll in the DCP Program. FSA software will not be ready to issue the advance through the ACRE Program but the same can be accomplished if producers on the farm first enroll in DCP and also ACRE. If a producer does not want an advance direct payment through ACRE they do not have to enroll in DCP first. Continue to watch for more details on ACRE.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

Relief from foreclosure, sale, or seizure of property for nonpayment of a loan obligation, during the period of active military service or within 3 months thereafter, is offered to Marketing Assistance Loan borrowers who are on active duty anywhere in the world and are active duty members of the U.S. Army, U.S. Navy, U.S. Marine Corps, U.S. Air Force, or U.S. Coast Guard. Also, Treasury and internal administrative offsets will be discontinued once a producer is ordered to report for induction or military service. Contact your local FSA Office for more information.

REMOVING CCC LOAN COLLATERAL

Producers, if you have grain under a Commodity Credit Corporation loan it cannot be removed without prior authorization or repayment. Unauthorized removal, which includes removal for cleaning for seed or planting, is a violation and is subject to monetary and administrative penalties.

Your loans are subject to spot check. Determined shortages must be repaid with principal plus interest, and additional monetary penalties plus loss of future loan eligibility may apply. Producers planning to remove or clean CCC loan grain should contact the county office staff for additional information.

MARKET GAINS WITH COMMODITY CERTIFICATES AND COTTON STORAGE CREDITS REPORTED TO IRS

Form CCC-1099 G has recently been mailed to all FSA producers receiving certain government payments. In prior years FSA reported to the IRS market gains associated with CCC loan repayments only when the loan was repaid at less than principal with CASH. Commodity loans repaid by commodity certificate exchange were not reported by FSA to the IRS. Beginning with commodity loans repaid during the 2007 CALENDAR YEAR, FSA began reporting the market gain to IRS regardless of whether the loan is redeemed with CASH or with COMMODITY CERTIFICATES. This gain is reported on the 1099 G.

Also, beginning with cotton loans repaid on or after January 1, 2008, any storage credit granted during the repayment of a cotton loan will be reported on Form CCC-1099 G as taxable income for the producer. This is being reported as "Storage Forgiven" on the 1099 G.

PROGRAM DEADLINES

Noninsured Crop Disaster Assistance Program (NAP) Application Closing Date	
Tomatoes (Spring & Fall)	March 15, 2009
2009 NAP Acreage Reporting Deadline	
Forage Crops – for Hay and Pasture (mechanically harvested acreage and grazing acreage)	February 15, 2009
Barley and Oat Crops for Hay or Grazing	Extended to April 1, 2009
Pecans – Native and Improved varieties	April 1, 2009
Greens – All varieties, Spring Planted	
Broccoli	May 15, 2009
Cabbage	
Carrots	
Sweet Corn	
Lettuce – All varieties	
Potatoes – All varieties	
Strawberries	
Tomatoes – Spring Planted	
Other Deadlines	
Final Loan and LDP Availability for 2008-crop Wheat, Barley, Oats, Honey, Canola, Crambe, Flaxseed, Rapeseed, and Sesame Seed	March 31, 2009
Fall Seeded Acreage Reporting Deadline (Wheat & Oats)	May 15, 2009
Final Loan and LDP Availability for 2008-crop Upland Cotton, Rice, Corn, Dry peas, Grain Sorghum, Lentils, Mustard Seed, Safflower Seed, Small Chickpeas, Soybeans and Sunflower seed.	May 31, 2009
2009 DCP and ACRE enrollment and return of signatures	June 1, 2009
Deadline for Estates to Provide CCC-902 Farm Operation Plan	June 1, 2009

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