

For: State and County Offices

**Eligibility of Subsequently Planted Crops for
Supplemental Revenue Assistance Payments (SURE) Program**

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246) authorized SURE. Pub. L. 110-398 was signed on October 13, 2008, and amended several provisions of the 2008 Act. Notice DAP-298 addressed the technical changes to the risk management purchase requirement (RMPR) for SURE, but did not address how subsequently planted crops will be used in calculating the farm guarantee and actual total farm revenue.

Recent weather events have occurred that have adversely impacted 2009 fall-seeded small grain crops. As a result, some producers may decide to plant a subsequent crop on the failed acreage. One of the factors that may influence a producer's decision to plant a subsequent crop is how the subsequent crop impacts eligibility for SURE.

B Purpose

This notice:

- explains statutory provisions of the impact of planting a subsequent crop on SURE eligibility
- provides guidance to State and County Offices about producers' questions about planting subsequent crops.

Disposal Date	Distribution
November 1, 2009	State Offices; State Offices relay to County Offices

Notice DAP-307

2 Subsequent Crop Provisions for SURE

A Definition

A subsequently planted crop is a crop planted during the same crop year on the same land for which the first crop is eligible for SURE.

Note: If crop insurance or NAP is **not** available for the first crop planted or prevented from being planted, and a subsequent crop is planted for which crop insurance or NAP is available, then only the second crop is considered the initial crop for SURE purposes.

B Statutory Requirement

Pub. L. 110-398 requires that the Secretary not consider a subsequent crop for purposes of calculating the SURE guarantee or actual total farm revenue, except in areas in which double cropping or multiple planting periods are considered a normal practice.

Note: This policy applies even when the subsequent crop is covered by crop insurance or NAP.

C Rules When Planting a Subsequent Crop as an Unapproved Double Crop

A subsequent crop that does **not** meet double cropping rules is **not**:

- eligible for SURE benefits.

Note: The subsequent crop will be considered a “ghost” crop for the SURE program; that is, the second crop will be excluded from all calculations when computing the SURE benefit.

- required to have crop insurance or NAP, if all acreage of the crop is considered subsequent.

D Rules When Planting an Approved Double-Crop

A second crop planted that meets double cropping rules is:

- eligible for SURE benefits
- is required to have crop insurance or NAP.

E RMPR Relief

Language provided in the 2008 Farm Bill specifically provided equitable relief provisions of the RMPR requirement on a case-by-case basis.

Notice DAP-294 advised State and County Offices of equitable relief provisions for 2008. Notice DAP-294, subparagraph 2 A gave STC authority to grant equitable relief of RMPR in cases where late planting occurred because of weather-related conditions. This same authority will apply for 2009 and includes this same cause for equitable relief. A future notice on equitable relief for 2009 will be issued to State and County Offices and will provide guidance on processing requests for equitable relief.

3 Examples of Planting Subsequent Crops

A Subsequent Crops Meeting Double Crop Rules

State and County Offices shall consider the following 3 scenarios when a small grain, planted in the fall of 2008, followed by grain sorghum, planted in the spring of 2009 (both are considered 2009 crops), meet double cropping rules, requiring RMPR to be met on both crops.

Example 1: Producer A obtained a policy or plan of insurance for both wheat and grain sorghum. Producer A harvested the wheat crop and planted grain sorghum. Both the wheat acres and grain sorghum acres will be included in calculating both the SURE guarantee and total farm revenue.

Example 2: Producer B obtained NAP coverage for wheat (assume CAT level coverage is not offered in this county for wheat) and obtained a policy or plan of insurance for grain sorghum. Producer B harvested the wheat crop and planted grain sorghum on the same acres. Both the wheat crop covered by NAP and the grain sorghum crop covered by insurance will be included in calculating both the SURE guarantee and total farm revenue.

Note: The reverse of this example could be true, that is, wheat is an insured crop and grain sorghum is the NAP covered crop. If insurance for wheat and NAP for grain sorghum was obtained, then both crops will be considered in calculating the SURE guarantee and total farm revenue.

Example 3: Producer C obtained a policy or plan of insurance for wheat, however, the producer did not intend to plant grain sorghum following wheat. A natural disaster occurred adversely impacting the wheat crop. The producer wants to plant grain sorghum following the failed wheat. The producer does not meet RMPR if insurance or NAP coverage, whichever would have been applicable, was not obtained on the grain sorghum crop. The insurance sales closing date or NAP application closing date for grain sorghum has passed so Producer C no longer has the opportunity to purchase insurance or NAP coverage for grain sorghum. The producer may apply for relief allowing the producer to maintain eligibility for SURE. If relief is granted and the producer pays a \$250 relief fee, both the wheat acres covered by insurance and the grain sorghum acres for which relief was granted will be included in calculating both the SURE guarantee and total farm revenue.

Note: By statute, the producer is required to have a policy or plan of insurance for grain sorghum when wheat followed by grain sorghum meets the double crop rules. If the producer does not apply for relief or relief is not granted, the farm is not eligible for SURE.

3 Examples of Planting Subsequent Crops (Continued)

B Subsequent Crops Not Meeting the Double Crop Rules

State and County Offices shall consider the following 3 scenarios when a small grain planted in the fall of 2008, followed by grain sorghum, planted in 2009 (both are considered 2009 crops), does **not** meet the double crop rules, which requires RMPR to be met on only the initial crop.

Example 1: Producer A obtained a policy or plan of insurance for both wheat and grain sorghum. Producer A planted 100 acres of wheat and 75 acres of grain sorghum as initial crops. Fifty acres of wheat failed because of a natural disaster. On the failed wheat acres the producer plants 50 acres of grain sorghum. Therefore, 125 acres of grain sorghum are planted on the farm.

Because 100 acres of wheat and 75 acres of grain sorghum are considered initial crops, these acres will be used for calculating the SURE guarantee and total farm revenue. Even though an additional 50 acres of grain sorghum were planted and the producer had insurance on all 125 acres, 50 acres of grain sorghum subsequently planted after wheat will be considered a “ghost” crop for the SURE program; that is, 50 acres of grain sorghum will be excluded from all calculations when computing the SURE guarantee and total farm revenue.

Example 2: Producer B obtained a policy or plan of insurance for wheat, and did not intend to plant grain sorghum. A natural disaster occurred adversely impacting the wheat crop, causing it to fail. The wheat was unharvested and the producer plants grain sorghum following the failed wheat. The producer meets RMPR because the initial crop is insured. Wheat is considered the initial crop and all wheat acres will be used for calculating the SURE guarantee and total farm revenue. All grain sorghum acres subsequently planted after wheat will be considered a “ghost” crop for the SURE program; that is, the second crop will be excluded from all calculations when computing the SURE guarantee and total farm revenue.

Example 3: Producer C has NAP coverage on winter barley and crop insurance on grain sorghum. Grain sorghum following winter barley does not meet the double cropping rules; however, the producer plants grain sorghum on the failed winter barley acres. For SURE purposes, winter barley will be considered the initial crop, even if crop insurance recognizes grain sorghum as the first crop. Grain sorghum will be considered a “ghost” crop for the SURE program; that is, grain sorghum as the subsequent crop will be excluded from all calculations when computing the SURE guarantee and total farm revenue.