

For: FSA Offices, CMA's, DMA's, and LSA's

**2004 and Subsequent Crop Year Beneficial Interest Provisions
for Hybrid Seed Contract Producers**

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

The Farm Security and Rural Investment Act of 2002 (the 2002 Act) provides a “producer” definition under Title 1, Sec. 1001, Definitions, that excludes producers with a hybrid seed contract from the beneficial interest eligibility requirement. The definition specifically states, “The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title.”

B Purpose

This notice provides 2004 and subsequent crop year beneficial interest provisions for producers under hybrid seed contracts.

Note: A forthcoming amendment to 8-LP will include this new policy.

<p>Disposal Date</p> <p>January 1, 2005</p>	<p>Distribution</p> <p>All FSA Offices; State Offices relay to County Offices; and CMA’s, DMA’s, and LSA’s</p>
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2 Beneficial Interest Provisions for Hybrid Seed Contract Producers

A Hybrid Seed Contract Producer Eligibility

When determining if a producer under a hybrid seed contract is eligible for a Marketing Assistance Loan (MAL) or loan deficiency payment (LDP), the County Offices **shall not** take into consideration the existence of the hybrid seed contract when determining beneficial interest eligibility. However, all other MAL and LDP program requirements are applicable.

Note: The contract must specify that it is a hybrid seed contract and it must be for an eligible loan commodity.

B Hybrid Seed Contract Review

If a producer submits a hybrid seed contract for review, County Offices shall maintain a copy for file purposes **only** and are not required to review for a beneficial interest determination for producer eligibility.

C Provisions for 2004 Crop LDP Requests That Were Denied

Hybrid Seed contract producers, who were denied a 2004 crop LDP because the County Office determined the producer ineligible due to a hybrid seed contract, are eligible to receive a 2004 crop LDP.

If a hybrid seed contract producer was notified that he/she was ineligible based on loss of beneficial interest due to an existing hybrid seed contract and the County Office requested repayment of the LDP, the County Office shall reissue the applicable LDP.

D Determining the 2004 Crop LDP Rate for Denied Hybrid Seed Contract Producers

For hybrid seed contract producers who were determined ineligible for a 2004 crop LDP due to a hybrid seed contract, the County Office shall use the rate in the effect on the earlier of the date:

- LDP request
- when beneficial is considered lost.

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3 State and County Office Action

A State Office Action

State Offices shall:

- publicize the contents of this notice immediately to the maximum extent possible
- instruct County Offices to notify all producers immediately of the contents of this notice using all available resources
- review STC minutes to identify cases involving hybrid seed contract producers who requested relief because of an ineligible producer determination.

B County Office Action

County Offices shall:

- notify all producers immediately of the contents of this notice using all available resources
- ensure that hybrid seed contract producers requesting MAL's and LDP's meet all other eligibility requirements
- act upon any pending relief or appeal cases involving loss of beneficial interest by contacting appellants to inform them that if they will withdraw their request for relief or appeal in writing, the original LDP request will be processed.

For requests for relief that are:

- withdrawn in writing, the County Office shall process the original LDP request, using the LDP rate in effect on the date the commodity was sold
- known to be at the National Appeal Division (NAD) appeal level, State and County Offices shall contact the producer and inform him or her of this policy.

Note: The producer is responsible for contacting NAD to withdraw an appeal.