

For: State and County Offices

Asparagus Revenue Market Loss Assistance Payment (ALAP) Program

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

A substantial increase in asparagus imports over the last several years resulted in reduced revenue for U.S. asparagus producers. The increased supply of imported asparagus resulted in reduced domestic consumption. The Food, Conservation, and Energy Act of 2008 (2008 Act) authorizes CCC to provide up to \$15 million in direct payments to asparagus producers for revenue losses as the result of crop year 2004 through 2007 imports.

The 2008 Act requires an allocation of the \$15 million in CCC funds for ALAP payments to marketing categories as follows:

- \$7.5 million to producers of asparagus for the fresh market
- \$7.5 million to producers of asparagus for the processed market.

B Purpose

This notice:

- informs the State and County Offices of the following:
 - policy and procedure on implementing the ALAP program
 - signup period for the ALAP program
 - eligibility criteria
 - procedure for applying for benefits
 - instructions for completing CCC-895
 - clarifies program year to use for completing CCC-526
- obsoletes Notice SP-59.

Disposal Date	Distribution
October 1, 2011	State Offices; State Offices relay to County Offices

Notice SP-61

1 Overview (Continued)

C Contacts

If there are questions about this notice, State Offices shall contact the appropriate individual according to the following.

Contact	Telephone Number	E-Mail Address	Program Area
Dani Cooke	202-720-1919	danielle.cooke@wdc.usda.gov	ALAP policy and procedure.
Toni Williams	202-720-2270	toni.williams@wdc.usda.gov	
Asime Atuboyedia	202-720-8223	asime.atuboyedia@wdc.usda.gov	ALAP software and Web content.

2 General Information

A Source of Authority

The ALAP program is authorized by Section 10404 of the 2008 Farm Bill (Pub. L. 110-246). The legislation directs the Secretary to make payments to producers of the 2007 crop of asparagus for market loss resulting from imports during the 2004 through 2007 crop years.

B Regulations

The ALAP program final rule was published in the FR on February 4, 2011. Regulations for the ALAP program will be:

- codified at 7 CFR Part 1429
- available after publication in the FR on the FSA Internet at <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=lare&topic=landing>.

The proposed rule for the ALAP program requesting public comments was published in the FR on July 16, 2010. The 60-calendar day comment period ended on September 14, 2010. All responses to comments received are summarized and included in the final rule.

C Policies and Procedures

The following will be issued through forthcoming SP and PS notices respectively:

- procedural instructions for administering the ALAP program
- instructions for recording CCC-895's and processing payments by County Offices through web-based software.

Notice SP-61

2 General Information (Continued)

D Related Handbooks

Handbooks related to ALAP program include the following.

Purpose	Handbook
Appeals.	1-APP
Signatures, estates, trusts, minors, or powers of attorney.	1-CM
Scheme, device, or failure to fully comply.	4-CP
HELC/WC provisions.	6-CP
Misaction, misinformation, equitable relief, or finality rule.	7-CP
Issuing payments.	1-FI
Offsets.	58-FI
Prompt payment provisions.	61-FI
Reporting to IRS.	62-FI
Assignments and joint payments.	63-FI
NRRS	64-FI
Payment limitations, AGI, and foreign person provisions.	1-PL and 4-PL
Web-based subsidiary files.	3-PL

3 Eligibility Requirements for ALAP

A Producer Eligibility

To be eligible for ALAP benefits, producers **must**:

- have produced and marketed asparagus in commercial quantities in the U.S. during **both** crop years 2003 and 2007
- certify to their total share of production quantities of fresh or processed asparagus for the 2003 crop
- meet the following eligibility requirements of 7 CFR Part 1400 for the 2007 crop year:
 - conservation and wetland protection requirements
 - foreign person
- certify compliance with AGI requirements on CCC-526, according to subparagraph 4 F, if applicable
- apply for ALAP during the announced application period according to subparagraph 4 C.

Notice SP-61

3 Eligibility Requirements for ALAP (Continued)

A Producer Eligibility (Continued)

An eligible asparagus producer is any individual, group of individuals, partnership, corporation, estate, trust, association, cooperative, or other business enterprise or other legal entity, as defined in 7 CFR 1400.3, who:

- is an owner, operator, landlord, tenant, or sharecropper
- directly or indirectly, as determined by the Secretary, shares in the risk of producing asparagus during both of the 2003 and 2007 crop years
- is entitled to ownership share in the asparagus crop available from the farm operation during both of the 2003 and 2007 crop years.

B Contract Growers

Growers producing asparagus under contract for crop owners are not considered asparagus producers unless the grower can be determined, to the satisfaction of COC, to have an ownership share of the crop.

4 Applying for ALAP Program Benefits

A ALAP Application Requirements

To apply for ALAP benefits, producers shall file the following forms at their administrative County Office:

- CCC-895
- AD-1026 for the 2007 crop year, if AD-1026 is not already on file
- CCC-526 (10-15-03), if CCC-526 is not already on file for program year 2006
- applicable type of CCC-502, if applicable CCC-502 is not already on file.

The applicable CCC-502 is needed on file at the time of applying for ALAP benefits to determine foreign person status. Producers who apply for ALAP will need to complete the U.S. citizenship and certifications portions of CCC-502 to certify U.S. citizenship status. Member information for joint operations, partnerships, corporations, and other similar entities must be obtained for entity file purposes. No other parts of CCC-502 have to be completed. County Offices shall manually denote across the top of CCC-502, "For ALAP Purposes Only".

Note: Eligibility documentation is needed for the 2007 crop year for AD-1026 purposes. Eligibility documentation is needed for the 2006 program year for CCC-526 purposes to certify average AGI for the 3 taxable years of 2003, 2004, and 2005. All applicable forms must be submitted to the County Office by the signup deadline established in subparagraph C.

Notice SP-61

4 Applying for ALAP Program Benefits (Continued)

A ALAP Application Requirements (Continued)

Eligible asparagus producers must use CCC-895 to apply for ALAP program benefits. Asparagus producers will be reporting their total share of 2003 asparagus crop production on CCC-895. Only producers signing CCC-895 will be eligible to receive ALAP benefits. More than one CCC-895 is **not** acceptable by the same asparagus producer.

B CCC-895 Availability

CCC-895 is available at a County Office or electronically at either of the following:

- Service Center Agency eForms at
<http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>
- FFAS Employee Forms/Publications Online web site at
<http://intra3.fsa.usda.gov/dam/ffasforms/forms.html>.

Note: CCC-895's shall be filed in the asparagus producer's administrative County Office. The administrative County Office is the County Office designated by FSA to:

- handle official records
- issue payment to eligible producers
- make determinations.

C Period for Accepting CCC-895

Accepting CCC-895's will begin February 7, 2011, and will end on April 8, 2011. Eligible applicants may file CCC-895 for benefits any time during the application period. CCC-895's received by mail after the application date must have a postmark date of no later than April 8, 2011, to be considered timely filed.

D Late-Filed CCC-895's

Late-filed provisions will **not** apply to the ALAP program. CCC-895's received after the deadline date will **not** be approved. This includes FAXed CCC-895's.

E Signature Requirements

County Offices shall follow 1-CM for the following:

- producers' signature and authorization provisions
- persons signing CCC-895 in a representative or fiduciary capacity

Notice SP-61

4 Applying for ALAP Program Benefits (Continued)

E Signature Requirements (Continued)

- payment of amounts due to a person who has died, disappeared, or have been declared incompetent.

Note: Payments will be issued **only** to producers who sign CCC-895. If a signature for an individual in a multi-producer operation is not obtained, payment will **not** be issued to that individual.

F AGI

Producers are required to comply with the AGI requirement according to 1-PL, Part 6.5, if ALAP program payments requested exceed available funding for the applicable marketing category. Therefore, CCC-526 is required to be submitted by the asparagus producer before the signup deadline. If it is determined at the conclusion of signup that total payments requested exceeds the available funding for a marketing category, then asparagus producers who certified on CCC-526 that their average AGI exceeds \$2.5 million for the 3 taxable years of 2003, 2004, and 2005 **will not** be eligible for ALAP benefits for that marketing category that exceeded the available funding.

G Producer and Production Certification

Applicants will be allowed to certify production for the 2003 crop asparagus. However, asparagus producers will be required to provide acceptable production records for 2003 asparagus production, if requested by the County Office.

County Offices will not require the submission of production quantities for the 2007 crop as part of the application process. However, at the discretion of COC, certifications of producer eligibility, including, but not limited to, certification of an interest in 2007 asparagus production on a farm and certification that the same producer in 2003 was also the producer of asparagus on a farm in 2007, are subject to verification by COC.

H Approving CCC-895

COC, or designee, shall:

- be satisfied that all eligibility requirements provided in paragraph 3 have been met before approving CCC-895
- ensure that other applicable forms have been received
- **not** approve any CCC-895 that was requested or received after COB April 8, 2011.

Notice SP-61

5 Completing CCC-895

A Instructions for Completing CCC-895

Complete CCC-895 according to the following.

Item	Instructions
1	COC designee shall enter the applicable State code.
2	COC designee shall enter the applicable county code.
3	COC designee shall enter the date CCC-895 is submitted in the County Office
Part A – Producer Information	
4	Enter the name and address, including ZIP Code, of the asparagus producer who had a share interest in the 2003 and 2007 asparagus crops.
5	Enter the name and address, including ZIP Code, of the contact producer if different from item 4.
Part B – Participant Certification and Signature(s)	
6	Each producer who has a share in the 2003 crop of asparagus and is requesting benefits under the ALAP program must sign CCC-895 after carefully reading the information in Part B.
7	Enter the title or relationship of the individual if signing in a representative capacity.
8	Enter the date each producer signed CCC-895.
9	Enter amount in pounds of each producer’s share of the 2003 fresh crop of asparagus production, if applicable.
10	Enter amount in pounds of each producer’s share of the 2003 processed crop of asparagus production, if applicable.
11	Check (✓) the appropriate box to indicate whether the applicant was a producer of both 2003 and 2007 crop asparagus.
12	Check (✓) the appropriate box to identify any producer who elects to receive or not receive payments under this program.
13	The official signing item 15A shall check (✓) the appropriate box to indicate if CCC-895 is approved or disapproved. Note: If a check (✓) is entered in the disapproved box, COC designee shall enter a justification for the disapproval in item 17.
14A and 14B	Enter the name, address, and telephone number, including Area Code, of the FSA County Office.
15A	COC or designee shall sign.
15B	COC or designee shall enter their official title.
15C	Enter the date COC or designee signed in item 15A.
16A	Second-party reviewer shall sign.
16B	Second-party reviewer shall enter their official title.
16C	Enter the date the second-party reviewer signed in item 16A.
17	Enter any remarks that may be pertinent to any information entered on this CCC-895 or about the operation submitting CCC-895. COC designee shall enter a justification for the disapproval if a check (✓) is entered in the disapproved box in item 13.

Notice SP-61

5 Completing CCC-895 (Continued)

B Example of CCC-895

The following is an example of CCC-895.

This form is available electronically. Form Approved – OMB No. 0560-0273
(See Page 2 for Privacy Act and Public Burden Statements.)

CCC-895 (02-08-11)		U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation				
ASPARAGUS REVENUE MARKET LOSS ASSISTANCE PAYMENT (ALAP) PROGRAM APPLICATION		1. State Code:				
		2. County Code:				
		3. Application Date:				
Instructions: Producers use this form to apply for Asparagus Revenue Market Loss payments that are based on the levels of 2003-crop asparagus produced and marketed as fresh or processed, or both. Producers must certify that they produced 2007-crop asparagus to be eligible for payments.						
PART A – PRODUCER INFORMATION <i>(Name and address of producer that produced and marketed asparagus during both of the 2003 and 2007 crop years).</i>						
4. Name and Address <i>(Including Zip Code)</i> of 2003-crop and 2007- crop Asparagus Producer		5. Contact Producer's Name and Address <i>(Including Zip Code)</i> if different than Item 4. <input type="checkbox"/>				
PART B – PARTICIPANT CERTIFICATION AND SIGNATURE(S)						
This is an application to participate in the Asparagus Revenue Market Loss Assistance Payment Program and is not a determination of eligibility. This application is entered into between the Commodity Credit Corporation (CCC) and the undersigned producer identified above. The undersigned producer or producers may hereafter collectively be referred to as "the Participant". The Participant certifies that all the information entered on this application is true and correct and that the Participant was a producer of asparagus during both crop years 2003 and 2007. The Participant further certifies to the accuracy of the quantity of 2003 crop asparagus production identified below, and acknowledges that such quantities entered will be used by CCC to calculate the payment amount on a per pound basis. The Participant hereby applies for payment to the extent that the County FSA Committee determines the Participant is eligible to receive payment and understands that if funding is insufficient to compensate eligible producers for market related revenue losses at the estimated revenue loss rate, then the CCC will pay losses at a reduced payment rate according to 7 CFR Part 1429, in an effort to more equitably distribute the limited funds and maximize the effectiveness of the program. Further, the Participant understands that if the total value of payments claimed exceeds the available funding for a marketing category, then a payment limitation of \$100,000 per Participant for that marketing category will apply and to be eligible, the average adjusted gross income of the Participant cannot exceed \$2.5 million for the three taxable years of 2003 to 2005. In addition, the Participant understands that they may be required to provide any information required to determine program eligibility and crop production, as determined by the County FSA Committee. The Participant further understands that this program is subject to the rules found in 7 CFR Part 1429, and understands that this application must be received no later than the deadline date established by CCC. The Participant understands that they can be denied payments based on any inaccuracy in this certification and application and that any payment issued to the asparagus farm operation may be reduced by the percentage of interest of an ineligible member's actual share of the entity and not their share of the production. The Participant understands that payments are subject to conditions imposed by regulation and CCC, and that this is an application only and not a determination of eligibility. Any payment made based on this application may only be made to the extent allowed by program regulations and other provisions of law. No entitlement of any kind is created by this application. Providing a false certification to the Government is punishable by imprisonment, fines, or other penalties. All information provided herein is subject to verification by CCC. The applicant understands that providing a taxpayer identification number and type is voluntary but that benefits cannot be provided without this information. The criminal and civil fraud statutes that apply to this certification may include 15 USC 714m, 18 USC 286, 287, 371, 641, 651, and 1001; and 31 USC 3729. Other authorities may apply.						
6. Producer's Signature (By)	7. Title/Relationship of Individual if Signing in the Representative Capacity	8. Date Signed (MM-DD-YYYY)	9. Amount in pounds, of Producer's share of the 2003 Fresh Crop	10. Amount in pounds, of Producer's share of the 2003 Processed Crop	11. Did the Producer, identified in Part A, produce both the 2003 and 2007 Crop identified in Item 9 and/or 10?	12. Refused Payment?
					YES NO	YES NO
					YES NO	YES NO
					YES NO	YES NO
					YES NO	YES NO
					YES NO	YES NO
PART C – CCC ACCEPTANCE AND APPROVAL						
13. Application Status: APPROVED <input type="checkbox"/> DISAPPROVED <input type="checkbox"/> <i>(If disapproved, complete Item 17)</i>		14A. Name and Address of County FSA Office <i>(Include Zip Code)</i>		14B. Telephone No. <i>(Including Area Code)</i>		
15A. Signature of COC or Designee		15B. Title of COC or Designee		15C. Date Signed (MM-DD-YYYY)		
16A. Signature of Second-Party Reviewer		16B. Title of Second-Party Reviewer		16C. Date Signed (MM-DD-YYYY)		

Notice SP-61

5 Completing CCC-895 (Continued)

B Example of CCC-895 (Continued)

CCC-895 (02-08-11)	Page 2 of 2
17. Additional Remarks and/or Justification for Disapproval	
<p>NOTE: <i>The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1470 and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits.</i></p> <p><i>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0273. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</i></p>	
<p><i>The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).</i></p>	
<p><i>To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.</i></p>	

Notice SP-61

6 ALAP Funding and Payment Rates

A Funding Availability

Total available funding will be allocated according to specific marketing categories as follows:

- \$7,500,000 for fresh market asparagus production
- \$7,500,000 for processed market asparagus production.

B Reserve Funding

A total of \$300,000 of available funding, \$150,000 for each marketing category, will be held in reserve to handle appeals and errors.

C Maximum Payment Rates

If funding is adequate to pay all requests for the applicable marketing category, payments will be made according to the following maximum per pound payment rates.

Marketing Category	Definition	Maximum Payment Rate
Fresh-Crop Asparagus	Asparagus domestically produced that, regardless of intended use, was marketed as a fresh product without any processing other than cleaning, grading, sorting, trimming, drying, cooling, and packing.	\$1.06
Processed-Crop Asparagus	Asparagus domestically produced that, regardless of intended use, was marketed as frozen, canned, pickled, or otherwise treated or handled in such fashion that the buyer would not consider the asparagus to be consumed as fresh, as determined by CCC.	\$1.08

Maximum payment rates were determined based on reduced production and reduced prices resulting from imports during the 2004 through 2007 crop years. Each asparagus producer's individual payment is calculated by multiplying the applicable maximum payment rate times the producer's share of 2003 crop asparagus produced, in the appropriate marketing category, using whole pounds.

Note: If it is determined by CCC at the conclusion of signup that the total value of eligible requests exceeds available funding at the maximum payment rates for a marketing category, then payments will be made according to the alternative payment method provided in subparagraph E.

Notice SP-61

6 ALAP Funding and Payment Rates (Continued)

D Payment Quantity

Payments will be based on each asparagus producer's **actual** 2003 crop asparagus production for each applicable marketing category.

E Alternative Payment Method

If the total value of eligible requests at the conclusion of the signup period is determined by CCC to exceed the available funding for a marketing category at the maximum payment rates provided in subparagraph C, ALAP payments will be made as follows for that marketing category:

- requests for payment exceeding \$100,000 will be limited to \$100,000, according to subparagraph F
- requests for payment to producers with AGI that exceeds \$2.5 million will **not** be paid
- maximum payment rates will be recalculated by dividing funding available for the marketing category, less a reserve, by total nationwide payment quantities for that marketing category of asparagus
- recalculated payment rates, as applicable, will be multiplied by each applicant's eligible payment quantity for the applicable marketing category to determine individual payments.

F Program Payment Limitation

If the total value of payments claimed at the maximum payment rates exceeds the available funding that marketing category, a payment cap of \$100,000 per producer for that marketing category will apply. If only 1 marketing category exceeds the available funding and not the other, the maximum program payment limitation will only apply to the marketing category that exceeds the available funding.

Example: Available funding is exceeded for both fresh and processed asparagus marketing categories. Producers who market both fresh and processed asparagus may receive up to \$200,000 in ALAP benefits (\$100,000 for fresh asparagus and \$100,000 for processed asparagus) if both maximum payment caps are applied.

G Offsets and Withholdings

The ALAP program is subject to any of the following as applicable:

- administrative offset
- assignment
- withholding.

Notice SP-61

6 ALAP Funding and Payment Rates (Continued)

H Prompt Payment Interest

Prompt payment provisions are applicable to the ALAP program.

I Advance Payments

Advance payments will **not** be issued for the ALAP program.

J Direct Deposit

DCIA requires that any recipient of Federal payments receive the payment by EFT, and County Offices shall follow applicable FI directives.

K Issuing Payments

ALAP program benefits cannot be issued until all of the following have occurred:

- signup period has ended
- determination if claims exceed available funding for a marketing category
- total eligible claims are determined
- authorization is provided by DAFP.

7 Records of Production

A Acceptable Records

ALAP program payments are based on 2003 production quantities that must be confirmed if selected for spot check or requested by the County Office. **ALAP will be included in the national compliance review process for performing 2011 compliance activities.**

Certification of an interest in 2007 asparagus production on a farm, are also subject to spot check and verification by the County Office. ALAP applicants are responsible for producing documents substantiating their application when requested by the County Office, and to the satisfaction of COC. Production records acceptable to CCC include verifiable or reliable:

- commercial receipts, settlement sheets, warehouse ledger sheets, pick records, load summaries, or processing documents
- documentary evidence, such as, contemporaneous records, pick records, and contemporaneous diaries, as necessary, to verify information provided by the producer.

Documentation to substantiate a producers information must be provided to the County Office with any other supporting documentation available to assist in verifying production and eligibility for the asparagus operation. If adequate proof is not provided to the satisfaction of COC, the request for benefits must be refunded.

Notice SP-61

7 Records of Production (Continued)

B Verifiable Records

Verifiable records of production include contemporaneous records provided by the producer that:

- may be verified by CCC through an independent source
- are used to substantiate the amount of production reported.

Verifiable records shall be dated and provided if they exist whenever a record of production is required by CCC.

C Reliable Records

In the event the submission of production records is required and verifiable records are not available, the producer shall provide any documentation available, including, but not limited to:

- copies of receipts
- ledgers of income
- income statements
- deposit slips
- register tapes
- invoices for custom harvesting
- pick records.

D Maintaining Records

Producers requesting payments under the ALAP program shall maintain records for 3 years after the date of the payment to document that eligibility requirements were met.

E County Office Action

County Offices shall:

- review and compare CCC-895 with supporting documentation for any discrepancies
- request additional information from the producer, as necessary for verification
- verify that producer produced and marketed asparagus during both crop years 2003 and 2007.

Notice SP-61

8 Responsibility and Action

A FSA Responsibility

FSA has primary responsibility through STC's and COC's for administering the ALAP program.

B STC Action

STC's shall supervise and monitor the ALAP program to ensure that policies and procedures in this notice are being uniformly followed by County Offices.

C COC Action

COC's shall:

- administer the ALAP program at the County Office level under STC supervision
- inform producers about the eligibility requirements for ALAP program benefits
- approve or disapprove requested ALAP program benefits according to this notice or may delegate the authority to approve or disapprove to a COC designee.

D County Office Action

County Offices shall:

- widely publicize the ALAP program requirements and application period
- make CCC-895 available to asparagus producers during the signup period
- accept CCC-895's according to paragraph 4
- refer questions to the State Office price support specialist.

E State Office Action

SED's shall ensure that County Offices immediately notify producers of the contents of this notice using all available sources. State Offices shall refer any ALAP program questions to the National Office according to subparagraph 1 C.

F Appeal Determinations

Follow 1-APP if a producer contests a determination that affects the producer's right to participate in ALAP or to receive a payment.