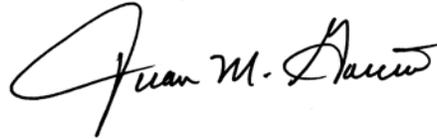


For: State and County Offices

SURE Linkage Spot Checks

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246) was enacted on June 18, 2008. Pub. L. 110-246 created several new disaster programs under the title, "Supplemental Agricultural Disaster Assistance".

The American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111-5) was enacted on February 17, 2009. Pub. L. 111-5 provides the following:

- waiver that allows producers a second opportunity to pay a buy-in fee for 2008 eligibility to be eligible for supplemental agricultural disaster assistance, **except** LFP
- if a producer elects to purchase buy-in, during the ARRA buy-in time period (Buy-In 2), the producer **must** agree to obtain:
 - a policy or plan of insurance for each insurable commodity on the farm that is covered by the buy-in fees for the next available insurance year for which a policy is available (2010 or subsequent crop years) with coverage at or above 70/100 percent, if available
 - for each noninsurable commodity, the producer is **required** to pay the administrative fee by the applicable State application closing date for NAP for the next year that NAP is available.

Note: If a producer fails to meet the Buy-In 2 linkage requirement for any crop for which the waiver was granted, a full refund of the SURE payment is required for the SURE farm.

2-CP, paragraph 322 provides guidance in performing annual compliance reviews and spot checks. Notice CP-676 provided notification that the 2011 list of producers selected for compliance reviews and spot checks was available.

Disposal Date	Distribution
July 1, 2012 3-26-12	State Offices; State Offices relay to County Offices

Notice SURE-24

1 Overview (Continued)

B Purpose

This notice provides:

- procedure for spot-checking 2008 linkage for Buy In 2 and relief granted after May 18, 2009
- 4 reports County Offices shall use in spot checking 2008 linkage
- procedure for notifying producers who have violated linkage.

2 Spot-Checking Procedure

A Spot Checks

To ensure the accuracy of payments and integrity of the SURE program, County Offices are **required** to conduct compliance reviews and spot checks according to 2-CP, Part 3.

Note: 2-CP, subparagraph 322 D defines the years to consider when conducting compliance reviews and spot checks. For the purpose of this notice an exception applies. County Offices shall spot check linkage for **any** producer selected for 2011 compliance and spot check review according to Notice CP-676, who either obtained Buy-In 2 or was granted relief after May 18, 2009, for 2008 SURE.

Example: Producer A was selected on the 2011 compliance review and spot check. Producer A became eligible for 2008 SURE by obtaining Buy-In 2. Because Producer A had initiated a Buy-In 2 application requiring linkage, the County Office **must** verify that Producer A met the linkage requirement.

To minimize the spot check burden on County Offices, the National Office has developed 4 reports to assist County Offices in identifying producers who may have violated the linkage provisions.

The first report, "**File I 2008 SURE Buy In 2 relief producers who were required to obtain NAP or insurance in subsequent year.xlsx**", identifies all producers who obtained Buy-In 2 or were granted relief.

Note: This report includes producers who were granted relief after September 16, 2008, through February 16, 2009, and producers who were granted relief after May 18, 2009. Only producers who were granted relief after May 18, 2009, are subject to linkage. Linkage does **not** apply to 2009 and subsequent years.

County Offices shall compare this report to the 2011 National spot check list to determine producers who are subject to spot check for linkage.

Notice SURE-24

2 Spot-Checking Procedure (Continued)

A Spot Checks (Continued)

The following 2 reports, “**File II 2008 SURE Relief or Buy In 2 who did obtain NAP.xlsx**”, and “**File III 2008 SURE Relief or Buy In 2 who did obtain insurance.xlsx**”, identify producers who obtained either Buy-In 2 or were granted relief, and are on record as having obtained either NAP or crop insurance in 2009, 2010, or 2011. County Offices shall use these reports as a tool to identify producers on the 2011 national spot check list who are required to be spot checked and did obtain insurance or NAP coverage in 2009, 2010, or 2011.

Note: These reports identify producers who obtained crop insurance or NAP coverage, the crops for which insurance or NAP coverage was obtained, and the level of coverage for those insured crops. Just because a producer is listed on this report does **not** mean they meet linkage. Further review is **required** to verify the correct crop and coverage level (insured crops) was obtained for the next available year.

The last report, “**File IV 2008 SURE producers who do not appear to meet linkage.xlsx**”, identifies producers who obtained either Buy-In 2 or were granted relief; however, based on records from RMA or FSA, these producers have **not** obtained crop insurance or NAP coverage on any crop in 2009, 2010, or 2011. County Offices **shall** use this report in notifying **all producers listed**, regardless of whether or not they are listed on the 2011 national spot check list, that they have potentially violated the 2008 SURE linkage requirement for Buy-In 2.

Exception: Producers who were granted relief after September 16, 2008, through February 16, 2009, shall **not** be notified.

All reports are located at <http://fsaintranet.sc.egov.usda.gov/ffas/farmbill/ccc/default.htm> under “Compliance”.

Note: Only State Offices have access to these reports so State Offices will be responsible for forwarding the information applicable to each county.

The files are encrypted and password protected. The password will be e-mailed to the State SURE specialist. For more information about the password, contact Helen Mathew by either of the following:

- e-mail to helen.mathew@wdc.usda.gov
- telephone at 202-720-9878.

Notice SURE-24

2 Spot-Checking Procedure (Continued)

B Obtaining Insurance or NAP Coverage

The deadline for obtaining insurance or NAP coverage may vary depending on the sales closing date or application closing date, as applicable, and the date the SURE application is filed.

Although producers may be listed as having obtained either insurance or NAP coverage, when using “**File II 2008 SURE Relief or Buy In 2 who did obtain NAP.xlsx**” and “**File III 2008 SURE Relief or Buy in 2 who did obtain insurance.xlsx**”, additional review will be **required** to ensure that the producer obtained insurance or NAP coverage in the next available year.

The following are examples for determining the deadline for obtaining insurance or NAP coverage in the next available year.

Example 1: The sales closing date for corn is March 15 of each year. The producer planted corn in 2008. The producer did not obtain a policy or plan of insurance for the 2008 corn crop by March 15, 2008, but the producer paid the Buy-In 2 fee on April 2, 2009. Because the producer was required to obtain a policy or plan of insurance in the next available year and the sales closing date for 2009 corn (March 15, 2009) had already passed, the producer was required to obtain a policy or plan of insurance by March 15, 2010, for the 2010 corn crop.

Example 2: The sales closing date for nursery is May 1 of each year. The producer planted nursery in 2008. The producer did not obtain a policy of plan of insurance by May 2007, but the producer paid the Buy-In 2 fee on May 15, 2009. Because the producer was required to obtain a policy or plan of insurance in the next available year and the sales closing date for 2009 nursery (May 1, 2008) had already passed, and the sales closing date for 2010 nursery (May 1, 2009) had already passed, the next available crop year for which a policy or plan of insurance can be purchased is the 2011 crop year. The producer was required to purchase insurance by May 1, 2010, for the 2011 nursery crop.

Example 3: The sales closing date for NAP forage hay production is March 15 of each crop year. The producer reported native grass for hay in 2008, but did not have a NAP policy, nor did he pay a Buy-In 2 fee. Relief was requested and approved by DAFP in November 2010. The producer is required to purchase NAP forage for native hay by March 15, 2011, for the 2011 crop year.

Notice SURE-24

2 Spot-Checking Procedure (Continued)

C Completing Spot-Checks

The following steps shall be followed in completing the linkage requirement spot check.

Step	Action
1	State Offices shall review the reports from http://fsaintranet.sc.egov.usda.gov/ffas/farmbill/cc/default.htm for each county.
2	State Offices shall FAX or e-mail the list to each county, remembering to encrypt the file if sent electronically.
3	County Office shall print the list of producers selected from the 2011 national spot check list according to Notice CP-676.
4	County Office shall identify from the list of producers selected for 2011 spot check, producers that obtained Buy-In 2 or were granted relief after May 18, 2009, by using the report, " File I 2008 SURE Buy In 2 relief producers who were required to obtain NAP or insurance in subsequent year.xlsx ".
5	<p>For producers who were selected for spot check and identified as having obtained Buy-In 2 or granted relief after May 18, 2009, determine, by using reports "File II 2008 SURE Relief or Buy In 2 who did obtain NAP.xlsx" and "File III 2008 SURE Relief or Buy In 2 who did obtain insurance.xlsx", whether or not based on the information provided, the producer met the linkage requirement. County Offices must verify:</p> <ul style="list-style-type: none"> • the crop for which Buy-In 2 or relief was granted is the same crop for which coverage was obtained • for insured crops, that the coverage level met or exceeded 70/100 percent • that the required coverage was obtained for the next available year.
6	<p>Identify all producers who appear to have not met linkage by using, "File IV 2008 SURE producers who do not appear to meet linkage.xlsx", in the county.</p> <p>Note: County Offices may be able to verify linkage is not required in some cases where records in the County Office indicate that the producer is deceased, is no longer farming, or relief was granted before February 17, 2009. Only in those situations would a notification letter not be sent in step 9.</p>
7	<p>If linkage was met in steps 5 or 6, document the results of the spot check using the spreadsheet developed by the State Office.</p> <p>Note: Complete separate spreadsheets by recording County Office. If all spot checked producers met linkage, forward the spreadsheet to the recording County Office. No further action is required. If linkage was not met for some producers, continue to step 8.</p>

Notice SURE-24

2 Spot-Checking Procedure (Continued)

C Completing Spot-Checks (Continued)

Step	Action
8	<p>If linkage was not met and the county is the:</p> <ul style="list-style-type: none">• recording county for the producer, document the results of the spot check using the spreadsheet developed by the State Office and continue to step 9• administrative county for the producer, add producers who have not met linkage to the report of producers that have met linkage in Step 7, compiling all producers spot checked by recording County Office. <p>Note: Do not include the amount of the receivable in column 4. The recording County Office will provide that entry. Forward each spreadsheet to the respective recording County Office. No further action is required.</p>
9	<p>Follow paragraph 3 for establishing a receivable and notifying all producers determined as having not met linkage.</p> <p>Note: Only the recording County Office that issued the SURE payment is responsible for establishing a receivable and notifying a producer that linkage was not met.</p>
10	<p>The recording County Offices shall report to the State Office the results of steps 7 and 8 using the spreadsheet developed by their State Office.</p>

3 Determining Overpayments Resulting From Failure to Meet Linkage

A Overpayments Because of Failure to Meet Linkage and Basis for Receivable

If a producer failed to meet the linkage requirement as specified in this notice by not obtaining the required insurance or NAP coverage, the County Office shall:

- notify the producer according to subparagraph B
- follow 64-FI to establish manual receivables using the following program codes:
 - “SURE Original – 08AUTHSURETF”
 - “SURE Stimulus – 08AUTHSURERA”

Note: The provisions of 1-SURE, subparagraphs 719 D and E apply. Debt basis reason code is, “**10-427**”. Interest applies from the date of the disbursement of SURE because payment was conditionally issued based on the producer’s agreeing, as a condition of payment application, to later obtain the required crop insurance or NAP coverage.

Notice SURE-24

3 Determining Overpayments Resulting From Failure to Meet Linkage (Continued)

A Overpayments Because of Failure to Meet Linkage and Basis for Receivable (Continued)

- verify SURE amounts paid by using the following reports:
 - “Payment History Report”, see 9-CM for printing the report through the Common Payment Report System
 - Financial Web Application Data Mart, “Payments and Disbursements by Tax ID/Tax ID Type Report”.

Note: See 1-FI, paragraph 302 for instructions on running the report and field descriptions.

B Letters to Producers Advising of Ineligibility and Initial Notification

County Offices will issue a letter similar to the example in Exhibit 1, modified for each individual participant, advising participants of the result of FSA’s finding that the producer failed to meet the linkage requirement and maintain eligibility for 2008 SURE. The determination that a producer failed to meet the linkage requirement is a COC employee decision. See 1-APP, paragraph 13 and Exhibit 8, Example 2, “COC Employee Determination”.

4 Action

A State Office Action

State Offices shall:

- ensure that County Offices follow the procedure in this notice
- provide the lists in paragraph 2 to County Offices
- assist County Offices with questions about this notice
- create a spreadsheet similar to Exhibit 2 to record spot check results and provide to each county
- summarize County Office spot check results and provide, by e-mail to Helen Mathew, no later than Friday, **April 27, 2012**.

Notice SURE-24

4 Action (Continued)

B County Office Action

County Offices shall:

- follow the provisions of this notice
- direct questions about this notice to the State Office
- use the lists provided by the State Office according to paragraph 2 to verify linkage
- if a recording County Office:
 - establish receivables and notify producers according to paragraph 3
 - e-mail spot check results to the State Office no later than Friday, **April 20, 2012**.

Letter to Producer Advising of Ineligibility and Overpayment Because of Failure to Meet Linkage

The following is an example of a letter advising a participant of their ineligibility and overpayment because of the participant’s failure to meet linkage.

[enter date]

[enter producer’s name]
 [enter producer’s mailing address]
 [enter city, State, and ZIP]

Dear [enter producer’s name]:

This letter is in reference to a compliance review of the 2008 Supplemental Agricultural Disaster Assistance Payments (SURE) Program. A review of our records indicates that you failed to obtain the required crop insurance coverage or coverage under the Noninsured Crop Disaster Assistance Program (NAP) in order to maintain your eligibility for 2008 SURE.

As a result of this, you have been determined liable for a full refund of unearned SURE program payments with applicable interest from the date of disbursement. As of the date of this letter, the debt is \$ [enter total amount due as of the date of this letter].

The total amount has been recorded for offset from any FSA or Commodity Credit Corporation payments due you. Interest is accruing at a rate of [enter interest rate] from the date of this letter.

We want to work with you to resolve this matter. To that end, you have the right to inspect and copy records related to the debt determination and amount due. Depending on your situation, there is a possibility of paying this debt in installments. If you have any questions regarding the computation of the debt for this matter, please do not hesitate to contact us.

You may appeal this determination to the county committee by filing a written request no later than 30 calendar days after you receive this notice in accordance with FSA appeal procedures found at 7 CFR Part 780. If you appeal to the county committee, you have the right to an informal hearing which you or your representative may attend either personally or by telephone. If you appeal this determination to the county committee, you may later appeal an adverse determination of the county committee to the FSA State committee, seek mediation, or appeal to the National Appeals Division. To appeal, write to the county committee at the following address and explain why you believe this determination is erroneous.

[enter county name] County FSA Committee
 [enter County Office’s mailing address]
 [enter city, State, and ZIP]

If you do not timely file an appeal of this determination, this will be the final administrative determination with respect to this matter in accordance with regulations at 7 CFR 780.

Sincerely,

[enter CED’s name]
 County Executive Director

