175,208,612

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2008 Summary

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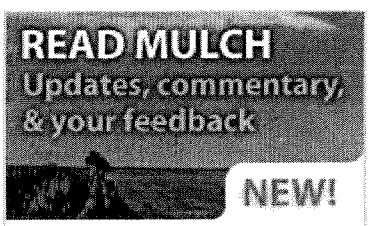

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Report of the Commission on the Application of Payment Limitations for Agriculture, Submitted in Response to Section 1605, Farm Security and Rural Investment Act of 2002

Conservation Programs

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General Information

Payment Eligibility and Limitations

Fact Sheet *July 2003*

USDA United States Department of Agriculture

Payment Eligibility and Limitations

Overview

A limitation on the total annual payments that a "person" may receive under agricultural programs has been in effect since enactment of the Agricultural Act of 1970. The Farm Security and Rural Investment Act of 2002 authorized payments to which payment limitation and payment eligibility provisions are applicable and added a $2.5 million average adjusted gross income (AGI) limitation.

Applicable Rules

The following two tables summarize the applicability of rules for USDA-administered programs. Other payments and benefits may also be subject to some or all of these rules. **(See Tables 1 and 2.)**

Table 1: Applicable Rules

Program or Payment	Person	Actively Engaged in Farming	Cash-rent Tenant	Permitted Entry	Foreigners	Adjusted Gross Income
Direct Counter-cyclical	X	X	X	X	X	X
Marketing Assistance Loans					X	
Loan Deficiency Payments and Marketing Loan Gains	X	X	X	X	X	X
EQIP						X
CRP Rental Payments	X	X	X	X	X	X
NAP	X					

"Person" Determinations

A "person" for payment limitation purposes may be many things, including an individual; a limited liability partnership; a limited liability company; a corporation; a joint stock company; an association; a limited stock company; a limited partnership; an irrevocable trust; a revocable trust together with the grantor of the trust, an estate; a charitable organization; and a State, political subdivision, or agency thereof.

For an individual or entity to be considered a separate "person," the individual or entity must have a separate and distinct interest in the land or crop involved, exercise separate responsibility for this interest, and maintain funds or accounts separate from that of any other individual or entity for this interest.

Status Date

The status of an individual or entity on April 1 of the applicable program year is the basis for determining the number of "persons" for payment limitation purposes for that year. Actions taken by an individual or entity after that date to increase the number of "persons" will not be recognized for the current program.

For example, if an individual holds more than 50 percent interest in a corporation, as of the status date, the individual and entity will be considered one "person" for the applicable year.

Husband and Wife

The general rule is that a husband and wife are considered one "person" for payment limitation purposes. However, they may be considered separate "persons" if they request to be considered separate "persons" and one of the following exceptions applies:

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Table 2: Benefits, Payments and Limitations	
Payment or Benefit	**Limitation Per Person**
Direct and Counter-cyclical Payment	
Direct payments for the following covered commodities: barley, corn, grain, oats, other oilseeds, rice, sorghum, soybeans, upland cotton, and wheat	$40,000 per crop year
Direct payments for peanuts	$40,000 per crop year
Counter-cyclical payments for the following covered commodities: barley, corn, grain, oats, other oilseeds, rice, sorghum, soybeans, upland cotton, and wheat	$65,000 per crop year
Counter-cyclical payments on peanuts	$65,000 per crop year
Price Support	
Any gain realized from repaying a marketing assistance loan for one or more of the following loan commodities at a lower level than the original loan rate established for the loan commodity. Any LDP's received for one or more of the following loan commodities. Loan commodities include the following: barley, corn, grain, oats, other oilseeds, rice, sorghum, soybeans, upland cotton, and wheat	$75,000 per crop year
Any gain realized from repaying a marketing assistance loan for honey, peanuts, mohair or wool at a lower level than the original loan rate established for the loan commodity. Any LDP's received for one or more of the following loan commodities, including: honey, peanuts, mohair or wool.	$75,000 per crop year
Conservation Programs	
Rental payments including incentive payments made under CRP.	$50,000 per Fiscal Year
Cost-share and incentive payments under EQIP	$450,000 per individual or entity EQIP payments are not limited on a per "person" basis. Instead, an individual or entity may not receive, directly or indirectly, cost-share or incentive payments under EQIP that exceed $450,000, in aggregate, for all contracts entered into during FY's 2002 through 2007, regardless of the number of contracts entered into by the individual or entity.
NAP	
NAP payments	$100,000 per crop year

- Neither spouse holds, directly or indirectly, a substantial beneficial interest in more than one entity receiving payment as a separate "person" (including an interest as an individual), and they meet all other requirements to be considered separate "persons."
- Both spouses were separately engaged in unrelated farming operations before their marriage and the farming operations of both spouses have been maintained as totally separate and distinct farming operations after their marriage.

Minor Children

Parents of minor children (or the court appointed person responsible for the minor) with farming interests are generally combined as one "person" with their minor children:

Corporations, Limited Partnerships, Limited Liability Companies and Similar Entities

A stockholder or member of a corporation or similar entity that owns more than 50 percent interest in the entity will be combined as one "person" with the entity. Also, any two or more stockholders, partners, or members that own more than 50 percent of the interest in each of two or more corporations, limited partnerships, limited liability companies, or other similar entities with farming interests will be combined as one "person."

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Trusts

A sole beneficiary of a trust will be combined as one "person" with the trust, as will the grantor of a revocable trust. Any two or more trusts in which the same two or more beneficiaries hold more than 50 percent of each trust will be combined as one "person." Trust agreements will be scrutinized to determine if the trust contains provisions, which would require the trust to be considered revocable for payment limitation purposes.

Estates

A sole heir of an estate will not be combined as one "person" with the estate simply because the individual or entity is the sole heir. However, any individual or entity that would have been combined as one "person" with a now deceased individual will also be combined as one "person" with the estate of that deceased individual, regardless of their share in the estate.

Actively Engaged in Farming

A producer must be considered "actively engaged in farming" to be eligible for payments and benefits under some programs. Generally, in order to be considered "actively engaged in farming," the producer must provide significant contributions to the farming operation, which are commensurate to the claimed share of the farming operation and the contributions must be at risk.

General Rules

A producer must make a significant contribution of capital land, and/or equipment to their farming operation as well as a significant contribution of active personal labor and/or active personal management. "Active personal labor" and "active personal management" are labor and management that are actually performed by the individual in question. The contribution of active personal management must be critical to the profitability of the farming operation, taking into consideration the individual's or entity's commensurate share in the farming operation.

Commensurate and At Risk Contributions

The individual or entity must make contributions to the farming operation that are at least commensurate with the claimed share of the profits or losses from the farming operation. Contributions must also be at risk. In other words, the individual or entity cannot be claiming a greater share of the profits or losses of the farming operation than is supported by the contributions the individual or entity makes to the farming operation.

Exceptions

While the general requirements for "actively engaged in farming" demand inputs of capital, land, or equipment and inputs of active personal labor or active personal management, certain exceptions to these requirements are permitted. These exceptions are:

- Landowners

A landowner may be considered "actively engaged in farming" with respect to owned land if the following requirements are met:

  - The landowner contributes owned land to the farming operation for which the landowner receives rent or income for use of the land based on the land's production or the operation's operating results.
  - The landowner's share of the profits or losses from the farming operation is commensurate with the landowner's contributions to the operation and the contributions are at risk.

- **Sharecroppers**

  A sharecropper must meet the following requirements to be considered "actively engaged in farming":

  - The sharecropper makes a significant contribution of active personal labor to the farming operation for which the sharecropper receives a specified share of the crop produced on the farm.
  - The sharecropper's share of the profits or losses from the farming operation is commensurate with the sharecropper's contributions to the operation, and the contributions are at risk.

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Cash-Rent Tenant Rule

A cash-rent tenant will be ineligible to receive payment on the cash-rented land unless the tenant makes either a significant contribution of active personal labor, or if labor is not provided, a significant contribution of management together with a significant contribution of equipment to the farming operation.

Permitted Entities

No person may receive payments subject to these rules from more than three entities in which the person holds substantial beneficial interest, generally 10 percent or more. If an individual receives payments as an individual, the individual may not also receive payment from more than two entities that receive payment as a separate "person." If an individual does not receive payment as an individual, the individual may not receive payment from more than three entities that receive payment as a separate "person."

For example, if an individual has a farming interest as an individual and also owns stock in six corporations that also farm, the individual must select just two of those corporations through which the individual may indirectly receive payments. The payments to the other four corporations will be reduced by the same percentage that the individual owns in each of the other four corporations. If the individual did not have an individual farming interest, three of the corporations could be selected as "permitted entities."

Any person who owns 10 percent or more of a corporation or other entity that is earning payments subject to these rules, either directly or indirectly, will be required to select that interest as "permitted" before that share of the payment may be paid to the entity.

Notification

All entities earning payment subject to these rules must report to their local FSA committee the name and social security number of each individual that owns, either directly or indirectly, any interest in such entity. A contract to participate in the applicable programs will not be considered complete until this information is provided.

The entity also is required to inform all members of the entity of the rules regarding payment eligibility and permitted entities.

Foreigners

In addition to the "person" and "actively engaged in farming" requirements, foreigners, other than individuals lawfully admitted into the United States (registered aliens), are not eligible to receive any program benefits, including commodity loans, unless that foreigner provides significant contribution of capital, land, and active personal labor to the farming operation.

Average Adjusted Gross Income Limitation

Rule

Effective for 2003 through 2007, an individual or entity shall not be eligible for certain program benefits during a crop, program, or fiscal year, if both of the following apply:

- the three-year average of the adjusted gross income (AGI) for the individual or entity exceeds $2.5 million;
- less than 75 percent of the average AGI is derived from farming, ranching or forestry operations.

Terms and Definitions

Adjusted gross income is the amount of AGI the individual reported to the Internal Revenue Service (IRS) on the appropriate tax filing documents or if AGI was not reported to the IRS, a comparable measure of income as determined by FSA.

Average adjusted gross income for the individual or entity is the average of the adjusted gross income, or comparable measure, of the individual or entity over the three tax years immediately preceding the year for which program benefits are requested.

Income from farming, ranching or forestry operations generally means income derived from producing crops, livestock, or unfinished raw forestry products.

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Certification and Compliance

The determinations necessary for compliance with the average AGI limitation will be generally based on Internal Revenue Service concepts and information included on final tax filings for an individual. Comparable measures for AGI have been developed for entities, partnerships, and for organizations that do not have such a line item on tax filings, that are non-profits, or are not required to file tax information.

Certification will be accomplished through the submission of the form CCC-526, Average Adjusted Gross Income Certification, or a statement by a certified public accountant or an attorney that the average adjusted gross income for the applicable time period does not exceed the limitation. **(See Determination Adjusted Gross Income Table.)**

Table 3: Determining Adjusted Gross Income

If certification is by ...	Then the adjusted gross income is the ...
an individual filing a separate tax return	amount reported as adjusted gross income on the final Federal tax return for the individual for the applicable year.
an individual filing a joint tax return	full amount reported as adjusted gross income on the final Federal tax return for the applicable year. **Exception:** *A certification is provided by a certified public accountant or an attorney that specifies what the amounts would have been if separate tax returns would have been filed for the applicable year.*
a corporation, including subchapter S corporation	total taxable income plus the amount of charitable contributions as reported on the final Federal tax return for the applicable year.
a limited liability partnership, limited partnership, limited liability company, or similar type of organization	income from trade or business activities plus the amount of guaranteed payments to the members as reported on the final Federal tax returns for the applicable year.
an estate or trust	adjusted total income plus charitable deductions as reported on the final Federal tax return for the applicable year.
a tax-exempt or non-profit organization	unrelated business taxable income as reported to IRS less any income that Commodity Credit Corporation determines to be from noncommercial sources.

Commensurate Reduction

Any program payment or benefit, subject to the AGI limitation, issued to an entity, general partnership, or joint venture shall be reduced by an amount commensurate with the direct or indirect interest held by an individual or entity that is determined to have an average AGI that exceeds the limitation.

For More Information

This fact sheet is not meant to be all-encompassing. It provides general guidelines only.

For more information regarding determinations and limits, contact your local USDA Service Center.

USDA United States Department of Agriculture

Fact Sheet *March 2006*

Direct and Counter-cyclical Payment Program

Background

The Direct and Counter-cyclical Payment Program (DCP) provides payments to eligible producers on farms enrolled for the 2002 through 2007 crop years. There are two types of DCP payments – direct payments and counter-cyclical payments. Both are computed using the base acres and payment yields established for the farm. DCP was authorized by the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) and is administered by the U.S. Department of Agriculture's Farm Service Agency (FSA).

Eligible Producers

To be eligible for payments under DCP, owners, operators, landlords, tenants, or sharecroppers must:

- share in the risk of producing a crop on base acres on a farm enrolled in DCP, and be entitled to share in the crop available for marketing from the base acres or would have shared had a crop been produced;
- annually report the use of the farm's cropland acreage;
- comply with conservation and wetland protection requirements on all of their land;
- comply with planting flexibility requirements;
- use the base acres for agricultural or related activities; and
- protect all base acres from erosion, including providing sufficient cover as determined necessary by the county FSA committee, and control weeds.

Eligible Commodities

Base acres and payment yields are established for the following commodities:

- barley;
- corn;
- grain sorghum, including dual purpose varieties that can be harvested as grain;
- oats;
- canola, crambe, flax, mustard, rapeseed, safflower, sesame and sunflower, including oil and non-oil varieties;
- peanuts, beginning in 2003;
- rice, excluding wild rice;
- soybeans;
- upland cotton; and
- wheat.

Direct Payments

The 2002 Farm Bill replaced production flexibility contract (PFC) payments (which were established by the Federal Agriculture Improvement and Reform Act of 1996) with direct payments. Direct payment rates for the eligible DCP commodities are as follows:

barley	$0.24 per bushel
corn	$0.28 per bushel
grain sorghum	$0.35 per bushel
oats	$0.024 per bushel
other oilseeds	$0.80 per hundredweight
peanuts	$36 per ton
rice	$2.35 per hundredweight
soybeans	$0.44 per bushel
upland cotton	$0.0667 per pound
wheat	$0.52 per bushel

For each commodity, the direct payment for each crop year equals 85 percent of the farm's base acreage times the farm's direct payment yield times the direct payment rate. The following is an example for corn:

Base acres planted to corn	100 acres
	x 85%
Payment acres	85 acres
Direct payment yield	x 110 bushels
Direct payment rate	x $0.28 per bushel
Direct payment	$2,618.00

Direct payments are not based on producers' current production choices, but instead are tied to acreage bases and yields. Because direct payments provide no incentive to increase production of any certain crop, the payments support farm income without distorting producers' current production decisions.

For the 2002-crop year only, producers' final direct payments were reduced by the 2002 PFC payments they had already received.

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Counter-cyclical Payments

The Farm Bill added counter-cyclical payments, which provide support counter to the cycle of market prices as part of a "safety net" in the event of low crop prices. Counter-cyclical payments for a commodity are only issued if the effective price for a commodity is below the target price for the commodity. Target prices for each commodity are as follows:

Commodity	Unit	2002-2003	2004-2007
barley	per bushel	$2.21	$2.24
corn	per bushel	$2.60	$2.63
grain sorghum	per bushel	$2.54	$2.57
oats	per bushel	$1.40	$1.44
other oilseeds	per hundredweight	$9.80	$10.10
peanuts	per ton	$495.00	$495.00
rice	per hundredweight	$10.50	$10.50
soybeans	per bushel	$5.80	$5.80
upland cotton	per pound	$0.7420	$0.7420
wheat	per bushel	$3.86	$3.92

The counter-cyclical payment rate is the amount by which the target price of each commodity exceeds its effective price. The effective price for each commodity equals the direct payment rate plus the higher of:

- the national average market price received by producers during the marketing year (see Example A); or
- the national loan rate for the commodity (see Example B).

Example A:
If the national average market price for soybeans is $5.10 per bushel:

Direct payment rate	$0.44
Average market price*	+ $5.10
Effective price	$5.54

(*Average market price is used since it is higher than the national loan rate)

Target price	$5.80
Effective price	- $5.54
Counter-cyclical payment rate	$0.26

Example B:
If the national average market price for soybeans is $4.90 per bushel:

Direct payment rate	$0.44
National loan rate*	+ $5.00
Effective price	$5.44

(*National loan rate is used since it is higher than the average market price)

Target price	$5.80
Effective price	- $5.44
Counter-cyclical payment rate	$0.36

For each commodity, the counter-cyclical payment for each crop year equals 85 percent of the farm's base acreage times the farm's counter-cyclical payment yield times the counter-cyclical payment rate. An example for soybeans (using the counter-cyclical payment rate of $0.26) is:

Base acres planted to soybeans	100 acres
	x 85%
Payment acres	85 acres
Counter-cyc. payment yield	x 110 bushels
Counter-cyc. payment rate	x $0.26 per bushel
Counter-cyclical payment	$2,431.00

Counter-cyclical payments are not available for other oilseeds because the sum of their national loan rate and direct payment rate is equal to or greater than their target price.

Timing of Payments

Producers may elect to receive their direct payments in two installments per year:

- The first payment, available in December of the fiscal year, is:
  - For fiscal years 2002-2005, up to 50 percent of the total payment.
  - For fiscal year 2006, up to 40 percent of the total payment.
  - For fiscal year 2007, up to 22 percent of the total payment.
- The balance of the total direct payment is available in October of the fiscal year after the fiscal year the payment is earned. Producers who do not elect to take the first direct payment will receive the entire direct payment at this time.

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Producers may elect to receive up to three counter-cyclical payments per year:

- First partial payments are available in October of the calendar year in which the crop is harvested. These payments cannot exceed 35 percent of the total projected payment.
- Second partial payments, up to 70 percent of the projected payment, minus the amount of the first partial payment, are available the following February (the year after the crop is harvested).
- Final payments are made after the end of the marketing year for the crop. Producers who do not elect to take the first and second advance payments will receive the entire counter-cyclical payment at this time.

Producers must refund to FSA counter-cyclical payments that exceed the actual counter-cyclical payment for each respective crop. This situation may occur when actual market prices exceed the projected market prices used in determining the partial counter-cyclical payment rates.

The DCP payment schedule for 2002 and 2003 crop years is in the table below. The payment schedule for the 2004-2007 crop years parallels the schedule for the 2003 crop year.

Base Acres

Farm owners, or their designees, were provided a one-time opportunity to choose from five options in determining DCP base acres. "Base acres" means, with respect to a covered commodity on a farm, the number of acres of the crop established by the election of the owner or owners of the farm. The options in determining DCP base acres were:

- to use 2002 PFC acreage to establish DCP base acres;
- to use 2002 PFC acreage and add oilseed base history for the 1998-2001 crop years (three options were available under this scenario that allowed flexibility between oilseed base acres and other crop base acres); and
- to calculate all base acres using the farm's planted and approved prevented planted history from 1998-2001.

Direct Payment Yields

Direct payment yields for wheat, feed grains, cotton, and rice on a farm are the 2002 PFC payment yields for the applicable crops on

TIMETABLE FOR ISSUING DCP PAYMENTS

	Commodity			
Month/Year	**Barley Oats Wheat**	**Corn Sorghum Soybeans**	**Peanuts Rice Upland Cotton**	**Other Oilseeds**
Fall 2002	2002 First Adv. CC	2002 First Adv. CC	2002 First Adv. CC	—
	2002 Final Direct	2002 Final Direct	2002 Final Direct	2002 Final Direct
December 2002	2003 Adv. Direct	2003 Adv. Direct	2003 Adv. Direct	2003 Adv. Direct
February 2003	2002 Second Adv. CC	2002 Second Adv. CC	2002 Second Adv. CC	—
July 2003	2002 Final CC	—	—	—
September 2003	—	—	2002 Final CC	—
October 2003	—	2002 Final CC	—	—
	2003 First Adv. CC	2003 First Adv. CC	2003 First Adv. CC	—
	2003 Final Direct	2003 Final Direct	2003 Final Direct	2003 Final Direct
February 2004	2003 Second Adv. CC	2003 Second Adv. CC	2003 Second Adv. CC	—
July 2004	2003 Final CC	—	—	—
September 2004	—	—	2003 Final CC	—
October 2004	—	2003 Final CC	—	—

Note: CC - Counter-cyclical, Adv. - Advance

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the farm. Yields used to calculate direct payments cannot be updated; the yields must be those used for PFC.

For covered commodities without PFC program payment yields, FSA assigned a direct payment yield using the PFC yield of similar farms. The direct payment yield for oilseeds is calculated by multiplying the 1998 through 2001 average yield for the oilseed times the historic yield ratio for the oilseed.

Counter-cyclical Payment Yields

Farm owners, or their designees, who updated their base acres had a one-time opportunity to also partially update their counter-cyclical payment yields using one of the following two methods:

- 93.5 percent of the 1998-2001 average yield; or
- the direct payment yield (PFC yield) plus 70 percent of the difference between the 1998-2001 average and the direct payment yield.

Farm owners had to use the same counter-cyclical payment yield method for all eligible commodities on a farm. If farm owners did not choose to partially update their counter-cyclical payment yields, then their established PFC payment yields are used to calculate counter-cyclical payments.

Sign-up Period

The DCP sign-up period for fiscal years 2002 and 2003 was October 1, 2002, to June 2, 2003. Sign-up for 2004-2007 is from October 1 to June 1 of the applicable fiscal year. The CCC-509 form, "Direct and Counter-cyclical Program Contract," includes base acres, payment acres, payment yields, producer payment shares, advance direct and counter-cyclical payment selections, and signatures of the producer and county office representative.

The CCC-509 must be submitted by June 1 (June 2 for 2002 and 2003) of the fiscal year. All owners and operators who will share in the DCP payments on the farm must sign the CCC-509. Forms with signatures that are obtained after June 1, but before September 30, will be accepted, but the farm will be assessed a late-file sign-up fee of $100.

Farm producers must apply for DCP on an annual basis and can opt out of participating in DCP for any year if they so choose.

The following documents are required and applicable determinations must be made before the county committee can approve a producer's share on the CCC-509 for payment:

- a farm operating plan (CCC-502 and related forms);
- an average adjusted gross income certification (CCC-526);
- a certification of compliance with highly erodible land and wetland conservation provisions (AD-1026).

A certification of the acreage of all cropland on the farm (FSA-578) is needed before final payments can be issued.

Planting Flexibility Provisions

Producers who participate in DCP may plant cropland in excess of the total base acreage on the farm to any commodity. However, producers are subject to certain restrictions on the planting of wild rice, fruits, and vegetables (WR/FAV). Information on WR/FAV restrictions is contained in the FSA fact sheet "Direct and Counter-cyclical Payment Program: Wild Rice, Fruit, and Vegetable Provisions." This fact sheet is available on FSA's Web site at: http://www.fsa.usda.gov/pas/publications/facts/html/fav03.htm

For More Information

Further information on DCP and other FSA programs are available at local FSA offices or on FSA's Web site at: www.fsa.usda.gov

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2008 Farm Bill

Main Topics

Farm Service Agency Fact Sheet on Direct Countercyclical Payments (DCP)

Farm Service Agency Fact Sheet on Milk Income Loss Contract (MILC)

Learn more about the Farm Bill

Link - Public Law version 6124 of the Farm Bill

PDF - Public Law version 6124 of the Farm Bill

PDF - Secretary Vilsack's Briefing on the Status of Rural America

ERS - Research and Analysis

ERS - Side-by-Side Comparison of Old and New Legislation

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Last Modified: 05/11/2010

Newsroom

Program Fact Sheets

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December 2008

Direct and Counter-cyclical Payment Program (DCP)

Background

The Direct and Counter - cyclical Payment Program (DCP) provides payments to eligible producers on farms enrolled for the 2008 through 2012 crop years. There are two types of DCP payments - direct payments and counter-cyclical payments. Both are calculated using the base acres and payment yields established for the farm. DCP is authorized by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) and is administered by the U.S. Department of Agriculture's Farm Service Agency (FSA). Regulations covering the 2008 Farm Bill provisions have been published and are located at 7 CFR1412.

Eligible Producers

To be eligible for DCP payments, owners, operators, landlords, tenants, or sharecroppers must:

- share in the risk of producing a crop on base acres on a farm enrolled in DCP, and be entitled to share in the crop available for marketing from the base acres or would have shared had a crop been produced;
- annually report the use of the farm's cropland acreage;
- comply with conservation and wetland protection requirements on all of their land;
- comply with planting flexibility requirements;
- use the base acres for agricultural or related activities; and
- protect all base acres from erosion, including providing sufficient cover as determined necessary by the county FSA committee, and controlling weeds.

Eligible Commodities

Base acres and payment yields are established for the following commodities:

- wheat;
- corn;
- grain sorghum, including dual purpose varieties that can be harvested as grain;
- barley;
- oats;
- upland cotton;

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- News Releases
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- long grain rice and medium grain rice (which includes short grain rice), excluding wild rice;
- soybeans;
- canola, crambe, flaxseed, mustard seed, rapeseed, safflower, sesame seed and sunflower seed, including oil and non-oil varieties, or any oilseed designated by the USDA secretary;
- peanuts; and
- dry peas, lentils, small chickpeas (Garbanzo bean, Desi), and large chickpeas (Garbanzo bean, Kabuli).

Under provisions of the 2008 Farm Bill, farms with 10 base acres or less were made ineligible for the DCP. However, P.L. 110-398 made that provision inapplicable to the 2008 crop only. For 2009, the rule still applies. Reconstitutions of farms with 10 base acres or less are now allowed.

Direct Payments

The 2008 Farm Bill continues the direct payments that began under the Farm Security and Rural Investment Act of 2002. Direct payment rates for the eligible DCP commodities are as follows:

- Wheat: $0.52 per bushel
- Corn: $0.28 per bushel
- Grain sorghum: $0.35 per bushel
- Barley: $0.24 per bushel
- Oats: $0.024 per bushel
- Upland cotton: $0.0667 per pound
- Rice, long grain: $2.35 per hundredweight
- Rice, medium/short grain: $2.35 per hundredweight
- Soybeans: $0.44 per bushel
- Other oilseeds: $0.80 per hundredweight
- Peanuts: $36 per ton

For each commodity, the total direct payment for the 2009 crop year for producers on a farm is determined by multiplying 83.3 percent of the farm's base acreage *times* the farm's direct payment yield *times* the direct payment rate.

The following is an example for 2009 corn:

Base acres planted to corn:

100 acres x 83.3%

83.3 acres payment acres

x 110 bushels direct payment yield

x $0.28 per bushel direct payment rate

$2,566.00 direct payment

Direct payments are not based on producers' current production choices, but instead are tied to established base acres and yields.

Counter-cyclical Payments

In addition to direct payments, the 2008 Farm Bill authorizes counter-cyclical payments, which provide support counter to the cycle of market prices as part of a "safety net" in the event of low crop prices. Counter-cyclical payments for a commodity are only issued if the effective price for a commodity is below the target price for the commodity. Target prices, as provided by the 2008 Farm Bill, for each commodity are as follows:

Wheat	$3.92/bu	$3.92/bu	$4.17/bu
Corn	$2.63/bu	$2.63/bu	$2.63/bu
Grain sorghum	$2.57/bu	$2.57/bu	$2.63/bu
Barley	$2.24/bu	$2.24/bu	$2.63/bu
Oats	$1.44/bu	$1.44/bu	$1.79/bu
Upland cotton	$0.7125/lb	$0.7125/lb	$0.7125/lb
Rice, long grain	$10.50/cwt	$10.50/cwt	$10.50/cwt
Rice, medium/short grain	$10.50/cwt	$10.50/cwt	$10.50/cwt
Soybeans	$5.80/bu	$5.80/bu	$6.00/bu
Other oilseeds	$10.10/cwt	$10.10/cwt	$12.68/cwt
Dry peas	Not available	$8.32/cwt	$8.32/cwt
Lentils	Not available	$12.81/cwt	$12.81/cwt
Chickpeas, small (Garbanzo bean, Desi)	Not available	$10.36/cwt	$10.36/cwt
Chickpeas, large (Garbanzo bean, Kabuli)	Not available	$12.81/cwt	$12.81/cwt
Peanuts	$495/ton	$495/ton	$495/ton

The counter-cyclical payment rate is the amount by which the target price of each commodity exceeds its effective price. The effective price for each commodity equals the direct payment rate *plus* the higher of:

- the national average market price received by producers during the marketing year as determined by the USDA secretary (see Example A); or the national loan rate for the commodity (see Example B).

Example A:

If the 2009 national average market price for soybeans is $5.10 per bushel:

$0.44 direct payment rate

+ $5.10 average market price*

$5.54 effective price

(*Average market price is used since it is higher than the 2009 national loan rate)

$5.80 target price

-$5.54 effective price

$0.26 counter-cyclical payment rate

Example B:

If the 2010 national average market price for soybeans is $4.90 per bushel:

$0.44 direct payment rate

+$5.00 national loan rate*

$5.44 effective price

(*National loan rate is used since it is higher than the average market price)

$5.80 target price

$5.44 effective price

$0.36 counter-cyclical payment rate

For each commodity, the total counter-cyclical payment for producers on a farm is determined by multiplying 85 percent of the farm's base acres *times* the farm's counter-cyclical payment yield *times* the counter-cyclical payment rate.

An example for 2009 soybeans (using the counter-cyclical payment rate of $0.26) is:

100 acres base acres planted to soybeans

85 acres, payment acres

x 30 bushels per acre counter-cyclical payment yield

x $0.26 per bushel counter-cyclical payment rate

$663.00 counter-cyclical payment

For 2009 crops, counter-cyclical payments are not available for "other oilseeds" (sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, and sesame seed) because the sum of their national loan rate and direct payment rate is equal to or greater than their target price. For 2010 through 2012, counter-cyclical payments are available for "other oilseeds" due to an increase in their target price.

Timing of Payments

For crop years 2009 through 2011, producers may elect to receive their direct payments in two installments:

The first advance payment for up to 22 percent of the total payment is provided by statute to be made available:

- For crop years beginning 2009 through 2011, beginning in December of the calendar year prior to the harvest year.
- The balance of the total direct payment is available in October of the crop year. Producers who do not elect to take the first direct payment will receive the entire direct payment that October.

For 2012, there is no advance direct payment.

For crop years 2009 through 2010, producers may elect to receive two counter-cyclical payments per year:

- A partial payment will be available after completion of 180 days of the marketing year for the crop. These payments cannot exceed 40 percent of the total projected payment.
- Final payments are made beginning October 1, or as soon as practicable thereafter, after the end of the marketing year for the crop. Producers who do not elect to take the partial payment will receive the entire counter-cyclical payment at this time.

For fiscal years 2011 and 2012, there is no partial counter-cyclical payments. Final payments are made beginning October 1, or as soon as practicable thereafter, after the end of the marketing year for the crop.

Producers must refund to FSA counter-cyclical payments that exceed the final and total counter-cyclical payment for each respective crop. This situation may occur when actual market prices exceed the projected market prices used in determining the partial counter-cyclical payment rates.

The DCP payment schedules for 2008 and 2009 crop years are in the following tables.

2008 Scheduled Timetable for DCP Payments				
Month/Year	Commodity			
	Barley Oats Wheat	Peanuts Rice Upland Cotton	Corn Sorghum Soybeans	"Other" Oilseeds
Marketing Year	June 1 - May 31	August 1 - July 31	September 1 - August 31	September 1 - August 31
Enrollment to September 2008	Advance Direct	Advance Direct	Advance Direct	Advance Direct

Beginning October 2008	Final Direct	Final Direct	Final Direct	Final Direct
Beginning December 2008	Partial CC 1\			
Beginning February 2009		Partial CC 1\		
Beginning March 2009			Partial CC 1\	
Beginning October 2009	Final CC	Final CC for Peanuts & Upland Cotton 2\	Final CC	
Beginning February 2010		Final CC for Rice		

1\ Producers must request advance counter-cyclical payments no later than 60 days prior to the end of the marketing year for that covered commodity.

2\ For upland cotton, the final marketing year average price estimate will be published by the National Agricultural Statistics Service (NASS) in a notice between October 9, 2009 and October 12, 2009—coincident with the October Crop Production report. Final counter-cyclical payments for upland cotton will be available soon after this date.

2009 Scheduled Timetable for DCP Payments						
Month/Year	Commodity					
	Barley Oats Wheat	Dry Peas Lentils	Peanuts Rice Upland Cotton	Corn Sorghum Soybeans	"Other" Oilseeds	Large Chickpeas Small Chickpeas
Marketing Year	June 1 - May 31	July 1 - June 30	August 1 - July 31	September 1 -August 31	September 1 - August 31	September 1 - August 31
December 2008 to September 2009	Advance Direct		Advance Direct	Advance Direct	Advance Direct	
Beginning October 2009	Final Direct		Final Direct	Final Direct	Final Direct	
Beginning December 2009	Partial CC 1\					
Beginning January 2010		Partial CC 1\				
Beginning February 2010			Partial CC 1\			
Beginning March 2010				Partial CC 1\		Partial CC 1\
Beginning October 2010	Final CC	Final CC	Final CC for Peanuts & Upland Cotton 2\	Final CC		Final CC
Beginning February 2011			Final CC for Rice			

1\ Producers must request advance counter-cyclical payments no later than 60 days prior to the end of the marketing year for that covered commodity.

2\ For upland cotton, the final marketing year average price estimate will be published by the NASS in a notice between October 9, 2010 and October 12, 2010—coincident with the October Crop Production report. Final counter-cyclical payments for upland cotton will be available soon after this date.

Sign-up Period

The DCP sign-up period for the 2009 crop began Dec. 22, 2008 and ends June 1, 2009. Annual sign-ups for the 2010-2012 crops will begin Oct. 1 of each applicable contract year and end June 1 of that contract year, set in accordance with DCP regulations. The CCC-509 sign-up form, "Direct and Counter-cyclical Program Contract," includes base acres, payment acres, payment yields, producer payment shares, advance direct and counter-cyclical payment selections, and signatures of the producer and county office representative.

Unlike years past, participants may NOT enroll a farm in DCP after June 1 of the applicable contract period. There are no late filed provisions for contract years 2009-2012.

All owners and operators who will share in the DCP payments on the farm must sign the CCC-509 by June 1 of the contract period.

Farm producers must apply for DCP on an annual basis.

The following documents are required and applicable determinations must be made before the county committee can approve a producer's share on the CCC-509 for payment:

- a farm operating plan (CCC-902 and related forms);
- an average adjusted gross income certification (CCC-926);
- a certification of compliance with highly erodible land and wetland conservation provisions (AD-1026).

A certification of the acreage of all cropland on the farm (FSA-578) is needed before final payments can be issued.

Planting Flexibility Provisions

Producers who participate in DCP may plant cropland in excess of the total base acreage on the farm to any commodity. However, producers are subject to certain restrictions on the planting of wild rice, fruits, and vegetables (other than mung beans and pulse crops). Information on wild rice, fruits and vegetable restrictions is contained in the FSA fact sheet "Direct and Counter-cyclical Payment Program: Wild Rice, Fruit, and Vegetable Provisions." A 2009 fact sheet will be available on FSA's Web site at: http://www.fsa.usda.gov; click on "find FSA fact sheets."

Planting transferability Pilot Project

The 2008 Farm Bill provides for the development of a pilot project for certain states to permit the planting of cucumbers, green peas, lima beans, pumpkins, snap beans, sweet corn, and tomatoes grown for processing on base acres during each of the 2009 through 2012 crop years. DCP base acres on a farm for a crop year will be reduced by an acre for each acre planted under the pilot program. This program is dependent on regulations not yet issued which will cover eligibility and the method by which producers can be approved for participation.

The number of base acres eligible during each crop year for the pilot year for the pilot project is:

Illinois: 9,000

Indiana: 9,000

Iowa: 1,000

Michigan: 9,000

Minnesota: 34,000

Ohio: 4,000

Wisconsin: 9,000

For More Information

Further information on DCP and other FSA programs are available at local FSA offices or on FSA's Web site at: http://www.fsa.usda.gov

USDA FSA

FACT SHEET

UNITED STATES DEPARTMENT OF AGRICULTURE
FARM SERVICE AGENCY

December 2008

Direct and Counter-cyclical Payment (DCP) Program

Background

The Direct and Counter-cyclical Payment Program (DCP) provides payments to eligible producers on farms enrolled for the 2008 through 2012 crop years. There are two types of DCP payments -- direct payments and counter-cyclical payments. Both are calculated using the base acres and payment yields established for the farm. DCP is authorized by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) and is administered by the U.S. Department of Agriculture's Farm Service Agency (FSA). Regulations covering the 2008 Farm Bill provisions have been published and are located at 7 CFR 1412.

Eligible Producers

To be eligible for DCP payments, owners, operators, landlords, tenants, or sharecroppers must:

- share in the risk of producing a crop on base acres on a farm enrolled in DCP, and be entitled to share in the crop available for marketing from the base acres or would have shared had a crop been produced;
- annually report the use of the farm's cropland acreage;
- comply with conservation and wetland protection requirements on all of their land;
- comply with planting flexibility requirements;
- use the base acres for agricultural or related activities; and
- protect all base acres from erosion, including providing sufficient cover as determined necessary by the county FSA committee, and controlling weeds.

Eligible Commodities

Base acres and payment yields are established for the following commodities:

- wheat;
- corn;
- grain sorghum, including dual purpose varieties that can be harvested as grain;
- barley;
- oats;
- upland cotton;
- long grain rice and medium grain rice (which includes short grain rice), excluding wild rice;
- soybeans;
- canola, crambe, flaxseed, mustard seed, rapeseed, safflower, sesame seed and sunflower seed, including oil and non-oil varieties, or any oilseed designated by the USDA Secretary;
- peanuts; and
- dry peas, lentils, small chickpeas (Garbanzo bean, Desi), and large chickpeas (Garbanzo bean, Kabuli).

Under provisions of the 2008 Farm Bill, farms with 10 base acres or less were made ineligible for the DCP. However, P.L. 110-398 made that provision inapplicable to the 2008 crop only. For 2009, the rule still applies. Reconstitutions of farms with 10 base acres or less are now allowed.

Direct Payments

The 2008 Farm Bill continues the direct payments that began under the Farm Security and Rural Investment Act of 2002. Direct payment rates for the eligible DCP commodities are as follows:

Wheat: $0.52 per bushel
Corn: $0.28 per bushel
Grain sorghum: $0.35 per bushel
Barley: $0.24 per bushel
Oats: $0.024 per bushel
Upland cotton: $0.0667 per pound
Rice, long grain: $2.35 per hundredweight
Rice, medium/short grain: $2.35 per hundredweight
Soybeans: $0.44 per bushel
Other oilseeds: $0.80 per hundredweight
Peanuts: $36 per ton

For each commodity, the total direct payment for the 2009 crop year for producers on a farm is determined by multiplying 83.3 percent of the farm's base acreage times the farm's direct payment yield times the direct payment rate. For 2012, the payment percentage changes from 83.3 to

85 percent of the farm's base acreage.

The following is an example for 2009 corn:

Base acres planted to corn:
100 acres x 83.3%
83.3 acres payment acres
x 110 bushels direct payment yield
x $0.28 per bushel direct payment rate
$2566 direct payment

Direct payments are not based on producers' current production choices, but instead are tied to established base acres and yields.

Counter-cyclical Payments

In addition to direct payments, the 2008 Farm Bill authorizes counter-cyclical payments, which provide support counter to the cycle of market prices as part of a "safety net" in the event of low crop prices.

Counter-cyclical payments for a commodity are only issued if the effective price for a commodity is below the target price for the commodity. Target prices, as provided by the 2008 Farm Bill, for each commodity are as follows:

The counter-cyclical payment rate is the amount by which the target price of each commodity exceeds its effective price. The effective price for each commodity equals the direct payment rate plus the higher of:

- the national average market price received by producers during the marketing year as determined by the USDA Secretary (see Example A); or
- the national loan rate for the commodity (see Example B).

Example A:
If the 2009 national average market price for soybeans is $5.10 per bushel: $0.44 direct payment rate
+ $5.10 average market price*
$5.54 effective price
(*Average market price is used since it is higher than the 2009 national loan rate)
$5.80 target price
-$5.54 effective price
$0.26 counter-cyclical payment rate

Example B:

If the 2010 national average market price for soybeans is $4.90 per bushel:
$0.44 direct payment rate
+$5.00 national loan rate*
$5.44 effective price
(*National loan rate is used since it is higher than the average market price)
$5.80 target price
- $5.44 effective price
$0.36 counter-cyclical payment rate
For each commodity, the total counter-cyclical pay-

Crop	2008	2009	2010 through 2012
Barley	$2.24/bu	$2.24/bu	$2.63/bu
Chickpeas, large (Garbanzo bean, Kabuli)	Not Available	$12.81/cwt	$12.81/cwt
Chickpeas, small (Garbanzo bean, Desi)	Not available	$10.36/cwt	$10.36/cwt
Corn	$2.63/bu	$2.63/bu	$2.63/bu
Dry peas	Not available	$8.32/cwt	$8.32/cwt
Grain Sorghum	$2.57/bu	$2.57/bu	$2.63/bu
Lentils	Not available	$12.81/cwt	$12.81/cwt
Oats	$1.44/bu	$1.44/bu	$1.79/bu
Other oilseeds	$10.10/cwt	$10.10/cwt	$12.68/cwt
Peanuts	$495/ton	$495/ton	$495/ton
Rice, long grain	$10.50/cwt	$10.50/cwt	$10.50/cwt
Rice, medium/short grain	$10.50/cwt	$10.50/cwt	$10.50/cwt
Soybeans	$5.80/bu	$5.80/bu	$6.00/bu
Upland Cotton	$0.7125/lb	$0.7125/lb	$0.7125/lb
Wheat	$3.92/bu	$3.92/bu	$4.17/bu

ment for producers on a farm is determined by multiplying 85 percent of the farm's base acres times the farm's counter-cyclical payment yield times the counter-cyclical payment rate.

An example for 2009 soybeans (using the counter-cyclical payment rate of $0.26) is:
100 acres base acres planted to soybeans
85 acres, payment acres
x 30 bushels per acre counter-cyclical payment yield
x $0.26 per bushel counter-cyclical payment rate
$663.00 counter-cyclical payment

For 2009 crops, counter cyclical payments are not available for "other oilseeds" (sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, and sesame seed) because the sum of their national loan rate and direct payment rate is equal to or greater than their target price. For 2010 through 2012, counter-cyclical payments are available for "other oilseeds" due to an increase in their target price.

The DCP payment schedules for 2009 crop years are in the following tables.

1\ Producers must request advance counter-cyclical payments no later than 60 days prior to the end of the marketing year for that covered commodity.

2\ For upland cotton, the final marketing year average price estimate will be published by the National Agricultural Statistics Service (NASS) in a notice between October 9, 2009 and October 12, 2009—coincident with the October Crop Production report. Final counter-cyclical payments for upland cotton will be available soon after this date.

1\ Producers must request advance counter-cyclical payments no later than 60 days prior to the end of the marketing year for that covered commodity.

2\ Final counter-cyclical payments for upland cotton are available after the NASS October Crop Production Report containing the marketing year average price for upland cotton is published. The Crop Production Report will be published between October 9, 2010 and October 12, 2010.

Timing of Payments

For crop years 2009 through 2011, producers may elect to receive their direct payments in two installments:

The first advance payment for

2008 Scheduled Timetable for DCP Payments

Commodity				
Month/Year	Barley, Oats, and Wheat	Peanuts, Rice, and Upland Cotton	Corn, Sorghum, and Soybeans	"Other" Oilseeds
Marketing Year	June 1 - May 31	August 1 - July 31	September 1 - August 31	September 1 - August 31
Enrollment to September 2008	Advance Direct	Advance Direct	Advance Direct	Advance Direct
Beginning October 2008	Final Direct	Final Direct	Final Direct	Final Direct
Beginning December 2008	Partial CC 1\			
Beginning February 2009		Partial CC 1\		
Beginning March 2009			Partial CC 1\	
Beginning October 2009	Final CC	Final CC for Peanuts & Upland Cotton 2\		
Beginning February 2010		Final CC for Rice		

up to 22 percent of the total payment is provided by statute to be made available.

For crop years beginning 2009 through 2011, beginning in December of the calendar year prior to the harvest year.

The balance of the total direct payment is available in October of the crop year. Producers who do not elect to take the first direct payment will receive the entire direct payment that October.

For 2012, there is no advanced direct payment.

For crop years 2009 through 2010, producers may elect to receive two counter-cyclical payments per year:

- A partial payment will be available after completion of 180 days of the marketing year for the crop. These payments cannot exceed 40 percent of the total projected payment.
- Final payments are made beginning October 1, or as soon as practicable thereafter, after the end of the marketing year for the crop. Producers who do not elect to take the partial payment will receive the entire counter-cyclical payment at this time.

For fiscal years 2011 and 2012, there is no partial counter-cyclical payments. Final payments are made beginning October 1, or as soon as practicable thereafter, after the end of the marketing year for the crop.

Producers must refund to FSA counter-cyclical payments that exceed the final and total counter-cyclical payment for each respective crop. This situation may occur when actual market prices exceed the projected market prices used in determining the partial counter-cyclical payment rates.

Sign-up Period

The DCP sign-up period for the 2009 crop began Dec. 22, 2008 and ends June 1, 2009. Annual sign-ups for the 2010-2012 crops will begin Oct. 1 of the applicable contract

2009 Scheduled Timetable for DCP Payments

	Commodity					
Month/Year	Barley, Oats and Wheat	Dry Peas and Lentils	Peanuts, Rice and Upland Cotton	Corn, Sorghum and Soybeans	"Other" Oilseeds	Large and Small Chickpeas
Marketing Year	June 1 - May 31	July 1 - June 30	August 1-July 31	September 1 - August 31	September 1 - August 31	September 1 - August 31
Dec. 22, 2008 to Sept. 31, 2009	Advance Direct		Advance Direct	Advance Direct	Advance Direct	
Beginning October 2009	Final Direct		Final Direct	Final Direct	Final Direct	
Beginning December 2009	Partial CC 1\					
Beginning January 2010		Partial CC 1\				
Beginning February 2010			Partial CC 1\			
Beginning March 2010				Partial CC 1\		Partial CC 1\
Beginning October 2010	Final CC	Final CC	Final CC for Peanuts & Upland Cotton 2\	Final CC		Final CC
Beginning February 2011			Final CC for Rice			

year and end June 1 of that contract year, set in accordance with DCP regulations. The CCC-509 sign-up form, "Direct and Counter-cyclical Program Contract," includes base acres, payment acres, payment yields, producer payment shares, advance direct and counter-cyclical payment selections, and signatures of the producer and county office representative.

Unlike years past, participants may NOT enroll a farm in DCP after June 1 of the applicable contract period. There are no late filed provisions for contract years 2009 - 2012.

All owners and operators who will share in the DCP payments on the farm must sign the CCC-509 by June 1 of the contract period.

Farm producers must apply for DCP on an annual basis. The following documents are required and applicable determinations must be made before the county committee can approve a producer's share on the CCC-509 for payment:

- a farm operating plan (CCC-902 and related forms);
- an average adjusted gross income certification (CCC-926);
- a certification of compliance with highly erodible land and wetland conservation provisions (AD-1026).

A certification of the acreage of all cropland on the farm (FSA-578) is needed before final payments can be issued.

Planting Flexibility Provisions

Producers who participate in DCP may plant cropland in excess of the total base acreage on the farm to any commodity. However, producers are subject to certain restrictions on the planting of wild rice, fruits, and vegetables (other than mung beans and pulse crops). Information on wild rice, fruits and vegetable restrictions is contained in the FSA fact sheet "Direct and Counter-cyclical Payment Program: Wild Rice, Fruit, and Vegetable Provisions." A 2009 fact sheet will be available on FSA's Web site at: http://www.fsa.usda.gov; click on "find FSA fact sheets."

Planting Transferability Pilot Project

The 2008 Farm Bill provides for the development of a pilot project for certain states to permit the planting of cucumbers, green peas, lima beans, pumpkins, snap beans, sweet corn, and tomatoes grown for processing on base acres during each of the 2009 through 2012 crop years. DCP base acres on a farm for a crop year will be reduced by an acre for each acre planted under the pilot program. This program is dependent on regulations not yet issued which will cover eligibility and the method by which producers can be approved for participation.

The number of base acres eligible during each crop year for the pilot year for the pilot project is:

Illinois: 9,000
Indiana: 9,000
Iowa: 1,000
Michigan: 9,000
Minnesota: 34,000
Ohio: 4,000
Wisconsin: 9,000

For More Information

For more information about FSA and its programs, visit your local FSA service center or online at: http://www.fsa.usda.gov.

Electronic Code of Federal Regulations
e-CFR ™

e-CFR Data is current as of May 13, 2010

TITLE 7--Agriculture

Subtitle B--REGULATIONS OF THE DEPARTMENT OF AGRICULTURE

CHAPTER XIV--COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B--LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1412--DIRECT AND COUNTER-CYCLICAL PROGRAM AND AVERAGE CROP REVENUE ELECTION PROGRAM FOR THE 2008 AND SUBSEQUENT CROP YEARS

Subpart A--GENERAL PROVISIONS

Subpart B--ESTABLISHMENT OF BASE ACRES FOR A FARM FOR COVERED COMMODITIES

Subpart C--ESTABLISHMENT OF YIELDS FOR DIRECT AND COUNTER-CYCLICAL PAYMENTS

Subpart G--AVERAGE CROP REVENUE ELECTION (ACRE) PROGRAM

Electronic Code of Federal Regulations
e-CFR TM

e-CFR Data is current as of May 20, 2010

Title 7: Agriculture

PART 1412—DIRECT AND COUNTER-CYCLICAL PROGRAM AND AVERAGE CROP REVENUE ELECTION PROGRAM FOR THE 2008 AND SUBSEQUENT CROP YEARS
Subpart A—General Provisions

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§ 1412.3 Definitions.

The definitions set forth in this section are applicable for all purposes of administering the DCP. The terms defined in part 718 of this title and part 1400 of this chapter are also applicable, except where those definitions conflict with the definitions set forth in this section.

Where there is a conflict or a difference in definitions specified in this part and those that apply to the Average Crop Revenue Election (ACRE) program specified in subpart G of this part, the regulations of subpart G of this part will apply to the ACRE program.

ACRE guarantee price means the simple average, as determined by CCC, of the national average market prices of the covered commodity or peanuts for the most recent two crop years preceding the relevant current crop year. For example, for the 2009 program the relevant crop year is the 2009 crop year. Therefore, for the 2009 program, the ACRE guarantee price for the covered commodity or peanuts is equal to the simple average of the national average market prices of the covered commodity or peanuts for the 2007 and 2008 crops.

ACRE plug yield means the resulting yield determined by taking the applicable NASS county average yield for the covered commodity or peanuts, by practice if applicable, and multiplying it by 95 percent. The ACRE plug yield may be used by a farm in establishing an initial benchmark farm yield or reporting actual production in accordance with instructions issued by the Deputy Administrator. The ACRE plug yield is also used on a farm for a covered commodity or peanuts in a year where there are no acres of the covered commodity or peanuts planted. The ACRE plug yield may be found on the FSA Web site at: *http://www.fsa.usda.gov/dcp/* by clicking “ACRE County Yields.” ACRE plug yields are used in benchmark farm yields. If the National Agricultural Statistical Service (NASS) data is not available for a particular practice of a covered commodity or peanuts from which an ACRE plug yield can be established, the Deputy Administrator may establish an ACRE plug yield for the practice of the covered commodity or peanuts based a computation of multiplying 95 percent times the yield determined based on production data available from FSA farm records in the county, or in the event sufficient records do not exist, another data source determined appropriate by the Deputy Administrator.

ACRE price means the higher of the following, as determined by CCC, for the covered commodity or peanuts:

(1) The national average price received by producers during the 12-month marketing year (as defined in this part) for the relevant current crop of the covered commodity or peanuts (the relevant current crop for a program year is the corresponding crop for commodity for that year—for example, the current crop for the 2009 program is the 2009 crop), or

(2) 70 percent of the marketing assistance loan rate for the relevant current crop of the commodity under

7 U.S.C. 8731–8757.

Actual farm production means all of a farm's harvested and appraised production, including grazed acres, of a covered commodity or peanuts. Appraisals must be performed by appraisers acceptable to FSA. Appraisals performed according to the Non-Insured Crop Disaster Assistance Program (NAP) or crop insurance guidelines are generally deemed acceptable to FSA for DCP and ACRE Program purposes.

Actual farm revenue means the per acre amount computed by multiplying the actual farm yield, which is a per acre amount, of a covered commodity or peanuts times the ACRE price for the relevant current crop year. The relevant current crop year for these and other purposes is the crop year that corresponds to the calendar year in which the relevant program year ends. Therefore, for the 2009 contract or 2009 program, the relevant crop year would be the 2009 crop (that is, the crop considered to be the crop for the 2009 crop year).

Actual farm yield means for the relevant current crop year, the per acre amount determined by dividing the actual farm production of a covered commodity or peanuts by the farm's total planted and considered planted acres of the covered commodity or peanuts.

Actual State yield means the State's per acre amount for the relevant current crop year for a commodity determined by dividing the actual production in the State of the covered commodity or peanuts by the total planted acres of the covered commodity or peanuts in the State.

Actual State revenue means the per acre amount for a covered commodity or peanuts determined for the relevant current crop year by multiplying the actual State yield by the covered commodity or peanuts times the ACRE price.

Average Crop Revenue Election (ACRE) means the program authorized by section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) according to subpart G of this part. Participation in the ACRE program requires a two-step process by the producer, specifically step 1 an election according to subpart G of this part followed by step 2 enrollment according to this part.

Average yield per planted acre means the actual farm production of a covered commodity or peanuts for a year divided by the farm's planted acres.

Base acres means the number of acres established with respect to a covered commodity and peanuts on a farm pursuant to sections 1101 and 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911) as in effect on September 30, 2007, subject to any adjustment in accordance with subpart B of this part.

Benchmark farm yield means, except as otherwise provided, a per acre yield for a covered commodity or peanuts computed using the Olympic average of the average yield per planted acre for the farm for the commodity for the 5 most recent crop years. The term "Olympic average" means that the highest and lowest per acre yields for the 5 years will be eliminated and the remaining annual entries will be averaged. CCC may make such adjustments as it deems necessary to create a fair yield for the farm so as to ensure the integrity of the ACRE Program. For purposes of determining a benchmark farm yield, yields on planted acres only will be considered except to the extent that the farm does not have a sufficient history to make a fair yield determination in which case a yield may be assigned by CCC.

Benchmark State yield means for a covered commodity or peanuts a per acre yield computed using the Olympic average of the average yield per planted acre for the State for the commodity for the 5 most recent crop years. To the extent practicable, it will be calculated using data from NASS. The benchmark State yield is used in determining the State ACRE guarantee. CCC may make such adjustments in these yields as it deems necessary to provide for a fair yield and to ensure the integrity of the program.

Commercial agricultural production means the propagation and raising of agricultural products for commercial sale or barter having gross receipts or sales annually in excess of $1,000. The term includes pastures and land devoted to approved conserving uses.

Considered planted means acreage approved as prevented planted in accordance with §718.103 of this title or the acreage considered planted to a covered commodity pursuant to §1412.48.

Contract means the CCC-approved standard, uniform forms and appendixes specified by CCC that constitute the agreement for participation in the Direct and Counter-Cyclical Program or ACRE program, as applicable.

Contract period means the compliance period set out for the contract for the particular program year. The program year is designated in item 1 of the contract. Contracts for different program years will be referenced by their program year. Thus, for example, a reference to the "2009 contract" means the contract for the 2009 program year and the relevant current crop for a program year is the corresponding crop for that commodity. Therefore, the relevant current crop for the 2009 program is, with respect to a particular commodity, the 2009 crop. References to the "contract" period refer to the compliance period for the particular program year. The compliance periods for the various program years are as follows:

(1) For the 2009 contract (and therefore for the 2009 program), the period that begins on October 1, 2008 and ends on September 30, 2009;

(2) For the 2010 contract, the period that begins on October 1, 2009 and ends on September 30, 2010;

(3) For the 2011 contract, the period that begins on October 1, 2010 and ends on September 30, 2011;

(4) For the 2012 contract, the period that begins on October 1, 2011 and ends on September 30, 2012.

Contract year means the particular year of the particular contract based on the compliance period for the contract. The compliance year will run from October 1 to the following September 30 and will have the same name as the corresponding fiscal year. For example, the 2009 contract year will be October 1, 2008, through September 30, 2009, and that year will be considered, too, the 2009 crop year. The contract for the 2009 crop year will be considered the contract for the 2009 crop. The same references will apply to all other years.

Counter-cyclical payment means a payment made to eligible producers on a farm in accordance with subpart E of this part for covered commodities and peanuts.

Covered commodity means wheat, corn, grain sorghum, barley, oats, upland cotton, long grain rice, medium grain rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, pulse crops, and other oilseeds as determined by the Secretary.

Crop year means the relevant contract year. For example, the 2009 crop year is the year that runs from October 1, 2008, through September 30, 2009, and references to payments for that year refer to payments made under contracts with the compliance year that runs during those dates.

DCP cropland means DCP cropland as defined in part 718 of this title.

Deputy Administrator means the Deputy Administrator for Farm Programs, FSA, or a designee.

Developed means:

(1) Land has been approved by the local government for uses other than commercial agricultural uses; and

(2) Construction activity has begun to install any aspect of the development, for example utilities or roadways.

Direct payment means a payment made to eligible producers on a farm for peanuts and covered commodities in accordance with subpart E of this part.

Double-cropping means for covered commodities and peanuts, notwithstanding the meaning in §1412.47(e) for fruits and vegetables, the planting of a covered commodity or peanuts for harvest in a crop year, in cycle with another covered commodity or peanuts on the same acres for harvest in the same crop year in counties that have been determined to be areas where there is determined to be substantial, successful and long-term double cropping of the crop and where the producer has followed customary production techniques and planting deadlines as determined by CCC (that is, using techniques and deadlines used by the majority of farmers in the region to double crop the particular crops involved). In a county determined capable of supporting such double-cropping the covered commodities or peanuts, as determined by CCC, both an initial crop and a subsequent crop will be considered planted or prevented planted acres for the purpose of Subpart G of this part. Notwithstanding any of the provisions of §718.103, in those instances where the subsequently planted or approved prevented planted covered commodity or peanuts cannot be recognized as double-cropped acreage under this definition, the subsequently planted covered commodity or peanuts will not be considered planted or prevented planted for any purpose.

Dry peas means Austrian, wrinkled seed, yellow, Umatilla, and green, excluding peas grown for the fresh, canning, or frozen market.

Effective price means the price calculated by the Secretary in accordance with §1412.53 for covered commodities and peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

Excess base acres means the number of base acres of covered commodities and peanuts on the farm that exceed the farm's total DCP cropland.

Farm ACRE guarantee means, for a crop year of a covered commodity or peanuts, the per acre producer-paid crop insurance premium (if any) added to the result of multiplying the benchmark farm yield, which is a per acre amount, times the ACRE guarantee price. The farm ACRE guarantee is used in determining whether a farm is eligible for ACRE payments for a covered commodity or peanuts.

Fiscal year means the year running from October 1 to the following September 30 and will be designated by the same calendar year in which it ends. For example, the 2009 fiscal year ends September 30, 2009.

Harvested means the producer has removed the crop from the field by hand, mechanically, or by grazing of livestock. The crop is considered harvested once it is removed from the field and placed in or on a truck or other conveyance or is consumed by livestock through the act of grazing. Crops normally placed in a truck or other conveyance and taken off the crop acreage, such as hay, are considered harvested when in the bale, whether removed from the field or not.

Initial crop means acreage of a covered commodity or peanuts planted or approved as prevented planted for harvest as peanuts, grain, or lint. The initial crop includes reseeded or replanted crop acreage.

Limited resource farmer means, as determined in accordance with §1412.51, a farmer or rancher who meets both of the following criteria:

(1) The person did not have, counting both direct and indirect interests, total gross farm sales for all farms in which that person has an interest of not more than the triggering level in both of the two calendar years that precede the calendar year in which the contract year begins. The triggering level is an indexed number that was originally set at $100,000. Beginning in October 2004, that number has been adjusted for inflation using the Prices Paid by the Farmer Index compiled by NASS. The triggering level for the DCP or ACRE contract will be the indexed number (*see http://www.lrftool.sc.egov.usda.gov/tool.asp*) as adjusted for the fiscal year that begins on the first day of the contract period.

(2) The person's total household income is at or below the national poverty level for a family of 4 or less than 50 percent of county median household income in each of the two most recent calendar years ending before the end of the program year, as CCC determines using U.S. Commerce Department Data.

Marketing year means the 12-month period beginning in the calendar year the crop is normally harvested as follows:

(1) Barley, oats, and wheat: June 1–May 31;

(2) Canola, flax and rapeseed, lentils, and dry edible peas: July 1–June 30;

(3) Upland cotton, peanuts, and rice: August 1–July 31; and

(4) Corn, grain sorghum, soybeans, sunflowers, safflower, mustard, crambe, sesame, and chickpeas: September 1–August 31.

Medium grain rice means medium and short grain rice.

Minimum and maximum guarantee means, with respect to the State ACRE guarantee for each of the 2010 through 2012 crop years, the adjusted amounts that assure that the State ACRE guarantee for a program year for a covered commodity or peanuts will not decrease or increase more than 10 percent from the announced State ACRE guarantee for the preceding program year.

National loan rate means the loan rate established as specified in §1421.9 of this chapter.

Oilseeds means a crop of soybeans, sunflower seed, rapeseed, canola, crambe, safflower, flaxseed, mustard seed, sesame seed, or, if determined and announced by CCC, another oilseed.

Payment acres means:

(1) Except as provided for in paragraph (2) of this definition, 85 percent of the base acres of a covered commodity or peanuts on a farm in accordance with §1412.71 or subpart B of this part, as applicable, for which direct or counter-cyclical or ACRE payments are made.

(2) For each of the 2009 through 2011 crop years, 83.3 percent of the base acres for a covered commodity or peanuts on a farm in accordance with §1412.71 or subpart B of this part, as applicable, for which direct or ACRE payments are made.

Payment yield means:

(1) For peanuts, the yield established pursuant to section 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911) as in effect on September 30, 2007.

(2) For covered commodities, the yield established in accordance with subpart C of this part for a farm for a covered commodity.

(3) For designated oilseeds or pulse crops, the yield established in accordance with subpart C of this part for a farm for a crop of a designated oilseed and pulse crop.

Per acre producer-paid crop insurance premium means the insurance premiums paid by all producers of a farm for insurance on a covered commodity or peanuts, provided that at least some of the insured crop acreage is subject to a DCP contract and ACRE contract, divided by the total acres of the covered commodity or peanuts covered by the insurance; regardless of whether or not all of the acres insured are included on the farm's reported acreage for other programs, or are subject to a DCP contract and ACRE contract. Fees for catastrophic risk protection plan of insurance coverage or noninsured crop disaster assistance program coverage are not per acre producer-paid crop insurance premiums. Example: Producers A, B, and C have an interest in barley on a farm and the farm is enrolled in ACRE. Producers A and B paid crop insurance premiums totaling $800 on 100 insured barley acres. Regardless of how many acres of barley are planted, the per acre producer-paid crop insurance premium for barley is equal to $8.

Planted acres for a State means for:

(1) Corn, sorghum, barley, oats, and wheat, the sum of harvested acres in a State, as reported by NASS and the sum of failed acres in a State, as reported by producers to FSA.

(2) All other crops, the sum of planted acres in a State, as reported by NASS.

(3) Crops where NASS data is not available, the planted acres as determined by CCC using other sources.

Processing means with respect to uses of a crop, non-fresh intended uses of crops enrolled in the project referred to in §1412.48 for crops being grown pursuant to a contract for canning, pickling, frozen, juice, dry edible bean or pea, or such other uses deemed by CCC not to be fresh intended uses of crops mentioned in §1412.48.

Pulse crop means dry peas, lentils, small chickpeas, and large chickpeas. Pulse crop bases will not generate direct payments and may only create counter-cyclical payments for the 2009 and subsequent crop years.

Replacement crop means the planting or approved prevented planting of any crop for harvest following the failed planting or prevented planted acreage of a covered commodity or peanuts not in a recognized double-cropping sequence (as specified in this section). Replacement crops that are covered commodities or peanuts are not eligible for planted and considered planted credit under this part and cannot generate payments under this part.

Reseeded or replanted crop means the second planting of a covered commodity or peanut crop on the same acreage after the first planting of that same crop has failed.

Socially disadvantaged farmer or rancher means a farmer or rancher who is a member of a socially disadvantaged group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. Gender is not included as a covered group. Socially disadvantaged groups include the following and no others unless approved in writing by the Deputy Administrator:

(1) American Indians or Alaskan Natives,

(2) Asians or Asian-Americans,

(3) Blacks or African-Americans,

(4) Hispanics or Hispanic-Americans, and

(5) Native Hawaiians or other Pacific Islanders.

State ACRE guarantee means the per acre amount for the crop which is 90 percent of the benchmark State yield times the ACRE guarantee price, subject to the minimum and maximum guarantee specified in these regulations.

Subdivided means land has been approved or designated by the local government, or a unit thereof, for development or use as something other than commercial agricultural production or other non-agricultural use.

Supportive and necessary contractual documents means those documents including, but not limited to, those items substantiating the DCP contract such as leases, deeds, signatures of contract participants, owners, operators, and other tenant signatures, as determined by the Secretary.

Target price means, for peanuts, the price per ton; and for covered commodities, the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) used to determine the payment rate for counter-cyclical payments.

[73 FR 79289, Dec. 29, 2008, as amended at 75 FR 19191, Apr. 14, 2010]

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Title 7: Agriculture

PART 1412—DIRECT AND COUNTER-CYCLICAL PROGRAM AND AVERAGE CROP REVENUE ELECTION PROGRAM FOR THE 2008 AND SUBSEQUENT CROP YEARS
Subpart D—Direct and Counter-Cyclical Program and ACRE Program Contract Terms and Enrollment Provisions for Covered Commodities and Peanuts 2008 through 2012

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§ 1412.41 Direct and counter-cyclical program contract or ACRE program contract.

(a) Except as specified in subpart G of this part, the following provisions apply to DCP and ACRE program contracts:

(1) With respect to fiscal year 2008 payments, CCC will, through the date announced by CCC, entertain offers for DCP contracts by eligible producers of covered commodities and peanuts. With respect to fiscal year 2009 payments, CCC will entertain offers by eligible producers for an annual DCP or ACRE program contract through August 14, 2009. With respect to fiscal years 2010 through 2012 payments, CCC will annually allow offers for a DCP or ACRE program contract by eligible producers on a farm having base acres with respect to a covered commodity or peanuts, through June 1 of each such fiscal year.

(2)(i) Eligible producers must execute and submit a DCP or ACRE program contract and furnish supportive and necessary contractual documents to the county FSA office where the records for the program farm are administratively maintained not later than August 14, 2009, for 2009 fiscal year contracts and not later than June 1 of the applicable year for 2010 through 2012 fiscal year contracts.

(ii) Except as may otherwise be provided in statute for 2008, enrollment is not allowed after September 30 of the fiscal year in which the direct and counter-cyclical payments or ACRE program payments are requested.

(3) Under no circumstances will enrollment be permitted except as specified in this section. Contracts will not be approved unless all producers sharing in contract acreage with more than a zero share have submitted all applicable contracts and documentation necessary to make such approval, as determined by the Deputy Administrator. For those producers with an interest but a zero share of contract acreage, the contract will not be approved before all producers have signed the contract or furnished supportive and necessary contractual documents (such as cash leases in lieu of signing for a zero share). A contract not having all requisite signatures of producers having more than a zero share of contract acreage on or before the enrollment deadline will not be considered submitted to CCC for any purpose and will not be acted on or approved. Those contracts enrolled by a producer by the date specified in paragraph (a)(2)(i) of this section that were not signed by other producers according to this section will be deemed withdrawn and will not be approved. Producers on a farm are solely responsible for ensuring that enrollment occurs.

(4) Eligible producers who elect to enter into a contract with CCC must enroll all base acres on the farm. Enrollment of fewer than all base acres on the farm is not allowed.

(b) Eligible producers may withdraw from a contract at any time by the enrollment date specified in paragraph (a)(2)(i) of this section provided all signatories to the contract, including CCC, agree to the withdrawal in writing. DCP contracts enrolled prior to the decision of producers on a farm to elect the ACRE option for a fiscal year are considered withdrawn as specified in §1412.72. Producers electing the

ACRE option according to §1412.72(d) must subsequently decide whether or not to enroll the farm in an ACRE program contract in accordance with the rules of this part.

(c) All contracts expire on September 30 of the fiscal year of the contract unless:

(1) Withdrawn in accordance with paragraph (b) of this section;

(2) Terminated in accordance with paragraphs (d) or (e) of this section; or

(3) Terminated at an earlier date by mutual consent of all parties, including CCC.

(d) A transfer or change in the interest of an owner or producer in the farm or in acreage on the farm subject to a contract will result in the termination of the contract and a refund of all direct and counter-cyclical and ACRE payments issued for the farm. The contract termination will be effective on the date of the transfer or change. Successors to the interest in the farm or crops on the farm subject to the contract may enroll the farm in a new contract and assume all obligations under the contract, only after all payments previously issued for the farm have been refunded to CCC.

(e) In the event a farm reconstitution is completed of a properly enrolled farm or farms in accordance with part 718 of this title, FSA will issue notices to the operator and owners of record on a farm that all producers with an interest in the base acres on the farm must sign a new DCP or ACRE program contract and provide supporting documentation such as leases and other contractual supportive documents not later than September 30 of the fiscal year direct and counter-cyclical or ACRE program payments are requested, after receiving written notification by the county committee indicating the reconstitution is completed. It is the responsibility of the operator and owners on a farm that producers with an interest in base acres are notified of the reconstitution and requirement for a new contract. If all producers have not signed the new contract by September 30, then no producers on the contract will be eligible for a direct or counter-cyclical payment or ACRE program payment for that farm for the year the contract was terminated.

[73 FR 79289, Dec. 29, 2008, as amended at 75 FR 19191, Apr. 14, 2010]

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§ 1412.42 Eligible producers.

(a) Producers eligible to enter into a contract are:

(1) An owner of a farm who assumes all or a part of the risk of producing a crop;

(2) A producer, other than an owner, on a farm with a share-rent lease for such farm, regardless of the length of the lease, if the owner of the farm enters into the same contract;

(3) A producer, other than an owner, on a farm who cash rents such farm under a lease expiring on or after September 30 of the year of the contract in which case the owner is not required to enter into the contract;

(4) A producer, other than an owner, on a farm who cash rents such farm under a lease expiring before September 30 of the year of the contract. The owner of such farm must also enter into the same contract; or

(5) An owner of an eligible farm who cash rents such farm and the lease term expires before September 30 of the year of the contract, if the tenant declines to enter into a contract for the applicable year. In the case of an owner covered by this paragraph, direct and counter-cyclical payments will not begin under the contract until the lease held by the tenant ends.

(b) A minor child will be eligible to enter into a contract only if one of the following conditions exist:

(1) The right of majority has been conferred upon the minor by court proceedings or statute;

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which a surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

(c) The owner of the farm may be considered the "producer" if there is no other producer, but the owner could have shared in the crop had a crop been produced, but only if the farm otherwise meets all the requirements for payment.

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Title 7: Agriculture

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Subpart F—Contract Violations and Reduction in Payments

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§ 1412.64 Inaccurate representation, misrepresentation, and scheme or device.

(a) Producers must report and certify program matters accurately. Errors in reporting may impact eligibility or extent of eligibility. Benefits under this part will be based on the most correct information available. Producers are responsible for refunding, with interest from the date of the CCC disbursement, any program benefits that were paid based on incorrect program information.

(b) For those cases in which FSA determines that an inaccurate representation or certification is a misrepresentation or scheme or device, such person will be ineligible to receive DCP or ACRE payments and will have the person's interest in all contracts terminated if it is determined that such person has done any of the following:

(1) Adopted any scheme or device that tends to defeat the purpose of this part;

(2) Made any fraudulent representation;

(3) Misrepresented any fact affecting a DCP, ACRE program, or determination made pursuant to part 1400 of this chapter; or

(4) Violated or been determined ineligible under §1400.5 of this chapter.

(c) Any remedies taken by FSA or CCC in accordance with this section will be in addition to any other civil or other remedies that may be available, including, but not limited to, those provided in part 1400 of this chapter.

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PDF - Secretary Vilsack's Briefing on the Status of Rural America

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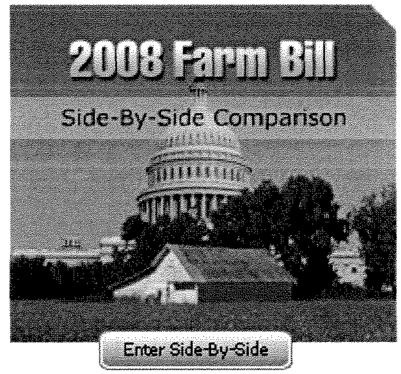
Farm Bill Resources: ERS Research and Analysis

The United States supports its agricultural sector through a variety of programs. The primary legal framework for agricultural policy is set through a legislative process that occurs approximately every 5 years. The current farm law (the Food, Conservation, and Energy Act of 2008) remains in force through 2012.

ERS analysts examine the economic effects of current farm programs on producers, consumers, taxpayers, and rural communities, and evaluate potential effects of alternative policies and programs. ERS also provides a comparison of new and previous farm bills, provision by key provision. This web page provides a gateway to ERS products related to farm bill programs.



Previous Farm Bills:

- 2002 Farm Bill Side By Side
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2008 Farm Bill: Side-By-Side Comparison

The 2008 Farm Bill Side-By-Side presents an overview of the Food, Conservation, and Energy Act of 2008 and a side-by-side comparison of previous legislation and the 2008 Act. New features for 2008 include a users' guide, an alphabetical list of key provisions, and search capabilities within the side by side.

Featured Publications

- The Importance of Farm Program Payments to Farm Households, *Amber Waves*, June 2007
- Policy Options for a Changing Rural America, Special Issue of *Amber Waves*, May 2007
- Food Assistance Landscape, Economic Information Bulletin, February 2007
- Conservation Program Design, Economic Briefs, March 2006

For more related analyses, see 2008 Farm Bill: Background Publications.

Related Briefing Rooms

For more information, see these policy-related briefing rooms:

- Conservation Policy
- Farm and Commodity Policy
- Farm Risk Management
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2008 Farm Bill Side-By-Side

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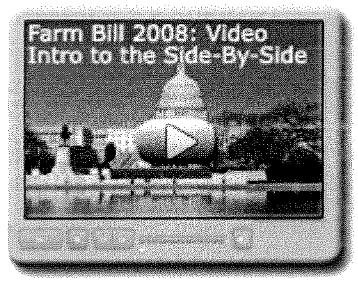
The 2008 Farm Bill Side-By-Side Comparison



Side by Side: Old and New. On the following pages is a side-by-side comparison of the new farm bill with previous legislation. Summarized but substantive, it offers a time -saving reference to farm bill provisions. In addition to key provisions and details by Title, the side-by-side includes links to related ERS publications and to analyses of previous farm acts. New features include a user's guide, an A-Z list of major provisions, and a search function.

This side-by-side is not a complete digest of all provisions in the new Farm Bill, nor does it include every element within covered key provisions. Users needing a comprehensive list of provisions or the specific language of a particular provision are encouraged to download the 2008 Farm Bill (1.65 MB).

The **Food, Conservation, and Energy Act of 2008**, enacted into law in June 2008, will govern the bulk of Federal agriculture and related programs for the next 5 years. Its 15 titles include administrative and funding authorities for programs that cover income and commodity price support, farm credit, and risk management; conservation though land retirement, stewardship of land and water resources, and farmland protection; food assistance and agricultural development efforts abroad and promotion of international access to American farm products; food stamps, domestic food distribution, and nutrition initiatives; rural community and economic development initiatives, including regional development, rural energy efficiency, water and waste facilities, and access to broadband technology; research on critical areas of the agricultural and food sector; accessibility and sustainability of forests; encouraging production and use of agricultural and rural renewable energy sources; and initiatives for attracting and retaining beginning and socially disadvantaged farmers and ranchers.

See 2008 Farm Bill Overview for a brief description of major changes to farm legislation contained in the 2008 Farm Act.

Printer friendly PDF (4.0 MB) as of April 15, 2009

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For more information, contact: Farm policy team

Web administration: webadmin@ers.usda.gov

Updated date: April 15, 2009

2008 Farm Bill Side-By-Side

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Title I: Commodity Programs

Provides income support, with new payment and eligibility limits, for wheat, feed grains, cotton, rice, oilseeds, and pulses through direct payments (except pulses), counter-cyclical payments, marketing loan assistance program, and new average crop revenue election payments. Adjusts sugar loan rates and adds program to use surplus sugar for bioenergy production. Revises dairy price support to operate with administered prices for manufactured products rather than fluid milk.

List of Key Provisions:

Direct and Counter-Cyclical Payments

Direct Payments | Counter-Cyclical Payments (CCPs) | Acreage Base and Payment Acres for Calculating Direct and Counter-Cyclical Payments | Treatment of Farms With Limited Base Acres | Payment Yield for Calculating Direct and Counter-Cyclical Payments | Planting Flexibility and Restrictions for Program Participants

Average Crop Revenue Election (ACRE) Program

ACRE Guarantee Parameters | ACRE Payment Parameters | Payment Acreage for ACRE | ACRE Payments | ACRE Payment Timing

Marketing Assistance Loans and Loan Deficiency Payments (LDPs)

Commodity Loan Rates | Repayment of Loans | Loan Deficiency Payments | Commodity Certificates | Recourse Loans for High-Moisture Corn and Seed Cotton | Special Upland Cotton Marketing Loan Provisions | Upland Cotton Economic Adjustment Assistance | Special Competitive Provisions for Extra-Long Stable Cotton

Peanuts

Storage and Handling Costs

Sugar

Price Support | Avoiding Forfeitures | Information Reporting | Flexible Marketing Allotments | Tariff-Rate Quotas (TRQs) | Sugar Storage Facility Loan Program

Dairy

Federal Milk Marketing Orders | Price Support | Milk Income Loss Contract (MILC) Payments | Dairy Indemnity Program | Dairy Forward Pricing Program | Mandatory Reporting of Dairy Commodities | Dairy Export Incentive Program (DEIP) | National Dairy Promotion and Research Program (NDPRP) and National Fluid Milk Processor Promotion Program (NFMPPP) | Studies of Dairy Policy and Marketing Orders

Administration

Uruguay Round Compliance | Permanent Law | Payment Limits and Income Eligibility | Tracking of Benefits | Cotton Price Forecasting | Conservation Compliance | Hard White Wheat Development Program | Durum Wheat Quality Program | Quality Incentive Payments for Covered Oilseed Producers | Storage Facility Loan Program | Information Gathering | Geographically Disadvantaged Farmers and Ranchers

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Provision name:

Direct and Counter-Cyclical Payments for wheat, feed grains, upland cotton, rice, peanuts, oilseeds, and pulses

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Farm and Commodity Policy: Program Provisions

The 2008 Farm Act provides a framework for farm and commodity programs for fiscal years 2008-12. The Act amends various existing laws and adds some new programs. However, commodity policy also reflects applicable provisions of underlying permanent legislation and recent supplemental legislation and appropriations acts. Unless current legislation suspends or revises the permanent provisions of the Agricultural Adjustment Act of 1938, the Commodity Credit Corporation Charter Act of 1948, and the Agricultural Act of 1949, they are automatically in force and are the basis of current programs. New farm legislation will likely be written in 2012 when many provisions of the 2008 Farm Act expire. The following pages describe the basic features of the primary farm and commodity programs.

- 2008 Farm Bill Side-By-Side, key provisions in the 2008 Farm Act and comparison with previous legislation

Title I (Commodity Programs)

- Direct Payments (wheat, feed grains, cotton, rice, and oilseeds)
- Counter-Cyclical Payments (wheat, feed grains, cotton, rice, oilseeds, and pulse crops)
- Average Crop Revenue Election (wheat, feed grains, cotton, rice, oilseeds, and pulse crops)
- Marketing Assistance Loans and Loan Deficiency Payments (wheat, feed grains, cotton, rice, oilseeds, wool and mohair, honey, and pulse crops)
- Sugar
- Dairy
- Payment Limitations

Title II (Conservation)

- Overview of Major USDA Conservation Programs
- Land Retirement Programs
- Working-Land Conservation Programs
- Conservation Access for Beginning and Socially Disadvantaged Farmers

Title III (Trade)

- Major Trade Programs

Title IV (Nutrition)

- National School Lunch Program
- School Breakfast Program
- Child and Adult Care Food Program
- Summer Food Service Program
- USDA Fruit and Vegetable Program

Title VI (Rural Development)

- Regional Development Programs

Briefing Rooms

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Farm and Commodity Policy: Program Provisions: Direct Payments

Direct payments are available to producers with eligible historical production of wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, other oilseeds, and peanuts. The program is administered by USDA's Farm Service Agency (FSA). Under the 2008 Farm Act, direct payments are reduced by 20 percent for producers who elect to participate in the Average Crop Revenue Election (ACRE) Program.

Program Overview

For crop years (CY) 2008-12, producers enroll annually in the program to receive payments based on the respective producer's historical program payment acres and yields and payment rates specified in the 2008 Farm Act.

A direct payment is equal to the product of the payment rate for the specific crop, the historical payment acres (85 percent of base acres in CYs 2008 and 2012 and 83.3 percent in CYs 2009-11), and the historical payment yield for the farm. For example, the payment for corn base is:

DP_{corn} = (Payment rate)$_{corn}$ x (Payment yield)$_{corn}$ x (Payment acres)$_{corn}$

Where (Payment acres)$_{corn}$ = (Base acres)$_{corn}$ x (85% in CY 2008 and CY 2012 and 83.3% in CY 2009-11)

Base acres and payment yields are unchanged from those specified in the 2002 Farm Act. If the Secretary of Agriculture designates any new oilseeds, base acres and payment yields will be established in a manner similar to the provisions used for minor oilseeds in the 2002 Act.

Farmers are given almost complete flexibility in deciding which crops to plant. Participating producers are permitted to plant all cropland acreage on the farm to any crop(s), except for some limitations on planting fruits, vegetables, and wild rice. The land must be kept in agricultural uses (which includes fallow), and farmers must comply with certain conservation and wetland provisions. A pilot project has been developed for certain States to permit the planting of cucumbers, green peas, lima beans, pumpkins, snap beans, sweet corn, and tomatoes grown for processing on base acres during each of the 2009-12 crop years.

Direct payment rates are unchanged from the 2002 Farm Act. However, the direct payment rate is reduced by 20 percent for producers electing to enroll in the ACRE program.

Direct payment rates			
Commodity	Unit	Direct payment rate	Direct payment rate if enrolled in ACRE
Wheat	Bushel	$0.52	$0.42

Farm and Commodity Policy: Program Provisions: Counter-Cyclical Payments

Counter-cyclical payments (CCPs) provide benefits to producers with eligible historical production of wheat, corn, grain sorghum, barley, oats, upland cotton, long- and medium-grain rice, soybeans, other oilseeds, dry peas, lentils, small and large chickpeas (covered commodities) and peanuts whenever the effective price for a commodity is less than the target price. The program is administered by USDA's Farm Service Agency (FSA). Under the 2008 Farm Act, CCPs are not available to producers who elect to participate in the Average Crop Revenue Election (ACRE) Program.

Program Overview

For crop years (CY) 2008-12, producers with eligible historical production enroll annually in the program to receive payments on covered commodities and peanuts. Counter-cyclical payments are available whenever the commodity's effective price is less than the target price. The effective price of a commodity is the sum of the direct payment rate, plus either the national commodity loan rate or the national average farm price for the crop year, whichever is higher.

The counter-cyclical payment amount is calculated as the product of the payment rate, the payment acres (85 percent of base acres in CYs 2008-12), and the payment yield.

For example, the payment for an individual corn farmer is determined as:

Payment $\text{rate}_{\text{corn}}$ = $(\text{target price})_{\text{corn}}$ – $(\text{direct payment rate})_{\text{corn}}$ – $(\text{higher of commodity price or loan rate})_{\text{corn}}$

$\text{CCP}_{\text{corn}} = ([\text{Base acres}]_{\text{corn}} \times 0.85) \times (\text{payment yield})_{\text{corn}} \times (\text{payment rate})_{\text{corn}}$

Base acreage and payment yields are based on historical parameters specified in the 2002 Farm Act. Provisions are unchanged in the 2008 Farm Act for most commodities except for any newly designated oilseed crops or newly eligible pulse crops. Base acres and payment yields for pulse crops (dry peas, lentils, small chickpeas, and large chickpeas) and other oilseeds are established in the same manner used for other oilseeds in the 2002 Act.

Target prices				
Commodity	**Unit**	**CY 2008**	**CY 2009**	**CY 2010-12**
Wheat	Bushel	$3.92	$3.92	$4.17
Corn	Bushel	$2.63	$2.63	$2.63
Grain				

Farm and Commodity Policy: Glossary

2008 Farm Bill Side-By-Side

| # | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z |

0,50/85-92 provisions—Refers to the so-called 50/85 and 50/92 provisions for rice and cotton and the 0/85 and 0/92 provisions for wheat and feed grains that were in effect in various forms from 1986 through 1995. Under these provisions, farmers could idle all or part of their permitted acreage, putting the idled land in a conserving use, and still receive deficiency payments for part of the acreage. A minimum planting requirement of 50 percent of maximum payment acreage was required in order to receive these payments in the case of rice and cotton.

1614 data—Data which tracks the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles. 1614 refers to the section in the 2002 Farm Act that required USDA to track benefits.

1862 colleges/universities—The original land grant colleges and universities established by the Land Grant College Act of 1862 (see Land-Grant Institutions).

1890s colleges/universities—These institutions resulted from provisions of the second Morrill Act, which prohibited racial discrimination in Land-Grant Colleges and Universities. States had the option of creating separate institutions to serve African-American students. The Southern States elected to have separate educational institutions, sometimes referred to as "historically black colleges and universities." While not a land-grant college, Tuskegee University traditionally has been associated with the African-American land-grant institutions. It was granted 25,000 acres of land by the U.S. Congress in 1899 and has espoused the land-grant philosophy throughout its history.

1938 Farm Act—See Agricultural Adjustment Act (AAA) of 1938.

1949 Farm Act—See Agricultural Act of 1949.

1985 Farm Act—See Food Security Act of 1985.

1990 Farm Act—See Food, Agriculture, Conservation and Trade Act of 1990.

1994 Institutions—Land-Grant Institutions that traditionally served Native Americans. The Equity in Educational Land-Grant Status Act of 1994 conferred land-grant status for 29 tribal colleges that address agriculture and mechanical arts.

1996 Farm Act—See Federal Agriculture Improvement and Reform Act of 1996.

2002 Farm Act—See Farm Security and Rural Investment Act of 2002.

Acreage reduction program (ARP)—An annual land retirement system for wheat, feed grains, cotton, or rice in which farmers participating in Federal commodity programs idled a crop-specific, nationally set portion of their crop acreage base in order to be eligible for benefits such as Commodity Credit Corporation (CCC) crop loans and deficiency payments. No deficiency payments were made on the idled ARP land. The 1996 and 2002 Farm Acts did not reauthorize ARPs.

From: Young, Edwin <CEYOUNG@ers.usda.gov>
To: Robert Eichhorn <robertone@email.com>; Effland, Anne <AEFFLAND@ers.usda.gov>; Westcott, Paul <WESTCOTT@ers.usda.gov>; Whitaker, James <JWHITAKER@ers.usda.gov>; Stout, Jim <JSTOUT@ers.usda.gov>; Woolverton, Andrea <WOOLVERTON@ers.usda.gov>
Subject: RE: Inquiry
Date: Mon, Aug 11, 2008 8:44 am

Dear Mr. Eichhorn,

As economists we are unable to answer your question. Our analyses focus on broader issues.

If you have not done so, you might want to check out the 2008 Farm Act which can be downloaded at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h6124enr.txt.pdf.

C. Edwin Young
Senior Economist
ERS/USDA
(202) 694-5336

From: Robert Eichhorn [mailto:robertone@email.com]
Sent: Saturday, August 09, 2008 2:26 PM
To: Young, Edwin; Effland, Anne; Westcott, Paul; Whitaker, James; Stout, Jim; Woolverton, Andrea
Subject: Inquiry

8/9

To: Farm Policy Team
Economic Research Service
USDA
Washington, DC

Team member,

I have filed a complaint with USDA concerning a group of USDA farm subsidy recipients. I am making the case to terminate the group's farm subsidies. As a result of my complaint, I believe it may be necessary to revise the USDA farm subsidy program eligibility requirements. To accomplish this step, I believe it may be necessary to revise the Farm Act in the Commodity Programs section of the Farm Bill.

I would like to know if USDA can revise the eligibility requirements, or should the House Committee on Agriculture make a revision to the Farm Act in order to revise the eligibility requirements. I would like to know who I should contact to propose a revision to the eligibility requirements. Should I contact a USDA/FSA Administrator or should I contact the House Committee on Agriculture?

Robert Eichhorn
robertone@email.com

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