

Understanding the Food, Conservation, and Energy Act of 2008

**Program, Eligibility, and Payment
Limitation Changes**

Topics

- Programs
 - Direct and Counter-Cyclical Payment Program (DCP)
 - Average Crop Revenue Election Program (ACRE)
 - Supplemental Agricultural Disaster Assistance
 - This is a collection of various programs
 - Risk Management Purchase Requirement (RMPR)
- <http://www.ers.usda.gov/FarmBill/2008/>

Topics

- Payment Eligibility
 - Actively Engaged in farming
 - Cash Rent tenant rules
 - Adjusted Gross Income Limits
 - Conservation Compliance

Topics

- Payment Limitations
 - Direct Attribution of Payments

DCP Program

- Direct Payments – established rate
- Counter-Cyclical Payments – rate is established based on National Average Marketing price
- June 1 deadline to enroll farms
- Fruit and Vegetable planting restrictions
- Owners and Operators sharing in crops/proceeds from crop receive shares of payments

DCP Changes

- Direct Payments on 83.3% of Base Acreage
- No 2012 Advance Direct Payments
- Pilot program for Fruit and Vegetable planting
- Payments prohibited on farms with less than 10 base acres, unless owned by a socially disadvantaged or limited resource farmer or rancher

ACRE Program

- An optional revenue-based counter-cyclical program, [Average Crop Revenue Election \(ACRE\) program](#), is available beginning with 2009 crop year, as an alternative to receiving counter-cyclical payments.

ACRE Program

- Producers on a farm with covered commodities can elect to participate in the ACRE program
- Once they elect to participate in ACRE, producers on the farm must remain in the program for the duration of the 2008 Act.
 - Still annually enroll
- For ACRE participants, direct payments are reduced by 20% and marketing assistance loan rates are reduced by 30% on enrolled farms.

ACRE State Revenue & Guarantee

- State level revenue guarantee
 - 90% X State Average Yield X Program Price
 - » (Previous 5 Years) (2007 & 2008 National Average Price)
 - Guarantee cannot change by more than 10% from previous year
- State Revenue
 - Actual State Yield X National Average Price

ACRE Farm Revenue and Benchmark

- Farm Revenue Benchmark
 - According to FSA Farm Number
 - (5 Year Average Yield X Program Price) + crop insurance premium per acre
- Farm Revenue
 - Actual Farm Yield x National Average Price

ACRE Payments

- ACRE payments can be triggered by a decrease in State yields or the national average market price
- Enrolled producers are eligible for ACRE payments if
 - ACRE actual State revenue for the covered commodity is less than ACRE program guarantee for crop year **AND**
 - ACRE actual farm revenue is less than the ACRE benchmark farm revenue.
 - BOTH of these triggers must be met

ACRE Payments

- ACRE Payments per commodity equal:
- 1) Lesser of: a) ACRE program guarantee – actual State revenue OR b) 25% of ACRE program guarantee
x
- 2) Planted crop acres: 83.3% in CY 2009-11 and 85% in CY 2012 of farm planted, or considered planted, crop acres not to exceed total base acres
x
- 3) Farm-specific productivity ratio

Supplemental Agricultural Disaster Assistance (SADA)

- Collection of programs which replaces ad hoc programs
- Provides disaster assistance payments to producers of eligible commodities (crops, farm-raised fish, honey, and livestock) in counties declared by Secretary of Agriculture to be "disaster counties," including counties contiguous to disaster counties and any farms with losses in normal production of more than 50% in calendar year.
- SADA is effective only for losses incurred as result of a disaster, adverse weather, or other environmental condition that occurs on or before Sept 30, 2011

SADA Programs

- Supplemental Revenue Assistance Program (SURE)
- Livestock Indemnity Payments
- Livestock Forage Disaster Program
- Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish
- Orchard and Nursery Tree Assistance Program

Requirements for SADA

- Risk Management Purchase Requirement (RMPR)
 - Requires producers to obtain crop insurance for insured commodities or pay administrative fees for crops covered by [NAP](#) to be eligible for SADA
 - Crop insurance minimum is catastrophic coverage (\$300 per crop admin fee) thru private
 - NAP is administered by FSA with \$250 per crop fee
 - Spring planted crop purchase deadline for NAP and insurance is March 15.
 - Some exception to this purchase requirement for SURE

More on SURE

- Provides payments at 60% of difference (if greater than zero) between **disaster assistance program guarantee** and **total farm revenue**, where revenue includes all crops produced on farm

SURE

- Program Guarantee
 - Insurable crops = 115% of insurable value (100% of price election X acres insured X coverage level X yield)
 - Non-Insurable = 120% of value crop (100% of NAP Price X acres planted X yield)

SURE

- Total Farm Revenue
 - Sum of:
 - acres harvested x estimated actual yield x national average market price
 - 15% of any direct payments
 - all CCP and [Average Crop Revenue Election \(ACRE\)](#) payments and [marketing loan](#) benefits
 - any prevented plantings payments
 - crop insurance indemnities and NAP payment
 - any other related Federal natural disaster payments

Risk Management Comparisons

- The Farm Bill uses a variety of FSA programs and Crop Insurance to provide protection, both revenue and production
 - Crop insurance thru private insurance companies
 - Non-Insurable Assistance program (NAP) is a catastrophic coverage thru FSA
 - DCP provides direct payments each year according to historical production
 - DCP also provides counter-cyclical payments in low markets according to historical production
 - ACRE provides direct payments, at a reduced amount, according to historical production
 - ACRE provides additional revenue in low markets or yields if triggers are met according to actual planting and production
 - SURE provides additional income if an operation's revenue falls below guarantee (crop insurance or NAP required for eligibility)

Risk Management Comparisons

- Timing of Payments
 - Crop Insurance, depends on policy
 - NAP, depends of type of claim
 - Direct payments (DCP and ACRE), advance payment at enrollment (if chosen) with remainder paid in October of crop year
 - Counter-Cyclical payments, advances if selected according to estimates, final payments in October of *following* crop year
 - ACRE payments, earliest would be October of *following* crop year
 - SURE payments, earliest would be October of *following* crop year

Risk Management Comparisons

- “Cost”
 - Crop Insurance, depends on policy (CAT is \$300 per crop)
 - NAP (\$250 per crop, NTE \$750 per county, NTE \$1875 per producer)
 - DCP has no actual cost to enroll
 - ACRE farms give up 20% of direct payments and get no counter-cyclical payments and loan rates reduced 30%. Crop insurance participation is not required, but does increase the farm revenue benchmark.
 - SURE itself has no costs, but must purchase insurance or NAP policy to be eligible

Program Questions?

- Currently, we are enrolling 2009 DCP
- ACRE elections and enrollment later in spring

Payment Eligibility

- To be eligible for program payments
 - Actively Engaged in a Farming Operation
 - Cash rent tenant rules, if operation contains cash rented land
 - Adjusted Gross Income limits
 - Conservation Compliance

Actively Engaged

- Individual or entity must make significant contributions of both:
 - Land, Capital, Equipment or a combination thereof
AND
 - Active personal labor or active personal management or a combination thereof
- Contributions must be commensurate and at risk

Note: For General Partnerships or Joint Ventures, each member must meet actively engaged.

Actively Engaged

- Big Change
 - The interim final rule requires each partner, stockholder, or member with an ownership interest to make a contribution of active personal labor or active personal management. The contribution must be regular and substantial, and documented as well as separate and distinct from any other member's contribution. The rule limits the ability of passive stockholders to continue to realize benefits from the entity.
 - Reduction will apply to passive interests
 - Does not apply to landowner provisions

Cash Rent Tenant Rule

- On land which is cash rented, individuals or entities must make a significant contribution of either:
 - Active personal labor
 - Or
 - Active personal management and equipment
- Arrangements in which the source of labor is the same as source of equipment, then:
 - Must have separate contracts for labor and equipment
 - And must be able to demonstrate complete control of equipment

Adjusted Gross Income Rules

- Three year average Adjusted Gross Income or AGI (for 2009, use 2007, 2006, and 2005)
- Annually certified

Adjusted Gross Income Rules

- Ineligible for commodity and disaster payments if:
 - Non-Farm AGI exceeds \$500,000
- Ineligible for Direct payments if:
 - Farm AGI exceeds \$750,000
- Ineligible for conservation payments if
 - Non-farm AGI exceeds \$1 million:
- Special rule for determining Farm Income
 - If Farm AGI exceeds 66.67% of Total AGI, then sale of equipment or inputs for farmers shall be included in Farm income

Conservation Compliance

- All requestors of USDA benefits must comply with Highly Erodible Land and Wetland Conservation provisions

A	NOT to plant or produce an agricultural commodity on highly erodible fields unless actively applying an approved conservation plan or maintaining a fully applied conservation system.
B	NOT to plant or produce an agricultural commodity on wetlands converted after December 23, 1985.
C	NOT to convert wetlands by draining, dredging, filling, leveling, landclearing or any other means that would allow the planting of any crop, pasture, agricultural commodity, or other such crops.
D	NOT to use proceeds from any FSA farm loan, insured or guaranteed, or any USDA cost-share program, in such a way that might result in negative impacts to wetlands, except for those projects evaluated and approved by NRCS.

Conservation Compliance

- Compliance is certified by completing an AD-1026
- If you wish to bring ground into production, visit FSA to see if land has a determination. If it does not, then complete an AD-1026 with FSA for referral to NRCS receive a determination

Payment Limitations

- Payments, made directly or indirectly, are subject to limitations
 - Direct Payments \$40,000/year
 - Counter-Cyclical Payments \$65,000/year
 - LDP's and MAL Market Gains \$75,000/year
- Limitations used to be subject per “person”
- These limitations are applicable to payments made directly or indirectly per individual or legal entity

Payment Limitation Attribution

- Payments are now tracked to the individual level based on pro rata share
- When individuals are involved in multiple farming operations, payments made to one operation can impact the availability of payments to another
- Minors are a common attribution with parent earning greatest amount
- Spouses have separate attributions

Attribution Example 1

- Jacob Maxwell farms as an individual and has a 50% interest in Maxwell Inc.
 - Maxwell Inc. earns \$40,000 in direct payments:
 - \$20,000 is attributed to Jacob (50% of \$40,000)
 - The maximum Jacob can earn in Direct Payments as an individual is \$20,000

Attribution Example 2

- Jim Jones is a 50% partner in Jones Farm General Partnership and has a 25% interest in Carroll Farms, Inc.
 - Jones Farm General Partnership earns \$80,000 in Direct payments
 - \$40,000 is attributed to Jim (50% of \$80,000)
 - Jim has reached \$40,000 and his 25% of Carroll Farms, Inc. cannot be paid.

Next Meetings

- Two meetings scheduled for February 5 in 4-H Building
 - 10:00 am
 - 6:30 pm
- Will cover some of same program material, but will include a workshop on understanding the eligibility forms
 - Forms will be available and can start completing them at meeting