



South Carolina State FSA Newsletter

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Acting State Executive Director's Column



The elections have been held and we begin a new era in these United States. The new Administration is now being sworn in, but time and seasons don't wait for any one. We have a new Farm Bill to implement and new programs to offer and FSA's service to the public will

continue as the new management is established and takes their rightful control. Rest assured there will be no major changes made until the new management arrives, but it takes no big directive to let our employees know that we are there to serve rural America, and especially the agricultural producers in South Carolina that are our main focus.

This newsletter contains the newest information we have on the Farm Bill and coming opportunities to participate in the programs offered by our federal leadership. I can tell you quickly that we don't have all of the answers to your questions, but we are getting more each week. While we are not able to issue another newsletter each time we hear something new, we do communicate with the County employees in your local FSA office as quickly as possible. So please check with them if you have any unresolved questions.

As for the 2008 disaster assistance recently enacted in Congress, Washington is still in the process of writing the regulations in preparation for enactment. As soon as we get word on the provisions of the assistance that is coming, we will let you know.

The DCP program signup has begun, although most participants have yet to come in and sign up. Signup continues through June 1, so please don't miss that deadline.

We are planning on holding public informational meetings on the available Farm Bill programs sometime in April, so please stay tuned for further information on where and when in the next newsletter. We also will be disseminating information on these meetings through the local offices, so please stay in touch.

Finally, as one of the many career FSA employees that serve the farming community in South Carolina, I don't get the opportunity to address this audience often, so I want to be sure and thank the many County Committee members that serve their friends and neighbors in the implementation of the Farm Programs we provide to the public. They provide much more to the community than what FSA is able to give them in return. The employees of FSA greatly appreciate their service. That appreciation extends to all of the farmers that go out of their way to make the administration of these programs fair and successful for everyone.

With Best Regards,

Perry L Thompson

NAP COVERAGE

The Non-Insured Crop Disaster Assistance Program (NAP) was designed to reduce financial losses that occur when natural disasters cause a catastrophic loss of production or prevented planting of an eligible crop by providing coverage equivalent to catastrophic (CAT) insurance. Statute limits NAP to each commercial crop or agricultural commodity, except livestock, for which CAT is not available.



Producers in need of insurance coverage for spring planted crops under the Noninsured Crop Assistance Program (NAP) have until Feb 28th to apply for the following crops for which the catastrophic level of insurance is not available.

- | | | |
|----------------|----------------|---------------|
| Beans | Cantaloupes | Cucumbers |
| Eggplant | Forage Sorghum | Grain Sorghum |
| Honeydews | Millet | Okra |
| Green Peanuts | Peas | Peppers |
| Pumpkins | Squash | Sunflowers |
| Sweet Potatoes | Sweet Corn | Tomatoes |
| Watermelons | | |

In order to be eligible for disaster assistance programs, like SURE, producers are required to timely purchase, at a minimum, CAT coverage for all insurable crops and/or NAP coverage for all non-insurable crops on their entire farm.

NAP coverage for 2009 costs \$250 per crop, but not more than \$750 per producer per county, or not more than \$1875 total per producer for all counties.

Producers who already have coverage on 2008 NAP crops may choose to continue coverage on the same crop or crops for 2009, if the applicable service fee is submitted by the application closing date. A new CCC-471, application for coverage is not required to be signed when applying for continuous coverage of the same crop or crops.

Producers who choose to add a new crop(s) or delete a crop(s) from previous year's coverage or changing crop shares must file a new CCC-471 with signatures and pay the applicable service fee.

SODBUSTER/ SWAMPBUSTER

Most Farm Service Agency programs require compliance with sodbuster and swampbuster provisions. The provisions require producers to follow an approved conservation system on all highly erodible land planted to an annual crop as determined by the Natural Resources Conservation Service (NRCS). Be sure to have determinations made on any new land you plan to plant to annual crops. Swampbuster provisions state that converting a wetland to make possible the planting of a crop will result in the loss of all USDA benefits. To avoid this possibility, it is strongly recommended that producers check with NRCS before starting any type of drainage work.

CROP ACREAGE REPORTING

Filing an accurate and timely acreage report for all crops and land uses, including failed acreage, can prevent loss of program benefits. Producers are required to certify their crops by the applicable final report date. Prevented planted acreage is required to be submitted no later than 15 calendar days after the final planting date for the applicable crop.



Acreage reports shall be accepted from 1 of the following:

- farm operator
- farm owner
- person authorized by power of attorney
- tenants and share-croppers, but only for crop acreage for which the person has a share. All cropland on the farm must be certified for applicable programs.

Exception: For CRP, acreage reports shall be accepted from 1 of the following:

- owner on CRP-1
- operator on CRP-1
- person authorized by power of attorney.

FINAL CROP REPORTING and DISPOSITION DATES

CROPS	FINAL CROP REPORTING DATES
Fall Seeded Crops: Wheat, Barley, Oats, Rye, Triticale, Trees, and Fall Seeded Grasses	May 1 Also, final disposition date
Mandatory Intended Acreage Reports: Cotton	May 1
Spring Planted Fruit and Vegetables, Production Reporting Date for Actual Production History (APH)	June 1
Flue-Cured Tobacco	July 15
Spring Seeded Crops: Cotton, Corn, Peanuts, Rice	July 15
Summer Seeded Crops: Soybeans, Grain Sorghum, Summer Seeded Grasses, and other land uses	July 15
CRP, Orchards, Vineyards, all other NAP Crops	July 15
Fall Planted Fruit and Vegetables	September 15
Ornamental Nursery, Aquaculture Species	September 30

NOTE: For spring and fall planted fruit and vegetable crops not planted by the final reporting date, the acreage must be reported by 15 calendar days after planting is completed

Measurement service is available to owners, operators, or other tenants. Contact your local county FSA Office for rates and additional information.

PAYMENT ELIGIBILITY

Media stories of Farm Service Agency and Commodity Credit Corporation payments became more wide spread as the farm bill was being debated. Even after the passing of the farm bill (Food Conservation and Energy Act of 2008) many groups including President Obama are still proposing a tightening of the payment limitation rules. Consequently, more groups are seeking information about payments to farmers and ranchers. FSA programs are not

entitlement programs as evidenced by congressional enactment of specific eligibility guidelines.

Payment “Eligibility” rules are not new to anyone who has participated in a FSA program. The total annual payments that a “person or legal entity” may receive under the 2008 Farm Bill is now more complicated than in past farm bills. The 2008 Farm Bill provides that a person or legal entity is not eligible to receive commodity program benefits such as direct payment and counter-cyclical payments or Average Crop Revenue election (ACRE) program payments if the average adjusted gross income (AGI) of the person or legal entity from **nonfarm** sources exceeds \$500,000. Similarly, a person or legal entity is not eligible for direct payments if the average adjusted gross income from **farming, ranching, and forestry operations** of the person or legal entity exceeds \$750,000. A person or legal entity is ineligible for conservation program benefits or payment if the average adjusted gross **nonfarm** income of the person of legal entity exceeds \$1,000,000, unless not less than 66.66 percent of the adjusted gross income of the person or legal entity is derived from farming, ranching, and forestry operations, as determined by the Secretary of Agriculture. AGI will be calculated based on the average income for the 3 taxable years preceding the most recently completed taxable year for which benefits are requested. (Benefits requested in 2009, AGI base years 2007, 2006, 2005)

To illustrate:

Person or legal entities NONFARM income is greater than \$500,000 NOT eligible for: DCP/ACRE, SURE, ELAP, LFP, LIP, NAP, TAP, LDP and MAL

Person or legal entities FARM income is greater than \$750,000 NOT eligible for: DCP direct payment (this is the only type of payment affected by this AGI level)

Person or legal entities NONFARM income is greater than \$1,000,000 NOT eligible for: Conservation program benefits (unless 66.66% or more of the AGI is from farming ranching or forestry operations).

Every participant in FSA programs will have to file a new AGI certification in 2009. Also, amended in the law is the “Compliance and Enforcement” to require that persons and legal entities provide detailed supporting documentation on AGI each year to FSA.



Previously, the regulation required this compliance information only when specifically required by FSA. Similarly, this rule amends that same section to specify that audits will be conducted to determine compliance, while previously the regulation specified only that audits may be conducted.

Payment limitations established for each person or entity include Direct and Counter-cyclical Payment Program, \$40,000 for direct payments and \$65,000 for counter-cyclical payments; Conservation Reserve Program, \$50,000; Non-insured Crop Disaster Assistance Program, \$100,000; Environmental Quality Incentives Program (EQUIP) is reduced from \$450,000 to \$300,000, Supplemental

Revenue Assistance is \$100,000, Tree Assistance Program (TAP) is \$100,000 and removes the limit of \$75,000 specifically for the Marketing Assistance Loan (MAL) program gains and Loan Deficiency Payments (LDP).

As specified in the 2008 Farm Bill for the ACRE program, the direct payments will be reduced 20 percent on each farm participating in ACRE. The total limit for ACRE payments (which takes the place of the counter cyclical payment) is specified as \$65,000 plus the amount the direct payment is reduced for the farm. The same limits are also specified for peanuts.

CHANGES IN 2009 AND SUBSEQUENT YEAR PAYMENT ELIGIBILITY

Husband and Wife Separate Limitation

This rule changes the provisions for spouses in regard to separate or combined status for payment limitations purposes. Spouses may still each qualify for a separate payment limitation, but the provisions where husband and wife are considered combined for the purposes of this part are removed. While each spouse may now have their



own respective limitation, each must also meet applicable program and payment eligibility requirements to receive program benefits. The rule includes a new provision by which if one spouse is determined to be actively engaged in farming, the other spouse is credited for the purposes of payment eligibility with making significant contributions of active personal labor or

active personal management to the farming operation. This is not to be construed as meaning if one spouse qualifies for payment, the other automatically qualifies as well. Both spouses must make significant and essential contributions to the farming operation that are commensurate with their claimed shares to be considered actively engaged in farming and eligible for program benefits.

No 3-Entity Rule – Replaced by Direct Attribution

This rule removes the 3-entity rule for payment limitation purposes. A person may now receive program benefits through an unlimited number of entities. Payment limitation will be determined by direct attribution, taking into account the direct and indirect ownership interests of a person or legal entity that is eligible to receive such payment. Attribution will be tracked through four levels of ownership in legal entities for direct attribution to persons. For the purposes of determining whether a person or legal entity has met the new payment limits, every payment made directly to a person or legal entity will be combined with their pro rata interest in payments received by a legal entity in which the person or legal entity has a direct or indirect ownership interest. Payments made to a legal entity will be attributed directly to persons and limited to specific program payment limitation. Example: Smith Farms LLC has two members John (50%) and Harry (50%). Smith Farms LLC reached maximum payment limitation of \$40,000 DCP. John also farms as an individual and earned \$30,000 DCP. Using direct attribution John's payment from his 50% share of Smith Farms LLC was \$20,000. John's DCP payment from his individual farm will be limited to \$20,000. John, as a person, can not be paid more that \$40,000 in DCP. (The previous farm bill, using the 3 entity rule, would have allowed John to receive \$50,000).



Substantive Change Required Before Increasing Limitation

This rule provides more restrictive payment eligibility requirements than the prior requirements for new persons and legal entities that are added to an existing farming operation. This requirement is referred to as "substantive change". These discretionary changes require that any transfer of land or equipment by sale or gifting between existing members and new members must be based on fair market value of the land or equipment, the sale cannot be owner financed, and the former owner of the land or equipment cannot retain any residual control or preferential buyback rights to the land or equipment. This is to ensure that this change or transfer actually occurs other than just on paper. Otherwise, the person or legal entity being added to the farming operation could be obtaining program payments in the absence of making the essential and significant contributions to the farming operation for eligibility. Requirements in the substantive change rule for an addition of persons or legal entities to an existing farming operation can also be met through an addition of land to the existing farming operation. Previously, an increase of cropland operated by the farming operation of at least 20 percent and with a planting history comparable to the area was required. Now the requirement is the addition of base acres in an amount that represents at least a 20 percent increase from the previous year. This 20 percent increase in base acres will now qualify one additional person or legal entity for payment limitation purposes, rather than an unlimited number of additional persons or legal entities.

Actively Engaged in Farming Rule Tightened

The 2008 Farm Bill requires that, in order to be eligible for payment, a person or legal entity be actively engaged in farming, and further defines "actively engaged" as consisting of a substantial contribution of capital, equipment, or land and personal labor or active personal management. This interim rule clarifies the "actively engaged" eligibility requirements to be consistent with the 2008 Farm Bill, including making discretionary changes as to what constitutes a substantial contribution and who must make such a contribution. This rule provides that a contribution of active personal labor, active personal management, or a combination thereof, must be provided by each member or shareholder that has an ownership interest in an entity that requests program benefits and collectively, such contributions must be significant and commensurate. Furthermore, the contribution of active personal labor or active personal management of each member or shareholder must be made to the farming operation on a regular basis and must be identifiable and documentable as a separate and distinct contribution from that of any other member or shareholder in the farming operation. For example, stockholder B could represent through copies of signed purchase orders that stockholder B was individually responsible for obtaining and purchasing all inputs for the farming operation on behalf of the Corporation. Stockholder C could represent through signed contracts and delivery agreements with grain elevators and a cotton gin that stockholder C was individually responsible for the marketing of all commodities produced by the Corporation's farming operation. Stockholder D could represent through copies of payroll records that stockholder D was individually responsible for the supervision of all hired labor utilized by the Corporation's farming operation. However, if Stockholder E made no claim of management that is separate and distinct from the other stockholders, then as the result of Stockholder E's failure to meet the requirements of this interim rule, the payments issued to the payment entity, that being Corporation A, would be reduced by the interest held by Stockholder E.



AVERAGE CROP REVENUE ELECTION (ACRE)

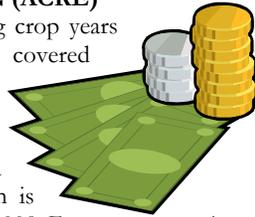
Producers can enroll in ACRE any year during crop years 2009-12. A producer must enroll all covered commodities (wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, [other oilseeds](#), peanuts, dry peas, lentils, small chickpeas, and large chickpeas) for a participating farm. Upon enrollment, the farm is enrolled in ACRE for the remainder of the 2008 Farm Act, which ends with crop year 2012. After enrollment, a farm is no longer eligible to receive Counter-Cyclical Program Payments. Also, as a condition for the farm's enrollment in ACRE, [direct payments](#) for the farm are based on 80 percent of the legislated direct payment rate, and [marketing loan benefits](#) are based on 70 percent of the legislated national marketing loan rate.

The ACRE program provides participating producers a revenue guarantee each year based on market prices and average yields for the respective commodities. The guarantee is based on State-level [planted yields](#) and national market prices, but payments are dependent upon State- and farm-level planted yields and national market prices. Additional information will be available as final rules are written.

DIRECT AND COUNTER CYCLICAL PAYMENTS FOR 2009 – 2012

Producers may enroll farms with base acres in DCP annually just as in the previous farm bill. However, new for the 2009 - 2012 crop years is the requirement of ALL producers on base acres to sign CCC-509 no later than June 1 of the respective fiscal year. Those CCC-509's not signed by all producers on or before June 1 will be deemed withdrawn and will not be approved. Producers on a farm are solely responsible for ensuring that enrollment (signature of all producers on base acres) is received by June 1. New producers may not be added to the DCP contract after June 1.

Farms with 10.0 base acres or less will not be paid DCP unless the farm is "wholly owner" by a socially disadvantaged or limited resource farmer or rancher. However, farms that have a total base of 10.0 acres or less MAY be combined with other base farms to increase the base acres to more than 10.0 acres and earn payments, provided that reconstitution rules are met. Since reconstitutions may be requested through August 1 of the applicable fiscal year and there is a final enrollment date of June 1



for DCP, the farms being combined MUST be enrolled in DCP on or before June 1.

22nd ANNUAL WILD QUAIL MANAGEMENT SEMINARS SCHEDULED FOR MARCH 5-7, 2009

Bobwhite quail populations in South Carolina and the Southeast have been declining steadily over the past 60 years due to major land use change and reduction in suitable habitat. The 22nd Annual Wild Quail Management Seminars, sponsored by the S.C. Department of Natural Resources and the S.C. State Committee of Quail Unlimited, are designed to instruct landowners and land managers in the proper techniques of creating habitat that will support native populations of bobwhite quail.

Two seminars will be conducted over a three-day period, March 5-7, 2009, at the Webb Wildlife Center (1282 Webb Avenue, Garnett) in Hampton County. The registration fee (at this time) is \$75 and includes meals, overnight accommodations and seminar materials. Space is limited, so register early to reserve a slot in one of the two sessions. For more information write Quail Management Seminars, DNR, PO Box 167, Columbia, SC 29202, or call the DNR Small Game Project in Columbia at (803) 734-4306, or e-mail barnesj@dnr.sc.gov.

"Properties that consistently carry medium-to high-density wild quail populations are actively managed to provide quail with all the habitat components necessary throughout the year," said Judy Barnes, S.C. Department of Natural Resources (DNR) small game biologist. "These seminars are designed to improve quail habitat management skills and the information is presented so that anyone with an interest can implement these practices on their property regardless of size."

Field demonstrations and classroom instruction will focus on habitat practices including firebreak establishment, prescribed burning, timber management, brush control, discing for natural foods and supplemental food patch plantings. Presentations will be given on wild quail natural history, biology, diseases and parasites, predation and other factors that may be contributing to the population decline. An update on current research will also be presented. Speakers will include wildlife and forestry professionals from state and federal agencies.

Over 1,200 people have attended the seminar since its inception in 1987. These sportsmen and sportswomen have positively affected thousands of acres across South Carolina by applying basic techniques to improve habitat on their lands.

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