



DISTRICT 7 – Butler – Cowley – Harper – Harvey – Kingman – McPherson – Marion – Reno – Rice – Sedgwick – Sumner Counties

FSA Annual Notification – February 2007

PAYMENT ELIGIBILITY AND PAYMENT LIMITATION REQUIREMENTS

Producers should be aware of payment limitation and payment eligibility requirements to be eligible for most United States Department of Agriculture (USDA) benefits. Program payments that require eligibility determinations prior to payment include the Direct and Counter Cyclical Program, Conservation Reserve Program, Loan Deficiency, Marketing Loan Gains, Environmental Quality Incentive, and Disaster Assistance Programs.

No program benefits can be afforded any producer until form CCC-502, Farm Operating Plan for Payment Eligibility Review, and supporting documentation have been provided and County Committee determinations made. The Farm Operating Plan does not need to be filed annually. However, producers are required to notify the County Office of any changes in the farming operation which would affect a “person,” actively engaged in farming,” cash-rent tenant, or foreign person determination. Changes that may affect a determination include, but are not limited to the following:

- Contract shares that may reflect a change of land lease from cash rent to share rent or a change from share rent to cash rent, modification of a variable/fixed bushel rent arrangement.
- The size of a producer’s farming operation by the addition or deletion of a farm that may affect the application of a cropland factor.
- The structure of a farming operation, including any change in the member’s share.
- Contributions of farm inputs of capital, equipment, active personal labor, or active personal management.
- The acquisition of farming interests not previously disclosed on CCC-502 or update, including the farming interests of a spouse or minor child.
- An increase in income that may affect the 3-year average for the determination of average adjusted gross income or other change that affects eligibility under the average adjusted income limitation.

By statute, entities earning program benefits subject to a payment limitation must provide to the county committee the names, addresses, and ID numbers of the entities’ members. The entity is also required to inform its members of the requirements to designate “permitted entities.” Signature authority is required for all entities.

Form AD-1026, Highly Erodible Land Conservation (HELIC) and Wetland Certification (WC), must also be on file and a County Committee determination made prior to receiving benefits for most programs.

A “person” or entity can earn \$40,000 per year in Direct payments, \$65,000 in Counter Cyclical payments, \$50,000 under the Conservation Reserve Program, \$450,000 under the Environmental Quality Incentive Program, and \$100,000 under the Noninsured Crop Disaster Assistance Program. Other programs also have payment limits, such as Loan Deficiency payments and Marketing Loan gains of up to \$75,000, a separate marketing loan gain or LDP limitation of \$75,000 exists for honey, peanuts, mohair, and wool. Spouses, if certain conditions are met, may be considered a separate person for payment limitation purposes if they request to be. An individual or entity cannot be eligible to receive certain payments and benefits if the average adjusted

gross income (AGI) exceeds \$2.5 million unless at least 75 percent of the average AGI was derived from farming, ranching, or forestry operations.

Payment limitation and payment eligibility determinations may be initiated by the County Committee or requested by the producer. All payment limitations and eligibility determinations, as well as AGI certifications, are subject to spot check. A “not actively engaged in farming” determination may result in the loss or denial of all program benefits and request for repayment of USDA payments or loans.

Noncompliance with the adjusted gross income provisions, either by exceeding the \$2.5 million limitation or by failure to submit the applicable certification statement, will result in the determination of ineligibility for all program benefits subject to the adjusted gross income provisions. Program benefits shall be reduced in an amount that is commensurate with the direct and indirect interest held by an ineligible individual or entity in any entity, general partnership, or joint operation that receives benefits subject to the average adjusted gross income limitation.

FOREIGN INVESTORS 90-DAY REPORTING RULE

Foreign owners of U.S. agricultural land are required by law to report their land holdings, acquisitions, leases of 10 years or more, and land use changes within 90 days to the local FSA office. Failure to report these changes can result in a civil penalty of up to 25 percent of the fair market value of their interest in the agricultural land.

SALE OF GROUND - RECONSTITUTIONS

Producers are reminded of the importance of reporting to their local Farm Service Agency (FSA) Office any change to their farming operation that would affect the status of that farm so the change can be effective for the current fiscal year. A farm, as defined by FSA, is generally made up of tracts that have the same owner and the same operator. A sale of land in the farm or a tract of land within the farm would be an instance that requires notifying the local FSA office so a farm reconstitution can be initiated using the FSA-155, *Request for Farm Reconstitution*. These requests must be made by June 1 to be effective for the current program year. Further, if the farm is participating in the DCP Farm Program, all payments made to the previous owners/operators must be refunded before a reconstitution can be completed.

A special provision exists that would allow contract acres to be divided in a manner agreed to by all sellers and buyers. The method of division, known as the “Designation by Landowner” provision, must be requested and requires all sellers and buyers agree to the method by signing the FSA-155, or providing a memorandum of understanding that includes signatures of all sellers and buyers.

There are limitations when this method of division can be used. If you have an ownership change, discuss these provisions with your local county FSA Office.

POWER OF ATTORNEY

If you wish to retain an agent to act on your behalf for the programs and transactions authorized under the 2002 Farm Bill, a new FSA-211, Power of Attorney form must be filed with FSA. A properly executed form requires that at least 1 FSA employee witnesses your signature or a valid Notary notarizes the form.

SIGNATURE AUTHORITY FOR SPOUSES

Spouses can sign FSA program documents on behalf of each other for most FSA farm programs in which either has an interest, without signing any special forms. This signature authority for spouses to sign for each other will be in effect unless notification denying either spouse this authority has been provided to FSA. For *crop loans*, an FSA-211 must be on file for spouses to sign for each other.

SPECIAL ACCOMODATIONS

Special accommodations will be made, upon request, for individuals with disabilities, vision impairment, or hearing impairment. If special accommodations are required, please call the FSA office and we will be happy to make any arrangements that are needed.

CONTROLLED SUBSTANCE

Any person who is convicted under federal or state law of a controlled substance violation could be ineligible for USDA payments or benefits. Violations include planting, harvesting or growing a prohibited plant. Prohibited plants include marijuana, opium poppies and other drug producing plants.

DIRECT DEPOSIT OF PAYMENTS IS MANDATORY

Effective January 1, 1999, all payments issued by FSA are required to be made by direct deposit to a designated checking or savings account with your financial institution. Forms are available at the FSA office to sign up for direct deposit if you haven't yet. For those already signed up, it is important that you notify your local FSA office anytime there is a change in your account number or financial institution. If we aren't notified, future payments can be delayed or lost for a period of time.

FSA WEB SITES

Web sites available to you include the FSA web site at www.fsa.usda.gov, the USDA web site at www.usda.gov, and the Kansas FSA web site at www.fsa.usda.gov/ks. You can also access FSA, NRCS and RD forms online at www.sc.egov.usda.gov

CONSERVATION COMPLIANCE

- Do you intend to clear timber areas to create or to expand existing crop areas?
- Are you converting a pasture field into a crop field?
- Are there any areas on your farm(s) that you are considering cropping that have not been cropped in recent years?
- Is there a wet spot in a field that you want drain to make cropping easier?
- Are you disturbing a wildlife habitat area of any type?

These are Highly Erodible and Wetlands provision questions that need to be considered each year by producers to assure that they may remain eligible for USDA benefits. If you have any question or concern that something you plan to do on your farm could jeopardize your eligibility for benefits, please contact your NRCS representative before you begin work.

NONINSURED ASSISTANCE PROGRAM DEADLINES

- * March 15 – Final date to apply for all spring seeded crops
- * CCC-576, Part B, Notice of Loss, must be filed within 15 calendar days after the date the disaster or damage becomes apparent.
- * CCC-576, Part G, Payment Application, must be filed by the earlier of the date the CCC-471 is filed for the subsequent crop year or application closing date for the subsequent crop year.
- * CCC-578, Report of Acreage Report, must be filed by the earlier of May 31 or 15 days prior to harvest of the crop.

RECORD CHANGES

If you have bought, sold, or are renting different land, make sure you report the changes to the FSA office as soon as possible after they occur. For farm ownership changes you will need to provide a recorded deed or recorded land contract. Failure to maintain accurate records with FSA on all land you have an interest in can lead to possible program ineligibility and fines if you are participating.