

Base Information and Verification

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Base Information and Verification

- **Needed Information**
 - Most long-time commodity program participants will have filed annual acreage reports with FSA on all cropland on their farm(s). This is the needed information.

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Base Information and Verification

- **Needed Information (continued):**
 - If an owner/producer has not filed crop acreage reports with FSA for each of the four crop years 1998 through 2001, then such reports may be back-filed for each of the missing years.

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Base Information and Verification

- **Information when back-filing:**
 - Owners/producers must be able to provide evidence of **planting** and **harvesting** of each covered commodity.
 - Evidence of planting would include receipts for seed purchase, and possibly receipts for seed cleaning.
 - Evidence of harvest might include a statement from a neighbor, crop insurance adjuster, etc.

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Information for Establishing Payment Yields

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Information for Establishing Payment Yields

- **Direct payment yields for wheat and feed grains:**
 - For farms with PFC yield:
 - Payment yields for **wheat** and **feed grains** on a farm are the **2002 Production Flexibility Contract (PFC) payment yields** for the applicable crops on the farm.
 - For farms without PFC yield:
 - If a 2002 PFC yield is not present for a farm and crop, but a 1995 Acreage Reduction Program yield is present for the farm and crop, then the **Acreage Reduction Program payment yield shall be used.**

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Information for Establishing Payment Yields

- **Direct payment yields for wheat and feed grains (cont.):**
 - For a farm where a covered commodity was planted in one or more years from 1998 through 2001. 2002 PFC acres do not exist for the farm, and a 1995 Acreage Reduction program payment yield is not available for any covered commodity on the farm, a direct payment yield will be **assigned**.
 - The **assigned yields** for crops shall be based on the PFC yield on at least three similar farms that are physically located in the county. There will be consideration to these **potential direct payment yields** relative to other PFC payment yields on the farm or other farms of the producer, etc

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Information for Establishing Payment Yields

- **Direct payment yields for oilseeds:**
 - An **actual yield per planted acre** for 1998 through 2001 crops will be used to establish direct payment yields for oilseeds. The **weighted average yield**, which may include adjustments based on county NASS yields for any of the 1998 through 2001 crop years in which the yield is less than 75% of the county average, or production evidence is **missing** or **unacceptable**, is then **adjusted by a historical yield ratio** to reflect production levels for the early 1980s.
 - The historical **yield ratios** are: flaxseed **0.65**; sunflowers, **0.80**; and other oilseeds, **0.78**.

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Information for Establishing Payment Yields

- **Counter-cyclical payment yields:**
 - What a producer is allowed to do with respect to yield adjustments for counter-cyclical payment purposes depends on decisions made relative to their bases for covered commodities.
 - An actual yield per planted acre for the 1998 through 2001 crop years may be used to establish **partially** updated payment yields for counter-cyclical payments **only** if **both** of the following apply:

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Information for Establishing Payment Yields

- **Counter-cyclical payment yields (cont.):**
 - The owners of the farm elected to establish base using the average acreage planted (and prevented from being planted) to each covered commodity (1998 through 2001), and
 - The owner elects to partially update yields for **all** covered commodities planted on the farm in one or more years (1998 through 2001)

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Information for Establishing Payment Yields

- **Counter-cyclical payment yields (cont.):**
 - The weighted average yield, which may include adjustments for individual years because crop's actual yield was less than 75% of the county average or production evidence was missing or unacceptable, is then adjusted by the owner to **partially** update yields for all covered commodities on the farm.
 - The **two partial update methods for yields** for covered commodities are:
 - 70% method: $(\text{new yield} - \text{old yield}) \times 70\% + \text{old yield}$
 - 93.5% method: $(\text{new yield}) \times 93.5\%$
 - **The same yield update calculation method must be used for all covered commodities on the farm.**

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Information for Establishing Payment Yields

- **A discussion and possible clarification of payment yield issues:**
 - From the previous slides it is seen that updating yields will likely occur if:
 1. Landowners produced oilseeds during the computation period (1998 through 2001) and wish to establish yield for direct and counter-cyclical purposes.
 2. Landowners elect to update all bases for covered commodities and elect to update yields **for all covered commodities** for counter-cyclical payment purposes.
 - In early September, Secretary of Agriculture Ann Veneman attempted to clarify some of the information required to establish yields

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Information for Establishing Payment Yields

- **A discussion and possible clarification of payment yield issues (cont.):**
 - Those who wish to establish or update yields must have actual **verifiable** production evidence such as:
 - Weight tickets
 - Loan deficiency payments
 - Crop insurance appraisals, or
 - Sales records

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Information for Establishing Payment Yields

- **A discussion and possible clarification of payment yield issues (cont.):**
 - What is to be done in the case of crops with minimal tangible records of measurable production?
 - Some crops are harvested or utilized in a manner where tangible records are minimal. This includes crops that were:
 - Grazed
 - Harvested for silage or hay, or
 - Fed on the farm

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Information for Establishing Payment Yields

- **A discussion and possible clarification of payment yield issues (cont.):**
 - What are the types of useable types of information for crops with minimal tangible records?
 - Previous LDP records may be available from the county FSA office
 - When LDP information is unavailable and other FSA or crop insurance records may indicate that the crop was grazed, harvested as silage or hay or fed on the farm, then FSA may assign a yield based on the actual grain yield for three similar farms.
 - In the case where the above-cited types of information is unavailable, or there were abnormally low yields experienced, then 75% of the county average yield will be used.

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Information for Establishing Payment Yields

- **General procedures for updating payment yields:**
 - If owners elect to update yields, the owners or producers must report production to FSA.
 - Owners or producers will be required to list, but not submit, documents to support their production at the time they file production information with FSA.
 - Documentation will be required at a later date to verify the reported production. **It is FSA's intention to eventually verify all reported production.**

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Information for Establishing Payment Yields

- **Payment yield verification depends on disposition of commodities:**
 - For commodities sold, stored, or disposed of commercially off of the farm
 - For grain production used or stored on the farm
 - For acreages that were silaged, hayed, or grazed

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Information for Establishing Payment Yields

- **Payment yield verification for commodities sold, stored, or disposed of commercially off of the farm:**
- For production that is commercially sold, stored, or disposed of off the farm, evidence must show the:
 - Producer's name
 - Commodity
 - Buyer or storing facility
 - Transaction or delivery date
 - Quantity (bushels, pounds, or hundredweight, as applicable)

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Information for Establishing Payment Yields

- Production can be substantiated by documentation, including:
 - LDP records
 - Warehouse receipts
 - Warehouse ledgers
 - Warehouse load summaries
 - Settlement sheets
 - Scale tickets or weight slips supported by other evidence, such as a sales document
 - Computer-generated documents from a licensed warehouse that contain required information
- **FSA would prefer either LDP records or other documentation, not both.**

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Information for Establishing Payment Yields

- **Payment yield verification for grain production used or stored on the farm:**
- Measured quantities from the 1998 through 2001 crop years that remain in farm storage may be considered acceptable production evidence if measurements were completed and documented by an FSA or crop insurance representative
- Production being used for seed for the producer's own use, may be considered acceptable is **both** of the following apply:

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Information for Establishing Payment Yields

- Producer provides written certification, indicating the:
 - Disposition was by planting
 - Seeding rate
 - Number of acres planted
- The county-level FSA committee determines that:
 - The quantity for seed is reasonable, considering the number of acres planted by the producer
 - The evidence is satisfactory, and represents the applicable farm and year
 - It is customary in the area for producers to use farm raised seed to produce the specific crop

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Information for Establishing Payment Yields

- **Payment yield verification for grain production used or stored on the farm (cont.):**
- Acceptable proof that production was used on the farm as grain for livestock feed shall be limited to existing FSA records or crop insurance records that indicate the crop was fed or was to be used for livestock feed.

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Information for Establishing Payment Yields

IF....	AND...	THEN...
grain was measured by FSA or crop insurance representative and/or producer obtained LDP	records are on file to indicate the grain was fed or will be used for feed	the LDP is measured quantity is acceptable
grain was measured by FSA or crop insurance representative	records were not filed to indicate the grain was fed or will be used for feed	the measured quantity is acceptable, only if other production records dated after the measurement date are not submitted
timely filed FSA or crop insurance records show that the grain was fed or will be used for livestock feed	grain was not measured and LDP was not obtained	county-level FSA committee assigns yield for crop year for the farm , based on the actual grain production for the applicable year of at least 3 similar farms
records were not filed to show that the grain was fed or will be used for feed	grain was not measured and LDP was not obtained	the quantity of grain fed is considered to be zero. If total production based on acceptable records for production not fed results in a yield less than 75 percent of county 4-year average, plug yield is used for the crop year. ³

Information for Establishing Payment Yields

- **Payment yield verification when all acres were grazed, silaged, or hayed:**
- There is an exception to the requirement that production evidence must be verifiable when the disposition of the production does not lend itself to providing verifiable production records. The exception is allowed when:
 - Disposition of the crop on all or part of the acreage was grazing, silage, or haylage
 - The disposition or intended disposition was timely documented on FSA or crop insurance records for the applicable crop years.

Information for Establishing Payment Yields

- (It is **not** permissible for a producer to revise any document, or to revise a previous certification that acreage of a crop was or was intended to be grazed, silaged, or hayed, in one or more years from 1998 through 2001.)

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Information for Establishing Payment Yields

- **The disposition and the amount of acreage applicable to each crop must have been timely documented on FSA or crop insurance records for the applicable crop years.**
- The county-level FSA committee shall consider either of the following to be acceptable documentation that the applicable acreage was grazed, silaged or hayed:

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Information for Establishing Payment Yields

- FSA records, including LDP records documented during the applicable crop year or by the final date to request LDP, show the number of acres that were hayed, grazed, or silaged.
- Crop insurance records, including loss adjustment records or appraisal records documented during the applicable crop year or by the final date to file claims, show the number of acres that were hayed, grazed, or silaged.
(Revisions to update existing records to document haying or used for silage are **not** authorized)
- If existing records do not indicate that acreage was grazed, silaged, or hayed, the credited production from applicable acreage is **zero**

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Information for Establishing Payment Yields

- **If documentation of disposition and acreage is available, but verifiable production records are unavailable for any of the acreages of the crop on the farm, the county-level FSA committee shall assign a yield for each applicable crop year, according to the following:**
 - If an LDP was approved for the farm, credit the farm and crop with the applicable amount of **grain** production, based on the approved LDP's for:
 - Hayed, silaged, or grazed crops
 - Crops harvested as grain, including grain crops used for feed

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Information for Establishing Payment Yields

- If LDP's were not approved for acreage on a farm that was grazed, silaged, or hayed but a crop insurance document shows the amount of acreage that was grazed, silaged, or hayed then the county-level committee shall assign production to the farm and crop for the applicable year based on the actual grain production for the same year from at least 3 similar farms.

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Summary

- Conditions are very specific about when other than PFC yield can be used for direct payments.
- Yields for counter-cyclical payments, in general, may only be established when all bases for covered commodities were re-established using 1998 through 2001 acreage information.
- Yield information required for establishing payment yields is dependent on the disposition of the commodity.

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“Persons” and Payment Limitations

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“Person”

- A “person” for payment limitation purposes may be many things, including an individual, a limited liability partnership, a limited liability company, or an individual participating as a member of a joint operation or similar operation; 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, estate, or charitable organization, including any entity participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity; a State, political subdivision, or agency thereof.

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Separate "Person"

- 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 and accounts separate from that of any other individual or entity for this interest.

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Spouse as a Separate "Person" Rules Continue

- Spouses may be found to be separate persons if one of the usual exceptions applies.
- 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:
 - 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 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.

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The Three Entity Rule Continues

- No individual may receive payments subject to these rules (payment limitation rules) from more than three entities which the individual holds substantial beneficial interest. Individuals who receive payments as an individual may not receive payment from more than two entities that receive payments as a separate “person”.

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Adjusted Gross Income Limitation

- Per Section 1604 of the FSRI Act this provision begins with crop year 2003.
- Essentially this provision states that if the average adjusted gross income of an **individual** or **entity** exceeds \$2.5 million, over the previous three tax years, the individual or entity is **not** eligible for marketing assistance loans and LDP’s and direct and counter-cyclical payments, unless not less than 75 percent of the adjusted gross income is derived from **farming, ranching, or forestry** operations.
- Stay tuned, more policies and procedures relative to this procedure will be forthcoming before crop year 2003.

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Payment Limitations-Marketing Assistance Loan Benefits

- The limitations under this program are on **marketing loan gains and loan deficiency payments**.
- Per Section 1603 (d) of the FSRI Act it is provided that during each of the 2002 through 2007 crop years, there is a combined \$75,000 payment limitation for marketing loan gains and LDPs for wheat, corn, barley, grain sorghum, dry peas, lentils, small chickpeas, oats, soybeans, rice, and minor oilseeds.
- But in the same section for each of the 2002 through 2007 crop years, there is a **separate** combined \$75,000 payment limitation for marketing loan gains and LDPs for wool, mohair, peanuts, and honey.

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Payment Limitations-Marketing Assistance Loan Benefits cont.

- It appears that the use of **commodity certificates** will be continued under the FSRI Act and be applicable to most of the loan commodities produced in Montana.
- The purpose of commodity certificates is to encourage producers to repay commodity loans rather than forfeit loan collateral to the Commodity Credit Corporation at loan maturity.
- Commodity certificates are available to producers to use in acquiring crop collateral pledged to CCC for a loan commodity when the posted county price is less than the applicable loan rate and not available otherwise.
- When commodity certificates are used, the transaction **does not** count against the payment limitations pertinent to benefits from marketing assistance loans.

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Payment Limitations— Direct Payments

- The total amount of direct payments to a person during any crop year, crop years 2002 through 2007, for 1 or more covered commodities may not exceed \$40,000.

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Payment Limitations Counter-Cyclical Payments

- The total amount of counter-cyclical payments to a person during any crop year, crop years 2002 through 2007, for 1 or more covered commodities may not exceed \$65,000.

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Summary

- Rules related to “person” determination remain unchanged.
- An Adjusted Gross Income limitation will be in effect starting with the 2003 crop year.
- Safety Net payment limitations per “person”
 - Marketing Assistance Loan Benefits (crops) \$75,000
 - Marketing Assistance Loan benefits (wool, mohair, and honey) \$75,000
 - Direct payments for all covered commodities \$40,000
 - Counter-Cyclical payments for all covered commodities \$65,000

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Landowner, Producer, and Tenant Concerns

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Owner Responsibilities for Safety Net Programs

- Owners are responsible for making base decisions relative to the direct and counter-cyclical payment programs, and yield decisions relative to the counter-cyclical program.
 - Some owners may have received letters relative to re-granting power of attorney
 - It currently appears that multiple owners on one farm number must make consensus decisions relative to bases and yields.

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Owners responsibilities for Safety Net Programs: cont..

- When owners do not make base/yield decisions applicable for the entire period 2002 through 2007 relative to the direct and counter-cyclical payments, the Farm Service Agency shall take as the default-
 - 2002 PFC base plus oilseeds, if applicable
 - Existing payment yields and adjusted 4-year average oilseed yields, if applicable
- **Remember, there is no owner actions required relative to base or yield history for marketing assistance loans.**

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Eligible Producers for Safety Net Benefits

- An eligible producer for direct and counter-cyclical payment purposes and for marketing assistance loans and program benefits is an owner, operator, landlord, tenant, or sharecropper who:
 - Shares in the risk of producing a crop, and
 - Is entitled to share in the crop available for marketing, or
 - Would have shared a crop that had been produced

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Eligible Producers for Safety Net Benefits cont...

- To be eligible for direct and counter-cyclical payments a producer must sign up annually for the crop years 2002 through 2007
- To be eligible for marketing assistance loans, benefits and direct and counter-cyclical program payments, producer must submit an acreage report on all cropland on their farms

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Landlord-Tenant Concerns

- There has been no change in rules from prior legislation
- The intent of the landlord and tenant rules is to provide fair and equitable treatment of tenants and landowners

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Landlord and Tenant Payment Shares

- The landlord is not entitled to any benefits or payments under a cash lease
- If the lease is crop share, payments must be shared. (The division of payments will likely be similar to the landowner-tenant crop share unless some reason is shown to do otherwise).
- If there is a valid dispute between landlord and tenant relative to payment shares, FSA may refuse payments until the dispute is resolved by the impacted parties.

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Landlord and Tenant Payment Shares cont...

- For landowners and tenants who agree on payment divisions, arrangements will be approved if compliant with FSA rules on payment distribution.
- State tenancy statutes must be adhered to in the division of payments.

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Other Landlord-Tenant Considerations

- A landlord or operator who reduces the number of tenants from the previous year will be eligible to receive current year payments if:
 - The landlord or the operator purchased the farm the current crop year
 - The tenants lease expired or was legally terminated (again, state tenancy statutes must be followed)
 - A producer leaves the farm voluntarily

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Summary

- There appear to be no rule changes impacting landlord and tenant arrangements and payments.
- **Owners** must take one-time base and yield decisions that impact direct and counter-cyclical payments over the period of the statute
- **Producers** must sign up annually for the direct and counter-cyclical payment programs.