

The 2008 Farm Bill and Commodity Programs

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The Food, Conservation, and Energy Act (FCEA) of 2008 continued elements of the 2002 Farm Bill, but added new programs in establishing farm policy for 2008-2012. The 2008 Farm Bill also continued the course of the 2002 Farm Bill, which complicated producer decisions with sign-up options and new programs. The new, complex farm bill comes at a time when the volatility of commodity prices and input costs has made risk management decisions increasingly important.

In concept, the FCEA commodity support program provides a five-part safety net. The safety net includes direct payments, counter-cyclical payments, and marketing assistance loans/loan deficiency payments from the 2002 Farm Bill, as well as the new Average Crop Revenue Election (ACRE) and Supplemental Revenue Assistance (SURE) programs. Each part of the safety net works differently and is calculated on a different base. Marketing loans are tied to specific production each year. In contrast, Direct and Counter-cyclical Program payments are tied to a historical acreage base and payment yields that do not change year to year. ACRE payments would be made on crop planted acres, while SURE payments would be made at the farm level. The following descriptions explain each part of the safety net in detail.

Direct Payments

Direct payments provide a simple and fixed level of income support to producers. The direct, or fixed payments, which were introduced in the 1996 Farm Bill, continue under

the new Farm Bill. The direct payment rates are constant during the 5-year life of the program (Table 1). Since the payment rates are constant, the direct payments will not change in response to any change in crop prices. Also, the payments are based on a fixed base acreage and payment yield as determined at program sign-up for the 2002 Farm Bill. As such, the direct payments will not change in response to any change in the crop mix or production levels on the farm. Thus, direct payments are decoupled from both price and production, and are strictly a cash payment

Acronyms used in this publication.

ACRE	Average Crop Revenue Election
FCEA	Food, Conservation, and Energy Act of 2008
FSA	Farm Service Agency
LDP	Loan Deficiency Payment
MILC	Milk Income Loss Contract
MLG	Marketing Loan Gain
NAP	Noninsured Crop Assistance Program
PCP	Posted County Price
SURE	Supplemental Revenue Assistance program
USDA	United States Department of Agriculture
WTO	World Trade Organization

Table 1. Loan Rates, Direct Payment Rates, and Target Prices for Program Commodities

Commodity	Direct Payment Rates	Target Prices			Loan Rates		
	2007-2012	2007	2008-2009	2010-2012	2007	2008-2009	2010-2012
Wheat (bu)	\$0.52	\$3.92	\$3.92	\$4.17	\$2.75	\$2.75	\$2.94
Corn (bu)	\$0.28	\$2.63	\$2.63	\$2.63	\$1.95	\$1.95	\$1.95
Sorghum (bu)	\$0.35	\$2.57	\$2.57	\$2.63	\$1.95	\$1.95	\$1.95
Barley (bu)	\$0.24	\$2.24	\$2.24	\$2.63	\$1.85	\$1.85	\$1.95
Oats (bu)	\$0.024	\$1.44	\$1.44	\$1.79	\$1.33	\$1.33	\$1.39
Upland cotton (lb)	\$0.0667	\$0.724	\$0.7125	\$0.7125	\$0.52	\$0.52	\$0.52
Rice (cwt)	\$2.35	\$10.50	\$10.50	\$10.50	\$6.50	\$6.50	\$6.50
Soybeans (bu)	\$0.44	\$5.80	\$5.80	\$6.00	\$5.00	\$5.00	\$5.00
Other oilseeds (cwt)	\$0.80	\$10.10	\$10.10	\$12.68	\$9.30	\$9.30	\$10.09

to producers based on the historical production base of the farm and are limited to \$40,000 per individual per year.

Mechanics. The actual direct payment each year for a given farm is equal to the direct payment rate times the direct payment yield times the acreage base times 85 percent (83.3 percent in 2009-2011) for each program crop in the farm's acreage base. The relevant acreage base was set at initial program enrollment in the 2002 Farm Bill. Based on a producer's decision, the acreage base represents either the average acreage of program crops planted on the farm from 1998-2001 or the program acreage base that existed for the farm prior to the 2002 Farm Bill adjusted for various options to add acreage of oilseeds planted on the farm from 1998-2001. The adjustment was allowed in the 2002 Farm Bill since oilseeds were not part of the program acreage base in previous Farm Bills. Unlike the acreage base, the payment yields could not be updated for direct payments. The payment yields remain fixed at the same level as used for previous Farm Bills. In fact, these payment yields have been fixed at the same level since at least 1985, when they were frozen in place by legislation that did not allow any program yield updating.

Options. The direct payments are available to producers in two installments. For the 2009-2011 crop years, an advance payment of 22 percent of the total direct payment is available in December of the year before harvest. (No advance payments are available for the 2012 crop.) Producers can choose to defer this payment to a later period if desired. For income tax purposes, some producers may prefer to delay the payment until January to push it into the next tax year, but delaying the payment beyond the start of the new tax year would generally not be preferred. The remainder of the direct payment is paid out in October of the year of harvest. If no advance payment is taken, the full direct payment is made in October of the year of harvest. Given that the advance direct payments can be made before fall-harvested crops are even planted, landlord-tenant arrangements for the coming crop year must be set and documented with the Farm Service Agency (FSA) before advance payments can be made to both parties. The option of when to take the advance direct payment is determined each year at program sign-up.

Counter-Cyclical Payments

The new part of the safety net in the 2002 Farm Bill was the counter-cyclical payment program. The counter-cyclical payments mimic the old target-price/deficiency payment system, except that the counter-cyclical payments are decoupled from production. When the national average market price for a commodity drops below the trigger price (target price minus direct payment rate), counter-cyclical payments are paid based on the counter-cyclical base acreage and payment yield of each commodity as determined at program sign-up. Thus, while the counter-cyclical payments are tied to the current price of a commodity in the program base, the payments are decoupled from the current production of that commodity. The counter-cyclical payments are limited to \$65,000 per individual per year.

Mechanics. The actual counter-cyclical payment each year for a given farm is equal to the counter-cyclical payment rate times the counter-cyclical payment yield times the acreage base times 85 percent for each program crop in the farm's acreage base. The relevant acreage base was set at program enrollment of the 2002 Farm Bill and is the same base as for fixed payments. The counter-cyclical payment yields were also set at the time of enrollment. If producers elected to keep their old base acreage or their old base acreage plus new oilseeds as allowed, then the relevant counter-cyclical yields were the same old yields as used for direct payments. If producers elected to use their new base acreage, then the counter-cyclical payment yields represent either their old yields or updated yields based on a partial update between old yields and new yields (average yields of program crops planted on the farm from 1998-2001).

The actual counter-cyclical payment rate each year is equal to the target price minus the direct payment rate minus the higher of the national season-average market price or the national average loan rate for each commodity. The target price minus the direct payment rate can be described as a trigger price, or effective target price. The higher of the market price or loan rate can be considered the effective farm price. When the national season-average market price for a commodity drops below the effective target price, there will be a counter-cyclical payment for that commodity. Thus, the effective target price for each commodity provides the real target below which counter-

Table 2. Minimum Commodity Prices That Result in No Counter-Cyclical Payments

Crop	2008-2009	2010-2012
Wheat (bu)	\$3.40	\$3.65
Corn (bu)	\$2.35	\$2.35
Sorghum (bu)	\$2.22	\$2.28
Barley (bu)	\$2.00	\$2.39
Oats (bu)	\$1.416	\$1.766
Upland cotton (lb)	\$0.6458	\$0.6458
Rice (cwt)	\$8.15	\$8.15
Soybeans (bu)	\$5.36	\$5.56
Other oilseeds (cwt)	\$9.30	\$11.88

cyclical payments begin. Table 2 provides the effective target prices for all of the program commodities. As the market price drops further below the effective target price, the counter-cyclical payment gets larger, up to the point where the market price drops as far as the loan rate. At this point, the counter-cyclical payment reaches its maximum, as it is limited to the difference between the effective target price and the higher of the market price or loan rate, or the effective farm price. Table 3 provides the maximum counter-cyclical payment rates for all of the program commodities.

Options. The counter-cyclical payments are available to producers in two installments tied to the marketing year for each commodity. Producers may elect to receive up to 40 percent of the projected counter-cyclical payment after completion of the first 180 days of the marketing year for the covered commodity. The final payment shall be made on Oct. 1, or as soon as practicable after the end of the applicable marketing year.

As the marketing year for each commodity is complete, the United States Department of Agriculture (USDA) calculates the actual national season-average marketing-year price. From this price, USDA calculates the actual counter-cyclical payment. If the actual counter-cyclical payment due is greater than the sum of the advance payment, the difference is paid as the final counter-cyclical payment. If the actual counter-cyclical payment due is less than the sum of the advance payments, producers will be responsible for repaying the amount of the overpayment. The marketing year for wheat, barley, and oats runs from June of the year of harvest to May of the following year. For corn, sorghum, and soybeans, the marketing year runs from September of the year of harvest to August of the following year. For cotton, the marketing year runs from August of the year of harvest to the following July.

Producers have the option of whether or not to take advanced counter-cyclical payments. Not taking the advanced payments would delay any payments until the final counter-cyclical payments are calculated after the marketing year is complete. This would potentially delay some payments for about 6 months, but would also preclude the possibility of having to repay any advance payments back to the government in the case of prices that move higher during the marketing year. The option of when to take the advance counter-cyclical payments is determined each year at program sign-up.

Marketing Loans

As an underlying support, covered commodities have a non-recourse marketing loan program that operates as the marketing loan has operated in the past several years. The primary change in the marketing loan program was a minor adjustment in several national average loan rates. The national average loan rate for wheat, barley, oats, and minor oilseeds increased while other commodities remained the same (Table 1). As with the current marketing loan program, producers can receive benefits in the form of loan deficiency payments or marketing loan gains.

The non-recourse marketing loan program effectively provides a minimum price guarantee to producers equal to the local county-adjusted loan rate. However, the marketing loan is not actually a price support program. Instead, the marketing loan provides income support in the form of loan

Table 3. Maximum Counter-Cyclical Payments for Program Commodities

Crop	2008-2009	2010-2012
Wheat (bu)	\$0.65	\$0.71
Corn (bu)	\$0.40	\$0.40
Sorghum (bu)	\$0.27	\$0.33
Barley (bu)	\$0.15	\$0.44
Oats (bu)	\$0.086	\$0.376
Upland cotton (lb)	\$0.1258	\$0.1258
Rice (cwt)	\$1.65	\$1.65
Soybeans (bu)	\$0.36	\$0.56
Other oilseeds (cwt)	\$0.00	\$1.79

proceeds equal to the loan rate. Because the loan is a non-recourse loan, producers can repay the loan at the lower of the loan rate plus accrued interest or the posted county price (PCP), which is reflective of local market prices, or they can hold the loan until maturity and forfeit the grain to the government. Since the marketing loan can be repaid at prices effectively equal to market prices, commodities placed under loan can be redeemed and sold in the market even when market prices are below the loan rate. Alternatively, producers can claim a loan deficiency payment (LDP) to realize the same benefits as the marketing loan without going through the actual loan process. The LDP option and the repayment options in the marketing loan program generally keep grain in private stocks and in the market instead of accumulating in government stocks through loan forfeitures, even when prices are below the loan rate. As such, the marketing loan does not provide a price support, but rather an income support to producers based on the loan rate. This income support is limited only to actual production, so the amount of support is effectively tied to both price and production.

Mechanics. Marketing loan rates vary across every county in the country based on a complex relationship of national loan rate levels and local marketing patterns. Using wheat as an example, the national average loan rate for wheat was specifically set in the 2008 Farm Bill at \$2.94 per bushel for 2008 through 2012 (refer to Table 1). In implementing the loan rates, the USDA established separate loan rates by county and by class of wheat. All counties in Kansas have a separate loan rate for hard red winter wheat and soft red winter wheat, while a handful of counties even have a published hard red spring wheat loan rate. The loan rate for a given county for a given class of wheat is established relative to the national average loan rate adjusted for that county's marketing and basis patterns relative to the national average. Using 2008 loan rates in Finney County in Kansas as an example, the loan rate for hard red winter wheat was \$2.89 per bushel while the soft red winter wheat loan rate was \$2.26 per bushel.

Designed to be representative of current local market prices, each county also has a separate PCP calculated as the average market price for the loan commodity during the preceding 30-day period. The 2002 Farm Bill calculated PCPs on a daily basis. The PCPs are established for each county based on the relationship of that county to all major terminal markets for each commodity.

PCP information can be found in an accessible database on the FSA Web site at www.fsa.usda.gov. The relationship of the loan rate and the PCP in a given county determines the potential availability of either LDPs or Marketing Loan Gains (MLGs). The two effectively provide the same income support, but work in separate ways. The potential LDP is equal to the loan rate minus the PCP if the PCP is below the loan rate or zero if not. The LDP can be taken in lieu of a loan. If, on the other hand, the commodity is under loan, it can be repaid at lesser of the loan rate plus accrued interest or the PCP. Thus, if the PCP is below the loan rate, the loan can be repaid at the PCP and the difference between the loan rate and the PCP would be realized as a MLG. Given the equivalence of the LDP and the MLG, it might seem that marketing loan program decisions are relatively simple and that distinctions between the two are trivial. However, there are various rules and situations that might favor claiming an LDP versus taking out a marketing loan and potentially realizing a MLG.

Options. A producer actually has several options to consider in the marketing loan program. However, it is important to remember in all cases that these options only exist as long as the producer has beneficial interest in the commodity. Beneficial interest is defined by FSA as control of the commodity, risk of loss, and title to the commodity. Essentially, a producer gains beneficial interest in the commodity when it is harvested and loses beneficial interest in a commodity when it is delivered to the market for sale, including delayed pricing. Producers with no storage have beneficial interest in the commodity only until they deliver it to market at harvest for sale. Producers with available on-farm or commercial storage can retain beneficial interest in the commodity as long as they keep it in storage.

1. **Loan Deficiency Payment** - A producer can take a LDP in lieu of a loan on any day as long as they have maintained beneficial interest in the commodity. If a producer has no storage, they can file with FSA for a field direct LDP, taking the LDP, if available, for the day on which the commodity is harvested, delivered, and sold to the elevator.
2. **Marketing Loan** - A producer can take a marketing loan on the commodity in storage as long as they maintain beneficial interest. From that point, there are several options.
 - a. The loan can be repaid with cash anytime before maturity at the lower of the loan rate plus accrued interest or the PCP. Here too, there are a few possibilities.
 - i. The loan can be repaid at the loan rate plus accrued interest. If the loan rate plus accrued interest is less than the PCP, then the repayment rate would simply be the loan rate plus accrued interest and there would be no MLG and no interest waived.

- ii. The loan can be repaid at that day's PCP. If the PCP is below the loan rate, the interest is waived and the difference between the loan rate and the PCP is realized as a MLG. If the PCP is equal to or above the loan rate, but below the loan rate plus accrued interest, the repayment rate is simply the PCP. In this case, no MLG is realized and the amount of interest paid is limited to the difference between the PCP and the loan rate. Any accrued interest in excess of the difference between the PCP and the loan rate is waived.
 - iii. The PCP can be locked in once for a period of 60 days, and, anytime during the 60-day period, the loan can be repaid at the locked-in PCP. If not repaid, the locked-in PCP expires and on day 61 or later, the loan can be repaid at that day's PCP. In either case, repayment then works just as in 2.a.ii above, which can result in a MLG.
- b. The loan can be held until maturity and the commodity forfeited to the government. This option essentially provides the same gain to the producer as in 2.a.ii above when the PCP remains below the loan rate. Here too, a producer can realize a forfeiture gain equivalent to a MLG (loan rate minus the PCP).

There are additional expenses involved in storing the grain for a full 9 months until loan maturity and in delivering the grain to the government at forfeiture that generally preclude forfeiture as the best option. The only instance in which holding grain under loan to maturity and forfeiting the grain to the government would be preferable is if the PCP remains below the loan rate, but above the local price. While the PCP is designed to be representative of local market prices in each respective county, it is not exact; if the PCP remains below the loan rate, but above the actual local market price, a producer will net more by taking the loan, holding the loan until maturity, and forfeiting the grain to the government than by repaying the loan at the PCP and then selling the grain in the local market. Holding the grain until forfeiture would effectively net the loan rate for the grain. Repaying the loan at the PCP and then selling in the market would net the difference between the loan rate and the PCP as a MLG. However, in this instance the MLG, plus the local market price, would still be less than the loan rate. Any potential price advantage to this option would need to be weighed against the additional storage and delivery costs as noted above.

Average Crop Revenue Election (ACRE)

A new, optional program in the 2008 Farm Bill is the Average Crop Revenue Election (ACRE) program. This program is a revenue counter-cyclical program that is designed to provide support to producers when crop revenue falls below the established revenue guarantee

for that crop. So instead of only providing support when prices fall, ACRE offers the opportunity to provide support when yields are reduced as well. Sign-up for ACRE will begin with the 2009 crop and will be offered each year through 2012. However, producers who choose ACRE must stay in the program for the remainder of the Farm Bill.

ACRE is basically designed as a state-level revenue counter-cyclical program that makes payments when state crop revenue declines. Payments will equal the difference between the state revenue guarantee and actual state revenue, but an individual farm cannot collect payments unless the actual farm revenue falls below the producer's benchmark farm revenue. State and farm level ACRE formulas are shown below.

$$(1) \quad \text{State Revenue Guarantee} = (\text{Benchmark State Yield} \times \text{Benchmark Price} \times 90\%)$$

Benchmark State Yield = 5-Year Olympic Average State Yield per Planted Acre

Benchmark Price = 2-Year National Average Market Year Price

$$(2) \quad \text{Actual State Revenue} = \text{Actual State Yield per Planted Acre} \times \text{National Average Market Year Price}$$

$$(3) \quad \text{Benchmark Farm Revenue} = (\text{Benchmark Farm Yield} \times \text{Benchmark Price}) + \text{Crop Insurance Premiums Paid}$$

Benchmark Farm Yield = 5-Year Olympic Average Farm Yield per Planted Acre

Benchmark Price = 2-Year National Average Market Year Price

$$(4) \quad \text{Actual Farm Revenue} = \text{Actual Farm Yield per Planted Acre} \times \text{National Average Market Year Price}$$

$$(5) \quad \text{ACRE Payment} = \text{The lesser of } [(\text{State Revenue Guarantee} - \text{Actual State Revenue}) \text{ or } (25\% \times \text{State Revenue Guarantee})] \times (\text{Benchmark Farm Yield} / \text{Benchmark State Yield})$$

In calculating the *Benchmark State Yield*, the 5-year Olympic average yield would equal the average National Agricultural Statistics Service (NASS) yield per planted acre for the most recent 5 crop years, excluding the highest and lowest yields. Because yields are calculated on a *per planted acre* basis for both the state and farm components of the ACRE, producers will benefit when crop conditions are poor enough that a significant percentage of acres are not harvested. The *Benchmark Price* is calculated as the simple average of the national average market price for the most recent 2 crop years. The calculations for the farm components of ACRE are similar to the state components with the primary difference that crop insurance premiums paid can be included in calculating the *Benchmark Farm Revenue*.

The legislation provides many other guidelines to dictate how ACRE payments will be calculated on an an-

nual basis. For instance, the state revenue guarantee cannot increase or decrease more than 10 percent from one year to the next. Another important feature of ACRE is that payments will be based on planted acres, not historical base acres—unless planted acres are greater than base acres. If total planted acres on a farm are greater than total base acres, ACRE payments will be limited to base acres, and the producer will have the option to choose which planted acres to enroll in ACRE. Payments will be paid on 83.3 percent of planted acres for 2009-2011 crop years and 85 percent of planted acres in 2012. If a producer chooses to enroll in ACRE, he must enroll all crops on that farm, even though payments will be based on individual crops.

Although ACRE offers the opportunity to provide support to producers beyond when prices fall, it is not without cost. Another provision of ACRE would require producers who enroll in the program to give up 20 percent of their direct payment and reduce marketing loan rates by 30 percent. Therefore, producers will have to determine whether ACRE will provide more support over the life of the 2008 Farm Bill than the support they will give up in terms of reduced direct payments and lower marketing loan rates. Moreover, because actual revenue is calculated using market-year average prices, payments will not be made until Oct. 1, or as soon as practicable after the applicable marketing year (one year after harvest). Because of the trade-offs between ACRE and the traditional commodity programs, the decision to sign up may not be straightforward. As a result, considerable thought and analysis should be given before deciding whether or not to sign up for ACRE.

Supplemental Revenue Assistance Program (SURE)

The 2008 Farm Bill also established an Agricultural Disaster Relief Trust Fund to provide support to producers in the event of an agricultural disaster. Through the Trust Fund, supplemental disaster assistance will be provided in several different forms. Most notably for crop producers, the SURE program will offer coverage to eligible producers in counties with a qualifying natural disaster declaration that have incurred crop production and/or crop quality losses, or farms that incur a 50 percent whole-farm loss. This program is a whole-farm revenue assistance program in which producers must insure at least 50 percent of yield and 55 percent of price for each insurable crop on a farm and purchase Noninsured Crop Assistance Program (NAP) coverage for non-insurable crops to be eligible. If whole-farm revenue is less than the SURE revenue guarantee, then payments will be made. Following are the formulas to calculate the SURE guarantee and whole-farm revenue.

$$(1) \quad \text{SURE Guarantee (Insured Crops)} =$$

(A) planted acres \times (B) farmer-elected percent of insurance \times (C) higher of farm's adjusted actual production history (APH) or counter-cyclical (CCP) payment yield \times (D) insurance price elected by farmer \times (E) 115%

- (2) SURE Guarantee (Non-insurable Crops) =
 (A) planted acres \times (B) 100% of NAP price \times (C)
 higher of NAP yield guarantee or CCP yield \times (D)
 120%
- (3) Farm Guarantee (90% of Sum of Expected
 Revenue for Each Crop) =
 (A) planted acres \times (B) higher of adjusted APH or
 CCP yield or 100% of NAP yield \times (C) 100% of
 insurance price guarantee or 100% of NAP price \times
 (D) 90%
- (4) Farm Revenue =
 (A) Sum of insurance and NAP indemnities + (B)
 prevented planting payments + (C) other Federal
 disaster assistance + (D) 15% of direct payments +
 (E) CCP, ACRE, and marketing loan payments +
 (F) value of each crop
- (F) Value of each crop =
 (a) harvested acres \times (b) estimated actual yield \times
 (c) U.S. average market price adjusted for local
 or regional quality loss from adverse weather and
 losses due to excess moisture from disaster-related
 conditions
- (5) SURE Payment = 60% \times [(1)+(2) SURE Guarantee
 - (4) Farm Revenue]

The complex SURE formulas illustrate the complicated nature of the program. One of the most complex features of SURE is the direct link between crop insurance coverage and the SURE Guarantee. As shown in equation 1, the SURE Guarantee will increase as the farmer-elected percent of insurance increases. However, the SURE Guarantee cannot exceed the Farm Guarantee which equals 90 percent of the expected revenue for each crop (equation 3). This feature may limit purchases of the highest levels of insurance coverage. The SURE program is also complicated by the fact that it is a whole-farm program, meaning that in order to collect a payment, Farm Revenue across all crop enterprises must be lower than the whole-farm SURE Guarantee. Consequently, SURE may benefit single enterprise operations more than farms with multiple crop enterprises.

Taken together, the existing price-based safety net from the 2002 Farm Bill, coupled with the new revenue-based ACRE and SURE programs, make for a more complex farm income safety net. The risk management decision for producers was already becoming more challenging with greater costs for crop insurance premiums and more concerns about hedging in the futures, options, and cash markets. Add the changing farm income safety net to the mix and the risk management decision has just become even more complex. Analyzing the new programs carefully and understanding how they complement or substitute for insurance and marketing decisions on the farm will be critical to the farm's success in the coming years.

Payment Limitations

Under the 2002 Farm Bill, specific payment limits applied to each of the three parts of the commodity program safety net. Direct payments were subject to a \$40,000 limit, while the counter-cyclical payments were subject to a limit of \$65,000 per person per year. Marketing loan benefits, including loan deficiency payments and marketing loan gains, were subject to a \$75,000 limit per person per year. However, forfeitures of commodities under loan to the government or repayments of loans with generic certificates were available and not subject to the payment limit. Summed together, these three limits amounted to a total of \$180,000 in payments per person per year.

The payment limits appeared to simply sum up to \$180,000 per person, but the rules on payment limits and eligibility were more complex. According to the 2002 Farm Bill, a definition of a "person" for payment limitation purposes may be "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." Second, existing farm program rules generally combined a husband and wife as well as minor children as one "person" for payment limitation purposes, except under certain situations.

Third, given the definitions, a "person" was eligible to receive farm program payments as part of up to three entities. Thus, under the three-entity rule, a producer could effectively qualify for the full payment limit as one individual and up to half the payment limit in each of a second and third entity, effectively qualifying for a total of twice the individual payment limit. Although this double limit is widely mentioned, remember that it is only reached if the individual caps out payments in each part of the program in each of the three entities and the individual controls 100 percent of the first entity and exactly 50 percent of the other two entities.

The 2008 Farm Bill eliminates the three-entity rule and requires the direct attribution of payments to individuals. With direct attribution, producers will be able to be involved in multiple entities, but payments from those entities cannot total more than the individual limits for direct and counter-cyclical payments. However, spouses in farming operations receiving payments may also be eligible to receive payments if the other spouse is determined to be "actively engaged" in the farming operation. This provision could effectively double the individual payment limits for the farm operation.

The individual payment limitations remain unchanged at \$40,000 and \$65,000 for the direct and counter-cyclical programs, respectively. However, all limits on marketing loan benefits, including loan deficiency payments and marketing loan gains were removed. If a producer enrolls in ACRE, payment limitations will be \$32,000 for direct payments and \$73,000 for ACRE payments. SURE payments are limited to \$100,000 per year for eligible producers.

In addition to the individual payment limits, the 2002 Farm Bill was the first Farm Bill to include a restriction for program eligibility based on adjusted gross income (AGI). Under the 2002 rule, any individual or entity was ineligible for program benefits if the 3-year average AGI of the in-

dividual or entity was greater than \$2.5 million unless at least 75 percent of the average AGI came from agricultural activities. The 2008 Farm Bill modifies the adjusted gross income eligibility standard, making all producers with a 3-year average non-farm AGI greater than \$500,000 or 3-year average farm AGI greater than \$750,000 ineligible for commodity payments. As with payment limitations, spouses could also qualify under the new rules which would effectively double the eligibility standard for married couples.

Domestic Supports and World Trade Organization Commitments

The safety net programs for covered commodities described above, as well as some of the specific programs for other commodities, are mandatory spending programs not subject to budget authorization limits. In particular, the counter-cyclical payments, marketing loan benefits, and ACRE payments are tied to commodity prices (and production for the marketing loan and ACRE programs) and are not subject to total spending limits. Therefore, as market conditions change, government spending changes as well.

However, under the Uruguay Round Agreement on Agriculture, the United States committed itself to limits on the amount of domestic supports that fit within the category of amber box programs. Amber box programs are those that are shown to distort international trade patterns. The U.S. limit agreed to under the Uruguay Round Agreement is approximately \$19.1 billion in amber box program spending per year.

To facilitate the support programs in the new Farm Bill and to also remain in compliance with the World Trade Organization (WTO) commitments, the legislation says that "If the Secretary [of Agriculture] determines that expenditures ... subject to the total allowable domestic support levels ... will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels." In short, the support levels advertised in the payment rates in the safety net remain subject to possible reduction under scenarios of high government spending levels that threaten to exceed WTO limits.

Other Commodity Programs

While the predominant focus of the Farm Bill has been on the safety net for covered commodities, there are several other commodities that are included in farm programs. A brief summary of some of the additional programs follows.

Dairy. The dairy provisions of the 2008 Farm Bill include the continuation of most of the basic support programs from the previous Farm Bill. The Milk Price Support Program was renamed the Dairy Product Price Support Program and modified to support the price of cheddar cheese, butter, and nonfat dry milk instead of the manufac-

turing milk price. The Milk Income Loss Contract (MILC) program is extended through 2012. The primary changes in the MILC program include an increase in the MILC payment percentage and payment limit for most of the life of the new program. In addition, a provision that allows the target price to adjust to changes in feed costs was included.

The program pays producers nationally whenever the Class I fluid milk price in Boston (as per the applicable milk marketing order) is below \$16.94 per hundredweight at a payment rate of 45 percent (34 percent before Oct. 1, 2008 and after Aug. 31, 2012) of the difference between \$16.94 and the Boston Class I fluid milk price. The payments rates are calculated on a monthly basis and are paid within 60 days of receiving production evidence for the applicable month.

Eligible operations can receive MILC payments on a maximum of 2.4 million pounds (2.985 million pounds before Oct. 1, 2008 and after Aug. 31, 2012) of milk per year per operation. Program participation and eligible production are determined on the federal fiscal year, which runs from October through the following September. Under the program, producers are allowed to determine the month in which they want to start receiving payments on eligible production. So, if the eligible operation produces more than the limit during the year, the operation may want to select a starting month such that the operation's first 2.4 (2.985) million pounds of milk eligible for payments come during months in which the payment rate is expected to be the highest.

The production limit is stated as a limit per operation and not per individual, so operations of several individuals are only eligible as one operation. While the farm may be reconstituted for business reasons into separate operations, USDA will consider such changes carefully and deny benefits for any operations they determine to have been reconstituted for the sole purpose of receiving additional payments.

Pulse Crops. The 2002 Farm Bill also established marketing loans and loan deficiency payments for the pulse crops of small chickpeas, lentils, and dry peas. Beginning in 2009, large and small chickpeas, lentils, and dry peas will be eligible for the counter-cyclical payments and ACRE programs. Similar to the process for adding oilseeds to the counter-cyclical program in 2002, payment yields will be based on 1998-2001 average yields, adjusted to 1981-1985 average yields.

Sugar. The U.S. sugar program is designed as a "no net cost" program that uses a nonrecourse loan program and marketing allotments to support sugar producers. The 2008 Farm Bill increases the loan rate for raw cane sugar from 18 cents per pound in 2008 to 18.75 cents per pound by 2011. Similarly, the loan rate for refined beet sugar rises to 24 cents per pound by 2011. The bill also stipulates that USDA set the domestic marketing allotment to 85 percent of estimated human consumption in the United States. Any imports above the 15 percent import allotment will be used for ethanol production.

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