

For: State and County Offices

Agricultural Act of 2014 (2014 Farm Bill) Payment Eligibility and Payment Limitation Provisions

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Payment Eligibility and Payment Limitation Provisions

The 2014 Farm Bill includes payment eligibility and payment limitation provisions applicable for receiving payments and benefits under programs authorized by the 2014 Farm Bill.

The majority of the rules and requirements effective for previous years' program payments and benefits are applicable to recipients of program payments and benefits under the 2014 Farm Bill. This includes the requirements of actively engaged in farming, cash-rent tenant, substantive change, minor child, and spousal provisions. Payments will continue to be limited by direct attribution to person and legal entity.

The average AGI limitations were simplified. Effective for 2014, persons and legal entities **must** have an average AGI of \$900,000 or less for the receipt of commodity, price support and disaster assistance program payment and benefits. Effective for 2015, the same average AGI limitation applies to the recipients of payments and benefits from most conservation programs. The definitions for determining AGI for persons and legal entities and the corresponding 3-year periods for the determination of average AGI remain unchanged.

B Purpose

This notice provides information and instructions on:

- implementing payment eligibility/limitation provisions effective for participants in programs authorized by the 2014 Farm Bill
- applying the requirements
- using new and revised forms and present business processes for information collection and determinations
- updating 2014 web-based eligibility.

| | |
|----------------------------|--|
| Disposal Date | Distribution |
| January 1, 2015 4-15-14 | State Offices; State Offices relay to County Offices |

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2 Payment Eligibility

A Actively Engaged in Farming for Agriculture Risk Coverage and Price Loss Coverage (ARCPLC)

Actively engaged in farming still requires:

- a significant contribution of:
 - capital, land, equipment, or a combination thereof
 - active person labor, active personal management, or a combination thereof
- that contributions be commensurate with the claimed share of the profit or loss of the farming operation
- the contributions to be at risk for a loss.

Note: Landowner exemption still applies to a person or legal entity as meeting the requirements to be considered actively engaged in farming.

B Member Contribution Requirements of Active Personal Labor and/or Management

Each partner, stockholder, or member **must** make a contribution of active personal labor and/or active personal management to the farming operation that **must** be:

- performed on a regular basis
- identifiable and documentable
- separate and distinct from contributions of any other partner, stockholder, or member of the farming operation.

The failure of any partner, stockholder, or member to meet this requirement will result in a reduction of payments to the payment entity commensurate with the ownership share held by that interest holder.

Exceptions may apply for spouses, minor children, and certain types of legal entities.

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2 Payment Eligibility (Continued)

C Date for Determination of Ownership Interest

Payment limitation by direct attribution includes prorated payments to the members, stockholders, and shareholders according to the level of ownership interest held.

The date for determination of ownership interest is June 1. Ownership interest in a legal entity, as of June 1, will be used for direct attribution for the entire program year.

D Substantive Change

Any change to a farming operation that results in an increase in the number of persons and legal entities for payment limitation purposes **must** be bona fide and substantive. The following are examples of changes considered substantive and the requirements associated with each.

- **An increase in base acres** in the farming operation of 20 percent from the previous year will qualify for an increase of 1 person or legal entity for payment limitation purposes, **unless** the State Office determines the change in the farming operation was of a magnitude and complexity that supports additional persons and/or legal entities in the farming operation for payment limitation purposes.
- **Transfer of land or equipment** by sale or gift from a present member to a new member that meets the following requirements:
 - must be at least commensurate with the new member's claimed share of the farming operation
 - sales transaction or gifting **must** be based on fair market value of the land or equipment
 - sale **cannot** be financed by the former owner of the land or equipment
 - former owner **cannot** retain any residual control of the land or equipment
 - there must **not** be an agreement to repurchase the land or equipment at a later date.

Note: Complete documentation of the transaction will be **required**.

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2 Payment Eligibility (Continued)

E Cash Rent Tenant Provisions

A person or legal entity that rents land for a fixed amount of cash or commodity **must** provide significant contributions of either of the following to the farming operations to be considered eligible to receive program benefits on rented land:

- active personal labor
- equipment **and** active personal management.

Note: Contributions of active personal labor and/or active personal management can **only** be made by a living person. For a legal entity, contributions can **only** be made by persons who are members or interest holders of the legal entity.

The cash-rent tenant provisions are **in addition** to the actively engaged in farming requirements for eligibility. Failure to meet the cash-rent tenant provisions will result in a reduction of ARCPLC payments through the application of a cropland factor.

F Farm Operating Plans and Determinations of Record

All farm operating plans currently on file and the resultant determinations of record:

- are continuous
- remain effective for 2014 payment eligibility and payment limitation purposes, unless revised.

It is the producer's **responsibility** to timely inform FSA, in writing, of any changes in farming operation that may affect or alter the determinations of record. Failure to do so may result in a determination of ineligibility and forfeiture of program payments.

County Offices shall **review**, with each producer, **all** information on file about the producer's farming operation during the first instance that program payments and benefits subject to limitation are requested for the current program year.

Reminder: The business file process shall be used for collecting data for all farming operations. CCC-901, CCC-902, and CCC-903 remain valid and available for 2014.

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3 Average AGI Limitation Under the 2014 Farm Bill

A AGI Limitation

The \$900,000 average AGI limitation applies as follows.

| IF average AGI exceeds... | THEN the person or legal entity is ineligible for payments and benefits under the following programs... |
|---|---|
| <p>\$900,000</p> <p>Note: Average AGI, or comparable measure, of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year, for which payments or benefits are requested. Exclude any years for which the person or legal entity did not have taxable income.</p> | <p>for:</p> <ul style="list-style-type: none"> • October 1, 2011, and subsequent years: <ul style="list-style-type: none"> • ELAP • LFP • LIP • TAP • 2014 and subsequent years, NAP • 2014 through 2018: <ul style="list-style-type: none"> • Agricultural Management Assistance (AMA) • ARC • LDP • marketing loan gain (MLG) • PLC • 2014 and 2015 only, transition assistance for producers of upland cotton • 2015 and subsequent years: <ul style="list-style-type: none"> • Agricultural Conservation Easement Program (ACEP) • Conservation of Private Grazing Land Program (CPGLP) • Conservation Stewardship Program (CSP) • CRP • EQIP • Farmable Wetland Program (FWP) • Grassroots Source Water Protection Program (GSWPP) • Regional Conservation Partnership Program (RCPP) • Voluntary Public Access and Habitat Incentive Program (VPAHIP). |

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3 Average AGI Limitation Under the 2014 Farm Bill (Continued)

B AGI Amount

The AGI amount for a:

- person is the amount reported to IRS on the appropriate tax filing documents as AGI
- legal entity is the comparable measure determined according to CCC rules and FSA procedures.

C New CCC-941, Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information

CCC-941 (Exhibit 1) **must** be completed by any person or legal entity, and all interest holders to the fourth level ownership, that request program payments and benefits under the 2014 Farm Bill. CCC-941's are year specific for the program year for which benefits are requested.

D Compliance Verification

Referral to the IRS of all completed and acceptable CCC-941's for AGI compliance verification will be announced at a later date.

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4 Payment Limitations

A Person or Legal Entity Payment Limitations

The following table provides the payment limitations for a person or legal entity for programs that are subject to the 2014 Farm Bill provisions.

| Program Payment Type | Annual Limitation, Unless Otherwise Noted, 2014 Through 2018 |
|--|--|
| Commodity and Price Support Programs | |
| ARC, PLC, LDP, and MLG payments for other than peanuts | \$125,000 |
| ARC, PLC, LDP, and MLG payments for peanuts | \$125,000 |
| Transition assistance for producer of upland cotton | \$40,000 <u>1/</u> |
| Conservation Programs | |
| AMA | \$50,000 <u>5/</u> |
| CRP annual rental payment and incentive payment | \$50,000 <u>2/</u> |
| CSP | \$200,000 <u>3/</u> |
| ECP, per disaster event | \$200,000 |
| EFRP, per disaster event | \$500,000 |
| EQIP | \$450,000 <u>4/</u> |
| Disaster Assistance Programs | |
| ELAP, LFP, LIP | \$125,000 <u>6/</u> |
| NAP | \$125,000 |
| TAP | \$125,000 |
| Other Programs | |
| Trade Adjustment Assistance for Farmers | \$10,000 |

- 1/ Transition assistance for producers of upland cotton is **only** available in 2014 and 2015 program years.
- 2/ CRP contracts approved before October 1, 2008, may exceed the limitation, subject to payment limitation rules in effect on the date of contract approval.
- 3/ \$200,000 limitation is the total limit under all CSP contracts entered into subsequent to the enactment of the 2014 Farm Bill during fiscal years 2014 through 2018.
- 4/ \$450,000 limitation is the total limit under all EQIP contracts entered into subsequent to the enactment of the 2014 Farm Bill during fiscal years 2014 through 2018.
- 5/ \$50,000 limitation is the total limit that a participant may receive under the AMA program in any fiscal year.
- 6/ Total payments received under LIP, LFP, and ELAP may **not** exceed \$125,000. A separate limitation applies to TAP payments. **For SURE payments** for losses on or before September 30, 2011, the payment limit regulations in effect when those losses occurred apply. The SURE limit is separate from the payment limitation amount applicable to LIP, LFP, TAP, and ELAP benefits authorized under the 2014 Farm Bill.

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4 Payment Limitations (Continued)

B Updating 2014 Web-Based Eligibility

Instructions are forthcoming on recording 2014 information and determinations in web-based eligibility.

5 Policies, Procedures, and Forms

A CCC-941 (3-28-14)

The new CCC-941 (Exhibit 1) is the **only** document to be used for certification with the \$900,000 AGI limitation.

B Updated forms

All other forms, such as CCC-901, CCC-902I, CCC-902I Short Form, CCC-902E, CCC-902E Continuation, and CCC-903 have been updated to reflect the 2014 Farm Bill. CCC-900-1 through 5 will be updated.

Note: To ensure that the most current version is being used, users will see “Agriculture Act of 2014” in the heading.

| | |
|--|--|
| This form is available electronically. | |
| CCC-901 (03-28-14) | U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation |
| MEMBER'S INFORMATION Agricultural Act of 2014 | |
| | 1. County [Redacted] |
| | 2. State [Redacted] |
| | 3. Program Year [Redacted] |
| NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a – as amended). The authority for requesting the information identified on this form is 7 CFR Part 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Agricultural Act of 2014 (Pub. L. 113-79). The information will be used to identify members of a legal entity. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits. | |
| This information collection is exempted from the Paperwork Reduction Act as specified in the Agricultural Act of 2014 (Pub. L. 113-79, Title I, Subtitle F, Administration). The provisions of criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE. | |

C New Handbook

Forthcoming 5-PL, Payment Eligibility, Payment Limitation, and Adjusted Gross Income, will be the reference for **all** payment eligibility, payment limitation, and average AGI policies and procedures for implementing the 2014 Farm Bill.

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6 Action

A State Office Action

State Offices shall review and provide the information in this notice to all County Offices.

C County Office Action

County Offices shall review and follow the contents of this notice.

Example of CCC-941

The following is an example of a completed CCC-941.

| | | |
|---|--|---|
| <p>This form is available electronically.</p> | | |
| <p>CCC-941 (03-28-14)</p> <p>U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation</p> | | <p>1. Return completed form to: Johnson County FSA Office 1234 Front St. Someplace, TX XXXXX-XXXX</p> <p><i>(Name and address of FSA county office or USDA Service Center)</i></p> |
| <p>AVERAGE ADJUSTED GROSS INCOME (AGI) CERTIFICATION AND CONSENT TO DISCLOSURE OF TAX INFORMATION <i>Agricultural Act of 2014</i></p> | | |
| <p>NOTE: <i>The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Food Security Act of 1985 (Pub. L. 99-198), and the Agricultural Act of 2014 (Pub. L. 113-79). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits.</i></p> <p><i>This information collection is exempted from the Paperwork Reduction Act as specified in the Agricultural Act of 2014 (Pub. L. 113-79, Title I, Subtitle F - Administration). PLEASE RETURN COMPLETED FORM TO FSA AT THE ABOVE ADDRESS.</i></p> | | |
| <p>2. Name and Address of Individual or Legal Entity (Including Zip Code) Flatland Farms LLC 9630 Antelope Rd. Centreville, OK XXXXX-XXXX</p> | | <p>3. Taxpayer Identification Number (TIN) (Social Security Number for Individual; or Employer Identification Number for Legal Entity) XX-XXXXXXX</p> |
| <p><i>(Use the same name and address as used for the tax return specified in Part B.)</i></p> | | |
| <p>PART A – CERTIFICATION OF AVERAGE ADJUSTED GROSS INCOME</p> | | |
| <p>4. The program year for payment eligibility</p> | | |
| <p>A. 2014 Enter the year for which program benefits are requested. The period for calculation of the average AGI will be of the three taxable years preceding the most immediately preceding complete taxable year for which benefits are requested. For example, the 3-year period for the calculation of the average AGI for 2014 would be the taxable years of 2012, 2011 and 2010.</p> | | |
| <p>5. I certify that the average adjusted gross income of the individual or legal entity in Item 2 (for the year included in Item 4) was:</p> <p>A. <input checked="" type="checkbox"/> Less than (or equal to) \$900,000</p> <p>B. <input type="checkbox"/> More than \$900,000</p> | | |
| <p>PART B – CONSENT TO DISCLOSURE OF TAX INFORMATION</p> | | |
| <p>Pursuant to 26 U.S.C. §6103, I hereby authorize the Internal Revenue Service (IRS) to review the following items of "return information" (as defined in 26 U.S.C. §6103(b)(2)) from the returns (as specified below) of the individual or legal entity identified in Item 2 for the taxable years indicated in Item 4:</p> <p>Form 1040 and 1040NR filers: farm income or loss; adjusted gross income Form 1120, 1120A, 1120C filers: charitable contributions, taxable income Form 1041 filers: farm income or loss, charitable contributions, income distribution deductions, exemptions, adjusted total income; total income Form 1120S filers: ordinary business income Form 1065 filers: guaranteed payments to partners, ordinary business income Form 990T: unrelated business taxable income</p> <p>I understand the IRS will review these items of return information in order to perform calculations, the results of which I authorize to be disclosed to officers and employees of the United States Department of Agriculture (USDA) for use in determining the individual's or legal entity's eligibility for specified payments for various commodity and conservation programs. The calculations performed by the IRS use a methodology prescribed by the USDA. In addition, I am aware that the USDA may use the information received for compliance purposes related to this eligibility determination, including referrals to the Department of Justice.</p> <p>Specially, the IRS will disclose to the USDA the individual's or legal entity's name and TIN, and inform the USDA if, pursuant to its calculations, the average Adjusted Gross Income (AGI) is above or below eligibility requirements as prescribed by the Agricultural Act of 2014. The IRS will also disclose to the USDA the type of return from which the information used for the calculations was obtained.</p> <p>If the IRS is unable to locate a return that matches the taxpayer identity information provided above, or if IRS records indicate that the specified return has not been filed, for any of the taxable years indicated, the IRS may disclose that it was unable to locate a return, or that a return was not filed, for those years, whichever is applicable.</p> <p>An approved Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority when completing this form.</p> <p>By signing this form:</p> <ul style="list-style-type: none"> - I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form; - I certify that all information contained within this certification is true and correct; and is consistent with the tax returns filed with the IRS; - I agree to authorize CCC to obtain tax data from the IRS for AGI compliance verification purposes by filing this form; - I am aware that without this consent to disclosure, the returns and return information of the individual or legal entity identified in Item 2 are confidential and are protected by law under the Internal Revenue Code; - I certify that I am authorized under applicable state law to execute this consent on behalf of the legal entity identified in Item 2 (for legal entity only). | | |
| <p>6. Signature (By) /s/ William A. Farmer</p> | <p>7. Title/Relationship of the Individual if Signing in a Representative Capacity for a legal entity President, Flatland Farms, LLC</p> | <p>8. Date (MM-DD-YYYY) 05-30-2014</p> |
| <p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited basis will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).</small></p> <p><small>If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov. USDA is an equal opportunity provider and employer.</small></p> | | |

Example of CCC-941 (Continued)

CCC-941 (03-28-14)

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GENERAL INFORMATION ON AVERAGE ADJUSTED GROSS INCOME – PART A

Individuals or legal entities that receive benefits under most programs administered by CCC cannot have incomes that exceed a certain limit set by law. For entities, both the entity itself, and its members cannot exceed the income limitation. If a member, whether an individual or an entity, of an entity exceeds the limitation, payments to that entity will be commensurately reduced according to that member's direct or indirect ownership share in the entity. (All members of the entity must also submit this form to verify income the limitation is met.)

Adjusted Gross Income is the individual's or legal entity's IRS-reported adjusted gross income consisting of both farm and nonfarm income. A three year average of that income will be computed for the three years of the relevant base period identified on the first page of this form to determine eligibility for the applicable program year. Individuals or legal entities with average **adjusted gross income** greater than \$900,000 shall be ineligible for all payments and benefits under the commodity, price support, disaster assistance, and conservation programs.

HOW TO DETERMINE ADJUSTED GROSS INCOME (AGI)

Individual – Internal Revenue Service (IRS) Form 1040 filers, specific lines on that form represent the adjusted gross income and the income from farming, ranching, or forestry operations.

Trust or Estate – the adjusted gross income is the total income and charitable contributions reported to IRS.

Corporation – the adjusted gross income is the total of the final taxable income and any charitable contributions reported to IRS.

Limited Partnership (LP), Limited Liability Company (LLC), Limited Liability Partnership (LLP) or Similar Entity – the adjusted gross income is the total income from trade or business activities plus guaranteed payments to the members as reported to the IRS.

Tax-exempt Organization – the adjusted gross income is the unrelated business taxable income excluding any income from non-commercial activities as reported to the IRS.

HOW TO DETERMINE AVERAGE ADJUSTED GROSS INCOME

The period for calculation of the average AGI will be of the three taxable years preceding the most immediately preceding complete taxable year for which benefits are requested. Use this table for applicable years to be used in determining average AGI.

| IF the crop year is... | THEN... Average AGI will be based on the following years.... |
|------------------------|--|
| 2014 | 2012, 2011, and 2010 |
| 2015 | 2013, 2012, and 2011 |
| 2016 | 2014, 2013, and 2012 |
| 2017 | 2015, 2014, and 2013 |
| 2018 | 2016, 2015, and 2014 |

GENERAL INFORMATION ON CONSENT TO DISCLOSURE OF TAX INFORMATION – PART B

This consent allows IRS's access to, and use of, certain items of return information to perform calculations, using a methodology prescribed by the USDA, that will assist USDA in its verification of a program participant's compliance with the adjusted gross income (AGI) limitations necessary for participation in, and receipt of, commodity, conservation, price support or disaster program benefits. This consent also permits the USDA to receive certain items of return information for its eligibility determination.

This consent authorizes the disclosure of these items of return information for only the time period specified. Each item of information requested on this form is needed for the IRS to (1) locate, and verify, your tax information; (2) perform the requisite Average AGI calculations; and (3) provide the USDA with the legal entity's name and Taxpayer Identification Number (TIN), the type of return from which the specified items were located for use in the calculation, and whether or not the average AGI is above or below eligibility requirements. The IRS will not provide the USDA with any of the items specified on this consent form that it uses to perform the calculations or the average AGI figure.

This form can only be signed by the person authorized under state law to sign this consent for the legal entity identified in Item 2. **An approved Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority when completing this form.**

INSTRUCTIONS FOR COMPLETION OF CCC-941

| Item No./Field name | Instruction |
|--|---|
| 1. Return Completed Form To | Enter the name and address of the FSA county office or USDA service center where the completed CCC-941 will be submitted. |
| 2. Person or Legal Entity's Name and Address | Enter the person's or legal entity's name and address for commodity, conservation, price support, or disaster program benefits. Enter the name and address as it appeared on the IRS tax returns filed for the taxable years specified in Item 4. |
| 3. Taxpayer Identification Number | In the format provided, enter the <u>complete</u> taxpayer identification number of the person or legal entity identified in Item 2. This will be either a Social Security Number or Taxpayer Identification Number. |
| 4. Program Year | Enter the year for which program benefits are being requested. The program year entered determines the 3-year period used for the calculation of the average adjusted gross income (AGI) for payment eligibility and the years for which this consent allows access to tax information. |
| 5. Average Adjusted Gross Income | Select the box next to the response that describes the average adjusted gross income for the applicable 3-year period for the program year entered in Item 4. Select only one response. |
| 6. Signature | Read the acknowledgments, responsibilities and authorizations, before affixing your signature. <u>Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority.</u> |
| 7. Title/Relationship | Enter title or relationship to the legal entity identified in Item 2. |
| 8. Date | Enter the signature date in month, day and year. This form must be returned to FSA within 90 days of the signature date for the consent to be valid. |