



## Colorado FSA Today

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An Online Monthly Newsletter Covering the Hottest Topics in Federal Farm Programs

### USDA ANNOUNCES PROCESS TO RESOLVE DISCRIMINATION CLAIMS OF HISPANIC AND WOMEN FARMERS

As part of continued efforts to close the chapter on allegations that discrimination occurred at USDA in past decades, Agriculture Secretary Tom Vilsack and Assistant Attorney General Tony West today announced the establishment of a process to resolve the claims of Hispanic and women farmers and ranchers who assert that they were discriminated against when seeking USDA farm loans.

The claims process offers a streamlined alternative to litigation and provides at least \$1.33 billion in compensation, plus up to \$160 million in farm debt relief, to eligible Hispanic and women farmers and ranchers. This announcement follows the Obama Administration's settlement of longstanding litigation brought by African American farmers and Native American farmers.

In conjunction with this announcement, USDA is launching an outreach effort to potential claimants that will include a call center for farmers and ranchers, a website, public service announcements, and in-person meetings around the country. Individuals interested in participating in the claims process may register to receive a claims package, or may obtain more information, by visiting [www.farmerclaims.gov](http://www.farmerclaims.gov). Beginning February 25, 2011, individuals can register to receive a claims package by calling the Farmer and Rancher Call Center at 1-888-508-4429. USDA cannot provide legal advice to potential claimants. Persons seeking legal advice may contact a lawyer or other legal services provider.

### EMERGENCY CONSERVATION PROGRAM (ECP) FUNDING

ECP offers assistance to eligible producers who have lost fencing, conservation structures and livestock due to wildfire or natural disasters. Funds can be used to repair farmland damaged

by natural disasters or for carrying out emergency water conservation measures during periods of severe drought. ECP funding is not "automatic". Producers aware of a need for this type of assistance should contact their local FSA office immediately.

If ECP funding is approved, it is important to submit your request for ECP assistance before beginning reconstructive work. Completing reconstructive work before submitting an ECP request could result in forfeiture of program eligibility. Producers can use ECP funds to remove debris on agricultural lands, restore fences, grade and shape land and repair existing conservation structures damaged by the disaster.

Program eligibility is determined by the county committee by conducting on-site inspections that take into account the type and extent of the damage. Conservation problems that existed before the disaster are not eligible for ECP assistance. ECP program participants can receive financial assistance for up to 75 percent of the cost to implement approved emergency conservation practices.

### DCP SIGNUP & ADVANCE PAYMENTS

Enrollment for the 2011 Direct and Counter-cyclical Program (DCP) has begun and will continue through June 1, 2011. Advance payments of 22% on the 2011 DCP program will be available starting December 1, 2010. The remaining 78% of your DCP payment will be issued after October 1, 2011.

Eligible producers receive direct payments at rates established by statute regardless of market prices. DCP contract signatures for enrollment are due by the signup deadline of June 1, 2011. For more information producers can contact their local FSA office.

### THE ACRE OPTION

The Average Crop Revenue Election (ACRE) program provides a safety net based on state revenue losses and acts in place of the price-based safety net of counter-cyclical payments under DCP. A farm's payment is based on a revenue guarantee calculated using a 5-year average state yield and the most recent 2-year national price for each eligible commodity.

An ACRE payment is issued when both the state and the farm have incurred a revenue loss. In exchange for participating in ACRE, a farm's direct payment is reduced by 20 percent, and marketing assistance loan rates are reduced by 30 percent.

The decision to enroll in the ACRE Program is irrevocable. The owner of the farm and all producers on the farm must agree to enroll in ACRE. Once enrolled, the farm shall be enrolled for that initial crop year and will remain in ACRE through the 2012 crop year.

The June 1, 2011, deadline is statutory for all participants.

### SURE SIGNUP

Signup for the 2009 Supplemental Revenue Assistance Program (SURE) began Jan. 10, 2011, and ends July 29, 2011. SURE provides benefits for 2008 - 2011 crop year farm revenue losses due to natural disasters.

A farm enrolled in SURE may be eligible for benefits when either:

- the farm is in a county with a Secretarial Disaster Declaration or within a contiguous county and incurred crop production or quality losses, or both, and includes all crops grown by a producer nationwide, except grazed crops;
- or, if not a Secretarial Disaster Declared county, the farm suffered greater than 50% loss because of disaster related conditions for the crop year.

## LIVESTOCK INDEMNITY PROGRAM (LIP)

LIP provides assistance to producers for livestock deaths that result from natural disasters. LIP compensates livestock owners and contract growers for livestock death losses in excess of normal mortality due to adverse weather, including loss due to hurricanes, floods, blizzards, diseases, wildfires, extreme heat or extreme cold. Eligible losses must have occurred on or after Jan. 1, 2008, and before Oct. 1, 2011.

A notice of loss must be filed with FSA within 30 days of when the loss of livestock is apparent. USDA has established normal mortality rates for each type and weight range of eligible livestock, i.e. Adult Beef Cow = 1.5% and Non-Adult Beef Cattle = 3%. These established percentages reflect losses that are considered expected or typical under, "normal" conditions. Producers should file a LIP application as soon as possible to avoid a delay in processing and receipt of disaster assistance.

### REMEMBER HAY NET

Producers are encouraged to use Hay Net on the FSA website (<http://www.fsa.usda.gov/haynet>). This online service allows producers with hay and those who need hay to post ads so they can make connections. Hay Net is a popular site for farmers and ranchers who have an emergency need, such as the one caused by the current drought and wildfire conditions. Individual ads can be posted free of charge by producers who complete a simple online registration form the first time they use the site.

### NONINSURED CROP DISASTER ASSISTANCE PROGRAM (NAP)

The noninsured crop disaster assistance program (NAP) is a federally funded program that helps producers reduce their risk when growing food and fiber crops, specialty crops and crops for livestock feed.

Drought conditions are wide-spread throughout the state. If you have crops that have been affected by drought or adverse weather conditions file a notice of loss NOW. Do not wait until it is too late to receive assistance.

Production records for all crops must be reported to FSA no later than the final acreage reporting date for the crop for the following year. FSA requires that any production reported in a loss year be verifiable according to Agency specifications.

NAP Losses must be reported within 15 days of a disaster event or the date

the loss becomes apparent.

### ADJUSTED GROSS INCOME

USDA has a Memorandum of Understanding with the Internal Revenue Service to establish an electronic information exchange process for verifying compliance with the adjusted gross income (AGI) provisions for farm programs. Written consent will be required from each producer or payment recipient for the tax review process. No actual tax data will be included in the report that IRS sends to FSA.

The agreement ensures that payments are not issued to producers whose AGI exceeds certain limits. The limits set in the 2008 Farm Bill are \$500,000 nonfarm average AGI for commodity and disaster programs; \$750,000 farm average AGI for direct payments; and \$1 million nonfarm average AGI for conservation programs.

Participants in CCC programs subject to average AGI rules must submit form CCC-927 (Individual) and/or CCC-928 (Legal Entity) to the Internal Revenue Service by June 1, 2011 to avoid interruption of program benefits. These forms may be obtained from local FSA and NRCS offices or online at: <http://forms.sc.egov.usda.gov/eforms/main-servlet>.

### MARKETING ASSISTANCE LOANS

A Marketing Assistance Loan (MAL) is available to producers who share in the risk of producing a crop. To be eligible, a producer must maintain continual beneficial interest in the crop from harvest through the earlier of the date the loan is repaid or CCC takes title to the commodity.

Beneficial interest means retaining the ability to make decisions about the commodity; responsibility for loss or damage to the commodity; and title to the commodity. Once beneficial interest in a commodity is lost, the commodity is ineligible for loan — even if the producer regains beneficial interest.

Commodity loan eligibility also requires compliance with conservation and wetland protection requirements; beneficial interest requirements, acreage reporting and ensuring that the commodity meets Commodity Credit Corporation minimum grade and quality standards.

For commodities to be eligible they must have been produced by an eligible producer, be in existence and in a storable condition and be merchantable for food, feed or other uses as determined by CCC. The quality of the

commodity in farm storage must be maintained throughout the term of the loan.

Producers do not have to participate in the Direct and Counter-Cyclical and/or ACRE Programs to be eligible for commodity loans.

Violating provisions of a marketing assistance loan may trigger administrative actions, such as assessing liquidated damages, calling the loan and denial of future farm-stored loans.

Section 1291 of the Department of Defense and Full-Year Continuing Appropriations Act of 2011 does not authorize funding to provide nonrecourse MALs for mohair for the remainder of FY 2011. Effective April 14, 2011, County Offices are no longer authorized to accept requests for mohair marketing assistance loans and loan deficiency payments.

### FINAL LOAN AVAILABILITY DATES FOR 2010 CROPS

- May 31-Corn, Grain Sorghum, Rice, Soybeans, Cotton

### FARM LOAN PROGRAMS

The Farm Service Agency is committed to providing family farmers with loans to meet their farm credit needs. If you are having trouble getting the credit you need for your farm, or regularly borrow from FSA, direct and guaranteed loans are currently available.

Ask your lender about an FSA loan guarantee if you've had a setback and your lender is reluctant to extend or renew your loan.

Farm ownership loans or farm operating loans may be obtained as direct loans for a maximum of up to \$300,000. Guaranteed loans can reach a maximum indebtedness of \$1,119,000. Producers are encouraged to apply early so that a loan can be processed and funded in a timely manner.

### RURAL YOUTH LOANS

FSA makes loans to rural youths to establish and operate income-producing projects in connection with 4-H clubs, FFA and other agricultural groups. Projects must be planned and operated with the help of the organization advisor, produce sufficient income to repay the loan and provide the youth with practical business and educational experience. The maximum loan amount is \$5,000.

## BEGINNING FARMER & RANCHERS

FSA assists beginning farmers and ranchers to finance agricultural enterprises. Under these designated farm loan programs, FSA can provide financing to eligible applicants through either direct or guaranteed loans. FSA defines a beginning farmer as a person who:

- Has operated a farm for not more than 10 years
- Will materially and substantially participate in the operation of the farm
- Agrees to participate in any loan assessment and borrower training program in production and/or financial management required by the Agency
- Does not own farm acreage greater than 30 % of the median size farm in the county.

Additional program information, loan applications, and other materials are available at your local USDA Service Center. You may also visit [www.fsa.usda.gov](http://www.fsa.usda.gov).

## LOANS FOR THE SOCIALLY DISADVANTAGED

FSA has loan programs available to assist applicants to begin or continue in agriculture production. Loans are available for operating type loans and/or purchase or improve farms or ranches.

While all qualified producers are eligible to apply for these loan programs, the FSA has provided targeted funding for members of Socially Disadvantaged groups.

A socially disadvantaged applicant is one of a group whose members have been subjected to racial, ethnic or gender prejudice because of his or her identity as members of a group.

FSA loans are only available to applicants who meet all the eligibility requirements and are unable to obtain the needed credit elsewhere.

## LIVESTOCK FORAGE DISASTER PROGRAM

The Livestock Forage Disaster Program (LFP) provides compensation to eligible livestock producers who suffer grazing losses for covered livestock due to: drought conditions or fire on federally managed land. Contact your local county office to determine eligibility and for application deadlines.

Applications must be filed no later than 30 calendar days after the end of the calendar year in which the grazing

losses occurred. Losses must occur in calendar year the application is being filed.

Eligible producers must have obtained a policy or plan of insurance under FCIA or NAP coverage by the applicable state sales closing date.

Additional information about LFP including eligible livestock and fire criteria is available at county FSA offices or online at: [www.fsa.usda.gov](http://www.fsa.usda.gov).

## FARM RECONSTITUTIONS

When changes in farm ownership or operation take place, a farm reconstitution is necessary. The reconstitution — or recon — is the process of combining or dividing farms or tracts of land based on the farming operation.

The following are the different methods used when doing a farm recon. Remember, to be effective for the current year, recons must be requested by Aug. 1 for farms enrolled in the Direct and Counter-cyclical Program.

- Estate Method — the division of bases, allotments and quotas for a parent farm among heirs in settling an estate;
- Designation of Landowner Method — may be used when (1) part of a farm is sold or ownership is transferred; (2) an entire farm is sold to two or more persons; (3) farm ownership is transferred to two or more persons; (4) part of a tract is sold or ownership is transferred; (5) a tract is sold to two or more persons; or (6) tract ownership is transferred to two or more persons. In order to use this method the land sold must have been owned for at least three years, or a waiver granted, and the buyer and seller must sign a Memorandum of Understanding;
- DCP Cropland Method — the division of bases in the same proportion that the DCP cropland for each resulting tract relates to the DCP cropland on the parent tract;
- Default Method — the division of bases for a parent farm with each tract maintaining the bases attributed to the tract level when the reconstitution is initiated in the system.

If DCP direct payments have already been issued on a particular farm, the reconstitution will be effective for the next year, unless the payments are re-funded.

## CHANGING BANKS

Almost all Farm Service Agency payments are made electronically using Direct Deposit.

To keep the system running smoothly, it's critical to keep the county office staff up to date on changes you might make in your financial institutions.

If you have changed accounts or institutions that might affect the direct deposit of your FSA payments, contact the FSA county office so we can update our files to insure continued uninterrupted service.

## BCAP RECEIVES FUNDING CHANGES

A provision to the BCAP program limits FY 2011 funding to \$112 million. BCAP supports agricultural and forest landowners and operators by providing annual contract payments and matching payments for the production of biomass crops.

BCAP uses a project area to support the production of eligible energy crop feedstock produced within the project area. Project sponsors MUST submit project area proposals to [billy.meritt@co.usda.gov](mailto:billy.meritt@co.usda.gov) by May 27, 2011. Approved proposals may qualify for BCAP assistance under a contract agreement with the Commodity Credit Corporation (CCC), and BCAP crop establishment and annual contract payments would be provided.

BCAP payments are also made for the collection, harvest, storage and transportation (CHST) of eligible herbaceous biomass materials to a qualified biomass conversion facility by eligible material landowners. At this time matching payments are not authorized for the CHST of woody biomass species, but payments could be implemented this summer.

## COUNTY COMMITTEE (COC) NOMINATIONS:

Since COC elections happen only once a year, here is an election refresher. For election purposes, counties are divided into local administrative areas, or LAAs. Each LAA selects one producer to serve a three-year term on the Farm Service Agency county committee. Each year, an election is held in an LAA to replace the committee member whose three year term is expiring. In counties with three LAAs, one seat is up for election. In combined counties in some years, two seats may be up for election.

## Nominations

Producers who are residents in the LAA holding the election and who participate or cooperate in an FSA program and are of legal voting age may

be nominated to serve on the county committee. Individuals may nominate themselves or others as candidates. Also, organizations representing socially disadvantaged farmers or ranchers may also nominate candidates. The nomination form, FSA-669A, is available at the county office or may be downloaded online at [www.fsa.usda.gov](http://www.fsa.usda.gov). To be valid, the nomination form must be signed by the person being nominated, indicating agreement to serve if elected. The completed nomination form must be returned to the county office by the close of business on Aug. 1, or postmarked by midnight Aug. 1, 2011.

### ACREAGE REPORTING

Filing an accurate and timely acreage report for all crops and land uses on cropland and non-cropland, including failed acreage, can prevent loss of benefits in a variety of programs. Producers are required to file a FSA-578 certification by the applicable final reporting date. Contact your local FSA office for final reporting dates.

### PREVENTED PLANTING

Prevented planting is the inability to plant the intended crop acreage with proper equipment by the final planting date for the crop type because of a natural disaster. Producers who request prevented planting must report their acreage and complete a CCC-576 Notice of Loss, Part B within 15 days after the final planting date. Producers will need to provide documentation showing field preparation, seed purchase, and other information that proves their intent to plant the acreage.

### EMERGENCY ASSISTANCE FOR 2011 LOSSES

ELAP is another disaster program that can provide emergency assistance to eligible producers of livestock, honeybees and farm-raised fish who have losses due to disease, adverse weather or other conditions, including losses due to wildfires. Some eligible losses include but are not limited to: loss of forage or feedstuffs, loss of grazing due to wildfires, and losses resulting from the purchase of additional feed above normal quantities. A loss covered under LFP, LIP or SURE is not eligible for ELAP. Producers with 2011 losses must:

- file a notice of loss within 30 calendar days of when the loss is apparent to the producer or Oct. 31, 2011, whichever date is earlier. Producers that have suffered losses due to wildfires need to file a notice of loss now.

- have obtained a policy or plan of insurance under FCIA or NAP coverage by the applicable state sales closing date.

- file an ELAP application no later than Jan. 30, 2012

ELAP benefits related to 2011 losses are expected to be issued in early 2012.

### PULSE CROPS

The Food, Conservation, and Energy Act of 2008 states that eligible pulse crop acres may be added as base acres.

The addition of pulse crop base acres is:

- Effective for 2009 through 2012 crop years
- Required to be calculated in the same manner as eligible oilseed acreage under the 2002 Farm Bill

The calculation of pulse crop base acres and yield is based on the acreage and yield history from the 1998 through 2001 crop years. Pulse crops are defined as:

- Dry peas (green, yellow, Austrian, Umatilla and wrinkled); intended uses must be Seed or Dry Edible
- Lentils; any intended use
- Large chickpeas (Kabuli garbanzo beans); any intended use
- Small chickpeas (Desi garbanzo beans); any intended use

Pulse crop base acres will only be eligible for counter-cyclical or Average Crop Revenue Election (ACRE) payments for 2009 through 2012 crop years. Direct payments will not be eligible.

### MEASUREMENT SERVICE

Farmers who would like a guarantee on their crop plantings and land use acreages can make it official by using the FSA measurement service. Producers must file a request with the county office staff and pay the cost of a field visit to have stake and referencing done on the farm. Measurement service is available using digital imagery. If an on-site visit is not required producers are charged a reduced rate.

Incorrect acreage self-certification can result in reduced program payments, penalty or loss of eligibility.

Producers can request ortho-imagery and CLU covering their land (commonly referred to as a clip) at no charge. This would provide the acreage of an entire field.

### SODBUSTER REGULATIONS

The term “sodbusting” means converting land from native vegetation, such as rangeland or woodland, to crop production after December 23, 1985. Sodbuster violations are unauthorized tillage practices on highly erodible lands.

Farmers and ranchers should be aware that if they use highly erodible land for crop production without proper conservation measures, they risk losing eligibility to participate in Farm Service Agency programs. Before producers clear, plow or otherwise prepare areas not presently under crop production for planting, they are required to file an AD-1026, indicating the area to be brought into production.

If Natural Resources Conservation Service indicates on a CPA-026 that the area will be highly erodible land, the producer will be required to develop and implement a conservation plan on the affected acreage, before bringing land into production.

In addition, producers and the producer’s affiliates have to file an AD-1026 in the administrative or control county office before any farm program payments can be made. The AD-1026 is the producer’s signed certification that HELC, as well as wetland conservation, provisions will not be violated.

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**Readers are advised that dates and related provisions for FSA programs in Colorado are often county-specific. Please contact your local FSA office for detailed information pertaining to your operation.**