



January 2010

Lea County News

Lea County USDA Service Center

Lea County FSA
401 Tatum Highway
Lovington, NM 88260
575-396-5857 (phone)
575-396-5768 (fax)
www.fsa.usda.gov/nm

Hours

Monday - Friday
7:30 a.m. – 5 p.m.

County Committee

John Ingle – Member
Rory Wier – Member
Hayden Parker -- Member
Paul Herrera – Advisor

County Committee meets
the third Tuesday of each
month.

Staff

Terry Cater, CED
Cheri Sedgwick, PT
Donna Schooley, PT



County Committee Elections

Congratulations to John Ingle, who was re-elected to the COC for another three years, representing LAA-1, North Lea County.

IRS Form 1099-G

Producers should receive their 1099-Gs by Jan. 31. Annually, Farm Service Agency is required to report income earned and any paid refunds to IRS and the producer on IRS Form 1099-G. FSA is also required to report to the IRS all market gains associated with the repayment of a CCC loan.

Controlled Substance

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

Land & Record Changes

Contact the county office if you have sold or acquired land. Failure to notify us timely will adversely affect your eligibility for payment. Producers were recently mailed new maps. The protest period has passed and the acreage described on the new maps is official and will be used for all crop certification in 2010.

Foreign Landowner Notification

The Agricultural Foreign Investment Disclosure Act (AFIDA) requires all foreign owners of U.S. agricultural land to report their holdings to the secretary of Agriculture. FSA administers this program for USDA. Foreign persons who have purchased or sold agricultural land in the county are required to report the transaction to FSA within 90 days of closing. Failure to submit the AFIDA form could result in civil penalties of up to 25 percent of the fair market value or the property. County government offices, realtors, attorneys and others involved in real estate transactions are reminded to notify foreign investors of these reporting requirements. It is a foreign person's responsibility to report the land transactions.

FSA Payments

Over the past year, FSA has been transitioning payments to a new process. Paper checks and direct deposit transaction statements are no longer mailed from the county office. All payments are processed in Kansas City and then transmitted through the US Treasury for issuance. Any paper checks are now US Treasury checks. These changes were required to be made for compliance with the Debt Collection Improvement Act (DCIA). Processing and approval of all applications still takes place at the county level, however funds are not directly issued from the county office.

Livestock Forage Disaster Program

The Livestock Forage Disaster Program (LFP) compensates eligible livestock producers who suffered grazing losses for covered livestock due to drought conditions or fire on federally managed land. Ranchers who had NAP coverage for 2009 are eligible to sign up for LFP in Lea County. **Deadline to apply is Jan. 30, 2010.**

Eligible livestock producers need to report livestock inventory as of April 28, 2009. This inventory should be broken down into, cows, bulls, non-adult cattle weighing over 500 pounds, horses, sheep, and goats. Some other, less common, livestock are also covered. Contact the county office if you have questions. Eligible producers will be paid the lesser of the value of the livestock feed per head, or the value of the grazing lost per acre. Payments for 2009 losses equal \$24 per head for adult beef cattle, \$18 per head for non-adult beef cattle weighing over 500 pounds and \$17.23 for horses.

In order to qualify, a producer's native grass MUST have been covered by NAP. This is a standing program and Lea County may qualify in 2010. To participate in 2010 you MUST purchase NAP on your native grass by Jan. 30, 2010.

Emergency Livestock Assistance Program (ELAP)

ELAP provides compensation to eligible producers of livestock, honey bees, and farm-raised fish for

Lien Waiver Policy Change

In the past, the county office has been able to process a request for a Marketing Assistance Loan (MAL) on an eligible commodity and request a lien waiver (CCC-679) from the producer or lien-holder before disbursing the loan. Most delays in disbursing loans have resulted from waiting on the waiver to be returned from the lien-holder.

National policy has been changed to resolve these delays. Effective immediately, the County Office **WILL NOT** process a loan request unless the producer provides a lien waiver before making the request.

Acresage Spot Check Determinations and Notification

Each year the Farm Service Agency completes spot checks of acresage reports. Acresage reports are an important part of farm program participation. Acresage spot checks are completed to ensure accurate acresage reports are used in farm program computations.

FSA will conduct spot checks on a selected number of farms in each state. All acresage determinations will be completed using the FSA Geographic Information System official acresages.

After farms are spot checked, a Notice of Determined Acresage will be sent to the farm operator. Producer notifications will be issued by FSA as spot checks are completed.

Average Adjusted Gross Income (AGI) Compliance Activities for 2009-2010.

When you signed a CCC-926 certifying to AGI compliance, you agreed that your AGI would be spot-checked by FSA. To complete this process, FSA and IRS have finalized a data-sharing process that will meet the requirements for the check and will protect your tax information.

Everyone who received a payment in 2009 and 2010 will be spot-checked for compliance. The average AGI verification and data comparison processes begin with participants providing consent to IRS for the use and disclosure of tax information to FSA.

To provide consent for IRS to provide the required information to FSA, all producers

who completed a CCC-926 Certification of AGI Compliance will complete a CCC-927 and/or CCC-928.

A CCC-927 is to be completed by an individual with a Social Security Number (SSN) who directly or indirectly receives payments from FSA individually or through a legal entity such as a corporation, limited partnership, LLC, trust or estate.

A CCC-928 is to be completed by a legal entity with an Employer Identification Number (EIN) that directly or indirectly receives payments from FSA or as an embedded entity in another legal entity. A legal entity is defined as a corporation, limited partnership, LLC, trust or estate.

To safeguard privacy of all program participants and confidentiality of the information, you are required to complete the necessary CCC-927 and CCC-928 and mail the completed forms directly to IRS at the address specified on the form, within 60 days of the date that you sign the form(s).

The County Office CANNOT accept or retain copies of these forms, but is only required to distribute them to you.

Information which is reported to FSA by IRS **WILL NOT** contain any actual tax data, but will only be a flag saying that your reported income meets the requirements to which you certified. If there is further need to clarify your AGI, all verifications will take place at the state level, further removing the county office from any knowledge of your personal income data.

If you refuse to complete a CCC-927 or CCC-928 as required and mail it to IRS, you will be determined to be out of compliance and any payments previously paid must be refunded. A properly completed CCC-927 and/or CCC-928 must be sent to IRS by **June 15, 2010.** **Information reported to FSA by IRS is covered by Privacy Act laws and IS NOT subject to FOIA requests.**

Average Adjusted Gross Income 2009 - 2012

The 2008 Farm Bill required the implementation of the average Adjusted Gross Income (AGI) limitations for program eligibility for the 2009 through 2012 program years. The average AGI provisions are applicable to the majority of programs administered by the Farm Service Agency (FSA) and Natural Resources

Conservation Service (NRCS).

All persons and legal entities requesting certain program payments, either directly or indirectly, are subject to average AGI provisions. Persons or legal entities whose average AGI for the three taxable years preceding the most immediately preceding complete taxable year exceeds the qualifying limits are ineligible for the applicable payment. If the payments are issued to an entity, general partnership or a joint venture, payments are reduced in an amount that is commensurate with the direct and indirect interest of any member or interest holder who is non-compliant with average AGI.

Participants in CCC programs subject to average AGI rules must annually certify their eligibility to receive benefits by either submitting a statement from a certified public accountant or an attorney, or by completing form CCC-926.

Adjusted Gross Income: AGI is the legal entity's or individual's IRS-reported adjusted gross income, or a comparable measure as determined by CCC.

Adjusted Gross Farm Income: Income from activities related to farming, ranching or forestry is considered adjusted gross farm income.

Adjusted Gross Nonfarm Income: The difference between adjusted gross income and adjusted gross farm income is considered the adjusted gross nonfarm income.

Different income thresholds will be used to determine eligibility for different CCC programs as described in Table 2.

A person or legal entity with:

Adjusted Gross Nonfarm Income exceeding \$500,000 is ineligible for all commodity program payments and benefits

Adjusted Gross Farm Income exceeding \$750,000 is ineligible for Direct and Counter-cyclical Program (DCP) Direct Payments

Adjusted Gross Nonfarm Income exceeding \$1 million is ineligible for conservation programs, unless at least 66.66% of total AGI was farm income. *(Note: This limitation may be waived on a case-by-case basis for the protection of environmentally sensitive land of special significance.)*

Applicability of AGI Thresholds to Various CCC Programs

Base Period for Determining Average AGI

A 3-year average AGI will be used to determine whether an individual or legal entity qualifies to receive program benefits subject to AGI rules. Base years for computing average AGI are:

For crop year:	AGI base years are:
2009	2005, 2006, 2007
2010	2006, 2007, 2008
2011	2007, 2008, 2009
2012	2008, 2009, 2010

Annual certifications of AGI compliance are required from each individual and legal entity requesting CCC payments either directly or indirectly. Annual certifications are made on form CCC-926, or by a statement from a certified public accountant or an attorney.

If the participant is a general partnership or a joint venture, AGI certifications are required from each member who is an individual or entity, and from each embedded interest holder.

If the participant is an entity, AGI certifications are required from the participating entity and from each interest holder who is an individual or entity and from each embedded interest holder.

Compliance with AGI rules will be tracked through four levels of legal entity ownership. If individuals or entities within those four levels do not comply with average AGI provisions, payments will be reduced by an amount commensurate with the ineligible share.

General farm income includes income derived from the production of crops and livestock, from ranching and forestry, and other income reported on Schedule F of the IRS tax forms.

Requirements for 2010 Payment Eligibility

During the 2009 crop year, FSA has been operating on an interim rule interpretation of payment eligibility requirements published in 7 CFR Part 1400 in December 2008. Over the past year, many comments were received regarding the interim rule. In response to these comments and other technical corrections, revisions were made to the final rule to be published in January 2010. The final rule will implement minor changes for payment eligibility in 2010.

Effective for 2010:

- Exception for contributions of members

PROGRAM	APPLICABLE AGI LIMITATION
Commodity and Disaster programs including, DCP, ACRE, SURE, ELAP, LFP, LIP, TAP, NAP	The three-year average Nonfarm AGI shall not exceed \$500,000.
DCP Direct Payments	The three-year average Nonfarm AGI shall not exceed \$500,000 and the three-year average Farm AGI shall not exceed \$750,000.
Price Support benefits including Market Gains, Loan Deficiency Payments, and MILC payments.	The three-year average Nonfarm AGI shall not exceed \$500,000.
All Conservation Programs administered by FSA and NRCS including: CRP, AMA, AWEP, CSTP, CCPI, EQIP, FRPP, CRP, WRP, WHIP	The three-year average Nonfarm AGI shall not exceed \$1 million, unless at least 66.66% of the total AGI was adjusted gross farm income. Note: This limitation may be waived on a case-by-case basis for environmental sensitive land of special significance.
All other programs	As determined by federal regulation for each program.

of legal entities if at least 50 percent of the interest is held by members that are providing active personal labor or active personal management, and the total direct payments received both directly and indirectly by all members does not exceed the amount of 1 limitation.

- The date of June 1 will be used for the determination of a minor child for application of the minor child rules.

To qualify for participation in the Direct & Counter-Cyclical Program (DCP) or the Average Crop Revenue Assurance (ACRE) Program, an individual or legal entity in a farming operation must meet requirements to be "actively engaged" in farming.

The determination of actively engaged in farming requires significant contributions to a farming operation of:

- capital, land or equipment, or a combination thereof; and
- active personal labor or active personal management, or a combination, unless an exceptions, such as for landowners, applies

Other payment eligibility and limitation provisions that remain applicable for 2010 include:

- cash rent tenant provision
- minor child rules
- spousal provisions
- requirement for each stockholder, partner, or member of a legal entity to contribute active personal labor and/or active personal management to the operation
- substantive change provisions for the increase of persons or legal entities eligible for payment in a farming operation.

All partners, stockholders, or members with an ownership interest in a legal entity

MUST make contributions of active personal labor and/or active personal management to the farming operation that meet all of the following:

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

A payment reduction will apply to the payment entity if any of the partners, stockholder, or members, fail to meet this requirement.

Effective for 2010, an exception may apply if:

- at least 50 percent of the interest is held by members that are providing active personal labor or active personal management; and
- the members are collectively receiving, directly and indirectly, total payments that are less than or equal to 1 limitation.

Previously filed CCC-902s may need reviewing for 2010. Any changes need to be updated on a CCC-902. Major changes that may change the previous determination will require that a new CCC-902 be filed for 2010. It your responsibility to inform the county office of changes.

Supplemental Revenue Assistance Program (SURE)

SURE was included in the 2008 Farm Bill as the successor to ad hoc crop disaster programs of the past. Sign-up for SURE began in January 4, 2010 for crop year 2008 losses. A sign-up deadline has not yet been set. To qualify, you must have had insurance or NAP on ALL mechanically harvested crops on ALL farms that you operate. Contact the county office with questions.



losses due to disease, adverse weather, or other loss conditions, including losses due to blizzards and wildfires. ELAP is for losses that are not covered by Livestock Indemnity Program (LIP), Livestock Forage Disaster Program (LFP), or Supplemental Revenue Assistance Program (SURE).

Only producers who have coverage under NAP or through Federal Crop Insurance are eligible to participate in ELAP.

There are two parts to the ELAP application process:

1. A notice of loss that must be filed within 30 days of the loss becoming apparent
2. An application for payment *(An application for payment cannot be filed without a notice of loss.)*

There are no late filed provisions for ELAP. Producers with eligible losses must timely file an acreage report on grazing land acres, honey bee colonies and farm-raised fish pond acres.

RANCHERS!!!

The deadline to purchase NAP coverage on your Native Grass for 2010 is January 31. Producers must suffer the first 50 percent of loss under NAP. Payments will only be issued on losses exceeding 50 percent.

Dates to Remember	
January 18	Birthday of Martin Luther King Jr. Holiday
February 1	Deadline to purchase NAP on Alfalfa, Native Grass, Peppers
February 1	Deadline to apply for 2009 LFP.
February 1	Deadline to request MAL/LDP on Peanuts & Wool.
February 1	Deadline to purchase NAP on Cabbage, Carrots, Spinach
February 15	Deadline to certify Native Grass covered by NAP and file an application for payment on 2009 losses.
February 15	Washington's Birthday Holiday

You have 15 days from the date the loss is apparent to file a notice. NAP coverage on your grass is like insurance on your car or home. **You will only be compensated for a loss if you file a notice or claim.**

You MUST buy NAP coverage to be eligible to participate in the livestock programs. The Farm Bill authorized the Livestock Forage Disaster Program (LFP) and the Emergency Livestock Assistance Program (ELAP) that require participation in NAP.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audio-tape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, D.C., 20250-9410, or call 202-720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.