



Northwest Ohio FSA News February 2010

Newsletter Distribution

This newsletter is distributed to all producers served by Farm Service Agency county offices in Northwest Ohio. While the return address for this mailing on the reverse of this newsletter is that of the Wood County Farm Service Agency, producers should contact their servicing county Farm Service Agency office for additional information and program details.

(DCP) Signup

Producers will have through June 1, 2010 to timely file a 2010 crop year Direct and Counter-Cyclical Program contract (CCC-509). **There are no late-filing provisions;** thus, DCP contracts must have all signatures of producers having more than a zero percent share of contract acreage by June 1, 2010. Direct payments for each covered commodity will be 83.3 percent of the covered commodity's base acres and CCC will make an advance payment at a rate of 22 percent to requesting producers. Final payments are issued after October 1, 2010.

Average Crop Revenue Election (ACRE)

The Acreage Crop Revenue Election (ACRE) option is a safety net based on State revenue losses and is an alternative to receiving price-based, counter-cyclical payments under the DCP. Under the ACRE provision, a farm's payment is based on a revenue guarantee calculated using a 5-year Olympic average state yield and the most recent 2-year national average market price for each eligible commodity.

An ACRE payment is issued when both the State and the farm have incurred a revenue loss. ACRE payments are based on planted acres and not base acres, as are counter-cyclical payments, and the total number of planted acres for which a producer may receive ACRE payments may not exceed the total base acres on the farm. For 2010, the payment is based on 83.3 percent of the farm's planted acres times the difference between the State ACRE guarantee and the State revenue times the ratio of the farm's yield divided by the State expected yield.

The decision to enroll in the ACRE Program may be made on a farm-by-farm basis in any of the remaining years of the 2008 ACT (2010 through 2012) and enrollment is irrevocable. Once enrolled, the farm shall be enrolled for that initial crop year and will remain in ACRE through the 2012 crop year for all covered commodities on the farm. The owners of the farm and all producers on the farm must agree to enroll in ACRE by June 1, 2010.

Farms that are enrolled in ACRE will not receive counter-cyclical payments, when available, and will have direct payments reduced by 20 percent and marketing assistance loan rates reduced by 30 percent.

Supplemental Revenue Assistance Program (SURE)

FSA County Offices are now accepting applications for SURE for the 2008 crop year. The application closing date has not been announced. SURE provides benefits for 2008 through 2011 crop year farm revenue losses due to natural disasters. For SURE, a "farm" is eligible when either:

- a portion of the farm is located in a county, or a contiguous county, covered by a qualifying Secretarial disaster declaration; or,
- an overall loss greater than 50 percent of the actual production on the farm compared to expected revenue for the farm for that year.

A "farm" refers to all crop acreage in all counties that a producer planted or intended to be planted for harvest for normal commercial sale or farm livestock feeding. For producers to be eligible for SURE, they must have obtained a policy or plan of insurance for all crops through either the Federal Crop Insurance Act or FSA's Noninsured Crop Disaster Assistance Program (NAP). There are limited exceptions to this rule.

Producers must suffer a 10 percent production loss due to a natural disaster to at least one crop of economic significance on their farm in order to be eligible for SURE. A crop of economic significance is one that contributes at least 5 percent of the expected revenue for a producer's farm. SURE payments are calculated based on 60 percent of the difference between the SURE Disaster Program Guarantee and the Total Farm Revenue.

The SURE guarantee is determined by totaling the calculated guarantee for each crop. For insured crops, the guarantee is based on the level of coverage the producer has elected. Higher levels of coverage will result in higher crop guarantees. For NAP crops, the guarantee is based on a formula that includes the yield, acreage and price factors. The farm's SURE guarantee cannot exceed 90 percent of the expected revenue for the farm.

For the 2008 program year, producers were allowed to "buy-in" to the SURE program by paying fees equivalent to catastrophic coverage or NAP coverage due to the lateness of the Farm Bill. The Stimulus Bill legislated an additional "buy-in" period. Producers who participated in this "buy-in" must purchase crop insurance (at a 70 percent or greater level) or NAP in the next available year.

The Stimulus Bill also increased payments by increasing the guarantee calculation for both insurable crops and crops eligible for NAP coverage. In order to expedite 2008 crop year payments to producers, the FSA will make "interim" payments that will be based on temporary rule modifications. After the application processes are finalized, the payment will be recalculated and additional payments may be issued or refunds may be required.

FSA county offices have a workbook calculator to assist producers in determining their eligibility for SURE benefits. Please contact your administrative FSA office for an appointment.

2010 Payment Limitation/Eligibility

For 2010, “person” and permitted entity rules **do not apply**. Rather, payments will be limited by direct attribution. Under direct attribution, the payment limitation is applied by crediting individuals and legal entities with both the amount of payments they receive directly and also the amount they are considered to have received indirectly by holding an interest in a legal entity receiving payment.

For the 2010 DCP, an individual or a legal entity is limited to receipt of \$40,000 in direct payments earned through the interests held in all contracts/agreements entered into during FY 2010. There is neither a “person” determination nor a restriction on the number of legal entities through which an individual may hold an interest that also receive payment.

The 2008 Act establishes a new requirement that **each** of the partners, stockholders, or members of a legal entity 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, be identifiable and documentable, and be separate and distinct from the contributions of any other partner, stockholder, or member of the farming operation. The contribution of the partners, stockholders and members must be significant and commensurate. The legal entity must make contributions to the farming operation that are at risk for loss, with the level of risk being commensurate with the claimed share of the farming operation. The failure of any partner, stockholder, or member to meet his requirement will result in a reduction of payments to the legal payment entity commensurate with the ownership share held by that interest holder. **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 or indirectly, total payments that are less than or equal to 1 limitation.

Common attribution is a means of crediting payment to person or legal entities collectively to 1 limitation for the applicable program based on a specific or unique relationship between the persons or legal entities such as minor child and parent or legal guardian and revocable trust and grantor. The date of June 1 will be used for the determination of a minor child for the application of the common attribution rule.

Program	Pay Limit
DCP Direct Payments	\$40,000
DCP Counter-Cyclical Payments	\$65,000
If participating in ACRE on at least 1 farm, the combination of direct, counter-cyclical, and ACRE payments on all farms for all covered commodities can not exceed	\$105,000
Conservation Reserve Program (CRP)	\$50,000
Noninsured Assistance Program (NAP)	\$100,000
The combination of SURE ,LIP, LFP and ELAP can not exceed	\$100,000

2010 Adjusted Gross Income (AGI) Rules

For commodity and price support programs, if the individual or legal entity has a 3-year average nonfarm AGI greater than \$500,000, the individual or entity is **not** eligible for DCP, price support, or disaster assistance program benefits. If the individual or legal entity has 3-year average farm AGI greater than \$750,000, the individual or legal entity is **not** eligible for direct payments under DCP.

For conservation programs, if the individual or legal entity has 3-year average total AGI greater than \$1 million, the individual or entity is **not** eligible unless 66.66 percent is derived from farming, ranching, and forestry operations, as defined. If the individual or entity has a 3-year average nonfarm AGI greater than \$1million, the individual or entity is **not** eligible for conservation program benefits. The average AGI is calculated using the income from the 3 taxable years previous to the current tax year minus 2 years. For the 2010 program year, tax years 2008, 2007 and 2006 are applicable.

Consent to IRS Disclosure

USDA has finalized a memorandum of understanding with the Internal Revenue Service (IRS) to establish an electronic information exchange process to assist in determining compliance with AGI provisions. IRS will review data from tax returns, perform a series of calculations, and compare the results to the AGI limitations. FSA and NRCS will receive a record that indicates whether or not program participants appear to meet the income limits. Program participants who may exceed the limits will be offered an opportunity to provide third party verification or other information to validate their compliance with the adjusted gross income provisions. Because written consent from each payment recipient is required to initiate the verification process, the following forms have been developed to comply with the consent to disclosure:

- CCC-927, 2009 and/or 2010 Consent to Disclosure of Tax Information – Individual
- CCC-928, 2009 and/or 2010 Consent to Disclosure of Tax Information – Entity

IRS disclosure forms are available at USDA service centers and online at <http://intranet.fsa.usda.gov/dafp>. To safeguard privacy and confidentiality of the information, FSA offices will not accept or retain any completed CCC-927's and CCC-928's. Rather, program participants are required to mail the completed forms directly to the IRS address on the form within 60 days of the date of their signature and no later than June 15, 2010. The form may not be signed by the agent designated on a FSA-211, Power of Attorney.

Participants that choose not to submit a completed CCC-927, or CCC-928, as applicable, will be determined noncompliant with AGI limitations for the 2009 and 2010 crop, program, and fiscal years. Failure to provide the written consent may require refund of applicable payments received from FSA and NRCS for the years 2009 and 2010.

2010 Non Insured Crop Disaster Assistance Program (NAP)

Producers are reminded that the final date to apply for NAP coverage is March 15, 2010 for many (but not all) fruit and vegetable crops. Administrative fees have increased to \$250 per crop not to exceed \$750 per county or \$1875 per producer in all counties. Limited resource producers can request a waiver of the service fees.

Change in Farming Operation/Address

Producers are reminded to contact the FSA office to report any change in a farming operation so that records can be kept current and accurate. Changes include, but are not limited to, farm ownership, farm operator, address, tax identification number, and agricultural use. Producers are required to verify, sign and date changes to their critical data on form AD-2047 when the request is made in person. The final date to request farm and tract divisions or combinations of farm, tract and crop records for 2010 program administration purposes is June 1, 2010. Reconstituted farms must reenroll in DCP within 30 days.

Report of Payments to Producers

The Commodity Credit Corporation is required to file an informational return (Form 1099-G) with IRS when payments are issued to producers. A program payment is considered made in the calendar year that the payment was issued, and not in the calendar year that it was earned or received. The report will be mailed by January 31st and is provided as a service to help producers report taxable income. Producers should direct questions regarding their tax liability to their tax consultant or the IRS.

Foreign Investment Disclosure

Foreign persons who acquire, transfer, or hold interest in any tract of U. S. agricultural land, forestland, or timberland must report the transaction within 90 days of the closing to the Secretary of Agriculture through the local Farm Service Agency office. Foreign persons must also report changes in land use from agricultural to nonagricultural and vice-versa; changes in interest from foreign to non-foreign or foreign to foreign, and changes in legal addresses of 1st, 2nd, and 3rd tier members. Persons failing to report could be subject to civil penalties of up to 25 percent of the fair market value of the property.

Loans for Grain Storage Facilities

Loans are available to producers to install eligible grain storage facilities under the Farm Storage Facility Loan Program. The maximum principal amount per loan is \$500,000. Loan terms of 7, 10 or 12 years are available depending on the amount of the loan. A 15 percent down payment is required. The January 2010 interest rates are 7-year - 2.875, 10-year - 3.375, and 12-year - 3.75 percent per annum. The interest rate for the loan term is set when the application is approved.

Payments are available in the form of a partial disbursement and the remaining final disbursement. The partial disbursement will be available after a portion of the construction has been completed. The final disbursement will be made when all construction is completed.

Report Direct Deposit Changes

Please notify your local FSA office of closed accounts, changes in account numbers, and changes in bank routing numbers. It is the responsibility of the producer to ensure that funds are available in the designated account to cover debit transactions.

Spousal Signature

A husband and wife may sign program documents on behalf of each other for most Farm Service Agency and Commodity Credit Corporation programs in which either has an interest unless written notification denying a spouse this authority has been provided to the FSA office.

Faxed Signatures Accepted

Most USDA forms may be submitted by FAX. USDA is not responsible for transmission failures or other problems that prevent successful and timely receipt of faxed information.

Designation by Landowner Method

This is a method of dividing farm and tract crop records in a manner agreed upon by the seller and purchaser. This method is available when an entire farm or tract or part of a farm or tract is sold or transferred or when a farm or tract is sold or transferred to 2 or more persons. The land being transferred must be owned for three years and a written memorandum of understanding is required.

Special Accommodations

Special accommodations will be made upon request for individuals with disabilities, vision, or hearing impairment. If accommodations are required, individuals should contact the County Executive Director of their local Farm Service Agency office.

Highly Erodible Land and Wetland Conservation Compliance

Producers are ineligible for benefits under USDA programs if they plant an agricultural commodity on a wetland that was converted after December 23, 1985. After November 28, 1990, it is also considered a violation to convert a wetland by draining, dredging, filling, leveling, or any other means to make the production of an agricultural commodity possible. Producers who plant agricultural commodities on land determined to be highly erodible must be in compliance with an approved conservation plan or system. Producers are required to request a conservation compliance determination before performing drainage activities or bringing new land into production.

Controlled Substance

Any person who is convicted under federal law of planting, producing, cultivating, harvesting, growing, or storing a controlled substance will be ineligible to participate and receive payments under USDA programs during the year of conviction and the four succeeding crop years.

