



### State Executive Director Comments

Welcome to the 2009 Minnesota Farm Service Agency (FSA) newsletter. For the past several months, FSA has been busy implementing the 2008 Farm Bill. As with any new Farm Bill, there are some existing programs that have been modified, as well as several new programs for which rules and regulations need to be developed before implementation.

As we begin sign-up for 2009 farm programs, there are several important changes to existing programs and new provisions which producers will need to be aware of as we enter another growing season. For example, payment eligibility and payment limitation requirements have changed. In addition, producers will have an opportunity beginning in 2009 to elect to enroll in the new Average Crop Revenue Election (ACRE) program. There are important insurance purchase requirements and deadlines to ensure disaster program eligibility.

This newsletter contains important information on a number of the program changes that will take effect beginning in 2009. I urge you to review this information carefully, particularly the changes made to payment eligibility and payment limitations. It may be helpful to visit your local FSA service center as soon as possible to learn more about the new programs and initiate the sign-up process. In addition, we want to make you aware of information resources that will be available on the Minnesota FSA internet site [www.fsa.usda.gov/mn](http://www.fsa.usda.gov/mn) as well as the national FSA internet site [www.fsa.usda.gov](http://www.fsa.usda.gov). Our goal will be to provide timely updates on FSA programs, fact sheets, sign-up dates and other relevant information through these internet sites.

On behalf of all FSA employees in Minnesota, we look forward to serving you in 2009.

### Direct and Counter-cyclical Payment (DCP) Sign-up Underway

Sign-up has started for the 2009 DCP for farms with base acres. You can sign-up online or at local USDA Service Centers until June 1, 2009. This deadline is mandatory for all participants. FSA will not accept any late-filed applications.

### Average Crop Revenue Election (ACRE)

Producers who enroll in DCP will be eligible to enroll in the Average Crop Revenue Election (ACRE) Program in the spring. Producers enrolled in DCP may receive advance direct payments and then later modify their enrollment if they later choose to participate in the ACRE program, or they may wait and elect to enroll in ACRE prior to June 1, 2009.

ACRE sign-up dates have yet to be announced.

### Non-Insured Crop Disaster Assistance Program (NAP)

NAP provides weather related loss protection for all crops commercially produced for food or fiber for which multi-peril catastrophic crop insurance coverage is not available. Eligible crops include fruits and vegetables, mushrooms, floriculture, ginseng, aquaculture, ornamental nursery crops, Christmas trees, turf grass, sod,

industrial crops, and seed used for human consumption or animal feed. Also included are honey and maple sap.

An eligible producer is a landowner, tenant, or sharecropper who shares in the risk of producing an eligible crop. NAP covers crop losses greater than 50 percent of a participant's actual production history, expected Animal Unit Days or crop value. The payment rate is 55 percent of an established price.

NAP fees are nonrefundable and must accompany the application for coverage by the applicable application closing dates.

The fees are:

- \$250 per crop group, per participant regardless of number units or acres
- \$750 per county max
- \$1875 all counties max

Fees may be waived if the participant is considered a limited resource producer.

March 15, 2009, is the deadline for 2009 NAP Coverage-Insured under CAT/MPCI.

2009 NAP or RMA coverage is also needed to meet the linkage requirement under the 2009 Supplemental Revenue Assistance Payments (SURE) and the Livestock Forage (LFP) programs.

### Supplemental Revenue Assistance Program (SURE)

SURE is a permanent crop disaster program. Producers in a Secretarial disaster declared county or a contiguous county, or have experienced at least a 50 percent crop loss may be eligible for SURE payments.

To qualify for SURE all crops need to have RMA insurance or NAP coverage. There are exceptions for limited resource and/or socially disadvantaged producers, as well as diminution exceptions to the RMA or NAP insurance purchase requests.

Signup dates and details are yet to be announced.

### Milk Income Loss Contract Program (MILC)

The 2008 Farm Bill reauthorized the Milk Income Loss Contract Program making three key changes in program operation. Under the 2008 Act, the MILC payment rate and the per-operation poundage limit are modified, depending on when the milk is produced. In addition, a feed cost adjustment is introduced over the life of the 2008 Act, which adjusts the \$16.94 per hundredweight (cwt.) benchmark price upward depending on the cost of feed rations. When available, MILC payments are based on a payment rate percentage that is multiplied by the difference between a now flexible target (\$16.94 per cwt. or higher) and the specific month's Boston Class I price of milk.

During the sign-up application period, participating dairy operations must select the month of the fiscal year to start receiving payments for eligible production. Producers submitting a contract application within 30 days of the beginning of the application period can select any preceding month as the start month. Producers submitting contract applications after January 21, 2009, will not have the option of selecting an earlier month as the payment start month for the dairy operations for a fiscal year and will be limited to applicable start month selection rules. The start month for MILC must either be the month the contract is submitted or some later month. Changes in the month may

be made from year to year so long as the designation is made by the fourteenth of the month proceeding the new start month. Pound limits run from the start month and all pounds for which payment is received count against the limit for that fiscal year.

To receive program approval, producers must enter into a MILC contract with CCC and provide monthly milk marketing data. Dairy producers may apply for MILC at their local FSA office.

## Power Of Attorney

Power of attorney designations enable producers to designate another person to conduct their FSA business. If interested, please contact your office and complete form FSA-211 Power of Attorney.

## Direct Attribution

The method in which FSA limits payments was significantly changed by the 2008 Food, Conservation, and Energy Act (2008 Farm Bill). For 2009 and subsequent crop years, payments will be limited by direct attribution to individuals or entities. A legal entity is defined as an entity created under federal or state law that owns land or an agricultural commodity, product or livestock. Through direct attribution, payment limitation is based on the total payments received by the individual, both directly and indirectly. Under direct attribution, payments made to individuals remain unchanged. However, payments to legal entities, such as corporations, limited partnerships, limited liability companies and other similar entities, are limited by attributing the payment to an individual based on their direct and indirect interest in the entity.

For example, Producer A receives a DCP direct payment of \$32,000 as an individual. In addition, Producer A has a 33.33% interest in Corporation ABC, which earns \$30,000 in DCP direct payments. The application of direct attribution would result in \$10,000 being attributed to Producer A, resulting in total earnings of \$42,000. Since the limitation for DCP direct payments is \$40,000, Producer A's payments will be reduced by \$2,000.

The new farm bill now requires **each member** of an entity provide active personal labor or active personal management or a combination that is performed on a regular basis, identifiable and documentable and separate and distinct from the contributions of any other member.

Qualifying spouses are eligible to be considered separate individuals for payment limitation purposes, rather than being automatically combined under one limitation. For more information contact your county office.

The following are program limitations for the **2009** program year:

Program	Limit
DCP Direct	\$40,000
CRP	\$50,000
SURE, LIP, LFP, & ELAP	\$100,000
DCP/CC/ACRE	\$65,000
NAP, TAP	\$100,000
LDP & MAL Market Gain	No limit

## Average Adjusted Gross Income (AGI) Provisions

Beginning in 2009, there will be three qualifying levels for AGI provisions. The levels are as follows:

- \$500,000 **Nonfarm** Income – if a person or legal entity has average adjusted gross nonfarm income that exceeds \$500,000, the person or

legal entity is ineligible for all commodity program payments and benefits,

- \$750,000 **Farm Income** – if a person or legal entity has average adjusted gross farm income that exceeds \$750,000, the person or legal entity is ineligible for DCP direct payments only,
- \$1,000,000 **Nonfarm Income** – if a person or legal entity has average adjusted gross nonfarm income that exceeds \$1,000,000 the person or legal entity is ineligible for all conservation program benefits unless at least 66.66 percent of total AGI is average adjusted gross **farm** income.

There is a special rule for determining the average AGI which provides if at least 66.66 percent of a person's or legal entity's average AGI is derived from certain sources of farm income, then income from the following shall also be considered as farm income:

- sale of equipment to conduct farm, ranch and forestry operations
- provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

The average AGI is based on the average of adjusted gross income for the three taxable years proceeding the most immediately preceding complete taxable year. For the 2009 program year, the three taxable years for AGI purposes would include 2007, 2006, and 2005.

Please visit the MN FSA website at [www.fsa.usda.gov/mn](http://www.fsa.usda.gov/mn) for examples of how the new AGI provisions impact payment eligibility.

## Conservation Compliance

Producers are reminded that in order to receive payments from USDA, compliance with Highly Erodible land (HEL) and Wetland Conservation (WC) provisions are required. Farmers with HEL determined soils are reminded of tillage, crop residue, and rotation requirements as specified per their conservation contract. Contact should be made with your local FSA office prior to conducting land clearing, tree removal, or drainage projects to ensure compliance.

## Spousal Signatures

Husbands and wives may sign documents on behalf of each other for FSA and CCC programs in which either has an interest. This option is automatically available unless a written request for exclusion is made to the county office by either spouse. There are exceptions to the rule. For example, spouse may not sign FSA-211s on behalf of each other or sign on behalf of the other as an authorized signatory for partnerships, joint ventures, corporations, or other similar entities. Spouses must have a power of attorney on file or sign personally for claim settlements, such as promissory notes.

## Signing For Entities Or Joint Operations

In today's world of "entities" — trusts, limited liability companies, cooperatives, partnerships and corporations — signing Farm Service Agency and Commodity Credit Corporation forms must be according to Agency procedure.

First, there must be a document on file with the county office which authorizes an individual to sign for the entity. Documents could be: a copy of the trust document, articles of partnership or articles of corporation, or a valid power of attorney. What is acceptable varies depending on the type of entity.

Second, it is important to know how to sign. In almost all instances, when signing for an entity, your signature has to include "**by**" or "**for**" indicating you are signing in a representative capacity.

For example, you as a partner are authorized to sign for, the John R. Smith & Sons Partnership. Acceptable signatures include: “by George C. Smith”; “for George C Smith, Partner”; and “John R. Smith & Sons Partnership, by George C. Smith, Partner.”

## Transferred Or Sold Land

If you are or have been participating in USDA programs and have recently sold or transferred land, entered into a trust, corporation, partnership, etc., then, it is required that you notify your county FSA office as soon as possible. USDA program benefits and contract obligations will most likely be affected by transfers of land and entity changes. In addition, if there has been a recent death of a family member who was participating in USDA programs, please notify your county FSA office in order that any USDA matters that need to be addressed are done so promptly.

## Farm Storage Facility Loan Program (FSFL)

Farm Storage Facility Loans (FSFL) provide low interest financing to producers for building or upgrading farm storage grain facilities. The 2008 Farm Bill FSFL changes have not yet been announced. Any applications received prior to the announcement will be required to follow the old FSFL rules and regulations.

Borrowers are reminded that FSFL applications must be approved prior to any construction of the facility. Any construction prior to loan approval is done so at the producer’s own risk without creating any liability on behalf of Commodity Credit Corporation (CCC). The FSFL process should be started by completing the application and providing the necessary cost estimates, fees, and etc. at least 30 days prior to starting construction.

Approved loans are not disbursed until construction is complete and the facility has been inspected.

## FSA Farm Loan Programs: Minnesota’s Lender of First Opportunity.

FSA offers Minnesota’s family farmers and ranchers access to credit through a wide variety of farm loan programs. Our knowledgeable staff specializes in tailoring our loan products to meet the needs of your operation. Beyond access to financing, we are the industry leaders in supervised credit. This means we help famers and ranchers with farm planning, credit counseling, financial planning, and farm and financial education throughout the term of the loan.

We serve a variety of Minnesota’s agricultural producers including individuals and entities wanting to start farming and ranching, those wanting to continue or change their operations, women and minorities who want to start or continue farming, and youth wanting to build their own income producing agricultural projects.

FSA offers a wide spectrum of lending options that can be tailored to an individual’s situation. We can make direct fixed rate farm ownership loans (FO) and fixed rate farm operating loans (OL) in amounts up to \$300,000. We can also work with the borrower’s local agricultural lender to guarantee commercial credit for both operating and ownership loans of up to \$1,094,000. In general, farm ownership funds may be used to purchase or enlarge a farm or ranch, purchase easements or rights of way needed in the farm’s operation, erect or improve buildings, implement soil and water conservation measures, and pay closing costs. Guaranteed FO funds may also be used to refinance debt. Operating loan funds may be used to purchase

livestock, poultry, farm equipment, feed, seed, fuel, fertilizer, chemicals, insurance, and other operating expenses. The funds also may be used for closing costs, and to reorganize and refinance debt.

**Every situation is different. Contact your local FSA Service Center to speak to a local loan officer.** Local FSA offices are listed in the telephone directory under U.S. Government, Department of Agriculture or Farm Service Agency.

## FSA Down-payment Program

FSA has a special loan program to assist socially disadvantaged and beginning farmers in purchasing a farm. Retiring farmers may use this program to transfer their land to future generations.

To qualify, the applicant must make a cash down payment of at least 5 percent of the purchase price. This program has a maximum loan amount of \$225,000. The loan has a very low fixed interest rate with a 20-year repayment.

## Shared Livestock Facility Loans

Beginning farmers may now obtain FSA Direct or Guaranteed loan financing to acquire livestock or to operate a livestock enterprise at a facility which already has someone else’s livestock. Provided the applicant and the other party have a FSA-acceptable plan to keep their operations separate, FSA can finance the separate operations, rather than considering them as one joint operation. This may provide an opportunity for a beginning farmer to develop ownership in a herd without forming a formal entity with someone else.

## Socially Disadvantaged (SDA) farmers

FSA makes and guarantees loans to eligible socially disadvantaged farmers (SDA) to buy and operate family-size farms and ranches. Each fiscal year, the Agency targets a portion of its direct and guaranteed farm ownership and operating loan funds to SDA farmers.

These groups consist of American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics and women. USDA is committed to fostering full participation of SDA farmers in FSA’s farm loan programs; and provides information and assistance to SDA farmers to help them develop sound farm management practices, analyze problems, and plan the best use of available resources essential for success.

## Emergency Farm Loans (EM) Available

Weather related events plagued many agricultural producers across the state of Minnesota in 2008. To assist producers affected by these events, such as severe storms, flooding, or drought, FSA provides Emergency (EM) loans to eligible family farmers.

Emergency Loans are available to eligible applicants who have incurred substantial financial losses from a disaster. Producers who own or operate land located in a disaster declared county may be eligible for EM loan assistance for physical and production losses. The maximum outstanding EM loan amount is \$500,000. Emergency loan funds may be used to restore or replace essential property, pay associated production costs, reorganize the farming operation, pay essential family living expenses, or refinance certain debts.

Deadlines for application are approaching quickly and vary across the state depending on the date(s) the disastrous event occurred. For more information concerning eligibility and application deadlines, visit [www.fema.gov/dhsusda/searchState.do?state=MN](http://www.fema.gov/dhsusda/searchState.do?state=MN) or contact your local FSA office.

# USDA/FARM SERVICE AGENCY

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## FSA Assists RMA

FSA county office staff will be assisting Risk Management Agency (RMA) and insurance providers in monitoring crop conditions throughout the growing season. FSA staff will be making two inspections; one during the growing season and one during the time harvest is normal for the crop.

The staff will be checking to see if reported crops have been planted and cared for in a workmanlike manner. All suspected cases of fraud, waste, and abuse of the Federal Crop Insurance Program will be referred to RMA.

Producers may report suspected cases of fraud, waste, and abuse to the county office staff, RMA office or Office of Inspector General.

FSA will also assist RMA with auditing claims.

## Conservation Reserve Program (CRP) Update

The 2008 Farm Bill reauthorized the Conservation Reserve Program (CRP) through Sept. 30, 2012. However, on Oct. 1, 2009, the total available acreage for CRP will be reduced from 39.2 to 32 million acres. Currently there are approximately 33.55 million acres.

It is estimated by Oct. 1, 2009, there will be about 1.5 million acres available for CRP enrollment, taking into consideration acres expiring on Sept. 30. A general signup is **not anticipated** in 2009. However, the very popular Continuous CRP is still available.

CRP rental rates were adjusted in Oct. 2008 to more closely reflect cash rents. In addition, added incentives to wetland restoration and duck nesting CRP practices have occurred. **State Acres For Wildlife Enhancement (SAFE)** has been a very popular practice.

SAFE is designed to provide pheasant and prairie chicken habitat.

**Living Snow Fences** are another practice that should be considered since it is also a CRP practice with some very attractive features.

## 2009 Dates to Remember

March 15	Deadline for 2009 NAP Coverage-Insured under CAT/MPCI: corn, green peas, barley, oats, soybeans, sugar beets, grain sorghum, sweet corn, wheat, grazed pasture, and pumpkins
June 1	Deadline to enroll in DCP
September 30	Insured under CAT/MPCI or NAP: forage production/alfalfa

## Foreign Buyers Notification

The Agricultural Foreign Investment Disclosure Act requires all foreign owners of U.S. agricultural land to report their holdings to the Secretary of Agriculture. Agricultural land is defined as any land used for farming, ranching or timber production, if the tracts total 10 acres or more. 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 with 90 days of the closing. Failure to submit the AFIDA form could result in civil penalties of up to 25 percent of the fair market value of the property.

Realtors, attorneys and others involved in real estate transactions are reminded to notify foreign investors of these reporting requirements.

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