



January 2009

## To North Dakota Producers



Since this will be my last message to the producers of North Dakota, I would like to take this opportunity to say "thank you" to each of you. It has been my privilege for the last 8 years to work with and for all of you. Thanks for the cooperation you have given to me and to each of our county offices during this time.

While we in North Dakota have the greatest bunch of FSA employees in the entire organization, there were still times we had much more to do than we could accomplish. When we appealed to you, the producer, your understanding was very gratifying and in the end we did accomplish all the things for which we were responsible. Your cooperation and understanding had a lot to do with helping us be successful. I would like to once again say that I believe you are fortunate to have such a great staff of hard working, dedicated employees serving you across the state in both our Farm Programs and Farm Loan Programs divisions.

I wish all producers good luck in the coming years and I hope North Dakota agriculture remains one of the brightest shining stars in our economy.

*Gary J. Nelson, FSA State Executive Director*

## Payment Limits and Direct Attribution

For commodity and disaster programs under the new farm bill, the Adjusted Gross Income (AGI) limitation was reduced from \$2.5 million from all sources to a three-year average non-farm AGI of \$500,000 such that a person or entity shall not be eligible for such programs if the non-farm AGI exceeds \$500,000. Also, under the new regulations, an individual or entity must have a 3-year average AGI less than or equal to \$750,000 per year from farm income in order to qualify for direct payments issued under the Direct and Counter-cyclical Program.

For conservation programs, the average nonfarm AGI limitation is \$1 million or less for eligibility. However, an individual or entity who has non-farm AGI in excess of \$1 million remains eligible for conservation programs only if 66.66 percent or more of the total AGI is derived from farming, ranching and forestry operations. In addition, the AGI limitation for conservation programs may be waived on a case-by-case basis if it is determined that environmentally sensitive land of special significance would be protected.

Program payments are 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. The ownership interest in a legal entity as of June 1 of the respective year will be the interest used for direct attribution purposes for the entire program year.

Qualifying spouses are eligible to be considered separate persons for payment limitation purposes, rather than being automatically combined under one limitation.

Individuals and entities must be "actively engaged in farming" with respect to a farming operation in order to be eligible for specified payments and benefits. To be "actively engaged in farming," the individual or entity must make significant contributions to the farming operation of: (1) capital, equipment, land, or a combination; and (2) personal labor or active personal management, or a combination. For more info contact your local FSA office.

## Payment Limitation Interim Rule

The interim rule for Farm Program Payment Limitation and Payment Eligibility for 2009 and Subsequent Crop, Program, or Fiscal Years was published on December 29, 2008. FSA will consider comments received by 30 days after the date of publication in the Federal Register, or January 28, 2009. A copy of the interim rule is available through the Farm Service Agency home page at <http://www.fsa.usda.gov/>.

In your comment, include the volume, date, and page number of the issue of the Federal Register. You may submit comments by any of the following methods:

- E-Mail: [Salomon.Ramirez@wdc.usda.gov](mailto:Salomon.Ramirez@wdc.usda.gov)
- FAX: 202-690-2130
- Mail: Salomon Ramirez, Director, Production, Emergencies and Compliance Division, FSA, U.S. Department of Agriculture (USDA), Stop 0517, Room 4752, 1400 Independence Ave. SW, Washington, DC 20250-0517.
- Hand Delivery or Courier: Deliver comments to the above address.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Comments may be inspected at the mail address listed above between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

## Payment Eligibility Change for Entities

Beginning in 2009, **each** partner, stockholder, or member of a legal entity must make a contribution of active personal labor and/or active personal management to the farming operation. The applicable contribution must be:

- performed on a regular basis
- identifiable and documentable
- 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. It is important to note that the failure of any partner, stockholder, or member to meet this requirement will result in a reduction of payments to the payment entity that is commensurate with the ownership share held by that interest holder.

This is a change from the requirements in place for 2008 and prior years in that partners, stockholders, or members that collectively held at least a 50 percent interest in the entity had to make contributions of active personal labor and/or active personal management to qualify the entity for payment.

## Milk Income Loss Contract Signup

Signup for the Milk Income Loss Contract (MILC) Program began on December 22, 2008. The signup will continue through the program's expiration date of September 30, 2012.

The MILC Program provides for payments if the Boston Class I price of milk falls below \$16.94 per hundredweight. The \$16.94 target price is adjusted up if the cost of feed is above a specified level. Payments are limited to 2.985 million pounds of production each fiscal year.

During the signup period, dairy operations must select the month during the fiscal year to start receiving payments. Producers submitting applications by January 21, 2009, may select any preceding or later month as the start month. Producers submitting applications after January 21, 2009, will be restricted to selecting the month that the application is submitted or a later month.

## CRP Enrollment Opportunities

There continue to be opportunities to enroll cropland into the Conservation Reserve Program (CRP) under the continuous signup provisions.

Cropland that includes wetlands may be eligible for the Duck Nesting Habitat or Wetland Restoration practices. These practices provide additional financial incentives to participate, including a \$100 per acre signup incentive payment and a 20 percent increase in the annual rental payment.

Cropland with saline soils may also be enrolled in CRP. This practice is limited to 50 acres per tract.

Several project areas have been designated for State Acres for Wildlife Enhancement (SAFE). Cropland within one of these project areas may also be enrolled if suitable wildlife habitat is established. Acreage enrolled in CRP through SAFE is eligible for the \$100 per acre signup incentive program.

## 2005-2007 Crop Disaster Program

Signup for quantity and quality losses under the 2005-2007 Crop Disaster Program (CDP) may be completed at your local Farm Service Agency (FSA) office. The application deadline has not yet been set but is expected to be announced soon.

The CDP provides benefits to farmers who suffered losses production and quality losses to their 2005-2007 crops from natural disasters and related conditions. Producers who incurred qualifying quantity or quality losses in 2005, 2006 or 2007 may receive benefits for only one of these years. However, producers may apply for benefits for losses to multiple crops as long as the losses occurred in the same crop year.

Only producers who obtained crop insurance coverage or coverage under the Noninsured Crop Disaster Assistance Program (NAP) for the year of loss will be eligible for CDP benefits. Producers must have suffered quality losses and a price reduction of at least 25 percent to be eligible for CDP Quality Loss. The payment rate is set at 65 percent of the amount of the affected crop multiplied by 42 percent of the per-unit average market value in the year in which the loss occurred. Producers may receive assistance for both quantity and quality losses.

## 2009 Permanent Disaster Program-Linkage

Under the new SURE disaster program, producers are required to insure, through the RMA or NAP programs, all annual and perennial crop acreage, they have an interest for the applicable year, including cropland and noncropland acreage that is intended to be hayed. Failure to miss the RMA or NAP application deadline for any of the applicable crops will make the producer ineligible for permanent disaster program assistance. In addition, under the SURE program, producers receive higher levels of revenue coverage, up to 90% of expected revenue, if they "buy-up" coverage under RMA programs. Producers with CAT levels of coverage are only guaranteed 32% of revenue coverage.

It is important to check with your crop insurance agent to determine which crops you need to purchase insurance on for the 2009 crop year. The 2009 sales closing dates for the remaining RMA crop insurance and NAP programs close on March 15, 2009. Contact your local FSA office for purchasing NAP coverage.

Additional information concerning the SURE program for the 2008 crop year and applicable deadlines is forthcoming.

## Farm Service Agency Loan Programs

Farm Service Agency (FSA) makes direct and guaranteed farm ownership (FO) and operating loans (OL) to family-size farmers and ranchers who cannot obtain commercial credit. FSA also makes loans to individual rural youth to establish and operate income producing projects of modest size in connection with 4-H clubs, FFA, and similar organizations. FSA also provides emergency loans to help producers recover from production and physical losses due to drought, flooding, and other natural disasters.

FSA farm loan program assistance is available to eligible applicants who:

- Are unable to obtain conventional credit,
- Will be the owner or renter of a not larger than a family sized farm.
- Have sufficient training and/or experience in managing and operating a farm,
- Are citizens or lawfully admitted aliens,
- Show repayment ability for the requested loan,
- Show sufficient security for the requested loan.
- Other eligibility requirements apply to certain loan types. Contact your local FSA office for a full discussion of your circumstances to determine if you may be eligible.

“Direct” Farm Loans are made by FSA with Government funds. The local county office makes and services these loans and provides direct loan customers with supervision and credit counseling so they have a better chance of success. Farm Ownership, Operating, Emergency and Youth loans are the main types of loans available under the Direct Loan program.

FSA “Guaranteed” Farm loans provide lenders (e.g., banks, credit unions, Farm Credit institutions) with a guarantee of up to 95% of the loss of principal and interest on a loan. Farmers and ranchers apply to an agricultural lender, which then arranges for the guarantee. FSA can guarantee Operating Loans or Farm Ownership up to \$1,094,000 (amount adjusted annually based on inflation).

**Direct Farm Ownership Loans**—With a Direct Farm Ownership Loan (FO), you can purchase farmland, construct or repair buildings and other fixtures, and promote soil and water conservation. The maximum amount for Direct Farm Ownership Loans is \$300,000. Repayment terms and interest rates vary according to the type of loan made, the collateral securing the loans, and the applicants’ ability to repay. Farm Ownership Loan terms cannot exceed 40 years.

**Direct Operating Loans**—Direct Operating Loans (OL) may be used to purchase items such as livestock, farm equipment, feed, seed, fuel, farm chemicals, insurance, and other operating expenses. Operating Loans can also be used to pay for minor improvements to buildings, costs associated with land and water development, family subsistence, and/or refinance debts under certain circumstances. The maximum amount of Direct Operating loans is \$300,000.

Repayment terms and interest rates vary according to the type of loan made, the collateral securing the loans, and the applicants’ ability to repay. Annual Operating Loans are normally repaid within 1 year. Other Operating Loans are normally repaid within 7 years.

**Youth Loans**—Available for individual rural youth (city or town under 50,000 population) ages 10 through 20 to establish and operate agriculture income producing projects. Applicants must be participating in a 4-H, FFA or similar type of organization and be recommended by an advisor and by parent (s). Maximum loan is \$ 5,000. Payment schedule will vary depending on the project.

**Emergency Loans** may be made to farmers or ranchers who:

- own or operate land located in a county declared by the president as a disaster area or designated by the Secretary of Agriculture as a disaster or quarantine area (for physical losses only, the FSA Administrator may authorize emergency loan assistance).
- Are established family farmer operators and have sufficient farming or ranching experience.
- Are citizens or permanent residents of the United States
- Have suffered at least a 30-percent loss in crop production or physical loss to livestock, livestock products, real estate, or chattel property.
- Have an acceptable credit history.
- Are unable to receive credit from commercial sources.
- Can provide collateral to secure the loan.
- Have repayment ability.

Producers can borrow up to 100% of actual production or physical losses, to a maximum amount of \$500,000. Repayment terms and interest rates vary according to the type of loan made, the collateral securing the loans, and the applicants’ ability to repay.

All 53 counties in North Dakota have been declared primary or contiguous disaster counties based on a Secretarial Natural Disaster Determination S2834. Emergency loans are available to eligible applicants having qualifying physical and/or production losses. Application deadline is August 31, 2009.

For further information on FSA Farm Loan Programs contact your local FSA Office or look at FSA loan information via the internet using the following website:

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=fmlp&topic=landing>

## 2008 Wool/Mohair/Unshorn Pelt LDP Deadline

Wool Producers are reminded that the deadline to apply for loans or LDP’s on wool or mohair shorn in calendar year 2008 is January 31, 2009. That is also the deadline to apply for unshorn pelt LDP’s for unshorn lambs sold for immediate slaughter in calendar year 2008.

### New Payment System

FSA has implemented a web based system for processing all farm program payments. Under the new system, county offices can no longer issue paper checks to producers. Producers who have signed up for direct deposit will continue to receive payments electronically within two or three business days after processing. Those without direct deposit will receive a U.S. Treasury check in 7 to 10 days after the payment is processed. Producers who currently have not completed a direct deposit application (Form SF-1199A) for FSA payments can contact their local FSA office for information.

### 2009 DCP Program Signup Deadline

Producers have until June 1, 2009, to enroll into and provide owners signatures for the 2009 Direct and Counter-cyclical Payment Program (DCP). There is no late-filed enrollment period for DCP in 2009 and subsequent years. All contracts must be filed and signatures obtained by June 1.

Farms with base acres of 10.0 acres or less will not receive DCP payments, unless the farm is wholly owned by socially disadvantaged or limited resource farmers or ranchers.

Selected Interest Rates for January 2009	
90-Day Treasury Bill	0.500%
Farm Operating - Direct	3.000%
Farm Ownership - Direct	4.875%
Limited Resource	5.000%
Farm Ownership - Direct Down Payment, Beginning Farmer or Rancher	1.500%
Emergency	3.750%
Farm Storage Facility	2.125%
Sugar Storage Facility	3.500%
Commodity Loans	1.625%

### Dates to Remember

January 31	Deadline for 2008 wool, mohair and unshorn pelt LDP applications
March 15	Deadline for 2009 NAP coverage
June 1	2009 DCP signup deadline
August 31	Secretarial S2834 EM Loan deadline

### CRP Assignments

Some banks are mailing advertisements to CRP participants offering loans secured by future CRP payments. These banks may have obtained CRP participant information through Farm Service Agency's national office under a freedom of information request. CRP participants that are interested in obtaining this credit should work directly with the lending institution. This is not a FSA sponsored activity.

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Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotope, etc.) should contact USDA's Target Center at (202) 720-2600 (voice and TDD). To file a complaint of Discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.