



September 2009

### Meet the New State Executive Director



Greetings from your new FSA State Executive Director. I come into this position with a lot of excitement and appreciation for what North Dakota producers do each and every day. It is very rewarding to work with producers who grow the crops that feed the world. This

edition of the FSA News contains good information on harvest-related issues. Barley and durum prices have reached trigger levels for Loan Deficiency Payments (LDPs), so be sure you understand your options for LDPs. Also, check out the Farm Service Agency web site <http://www.fsa.usda.gov> for other program information. In closing, I hope your cereal grain harvest is going well and that the row crops get more heat than cold!

*Aaron Krauter, FSA State Executive Director*

### 2009 Crop CCC Loan and LDP Information

To be eligible for a loan or Loan Deficiency Payment (LDP) a producer must:

- have beneficial interest in the commodity
- complete an acreage report for the commodity
- be in compliance with highly erodible and wetlands provisions
- not have been convicted of a controlled substance violation
- not have a delinquent non-tax federal debt

### Beneficial Interest Requirements

Producers are required to maintain beneficial interest in the commodity tendered for loan or LDP. Beneficial interest includes having control and title in the commodity. Loss of any one element causes loss of beneficial interest.

Sales agreements, including options to purchase, priced later and contracts for future delivery can impact beneficial interest. Once beneficial interest is lost, the commodity remains ineligible for loan or LDP, even if the producer regains control or title at a later date. Some contracts may also have provisions, such as restrictions on ability to mortgage the commodity or storage earned prior to delivery, that impact when beneficial interest is lost even if no payment has been issued to the seller. Even without a sales contract, delivery location, such as a feed lot, ethanol plant, seed plant or licensed warehouse can also impact when beneficial interest is considered lost.

Producers planning to use any of the various types of sales contracts can request to have the contract reviewed by the local county FSA office to determine how the contract would impact beneficial interest.

### General Commodity Eligibility Requirements

To be eligible for loan or LDP, commodities must:

- have been produced by an eligible producer and harvested in the current crop year
- be in existence and in storable condition
- be merchantable for food, feed or other uses as determined by CCC
- not contain mercurial compounds, toxin-producing molds or other poisonous substances (vomitoxin and aflatoxin levels can affect wheat, barley and corn eligibility)

Commodities that are obtained through substitution, purchase or received as a gift are not eligible for loan or LDP. Crop mixtures are not eligible for loan or LDP. Quantities requested for LDP are not eligible for loan. Commodity grades, class and eligibility for nonrecourse loan are based on the United States Standards for Grain. Unshorn pelts and commodities harvested as other than grain are eligible for LDP only. Eligible Commodities and Loan/LDP Availability Dates for the 2009 Crop are indicated in the table below:

Commodity	Final Availability Date
Wool, Mohair, Unshorn Pelts	January 31, 2010
Barley, Canola, Crambe, Flaxseed, Honey, Oats, Rapeseed, Wheat, Sesame Seed	March 31, 2010
Corn, Dry Peas, Grain Sorghum, Lentils, Mustard, Safflower, Small Chickpeas, Large Chickpeas, Soybeans, Sunflowers	May 31, 2010

### Loan Types

Two types of loans are available, depending on the quality of the commodity. Commodities that meet **nonrecourse** warehouse stored loan requirements are eligible for market loan repayments and delivery to CCC at maturity. Commodities that do not meet the nonrecourse warehouse loan grade requirements are eligible for **recourse** loans. Recourse loans must be repaid at principal plus interest. They cannot be repaid at the market rate and cannot be delivered to CCC at maturity.

Test weight, moisture levels, and other quality factors can impact the eligibility for nonrecourse loans. If there are known commodity quality problems producers should contact their local county FSA office to discuss available loan options.

Farm-stored loans are available in approved storage structures that provide safe storage for the commodity.

Beginning in crop year 2009, warehouse-stored loans are available in warehouses that are Federally-licensed under the U.S. Warehouse Act or in compliance with State laws under the State licensing program and that issue warehouse receipts that meet CCC's requirements. Acceptable documentation must be provided specifying that all in-handling charges have been provided for or paid before the warehouse loan will be disbursed. Warehouse-stored loan rates will no longer be adjusted using premiums and discounts at loanmaking time.

Loan rates will be adjusted by premiums and discounts only at loan settlement, if the commodity at maturity is either farm-stored delivered or warehouse-stored forfeited.

### **Fees and Interest Rates**

Loan service fees are the smaller of \$45, or one-half of one percent (.005%) of the gross loan amount plus \$3 for each additional bin or warehouse receipt over one. There are no service fees for LDP disbursements.

Measurement service is available for measuring farm-stored bins for loans and LDP's. The rates are \$30 per farm plus \$16 for the first hour and \$8 for every 30 minutes after the first hour.

The loan interest rate is based on the CCC announced rate for the month in which the loan is disbursed. The rate is based on the CCC borrowing interest rate plus one percent. The interest rate is subject to adjustment on January 1 of the following year if the loan is still outstanding.

### **Loan Repayments**

USDA has begun using an improved and more stable system for determining non-recourse marketing assistance loan repayment rates and loan deficiency payment rates for wheat, feed grains, pulse crops, oilseeds, wool, mohair and honey.

CCC will determine and publish daily loan repayment rates based on the average market prices during the preceding 30 days for wheat, corn, grain sorghum, soybeans, barley, oats, canola, flaxseed and sunflower seed. At the same time, CCC began announcing each day a repayment rate based on the preceding five days. The effective alternative repayment rate will be the lower of either the 30-day average or the 5-day average.

CCC will also publish loan repayment rates once a week based on the average market prices during the preceding 30 days for pulse crops, crambe, mustard, rapeseed, safflower, sesame, wool, mohair and honey. An alternative repayment rate will also be announced using the current

methodology each week. The effective repayment rate will be the lower of either the 30-day average or the alternative repayment rate. No alternative rate is available for honey.

Commodity loans can be repaid at any time at principal plus interest. The alternative repayment can be made on nonrecourse loans prior to loan maturity, when the alternative repayment rate is less than principal plus interest. Matured loans cannot be repaid at the alternative repayment rate.

If the sales proceeds are needed to repay the loan, a marketing authorization (CCC-681-1) can be requested. The request can either be made in person or by telephone. The term of the marketing authorization can be either 15 or 30 calendar days. All parties who signed the note are responsible for repaying the loan. If the buyer does not repay the loan as required by the marketing authorization, CCC will make demand for repayment on the producers who signed the note. If an alternative repayment option is available, the option cannot be used after loan maturity or when the buyer does not remit repayment within 15 days of the expiration date of the marketing authorization.

Producers in an ACRE-enrolled farm will have a 30 percent reduction in the commodity loan rate. The applicable loan repayment option (the lesser of loan rate principal plus interest, 30-day, or alternative rate) will not be similarly adjusted with a 30 percent reduction to calculate the applicable CCC-determined value.

### **Loan and LDP Violations**

Producers who obtain a commodity loan agree to the terms and conditions in the CCC-601 and the loan regulations in 7 CFR Part 1421. Failure to provide accurate information on the loan application, or comply with the terms and conditions for movement of the collateral, repayment or settlement can result in a violation and assessment of penalties.

Incorrect certification is the certifying of a quantity for loan or LDP in excess of the quantity eligible for the loan or LDP or any fraudulent representation with respect to obtaining loans or LDP's.

Unauthorized removal is the movement of any farm-stored loan quantity from the storage structure(s) which were designated when the loan was approved to *any other storage structure*, without prior written authorization from the county committee.

Unauthorized disposition is the conversion of any loan quantity pledged as collateral for a farm-stored loan without prior written authorization from the county committee. Unauthorized disposition situations require that the county committee send the case file to the Office of Inspector General for review for potential criminal prosecution.

## **LDP Applications**

LDP applications can be filed in person, by fax or through the eLDP process.

The CCC-633 EZ is a multi-part form that was revised on July 31, 2009. Beginning on August 12, 2009, the only form version accepted by FSA, will be the CCC-633 EZ dated July 31, 2009. Page 1 is the intention to request an LDP. It must be filed each crop year. It will cover all farms and commodities in which a producer has an interest for the 2009 crop year. Page 1 must be filed before beneficial interest is lost in the commodity and before a request for payment is completed on pages 2-4. The completion of page 1 does not cause a producer to lose loan eligibility for the commodity. The option of obtaining a loan is maintained until a quantity is requested on the page 2 or 4 payment request.

Joint applications are no longer accepted. Each producer or entity who intends to file an LDP request must complete a separate CCC-633 EZ page 1 and separate page 2 or 4. Page 1 can be filed in any county FSA office in which a producer has a farming interest.

Page 2 of the form is used to request the LDP payment for wheat, feed grains, oilseeds, pulse crops and honey. Page 4 is used to request wool, mohair and unshorn pelt LDP payments. Page 2 and page 4 of the application must be filed in the county FSA office that maintains the farm records for the farm that produced the requested commodity.

The LDP rate is based on the date that the administrative county office receives the properly completed application if beneficial interest is maintained on the date the application is received. If a properly completed CCC-633 EZ page 1 is on file before loss of beneficial interest, and beneficial interest was lost prior to the date of filing the page 2 or page 4 payment request, the LDP rate will be based on the date that beneficial interest was lost.

Producers who rely on third parties to fax the application are responsible for accuracy, form completion, and ensuring that the application is filed in the correct county FSA office.

LDP's are available when the alternative repayment rate is below the commodity loan rate. If an LDP payment is requested, a producer agrees to forego obtaining a loan on the same quantity.

LDP's are only available on a commodity after the commodity is harvested, or sheared if wool or mohair, or extracted if honey. Approved storage is not required for commodities to be eligible for LDP.

LDP's are available for commodities harvested as "other than grain" which includes hay or silage.

## **eLDP's**

FSA allows electronic access for authorized producers to request LDP's using a personal computer. This allows

producers to request LDP's at their convenience and receive payment within three to four business days.

In order to obtain authorization, a producer must register for an "eAuthentication Level 2 Account." Registration can be completed by logging onto:

<http://www.eauth.egov.usda.gov/eauthCreateAccount.html>

Producers must file a CCC-633 EZ page 1 with the administrative county FSA office and request a "Customer Profile" be established for their farm production that they intend to use for LDP.

After completion of these items, individual producers and authorized signature representatives for entities (corporations or general partnerships) can then file eLDP applications.

## **Loan Settlements**

Commodity loans mature 9 months after the month in which the loan is disbursed. A matured farm-stored loan can be delivered to CCC at a CCC-approved warehouse. Discounts will apply based on grade and quality factors. Any deficiency in quantity and quality must be repaid by the parties who signed the note and security agreement. Interest applies to all deficiencies. Proof of payment of in-handling charges is required or a reduction will be made in the settlement value.

Warehouse-stored loans that remain unpaid at maturity will be forfeited to CCC according to the terms of the note and security agreement. The loan rate will be adjusted by premiums and discounts at the time the warehouse loan is forfeited.

Producers should explore all available settlement options before deciding to forfeit the commodity to CCC. Situations can occur where CCC takes all the loan grain, but the producer owes nearly all of the loan principal plus interest due to loan settlement discounts for poor quality. Commodity discount schedules are available at all county FSA offices

## **Requesting Loans**

Loans can be requested by mail, via fax or in person by properly completing the loan application. Loan applications are available at all county FSA offices and online at: <http://forms.sc.egov.usda.gov>

The application must be filed at the county office that maintains the farm records for the farm that produced the commodity for the loan. Filing the application at a different office will delay the loan processing.

Lien searches are required for all applicants and spouses to identify prior lien holders. Lien waivers are required from all lien holders before the loan can be disbursed.

### **FSA/CCC Payments issued by Direct Deposit**

In December 2008, FSA implemented a new web based system to process all farm program payments through the US Treasury. Under the new system, county offices no longer issue paper checks to producers.

Previously, producers that signed up for direct deposit could generally expect to receive payments electronically within two or three business days. Changes have occurred with Treasury which will now result in payments being received within three to four business days.

Also, in the past bank statements for direct deposit payees read "USDA-FSAKCMOCDSP", now all payments issued by Treasury for FSA and CCC program payments will read "FSA TREAS 310".

### **Farm Storage Facility Loan Program**

Changes to the Farm Storage Facility Loan Program (FSFL) included in the 2008 Farm Bill have now been implemented. The Facility Loan Program allows eligible producers of eligible commodities to obtain low-interest financing to build or upgrade farm storage and handling facilities.

The maximum principal amount of a loan through FSFL is \$500,000. Participants are required to provide a down payment of 15 percent, with CCC providing a loan on the remaining 85 percent of the net cost of the eligible storage or handling equipment. Loan terms of 7, 10 or 12 years are available depending on the amount of the loan. Interest rates for each term rate will vary.

Additional program information and loan application information can be obtained from the County Office that maintains your farm records. An application for FSFL must first be approved before any site preparation or construction can begin.

### **Loan Rates**

The 2009 crop commodity loan rates are available at any county FSA office, or online at:

<http://www.fsa.usda.gov/FSA> and clicking on the "Price Support" link.

Producers in an ACRE-enrolled farm will have a 30 percent reduction in the commodity loan rate.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.)

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.