



November 2009

From the State Executive Director



Mother nature as always showed us who is in charge again. October brought us many challenges trying to complete our harvest and hopefully in November we will get it all done.

Our county offices have been working diligently to get payments processed and have appreciated your patience. For all those producers who have an interest in conducting FSA business over the internet, please check out our web site <http://www.fsa.usda.gov> and click on the tool bar "Online Services" to see what you can do.

Aaron Krauter, FSA State Executive Director

DCP and CRP Payment Problems

Farm Service Agency deployed new payment software just prior to issuing DCP and CRP payments. The purpose of the new software and national payment system is to improve internal controls and efficiency. The transition process to the new system has been challenging.

There were numerous problems with the software that have delayed payments on a small percent of North Dakota's CRP and DCP contracts. The Agency understands the negative financial impact that the late payments is causing to the affected program participants. FSA is diligently working to resolve the problems as rapidly as possible to ensure that every customer is paid correctly.

Emergency Loan Program

USDA's Farm Service Agency (FSA) provides emergency loans to help producers recover from production and physical losses due to drought, flooding, other natural disasters, or quarantine. Emergency loan funds may be used to restore or replace essential property; Pay all or part of production costs associated with the disaster year; Pay essential family living expenses; Reorganize the farming operation; and refinance certain debts.

Emergency loans may be made to farmers and 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 area or quarantine area (for physical losses only, the FSA Administrator may authorize emergency loan assistance); Are established

family farm 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 a 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; and have repayment ability.

FSA loan requirements are different from those of other lenders in that borrowers must keep acceptable farm records; Borrowers must operate in accordance with a farm plan they develop and agree to with local FSA staff; and borrowers may be required to participate in a financial management-training program and obtain crop insurance.

All emergency loans must be fully collateralized. The specific type of collateral may vary depending on the loan purpose, repayment ability and the individual circumstances of the applicant. If applicants cannot provide adequate collateral, their repayment ability may be considered as collateral to secure the loan. A first lien is required on property or products acquired, produced, or refinanced with loan funds.

Producers can borrow up to 100 percent of actual production or physical losses, to a maximum amount of \$500,000.

Loans for crop, livestock, and non-real estate losses are normally repaid within 1 to 7 years; depending on the loan purpose, repayment ability, and collateral available as loan security. In special circumstances, terms of up to 20 years may be authorized. Loans for physical losses to real estate are normally repaid within 30 years. In certain circumstances, repayment may be made over a maximum of 40 years.

The current annual interest rate for emergency loans is 3.75 percent.

Applications for emergency loans must be received within 8 months of the county's disaster or quarantine designation date.

Further information on the emergency loan program is available from local USDA Service Centers or on the FSA website at: www.fsa.usda.gov.

Livestock Forage Disaster Program

Livestock producers can sign up for the 2008 Livestock Forage Disaster Program (LFP) through December 10, 2009. The program compensates livestock owners for

2008 grazing losses that occurred in 27 North Dakota counties.

LFP is available in the North Dakota counties that were identified on the U.S. Drought Monitor as having a D3 (Extreme) drought during the 2008 grazing season. The eligible counties are west of and including the following counties: Cavalier, Pierce, Sheridan, Oliver, Morton, Grant and Adams. The payment rates are up to \$36 per beef cow in the 5 most eastern eligible counties and up to \$54 per beef cow in other 22 counties. The payment amount is based on the duration of the drought.

Livestock producers with grazing land in the eligible counties may file applications at the local FSA office. The applicant will be required to identify owned and leased grazing land and certify inventory of grazing livestock.

The applicant must have had a policy or plan of insurance or have Noninsured Assistance Program coverage on the grazing land incurring the 2008 loss. This requirement is waived for producers who meet the requirements of socially disadvantaged, limited resources or beginning farmer or rancher. Relief of this requirement may be available in meritorious cases.

Emergency Livestock Assistance Program

North Dakota livestock producers and beekeepers that suffered losses due to weather related events or colony collapse disorder beginning January 1, 2008, may be eligible for benefits under ELAP.

ELAP covers losses that are not covered by other USDA programs. Eligible losses may include feed that was purchased or produced and later was destroyed by adverse weather or wildfire, short term loss of grazing because of reasons other than drought and additional costs incurred for providing or transporting feed to livestock.

Applications are filed by calendar year. Applications for 2008 losses must be completed by December 10, 2009. Producers that had 2009 losses must file a notice of loss by December 10, 2009 and complete the application by February 1, 2010.

The applicant must have had a policy or plan of insurance or have Noninsured Assistance Program coverage on all crops for the year benefits are requested. This requirement is waived for producers who meet the requirements of socially disadvantaged, limited resources or beginning farmer or rancher.

2008 Permanent Disaster Program – SURE

Under the 2008 Farm Bill, a new disaster assistance program, the Supplemental Revenue Assistance Payment Program (SURE) was authorized. The SURE program will provide a producer a revenue payment when actual revenue falls below the producer's guaranteed revenue for the crop year. The program guarantee and revenue are based on the sum of all crop acreage in all counties that

the producer has an interest in. To be eligible for payment, producers must have all acreage insured under either the RMA or NAP insurance programs and be located in a disaster county or contiguous county.

For the 2008 crop year, producers in all 53 counties are eligible to file an application if at least one crop of economic significance suffered a 10% loss in production. If this eligibility requirement is met, FSA will compile production, revenue and loss records from RMA and FSA data and compare the actual revenue to the guaranteed revenue. Actual revenue is determined from national average market prices, therefore producers are not to bring in sales documentation. Guaranteed revenue is determined by multiplying the planted or considered planted acreage times the higher of the crop's APH, adjusted APH or Counter-cyclical yield times the insurance price election times the level of coverage. If the actual revenue is less than the guaranteed revenue, a SURE payment will be based on 60% of the difference. FSA county offices will be contacting producers to schedule appointments as the application process for 2008 SURE will begin soon.

2010 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 non-cropland 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 2010 crop year. The following crops have fast approaching 2010 sales closing dates: apiculture RI (rainfall index) – November 30, 2009; Pasture, Rangeland, Forage (PRF) RI; Honey (NAP) – December 1, 2009. The 2010 sales closing dates for the remaining RMA crop insurance and NAP programs close on March 15, 2010. Contact your local FSA office for purchasing NAP coverage.

Ballots for County Committee Election

Ballots for the County Committee elections were mailed November 6 to those eligible voters in the Local Administrative Area (LAA) for which the election is being conducted. An election is held in each LAA every three years. The current County Committee consists of 3 members elected from 3 Local Administrative Areas (LAA's) or districts in all counties with the following exceptions:

1) Stark-Billings and Bowman-Slope have a combined County Committee consisting of 5 LAA's and 5 COC members.

2) Mountrail County has a 5 member Committee from 4 LAA's.

Please contact your local FSA Office for further information and details regarding the specific LAA conducting the election in your county.

Ballots were mailed to eligible voters November 6, 2009 for all counties except Emmons and Burke Counties. Those counties' ballots will be mailed January 4. The ballots are mailed from a nationally selected vendor. Please allow at least a week to two weeks for delivery of your ballot. Your local office will also have a supply of ballots on hand for walk-in voters.

Ballots must be postmarked or returned by no later than December 7, 2009. Only those voters eligible to vote in the Local Administrative Area conducting the election will receive ballots. Ballots must be counted in your local county office by December 14, 2009. Contact your local office for the specific time.

Information for the Emmons and Burke elections will be forthcoming directly from the local offices.

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 rather than by "person."

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 his/her 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 following are program limitations for the 2009 program year:

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

Average Adjusted Gross Income (AGI) Provisions

For 2009 and subsequent crop years, there are three qualifying levels for AGI provisions. The levels are as follows:

- 1) \$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,
- 2) \$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,
- 3) \$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% of total AGI is average adjusted gross farm income.

The average AGI is based on the average of adjusted gross income for the 3 taxable years preceding the most immediately preceding complete taxable year. For the 2010 program year, the 3 taxable years for AGI purposes would include 2008, 2007, and 2006.

FSA Extends Deadline to Remove Bales

Farm Service Agency has extended the deadline to remove bales from CRP fields. The deadline is extended from November 15 to December 15, 2009. This impacts CRP participants that have been approved for haying under the managed use provisions.

FSA has taken this action because rain has softened roads and fields making it difficult to transport bales from CRP fields. In addition, farmers and ranchers are struggling to finish harvest because of the weather conditions.

Livestock Indemnity Program Application Process Continues

Livestock producers that experienced livestock deaths in 2009 have until February 1, 2010, to complete the Livestock Indemnity program (LIP) application. LIP provides payments to livestock producers that lost animals in excess of normal mortality due to adverse weather events.

Applicants must provide proof of the livestock deaths. Proof may include verifiable documents such as veterinarian's documents. It may also be calving books or other records that existed at the time of the loss. If those types of records do not exist, a certification from a third party that has first hand knowledge of the deaths and that is not affiliated with the operation can be accepted. Inventory records are also required if the applicant does not provide verifiable records of the deaths.

Spousal Signatures

Husbands and wives may sign documents on behalf of each other for FSA and Commodity Credit Corporation programs in which either has an interest. This option is automatically available unless a written request for exclusion is made to the county office staff by either spouse.

There are exceptions to the rule. Spouses 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, and on security documents for price support loans.

Individual signatures are also required on certain Farm Loan Program and Farm Storage Facility Loan documents.

A spouse's authority to sign documents on behalf of the other spouse does not entitle the spouse to review or receive agency records of the other spouse.

Late-Filed Acreage Reports

The deadline for timely filing an acreage report in North Dakota was August 14 for the 2009 crop year. Acreage reports must be filed for all cropland on the farm before any 2009 DCP or CRP payments can be made or before eligibility can be established for marketing assistance loans and LDP's. Additionally, participants of the Conservation Reserve Program (CRP) and the Non-insured Assistance Program (NAP) must report the specific acreage for which benefits are being requested.

A late-filed acreage report may be accepted if the producer pays the late filing fee, physical evidence of the crop exists, and the crop's use can be verified.

Change in Farming Operation

If you have bought or sold land, or if you have picked up or dropped rented land from your operation, make sure you report the changes to the office as soon as possible. A copy of the deed or recorded land contract for purchased property should be provided to the County Committee. Failure to maintain accurate records with FSA on all land you have an interest in can lead to possible program ineligibility and penalties. Making the record changes now will save you time in the spring.

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