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North Dakota FSA eNews

North Dakota State Office

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From the State Executive Director

As many of us know Congress extended the current Farm Bill for one more year. As you read this newsletter, you will see that Direct Payments will be offered again this crop year. Eligibility rules, payment limitations and AGI provisions will all be the same. So things are pretty much a repeat. Even the weather looks to be very similar to last year already. Here is a link to a weather monitor that I often check: http://droughtmonitor.unl.edu/

Have a warm February.

-Aaron Krauter, State Executive Director

County Committee Elections

The annual County Office elections were completed in December, 2012. Individuals elected to serve on the local County Committees took office January 1, 2013. All elected individuals serve a 3 year term. Election results are posted in the local office or you may contact your local office for election results.

2013 DCP / ACRE Program

The American Taxpayer Relief Act of 2012 extended the authorization of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) for many Commodity Credit Corporation (CCC) commodity, disaster, and conservation programs through 2013.

The extended programs include the Direct and Counter-Cyclical Payment Program (DCP) and the Average Crop Revenue Election Program (ACRE).
The 2013 DCP and ACRE program provisions are unchanged from 2012, except that all eligible participants in 2013 may choose to enroll in either DCP or ACRE for the 2013 crop year. This means that eligible producers who were enrolled in ACRE in 2012 may elect to enroll in DCP in 2013 or may re-enroll in ACRE in 2013 (and vice versa).

The following signup dates have been established by FSA for 2013 DCP/ACRE:

- FSA will begin sign-ups for DCP and ACRE for the 2013 crops on Feb. 19, 2013.
- The ACRE signup period will end on June 3, 2013.
- The DCP sign-up period will end on Aug. 2, 2013.
- Advance payments are not authorized; final direct payments issued in October of 2013.
- FAV planting restrictions apply on participating farms.

2013 Payment Eligibility/Payment Limitation

The method in which FSA will limit payments in 2013 will again be by direct attribution. The following are program limitations for the 2013 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

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, and/or land; and (2) active personal labor and/or active personal management. In addition, cash-rent tenant provisions must be met, if applicable.

Program benefits will not be provided until all required forms are provided and necessary determinations have been made. A determination of not actively engaged in farming will result in the producer being determined ineligible for any payment or benefit requiring a determination of actively engaged in farming.

A new farm operating plan (CCC-902) is not required to be filed if the farming operation continues to be conducted as reflected on the existing farm operating plan and supporting documents on file in the county office. If any changes occur that could affect an actively engaged in farming, cash-rent tenant, foreign person, or average AGI determination, producers must timely notify the county office by filing a revised farm operating plan. Failure to timely notify the county office may adversely affect payment eligibility.

All entities earning program benefits subject to payment limitation are required to provide the names, addresses, and tax ID numbers of the entities' members to the county office. Additionally, all applicable payment eligibility and payment limitation forms submitted by producers are subject to spot check through the end-of-year review process.

MILC Program Benefits Extended

The American Taxpayer Relief Act of 2012 (ATRA) allows the continuation of the Milk Income Loss Contract (MILC) program through September 30, 2013. FSA County Offices are collecting production evidence at this time.
All existing MILC contracts are automatically extended through September 30, 2013, so there is no need for dairy

producers to re-enroll in MILC. The production start month previously selected by a dairy operation is applicable for FY 2013. However, a relief period, February 1 through February 28, 2013, will be authorized to allow MILC participants to change their start month selections because producers were not able to make timely start month selections for FY 2013 according to normal start month provisions.
The payment rates for September, October and November 2012 have been announced and FSA county offices will begin processing payments on February 5, 2013. Furthermore, before a MILC payment for FY 2013 can be disbursed, MILC participants must submit a completed CCC-933 for 2013 Average Gross Income (AGI) certification. If the MILC participant has already submitted any of the following: CCC-901, CCC-902E, CCC-902I or AD-1026, it is possible that the forms may not need to be submitted again, however the MILC participant should check with their local FSA Office to determine if these forms need to be re-submitted or updated.
The payment rate for September 2012 is approximately $0.59 per hundredweight. The payment rate for October 2012 marketings is approximately $0.02 per hundredweight. The payment rate for November 2012 marketings is zero. The production limitation increased from 2.4 million pounds to 2.985 million pounds per dairy operation.

Average Adjusted Gross Income (AGI) Provisions

The following four qualifying levels for AGI provisions will be in effect for the 2013 program year:

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 Farm and Nonfarm Income – if a person or legal entity has average adjusted gross farm and nonfarm income that exceeds $1,000,000, the person or legal entity is ineligible for 2013 direct payments,
4. $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 2013 program year, the 3 taxable years for AGI purposes would include 2011, 2010, and 2009.

Annual certifications of AGI compliance are required from each individual and legal entity requesting CCC program payments either directly or indirectly. Annual certifications are made on form CCC-931 or CCC-933 or by a statement from a certified public accountant or an attorney.

Continued Applicability of Highly Erodible Land and Wetland Conservation Compliance

With the recent one year extension of the 2008 Farm Bill, producers are reminded that highly erodible land conservation (HELC) and wetland conservation (WC) provisions remain in effect for the 2013 program year. HELC and WC compliance provisions are provided by the Food Security Act of 1985 and amended by subsequent Acts, resulting in the continued application of those provisions.

In order to receive payments from USDA, compliance with Highly Erodible Land (HEL) and Wetland Conservation (WC) provisions is required. Farmers with HEL determined soils are reminded of tillage, crop residue, and rotation requirements as specified per their conservation plan. Producers are to notify the USDA Farm Service Agency prior to conducting land clearing or drainage projects to insure compliance. Failure to obtain advance approval for any of these situations can result in the loss of eligibility and all Federal payments.

2013 FAV / Wild Rice Exception

Producers may not plant fruits, vegetables (FAVs) or wild rice on base acres enrolled in DCP or ACRE. However, if the farm has a history of planting FAVs or wild rice or if the producer has a history of planting the specific FAV or wild rice, the FAV or wild rice may be planted on base acres. In such cases, the direct and countercyclical payments shall be reduced acre for acre for each base acre planted to FAVs or wild rice.

2013 NAP

The Noninsured Assistance Program (NAP) provides financial assistance to eligible producers affected by a natural disaster. The program covers crops for which Federal Crop Insurance is not available. NAP covers losses greater than 50% of your expected production, based upon your approved yield and reported acreage. To apply for 2013 crop coverage, producers must complete a CCC-471 application for coverage and pay the service fee. The application and service fee must be filed by the applicable sales closing date. The service fee is $250 per crop per county or $750 per producer per county, not to exceed $1875 per producer in all counties.

Producers must purchase NAP policies for all spring planted crops, including grass for hay and grazing, by the 2013 sales closing date of March 15, 2013.

2012 ACRE Program – Farm Benchmark Yield Update

Producers who have a 2012 Average Crop Revenue Election (ACRE) program contract on one or more FSA farms, must complete the FSA-658 (Record of Production & Yield) for each ACRE farm and each covered commodity planted in 2012 by not later than July 15, 2013.

In the event a farm bill is enacted in the upcoming months, producers are encouraged to complete the 2012 production certification as soon as possible.

Production evidence that can be used to support the certified yields can be from the following sources:

- Crop Insurance loss records
- Sales records (buyer specific)
- Crop Insurance APH data base records
- Farm stored production records, appraisals

IRS Reporting for Tax Year 2012

Producers which are recipients of program payments during calendar year 2012 will receive form CCC-1099-G detailing payments producers have received from the Commodity Credit Corporation. The annual report of program payments on CCC-1099-G is a service intended to help our customers report taxable income. It is not intended to replace producers' responsibilities to report income to IRS. The mailing of form CCC-1099-G will occur in late January 2013.

In prior calendar years, CCC provided each producer receiving program payments a CCC Form 1099- G. Separate forms were provided from each County Office where CCC program payments were earned in the calendar year. Beginning in calendar year 2012, CCC will no longer be issuing Form 1099-G when CCC program payments total less than $600. In addition, producers which receive program payments from multiple counties will now receive only one CCC Form 1099-G showing all payments from all counties.

FSA staff cannot interpret IRS regulations or advise producers about which payments to report on their income tax returns. However, county office staff can review payments for accuracy.

Although refund information is not shown on the CCC 1099-G, a Customer's financial data including refund information, program payment amounts, and prior year CCC-1099 information is conveniently available via the internet through the FSA "Financial Inquiries" database (FSA-FI). Instructions for obtaining a FSA-FI user ID and password are available on the FSA web site at: http://www.eauth.egov.usda.gov/eauthWhatIsAccount.html

Farm Storage Facility Loan Program

The Farm Storage Facility Loan Program (FSFLP) allows producers of eligible commodities to obtain low-interest financing to build or upgrade on-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 for the remaining 85 percent of the eligible net cost of the storage facility and permanent drying and handling equipment. North Dakota FSA requires additional security for all loans exceeding $50,000 or when the aggregate amount of FSFL loans exceeds $50,000. Loan terms of 7, 10 or 12 years are available depending on the amount of the loan. Interest rates for each term rate may be different and are based on the rate which CCC borrows from the Treasury Department.
Applications for FSFL must be submitted to the FSA County Office that maintains the farm's records. Sign-up for FSFL program is continuous as long as CCC funding is available. An FSFL loan must be approved before authorizing delivery of equipment or materials, site preparation, or construction.
For more information about FSFL please visit your FSA county office or www.fsa.usda.gov.

Restrictions on Removing CCC Loan Collateral

Producers with grain under Commodity Credit Corporation (CCC) loan the loan collateral cannot be removed without prior authorization or repayment. Unauthorized removal, which includes removal for cleaning for seed or planting, is considered a violation and is subject to monetary and administrative penalties. CCC loans are subject to spot check. Determined shortages must be repaid with principal plus interest, and additional monetary penalties plus loss of future loan eligibility and restrictions on LDP's may apply. Producers planning to remove CCC loan grain must contact their local county FSA office staff for additional information.

2011 SURE Program

The sign-up for 2011 runs through June 7, 2013. Producers who believe they may be eligible for a SURE program payment must contact their local county office for an appointment to determine eligibility.

The Supplemental Revenue Assistance Program (SURE) provides benefits for farm revenue losses due to natural disasters that incurred in the crop year 2011. SURE is available to eligible producers on:

• Farms in counties with Secretarial disaster declarations, including contiguous counties, that have incurred crop production or quality losses, or both, and includes all crops grown by a producer nationwide, except grazed crops.

• Any farm in which, for the crop year, the actual production on the farm because of disaster-related conditions is 50 percent or less than normal production of the farm.

For more information on the SURE program, please visit your local FSA county office or http://www.fsa.usda.gov.

Important Dates and Deadlines

2011 SURE Signup – Ends June 7, 2013
2012 ACRE Production Evidence – July 15, 2013

2013 DCP / ACRE Signup Starts – February 19, 2013
2013 NAP Deadlines – 2013 Spring Planted and Forage Crops March 15, 2013
2013 Land and Ownership Changes Report by August 1, 2013
2013 Direct Payments issued in October 2013

February Loan and Interest Rates

Operating Loans - 1.125%
Farm Ownership Loans - 3.125%
Farm Ownership - Down Payment Loans - 1.50%
Emergency - Amount of Actual Loss - 2.125%

Commodity Loan - 1.125%
Farm Storage Facility Loan, 7-Year - 1.250%
Farm Storage Facility Loan, 10-Year - 1.875%
Farm Storage Facility Loan, 12-Year - 2.125%
