



February 2010

From the State Executive Director



For many producers wrapping up the 2009 harvest was and is still a challenge. Late maturing crops combined with high moisture then hampered by large snow falls put the brakes on many combines. Our county offices are starting this year's DCP/ACRE sign up and the SURE disaster sign ups. Many FSA programs

have deadlines for filing applications, so don't miss them. We review them in our monthly newsletters and information can be found on our web site <http://www.fsa.usda.gov>.

Aaron Krauter, FSA State Executive Director

FSA Partners with IRS for Changes

The U.S. Department of Agriculture is partnering with the Internal Revenue Service (IRS) to reduce fraud in farm programs and streamline payment limits for family farmers. The actions are intended to strengthen the integrity and defensibility of USDA farm safety net programs and help the agricultural industry to meet requirements included in the 2008 farm bill.

The cooperative partnership will ensure that the producers who depend upon the safety net of USDA programs will have future access to these programs by enhancing the overall integrity of the programs.

USDA has finalized a "Memorandum of Understanding" with the IRS to establish an electronic information exchange process for verifying compliance with the adjusted gross income provisions for programs administered by USDA's FSA and Natural Resources Conservation Service (NRCS).

The agreement will ensure that payments are not issued to producers whose adjusted gross income (AGI) exceeds certain limits. The limits set in the 2008 farm bill are \$500,000 non-farm average AGI for commodity and disaster programs; \$750,000 farm average AGI for direct payments; and \$1 million non-farm average AGI for conservation programs.

The USDA-IRS electronic process reviews data from tax returns, performs a series of calculations, and compares

the values to the AGI limitations from the 2008 farm bill. FSA and NRCS will receive a record that indicates whether or not the program participant appears to meet the income limits.

Written consent will be required from each producer or payment recipient for this process. The consent form (CCC 927 or CCC 928) can be obtained at the local Service Center or online at:

<http://forms.sc.egov.usda.gov/eForms/searchAction.do>

No actual tax data will be included in the report that IRS sends to USDA. As part of the review and evaluation process, participants whose AGI may exceed the limits will be offered an opportunity to provide third party verification or other information to validate their income.

Actively Engaged in Farming Exception for Entities

Beginning with the 2010 program year, USDA has amended the rules that govern the requirements to be "actively engaged" in farming. The rules apply to eligibility for payments under the Direct and Counter-cyclical Program (DCP) or Average Crop Revenue Election (ACRE) program administered by the FSA.

USDA has implemented the following change to permit certain operations, most often family-run operations, to meet "actively engaged" in farming requirements under less restrictive rules.

Every stockholder or member of a legal entity, including a corporation, does not have to contribute labor or management if both of the following apply:

- At least half of the interest in the legal entity is held by stockholders or members who are providing active personal labor or active personal management that altogether qualifies as a significant contribution to the farming operation;
- The total direct payments received, directly and indirectly, by each of the members do not exceed \$40,000.

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.

2010 Payment Eligibility/Payment Limitation

The method in which FSA will limit payments in 2010 will again be by direct attribution rather than by "person." The following are program limitations for the 2010 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.

2008 Permanent Disaster Program – 2008 SURE

Applications under the 2008 Supplemental Revenue Assistance Payment Program (SURE) program can now be filed at your local FSA County Office. Producers who believe they may be eligible for a SURE program payment must contract their local county office for an appointment to determine eligibility.

The SURE program provides 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 crop insurance or NAP programs and be located in a disaster county or contiguous county.

For the 2008 crop year, producers in all 53 counties in North Dakota are eligible to file an application for SURE. If the producer's farm revenue is less than the farm guarantee and at least one crop of economic significance suffered a 10% loss in yield a SURE payment will be based on 60% of the difference. To calculate a SURE program payment, 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 required to provide sales documentation, unless requested by the county committee. 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.

For more information on the new SURE program, please visit your local FSA county office or <http://www.fsa.usda.gov>. A new SURE calculator specifically for the 2008 SURE program has been posted to this website.

2009 ACRE Program – Benchmark Yields

For producers who elected the 2009 Average Crop Revenue Election (ACRE) program on one or more FSA farms, the ACRE program requires a yield be established for each covered commodity planted or considered planted in 2009, for each of the years 2004 – 2009. The process requires that each producer certifies to both the current year (2009) actual yield and the farm benchmark yields for each of the years making up the farm benchmark base period (2004 – 2008).

Producers must complete the FSA-658 (Record of Production & Yield) for each ACRE farm and each covered commodity planted in 2009 by not later than July 15, 2010. However, to ensure the FSA-658's have been completed properly we encourage producers to return the documents as soon as possible to the county office for review.

Production evidence that can be used to support the certified yields for 2004-2009 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

2010 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 2010 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 \$500 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 2010 sales closing date of March 15, 2010.

2010 DCP/ACRE Program Signup Deadline is June 1

Producers have until June 1, 2010, to enroll into and provide owners signatures for the 2010 Direct and Counter-cyclical Payment Program (DCP) and elect Average Crop Revenue Election (ACRE) Program. There is no late filed enrollment period for DCP in 2010 and subsequent years.

FSA computes DCP/ACRE direct payments using base acres and payment yields established for each farm. Eligible producers receive direct payments at rates established by statute regardless of market prices. For 2010, advance payments are available at 22% of the applicable direct payment rates. The final direct payments will be issued after Oct. 1, 2010. Counter-cyclical payments vary depending on market prices, and are issued only when the effective price for a commodity is below its target price (which takes into account the direct payment rate, market price and loan rate). ACRE payments are made when the state and farm triggers have been met and are computed based on the acreage planted or considered planted to a covered commodity and not the base acres.

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

The following direct payment rates apply for each of the eligible commodities in 2010:

	Direct Payment Rate	ACRE Direct Payment Rate
Wheat	\$0.52/bushel	\$0.416/bushel
Corn	\$0.28/bushel	\$0.224/bushel
Grain Sorghum	\$0.35/bushel	\$0.280/bushel
Barley	\$0.24/bushel	\$0.192/bushel
Soybeans	\$0.44/bushel	\$0.352/bushel
Oats	\$0.024/bushel	\$0.0192/bushel
Other Oilseeds	\$0.0080/lb	\$0.0064/lb

Farm Storage Facility Loan Program

The Farm Storage Facility Loan (FSFL) 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 and are determined when the loan is approved.

Additional program information and loan application information can be obtained from the County Office that maintains your farm records to discuss loan eligibility and application requirements. An application for FSFL must first be approved before delivery of equipment or materials, any site preparation, foundation construction or construction can begin.

FSA Farm Loan Programs

FSA's loan programs are designed to help family farmers obtain loans and loan guarantees, and conduct business planning. In many cases, these are beginning farmers who need additional financial and business insight to qualify for commercial credit. In other cases, they are farmers who have suffered financial setbacks from natural disasters, or who need additional resources with which to establish and maintain profitable farming operations.

Some farmers obtain their credit needs through the use of loan guarantees. Under a guaranteed loan, a commercial lender makes and services the loan, and FSA guarantees it against loss up to a maximum of 90 percent in most cases. In certain limited circumstances, a 95 percent guarantee is available. FSA has the responsibility of approving all eligible loan guarantees and providing oversight of lenders' activities.

For those not yet meeting the qualifications for a loan guarantee from a commercial lender, FSA also makes direct loans, which are serviced by an FSA official. FSA has the responsibility of providing credit counseling and supervision to its direct borrowers by making a thorough assessment of the farming operation. The Agency helps applicants evaluate the adequacy of the real estate and facilities, machinery and equipment, financial and production management, and the farmer's goals. FSA assists the applicant in identifying and prioritizing areas needing improvement in all phases of the operation. An FSA official then works one-on-one with the farmer to develop and to help strengthen the identified areas that ultimately result in the farmer's graduation to commercial credit.

Unlike FSA's commodity loans, most farm loans must be fully secured and can only be approved for those who have repayment ability.

Farm Ownership Loans

Eligible applicants may obtain direct loans up to a maximum indebtedness of \$300,000.

Farm Operating Loans

Eligible applicants may obtain direct loans for up to a maximum indebtedness of \$300,000,

Rural Youth Loans

FSA makes Youth Loans of up to \$5,000 to eligible individual rural youths age 10 through 20 to finance income-producing, agriculture-related projects.

Emergency Loans

The maximum indebtedness under the Emergency Loan program is \$500,000.

Additional information on FSA loan programs may be obtained at local FSA offices or through the FSA Web site at www.fsa.usda.gov.

Restrictions on Removing CCC Loan Collateral

Producers are reminded of Commodity Credit Corporation (CCC) loan restrictions. Grain under CCC loan cannot be removed without prior authorization or repayment. Removal and disposition without written authorization or repayment, which includes moving to nondesignated bins, feeding, using for seed, or delivery to a buyer is considered a violation and is subject to monetary and administrative penalties.

Commodity 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. If the loan collateral will be sold, producers must contact the county FSA office and obtain a marketing authorization prior to removing the commodity. The marketing authorization may be requested by telephone and can be obtained for a 15 or 30 day authorization period.

Producers planning to remove or sell CCC loan commodities should contact their local county FSA office staff for additional information prior to removal of the loan collateral.

Eligible Commodities and Loan/LDP Final Availability Dates for the 2009 Crop

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

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