



Nebraska Producer News

January 2011

From the State Executive Director

For 25 years this month (since the 1985 Farm Bill) participation in most federal farm programs has been linked to conservation and wetland compliance.

Every year FSA asks you about farming highly erodible land, altering wetlands and the use of approved conservation systems on your highly erodible land. USDA checks compliance on farms. We also investigate all complaints.



Dan Steinkruger
State Executive Director

As State Director, I review most violations. Every year we have violations and the financial costs are significant. Usually they are for inadequate crop residue. Know what the USDA conservation requirements are for the land you own and rent. Take time to discuss your farm's highly erodible fields, wetlands and the necessary conservation systems with FSA and NRCS. It will save you a potential problem with USDA and more importantly help protect the land you farm from wind and water damages.

Conservation Compliance

Farm Service Agency programs require compliance with sodbuster and swampbuster provisions. These provisions require producers to follow an approved conservation system on all highly erodible land (HEL) planted to an annual crop as determined by the Natural Resources Conservation Service (NRCS).

Be sure to have determinations made on any new land you plan to plant to annual crops. Swampbuster provisions state that converting a wetland to make possible the planting of a crop will result in the loss of all USDA benefits. To avoid this possibility it is strongly recommended that producers check with NRCS before creating a new drainage system, improving existing systems, or clearing wooded wetlands.

Producers need to file form AD-1026 before planting on land without an existing HEL or wetland determination, or undertaking any activity that may manipulate wetlands.

If a producer is determined to have violated the highly erodible land provisions, a payment reduction of \$1000 or greater will apply if it is determined the producer acted in good faith. If it is determined the producer did not act in good faith then the producer and all affiliates are ineligible for all USDA benefits for that year.

If a producer is determined to have violated the wetland provisions then the producer will be ineligible for USDA benefits until a mitigation plan is approved and implemented.

It is critical that producers review all highly erodible and wetland determinations on any land purchased or acquired through lease before the planting of any crop or clearing any areas on the farm.

FSA Conservation Loan Program

The Conservation Loan (CL) program will provide farm owners and farm-related business operators access to credit to implement conservation techniques that will conserve natural resources. Unlike FSA's traditional farm ownership and operating loan programs that are targeted toward smaller and less financially established farmers, eligibility requirements are expanded to permit the agency to provide assistance to some applicants who may be large and financially strong.

CL funds can be used to implement a conservation practice approved by the Natural Resources and Conservation Service (NRCS), such as to reducing soil erosion, improving water quality and promoting sustainable and organic agricultural practices. This would include installation of

conservation structures; establishment of forest cover; installation of water conservation measures; establishment or improvement of permanent pastures; transitioning to organic production; manure management, including manure digestion systems; adaptation of other emerging or existing conservation practices, techniques or technologies.

Interested applicants who do not already have NRCS-approved conservation plans should work with the local NRCS staff to develop a conservation plan, including all applicable conservation practices. New or existing conservation plans must be NRCS approved before FSA can provide financing.

Interest rates on guaranteed CLs will vary, but may not exceed the rate charged the lender's average farm customer. For direct CLs, the interest rate will be the direct loans rate in effect (for farm ownership loans) either at the time of loan approval, or loan closing. The direct CL loan interest rate for December 2010 is 4.125%.

Terms will vary and will be based on the life of the security offered, but not to exceed 20 years for real estate security and seven years for chattel property. CLs must be fully secured and can only be approved for those who have the ability to repay them.

Those interested may apply for direct CLs with loan limits up to \$300,000 at local FSA offices. In addition, guaranteed CLs up to \$1,119,000 (amount adjusted for inflation), may be available by applying with lenders working with FSA to obtain a guarantee.

Loan Programs for Socially Disadvantaged Farmers

FSA has a number of loan programs available to assist applicants to begin or continue in agriculture production. Loans are available for operating type loans and/or purchase or improvements of farms or ranches.

While all qualified producers are eligible to apply for these loan programs, the FSA has provided priority funding for members of socially disadvantaged applicants. A socially disadvantaged applicant is one of a group whose members have been subjected to racial, ethnic or gender prejudice because of his or her identity as members of the group without regard to his or her individual qualities. For purposes of this program, socially disadvantaged groups are women, African Americans, American Indians,

Alaskan Natives, Hispanics, Asian Americans, and Pacific Islanders. If producers or their spouses believe they would qualify as socially disadvantaged, they should contact their local FSA office for details.

FSA Farm Loans Available

Direct Operating Loans and Farm Ownership Loans – Farmers and Ranchers may obtain up to \$300,000 for their operation. This includes annual operating and family living expenses, machinery, breeding livestock purchases, or refinance most operating type debts and real estate improvements or repairs for operating loans. Producers can also obtain up to \$300,000 to purchase real estate and real estate improvements or repairs. The interest rate as of December 1, 2010 is 1.75 percent for Operating Loans and 4.125 percent for Farm Ownership. Loans for real estate can be amortized for up to 40 years and for chattels up to 7 years.

Direct Farm Ownership Down Payment Loan Program – The purpose of the program is to provide credit for beginning farmers and ranchers and socially disadvantaged farmers and ranchers to purchase real estate. The applicant must place 5% down; FSA will provide 45% of the purchase price up to a maximum of \$225,000. The balance of the purchase price will be obtained from a conventional lender or seller financing. The interest rate as of December 1, 2010 is 1.5% fixed for the term of the loan which will be 20 years for the down payment loan program.

In order to qualify you must be a beginning farmer/rancher or a socially disadvantaged farmer/rancher. A beginning farmer/rancher must have been farming/ranching for at least 3 years and not more than 10 years. A beginning farmer/rancher cannot own real estate that exceeds 30% of the median farm size for the county. A socially disadvantaged applicant is one of a group whose members have been subjected to racial, ethnic, or gender prejudice because of his or her identity as a member of the group without regard to his or her individual qualities. SDA groups are women, African Americans, American Indians, Alaskan natives, Hispanics, Asian Americans and Pacific Islanders.

Guaranteed Operating Loans and Farm Ownership Loans – Farmers and ranchers may obtain up to \$1,119,000 in Guaranteed Farm Ownership and /or Farm Operating Loans. Funds can be used to purchase or enlarge a farm, refinance debt or for most operating uses. Under this pro-

gram your local lender makes the loan and FSA provides a guarantee of up to 95% (depends on the circumstances) on the loan. This allows your local lender to continue to help you even if you are experiencing a decline in your financial condition. The interest rate is negotiated with the lender but should not exceed the interest rate charged to their average customers. You could qualify for Interest Assistance (4% rate reduction) if your cash flow and financial statements show the need. Loans for real estate can be amortized for up to 40 years and for chattel up to 7 years. Contact your local commercial lenders who participate in the guaranteed loan program. Local FSA Service Centers have lists of participating lenders.

Farm Storage Facility Loan Program Available to Build or Upgrade on Farm Commodity Storage Facilities

This low interest loan program is available to producers of eligible commodities to help build or upgrade their on-farm commodity storage and handling facilities. Some of the program details include:

- Eligible commodities such as:
 - Corn, grain sorghum, rice, soybeans, oats, peanuts, wheat, barley or minor oilseeds harvested as whole grain
 - Corn, grain sorghum, wheat, oats or barley harvested as other-than whole grain
 - Pulse crops – lentils, small chickpeas and dry peas
 - Hay
 - Renewable biomass
 - Fruits (including nuts) and vegetables – cold storage facilities
- The maximum loan amount is 85% of the net cost of the facility, not to exceed \$500,000 per loan.
- The loan term will be for 7, 10 or 12 years depending on the loan amount.
- The interest rate will be fixed for the term of the loan. The interest rate for FSFLs approved in December 2010 will be 2.0% for a 7 year term; 2.75% for a 10 year term; and 3.0% for a 12 year term.
- A down payment of 15% is required.
- Producers are required to carry property insurance on the storage facility and also crop insurance for the term of the loan.
- Loans over \$50,000 require real estate to be taken for security.
- Eligible bushel capacity is limited to 2 years of production minus the applicant's current available storage, (except fruit and vegetable storage facilities are limited to 1 year of production minus the applicant's current

available storage).

- There is a \$100 non-refundable application fee per applicant.
- Eligible facilities include conventional grain bins designed for whole grain storage; oxygen limiting structures designed for whole grain wet storage and silage; concrete bunker silos; flat storage structures designed for whole grain, hay, or biomass storage; and cold storage buildings designed for fruit and vegetable storage. Permanently affixed handling and drying equipment, safety equipment (ex. ladders), electrical equipment, concrete foundations, site preparation, materials and paid labor, are also eligible.
- Used equipment, portable dryers, scales, structures of temporary nature, or structures used for commercial purposes are not eligible.
- Construction of the storage facility cannot begin until after the FSFL application has been submitted to FSA and the loan has been approved.

Producers are encouraged to contact their local FSA office for additional information about the Farm Storage Facility Loan Program.

Livestock Indemnity Program (LIP)

LIP is available to eligible livestock producers on farms that have incurred livestock death losses in excess of normal mortality because of eligible adverse weather events since January 1, 2010 and during the 2010 calendar year. Eligible loss conditions as determined by the Secretary include losses because of floods, blizzards, lightning, tornado, certain diseases exacerbated by eligible adverse weather, wildfires, extreme heat, and extreme cold. Producers must have filed a Notice of Loss with their county office within 30 days of the livestock loss being apparent. Producers who experience a livestock loss can call their local FSA office to report their Notice of Loss. The LIP application, with all supporting documentation of the livestock inventory and the required proof of livestock death loss and producer signatures, must be filed at the producer's county office no later than January 31, 2011.

LIP payments will be based on 75% of a fair market value, as determined by the Secretary, for each specific livestock category and the individual producer's eligible losses.



Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP)

The ELAP program will provide emergency relief to producers of livestock, honey bees, and farm-raised fish because of feed loss, additional feed costs incurred, and honey bee colony collapse losses after January 1, 2010 and during 2010 calendar year from eligible adverse weather events, such as blizzards, tornados, floods, lightning and wildfires, as determined eligible by the Secretary for the claimed loss. To be eligible for the ELAP program, the producer must have purchased or enrolled in the following:

- an insurable crop on the farm, a policy or plan of insurance under the Federal Crop Insurance Act by the state's sales closing date.
- non-insurable commodity on the farm filed the required paperwork and paid the fee by the applicable deadline for the Non-insured Crop Disaster Assistance Program (NAP).

The ELAP program is intended to cover disasters that are not adequately covered by any of the other disaster programs. Producers must file a Notice of Loss within 30 days after the loss event. The ELAP application and all supporting documentation must be filed no later than January 31, 2011 for 2010 losses.

CRP Transition Incentive Program (TIP)

On December 13, 2010 Secretary of Agriculture Tom Vilsack announced the Department has established an online tool that can link retiring farmers who have expiring Conservation Reserve Program (CRP) contracts with beginning farmers or ranchers who are interested in bringing the land into production. The new online resource, TIP Net, is a website provided by the Farm Service Agency. Through the Transition Incentives Program (TIP), producers with land for sale or lease are introduced to qualified beginning or socially disadvantaged farmers and ranchers who want to buy or rent land for their operations.

TIP provides up to two additional CRP annual rental payments to a retired or retiring owner or operator with an expiring CRP contract. To qualify, the landowner must sell or lease the CRP land to a beginning or socially disadvantaged farmer or rancher so the new operator can convert some or all of the land to production using sustainable grazing or crop production methods.

As of November 30, TIP participation included 372 contracts on more than 52,000 acres nationally, with nearly \$5 million obligated for TIP annual rental payments.

For beginning and socially disadvantaged farmers or ranchers who cannot qualify for conventional credit, FSA offers financing as well. FSA makes direct loans and guaranteed loans made by conventional farm lenders to finance the purchase and operation of a farm. Each fiscal year, the agency targets a significant portion of its direct and guaranteed farm ownership and operating loan funds to beginning and socially disadvantaged farmers or ranchers. In the fiscal year ending September 30, 2010, FSA made or guaranteed 18,700 loans totaling \$1.975 billion to beginning and socially disadvantaged farmers. In addition to the funding reserves, FSA operates a special "down payment" loan program to assist socially disadvantaged and beginning farmers in purchasing a farm. Like TIP, this program can help retiring farmers transfer their land to future generations.

Additional information on FSA farm loan programs is available online at www.fsa.usda.gov or from any FSA office. TIP Net can be found online at <http://www.fsa.usda.gov/tipnet>.

2011 Direct and Counter-Cyclical (DCP) and ACRE Program Signup

The signup period for 2011 DCP and ACRE enrollment began October 1, 2010 and runs through June 1, 2011. All participant signatures must be submitted on the contract by the deadline. Advance direct payments are available at a level of 22% of the total direct payments for the farm. During DCP signup, producers may elect the ACRE option for 2011-2012 on specific farms. Farms previously electing ACRE must still annually enroll in the DCP program for 2011 and following years.

The October version of this newsletter provided additional information regarding the ACRE option. That news letter can be accessed at:

http://www.fsa.usda.gov/Internet/FSA_File/pnoctober10.pdf. Producers are encouraged to contact their county office to schedule an enrollment appointment. Fact sheets are available on the National FSA Website at <http://www.fsa.usda.gov> for both the DCP program and for the ACRE option.

ACRE Program Production Certifications

For farms enrolled in ACRE, the current year actual production certification must be provided to the FSA county

office by July 15, 2011. All ACRE commodities planted on an ACRE enrolled farm must have a benchmark yield established. For farms that elected ACRE in 2010, or if this was the first year a certain commodity was planted on the farm since the farm elected ACRE in 2009, the benchmark yield must be established based on certification of historic production for the 2005 thru 2009 crop years by July 15, 2011. With the completion of harvest, we encourage producers to complete their production certifications as soon as possible.

Cash Lease/Share Lease/Flexible Lease Provisions for 2011 Crop Year

FSA policy in determining whether or not a lease is share or cash for DCP/ACRE program purposes is defined as follows: A cash lease is a lease with any fixed amount of dollars or production being provided. Cash rent landowners are NOT eligible to receive any share of the DCP/ACRE contract payments.

A share lease is defined as ALL crop and crop proceeds being shared between owner and operator AND there is NO fixed dollar or production guarantee. If there is any fixed portion of dollars or production involved in the rental agreement, the lease is considered to be a cash rent lease and the owner/landlord is NOT eligible to receive DCP/ACRE payments on the farm. Other programs and reports may reflect how the crop is actually divided between the owner and operator.

Example: A tenant and the owner have a lease that divides the crop and inputs on a 50/50 share basis. However, in this example, the lease requires that the operator pay the owner an additional fixed cash payment of \$2,000. FSA policy would require this lease arrangement to be treated as a “cash lease” for DCP/ACRE program purposes and the owner is NOT eligible to receive any share of the DCP/ACRE payments. The acreage report for this farm should still reflect that the tenant and owner share the crop on a 50/50 basis.

Direct and Counter-Cyclical (DCP) and ACRE Payments Issued

The 2010 final DCP and ACRE direct payments have been issued by FSA county offices. Producers are encouraged to review their records to verify that they have received their final 2010 payments. If the direct payment for a farm has not been received, we encourage you to contact the

applicable county office. Based on strong National Average Market Prices for crops grown in Nebraska, there were not any counter-cyclical payments issued for the 2010 DCP program year.

2009 ACRE payments have been announced for barley, dry peas and sunflowers. The Actual State Revenue for 2009 barley, dry peas and sunflowers was less than the State ACRE Guarantee. As a result, the “state trigger” has been met. Individual farms enrolled in ACRE for 2009 must now meet the “farm trigger” to earn a 2009 barley, dry pea or sunflower ACRE payment. The October issue of this newsletter announced the 2009 wheat and oats ACRE payments. There will not be 2009 ACRE payments for corn, grain sorghum or soybeans in Nebraska.

Producers are reminded that actual ACRE payments for specific farms will vary due to the application of the “farm trigger” and the “productivity factor”. Please refer to the October edition of this newsletter for a more detailed explanation of ACRE payments for specific farms or contact your local FSA Office. That newsletter can be accessed at:

http://www.fsa.usda.gov/Internet/FSA_File/pnoctober10.pdf.

March 15 Non-insured Crop Assistance Program (NAP) Closing Date

The Non-insured Crop Assistance Program (NAP) provides financial help to producers of non-insurable crops when a low yield, loss of inventory or prevented planting occurs because of natural disasters. NAP also provides coverage for crops when the catastrophic level of multi-peril insurance is not offered. NAP coverage may be required to be eligible for the permanent disaster programs as provided in the Food, Conservation, and Energy Act of 2008.

Producers must apply for coverage using Form CCC-471, Application for Coverage, and pay the service fee at the county office. The application and service fee must be filed by March 15, the application closing date for alfalfa, mixed forage, grass, sorghum forage, and spring-seeded annual crops (vegetables, oats, and barley). The service fee is \$250 per crop per county or \$750 per producer per county. The fee cannot exceed a total of \$1875 per producer with farming interests in multiple counties. Limited resource producers may request a waiver of service fees. To qualify, a producer must be a landowner, tenant, or sharecropper who shares in the risk of producing an eligi-

ble crop. In addition, the producer's non-farm Average Gross Income (AGI) cannot exceed \$500,000 for the 3 tax years preceding the most immediately completed taxable year. For 2011, the AGI would be based on tax years 2007, 2008, and 2009. A payment limitation of \$100,000 per crop year is in effect.

Signup for 2009 Crop Losses (SURE Program) is Coming

The Supplemental Revenue Assistance (SURE) program provides benefits for crop losses due to natural disasters occurring in the 2009 crop year. This program is revenue based which accounts for losses in both production quantity and quality, as well as price. Prior crop disaster programs dealt only with production losses and did not account for decreases in revenue. This program was authorized by the 2008 Farm Bill and is legislated through 2011.

For the SURE program, a producer's "farm" includes all acres of all crops in all counties. To be eligible, a producer must have at least part of their "farm" located within a Secretarial declared county, a contiguous county or you must have suffered at least a 50% loss of your actual production on the farm. To be eligible for payment, you must have suffered at least a 10% loss of production on at least one crop of economic significance in a declared or contiguous county.

This program does have a Risk Management Purchase Requirement which means that in order to receive benefits all crops of economic significance must have been covered by a crop insurance policy or through the Non-insurable Crop Disaster Assistance Program. (NAP).

A signup date has not been announced for 2009. A SURE fact sheet is available on the National FSA Website at <http://www.fsa.usda.gov>.

Payment Eligibility

Individuals and entities must be "actively engaged in farming" with respect to a farming operation in order to be eligible for most FSA programs 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) active personal labor or active personal management, or a combination. In addition, producers who cash rent ground have to provide a significant amount of active personal labor, or active personal management and equipment, to be eligible

for benefits on the cash rented ground.

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

A farm operating plan is not required to be filed annually, however if any changes occur that could affect an existing actively engaged in farming, cash-rent tenant, foreign person, or average AGI determination, producers are required to timely notify the County Office by filing a revised farm operating plan.

There are statutory provisions that require entities earning program benefits that are subject to limitation to provide the names, addresses, and tax identification numbers of the entities' members. All forms applicable to payment eligibility and payment limitation are subject to spot check through an end of year review process.

Adjusted Gross Income (AGI) Provisions

Adjusted Gross Income (AGI) requirements must be met by an individual or entity requesting applicable FSA program benefits, as well as all members of that entity or joint operation. Payments to an entity will be reduced by the commensurate share of any member that is not in compliance with applicable AGI limitations. AGI is evaluated by considering the average of the three tax years preceding the most immediately preceding complete taxable year (i.e., for 2010 average AGI, calculate the average AGI for 2008, 2007 and 2006). Eligibility for FSA program benefits will be subject to the following limitations:

- If average non-farm AGI exceeds \$500,000, an individual or entity is ineligible for all commodity program payments. This includes payments issued under DCP/ACRE, NAP, the permanent disaster programs (SURE, LIP, LFP, ELAP) and price support programs.
- If average farm AGI exceeds \$750,000, an individual or entity is ineligible for DCP direct payments only.
- If average non-farm AGI exceeds \$1,000,000, an indi-

vidual or entity is ineligible for all conservation program benefits unless at least 66.66% of their total average AGI is from farming, ranching or forestry.

A new adjusted gross income certification must be filed each year. Participants should carefully evaluate their 2011 compliance with AGI limitations before certifying these provisions are met.

Producers requesting benefits either directly or through an entity are also required to annually sign a consent to disclosure form so that FSA can verify compliance with AGI provisions.

Wool, Mohair Loans/LDP's

The final loan availability date to request a marketing assistance loan or loan deficiency payments for wool, mohair and unshorn pelts is January 31 of the year following the year in which the commodity was sheared or the unshorn lamb was slaughtered. That means you have until January 31, 2011 to request loans or LDPs for 2010 crop wool and mohair that has not been marketed and remain in storage. To be eligible for a loan or LDP, the producer must:

- Meet the definition of an eligible producer by 1) reporting crop acreages if associated with a farm that has cropland, 2) complying with highly erodible and wetland provisions and 3) complying with payment eligibility and adjusted gross income provisions.
- Own the sheep or goats that produce the wool and mohair for a period of not less than 30 calendar days before shearing, or in the case of unshorn lambs, 30 days prior to slaughter of the lambs.
- For unshorn pelt LDPs only, sell the unshorn lamb for immediate slaughter or slaughter the unshorn lamb for personal use.
- Have submitted to FSA page 1 of the CCC-633 EZ before beneficial interest in the commodity was lost if requesting an LDP.

Paper Check Conversion – Over the Counter (PCC –OTC)

Over the next year, FSA/CCC is moving toward an electronic method for processing producers' checks. This will allow FSA/CCC to process collections faster. When producers present checks, either in person or through the mail, the checks will be converted into an Electronic

Funds Transfer (EFT). The funds will be debited from the producer's account, usually within 24 hours of receipt. Please see the U.S. Department of Treasury legal notices posted in the Service Center or visit the following U.S. Department of Treasury Internet site for detailed information: <https://www.pccotc.gov/pccotc/pcc/usingpcc/Legal%20Notices/legalnotices.htm>. Note: FSA/CCC will begin this process in the coming months.

What is PCC - OTC? PCC – OTC is a process for converting paper checks presented to FSA into electronic debits to the producer's bank account. It presents many benefits, such as reducing lost/misplaced checks and paper handling. This improves customer relations, speeds the check clearing process, and reduces the potential for human error.

How will my checks be handled? If the check is presented in person, the check will be scanned into the system, voided, and stamped with the words, "Electronically Processed" or "Electronically Presented" and the voided check will be returned to the customer.

If the check is mailed to FSA, the check will be scanned into the system and voided. The customer will not receive the check back from FSA. FSA will hold checks for up to 14 calendar days to ensure that the item was successfully processed, and then FSA will shred the check.

How quickly will funds be transferred from my account? The transfer of funds from your account could occur within 24 hours. Therefore, you should be sure that you have sufficient funds in your account to process the transaction. If you do not have sufficient funds, we may initiate the transaction again.

How will this transaction appear on my account statement? The transfer of funds will be reflected on your account statement. The transaction may be recorded in a different place on your statement than where your checks normally appear, such as under "other withdrawals" or "other transactions".

What are my rights if there is a problem with the transaction? You have protections under Federal law for an unauthorized electronic fund transfer from your account. You should contact your financial institution immediately if you believe that the transaction reported on your account statement was not properly authorized or is otherwise incorrect.

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Cathy Anderson, Production & Compliance Programs
Greg Reisdorff, Conservation & Environmental Programs
Vacant, Price Support Programs

Dates to Remember

Jan. 17, 2011

Birthday of Martin Luther King, Jr. Holiday.
FSA offices closed.

Feb. 21, 2011

George Washington's Birthday Holiday.
FSA offices closed.

Mar. 15, 2011

NAP application deadline for alfalfa, grass,
mixed forage, sorghum forage, and spring-seeded
annual crops (vegetables, oats and barley)

Ongoing

DCP/ACRE Enrollment through Jun. 1, 2011

USDA is an equal opportunity provider, employer and lender. To file a complaint of discrimination, write: 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)