



Nebraska Producer News

January 2012

From the State Executive Director

Federal spending issues have resulted in major cuts in FSA budgets the last two years. We have eliminated 50 full-time FSA positions in Nebraska, reduced our County Committee time, cut our travel and reduced the number of our newsletters.



Dan Steinkruger
State Executive Director

Going forward in 2012, check our website at www.fsa.usda.gov/ne/FSA for information, watch your publications and provide us an e-mail address for program information. We will do our best to provide you our best customer service. If you have concerns, talk to your local County Director, Farm Loan Manager or contact myself at 402-437-5600 or dan.steinkruger@ne.usda.gov.

Conservation and Wetland Compliance

When making plans for the 2012 growing season, remember the importance of highly erodible land (HELCS) and wetland conservation (WC) provisions. HELCS and WC compliance must be maintained to remain eligible for multiple USDA farm program benefits. An approved conservation system, as evaluated by the Natural Resources Conservation Service (NRCS), must be followed on all highly erodible land planted to an annual crop. Producers are required to file form AD-1026 before breaking new ground to plant, or manipulating wetlands by creating new drainage systems, improving existing systems, or clearing trees.

Producers who already have conservation plans in place with the NRCS should review those plans prior to any tillage operations. Be aware of HELCS/WC determinations and conservation compliance requirements on any newly leased or purchased land. If land will be tilled for crop production for the first time in 2012, it's critical to visit

with NRCS about the specific requirements for ground cover and residue management. Violations of HELCS/WC rules can result in costly payment reductions, or a complete loss of program benefits, from both FSA and NRCS programs.

Farmers and landowners who want to review their conservation plans, or those with questions regarding HELCS and WC compliance, should contact their local FSA or NRCS office.

2012 DCP/ACRE Enrollment

Sign-up for the 2012 Direct and Counter-cyclical Program (DCP) and Average Crop Revenue Election (ACRE) program will begin January 23 and end June 1, 2012. All producers with an interest in base acres must be identified on the DCP/ACRE contract and receive a proportionate share of the DCP/ACRE direct payment for the farm. Producers with an interest in ACRE commodities must be enrolled on the ACRE contract in order to be eligible for potential ACRE revenue payments. Changes on the farm after DCP/ACRE enrollment must be reported to your local FSA office, and all necessary signatures obtained on a revised contract, no later than September 30, 2012. This includes changes in cropland and crop share, changes in producers on the farm, transfer of land ownership, etc. For 2012, the farm bill authorizes an increase in the payment acres from 83.3% to 85% of the base acres. Advance direct payments are not authorized for 2012.

Report 2011 Production for ACRE

Producers who participated in the Average Crop Revenue Election (ACRE) program for 2011 are required to report their 2011 actual production for

ACRE covered commodities by filing form FSA-658. Production must be reported to evaluate possible eligibility for ACRE revenue payments, and to update the farm's benchmark yield. The deadline to report 2011 ACRE production is July 15, 2012. Production reports must be filed to remain in compliance with the provisions of the ACRE contract, and remain eligible for both ACRE direct and revenue payments, if earned. Producers are encouraged to file production reports now while the information is readily available and before the busy 2012 growing season begins.

Farm Reconstitutions

When changes occur in a farming operation, they may result in a reconstitution, (i.e., combination or division) of the existing FSA farm structure. A "farm" is defined as a group of tracts that have the same owner and same operator. In cases where a farm division occurs, base acres may be divided by one of the following four methods: 1) estate, 2) designation by landowner, 3) DCP cropland percentage (tract divisions only), or 4) default method.

The estate method is a division of base acres according to the will, or agreement by the heirs. The designation by landowner method is the division of base acres in a manner agreed to by the seller and purchaser of a farm. This method requires that the land was previously owned for a period of 3 years. When the default method is used, each resulting farm maintains the base acres previously attributed to the associated tracts when the reconstitution was initiated. Contact your local FSA office to further discuss your options for base acre divisions when a 2012 farm division will be completed.

New Adjusted Gross Income (AGI) Requirements

For 2012, the following tests of AGI eligibility will be in place:

- Less than \$500,000 nonfarm AGI – eligible for commodity programs
- Less \$750,000 farm AGI – eligible for DCP/ACRE direct payments
- Less than \$1 million nonfarm AGI –eligible for conservation programs
- Less than \$1 million total (farm and nonfarm) AGI – eligible for DCP/ACRE direct payments

A new form, CCC-931, will be utilized to record a participant's certification that they meet the applicable AGI requirements, and their consent for the Internal Revenue Service (IRS) to verify their eligibility to FSA. Please note that the AGI certification/consent form can no longer be signed by an agent with power of attorney authority.

FSA Information by E-mail

Nebraska FSA is implementing a new process to provide notification of program information and deadlines. Newsletters, reminders, and other related information may now be sent by e-mail to your home or office computer, or Smartphone. Use of this process will allow FSA to save resources while providing more efficient and timely notifications. Farm or customer specific correspondence will still be mailed in hard copy. Customers who wish to enroll in this service may subscribe online at <http://www.fsa.usda.gov/subscribe>, or contact their local FSA office for assistance.

2012 Payment Eligibility/Payment Limitation Requirements

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, which means that payments are limited considering total payments received by an 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 form. 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.

FSA program benefits to eligible participants will be subject to the following limitations:

DCP/ACRE Direct Payments - \$40,000 *
ACRE/Counter-cyclical Payments - \$65,000
CRP Annual Rental & Incentive Payments - \$50,000
Non-insured Assistance Program - \$100,000
ELAP, LFP, LIP and SURE - \$100,000
ECP - \$200,000
EQIP (all contract FY09-FY12) - \$300,000

*The Direct payment limitation will be reduced to reflect a corresponding 20% reduction to direct payments for farms participating in ACRE.

Marketing Assistance Loans

A Marketing Assistance Loan (MAL) is available to producers who share in the risk of producing a crop. To be eligible, a producer must maintain continual beneficial interest in the crop from harvest through the earlier of the date the loan is repaid or CCC takes title to the commodity.

Beneficial interest means retaining the ability to make decisions about the commodity, responsibility for loss or damage to the commodity, and title to the commodity. Once beneficial interest in a commodity is lost, the commodity is ineligible for loan, even if the producer regains beneficial interest.

Commodity loan eligibility also requires compliance with conservation and wetland protection requirements, beneficial interest requirements, acreage reporting and ensuring that the commodity meets Commodity Credit Corporation minimum grade and quality standards.

For commodities to be eligible they must have been produced by an eligible producer, be in existence and in a storable condition and be merchantable for food, feed or other uses as determined by CCC. The quality of the commodity in farm storage must be maintained throughout the term of the loan. Producers do not have to participate in the Direct and Counter-cyclical and/or ACRE Programs to be eligible for commodity loans.

Violating provisions of a marketing assistance loan may trigger administrative actions, such as assessing liquidated

damages, calling the loan and denial of future farm-stored loans.

Section 1291 of the Department of Defense and Full-Year Continuing Appropriations Act of 2011 does not authorize funding to provide nonrecourse MALs for mohair for the remainder of FY 2011. Effective April 14, 2011, county offices are no longer authorized to accept requests for mohair marketing assistance loans and loan deficiency payments.

LDPs for Unshorn Lamb Pelts

Eligible producers have until January 31, 2012 to apply for Loan Deficiency Payments (LDP) for unshorn pelts produced during the 2011 crop year. Eligible producers must have beneficial interest in the pelts, owned the lamb for at least 30 calendar days before the date of slaughter, and sell the unshorn lamb for immediate slaughter. Producers must also comply with wetland conservation and highly erodible land conservation provisions on all lands they operate or in which they have an interest.

To qualify for payment, pelts must have been produced by an eligible producer from live unshorn lambs of domestic origin in the United States.

Disaster Assistance Programs

FSA disaster assistance programs include:

- Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish (ELAP)
- Livestock Forage Disaster Program (LFP)
- Livestock Indemnity Program (LIP)
- Supplemental Revenue Assistance Payments (SURE) Program
- Tree Assistance Program (TAP)

To be eligible for these programs, producers must have purchased catastrophic risk protection insurance for all insurable crops, and coverage for non-insurable crops under SURE, TAP, and ELAP.

The deadline to complete LFP, LIP and ELAP payment applications is January 30, 2012. These applications are for 2011 losses that occurred prior to October 1, 2011 and a notice of loss was completed by November 29, 2011. Producers have 90 days from the time a loss is apparent to file an application for TAP. 2011 SURE loss sign-up will be conducted fall 2012.

Farm-Raised Fish means all fish being produced for sale by an eligible producer. In the case of honey, the term "farm" means all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.

Producers who meet the definition of Socially Disadvantaged, Limited Resource Producer, or Beginning Farmer or Rancher, are not required to purchase the catastrophic insurance.

Maintaining the Quality of Loaned Grain

Bins are ideally designed to hold a level volume of grain. When bins are overfilled and grain is heaped up, airflow is hindered and the chance of spoilage increases. Producers who take out marketing assistance loans and use the farm stored grain as collateral should remember that they are responsible for maintaining the quality of the grain through the term of the loan.

Unauthorized Disposition of Grain

If loan grain has been disposed of through feeding, selling, or any other form of disposal without prior written authorization from the county office staff, it is considered unauthorized disposition. The financial penalties for unauthorized dispositions are severe and a producer's name will be placed on a loan violation list for a two-year period. Always call before you haul any grain under loan.

Signup for 2010 Crop Revenue Losses (SURE Program) Continues

The sign up for 2010 crop losses started November 14, 2011 and runs through June 1, 2012.

The Supplemental Revenue Assistance Payment Program (SURE) provides benefits for farm revenue losses due to natural disasters that occurred in crop year 2010. 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% or less than normal production on the farm.

A SURE fact sheet is available on the national FSA website at <http://www.fsa.usda.gov> under the Disaster Assistance Programs tab on the left hand side, then listed under related topics.

Records for NAP Purposes

In order for producers to qualify for the 2011 Noninsured Crop Disaster Assistance Program (NAP) benefits, they are required to certify or provide crop production history and report current crop year production on or before the immediately subsequent crop acreage is reported. The deadline for crop acreage reporting is June 30, 2012 for small grains and July 15, 2012 for most other crops. Producers should bring in the prior year's production history when certifying 2012 acres.

2012 NAP Sign Up for Producers

The Farm Service Agency's Noninsured Crop Disaster Assistance Program (NAP) provides financial assistance to producers on noninsurable crops when low yields, loss of inventory or prevented planting occur due to a Natural Disaster. Purchasing NAP coverage also meets any Risk Management Purchase Requirements (RMPR) for future disaster programs. Any landowner, tenant or sharecropper who shares in the risk of producing a NAP eligible crop and is entitled to an ownership share of that crop is considered eligible to purchase NAP.

Eligible crops must be commercially produced agricultural commodity crops for which the catastrophic risk protection level of crop insurance is not available. Eligible producers, who wish to participate in the 2012 NAP coverage, sign up at the FSA office where their files are maintained. The service fee is the lesser of \$250 per crop or \$750 per producer per administrative county, not to exceed \$1,875 for a producer with farming interests in multiple counties. Fee waivers are available for limited resource producers. Learn more about the NAP program at <http://www.fsa.usda.gov> listed under the Disaster Assistance Programs tab on the left hand side.

CRP Transition Incentives Program (TIP)

Retired or retiring land owners or operators are encouraged to transition their Conservation Reserve Program (CRP) acres to beginning or socially disadvantaged farmers or ranchers through the Transition Incentives Program (TIP) which provides annual rental payments to the retiring farmer for up to two additional years after the expiration date of the CRP contract, provided the transition is not to a family member.

Enrollment in CRP-TIP is on a continuous basis. Beginning or socially disadvantaged farmers and ranchers and retiring CRP participants may enroll in CRP-TIP beginning one year before the expiration date of a CRP contract. For example, if a CRP contract is scheduled to expire on September 30, 2012, the expiring CRP land may be enrolled and approved subject to funds available for CRP-TIP beginning October 1, 2011 through September 30, 2012. The CRP-TIP application must be submitted prior to implementing the qualifying long term lease agreement or sale of the effected lands. The CRP-TIP application may not be approved after the CRP contract has expired (September 30 of the last year of the CRP contract).

To be eligible, CRP-TIP requires that the retired or retiring farmer or rancher:

- Has land enrolled in the Conservation Reserve Program (CRP) that is in the last year of the contract.
- Agrees to sell, or has a contract to sell, or agrees to long-term lease (a minimum of 5 years) the land under the CRP contract to a beginning or socially disadvantaged farmer or rancher by October 1 of the year the CRP contract expires.
- Agrees to allow the beginning or socially disadvantaged farmer or rancher make conservation and land improvements in accordance with a conservation plan of operation.

Please contact the local administering FSA office for more information.

Nebraska Receives Additional CRP-State Acres for Wildlife Enhancement (SAFE) Acres

State Acres for Wildlife Enhancement (SAFE) is a continuous CRP initiative that was first announced in March of January 2012

2007. The purpose of SAFE is to develop cooperative conservation projects to address high priority wildlife concerns primarily through the conversion of eligible cropland to wildlife habitat. The program was also used to restore habitat for threatened and endangered species, species that suffered significant population declines or species that provide significant social or economic value to the community.

The original SAFE national cap was 500,000 acres. On August 12, 2011 USDA announced additional SAFE allocations to selected States, increasing the national cap to 850,000 acres. Nebraska was allotted an additional 25,000 acres for SAFE. Of the 25,000 additional acres 10,000 acres were allocated to tallgrass prairie for Greater Prairie Chicken SAFE in 22 Nebraska counties and 15,000 acres was allocated to the statewide Upland Game Birds SAFE.

The additional acres will provide an opportunity for producers to enroll their land in the Continuous Conservation Reserve Program sign up under practices CP38E to provide food and cover for quail, prairie chickens and upland birds while reducing soil erosion from wind and water, increasing soil and water quality and protecting and enhancing the on-farm ecosystem.

Habitat for the Upland Game Birds offers can be submitted for 5 acres to 80 acres per tract as long as all CRP eligibility requirements are met. The practice is a statewide practice and is designed to include multiple grass/forbs mixes and shrub thickets in order to meet seasonal wildlife needs (nesting, brood rearing and winter cover).

Habitat for the Greater Prairie Chicken, Tallgrass Prairie offers can be submitted with no less than 40 acres and no more than 160 acres per a tract as long as all CRP eligibility requirements are met. The practice is only available to the following 22 counties: Knox, Cedar, Dixon, Antelope, Pierce, Wayne, Boone, Madison, Stanton, Nance, Nuckolls, Fillmore, Thayer, Saline, Jefferson, Lancaster, Gage, Otoe, Johnson, Nemaha, Pawnee and Richardson County. The practice requires participants to plant multiple seeding types within fields to meet seasonal wildlife needs (nesting, brood rearing, winter cover, shrub thickets).

Participants that enroll their land into SAFE will receive USDA payments which include a CRP annual rental payment, a 50% cost share payment for the approved cost of

establishing the cover, a Signing Incentive Payment (SIP) of \$100 per acre and a Practice Incentive Payment (PIP) of 40% of the approved cost of installing eligible practices. After a conservation cover is established, it must be maintained by the CRP participant throughout the 10-15 year life of a SAFE contract. Additional cost share is available to conduct management activities on the CRP land to enhance wildlife habitat value.

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 refinancing 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, 2011 is 1.5% for Operating Loans and 3.375% 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, 2011 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 \$1,214,000 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 program 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. 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 2011 will be 1.50% for a 7 year term; 2.125% for a 10 year term; and 2.375% 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.

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 loans are only available to applicants who meet all the eligibility requirements and are unable to obtain the needed credit elsewhere.

Agriculture Secretary Vilsack Announces Process to Resolve Discrimination Claims of Hispanic and Women Farmers

As part of continued efforts to close the chapter on allegations that discrimination occurred at USDA in the past decade, Agriculture Secretary Tom Vilsack and Assistant Attorney General Tony West announced the establishment of a process to resolve the claims of Hispanic and women farmers and ranchers who assert they were discriminated against when seeking USDA farm loans.

The claims process offers a streamlined alternative to litigation and provides at least \$1.33 billion in compensation, plus up to \$160 million in farm debt, to eligible Hispanic and women farmers and ranchers. This announcement follows the Obama Administration's settlement of longstanding litigation brought by African American farmers and Native American farmers.

In conjunction with this announcement, USDA is launching an outreach effort to potential claimants that will include a call center for farmers and ranchers, a website, public service announcements, and in-person meetings around the country. Individuals interested in participating in the claims process may register to receive a claims package, or may obtain more information, by visiting www.farmerclaims.gov. Individuals also can register a claims package by calling the Farmer and Rancher Call Center at 1-888-508-4429. USDA cannot provide legal advice to potential claimants. Persons seeking legal advice may contact a lawyer or other legal services provider.

Nebraska Farm Service Agency
 7131 A Street
 Lincoln, Nebraska 68510-4202



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- Doug Klein, Price Support Programs

2012 Dates to Remember

- Jan. 16 Birthday of Martin Luther King, Jr. Holiday. FSA offices closed.
- Jan. 23-Jun. 1 DCP/ACRE Enrollment
ACRE Election
- Jan. 30 Signup ends for LFP, LIP, and ELAP
- Jan. 31 Deadline to apply for Unshorn Lamb Pelts Loan Deficiency Payments
- Feb. 20 George Washington's Birthday Holiday. FSA offices closed.
- Mar. 15 Final 2012 NAP Signup date
- Mar. 31 Final Marketing Assistance Loan (MAL) availability date for barley, canola, crambe, flaxseed, honey, oats, rapeseed, wheat and sesame seed
- May 28 Memorial Day Holiday. FSA offices closed.
- May 31 Final Marketing Assistance Loan (MAL) availability date for corn, dry peas, grain sorghum, lentils, mustard seed, safflower seed, chickpeas, soybeans and sunflower seed
- Jul. 4 Independence Day Holiday. FSA offices closed.
- Jul. 15 2012 Acreage Reports – All Crops

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