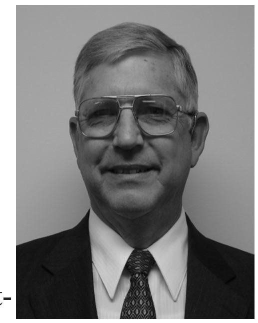
USDA

Nebraska Farm Service Agency

Producer News

January 2009

State Executive Director Comments



Milton Rogers
State Executive Director

Some change is visible and easily identified. There is also change that is more difficult to perceive.

One change in the USDA Farm Service Agency (FSA) that is expected and easy to identify is when there is a Presidential administration change, especially between political parties. As the administrations change, the person that serves as the State Executive Director (SED) of FSA is replaced with an appointee of the incoming administration. The SED is appointed by the White House with the consent of the Secretary of Agriculture. Resignations are expected in these cases and I have resigned my position as the SED of Nebraska effective in January, and soon a new person will be appointed to serve. The same can also be said of the State Committee (STC) members that are appointed by the Secretary of Agriculture. The career staff members at the state and county levels do not change due to the administration turnover, and remain in their positions so that the continuity of programs and policy will remain consistent.

Regardless of who is in the SED position, the demands and challenges of implementation of the new Farm Bill will remain with much of the regulatory approval on the SURE, ACRE and Direct Attribution portions of the bill yet to be determined at the national level. It is important that producers pay close attention to the county newsletters, FSA media announcements, and farm publications for details and deadlines for Farm Bill Program participation.

Internally, the agency is changing in response to continuing staffing and budget pressures. These changes are not generally visible to the public, but never the less are necessary and require resources and management to continue to provide for the delivery of farm program benefits to Nebraska's agricultural producers with the assets that Nebraska FSA has been given to work with.

We have all been told that the one thing that we can count on is change. That is certainly true in agriculture today. It is also true for the future of Nebraska FSA. It has been my honor to serve as your SED and I wish all the best that the future has to offer for Nebraska FSA personnel and the thousands of Nebraska agricultural producers that participate in the dozens of programs that are provided by FSA and USDA.

New Handling of Program Payments

The FSA County Offices no longer have the capability to issue checks for program payments. All check and direct deposit processing and payment statements will be through the Federal Reserve Bank and Treasury. The payments will be initiated through the county office. However, the county office will not perform the actual disbursement of the check.

Payments received through direct deposit will follow the same time frame as in the past. Payments issued by check will take a longer period of time to receive. Producers who receive payment by check should consider the extended period of processing time and plan accordingly when making a request for a program benefit or loan. Prior to disbursement of a program or commodity loan payment, a payment statement will be mailed to the producer from the Treasury.

The Debt Collection Improvement Act of 1996 required that most federal payments be issued by electronic funds transfer. Payments issued by FSA or the Commodity Credit Corporation (CCC) are included in this requirement. If you are currently receiving your FSA or CCC benefits by check, you are encouraged to begin receiving your payments via the Electronic Funds Transfer method, commonly referred to as Direct Deposit. Contact your local FSA office for more information on receiving benefits by Direct Deposit.

Final Loan Availability Date

Producers, remember you remain eligible to obtain loans or receive price support on all or part of your eligible production anytime during the loan availability period if you maintain beneficial interest. The loan availability period runs from when the commodity is normally harvested (or sheared for wool and mohair) until specified dates in the following calendar year. For small grains, the final loan-LDP availability date is March 31, 2009 and for feed grains and soybeans, it is May 31, 2009.

Wool, Mohair Loans

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. In simple language, that means you have until January 31, 2009 to request loans or LDPs for 2008 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 & wetland provisions and 3) complying with payment eligibility & 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.

In addition to producer-eligibility as listed above, the wool or mohair must be in existence, in storable condition, and of merchantable quality suitable for a loan. The commodity must have been produced and shorn from live animals of domestic origin in the United States.

Requesting LDP Benefits

The CCC-633 EZ is a two-part form available to you to request loan deficiency payments. The CCC-633 EZ is a two-part form consisting of multiple pages. The CCC-633 EZ:

- Page 1 includes terms and conditions, and serves as your intention to request and receive LDP benefits
- Page 2 is the applicable request for feed grains, minor oilseeds, honey and pulses
- Page 3 is applicable to cotton
- Page 4 is the applicable request for wool, mohair and unshorn pelts.

Page 1 indicates your intention to receive LDP benefits before losing beneficial interest. Many producers file this page during crop certification. However, it must be filed before you lose beneficial interest.
Depending on your commodity, pages 2 through 4 of the CCC-633 EZ must be completed to request the actual LDP benefit. The LDP rate will be based on the earlier of the date beneficial interest is lost or the LDP request date; unless you requested date of delivery.

The CCC-633 EZ must be completed to receive LDP benefits. Since the CCC-633 EZ will be the only LDP form accepted, both pages of the form must be received in the office in order to receive your LDP. Remember, page 1 must be filed before losing beneficial interest in the applicable crop. Contact your local county office for details regarding the form's use.

Marketing Assistance Loans, LDPs

Marketing assistance loans and loan deficiency payments can mean the difference between a good year and a not-so-good year for producers. With that in mind, it's important to comply with the rules. To be eligible for loans and LDPs, producers must:

- comply with conservation and wetland protection requirements
- report how they use their cropland acreage on the farm

- have beneficial interest in the commodity on the date the loan or LDP is requested and, in the case of a loan, retain beneficial interest while the loan is outstanding
- ensure that the commodity meets CCC minimum grade and quality standards.

Beneficial interest means the producer retains control, which allows them the ability to make day to day decisions about the commodity and has title to the commodity. Once beneficial interest in a commodity is lost, the commodity is ineligible for loan or LDP-even if the producer regains beneficial interest.

For commodities to be eligible for loans or LDPs, they must have been produced by an eligible producer, be in existence and in a storage condition and be merchantable as determined by CCC. Producers must maintain the quality of the commodity in farm storage throughout the term of the loan.

Substituted grain is not eligible for price support. If a commodity a producer wants to pledge as collateral for loan or LDP is not the grain produced and harvested by the eligible producer, but was merely exchanged for a quantity of the commodity produced and harvested by the eligible producer, it is ineligible for price support because it is a substitution.

Another example would be where grain is shipped direct delivery off the farm and not dumped at the warehouse but the producer is given a storage position at the elevator. Since the grain is not physically deposited at the warehouse, it would be considered substitution and be ineligible for price support.

For the 2008 crop, individuals and entities whose previous three-year average adjusted gross income, or AGI, exceeds $2.5 million, are ineligible for LDPs and market loan gains unless they can show that at least 75 percent of their AGI comes from agriculture.

For 2008 only there is a $75,000 limit on payments a "person" can receive for their total of LDPs and market loan gains received for the crop year.

Participation in the Direct and Counter-cyclical Program (DCP) is not required to be eligible for loans or LDPs. However, the crop acreage must be certified.

Violating provisions of the loan and LDP program may trigger administrative actions, such as assessing liquidated damages, calling the loan and denial of future farm-stored loans and LDPs. The most common violations are removing or disposing of a commodity being used as loan collateral without prior authorization or providing an incorrect quantity certification.

Milk Income Loss Contract Program

The Food Conservation and Energy Act of 2008 provides provisions to extend the MILC Program from October 1, 2007 through September 30, 2012. The MILC Program Contract provides the enrolled eligible dairy operation the opportunity to receive payments for the pounds of milk marketed for the months the calculated milk prices are below the price levels established in the ACT. Producers should contact their county office to enroll. The initial signup period is December 22, 2008 to January 21, 2009. Late enrollment is available through September 2012. Timely enrollment by eligible dairy operations will provide the opportunity to designate the start month for which the dairy operation may begin receipt of any determined MILC Program payments for each fiscal year.

The National Average Feed Dairy Feed Ration Cost per cwt. for each month will be used. If the cost is above a specified level, the MILC payment rate calculation will be increased by a calculated percentage and then compared to the Boston Class I milk price to determine if MILC payments will be provided to dairy operations with approved CCC-580 (MILC Contracts).

Eligible MILC producers must commercially market their milk produced during the marketing period. The limitation for the maximum quantity for payment per fiscal year is 2.985 million lbs. for the period of October 1, 2008 through August 31, 2012.

March 16, NAP Closing Date

The Non-insured Crop Disaster 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 16, the application closing date for most spring-seeded crops. 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 interest in multiple counties. Limited resource producers may request a waiver of service fees. To qualify, a producer must be landowner, tenant or sharecropper who shares in the risk of producing an eligible crop. In addition, the producer's non-farm Average Gross Income (AGI) can not exceed $500,000 for the 3 tax years preceding the most immediately completed taxable year. For 2009, the AGI would be based on tax years 2005, 2006, and 2007. A payment limitation of $100,000 per crop year is in effect.

Deadline to Report 2008 NAP Production

In order for producers to qualify for 2008 NAP benefits, they are required to certify or provide crop production on or before they report their 2009 planted acreage for that crop (i.e. to be timely reported 2008 alfalfa production must be reported prior to or on the certification date of the 2009 alfalfa acreage). Failure to report production by the production-reporting deadline shall result in the disapproval of any CCC-576 Notice of Loss and Application for Payment associated with the current year's production.

Sodbuster Rules

Highly erodible land may be brought into crop production only under provisions set forth and implemented in a Conservation Plan of Operation developed for the specified acreage. Before producers clear, plow or otherwise prepare areas not presently under crop production for planting, they are required to file an AD-1026 with FSA indicating the area to be brought into production. Following this, the Natural Resources Conservation Service (NRCS) makes a determination. If NRCS indicates on a form CPA-026 that the area will be highly erodible land, the producer will be required to develop and implement a conservation plan on the affected acreage before bringing land into production. Producers must file an AD-1026 certifying compliance with above provisions prior to applying for program benefits. Program benefits include, but are not limited to price support, Direct and Counter-cyclical Program, Conservation Reserve Program, Environmental Quality Incentive Program, USDA farm operating and real estate loans and catastrophic and buy-up Multi-Peril Crop Insurance. Producers must complete a new AD-1026 in the following instances; if producer is a farm loan applicant that is going to conduct a non-agriculture activity on land that does not have a wetland determination; if producer will plant on land that does not have a highly erodible determination; if producer will create, improve, or modify a drainage system that has not been evaluated by NRCS; or will non-cropland be broken out on farms and tracts associated with the producer.

Conservation Compliance

The Food, Conservation, and Energy Act of 2008 made certain changes to Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) provisions for violating producers. In the past, County Committees (COCs) were the only officials that made a good faith determination. Reinstating the producer's eligibility becomes effective when producers sign an approved conservation or mitigation plan, as applicable. Now, before the producers are provided with the conservation or mitigation plans for signature, a COC approved good faith determination must receive SED approval with technical concurrence by the NRCS State Conservationist. HELC or WC violators who do not receive a COC's good faith exemption with approval by the SED and technical concurrence from the State Conservationist shall remain ineligible for USDA program benefits for the years in violation. All HELC violators that have been provided an exemption are subject to a Graduated Payment Reduction penalty. The penalty ranges from a minimum of earned program benefits for the year of the violation or $1,000 to a maximum of $10,000. If the HELC violation occurred on sodbusted land the penalty is increased by 20 percent.

2009 Direct and Counter-Cyclical Program (DCP) Signup

Signup for the 2009 DCP began December 22, 2008 and will end June 1, 2009. This program provides payments to eligible producers on farms enrolled through the 2012 crop year. There are two types of payments, direct and counter-cyclical. The direct payments are guaranteed by the program and the counter-cyclical payments are based on market conditions after the crop has been harvested. Advance direct payments of 22% may be requested at the time of enrollment.

It is recommended that producers contact their Service Center in order to schedule an appointment to enroll. An alternative to an in person appointment is to enroll online at HYPERLINK "http://www.fsa.usda.gov/dcp" www.fsa.usda.gov/dcp

Average Crop Revenue Election Program (ACRE) Alternative

This program is a variation of the DCP program that is available to producers for 2009. This component is designed to protect against crop revenue shortfall due to price and/or production declines at the state and farm levels. Electing this option is on a farm by farm basis so that you can choose to enroll one farm and not another. This program is still in development stages but is anticipated to be finalized over the next several months. A producer electing to participate in the ACRE program on a farm is making this election for the remainder of the current farm bill legislation which runs through the 2012 crop year. All producers on the farm are required to make this election. We expect the ACRE election and enrollment to be announced in the near future.

Small Base Acreage Enrollment into the Direct and Counter-Cyclical Program (DCP)

The DCP program contains a prohibition against issuing program payments on farms with 10.0 acres or less of DCP bases. This provision of the farm bill legislation was in place for the 2008 crop year and subsequent legislation allowed 2008 payments. For 2009-2012 crop years, the prohibition on payments is still in effect. These small base farms are allowed to be combined (aggregated) into larger farms in order for the base acreage to exceed the 10.0 acre or less prohibition. In order to combine these farms, normal reconstitution rules and procedures must be met such as all owners must agree to the combination. Contact your local FSA Office to discuss your options on these farms.

2009 Acreage Reporting Requirements

As in previous years it is required that producers participating in FSA programs report your acres to be eligible for benefits. Producers are encouraged to report 2009 perennial, planted crops and Conservation Reserve Program (CRP) acres to FSA this winter.
The new permanent disaster programs require acreage reports in order to be eligible. Generally the program eligibility is based on the intended use of the reported acreage for either cropland or non-cropland. Accurate reporting of the intended use is critical to administration of these programs. Acreages with multiple uses must have accurate primary intended use recorded.

Acreage reports may be filed by the operator or owner, though some programs have more restrictive reporting requirements. For example CRP requires that the report must be provided by a producer that is a signatory to the CRP contract. The Noninsured Crop Disaster Assistance Program (NAP) has a similar requirement and the permanent disaster programs will follow this same procedure. It is important that acreage reports are obtained from the correct producer(s) as directed by the applicable program. The 2009 acreage reporting deadlines include:

- Small Grains – June 30, 2009
- NAP – 15 days before the onset of harvest or grazing of the specific crop
- Honey – January 2, 2009 or within 30 days of the date the colonies are acquired
- All Other Crops including CRP unless required by a specific program – July 15, 2009.

If acres are reported after the applicable acreage reporting deadline a late-filed report will be accepted but a field visit and late file fees will apply

Adjusted Gross Income Provisions – 2009 through 2012

Major changes to the Adjusted Gross Income (AGI) eligibility provisions will be implemented in the 2009 program year. 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. AGI is evaluated by considering the average of the three tax years preceding the most immediately preceding complete taxable year (i.e., for 2009 average AGI, calculate the average AGI for 2007, 2006 and 2005). Eligibility for FSA program benefits in 2009-2012 will be affected by 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/Average Crop Revenue Election (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 individual 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.

Participants should carefully evaluate their 2009 compliance with AGI limitations before certifying these provisions are met.

FSA Program Payment Limitation for 2009-2012

The following annual program payment limitations apply for 2009 and subsequent years:

Program	Limit	Program	Limit
DCP Direct	$40,000	SURE, LIP, LFP, ELAP (Permanent Disaster Programs)	$100,000 (combined limitation)
DCP-Counter-cyclical & ACRE	$65,000	CRP – annual rental	$50,000
NAP	$100,000	TAP	$100,000

Price support program benefits including Loan Deficiency Payments and Market Gains are no longer subject to a program payment limitation.

Payments are limited in two ways – by considering the direct payments made to the program participant, and also by "direct attribution". Through direct attribution, each payment made to an entity shall be attributed to those individuals who have a direct or indirect ownership interest in the entity. There is no limit on the number of entities through which an individual can receive payments. Payments to an entity will be limited if either the entity or members reach a program limitation.

Spouses will each have two separate payment limitations, without a specific request. Each spouse participating in FSA programs must meet all payment eligibility criteria. A significant contribution of active personal labor or active personal management qualifying one spouse as "actively engaged in farming" will also qualify the other spouse for payments requested relating to the same farming operation.

Several FSA payment eligibility rules still apply, including the cash rent tenant, substantive change, and commensurate share requirements. Participants should contact their local FSA office for additional information.

Keep FSA Records Accurate

It is critical that program participants keep FSA informed of all changes to a farming operation. This includes changes in an owner, operator, or other producers with an interest in the farming operation, deceased participants, changes in leasing arrangements, sale or purchase of land, changes to members of entities, partnerships or joint ventures, changes in the amount or source of contributions to the farming operation (including land, capital, equipment, labor or management), new land brought into production or land converted to non-agricultural uses, etc. The 2008 Farm Bill enacted several new permanent disaster programs. To ensure eligibility for these benefits, farming interests must be accurately reported for all acres in agricultural production, including those for perennial crops and non-cropland acres.

A farm generally consists of tracts under common ownership that are operated by one individual or entity. Land constituted as an FSA "farm" will be reconstituted as necessary to meet this definition. When FSA farms are divided, DCP base acres may be divided by one of the follow three methods: (1) written agreement of all landowners, or buyers and sellers (2) according to the provisions of a will or written agreement of all heirs, or (3) defaulted to the previously established base acres by tract. Farms under separate ownership, including those with 10.0 DCP base acres or less, may be combined if the resulting farm meets the FSA "farm" definition, all owners agree in writing, and the land is under a lease agreement of at least one year. Prior to requesting a multiple ownership farm combination, producers should consider the fact that any future election to participate in ACRE (Average Crop Revenue Election) will be by "farm".

FSA Farm Loans Available

<u>Direct Operating Loans and Farm Ownership Loans</u> – Farmers and Ranchers may obtain up to $300,000 for their

operation. This includes annual operating and family living expenses, machinery, or breeding livestock purchases, 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, 2008 is 3.375 percent for Operating Loans and 4.875 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, 2008 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 then 10 years. A beginning farmer/rancher cannot own real estate that exceeds 30 percent 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 $1,049,000 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 percent (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. Loans for real estate can be amortized for up to 40 years and for chattel up to 7 years.

Farm Storage Facility Loan Program

Producers considering expanding their on-farm grain storage should look into the Farm Storage Facility Loan Program. This low interest loan program is available to all producers of eligible commodities to help build or upgrade commodity storage and handling facilities. Eligible commodities include corn, grain sorghum, rice, soybeans, oats, peanuts, wheat, or minor oilseed harvested as whole grain. Also eligible are corn, grain sorghum, wheat oats or barley harvested as other than whole grain. Some of the program details include:

- Items eligible for loan are conventional bins designed for whole grain storage, oxygen limiting or upright silos designed for whole grain wet storage and silage, flat storage structures used primarily to store grain, and bunkers. Permanently affixed grain handling and drying equipment, safety equipment (ex. Ladders), electrical equipment, concrete foundations, site preparation, mate rials and paid labor, are also eligible.
- Used equipment, portable dryers, scales, structures of temporary nature, or structures used for commercial pur poses are not eligible.
- The loan amount will be up to 85% of the net cost of the facility, not to exceed $100,000 per producer.
- The loan will be for a 7 year term with annual installments.
- The interest rate will be fixed for the term of the loan. The interest rate for Farm Storage Facility Loans approved in December, 2008 will be 3.0%.
- A down payment of 15% is required. Producers are required to carry property insurance on the storage facility and also crop insurance on the facility commodity 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.
- There is a $45 non-refundable application fee.

Attention 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.

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

United States
Department of
Agriculture

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.

NGPC Introduces New Access Program

The Open Fields and Waters Program is a statewide, two-year pilot program of the Nebraska Game and Parks Commission (NGPC) that offers payments to landowners who allow walk-in access to hunters and anglers. The goal of the program is to attract new or inactive hunters and anglers. Contact the nearest Commission district office for more information.

Dates to Remember

Jan. 19, 2009
Birthday of Martin Luther King, Jr. Holiday.
FSA offices closed.

Feb. 16, 2009
George Washington's Birthday Holiday.
FSA offices closed.

Mar. 16, 2009
NAP application deadline for
spring-seeded crops.