



USDA Farm Service Agency Annual Notification Newsletter February 2010

Attention Producers: By law, FSA is required to provide producers with regulations and available services annually. That is the purpose of this mailing.

Foreign Buyers Notification:

The Agricultural Foreign Investment Disclosure Act (AFIDA) requires all foreign owners of United States agricultural land to report their holdings to the Secretary of Agriculture. FSA administers this program for USDA. Foreign persons who have purchased or sold agricultural land are required to report the transaction to FSA within 90 days of the closing. Failure to submit the AFIDA form could result in civil penalties up to 25% of the fair market value of the property.

County government offices, realtors, attorneys and others involved in real estate transactions are reminded to notify foreign investors of these reporting requirements.

Nondiscrimination Statement/Complaint Process:

"The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer."

Loan and LDP Programs: Marketing assistance loans provide producers interim financing at harvest time to meet cash flow needs without having to sell eligible commodities when market prices are typically at harvest-time lows. Marketing assistance loans are 9-month loans with the commodity pledged as collateral for the loan. Producers can settle their loan during the 9-month period by selling the commodity and repaying the principal plus accrued interest or by forfeiting the commodity to the Commodity Credit Corporation (CCC). Under certain circumstances, market loan repayment provisions specify that producers may repay loans at less than principal plus accrued interest and other charges.

Alternatively, a producer who is eligible to receive a

marketing assistance loan may agree to forgo the loan and instead obtain a loan deficiency payment (LDP) on their crop. LDPs allow the producer to receive a payment when the alternative repayment rate posted for a commodity is below the loan rate for that commodity.

For a commodity to be eligible for a marketing assistance loan or an LDP, the producer must have beneficial interest in the commodity and meet other eligibility requirements. A producer has beneficial interest in a commodity if he or she has title to and control of the commodity. Producers may obtain marketing assistance loans or receive LDPs on all or part of their eligible production anytime during the loan availability period. 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. Contact your local FSA office for more information.

Change in Farming Operation or Address:

Producers are reminded to notify this office to report change in address or ownership. This is vital to assist this office in keeping records.

Spousal Signature:

A husband and wife may sign documents on behalf of each other for FSA and Commodity Credit Corporation (CCC) programs in which either has an individual interest. This option is automatically available unless a written request for exclusion is made to the county office from either spouse. Exceptions include claim settlements, power of attorney forms and signatory authority for an entity.

Submission of Applications via E-Government:

As required by the Freedom to E-File Act, USDA provides customers with the option to electronically access, fill out, and print paper forms and transmit those forms and other documents to their local Service Center. Customers may also obtain secure payment summary information. A secure website is offered. Logon to: <http://www.eauth.egov.usda.gov> to register for a Customer ID and password.

Controlled Substance:

Any person who is convicted under federal or state law of a controlled substance related crime may be ineligible for

disaster recovery, operational financing, farm ownership loans, and youth loans. FSA is a leader in farm and financial planning, assisting customers with a wide range of products and services to meet their needs.

Website:

Producers may access FSA information and forms on the Montana Internet site at <http://www.fsa.usda.gov/mt>.

Annual Notice of Payment Eligibility to Producers:

USDA payments and benefits are subject to producer eligibility and limitation provisions as defined by law. FSA program benefits may not be provided to any producer until the applicable payment eligibility determinations are made. A producer will remain ineligible until all required forms for the specific situation are provided. Payment Limitation/Eligibility determinations may be initiated by the FSA County Committee or requested by the producer. Once completed, documents and forms to determine eligibility are reviewed for the year submitted. A farm operating plan (payment eligibility and payment limitation form CCC-902) is not required to be filed annually if the farming operation continues to be conducted as reflected on the farm operating plan (CCC-902), and supporting documents are on file in the County Office. However, if any changes occur that could affect an “actively engaged in farming,” “cash-rent tenant” or “average adjusted gross income” determination, producers must timely notify the County Office by filing revised farm operating plans and/or supporting documentation. Failure to do so may adversely affect the producer’s payment eligibility. All payment eligibility forms (CCC-902) submitted by a producer are subject to spot check through the End-of-Year Review process. Farming operations selected for an End-of-Year Review will be required to submit documents to verify their contributions of capital, land, equipment, labor, and management. Please contact the County Office for questions concerning documents to be submitted. Individuals, joint operations, or entities which are determined to be “not actively engaged in farming” will be ineligible for Direct and Counter Cyclical (DCP) Payments. The limitation for the following programs is per “person” per fiscal year. Under the Direct and Counter Cyclical Program (DCP) and Average Crop Revenue Election Program (ACRE), direct payments are limited to \$40,000; and counter cyclical payments and ACRE payments are limited to \$65,000; Conservation Reserve Program (CRP) payments are limited to \$50,000; Non-Insured Assistance Program (NAP) payments are limited to \$100,000. SURE will pay up to \$100,000 annually including any benefits received from LIP, LFP and ELAP.

Actively Engaged in Farming:

For an individual or entity to be considered “actively engaged in farming,” the participant must make a significant contribution of land, capital, or equipment. The participant must also make a significant contribution of active personal labor or active personal management. The participant’s contributions to the farming operation must be commensurate with his/her claimed share of the profits or losses from the farming operation and the contributions

must be at risk. For corporations and similar entities leasing land, each shareholder must now make a separate, significant, regular, documented contribution of labor or management in order to qualify their share in the entity for payment. An exception may be made for entities earning payment where all members, cumulatively through all interests, earn less than \$40,000 in direct payments, and members owning a minimum of 50% share are making qualifying labor or management contributions.

Cash-rent Tenant:

A cash-rent tenant rule applies to any producer that rents land from another producer for cash or a crop share guaranteed as the amount of the commodity to be paid in rent. The rule also applies to any producer who rents land for zero dollars or who farms the land in exchange for compensation other than cash, such as controlling weeds on land not owned, or barter arrangements. Any cash-rent tenant shall be ineligible to receive payment unless the cash-rent tenant makes a significant contribution of active personal labor to the farming operation; or a significant contribution of active personal management **and** a significant contribution of equipment. A cash-rent tenant must also meet all applicable requirements to be considered “actively engaged in farming.”

Foreign Person Rule:

A foreign individual is someone who is not a citizen of the United States or a lawful alien possessing a valid Alien Registration Receipt Card (Form I-551 or I-151). A foreign entity is a corporation, trust, estate, limited partnership, limited liability company, or other similar organization that has more than 10 percent of its beneficial interest held by individuals who are not citizens of the United States or lawful aliens possessing a valid Alien Registration Receipt Card (Form I-551 or I-151). In addition to the requirements for “actively engaged in farming,” the following significant contributions must be provided by an individual or entity considered to be a “foreign person.” An individual determined to be a “foreign person” must provide a significant contribution of land, capital, and active personal labor. Each foreign individual who is a member of an entity determined to be a “foreign person” must provide active personal labor to enable the entity to provide a significant contribution of active personal labor.

Adjusted Gross Income:

The 2008 Farm Bill states that an individual or entity shall not be eligible to receive commodity program benefits as specified in the bill if the average adjusted gross non-farm income (AGI) of the individual or entity exceeds \$500,000. An individual or entity shall not be eligible to receive direct DCP payments if their average adjusted gross farm income exceeds \$750,000. An individual or entity shall not be eligible to receive conservation program benefits if their average adjusted gross non-farm income exceeds \$1,000,000 unless more than 66.6% of their adjusted gross income was derived from farm sources. Revisions to what is considered ‘farm’ income versus ‘nonfarm’ income have been made; please contact this office for additional details. Noncompliance with the AGI provisions, either by exceeding the applicable limitations or failure to submit the applicable certification statement, will result in the

determination of ineligibility for all program benefits subject to the AGI provisions; program benefits shall be reduced in an amount that is commensurate with the direct and indirect interest held by an ineligible individual or entity in any entity, general partnership, or joint operation that receives benefits subject to the AGI limitation.

Farm Storage and Facility Loan Program: FSA's Farm Storage and Facility Loan (FSFL) Program provides low-interest financing for producers of eligible commodities to build or upgrade farm storage and handling facilities. The new maximum principal amount of a loan through FSFL is \$500,000. Participants are required to provide a down payment of 15 percent, with Commodity Credit Corporation (CCC) providing a loan for the remaining 85 percent of the net cost of the eligible storage facility and permanent drying and handling equipment. New loan terms of seven, ten, or twelve years are available depending on the amount of the loan.

Interest rates for each term rate may be different and are based on the rate which CCC borrows from the Treasury Department. Payments are available in the form of a partial disbursement and the remaining final disbursement. A partial disbursement of up to 50 percent of the total loan amount will be available, if desired, after a portion of the construction has been completed. The final disbursement will be made when all construction is completed.

An FSFL generally must be approved before any site preparation or construction can begin. The following commodities are eligible for farm storage facility loans: corn, grain sorghum, soybeans, oats, wheat, barley, or minor oilseeds harvested as whole grain; corn, grain sorghum, wheat, oats, or barley harvested as other than whole grain; hay; renewable biomass; fruits (including nuts) and vegetables—cold storage facilities. Contact your local FSA office for more information.

Highly Erodible Land and Wetland Conservation Compliance:

Landowners and operators, and their affiliates with farming interests, are reminded that in order to receive payments from USDA, compliance with Highly Erodible Land (HEL) and Wetland Conservation (WC) provisions are required. Customers with HEL determined soils are reminded to follow tillage, crop residue and rotation requirements as specified per their conservation plan. Contact should be made with the USDA Service Center prior to conducting land clearing or drainage projects to ensure compliance.

Cooperation with RMA:

The Agricultural Risk Protection Act of 2000 requires the Farm Service Agency (FSA) and the Risk Management Agency (RMA) to work together to improve program compliance and integrity of the Federal Crop Insurance Program. As a result of the passage of the 2000 Act, RMA and FSA are required to coordinate a plan to identify, address and reconcile discrepancies of all relevant producer-derived information, and to coordinate a

monitoring program to include fact finding relative to allegations of program fraud, waste, and abuse. FSA will assist RMA and insurance providers in monitoring conditions throughout the growing season and conduct growing season inspections. All suspected cases of fraud, waste, and abuse concerning the Federal Crop Insurance Program will be referred to RMA. FSA will also assist RMA with auditing claims.

Producers may also report suspected cases of fraud, waste, and abuse to their local FSA County Office, the RMA Office or OIG.

Direct and Counter Cyclical Program (DCP):

To participate in DCP, producers are required to designate shares and sign the Direct and Counter-Cyclical Program Contract (CCC-509) on a yearly basis. The annual DCP sign-up period runs from October 1 to June 1 of the applicable program year. CCC-509 must be submitted by June 1 of the applicable program year. Late-filed applications will not be accepted. All supporting documentation, such as CCC-902, AD-1026, and CCC-926, must be submitted before payments can be issued. Annual acreage reports indicating uses of all cropland on a farm must be filed by the applicable established reporting dates. Acreage reports filed after the applicable final reporting date may be accepted if all requirements are met and a late-filed fee is paid.

Average Crop Revenue Election (ACRE):

ACRE provides an alternative to the counter-cyclical component of DCP. Once a farm has made an irrevocable ACRE Election through the 2012 crop year, an annual CCC-509 contract must be filed similar to DCP. Participants on ACRE farms will receive a 20% reduction in direct payments and 30% reduction of commodity loan rates.

Planting Fruits and Vegetables or Wild Rice:

Planting fruits, vegetables, or wild rice on base acres may adversely affect your program benefits. Please contact this office before you plant or lease land for production of fruits, including nut trees, vegetables or wild rice, to discuss acreage reporting requirements, prevention of possible violation of program provisions, payment reductions, and severe penalties.

Farm Loans for Minority Groups

FSA can make direct and guarantee loans to groups considered as minorities under USDA definition. These groups include women, African Americans, American Indians, Alaskan Natives, Hispanics, and Asian Americans and Pacific Islanders. Funds can be used to buy and operate family-sized farms and ranches.

Individuals and entities primarily and directly engaged in farming and ranching on family-sized operations may apply. A family-sized farm is considered to be one that a family can operate and manage itself. Applicants must meet all requirements for FSA's regular farm loan program assistance. Contact the FSA office for exact criteria.

Repayment terms for direct operating loans depend on the collateral securing the loan and usually run from 1 to 7 years. Interest rates for direct loans are set periodically according to the Government's cost of borrowing. Repayment terms for direct farm ownership loans are up to 40 years. Interest rates for guaranteed loans are established by the lender. Applications for direct loans are made through the local FSA office. Applications for guaranteed loans are made with the lender.

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Your Town, Montana

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Payment Options for DCP:

For crop years 2009 through 2011, customers may elect to receive their direct payments in two installments. An advance payment for up to 22 percent will be issued beginning in December of the calendar year prior to the harvest year. The balance of the total direct payment is available in October of the crop year. Customers who do not elect to take the advance direct payment will receive the entire direct payment that October. There is no advanced direct payment for 2012. For crop years 2009 through 2012, customers may elect to receive two counter-cyclical payments per year if available. A partial payment may be available at the discretion of the Secretary of Agriculture after completion of 180 days of the marketing year for the crop. These payments can not exceed 40 percent of the total projected payment. Final payments are issued beginning Oct. 1 after the end of the marketing year for the crop. Customers who do not elect to take the partial payment will receive the entire counter-cyclical payment at this time.

Change in Direct Deposit Account:

The Debt Collection Act of 1996 mandates that payments from FSA be directly deposited into a producer's checking or savings bank account. It is important that any change in the producer's account such as type of account, bank mergers, routing number or account numbers be provided to the county office promptly to avoid possible payment delay.

Reasonable Accommodation Statement:

USDA is required to provide the reasonable accommodations statement semiannually in county office newsletters and on printed announcements of all public meetings, seminars or FSA sponsored training, and farm program orientation sessions.

Under-Represented Groups:

FSA solicits and accepts nominations of under-represented groups such as females and minority (American Indian or Alaska Native, Asian, Black/African American, Hispanic/Latino, Native Hawaiian or Other Pacific Islander) producers for county committee representation. Please notify this office if you wish to be identified as a minority producer.

FSA County Office Newsletter Distribution:

Individual FSA county office newsletters are distributed to all operators and anyone else who has requested to receive the newsletter. If you are a landowner and wish to receive an individual FSA county office newsletter, contact your local FSA office to be placed on the newsletter mailing list.