



## Northwest Ohio FSA News

January 2011

This newsletter is distributed to all producers served by Farm Service Agency county offices in Northwest Ohio. While the return address for this mailing on the reverse of this newsletter is that of the Wood County Farm Service Agency, producers should contact their servicing county Farm Service Agency office for additional information and program details.

### 2011 Direct and Counter-Cyclical Program and Average Crop Revenue Election Signup

Producers will have through June 1, 2011 to timely file a 2011 crop year Direct and Counter-Cyclical Program (DCP) or Average Crop Revenue Election (ACRE) Contract (CCC-509). **Producers may enroll under late-filing provisions for the 2011 contract year during the period June 2, 2011 through August 1, 2011.** Direct payments for each covered commodity will be based on 83.3 percent of the covered commodity's base acres and CCC will make an advance payment at a rate of 22 percent to requesting producers. Final payments are issued after October 1, 2011.

### Average Crop Revenue Election (ACRE)

The Acreage Crop Revenue Election (ACRE) option is a safety net based on State revenue losses and is an alternative to receiving price-based, counter-cyclical payments under the DCP. Under the ACRE provision, a farm's payment is based on a revenue guarantee calculated using a 5-year Olympic average state yield and the most recent 2-year national average market price for each eligible commodity.

An ACRE payment is issued when both the State and the farm have incurred a revenue loss. ACRE payments are based on planted acres and not base acres, as are counter-cyclical payments, and the total number of planted acres for which a producer may receive ACRE payments may not exceed the total base acres on the farm. For 2011, the payment is based on 83.3 percent of the farm's planted acres times the difference between the State ACRE guarantee and the State revenue times the ratio of the farm's yield divided by the State expected yield.

The decision to enroll in the ACRE Program may be made on a farm-by-farm basis in any of the remaining years of the 2008 ACT (2011 and 2012) and enrollment is irrevocable. Once enrolled, the farm shall be enrolled for that initial crop year and will remain in ACRE through the 2012 crop year for all covered commodities on the farm. The owners of the farm and all producers on the farm must agree to enroll in ACRE by June 1, 2011. **There are no late filing provisions for the ACRE election.**

Farms that are enrolled in ACRE will not receive counter-cyclical payments, when available, and will have direct payments reduced by 20 percent and marketing assistance loan rates reduced by 30 percent.

The ACRE state triggers for Ohio were met for 2009 crop wheat, barley and oats. The payment rates were \$44.42, \$16.21 and \$17.57 per acre respectively. ACRE participants should have received payments in middle of November 2010 for wheat, barley and/or oats if the farm level triggers were also met.

### 2009 Crop Year Supplemental Revenue (SURE) Assistance Program

Signup for the SURE Program for the 2009 crop year began January 10, 2011 and will end on July 29, 2011. SURE provides benefits for farm revenue losses due to natural disasters. A "farm" is eligible when either:

- a portion of the farm is located in a county, or a contiguous county, covered by a qualifying Secretarial disaster declaration; **(For 2009 this trigger will only apply to Williams, Fulton, and Lucas Counties in NW Ohio as they are all contiguous to Michigan Counties that received a 2009 Secretarial Disaster Designation.)**
- an overall loss greater than 50 percent of the actual production on the farm compared to expected production for the farm for that year. **All other NW Ohio Counties must meet this trigger for 2009 to be eligible.**

For producers to be eligible for SURE, they must have obtained a policy or plan of insurance for all crops through either the Federal Crop Insurance Act or FSA's Noninsured Crop Disaster Assistance Program (NAP). Producers must suffer a 10 percent production loss due to a natural disaster to at least one crop of economic significance on their farm in order to be eligible for SURE.

### Secretarial Disaster Designation Process

The USDA Secretarial Disaster Declaration is the most commonly used declaration to provide assistance to affected producers. The approval process is as follows:

- FSA County Offices monitor production and physical losses due to adverse conditions and report the events through a web-based tracking system (STORM).
- The governor makes a request to the Secretary of Agriculture within three months of the disaster end date.
- County FSA offices begin to assemble loss information to complete a Loss Assessment Report (LAR).
- FSA's National Headquarters notifies FSA's State Executive Director (SED) of the request. The FSA SED instructs County Offices to complete the LAR. The LAR is submitted to the State Emergency Board.
- The FSA SED prepares comments and recommendations and the State Emergency Board reviews the LAR.
- Upon State Emergency Board approval, the LAR is submitted to the FSA National Headquarters via STORM.
- FSA's Disaster Assistance Branch reviews the loss information of the LAR, determines eligibility and prepares a package including a letter of approval or disapproval to be signed by the Secretary of Agriculture.

## 2011 Payment Limitation/Eligibility

For 2011, “person” and permitted entity rules **do not apply**. Rather, payments will be limited by direct attribution. Under direct attribution, the payment limitation is applied by crediting individuals and legal entities with both the amount of payments they receive directly and also the amount they are considered to have received indirectly by holding an interest in a legal entity receiving payment.

For DCP, an individual or a legal entity is limited to receipt of \$40,000 in direct payments earned through the interests held in all contracts/agreements entered into during FY 2011. There is neither a “person” determination nor a restriction on the number of legal entities through which an individual may hold an interest that also receive payment.

The 2008 Act establishes a new requirement that **each** of the partners, stockholders, or members of a legal entity must make a contribution of active personal labor and/or active personal management to the farming operation that must be performed on a regular basis, be identifiable and documentable, and be separate and distinct from the contributions of any other partner, stockholder, or member of the farming operation. The contribution of the partners, stockholders and members must be significant and commensurate. The legal entity must make contributions to the farming operation that are at risk for loss, with the level of risk being commensurate with the claimed share of the farming operation. The failure of any partner, stockholder, or member to meet his requirement will result in a reduction of payments to the legal payment entity commensurate with the ownership share held by that interest holder. An exception may apply if at least 50 percent of the interest is held by members that are providing active personal labor or active personal management and the members are collectively receiving, directly or indirectly, total payments that are less than or equal to 1 limitation.

Common attribution is a means of crediting payment to person or legal entities collectively to 1 limitation for the applicable program based on a specific or unique relationship between the persons or legal entities such as minor child and parent or legal guardian and revocable trust and grantor. The date of June 1 will be used for the determination of a minor child for the application of the common attribution rule.

Program	Pay Limit
DCP/ACRE Direct Payments	\$40,000
DCP Counter-Cyclical /ACRE Payments	\$65,000
If participating in ACRE on at least 1 farm, the combination of direct, counter-cyclical, and ACRE payments on all farms for all covered commodities cannot exceed	\$105,000
Conservation Reserve Program (CRP) annual rental payments	\$50,000
Noninsured Assistance Program (NAP)	\$100,000
The combination of SURE ,LIP, LFP and ELAP cannot exceed	\$100,000
Marketing assistance loans, LDP’s and market loan gains.	No Limit

## 2011 Adjusted Gross Income (AGI) Rules

For commodity and price support programs, if the individual or legal entity has a 3-year average nonfarm AGI greater than \$500,000, the individual or entity is **not** eligible for DCP, price support, or disaster assistance program benefits. If the individual or legal entity has 3-year average farm AGI greater than \$750,000, the individual or legal entity is **not** eligible for direct payments under DCP.

For conservation programs, if the individual or legal entity has 3-year average total AGI greater than \$1 million, the individual or entity is **not** eligible unless 66.66 percent is derived from farming, ranching, and forestry operations, as defined. If the individual or entity has a 3-year average nonfarm AGI greater than \$1million, the individual or entity is **not** eligible for conservation program benefits. The average AGI is calculated using the income from the 3 taxable years previous to the current tax year minus 2 years. For the 2011 program year, tax years 2009, 2008 and 2007 are applicable.

## Consent to IRS Disclosure

USDA has entered into a memorandum of understanding with the Internal Revenue Service (IRS) to establish an electronic information exchange process to assist in determining compliance with AGI provisions. IRS will review data from tax returns, perform a series of calculations, and compare the results to the AGI limitations. FSA and NRCS will receive a record that indicates whether or not program participants appear to meet the income limits. Program participants who may exceed the limits will be offered an opportunity to provide third party verification or other information to validate their compliance with the adjusted gross income provisions. Because written consent from each payment recipient is required to initiate the verification process, the following forms have been developed to comply with the consent to disclosure:

- CCC-927, Consent to Disclosure of Tax Information – Individual.
- CCC-928, Consent to Disclosure of Tax Information – Entity.

IRS disclosure forms are available at USDA service centers and online at <http://www.fsa.usda.gov>. To safeguard privacy and confidentiality of the information, FSA offices will not accept or retain any completed CCC-927’s and CCC-928’s. Rather, program participants are required to mail the completed forms directly to the IRS address on the form within 120 days of the date of their signature. The form may not be signed by the agent designated on a FSA-211, Power of Attorney.

Participants that choose not to submit a completed CCC-927, or CCC-928, as applicable, will be determined noncompliant with AGI limitations for the applicable crop, program and fiscal years. Participants who choose not to provide the written consent will be required to refund applicable payments received from FSA and NRCS for the applicable crop, program and fiscal year (2009, 2010 and

## Trust Agreements

Some individuals have established trust agreements and have transferred land ownership to the trust. These transactions need to be reported to FSA because program contracts and forms need to be signed by the legal owners of the farm.

## **NAP/RMA Spring Deadlines**

Producers are reminded that the final date to apply for NAP coverage is March 15, 2011 for many (but not all) fruit and vegetable crops. Administrative fees have increased to \$250 per crop not to exceed \$750 per county or \$1875 per producer in all counties. Limited resource producers can request a waiver of the service fees. The deadline to obtain a Risk Management Agency (RMA) policy or plan of insurance for 2011 crop year corn and soybeans is March 15, 2011. Producers are reminded of these dates due to the requirement to have a plan of insurance for all crops to be eligible for the 2011 crop year SURE program.

## **Change in Farming Operation/Address**

Producers are reminded to contact the FSA office to report any change in a farming operation so that records can be kept current and accurate. Changes include, but are not limited to, farm ownership, farm operator, address, tax identification number, and agricultural use. Producers are required to verify, initial and date changes to their critical data when the request is made in person or by telephone. The final date to request farm and tract divisions or combinations of farm, tract and crop records for 2011 program administration purposes is August 1, 2011. Producers must enroll in DCP/ACRE within 30 calendar days following the issuance of the notice of completion of the reconstitution.

## **Special Accommodations**

Special accommodations will be made upon request for individuals with disabilities, vision, or hearing impairment. If accommodations are required, individuals should contact the County Executive Director of their local Farm Service Agency office.

## **Foreign Investment Disclosure**

Foreign persons who acquire, transfer, or hold interest in any tract of U. S. agricultural land, forestland, or timberland must report the transaction within 90 days of the closing to the Secretary of Agriculture through the local Farm Service Agency office. Foreign persons must also report changes in land use from agricultural to nonagricultural and vice-versa; changes in interest from foreign to non-foreign or foreign to foreign, and changes in legal addresses of 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> tier members. Persons failing to report could be subject to civil penalties of up to 25% of the fair market value of the property.

## **Civil Rights and Discrimination Process**

As applicants of and participants in USDA programs or activities, all producers have a right to be treated fairly and equitably and with dignity and respect. If you feel you have been treated unjustly because of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or familial status, or because all or part of your income is derived from any public assistance program you may file a complaint. Complaints should be filed within 180 days of the date the alleged discrimination occurred. Complaints may be by letter or by the standard USDA Form AD-1126 available at all USDA offices. The complaint should be submitted to USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 14<sup>th</sup> and Independence Avenue, SW, Washington DC 20250-9410 or (202) 720-5964 (voice and TDD).

## **Report Direct Deposit Changes**

Please notify your local FSA office of closed accounts, changes in account numbers, and changes in bank routing numbers. It is the responsibility of the producer to ensure that funds are available in the designated account to cover debit transactions.

## **Spousal and Faxed Signatures**

A husband and wife may sign program documents on behalf of each other for most Farm Service Agency and Commodity Credit Corporation programs in which either has an interest unless written notification denying a spouse this authority has been provided to the FSA office. Most USDA forms may be submitted by FAX. USDA is not responsible for transmission failures or other problems that prevent successful and timely receipt of faxed information.

## **Designation by Landowner Method**

This is a method of dividing farm and tract crop records in a manner agreed upon by the seller and purchaser. This method is available when an entire farm or tract or part of a farm or tract is sold or transferred or when a farm or tract is sold or transferred to 2 or more persons. The land being transferred must be owned for three years and a written memorandum of understanding is required.

## **Report of Payments to Producers**

The Commodity Credit Corporation is required to file an informational return (Form 1099-G) with IRS when payments are issued to producers. A program payment is considered made in the calendar year that the payment was issued, and not in the calendar year that it was earned or received. The report will be mailed to program payment recipients by January 31, 2011.

## **Highly Erodible Land and Wetland Conservation Compliance**

Producers are ineligible for benefits under USDA programs if they plant an agricultural commodity on a wetland that was converted after December 23, 1985. After November 28, 1990, it is also considered a violation to convert a wetland by draining, dredging, filling, leveling, or any other means to make the production of an agricultural commodity possible. Producers who plant agricultural commodities on land determined to be highly erodible must be in compliance with an approved conservation plan or system. Producers are required to request a conservation compliance determination before performing drainage activities or bringing new land into production.

## **Controlled Substance**

Any person who is convicted under federal law of planting, producing, cultivating, harvesting, growing, or storing a controlled substance will be ineligible to participate and receive payments under USDA programs. Marijuana, opium poppies, and other drug producing plants are controlled substances.

## **Final or Closing Dates**

In general, if a final or closing date falls on a workday, that date is applicable. If a final or closing date falls on a non-workday, then the date is extended to the close of business on the next workday.

### Loans for Grain Storage Facilities

Loans are available to producers to install eligible grain storage facilities under the Farm Storage Facility Loan Program. The maximum principal amount per loan is \$500,000. Loan terms of 7, 10 or 12 years are available depending on the amount of the loan. A 15 percent down payment is required. The January 2011 interest rates are 7- year - 2.5; 10-year – 3.125 and 12-year – 3.375 percent per annum. The interest rate for the loan term is set when the application is approved.

Payments are available in the form of a partial disbursement and the remaining final disbursement. The partial disbursement will be available after a portion of the construction has been completed. The final fund disbursement will be made when all construction is completed. The maximum amount of the partial disbursement will be 50 percent of the projected and approved total loan amount.

Submit to the application to the FSA county office that maintains the farm's records. The application fee is \$100 per eligible borrower. Loans 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 and renewable biomass
- Fruits and vegetables (cold storage facilities)

### Paper Check Conversion

In the coming months FSA/CCC will begin converting producers' checks into Electronic Funds Transfers (EFT). Funds will be debited from the originating checking account, usually within 24 hours. If the check is presented in person it will be scanned, voided, stamped with the words "Electronically Processed" or "Electronically Presented" and returned to the presenter. When a check is mailed to FSA it will be processed as an electronic funds transfer (EFT) and then held for 14 days to ensure it is successfully processed and then the check will be shredded.

### 2010 Commodity Loans

Marketing assistance loans are available to producers for the 2010 crop wheat through March 31, 2011 and corn and soybeans through May 31, 2011.

### County Committee Election Results

The following individuals were either elected or reelected to serve on their respective local Farm Service Agency County Committees: Charles Coates – Allen; Leslie Culler – Defiance; Corwin Rufenacht – Fulton-Lucas West; Richard Cupples – Hancock; Dennis Sams – Hardin; Charles Kurtz – Henry; Ron Pfeiffer - Ottawa-Lucas East; Donald Stoller – Paulding; Lynn Fitzwater - Putnam; Lisa Heiser – Seneca; Trent Profit – Van Wert; Kevin Cummins – Williams and Robert Moser - Wood. Complete election results, including the number of votes, are available at local FSA Offices.

### Northwest Ohio FSA Offices

Allen Co. FSA Office .....	419-223-0010
Defiance Co. FSA Office .....	419-782-4781
Fulton Lucas West Co. FSA Office.....	419-335-6061
Hancock Co. FSA Office.....	419-422-5438
Hardin Co. FSA Office .....	419-673-7238
Henry Co. FSA Office .....	419-592-2926
Ottawa Lucas East Co. FSA Office .....	419-898-2651
Paulding Co. FSA Office.....	419-399-3841
Putnam Co. FSA Office.....	419-523-4871
Seneca Farm Loan Office.....	419-447-7071
Van Wert Co. FSA Office .....	419-238-6780
Williams Co. FSA Office .....	419-636-2057
Wood Co. FSA Office .....	419-352-5171
NW Ohio District Director, Joel Obrecht	419-352-5171

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