



“SCOOP”

ARKANSAS FARM SERVICE AGENCY - - STATE OFFICE

June 2009

THE CROPS PLANTED ON A FARM MAY AFFECT FSA PROGRAM ELIGIBILITY

Producers need to be aware that the crops planted on a farm may have a significant impact on FSA Program eligibility. Since 1996, with the Production Flexibility Program, and then in 2002 with the Direct and Counter Cyclical Program, which we still have today, planting of specific crops was not an issue unless producers planted wild rice or fruits and vegetables on base acres. However, with the passage of five new disaster programs it is important that producers be aware crops planted on a farm may impact FSA program eligibility. This has become more important than ever with the recent rains, which may cause producers to change their planting intentions. Below is a brief summary of specific programs affected by planted acreage. Remember it is possible to be in more than one program at a time, and each program has different requirements. If you have questions, contact your local FSA office for complete details.

Many programs including but not limited to: DCP, ACRE, MAL's, LDP, SURE, ELAP, TAP require:

- all cropland on the farm to be certified to FSA by specific deadlines. For more information see the MAY SCOOP.
 - Note: Other programs require non-cropland and cropland to be certified timely.
- the prevented planted acreage to be reported within 15 days of the final planting date. For more information see the May 2009 SCOOP.
- failed acreage to be reported before the disposition of the crop. For more information see the May 2009 SCOOP.

DCP and ACRE – The planting of wild rice and fruits and vegetable on base acres is not allowed unless one of the exceptions is met. More information is available in the January SCOOP.

SURE, ELAP, TAP – Any crop can be planted on the farm, but as a rule the crop must have RMA or NAP insurance coverage to be eligible for benefits. There are exceptions, and below are examples to help producers understand the requirements and exceptions.

Example 1: A producer intended to plant wheat and corn only for 2009. He also wanted to be eligible for the SURE programs, so he timely purchased the available RMA or NAP insurance for wheat and corn in all counties as required. However, because of the rains, he planted soybeans instead of corn. Since he did not purchase the available RMA or NAP insurance for soybeans, he is no longer eligible for SURE in any county. In this case it is

Program Eligibility continued:

possible, for the producer to file a request for meritorious relief for failing to purchase insurance coverage for soybeans since he had no plans of planting the crop. If the applicable RMA/NAP application fee of \$250.00 is paid and the Arkansas State Committee grants relief, he then would be eligible for SURE in all counties, provided he has met all other eligibility criteria. He would not have insurance coverage for soybeans.

Example 2: A producer intended to plant wheat and corn only in 2009. He also wanted to be eligible for the SURE programs, so he timely purchased the available RMA or NAP insurance for wheat and corn in all counties as required. The producer planted corn and the crop later failed. The producer notified FSA of the failure before disposition of the crop. The producer then planted soybeans behind the failed corn. Since soybeans behind corn is NOT a recognized as a double cropping practice by either FSA or RMA, the soybeans will not be eligible for the SURE program and RMA or NAP insurance is not required. The soybeans are identified as a ghost crop, and excluded from all calculation when computing SURE benefits. The wheat and corn may still participate in SURE if all other eligibility criteria are met.

Example 3: A producer intended to plant wheat and corn only in 2009. He also wanted to be eligible for the SURE programs, so he timely purchased the available RMA or NAP insurance for wheat and corn in all counties as required. The producer planted wheat, but the recent rains destroyed the wheat. The producer notified FSA before disposition of the failure. The producer normally does not plant soybeans, but to help compensate his losses he chooses to plant soybeans behind the failed wheat. Since soybeans are an approved State Committee and/or RMA double cropping practice behind wheat, and the soybeans are NOT insured, he is NO longer eligible for SURE for any crop in any county. In this case it is possible, for the producer to file a request for meritorious relief for failing to purchase insurance coverage for soybeans since he had no plans of planting the crop. If the applicable RMA/NAP application fee of \$250.00 is paid and the Arkansas State Committee grants relief, he then would be eligible for SURE in all counties, provided he met all other eligibility criteria. He would not have insurance coverage for soybeans.

The Arkansas State Committee has established the following double cropping practices for Arkansas:

County	1st Crop	2nd Crops
All Counties	wheat or oats	soybeans
Jackson and Woodruff	wheat or oats	beans, cabbage, cantaloupe, sweet corn, cucumbers, greens, lettuce, okra, peas, peppers, potatoes, pumpkins, squash, tomatoes, turnips, watermelon
Jackson and Woodruff	cabbage, sweet corn, potatoes, strawberries	soybeans

RMA shall be consulted for RMA double cropping practices.

Program Eligibility continued:

LFP – Any crop can be planted on the farm, however, grazing crops must have RMA or NAP insurance coverage.

Note: More information on the five new disaster programs can be found in the November 2008 SCOOP.

ALL FSA Programs: Program participants convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, storing a controlled substance are ineligible for program payments, and benefits.

FSA NEEDS YOUR HELP

Help us help you. FSA county offices encourage producers to make an appointment to enroll in DCP or ACRE as soon as possible to avoid the last minute rush (page 4). Your cooperation is appreciated.

RECONSTITUTION OF ENROLLED DCP/ACRE FARMS

Farms enrolled in the 2009 DCP or ACRE Program may request a 2009 reconstitution by August 1, 2009. If advance payments have been issued on the farm they must be refunded in full before the COC can act upon the reconstitution. If the reconstitution is approved by the County Committee the DCP or ACRE enrollment is terminated. The new resulting farm(s) is eligible to enroll in DCP or ACRE by the later of, August 14, 2009, or 30 calendar days following issuance of notification of the completion of the reconstitution. All other producers who have a share in the contract must sign the new contract by September 30, 2009. Failure to timely enroll and obtain all required signatures will cause the farm to be ineligible for payments for the 2009 program year.

Note: Producers are reminded that ACRE is a two-step process, first: election into ACRE, second: yearly enrollment. Reconstitution does not cancel the election, but does cancel the yearly enrollment.

CHANGES TO A DCP OR ACRE CONTRACT AFTER ENROLLMENT

Immediately report a transfer or change in the interest of an owner or producer on a farm enrolled in DCP or ACRE to the FSA office. FSA procedure requires that the transfer or change in interest of an owner or producer will result in the termination of the program contract, and a refund of all payments will be required. If there is a successor(s) to the farm, they are eligible to enroll in a new DCP or ACRE contract. *New* specific deadlines for enrolling the successor-in-interest to the 2009 DCP or ACRE contract are as follows:

- if the change occurred before August 14, 2009, the revised contract must be filed by August 14, 2009
 - if the change occurred after August 14, 2009, the revised contact shall be filed as soon as the change occurs but no later than September 30, 2009.
- Note: Producers are reminded that ACRE is a two-step process, first: election into ACRE, second: yearly enrollment. A transfer or change in interest of an owner or producer on a farm does not cancel the election, but does cancel the yearly enrollment.

FEDERAL CROP INSURANCE PROGRAM INTEGRITY

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.

- FSA will be assisting RMA and insurance providers in monitoring crop conditions throughout the growing season
- FSA will refer all suspected cases of fraud, waste, and abuse in the Federal Crop Insurance Program to RMA
- Producers may report suspected cases of fraud, waste, and abuse to their local FSA County Office, RMA, or the Office of Inspector General (OIG)
- FSA will assist RMA with auditing claims.

PROGRAM DEADLINES

PROGRAM DEADLINES	DATE
Final date to inform FSA of crop loss (See the May 2009 SCOOP for more information)	Before crop disposition
Last date to file prevented planting credit (See the May 2009 SCOOP for more information)	15 days after the final planting date
Last date to file Request for Soybean Referendum	May 29, 2009
Final Loan and LDP Availability for 2008-crop Upland Cotton, Rice, Corn, Dry peas, Grain Sorghum, Lentils, Mustard Seed, Safflower Seed, Small Chickpeas, Soybeans and Sunflower seed.	May 31, 2009
Final date owners can designate rice apportionments	June 1, 2009
The date FSA uses to look at the structure of farming operations to calculate direct attributions	June 1, 2009
Spring Seeded Acreage Reporting Deadline	July 15, 2009
Last date to request a 2009 reconstitution on a DCP or ACRE farm	August 1, 2009
Final date to file a 2009 ACRE Election Final date to have all signatures on an ACRE Election Final date to file a 2009 DCP and/or ACRE 2009 (yearly) enrollment Final date to have returned signatures for producers who have a share in a DCP and/or ACRE contract Final date to file a successor-in-interest DCP or ACRE contract if the change occurred by August 14, 2009	June 1, 2009 Extended to August 14, 2009
Final date to prioritize crop to receive ACRE Payments Final date to file a 2009 successor-in-interest DCP or ACRE contract if the change occurred after August 14, 2009 Final date to have returned signatures for producers who have a share in a DCP and/or ACRE contract that had a 2009 successor-in-interest contract filed after August 14, 2009	Sept. 30, 2009

CRP Contract Extensions for Certain CRP Participants

On May 1, Secretary Vilsack announced that certain CRP participants with CRP contracts that are scheduled to expire on September 30, 2009, may modify all or part of that contract to extend the expiration date for a period of 3 or 5 years at the same per acre payment rate. No general signup is scheduled for FY 2009.

Nationally, contracts on about 3.9 million acres are scheduled to expire. Considering expected future enrollment, contracts may be extended on up to 1.5 million acres without exceeding the CRP enrollment authority of 32.0 million acres, which becomes effective October 1, 2009.

Because not all contracts can be extended, the Environmental Benefit Index (EBI) score that was used at the time the land was enrolled, or the erodibility index (EI) on land with an EI of 15 or greater, will be used to identify contracts eligible for extension.

The 3- or 5-year modification is only available to certain participants on acreage that expires from CRP on September 30, 2009. Participants eligible for modification will receive a letter that County Offices will generate informing them of the opportunity to extend their expiring contract. Eligible participants may extend all or a portion of the acreage expiring from CRP on September 30, 2009; however, no new acreage may be added. In no case shall CRP-1F Addendum be approved that would have the effect of a contract with a duration, in the aggregate, exceeding 15 years. Participants must obtain a modified conservation plan. Participants may submit requests to extend by filing CRP-1F Addendum's from May 18, 2009 through June 30, 2009; to modify eligible CRP-1's to extend the expiration date.

Note: Participants who are not eligible will be notified by letter of the contract expiration scheduled for September 30, 2009.

Termination of Commodity Certificate Exchanges Effective for 2010 Crop Loan Collateral

The Food, Conservation, and Energy Act of 2008, Section 1607, provides that the purchase and exchange of commodity certificates for marketing assistance loan (MAL) collateral terminate effective with the end of the 2009 crop year. Commodity certificates will continue to be exchanged for a 2009 crop MAL commodity up to the individual maturity date for that 2009 crop commodity. However, commodity certificates will **not** be available for exchange for any 2010 and subsequent crop MAL's.

The termination of commodity certificate exchanges by the crop year of the MAL collateral means that for some periods during calendar year 2010, commodity certificate exchanges may be requested and processed for 2009 crop MAL's, but not for 2010 and subsequent crop year MAL's.

Producer Eligibility Changes for 2009 Marketing Assistance Loans (MAL) and Loan Deficiency Payments (LDP)

An eligible producer is a person or legal entity that has complied with annual program requirements, including:

- reporting acreage for all cropland on a farm
- completing form AD-1026 for conservation compliance
- having beneficial interest in the eligible commodity
- sharing in the risk of producing the eligible commodity
- meeting average adjusted gross income (AGI) provisions

A person or legal entity with average adjusted gross non-farm income that exceeds \$500,000 is **not** eligible for MAL **gains** and LDP payments. However, the person or entity is eligible for MAL's, but the loans **must** be repaid at principal plus interest, or commodity certificates may be exchanged for the loan collateral. If commodity certificate exchange is used for loan redemptions, AGI provisions are not required to be met. Remember that commodity certificate exchange will terminate effective with the end of the 2009 crop loan season.

Documenting Livestock Death Losses Under the Livestock Indemnity Program (LIP)

The 2008 Farm Bill created five new disaster programs, one of which is LIP.

Note: Three of the five new disaster programs will be covered under a new series titled, "Livestock Disaster Assistance Programs" (LDAP).

LIP provides compensation to eligible livestock producers who have incurred livestock death losses in excess of normal mortality, on or after January 1, 2008, and before October 1, 2011. Blizzards, disease, extreme cold, extreme heat, floods, hurricanes, and wildfires, are eligible for LIP.

Compiling Death Loss Documentation - Livestock producers who have incurred eligible 2008 and/or 2009 eligible livestock death losses, because of eligible adverse weather events shall be advised to begin compiling their livestock death loss documentation according to the following instructions:

Producers are advised County Offices will not accept death loss documentation until their LIP applications are filed and instructions for program implementation are provided.

Proof of Death - To be eligible for assistance under LIP, each livestock producer **must** provide verifiable documentation of livestock deaths. Adequate documentation **must** be provided that proves the death of eligible livestock occurred as a direct result of an eligible adverse weather event in the calendar year for which benefits are being requested. The quantity and kind of livestock that died as a direct result of the eligible adverse weather event during the calendar year for which benefits are being requested may be documented by, but is **not** limited to:

**Documenting Livestock Death Losses Under the Livestock Indemnity Program (LIP)
continued:**

- bank or other loan documents
- FEMA records
- records assembled for tax purposes
- National Guard records
- private insurance documents
- production records
- property tax records
- purchase records
- rendering truck receipts
- veterinarian records
- written contracts

Producer Records - If adequate verifiable proof of death records documentation is **not** available, the livestock producer may provide reliable records, along with verifiable beginning and ending inventory, as proof of death. See instructions above for verifiable documentation of inventory.

Reliable records may include, but are not limited to:

- brand inspection records
- contemporaneous producer records existing at the time of the event
- dairy herd improvement records
- pictures
- vaccination records

Certification of Livestock Deaths by Third Parties - Certifications of livestock deaths by third parties may be accepted **only** if verifiable proof of death records or reliable proof of death records along with verifiable beginning and ending inventory records are **not** available, and **all** of the following conditions are met:

- the livestock owner or livestock contract grower, as applicable, certifies in writing:
 - that there is **no** other verifiable or reliable documentation of death available
 - the number of livestock, by category determined by FSA, were in inventory at the time the applicable adverse weather event occurred
 - the physical location of livestock, by category, in inventory when the deaths occurred
 - other details required for FSA to determine the certification acceptable
- the third party is an independent source who is **not** affiliated with the farming operation, such as a hired hand, and is **not** a “family member”; that is defined as a person whom a member in the farming operation is related as lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage, and provides a written certification that provides **all** of the following:

Certification of Livestock Deaths by Third Parties continued:

- name, telephone number, and address
- specific details about their knowledge of the livestock deaths
- their affiliation with the livestock owner or contract grower
- the accuracy of the deaths claimed by the livestock owner or contract grower, such as, but **not** limited to the number and kind/type of the participant's livestock that died because of the eligible adverse weather event
- other details required by FSA to determine the certification acceptable.

Verifiable Inventory Documentation - Documents that may provide verifiable evidence of livestock inventory include, but are **not** limited to, any or a combination of the following:

- canceled check documentation
- balance sheets
- inventory records used for tax purposes
- loan records
- private insurance documents
- property tax records
- sales and purchase receipts
- veterinary records
- brand inspection receipts
- chattel inspections.

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

The 2008 Farm Bill created five new disaster programs, one of which is the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP). ELAP provides emergency relief to producers of livestock, honey bees, and farm-raised fish. Aiding in the reduction of losses because of disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, during the calendar year, that are not covered by the Supplemental Revenue Assistance Payments Program (SURE), Livestock Indemnity Program (LIP), and Livestock Forage Disaster Program (LFP).

The following information will answer questions from Livestock, honey bee, and farm-raised fish producers who have incurred losses, and list acceptable types of documentation to document proof of losses.

Compiling ELAP Loss Documentation - Livestock, honey bee, and farm-raised fish producers who have incurred 2008 and/or 2009 calendar year losses because of disease, adverse weather, or other conditions, such as blizzards and wildfires that are not covered by SURE, LIP, and LFP should be advised to begin compiling their loss documentation according to this notice. County Offices will not accept loss documentation until their ELAP applications are filed, and instructions for program implementation are provided

Documenting Losses Under the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP) continued:

Types of Losses That May Be Eligible Under ELAP - All types of losses for which livestock, honey bee, and farm-raised fish producers may be compensated for under ELAP will not be known until the regulations for ELAP are published in the Federal Register. However, following are possible losses that are under consideration for compensation under ELAP:

- grazing losses because of eligible adverse weather events other than drought and wildfire on non-federally managed lands
- purchased or harvested feed that was intended as feed for eligible livestock, honey bees, or farm-raised fish that was destroyed or lost because of an eligible adverse weather event
- feed purchased to sustain livestock, honey bees, or farm-raised fish because of blizzards, floods, and hurricanes, etc. for a short period of time until additional feed becomes available
- physical losses of honey bees because of colony collapse disorder or eligible adverse weather events
- physical losses of honey bee hives because of eligible adverse weather events
- physical loss of farm-raised fish because of eligible adverse weather events
- reimbursement of costs incurred by an eligible producer associated with providing feed to livestock during a blizzard or flood such as hay lifts
- reimbursement of costs incurred by an eligible producer associated with providing feed to livestock during a blizzard such as the cost of snow removal equipment to clear a trail to transport feed to the eligible livestock
- transportation costs to move livestock from flooded areas during a flood to higher ground.

Note: These losses are examples of losses that may or may not be compensated for under ELAP. A forthcoming regulation in the Federal Register will provide final determinations.

Purchased Feed Documentation - Livestock, honeybee, or farm-raised fish producers must provide verifiable documentation of purchased feed, intended as feed for livestock, honey bees, or farm-raised fish that was lost. They must also provide verifiable documentation for additional feed purchased above normal to sustain livestock, honeybees, and farm-raised fish for a short period until additional feed becomes available because of adverse weather, including blizzards, floods, hurricanes, etc. To be considered acceptable documentation, the producer must provide **original** feed receipts and each feed receipt must include all of the following:

- date of feed purchase
- name, address, and telephone number of feed vendor
- type and quantity of feed purchased
- cost of feed purchased
- signature of feed vendor if the vendor does not have a license to conduct this type of transaction.

Example: The producer purchased baled hay from their neighbor. The neighbor is not a licensed vendor; therefore, the neighbor's signature is required to be on the purchase receipt.

Documenting Losses Under the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP) continued:

Note: Original feed receipts submitted for ELAP purposes, will be returned to the producer after being date stamped and photo copied for application purposes.

Harvested Feed Documentation - Livestock, honey bee, or farm-raised fish producers must provide documentation of harvested feed, intended as feed for livestock, honey bees, or farm-raised fish lost because of adverse weather, including blizzards, floods, hurricanes, etc. Documentation may include, but is not limited to:

- weight tickets
- truck scale tickets
- contemporaneous diaries, used to verify information provided if the crop was stored with the intent to feed the crop to livestock, honey bees, or farm-raised fish
- custom harvest documents that clearly identify the amount of feed produced from the applicable acreage.

Documentation provided must also clearly identify the acreage from which the production was obtained.

Honey Bee Documentation – Honey bee producers who incur physical losses of honey bees, and honey beehives due to colony collapse disorder must provide documentation and/or a certification that the loss of honey bees was due to colony collapse disorder from one or more of the following:

- registered entomologist
- Cooperative Extension specialist
- Land Grant University.

Honey bee producers who incur physical losses of honey bees and honey beehives because of colony collapse disorder and other adverse weather events must also provide documentation of inventory on the beginning date of the colony collapse, or adverse weather event, and the ending inventory. Documentation may include, but is not limited to, any combination of the following:

- acreage reports for NAP (colonies reported)
- loan records
- private insurance documents
- property tax records
- sales and purchase receipts
- State colony registration documentation
- chattel inspections

Documenting Losses Under the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP) continued:

Farm-Raised Fish Documentation - Farm-raised fish producers who incur physical losses of farm-raised fish because of adverse weather or other conditions must provide documentation of beginning inventory on the beginning date of the adverse weather event and the ending inventory. Documentation may include, but is not limited to, any combination of the following:

- acreage reports for NAP (surface acres of water)
- loan records
- private insurance documents
- property tax records
- sales and purchase receipts
- chattel inspections
- sales receipts

“The United States Department of Agriculture (USDA) prohibits discrimination in all its programs 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 programs. (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 USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202)-720-6382 (TDD). USDA is an equal opportunity provider and employer.”

Dianna Shook, Acting State Executive Director
Miriam Morehead, Acting Admin. Officer
Tony Franco, Chief, Price Support/Conservation

Sharon Baker, Chief, Prod Adj/Compliance
James Culpepper, Chief, Farm Loans
Phone (501) 301-3000
Website: www.fsa.usda.gov/ar