



April/May 2010

From the State Executive Director



The 2010 planting season is upon us with an excellent start, so let's get it done! In this newsletter we are emphasizing many 2010 deadline dates for FSA programs. The DCP sign-up is to be completed by June 1st and acres reported by July 15th; AGI consent forms must be sent to IRS by June 15th;

ACRE participants must have their yield histories completed by July 15th and failed acreage for crops must be reported before the disposition of the crop. So take a good read of the newsletter and if you have any questions please contact your county office or check our website.

Have a great spring and be safe!

Aaron Krauter, FSA State Executive Director

2010 DCP/ACRE Program Signum Deadline is June 1

Producers are reminded they have only until June 1, 2010, to enroll into and provide owners signatures for the 2010 Direct and Counter-cyclical Payment Program (DCP) or elect and enroll into the Average Crop Revenue Election (ACRE) Program. To date, only 50% of the farms traditionally enrolled into the DCP/ACRE program have completed the process. There is no late filed enrollment period for DCP in 2010 and subsequent years.

Advance direct payments are available at 22% of the direct rate, for DCP or ACRE contracts. Final direct payments are issued after October 1. The following direct payment rates apply for each of the eligible commodities in 2010:

Crop	Direct Payment Rate	ACRE Direct Payment Rate
Wheat	\$0.52/bushel	\$0.416/bushel
Corn	\$0.28/bushel	\$0.224/bushel
Grain Sorghum	\$0.35/bushel	\$0.280/bushel
Barley	\$0.24/bushel	\$0.192/bushel
Soybeans	\$0.44/bushel	\$0.352/bushel
Oats	\$0.024/bushel	\$0.0192/bushel
Other Oilseeds	\$0.0080/lb	\$0.0064/lb

Foreign Buyers Notification

The Agricultural Foreign Investment Disclosure Act (AFIDA) requires all foreign owners of U.S. agricultural land to report their holdings to the Secretary of Agriculture. Foreign persons who have purchased or sold agricultural land in the county 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 of 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.

Reporting 2009 Failed Acreage for ACRE Purposes

Failed acreage is acreage that was timely planted with the intent to harvest, but because of disaster related conditions, the crop failed before it could be brought to harvest. To be approved as failed acreage, the acreage must have been reported as failed before the disposition of the crop.

Failed acres reported to FSA for wheat, barley, oats, corn and grain sorghum will be used by FSA in the calculation of the 2009 Actual State yield for calculating the ACRE program payment. Therefore, it is very important that failed acreage of any of these commodities be reported to FSA prior to disposition for inclusion in the State calculation. This is particularly important for 2009 corn acreage as it is anticipated a significant acreage in North Dakota will go unharvested because of disaster related conditions.

Providing the crop was reported as failed prior to its disposition, the failed acreage can be verified by crop insurance data, County Committee knowledge, or by a field visit. If a field visit is necessary to verify failed acreage, a farm visit fee will be assessed.

2010 Acreage Reporting

Acreage reports must be filed for all cropland on the farm before any 2010 Direct and Counter-Cyclical (DCP) and Average Crop Revenue Election (ACRE) payments can be made or before eligibility can be established for marketing assistance loans and Loan Deficiency Payments (LDP's). Participants of the Conservation Reserve Program (CRP) and the Non-insured Assistance Program (NAP) must report the specific acreage for which benefits are being requested. Additionally, to be eligible for benefits subject to the Supplemental Revenue Assistance Payment Program (SURE), all crops in all counties must be

reported, including non-cropland that will be hayed and/or grazed.

The deadline for submitting a timely filed acreage report is July 15, 2010. Producers are reminded that filing an accurate acreage report for all crops and land uses, including failed acreage and prevented planting acreage, can prevent the loss of benefits for a variety of programs.

Producers who request prevented planting acreage credit must report the acreage and complete a CCC-576, Notice of Loss, within 15 calendar days after the final planting date for the respective crop as established by RMA or FSA. Producers must establish to the satisfaction of the County Committee that all cropland that was feasible to plant and prevented from being planted was affected by a natural disaster rather than a management decision. Additionally, producers are required to prove that preliminary efforts to plant the crop are evident, such as disking the land or orders for purchase or delivery of seed and fertilizer.

Producers requesting failed acreage credit must report the acreage before disposition of the crop to receive credit for that crop. The County Committee must be satisfied that the acreage was planted under normal conditions, but failed as a result of a natural disaster and not a management decision.

2009 ACRE Program – Benchmark Yields

For producers who elected the 2009 Average Crop Revenue Election (ACRE) program on one or more FSA farms, the ACRE program requires a yield be established for each covered commodity planted or considered planted in 2009, for each of the years 2004 – 2009. The process requires that each producer certifies to both the current year (2009) actual yield and the farm benchmark yields for each of the years making up the farm benchmark base period (2004 – 2008).

Producers must complete the FSA-658 (Record of Production & Yield) for each ACRE farm and each covered commodity planted in 2009 by not later than July 15, 2010. However, to ensure the FSA-658's have been completed properly we encourage producers to return the documents as soon as possible to the county office for review.

Production evidence that can be used to support the certified yields for 2004-2009 can be from the following sources:

- Crop Insurance loss records
- Sales records (buyer specific)
- Crop Insurance APH data base records
- Farm stored production records, appraisals

2008 SURE Program

Applications under the 2008 Supplemental Revenue Assistance Payment Program (SURE) program can now be filed. Producers who had either low yields or loss of revenue on their entire farming operation in 2008 may be

eligible for a SURE program payment. Producers are encouraged to contact their county office for an appointment to determine eligibility.

For the 2008 crop year, producers in all 53 counties in North Dakota are eligible to file an application for SURE. If the producer's farm revenue is less than the farm guarantee and at least one crop of economic significance suffered a 10% loss in yield a SURE payment will be based on 60% of the difference. To calculate a SURE program payment, FSA will compile production, revenue and loss records from RMA and FSA data and compare the actual revenue to the guaranteed revenue. Actual revenue is determined from national average market prices; therefore producers are not required to provide sales documentation, unless requested by the county committee. Guaranteed revenue is determined by multiplying the planted or considered planted acreage times the higher of the crop's APH, adjusted APH or Counter-cyclical yield times the insurance price election times the level of coverage.

For more information on the new SURE program, please visit your local FSA county office or <http://www.fsa.usda.gov>. A new SURE calculator specifically for the 2008 SURE program has been posted to this website.

DCP/ACRE FAV Plantings

Producers with plans for fruit and vegetable (FAV's) plantings in 2010 need to be aware of the FAV planting restrictions that apply on base acreage (Dry peas, Lentils and Garbanzo Beans are not considered to be FAV crops). When planting FAV's, producers have the following options:

1. Plant FAV's on a participating farm's "free acres".
2. Plant FAV's on base acreage of a participating farm that has a farm FAV history and take an acre-for-acre reduction in the DCP payment. NOTE: Farm FAV history is based on the FAV planting history for 1991-1995 or 1998-2001.
3. Plant FAV's on base acreage of a participating farm without farm FAV history, using the producer's FAV history and take an acre-for-acre reduction in DCP payment. NOTE: Producer FAV history is based on the planting history the producer has of each specific FAV crop.
4. Plant FAV's on a nonparticipating farm.

FSA Signature Requirements

Proper signatures on Farm Service Agency contracts, applications and forms must be submitted before the document will be considered as filed. All entities, including revocable and irrevocable trusts, corporations, partnerships, estates, etc., must provide evidence of signature authority stipulating those individuals who are authorized to represent the entity. FSA cannot accept signatures without such documentation on file.

Examples of acceptable evidence include designation of signature authority on FSA Form CCC-901, Member's Information or CCC-902E, Farm Operating Plan for an Entity, trust agreements, corporate charters or resolutions, partnership agreements and court orders of appointment. Spouses can sign for one another on most program documents unless written notification denying a spouse this authority has been provided to the county office staff. For more information about appropriate signature authority, please contact your local FSA county office.

Average Adjusted Gross Income Verification Process

Many programs administered by the Farm Service Agency (FSA) are subject to compliance with Adjusted Gross Income (AGI) provisions. Producers may certify compliance with AGI provisions by either completing Form [CCC-926](#), Average Adjusted Gross Income (AGI) Statement, or providing a statement from a certified public accountant or attorney attesting to compliance with AGI provisions. In either instance, producers agreed to a process that allows FSA to verify AGI compliance.

To accomplish this process, FSA will provide producers with a consent form ([CCC-927 for Individuals](#) or [CCC-928 for Entities](#)) to be completed and submitted directly to the Internal Revenue Service (IRS). Completion of the consent form authorizes IRS to disclose information to FSA for purposes of verifying compliance with AGI provisions for 2009 and 2010. The consent form can be obtained at the local Service Center or online.

Once completed, the consent form shall be mailed directly to IRS at the address given on the form no later than June 15, 2010. Following receipt of the consent form, IRS will provide FSA with the results of the comparison with indicators of whether the participant appears to exceed, or not exceed, the average AGI limitation amounts. No actual tax data will be provided to FSA and county office personnel will not view tax return information at any time during this process.

If necessary, cases that appear to exceed the average AGI limitations will be reviewed and evaluated by the FSA State Office. Producers will be given the opportunity to make available within 30 days of notification a third party verification from a certified public accountant or attorney of their AGI that demonstrates AGI limits have not been exceeded, if applicable.

Producers who fail to submit the written consent form to IRS, or who are determined non-compliant, will be required to refund applicable payments received from FSA for program years 2009 and/or 2010.

Preventing Crop insurance Fraud, Waste and Abuse

FSA county office staff will be assisting Risk Management Agency and insurance providers in monitoring crop conditions throughout the growing season. For selected producers, FSA staff will be making two inspections: one during the growing season and one during the time harvest is normal for the crop.

The staff will be checking to see if reported crops have been planted and cared for in a workmanlike manner. All suspected cases of fraud, waste, and abuse of the Federal Crop Insurance Program will be referred to RMA. Producers may report suspected cases of fraud, waste, and abuse to the county office staff, RMA office or Office of Inspector General. Additionally, FSA will assist RMA with auditing claims.

Emergency Loan Program

USDA's Farm Service Agency (FSA) provides emergency loans to help producers recover from production and physical losses due to drought, flooding, other natural disasters, or quarantine.

Emergency loan funds may be used to:

- Restore or replace essential property;
- Pay all or part of production costs associated with the disaster year;
- Pay essential family living expenses;
- Reorganize the farming operation; and
- Refinance certain debts.

Emergency loans may be made to farmers and ranchers who:

- Own or operate land located in a county declared by the Secretary of Agriculture as a disaster area or quarantine area (for physical losses only, the FSA Administrator may authorize emergency loan assistance);
- Are established family farm operators and have sufficient farming or ranching experience;
- Are citizens or permanent residents of the United States;
- Have suffered at least a 30-percent loss in crop production or a physical loss to livestock, livestock products, real estate, or chattel property;
- Have an acceptable credit history;
- Are unable to receive credit from commercial sources;
- Can provide collateral to secure the loan;
- and have repayment ability.

FSA loan requirements are different from those of other lenders. Some of the more significant differences are the following:

- Borrowers must keep acceptable farm records;
- Borrowers must operate in accordance with a farm plan they develop and agree to with local FSA staff; and
- Borrowers may be required to participate in a financial management-training program and obtain crop insurance.

All emergency loans must be fully collateralized. The specific type of collateral may vary depending on the loan purpose, repayment ability and the individual circumstances of the applicant. If applicants cannot

provide adequate collateral, their repayment ability may be considered as collateral to secure the loan. A first lien is required on property or products acquired, produced, or refinanced with loan funds.

Producers can borrow up to 100 percent of actual production or physical losses, to a maximum amount of \$500,000.

Loans for crop, livestock, and non-real estate losses are normally repaid within 1 to 7 years; depending on the loan purpose, repayment ability, and collateral available as loan security. In special circumstances, terms of up to 20 years may be authorized. Loans for physical losses to real estate are normally repaid within 30 years. In certain circumstances, repayment may be made over a maximum of 40 years.

The current annual interest rate for emergency loans is 3.75 percent.

Applications for emergency loans must be received within 8 months of the county's disaster or quarantine designation date.

Additional information on FSA loan programs may be obtained at local FSA offices or through the FSA Web site at www.fsa.usda.gov.

Restrictions on Removing CCC Loan Collateral

Producers are reminded of Commodity Credit Corporation (CCC) loan restrictions. Grain under CCC loan cannot be removed without prior authorization or repayment. Removal and disposition without written authorization or repayment, which includes moving to nondesignated bins, feeding, using for seed, or delivery to a buyer is considered a violation and is subject to monetary and administrative penalties.

Commodity loans are subject to spot check. Determined shortages must be repaid with principal plus interest, and additional monetary penalties plus loss of future loan eligibility and restrictions on LDP's may apply. If the loan collateral will be sold, producers must contact the county FSA office and obtain a marketing authorization prior to removing the commodity. The marketing authorization may be requested by telephone and can be obtained for a 15 or 30 day authorization period.

Important Dates and Deadlines

Loan/LDP Final Availability Date for 2009 Corn, Dry Peas, Grain Sorghum, Lentils, Mustard, Safflower, Chickpeas, Soybeans, Sunflowers	May 31, 2010
DCP/ACRE Signup Deadline	June 1, 2010
AGI Verification Consent Forms Mailed to IRS	June 15, 2010
Acreage Reporting Deadline	July 15, 2010
2009 ACRE Farm Benchmark Yield	July 15, 2010

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