



Billing Code 3410-05-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Continuation of Farm Service Agency 2008 Farm Bill Programs

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: The American Taxpayer Relief Act of 2012 (ATRA) extended the authorization of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) through the 2013 crop year, fiscal year (FY), or calendar year, as applicable, for certain Commodity Credit Corporation (CCC) commodity and conservation programs administered by the Farm Service Agency (FSA). This notice provides information about which programs have been extended for an additional year, which programs producers will need to enroll in through applications and contracts, and the dates for the submission of the required applications. The extended programs will be administered through their current terms and procedures for the applicable period of extension, except as provided in this notice.

EFFECTIVE DATE: **[Insert date of publication in the FEDERAL REGISTER].**

FOR FURTHER INFORMATION CONTACT: Craig Trimm; telephone: (202) 720-3175. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

ATRA (Pub. L. 112-240, January 2, 2013) authorized the continuation of certain CCC and FSA payment limitation and income eligibility requirements, commodity programs, and conservation programs previously authorized or amended in the 2008 Farm Bill (Pub. L. 110-246). Certain other authorities were not extended. Program authorizations and mandatory funding authorizations that were not extended are noted below. Extended programs (including mandatory funding) include the Direct and Counter-Cyclical Payment Program (DCP), Average Crop Revenue Election Program (ACRE), Milk Income Loss Contract Program (MILC), Dairy Product Price Support Program (DPPSP), Dairy Indemnity Payment Program (DIPP), Marketing Assistance Loans (MAL), Loan Deficiency Payments (LDP), Conservation Reserve Program (CRP), Upland Cotton and Extra Long Staple Cotton Programs, and Sugar Program.

Generally, these programs will continue to operate in 2013 as they did in 2012, with some minor modifications noted briefly below. ATRA authorized most CCC programs for the 2013 crop year, but MILC was authorized for FY 2013, and DPPSP was authorized for calendar year 2013.

FSA is updating software, forms, and handbooks for the 2013 continuation of the programs. FSA is updating program Fact Sheets and will conduct extensive outreach to ensure that producers are aware of sign-up periods and application requirements. Details for each program are being announced in news releases to facilitate planning for the 2013 growing season.

DCP and ACRE

The 2013 DCP provisions are unchanged from 2012. DCP provides two types of payments to eligible producers on enrolled farms: direct payments and counter-cyclical payments. Both are calculated using historical base acres and payment yields established for the farm. To participate in and receive DCP payments, eligible producers must enroll through the annual sign-up. Signup for the 2013 crop year will begin on February 19, 2013, and will end on August 2, 2013. Direct payments will be issued to eligible producers in October 2013. As the 2008 Farm Bill did not authorize advance direct payments for the 2012 crop year, such payments are also not authorized for the 2013 crop year. Counter-cyclical payments for the 2013 crop will be issued to eligible producers beginning in October 2014, if effective prices are less than target prices. As with previous years, if effective prices are greater than specified target prices during the 2013 marketing year, there will be no counter-cyclical payments.

The 2013 ACRE provisions are mostly unchanged from 2012. ACRE is an alternative program to DCP that provides payments only if both the State and Farm triggers are met. The State ACRE Guarantee must exceed the Actual State Revenue and the Farm ACRE Guarantee must exceed the Actual Farm Revenue. Producers who elect to enroll a farm in ACRE must agree to:

- (1) Forgo counter-cyclical payments,
- (2) A 20-percent reduction in their direct payments, and
- (3) A 30-percent reduction in the MAL rates for all commodities produced on the farm that are eligible for ACRE payments.

ACRE payments are tied to current plantings on the farm, in contrast to countercyclical payments, which are tied to the farm's base acres. As specified in the 2008 Farm Bill and in the current regulations for ACRE, a producer who elected to participate in ACRE could not participate in DCP from the year in which he elected to participate in ACRE through 2012. Because the provision imposing irrevocability of such election expired on September 30, 2012, all eligible producers may choose to enroll in either DCP or ACRE for the 2013 crop year. This means that producers who were enrolled in ACRE in 2012 may elect to enroll in DCP in 2013 or may re-enroll in ACRE in 2013 (and vice versa), subject to eligibility requirements. To participate and receive ACRE payments, eligible producers must sign up to enroll in ACRE for the 2013 crop year. ACRE signup will begin on February 19, 2013 (at the same time that DCP signup begins), and will end on June 3, 2013.

MILC

MILC was extended by ATRA through September 30, 2013, with minor modifications. MILC compensates enrolled dairy producers when the Boston Class I milk price falls below \$16.94 per hundredweight (cwt), as adjusted by the dairy feed ration adjustment specified in both the 2008 Farm Bill and in the current regulations for MILC, 7 CFR Part 1430, "Dairy Products." All producers' MILC contracts are automatically extended to September 30, 2013. Producers therefore do not need to re-enroll in MILC. The production start month previously selected by an operation is applicable for FY 2013, unless a producer requests a change as discussed below.

September 2012 was the last eligible month for MILC payments under the 2008 Farm Bill. ATRA increased the MILC payment formula for September 2012, resulting in a payment rate of about \$0.59 per hundredweight for that month. Prior to ATRA, the applicable rate as of September 1, 2012 would have been zero under the formula in the 2008 Farm Bill. ATRA reduces the payment rate beginning September 1, 2013. The September 2012 payment will automatically be disbursed in the near future to eligible producers who have not exceeded their maximum eligible production quantity of 2.985 million pounds for FY 2012. Producers currently enrolled in MILC are also eligible for about a \$0.02 per hundredweight payment for October 2012, if that month is selected as their production start month for FY 2013. The payment rate determined for November 2012 is zero. Payments for subsequent months will be determined as data become available.

Dairy operations may select a start month for FY 2013 other than October 2012 (the start of FY 2013). Producers will be able to select any month in FY 2013 to begin receiving payments. During the period (referred to as the “relief period”) beginning February 1, 2013, through the close of business on February 28, 2013, producers with existing MILC contracts may make production start month selection changes for FY 2013 by completing and submitting form CCC-580M to FSA. For producers with new dairy operations that began operation before February 1, 2013, FSA will accept applications (form CCC-580) beginning February 1, 2013, and ending September 30, 2013. For eligibility information and other requirements, producers should contact their local FSA office. During the relief period, the producer may select any month in FY 2013 (beginning October 2012) as the production start month; start month selection provisions

specified in 7 CFR 1430.205, “Selection of Starting Month” do not apply. After the relief period, beginning March 1, 2013, all production start month changes for new and existing MILC participants must be made according to normal start month selection provisions as specified in 7 CFR 1430.205.

DPPSP

DPPSP is extended through December 31, 2013. DPPSP supports the price of cheddar cheese, butter, and nonfat dry milk by providing a standing offer from CCC to purchase those products at specific support prices. The support prices specified in the 2008 Farm Bill are the prices for 2013.

DIPP

DIPP is extended through September 30, 2013. Through DIPP, FSA issues payments to dairy producers for losses incurred because they were required to remove their milk production from commercial markets due to the presence of certain chemical or toxic residue.

MAL and LDP

The MAL program and LDP program were extended by ATRA for the 2013 crop year. The terms and conditions of such programs’ provisions are unchanged from 2012. MALs for loan commodities allow producers to receive 9-month non-recourse loans from CCC. MALs provide an influx of cash when market prices are typically at harvest-time

lows, allowing producers to delay the sale of the commodity until more favorable market conditions emerge. In lieu of securing a MAL, producers may elect to receive an LDP.

CRP

ATRA maintains the CRP enrollment cap at the 32 million acre level for FY 2013, unchanged from the 2008 Farm Bill. Current CRP enrollment is 27 million acres. In addition to periodic general signups, producers may enroll environmentally sensitive land through CRP's continuous signups. Continuous signup includes land enrolled through the Conservation Reserve Enhancement Program (CREP), which are state and federal partnerships that provide payments for installing specific conservation practices at specific locations. The dates producers may begin entering into new CRP contracts will be announced through the normal process of news releases.

Sugar Program

The Sugar Program, including the related Feedstock Flexibility Program, is extended for the 2013 crop year with no changes. The Sugar Program will continue to operate as specified in the 2008 Farm Bill and in the current regulations.

Upland Cotton and ELS Cotton

The Upland Cotton and ELS Cotton Programs are extended through the 2013 crop year, with no changes. The 2008 Farm Bill specified that the special import quota for upland cotton and the Competitiveness Program for ELS Cotton were for a period through July 31, 2013; these programs are extended through the 2013 crop year, which

ends on July 31, 2014. The Upland Cotton and ELS Cotton Programs will continue to operate as specified in the 2008 Farm Bill and in the current regulations.

Other Payment Eligibility Requirements Extended

ATRA extended the provisions of the 2008 Farm Bill that concern income eligibility and payment limitation.

The adjusted gross income (AGI) requirements for 2013 are unchanged from 2012 requirements. The average AGI provisions apply to most of the programs administered by FSA and NRCS. Before producers can receive payments for 2013 programs with AGI provisions, they must file the proper forms to certify that their incomes are below specified levels. The Internal Revenue Service also requires written consent from the individual or legal entity for it to verify the individual or legal entity's AGI and to provide such verification to the U.S. Department of Agriculture. To provide the annual AGI certification and written consent, participants must complete Form CCC-933, "Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information" for 2013. Form CCC-933 is available at local FSA and NRCS offices or online through the FSA website.

Participants in Federal farm programs that have farm land identified as highly erodible or as a wetland must continue to comply with certain land and environmental conservation requirements for payment eligibility purposes in 2013. The regulations in 7 CFR part 12, "Highly Erodible Land and Wetland Conservation," and 7 CFR part 1400, "Payment Eligibility and Payment Limitation for 2009 and Subsequent Crop, Program, or Fiscal Years," apply to all FSA and CCC programs in 2013.

Programs that are Authorized but Have Not Been Funded

Some programs, including certain disaster assistance programs, were reauthorized but are subject entirely to appropriation in each of fiscal years 2012 and 2013.

As a result, those programs can be operated only if FY 2013 funds are appropriated for them. Such programs include the Biomass Crop Assistance Program (BCAP); Voluntary Public Access – Habitat Incentive Program (VPA-HIP); Livestock Indemnity Program (LIP); Livestock Forage Disaster Assistance Program (LFP); Emergency Assistance for Livestock, Honeybees, and Farm- Raised Fish Program (ELAP); and Tree Assistance Program (TAP).

Expired Programs

Some programs in the 2008 Farm Bill were not extended by ATRA. There is no authority provided by ATRA for the Supplemental Revenue Assistance Payments Program (SURE) or for the Market Loss Assistance for Asparagus Producers Program (ALAP).

Environmental Review

FSA has determined that the authorization to extend certain provisions of the 2008 Farm Bill through 2013 as described in this notice would not constitute a major Federal action significantly affecting the quality of the human environment, as no new program provisions or implementation requirements were established under ATRA. Therefore, in accordance with the 7 CFR Part 799, Environmental Quality and Related

Environmental Concerns—Compliance with the National Environmental Policy Act, implementing the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), no environmental assessment or environmental impact statement will be prepared.

Signed at Washington, DC, on January 29, 2013.

Juan M. Garcia,
Executive Vice President,
Commodity Credit Corporation and
Administrator,
Farm Service Agency

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