



e-newsletter

February 2, 2010

Declaration of Florida Agricultural Disaster

The U.S. Department of Agriculture (USDA) offers several programs to help farmers recover financially from a natural disaster, including but not limited to, Federal Crop Insurance, the Noninsured Crop Disaster Assistance Program (NAP), Emergency Disaster Loans, Emergency Livestock and Fisheries Assistance, and Biomass Crop Assistance, most of which are contingent upon issuance of a USDA Emergency Disaster Declaration. U.S. Secretary of Agriculture, Tom Vilsack, late last week issued such an Agricultural Disaster Declaration designating 60 of the 67 Florida counties as primary disaster areas due to the January freeze that occurred January 2- January 14, 2010. Attached for your reference is a copy of Secretary Vilsack's Declaration.

This designation makes farm operators in both primary and contiguous counties eligible to be considered for assistance from various USDA disaster programs issued through USDA's Farm Service Agency (FSA), provided eligibility requirements are met. Attached for your reference is a summary of the USDA's disaster programs.

Local FSA offices can provide affected farmers with further information. To find your FSA office go to <http://offices.sc.egov.usda.gov/locator/app?state=fl&agency=fsa>.

If you are interested in applying for disaster relief and wish to seek advice of counsel regarding USDA disaster programs, please contact:

Laura Minton Young
lyoung@deanmead.com
321-259-8900

Dean Mead's Agribusiness Team has a long history of representing agribusiness throughout the State of Florida. We represent clients in all aspects of their operations, including: formation and administration of business entities, negotiation and preparation of leases and contracts, environmental permitting and enforcement, insurance coverage analysis and litigation, tax planning, estate planning for principals of agribusiness entities, real estate transactions, land use and zoning representation, pesticide litigation, worker protection and safety, eminent domain, wetlands and wetlands banking and secured lending negotiation and documentation. Our Team has extensive experience with real estate development of former agricultural lands.

NOTE: Dean Mead provides the information in this e-Newsletter as a service to professionals and clients. While the information in this e-Newsletter deals with legal issues, it does not constitute legal advice. If you have specific questions related to the information in this e-Newsletter, you are encouraged to consult an attorney who can investigate the particular circumstances of your situation. Due to the rapidly changing nature of the law, Dean Mead is not responsible for informing you of future legal developments. If you would like to be removed from our distribution list, please reply to this email and type REMOVE in the subject line.



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

JAN 29 2010

The Honorable Charlie Crist
Governor
State of Florida
Tallahassee, Florida 32399-0001

Dear Governor Crist:

Thank you for your letter of January 15, 2010, requesting a disaster designation for all 67 Florida counties due to losses caused by cold weather and freezing conditions that occurred in January 2010.

The Department of Agriculture (USDA) has reviewed the Loss Assessment Reports, along with the additional information submitted by the State Executive Director, Farm Service Agency (FSA). Based on this review, USDA has determined that there were sufficient production losses in 60 counties to warrant a Secretarial disaster designation. Therefore, I am designating 60 Florida counties as primary natural disaster areas, due to losses caused by record cold weather, frost, and freezes that occurred during the period January 2 through January 14, 2010. Those counties are:

Alachua	Dixie	Highlands	Manatee	Polk
Baker	Duval	Hillsborough	Marion	Putnam
Bay	Flagler	Holmes	Martin	Sarasota
Bradford	Franklin	Indian River	Miami-Dade	St. Johns
Brevard	Gadsden	Jefferson	Monroe	St. Lucie
Broward	Gilchrist	Lafayette	Nassau	Sumter
Calhoun	Glades	Lake	Okeechobee	Suwannee
Charlotte	Gulf	Lee	Orange	Taylor
Citrus	Hamilton	Leon	Osceola	Union
Collier	Hardee	Levy	Palm Beach	Volusia
Columbia	Hendry	Liberty	Pasco	Wakulla
De Soto	Hernando	Madison	Pinellas	Washington

In accordance with section 321(a) of the Consolidated Farm and Rural Development Act, the following Florida Counties are named as contiguous disaster counties: Clay, Jackson, Seminole, and Walton.

The Honorable Charlie Crist
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Clay, Escambia, Okaloosa, Santa Rosa, Seminole, and Walton Counties, did not sustain any crop production losses due to the disaster.

Jackson County sustained losses that were less than the 30-percent threshold, to crop production county-wide, needed to qualify as a primary natural disaster area. In addition, individual farmers in Jackson County who sustained qualifying losses were able to secure commercial financing to cover these losses and, therefore, are not qualified to receive emergency loans.

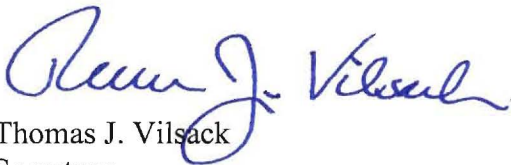
Therefore, I am unable to approve your request for the designation of Clay, Escambia, Jackson, Okaloosa, Santa Rosa, Seminole, and Walton Counties, Florida, as primary natural disaster areas.

However, Clay, Jackson, Seminole, and Walton Counties, Florida, will be eligible for FSA emergency loan assistance since they are named as contiguous counties for this disaster, as indicated above.

This designation makes farm operators in both primary and contiguous counties eligible to be considered for assistance from FSA, provided eligibility requirements are met. This assistance includes FSA emergency loans and the Supplemental Revenue Assistance Payments Program (SURE). SURE was approved as part of the Food, Conservation, and Energy Act of 2008 and was implemented beginning on January 4, 2010. FSA will consider each application on its own merit by taking into account the extent of losses, security available, and repayment ability.

Local FSA offices can provide affected farmers with further information.

Sincerely,

A handwritten signature in blue ink that reads "Thomas J. Vilsack". The signature is fluid and cursive, with the first name being the most prominent.

Thomas J. Vilsack
Secretary

USDA Disaster Programs Overview

Summary

The U.S. Department of Agriculture (USDA) offers several permanently authorized programs to help farmers recover financially from a natural disaster, including Federal Crop Insurance, the Noninsured Crop Disaster Assistance Program (NAP), Emergency Disaster Loans, Emergency Livestock and Fisheries Assistance, and Biomass Crop Assistance, most of which are contingent upon issuance of a USDA Emergency Disaster Declaration. The federal crop insurance program is designed to protect crop producers from unavoidable risks associated with adverse weather, and weather-related plant diseases and insect infestations. Producers who grow a crop that is currently ineligible for crop insurance may be eligible for a direct payment under NAP. Under the Emergency Disaster Loan (EM) program, when a county has been declared a disaster area by either the President or the Secretary of Agriculture, agricultural producers in that county may become eligible for low-interest loans available through USDA's Farm Service Agency. In addition, the recently authorized Supplemental Revenue Assistance Payments Program (SURE), compensates eligible producers for a portion of crop losses that are not eligible for an indemnity payment under the crop insurance program. The Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP) compensates producers for disaster losses not covered under other disaster programs. The Biomass Crop Assistance Program (BCAP) provides financial assistance to producers or entities that deliver eligible biomass material to designated biomass conversion facilities for use as heat, power, biobased products or biofuels. (Additional information for these programs is detailed below and in the attached USDA Factsheets.)

A prerequisite for ALL USDA disaster programs is prior enrollment in crop insurance or the Noninsured Crop Disaster Assistance Program (NAP).

Payment and Income Limits for ALL Disaster Programs

1) Eligible producers may not have more than \$500,000 in nonfarm income to qualify for USDA disaster programs. *(The definition of income derived from farming, ranching and forestry includes, among other items, such items as the packing, storing and transporting of agricultural commodities; production of livestock products; farm-based production of renewable bio-energy; and in some instances, the providing of operational inputs to farmers, ranchers and foresters.)*

2) The per-year payment limit is \$100,000 for combined payments from SURE, Livestock Indemnity Program, Livestock Forage Program, and ELAP. NAP has a separate limit of \$100,000.

Noninsured Crop Disaster Assistance Program (NAP)

Producers who grow a crop that is currently ineligible for crop insurance may be eligible for a direct payment under USDA's Noninsured Crop Disaster Assistance Program (NAP). In order to receive a NAP payment, a producer must experience at least a 50% crop loss caused by a natural disaster, or be prevented from planting more than 35% of intended crop acreage. For any losses in excess of the minimum loss threshold, a producer can receive 55% of the average market price for the covered commodity.

Hence, NAP is similar to catastrophic crop insurance coverage in that it pays 55% of the market price for losses in excess of 50% of normal historic production. A producer of a noninsured crop is subject to a payment limit of \$100,000 per person.

Emergency Disaster Loans (EM)

Once a county is declared eligible, an individual producer within the county (or a contiguous county) must also meet the following requirements for an EM loan. A producer must (1) be a family farmer and a citizen or permanent resident of the U.S.; (2) experience a crop loss of more than 30% or a physical loss of livestock, livestock products, real estate or property; and (3) be unable to obtain credit from a commercial lender, but still show the potential to repay the loan. Applications must be received within eight months of the county's disaster designation date.

Supplemental Revenue Assistance Payments Program (SURE)

The largest of the new farm disaster assistance programs authorized through the 2008 farm bill is the Supplemental Revenue Assistance Payments Program (SURE) for crop producers for losses occurring from crop year 2008 through September 30, 2011. The program is designed to compensate eligible producers for a portion of crop losses that are not eligible for an indemnity payment under the crop insurance program (i.e., the portion of losses that is part of the deductible on the policy.) An eligible producer can receive a payment equal to 60% of the difference between a target level of revenue and the actual total farm revenue for the entire farm. The target level of revenue will be based on the level of crop insurance coverage selected by the farmer, thus increasing if a farmer opts for higher levels of coverage. To be eligible for a payment, a producer must be in or contiguous to a county that has been declared a disaster area by the Secretary of Agriculture, or have an overall 50% farm loss. Payments are limited so that the disaster program guarantee level cannot exceed 90% of what income likely would have been in the absence of a natural disaster. The producer also must have at least the minimum level of crop insurance (CAT) coverage for insurable crops and participate in the NAP program for non-insurable crops. Subject to a \$100,000 per person payment limitation.

Emergency Assistance for Livestock, Honey Bees, & Farm-raised Fish

Provides emergency relief to producers of livestock, honey bees, and farm-raised fish. Covers losses from disaster such as adverse weather or other conditions, such as wildfires not adequately covered by any other disaster program.

Biomass Crop Assistance Program

The Biomass Crop Assistance Program (BCAP) provides financial assistance to producers or entities that deliver eligible biomass material to designated biomass conversion facilities for use as heat, power, biobased products or biofuels. Initial assistance will be for the Collection, Harvest, Storage and Transportation (CHST) costs associated with the delivery of eligible materials.

USDA Disaster Program Website:

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=landing&topic=landing>