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### **Debate Continues on FSA Implementation Rules for ACRE and SURE<sup>1</sup>**

**Reduction in ACRE?** ACRE is a “put option” on expected state revenue, leaving farmers with a basis risk. ACRE works much like the Group Risk Income Plan (GRIP). However ACRE uses state yields rather than county yields and Marketing Year Average Price (MYA) rather than futures prices to set ACRE guarantees. ACRE also requires below “normal” farm level revenue for eligibility while there is no farm level requirement in GRIP for eligibility, other than planted acres.

Rumors and stories out of Washington are suggesting some “budget hawks” are suggesting the Farm Service Agency (FSA) use the 06/07 Marketing Year Average Price (MYA) rather than the most recent 08/09 MYA price (wheat crop harvested last summer and corn crop to be harvested this fall) for setting the 2009 ACRE guarantee. However, FSA believes the language in the Law is clear and it requires FSA to use the 08 crop price for the 2009 ACRE contract and I agree with FSA on this issue. It appears the intent of Congress was to use the 08 price based on the Law stated below:

*ACRE PROGRAM GUARANTEE PRICE.—For purposes of paragraph (1)(A)(ii), the ACRE program guarantee price for a crop year for a covered commodity or peanuts in a State shall be the simple average of the national average market price received*

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*by producers of the covered commodity or peanuts for the most recent 2 crop years, **as determined by the Secretary**.*

However, the Law does state “**as determined by the Secretary**”, and that suggests there may be some flexibility in defining the strike price for ACRE. Some Washington “experts” are saying not to worry because the Law is “clear” and the most recent two years means the 07 and the 08 crop. I agree that was the apparent intent of Congress, but the phrase “**as determined by the Secretary**” leaves me with some uncertainty.

Because a change to the 06 price would create a “large” reduction in the ACRE guarantee and with the level of uncertainty over the final strike price rule, the decision was made to post the dollar effect on ACRE. The author hopes this is just an unfounded Washington rumor. However, by providing the information, farmers, lenders, and others can make their own judgment call on the likelihood that the 06 price will be substituted for the 08 price in ACRE.

The final rule on prices used to set the strike price in ACRE **will have a big impact** on the effectiveness of ACRE as a risk management tool for farmers.

The issue is the marketing year for the 2008 corn crop will end on August 30, 2009, therefore the 08/09 MYA price will not be available at signup time for 2009 ACRE on corn and other spring planted crops next spring. If the 08 crop price is used then farmers will be **signing up for ACRE without knowing the final strike price** for the 2009 ACRE contract.

If USDA were to use the 08 price they would have the 5 month national average price that was used in the old farm program before 1995 and was a close estimate of the final 12 month MYA price. Therefore farmers would not know the absolute strike price used to set their ACRE guarantee but they would have a good estimate of the ACRE guarantee at signup time. FSA will know the 07 MYA price and State level crop yields that are the other half of the Acre guarantee.

A USDA policy interpretation requiring a two year average price of the 06 and 07 crops being used to set the ACRE strike price will have a major impact on the ACRE guarantee. Based on current USDA forecasted prices, if FSA uses the average of 06/07 and 07/08 crop prices rather than 07/08 and 08/09 MYA price average **it will lower the strike price in ACRE by about dollar on the 2009 ACRE corn contract** (table 1 below).

**Limits the 2010 strike price.** In addition this policy interpretation would limit the increase in the strike price in 2010 to \$4.01 for corn because of the 10% cap assuming the state Olympic average yield does not increase. The price limit on 2010 ACRE contracts would be \$4.09 for grain sorghum, \$5.91 for wheat, and \$9.12 for soybeans; assuming the state Olympic average yield for the state does not change (Table 1 with alternative prices is presented below). If the state Olympic average yield increases then the 2010 price limit will be even lower.

**Settlement Time for ACRE.** This policy interpretation in setting the strike price for ACRE has no impact on when ACRE is settled. ACRE does not start until 2009 as opposed to SURE that also covers 2008 crops. ACRE will not make any payments until the end of the marketing year. The 2009 ACRE contract will start making payments if there is a claim about a year after harvest; approximately November of 2010 for grain sorghum, corn, and soybeans.

Clearly this policy interpretation would lower the value of ACRE and that will reduce the Federal budget cost for ACRE. Budget costs for ACRE continues to be an issue in Washington but there is little safety net left in the Farm Program that has an effective target price of \$2.38 for corn based on current cost of production.

**Would ACRE and SURE have paid on the 2007 KS wheat losses?** ACRE would not have paid on 2007 Kansas wheat losses that were the third largest wheat loss in 28 years. However most of those wheat farmers with losses would have been able to collect under SURE because most counties received the Secretary's county disaster declaration. A Secretary's county disaster declaration requires a yield loss of 30% in the county on at least one major crop. There are some exceptions that allow for a Secretary's county disaster declaration if the loss is less than 30 percent. However, in the past there was very little funds involved but now with SURE one would assume the Secretary will likely stick closer to the 30% county yield loss requirement. A Secretary's county disaster declaration is automatic for any county that is contiguous with a primary county receiving a Secretary's county disaster declaration.

There were at least 102 out of 105 counties that received the Secretary's county disaster declaration in 2007. Those counties included; Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Clark, Clay, Cloud, Coffey, Comanche, Cowley, Crawford, Decatur, Dickinson, Doniphan, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Franklin, Geary, Gove, Graham, Grant, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Jackson, Jefferson, Jewell, Johnson, Kearny, Kingman, Kiowa, Labette, Lane, Leavenworth, Lincoln, Linn, Logan, Labette, Lyon, Marion, Marshall, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Riley, Rooks, Rush, Russell, Saline, Scott, Sedgwick, Seward, Shawnee, Sheridan, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wabaunsee, Washington, Wichita, Wilson, Woodson, and Wyandotte. There were some Kansas counties that received a 2007 Secretary's county disaster declaration but it was based on 2006 yield losses and those were not included in the above list of counties. However in many cases those counties were duplicates anyway.

Most 2007 wheat farmers with losses would have received compensation under SURE because they were located in a county with a Secretary's county disaster declaration. The exception are diversified farmers located in those counties with a Secretary's county

disaster declaration because of revenue from other crops like grain sorghum or hay production that would have offset the wheat loss and generated no payment under SURE. Because of the whole farm revenue guarantee in SURE it possible that some Kansas wheat farmers in some counties with 2007 losses would not have been able to collect under SURE. If SURE would not have covered 2007 Kansas wheat losses because of diversification, then some of those diversified farmers may not want to pay NAP fees to gain eligibility for SURE coverage.

Remember diversification can be generated by distance in addition to the number of crops being produced. It is not uncommon for farmers to cross county and state lines and for the first time FSA will include all acres irregardless of how many county and state lines are crossed to generate the SURE whole farm revenue guarantee. In the past all FSA and RMA crop insurance programs ended at the county line. If a farm crossed a county or state line it was considered a new farm.

**Farmers can use their yield losses for SURE eligibility.** All farmers in a county receiving a U.S. Secretary of Agriculture Disaster Declaration and contiguous counties are eligible for SURE benefits. If the county does not receive a disaster declaration, farmers can still qualify on their own yields for SURE eligibility (once eligibility is established, SURE payments are based on individual farm yields). In non-declared counties farmers must have at least a 50% yield loss caused by weather. Because all crops on the farm are converted to a whole farm SURE revenue guarantee and then all revenue counts against the guarantee, it will make it very difficult to determine eligibility based on crop yields. It will be easier to measure if only one crop needs a 50% yield loss to qualify. So if all "crops" need a 50% yield loss to qualify then few diversified farms will be able to meet the test. Probably the most likely measure is a 50% or greater average yield loss. This would allow for a normal crop on wheat but a total loss on grain sorghum and still average a 50% yield loss to meet the eligibility requirement.

All crops are used for calculating claims under SURE. Native hay, alfalfa hay, other hay, and pasture are also considered a crop and must be covered with either crop insurance or NAP if these enterprises are uninsurable in a farmer's county. How will FSA determine the percentage yield loss on pasture? Maybe the producer just overgrazed the pasture. Those diversified farms with large amounts of native hay and pasture in Kansas will likely need the Secretary's county disaster declaration. It is rumored that FSA would like to consider pasture as a "non-crop" because of loss measurement. Hay will be easy to measure by counting bales and NASS reports a hay price.

It is interesting that SURE has been "advertised" as a revenue guarantee but then requires a 50% yield loss to be eligible in counties that don't receive a Secretary's county disaster declaration. This will make it more difficult for low risk production areas like Iowa to qualify. But this appears to be the intent of the Law<sup>2</sup>;

“(5) *DISASTER COUNTY.*—

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<sup>2</sup>Thanks to Dr William Edwards, Iowa State University for calling to my attention the 50% yield loss eligibility alternative requirement.

*“(A) IN GENERAL.—The term ‘disaster county’ means a county included in the geographic area covered by a qualifying natural disaster declaration.*

*“(B) INCLUSION.—The term ‘disaster county’ includes—*

*“(i) a county contiguous to a county described in subparagraph (A); and*

*“(ii) any farm in which during a calendar year the total loss of production of the farm relating to weather is greater than 50 percent of the normal production of the farm as determined by the Secretary.*

The phrase *“the total loss of production of the farm relating to weather is greater than 50 percent of the normal production of the farm”* suggests it will require a 50% yield loss on all “crops” to get SURE payments without a Secretary’s disaster declaration. It does leave some wiggle room in the phrase *“as determined by the Secretary”*.

There is also a section in the Farm Bill on SURE for crops that are not insured based on yield. The Law specifically states:

*(D) EQUITABLE TREATMENT FOR NONYIELD BASED POLICIES.—The Secretary shall establish equitable treatment for nonyield based policies and plans of insurance such as the Adjusted Gross Revenue Lite insurance program.*

Adjusted Gross Revenue Lite and AGR have mostly been sold on the West Coast to fruit and vegetable growers and losses are calculated based on income tax returns. If FSA requires a 50% yield loss on every crop produced on the farm that has never reported yields or prices to FSA will make SURE interesting to administer. FSA will also need a solution for GRIP/GRP that requires no farm level yields to be reported for loss adjustment. This may require yield reporting, price reporting, and individual loss adjusting by FSA; a no small task in some California Texas and Florida counties. FSA is asking Congress for more funds to administer this program and the complexity of this Farm Bill may “require” the funds.

It would also make sense for FSA to define a de minimis crop that would not require insurance or NAP fees. An example would be a couple of acres of brome grass in a water way or filter strip. If one bales or grazes the brome grass, then it is considered a crop and requires insurance if available or payment of NAP fees. However, if there is no “harvesting” of the brome grass in the waterway then it is “not a crop” and NAP fees are not required. One could run in to more extreme examples. A farmer with a garden that sells a few tomatoes from the garden at a local farmers’ market might have to pay NAP fees. There is even an economic benefit if the farm family consumes those tomatoes from the garden, so would that make tomatoes a crop? Would pasture be a crop for farmers that do not graze those acres with domestic livestock? If the grazing acres are small the grazing value may be less than the \$250 NAP fee. Under these conditions maybe a farmer could cash rent the small pasture to her daughter for her 4-H calf.

**SURE requires immediate action by farmers.** Farmers that had losses in 2008 are eligible for SURE. Farmers should first check to see if their county has the Secretary’s disaster declaration, otherwise they will need to gain eligibility based on the 50% yield

loss rule. If they meet eligibility requirements, the next issue is how diversified is their farm. For example farmers with dryland wheat losses may have the SURE claim eliminated because of good irrigated corn yields. However, farmers who are farming only wheat with losses are likely to have claims under SURE. If they also happen to have cows grazing pasture, then those farmers will need to pay the 2008 NAP fee of \$100 before September 16, 2008 for the pasture or other NAP crops (NAP fees increase to \$250 for 2009). Farmers with 2008 losses will also need to pay the \$100 CAT fee on any 2008 crops that they did not insure but there will be no indemnity payments paid from the retroactive CAT. It will be difficult to give a good answer to farmers with 2008 losses on SURE because many of the rules are not available, nor will they likely be available by September 16 or September 30, the sales closing date for 2009 wheat crop insurance in Kansas and many other states.

**Don't miss the signup dates for NAP and crop insurance.** Farmers are required to signup all fall planted crops for 2009 crop insurance (winter wheat) and pay 2009 NAP fees on uninsurable fall crops to be eligible for 2009 SURE coverage. In Kansas most farmers insure their wheat but if they plant a few acres of some fall crop (canola for example) and don't insure it or pay NAP fees in the counties without insurance offers they will **not** be covered under SURE in 2009 on their wheat, corn, grain sorghum, and soybeans. This is a more likely scenario in Iowa where farmers might plant a few uninsured winter wheat acres. However if they destroy the uninsured wheat next spring and plant it to corn or soybeans would that restore their SURE coverage on corn and soybeans? If they hay or graze those wheat acres before replanting to a spring crop, then it is likely those farmers are not eligible for SURE unless they paid the NAP fee for grazing wheat.

**CAT buyers will have reduced Sure Coverage.** Farmers will likely not have the final FSA rules for SURE before the winter wheat sales closing dates. One thing is clear it will pay in almost all cases for CAT buyers to increase their winter wheat coverage. In the past farmers often purchased CAT coverage so that they would be eligible for ad hoc disaster aid that was based on 65% yield coverage by crop. Under SURE all crops are aggregated together into whole farm revenue coverage, and the crop insurance coverage selected by farmers will also set the revenue trigger on SURE. Therefore, CAT insured farmers will have their coverage based on 50% coverage at 55% of the price. Those buying 70% APH (MPCI) coverage will have their SURE coverage set at 70% and 100% of the APH price. It is unclear if revenue insured farmers will have their SURE coverage based on their revenue price (higher of the planting or harvest price) or if it will be based on the APH price also. If FSA uses the APH price irregardless of the type of insurance purchased, it is possible the higher levels of RA-HPO/CRC coverages will generate payments above the per acre cap and reduce the amount of the SURE payment.

Most Kansas wheat farmers buy harvest price option on revenue insurance (RA-HPO) or CRC on wheat. The reason is because when Kansas has a drought wheat prices tend to increase and eliminate any claim on RA without the harvest price option. Few Kansas wheat farmers buy coverage above 70%, so there is little risk they will exceed the per acre payment limit, even if FSA uses the lower APH price for SURE. Crop insurance

coverage purchased at 85% will likely put a farm over the per acre payment limit unless it is highly diversified. The 75% and 80% coverage levels will depend on the definition for “price guarantee” in SURE. Probably the best recommendation for Kansas wheat growers is to purchase the same level of crop insurance coverage as they purchased in the past, unless it was CAT, then farmers will really increase their total dollars of coverage from crop insurance and SURE by buying higher coverage levels.

The rules on SURE should be available by December so farmers will be able to estimate the value of SURE when they sign up for crop insurance on their spring planted crops with a sales closing date on March 15, 2009. The important thing is to insure any winter wheat and other fall planted crops this fall in order to be eligible for 2009 SURE that also includes spring planted crops. Farmers also need to remember to pay the NAP fees too and the final NAP signup date is December 1 for some crops.

Hail or hail and wind insurance only cover those perils. However, any indemnity payments from a private insurance product do not count against the SURE revenue guarantee. This may encourage new types of private insurance. Federal (re-insured products) crop insurance indemnity payments, farm production, 15% of the direct payment, ACRE payments, counter cyclical and marketing loan payments count against the SURE guarantee. For feed grains, wheat and soybeans no counter cyclical or marketing loan gains are expected but that may not be true for cotton and rice.

Table 1. If Average of 06/07 & 07/08 price is used it will lower the strike in 2009 ACRE and then limit the increase in 2010

	06/07	07/08	08/09		Avg of 06/07 & 07/08	Avg of 07/08 & 08/09		Max ACRE Price in 2010 if lower price is used
<b>Corn</b>	\$3.04	\$4.25	\$4.90	- \$5.90	<b>\$3.65</b>	\$4.58	- \$5.08	<b>\$4.01</b>
Sorghum	3.29	4.15	4.40	- 5.40	<b>\$3.72</b>	\$4.28	- \$4.78	<b>\$4.09</b>
Wheat	4.26	6.48	6.50	- 8.00	<b>\$5.37</b>	\$6.49	- \$7.24	<b>\$5.91</b>
Soybeans	6.43	10.15	11.50	- 13.00	<b>\$8.29</b>	\$10.83	- \$11.58	<b>\$9.12</b>