

Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program Farm-Raised Fish Assistance

Overview

The “Food, Conservation, and Energy Act of 2008” (2008 Farm Bill) authorized up to \$50 million in a calendar year for the Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP) to provide emergency assistance to eligible producers of livestock, honeybees and farm-raised fish. ELAP covers losses due to an eligible adverse weather or loss condition, including blizzards and wildfires, as determined by the Secretary of Agriculture, that occurs on or after Jan. 1, 2008 and before Oct. 1, 2011. ELAP covers losses that are not covered under other Supplemental Agricultural Disaster Assistance Payment programs established by the 2008 Farm Bill, specifically Livestock Forage Disaster Program (LFP), Livestock Indemnity Program (LIP) and Supplemental Revenue Assistance Payments Program (SURE).

A national payment factor may be applied to ELAP payments if the total amount needed exceeds \$50 million in a calendar year, the maximum allowed by law.

Eligible Farm-Raised Fish

To be eligible for farm-raised fish death losses, the farm-raised fish must have been:

- Bait or game fish that were propagated and reared in a controlled environment;

- Maintained for commercial use as part of a farming operation;
- Destroyed as a direct result of an eligible adverse weather or loss condition;
- Physically located in the county where the eligible adverse weather or loss condition occurred on the beginning date of the the eligible adverse weather or loss condition.

To be eligible for farm-raised fish feed losses, the farm-raised fish must be:

- An aquatic species that is propagated and reared in a controlled environment;
- Maintained and harvested for commercial use as part of a farming operation;
- Physically located in the county where the eligible adverse weather or loss condition occurred on the beginning date of the eligible adverse weather or loss condition.

Alligators and turtles are not eligible for farm-raised fish losses under ELAP.

Eligible Farm-Raised Fish Losses

ELAP covers:

- Death losses of eligible bait fish or game fish caused by an eligible adverse weather or loss condition incurred in the county where the eligible adverse weather or loss condition occurred;
- Purchased or produced farm-raised fish feed losses for feed

that was intended to be fed to eligible farm-raised fish and was damaged because of an eligible adverse weather or loss condition in the county where the eligible adverse weather or loss condition occurred.

Eligible Adverse Weather and Loss Conditions

To be eligible for ELAP benefits for farm-raised fish losses, the loss must be due to the direct result of an eligible adverse weather or loss condition, including but not limited to, contaminated water (death losses only), earthquakes, excessive heat (death losses only), excessive winds, flooding, hurricanes, tidal surge, tornadoes and volcanic eruption.

Farm-Raised Fish Death Loss Payments

ELAP payments for eligible bait and game fish death losses are based on the state’s average fair market value for the type of bait or game fish lost, as established by FSA. ELAP payments for bait and game fish death losses will be based on 60 percent of the result of multiplying:

- Number of bait or game fish lost due to an eligible adverse weather or loss condition, times;
- The state’s average fair market value for the type of bait or game fish, as established by FSA.

Farm-Raised Fish Feed Loss Payments

ELAP payments for eligible farm-raised fish feed losses are based on 60 percent of the actual cost of purchased or harvested feed that was intended as feed for eligible farm-raised fish and was damaged because of an eligible adverse weather or loss condition in the calendar year in which the loss occurred.

Risk Management Purchase Requirement (RMPR)

To be eligible for ELAP, farm-raised fish producers who have a risk in farm-raised fish production for commercial use as part of a farming operation, must for every commodity on every farm in which the producer has an interest for the relevant program year:

- In the case of an “insurable commodity,” obtain catastrophic coverage or better under a policy or plan of insurance administered under the Federal Crop Insurance Act (FCIA). This obligation will not include crop insurance pilot programs so designated by the Risk Management Agency (RMA) or forage crops intended for grazing;
- In the case of a “noninsurable commodity” obtain the Noninsured Crop Disaster Assistance Program (NAP) coverage by filing the required paperwork and paying the administrative fee by the applicable state application closing date. This requirement will not include forage on grazing land.

Producers are required to obtain a policy or plan of insurance equal to
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at least the catastrophic (CAT) level of coverage or have NAP coverage for each crop planted or intended to be planted for harvest on the whole farm, excluding grazing. Eligible farmers and ranchers who meet the definition of “socially disadvantaged,” “limited resource,” or “beginning farmer or rancher” do not have to meet this requirement.

2008 Exception

Due to the lateness of the 2008 Farm Bill, producers were allowed to “buy-in” to the ELAP program for 2008 by paying fees equivalent to the NAP service fee or catastrophic risk protection plan coverage fee by Sept. 16, 2008. For 2008, a producer who is otherwise ineligible because of the purchase requirement and did not meet the buy-in deadline of Sept. 16, 2008, may still be eligible for ELAP if the producer paid the applicable fee no later than May 18, 2009, provided the producer agreed to buy crop insurance or NAP for the next year for all crops, except forage on grazing land.

2009 Exception

For 2009, the risk management protection requirement was waived for insurable crops where sales closing dates for crop insurance coverage occurred before Aug. 14, 2008, if the buy-in fee was paid by Jan. 12, 2009.

Payment Eligibility and Limitations

The amount of any ELAP payment a farm-raised fish producer is eligible to receive may be reduced by an amount received by the producer for the same or similar loss from any other disaster assistance

program.

2008 Program Year

No person, as defined and determined under the provisions in 7 CFR part 1400 in effect for 2008, may receive more than \$100,000 total in payments under ELAP, LFP, LIP and SURE combined. Also, in applying the limitation on average adjusted gross income (AGI) for 2008, an individual or entity is ineligible for payment under ELAP if the individual’s or entity’s average AGI for 2005, 2006 and 2007 exceeds \$2.5 million under the provisions in 7 CFR part 1400 in effect for 2008 unless 75 percent or more of their income was from farming, ranching or forestry.

2009 and Subsequent Program Years

For 2009 and subsequent program years, no person or legal entity, excluding a joint venture or general partnership, may receive directly or indirectly, more than \$100,000 total in payments under ELAP, LFP, LIP and SURE combined. For 2009-2011, the average AGI limitation relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, with certain levels of average AGI will apply. Specifically, for 2009 – 2011, a person or legal entity with an average adjusted gross nonfarm income, as defined in 7 CFR Part 1400 that exceeds \$500,000 will not be eligible to receive ELAP payments. Direct attribution provisions also apply to ELAP for 2009 and subsequent years. Under direct attribution, any payment to a legal entity also will be considered for payment limitation purposes to be a payment to

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persons or legal entities with an interest in the legal entity or in a sub-entity.

Applying for ELAP

To apply for ELAP benefits, producers who suffered farm-raised fish losses should submit a notice of loss to the local FSA service center that maintains the farm records for their business. To be eligible for 2008 and 2009 calendar year losses, the notice of loss must have been provided to FSA by no later than May 5, 2010. To be eligible for losses that occurred in 2010 and subsequent year losses, the producer must provide a notice of loss to FSA the earlier of:

- 30 calendar days of when the loss is apparent to the producer or;
- 30 calendar days after the end of the calendar year in which the loss occurred.

Sign-Up

In addition to submitting a notice of loss, producers must file an application for payment at local FSA service centers. ELAP sign-up began Sept. 14, 2009, for eligible farm-raised fish losses suffered during 2008 and 2009 due to eligible adverse weather or loss conditions. For 2008 losses, sign-up ended Dec. 10, 2009, and for 2009 losses, sign-up ended Feb. 1, 2010; however, late-filed applications for 2008 and 2009 losses were accepted through May 5, 2010. For 2010 and subsequent year losses, sign-up will end no later than 30 calendar days after the end of the calendar year in which the farm-raised fish loss occurred.

Payments

Payments may be made for eligible losses suffered by an eligible producer who is now deceased or for a dissolved entity if a currently authorized representative signs the application for payment. Proof of authority to sign for a deceased individual or dissolved entity must be provided. If a producer is a dissolved entity, all former members at the time of dissolution or their duly authorized representative(s) must sign the application for payment.

FSA will use data furnished by the applicant to determine eligibility for program benefits. Furnishing the data is voluntary; however, without all required data program benefits will not be approved or provided.

Important Dates

The following table provides the final dates to file a notice of loss and application for payment for 2008, 2009, 2010 and 2011 farm-raised fish losses.

| Date of Live-stock Loss | Final Date to File Notice of Loss | Final Date to Submit an Application for Payment |
|-------------------------|-----------------------------------|-------------------------------------------------|
| Calendar Year 2008 | May 5, 2010 | May 5, 2010 |
| Calendar Year 2009 | May 5, 2010 | May 5, 2010 |
| Calendar Year 2010 | 30 days after loss is apparent | Jan. 30, 2011 |
| Calendar Year 2011 | 30 days after loss is apparent | Jan. 30, 2012 |

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