

Emergency Assistance for Livestock, Honeybees & Farm-Raised Fish Program (ELAP) – Livestock

Overview

The “Food, Conservation, and Energy Act of 2008” 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 that have losses due to disease, adverse weather or other conditions, including losses due to blizzards and wildfires, as determined by the Secretary. ELAP covers losses occurring on or after Jan. 1, 2008 and before Oct. 1, 2011 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 funding availability of \$50 million is exceeded in a calendar year.

There are two categories of livestock losses covered by ELAP:

- livestock death losses caused by an eligible adverse weather or loss condition; and
- livestock feed and grazing losses, that are not due to drought or wildfires on Federally managed lands.

Livestock Death Losses

Eligible Livestock

To be eligible for livestock death losses, livestock must:

- for eligible livestock owners,

be alpacas, adult or non-adult dairy cattle, beef cattle, beefalo, buffalo, deer, elk, emus, equine, goats, llamas, poultry, reindeer, sheep or swine;

- for eligible contract growers, eligible livestock must be poultry or swine;
- must be maintained for commercial use as part of a farming operation on the date of death;
- must have died as a direct result of an eligible loss condition on or after the beginning date of the eligible loss condition; and no later than 60 calendar days from the ending date of the eligible loss condition.

Examples of ineligible livestock include any uses of wild free roaming animals or use of animals for recreational purposes, such as pleasure, hunting, roping, pets or for show.

Eligible Producer

For livestock death losses a producer must have legal ownership of the livestock on the day the livestock died and under conditions in which a contract grower would not be considered eligible for the same benefit. For livestock death losses, a contract grower must have had:

- a written agreement with the owner of the eligible livestock;
- control of the eligible livestock on the day the livestock died;
- a risk of loss in the animal.

Eligible Death Losses

Eligible livestock death losses must be:

- incurred by an eligible livestock owner or contract grower;
- due to an eligible loss condition occurring during the calendar year for which payment is requested and on or after Jan. 1, 2008, but before Oct. 1, 2011.

The Deputy Administrator for Farm Programs determines the eligible loss conditions for livestock death losses and these loss conditions cannot be covered under the Livestock Indemnity Program (LIP).

Death Loss Payments

Payments for eligible livestock death losses will be based on a national payment rate for each livestock category times the number of eligible livestock that died in each category in excess of normal mortality. The national payment rate for eligible livestock owners is based on 75 percent of the average fair market value of the livestock. The national payment rate for eligible contract growers is based on 75 percent of the average income loss sustained by the contract grower with respect to the dead livestock. USDA will reduce a contract growers ELAP payment by the amount of monetary compensation they receive from their contractor for the loss of income suffered from the death of livestock under contract.

Livestock Feed and Grazing Losses

Eligible Livestock

For livestock feed and grazing losses, eligible livestock must be:

- alpacas, adult or non-adult dairy cattle, beef cattle, beefalo, buffalo, deer, elk, emus, equine, goats, llamas, poultry, reindeer, sheep and swine;
- livestock that would normally have been grazing the eligible grazing land or pastureland during the normal grazing period for the specific pasture type of grazing land or pastureland in the county;
- owned, leased, purchased, under contract for purchase, or been raised by a contract grower or an eligible livestock producer, during the 60 calendar days before the beginning date of the eligible adverse weather or loss condition;
- maintained for commercial use as part of the producer's farming operation on the beginning date of the eligible adverse weather or loss condition.

Livestock that were or would have been in a feedlot are not eligible for livestock feed or grazing losses under ELAP.

Eligible Producer

For livestock feed and grazing losses a producer must have:

- during the 60 calendar days before the beginning date of the eligible adverse weather or loss condition, owned, cash-leased, purchased, entered into a contract to purchase or been a contract grower of eligible livestock;
- suffered a loss on land that is either: native or improved pastureland with a permanent vegetative cover or planted to a crop specifically for the pur-

pose of providing grazing for covered livestock;

- provided pastureland or grazing land during the normal grazing period for livestock, including cash-rented pastureland or grazing land for livestock that is physically located in the county where the eligible adverse weather or loss condition occurred.

Eligible Adverse Weather or Loss Condition for Livestock Feed and Grazing Losses

Eligible adverse weather or loss conditions for livestock feed and grazing losses include, but are not limited to, blizzards, flood, freeze, grasshopper damage (as approved by FSA), hail, hurricane, tidal surge, tornado, volcanic eruption, wildfire on non-federal land, or lightning.

Eligible Grazing Losses

Eligible grazing losses must be incurred on eligible grazing lands physically located in the county where the eligible adverse weather or loss condition occurred and because of an eligible adverse weather or loss condition. Drought and wildfire on federally managed land are not eligible adverse weather or loss conditions under ELAP. These conditions are covered by the Livestock Forage Disaster Program (LFP).

Eligible Feed Losses

Eligible feed losses under ELAP are losses:

- of purchased forage or feedstuffs;
- mechanically harvested forage or feedstuffs;
- resulting from the additional costs incurred for providing or transporting feed to eligible livestock because of an eligible adverse weather or loss

condition;

- resulting from the additional costs of purchasing additional feed, above normal quantities, required to maintain eligible livestock during an eligible adverse weather or loss condition, until additional livestock feed becomes available.

Eligible feed losses shall not exceed 90 days of lost feed.

Grazing Loss Payments, Excluding Wildfires on Non-Federal Land

Payments for eligible grazing losses, except grazing losses due to wildfires on non-federal land, will be calculated based on 60 percent of the lesser of the total value of:

- the feed cost for all covered livestock owned by the eligible livestock producer based on the number of days grazing was lost, not to exceed 90 days of daily feed cost for all covered livestock;
- grazing lost for eligible livestock based on the normal carrying capacity of the eligible grazing land of the eligible livestock producer for the number of grazing days lost, not to exceed 90 days of lost grazing.

Grazing Loss Payments For Wildfires on Non-Federal Land

Payments for eligible livestock producers for losses suffered because of a wildfire on non-federal land will be calculated based on 50 percent of multiplying:

- result of dividing the number of acres of grazing land or pastureland acres affected by the wildfire by the normal carrying capacity of the specific type of eligible grazing land or pastureland; times
- the daily value of grazing;

times

- the number of days grazing was lost due to the wildfire, not to exceed 180 calendar days.

Livestock Feed Payment Calculations

Payment calculations for feed losses will be based on 60 percent of the producer's actual cost for:

- livestock feed that was purchased or mechanically harvested forage or feedstuffs intended for use as feed for the producer's eligible livestock that was physically damaged or destroyed due to an eligible adverse weather or loss condition;
- the additional costs incurred for providing or transporting livestock feed to eligible livestock due to an eligible adverse weather or loss condition;
- the additional cost of purchasing additional livestock feed above normal, to maintain the eligible livestock during an eligible adverse weather or loss condition until additional livestock feed becomes available.

FSA will calculate ELAP payments for an eligible livestock producer for livestock feed and grazing losses for no more than 90 calendar days.

Risk Management Purchase Requirement (RMPR)

For producers to be eligible for ELAP, producers 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 in-

surance administered under the Federal Crop Insurance Act (FCIA), except 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, except that this requirement will not include forage on grazing land.

Producers are required to obtain a policy or plan of insurance equal to 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 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, if a producer who is otherwise ineligible because of the purchase requirement and did not meet the buy-in deadline of Sept. 16, 2008, still may be eligible for ELAP if the producer paid the applicable fee no later than May 18, 2009, provided that the producer agreed to buy crop insurance or NAP for

the next year for all of their crops, except for 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

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, Livestock Forage Disaster Program (LFP), Livestock Indemnity Program (LIP) and Supplemental Revenue Assistance Payments Program (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 2009-11, 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 2009-11, 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 will also be considered for payment limitation purposes to be a payment to persons or legal entities with an interest in the legal entity or in a sub-entity.

Sign-up

Producers were able to apply to receive ELAP benefits at local FSA service centers beginning Sept, 14, 2009, for eligible livestock feed and grazing losses suffered during 2008 and 2009 due to eligible adverse weather or loss conditions, except for drought or fire on federally managed rangeland. 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 will be 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 feed or grazing loss occurred.

Applying for ELAP

In addition to submitting an application for payment, producers who suffered livestock 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 be 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.

The following table provides the final dates to file a notice of loss and application for payment for 2008, 2009 and 2010 livestock 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

The producer should include a copy of the grower contract if they are a contract grower and any other supporting documents required for determining eligibility. Supporting documents must show evidence of loss, current physical location of livestock in inventory, evidence of meeting risk management purchase requirements and evidence that grazing land or pastureland is owned or leased.

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.

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