

**For:** State and County Offices

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**Announcing Supplemental Agricultural Disaster Assistance Programs**

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**Approved by:** Deputy Administrator, Farm Programs



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**1 Overview**

**A Background**

The Food, Conservation, and Energy Act of 2008 (2008 Act), Pub. L. 110-246, was enacted into law June 18, 2008, and created:

- an agricultural disaster relief trust fund (“trust fund”)
- supplemental agricultural disaster assistance programs.

Many provisions of the 2008 Act are effective for 2008. Federal regulations and program policies and procedures are currently being drafted and developed and will be finalized over the next several months.

**B Purpose**

This notice:

- reissues the basic provisions of the 2008 Act contained in Notice DAP-283 about the following:
  - a trust fund
  - supplemental agricultural disaster assistance programs
- corrects the:
  - Pub. L. reference
  - date of enactment
  - final date to obtain buy-in for 2008

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**Disposal Date**

December 1, 2008

8-14-08

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**Distribution**

State Offices; State Offices relay to County Offices

## Notice DAP-289

### 1 Overview (Continued)

#### B Purpose (Continued)

- clarifies:
  - that the disaster assistance program guarantee for a crop used to calculate payments for a farm under SURE may not be greater than 90 percent of the sum of the expected revenue for the crops on a farm
  - the LFP payment calculation for grazing losses because of drought
- obsoletes Notice DAP-283.

### 2 Trust Fund

#### A Trust Fund Creation

The 2008 Act creates a trust fund to meet the supplemental agricultural disaster assistance program obligations.

#### B New Disaster Assistance Programs

Funds from the trust fund may be used to make payments to farmers and ranchers under the following 5 new disaster assistance programs:

- Supplemental Revenue Assistance Payments (SURE) Program
- LFP
- Livestock Indemnity Program (LIP)
- TAP
- Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP).

## Notice DAP-289

### 3 SURE Program

#### A Basic Provisions

The SURE Program will be available to eligible producers on:

- farms in disaster counties, including contiguous counties, that have incurred crop production losses and/or crop quality losses during the crop year

**Note:** Disaster counties are counties included in the geographic area covered by a qualifying natural disaster declaration that is declared by the Secretary for production losses under the Consolidated Farm and Rural Development Act, Section 321 (a).

- any farm in which, during the calendar year, the total loss of production of the farm because of weather is greater than 50 percent of the normal production of the farm.

In general, “**farm**” means the sum of **all** crop acreage in **all** counties that is planted or intended to be planted for harvest by the eligible producer.

At a **minimum**, to be eligible for the SURE Program, the producer **must** have purchased or be enrolled in the following, for each:

- insurable crop on the farm, a policy or plan of insurance under the Federal Crop Insurance Act
- noninsurable commodity on the farm, filed the required paperwork and paid the applicable fee by the deadline, for the noninsured crop assistance program.

**Note:** For 2008, producers who do **not** meet this requirement may have this provision waived if the producers pay a “buy-in” fee in an amount applicable to the noninsured crop disaster assistance program fee or catastrophic risk protection plan fee by no later than **September 16, 2008**.

#### B Payments

SURE Program payments will be issued to an eligible producer in an amount equal to 60 percent of the difference between the disaster assistance program guarantee and total farm revenue.

**3 SURE Program (Continued)**

**C Disaster Assistance Program Guarantee**

The disaster assistance **program guarantee** shall be the sum obtained by adding the following, for each:

- **insurable crop** on the farm, 115 percent of the product obtained by multiplying the:
  - crop insurance price election for the crop
  - acres planted or prevented from being planted to the crop
  - percentage of the crop insurance yield elected by the producer by the higher of the adjusted APH or the counter-cyclical program payment yield
- **non-insurable crop** on the farm, 120 percent of the product obtained by multiplying:
  - 100 percent of the NAP program established price for the crop
  - the acres planted or prevented from being planted to the crop
  - the higher of the adjusted NAP program yield guarantee or the counter-cyclical program payment yield.

**Note:** The disaster assistance program guarantee for a crop used to calculate payments for a farm may not be greater than 90 percent of the sum of the expected revenue for the crops on a farm.

**3 SURE Program (Continued)**

**D Total Farm Revenue**

Total farm revenue for a farm shall be the sum obtained by adding the following:

- the estimated actual value of each crop produced on a farm by the product obtained by multiplying the:
  - actual crop acreage harvested
  - estimated actual yield
  - national average market price for the marketing year for each crop
- 15 percent of all direct payments
- the total amount of all counter-cyclical or average crop revenue payments
- the total amount of all LDP's and marketing loan gains (including certificate gains)
- the total amount of all crop insurance or NAP indemnities
- the value of any other natural disaster assistance payments for the same loss.

**4 LIP**

**A Basic Provisions**

LIP will be available to eligible livestock producers on farms that have incurred livestock death losses in excess of normal mortality because of adverse weather, as determined by the Secretary during the calendar year, including losses because of hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

**B Payments**

LIP payments to eligible livestock producers will be based on:

- 75 percent of a fair market value, as determined by the Secretary, for each specific livestock category
- individual producers' eligible losses.

**Note:** No State, county, or other trigger will be used to define an eligible LIP area.

5 LFP

A Basic Provisions

LFP will be available to eligible livestock producers who suffered grazing losses for eligible livestock because of:

- drought, on land that is either of the following:
  - native or improved pastureland with permanent vegetative cover
  - planted to a crop specifically for providing grazing
- fire, on rangeland managed by a Federal agency if the eligible livestock producer is prohibited from grazing the normal permitted livestock on the managed rangeland.

To be eligible for LFP, the producer **must** have purchased or obtained the following for the grazing land incurring the losses for which assistance is being requested:

- a policy or plan of insurance under the Federal Crop Insurance Act, including pilot programs such as the Pasture, Rangeland, Forage Program
- NAP coverage by filing the required paperwork, and paying the administrative fee by the applicable State filing deadline.

**Note:** An eligible livestock producer that suffered 2008 calendar year grazing losses on grazing land and did not meet this requirement may have this provision waived if the producer pays a “buy-in” fee in an amount applicable to the noninsured crop disaster assistance program fee or catastrophic risk protection plan fee by no later than **September 16, 2008**.

**5 LFP (Continued)**

**B Payments**

An eligible livestock producer that suffers a grazing loss because of drought on owned or leased grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having either of the following:

- a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for that county, will be eligible to receive a payment equal to 1 monthly payment
- at least a D3 (extreme drought) intensity in any area of the county
  - at any time during the normal grazing period for that county, will be eligible to receive a payment equal to 2 monthly payments
  - for at least 4 weeks during the normal grazing period for that county, or a D4 (exceptional drought) intensity in any area of the county during the normal grazing period for that county, will be eligible to receive a payment equal to 3 monthly payments.

The monthly payment rate for grazing losses because of drought will be equal to 60 percent of the lesser of the following, the monthly feed cost:

- for all covered livestock owned or leased by the eligible livestock producer
- calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

An eligible livestock producer that suffers grazing losses because of fire on rangeland that is managed by a Federal agency, and the Federal agency prohibits the eligible livestock producer from grazing the normal permitted livestock on the managed rangeland, will receive a payment equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease. The eligible livestock producer shall **not** receive payments on more than 180 calendar days per year.

**6 ELAP**

**A Basic Provisions**

ELAP will provide emergency relief to producers of eligible livestock, honey bees, and farm-raised fish because of losses from adverse weather or other conditions, such as blizzards and wildfires, as determined by the Secretary.

**B Program Coverage**

ELAP is intended to cover disasters that are **not** adequately covered by any other disaster program.

## Notice DAP-289

### 7 TAP

#### A Basic Provisions

TAP provides assistance to orchardists and eligible nursery tree growers who produce nursery, ornamental, fruit, nut, or Christmas trees for commercial sale that lost trees because of a natural disaster as determined by the Secretary.

#### B Reimbursement

Payments will be provided to producers who lost trees in excess of 15 percent mortality (adjusted for normal mortality). Producers will be reimbursed for 70 percent of the cost of replanting trees and 50 percent of the cost of pruning, removal, and other costs incurred for salvaging trees.

### 8 Risk Management Purchase Requirement and State and County Office Action

#### A General Requirement

A producer on a farm shall **not** be eligible for assistance under the SURE Program, ELAP, or TAP if the producer on the farm did **not** purchase or obtain the following for:

- an insurable commodity on the farm, a policy or plan of insurance under the Federal Crop Insurance Act, excluding a crop insurance pilot program under that Act
- a noninsurable commodity on the farm, filed the required paperwork, and paid the administrative fee by the applicable State deadline, for the noninsured crop assistance program.

For 2008, producers who do **not** meet this requirement may have this provision waived if the producer pays a “buy-in” fee in an amount applicable to the noninsured crop disaster assistance program fee or catastrophic risk protection plan fee by no later than **September 16, 2008**.

#### B Providing Information to Producers

State and County Offices shall:

- **not** interpret the statute for the purpose of providing advice to owners, operators, and producers
- because regulations have not been published, limit disbursing information about the 2008 Act to the information contained in directives, fact sheets, or press releases from the National Office.