

For: State and County Offices

Ewe Lamb Replacement and Retention Payment Program (ELRRPP)

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

The U.S. sheep industry has experienced a continual drop in profitability and loss in equity. Notice LD-545 informed State and County Offices that on January 27, 2004, the Secretary of Agriculture announced that USDA will provide the U.S. lamb industry with \$18 million in payments to sheep and lamb producers to encourage the replacement and retention of ewe lamb breeding stock. Producers will receive direct payments for ewe lambs purchased or retained during August 1, 2003, through July 31, 2004, to help relieve economic injuries suffered by the domestic lamb and sheep industry.

B Purpose

This notice provides State and County Offices with the following:

- policy and procedure on implementing ELRRPP
- the signup period for ELRRPP
- eligibility criteria
- procedure for applying for benefits
- instructions for completing FSA-384
- instructions for completing spot checks.

Disposal Date	Distribution
January 1, 2005	State Offices; State Offices relay to County Offices
10-18-04	

Notice LD-549

2 General Information

A Source of Authority

The source of authority for the 2004 ELRRPP is clause (3) of Section 32 of the Act of August 24, 1935, as amended. The Secretary has authorized \$18 million of Section 32 funds to be used for direct payments to ewe lamb producers.

B Regulations

Regulations for ELRRPP will be:

- found at 7 CFR Part 784
- available on FSA Intranet after publication in the Federal Register (FR)
- available on the PSD homepage at www.fsa.usda.gov/dafp/psd/ after publication in FR.

C Policies and Procedures

The following will be issued through LD and PS notices:

- procedural instructions for administering ELRRPP
- instructions for recording ELRRPP applications by County Offices through a new web-based process.

D Related Handbooks

Handbooks related to ELRRPP include the following:

- 1-APP for appeals
- 1-CM for signatures, estates, trusts, or minors
- 4-CP for scheme or device
- 6-CP for HELC/WC provisions
- 7-CP for misaction/misinformation
- 1-FI for issuing payments
- 58-FI for offsets
- 63-FI for assignments and joint payments.

3 Program Eligibility

A Eligible Sheep and Lamb Operations

An eligible sheep and lamb operation may include any of the following entities that are engaged in an operation that raises sheep and lamb in the United States for sale:

- an individual that:
 - has a beneficial interest in a sheep and lamb operation
 - has a financial risk in the sheep and lamb operation
 - is a citizen of, or legal resident alien in, the United States
- a corporation, partnership, joint operation, estate, association, cooperative, other business enterprise, or other legal entity and, whenever applicable, a State, political subdivision of a State, or any agency thereof, and whose members are a citizen of, or legal resident alien in, the United States
- Indian tribe of the Indian Self-Determination and Education Assistance Act
- Indian organization or entity chartered under the Indian Reorganization Act
- economic enterprise under the Indian Financing Act of 1974.

B Ewe Lamb and Sheep Operation Requirements

To be eligible for a ewe lamb payment, the sheep and lamb operation must:

- have purchased or retained ewe lambs for breeding purposes between August 1, 2003, and July 31, 2004
- have retained the qualifying ewe lambs in the herd for at least 1 complete offspring lambing cycle
- be engaged in the business of producing and marketing agricultural products at the time of filing the application
- not have received funds under the Lamb Meat Adjustment Assistant Program (LMAAP) for the same ewe lamb
- certify that the ewe lamb met all the qualifying characteristics at the same time during at least part of the base period according to subparagraph C
- apply for payment during the application period according to paragraph 6.

3 Program Eligibility (Continued)

C Ewe Lamb Requirements

To be eligible for a ewe lamb payment, the qualifying ewe lamb during at least part of the base period must:

- not have been older than 18 months
- not have produced an offspring
- be in compliance with all requirements relating to scrapie, as described by APHIS in 9 CFR Parts 54 and 79 and according to their State identification requirements.

In addition, at the time of certification on FSA-384 and spot check, the qualifying ewe lamb must not possess or must not have possessed during the base period any of the following characteristics:

- parrot mouth
- foot rot
- scrapie.

D Purchased Ewe Lamb

Purchased ewe lambs eligible for ELRRPP benefits are considered those ewe lamb that are acquired anytime during August 1, 2003, through July 31, 2004, from a seller for a determined amount of money or equivalent for which possession and delivery of the qualifying ewe lambs takes place at the time of the monetary exchange.

Note: No marketing agreements for future delivery of lambs purchased after July 31, 2004, will be accepted even if partial or full payment was received before July 31, 2004.

E Retained Ewe Lamb

Retained ewe lambs eligible for ELRRPP are considered qualifying ewe lambs kept in the possession of the sheep and lamb operation during the base period through 1 complete offspring lambing cycle.

4 Program Guidelines

A Ineligible Ewe Lambs

All ewe lambs that were born before February 1, 2002, are ineligible for ELRRPP benefits.

B Offspring Exception

Sheep and lamb operations that purchased or retained ewe lambs for breeding purposes and that have since produced an offspring before the availability of ELRRPP are eligible for payment as long as the ewe lamb had not produced an offspring at some point during the qualifying base period and at the same time met all other requirements in paragraph 3. County Offices may review farm management and breeding records to verify the producer's certification.

C Ewe Lamb Death Loss

Sheep and lamb producers who receive payment for ewe lambs that die before completing the eligibility requirements of subparagraph 3 C must refund the payments for those lambs when the total deaths exceed 10 percent per program year.

Example: A producer purchased and/or retained 500 ewe lambs on various dates. A total of 100 lambs died before the end of 2003, which exceeds 50 lambs or 10 percent in this example. The producer must refund a total of \$900 for the lambs that were in excess of 10 percent.

Documentation must be maintained of any death loss of qualifying lambs according to subparagraph 8 G.

D Sold Ewe Lambs

Ewe lambs sold before the availability of ELRRPP are eligible for benefits if:

- all eligibility requirements provided in paragraph 3 were met during at least part of the base period
- verifiable evidence of ewe lambs can be provided to COC's satisfaction to substantiate that the qualifying ewe lambs met all eligibility requirements.

4 Program Guidelines (Continued)

E Lambing Cycle

To be eligible for payment, ewe lambs must have been maintained in the herd for 1 complete offspring lambing cycle. One complete offspring lambing cycle is the period from birth to weaning of the offspring produced by the qualifying ewe lamb. Approximate time frames during a lambing cycle are as follows:

- conception (1-5 months)
- gestation (5-6 months)
- weaning (3-5 months).

5 Compliance With Scrapie Requirements

A Scrapie Regulation

For all qualifying ewe lambs, eligible sheep and lamb operations must have been in compliance with all requirements relating to scrapie disease, as described in 9 CFR Part 79.

Federal regulations at 9 CFR Part 79 can be located on the USDA website at www.aphis.usda.gov/vs/nahps/scrapie/9cfr_79.pdf.

B Scrapie Background

Scrapie is a degenerative and eventually fatal disease affecting the central nervous system of sheep and goats. Infected flocks that contain a high percentage of susceptible animals can experience significant production losses making flocks economically unviable. Animals sold from infected flocks spread scrapie to other flocks.

C Identification Requirements for Replacement Ewes

According to 9 CFR Part 79 requirements, replacement ewe lambs are required to be identified when entering interstate commerce, including when the:

- ewe leaves the State
- buyer or seller resides outside the State
- ewe moves through a market that engages in interstate commerce
- ewe is exhibited at an interstate show.

D Identification Requirements for Breeding and Replacement Ewes

According to 9 CFR Part 79.6 requirements regarding consistent State provisions, breeding and replacement sheep, with limited exceptions, are required to be identified on change of ownership by consistent States.

5 Compliance With Scrapie Requirements (Continued)

E Full Scrapie Compliance

To be in full compliance with scrapie provisions, qualifying ewe lambs must have official scrapie program identification, unless the ewe lamb had **not** done either of the following:

- changed ownership since birth except as allowed under a State exemption as provided at 9 CFR Part 79.6
- moved in interstate commerce other than as allowed for grazing without change of ownership.

F Scrapie Program Information

Refer producers requesting additional information on scrapie program requirements to their local APHIS Veterinary Services Area Office by calling 1-866-USDA-TAG (873-2824).

For additional information on ear tags, producers may contact their USDA APHIS Area Office in their State at www.aphis.usda.gov/vs/area_offices.htm.

Current information on scrapie is also available at the following websites:

- www.aphis.usda.gov/vs/scrapie.htm
- www.animalagriculture.org/scrapie.

6 Applying for Benefits

A FSA-384

Eligible applicants must use FSA-384 to apply for ELRRPP benefits. Producers must self-certify to the eligibility requirements according to paragraph 3. FSA-384 is available electronically from the FFAS Employee Forms Online web site and for the public at <http://forms.sc.egov.usda.gov/eforms/mainervlet>. FSA-384's may also be obtained:

- in person
- by mail
- by telephone
- by FAX.

B Application Period

Acceptance of FSA-384's will begin on October 25, 2004. An ending date has not yet been established. Eligible producers may file an application for benefits any time during the signup period. Producers shall file applications for benefits in the county where the sheep and lamb operation is physically located.

6 Applying for Benefits (Continued)

C Application Deadline

To be considered eligible for ELRRPP benefits, all ELRRPP applications must be completed correctly, signed, and submitted to the applicable County Office by COB on the signup end date established by DAFP.

Note: If the operation is returning the contract by FAX, the producer must have FSA-237 on file in the County Office according to 1-CM.

D Late-Filed Applications

Late-filed provisions will not apply to ELRRPP. Applications received after the signup end date established by DAFP will not be approved. This includes FAXed applications.

E Multi-County Operation

A multi-county sheep and lamb operation should make application for ELRRPP benefits in the county where the headquarters is located.

F Multiple Producers

If a sheep and lamb operation consists of more than 1 producer:

- complete 1 application for the entire sheep and lamb operation
- include all producers on the application
- obtain signatures on the application of all producers in the operation.

Note: Producer's signature and authorization provisions in 1-CM are applicable.

G HELC/WC Provisions

Eligible producers on sheep and lamb operations must comply with HELC/WC provisions according to 7 CFR Part 12. Sheep and lamb producers applying for ELRRPP benefits must certify to HELC/WC compliance on AD-1026 before payments are made. Refer to 6-CP for guidance.

6 Applying for Benefits (Continued)

H Manual Applications

E-ewe application software will not be in the field by the beginning of the application period. Therefore, County Offices shall take manual ELRRPP applications.

A future PS notice will be issued to provide instructions for recording and processing ELRRPP applications, payments, and collections through the web-based (e-Ewe) application and payment process.

7 Payment Rates and Calculations

A Funding and Availability

Producers of sheep and lambs may receive up to a total of \$18 million in direct payments to encourage the replacement and retention of ewe lamb breeding stock during the period of August 1, 2003, through July 31, 2004.

B National Payment Rate

The maximum amount a qualifying operation can receive for each qualifying ewe lamb retained or purchased for breeding purposes will be \$18 subject to the availability of funds.

C Prorating Payment Rate

The payment rate may be adjusted lower if necessary in the event that approval of all eligible applications would result in expenditures in excess of the amount available.

If necessary, available funds will be prorated by a national factor to reduce the expected payments to be made by the amount available.

D Advance Payments

Advance payments will not be issued for ELRRPP.

7 Payment Rates and Calculations (Continued)

E Maximum Payment

There are no maximum payments or herd limits for eligible sheep and lamb operations meeting eligibility requirements.

F Offsets and Withholdings

ELRRPP payments are subject to administrative offset and withholdings, as applicable.

G Prompt Payment Interest

The Prompt Payment Act is not applicable to ELRRPP. Therefore, ELRRPP payments are not subject to late payment interest.

H Direct Deposit

The Debt Collection Improvement Act of 1996 requires that any recipient of Federal payments receive the payment by electronic funds transfer. All producers receiving benefits under ELRRPP must file SF-1199A according to 1-FI, Part 3.

8 Compliance

A When to Perform Spot Checks

Implement procedures to perform spot checks beginning the day after the last day of the signup period established by DAFP.

B Spot Check Procedures

County Offices shall use the following procedures to implement spot checks:

- select 1 out of every 20 sheep and lamb operations approved for ELRRPP
- inform each contact producer of the selected sheep and lamb operation, by telephone, that a spot check is being completed for the operation
- conduct spot checks on any operation where the applicant or a person in the operation is any of the following:
 - STC
 - COC members
 - FSA employees.

C Completing Verifications

Verifications of FSA-384's selected for spot check must be:

- completed within 60 calendar days after the end of the announced application period
- documented in the remarks section of FSA-384
- conveyed to the State Office, including the number of applications selected and the results of the verification.

If any of the criteria established for eligibility according to paragraph 3 and spot check in this paragraph do not comply with the numbers and information disclosed on FSA-384 or the spot check findings, the sheep and lamb operation may be determined ineligible for ELRRPP. This includes ewe lambs that possess parrot mouth, foot rot, or scrapie at the time of spot check.

8 Compliance (Continued)

D State Office Spot Check Reports

Within 5 workdays of receiving spot check information, the State Office shall:

- prepare a written report describing the results
- FAX a copy of the report to PSD at 202-690-1536.

E Misrepresentation, Scheme, or Device

Any person who is determined by STC or COC to have committed any of the following violations shall be ineligible to receive payments under ELRRPP:

- adopted any scheme or device that tends to defeat the purpose of ELRRPP
- made any fraudulent representation
- misrepresented any fact affecting a program determination.

F Maintaining Records

Sheep and lamb operations requesting payments under ELRRPP shall maintain records for 3 years after the date of the payment to document that eligibility requirements are met.

G Ewe Lamb Documentation

A sheep and lamb operation applying for ELRRPP must provide documentation, such as:

- sales receipts as proof of purchase and retention, or sale
- farm management records kept through normal production practices
- breeding records as proof of ewe lamb age or lambing
- veterinarian certifications as proof of ewe lamb characteristics
- scrapie program forms as proof of compliance with 9 CFR Part 79, such as:
 - tag order forms for premise identification
 - tag receipts.

8 Compliance (Continued)

G Ewe Lamb Documentation (Continued)

The documentation provided must disclose the following:

- date of lamb purchase
- date of lamb birth
- date of lamb death, if applicable
- date of lambing, if applicable
- lamb identification and control information
- number of ewe lambs purchased
- identification with APHIS-approved scrapie program
- date of sale, if lamb has been sold.

H Ewe Lambs Not Maintained

If it is determined that ewe lambs were not maintained in the herd for at least 1 complete offspring lambing cycle according to subparagraph E, the sheep and lamb operation must refund the payments for those lambs that were not properly maintained according to the producer's certification.

I County Office Action

County Offices shall:

- perform on-site inspections to ensure that lambs purchased and retained are being maintained by the sheep and lamb operation
- record scrapie tag identification numbers or sheep tag identification numbers in the remarks section of FSA-384
- review and compare FSA-384 with supporting documentation for any discrepancies
- review LMAAP files if the sheep and lamb operation previously applied for LMAAP to determine whether any ewe lambs qualifying for ELRRPP benefits could have possibly received benefits under LMAAP
- request additional information from the sheep and lamb operation, as necessary
- review sales documents for any lambs sold:
 - according to subparagraph 4 D
 - before spot check
- verify the information in subparagraph G.

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9 Responsibility and Action

A FSA Responsibility

FSA has primary responsibility through STC's and COC's for administering ELRRPP.

B STC Action

STC's shall supervise and monitor ELRRPP to ensure that policies and procedures in this notice are being uniformly followed by County Offices.

C COC Action

COC's shall:

- administer ELRRPP at the County Office level under STC supervision
- inform producers about the eligibility requirements for ELRRPP payments
- approve or disapprove requested ELRRPP payments according to this notice.

D County Office Action

County Offices shall:

- inform all sheep and lamb producers of ELRRPP requirements through:
 - over-the-counter discussion
 - newsletters
 - other methods of communication, as applicable
- make FSA-384 available to sheep and lamb producers beginning October 25, 2004
- accept FSA-384's according to paragraph 6
- conduct spot checks of ELRRPP applicants according to paragraph 8.

E State Office Action

SED's shall ensure that County Offices immediately notify producers of the contents of this notice using all available sources.

10 Definitions

A Definition of Application

An application is FSA-384, Ewe Lamb Replacement/Retention Payment Program Application.

B Definition of Base Period

A base period is a period from August 1, 2003, through July 31, 2004, that ewe lambs must meet qualifying factors.

C Definition of Ewe Lamb

A ewe lamb is a female lamb no more than 18 months of age that has not produced an offspring.

D Definition of Foot Rot

Foot rot is an infectious, contagious disease of sheep that causes severe lameness and economic loss from decreased flock production.

E Definition of Lambing Cycle

A lambing cycle is the period of time from birth to weaning.

F Definition of Parrot Mouth

Parrot mouth is a genetic defect resulting in the failure of the incisor teeth to meet the dental pad correctly.

G Definition of Person

A person is any individual, group of individuals, partnership, corporation, estate, trust, association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen or citizens of, or legal resident alien or aliens in the United States.

H Definition of Sheep and Lamb Operation

A sheep and lamb operation is any self-contained, separate enterprise operated as an independent unit exclusively within the United States in which a person or group of persons raise sheep and/or lambs.

FSA-384, Ewe Lamb Replacement/Retention Payment Program Application

A Instructions for Completing FSA-384

Follow this table to complete FSA-384.

Item	Instructions
1	Enter the official name of the sheep and lamb operation. Note: Separate FSA-384's must be completed for each sheep and lamb operation.
2-4	To be completed by the County Office.
5A	Enter the name and address, including ZIP Code, of the producer who can represent all producers in the operation.
5B	Enter the telephone number for the contact person in item 5A.
6 A and B	To be completed by the County Office.
7	Check the appropriate box to indicate if the sheep and lamb operation purchased or retained ewe lambs not older than 18 months of age for breeding purposes during the period from August 1, 2003, through July 31, 2004.
8	Check the appropriate box to indicate if the ewe lambs produced an offspring before the ewe lambs were purchased, before the decision was made to retain the ewe lambs, or before August 1, 2003.
9	Check the appropriate box to indicate if the ewe lambs have been identified according to APHIS specifications as described in 9 CFR Part 79 and according to State identification requirements.
10	Check the appropriate box to indicate if the ewe lambs possessed parrot mouth, foot rot, or scrapie.
11	Check the appropriate box to indicate that it is understood that the sheep and lamb operation must retain qualifying ewe lambs in the operation's herd for at least 1 complete offspring lambing cycle.
12	Check the appropriate box to indicate that it is understood that the sheep and lamb operation must retain documentation of any death loss of qualifying ewe lambs.
13	Enter the total number of head of qualifying ewe lambs purchased or retained during the period of August 1, 2003, through July 31, 2004.
14	Each producer that has a share in the sheep and lamb operation must sign this document after carefully reading the information in Part D.
15	Enter the producer's 9-digit taxpayer identification number. Note: Tax identification numbers may be Social Security numbers, employer identification numbers, or individual taxpayer identification numbers.
16	Enter the date each producer signed FSA-384.

FSA-384, Ewe Lamb Replacement/Retention Payment Program Application (Continued)

A Instructions for Completing FSA-384 (Continued)

Item	Instructions
17	Enter each producer's percentage share of the operation identified in item 1.
18	Check the appropriate box to identify any producer who elects not to receive payments under this program.
19	Print or type the name of the COC designee.
20	COC designee shall sign.
21	Enter the title of the designee signing in item 20 if other than COC.
22	Enter the date the COC designee signed in item 20.
23	The official signing item 20 shall check the appropriate box to indicate if FSA-384 is approved or disapproved.
24	Enter any remarks that may be pertinent to any information entered on this application or related to the operation submitting the application.

Note: Items 19 through 24 are to be completed by the County Office.

FSA-384, Ewe Lamb Replacement/Retention Payment Program Application (Continued)

B Example of Completed FSA-384 (Continued)

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PART E - COC DETERMINATION		
19. Name of COC Designee		
20. Signature of COC Designee	21. Title	22. Date (MM-DD-YYYY)
23. Application Status (Check appropriate box below.)		
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved		
24. Remarks		
<p>NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority requesting the following information is authorized by Section 32 of the Act of August 24, 1935, as amended (7 USC 612c). The information will be used to establish eligibility and determine payment amounts for sheep and lamb operations in the United States. Failure to furnish the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to a court magistrate or administrative tribunal or to other persons requesting the information under Federal law statutes and other authorities. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001, and 31 USC 3729, may be applicable to the information provided.</p> <p>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0246. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</p> <p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small></p>		