

# Livestock Indemnity Program

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CAUTION: These materials are for training purposes only. To learn the details about any certain point, refer to the applicable statute, regulations, handbooks, and policy notices.



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# Livestock Indemnity Program

The Livestock Indemnity Program (LIP) provides cash payments to eligible producers for livestock death losses in excess of the normal mortality due to adverse weather.<sup>1</sup> Eligible livestock death losses include those determined by the Farm Service Agency (FSA) to have been caused by adverse weather conditions such as hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

Livestock producers of most types of livestock raised for commercial sale as part of a farming or ranching operation may be eligible for LIP payments for qualifying livestock death losses. For livestock owners, the LIP payment will be 75 percent of the market value of the livestock on the day before the date of the death of the livestock, as determined by FSA, for qualifying livestock.<sup>2</sup> Contract growers of swine and poultry may also be eligible for LIP payments for qualifying death losses. LIP payment to contract growers will be based on 75 percent of the loss of production contract income resulting from the qualifying death losses.<sup>3</sup>

Since the passage of the 2008 Farm Bill, LIP is now a standing, permanent disaster assistance program.

Local FSA offices administer LIP using a program handbook containing detailed policies and procedures. The current handbook for LIP is "Livestock Disaster Assistance Programs," 1-LDAP. Producers can request a copy of this handbook from their local FSA office. It is also available on the Internet at [www.fsa.usda.gov/Internet/FSA\\_File/1-ldap\\_r00\\_a01.pdf](http://www.fsa.usda.gov/Internet/FSA_File/1-ldap_r00_a01.pdf), with recent changes (Amendment 2) available at [www.fsa.usda.gov/Internet/FSA\\_File/1ldap-a2.pdf](http://www.fsa.usda.gov/Internet/FSA_File/1ldap-a2.pdf).

## I. Eligibility for LIP

### A. General Applicant Eligibility Requirements

To be eligible for LIP payments, a livestock producer:<sup>4</sup>

- (1) must have assumed the production and market risks associated with the production of the livestock either through ownership or as a contract grower of swine or poultry;
- (2) must be an individual or entity that is:

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<sup>1</sup> 7 U.S.C. § 1531(c).

<sup>2</sup> 7 U.S.C. § 1531(c)(2).

<sup>3</sup> 7 C.F.R. § 760.406(c).

<sup>4</sup> 7 C.F.R. §§ 760.103, 760.403; Handbook 1-LDAP, at Paragraph 41 F (July 9, 2009).

- (a) a citizen of the United States;
- (b) a resident “lawful alien” as defined by the regulations;
- (c) a partnership of citizens of the United States; or
- (d) a corporation, limited liability corporation, or other farm organizational structure organized under state law;
- (e) a Native American tribe as defined in the Indian Self-Determination and Education Assistance Act;
- (f) a Native American organization or entity chartered under the Indian Reorganization Act; or
- (g) any economic enterprise under the Indian Financing Act of 1974.

**No Risk Management Purchase Requirement:** Unlike the other standing disaster assistance programs authorized by the 2008 Farm Bill, for LIP there is no requirement that the applicant have purchased any insurance or enrolled in a risk management program in order to qualify.<sup>5</sup>

## **B. Eligibility of the Livestock**

### **1. *Types of Livestock Covered***

The types of livestock covered by LIP are: dairy cattle, beef cattle, beefalo, buffalo, elk, alpaca, deer, emus, equine, goats, llama, poultry (including egg-producing poultry), reindeer, sheep, and swine.<sup>6</sup>

If an applicant is seeking LIP benefits as a contract grower, only swine or poultry are eligible.<sup>7</sup>

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<sup>5</sup> See 7 C.F.R. § 760.104.

<sup>6</sup> 7 C.F.R. § 760.404; Handbook 1-LDAP, at Paragraph 41 B (July 9, 2009).

<sup>7</sup> According to prefatory remarks to the final rules for the Livestock Indemnity Program, “The contract grower provisions only cover swine and poultry because those are the only known examples of that kind of production arrangement.” 74 Fed. Reg. 31567, at 31569 (July 2, 2009). A contract grower arrangement was described in these prefatory comments by example—“such as a farmer who raises chickens owned by a company that produces chicken products, but does not receive payment for livestock that die before the livestock is mature and returned to the owner.”

## *2. Ages of Livestock Covered*

LIP covers adult and non-adult livestock. If an animal was pregnant when it died, LIP payments will be made only for the pregnant animal. The unborn animal is not considered eligible livestock for purposes of LIP payments.<sup>8</sup>

A newborn or stillborn animal qualifies for LIP payments only if the animal's death was directly caused by an eligible adverse weather event and the birth produced a fully developed carcass that normally would have survived under normal weather conditions.<sup>9</sup>

## *3. Uses of Livestock Covered*

The livestock must have been maintained for **commercial use as part of a farming operation** on the day the livestock died.<sup>10</sup> Animals produced or maintained for any reasons other than commercial use as part of a farming operation are not eligible for LIP payments. Examples of purposes that would make the animal ineligible for LIP payments include, but are not limited to, consumption by the owner, hunting, pets, pleasure, roping, or to show.<sup>11</sup>

## *4. Livestock Types Expressly Not Eligible for LIP*

Livestock that is not covered for death losses under the LIP include ostriches, pheasants, quail, yaks, catfish, crawfish, stillborn or unborn livestock except as described above, and any wild, free-roaming livestock including equine and deer.<sup>12</sup>

## **C. Producer Eligibility**

### *1. Eligibility as a Livestock Owner*

To be eligible for LIP benefits as the owner of eligible livestock:<sup>13</sup>

- (1) the applicant must have owned the livestock on the day it died; and

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<sup>8</sup> 7 C.F.R. § 760.404; Handbook 1-LDAP, at Paragraph 41 B (July 9, 2009).

<sup>9</sup> Handbook 1-LDAP, at Paragraph 41 C (July 9, 2009).

<sup>10</sup> 7 C.F.R. § 760.404(c)(2).

<sup>11</sup> Handbook 1-LDAP, at Paragraph 41 E (Sept. 1, 2009) (Amendment 2).

<sup>12</sup> Handbook 1-LDAP, at Paragraph 41 E (Sept. 1, 2009) (Amendment 2).

<sup>13</sup> 7 C.F.R. § 760.403(a); Handbook 1-LDAP, at Paragraph 41 F (July 9, 2009).

- (2) for swine and poultry, there must not be any contract grower that could have been eligible for LIP benefits with respect to that animal.

## **2. *Eligibility as a Contract Grower of Swine or Poultry***

To be eligible for LIP benefits as a contract grower of swine or poultry:<sup>14</sup>

- (1) the applicant must have control of the livestock on the day it died;
- (2) the applicant must possess an independent financial interest in the livestock or the products derived from such livestock, which is defined by a written agreement with the owner of the eligible livestock and which sets specific terms, conditions, and obligations of the parties involved in the production of livestock on the day it died; and
- (3) the applicant must have suffered a loss of income as a direct result of the death of the specific eligible swine or poultry subject to the terms, conditions, and obligations of the written contract with the livestock owner.

The applicant must also give FSA a copy of the grower contract.

## **D. Eligible Adverse Weather Event**

### **1. *Types of Adverse Weather Events Covered***

For a producer to be eligible for LIP benefits, the livestock must have died in numbers in excess of normal mortality as a direct result of an eligible **adverse weather event**.

The types of adverse weather events that may be covered by the LIP include, but are not necessarily limited to, **hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold**.<sup>15</sup>

**Drought is not an adverse weather event except when associated with anthrax.**<sup>16</sup> Anthrax can occur because of drought and can cause death of livestock. If livestock dies during a drought due to insufficient water or contaminated water, the livestock deaths will not be eligible for LIP payments

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<sup>14</sup> 7 C.F.R. § 760.403(b); Handbook 1-LDAP, at Paragraph 41 G (July 9, 2009).

<sup>15</sup> 7 U.S.C. § 1531(c)(2); 7 C.F.R. § 760.402, "Adverse weather."

<sup>16</sup> Handbook 1-LDAP, at Paragraph 41 A (Sept. 1, 2009) (Amendment 2).

because they will be considered to have been caused by management decisions.<sup>17</sup>

When **extreme cold or heat** events may be considered adverse weather events will be established through criteria set out by FSA's State Offices. The producer's administrative FSA County Office<sup>18</sup> (herein referred to as the "FSA County Office") must document that each claim for LIP payments based on an extreme cold or heat event shows that: (1) the loss was caused by the extreme cold or heat; (2) management decisions were not the cause of the loss; and (3) the extreme cold or heat was so abnormal that it could reasonably cause the deaths.<sup>19</sup>

If an applicant applies for LIP payments for livestock that died due to **disease**, the applicant must provide documentation that supports how the disease was accelerated or exacerbated by the eligible adverse weather event.<sup>20</sup>

### *2. Severity of Adverse Weather Events Covered*

An adverse weather event is one that, as determined by the Secretary, directly resulted in death of livestock even **when normal preventive or corrective measures** were taken.<sup>21</sup>

### *3. Timing of Adverse Weather Events Covered*

The **adverse weather event** that caused the livestock deaths **must have occurred**:<sup>22</sup>

- (1) on or after January 1, 2008, and before October 1, 2011; and
- (2) no later than 60 calendar days from the ending date of the applicable eligible adverse weather event; and

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<sup>17</sup> Handbook 1-LDAP, at Paragraph 41 A (Sept. 1, 2009) (Amendment 2).

<sup>18</sup> The applicant's administrative FSA County Office is the office FSA designated to handle official records, issue payments, and make determinations related to the applicant's livestock. Generally, the administrative office for an applicant is located in the county where the livestock owner or contract grower's records are maintained. However, this office may in some cases be different than the FSA office in the county where the livestock or farm is located. Handbook 1-LDAP, at Paragraph 73 A (Sept. 1, 2009) (Amendment 2).

<sup>19</sup> Handbook 1-LDAP, at Paragraph 41 A (Sept. 1, 2009) (Amendment 2).

<sup>20</sup> Handbook 1-LDAP, at Paragraph 41 A (Sept. 1, 2009) (Amendment 2).

<sup>21</sup> 7 C.F.R. § 760.401.

<sup>22</sup> 7 C.F.R. § 760.404(c); Handbook 1-LDAP, at Paragraph 41 A (Sept. 1, 2009) (Amendment 2).

(3) in the calendar year for which benefits are being requested.

## **E. Normal Mortality Rate Criteria**

The LIP compensates eligible livestock producers for eligible livestock death losses that occur in **excess of normal mortality** that are caused by an eligible adverse weather event.

### **1. FSA State Technical Committees Establish Normal Mortality Rates**

The FSA State Technical Committee (STC) will establish the normal mortality rate for each kind/type and weight range of livestock listed in the handbook.<sup>23</sup> Usually there will be only one normal mortality rate established that will apply to the entire state for each kind/type and weight range of livestock. However, if the STC documents that existing conditions within a specific geographic area of the state would result in substantially higher mortality rates, a separate rate may be established for that area.

When establishing the normal mortality rate, the STC should obtain recommendations from state livestock organizations, State Cooperative Extension Service, and other knowledgeable and credible sources. If there is not sufficient information from such sources within the STC's state, the STC should obtain documentation from contiguous states that have established normal mortality rates. If there is not adequate information on mortality rates in the STC's state or contiguous states, the STC will use national mortality information. The STC must record normal mortality rate determinations in its meeting minutes and must attach to those minutes the documentation used to support its determinations.

### **2. Method for Calculating Number of Eligible Death Losses**

The number of death losses that will be eligible for LIP payments is calculated by multiplying the normal mortality rate for the specific kind/type and weight range of livestock by the number of livestock of that kind/type and weight range in the applicant's inventory at the time of the eligible adverse weather event and subtracting the result from the number of eligible livestock that died because of that event.<sup>24</sup>

**Example:** Producer A owned 100 head of adult beef cattle on the beginning date of the of the adverse weather event.

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<sup>23</sup> 7 C.F.R. § 760.406(a); Handbook 1-LDAP, at Paragraph 41 I (Sept. 1, 2009) (Amendment 2).

<sup>24</sup> Handbook 1-LDAP, at Paragraph 41 I (Sept. 1, 2009) (Amendment 2).



- Normal mortality is 2 percent.
- 5 head died.
- 100 head X 2 percent = 2 (loss threshold).
- 5 head died – 2 (loss threshold) = 3 head of adult beef cattle eligible for payment.

## II. Payment Rates, Limitations, and Reductions

There are separate LIP payment rates for livestock owners and contract growers.

### A. Payments to Eligible Livestock Owners

#### 1. *Payment Rate for Livestock Owners*

Eligible livestock owners will be paid at the rate of **75 percent of a fair market value**, as determined by FSA, for each specific category of livestock. This rate is supposed to be based on the average fair market value for the applicable livestock computed from nationwide prices from the previous calendar year.<sup>25</sup> See Attachment A to these materials for the chart listing the amount of LIP payment per head for each category of livestock for the years 2008 and 2009.<sup>26</sup>

#### 2. *Payment Reduction for Other Compensation for Same Losses*

The amount of the LIP payment that a livestock owner is eligible for will be reduced by the amount the livestock owner received for the specific livestock covered under any other source for the same or similar loss.<sup>27</sup>

### B. Payments to Eligible Contract Growers

#### 1. *Payment Rate for Contract Growers*

Eligible contract growers will be paid at the rate of **75 percent of the average income loss sustained**, as determined by FSA, by the contract growers with respect to the dead livestock.<sup>28</sup> See Attachment A to these materials for a chart

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<sup>25</sup> 7 C.F.R. § 760.460(b); Handbook 1-LDAP, at Paragraph 42 F (Sept. 1, 2009) (Amendment 2).

<sup>26</sup> This attachment is taken from Handbook 1-LDAP, at Paragraph 42 F (Sept. 1, 2009) (Amendment 2).

<sup>27</sup> Handbook 1-LDAP, at Paragraph 42 F (Sept. 1, 2009) (Amendment 2).

<sup>28</sup> 7 C.F.R. 760.406(c); Handbook 1-LDAP, at Paragraph 42 G (Sept. 1, 2009) (Amendment 2).

of the per head payment rate for poultry and swine contract growers for the years 2008 and 2009.<sup>29</sup>

## **2. *Payment Reduction for Other Compensation for Same Losses***

The amount of the LIP payment that a contract grower is eligible for will be reduced by the contract grower for the same or similar loss. Some contract growers may receive some monetary compensation for loss of income or for the dead animals from the person or company they contract with to raise swine or poultry. The amount of any such compensation received by the contract grower will be deducted from the LIP payment amount.<sup>30</sup>

## **C. Payment Limitations for LIP**

### **1. *\$100,000 Benefit Limitation***

Any “person,” whether an individual or an entity, may not receive more than \$100,000 total in any one year under LIP, the Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish Program, the Livestock Forage Disaster Program, and the Supplemental Revenue Assistance Payment Program.<sup>31</sup>

### **2. *Adjusted Gross Income Limitation***

A person is ineligible for LIP payments for 2008 livestock losses if the person’s average adjusted gross income exceeded \$2.5 million in 2007, 2006, and 2005.<sup>32</sup> For 2009 through 2011 livestock losses, a person will be ineligible for LIP payments if they have an adjusted gross nonfarm income that exceeds \$500,000.<sup>33</sup>

## **III. Sign-up Periods**

To apply for LIP payments for livestock death losses caused by adverse weather events, a livestock owner or contract grower must file both a completed **notice of loss** (Form

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<sup>29</sup> This attachment is taken from Handbook 1-LDAP, at Paragraph 42 G (Sept. 1, 2009) (Amendment 2).

<sup>30</sup> 7 C.F.R. § 760-406(d); Handbook 1-LDAP, at Paragraph 42 G (Sept. 1, 2009) (Amendment 2).

<sup>31</sup> 7 C.F.R. § 760.108(a); Handbook 1-LDAP, at Paragraphs 42 B & C (July 9, 2009).

<sup>32</sup> Handbook 1-LDAP, at Paragraph 42 D (July 9, 2009).

<sup>33</sup> Handbook 1-LDAP, at Paragraph 42 E (July 9, 2009).

FSA-914 Parts A and B) and a completed **application for payment** (Form FSA-914 Parts C through H) by the sign-up dates set out below.<sup>34</sup>

There are no provisions that allow for late filing of claims. So, even though FSA will not refuse to accept a late-filed notice of loss or application for payment, it will deny payments to anyone who does not file by the deadlines established. The decision to deny LIP payments due to a late filing **cannot be appealed**.<sup>35</sup>

#### **A. 2008 Livestock Losses**

To apply for LIP payments for livestock death losses that occurred in 2008, the livestock owner or contract grower must file a notice of loss **and** an application for payment with the FSA County Office **no later than September 13, 2009**.

#### **B. 2009 Livestock Losses**

1. **Losses between January 1, 2009, and July 12, 2009:** To apply for LIP payments for livestock death losses that occurred between January 1, 2009, and July 12, 2009, the livestock owner or contract grower must file a notice of loss no later than **September 13, 2009**, with the FSA County Office. The livestock owner or contract grower must also file an application for payment with the FSA County Office no later than **January 30, 2010**.
2. **Losses between July 13, 2009, and December 31, 2009:** For livestock death losses that occur between July 13, 2009, and December 31, 2009, the livestock owner or contract grower must file a notice of loss no later than **30 days after the date on which the applicant became aware of the death**. A complete application for payment must also be filed no later than **January 30, 2010**.

#### **C. 2010 – 2011 Livestock Losses**

To apply for LIP payments for livestock death losses that occur in calendar years 2010 and 2011, a livestock owner or contract grower must file a **notice of loss** with the FSA County Office by the **earlier of the following dates:** (1) 30 calendar days

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<sup>34</sup> Handbook 1-LDAP, at Paragraph 40 (July 9, 2009). During the early sign-up period which started July 13, 2009, producers may have been asked to sign Form FSA-927 and/or Form FSA-928 in order for the local FSA office to make payment prior to the time their automated system was in place.

<sup>35</sup> Handbook 1-LDAP, at Paragraph 40 (July 9, 2009).

after the date on which the death became known to the applicant; or (2) 30 calendar days after the end of the calendar year in which the loss of the livestock occurred.

An **application for payment** must also be filed no later than 30 calendar days after the end of the calendar year in which the loss of the livestock occurred.

#### **IV. Application Procedures and Documentation**

To obtain LIP benefits for livestock death losses caused by an adverse weather event, the livestock owner or contract grower must file both a notice of loss and an application for payment by the deadlines set out above. There will also be additional documentation required to complete the application.

The notice of loss and application for payment and any supporting documentation must be filed with the applicant's **administrative FSA County Office**. An applicant should verify that the application is made in the appropriate administrative FSA County Office.

##### **A. Notice of Loss**

The notice of loss (Form FSA-914 Parts A and B) must be filed no later than the deadlines set out above. The required information includes: producer's name, address, and signature, the type of adverse weather event, and the date of occurrence or when the loss became apparent.

If livestock deaths are caused by multiple separate adverse weather events during the course of a single calendar year, a notice of loss must be filed for each separate eligible weather event.<sup>36</sup>

If the notice of loss cannot be taken or mailed directly to the FSA County Office in time to meet the deadline, it may be filed by telephone, facsimile, or e-mail.<sup>37</sup>

##### **B. Application for Payment**

The application for payment (Form FSA-914 Parts C through H) must be filed with the FSA County Office no later than the deadlines set out above.

FSA will encourage applicants to file the completed application for payment within 30 calendar days of when the death of the livestock became known to the applicant.<sup>38</sup> However, the application need not be completed at that point, but must be completed by no more than 30 calendar days after the end of the calendar year in

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<sup>36</sup> Handbook 1-LDAP, at Paragraph 71 A (Sept. 1, 2009) (Amendment 2).

<sup>37</sup> Handbook 1-LDAP, at Paragraph 71 A (Sept. 1, 2009) (Amendment 2).

<sup>38</sup> Handbook 1-LDAP, at Paragraph 73 A (July 9, 2009).

which the death loss occurred (except for 2008 losses, for which the deadline is September 13, 2009).

If a LIP applicant has a percentage share interest in a livestock operation with another producer, the livestock death losses for each producer will be listed on a separate notice of loss and application for payment. The percentage share held by each producer will be listed on the separate FSA-914 forms.<sup>39</sup>

### C. Documentation and Records

To be eligible for LIP payments, an applicant must provide **documentation** of the livestock deaths along with the completed FSA-914 form. The documentation must prove that the death of the livestock occurred as a direct result of an eligible adverse weather event. **The quantity and the livestock kind/type and weight range must be documented.**

#### 1. *“Verifiable” Documentation*

FSA’s first preference for documentation will be what it considers “verifiable” documentation. This usually means documents produced by a third party containing all of the needed information to establish the number and type of livestock affected.

**Verifiable documents** providing such proof may include:<sup>40</sup>

- Bank or other loan documents.
- FEMA records.
- National Guard records.
- Records assembled for tax purposes.
- Rendering truck receipts or certificates.
- Veterinary records.
- Private insurance documents.
- Written contracts.
- Purchase records.
- Production records.
- Property tax records.

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<sup>39</sup> Handbook 1-LDAP, at Paragraph 73 A (July 9, 2009).

<sup>40</sup> Handbook 1-LDAP, at Paragraph 73 E (July 9, 2009).

## 2. *Producer Records and other “Reliable” Documentation*

If verifiable proof of death documentation, such as that listed above, is not available, the applicant may provide so-called reliable records.

**Reliable records** may include, but are not limited to:<sup>41</sup>

- Brand inspection records.
- Contemporaneous producer records existing at the time of the event.
- Dairy herd improvement records.
- Pictures.
- Vaccination records.

Because FSA considers these “reliable” records to be inferior to the categories of verifiable records discussed above, an applicant using reliable records must also submit verifiable beginning and ending inventory records. **Verifiable evidence of livestock inventory** includes, but is not limited to, any combination of the following:<sup>42</sup>

- Veterinary records.
- Canceled check documentation.
- Balance sheets.
- Inventory records used for tax purposes.
- Loan records bank statements.
- Farm credit balance sheets.
- Property tax records.
- Brand inspection records.
- Sales and purchase receipts.
- Private insurance documents.
- Chattel inspections.

## 3. *Third Party Certification*

If the LIP applicant is not able to provide verifiable or reliable records of proof of death, as described above, the applicant may use the **third party certification** process as proof of death.<sup>43</sup>

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<sup>41</sup> FSA Notice LDAP-1 “Documenting Livestock Death Losses Under the Livestock Indemnity Program (LIP)” (April 16, 2009); Handbook 1-LDAP, at Paragraph 73 E (July 9, 2009).

<sup>42</sup> Handbook 1-LDAP, at Paragraph 73 H (July 9, 2009).

<sup>43</sup> Handbook 1-LDAP, at Paragraph 73 G (July 9, 2009).

The general knowledge of the FSA employees or county committee about the adverse weather conditions is not acceptable as proof of death loss.

There are detailed procedures and forms to be completed in order to comply with the third party certification process. Any applicant that needs to use this method for proof of death losses should contact the FSA County Office to get a detailed explanation and copies of the necessary forms.