

# Livestock Forage Disaster Program

CAUTION: These materials are for general informational purposes only. To learn the current details about any certain point and how it may relate to your situation, refer to the applicable statute, regulations, handbooks, and policy notices.

The Livestock Forage Disaster Program (LFP) is a new disaster assistance program created by the 2008 Farm Bill. Through LFP, the Farm Service Agency (FSA) will provide cash payments to eligible producers who suffered grazing losses for eligible livestock because of drought or because of fire on federally managed land. Because the coverage provided under LFP is so specific, livestock producers who have grazing losses not covered by LFP should be sure to look at other new disaster programs created by the 2008 Farm Bill, such as the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP) and the Supplemental Revenue Assistance Payment Program (SURE).

Unlike similar disaster loss programs in the past, a producer need not have experienced a certain minimum loss threshold to be eligible for LFP.<sup>1</sup>

The regulations for LFP can be found at 7 C.F.R. Part 760, Subparts B and D. Local FSA offices will administer LFP using a program handbook containing detailed policies and procedures. The current handbook provisions for LFP are in Part 4 of "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/1ldap-a3.pdf](http://www.fsa.usda.gov/Internet/FSA_File/1ldap-a3.pdf).

## I. LFP Eligibility

### A. Producer Eligibility

To be eligible for LFP payments, a livestock producer:

- (1) must be an individual or entity that is:<sup>2</sup>
  - (a) a citizen or resident lawful alien of the United States;
  - (b) a partnership of citizens of the United States;
  - (c) a corporation, limited liability corporation, or other farm organizational structure organized under state law;

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<sup>1</sup> Handbook 1-LDAP, page 4-46, para. 171.R (Sept. 16, 2009).

<sup>2</sup> 7 C.F.R. § 760.103(b); Handbook 1-LDAP, page 4-41, para. 171.H (Sept. 16, 2009).

- (d) a Native American tribe as defined in the Indian Self-Determination and Education Assistance Act;
  - (e) a Native American organization or entity chartered under the Indian Reorganization Act; or
  - (f) any economic enterprise under the Indian Financing Act of 1974.
- (2) must not have had average adjusted gross nonfarm income over \$500,000 in the previous three years;<sup>3</sup>
  - (3) must be in compliance with general FSA restrictions against conversion of highly erodible land and wetlands, and must not otherwise be precluded from receiving USDA benefits;<sup>4</sup>
  - (4) during the 60 days prior to the beginning date of the qualifying drought or fire, must have owned, cash- or share-leased, or been a contract grower of eligible livestock;<sup>5</sup>
  - (5) must own or cash-lease pasture or grazing land for the eligible livestock that either is physically located in a county affected by a qualifying drought or is federally managed rangeland on which normal grazing is prohibited due to a qualifying fire;<sup>6</sup>
  - (6) must certify to having suffered a grazing loss due to a qualifying drought or fire;<sup>7</sup>
  - (7) must not rent or lease pasture or grazing land owned by another person on the basis of: rate-of-gain; cost per head per day or month; or strictly animal unit month (AUM), with no additional expense for pasture maintenance, wells, or fencing;<sup>8</sup> and
  - (8) must have obtained crop insurance or Non-insured Crop Disaster Assistance Program (NAP) coverage, if available, for all pasture or grazing land for

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<sup>3</sup> 7 C.F.R. § 760.108(e). This income limitation applies for livestock forage losses in years 2009-2011. To be eligible for LFP for 2008 livestock forage losses, a producer could not have had an average annual adjusted gross income over \$2.5 million in 2005-2007. 7 C.F.R. § 760.108(d).

<sup>4</sup> Handbook 1-LDAP, page 4-81, para. 184.E. (Sept. 16, 2009).

<sup>5</sup> 7 C.F.R. § 760.303(a)(1).

<sup>6</sup> 7 C.F.R. § 760.303(a)(2).

<sup>7</sup> 7 C.F.R. § 760.303(b).

<sup>8</sup> 7 C.F.R. § 760.303(c); Handbook 1-LDAP, page 4-46, para. 171.Q (Sept. 16, 2009).

which LFP benefits are being requested UNLESS the producer qualifies for a waiver.<sup>9</sup> There is a general waiver of this requirement for all socially disadvantaged, limited resource, and beginning farmers and ranchers.<sup>10</sup>

## **B. Eligible Livestock**

### **1. Eligible Livestock Types**

The types of livestock eligible for LFP benefits are: dairy and beef cattle weighing at least 500 pounds, beefalo and buffalo weighing at least 500 pounds, elk, alpacas, deer, emus, equine, goats, llamas, poultry, reindeer, sheep, and swine.<sup>11</sup>

Livestock that are explicitly not covered under LFP include: yaks; ostriches; cattle, buffalo, or beefalo weighing less than 500 pounds on the day the drought or fire began; and any wild, free-roaming livestock, including horses and deer.<sup>12</sup>

### **2. Required Grazing Practice**

To be eligible for LFP, the livestock must be livestock that would normally have been grazing on the eligible pasture or grazing land on the beginning date of the drought or when the federal agency prohibited use of the managed rangeland due to fire.<sup>13</sup>

Livestock will not be eligible that were or would have been in a feedlot on the beginning date of the qualifying drought or fire as a part of the normal business operations of the producer.<sup>14</sup>

### **3. Required Ownership Status and Duration**

For livestock to be eligible for LFP assistance, one of these must be true:<sup>15</sup>

- (a) during the 60 days prior to the beginning of the drought or fire condition, the livestock were:
  - (i) owned by the producer;

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<sup>9</sup> 7 C.F.R. §§ 760.104(a)(2), 760.305(d).

<sup>10</sup> 7 C.F.R. § 760.107.

<sup>11</sup> 7 C.F.R. § 760.304(a)(1), (b).

<sup>12</sup> 7 C.F.R. § 760.304(c)(1)-(5).

<sup>13</sup> 7 C.F.R. § 760.304(a)(2).

<sup>14</sup> 7 C.F.R. § 760.304(a)(6).

<sup>15</sup> 7 C.F.R. § 760.304(a)(3).

- (ii) cash- or share-leased by the producer;
  - (iii) purchased by the producer;
  - (iv) the subject of a contract to purchase by the producer; or
  - (v) the subject of a contract to produce or grow by the producer; or
- (b) during the current production year or in one or both of the two previous production years, the livestock were sold or otherwise disposed of due to a qualifying drought.

#### **4. *Eligible Uses of Livestock***

The livestock must have been maintained for commercial use as part of a farming operation on the day the drought or fire began.<sup>16</sup> Animals produced or maintained for any other reasons are not eligible for LFP payments. Examples of purposes that would make the animal ineligible for LFP payments include, but are not limited to, consumption by the owner, hunting, pets, pleasure, roping, or to show.<sup>17</sup>

### **C. Eligible Land**

#### **1. *Drought Losses***

For losses due to drought, LFP will be available only for land owned or leased by the producer that is:<sup>18</sup>

- (a) native or improved pastureland with permanent vegetative cover, or
- (b) planted to a crop specifically for the purpose of providing grazing for eligible livestock, such as small grain forage crops or forage sorghum.<sup>19</sup>

The land must also be located in a county that is rated by the U.S. Drought Monitor as having at least a severe (D2) drought for at least eight consecutive weeks, or extreme (D3) or exceptional (D4) drought at any time during the normal

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<sup>16</sup> 7 C.F.R. § 760.304(a)(4).

<sup>17</sup> 7 C.F.R. § 760.304(a)(5), (c)(6).

<sup>18</sup> 7 C.F.R. § 760.305(a)(1), (2).

<sup>19</sup> Handbook 1-LDAP, page 4-32, para. 171.A (Sept. 16, 2009).

grazing period for the producer's specific type of pasture or grazing land. If the drought intensity is not at least D2, the area will not be eligible for LFP.<sup>20</sup>

Land that is under a Conservation Reserve Program contract which is used for haying or grazing will not be eligible land for drought assistance under LFP.<sup>21</sup>

Pastures or crops that are irrigated are not eligible for LFP.<sup>22</sup> However, if previously irrigated grazing land was not irrigated in the year of loss due to inadequate water for reasons beyond the producer's control, those losses would be eligible for LFP.<sup>23</sup>

## **2. Fire Losses**

For losses due to fire, LFP will be available only for rangeland that is managed by a federal agency.<sup>24</sup> The federal agency must have prohibited the producer from grazing the normal permitted livestock on the managed rangeland due to fire.<sup>25</sup>

## **II. LFP Payments**

LFP benefits will be based upon the producer's monthly feed cost, as calculated by FSA, as well as the severity and length of the drought or the length of time the producer is not permitted to graze as normal due to fire.<sup>26</sup>

A producer is not required to use the LFP payment for any specific purpose.<sup>27</sup>

### **A. Monthly Feed Cost**

The monthly feed cost used to determine a producer's LFP benefits will be the cost of corn needed to feed for 30 days the lesser of:

- (1) all of the producer's eligible livestock, or

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<sup>20</sup> 7 C.F.R. § 760.305(a)(3). U.S. Drought Monitor information is available on the Internet at <http://drought.unl.edu/dm/monitor.html>.

<sup>21</sup> 7 C.F.R. § 760.305(b).

<sup>22</sup> Handbook 1-LDAP, page 4-46, para. 171.Q (Sept. 16, 2009).

<sup>23</sup> Handbook 1-LDAP, page 4-45, para. 171.P (Sept. 16, 2009).

<sup>24</sup> 7 C.F.R. § 760.305(c)(1).

<sup>25</sup> 7 C.F.R. § 760.305(c)(2).

<sup>26</sup> 7 C.F.R. § 760.307.

<sup>27</sup> Handbook 1-LDAP, page 4-1, para. 160.A. (Sept. 16, 2009).

- (2) the normal carrying capacity of the producer's eligible grazing land in the absence of fire or drought.<sup>28</sup>

Corn prices, normal carrying capacity, and livestock feed needs will be established by USDA.<sup>29</sup> For an adult beef cow, USDA has set the feed needs at 15.7 pounds of corn per day.<sup>30</sup>

## **B. Payment Rate**

### **1. Monthly Payment Rate for Drought Losses**

The monthly payment rate under LFP for drought losses related to eligible livestock owned or leased by the producer will be 60% of the producer's LFP monthly feed cost, as calculated above, for all eligible livestock.<sup>31</sup>

In addition, the payment rate for drought losses, if any, related to eligible livestock sold or otherwise disposed of due to qualifying drought in one or both of the two preceding production years will be 80% of the regular monthly payment rate for those eligible livestock.<sup>32</sup>

LFP monthly payment rates established by FSA for 2008 and 2009 losses can be found in the LFP program handbook along with calculation examples.<sup>33</sup> The monthly payment rates are specified for each category of livestock. For example, for 2009 losses, USDA has set the monthly payment rate for adult beef cattle at \$40.04 per head.

### **2. Daily Payment Rate for Fire Losses**

The daily payment rate under LFP for grazing losses due to fire on federally managed land will be 50% of the LFP monthly feed cost, as calculated by FSA, prorated to a daily rate and multiplied by the number of eligible livestock covered by the producer's federal grazing lease.<sup>34</sup>

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<sup>28</sup> 7 C.F.R. § 760.307(e).

<sup>29</sup> 7 C.F.R. § 760.307(g)-(j).

<sup>30</sup> 7 C.F.R. § 760.307(h)(1).

<sup>31</sup> 7 C.F.R. § 760.307(e).

<sup>32</sup> 7 C.F.R. § 760.307(f).

<sup>33</sup> Handbook 1-LDAP, page 4-75, para. 182.C (Sept. 16, 2009).

<sup>34</sup> 7 C.F.R. § 760.307(k).

## C. Payment Period

### 1. *Payment Period for Drought Losses*

In counties rated by the U.S. Drought Monitor as experiencing severe drought **(D2) in any area for at least eight consecutive weeks** during the normal grazing period, the LFP benefit will be one monthly LFP payment, as calculated above.<sup>35</sup>

In counties experiencing an extreme drought **(D3) in any area at any time** during the normal grazing period, the LFP benefit will be equal to two monthly LFP payments, as calculated above.<sup>36</sup>

In counties experiencing an exceptional drought **(D4) in any area at any time** during the normal grazing period, and in counties experiencing extreme drought **(D3) for at least four weeks** in any area during the normal grazing period, the LFP benefit will be equal to three monthly LFP payments, as calculated above.<sup>37</sup>

### 2. *Payment Period for Fire Losses*

The LFP payment period for fire losses will be based on the amount of time the producer is not permitted to use the rangeland for grazing. The period will last from the beginning of the exclusion from the rangeland until the end of the producer's federal rangeland lease, up to a maximum of 180 days per year.<sup>38</sup>

## D. Payment Reduction for Duplication of Assistance

A producer's LFP payment may be reduced by FSA by the amount that the producer received from another assistance program for the same or similar loss.<sup>39</sup>

## E. General Payment Limitations

A person may not receive more than \$100,000 total in any one year under LFP, the Livestock Indemnity Program, the Supplemental Revenue Assistance Payment Program, and the Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish Program.<sup>40</sup>

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<sup>35</sup> 7 C.F.R. § 760.307(b).

<sup>36</sup> 7 C.F.R. § 760.307(c).

<sup>37</sup> 7 C.F.R. § 760.307(d).

<sup>38</sup> 7 C.F.R. § 760.307(k).

<sup>39</sup> 7 C.F.R. § 760.108(c).

<sup>40</sup> 7 C.F.R. § 760.108(a)(1), (b)(1).

A producer may not receive more than three LFP monthly payments for drought losses in a calendar year for the same livestock, regardless of how long or how severe the drought is in the county.<sup>41</sup>

### **III. Sign-Up Periods**

To apply for LFP payments, a livestock producer must file a completed application for payment (Form FSA-925) and all required supporting documentation by the sign-up date set out below. A sample Form FSA-925 can be found at the end of the LFP program handbook. FSA will deny payment to anyone who does not file by the deadline; there are no provisions for FSA to accept late-filed applications.

#### **A. Deadline for 2008 Forage Losses**

To apply for LFP payments for grazing losses that occurred in 2008, a livestock producer must file a complete application for payment and all required supporting documentation with the FSA county office no later than **December 10, 2009**.<sup>42</sup>

#### **B. Deadlines for Forage Losses in 2009, 2010, and 2011**

To apply for LFP payments for grazing losses that occur between January 1, 2009, and October 1, 2011, a producer must file an application for payment and required supporting documentation with the FSA county office no later than 30 calendar days after the end of the calendar year in which the grazing loss occurred.<sup>43</sup>

This means that, for grazing losses that occurred in calendar year 2009, a producer must file an application for payment and all required supporting documentation by **January 30, 2010**.

### **IV. Required Documentation to Support an LFP Application**

As stated above, to obtain LFP benefits, a producer must file an application for payment and supporting documentation by the deadlines set out above.

The producer's supporting documents must show:<sup>44</sup>

- Evidence of loss.

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<sup>41</sup> 7 C.F.R. § 760.307(a).

<sup>42</sup> 7 C.F.R. § 760.306(a)(1).

<sup>43</sup> 7 C.F.R. § 760.306(a)(2).

<sup>44</sup> 7 C.F.R. § 760.306(b)(1)-(7).

- The current physical location of the producer's livestock inventory.
- Evidence of meeting the requirement to obtain crop insurance or NAP coverage, or eligibility for a waiver of this requirement.
- Evidence that pasture or grazing land is owned or leased.
- Acreage of the grazing land that incurred losses for which LFP assistance is sought.
- Proof acceptable to FSA that the lost grazing was for the producer's eligible livestock and occurred between January 1, 2008, and October 1, 2011.
- If the loss is due to fire, proof acceptable to FSA that the loss was due to fire and that the producer was prohibited from grazing the normal permitted livestock on the federally managed rangeland due to the fire.

A contract grower who is applying for LFP assistance must also submit a copy of the growout contract.<sup>45</sup>

FSA also reserves the right to ask for any other supporting documentation that it considers necessary to determine the producer's eligibility.<sup>46</sup>

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<sup>45</sup> Handbook 1-LDAP, page 4-31, paras. 170.B and 170.C (Sept. 16, 2009).

<sup>46</sup> 7 C.F.R. § 760.306(b)(8).