

# **Farmers' Guide to Disaster Assistance**

## **Volume 7: Livestock Forage Disaster Program (LFP)**

**January 2020**



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# **Farmers' Guide to Disaster Assistance**

Seventh Edition

## **Volume 7: Livestock Forage Program**

January 2020

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## **Livestock Forage Disaster Program**

### **I. Introduction**

Through the Livestock Forage Disaster Program (LFP), the Farm Service Agency (FSA) provides cash payments to eligible farmers who suffer grazing losses for covered livestock because of either a qualifying drought on eligible pastureland or grazing land, or a fire that occurs on federally-managed rangeland.<sup>1</sup>

The rules for LFP are found in several places. First, LFP payments are made possible by federal statute.<sup>2</sup>

Second, rules found in the Code of Federal Regulations (C.F.R.) also govern LFP.<sup>3</sup>

Third, rules for LFP can also be found in what FSA calls Handbooks.<sup>4</sup> These are thick documents that are available online.<sup>5</sup>

Finally, FSA issues what are called Notices, which provide guidance on various topics and changes to FSA programs.<sup>6</sup>

This chapter makes reference to all sources of LFP rules.

### **II. LFP Eligibility**

This section describes the eligibility rules for LFP. These rules broadly fall into the following categories: farmer eligibility, grazing loss eligibility, livestock eligibility, and grazing land eligibility.

#### **A. Farmer Eligibility**

The following eligibility rules are applicable to all farmers that apply for LFP.

##### **1. Individual or Eligible Entity**

To be eligible for LFP, a farmer can be either an individual person or a legal entity.<sup>7</sup>

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<sup>1</sup> See generally, Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 1601 (Dec. 20, 2018) (to be codified at 7 U.S.C. § 7333); Budget Act—Feb. 9, 2019, H.R. 1892, 115th Cong. § 20101 (2018) (codified at 7 U.S.C. § 9081(d)(1)).

<sup>2</sup> 7 U.S.C. § 1531(d).

<sup>3</sup> LFP regulations are found at 7 C.F.R. pt. 1416 Subps. A, C (2019).

<sup>4</sup> The current Handbook for LFP is entitled FSA Handbook 1-LFP, Livestock Forage Disaster Program (Sept. 11, 2019).

<sup>5</sup> Downloadable copies of FSA's Handbooks can be found here:

<https://www.fsa.usda.gov/FSA/webapp?area=home&subject=empl&topic=hbk>

<sup>6</sup> FSA Notices have a published date, as well as a disposal, or expiration, date. See, for example, FSA Notice LDAP-91, "Issuing 2017 ELAP Payments and Additional 2018 and 2018 LIP and LFP Payments," at 1 (April 6, 2018). Notices may also be downloaded from the FSA website. To search for downloadable FSA Notices, visit <https://www.fsa.usda.gov/FSA/notices>.

<sup>7</sup> 7 C.F.R. 1416.3(b) (2019); LFP Handbook, page 2-14, para. 24.A (Sept. 11, 2019).



If an individual, the farmer must be a citizen or a legal resident alien of the United States.<sup>8</sup>

If a legal entity, the farmer can be any of the following: (a) a partnership made up of U.S. citizens;<sup>9</sup> (b) a corporation, limited liability corporation, or other farm organizational structure organized under state law;<sup>10</sup> or (c) a Native American tribe, or, with some limitations, a Native American organization, entity, or economic enterprise.<sup>11</sup> The 2018 Farm Bill confirms that tribes and tribal organizations are eligible.<sup>12</sup>

## **2. Adjusted Gross Income**

Farmers must have an average adjusted gross income of \$900,000 or less.<sup>13</sup>

## **3. Conservation Compliance**

Farmers 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>14</sup>

## **4. Suffer a Qualifying Grazing Loss**

Farmers must suffer a grazing loss due to a qualifying drought or fire.<sup>15</sup>

## **5. Relationship to Livestock**

Farmers must have owned, cash- or share-leased, purchased (or have entered into a contract to purchase), or been a contract grower of eligible grazing livestock during the sixty calendar days prior to the beginning date of the qualifying drought or fire.<sup>16</sup>

<sup>8</sup> 7 C.F.R. 1416.3(b)(1)-(2) (2019); LFP Handbook, page 2-14, para. 24.A (Sept. 11, 2019). A minor child can apply for program benefits under LFP so long as the minor meets the specific eligibility requirements for minors, as well as all other LFP eligibility requirements. See 7 C.F.R. pt. 14; 7 C.F.R. § 1416.12 (2019).

<sup>9</sup> 7 C.F.R. 1416.3(b)(3) (2019); LFP Handbook, page 2-14, para. 24.A (Sept. 11, 2019).

<sup>10</sup> 7 C.F.R. 1416.3(b)(4) (2019); LFP Handbook, page 2-14, para. 24.A (Sept. 11, 2019).

<sup>11</sup> LFP Handbook, page 2-14, para. 24.A (Sept. 11, 2019). Tribes, as defined in the Indian Self-Determination and Education Assistance Act, are eligible, as are organizations chartered under the Indian Reorganization Act, and economic enterprises under the Indian Financing Act of 1974. See 25 U.S.C. § 5304(e); 25 U.S.C. chs. 17, 45, 51.

<sup>12</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 1501(a)(2018) (to be codified at 7 U.S.C. § 9081(a)(2)(B)). The 2018 Farm Bill may allow tribal organization to participate that were previously excluded.

<sup>13</sup> 7 C.F.R. § 1416.6(c) (2019); LFP Handbook, page 2-1, para. 21.C (Sept. 11, 2019). The average adjusted gross income limitation applies to a person and a legal entity, but it does not apply to a joint venture or legal partnership.

<sup>14</sup> 7 C.F.R. § 1416.14(a) (2019); LFP Handbook, page 2-140, para. 58.D (Sept. 11, 2019). The regulations governing highly erodible land and wetland conservation can be found at 7 C.F.R. pt. 12(2019).

<sup>15</sup> 7 C.F.R. § 1416.203(b) (2019); LFP Handbook, page 2-15, para. 24.B (Sept. 11, 2019).

<sup>16</sup> 7 C.F.R. §§ 1416.203(a)(1), 1416.204(a)(3)(i) (2019); LFP Handbook, page 2-15, para. 24.B and page 2-19, para. 25.A (Sept. 11, 2019).

## 6. Relationship to Land

To be eligible for LFP, farmers must provide pastureland or grazing land for covered livestock.<sup>17</sup>

As a general rule, farmers can cash-lease pastureland or grazing land that is owned by another person and still be eligible for LFP.<sup>18</sup> A farmer is not eligible for LFP, however, if the farmer rents or leases land on any of the following terms: (a) a basis-of-weight gain, also known as rate-of-gain;<sup>19</sup> (b) a cost per head, per day, or per month; or (c) an animal unit month (AUM)-only basis, when the farmer—as lessee—incurs no additional expense for pasture, maintenance, wells, fence, and so forth.<sup>20</sup>

### B. Grazing Loss Eligibility

FSA will make payments under LFP for two primary types of grazing losses—those that result from drought and those that result from fire.<sup>21</sup>

#### 1. Drought Losses

For grazing losses due to drought, LFP benefits are only available if the loss of covered livestock occurs on land that satisfies all of the following requirements.

##### *a. Eligible Grazing Land Located in County of Drought*

The land must fall within the definition of eligible grazing land, as defined in detail below, and be physically located in the county affected by a qualifying drought.<sup>22</sup>

##### *b. Loss Must Occur During Normal Grazing Period for Grazing Land*

To receive LFP benefits for losses due to drought, the loss must have occurred during the normal grazing period for the specific type of grazing land in the calendar year for which LFP benefits are sought.<sup>23</sup>

##### *c. Qualifying Drought Requirements*

To be eligible for a grazing loss due to drought, the land must be located in a county for which the U.S. Drought Monitor has provided, at minimum, a D2, D3, or D4 drought rating. If the drought intensity is not at least D2, the land will not be eligible for LFP.<sup>24</sup>

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<sup>17</sup> 7 C.F.R. § 1416.203(a)(2) (2019); LFP Handbook, page 2-15, para. 24.B (Sept. 11, 2019).

<sup>18</sup> 7 C.F.R. § 1416.203(a)(2) (2019); LFP Handbook, page 2-15, para. 24.B (Sept. 11, 2019).

<sup>19</sup> A rate-of-gain basis is where the lease or rental agreement requires payment based in whole or in part on the amount of weight gained by the animals that use the pastureland or grazing land. LFP Handbook, page 2-17, para. 24.C (Sept. 11, 2019).

<sup>20</sup> 7 C.F.R. § 1416.203(c) (2019); LFP Handbook, page 2-37, para. 26.D (Sept. 11, 2019).

<sup>21</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.203(a)(2) (2019)); LFP Handbook, page 2-1, para. 21.A (Sept. 11, 2019).

<sup>22</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(a)(3) (2019)); LFP Handbook, page 2-6, para. 23.A (Sept. 11, 2019).

<sup>23</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(a)(3) (2019)); LFP Handbook, page 2-7, para. 23.A (Sept. 11, 2019).

<sup>24</sup> U.S. Drought Monitor information is available on the Internet at <http://droughtmonitor.unl.edu>.

Land will be eligible for LFP if the drought meets any of the following criteria. For some of these criteria, the LFP payments may be greater due to the duration and severity of the drought.<sup>25</sup>

**(i) Severe (D2) Drought**

In order for a severe (D2) drought to be eligible for LFP benefits, the drought must occur for at least eight consecutive weeks during the county's normal grazing period for the farmer's specific type of grazing land or pastureland.<sup>26</sup>

**(ii) Extreme (D3) Drought at Any Time**

An extreme (D3) drought will be eligible for LFP benefits if the drought occurs at any time during the county's normal grazing period—in any area of the county—for the farmer's specific type of pastureland or grazing land.<sup>27</sup>

**(iii) Exceptional (D4) Drought at Any Time**

An exceptional (D4) drought will be eligible for LFP benefits if the drought occurs at any time during the county's normal grazing period—in any area of the county—for the farmer's specific type of pastureland or grazing land.<sup>28</sup> A D4 drought may be eligible for increased LFP payments.<sup>29</sup>

**(iv) Extreme (D3) Drought or Exceptional (D4) Drought for Four Weeks**

A farmer may be eligible for greater LFP payments if an extreme (D3) drought or an exceptional (D4) drought lasts for at least four non-consecutive weeks during the normal grazing period for the farmer's specific type of pastureland or grazing land.<sup>30</sup>

***d. Land Ownership Requirements***

The land must be owned, leased, purchased, under a contract to purchase, or under a contract grower agreement by an LFP-eligible farmer.<sup>31</sup>

<sup>25</sup> See, for example, LFP Handbook, page 2-125, para. 56.A (Sept. 11, 2019).

<sup>26</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(a)(3)(i) (2019)); LFP Handbook, page 2-6, para. 23.A (Sept. 11, 2019).

<sup>27</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(a)(3)(ii) (2019)); LFP Handbook, pages 2-6 and 2-7, para. 23.A (Sept. 11, 2019).

<sup>28</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(a)(3)(ii) (2019)); LFP Handbook, pages 2-6 and 2-7, para. 23.A (Sept. 11, 2019).

<sup>29</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(a)(3)(ii) (2019)); LFP Handbook, page 2-125, para. 56.A (Sept. 11, 2019).

<sup>30</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(a)(3)(ii) (2019)); LFP Handbook, page 2-7, para. 23.A, and page 2-125, para. 56.A (Sept. 11, 2019).

<sup>31</sup> 7 C.F.R. § 1416.204(a)(3)(i) (2019); LFP Handbook, page 2-19, para. 25.A, page 2-15, para. 24.B (Sept. 11, 2019).

### ***e. Required Crop Cover***

The land must be either (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, forage sorghum, annual crabgrass, annual ryegrass, or mixed forage—but not including corn stalks or grain sorghum stalks.<sup>32</sup>

## **2. Fire Losses—Only on Federally-Managed Rangeland**

LFP provides assistance for fire losses only when those losses occur on rangeland that is managed by a federal agency.<sup>33</sup> For purposes of LFP, a federal agency means an agency of the Federal Government that manages rangeland on which livestock is generally permitted to graze.<sup>34</sup> Federal agencies include, but are not limited to, the Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), and the Forest Service (FS).

In order to qualify for LFP assistance, the federal agency must have prohibited the farmer from grazing the normal permitted livestock on the managed rangeland due to a qualifying fire.<sup>35</sup> The fire must have occurred during the calendar year in which LFP benefits are being sought.

## **C. Livestock Eligibility**

In order for livestock to be covered under LFP, the livestock must meet specific requirements regarding their type, grazing routines and habitat, control, and uses.

### **1. Must be Grazing Animals**

Eligible livestock under LFP are limited to grazing animals.<sup>36</sup> This means that the species of animal must be that of a grazing animal. For purposes of LFP, grazing animals are livestock that satisfy more than 50 percent of their net energy needs through forage grasses and legumes.<sup>37</sup>

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<sup>32</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(a)(1)-(2) (2019)); LFP Handbook, page 2-6, para. 23.A (Sept. 11, 2019).

<sup>33</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. §§ 1416.203(a)(2)(ii) (2019)); LFP Handbook, page 2-11, para. 23.C (Sept. 11, 2019).

<sup>34</sup> LFP Handbook, Exhibit 2, page 3, “Federal Agency” (Sept. 11, 2019).

<sup>35</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. §§ 1416.203(a)(2)(ii) (2019)); 7 C.F.R. § 1416.205(c)(2) (2019); LFP Handbook, page 2-11, para. 23.C (Sept. 11, 2019).

<sup>36</sup> 83 Fed. Reg. 49,459, 49,460 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(a)(1) (2019)); LFP Handbook, page 2-19, para. 25.A (Sept. 11, 2019).

<sup>37</sup> 83 Fed. Reg. 49,459, 49,466 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.202, “Grazing animals” (2019)); LFP Handbook, page 2-127, para. 56.C (Sept. 11, 2019).



When determining what species qualify as grazing animals, the rules focus on whether the species is recommended to get 50 percent of its nutritional requirements from pasture.<sup>38</sup> Accordingly, because certain types of livestock—such as poultry and swine—are thought by FSA not to have a recommended net energy requirement of at least 50 percent from pasture, those livestock are not eligible as grazing animals even if a farmer’s particular poultry or swine are pasture-raised.<sup>39</sup>

## **2. Eligible Livestock Types**

To qualify for LFP payments, the grazing livestock must fall within the following categories.<sup>40</sup>

### ***a. Beef Cattle***

Beef cattle are eligible livestock for LFP.<sup>41</sup> Cow and bulls are eligible. Non-adult animals are eligible as long as they are weaned.

The rules for beef cattle eligibility are confusing. The Code of Federal Regulations says that beef cattle cows and bulls, including adults and non-adults, are eligible.<sup>42</sup> A different subsection of the regulations, however, says that to be eligible, beef cattle must weigh 500 pounds or more.<sup>43</sup> By contrast, an updated Handbook, released in 2019, says that the 500 pound eligibility rule no longer applies.<sup>44</sup> Given that the current LFP Handbook does not mention the 500 pound requirement, it seems likely that the 500 pound requirement no longer applies.<sup>45</sup>

The LFP payments for beef cattle will vary depending on whether the animals are adults or non-adults and whether the adults are cows or bulls. An adult beef bull is at least two years old and must have been primarily used for breeding beef cows on or before the beginning date of a qualifying drought or fire.<sup>46</sup> An adult beef cow must have delivered at least one offspring.<sup>47</sup> A bred beef heifer is also considered an adult cow if she was pregnant on or before the beginning date of a qualifying drought or fire.

<sup>38</sup> 83 Fed. Reg. 49,459, 49, 466 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.202, “Grazing animals” (2019)); LFP Handbook, page 2-127, para. 56.C (Sept. 11, 2019).

<sup>39</sup> 83 Fed. Reg. 49,459, 49,460 and 49, 467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(c)(5)-(6) (2019)); LFP Handbook, Exhibit 2, page 3, “Grazing animals” (Sept. 11, 2019).

<sup>40</sup> 83 Fed. Reg. 49,459, 49,460 and 49, 467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(a)(1), (b), (c)(4) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>41</sup> LFP Handbook, page 2-20, par. 25.A (Sept. 11, 2019).

<sup>42</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b) (2019)).

<sup>43</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204 (c)(7) (2019)).

<sup>44</sup> See FSA Handbook 1-LDAP (Revision 1), Livestock Disaster Assistance Programs for 2011 and Subsequent Years, Amendment 37, page 1 (April 25, 2019).

<sup>45</sup> LFP Handbook, page 2-20, par. 25.A (Sept. 11, 2019).

<sup>46</sup> 7 C.F.R. § 1416.202, “Adult beef bull” (2019); LFP Handbook, Exhibit 2, page 1, “Adult beef bull” (Sept. 11, 2019).

<sup>47</sup> 7 C.F.R. § 1416.202, “Adult beef cow” (2019); LFP Handbook, Exhibit 2, page 1, “Adult beef cow” (Sept. 11, 2019).

## **b. Dairy Cattle**

Dairy cattle are eligible livestock for LFP.<sup>48</sup> Cows and bulls are eligible. Nonadult animals are eligible as long as they are weaned.<sup>49</sup> Dairy cattle are defined as a dairy breed of bovine used for the purpose of providing milk for human consumption.<sup>50</sup>

The rules for dairy cattle eligibility are confusing. The Code of Federal Regulations says that dairy cattle cows and bulls, including adults and non-adults, are eligible.<sup>51</sup> A different subsection of the regulations, however, says that to be eligible, dairy cattle must weigh 500 pounds or more.<sup>52</sup> By contrast, an updated Handbook, released in 2019, says that the 500 pound eligibility rule no longer applies.<sup>53</sup> Given that the current LFP Handbook does not mention the 500 pound requirement, it seems likely that the 500 pound requirement no longer applies.<sup>54</sup>

LFP payments for dairy cattle will vary depending on whether the animals are adults or non-adults and whether the adults are cows or bulls. An adult dairy bull is at least two years old and must have been primarily used for breeding dairy cows on or before the beginning date of a qualifying drought or fire.<sup>55</sup> An adult dairy cow must be used for the purpose of providing milk for human consumption and must also have delivered at least one offspring.<sup>56</sup> A bred dairy heifer is also considered an adult cow if she was pregnant on or before the beginning date of a qualifying drought or fire.

## **c. Goats**

Goats are eligible grazing livestock for LFP.<sup>57</sup> To qualify, the goats must be a domesticated, ruminant mammal of the genus *Capra*.<sup>58</sup> This includes Angora goats.

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<sup>48</sup> LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>49</sup> LFP Handbook, page 2-20, para. 25.A, Exhibit 2, page 4, "Nonadult Dairy Cattle" (Sept. 11, 2019).

<sup>50</sup> 7 C.F.R. § 1416.202, "Adult dairy bull," "Adult dairy cow" (2019).

<sup>51</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b) (2019)).

<sup>52</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204 (c)(7) (2019)).

<sup>53</sup> See FSA Handbook 1-LDAP (Revision 1), Livestock Disaster Assistance Programs for 2011 and Subsequent Years, Amendment 37, page 1 (April 25, 2019).

<sup>54</sup> LFP Handbook, page 2-20, par. 25.A (Sept. 11, 2019).

<sup>55</sup> 7 C.F.R. § 1416.202, "Adult dairy bull" (2019).

<sup>56</sup> 7 C.F.R. § 1416.202, "Adult dairy cow" (2019).

<sup>57</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(9) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>58</sup> 7 C.F.R. § 1416.202, "Goat" (2019); LFP Handbook, Exhibit 2, page 3, "Goat" (Sept. 11, 2019).

#### ***d. Sheep***

Sheep are eligible grazing livestock for LFP.<sup>59</sup> To qualify, the sheep must be a domesticated, ruminant mammal of the genus *Ovis*.<sup>60</sup>

#### ***e. Equine Animals***

Equine animals are eligible grazing livestock for LFP.<sup>61</sup> By equine animal, FSA means a domesticated horse, mule, or donkey.<sup>62</sup> Payments for equine animals do not appear to vary depending on the equine type.

#### ***f. Other Eligible Grazing Animals***

Other types of grazing animals are eligible for LFP. They are limited to the following.

##### **(i) Alpacas**

Alpacas are eligible for LFP, and the payments do not appear to vary depending on the type of alpaca.<sup>63</sup>

##### **(ii) Beefalo**

Beefalo are eligible for LFP.<sup>64</sup> The LFP rules define beefalo as a hybrid of beef and bison.<sup>65</sup> Payments for beefalo will vary depending on whether the animals are adults or weaned non-adults and whether the adults are cows or bulls.<sup>66</sup> The eligibility rules for beefalo are similar to those of beef cattle and dairy cattle.

<sup>59</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(16) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>60</sup> 7 C.F.R. § 1416.202, “Sheep” (2019); LFP Handbook, Exhibit 2, page 5, “Sheep” (Sept. 11, 2019).

<sup>61</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(8) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>62</sup> 7 C.F.R. § 1416.202, “Equine animal” (2019); LFP Handbook, Exhibit 2, page 3, “Equine animal” (Sept. 11, 2019).

<sup>63</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(4) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>64</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(a)(1), (c)(7) (2019)).

<sup>65</sup> 83 Fed. Reg. 49,459, 49,466 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.202, “Adult beefalo bull,” “Adult beefalo cow” (2019)).

<sup>66</sup> 83 Fed. Reg. 49,459, 49,466 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(2), (12) (2019)). An adult beefalo bull is used for breeding purposes and must have been at least two years old before the beginning date of the qualifying drought or fire. An adult beefalo cow has delivered one more offspring before the beginning date of the qualifying drought or fire. A first-time bred beefalo heifer is considered an adult if she was pregnant by the beginning date of the drought or fire. 83 Fed. Reg. 49,459, 49,466-67 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.202 “Adult beefalo bull,” “Adult beefalo cow,” “Non-adult beefalo” (2019)); LFP Handbook, par. 25.A, page 2-20, Exhibit 2, pages 1, 4, “Adult Beefalo Bull, Adult Beefalo Cow, Nonadult Beefalo,” (Sept. 11, 2019).

**(iii) Buffalo or Bison**

Buffalo and bison are eligible for LFP.<sup>67</sup> Payments for buffalo and bison will vary depending on whether the animals are adults or weaned non-adults and whether the adults are cows or bulls.<sup>68</sup> The eligibility rules for buffalo or bison are similar to those of beef cattle and dairy cattle.

**(iv) Deer**

Deer are eligible for LFP, and the payments do not appear to vary depending on the type of deer.<sup>69</sup>

**(v) Elk**

Elk are eligible for LFP, and the payments do not appear to vary depending on the type of elk.<sup>70</sup>

**(vi) Emus**

Emus are eligible for LFP, and the payments do not appear to vary depending on the type of emu.<sup>71</sup>

**(vii) Llamas**

Llamas are eligible for LFP, and the payments do not appear to vary depending on the type of llama.<sup>72</sup>

**(viii) Reindeer**

Reindeer are eligible for LFP, and the payments do not appear to vary depending on the type of reindeer.<sup>73</sup>

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<sup>67</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(a)(1), (c)(7) (2019)).

<sup>68</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(3), (12) (2019)). An adult buffalo or bison bull is used for breeding purposes and must have been at least two years old before the beginning date of the qualifying drought or fire. An adult buffalo or bison cow has delivered one more offspring before the beginning date of the qualifying drought or fire. A first-time bred buffalo or bison heifer is considered an adult if she was pregnant by the beginning date of the drought or fire. 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.202 “Adult buffalo or bull,” “Adult buffalo or bison cow,” Non-adult buffalo or bison” (2019)).

<sup>69</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(5) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>70</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(6) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>71</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(7) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>72</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(10) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>73</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(b)(15) (2019)); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).



### 3. Ineligible Livestock Types

Livestock that are not covered under LFP include, but are not limited to, the following.<sup>74</sup>

Unweaned livestock,

Ostriches,

Poultry,

Swine, and

Yaks.

In addition, wild, free-roaming livestock, including horses and deer, are not eligible.

As noted above, when determining what species qualify as grazing animals, the rules focus on whether the species is recommended to get 50 percent of its nutritional requirements from pasture.<sup>75</sup>

Certain types of livestock—such as poultry and swine—are thought by FSA not to have a recommended net energy requirement of at least 50 percent from pasture, those livestock are not eligible as grazing animals even if a farmer’s particular poultry or swine are pasture-raised.<sup>76</sup>

FSA previously had a requirement that cattle, beefalo, and buffalo, weigh 500 pounds. As noted in the above section on beef and dairy cattle, that rule appears no longer to apply.

### 4. Livestock Must Normally Graze on Pastureland or Grazing Land

To be covered under LFP, livestock must normally graze on eligible grazing land or pastureland.<sup>77</sup>

#### *a. Eligible Grazing Routines and Habitat*

The required grazing routines for eligible livestock vary depending on whether the grazing loss is a result of drought or fire.

#### **(i) Required Grazing Routines for Losses Due to Drought**

For a grazing loss resulting from a drought to be eligible for LFP, the livestock must be livestock that would normally have been grazing on eligible pastureland or grazing land during the county’s normal grazing period for that specific type of pastureland or grazing land.<sup>78</sup>

<sup>74</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(c) (2019)); LFP Handbook, page 2-30, para. 25.C (Sept. 11, 2019).

<sup>75</sup> 83 Fed. Reg. 49,459, 49, 466 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.202, “Grazing animals” (2019)); LFP Handbook, page 2-127, para. 56.C (Sept. 11, 2019).

<sup>76</sup> 83 Fed. Reg. 49,459, 49,460 and 49, 467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(c)(5)-(6) (2019)); LFP Handbook, Exhibit 2, page 3, “Grazing animals” (Sept. 11, 2019).

<sup>77</sup> 7 C.F.R. § 1416.204(a)(2) (2019); LFP Handbook, page 2-19, para. 25.A (Sept. 11, 2019).

<sup>78</sup> 7 C.F.R. § 1416.204(a)(2)(i) (2019); LFP Handbook, page 2-19, para. 25.A (Sept. 11, 2019).

## **(ii) Required Grazing Routines for Losses Due to Fire**

For a grazing loss resulting from a qualifying fire to be eligible for LFP, the livestock must be livestock that would normally have been grazing on the pastureland or grazing land at the time when the federal agency prohibited use of the rangeland because of the fire.<sup>79</sup>

## **(iii) Livestock in Feedlots Because of a Qualifying Drought or Fire**

Although, as described below, livestock that are placed in feedlots are generally ineligible for LFP payments, if—due to a qualifying drought or fire—livestock are placed in a feedlot earlier than would be typical for the farmer's business operation, the livestock may be covered under LFP if all other LFP eligibility requirements are met.<sup>80</sup>

### ***b. Ineligible Grazing Habitat—Livestock in Feedlots***

FSA determines the LFP-eligibility of livestock that are placed in feedlots on a case-by-case basis.<sup>81</sup> In general, however, livestock are ineligible for LFP if—on the beginning date of the eligible drought or fire—they were, or would have been, in feedlots as part of the farmer's normal business operations (and not as a result of the drought or fire).<sup>82</sup>

For example, livestock will not be eligible for LFP if they were or would have been physically located in a feedlot in order to be fattened for slaughter as part of the farmer's operations either on, before, or after the beginning date of a qualifying drought or fire.<sup>83</sup>

## **5. Eligible Relationships between Livestock and Farmer**

In order to qualify for LFP, livestock must generally be under the control of an eligible farmer—either through ownership or a contractual agreement—immediately prior to an eligible drought or fire.<sup>84</sup> However, in the case of a qualifying drought, livestock that are sold or disposed of by the farmer may still be eligible for LFP benefits.<sup>85</sup>

### ***a. Farmer Control over Livestock***

To be eligible for LFP, livestock must—during the sixty days prior to the beginning of a qualifying drought or fire—be owned, cash- or share-leased, purchased, or be the subject of a contract to purchase or grow by an eligible farmer.<sup>86</sup>

<sup>79</sup> 7 C.F.R. § 1416.204(a)(2)(ii) (2019); LFP Handbook, page 2-19, para. 25.A (Sept. 11, 2019).

<sup>80</sup> LFP Handbook, page 2-32, para. 25.D (Sept. 11, 2019).

<sup>81</sup> LFP Handbook, page 2-31, para. 25.D (Sept. 11, 2019).

<sup>82</sup> 7 C.F.R. § 1416.204(a)(6), (c)(1) (2019); LFP Handbook, page 2-31, para. 25.D (Sept. 11, 2019).

<sup>83</sup> LFP Handbook, page 2-31, para. 25.D (Sept. 11, 2019).

<sup>84</sup> 7 C.F.R. §§ 1416.202, "Covered livestock," 1416.204(a)(3)(i) (2019); LFP Handbook, page 2-19, para. 25.A (Sept. 11, 2019).

<sup>85</sup> 7 C.F.R. §§ 1416.202, "Covered livestock," 1416.204(a)(3)(ii) (2019); LFP Handbook, page 2-19, para. 25.A (Sept. 11, 2019).

<sup>86</sup> 7 C.F.R. § 1416.204(a)(3)(i) (2019); LFP Handbook, page 2-19, para. 25.A (Sept. 11, 2019).

### ***b. Sold or Disposed of Due to Drought—Mitigated Livestock***

Livestock that would normally be grazing eligible pastureland or grazing land can also be eligible for LFP if the farmer sells or otherwise disposes of the livestock because of a drought condition.<sup>87</sup>

FSA calls livestock sold or disposed of under these circumstances mitigated livestock.<sup>88</sup> The definition of mitigated livestock can be complicated. In general, it is based on when livestock were sold. In order to qualify, the livestock must meet one of two requirements.

First, livestock that were sold during the sixty calendar days before the beginning of a qualifying drought are mitigated livestock and eligible for LFP benefits.

Second, livestock that were sold prior to sixty calendar days before the beginning of a qualifying drought can sometimes be eligible for LFP benefits. For this to happen, the county must have been suffering from what FSA calls a systemic drought from the previous calendar year.<sup>89</sup> In addition, the county must have had a qualifying drought, under the LFP rules, in the program year immediately before the current program year.<sup>90</sup> In addition, during the week the livestock were sold, the county had a drought rating of at least D2 by the U.S. Drought Monitor. Other rules apply as well.<sup>91</sup> The FSA handbook gives several examples of how mitigated livestock are defined.<sup>92</sup>

Farmers are not eligible for LFP assistance from mitigated livestock that were sold or disposed of due to fire.<sup>93</sup>

## **6. Eligible Uses for Livestock**

For purposes of LFP, the following rules outline the eligible and ineligible uses for livestock.

<sup>87</sup> 7 C.F.R. §§ 1416.202, “Covered livestock,” 1416.204(a)(3)(ii) (2019); LFP Handbook, page 2-21, para. 25.B (Sept. 11, 2019).

<sup>88</sup> LFP Handbook, pages 2-21 and 2-22, para. 25.B (Sept. 11, 2019). Livestock that are sold or disposed of in the current program year are called “current year mitigated livestock,” and livestock that were sold or disposed of during the prior year or two program years immediately preceding the current one or called “prior year mitigated livestock.”

<sup>89</sup> A systemic drought exists when the U.S. Drought Monitor notes that drought conditions are continuous from the previous year. LFP Handbook, page 2-21, para. 25.B (Sept. 11, 2019).

<sup>90</sup> FSA rules do not define a program year for purposes of LFP. For some other programs, FSA makes clear that a program year runs from October 1 to September 30. So, the 2019 program year would be from October 1, 2018, to September 30, 2019. See 1-ELAP, Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program, Exhibit 2, page 9, “Program year” (April 25, 2019).

<sup>91</sup> LFP Handbook, page 2-21, para. 25.B (Sept. 11, 2019).

<sup>92</sup> LFP Handbook, page 2-21 to 2-30, para. 25.B (Sept. 11, 2019).

<sup>93</sup> LFP Handbook, page 2-22, para. 25.B (Sept. 11, 2019).

### ***a. Eligible Livestock Uses***

As of the beginning date of the qualifying drought or fire, the livestock must have been maintained for commercial use or be produced or maintained for producing livestock products for commercial use.<sup>94</sup>

Commercial use is defined as use in a business operation that is a means of livelihood for profit by the eligible farmer.<sup>95</sup> The livestock that are produced or maintained for commercial production must be a part of the contract grower's or livestock owner's farming operation.<sup>96</sup> Livestock raised for other purposes, including recreational purposes, are not eligible. FSA says that recreational purposes include: (1) consumption by the owner; (2) hunting, (3) use as pets, (4) pleasure, (5) roping, or (6) use as show animals.

### ***b. Ineligible Livestock Uses***

Animals produced or maintained for any reason other than as part of the farmer's farming operation are not eligible for LFP payments.<sup>97</sup>

Examples of purposes that would make livestock ineligible for LFP payments include, but are not limited to, what FSA calls "recreational purposes."<sup>98</sup> This means that that livestock which are used for roping, hunting, show, pleasure, as pets, or for consumption by the owner are not eligible for LFP.

## **D. Grazing Land Eligibility**

To receive assistance under LFP, farmers must have suffered grazing losses on eligible grazing land.

### **1. Eligible Grazing Land for Losses Due to Drought**

All of the following types of land are eligible grazing lands under LFP for losses that were the result of a qualifying drought.

#### ***a. State and Federal lands***

State and federal lands can be eligible for LFP so long as the lands are either leased on a long-term basis requiring lessee contribution (such as contributions for wells, fences, or other maintenance and upkeep inputs), or leased for a cash or a fixed amount for an established grazing period.<sup>99</sup>

<sup>94</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(a)(4) (2019)); LFP Handbook, page 2-19, para. 25.A, 2-30, par. 25.C (Sept. 11, 2019). Dairy cows producing milk are an example of livestock that are maintained to produce products for commercial use. 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(a)(4) (2019)).

<sup>95</sup> 7 C.F.R. § 1416.202, "Commercial use" (2019);

<sup>96</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(a)(4) (2019)); LFP Handbook, page 2-19, para. 25.A (Sept. 11, 2019).

<sup>97</sup> 7 C.F.R. § 1416.204(a)(5) (2019); LFP Handbook, page 2-20, para. 25.A (Sept. 11, 2019).

<sup>98</sup> 7 C.F.R. § 1416.204(a)(5) (2019); 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.204(c)(9) (2019)); LFP Handbook, page 2-30, para. 25.C (Sept. 11, 2019).

<sup>99</sup> LFP Handbook, page 2-34, para. 26.B (Sept. 11, 2019).



***b. Privately Owned Pasturelands or Rangelands***

Privately owned pasturelands or rangelands that are cash- or share-leased and used to provide grazing for covered livestock, are eligible for LFP.<sup>100</sup>

***c. Lands Enrolled in the Grassland Reserve Program***

Lands that are enrolled in the Grassland Reserve Program (GRP), and are seeded to an eligible grazing type, are eligible for LFP so long as the grazing loss occurs during a time period for which GRP does not prohibit grazing.<sup>101</sup>

***d. Previously Irrigated Grazing Lands***

Grazing lands that were previously irrigated are eligible for LFP so long as they were not irrigated during the current production year, the reason irrigation was not used was lack of an adequate water supply, and that lack of water was beyond the farmer's control.<sup>102</sup>

***e. Lands Enrolled in the Environmental Quality Incentives Program***

Lands that are enrolled in the Environmental Quality Incentives Program (EQIP), and are seeded to an eligible grazing type, are eligible for LFP so long as the grazing loss occurs during a time period for which EQIP does not prohibit grazing.<sup>103</sup>

**2. Eligible Grazing Land for Losses Due to Fire**

Some special rules apply to grazing losses that are the result of fire.

***a. State and Federal Lands***

When a grazing loss is the result of a fire, only state and federal pasturelands and grazing lands are eligible for LFP benefits.<sup>104</sup> To qualify, the state or federal lands must be leased on either a long-term basis requiring lessee contribution (such as contributions for wells, fences, or other maintenance and upkeep inputs), or leased for a cash or a fixed amount for an established grazing period.

<sup>100</sup> LFP Handbook, page 2-34, para. 26.B (Sept. 11, 2019).

<sup>101</sup> LFP Handbook, page 2-34, para. 26.B (Sept. 11, 2019). Eligible grazing types include, but are not limited to, the following: nonirrigated improved or native pasture with permanent vegetative cover; nonirrigated short or long season small grain crops planted specifically to provide grazing for covered livestock; nonirrigated annual ryegrass or crabgrass planted specifically to provide grazing for covered livestock; and forage sorghum crops planted specifically to provide grazing for covered livestock. LFP Handbook, page 2-48, para. 27.C (Sept. 11, 2019).

<sup>102</sup> LFP Handbook, page 2-34, para. 26.B (Sept. 11, 2019).

<sup>103</sup> LFP Handbook, page 2-34, para. 26.B (Sept. 11, 2019). Eligible grazing types include, but are not limited to, the following: nonirrigated improved or native pasture with permanent vegetative cover; nonirrigated short or long season small grain crops planted specifically to provide grazing for covered livestock; nonirrigated annual ryegrass or crabgrass planted specifically to provide grazing for covered livestock; and forage sorghum crops planted specifically to provide grazing for covered livestock. LFP Handbook, page 2-48, para. 27.C (Sept. 11, 2019).

<sup>104</sup> 7 C.F.R. § 1416.203(a)(2)(ii) (2019); LFP Handbook, page 2-35, para. 26.C (Sept. 11, 2019).

### ***b. Signed Agreements***

When a grazing loss is the result of a fire, and the land is leased, the farmer must provide the written acreage lease or rental agreement.<sup>105</sup> If the land is subleased, a copy of the sublease must be provided.

If there is a Bureau of Land Management (BLM) grazing permit or lease, a copy of the permit or lease must be provided.<sup>106</sup> In some cases, the final bill or invoice will be required.<sup>107</sup>

If a Forest Service (FS) grazing permit or lease is involved, a copy of the permit or lease must be provided.<sup>108</sup> In some cases, the final bill or invoice will be required.

If the land is leased from the state or is a state land sublease, a copy of the lease and any sublease must be provided.<sup>109</sup>

### ***c. Risk of Loss for Federal Land***

The farmer must have risk in the pastureland or grazing land that is managed by a federal agency.<sup>110</sup> The farmer, in other words, must be at risk of a loss of production on that land.

## **3. Ineligible Grazing Land**

FSA considers the following types of land ineligible for LFP assistance, regardless of whether the loss was due to drought or fire.

### ***a. Acreage Enrolled in the Conservation Reserve Program***

In general, land enrolled in the Conservation Reserve Program (CRP) that are used for haying or grazing are ineligible for LFP.<sup>111</sup> This rule does not apply if the CRP conservation allows grazing during the normal grazing period.<sup>112</sup>

### ***b. Acreage Enrolled in the Wetlands Reserve Program***

Lands enrolled in the Wetlands Reserve Program (WRP) are ineligible for LFP.<sup>113</sup>

<sup>105</sup> LFP Handbook, page 2-35, para. 26.C (Sept. 11, 2019).

<sup>106</sup> LFP Handbook, page 2-35, para. 26.C (Sept. 11, 2019).

<sup>107</sup> LFP Handbook, page 2-35, para. 26.C (Sept. 11, 2019). The Handbook appears to refer to the rules found at LFP Handbook, pages 2-38 to 2-44, para. 26.E (Sept. 11, 2019).

<sup>108</sup> LFP Handbook, page 2-35, para. 26.C (Sept. 11, 2019). The Handbook also references the rules found at LFP Handbook, pages 2-38 to 2-44, para. 26.E (Sept. 11, 2019).

<sup>109</sup> LFP Handbook, page 2-35, para. 26.C (Sept. 11, 2019).

<sup>110</sup> LFP Handbook, pages 2-35 and 2-36, para. 26.C, E (Sept. 11, 2019).

<sup>111</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at either 7 C.F.R. § 1416.205(b)(1) (2019)); LFP Handbook, page 2-36, para. 26.D (Sept. 11, 2019). However, land enrolled in CRP may still be eligible for LFP if all of the following are met: (1) the land is native or improved pastureland with permanent vegetative cover; (2) the land is not a first year seeding biennial or perennial forage crop intended for grazing; (3) the land is not devoted to pollinator habitat (Practice CP42) that does not allow for grazing; and (4) the land is grazed only, and not mechanically harvested at any time during the normal grazing period in a calendar year. The statutes governing the Conservation Reserve Program can be found at 16 U.S.C. §§ 1381-1385a.

<sup>112</sup> See LFP Handbook, page 2-36, para. 26.D (Sept. 11, 2019).

<sup>113</sup> LFP Handbook, page 2-37, para. 26.D (Sept. 11, 2019). Regulations governing wetland conservation can be found at 7 C.F.R. pt. 12 (2019).

***c. Irrigated Pastureland or Cropland***

In general, pastures or cropland that are irrigated are not eligible for LFP.<sup>114</sup> In some cases land that would have been irrigated, but was not, can be eligible.<sup>115</sup>

***d. Acreage Intended for Grain that is Later Grazed***

LFP does not provide assistance for losses on lands that are intended for grains—such as corn, sorghum, annual ryegrass, and annual crabgrass—when the stalks or aftermath are grazed.<sup>116</sup>

***e. Small Grain Forage Crops or Forage Sorghum Crops for Seed***

LFP does not cover some seeded small grain forage crops or forage sorghum crops.<sup>117</sup> In particular, seeded small grain forage crops do not qualify if they are planted after the final planting date for the planting period.<sup>118</sup>

***f. Cover Crops***

Any lands that are planted in a cover crop are not eligible for LFP.<sup>119</sup>

***g. First Year Seeded Biennial or Perennial Forage Crop***

Any lands that are planted with a first year seeded biennial or perennial forage crop are not eligible for LFP.<sup>120</sup>

***h. Any Unapproved Double Cropped Acreage Combinations***

Double cropped acreage combinations that are not approved by FSA are not eligible for LFP.<sup>121</sup>

***i. Certain Leased Grazing Land***

Grazing land that is leased may be eligible.<sup>122</sup> The lease must convey at least some control to the farmer. The farmer leasing land must also be at risk of loss of production of forage on the grazing land or pastureland crop acreage.<sup>123</sup>

<sup>114</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(b)(2) (2019)); LFP Handbook, page 2-37, para. 26.D (Sept. 11, 2019).

<sup>115</sup> A grazing loss may be eligible for LFP if the irrigated grazing land was not irrigated in the year of loss because of an inadequate water supply that was beyond the farmer's control. See LFP Handbook, page 2-34, para. 26.B, and page 2-37, para. 26.D (Sept. 11, 2019).

<sup>116</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.205(a)(2) (2019)); LFP Handbook, page 2-37, para. 26.D (Sept. 11, 2019). The rules expressly exclude corn stalks and grain sorghum stalks from this rule.

<sup>117</sup> LFP Handbook, page 2-37, para. 26.D (Sept. 11, 2019). Seeded small grain forage crops include: barley, oats, rye, triticale, and wheat. LFP Handbook, page 2-33, para. 26.B (Sept. 11, 2019).

<sup>118</sup> LFP Handbook, page 2-37, para. 26.D (Sept. 11, 2019).

<sup>119</sup> LFP Handbook, page 2-37, para. 26.D (Sept. 11, 2019).

<sup>120</sup> LFP Handbook, page 2-37, para. 26.D (Sept. 11, 2019).

<sup>121</sup> LFP Handbook, page 2-37, para. 26.D (Sept. 11, 2019).

<sup>122</sup> LFP Handbook, page 2-38, para. 26.E (Sept. 11, 2019).

<sup>123</sup> The FSA Handbook discusses these lease requirements in further detail. See LFP Handbook, pages 2-38 to 2-41, para. 26.E (Sept. 11, 2019).

### III. LFP Sign-Up Process

As a general rule, LFP benefits can only be sought for those calendar years in which an eligible grazing loss occurred.<sup>124</sup> To apply for LFP, farmers must meet the following guidelines, which outline the timeframe in which farmers can apply, as well as the specific application requirements.

#### A. Sign-Up Timeframe

Unlike with other FSA programs, there is no general signup period for LFP.<sup>125</sup> Instead, farmers may apply for LFP assistance only after they have filed a valid crop acreage report and their respective counties have experienced a qualifying drought or fire.

FSA may sometimes announce that a county is having a with a qualifying drought or that federal Agency is prohibiting grazing on managed rangeland due to a fire.<sup>126</sup>

#### B. Application for Payment

To apply for LFP benefits, a livestock farmer must file a completed application for payment (on Form CCC-853) and all required supporting documentation, as outlined below.<sup>127</sup> Farmers must apply no later than thirty calendar days after the end of the calendar year in which the grazing loss was suffered.<sup>128</sup>

If a grazing loss spans more than one calendar year, the Handbook suggests that the farmer must file an application for payment for each calendar year in which the effects of the grazing loss were suffered.<sup>129</sup> This would occur if, for example, a disaster strikes in one year, but the a effect of that diaster disrupts the farmer's grazing for the following year as well.

To take an example from the Handbook, suppose a fire occurred on Federally-managed rangeland on July 24, 2019.<sup>130</sup> Due to the fire, a farmer was prohibited from grazing livestock from July 24, 2019 through December 31, 2019, and again prohibited from grazing into 2020. Because the farmer's grazing loss extended into two different calendar years, the farmer would need to file an application for payment for 2019 as well as for 2020.

FSA may deny payment to anyone who does not meet the required application deadlines.<sup>131</sup> A farmer may, however, make a written request for late-filing, and FSA has the discretion to grant or deny such a request. The basis for such an approval is not clear from the FSA Handbook.

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<sup>124</sup> LFP Handbook, page 2-7, para. 23.A, and page 2-11, para. 23.C (Sept. 11, 2019).

<sup>125</sup> LFP Handbook, page 2-4, para. 22.A (Sept. 11, 2019).

<sup>126</sup> LFP Handbook, page 2-4, para. 22.A (Sept. 11, 2019).

<sup>127</sup> 7 C.F.R. § 1416.206(b)(2); LFP Handbook, page 2-4, para. 22.B (Sept. 11, 2019). To access form CCC-853, visit: <https://forms.sc.egov.usda.gov/eForms/searchAction.do>.

<sup>128</sup> 7 C.F.R. § 1416.206(b)(2); LFP Handbook, page 2-4, para. 22.B(Sept. 11, 2019).

<sup>129</sup> LFP Handbook, page 2-11, para. 23.C (Sept. 11, 2019).

<sup>130</sup> LFP Handbook, page 2-11, para. 23.C, Example 2 (Sept. 11, 2019).

<sup>131</sup> LFP Handbook, page 2-5, para. 22.C (Sept. 11, 2019).



#### IV. LFP Payments

LFP payments are based upon the farmer's monthly feed cost, as calculated by FSA, as well as either the severity and length of the drought, or the length of time the farmer is not permitted to graze normally due to a fire.<sup>132</sup> The following sections outline how LFP payments are calculated.

##### A. Monthly Feed Costs and Payment Rates

The monthly feed cost used to determine a farmer's LFP payment is based, in part, on the equivalent amount of corn, in pounds, that would be needed to provide the farmer's livestock with adequate energy for thirty calendar days.<sup>133</sup> FSA uses animal units to determine the monthly payment rate per head of that type of livestock.<sup>134</sup>

The Federal Regulations describe, in detail, how the monthly feed figures are calculated.<sup>135</sup> The Handbook provides a chart that outlines the monthly payment rates for each type of LFP-eligible livestock.<sup>136</sup> As an example, the 2019 monthly payment rates per head of eligible livestock include the following.

<b>2019 Monthly Payment Rates per Head of Eligible Livestock</b>			
<b>Livestock</b>	<b>Type</b>	<b>Weight Range</b>	<b>Monthly Payment Rate (per head)</b>
<b>Beef</b>	Adult Cow/Bull		\$29.34
<b>Dairy</b>	Adult Cow/Bull		\$76.29
<b>Beefalo</b>	Adult Cow/Bull		\$29.34
<b>Buffalo/Bison</b>	Adult Cow/Bull		\$29.34
<b>Sheep</b>	All		\$7.34
<b>Goats</b>	All		\$7.34
<b>Deer</b>	All		\$7.34
<b>Equine</b>	All		\$21.71
<b>Elk</b>		All	\$15.85
<b>Reindeer</b>		All	\$6.46
<b>Alpacas</b>		All	\$24.17
<b>Emus</b>		All	\$15.02
<b>Llamas</b>		All	\$10.71

<sup>132</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207 (2019)); LFP Handbook, page 2-126, para. 56.C (Sept. 11, 2019).

<sup>133</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207 (2019)); LFP Handbook, page 2-126, para. 56.C (Sept. 11, 2019).

<sup>134</sup> LFP Handbook, page 2-127, para. 56.C (Sept. 11, 2019).

<sup>135</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207 (2019)).

<sup>136</sup> LFP Handbook, page 2-127, para. 56.C (Sept. 11, 2019).

To determine a farmer's total monthly feed cost, the payment rate for each head of eligible livestock is multiplied by the total number of eligible livestock of each type.<sup>137</sup>

## **B. LFP Payments**

A farmer's ultimate LFP payment is based on a percentage of the monthly feed cost for all of the farmer's eligible livestock. This percentage is different depending on whether the eligible loss was caused by drought or fire.<sup>138</sup>

### **1. Payments for Drought Losses**

LFP payments for drought losses are calculated on a monthly basis.<sup>139</sup> The monthly payment equals 60 percent of the lesser of: (a) the monthly feed cost for all covered livestock owned or leased by the farmer, as calculated using FSA's monthly payment rates described above; or (b) the monthly feed cost calculated by using the normal carrying capacity of the farmer's eligible grazing land.<sup>140</sup>

#### ***a. Calculating LFP Payments Based on Monthly Feed Cost***

To determine the monthly payment based on FSA's monthly feed cost, multiply the monthly payment rate for each kind of covered livestock (as described above) by the number of head of that kind of livestock.<sup>141</sup> Combine the monthly payments for each eligible livestock to get the total monthly payment for the farmer.

To take an example from the Handbook, suppose a farmer has 100 head of adult beef cattle and the monthly payment rate for adult beef cattle is \$29.34.<sup>142</sup> The monthly payment would be 100 x \$29.34, or \$2,934. Assuming this monthly payment is less than the monthly payment calculated using the normal carrying capacity of the land (described below), the farmer's LFP monthly loss payment rate would be 60 percent of the total, or \$1,760 per month.<sup>143</sup>

#### ***b. Calculating LFP Payments Based on Normal Carrying Capacity***

Determining a farmer's monthly payment based on the normal carrying capacity of the farmer's land requires the following steps.<sup>144</sup> First, divide the number of eligible acres of grazing land or pastureland by the normal carrying capacity of the specific type of grazing land or pastureland. Second, multiply that number by the daily feed costs for the livestock, which are set by FSA. Third, multiply that number by 30 days.

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<sup>137</sup> LFP Handbook, page 2-127, para. 56.C (Sept. 11, 2019).

<sup>138</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(f), (m) (2019)).

<sup>139</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(f), (i), (l) (2019)); LFP Handbook, pages 2-128 and 2-129, para. 56.D (Sept. 11, 2019).

<sup>140</sup> The normal carrying capacity of a farmer's grazing land is defined as "the normal carrying capacity that would be expected from the grazing land or pastureland for livestock during the normal grazing period in the county, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland. LFP Handbook, Exhibit 2, page 4, "Normal carrying capacity" (Sept. 11, 2019).

<sup>141</sup> LFP Handbook, page 2-128, para. 56.D (Sept. 11, 2019).

<sup>142</sup> LFP Handbook, page 2-128, para. 56.D (Sept. 11, 2019).

<sup>143</sup> LFP Handbook, page 2-129, para. 56.D (Sept. 11, 2019).

<sup>144</sup> LFP Handbook, page 2-129, para. 56.D (Sept. 11, 2019). The Federal Regulations outline a more detailed procedure for determining the monthly payment based on the normal carrying capacity of

To use an example from the Handbook, suppose a farmer has 1,000 acres of eligible grazing land, and the normal carrying capacity is 5 acres per animal unit (AU).<sup>145</sup> The farmer grazes adult beef cattle, which have a daily feed cost of \$0.9781 per head. The farmer's monthly payment calculation would look as follows:

**Step 1:** 1,000 (eligible acres) ÷ 5 (normal carrying capacity) = 200 acres

**Step 2:** 200 (acres per AU) x \$0.9781 (daily feed cost) = \$195.62 daily feed cost

**Step 3:** \$195.62 x 30 (days) = \$5,869 monthly feed cost.

Because this feed cost based on carrying capacity is greater than the monthly feed cost described above, the farmer's LFP monthly payment rate would be 60 percent of the \$2,934 monthly feed cost, or \$1,760.

### ***c. Monthly Payments for Mitigated Livestock—Drought Only***

The monthly payment rate for mitigated livestock is less than that for non-mitigated livestock losses. For eligible mitigated livestock that were sold or otherwise disposed of—due to a qualifying drought that occurred in one or both of the two preceding production years—LFP will pay 80 percent of the LFP monthly payment rate.<sup>146</sup>

In other words, to calculate the LFP monthly payment rate for mitigated livestock, a farmer should first determine the lesser of either the monthly feed cost for the livestock or the monthly payment rate based on land's normal carrying capacity. Once that is calculated, the farmer should take 80 percent of that amount in order to determine the mitigated livestock monthly payment rate.

## **2. Payments for Losses Due to Fire**

LFP payments for grazing losses due to fire on federally-managed rangeland are calculated by taking 50 percent of the total daily feed cost for the days—not to exceed 180 calendar days—during which a farmer's covered livestock are prohibited from grazing on rangeland.<sup>147</sup> Payments for losses due to fire are also subject to a maximum LFP payment.

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grazing land or pastureland. See 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(l) (2019)).

<sup>145</sup> LFP Handbook, page 2-129, para. 56.D (Sept. 11, 2019).

<sup>146</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(h) (2019)); LFP Handbook, page 2-126, para. 56.B (Sept. 11, 2019).

<sup>147</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(m) (2019); LFP Handbook, page 2-137, para. 57.A (Sept. 11, 2019).

Calculating a farmer's LFP payment for a grazing loss due to fire requires four steps. First, take the LFP monthly payment rate per head of each kind of covered livestock and prorate it to a daily rate by dividing the monthly rate by thirty.<sup>148</sup> Next, multiply the daily rate by the number of livestock covered under the farmer's federal grazing lease in order to determine a total daily feed cost for each kind of covered livestock. Third, multiply the total daily feed cost by the number of calendar days—up to 180—for which the covered livestock are prohibited from grazing on the rangeland.<sup>149</sup> Finally, take 50 percent of the total to determine the farmer's LFP payment amount.

As an example from the Handbook, suppose in 2019 a farmer normally grazes 75 head of beef cattle on federally-managed rangeland.<sup>150</sup> Due to a qualifying fire, the farmer is only able to graze the cattle for 110 days, instead of the 180 days that are permitted. The monthly per-head payment rate for adult cattle in 2019 is \$29.34. The daily prorated rate would therefore equal \$29.34 divided by 30 days, or \$0.978 per head, per day. That number is then multiplied by the number of covered beef cattle—75 head—to determine the daily rate for all of the farmer's beef cattle. The beef cattle daily rate is then multiplied by 110 days, and the resulting total is multiplied by 50% in order to determine the farmer's LFP payment.

This farmer's LFP payment calculation would look as follows:

**Step 1:** \$29.34 (monthly per-head rate) ÷ 30 (days) = \$0.9781 per head per day

**Step 2:** 75 (cattle) x \$0.9781 /day = \$73.358 per day for the farmer's beef cattle

**Step 3:** \$73.358 x 110 days = \$8,069.38

**Step 4:** \$8,069.38 x 0.50 (percent) = \$4,035.

The farmer in this example would therefore be eligible for an LFP monthly payment of \$4,035.<sup>151</sup>

### C. Payment Periods

The total amount of LFP payments that a farmer can receive is determined by either the duration and severity of the eligible drought, or the duration of the eligible fire. For both losses due to drought and fire, there are maximum LFP payment amounts that farmers are eligible to receive.

<sup>148</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(m)(3) (2019)).

<sup>149</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(m)(1) (2019)); LFP Handbook, page 2-137, para. 57.A (Sept. 11, 2019). The calendar-day count begins on the first day that the farmer is prohibited from grazing and ends on either the last day of the farmer's federal lease, or 180 calendar days later, whichever is earlier.

<sup>150</sup> LFP Handbook, page 2-138, para. 57.A (Sept. 11, 2019).

<sup>151</sup> LFP Handbook, page 2-138, para. 57.A (Sept. 11, 2019).

## 1. Payment Period for Losses Due to Drought

For grazing losses due to drought, farmers are eligible to receive either a one-month, three-month, four-month, or five-month payment that is based on the monthly feed cost for all of the farmer's covered livestock.<sup>152</sup> An eligible farmer cannot receive more than a five-month payment, in any calendar year, for the same covered livestock.<sup>153</sup>

The total payment for which a farmer is eligible to receive depends on the severity of the drought.<sup>154</sup>

### ***a. Severe (D2) Drought for Eight Weeks—One-Month Payment***

For counties rated by the U.S. Drought Monitor as experiencing severe drought (D2), in any part of the county, for at least eight consecutive weeks during the normal grazing period, the LFP benefit is equal to one monthly payment.<sup>155</sup>

### ***b. Extreme (D3) Drought at Any Time—Three-Month Payment***

For counties experiencing an extreme drought (D3), in any part of the county and at any time during the normal grazing period, the LFP benefit will be equal to three times the monthly LFP payment.<sup>156</sup>

### ***c. Exceptional (D4) Drought at Any Time or Extreme (D3) Drought for Four Weeks or More—Four-Month Payment***

For counties that experience either an exceptional drought (D4) in any area and at any time during the normal grazing period, or an extreme drought (D3) in any area for at least four weeks during the normal grazing period (whether consecutive or not), the LFP benefit will be equal to four times the monthly LFP payment.<sup>157</sup>

### ***d. Exceptional (D4) Drought for Four Weeks or More—Five-Month Payment***

For counties experiencing an exceptional drought (D4), in any part of the county, for at least four weeks (whether consecutive or not), the LFP benefit will be equal to five monthly LFP payments.<sup>158</sup>

<sup>152</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(a) (2019); LFP Handbook, page 2-125, para. 56.A (Sept. 11, 2019).

<sup>153</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(g) (2019); LFP Handbook, page 2-130, para. 56.E (Sept. 11, 2019).

<sup>154</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(b)-(d) (2019); LFP Handbook, page 2-125, para. 56.A (Sept. 11, 2019).

<sup>155</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(b) (2019); LFP Handbook, page 2-125, para. 56.A (Sept. 11, 2019).

<sup>156</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(c) (2019); LFP Handbook, page 2-125, para. 56.A (Sept. 11, 2019).

<sup>157</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(d) (2019); LFP Handbook, page 2-125, para. 56.A (Sept. 11, 2019).

<sup>158</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(e) (2019); LFP Handbook, page 2-125, para. 56.A (Sept. 11, 2019).

### ***e. Maximum Payment for Losses due to Drought***

For each type of livestock, there is a maximum payment that farmers are eligible to receive in a calendar year for grazing losses due to drought.<sup>159</sup> This maximum payment is the equivalent of five times the monthly payment rate for that livestock. In other words, once a farmer determines the applicable monthly payment rate (after comparing the monthly feed cost to the normal carrying capacity of the land and taking 60 percent of the lesser), that rate is multiplied by five in order to get the maximum LFP payment the farmer will be eligible to receive for that type of livestock in that calendar year.

The five-month payment limitation applies even if a farmer's livestock graze on multiple pastures, in multiple counties that suffer an LFP-qualifying drought.<sup>160</sup> So long as a farmer is seeking LFP benefits for the same livestock, the farmer cannot receive more than a five-month payment for those livestock, regardless of the number of eligible droughts that the farmer experiences in a calendar year, or the counties in which they occur.

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

When a farmer is prohibited from grazing livestock on federally-managed rangeland due to a fire, the LFP payment period is based on the number of calendar days the farmer is not permitted to use the rangeland for grazing.<sup>161</sup>

### ***a. Determining the Payment Period for Losses from Fire***

The LFP payment period lasts from the first day that the farmer is prohibited from grazing the rangeland until the end of the farmer's federal rangeland lease, up to a maximum of 180 calendar days per calendar year.<sup>162</sup> As described above, an eligible farmer may receive 50 percent of the total daily feed costs for the eligible payment period.

### ***b. Maximum Payment for Losses from Fire***

As with losses due to drought, there is a maximum payment that farmers are eligible to receive under LFP for losses resulting from fire.<sup>163</sup> This maximum payment is based on the permitted number of animal units (AUs) the farmer may have, as well as the normal permitted number of grazing days, as outlined in the farmer's federal grazing lease.<sup>164</sup> To calculate the maximum LFP payment, multiply the permitted number of AUs by both the permitted number of grazing days and the daily prorated per-head feed rate. Finally, take 50 percent of that total to get the farmer's maximum LFP payment.

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<sup>159</sup> LFP Handbook, page 2-130, para. 56.E (Sept. 11, 2019).

<sup>160</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(g) (2019)); LFP Handbook, page 2-137, para. 57.A (Sept. 11, 2019). Additional rules apply in this situation.

<sup>161</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(m) (2019)); LFP Handbook, page 2-137, para. 57.A (Sept. 11, 2019).

<sup>162</sup> 83 Fed. Reg. 49,459, 49,468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.207(m)(1) (2019)); LFP Handbook, page 2-137, para. 57.A (Sept. 11, 2019).

<sup>163</sup> LFP Handbook, page 2-138, para. 57.A (Sept. 11, 2019).

<sup>164</sup> LFP Handbook, page 2-138, para. 57.A, and page 2-223, para. 90.B (Sept. 11, 2019).

## **D. Payment Limitations for Duplication of Assistance and NAP**

Farmers cannot receive duplicative assistance under LFP for the same loss, nor can farmers receive benefits from multiple programs for the same loss.

### **1. Farmers Cannot Receive Duplication of Assistance Under LFP**

If a farmer is eligible for LFP assistance for grazing losses that occurred from both drought and fire—related to the same livestock and on the same land—the farmer must elect to receive assistance under either the LFP drought provisions or the LFP fire provisions.<sup>165</sup> A farmer cannot receive duplicative LFP payments for the same grazing losses on the same land.

### **2. Receiving Benefits from LFP and the Noninsured Crop Disaster Assistance Program (NAP)**

According to the most current Handbook for LFP, as well as the Federal Regulations that govern the Noninsured Crop Disaster Assistance Program (NAP), a farmer can receive benefits under both LFP and NAP.<sup>166</sup>

## **E. General Payment Limitation**

With the passing of the 2018 Farm Bill, for losses in 2019 and subsequent years, no LFP-eligible farmer, excluding a joint venture or general partnership, may receive more than \$125,000 total in any one year under LFP.<sup>167</sup> For losses in 2017 and 2018, the payment limitation of \$125,000 applies to both LFP and the Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish Program (ELAP) combined.<sup>168</sup>

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

To obtain LFP benefits for losses in 2019 and subsequent years, a farmer must file an application for payment and supporting documentation no later than thirty calendar days after the end of the calendar year in which an eligible grazing loss occurred.<sup>169</sup> The farmer's supporting documents must include the following.<sup>170</sup>

### **A. Evidence of Loss**

Evidence of the loss must be submitted.<sup>171</sup>

<sup>165</sup> LFP Handbook, page 2-3, para. 21.E (Sept. 11, 2019).

<sup>166</sup> 7 C.F.R. § 1437.14(b) (2019); LFP Handbook, page 2-3, para. 21.F (Sept. 11, 2019). FSA may think that NAP rules do not allow receiving both. See 83 Fed. Reg. 49,459, 49,459 (Oct. 2, 2018). The NAP rules, however, do not seem to limit payments in this way. See 7 C.F.R. § 1437.14(b) (2019).

<sup>167</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 1501(e) (Dec. 20, 2018) (to be codified at 7 U.S.C. § 9081(f)(2)).

<sup>168</sup> 83 Fed. Reg. 49,459, 49,459 (Oct. 2, 2018); FSA Notice LDAP-91, "Issuing 2017 ELAP Payments and Additional 2018 and 2018 LIP and LFP Payments," at 2 (April 6, 2018) (expired Oct. 1, 2019); FSA Notice LDAP-96, "Signup Deadlines for 2017 and 2018 Supplemental Disaster Assistance Programs—ELAP, LFP, and LIP," at 1 (Oct. 16, 2018) (expired May 1, 2019).

<sup>169</sup> 83 Fed. Reg. 49,459, 49,467-468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(b)(2) (2019)); LFP Handbook, page 2-4, para. 22.B and page 2-181, para. 87.A (Sept. 11, 2019).

<sup>170</sup> 83 Fed. Reg. 49,459, 49,467-68 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(b) (2019); LFP Handbook, page 2-188, para. 87.E (Sept. 11, 2019).

<sup>171</sup> 83 Fed. Reg. 49,459, 49,467-468 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(c)(1) (2019)).

**B. Report of Acreage**

A report of acreage for the grazing lands that incurred the loss for which the farmer is seeking LFP assistance must be submitted.<sup>172</sup>

**C. Current Physical Location of the Livestock in Inventory**

Farmers must submit the current physical location of their livestock in inventory.<sup>173</sup>

**D. Grower Contract—If There Is One**

If the farmer has a contract grower, the farmer must submit the grower contract.<sup>174</sup>

**E. Proof of Loss of Eligible Livestock**

Farmers must submit proof acceptable to FSA that the grazing loss was for the farmer's eligible livestock and that the loss occurred in the calendar year for which payments are being requested.<sup>175</sup>

**F. Proof that Pastureland or Grazing Land is Owned or Leased**

Evidence that the pastureland or grazing land is owned or leased must be provided.<sup>176</sup>

**G. Proof that the Farmer Was Prohibited from Grazing—Losses Due to Fire Only**

If the loss is due to fire, the farmer must submit proof that the loss was due to a fire, as well as proof that the farmer was prohibited from grazing the normal permitted livestock on the federally managed rangeland due to the fire.<sup>177</sup>

**H. Highly Erodible Land and Wetland Conservation Certification**

A certification of highly erodible land and wetland conservation must be submitted.<sup>178</sup> The farmer has up until the time a payment is issued to submit this form.

**I. Member Information Form—For Legal Entities**

If a legal entity is applying for LFP benefits, a member information form must be submitted.<sup>179</sup> The farmer has up until the time a payment is issued to submit this form.

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<sup>172</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(c)(4) (2019)); LFP Handbook, page 2-188, para. 87.E (Sept. 11, 2019).

<sup>173</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(c)(2) (2019)).

<sup>174</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(c)(7) (2019)); LFP Handbook, page 2-188, para. 87.E (Sept. 11, 2019).

<sup>175</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(c)(5) (2019)).

<sup>176</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(c)(3) (2019)); LFP Handbook, page 2-188, para. 87.E (Sept. 11, 2019).

<sup>177</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(c)(5) (2019)); LFP Handbook, page 2-188, para. 87.E (Sept. 11, 2019).

<sup>178</sup> LFP Handbook, page 2-188, para. 87.E (Sept. 11, 2019). The Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification is form AD-1026, available at: <https://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>

<sup>179</sup> LFP Handbook, page 2-188, para. 87.E (Sept. 11, 2019). The Member's Information form is CCC-901.



**J. Farm Operating Plan**

A farm operating plan must be submitted.<sup>180</sup> Some farmers will already have one on file with FSA. The farmer has up until the time a payment is issued to submit this form.

**K. Other Supporting Documents**

Other supporting documents may be required by FSA.<sup>181</sup>

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<sup>180</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(c)(6) (2019)); LFP Handbook, page 2-188, para. 87.E (Sept. 11, 2019). The applicable farm operating plan is form CCC-902.

<sup>181</sup> 83 Fed. Reg. 49,459, 49,467 (Oct. 2, 2018) (codified at 7 C.F.R. § 1416.206(c)(7) (2019)). This additional supporting documentation could include things like veterinarian records, bank or other loan papers, FEMA records, National Guard records, private insurance documents, sales records, and more.