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Livestock Indemnity Program Under the 2008 Farm Bill

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This NebGuide details the eligibility requirements and rules for producers interested in applying for Livestock Indemnity Program benefits.

Introduction

The Food, Conservation, and Energy Act of 2008, better known as the 2008 farm bill, became law on June 18, 2008. The bill contained 15 titles of legislation, including specific titles on Livestock and Crop Insurance, for the first time. The new language addresses issues and concerns facing the livestock industry and includes supplemental financial assistance to producers with losses resulting from agricultural disasters.

Under Title XII and Title XV of the 2008 farm bill, Congress established Supplemental Agricultural Disaster Assistance to provide standing authority for assistance to crop and livestock producers with financial and production losses arising from agricultural disasters. Producers may be covered for losses that occur between January 1, 2008 and October 1, 2011. The assistance programs include:

- Supplemental Revenue (SURE) Assistance Program for crop revenue losses;
- Livestock Indemnity Program (LIP) for livestock death losses;
- Livestock Forage Disaster Program (LFP) for grazing land losses;
- Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish (ELAP); and
- Tree Assistance Program (TAP) for commercial tree losses.

Each individual program contains specific requirements and regulations producers must meet in order to be eligible and qualify for disaster assistance payments. This NebGuide addresses the overview and mechanics of the Livestock Indemnity Program (LIP) as authorized in the 2008 farm bill and implemented by the USDA Farm Service Agency (FSA).

Eligible Livestock

Under the LIP, producers of the following livestock are eligible for assistance:

Alpacas	Emus
Beef cattle	Equine
Beefalo	Geese
Buffalo	Goats
Chickens	Llamas
Dairy cattle	Reindeer
Deer	Sheep
Ducks	Swine
Elk	Turkeys

In addition, contract growers of chickens, geese, swine, and turkeys are eligible for assistance if they have control and risk of loss in the animals they are raising. Coverage on eligible livestock species is extended to all weight ranges, types, and breeds. To be eligible for indemnity payments, the loss of livestock must result from death losses in excess of normal mortality, due to adverse weather, as determined by FSA.

Livestock must have died in the calendar year for which the producer requests benefits and must have been maintained for commercial use or for use on the farm. Producers cannot qualify for assistance on livestock maintained for recreational purposes, including those kept for hunting, roping, pleasure, pets, and show. Additionally, free-roaming and wild animals are not covered by the program.

Livestock must also be maintained, on the date of their death, by an eligible livestock owner or contract grower. An owner and a grower cannot both collect on the same eligible livestock. Limited payments may be made to contract growers of swine and poultry, based on their contractual risk. Contract grower payments may not exceed overall contractual risk as determined by the FSA. Should a contractor pay a contract grower for animal losses, then the received amount will be deducted from the LIP payment.

Eligible Weather Events

Weather events leading to livestock losses are eligible for LIP payments. These weather events include, but may not be limited to:

- Hurricanes
- Floods
- Blizzards
- Diseases (weather-related)
- Wildfires
- Extreme heat and
- Extreme cold

Note that drought disasters are not covered by LIP since producers could take corrective measures to avoid livestock losses (i.e. purchase of replacement feed). However, losses from disease (i.e. anthrax) as a result of drought are covered. Losses due to other adverse weather or related disease conditions may be eligible for payments, as determined by the FSA. Examples may include, but are not limited to ice storms, lightning, and tornados. A specific county need not receive a disaster designation to be eligible for LIP payments.

Eligible Producers

To qualify for LIP payments, an individual or entity must:

- Assume production and market risk related to the eligible livestock as either the owner or contract grower; and
- Be a U.S. citizen or a lawful alien; and/or
- Be in a partnership of U.S. citizens or corporation or other farm business structure organized under state law.

Minor children are eligible for LIP payments, but must meet the listed provisions as well. LIP payments may also be made to deceased individuals or dissolved entities if the application for payment includes the signature of a representative authority, with power to enter into contracts, on behalf of the program participant.

If the representative signs on behalf of a deceased participant or dissolved entity, he or she must also provide proof of authority. For dissolved partnerships and joint-ventures, all previous members of the organization at the time of dissolution or their duly authorized representatives must sign the application form.

Trigger Events and Application

There is no general sign-up period for LIP. Eligibility for program payments and sign-up begins when an eligible disaster triggers the loss of livestock in excess of normal mortality. When a loss occurs, you must file a notice of loss with FSA within 30 days of when the loss of livestock is apparent or 30 calendar days after the end of the calendar year in which livestock are lost, whichever comes first.

For losses prior to when the program rules became effective, there are special rules. If the loss occurred in 2008 or between January 1 and July 12 of 2009, notice of loss must be made to the local FSA office by Sept. 13, 2009. For losses occurring on or after July 13, 2009, the normal 30-day notice provisions apply.

After submitting a notice of loss, the eligible producer must also submit an application for program payment with the local FSA office no later than 30 calendar days after the end of the year in which losses occurred. Again, due to the timing of program implementation, the deadline for application for payment is Sept. 13, 2009 for losses that occurred in 2008. For applicants that own livestock, the following must also be submitted to document losses:

- Evidence of loss
- Physical location of claimed livestock at the time of death
- Current physical location and numbers of livestock in inventory to establish actual mortality as required by FSA
- Adequate proof of death directly resulting from an eligible adverse weather event that occurred in the calendar year for which the benefits are requested
- The quantity and kind of livestock that died as documented by:
  - Purchase records
  - Vet records
  - Bank or other loan papers
  - Rendering receipts
  - FEMA records
  - National Guard records
  - IRS records
  - Property tax records
  - Private insurance documents
  - Other similar verifiable documents as determined by FSA

If proof of death is not available, a producer may submit reliable records in conjunction with verifiable beginning and ending inventory records. Reliable records include but are not limited to:

- Dairy herd improvement records
- Brand inspection records
- Vaccination records
- Pictures
- Other similar reliable documents as determined by the FSA

For contract growers, a copy of the contract agreement and other documents establishing their status as a grower is also required.

If adequate documentation on proof of death and inventory is not available, a third party (e.g. veterinarian, consultant, lender, etc.) may certify the livestock deaths. With third-party certification, the producer must:

- Certify in writing there are no other verifiable or reliable documents of death available;
- Certify in writing the number of livestock, by category, that were in inventory at the time the applicable adverse weather event occurred;
- Certify in writing the physical location of the livestock, by category, in inventory at the time of loss; and
- Other details, in writing, as required by FSA.

In addition, the third-party certification must be made by a person who submits in writing to the FSA, a detailed account of:

- His or her knowledge of the livestock deaths;
- His or her affiliation to the livestock owner;
- Accuracy of the death claimed by the livestock owner or contract grower to include (but not limited to) the number and kind or type of the participant's livestock that died;
- Personal information to include name, address, and phone number; and
- Other data as required by the FSA.

Third-party verification must be made by an independent source and not by someone affiliated to the farming operation, such as a hired hand or family member.

Livestock Indemnity Program Payments

Payment under LIP is calculated based on:

- 75 percent of the average fair market value of the applicable livestock. (While the legislation refers to the market value as of the day before the date of death, the rules published by USDA refer to a value computed using nationwide prices for the previous calendar year or by some other price as determined by the FSA Deputy Administrator); and
- A producer's individual loss based on livestock kind, type, and weight category

For contract growers, the LIP national payment rate calculation is based on 75 percent of the average income loss sustained with respect to the livestock lost.

To be eligible for payment, livestock must be lost in excess of normal mortality for the given kind, type, and weight category. A normal mortality rate for livestock kind, type, and weight is determined by the FSA on a state-by-state basis. For example, the normal mortality rate for feeder cattle weighing 550 lb in a feedlot may be determined to be 6 percent over a calendar year. If a producer maintains 200 feeder cattle, then an acceptable loss threshold is calculated as:

200 feeder cattle x 6 percent = 12 head loss threshold

The eligible number of head lost equals the number of animals lost during the calendar year due to eligible adverse weather conditions in excess of the loss threshold (counting losses from all causes). For example, a producer reports the loss of 22 head of feeder calves as a result of excess heat (and has no other death losses during the calendar year). The number of eligible head lost is calculated as:

22 head lost – 12 head loss threshold = 10 head lost eligible for LIP payment

Note that if the producer had lost 22 head due to excess heat and had already met the loss threshold due to other reasons, then all 22 head lost due to excess heat would be eligible for LIP.

A final LIP payment requires calculating a payment rate for each livestock kind, type, and weight. This payment rate is 75 percent of the average fair market value as determined by FSA using nationwide prices from livestock markets including sale barns, local sales, terminal markets, and slaughtering facilities. Finally, the payment rate will be adjusted for the ownership rate of the livestock lost.

For example, for feeder cattle averaging 500-600 lb, FSA has published program guidelines setting the 75-percent-of-fair-market-value payment rate for losses in 2009 at $463.41. If the producer owns 100 percent of the livestock lost, the final LIP payment is calculated as:

10 eligible head x $463.41 payment rate x 100 percent ownership = $4,634.10 total payment

The total payment over a calendar year equals the total payments received for each category of livestock lost during the same calendar year for which benefits were requested.

For a contract grower, any payments received from the contractor to compensate for income losses will be deducted from the LIP payment amount.

Payment Limitations

The total amount of Supplemental Agricultural Disaster Assistance payments that may be received by a single producer or entity over a calendar year may not exceed $100,000. This includes all payments received through SURE, LIP, LFP, ELAP, and TAP.

If the producer meets any of the following conditions, then the producer will also be ineligible for Livestock Indemnity Program payments:

- For program year 2008, if the producer or entity has a three-year average adjusted gross income (AGI) (from years 2005, 2006, and 2007) in excess of $2.5 million unless at least 75 percent of average AGI came from agriculture.
- In program year 2009 and future years, if the producer or entity has a three-year average AGI from non-farm sources in excess of $500,000; and/or
- If the producer has an indirect interest in a legal entity which has an average AGI from non-farm sources

greater than $500,000, then the payment to the entity will be reduced, as calculated, based on the producer's percent of interest in the legal entity receiving the payment.

Implications for Producers

Producers should keep reliable and verifiable records on their livestock both as a matter of good recordkeeping and in case records are needed to submit with an application for LIP benefits. For application, the producer must submit verifiable documentation that demonstrates current and past animal inventories (kind, type, and location). Records that meet the standards of verifiable inventory include (but are not limited to):

- Canceled checks
- Balance sheets
- Tax inventory records
- Loan records
- Private insurance documents
- Property tax records
- Sales and purchase receipts
- Vet records
- Brand inspection receipts
- Chattel inspections (personal, moveable property inspection)

Other documents that may be used to demonstrate animal inventory include (but are not limited to):

- Feed records
- Grow/finish group movement sheets
- Dairy herd improvement records
- Calving/farrowing records
- APHIS records
- Beef Quality Program records
- National Animal ID records
- Pen records
- Shipping receipts

Producers should also keep or have access to accurate and detailed information related to environmental conditions. Extreme heat and cold can vary widely from one location to the next. Records that may be used to document weather and environmental conditions include (but are not limited to):

- Local automated weather station data
- Observed and recorded weather data from on-farm station

Several Web sites report local weather conditions, based on automated stations. Tracking data from these stations or accessing historic data from these stations could help the producer document weather conditions on or near your operation.

Summary

The LIP offers established disaster program assistance to producers who suffer livestock losses due to adverse weather events. As a result, producers should seek to build and maintain both reliable and verifiable records on a regular basis. Good records can help ensure continuing eligibility for potential program benefits and can also help producers analyze animal performance on an on-going basis as a fundamental tool in production management decisions.

While this NebGuide seeks to illustrate the mechanics and regulations related to the LIP, the interpretation of the legislation and rules are subject to change by the Farm Service Agency. Producers should maintain good professional relationships with the local FSA office and stay abreast of any program changes that might affect the operation's income and profitability.

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