

Farmers' Guide to Disaster Assistance

Fifth Edition

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Acknowledgments

Farmers' Legal Action Group (FLAG) is proud to be publishing the fifth edition of *Farmers' Guide to Disaster Assistance*, a comprehensive handbook which has been a resource for family farmers nationwide since 1993. As always with FLAG publications, this book represents a true collaborative effort. This new edition was written by FLAG attorneys Karen Krub and Jill Krueger, and edited by Karen Krub. Rita Gorman Capes copyedited and formatted the manuscript. Debby Juarez designed the cover and provided publishing support. FLAG attorney Stephen Carpenter originally developed the book and wrote or co-wrote the first three editions. David Brokken reviewed the calculations in the appendix to the Noninsured Crop Disaster Assistance Program chapter. FLAG law clerk Kristi Schlosser Carlson made significant research and editorial contributions to the chapters on Federal Emergency Management Agency programs, the Emergency Conservation Program, and Small Business Administration disaster loan programs. Each of these FLAG staff members went far beyond the call of duty to produce a final product worthy of the family farmers for whom it is written. To each of them, we say a giant thank you.

FLAG is also deeply grateful to those who provided financial support for our work in this area. Their faith in us and their generous contributions to FLAG made this book possible. They include:

- The Bush Foundation
- FARM AID
- Lawyers Trust Account Board for the State of Minnesota
- Legal Services Advisory Committee of the Minnesota Supreme Court
- The Otto Bremer Foundation
- Rural Advancement Foundation International-USA

Finally, we owe our largest debt of gratitude to all the farmers and farm advocates whose determination, intelligence, and courage have guided our work for nearly twenty years. May they never need to use this book. On the other hand, if the need arises, we hope it will serve them well.

Corinne Rafferty
Executive Director

October 15, 2004

Farmers' Guide to Disaster Assistance is available without charge to family farmers. For this, and other FLAG publications, please contact FLAG by telephone at 651-223-5400; by fax at 651-223-5335; by mail at 360 North Robert Street, Suite 500, Saint Paul, Minnesota, 55101; or by electronic mail at lawyers@flaginc.org.

SUMMARY OF DISASTER PROGRAMS

Summary of Disaster Programs <i>Farmers' Guide to Disaster Assistance</i>							
Program	What Can You Get?	Eligibility	Farm Losses Covered?	Deadline for Application	Appeal Rights If Denied?	Where in the Book?	Other
Individuals and Households Program (IHP) (FEMA)	Up to \$25,000 to cover housing costs, personal property losses, and disaster-related expenses.	Must have necessary expenses or serious needs.	Home only.	Usually 60 days from disaster declaration.	Yes	Chapter 2	
Disaster Unemployment Assistance (DUA)	Cash payment for lost work time.	Unable to work—including farm—because of disaster. May include unable to work customary hours at customary tasks.	Farming is covered.	Thirty days after declaration of disaster—unless good cause shown.	Yes	Chapter 2	Benefit based on previous farm income.
Federal Crop Insurance	Cash payment for insured crop losses.	Must have had crop insurance policy in effect at time of disaster, purchased by the sales closing date for the crop.	Yes	Report losses to insurance provider within 72 hours. Confirm in writing within 15 days.	Appeal, mediation and/or non-binding arbitration depending on the basis for denial.	Chapter 3	Benefits vary and depend on individual coverage.
Noninsured Crop Disaster Assistance Program (NAP) (USDA)	Cash payment for crop losses.	Covers crop losses for which federal crop insurance is not available. Application submitted and service fee paid by application closing date.	Yes	Report losses to FSA within 15 days. Request benefits by coverage application date for next crop year.	Yes	Chapter 4	

FARMERS' GUIDE TO DISASTER ASSISTANCE

Program	What Can You Get?	Eligibility	Farm Losses Covered?	Deadline for Application	Appeal Rights If Denied?	Where in the Book?	Other
Emergency Conservation Program (ECP) (USDA)	Cash cost-share assistance to help rehabilitate land and water resources damaged by disaster.	Damage to farmland or water resources caused by disaster.	Farm damage covered.	Sign-up period of at least 30 days announced by USDA.	Yes	Chapter 5	Covers portion of out of pocket expenses AND farmer's own labor.
Disaster Assistance for Livestock Producers (USDA)	Cash payment for feed or livestock losses. Some cost share programs.	Varies with program. Generally feed losses or livestock losses caused by disaster.	Yes	Sign-up period announced by USDA.	Yes	Chapter 6	Programs available vary widely depending on needs and funding.
Emergency (EM) Loans (USDA)	Low interest loan (3.75 percent).	Family farmers who suffer physical or production losses due to disaster.	Yes	Eight months from disaster declaration.	Yes	Chapter 7	
Farm Service Agency (FSA) Disaster Set Aside (USDA)	Move FSA loan payment to end of the loan.	Unable to pay expenses due to disaster. Less than 90 days past due on all FSA loans.	Yes	Eight months from disaster declaration.	Yes	Chapter 8	

SUMMARY OF DISASTER PROGRAMS

Program	What Can You Get?	Eligibility	Farm Losses Covered?	Deadline for Application	Appeal Rights If Denied?	Where in the Book?	Other
Small Business Administration (SBA) Disaster Loans	Low-interest loans for home or business losses.	Losses caused by disaster.	Home only.	Application period announced by SBA.	Yes	Chapter 9	Business loans for nonfarm business only.
Bankruptcy	Possible relief or rescheduling of some debts.	Varies with type of bankruptcy.	Yes	Can generally be filed at any time.		Chapter 10	Consult an expert.
Income Taxes	Disaster can affect federal income taxes in several ways.		Yes			Chapter 11	Consult an expert.

Chapter 1

Introduction

Government Relief Is Available

Year after year, we see punishing weather in different regions of the country with devastating effects on agricultural production. As this book is being finalized, extended drought is crippling farm and ranch operations in the central plains and western states, while producers in the Southeast struggle to assess the losses from a series of devastating hurricanes. In recent years, farms across the country have been swamped by floods and pounded by severe winter storms. Many farmers will spend this winter totaling the meager returns of what they could salvage and wondering how they will pay this year's bills and plant next year's crops with virtually no income.

A group of federal programs can provide some relief to family farmers after a disaster. Some of these programs were designed to give this relief, and other programs have been modified to offer it.

All of the programs are extremely complicated. At least 12 different programs are administered and/or affected by various agencies, including:

- Farm Service Agency (FSA).
- Small Business Administration (SBA).
- Federal Emergency Management Agency (FEMA).
- Risk Management Agency (RMA) and Federal Crop Insurance Corporation (FCIC).

While the acronyms alone are baffling, that is just the beginning. Each of the programs administered by these agencies has its own maze of rules and regulations. Each has different application procedures, deadlines, eligibility criteria, qualifying calculations, and appeals processes. The difficulty inherent in

dealing with these programs makes it tempting to dismiss them. But we cannot, because they are all we've got.

This is the fifth edition of this book. With each edition, we have tried to describe changes in existing programs and add discussions of new programs that may provide help to farmers who have been struck by a natural disaster. In some cases, we have removed details about programs that are no longer offered. If you have a dispute dating back to a program offered in an earlier year, or are simply interested in how disaster programs have changed over the years, you may find an earlier edition of this book to be helpful. Earlier editions of this book are available for a nominal fee by contacting FLAG by telephone at 651-223-5400; by fax at 651-223-5335; by mail at 360 North Robert Street, Suite 500, Saint Paul, Minnesota, 55101; or by electronic mail at lawyers@flaginc.org.

We have tried to discuss in this book as many of the programs that may be helpful to farmers as we could. However, the short lifespans of some programs present a challenge. In general, this guide only discusses programs with broad application that were available in recent crop years and seem likely to be offered in the future. Programs that are not discussed in this book but that may be of interest to farmers include: the Crop Disaster Program (CDP) and Crop Loss Disaster Assistance Program (CLDAP), and the Tree Assistance Program (TAP). There may be others as well. Farmers should contact their local FSA offices for information on these programs and to ask whether other disaster assistance programs may be available for their losses.

This book is meant to be a tool to help farmers, their advocates, and their attorneys plow through the rough terrain of disaster assistance programs. It explains how farmers can get the maximum relief to which they are entitled under federal law. It takes statutes, regulations, policy statements, and handbooks that come from dozens of different places and pulls them together into one cohesive, user-friendly guide. We hope that it gives you the information you need.