

Chapter 6

Disaster Assistance for Livestock Producers

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II. Haying and Grazing on Conservation Reserve Program Land

One form of assistance available to producers on a county-by-county basis nationwide in 2004 is emergency haying and grazing on Conservation Reserve Program (CRP) land.⁶ Under the CRP, USDA enters into long-term contracts with landowners, farm operators, and farm tenants to dedicate eligible land to a conserving use during the contract period in return for financial and technical assistance.⁷ The land is commonly referred to as “set-aside” land, and is generally not available for agricultural use, including making commercial use of forage, such as by grazing livestock and mechanically harvesting hay.⁸

FSA has issued a handbook on CRP policies and procedures that state and county offices will use when administering the program.⁹ Producers can request a copy of this handbook from their local FSA offices.

A. Usually Only Very Limited Haying and Grazing on CRP Land

Managed haying and grazing is authorized on CRP lands for short periods in order to improve the quality and performance of CRP cover crops.¹⁰ In general, managed haying and grazing may not take place more than once every three years.¹¹

B. Emergency Haying and Grazing on CRP Land

Emergency haying and grazing may be authorized on CRP land in order to provide emergency relief to livestock producers due to severe drought or other disaster.¹² Producers who are not CRP participants may rent or lease grazing privileges from CRP participants.¹³ USDA has not issued detailed regulations to govern emergency haying and grazing on CRP land, but the CRP Handbook offers some details. FSA has stated that this allows for greater flexibility in administering the program.¹⁴

Emergency haying and grazing was authorized nationwide for 2004 on a county-by-county basis.¹⁵

1. Conditions for Emergency Haying and Grazing

The FSA policy notice that announced authorization of emergency haying and grazing on CRP land for 2004 states that the authorization is based on either (1) an FSA state committee finding of extreme drought or exceptional drought, or (2) a county-by-county determination by FSA.¹⁶

2. Timing of Emergency Haying and Grazing

CRP participants must file a request with their local FSA office indicating the acreage to be hayed or grazed before the activity begins.¹⁷ Before CRP acreage is declared eligible for emergency haying or grazing, the participant must obtain a modified conservation plan developed by the Natural Resources Conservation Service or a technical service provider.¹⁸

In general, emergency haying and grazing are not allowed until after the end of the primary nesting and broodrearing season, in order to avoid interference with CRP wildlife conservation goals.¹⁹ However, in 2004, emergency grazing (but not haying) was allowed prior to the end of the primary nesting and broodrearing season.²⁰

3. Reductions in Payments to the CRP Contract-Holder

If emergency haying or grazing takes place on land covered by a CRP contract, the rental payment otherwise due to the farmer under the contract will be reduced.²¹ The applicable reduction for the 2004 crop year is 10 percent.²²

III. Nonfat Dry Milk Feed Assistance Program and Cattle Feed Program (NDMFAP)

In 2003 and 2004, USDA offered the Nonfat Dry Milk Feed Assistance Program (NDMFAP).²³ NDMFAP is a program conducted in partnership with the governments of states suffering from severe drought conditions. Through feed dealers located in states participating in NDMFAP, the Commodity Credit Corporation (CCC) sells nonfat dry milk from its surplus inventory at a low cost to approved feed dealers. The approved feed dealers distribute the nonfat dry milk for use as cattle feed by eligible livestock producers that need help in maintaining foundation livestock herds.²⁴ By mid-2004, NDMFAP was available in nine states. It is possible that USDA will offer agreements to additional states in the latter part of 2004. Interested producers should check with their state departments of agriculture.

A. Available in Designated States

NDMFAP is available in specified counties within certain states.²⁵ Eligible states in the first 2004 allocation were Arizona, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, and Wyoming.²⁶ Livestock producers are encouraged to contact their state department of agriculture regarding their eligibility.²⁷

B. Available as Livestock Feed for Foundation Beef Cattle, Buffalo, Sheep, and Goat Herds

Eligible livestock for the first 2004 allocation were foundation herds of beef cattle, buffalo, sheep, and goats.²⁸ Foundation livestock are breeding livestock and replacement breeding stock. Nonfat dry milk obtained through NDMFAP may not be used as feed for dairy cattle, veal, poultry, swine, or fish.²⁹

C. NDMFAP Compared with 2002 Cattle Feed Program

NDMFAP has important similarities to and differences from USDA's 2002 Cattle Feed Program (CFP).³⁰ The 2002 CFP provided feed assistance to beef cattle operations in Nebraska, South Dakota, Colorado, and Wyoming.³¹ Like NDMFAP, CFP involved distribution of denatured nonfat dry milk; but under the 2002 CFP, livestock producers signed up at their local FSA office to receive a feed credit that could be redeemed for manufactured feed from participating feed dealers.³² USDA used \$150 million of existing funds to implement CFP.³³

IV. Livestock Indemnity Program

The Livestock Indemnity Program (LIP) provides cash payments for livestock casualties, based on the number of livestock and poultry casualties over the normal rate that are "reasonably related" to the disaster. LIP was first announced in 1997.³⁴ In the ensuing years, additional funds were appropriated for LIP several times.

LIP provides assistance to *owners* of livestock and poultry. In 1999, Congress appropriated funds to also assist contract livestock growers.³⁵ USDA used this funding to develop a livestock indemnity program for contract growers (LIP-CG).³⁶ Although the LIP-CG regulations are no longer in effect, Congress could follow this model to designate funds for contract growers in the future.³⁷

In the Consolidated Appropriations Act of 2004, Congress appropriated \$500,000 for LIP to be available for producers in southern California.³⁸ The funds were appropriated to compensate producers who suffered livestock casualties as a result of wildfires in Ventura, San Bernardino, Santa Barbara, San Diego, Riverside, and Los Angeles Counties in southern California.³⁹

The California LIP is governed, except where FSA has specified otherwise, in accordance with the regulations for LIP benefits during the earlier part of 1999.⁴⁰ In May 2004, FSA issued a policy notice establishing a sign-up period of April 19 through June 18, 2004, and setting forth eligibility requirements and instructions for accepting and reviewing applications for California LIP.⁴¹

V. Livestock Compensation Program

FSA utilized \$752 million in existing funds to establish a Livestock Compensation Program (LCP) in 2002.⁴² In general, LCP provided compensation to eligible owners and cash lessees of beef and dairy cattle, sheep, goats, and buffalo and beefalo for feed and pasture losses.⁴³ In order to participate in LCP, a producer's livestock operation headquarters must have been physically located in a county named as a primary county in a USDA disaster designation for drought.⁴⁴ LCP was initially available for disasters occurring in 2001 and 2002.

The Agricultural Assistance Act of 2003 extended the time period for LCP and expanded the producers and commodities eligible for assistance.⁴⁵ The extended LCP was referred to as LCP-II, and was funded with the use of CCC funds.⁴⁶

LCP-II was still only available for disasters occurring in calendar years 2001 and 2002, but the time period for eligible disaster declarations was extended, and all declared natural disasters were included.⁴⁷ Payments under LCP-II were to be reduced by the amount of any assistance already received under the Cattle Feed Program or Livestock Assistance Program, as well as the first round of LCP itself.⁴⁸

VI. Catfish Feed Assistance Program

The Agricultural Assistance Act of 2003 added catfish to the list of animals to be considered "eligible livestock" for purposes of LCP-II, discussed above.⁴⁹ However, before LCP-II was implemented, Congress directed the Secretary to instead provide assistance to eligible catfish producers through grants to state departments of agriculture, or other appropriate state agencies.⁵⁰ USDA made \$34 million available to state departments of agriculture.⁵¹ The states then provided feed credits to eligible catfish producers, who redeemed the credits with eligible feed processors. Eligible catfish feed processors were located in Alabama, Arkansas, California, Georgia, Idaho, Louisiana, Mississippi, Missouri, North Carolina, Pennsylvania, Texas, Utah, and Virginia.⁵² Producers whose catfish operations were physically located in other states, but purchased the feed from an eligible catfish feed processor were also eligible.⁵³

VII. Livestock Assistance Program

First established in 1998, the Livestock Assistance Program (LAP) provides cash payments to livestock producers for grazing losses. LAP benefits were based on the feed needs of the producer's eligible livestock during a set payment period.⁵⁴

The Agricultural Assistance Act of 2003 authorized the use of \$250 million of CCC funds to offer LAP to livestock producers in disaster counties for losses to feed crops suffered in 2001 or 2002.⁵⁵ A producer who suffered losses in both 2001 and 2002 was required to elect one year for which to receive benefits. The Act directed FSA to carry out LAP for 2001 and 2002 according to the criteria established to carry out the 1999 LAP.⁵⁶ Assistance under LAP was to be reduced by the amount of any assistance already received under the Cattle Feed Program, Livestock Compensation Program, or Livestock Compensation Program-II.⁵⁷

VIII. Assistance for Livestock Producers from Non-Targeted Programs

Some disaster assistance and risk management programs that are not targeted specifically for livestock producers nonetheless provide assistance that may be relevant for livestock producers. Other programs specifically exclude livestock producers from coverage.

A. Noninsured Crop Disaster Assistance Program

Coverage for livestock losses is not available under NAP.⁵⁸ NAP does provide coverage for crops planted and grown for livestock consumption, whether mechanically harvested or grazed forage.⁵⁹ See Chapter 4 of this book for a discussion of NAP.

B. Crop Insurance

The Federal Crop Insurance Corporation has approved several pilot programs that offer insurance to livestock producers, generally either as one component of a whole farm revenue insurance product or as a form of risk management related to declining livestock prices or rising feed costs.⁶⁰

See Chapter 3 of this book for a discussion of the federal crop insurance program.

C. 2001 and 2002 Crop Disaster Program

The Agricultural Assistance Act of 2003 authorized a Crop Disaster Program (CDP) to compensate producers for disaster losses to 2001 or 2002 crops.⁶¹ The regulations stated that livestock and livestock-related losses were not eligible for 2001 and 2002 CDP.⁶² Grazing losses were also excluded.⁶³ However, forage crops were eligible for 2001 and 2002 CDP, because any crop included under NAP was an eligible crop under CDP.⁶⁴ Unlike NAP, CDP coverage also included some quality losses.⁶⁵ In general, a greater than 20 percent quality loss of wheat, barley, or oats was eligible for assistance under CDP.⁶⁶

D. U.S. Army Corps of Engineers Disaster Response Projects

In 2003, the U.S. Army Corps of Engineers revised its policies to clarify that during droughts, its disaster response and recovery projects are intended to provide water for human consumption, and not to provide water for livestock.⁶⁷

IX. Recommendations for Livestock Producers Affected by Disaster in 2004 and Subsequent Crop Years

The future of federal disaster assistance for livestock producers is uncertain. Programs will be offered only if and when special funding is designated by Congress, or if programs not dependent upon designated funds are devised and implemented. The fact that funds were appropriated in any given crop year is no guarantee that Congress will designate money again in future years.

This chapter has provided a general description of disaster assistance programs that have been made available to livestock producers since mid-2002. Livestock producers should remember that the program descriptions in this chapter offer general information only. There is no way to know for certain what any future programs may offer or require. However, producers can take the following steps to maximize their opportunities for benefiting from any programs that may be offered in the future.

A. Obtain Program Specifications from FSA State and Local Offices

If USDA does authorize livestock assistance programs for 2004 and later crop years, the assistance levels and even the structure of the programs may be different from what is described here. Any programs developed may also vary from year to year or from disaster to disaster. Time periods for application are often very short. It is important that producers get specific program information from FSA state and county offices as soon as livestock assistance programs are announced.

B. Continue to Report Losses to FSA County Offices

Livestock producers—including contract growers—who experience feed crop losses and livestock casualties due to natural disaster in 2004 and later crop years should continue to document those losses and report them to their FSA county offices even where no assistance program has been authorized.

1. Support State and Local Office Requests for Program Authorization

By reporting losses to county offices, producers help provide FSA county and state offices with documentation of feed and livestock emergencies. Such documentation would likely be needed by these offices to gain local authorization for any assistance program that may be established. The national office can use the information to determine when and whether to authorize assistance and in what form.

2. Allow for Earliest Possible Eligibility for New Program Assistance

By submitting loss documentation to FSA county offices prior to authorization of any assistance program, livestock producers may also make themselves eligible for assistance from the first day that a program is authorized. Producers who wait until a program is announced before submitting loss documentation might only be eligible for assistance from the date they file an application.

X. Appeals of Livestock Assistance Program Decisions

In general, an adverse decision in the livestock assistance programs may be appealed.⁶⁸ An adverse decision may include, among other things, a determination that a producer is not eligible for program benefits or approval of a smaller amount of program benefits than the producer requested.⁶⁹

USDA's National Appeals Division (NAD) handles livestock assistance program appeals.⁷⁰ NAD regulations set out a formal appeals process with important deadlines and other requirements. For example, producers must file their appeals with NAD within 30 days after they first receive notice of the adverse decision.⁷¹

XI. Discrimination Is Illegal

FSA is prohibited from subjecting any person to discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, disability, or because all or part of an individual's income is derived from any public assistance program.⁷² Prohibited discrimination may include excluding a person from participation in disaster assistance programs or denying program benefits.

Chapter 6 Notes

- ¹ Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, Title X, Subtitle B, § 10104, 116 Stat. 488 (May 13, 2002) (codified at 7 U.S.C. § 1472).
- ² Federal Agriculture Improvement and Reform Act of 1996, Pub. L. No. 104-127, Title I, § 171(b)(1)(L), 110 Stat. 888, 938. Details on the Livestock Feed Programs and Indian Acute Distress Donation Program that existed prior to the FAIR Act are discussed in earlier editions of this book. To obtain a copy of prior editions of this book for a nominal fee, 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.
- ³ Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, Title I, Subtitle F, § 1602, 116 Stat. 488 (May 13, 2002) (codified at 7 U.S.C. § 7992(b)(12)).
- ⁴ More details on some of these programs can be found in FSA's Livestock Programs Handbook, 4-DAP, which was issued on May 1, 2003. The Livestock Programs Handbook has been amended three times, with the fourth amendment issued on December 17, 2003. FSA refers to its initial handbooks as "Amendment 1."
- ⁵ FLAG can be reached 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. FLAG's web page is at www.flaginc.org.
- ⁶ FSA Notice CRP-470, "2004 Emergency Haying and Grazing of CRP Acreage" (June 24, 2004) (expires Jan. 1, 2005).
- ⁷ 7 C.F.R. § 1410.3 (2004).
- ⁸ 7 U.S.C. § 3832(a)(7).
- ⁹ The handbook, called "Agricultural Resource Conservation Program," CRP-2 (Rev. 4), was issued in revised form on May 1, 2003. As of the date this chapter was written, three additional handbook amendments had been issued, the most recent one (Amendment 4) on August 4, 2004.
- ¹⁰ 7 U.S.C. § 3832(a)(7)(A).
- ¹¹ 7 C.F.R. § 1410.63(c)(1)(ii) (2004). No similar limitation applies to emergency haying and grazing. 68 Fed. Reg. 24,830, 24,833 (2003) (prefatory comments to interim final rule).
- ¹² 7 U.S.C. § 3832(a)(7)(A)(ii), (iii).
- ¹³ "Veneman Authorizes Nationwide Emergency Grazing for Drought Relief," USDA News Release 0258.04 (June 24, 2004), available on the Internet at www.fsa.usda.gov/pas/FullStory.asp?StoryID=1741.

- ¹⁴ 69 Fed. Reg. 26,755, 26,761 (2004) (prefatory comments to final rule discussing provisions for “permissive uses” to be codified at 7 C.F.R. § 1410.63).
- ¹⁵ FSA Notice CRP-470, “2004 Emergency Haying and Grazing of CRP Acreage,” 1.A (June 24, 2004) (expires Jan. 1, 2005).
- ¹⁶ FSA Notice CRP-470, “2004 Emergency Haying and Grazing of CRP Acreage,” 1.A (June 24, 2004) (expires Jan. 1, 2005).
- ¹⁷ See FSA’s Emergency Haying and Grazing web page at <http://disaster.fsa.usda.gov/emhaygrz.htm>.
- ¹⁸ See FSA’s Emergency Haying and Grazing web page at <http://disaster.fsa.usda.gov/emhaygrz.htm>.
- ¹⁹ FSA Notice CRP-470, “2004 Emergency Haying and Grazing of CRP Acreage,” 1.A (June 24, 2004) (expires Jan. 1, 2005).
- ²⁰ FSA Notice CRP-470, “2004 Emergency Haying and Grazing of CRP Acreage,” 2.A (June 24, 2004) (expires Jan. 1, 2005). Approval must be granted by the FSA State Conservationist or by the FSA national office, Conservation and Environmental Programs Division.
- ²¹ 7 U.S.C. § 3832(a)(7)(A)(iii). See also FSA Notice CRP-427, “Refunding 2002 Emergency Haying and Grazing Payment Reductions” (Mar. 28, 2003) (expired Jan. 1, 2004). Thus, this type of assistance may actually result in reduced expenditures for the agency (though with some potential loss in conservation benefits).
- ²² FSA Notice CRP-470, “2004 Emergency Haying and Grazing of CRP Acreage,” 2.C (June 24, 2004) (expires Jan. 1, 2005). A 25 percent reduction imposed during the 2002 crop year was refunded to CRP contract holders. Agricultural Assistance Act of 2003, Pub. L. No. 108-7, Division N, Title II, § 212, 117 Stat. 545 (Feb. 20, 2003) (codified at 16 U.S.C. § 3832(a)(7)(A)(iii)).
- ²³ USDA relied upon the 1996 FAIR Act for authority for the program. Federal Agriculture Improvement and Reform Act of 1996, Pub. L. No. 104-127, Title I, Subtitle E, § 165, 110 Stat. 888, 938 (codified at 7 U.S.C. § 7285).
- ²⁴ 2004 Nonfat Dry Milk Livestock Feed Assistance Initiative Fact Sheet (July 2004), available on the Internet at www.fsa.usda.gov/pas/publications/facts/html/ndmlivestockfeed04.htm; see also FSA’s 2004 Non-fat Dry Milk Livestock Feed Assistance web page at <http://disaster.usda.gov/2004ndm.htm>.
- ²⁵ States must execute a Memorandum of Understanding with CCC before they may participate in the program. See FSA’s 2004 Non-fat Dry Milk Livestock Feed Assistance web page at <http://disaster.usda.gov/2004ndm.htm>. In 2003, NDMFAP was also available through participating tribes. See 2004 Nonfat Dry Milk Livestock Feed Assistance, Frequently Asked Questions, available on the Internet at <http://disaster.fsa.usda.gov/absolutefm/afmviewfaq.asp?faqid=433>. (Response to Frequently Asked Question, “Is the 2003 Non-Fat Dry Milk Feed Program (NDMFAP) the same as the 2002 Cattle Feed Program (CFP)?”).

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- ²⁶ See FSA's 2004 Non-fat Dry Milk Livestock Feed Assistance web page at <http://disaster.usda.gov/2004ndm.htm>.
- ²⁷ Ordering Non-Fat Dry Milk Details, available on the Internet at www.fsa.usda.gov/daco/2004ndm/OrderingNDM.htm.
- ²⁸ 2004 Nonfat Dry Milk Livestock Feed Assistance Initiative Fact Sheet (July 2004), available on the Internet at www.fsa.usda.gov/pas/publications/facts/html/ndm_livestockfeed04.htm.
- ²⁹ See FSA's 2004 Non-fat Dry Milk Livestock Feed Assistance web page at <http://disaster.usda.gov/2004ndm.htm>. Participating feed dealers in the states must execute a Restricted Use Sales Agreement. CCC will denature the nonfat dry milk before shipment to the feed dealers to deter human consumption.
- ³⁰ 2004 Nonfat Dry Milk Livestock Feed Assistance, Frequently Asked Questions, available on the Internet at <http://disaster.fsa.usda.gov/absolute/fm/afmviewfaq.asp?faqid=433>. (Response to Frequently Asked Question, "Is the 2003 Non-Fat Dry Milk Feed Program (NDMFP) the same as the 2002 Cattle Feed Program (CFP)?")
- ³¹ 67 Fed. Reg. 56,260 (2002).
- ³² 67 Fed. Reg. 56,260, 56,261 (2002). The nonfat dry milk was used by the feed manufacturers as a protein supplement in the feed they manufactured.
- ³³ 2002 Cattle Feed Assistance Program Fact Sheet (October 2002), available on the Internet at www.fsa.usda.gov/pas/publications/facts/html/cattlefeed02.htm. See also Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, Title X, Subtitle B, § 10104, 116 Stat. 488 (May 13, 2002) (codified at 7 U.S.C. § 1472); 7 U.S.C. § 612(c) (codifies section 32 of the Act of August 24, 1935, a law designed to support domestic consumption of agricultural commodities).
- ³⁴ "Implementation of \$50 Million Program to Help Livestock Producers," USDA News Release 0198.97 (June 19, 1997). Regulations were subsequently published in the Code of Federal Regulations at 7 C.F.R. §§ 1439.801 to 1439.810 (1999).
- ³⁵ Pub. L. No. 106-113, Appendix V, Title I, Chapter 1, 113 Stat. 1501 (Nov. 29, 1999).
- ³⁶ See 7 C.F.R. §§ 1439.401 to 1439.408 (2001).
- ³⁷ 68 Fed. Reg. 61,324, 61,325 (2003) (repealing, among others, regulations for LIP-CG at 7 C.F.R. pt. 1439, subpt. E).
- ³⁸ Consolidated Appropriations Act of 2004, Pub. L. No. 108-199, Division H, § 102(g), 118 Stat. 3 (Jan. 23, 2004).
- ³⁹ 69 Fed. Reg. 23,721 (2004) (notice of funds availability).
- ⁴⁰ 69 Fed. Reg. 23,721 (2004) (notice of funds availability). This period came to be known as 1999, LIP Phase I. The regulations were later removed from the Code of Federal Regulations as obsolete. 68 Fed. Reg. 61,324, 61,325 (2003)

- (repealing, among others, regulations for LIP at 7 C.F.R. pt. 1439, subpt. C). Persons interested in reviewing these regulations may find them at 64 Fed. Reg. 58,766 (1999) (codified at 7 C.F.R. §§ 1439.301 to 1439.308 (2000)).
- ⁴¹ FSA Notice DAP-198, "California Livestock Indemnity Program" (May 5, 2004) (expired Aug. 1, 2004).
- ⁴² Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, Title X, Subtitle B, § 10104, 116 Stat. 488 (May 13, 2002) (codified at 7 U.S.C. § 1472); 7 U.S.C. § 612(c) (codifies section 32 of the Act of August 24, 1935, a law designed to support domestic consumption of agricultural commodities). These funds were later increased to a total of \$937 million when an additional \$185 million was added. 68 Fed. Reg. 23,688 (2003).
- ⁴³ 67 Fed. Reg. 63,070 (2002) (notice of funds availability). See also FSA Notice DAP-139, "2002 Livestock Compensation Program (LCP)" (Sept. 19, 2002) (expired Mar. 1, 2003). FSA issued several additional notices relating to LCP, including FSA Notice DAP-140, "Additional 2002 Livestock Compensation Program (LCP) Provisions" (Sept. 30, 2002) (expired Apr. 1, 2003).
- ⁴⁴ 67 Fed. Reg. 63,070, 63,071 (2002) (notice of funds availability) (I. Definitions, "Eligible county" and "Eligible livestock producer").
- ⁴⁵ Agricultural Assistance Act of 2003, Pub. L. No. 108-7, Division N, Title II, § 203(a), 117 Stat. 540 (Feb. 20, 2003).
- ⁴⁶ 68 Fed. Reg. 23,688 (2003) (notice of funds availability). See also, Livestock Compensation Program Fact Sheet (May 2003), available on the Internet at www.fsa.usda.gov/pas/publications/facts/html/LCP03.htm.
- ⁴⁷ FSA Notice DAP-157, "2002 Livestock Compensation Program II (LCP-II)" (Mar. 27, 2003) (expired Dec. 1, 2003); Agricultural Assistance Act of 2003, Pub. L. No. 108-7, Division N, Title II, § 203(d)(2), 117 Stat. 542 (Feb. 20, 2003). As with LCP, however, only primary counties were eligible for LCP-II.
- ⁴⁸ Agricultural Assistance Act of 2003, Pub. L. No. 108-7, Division N, Title II, § 203(c), 117 Stat. 540 (Feb. 20, 2003). See also 68 Fed. Reg. 23,688 (2003) (notice of funds availability).
- ⁴⁹ Agricultural Assistance Act of 2003, Pub. L. No. 108-7, Division N, Title II, § 203(a)(2)(B), 117 Stat. 540 (Feb. 20, 2003) (referring to Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, Title X, § 10806, 116 Stat. 488 (May 13, 2002) (codified at 21 U.S.C. § 321d)).
- ⁵⁰ Emergency Wartime Supplemental Appropriations Act, Pub. L. No. 108-11, Title II, § 2103, 117 Stat. 559 (Apr. 16, 2003).
- ⁵¹ 2003 Catfish Feed Assistance Program Fact Sheet (January 2004), available on the Internet at www.fsa.usda.gov/pas/publications/facts/html/catfish03.htm.
- ⁵² 2003 Catfish Feed Assistance Program Fact Sheet (January 2004), available on the Internet at www.fsa.usda.gov/pas/publications/facts/html/catfish03.htm.
- ⁵³ 2003 Catfish Feed Assistance Program Fact Sheet (January 2004), available on the Internet at www.fsa.usda.gov/pas/publications/facts/html/catfish03.htm.

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- ⁵⁴ “USDA Announces Livestock Assistance Program,” USDA News Release No. 98.470 (Nov. 12, 1998).
- ⁵⁵ Agricultural Assistance Act of 2003, Pub. L. No. 108-7, Division N, Title II, § 203(b), 117 Stat. 540 (Feb. 20, 2003).
- ⁵⁶ Agricultural Assistance Act of 2003, Pub. L. No. 108-7, Division N, Title II, § 203(b), 117 Stat. 540 (Feb. 20, 2003). See 68 Fed. Reg. 37,936 (2003). Numerous FSA notices addressing LAP implementation were issued. Among these was FSA Notice DAP-177, “Livestock Assistance Program (LAP) Questions and Answers” (Sept. 4, 2003) (expired Jan. 1, 2004).
- ⁵⁷ Agricultural Assistance Act of 2003, Pub. L. No. 108-7, Division N, Title II, § 203(c), 117 Stat. 540 (Feb. 20, 2003); compare 7 C.F.R. § 1439.107(d) (2004).
- ⁵⁸ 7 C.F.R. § 1437.4(c)(1) (2004). However, coverage for aquacultural species, including ornamental fish, is available under NAP. 7 C.F.R. § 1437.4(c)(4)(i) (2004).
- ⁵⁹ 7 C.F.R. § 1437.4(c)(2) (2004).
- ⁶⁰ See Risk Management Agency Fact Sheets: “Adjusted Gross Revenue (AGR)” (Feb. 2003), available at www.rma.usda.gov/pubs/2003/PAN-1667-06rev.pdf; “Livestock Risk Protection Insurance Pilot Program LRP-Fed Cattle” (Sept. 2004), available at www.rma.usda.gov/pubs/2003/PAN-1667-10.pdf; “Livestock Risk Protection Insurance Pilot Program LRP-Feeder Cattle” (Sept. 2004), available at www.rma.usda.gov/pubs/2003/PA-1667-09rev2.pdf; and “Livestock Risk Protection Insurance Pilot Program LRP-Swine” (Sept. 2004), available at <http://www.rma.usda.gov/pubs/2003/PAN-1667-08rev2.pdf>.
- ⁶¹ Agricultural Assistance Act of 2003, Pub. L. No. 108-7, Division N, Title II, § 202, 117 Stat. 538 (Feb. 20, 2003).
- ⁶² 7 C.F.R. § 1480.3, “Eligible crop” (2004).
- ⁶³ 7 C.F.R. § 1480.6 (2004).
- ⁶⁴ 7 C.F.R. § 1480.3, “Eligible crop” (2004).
- ⁶⁵ Compare 7 C.F.R. § 1437.3 “Catastrophic loss” (2004) with 7 C.F.R. § 1480.17 (2004).
- ⁶⁶ 7 C.F.R. § 1480.17 (2004). See also 7 C.F.R. § 1437.401(e) (2004).
- ⁶⁷ 68 Fed. Reg. 19,357, 19,358 (2003) (prefatory comments to final rule).
- ⁶⁸ An “adverse decision” is defined as
an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant within timeframes specified by agency program statutes or regulations or within a reasonable time if timeframes are not specified in such statutes or regulations.
7 C.F.R. § 11.1, “Adverse decision” (2004).
- ⁶⁹ 7 C.F.R. § 11.3 (2004).

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- ⁷⁰ 7 C.F.R. pt. 11 (2004). See also 7 C.F.R. pt. 780 for FSA and CCC regulations related to NAD appeals. For a detailed discussion of NAD procedures, see *USDA's National Appeals Division Practice and Procedures* by FLAG attorney Karen Krub, available on the Internet at www.flaginc.org/pubs/arts/NADarticle_NatAgLawCtr2003.pdf, or 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.
- ⁷¹ 7 C.F.R. § 11.6(b) (2004).
- ⁷² 7 C.F.R. pt. 15d (2004).