



# DISASTER ASSISTANCE - DAIRY

## ELAP - Highly Pathogenic Avian Influenza (H5N1)

### Emergency Assistance for Livestock, Honeybees and Farm-Raised Fish Program

#### Overview

Authorized by the 2018 Farm Bill, the Emergency Assistance for Livestock, Honeybees and Farm-Raised Fish Program (ELAP). ELAP provides emergency assistance to eligible producers of livestock, honeybees and farm-raised fish. The program covers losses due to an eligible adverse weather or other qualifying loss condition. ELAP is administered by the USDA's Farm Service Agency (FSA).

Effective for the 2024 program year, FSA has updated ELAP eligibility regulations to include:

- Milk losses due to the Highly Pathogenic Avian Influenza (HPAI) H5N1 virus in dairy herds with H5N1 Infection supported by at least one positive test confirmed by USDA Animal & Plant Health Inspection Service a (APHIS) at National Veterinary Services Laboratory (NVSL).
- Eligible producers must have had reduced milk production as a result of removal of adult dairy cows from the milking herd due to H5N1 infection.

#### Applying for Assistance

Producers can apply to receive ELAP assistance at local FSA service centers. To apply, producers need to submit the following to FSA:

- Proof of herd infection through a confirmed positive H5N1 test (based on USDA's APHIS H5N1 case definition) on individual animal or bulk tank samples confirmed by APHIS at NVSL;
- A notice of loss indicating the date when the loss is apparent, which is the sample collection date for the positive H5N1 test; and
- An application for payment certifying the number of eligible adult dairy cows removed from production, the month the cows were removed from production, and the producer's share in the milk production.

The final date to file a notice of loss and application for payment for eligible losses March 1 of the following program year, or the following Monday if March 1 falls on a Saturday or Sunday.



#### Eligibility

ELAP eligible losses must be the direct result of H5N1 and must include a confirmed positive H5N1 test from APHIS at NVSL.

**Eligible producers** must provide:

- A positive H5N1 test at the time the application for payment is filed; and
- Current and prior year milk production records and herd inventory records if requested by FSA, in addition to any other records necessary to substantiate the information provided on the producer's application, including the number of eligible adult dairy cows and producer's share of the milk production.

**Eligible adult dairy cattle** must be:

- Part of a herd that has a confirmed positive H5N1 test from APHIS at NVSL;
- Initially removed from commercial milk production during the 14-day time period prior to the sample collection date for the positive H5N1 test date through 120 days after the sample collection date for the positive H5N1 test.
- Milk-producing, currently lactating; and
- Maintained for commercial milk on the beginning date of the eligible loss condition.

For ELAP payment eligibility, a producer must have owned, cash-leased, purchased, or been a contract grower of eligible adult dairy cows for at least 60 days before the beginning of the production loss and also have a financial risk in the milk production.

Additionally, producers must have the following forms on file with FSA:

- Form AD-2047, Customer Data Worksheet;
- Form CCC-901, Member Information for Legal Entities (if applicable);
- Form CCC-902, Farm Operating Plan for an individual or legal entity;
- Form CCC-941, Average Adjusted Gross Income Certification; and
- A highly erodible land conservation (sometimes referred to as HELC) and wetland conservation certification (Form AD-1026 Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification).

Most producers, especially those who have previously participated in FSA programs, will likely have these required forms on file. However, those who are uncertain or want to confirm the status of their forms can contact their local FSA County Office.

## ELAP Payments

### Calculating ELAP Payments

The per cow milk loss due to H5N1 will be determined based on a 21-day period of no milk production when a cow is removed from the milking herd, followed by seven days when the cow has returned to milking but produces 50% of the normal amount of production.

ELAP payments are determined using a per head payment rate calculated based on the monthly All Milk price and national milk production published by the National Agricultural Statistics Service and a standard number of days with reduced or no production — (per head payment rate x number of eligible adult dairy cows x producer's share in milk production x 90%)

### Payment Limitations

The 2018 Farm Bill removed ELAP from the combined \$125,000 payment limitation under ELAP and LFP. Therefore, for 2019 and subsequent program years, payment limitation does not apply to ELAP benefits. The average adjusted gross income (AGI) limitation relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, with certain levels of AGI will apply.



Specifically, a person or legal entity with an AGI (as defined in 7 CFR Part 1400) that exceeds \$900,000 will not be eligible to receive ELAP payments.

Direct attribution provisions also apply to ELAP. Under direct attribution, any payment to a legal entity will also be considered for payment limitation purposes to be a payment to persons or legal entities with an interest in the legal entity or in a sub-entity. To learn more, visit the Payment Eligibility and Payment Limitations fact sheet at [fsa.usda.gov/payment-limitations](https://fsa.usda.gov/payment-limitations).

## More Information

USDA continues to work with the Food and Drug Administration, Centers for Disease Control and Prevention, and State veterinary and public health officials to investigate H5N1 among cattle. APHIS continues to provide confirmatory testing for samples from livestock as well as guidance for producers, veterinarians, and state animal health officials. Learn more at [APHIS' Highly Pathogenic Avian Influenza Detections in Livestock webpage](https://www.aphis.usda.gov/aphis/area_default.asp?menu=highly_pathogenic_avian_influenza&cid=32887).

This fact sheet is for informational purposes only; other restrictions may apply. For more information about ELAP, visit [fsa.usda.gov/ELAP](https://fsa.usda.gov/ELAP) or contact your local FSA office. To find your local FSA office, visit [farmers.gov](https://farmers.gov).