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# Agricultural Disaster Assistance

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## Summary

In summer 2012, a major drought spread across much of the United States and adversely affected agricultural production. By the end of 2012, the Secretary of Agriculture had designated 2,245 counties in 39 states as disaster areas due to drought. The drought has fueled congressional interest in what programs are currently available and what more can be done to assist producers.

The U.S. Department of Agriculture (USDA) offers several permanently authorized programs to help farmers recover financially from a natural disaster, including federal crop insurance, the Noninsured Crop Disaster Assistance Program (NAP), and emergency disaster loans. The federal crop insurance program is designed to protect crop producers from unavoidable risks associated with adverse weather, and weather-related plant diseases and insect infestations. Producers who grow a crop that is currently ineligible for crop insurance may be eligible for a payment under NAP. Under the emergency disaster (EM) loan program, when a county has been declared a disaster area by either the President or the Secretary of Agriculture, agricultural producers in that county may become eligible for low-interest loans.

In order to provide a regular supplement to crop insurance and NAP payments and to assist livestock producers who are generally not covered by these programs, the Food, Conservation, and Energy Act of 2008 (P.L. 110-246, the 2008 farm bill) included authorization and funding for five new disaster programs to cover losses from weather events, beginning with 2008 crops and ending September 30, 2011. The 2008 farm bill programs were designed to address the ad hoc nature of disaster assistance provided to producers during the last two decades. The largest of the now-expired programs under the 2008 farm bill is the Supplemental Revenue Assistance Payments Program (SURE), which is designed to compensate eligible producers for a portion of crop losses that are not eligible for an indemnity payment under the crop insurance program. The 2008 farm bill also authorized three livestock assistance programs and a tree assistance program. As of December 4, 2012, cumulative payments were $4.2 billion.

The 112$^{th}$ Congress considered but did not pass omnibus farm legislation, including extension of certain agricultural disaster programs that expired in September 2011. The Senate passed its version of the omnibus 2012 farm bill (S. 3240, the Agriculture Reform, Food, and Jobs Act of 2012) in June 2012. The Senate bill would have retroactively extended the livestock disaster and tree assistance programs, thereby potentially covering losses associated with the 2012 drought. In the House, on July 11, 2012, the House Agriculture Committee passed its farm bill (H.R. 6083, the Federal Agriculture Reform and Risk Management Act of 2012), which included the same combination of disaster programs as in the Senate bill. The bill did not reach the House floor, and additional attempts to reauthorize disaster programs were not successful in the 112$^{th}$ Congress.

At the end of the 112$^{th}$ Congress, on January 2, 2013, the five-year 2008 farm bill was extended one year as part of the American Taxpayer Relief Act of 2012 (ATRA; P.L. 112-240), but without funding for any of the 2008 farm bill disaster programs.

Separately, in response to the 2012 drought, USDA took a number of steps. For example, USDA reduced the interest rate for emergency loans from 3.75% to 2.25% and authorized emergency haying and grazing on Conservation Reserve Program acres. USDA also announced plans to purchase $170 million of meat (pork, lamb, chicken, and catfish) to mitigate downward pressure on livestock prices resulting from producers selling livestock for slaughter during the drought.

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Over the years, the U.S. Department of Agriculture (USDA) has had at its disposal three major programs designed to help crop producers recover from the financial effects of natural disasters—federal crop insurance, the Noninsured Crop Disaster Assistance Program (NAP), and emergency disaster loans. All three of these programs have permanent authorization and receive regular annual funding. In addition to benefits provided under these standing programs, Congress has regularly made emergency financial assistance available to farmers and ranchers in the form of disaster payments.[1]

During the congressional debate on the omnibus 2008 farm bill, some policymakers wanted to make permanent some level of disaster payments to supplement the crop insurance program and attempt to end the ad hoc (but regular) nature of emergency disaster assistance. Moreover, livestock producers traditionally have not been covered by crop insurance or other forms of federal support. Consequently, Title XV of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246, the 2008 farm bill) authorized a trust fund to cover the cost of making agricultural disaster assistance available on an ongoing basis over four years (FY2008-FY2011) through five new programs, including three programs for livestock (and other) assistance, one for tree assistance, and one for crop disaster assistance. Congress has not provided funding for these five programs for losses after September 30, 2011, creating concern for producers adversely affected by subsequent drought and other disasters.

This report has four sections. The first describes recent developments in weather and policy. The second provides an overview of the current USDA disaster assistance programs: federal crop insurance, NAP payments, and emergency disaster loans. The third section discusses the now-expired disaster programs under the 2008 farm bill, specifically Supplemental Revenue Assistance Payments Program (SURE) and four other smaller disaster programs. The fourth section briefly reviews congressional issues. An appendix reviews the recent history of emergency supplemental farm disaster assistance and administrative actions by USDA.

# Recent Developments

In summer 2012, drought spread across much of the United States. By the end of 2012, the Secretary of Agriculture had designated 2,245 counties in 39 states as disaster areas due to drought.[2] The designation triggers low-interest emergency loans for qualified producers. Regardless of disaster declarations, insured producers suffering losses have been receiving indemnities from federal crop insurance policies, with total indemnities of $11.6 billion as of mid-January 2013. In areas where crop insurance is not available, producers who had purchased a catastrophic policy under the Noninsured Crop Disaster Assistance Program (NAP) might receive a payment for losses in excess of 50%. See "Major USDA Disaster Assistance Programs," below for program details.[3] Livestock producers generally are not eligible for federal crop insurance,

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[1] In addition to the production assistance programs, USDA also has several emergency agricultural land assistance programs that help producers repair damaged crop and forest land following natural disasters. These include the Emergency Conservation Program (ECP), the Emergency Forest Restoration Program (EFRP), and the Emergency Watershed Protection (EWP) program. For more information, see CRS Report R42854, *Emergency Assistance for Agricultural Land Rehabilitation*.

[2] U.S. Department of Agriculture, "USDA Designates 597 Counties in 2013 as Disaster Areas Due to Drought," press release, January 9, 2013, http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2013/01/0002.xml.

[3] Also, a list of USDA disaster factsheets is available at http://www.fsa.usda.gov/Internet/FSA_File/
(continued...)

although crop insurance policies are available in some areas for insuring pasture, rangeland, and forage.[4]

The 2011 expiration of the 2008 farm bill disaster programs for livestock producers motivated some members to support their reauthorization, but several attempts in the 112th Congress were not successful, including stand-alone legislation and omnibus farm legislation that would have replaced the expiring 2008 farm bill. Eventually, on January 2, 2013, the five-year 2008 farm bill was extended one year as part of the American Taxpayer Relief Act of 2012 (ATRA; P.L. 112-240), but without funding for the 2008 farm bill disaster programs. Under ATRA, Congress provided authority to appropriate funds (but no actual funding) for the three livestock programs and the tree assistance program. Neither discretionary funding authority nor resources were provided for the crop disaster program (the Supplemental Revenue Assistance Payments Program or SURE).

Separately, in response to the 2012 drought, USDA took several actions to assist livestock producers. These include authorization of emergency haying and grazing on Conservation Reserve Program (CRP) acres and the purchase of meat (pork, lamb, chicken, and catfish) to mitigate downward pressure on livestock prices resulting from producers selling livestock for slaughter during the current drought. For a discussion of administrative and congressional actions on agricultural disaster assistance in recent years, see **Appendix A**.

In the 113th Congress, as of mid-January, Congress has not approved any additional funding for agricultural disaster assistance. However, additional funding for emergency agricultural land assistance is included in FY2013 supplemental funding (H.R. 152) for disaster relief following Hurricane Sandy and other 2012 disasters. For more information, see CRS Report R42869, *FY2013 Supplemental Funding for Disaster Relief: Summary and Considerations for Congress*.

# Major USDA Disaster Assistance Programs

## Federal Crop Insurance[5]

The federal crop insurance program is administered by USDA's Risk Management Agency. The program is designed to protect crop producers from unavoidable risks associated with adverse weather, and weather-related plant diseases and insect infestations. A producer who chooses to purchase an insurance policy must do so by an administratively determined deadline date, which varies by crop and usually coincides with the planting season. Crop insurance is available for most major crops. Insurance products that protect against loss in revenue (yield times price) are also available.

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disaster_fact_sheets.pdf.

[4] See USDA/Risk Management Agency information on insurance program for pasture, rangeland, and forage, http://www.rma.usda.gov/policies/pasturerangeforage/. In 2012, 48 million acres were insured under this program.

[5] For more information on the federal crop insurance program, see CRS Report R40532, *Federal Crop Insurance: Background* CRS Report RL34207, *Crop Insurance and Disaster Assistance in the 2008 Farm Bill*; and CRS Report R42813, *Federal Crop Insurance for Specialty Crops: Background and Legislative Proposals.*

The federal crop insurance program was instituted in the 1930s and was subject to major legislative reforms in 1980, and again in 1994 and 2000. The Agriculture Risk Protection Act of 2000 (P.L. 106-224) pumped $8.2 billion in new federal spending over a five-year period into the program primarily through more generous premium subsidies to help make the program more affordable to farmers and enhance farmer participation levels, in an effort to preclude the need for ad-hoc emergency disaster payments. Between 2006 and 2011, the federal subsidy to the crop insurance program averaged $5.9 billion per year, up from an annual average of $3.0 billion during 2000-2005, $1.1 billion in the 1990s, and about $500 million in the 1980s. More than 80% of the total during 2006-2011 was used to subsidize producer premiums, and the balance primarily covered the government share of program losses and reimbursed participating private insurance companies for their administrative and operating expenses. In 2007 and 2008, program costs rose sharply, mainly because premium subsidies and company reimbursements are based on total premiums, and total premiums increased in tandem with farm commodity prices. Similarly, high commodity prices in 2011 resulted in premium subsidies exceeding $7 billion, the largest portion of overall government costs of $11.3 billion. In 2012, high commodity prices drove up premiums subsidies again and persistent drought resulted in large losses for the program. USDA estimates total program cost at $14.1 in FY2012.

Under the current crop insurance program, a producer who grows an insurable crop selects a level of crop yield and price coverage and pays a premium that increases as the levels of yield and price coverage rise. However, all eligible producers can receive catastrophic (CAT) coverage without paying a premium. The premium for this portion of coverage is completely subsidized by the federal government. Under CAT coverage, participating producers can receive a payment equal to 55% of the estimated market price of the commodity, on crop losses in excess of 50% of normal yield, or 50/55 coverage.

Although eligible producers do not have to pay a premium for CAT coverage, they are required to pay upon enrollment a $300 administrative fee per covered crop for each county where they grow the crop.[6] The fee can be waived by USDA for financial hardship cases. Any producer who opts for CAT coverage has the opportunity to purchase additional insurance coverage from a private crop insurance company. For an additional premium paid by the producer, and partially subsidized by the government, a producer can increase the 50/55 catastrophic coverage to any equivalent level of coverage between 50/100 and 85/100, (i.e., 85% of yield and 100% of the estimated market price), in increments of 5%.

For many insurable commodities, an eligible producer can purchase revenue insurance. Under such a policy, a farmer potentially can receive an indemnity payment when actual farm revenue falls below the target level of revenue, regardless of whether the shortfall in revenue was caused by poor production or low farm commodity prices. Insured producers also can be eligible for reduced coverage if they are late or prevented from planting because of flooding.

## Noninsured Crop Disaster Assistance Program (NAP)

Producers who grow a crop that is currently ineligible for crop insurance may be eligible for a direct payment under USDA's Noninsured Crop Disaster Assistance Program (NAP). NAP has permanent authority under Section 196 of the Federal Agriculture Improvement and Reform Act

[6] The 2008 farm bill (P.L. 110-246) increased the fee to $300 per crop per county from the existing $100 fee.

of 1996 (7 U.S.C. 7333), and is administered by USDA's Farm Service Agency. It was first authorized under the Federal Crop Insurance Reform Act of 1994 (P.L. 103-354). The program's principal clientele are farmers who grow a crop that is ineligible for federal crop insurance. NAP is not subject to annual appropriations. Instead, it receives such sums as are necessary through USDA's Commodity Credit Corporation, which has a line of credit with the U.S. Treasury to fund an array of farm programs.

Eligible crops under NAP include any commercial crops grown for food, fiber, or livestock consumption that are ineligible for crop insurance, and include mushrooms, floriculture, ornamental nursery, Christmas tree crops, turfgrass sod, aquaculture, and ginseng. Trees grown for wood paper or pulp products are not eligible. To be eligible for a NAP payment, a producer first must apply for coverage under the program by the application closing date, which varies by crop, but is generally about 30 days prior to the final planting date for an annual crop. Like catastrophic crop insurance, NAP applicants must also pay an administrative fee. The NAP fee is $250 per crop payable at the time of application (rising from $100 per crop, as required by the 2008 farm bill).[7]

In order to receive a NAP payment, a producer must experience at least a 50% crop loss caused by a natural disaster, or be prevented from planting more than 35% of intended crop acreage. For any losses in excess of the minimum loss threshold, a producer can receive 55% of the average market price for the covered commodity. Hence, NAP is similar to catastrophic crop insurance coverage in that it pays 55% of the market price for losses in excess of 50% of normal historic production. A producer of a noninsured crop is subject to a payment limit of $100,000 per person and is ineligible for a payment if the producer's nonfarm adjusted gross income exceeds $500,000. NAP payments were $110 million in FY2005, $66 million in FY2006, $127 million in FY2007, $74 million in FY2008, $62 million in FY2009, $99 million in FY2010, $71 million in FY2011, an estimated $109 million in FY2012, and an estimated $115 million in FY2013.[8]

## Emergency Disaster Loans

When a county has been declared a disaster area by either the President or the Secretary of Agriculture, agricultural producers in that county may become eligible for low-interest emergency disaster (EM) loans available through USDA's Farm Service Agency.[9] Producers in counties that are contiguous to a county with a disaster designation also become eligible for an EM loan. EM loan funds may be used to help eligible farmers, ranchers, and aquaculture producers recover from *production* losses (when the producer suffers a significant loss of an annual crop) or from *physical* losses (such as repairing or replacing damaged or destroyed structures or equipment, or for the replanting of permanent crops such as orchards). A qualified applicant can then borrow up to 100% of actual production or physical losses (not to exceed $500,000) at an interest rate of 2.25%.

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[7] For more information on NAP, see the USDA fact sheet at http://fsa.usda.gov/Internet/FSA_File/nap09.pdf.

[8] U.S. Department of Agriculture, http://www.fsa.usda.gov/FSA/webapp?area=about&subject=landing&topic=bap-bu-cc.

[9] On July 11, 2012, USDA announced the reduction of interest rates for emergency loans from 3.75% to 2.25%. See U.S. Department of Agriculture, "USDA Announces Streamlined Disaster Designation Process with Lower Emergency Loan Rates and Greater CRP Flexibility in Disaster Areas," press release, July 11, 2012, http://www.fsa.usda.gov/FSA/newsReleases?area=newsroom&subject=landing&topic=ner&newstype=newsrel&type=detail&item=nr_20120711_rel_0228.html.

Once a county is declared eligible, an individual producer within the county (or a contiguous county) must also meet the following requirements for an EM loan. A producer must (1) be a family farmer and a citizen or permanent resident of the United States; (2) experience a crop loss of more than 30% or a physical loss of livestock, livestock products, real estate, or property; and (3) be unable to obtain credit from a commercial lender, but still show the potential to repay the loan. Applications must be received within eight months of the county's disaster designation date. Loans for non-real estate purposes generally must be repaid within 1 to 7 years; loans for physical losses to real estate have terms up to 20 years. Depending on the repayment ability of the producer and other circumstances, these terms can be extended to 20 years for non-real estate losses and up to 40 years for real estate losses.

The EM loan program is permanently authorized by Title III of the Consolidated Farm and Rural Development Act (P.L. 87-128), as amended, and is subject to annual appropriations. Traditionally, an appropriation was made for EM loans within the regular agriculture appropriations bill. However, funding for the program has been provided through emergency supplemental appropriations, such as the Consolidated Appropriations Act of 2000 (P.L. 106-113), which provided funding to make $547 million in EM loans over a multi-year period. Total EM loans (made) are typically less than $100 million per year.[10]

# 2008 Farm Bill Disaster Programs

In an attempt to avoid ad-hoc disaster programs that had become almost routine, and to cover livestock (and other) producers, the 2008 farm bill included authorization and funding for five new disaster programs. However, these programs were authorized only for losses caused by weather events that occurred on or before September 30, 2011, and not through the entire life of the 2008 farm bill (authorization for many farm bill programs originally ended on September 30, 2012). Consequently, losses caused by events after September 30, 2011, were not covered under the 2008 farm bill. Similarly, the subsequent one-year farm bill extension authorized by the American Taxpayer Relief Act of 2012 (ATRA; P.L. 112-240) did not provide funding for losses after September 2011. However, funds can still be spent on disasters that occurred by that date, and applications are still being accepted for losses that occurred on or before September 30, 2011. As of December 4, 2012, cumulative payments under these programs totaled $4.2 billion.[11]

Importantly, as a result of the early expiration of the 2008 farm bill disaster programs, funding for these programs is not included in future baseline budgets. Reauthorization requires Congress to find either new funding or budget offsets to pay for the programs. See "Issues for Congress."

## Supplemental Revenue Assistance Payments Program (SURE)

The largest of the farm disaster assistance programs authorized by the 2008 farm bill is the Supplemental Revenue Assistance Payments Program (SURE).[12] The program is designed to

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[10] For more information on the emergency disaster loan program, see the USDA fact sheet at http://fsa.usda.gov/Internet/FSA_File/emergency_loan_program.pdf.

[11] For detailed program information and maps, see http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=landing. Payment data by program and state are available at http://www.fsa.usda.gov/Internet/FSA_File/disaster_payments_state_sheet.xls.

[12] For more information on the SURE program, see CRS Report R40452, *A Whole-Farm Crop Disaster Program:* (continued...)

compensate eligible producers for a portion of crop losses that are not eligible for an indemnity payment under the crop insurance program (i.e., the portion of losses that is part of the deductible on the policy). An eligible producer can receive a payment equal to 60% of the difference between a target level of revenue and the actual total farm revenue for the entire farm. The target level of revenue is based on the level of crop insurance coverage selected by the farmer, thus increasing if a farmer opts for higher levels of coverage. To be eligible for a payment, a producer must be in or contiguous to a county that has been declared a disaster area by the Secretary of Agriculture, or have an overall 50% farm loss. Payments are limited so that the disaster program guarantee level cannot exceed 90% of what income likely would have been in the absence of a natural disaster. The producer also must have at least the minimum level of crop insurance (CAT) coverage for insurable crops and participate in the NAP program for noninsurable crops.[13]

Given the complexity of the program, USDA took 18 months to issue regulations for the SURE program, with farmer signup for 2008 crop losses beginning January 4, 2010. Prior to publication of the regulations, some farm groups and legislators had expressed concern for timely publication so farmers could learn about program details and sign up.

A concern many have with the program is that payments for crop losses cannot be determined until after the marketing year ends, since a portion of the disaster payment formula is based on the average market year prices (published after the year ends), as defined in statute. For example, the marketing year for the 2008 corn crop ended August 31, 2009, and USDA published the market year average price on September 29, 2009. After that date, revenue calculations could be determined for farms producing corn. Thus, crop disaster payments in any year typically have been delayed by more than a year after the actual loss. The annual signup period reflects the delay. For example, USDA announced it would accept applications for 2011 losses between October 22, 2012, and July 7, 2013.

## Other 2008 Farm Bill Disaster Programs

In addition to SURE, described above, the 2008 farm bill also authorized and funded four smaller disaster programs for losses from weather events occurring on or before September 30, 2011: (1) Livestock Indemnity Program (LIP), which compensates ranchers at a rate of 75% of market value for livestock mortality caused by a disaster;[14] (2) Livestock Forage Disaster Program (LFP), to assist ranchers who graze livestock on drought-affected pastureland or grazing land;[15]

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*Supplemental Revenue Assistance Payments (SURE)*. USDA program information is available at http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=sure. Also, see Farm Service Agency, USDA, "Supplemental Revenue Assistance Payments Program," 74 *Federal Register* 68480-68498, December 28, 2009.

[13] The 2008 farm bill made an exception to the crop insurance/NAP requirement for the 2008 crop year by allowing producers who did not purchase crop insurance or NAP coverage in advance to be eligible for the program, as long as they pay the equivalent administrative fee for coverage within 90 days of enactment. Subsequently, language contained in P.L. 110-398 and P.L. 111-5 (the economic stimulus bill) modified program details for the 2008 and 2009 crops.

[14] See USDA fact sheet at http://www.fsa.usda.gov/Internet/FSA_File/lip09.pdf. Also see Farm Service Agency and Commodity Credit Corporation, USDA, "Livestock Indemnity Program and General Provisions for Supplemental Agricultural Disaster Assistance Programs," 74 *Federal Register* 31567-31578, July 2, 2009.

[15] See USDA fact sheet at http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=lfp. Also see Farm Service Agency, USDA, "Livestock Forage Disaster Program and Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish; Supplemental Agricultural Disaster Assistance," 74 *Federal Register* 46665-46683, September 11, 2009.

(3) Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP), which provides up to $50 million annually to compensate these producers for disaster losses not covered under other disaster programs;[16] and (4) Tree Assistance Program (TAP), under which eligible orchardists and nursery growers can receive a payment to cover 70% of the cost of replanting trees or nursery stock following a natural disaster.[17] Disaster payments by program, year, and state are available from USDA's disaster assistance program website.[18]

For individual producers, combined payments under SURE, LIP, LFP, and ELAP may not exceed $100,000. For TAP, a separate limit of $100,000 per year per producer applies. Also, to be eligible for payment, a producer's nonfarm adjusted gross income cannot exceed $500,000.

# Issues for Congress

As of mid-January 2013, Congress had not provided funding for the disaster programs established in the 2008 farm bill for any losses after September 30, 2011. In contrast, the permanently authorized disaster-related programs (federal crop insurance, the Noninsured Crop Disaster Assistance Program, and emergency disaster loans) will continue to be available to farmers. Some policymakers are concerned for livestock producers who might not benefit from crop insurance coverage (i.e., reimbursing forage losses) or who are facing high feed prices caused in part by drought in 2012.

The 112th Congress considered but did not pass omnibus five-year farm legislation (S. 3240 and H.R. 6083), including the retroactive extension of the expired livestock and tree assistance disaster programs (but not SURE, the crop loss program). The Senate passed S. 3240 in June 2012. The House Agriculture Committee passed H.R. 6083 in July 2012. On January 2, 2013, the 2008 farm bill was extended one year as part of the American Taxpayer Relief Act of 2012 (ATRA; P.L. 112-240), but without any funding for the 2008 farm bill disaster programs.

Many of the disaster provisions in the two farm bills from the 112th Congress were the same, reflecting the popularity of the livestock and tree loss provisions. (See **Table 1**.) Similar disaster provisions might be considered as part of farm bill deliberations in the 113th Congress.

Importantly, available funding for extending the 2008 farm bill disaster programs is a major issue. Under congressional budget scoring, the programs do not have "baseline funding" to cover losses from weather events occurring after September 30, 2011.[19] This means that if Congress wants to reactivate them, it will need to find budget offsets to pay for them or consider it emergency spending. For example, the Congressional Budget Office cost estimate for H.R. 6233 in the 112th Congress, which would have funded the three livestock disaster programs and the tree assistance program for FY2012, was $383 million. The House-passed bill would have paid for the cost through reductions in conservation programs. In the 112th Congress, both the Senate-passed and

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[16] See Farm Service Agency, USDA, "Livestock Forage Disaster Program and Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish; Supplemental Agricultural Disaster Assistance," 74 *Federal Register* 46665-46683, September 11, 2009. A USDA factsheet is available at http://www.fsa.usda.gov/Internet/FSA_File/elap_livestock_2011.pdf.

[17] See USDA fact sheet at http://apfo.usda.gov/Internet/FSA_File/tap051010.pdf.

[18] http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=landing.

[19] Payments are made on disasters occurring by that date.

House committee-reported farm bills would have offset the cost of the disaster programs with savings provided elsewhere in the bills.

A broader policy issue is the efficacy of risk-related programs for farmers. Congress, as part of the farm bill debate, is considering how the constellation of government programs, including disaster assistance, helps farmers manage their business risks in a cost-effective manner.[20]

[20] For more information on these programs and issues for the farm bill debate, see CRS Report R42552, *The 2012 Farm Bill: A Comparison of Senate-Passed S. 3240 and the House Agriculture Committee's H.R. 6083 with Current Law*, and CRS Report R42759, *Farm Safety Net Provisions in a 2012 Farm Bill: S. 3240 and H.R. 6083.*

## Table 1. Agricultural Disaster Provisions in Selected Bills of the 112th Congress

| 2008 Farm Bill: Disaster Provisions (Expired on 9/30/11) | Senate-Passed Farm Bill (S. 3240) | House Agric. Comm. Farm Bill, as amended (H.R. 6083) | House-Passed Agriculture Disaster Assistance Act of 2012 (H.R. 6233) |
|---|---|---|---|
| Beginning in 2008, five new disaster programs were authorized for disasters occurring on or before 9/30/11. ***[7 U.S.C. 1531]*** Program funding derived from a transfer of 3.08% of annual customs receipts to the newly created Agricultural Disaster Relief Trust Fund. ***[19 U.S.C. 2497(a)]*** | LIP, LFP, ELAP, and TAP are reauthorized with mandatory funding from the Commodity Credit Corporation for FY2012 through FY2017. SURE is not reauthorized. Excludes crop insurance or NAP purchase requirement. ***[Sec. 1501]*** | Same as Senate bill, except as identified below. ***[Sec. 1501]*** | Reauthorizes the four disaster programs as in the Senate bill but only for FY2012 and with other exception as identified below. ***[Sec. 2]*** |
| The five programs: (1) Supplemental Revenue Assistance (SURE) Payments for crops (not just farm program crops); compensates producers for a portion of losses that are not eligible for an indemnity payment under a crop insurance policy; (2) Livestock Indemnity Program (LIP), which compensated ranchers at a rate of 75% of market value for livestock mortality caused by a disaster; (3) Livestock Forage Disaster Program (LFP) for grazing losses due to qualifying drought conditions (as determined by the U.S. Drought Monitor report) or fire on rangeland managed by a federal agency; (4) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Catfish (ELAP), which provided up to $50 million annually to compensate producers for disaster losses not covered under other disaster programs; and (5) Tree Assistance Program (TAP), which provided payments to eligible orchardists and nursery growers to cover 70% of the cost of replanting trees or nursery stock and 50% of the cost of pruning/removal following a natural disaster. To be eligible for all programs except LIP, producers must purchase crop insurance or policy under Noninsured Crop Disaster Program (NAP). | LIP payment rate is reduced from 75% to 65% of the market value of livestock. | LIP payment rate remains at 75%. | LIP payment rate remains at 75%. |
| | For LFP, payment is triggered by eligible forage losses, which may be determined by either (1) drought conditions as measured by the U.S. Drought Monitor report, or (2) low precipitation (at least 50% below normal level in a county during a calendar year). Compared with previous law, payment amount for counties in D3 category (extreme drought) is increased by an additional monthly payment (monthly payment rate calculation is unchanged). Coverage continues for losses due to fire on public rangeland. LFP is to serve as the sole source of livestock forage assistance, combining the livestock forage assistance functions of ELAP and the noninsured crop disaster assistance program (NAP). | For LFP, retains 2008 farm bill language for use of drought monitor and payment amounts. | For LFP, same as House bill. |
| | Maximum funding for ELAP is $5 million annually. | Maximum funding for ELAP is $20 million annually. | Maximum funding for ELAP is $20 million for FY2012. |
| | TAP payment rate for replanting is reduced from 70% to 65%. | Same as Senate bill. | TAP payment rate is unchanged from previous law at 70%. |
| Maximum payments set at $100,000 per person per year for first four programs combined. TAP has a separate limit of $100,000. | Retains the combined $100,000 per person payment limit for LIP, LFP, and ELAP. Retains the separate limit of $100,000 for TAP. | Combined payment limit of $125,000 per person for LIP, LFP, and ELAP. Separate limit of $125,000 for TAP. | Same as Senate bill. |

**Source:** CRS Report R42552, *The 2012 Farm Bill: A Comparison of Senate-Passed S. 3240 and the House Agriculture Committee's H.R. 6083 with Current Law.*

**Note:** Program details for SURE, LIP, LFP, ELAP, and TAP are available at http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=landing.

# Appendix A. Brief History of Recent Emergency Farm Disaster Assistance

In virtually every crop year between 1988 and 2007, Congress provided ad hoc disaster assistance to farmers and ranchers with significant weather-related production losses. Ad hoc assistance was made available primarily through emergency supplemental appropriations to a wide array of USDA programs.[21]

While disaster programs authorized in the 2008 farm bill were meant to replace the need for ad hoc payments, it is an open question whether Congress will continue to pass additional emergency payments for producers or how Congress might provide disaster assistance to livestock producers, who are generally not eligible for other forms of federal agricultural disaster assistance. The sections below describe congressional and administrative action on emergency funding and disaster-related activities since 2009.

## American Recovery and Reinvestment Act of 2009

The enacted American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5) contained provisions worth $744 million, as estimated by CBO, to directly assist farmers, including $674 million for crop disaster programs (primarily SURE). The SURE program changes affected 2008 crop payments by altering the payment formula and program dates.

The enacted ARRA also authorized a new $50 million grant program for aquaculture producers to compensate them for their share of high feed prices in 2008. Under the Aquaculture Grant Program, USDA's Farm Service Agency provided grants to state governments for distribution to farmers. USDA implemented the program through a notice of funds availability published in the *Federal Register* on June 2, 2009.[22]

The final component of ARRA related to farm disaster assistance was $20 million in budget authority (loan subsidy) for the Farm Service Agency to support $173 million in direct farm operating loans. FSA lends to farmers and ranchers who are not able to obtain credit from commercial lenders.

## Disaster Assistance for 2009 Losses

Following losses to 2009 crops due to excessive rain across much of the country, legislation was introduced in the 111th Congress (S. 2810 and H.R. 4177) to make emergency payments to producers for losses in calendar year 2009. The bills were referred to committees in both chambers. Proponents argued that the SURE program was not effectively covering losses for

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[21] For a history of the congressional response to agricultural disasters, see CRS Report RL31095, *Emergency Funding for Agriculture: A Brief History of Supplemental Appropriations, FY1989-FY2012*, by Ralph M. Chite.

[22] For the notice and additional information on the program, see http://www.fsa.usda.gov/FSA/webapp?area=home&subject=landing&topic=aqua. State departments of agriculture began announcing program availability on June 18, 2009. For example, see Florida Department of Agriculture and Consumer Services, "Bronson Announces 2008 Aquaculture Grant Program," press release, June 18, 2009.

some farmers, particularly rice and cotton producers.[23] Agricultural disaster provisions were eventually included in a "tax extenders" package that both chambers passed but failed to reconcile. Subsequent efforts to include disaster provisions in other legislation were unsuccessful.

In August 2010, the Administration wrote Senator Lincoln—who had led efforts to secure additional disaster assistance—committing to administratively provide emergency payments to producers consistent with proposed legislation.[24] On September 15, 2010, the Administration announced that it would implement a disaster program for 2009 losses under "Section 32" authority.[25] USDA noted that Section 32 can be used to "reestablish the purchasing power of farmers" and has been used previously for disaster relief. In fall 2010, USDA spent $348 million distributed across three categories: (1) $268 million for payments to producers of upland cotton, rice, soybeans, and sweet potatoes who suffered at least a 5% loss in certain disaster-designated counties;[26] (2) $60 million to poultry producers who lost a contract due to the bankruptcy of an integrator (processor); and (3) $20 million to aquaculture producers for relief from high feed costs.

Critics of the 2009 disaster assistance in Congress and elsewhere questioned whether USDA had authority to make such payments without a legislative mandate and said the assistance could result in a windfall to some producers, given the relatively low loss threshold. Normal variation in crop yields can be more than 5%. As a result, payments could go to producers who had experienced little or no loss from weather-related disasters. Also, critics charged that the assistance resulted in unequal treatment of producers, particularly those who suffered losses but produced a noncovered crop or were not located in a designated county.

## USDA and Congressional Action in 2011

In 2011, adverse weather affected many agricultural producing regions. Drought spread across the Central and Southern Plains; wet weather slowed and prevented crop planting in the Midwest and Northern Plains; and excessive summer heat stressed crops and livestock in various parts of the country. In response, USDA encouraged producers to contact their local county or state USDA Service Center or Farm Service Agency office for assistance under existing programs. Many producers also received indemnities from their crop insurance policies. Total crop insurance

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[23] Rice producers have said their 2009 losses are not covered well by the SURE program because the monetary losses stemmed primarily from wet weather at harvest that increased harvesting costs rather than from lower yields (which would have more likely resulted in SURE payments). Also, rice and cotton farmers tend to carry less crop insurance because they say it "doesn't work as well as for other crops," which reduces the likelihood of SURE payments (a higher coverage level purchased by a farmer results in a higher SURE program guarantee level).

[24] The letter from the Office of Management and Budget to Senator Lincoln, dated August 6, 2010, is available at http://www.farmpolicy.com/wp-content/uploads/2010/08/OMB216Sharp_omb_eop_gov_20100806_083106.pdf.

[25] USDA's Section 32 program is funded by a permanent appropriation of 30% of the previous year's customs receipts, less certain mandatory transfers. Section 32 funds are used for a variety of activities, including child nutrition programs, the purchase of commodities for domestic food programs, and farm disaster relief. For more information, see CRS Report RL34081, *Farm and Food Support Under USDA's Section 32 Program*.

[26] On October 22, 2010, USDA announced it would begin making payments to producers in eligible counties under the "Crop Assistance Program (CAP)" using payment rates established for each crop. For each eligible crop, producers who certify a loss of 5% or greater in 2009 will receive a payment based on the payment rate multiplied by actual planted (or prevented planted) acres. Eligible counties are those designated as primary disaster counties by the Secretary due to high precipitation or moisture conditions in 2009. A factsheet is available at http://www.fsa.usda.gov/Internet/FSA_File/cap10pfs.pdf.

indemnities for the crop year were $10.8 billion, compared with total crop-year figures of $4.3 billion in 2010 and $5.2 billion in 2009.

While Congress did not authorize additional farm disaster payments, poor weather in 2011—particularly hurricane aftermath in the northeastern United States—led to emergency congressional funding for three USDA disaster-related conservation programs. The FY2012 Agriculture Appropriations Act (P.L. 112-55) provided $122.7 million for the Emergency Conservation Program (ECP), which offers financial and technical assistance to rehabilitate farmland and conservation practices destroyed by natural disasters (e.g., flood, fire, drought). The legislation also provided $28.4 million for the Emergency Forest Restoration Program (EFRP), which offers assistance to nonindustrial private forestland owners to restore forestland following a natural disaster. P.L. 112-55 also provided $215.9 million for the Emergency Watershed Protection (EWP) program, which provides financial and technical assistance to relieve imminent hazards to life and property caused by floods, fires, storms, and other natural occurrences. For more information on these programs, see CRS Report R40763, *Agricultural Conservation: A Guide to Programs*, by Megan Stubbs.

## USDA Action in 2012[27]

In the midst of a major drought, on July 11, 2012, USDA announced several program changes designed to deliver faster and more flexible assistance to farmers and ranchers devastated by natural disasters.[28] The first change was a final rule that simplifies the process for secretarial disaster designations and aims to achieve a 40% reduction in processing time for most counties affected by disasters. The second was a reduced interest rate for emergency loans that effectively lowers the current rate from 3.75% to 2.25%. USDA also authorized emergency haying and grazing on Conservation Reserve Program (CRP) acres for 2012 due to drought conditions. USDA announced a smaller reduction (10% instead of the 25% used in recent years) on rental payments made to producers on CRP lands used for emergency haying and grazing in 2012.[29]

On July 23, 2012, USDA announced further program changes to allow flexibility in the administration of several conservation programs (CRP; the Environmental Quality Incentives Program, or EQIP; and the Wetlands Reserve Program, or WRP) to assist farmers and ranchers affected by drought.[30] The changes included (1) allowing lands that are not yet classified as "under severe drought" but that are "abnormally dry" to be used for haying and grazing; (2) allowing producers to modify current EQIP contracts to allow for prescribed grazing, livestock watering facilities, water conservation, and other conservation activities to address drought conditions; and (3) haying and grazing of WRP easement areas in drought-affected areas where

[27] USDA's collection of drought resources (e.g., maps, weather updates, farm and food impacts) is at http://www.usda.gov/wps/portal/usda/usdahome?navid=DISASTER_ASSISTANCE.

[28] U.S. Department of Agriculture, "USDA Announces Streamlined Disaster Designation Process with Lower Emergency Loan Rates and Greater CRP Flexibility in Disaster Areas," press release, July 11, 2012, http://www.fsa.usda.gov/FSA/newsReleases?area=newsroom&subject=landing&topic=ner&newstype=newsrel&type=detail&item=nr_20120711_rel_0228.html.

[29] Producers enrolled in CRP establish long-term, resource-conserving covers (e.g., grass) to improve the quality of water, control soil erosion, and enhance wildlife habitat. In return, FSA provides participants with rental payments and cost-share assistance.

[30] U.S. Department of Agriculture, "Agriculture Secretary Vilsack Announces New Obama Administration Efforts to Assist Farmers and Ranchers Impacted by Drought," press release, July 23, 2012, http://usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2012/07/0247.xml.

such haying and grazing is consistent with conservation of wildlife habitat and wetlands. Separately, USDA also encouraged crop insurance companies to voluntarily forgo charging interest on unpaid crop insurance premiums for an extra 30 days, to November 1, 2012, for spring crops. On August 1, 2012, USDA announced that crop insurance companies had agreed to the request.[31]

Additional administrative action continued in August, when USDA announced that it was using $30 million in financial and technical assistance to help crop and livestock producers, including transferring $14 million in unobligated program funds into the Emergency Conservation Program for moving water to livestock, providing emergency forage, and rehabilitating lands impacted by drought.[32] On August 13, 2012, USDA announced intentions under Section 32 funding to purchase $170 million of meat, including pork ($100 million), lamb ($10 million), chicken ($50 million), and catfish ($10 million) for federal food nutrition assistance programs, including food banks.[33] According to USDA, the purchase would help relieve pressure on livestock producers during the drought, while helping to bring the nation's meat supply in line with demand. USDA said the purchases would mitigate downward price pressure resulting from producers selling livestock for slaughter during the current drought.

Unlike in previous years, the Administration's use of Section 32 funds and the Commodity Credit Corporation Charter Act is not allowed for direct farm disaster assistance in FY2012. The FY2012 Agriculture Appropriations Act (P.L. 112-55) includes a provision that effectively prohibits USDA's use of these authorities for making direct disaster payments to farmers:

> none of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries or expenses of any employee of the Department of Agriculture or officer of the Commodity Credit Corporation to carry out clause 3 of Section 32 of the Agricultural Adjustment Act of 1935 (P.L. 74-320, 7 U.S.C. 612c, as amended) or for any surplus removal activities or price support activities under section 5 of the Commodity Credit Corporation Charter Act.[34]

## Congressional Action in 2012

Several congressional attempts were made during 2012 to pass agricultural disaster assistance. None was successful.

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[31] U.S. Department of Agriculture, "Agriculture Secretary Vilsack Announces New Drought Assistance, Designates an Additional 218 Counties as Primary Natural Disaster Areas," press release, August 1, 2012, http://www.usda.gov/wps/portal/usda/usdamediafb?contentid=2012/08/0260.xml&printable=true&contentidonly=true.

[32] U.S. Department of Agriculture, "Agriculture Secretary Vilsack, Obama Administration Deliver New Drought Assistance to America's Producers," press release, August 8, 2012, http://www.fsa.usda.gov/FSA/printapp?fileName=nr_20120808_rel_0265.html&newsType=newsrel.

[33] U.S. Department of Agriculture, "Agriculture Secretary Vilsack Announces Meat Purchase to Assist Livestock Producers Impacted by Drought; Bolster Federal Nutrition Programs," press release, August 13, 2012, http://www.usda.gov/wps/portal/usda/usdamediafb?contentid=2012/08/0271.xml&printable=true&contentidonly=true. Additional information appears in U.S. Department of Agriculture, "USDA Expands Drought Assistance to 22," press release, September 19, 2012. http://www.usda.gov/wps/portal/usda/usdahome?contentid=2012/09/0300.xml&navid=NEWS_AUSUMS&navtype=RT&parentnav=SAFETY&edeployment_action=retrievecontent

[34] Clause 3 of Section 32 provides that these funds shall be used to re-establish farmers' purchasing power by making payments in connections with the normal production of any agricultural commodity for domestic consumption (7.U.S.C 612c). See CRS Report R41964, *Agriculture and Related Agencies: FY2012 Appropriations*, coordinated by Jim Monke.

A major drought arrived in summer 2012 at the same time as congressional consideration of omnibus farm legislation, including extension of certain agricultural disaster programs that expired in September 2011.[35] The Senate passed its version of the 2012 omnibus farm bill (S. 3240, the Agriculture Reform, Food, and Jobs Act of 2012) in June 2012. The Senate bill would have retroactively extended the four livestock and tree assistance programs, thereby potentially covering losses associated with the drought affecting a large portion of the country. The bill would not have extended the Supplemental Revenue Assistance (SURE) program for crop losses. In the House, on July 11, 2012, the House Agriculture Committee passed its version of the farm bill (H.R. 6083, the Federal Agriculture Reform and Risk Management Act of 2012), including the same four disaster programs as in the Senate bill. See "Issues for Congress" for a comparison of disaster provisions in these two bills.

Next, on July 27, 2012, the House Agriculture Committee released legislation (H.R. 6228) to extend the four disaster programs (excluding SURE) as part of a one-year extension of the farm bill. Subsequently, on July 31, 2012, the bill was pulled from consideration, and H.R. 6233 was introduced to provide livestock and tree assistance disaster programs for FY2012 (i.e., no extension of the farm bill). On August 2, 2012, the House passed H.R. 6233 by a vote of 223-197. By the end of the 112th Congress, the Senate had not considered the bill.

Other stand-alone farm disaster legislation was also proposed in 2012. For example, S. 3384 and H.R. 6167 would have extended through September 30, 2012, the supplemental agricultural disaster programs in the 2008 farm bill. S. 3395 would have extended the four expired livestock and tree assistance disaster programs, assisting farmers and ranchers affected by wildfires, through FY2012.[36] H.R. 6192 would have extended the three livestock disaster programs for FY2012, while H.R. 4948 would extend them through FY2017.

Rather than passing farm disaster legislation, some Members of Congress and agricultural interest groups had called on the House leadership to bring H.R. 6083 (the House committee-reported farm bill) to the House floor in order to expedite passage of the disaster provisions as part of the omnibus farm bill. The bill was not brought to the House floor, and instead, on January 2, 2013, the 2008 farm bill was extended one year under the American Taxpayer Relief Act of 2012 (ATRA; H.R. 8 as enacted), but without funding for the 2008 farm bill disaster programs.

In the 112th Congress, another potential avenue for extending agricultural disaster assistance was included in a supplemental appropriations bill for Hurricane Sandy. Proposed legislation at the end of the 112th Congress (the Senate-amended H.R. 1) included emergency conservation and watershed rehabilitation funding but not agricultural disaster funding. A Senate amendment to the bill would have provided agricultural disaster assistance but the amendment was withdrawn because it did not offset the disaster funding with cuts elsewhere, and the Senate was not willing to waive budget rules to allow the spending to raise the deficit.

In the 113th Congress, a comparable disaster package was passed by the House (H.R. 152), which included the emergency conversation provisions and no agricultural disaster funds. Senate action is pending.

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35 See CRS Report R42552, *The 2012 Farm Bill: A Comparison of Senate-Passed S. 3240 and the House Agriculture Committee's H.R. 6083 with Current Law*.

36 For information on wildfires, see CRS Report R41858, *Federal Assistance for Wildfire Response and Recovery*.

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