

## § 760.202

wildfires, disease, and insect infestation. ELAP does not cover losses that are covered under LFP, LIP, or SURE.

### § 760.202 Definitions.

The following definitions apply to this subpart and to the administration of ELAP. The definitions in parts 718 and 1400 of this title also apply, except where they conflict with the definitions in this section.

*Adult beef bull* means a male beef breed bovine animal that was used for breeding purposes that was at least 2 years old before the beginning date of the eligible adverse weather or eligible loss condition.

*Adult beef cow* means a female beef breed bovine animal that had delivered one or more offspring before the beginning date of the eligible adverse weather or eligible loss condition. A first-time bred beef heifer is also considered an adult beef cow if it was pregnant on or by the beginning date of the eligible adverse weather or eligible loss condition.

*Adult buffalo and beefalo bull* means a male animal of those breeds that was used for breeding purposes and was at least 2 years old before the beginning date of the eligible adverse weather or eligible loss condition.

*Adult buffalo and beefalo cow* means a female animal of those breeds that had delivered one or more offspring before the beginning date of the eligible adverse weather or eligible loss condition. A first-time bred buffalo or beefalo heifer is also considered an adult buffalo or beefalo cow if it was pregnant by the beginning date of the eligible adverse weather or eligible loss condition.

*Adult dairy bull* means a male dairy breed bovine animal that was used primarily for breeding dairy cows and was at least 2 years old by the beginning date of the eligible adverse weather or eligible loss condition.

*Adult dairy cow* means a female bovine dairy breed animal used for the purpose of providing milk for human consumption that had delivered one or more offspring by the beginning date of the eligible adverse weather or eligible loss condition. A first-time bred dairy heifer is also considered an adult dairy cow if it was pregnant by the beginning

## 7 CFR Ch. VII (1-1-11 Edition)

date of the eligible adverse weather or eligible loss condition.

*Agricultural operation* means a farming operation.

*Application* means FSA form used to apply for either the emergency loss assistance for livestock or emergency loss assistance for farm-raised fish or honeybees.

*Aquatic species* means any species of aquatic organism grown as food for human consumption, fish raised as feed for fish that are consumed by humans, or ornamental fish propagated and reared in an aquatic medium by a commercial operator on private property in water in a controlled environment. Catfish and crawfish are both defined as aquatic species for ELAP. However, aquatic species do not include reptiles or amphibians.

*Bait fish* means small fish caught for use as bait to attract large predatory fish. For ELAP, it also must meet the definition of aquatic species and not be raised as food for fish; provided, however, that only bait fish produced in a controlled environment can generate claims under ELAP.

*Buck* means a male goat.

*Commercial use* means used in the operation of a business activity engaged in as a means of livelihood for profit by the eligible producer.

*Contract* means, with respect to contracts for the handling of livestock, a written agreement between a livestock owner and another individual or entity setting the specific terms, conditions, and obligations of the parties involved regarding the production of livestock or livestock products.

*Controlled environment* means an environment in which everything that can practicably be controlled by the participant with structures, facilities, and growing media (including, but not limited to, water and nutrients) was in fact controlled by the participant at the time of the eligible adverse weather or eligible loss condition.

*County committee or county office* means the respective FSA committee or office.

*Deputy Administrator* or DAFP means the Deputy Administrator for Farm Programs, Farm Service Agency, U.S. Department of Agriculture or the designee.

*Eligible adverse weather or eligible loss condition* means any disease, adverse weather, or other loss condition as determined by the Deputy Administrator. The eligible adverse weather or eligible loss condition would have resulted in agricultural losses not covered by other programs in this part for which the Deputy Administrator determines financial assistance needs to be provided to producers. The disease, adverse weather, or other conditions may include, but are not limited to, blizzards, wildfires, water shortages, and other factors. Specific eligible adverse weather and eligible loss conditions may vary based on the type of loss. Identification of eligible adverse weather and eligible loss conditions will include locations (National, State, or county-level) and start and end dates.

*Equine animal* means a domesticated horse, mule, or donkey.

*Ewe* means a female sheep.

*Farming operation* means a business enterprise engaged in producing agricultural products.

*Farm-raised fish* means any aquatic species that is propagated and reared in a controlled environment.

*FSA* means the Farm Service Agency.

*Game or sport fish* means fish pursued for sport by recreational anglers; provided, however, that only game or sport fish produced in a controlled environment can generate claims under ELAP.

*Goat* means a domesticated, ruminant mammal of the genus *Capra*, including Angora goats. Goats are further delineated into categories by sex (bucks and nannies) and age (kids).

*Kid* means a goat less than 1 year old.

*Lamb* means a sheep less than 1 year old.

*Livestock owner*, for death loss purposes, means one having legal ownership of the livestock for which benefits are being requested on the day such livestock died due to an eligible adverse weather or eligible loss condition. For all other purposes of loss under ELAP, "livestock owner" means one having legal ownership of the livestock for which benefits are being requested during the 60 days prior to the beginning date of the eligible adverse weather or eligible loss condition.

*Nanny* means a female goat.

*Non-adult beef cattle* means a beef breed bovine animal that does not meet the definition of adult beef cow or bull. Non-adult beef cattle are further delineated by weight categories of either less than 400 pounds or 400 pounds or more at the time they died. For a loss other than death, means a bovine animal less than 2 years old that weighed 500 pounds or more on or before the beginning date of the eligible adverse weather or eligible loss condition.

*Non-adult buffalo or beefalo* means an animal of those breeds that does not meet the definition of adult buffalo or beefalo cow or bull. Non-adult buffalo or beefalo are further delineated by weight categories of either less than 400 pounds or 400 pounds or more at the time of death. For a loss other than death, means an animal of those breeds that is less than 2 years old that weighed 500 pounds or more on or before the beginning date of the eligible adverse weather or eligible loss condition.

*Non-adult dairy cattle* means a bovine dairy breed animal used for the purpose of providing milk for human consumption that does not meet the definition of adult dairy cow or bull. Non-adult dairy cattle are further delineated by weight categories of either less than 400 pounds or 400 pounds or more at the time they died. For a loss other than death, means a bovine dairy breed animal used for the purpose of providing milk for human consumption that is less than 2 years old that weighed 500 pounds or more on or before the beginning date of the eligible adverse weather or eligible loss condition.

*Normal grazing period*, with respect to a county, means the normal grazing period during the calendar year with respect to each specific type of grazing land or pastureland in the county.

*Normal mortality* means the numerical amount, computed by a percentage, as established for the area by the FSA State Committee, of expected livestock deaths, by category, that normally occur during a calendar year for a producer.

*Poultry* means domesticated chickens, turkeys, ducks, and geese. Poultry are further delineated into categories

**§ 760.203**

**7 CFR Ch. VII (1-1-11 Edition)**

by sex, age, and purpose of production as determined by FSA.

*Ram* means a male sheep.

*Secretary* means the Secretary of Agriculture or a designee of the Secretary.

*Sheep* means a domesticated, ruminant mammal of the genus *Ovis*. Sheep are further defined by sex (rams and ewes) and age (lambs) for purposes of dividing into categories for loss calculations.

*State committee, State office, county committee, or county office* means the respective FSA committee or office.

*Swine* means a domesticated omnivorous pig, hog, or boar. Swine for purposes of dividing into categories for loss calculations are further delineated into categories by sex and weight as determined by FSA.

*United States* means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, and the District of Columbia.

**§ 760.203 Eligible losses, adverse weather, and other loss conditions.**

(a) An eligible loss covered under this subpart is a loss that an eligible producer or contract grower of livestock, honeybees, or farm-raised fish incurs due to an eligible adverse weather or eligible loss condition, as determined by the Deputy Administrator, (including, but not limited to, blizzards and wildfires).

(b) A loss covered under LFP, LIP, or SURE is not eligible for ELAP.

(c) To be eligible, the loss must have occurred:

(1) During the calendar year for which payment is being requested and

(2) On or after January 1, 2008, and before October 1, 2011.

(d) For a livestock feed loss to be considered an eligible loss, the livestock feed loss must be one of the following:

(1) Loss of purchased forage or feedstuffs that was intended for use as feed for the participant's eligible livestock that was physically located in the county where the eligible adverse weather or eligible loss condition occurred on the beginning date of the eligible adverse weather or eligible loss condition. The loss must be due to an

eligible adverse weather or eligible loss condition, as determined by the Deputy Administrator, including, but not limited to, blizzard, flood, hurricane, tidal surge, tornado, volcanic eruption, wildfire on non-Federal land, or lightning;

(2) Loss of mechanically harvested forage or feedstuffs intended for use as feed for the participant's eligible livestock that was physically located in the county where the eligible adverse weather or eligible loss condition occurred on the beginning date of the eligible adverse weather or eligible loss condition. The loss must have occurred after harvest due to an eligible adverse weather or eligible loss condition, as determined by the Deputy Administrator, including, but not limited to, blizzard, flood, hurricane, tidal surge, tornado, volcanic eruption, wildfire on non-Federal land, or lightning;

(3) A loss resulting from the additional cost incurred for providing or transporting livestock feed to eligible livestock due to an eligible adverse weather or eligible loss condition as determined by the Deputy Administrator, including, but not limited to, costs associated with equipment rental fees for hay lifts and snow removal. The additional costs incurred must have been incurred for losses suffered in the county where the eligible adverse weather or eligible loss condition occurred;

(4) A loss resulting from the additional cost of purchasing additional livestock feed, above normal quantities, required to maintain the eligible livestock during an eligible adverse weather or eligible loss condition, until additional livestock feed becomes available, as determined by the Deputy Administrator. To be eligible, the additional feed purchased above normal quantities must be feed that is fed to maintain livestock in the county where the eligible adverse weather or eligible loss condition occurred.

(e) For a grazing loss to be considered eligible, the grazing loss must have been incurred on eligible grazing lands physically located in the county where the eligible adverse weather or eligible loss condition occurred. The grazing loss must be due to an eligible adverse weather or eligible loss condition, as