Farm Service Agency, USDA

§ 760.204 Eligible livestock, honeybees, and farm-raised fish.

(a) To be considered eligible livestock for livestock feed losses and grazing losses, livestock must meet all the following conditions:

(1) Be alpacas, adult or non-adult dairy cattle, adult or non-adult beef cattle, adult or non-adult buffalo, adult or non-adult bison, deer, elk, emus, equine, goats, llamas, poultry, reindeer, sheep, or swine;

(2) Be livestock that would normally have been grazing the eligible grazing land or pastureland during the normal grazing period for the specific type of grazing land or pastureland for the county;

(3) Be livestock that is owned, cash-leased, purchased, under contract for purchase, or been raised by a contract grower or an eligible livestock producer, during the 60 days prior to the beginning date of the eligible adverse weather or eligible loss condition;

(4) Be livestock that has been maintained for commercial use as part of the producer's farming operation on non-Federal land. The grazing loss will not be eligible if it is due to an adverse weather condition covered by LFP as specified in subpart D, such as drought or wildfire on federally managed land where the producer is prohibited by the Federal agency from grazing the normally permitted livestock on the managed rangeland due to a fire.

(f) For a loss due to livestock death to be considered eligible, the livestock death must have occurred in the county where the eligible loss condition occurred. The livestock death must be due to an eligible loss condition determined as eligible by the Deputy Administrator and not related to an eligible adverse weather event as specified in Subpart E for LIP.

(g) For honeybee or farm-raised fish feed losses to be considered eligible, the honeybee or farm-raised fish feed producer must have incurred the loss in the county where the eligible adverse weather or eligible loss condition occurred. The honeybee or farm-raised fish feed losses must be for feed that was intended as feed for the honeybees or farm-raised fish that was damaged or destroyed due to an eligible adverse weather or eligible loss condition, as determined by the Deputy Administrator, including, but not limited to, earthquake, excessive wind, flood, hurricane, tidal surge, tornado, volcanic eruption, and wildfire.

(h) For honeybee colony or honeybee hive losses to be considered eligible, the honeybee colony or honeybee hive producer must have incurred the loss in the county where the eligible adverse weather or eligible loss condition occurred. The honeybee colony or honeybee hive losses must be due to an eligible adverse weather or eligible loss condition, as determined by the Deputy Administrator, including, but not limited to, earthquake, excessive wind, flood, hurricane, tidal surge, tornado, volcanic eruption, and wildfire.

(i) For a death loss for bait fish or game fish to be considered eligible, the producer must have incurred the loss in the county where the eligible adverse weather or eligible loss condition occurred. The bait fish or game fish death must be due to an eligible adverse weather or eligible loss condition as determined by the Deputy Administrator including, but not limited to, an earthquake, flood, hurricane, tidal surge, tornado, and volcanic eruption.

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the beginning date of the eligible adverse weather or eligible loss condition;

(5) Be livestock that has not been produced and maintained for reasons other than commercial use as part of a farming operation; and

(6) Be livestock that was not in a feedlot, on the beginning date of the eligible adverse weather or eligible loss condition, as a part of the normal business operation of the producer, as determined by the Deputy Administrator.

(b) The eligible livestock types for feed losses and grazing losses are:

(1) Adult beef cows or bulls,

(2) Adult buffalo or beefalo cows or bulls,

(3) Adult dairy cows or bulls,

(4) Alpacas,

(5) Deer,

(6) Elk,

(7) Emus,

(8) Equine,

(9) Goats,

(10) Llamas,

(11) Non-adult beef cattle,

(12) Non-adult buffalo or beefalo,

(13) Non-adult dairy cattle,

(14) Poultry,

(15) Reindeer,

(16) Sheep, and

(17) Swine.

(c) Ineligible livestock for feed losses and grazing losses include, but are not limited to:

(1) Livestock that were or would have been in a feedlot, on the beginning date of the eligible adverse weather or eligible loss condition, as a part of the normal business operation of the producer, as determined by FSA;

(2) Yaks;

(3) Ostriches;

(4) All beef and dairy cattle, and bufalo and beefalo that weighed less than 500 pounds on the beginning date of the eligible adverse weather or eligible loss condition;

(5) Any wild free roaming livestock, including horses and deer;

(6) Livestock produced or maintained for reasons other than commercial use as part of a farming operation, including, but not limited to, livestock produced or maintained exclusively for recreational purposes, such as:

(i) Roping,

(ii) Hunting,

(iii) Show,

(iv) Pleasure,

(v) Use as pets, or

(vi) Consumption by owner.

(d) For death losses for livestock owners to be eligible, the livestock must meet all of the following conditions:

(1) Be alpacas, adult or non-adult dairy cattle, beef cattle, beefalo, buffalo, deer, elk, emus, equine, goats, llamas, poultry, reindeer, sheep, or swine, and meet all the conditions in paragraph (f) of this section.

(2) Be one of the following categories of animals for which calculations of eligibility for payments will be calculated separately for each producer with respect to each category:

(i) Adult beef bulls;

(ii) Adult beef cows;

(iii) Adult buffalo or beefalo bulls;

(iv) Adult buffalo or beefalo cows;

(v) Adult dairy bulls;

(vi) Adult dairy cows;

(vii) Alpacas;

(viii) Chickens, broilers, pullets;

(ix) Chickens, chicks;

(x) Chickens, layers, roasters;

(xi) Deer;

(xii) Ducks;

(xiii) Ducks, ducklings;

(xiv) Elk;

(xv) Emus;

(xvi) Equine;

(xvii) Geese, goose;

(xviii) Geese, gosling;

(xix) Goats, bucks;

(xx) Goats, kids;

(xxi) Goats, kids;

(xxii) Llamas;

(xxiii) Non-adult beef cattle;

(xxiv) Non-adult buffalo or beefalo;

(xxv) Non-adult dairy cattle;

(xxvi) Reindeer;

(xxvii) Sheep, ewes;

(xxviii) Sheep, lambs;

(xxix) Sheep, rams;

(xxxx) Swine, feeder pigs under 50 pounds;

(xxxi) Swine, sows, boars, barrows, gilts 50 to 150 pounds;

(xxxii) Swine, sows, boars, barrows, gilts over 150 pounds;

(xxxxiii) Turkeys, poults; and

(xxxxiv) Turkeys, toms, fryers, and roasters.

(e) Under ELAP, “contract growers” will only be deemed to include producers of livestock, other than

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Feedlots, whose income is dependent on the actual weight gain and survival of the livestock. For death losses for contract growers to be eligible, the livestock must meet all of the following conditions:

1. Be poultry or swine, as defined in §760.202, and meet all the conditions in paragraph (f) of this section.
2. Be one of the following categories of animals for which calculations of eligibility for payments will be calculated separately for each contract grower with respect to each category:
   i. Chickens, broilers, pullets;
   ii. Chickens, layers, roasters;
   iii. Geese, goose;
   iv. Swine, boars, sows;
   v. Swine, feeder pigs;
   vi. Swine, lightweight barrows, gilts;
   vii. Swine, sows, boars, barrows, gilts;
   viii. Turkeys, toms, fryers, and roasters.

(f) For livestock death losses to be considered eligible livestock for the purpose of generating payments under this subpart, livestock must meet all of the following conditions:

1. They must have died as a direct result of an eligible loss condition:
   i. On or after the beginning date of the eligible loss condition; and
   ii. No later than 60 calendar days from the ending date of the eligible loss condition; and
   iii. On or after January 1, 2008, and before October 1, 2011; and
   iv. In the calendar year for which payment is being requested; and
2. Been maintained for commercial use as part of a farming operation on the beginning date of the eligible adverse weather or eligible loss condition;
3. Been 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;
4. Been a honeybee colony in which the participant has a risk in the honey production or pollination farming operation on the beginning date of the eligible adverse weather or eligible loss condition;
5. Been a honeybee colony for which the producer had an eligible loss of a honeybee colony, honeybee hive, or honeybee feed; the feed must have been intended as feed for honeybees.
6. For fish to be eligible to generate payments under ELAP, the fish must be produced in a controlled environment so to be considered “farm raised fish” as defined in this subpart, and the farm-raised fish must:

1. For feed losses:
   i. Be an aquatic species that is propagated and reared in a controlled environment;
   ii. Be maintained and harvested for commercial use as part of a farming operation; and
   iii. Be 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;
2. For death losses:
   i. Be bait fish or game fish that are propagated and reared in a controlled environment;
   ii. Been maintained for commercial use as part of a farming operation; and
   iii. Been physically located in the county where the eligible loss adverse weather or eligible loss condition occurred on the beginning date of the eligible adverse weather or eligible loss condition.

§760.205 Eligible producers, owners, and contract growers.

(a) To be considered an eligible livestock producer for livestock feed losses and to receive payments, the participant must have owned, cash-leased, purchased, entered into a contract to