

## Farm Service Agency, USDA

## § 760.205

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; and
- (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 day the livestock died; and

(3) Before dying, not have been produced or maintained for reasons other than commercial use as part of a farming operation, such non-eligible uses being understood to include, but not be limited to, any uses of wild free roaming animals or use of the animals for recreational purposes, such as pleasure, hunting, roping, pets, or for show.

(g) For honeybee losses to be eligible, the honeybee colony must meet the following conditions:

(1) Been maintained for the purpose of producing honey or pollination for commercial use in a farming operation

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

(2) 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;

(3) 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;

(4) 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.

(h) 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

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purchase, or been a contract grower of eligible livestock during the 60 days prior to the beginning date of the eligible adverse weather or eligible loss condition and must have had a loss that is determined to be eligible as specified in § 760.203(d), and the producer's eligible livestock must have been 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 as specified in paragraph (b)(1)(i) or (ii) of this section.

(b) To be considered an eligible livestock producer for grazing losses and to receive payments, the participant must have:

(1) Owned, cash-leased, purchased, entered into a contract to purchase, or been a contract grower of eligible livestock during the 60 days prior to the beginning date of the eligible adverse weather or eligible loss condition, must have had a loss that is determined to be eligible as specified in § 760.203(e), and the loss must have occurred on land that is:

(i) Native or improved pastureland with permanent vegetative cover or

(ii) Planted to a crop planted specifically for the purpose of providing grazing for covered livestock;

(2) Have had eligible 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 as specified in paragraph (b)(1)(i) or (ii) of this section;

(3) Provided for the eligible livestock pastureland or grazing land, including cash leased pastureland or grazing land for covered livestock that is physically located in the county where the eligible adverse weather or loss condition occurred during the normal grazing period for the county.

(c) For livestock death losses to be eligible the producer must have had a loss that is determined to be eligible as specified in § 760.203(f) and in addition to other eligibility rules that may apply to be eligible as a:

(1) Livestock owner for the payment with respect to the death of an animal under this subpart, the applicant must

have had legal ownership of the livestock on the day the livestock died and under conditions in which no contract grower could have been eligible for ELAP payment with respect to the animal. Eligible types of animal categories for which losses can be calculated for an owner are specified in § 760.204(d).

(2) Contract grower for ELAP payment with respect to the death of an animal, the animal must be in one of the categories specified in § 760.204(e), and the contract grower must have had:

(i) A written agreement with the owner of eligible livestock setting the specific terms, conditions, and obligations of the parties involved regarding the production of livestock;

(ii) Control of the eligible livestock on the day the livestock died; and

(iii) A risk of loss in the animal.

(d) To be considered an eligible honeybee producer, a participant must have an interest and risk in an eligible honeybee colony, as specified in § 760.204(g), for the purpose of producing honey or pollination for commercial use as part of a farming operation and must have had a loss that is determined to be eligible as specified in § 760.203(g) or (h).

(e) To be considered an eligible farm-raised fish producer for feed loss purposes, the participant must have produced eligible farm-raised fish, as specified in § 760.204(h)(1), with the intent to harvest for commercial use as part of a farming operation and must have had a loss that is determined to be eligible as specified in § 760.203(g);

(f) A producer seeking payments must not be ineligible under the restrictions applicable to foreign persons contained in § 760.103(b) and must meet all other requirements of subpart B and other applicable USDA regulations.

### § 760.206 Notice of loss and application process.

(a) To apply for ELAP, the participant that suffered eligible livestock, honeybee, or farm-raised fish losses must submit, to the FSA administrative county office that maintains the participant's farm records for the agricultural operation, the following: