

§ 760.500

the previous calendar year unless some other price is approved by the Deputy Administrator.

(c) The LIP national payment rate for eligible livestock contract growers is based on 75 percent of the average income loss sustained by the contract grower with respect to the dead livestock.

(d) The LIP payment calculated for eligible livestock contract growers will be reduced by the amount the participant received from the party who contracted with the producer to raise the livestock for the loss of income from the dead livestock.

Subpart F—Tree Assistance Program

SOURCE: 75 FR 25108, May 7, 2010, unless otherwise noted.

§ 760.500 Applicability.

(a) This subpart establishes the terms and conditions under which the Tree Assistance Program (TAP) will be administered under Titles XII and XV of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, the 2008 Farm Bill).

(b) Eligible orchardists and nursery tree growers will be compensated as specified in § 760.506 for eligible tree, bush, and vine losses in excess of 15 percent mortality, or, where applicable, 15 percent damage, adjusted for normal mortality and normal damage, that occurred in the calendar year for which benefits are being requested and as a direct result of a natural disaster.

§ 760.501 Administration.

The program will be administered as specified in § 760.102 and in this subpart.

§ 760.502 Definitions.

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

Bush means, a low, branching, woody plant, from which at maturity of the bush, an annual fruit or vegetable crop is produced for commercial purposes, such as a blueberry bush. The definition does not cover plants that produce

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a bush after the normal crop is harvested such as asparagus.

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

County committee means the respective FSA committee.

County office means the FSA or U.S. Department of Agriculture (USDA) Service Center that is responsible for servicing the farm on which the trees, bushes, or vines are located.

Cutting means a piece of a vine which was planted in the ground to propagate a new vine for the commercial production of fruit, such as grapes, kiwi fruit, passion fruit, or similar fruit.

Deputy Administrator or DAFP means the Deputy Administrator for Farm Programs, FSA, USDA, or the designee.

Eligible nursery tree grower means a person or legal entity that produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale.

Eligible orchardist means a person or legal entity that produces annual crops from trees, bushes, or vines for commercial purposes.

FSA means the Farm Service Agency.

Lost means, with respect to the extent of damage to a tree or other plant, that the plant is destroyed or the damage is such that it would, as determined by FSA, be more cost effective to replace the tree or other plant than to leave it in its deteriorated, low-producing state.

Natural disaster means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other natural occurrence of such magnitude or severity so as to be considered disastrous, as determined by the Deputy Administrator.

Normal damage means the percentage, as established for the area by the FSA State Committee, of trees, bushes, or vines in the individual stand that would normally be damaged during a calendar year for a producer.

Normal mortality means percentage, as established for the area by the FSA State Committee, of expected lost trees, bushes, or vines in the individual stand that normally occurs during a calendar year for a producer. This term refers to the number of whole trees,