

## Farm Service Agency, USDA

## § 701.53

1998, and under the terms of the agreements that were entered into with participants.

### § 701.45 Forestry Incentives Program (FIP) contracts.

The regulations governing the FIP as of July 31, 2002, and contained in the 7 CFR, parts 700 to 899, edition revised as of January 1, 2002, shall continue to apply to FIP contracts in effect as of that date, except as provided in accord with a delegation of the administration of that program and such delegation and actions taken thereunder shall apply to any other FIP matters as may be at issue or in dispute.

### § 701.50 2005 hurricanes.

In addition benefits elsewhere allowed by this part, claims related to calendar year 2005 hurricane losses may be allowed to the extent provided for in §§ 701.50 through 701.57. Such claims under those sections will be limited to losses in counties that were declared disaster counties by the President or the Secretary because of 2005 hurricanes and to losses to oyster reefs. Claims under §§ 701.51 through 701.57 shall be subject to all normal ECP limitations and provisions except as explicitly provided in those sections.

[71 FR 30265, May 26, 2006]

### § 701.51 Definitions.

The following definitions apply to §§ 701.52 through 701.57:

*Above-ground irrigation* facilities means irrigation pipes, sprinklers, pumps, emitters, and any other integral part of the above ground irrigation system.

*Barn* means a structure used for the housing of animals or farm equipment.

*Commercial forest land* means forest land with trees intended to be harvested for commercial purposes that has a productivity potential greater than or equal to 20 cubic feet per year of merchantable timber.

*Date of loss* means the date the hurricane damage occurred in calendar year 2005.

*Eligible county* means any county that was declared a disaster county by the President or the Secretary because of a calendar year 2005 hurricane, that

otherwise meets the eligibility requirements of this part.

*Forest management plan* means a plan of action and direction on forest lands to achieve a set of results usually specified as goals or objectives consistent with program policies prepared or approved by a natural resource professional, such as a State forestry agency representative.

*Poultry house* means a building used to house live poultry for the purpose of commercial food production.

*Private non-industrial forest land* means rural commercial forest lands with existing tree cover, or which are suitable for growing trees, that are owned by a private non-industrial forest landowner as defined in this section.

*Private non-industrial forest landowner* means, for purposes of the ECP for forestry, an individual, group, association, corporation, Indian tribe, or other legal private entity owning non-industrial private forest land or who receives concurrence from the landowner for making the claim in lieu of the owner, and for practice implementation and who holds a lease on the land for a minimum of 10 years. Owners or lessees principally engaged in the primary processing of raw wood products are excluded from this definition. Owners of land leased to lessees who would be excluded under the previous sentence are also excluded.

*Shade house* means a metal or wood structure covered by a material used for shade purposes.

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### § 701.52 Availability of funding.

Payments under §§ 701.53 through 701.57 are subject to the availability of funds under Public Law 109-149.

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### § 701.53 Debris removal and water for livestock.

Subject to the other eligibility provisions of this part, an ECP participant addressing damage in an eligible county from hurricanes during calendar year 2005 may be allowed up to 90 percent of the participant's actual cost or of the total allowable cost for cleaning up structures such as barns, shade

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houses and above-ground irrigation facilities, for removing poultry house debris, including carcasses, and for providing water for livestock.

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### § 701.54 Oysters.

(a) Notwithstanding § 701.5(b), but otherwise subject to the other eligibility provisions of this part except as provided explicitly in this section, assistance may be made available under this section for the eligible cost of refurbishing public or private oyster reefs damaged in calendar year 2005 by a 2005 hurricane. Oyster bed refurbishing consists of removing mud from public and private oyster beds, staking out the leased areas, reestablishing the oyster beds using crushed limestone, recycled oyster shells, or other available and suitable approved cultch materials, reseeding the oyster beds, and related actions approved by FSA.

(b) Notwithstanding § 701.26, an ECP participant shall not receive more than 90 percent of the participant's actual cost or of the total allowable cost described in paragraph (a) of this section.

(c) The provisions of § 701.26(c) limiting ECP payments to 50 percent of the agricultural value of the land do not apply to oyster bed rehabilitation and refurbishing.

[71 FR 30265, May 26, 2006]

### § 701.55 Nursery.

(a) Subject to the other eligibility provisions of this part except as provided explicitly in this section, assistance may be made available in an eligible county under this section for the cost of removing nursery debris such as nursery structures, shade houses, and above ground irrigation facilities, where such debris was created in calendar year 2005 by a 2005 hurricane.

(b) Notwithstanding § 701.26, an otherwise eligible ECP participant may be allowed up to 90 percent of the participant's actual cost or of the total allowable cost for losses described in paragraph (a) of this section.

[71 FR 30265, May 26, 2006]

### § 701.56 Poultry.

(a) Subject to the other eligibility provisions of this part except as pro-

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vided explicitly in this section, assistance may be allowed under this section for uninsured losses in calendar year 2005 to a poultry house in an eligible county due to a 2005 hurricane.

(b) Claimants under this section may be allowed an amount up to the lesser of:

(1) The lesser of 50 percent of the participant's actual or the total allowable cost of the reconstruction or repair of a poultry house, or

(2) \$50,000 per poultry house.

(c) The total amount of assistance provided under this section and any indemnities for losses to a poultry house paid to a poultry grower, may not exceed 90 percent of the total costs associated with the reconstruction or repair of a poultry house.

(d) Poultry growers must provide information on insurance payments on their poultry houses. Copies of contracts between growers and poultry integrators may be required.

(e) Assistance under this section is limited to amounts necessary for reconstruction and/or repair of a poultry house to the same size as before the hurricane.

(f) Assistance is limited to poultry houses used to house poultry for commercial enterprises. A commercial poultry enterprise is one with a dedicated structure for poultry and a number of poultry that exceeds actual non-commercial uses of poultry and their products at all times, and from which poultry or related products are actually, and routinely, sold in commercial quantities for food, fiber, or eggs. Unless otherwise approved by FSA, a commercial quantity is a quantity per week that would normally exceed \$100 in sales.

(g) Poultry houses with respect to which claims are made under this section must be reconstructed or repaired to meet current building standards.

[71 FR 30265, May 26, 2006]

### § 701.57 Private non-industrial forest land.

(a) Subject to the other eligibility provisions of this part except as provided explicitly in this section, assistance made available under this section with respect to private, non-industrial forest land in an eligible county for