

market risks associated with the agricultural production of crops or livestock on a farm either as the owner of the farm, when there is no contract grower, or a contract grower of the livestock when there is a contract grower.

(b) To be eligible for benefits, an individual or entity must be a:

- (1) Citizen of the United States;
- (2) Resident alien; for purposes of this part, resident alien means "lawful alien" as defined in 7 CFR part 1400;
- (3) Partnership of citizens of the United States; or
- (4) Corporation, limited liability corporation, or other farm organizational structure organized under State law.

**§ 760.104 Risk management purchase requirements.**

(a) To be eligible for program payments under:

(1) ELAP, SURE, and TAP, eligible producers for any commodity at any location for which the producer seeks benefits must have for every commodity on every farm in which the producer has an interest for the relevant program year:

(i) In the case of an "insurable commodity," (which for this part means a commodity for which the Deputy Administrator determines catastrophic coverage is available from the USDA Risk Management Agency (RMA)) obtained catastrophic coverage or better under a policy or plan of insurance administered by RMA under the Federal Crop Insurance Act (FCIA) (7 U.S.C. 1501–1524), except that this obligation will not include crop insurance pilot programs so designated by RMA or to forage crops intended for grazing, and

(ii) In the case of a "noninsurable commodity," (which is any commodity for which, as to the particular production in question, is not an "insurable commodity," but for which coverage is available under the Noninsured Crop Disaster Assistance Program (NAP) operated under 7 CFR part 1437), have obtained NAP coverage by filing the proper paperwork and fee within the relevant deadlines, except that this requirement will not include forage on grazing land.

(2) LFP, with respect to those grazing lands incurring losses for which as-

sistance is being requested, eligible livestock producers must have:

(i) Obtained a policy or plan of insurance for the forage crop under FCIA, or

(ii) Filed the required paperwork and paid the administrative fee by the applicable State filing deadline for NAP coverage for that grazing land.

(b) Producers who did not purchase a policy or plan of insurance administered by RMA in accordance with FCIA (7 U.S.C. 1501–1524), or NAP coverage for their applicable crops, will not be eligible for assistance under ELAP, LFP, SURE, and TAP, as provided in paragraph (a) of this section unless the producer is one of the classes of farmers for which an exemption under § 760.107 apply, is exempt under the "buy-in" provisions of this subpart, or is granted relief from that requirement by the Deputy Administrator under some other provision of this part.

(c) Producers who have obtained insurance by a written agreement as specified in § 400.652(d) of this title even though that production would not normally be considered an "insurable commodity" under the rules of this subpart, will be considered to have met the risk management purchase requirement of this subpart with respect to such production. The commodity to which the agreement applies will be considered for purposes of this subpart to be an "insurable commodity."

(d) Producers by an administrative process who were granted NAP coverage for the relevant period as a form of relief in an administrative proceeding, or who were awarded NAP coverage for the relevant period through an appeal through the National Appeals Division (NAD), will be considered as having met the NAP eligibility criteria of this section for that crop as long as the applicable NAP service fee has been paid.

(e) The risk management purchase requirement for programs specified under this part will be determined based on the initial intended use of a crop at the time a policy or plan of insurance or NAP coverage was purchased and as reported on the acreage report.

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