

**§ 760.304**

**7 CFR Ch. VII (1-1-10 Edition)**

must meet all other requirements of subpart B and other applicable USDA regulations.

(e) If a contract grower is an eligible livestock producer for covered livestock, the owner of that livestock is not eligible for payment.

**§ 760.304 Covered livestock.**

(a) To be considered covered livestock for LFP payments, livestock must meet all the following conditions:

(1) Be adult or non-adult beef cattle, adult or non-adult beefalo, adult or non-adult buffalo, adult or non-adult dairy cattle, alpacas, 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 on the beginning date:

(i) Of the qualifying drought during the normal grazing period for the specific type of grazing land or pastureland for the county or

(ii) When the Federal agency prohibited the eligible livestock producer from using the managed rangeland for grazing due to a fire;

(3) Be livestock that the eligible livestock producer:

(i) During the 60 days prior to the beginning date of a qualifying drought or fire:

- (A) Owned,
- (B) Leased,
- (C) Purchased,
- (D) Entered into a contract to purchase, or
- (E) Was a contract grower of; or

(ii) Sold or otherwise disposed of due to qualifying drought during:

- (A) The current production year or
- (B) 1 or both of the 2 production years immediately preceding the current production year;

(4) Been maintained for commercial use as part of the producer's farming operation on the beginning date of the qualifying drought or fire;

(5) Not have been produced and maintained for reasons other than commercial use as part of a farming operation. Such excluded uses include, but are not limited to, any uses of wild free roaming animals or use of the animals for recreational purposes, such as pleasure, roping, hunting, pets, or for show; and

(6) Not have been livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

(b) The covered livestock categories 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) Emu,
- (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) Livestock that are not covered include, but are not limited to:

(1) Livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary;

- (2) Yaks;
- (3) Ostriches;
- (4) All beef and dairy cattle, and buffalo and beefalo that weighed less than 500 pounds on the beginning date of the qualifying drought or fire;

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

(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 for recreational purposes, such as:

- (i) Roping,
- (ii) Hunting,
- (iii) Show,
- (iv) Pleasure,
- (v) Use as pets, or
- (vi) Consumption by owner.

**§ 760.305 Eligible grazing losses.**

(a) A grazing loss due to drought is eligible for LFP only if the grazing loss

for the covered livestock occurs on land that:

- (1) Is native or improved pastureland with permanent vegetative cover or
- (2) Is planted to a crop planted specifically for the purpose of providing grazing for covered livestock; and
- (3) Is grazing land or pastureland that is owned or leased by the eligible livestock producer that is physically located in a county that is, during the normal grazing period for the specific type of grazing land or pastureland for the county, rated by the U.S. Drought Monitor as having a:
  - (i) D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the specific type of grazing land or pastureland for the county, as determined by the Secretary, or
  - (ii) D3 (extreme drought) or D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period for the specific type of grazing land or pastureland for the county, as determined by the Secretary. (As specified elsewhere in this subpart, the amount of potential payment eligibility will be higher than under (a)(3)(i) of this section where the D4 trigger applies or where the D3 condition as determined by the Secretary lasts at least 4 weeks during the normal grazing period for the specific type of grazing land or pastureland for the county.)

(b) A grazing loss is not eligible for LFP if the grazing loss due to drought on land used for haying or grazing under the Conservation Reserve Program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831-3835a).

- (c) A fire qualifies for LFP only if:
- (1) The grazing loss occurs on rangeland that is managed by a Federal agency and
  - (2) The eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

(d) An eligible livestock producer may be eligible for LFP payments only on those grazing lands incurring losses for which the livestock producer:

(1) Meets the risk management purchase requirements specified in § 760.104; or

(2) Does not meet the risk management purchase requirements specified in § 760.104 because the risk management purchase requirement is waived according to §§ 760.105, 760.106, or 760.107.

#### § 760.306 Application for payment.

(a) To apply for LFP, the participant that suffered eligible grazing losses:

(1) During 2008, must submit a completed application for payment and required supporting documentation to the administrative FSA county office no later than December 10, 2009 or

(2) During 2009 and later years, must submit a completed application for payment and required supporting documentation to the administrative FSA county office no later than 30 calendar days after the end of the calendar year in which the grazing loss occurred.

(b) A participant must also provide a copy of the grower contract, if a contract grower, and other supporting documents required for determining eligibility as an applicant at the time the participant submits the completed application for payment. Supporting documents must include:

(1) Evidence of loss,

(2) Current physical location of livestock in inventory,

(3) Evidence of meeting risk management purchase requirements as specified in subpart B,

(4) Evidence that grazing land or pastureland is owned or leased,

(5) A report of acreage according to part 718 of this chapter for the grazing lands incurring losses for which assistance is being requested under this subpart;

(6) Adequate proof, as determined by FSA that the grazing loss:

(i) Was for the covered livestock;

(ii) If the loss of grazing occurred as the result of a fire that the:

(A) Loss was due to a fire and

(B) Participant was prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire;

(iii) Occurred on or after January 1, 2008, and before October 1, 2011; and