

(f) The following entities are not eligible for benefits under this subpart:

- (1) State or local governments or subdivisions thereof; or
- (2) Any individual or entity who is a foreign person as determined in accordance with the provisions of §§ 1400.501 and 1400.502 of this chapter.

§ 1439.107 Calculation of assistance.

(a) The value of LAP assistance determined with respect to a livestock producer for each type and weight class of livestock owned or leased by such producer shall be the lesser of the amount calculated under paragraph (b) of this section (the total value of lost feed needs for eligible livestock) or calculated under paragraph (c) of this section (the total value of lost eligible pasture).

(b) The total value of lost feed needs shall be the amount obtained by multiplying:

(1) The number of days in the payment period the livestock are owned or, in the case of purchased livestock, meet the 3-month ownership requirement; by

(2) The number of pounds of corn-equivalent per day, as established by CCC, that is determined necessary to provide the energy requirements established for the weight class and type of livestock; by

(3) The 5-year national average market price for corn, as determined (\$1.92 bushel or \$0.0342857 per pound); by

(4) The number of eligible animals of each type and weight range of livestock owned or leased by the person; by

(5) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the county committee in accordance with § 1439.105.

(c) The total value of lost eligible pasture shall be the amounts for each type of pasture calculated by:

(1) Dividing the number of acres of each pasture type by the carrying capacity established for the pasture, and multiplying the result by:

(2) The 5-year national average market price for corn, as determined (\$1.92 bushel or \$0.0342857 per pound); by

(3) The daily feed grain equivalent per animal (15.7 pounds of corn necessary for a beef cow, factored for the

weight class and type of livestock, as determined by CCC), by

(4) The applicable number of days in the LAP payment period; by

(5) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the county committee in accordance with § 1439.105.

(d) The final payment shall be the smaller of paragraph (b) or (c) of this section and from the final payment amount shall be subtracted the sum of the amounts received by the producer under the Livestock Compensation Program, as published in the FEDERAL REGISTER on October 10, 2002 (67 FR 63070), and the 2002 Cattle Feed Program, as published on September 3, 2002 (67 FR 56260). The final payment shall not exceed 50 percent of the smaller of paragraph (b) or (c) of this section determined prior to subtracting the amounts received by the producer under the Livestock Compensation Program, as published in the FEDERAL REGISTER on October 10, 2002 (67 FR 63070), the 2002 Cattle Feed Program, as published on September 3, 2002 (67 FR 56260), and the Livestock Compensation Program II, as published on May 5, 2003 (68 FR 23688).

(e) The final payment calculated in paragraph (d) of this section shall be multiplied by the national factor if required under § 1439.108.

(f) Seeded small grain forage crops shall not be counted as grazing land under paragraph (c) of this section with respect to supporting eligible livestock.

(g) The number of equine animals that are used to calculate benefits under this subpart and in paragraph (a) of this section are limited to the number actually needed to produce food and fiber on the producer's farm or to breed horses and mules to be used to produce food and fiber on the owner's farm, and shall not include animals that are used for recreational purposes or are running wild or uncontrolled on land owned or leased by the owner.

§ 1439.108 Availability of funds.

In the event that the total amount of claims submitted under this subpart exceed \$250 million, each payment shall