

**§ 1439.101 Applicability.**

(a) Subject to the availability of funds, this subpart sets forth the terms and conditions applicable to the 2003/2004 LAP authorized by Public Law 108-324. Program regulations for prior livestock assistance programs can be found at 7 CFR 1439 as it was published on January 1, 2001, January 1, 2002, and January 1, 2004. Benefits will be provided to eligible livestock producers in the United States under this subpart in declared disaster counties that were subsequently approved for relief under this part by the Deputy Administrator.

(b) Unless otherwise determined by the Deputy Administrator, a livestock producer is not eligible to receive payments for the same loss under both this subpart and another Federal program.

**§ 1439.102 Definitions.**

The definitions set forth in this section shall be applicable for all purposes of administering this subpart. The definitions in § 1439.3 shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart, in which case the definitions in this section will apply.

*Application* means the Livestock Assistance Program Application. The Application is available at FSA county offices.

*Disaster county* means a county included in the geographic area covered by a qualifying natural disaster declaration approved in calendar year 2003 or calendar year 2004, with respect to losses which occurred no earlier than January 1, 2003, and no later than December 31, 2004. The eligible disaster county is only the primary county where the disaster occurred and does not include a contiguous county which is not itself a disaster county.

*Eligible livestock* means only those animals produced specifically for food for human consumption, or used directly for the production of food for human consumption, or for the production of fiber, as determined by the Deputy Administrator, and includes beef and dairy cattle, buffalo, and beefalo, maintained on the same basis as beef cattle, equine animals, sheep, goats, swine, elk, and reindeer. Animals maintained for recreational purposes,

hunting, or for show, are not eligible under any circumstances.

*Production year* means calendar year.

*Qualifying natural disaster declaration* means:

(1) A natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(2) A major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

[70 FR 16394, Mar. 31, 2005, as amended at 71 FR 10831, Mar. 3, 2006]

**§ 1439.103 Eligible loss.**

(a) To be eligible for 2003/2004 LAP, for losses during the 2003 or 2004 calendar years, a producer must have owned or leased grazing land within the physical boundary of a disaster county that was approved as a primary county under a Secretarial disaster designation or Presidential disaster declaration in 2003 or 2004, or approved as a primary county after December 31, 2004, for qualifying losses that occurred prior to January 1, 2005 (That is, losses in 2003 and 2004).

(b) To be eligible for benefits under this subpart, a livestock producer in an eligible county must have suffered a loss of grazing production in an eligible county equivalent to at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months during the 2003 or 2004 production year as defined in § 1439.102.

(c)(1) Producers in counties contiguous to an eligible county that were not designated as a disaster county in their own right will not receive benefits under this subpart.

(2) Grazing losses must have occurred on native and improved pasture with permanent vegetative cover and other crops planted specifically for the sole purpose of providing grazing for livestock, but such losses do not include losses on, or with respect to, land seeded to small grain forage crops.

(d) The percentage of loss eligible for compensation shall not exceed the maximum percentage of grazing loss for the county as determined by the FSA county committee and not be greater than 80 percent; and