

§ 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

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(e) The FSA county committee shall determine the producer's grazing loss and shall consider the amount of available grazing production during the LAP normal grazing period, whether more than the normal acreage of grazing land was required to support livestock during the LAP normal grazing period, and whether supplemental feeding of livestock began earlier or later than normal. The FSA county committee shall request the producer to provide proof of loss of grazing production if the FSA county committee determines the producer's certified loss exceeds other similarly situated livestock producers.

(f) The percentage of loss claimed by a livestock producer shall not exceed the maximum allowable percentage of grazing loss for the county as determined by the FSA county committee in accordance with §1439.105(a). Livestock producers will not receive benefits under this subpart for any portion of their loss that exceeds 80 percent of normal carrying capacity.

§ 1439.104 Application process.

(a) Livestock producers must submit a completed application prior to the close of business on the date established and announced by the Deputy Administrator. The application and any other supporting documentation shall be submitted to the FSA county office with administrative authority over a producer's eligible grazing land or to the FSA county office that maintains the farm records for the livestock producer. A producer may submit an application for both 2003 and 2004 losses, as applicable; however, LAP assistance to the producer under this subpart shall be provided only for one of the years 2003 or 2004.

(b) A producer shall specify each type of pasture and percentage of loss suffered by each type within the approved county on the application. In establishing the percentage of grazing loss, producers shall consider the amount of available grazing production during the LAP normal grazing period, whether more than the normal acreage of grazing land was required to support livestock during the LAP normal grazing period, and whether supplemental feed-

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ing of livestock began earlier or later than normal.

(c) Livestock producers shall certify as to the accuracy of all the information contained in the application, and provide any other information that CCC determines to be necessary to determine the livestock producer's eligibility.

§ 1439.105 County committee determinations of general applicability.

(a) FSA county committees shall determine whether due to natural disasters their county has suffered a 40-percent loss affecting pasture and normal grazing crops for at least 3 consecutive months during LAP crop year during calendar year 2003 for 2003 eligibility and during calendar year 2004 for 2004 eligibility. In making this determination, FSA county committees, using the best information available from sources including but not limited to: The Extension Service, the Natural Resources Conservation Service; the Drought Monitor; the Palmer Drought Index; and general knowledge of local rainfall data, pasture losses, grazing livestock movement out of county, abnormal supplemental feeding practices for livestock on pasture and liquidation of grazing livestock, shall determine the percentage of grazing losses for pastures on a county-wide basis. The FSA county committee shall submit rainfall data, percentage of grazing losses for each general type of pasture, and the weighted average percentage of grazing loss for the county, to the FSA State committee for concurrence. The maximum grazing losses the FSA county committees shall submit is 80 percent. These determinations shall be subject to review by the Deputy Administrator. For purposes of this subpart, such counties are called "eligible counties."

(b) In each eligible county, the FSA county committee shall determine a LAP normal grazing period. The LAP normal grazing period shall be that period of time in a calendar year that begins with the date grazing of new growth pasture normally begins and ends on the date grazing without supplemental feeding normally ends in the county.