

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1439

RIN 0560-AF 58

#### Livestock Assistance Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the current provisions of regulations on emergency livestock assistance to delete regulations for obsolete programs and to provide new terms and conditions for the Livestock Assistance Program (LAP) authorized in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (1999 Act). The LAP will provide emergency feed assistance for losses suffered by livestock producers in calendar year 1998, in counties that have suffered a 40 percent or greater loss of normal grazing as a result of a natural disaster. Assistance to the producer will be based on the number of eligible livestock owned by the producer and the producer's percent of grazing losses. The 1999 Act limits expenditures of the program to \$200 million. Payment rates will not be determined until a sign-up for the program is completed.

**EFFECTIVE DATE:** Effective March 17, 1999.

**FOR FURTHER INFORMATION CONTACT:** Dolores Painter, (202) 720-4642.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be economically significant and therefore has been reviewed by the Office of Management and Budget (OMB).

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

#### Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

#### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning provisions of this rule, the administrative remedies must be exhausted.

#### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

#### Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### Paperwork Reduction Act and Small Business Regulatory Enforcement Fairness Act

The LAP provisions contained in this rule are authorized by the 1999 Act (Pub. L. 105-277). Section 1133 of the 1999 Act provides that such rules shall be issued as soon as practicable and without regard to the provisions of: (1) the notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the

Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act"). Accordingly, the LAP regulations are being issued as a final regulation without a notice and comment period, and the forms and the collection of information do not require prior OMB approval.

In addition, this rule was determined to be Major under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Section 1133 of the 1999 Act provides that these regulations shall use the authority provided under section 808 of SBREFA that allows an agency to promulgate a rule at such time as it determines necessary, notwithstanding the Congressional review required by Section 801 of SBREFA. It is hereby determined that to the extent such review would otherwise delay the implementation of this rule, such delay would be contrary to the public interest because of the need for expeditious implementation of the rule as expressed in the text of the 1999 Act. Accordingly, this rule is effective upon publication.

#### Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

#### Background

This final rule revises 7 CFR part 1439 to delete obsolete programs and to set forth terms and conditions for a new program authorized by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Pub. L. 105-277) (1999 Act).

As provided in the 1999 Act, livestock producers who suffered livestock feed losses as a result of natural disaster may apply for benefits to compensate for losses which occurred in calendar year 1998. As authorized, \$200 million is made available for that purpose.

Benefits will be provided to eligible livestock producers only in those counties where a severe natural disaster occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs. A county must have suffered a 40-percent or greater grazing loss for 3 consecutive months during the 1998 calendar year, as a result of damage due to a natural disaster in order to be eligible; livestock producers in counties contiguous to an approved county are not eligible. A livestock producer in an approved county must have suffered at least a 40-percent loss of normal grazing for the producer's eligible livestock for a minimum of 3 consecutive months. Losses will only be compensable up to 80 percent of the total grazing available and the compensable loss will also not exceed a county maximum set by the local county committee. The program will be administered through the Deputy Administrator for Farm Programs of the Department's Farm Service Agency. Payments will be made according to a formula subject to funding and other limitations, including a per person payment limitation and a provision which precludes participation for persons whose gross revenue exceeds a specified amount. A final payment shall not exceed 50 percent of the eligible loss amount determined prior to applying a national factor, if applicable. The regulations provide that the rules of 7 CFR part 1400 will be used to make "person" determinations for these purposes.

In making provision for this program, 7 CFR part 1439 has been revised in order to remove obsolete provisions for previous programs. As before, the organization of part 1439 will continue to have one subpart for general provisions applicable to multiple programs, and then provide the details of particular programs in separate subparts. In addition, the rules provide that the regulations found at part 1439 of this title as of January 1, 1999, shall be applicable to all outstanding determinations with respect to any program previously codified at this part. The American Indian Livestock Feed Program which was codified in a subpart consisting of §§ 1439.901 through 1439.911 in part 1439 by publication of an Interim Rule in the November 27, 1988, **Federal Register** (63 FR 65524) remains in effect.

#### List of Subjects in 7 CFR Part 1439

Animal feeds, Disaster assistance, Livestock, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Part 1439 is amended as follows:

#### PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

1. The authority citation for 7 CFR part 1439 is revised to read as follows:

**Authority:** 15 U.S.C. 714b and 714c; Sec. 1103, Pub. L. 105-277, 112 Stat. 2681.

2. Subpart—General Provisions is revised to read as follows:

##### Subpart—General Provisions

Sec.

- 1439.1 Applicability and general statement.
- 1439.2 Administration.
- 1439.3 Definitions.
- 1439.4 Liens and claims of creditors.
- 1439.5 Assignments of payments.
- 1439.6 Appeals.
- 1439.7 Misrepresentation, scheme or device.
- 1439.8 Refunds to CCC; joint and several liability.
- 1439.9 Cumulative liability.
- 1439.10 Benefits limitation.
- 1439.11 Gross revenue limitation.
- 1439.12 Maintenance of books and records.

##### Subpart—General Provisions

###### § 1439.1 Applicability and general statement.

(a) The regulations in this part set forth the terms and conditions applicable to programs which may be made available to livestock producers under various statutory provisions. Unless otherwise specified, the regulations in this subpart shall apply to all programs operated under this part.

(b) The regulations in this part 1439 in effect prior to March 17, 1999. (See 7 CFR Parts 1200 to 1599, revised as of January 1, 1999) are applicable with respect to any emergency livestock assistance program which existed prior to March 17, 1999.

###### § 1439.2 Administration.

(a) This part shall be administered by CCC through, and as delegated to the Deputy Administrator for Farm Programs under the general direction and supervision of the Executive Vice President, CCC. The program shall be carried out in the field by State and county committees of the Farm Service Agency of the U.S. Department of Agriculture.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation in this section to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee. The Deputy Administrator may waive or modify deadlines or other program requirements of this part to the extent that such a waiver or modification is otherwise permitted by law and is determined to be appropriate, serves the goals of the program and does not adversely affect the operation of the program.

###### § 1439.3 Definitions.

The definitions set forth in this section shall be applicable to all subparts contained in this part unless otherwise noted, or the definitions conflict, in which case the definitions in the applicable subpart shall prevail.

*Carrying capacity* means the number of acres of pasture required to provide 15.7 pounds of feed grain equivalent per day for 1 animal unit during the period the pasture is normally grazed.

*CCC* means the Commodity Credit Corporation.

*Deputy Administrator or DAFP* means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

*Equine animals used for food or in the production of food* means horses, mules, and donkeys which are:

(1) Used commercially for human food;

(2) Maintained for commercial sale to processors of food for human consumption; or

(3) Used in the production of food and fiber on the owner's farm, such as draft horses, or cow ponies.

*Executive Vice President* means the Executive Vice President, CCC, or a designee of the Executive Vice President.

*FSA* means the Farm Service Agency.

*Livestock producer* means a person who is determined to receive 10 percent or more of the person's gross income, as determined by the Secretary, from the production of livestock and is:

(1) A citizen of, or legal resident alien in the United States; or

(2) A farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members,

stockholders, or partners who are citizens of, or legal resident aliens in the United States; any Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*); any Indian organization or entity chartered under the Indian Reorganization Act (25 U.S.C. 461 *et seq.*) or entity chartered under the Indian Reorganization Act; any tribal organization under the Indian Self-Determination and Education Assistance Act; and any economic enterprise under the Indian Financing Act of 1974 (25 U.S.C. 1451 *et seq.*).

*Natural disaster* means disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster.

*Person* means a person as determined according to part 1400 of this chapter.

*Poultry* means domesticated chickens, including egg-producing poultry, ducks, geese and turkeys.

*Secretary* means the Secretary of Agriculture or a designee of the Secretary.

*Seeded small grain forage crops* means wheat, barley, oats, rye, and triticale.

*State committee, State office, county committee, or county office*, means the respective FSA committee or office.

*United States* means all fifty states of United States, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

#### **§ 1439.4 Liens and claims of creditors.**

Any payment or benefit or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government.

#### **§ 1439.5 Assignments of payments.**

Payments which are earned by a person under this part may be assigned in accordance with the provisions of part 1404 of this chapter and the applicable forms for assignments.

#### **§ 1439.6 Appeals.**

Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at parts 780 and 11 of this title.

#### **§ 1439.7 Misrepresentation, scheme or device.**

A person shall be ineligible to receive assistance under any program under this part if with respect to such program it is determined by the State committee or

the county committee or an official of FSA that such person has:

(a) Adopted any scheme or other device which tends to defeat the purpose of a program operated under this part;

(b) Made any fraudulent representation with respect to such program; or

(c) Misrepresented any fact affecting a program determination.

#### **§ 1439.8 Refunds to CCC; joint and several liability.**

(a) In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to CCC, together with interest as determined in accordance with paragraph (b) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons with a financial interest in the operation shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(c) Interest shall be applicable to refunds required of the livestock owner or other party receiving assistance or a payment if CCC determines that payments or other assistance were provided to the owner and the owner was not eligible for such assistance. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available of the monies or benefits to be refunded. Such interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date of repayment or the date interest increases in accordance with part 1403 of this chapter. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the livestock owner.

(d) Interest determined in accordance with paragraph (c) of this section shall not be applicable to refunds required of the owner because of unintentional misaction on the part of the owner, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in part 1403 of this chapter.

(f) Persons who are a party to any program operated under this part must refund to CCC any excess payments

made by CCC with respect to such program.

(g) In the event that any request for assistance or payment under this part was established as result of erroneous information or a miscalculation, the assistance or payment shall be recomputed and any excess refunded with applicable interest.

#### **§ 1439.9 Cumulative liability.**

The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

#### **§ 1439.10 Benefits limitation.**

The total amount of benefits that a person, as determined in accordance with part 1400 of this chapter, shall be entitled to receive under any subpart may not exceed \$40,000 for any one loss or year.

#### **§ 1439.11 Gross revenue limitation.**

A person, as defined in part 1400 of this chapter, as applicable, who has annual gross revenue in excess of \$2.5 million shall not be eligible to receive assistance under this part. For the purpose of this determination, annual gross revenue means:

(a) With respect to a person who receives more than 50 percent of such person's gross income from farming and ranching, the total gross revenue received from such operations; and

(b) With respect to a person who receives 50 percent or less of such person's gross income from farming and ranching, the total gross revenue from all sources.

#### **§ 1439.12 Maintenance of books and records.**

Livestock producers or any other individual or entity seeking or receiving assistance under this part shall maintain and retain financial books and records which will permit verification of all transactions with respect to the provisions of this part for at least 3 years, following the end of the calendar year in which assistance was provided, or for such additional period as CCC may request. An examination of such books and records by a duly authorized representative of the United States Government shall be permitted at any time during business hours.

3. The subparts consisting of §§ 1439.101 through 1439.104, 1439.201 and 1439.202, 1439.301 and 1439.302, 1439.401 through 1439.403, 1439.501

through 1439.504, 1439.601 and 1439.602, 1439.701 and 1439.702, and 1439.800 through 1439.810 are removed.

4. Subpart—1998 Livestock Assistance Program is added to read as follows:

**Subpart—1998 Livestock Assistance Program**

Sec.

- 1439.101 Applicability.
- 1439.102 Definitions.
- 1439.103 Application process.
- 1439.104 County committee determinations of general applicability.
- 1439.105 Loss criteria.
- 1439.106 Livestock producer eligibility.
- 1439.107 Calculation of assistance.
- 1439.108 Availability of funds.

**Subpart—1998 Livestock Assistance Program**

**§ 1439.101 Applicability.**

(a) This subpart sets forth the terms and conditions applicable to the Livestock Assistance Program authorized by Pub. L. 105–277, 112 Stat. 2681 (October 21, 1998). Benefits will be provided to eligible livestock producers in the United States but only in counties where a natural disaster occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs. A county must have suffered a 40-percent or greater grazing loss for 3 consecutive months during the 1998 calendar year, as a result of damage due to a natural disaster, as determined by the Deputy Administrator or a designee. 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 does not include seeded small grain forage crops.

(b) To be eligible for assistance under the program, a livestock producer's pastures in an eligible county must have suffered at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months. The percent of loss eligible for compensation shall not exceed the maximum percentage of grazing loss for the county as determined by the county committee. In addition, the producer will not be compensated for that part of any loss that would represent payment of a loss greater than 80 percent.

(c) Unless otherwise specified, a livestock producer is eligible to receive payments for the same loss under this subpart and other programs under this part.

**§ 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.

*Application* means the Form CCC–740, Livestock Assistance Program Application. The CCC–740 is available at county FSA offices.

*LAP* means the Livestock Assistance Program which is authorized by Section 1103 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Pub. L. 105–277, 112 Stat. 2681 (October 21, 1998)) and authorized by this subpart, for grazing losses that occurred during calendar year 1998.

*Livestock* means beef and dairy cattle, buffalo and beefalo (when maintained on the same basis as beef cattle), sheep, goats, swine, and equine animals used commercially for human food or kept for the production of food or fiber on the owner's farm.

**§ 1439.103 Application process.**

(a) Livestock producers must submit a completed application prior to the close of business on March 31, 1999, or such other date as established by the Deputy Administrator. The application and any other supporting documentation shall be submitted to the county office with administrative authority over a producer's eligible grazing land or to the county office that maintains the farm records for the livestock producer.

(b) Livestock producers shall certify as to the accuracy of all the information contained in the application, and provide any other information to CCC that the County Office or Committee deems necessary to determine the livestock producer's eligibility.

**§ 1439.104 County committee determinations of general applicability.**

(a) County Committees shall determine whether due to natural disasters their county has suffered a forty percent loss affecting pasture and normal grazing crops for at least 3 consecutive months during calendar year 1998. In making this determination, County committee, using the best information available from sources including but not limited to: Extension Service; Natural Resources Conservation Service; 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 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, with State Committee concurrence, to the Deputy Administrator on CCC–654. The maximum grazing losses the county committees shall submit on CCC–654 is 80 percent. These determinations shall be subject to review and approval of the Deputy Administrator. For purposes of this subpart, such counties are called “eligible counties.”

(b) In each county, the county committee shall determine a LAP crop year. The LAP crop year 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.

(c) In and for each eligible county, the county committee shall determine normal carrying capacities for each type of grazing or pasture during the LAP crop year. The normal carrying capacity for the LAP crop year shall be the normal carrying capacity the County Committee determines could be expected from pasture and normal grazing crops for livestock for the LAP crop year if a natural disaster had not diminished the production of these grazing crops.

(d) In each eligible county, the county committee shall determine the payment period for the county. The payment period for the county shall be the period of time during the county's LAP crop year where for 3 consecutive months during 1998, the carrying capacity for grazing land or pasture was reduced by forty percent or more from the normal carrying capacity.

**§ 1439.105 Loss criteria.**

(a) The grazing land for which a livestock producer requests benefits must be within the physical boundary of the eligible county. Livestock producers in unapproved counties contiguous to an eligible county will not receive benefits under this subpart.

(b) To be eligible for benefits under this subpart, a livestock producer in an eligible county must have suffered a loss of grazing production equivalent to at least a forty percent loss of normal carrying capacity for a minimum of 3 consecutive months.

(c) A producer shall certify each type of pasture and percentage of loss suffered by each type on the application. To establish the percentage of grazing loss, producers shall consider the amount of available grazing production during the LAP crop year,

whether more than the normal acreage of grazing land was required to support livestock during the LAP crop year, and whether supplemental feeding of livestock began earlier or later than normal.

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

(e) 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 county committee according to § 1439.104(a). Livestock producers will not receive benefits under this subpart for any portion of their loss that exceeds 80 percent of normal carrying capacity.

(f) Conservation Reserve Program acres released for haying and/or grazing and seeded small grain forage crops shall not be used to calculate losses under this subpart.

#### **§ 1439.106 Livestock producer eligibility.**

(a) Only one livestock producer will be eligible for benefits under this subpart with respect to an individual animal.

(b) Only owners of livestock who themselves provide the pasture or grazing land, including cash leased pasture or grazing land, for the livestock may be considered as livestock producers eligible to apply for benefits under this subpart.

(c) An owner of livestock who uses another person to provide pasture or grazing land on a rate-of-gain basis is not considered to be the livestock producer eligible to apply for benefits under this subpart.

(d) An owner who pledges livestock as security for a loan shall be considered as the person eligible to apply for benefits under this subpart if all other requirements of this part are met. Livestock leased under a contractual agreement which has been in effect at least 3 months and establishes an interest for the lessee in such livestock shall be considered as being owned by the lessee.

(e) Livestock must have been owned for at least three months before becoming eligible for payment.

(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 of paragraph (b) of this section (the total value of lost feed needs for eligible livestock) or paragraph (c) of this section (the total value of lost eligible pasture), as calculated in this section.

(b) The total value of lost feed needs shall not exceed 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 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 five-year national average market price for corn (\$2.56 bushel or \$.0457 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 according to § 1439.105.

(c) The total value of lost eligible pasture shall not exceed 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:

(2) The result of paragraph (c)(1) of this section for each pasture type; by

(3) \$.071771 (\$.0457 x 15.7); 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 according to § 1439.105.

(d) The final payment shall be the smaller of paragraph (b) of this section or paragraph (c) of this section

multiplied by the national factor if required under § 1439.108. The final payment shall not exceed 50 percent of the smaller of paragraph (b) or (c) of this section determined prior to applying the national factor provided for in § 1439.108.

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

(f) 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 which 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 exceeds the \$200 million appropriated for LAP, each payment shall be reduced by a uniform national percentage. Such payment reductions shall be after the imposition of applicable payment limitation provisions.

Signed at Washington, DC, on March 11, 1999.

**Keith Kelly,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 99-6429 Filed 3-17-99; 9:47 am]

BILLING CODE 3410-05-P

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 21**

#### **Existence of Airworthiness Design Standards for Acceptance Under the Primary Category Rule**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability of design standards.

**SUMMARY:** This document announces the availability of airworthiness design standards for acceptance of the Model Deland Travelaire airplane under the FAA's rules on designation of applicable regulations for primary category aircraft. A notice requesting comments on the design standards was published July 29, 1998, and the comment period closed August 28, 1998. No comments were received on the design standards.