

(d) Milk moved, as described in paragraphs (a) and (b) of this section, from a dairy farmer's farm to a plant located outside of the regulated area, except a partially regulated plant having Class I disposition in the regulated area, the volume of milk (including milk transferred pursuant to § 1304.2(c)) in excess of the percentage of total producer receipts, pursuant to paragraph (e) of this section, shall be excluded from producer milk. This paragraph will not apply to milk normally associated with a pool plant which was caused to be diverted because the facilities of the pool plant are temporarily unusable because of fire, flood, storm, equipment failure or similar extraordinary circumstances completely beyond the pool plant operator control, provided both the handler and the operator of the pool plant notify the Commission within two (2) days following such occurrence;

(e) Milk diverted in excess of the following percentage of total producer receipts shall be excluded from producer milk:

| | Percent |
|--|---------|
| January, February, July, December | 10 |
| March, April, May, June | 13 |
| August, September, October, November | 8 |

PART 1304—CLASSIFICATION OF MILK

1. The authority citation of part 1304 continues to read as follows:
- Authority:** 7 U.S.C. 7256.
2. Section 1304.2 is amended by adding paragraphs (c) and (d) to read as follows:

§ 1304.2 Classification of transfers and diversions

* * * * *

(c) *Transfers to plants located outside of the regulated area.* Fluid milk products (not including bulk transfers of skim milk, condensed milk, bulk milk transferred and classified Class I by a federal market order and milk processed (i.e., pasturized, homogenized, or blended) transferred in bulk from a pool plant to a plant located outside of the regulated area, except a partially regulated plant having Class I disposition in the regulated area, the volume of milk (including milk diverted pursuant to § 1301.23(d)) in excess of the percentage of total producer receipts, pursuant to paragraph (d) of this section, shall be excluded from producer milk. The transferred milk excluded pursuant to this paragraph

shall be prorated to all sources of milk received at this plant unless the operator of the plant selects the sources to be excluded. This paragraph will not apply to any pool plant in which the facilities are temporarily unusable because of fire, flood, storm, equipment failure or similar extraordinary circumstances completely beyond the pool plant operator's control; provided, the operator of the pool plant notifies the Commission within two (2) days following such occurrence;

(d) Milk transferred in excess of the following percentages of total producer receipts shall be excluded from producer milk:

| | Percent |
|--|---------|
| January, February, July, December | 10 |
| March, April, May, June | 13 |
| August, September, October, November | 8 |

Dated: November 17, 1998.
Kenneth M. Becker,
Executive Director.
[FR Doc. 98-31587 Filed 11-25-98; 8:45 am]
BILLING CODE 1650-01-P

DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

7 CFR Part 1439
RIN: 0560-AF29

American Indian Livestock Feed Program

AGENCY: Commodity Credit Corporation, USDA.
ACTION: Interim rule with request for comments.

SUMMARY: This regulation sets forth the terms and conditions of the American Indian Livestock Feed Program (AILFP). Assistance will be available to Federally recognized Indian tribes when, as a result of natural disaster, a significant loss of livestock feed has occurred and a livestock feed emergency exists, as determined by the Commodity Credit Corporation.

DATES: This interim rule is effective on November 27, 1998. Comments on this rule must be received on or before December 28, 1998 to be assured of consideration. Comments on the information collection in this rule must be received on or before January 26, 1999.

ADDRESSES: Submit written comments on this rule to Sean O'Neill, Chief, Noninsured Assistance Programs

Branch (NAPB), Production, Emergencies, and Compliance Division (PECD), Farm Service Agency (FSA), United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250-0517; telephone (202) 720-9003; e-mail Sean_Oneill@wdc.fsa.usda.gov.

FOR FURTHER INFORMATION CONTACT: Sean O'Neill, Chief, Noninsured Assistance Programs Branch (NAPB), Production, Emergencies, and Compliance Division (PECD), Farm Service Agency (FSA), United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250-0517; telephone (202) 720-9003; e-mail Sean_Oneill@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule is issued in conformance with Executive Order 12866 and has been determined to be significant and has been reviewed by OMB.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because neither FSA nor the Commodity Credit Corporation is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking 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

The interim rule has been reviewed in accordance with Executive Order 12988. The provisions of this interim 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 the 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 require 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).

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.

Executive Order 13084

The American Indian Livestock Feed Program is a voluntary program dispensing benefits to American Indian tribes. Nothing contained in this voluntary program imposes any substantial direct compliance costs on American Indian tribes. The American Indian Livestock Feed Program is a government-to-government program that adheres to the policies and procedures contained in Executive Order 13084.

Unfunded Mandates Reform Act of 1995 (UMRA)

This rule contains no Federal mandates under the regulatory provisions of Title II of the 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 the UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996

Due to the need for immediate action and necessity in providing payments for losses expeditiously, CCC has determined that, pursuant to section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, it is impracticable and contrary to public interest to require this rule to conform to the requirements of section 801 of that Act. Accordingly this rule is effective upon publication.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, CCC will submit an emergency information collection request to OMB for the approval of the AILFP reports as necessary for the proper functioning of the program.

Title: American Indian Livestock Feed Program.

OMB Control Number: 0560-NEW SUBMISSION.

Type of Request: Emergency.

Abstract: This information collection will allow CCC to effectively administer American Indian Livestock Feed Program conducted under section 813 of the Agricultural Act of 1970. The information collected allows CCC to provide assistance under the program for losses of livestock feed crops,

including feed grains and forage. The collection is necessary to provide those charged with determining eligibility, a basis to determine whether the producer meets applicable conditions for assistance and to determine compliance with existing rules.

Estimate of Burden: Public reporting burden for this information collection is estimated to average .5 hours per response.

Respondents: Tribal members as determined by tribal governments.

Estimated Number of Respondents: 45,050.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 22,563 hours.

Proposed topics for comment include:

(a) Whether the continued collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the CCC's estimate of burden including the validity of the methodology and assumptions used; (c) enhancing the quality, utility, and clarity of the information collected; or (d) minimizing the burden of the collection of the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Sean O'Neill, Chief, NAPP, PECD, FSA, United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250-0517. All comments will become a matter of public record.

OMB is required to make a decision concerning the collection of information contained in these interim regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Background

Section 813 of the Agricultural Act of 1970 gives the Secretary of Agriculture the authority to provide assistance to relieve distress caused by a natural disaster. Accordingly, under this authority CCC will establish the American Indian Livestock Feed Program (AILFP). CCC will enter into contracts with tribal governments in regions that have been affected by a

natural disaster. The contracts will enable tribal governments to approve requests for benefits for eligible owners. When the eligible owner is a tribal government, CCC will make determinations regarding eligibility. The criteria set forth in this rule will be used to determine eligible regions for AILFP and other eligibility criteria.

List of Subjects in 7 CFR part 1439

Agricultural commodities, Disaster assistance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1439 is amended as set forth below.

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

1. The authority citation for Part 1439 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c, 7 USC 1427 and 1471-1471j.

2. Part 1439 is amended by adding Subpart—American Indian Livestock Feed Program to read as follows:

Subpart—American Indian Livestock Feed Assistance Program

Sec.

| | |
|---------------------------|-------------------------------------|
| 1439.900 | [Reserved] |
| 1439.901 | Applicability. |
| 1439.902 | Administration. |
| 1439.903 | Definitions. |
| 1439.904 | Region. |
| 1439.905 | Responsibilities. |
| 1439.906 | Program availability. |
| 1439.907 | Eligibility. |
| 1439.908 | Payment application. |
| 1439.909 | Payments. |
| 1439.910 | Program suspension and termination. |
| 1439.911 | Appeals. |
| 1439.912 through 1439.915 | [Reserved] |

Subpart—American Indian Livestock Feed Program

§ 1439.900 [Reserved]

§ 1439.901 Applicability.

This subpart sets forth the terms and conditions of a government-to-government program titled the American Indian Livestock Feed Program (AILFP). The AILFP has been allocated a budget of \$12.5 million. Assistance will be available in those regions that Commodity Credit Corporation (CCC) determines have been affected by natural disaster, and where a determination is made by the Deputy Administrator for Farm Programs that a livestock feed emergency exists on tribal land. Funds made available under the AILFP shall be available beginning in crop year 1997 and subsequent crop years. Payments may become available as contracts with

tribal governments are approved. If any other benefits are received from the Department of Agriculture for the same loss, then payments under this part will be reduced accordingly. Payments will terminate when funds have been exhausted, without respect to the date of any application, or of when any contract has been entered into by any tribal government and CCC. Applicants will receive benefits on a first come, first served basis.

§ 1439.902 Administration.

(a) This subpart shall be administered by CCC under the general supervision of the Deputy Administrator for Farm Programs, Farm Service Agency (FSA). This program shall be carried out in the field as prescribed in these regulations and as directed in the contract executed between the applicable tribal government and CCC, except that in the event any contract provision conflicts with these regulations, the regulations shall apply.

(b) Tribal governments, their representatives, and employees do not have authority to modify or waive any provisions of the regulations of this subpart.

(c) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any provisions of regulations of this subpart.

(d) The Deputy Administrator may authorize State and county committees to waive or modify deadlines, and other program requirements in cases where the applicant or tribe, as applicable, show that circumstances beyond the applicant's or tribe's control precluded compliance with the deadline and where lateness or failure to meet such other requirements does not adversely affect the operation of the program.

(e) The tribal government will, in accordance with this part and in coordination with the U.S. Department of the Interior, Bureau of Indian Affairs (BIA) and FSA State and county committees, recommend the geographical size and shape of the region where the natural disaster has occurred, and whether the regional eligibility requirement has been satisfied. Documentation to support the reported natural disaster shall be provided by the FSA State office and shall accompany the recommendation. The recommendation of eligibility must be acted on by the Deputy Administrator.

(f) The Deputy Administrator will determine all prices with respect to implementing the AILFP.

(g) The FSA State committee will determine crop yields and livestock

carrying capacity with respect to implementing the AILFP.

(h) Participation in the AILFP by a tribal government for either the tribal government's benefits or for the benefit of any eligible owner is voluntary and is with the understanding that CCC will not reimburse the tribal government or its members for any administrative costs associated with the administration or implementation of the program.

(i) The provisions of §§ 1439.3, 1439.11 through 1439.22, 1439.24 and 1439.6(i)(1)(i), 1439.8(a), and 1439.9 (d) through (f) shall apply to this subpart, and the provisions of §§ 1439.10(a) and 1439.15, shall apply as set forth in §§ 1439.908 and 1439.909 of this subpart.

§ 1439.903 Definitions.

The definitions set forth in this section shall be applicable to the program authorized by this subpart. The terms defined in § 1439.3 shall also be applicable except where those definitions conflict with the definitions set forth in this subpart. The following terms shall have the following meanings:

Animal Unit (AU) means a standard expression of livestock based on a net energy maintenance requirement equal to 13.6 megacalories per day.

Animal Unit Day (AUD) means an expression of expected or actual stocking rate equal to one day.

Approving official means a representative of the tribal government who is authorized to approve an application for assistance made in accordance with this subpart.

Carrying capacity means the stocking rate expressed as acres per animal unit which is consistent with maintaining or improving vegetation or related resources.

Deputy Administrator means the Deputy Administrator for Farm Programs, FSA, or designee.

Disaster period means the length of time that damaging weather, adverse natural occurrence, or related condition has a detrimental affect on the production of livestock feed.

Eligible feed for assistance means any type of feed (feed grain, oilseed meal, premix, or mixed or processed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that provides net energy megacalories and which is consistent with acceptable feeding practices and was not produced by the owner.

Eligible livestock means beef and dairy cattle; buffalo and beefalo maintained on the same basis as beef cattle; equine animals used for food or

used directly in the production of food; sheep; goats; and swine.

Eligible owner means an individual or entity, including the tribe, eligible to participate in this program, who:

(1) Contributes to the production of eligible livestock or their products;

(2) Has such contributions at risk;

(3) Meets the criteria set forth in § 1439.907 of this subpart; and

(4) Meets eligibility criteria set forth by the tribal government in an approved contract.

Livestock Feed Emergency means a situation in which a natural disaster causes more than a 35 percent reduction in the feed produced in a region determined in accordance with § 1439.904 of this subpart for a defined period, as determined by CCC. Any loss of feed production attributable to overgrazing or other factors not considered to be a natural disaster as specified in this subpart shall not be included in the loss used to determine if a livestock feed emergency occurred.

Natural disaster means damaging weather, including but not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof; or an adverse natural occurrence such as earthquake, flood, or volcanic eruption; or a related condition, including but not limited to heat, or insect infestation, which occurs as a result of aforementioned damaging weather or adverse natural occurrence prior to or during the crop year that directly causes, accelerates, or exacerbates the reduction of livestock feed production.

Net Energy Maintenance means the appropriate amount of net energy needed to meet the daily maintenance needs for livestock based on the weight range by type of eligible livestock as provided in this section, as determined by CCC.

Region means a geographic area suffering a livestock feed emergency because of natural disaster as determined by a tribal government in accordance with § 1439.904 of this subpart.

Tribal Governed Land means:

(1) All land within the limits of any Indian reservation;

(2) Dependent Indian communities;

(3) Any lands title to which is either held in trust by the United States for the benefit of an Indian tribe or Indian, or held by an Indian tribe or Indian subject to a restriction by the United States on alienation; and

(4) Land held by an Alaska Native, Alaska Native Village or village or regional corporation under the provisions of the Alaska Native Claim

Settlement Act or other Act relating to Alaska Natives.

Tribe means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary

of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

Type and weight range means the weight range by type of livestock and appropriate amount of energy required to provide the daily maintenance needs for livestock, as follows:

| Kind/type | Weight range (lbs.) | Daily energy requirements |
|--|----------------------|---------------------------|
| (1) Beef cattle (Buffalo/Beefalo): | | |
| Beef | Less than 400 | 3.01 NEm Mcal |
| Beef | 400–799 | 5.59 NEm Mcal |
| Beef | 800–1099 | 7.31 NEm Mcal |
| Beef | 1100+ | 10.75 NEm Mcal |
| Beef, cow | All | 13.60 NEm Mcal |
| Beef, bull | 1000+ | 11.18 NEm Mcal |
| (2) Dairy cattle: | | |
| Dairy | Less than 400 | 3.01 NEm Mcal |
| Dairy | 400–799 | 5.59 NEm Mcal |
| Dairy | 800–1099 | 7.31 NEm Mcal |
| Dairy | 1100+ | 10.75 NEm Mcal |
| Dairy, cow | Less than 1100 | 23.22 NEI Mcal |
| Dairy, cow | 11–1299 | 26.66 NEI Mcal |
| Dairy, cow | 1300–1499 | 28.38 NEI Mcal |
| Dairy, cow | 1500+ | 29.67 NEI Mcal |
| Dairy, bull | 1000+ | 12.47 NEm Mcal |
| (3) Equine: | | |
| Equine | Less than 450 | 6.2 DE Mcal |
| Equine | 450–649 | 8.9 DE Mcal |
| Equine | 650–874 | 11.6 DE Mcal |
| Equine | 875+ | 17.3 DE Mcal |
| (4) Swine: | | |
| Swine | Less than 45 | 780 DE Kcal |
| Swine | 45–124 | 1630 DE Kcal |
| Swine | 125+ | 2867 DE Kcal |
| Swine, sow | 235+ | 9854 DE Kcal |
| Swine, boar | 235+ | 5446 DE Kcal |
| (5) Sheep: | | |
| Sheep | Less than 44 | 0.34 NEm Mcal |
| Sheep | 44–82 | 0.77 NEm Mcal |
| Sheep | 83+ | 0.95 NEm Mcal |
| Sheep, ewe | 150+ | 2.66 NEm Mcal |
| Sheep, ram | 150+ | 1.46 NEm Mcal |
| (6) Goats: | | |
| Goats | Less than 44 | 0.43 NEm Mcal |
| Goats | 44–82 | 0.95 NEm Mcal |
| Goats | 83+ | 1.29 NEm Mcal |
| Goats, doe | 125+ | 3.00 NEm Mcal |
| Goats, doe, dairy 1994 and subsequent crop years | 125+ | 4.47 NEm Mcal |
| Goats, buck | 125+ | 1.80 NEm Mcal |

§ 1439.904 Region.

(a) The size of a region will consist of:

(1) An entire reservation, even if the reservation is less than 320,000 acres; or

(2) Contiguous acreage of at least 320,000 acres and include land acreage of an Indian reservation or tribal governed land. If a region is delineated based on minimum size of 320,000 acres, the region shall be delineated without regard to the boundary of a reservation or tribal governed land. If the acreage affected by the natural disaster does not meet the minimum acreage requirement specified in this subparagraph, acreage will be added from surrounding land until the minimum requirement is met.

(b) The region must:

(1) Include acreage affected by the natural disaster which is the basis for the region's designation;

(2) Correspond to the shape of the natural disaster to the maximum extent possible;

(3) Be defined in a manner that does not intentionally include or exclude owners or crops;

(4) Contain some acreage of tribal governed land; and

(5) Have suffered a livestock feed emergency as defined in § 1439.903 of this subpart.

§ 1439.905 Responsibilities.

(a) During the operation of this program, CCC shall:

(1) Provide weather data, crop yields and carrying capacities to tribes requesting such information;

(2) Review contracts submitted by tribal governments requesting disaster regions; and

(3) Act as an agent for disbursing payments to eligible livestock owners in approved disaster regions.

(b) Tribal governments shall be responsible for:

(1) Approaching CCC to obtain a contract to participate in the AILFP based on the tribes' voluntary decisions that participation will benefit its members;

(2) Gathering, organizing, and reporting accurate information regarding disaster conditions and region;

(3) Advising livestock owners in an approved region that they may be eligible for payments, in addition to the method and requirements for filing applications;

(4) Accepting applications for payment from individual livestock owners;

(5) Determining that the information provided by individual livestock owners on payment applications is accurate and complete and that the owner is eligible for payments under this program;

(6) Submitting only accurate and complete payment applications to the designated FSA office acting as an agent for disbursing payments to eligible livestock owners.

(c) The owner or authorized representative, shall:

(1) Furnish all the information specified on the payment application, as requested by CCC;

(2) Provide any other information which the tribal government deems necessary to determine the owner's eligibility; and

(3) Certify that purchased feed was or will be fed to the owner's eligible livestock.

§ 1439.906 Program availability.

(a) When a tribal government determines that a livestock feed emergency exists due to a natural disaster, the tribal government may submit a properly completed contract requesting approval of a region. All contracts requesting region approval must be submitted by the later of December 28, 1998, or 30 days after the end of the disaster period specified on the contract.

(b) Properly completed contracts shall consist of:

(1) A completed form CCC-453, Contract To Participate; and

(2) A completed form CCC-648, Region Designation And Feed Loss Assessment; and

(3) Supportive documentation as determined by CCC including, but not limited to:

(i) A map of the region delineated according to § 1439.904 of this subpart;

(ii) Historical production data and estimated or actual production data for the disaster year;

(iii) Climatological data provided by the FSA State Office; and

(iv) A report of an on-site survey.

(c) The Deputy Administrator shall make a determination as to whether a livestock feed emergency exists not later than 30 days after receipt of a properly completed contract made in accordance with this subpart and shall notify the tribal government and FSA State Office of such determination as applicable.

(d) The feeding period provided in the approved contract will be for a term not to exceed 90 days, except as provided in paragraph (e) of this section. The feeding period shall not be extended if

the livestock feed emergency no longer exists. Notwithstanding the duration of any feeding period, assistance under this subpart terminates immediately and without notice according to § 1439.901.

(e) The tribal government may request to extend the feeding period not to exceed an additional 90 days for each extension if disaster conditions have not diminished significantly and a livestock feed emergency continues.

§ 1439.907 Eligibility.

(a) An eligible owner must own or jointly own the eligible livestock for which payments under this subpart are requested. Notwithstanding any other provision of this subpart, livestock leased under a contractual agreement which has been in effect at least 6 months prior to the date of application for assistance made under this subpart shall be considered as being owned by the lessee if the lease:

(1) Requires the lessee to furnish the feed for such livestock; and

(2) Provides for an interest in such livestock, such as the right to market a share of the increase in weight of livestock.

(b) A State or non-tribal local government or subdivision thereof, or any individual or entity determined to be ineligible in accordance with § 1400.501 of this chapter are not eligible for benefits under this subpart.

(c) Any eligible owner of livestock, including the tribe, may file a CCC-approved AILFP payment application with the tribal government. When such a payment application is filed, the owner and an authorized tribal government representative shall execute the certification contained on such payment application no later than the deadline established by CCC upon approval of the region.

(d) To be eligible for benefits under this subpart, livestock owners must own or lease tribal governed land in the delineated region; and have had livestock on such land at the time of disaster which is the basis for the region's designation

(e) Eligible livestock owners shall be responsible for providing information to the tribal government that accurately reflects livestock feed purchases for eligible livestock during the feeding period. False or inaccurate information may affect the owner's eligibility.

§ 1439.908 Payment application.

(a) Except as provided in paragraph (d) of this section, payment applications from interested eligible owners must be:

(1) Submitted to the tribal government by the owner no later than a date announced by the tribe, such date being

no later than the applicable date in § 1439.907(c); and

(2) Submitted by the tribal government to the office designated by CCC no later than a date announced by CCC; and

(3) Accompanied by valid receipts substantiating purchase of eligible feed for assistance. Valid receipts must also be accompanied by the certification referenced in § 1439.907(d)(3) of this subpart and shall contain:

(i) The date of feed purchase, which must fall within the eligible feeding period as approved on the contract;

(ii) The names and addresses of the buyer and the vendor;

(iii) The type of feed purchased;

(iv) The quantity of the feed purchased;

(v) The cost of the feed; and

(vi) The vendor's signature if the vendor is not licensed to conduct this type of business transaction.

(b) The tribal government shall review each payment application, as specified by CCC, for completeness and accuracy. Except as provided in paragraphs (c) and/or (d) of this section, the tribal government shall approve those eligible owners and applications meeting the requirements of this subpart.

(c) No approving tribal government member shall review and approve a payment application for any operation for which such member has a direct or indirect interest. Such payment application may be reviewed for approval by a member of the tribal government who is not related to the applicant by blood or marriage.

(d) Tribal governments do not have the authority to approve a payment application for any operation for which the tribe has a direct or indirect interest. Payment applications for tribal owned livestock shall contain an original signature of a member of the tribal government, signing as representing all owners of the tribal owned livestock, who possesses the authority to sign documents on behalf of the tribe and shall be submitted to an office designated by the Secretary for approval.

(e) No payment application, as specified by CCC, shall be approved unless the owner meets all eligibility requirements. Information submitted by the owner and any other information, including knowledge of the tribal government concerning the owner's normal operations, shall be taken into consideration in making recommendations and approvals. If either the payment application is incomplete or information furnished by the owner is incomplete or ambiguous and sufficient information is not

otherwise available with respect to the owner's farming operation in order to make a determination as to the owner's eligibility, the owner's payment application, as specified by CCC, shall be denied. The tribal government shall be responsible for notifying the owner of the reason for the denial and shall provide the owner an opportunity to submit additional information as requested.

(f) All payment applications, as specified by CCC, approved by the tribal government will be submitted to a designated FSA office for calculation of payment.

§ 1439.909 Payments.

(a) Provided all other eligibility requirements of this subpart are met and funds are available, all eligible payment applications submitted to the designated FSA office shall have payments issued to the applicant by CCC.

(b) If any term, condition, or requirement of these regulations or contract are not met, payments and benefits previously provided by CCC which were not earned under the provisions of the application shall be refunded.

(c) Each owner's share of the total payment shall be indicated on the application, and each owner shall receive benefits or final payment from CCC according to benefits or payments earned under the provisions of the application.

(d) CCC may reduce the benefits payable to an applicant under this program if CCC has made assistance available to such applicant under any other CCC program with respect to the same natural disaster.

(e) The amount of assistance provided to any owner shall not exceed the smaller of either:

(1) The dollar amount of eligible livestock feed purchased, as documented by acceptable purchase receipts, less the dollar amount of any sale of livestock feed (whether purchased or produced) by the owner during the feeding period; or

(2) 30 percent of the amount computed by multiplying:

(i) The number of animal units determined on the basis of the number of eligible livestock of each type and weight range; by

(ii) The smaller of the number of days the owners provided feed to eligible livestock or the total days in the contract's feeding period; by

(iii) The Animal Unit Day value, as established by the Deputy Administrator for Farm Programs, less the dollar amount of any sale of livestock feed

(whether purchased or produced) by the owner during the feeding period.

(f) Payments issued in conjunction with this program will not be subject to offset for debts incurred through participation in any other program conducted by the Department of Agriculture.

§ 1439.910 Program suspension and termination.

(a) The tribal government that requested the AILFP assistance, may at any time during the operation of a program recommend suspension or termination of the program.

(b) The Deputy Administrator may suspend or terminate the program at any time if:

- (1) The tribal government requests termination or suspension; or
- (2) Funding is exhausted.

§ 1439.11 Appeals.

Any person who is dissatisfied with a CCC determination made with respect to this subpart may make a request for reconsideration or appeal of such determination in accordance with part 780 of this chapter. Any person who is dissatisfied with a determination made by the tribal authority should seek reconsideration of such determination with the tribe. Decisions and determinations made under this subpart not rendered by CCC or FSA are not appealable to the National Appeals Division.

§§ 1439.912 through 1439.915 [Reserved]

Signed at Washington, DC, on November 20, 1998.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 98-31655 Filed 11-25-98; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 331

[Docket No. 98-048F]

Termination of Designation of the State of Minnesota With Respect to the Inspection of Meat and Meat Food Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule and termination of designation.

SUMMARY: This final rule amends the Federal meat inspection regulations by terminating the designation of the State of Minnesota under Titles I, II, and IV

of the Federal Meat Inspection Act (FMIA). The State of Minnesota has enacted a State meat inspected program law and regulations that impose inspection requirements that are at least equal to those requirements of the FMIA. The State of Minnesota will remain designated under sections 1-4, 6-11, and 12-22 of the Poultry Products Inspection Act (PPIA).

DATES: The effective date of this final rule is December 28, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. William F. Leese, Director, Federal-State Relations Staff, Food Safety and Inspection Service; telephone (202) 418-8900 or FAX (202) 418-8834.

SUPPLEMENTARY INFORMATION:

Background

Section 301(c) of the FMIA (21 U.S.C. 661(c)) and section 5(c) of the PPIA (21 U.S.C. 454(c)) authorize the Secretary of Agriculture to designate a State as one in which the provisions of Titles I and IV of FMIA shall apply to operations and transactions wholly within the State after the Secretary has determined that requirements at least "equal to" those imposed under the Acts have not been developed and effectively enforced by the State.

On January 2, 1971, and May 16, 1972, the Secretary of Agriculture designated the State of Minnesota under paragraph 5(c) (21 U.S.C. 454(c) of the PPIA and paragraph 301(c) (21 U.S.C. 661(c)) of the FMIA as a State in which the Federal Government is responsible for providing meat and poultry inspection, respectively, at eligible establishments and for otherwise enforcing the applicable provisions of PPIA and FMIA with regard to intrastate activities in the State.

In addition, on January 31, 1975 (40 FR 4646), a document was published in the **Federal Register** announcing that effective on that date, the Federal Government would assume the responsibility of administering the authorities provided for under sections 202, 203, and 204 (21 U.S.C. 642, 643, and 644) of the FMIA and sections 11 (b) and (c) (21 U.S.C. 460 (b) and (c)) of the PPIA regarding certain categories of processors of meat and poultry products.

These designations were undertaken by the Department when it was determined that the State of Minnesota was not in a position to enforce inspection requirements under State laws for products in intrastate commerce that are at least "equal to" the requirements of FMIA and PPIA enforced by the Federal Government.