

## § 1439.2

CFR Parts 1200 to 1599, revised as of January 1, 2000) for the Flood Compensation Program shall continue to apply to all pending or new matters under that program.

(c) Nothing in this subpart shall be read as to require any expenditure of funds for a program in an overall amount greater than that determined to be appropriate by CCC.

### § 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 that 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 that is not in accordance with this part; or

(2) Require a county committee to withhold taking any action that 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.

## 7 CFR Ch. XIV (1-1-01 Edition)

### § 1439.3 Definitions.

The definitions set forth in this section shall be applicable to all subparts contained in this part unless otherwise noted, or unless the definitions conflict with the definitions in subparts other than this subpart A, in which case they shall not apply.

*Carrying capacity* means the number of acres of pasture required to provide 15.7 pounds of feed grain equivalent per day for one 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 that 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

## Commodity Credit Corporation, USDA

## § 1439.8

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 a generalized disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster.

*Person* means an individual or entity, including any organization, of any kind, provided that for per-person payment limitations the rules in part 1400 of this chapter shall be determinative in defining who is considered to be a separate person for such purposes.

*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, Guam, and the District of Columbia.

### § 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 that 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 FSA or CCC 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, and be subject to such other remedies as may be allowed by law, 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 that 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 or in an application for payment shall be jointly and severally liable for any refund, including related charges, that 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 that the United States Treasury charges CCC for funds, as of the date CCC made such benefits. 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