

## § 1439.902

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

available in those regions that 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 in 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 State FSA 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 subpart A shall not apply to this part; however the following provisions of 7 CFR part 1439, as in effect on January 1, 1999 (see 7 CFR Parts 1200 to 1599, revised as of January 1, 1999) shall apply in the conduct of this program: §§ 1439.3, 1439.11 through 1439.22, 1439.24 as well as §§ 1439.6(i)(1)(i), 1439.8(a), and 1439.9(d) through (f). Further, from those same regulations, the provisions of §§ 1439.10(a) and 1439.15, as in effect on January 1, 1999 (see 7 CFR Parts 1200 to 1599, revised as of January 1, 1999) shall apply as set forth in §§ 1439.908 and 1439.909.

### § 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 that is consistent with maintaining or improving vegetation or related resources.

*Dependent Indian Community* means a limited category of Indian lands that are neither reservations nor allotments and is:

- (1) Land set aside by the Federal Government for the use of Indians as Indian land, and
- (2) Under Federal superintendence.

*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 that 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; 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 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, that 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.

*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

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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 requirement
<b>(1) Beef cattle (Buffalo/Beefalo):</b>		
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.
<b>(2) Dairy cattle:</b>		
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.
<b>(3) Equine:</b>		
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.
<b>(4) Swine:</b>		
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.
<b>(5) Sheep:</b>		
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.
<b>(6) Goats:</b>		
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 paragraph (a)(2), 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 that 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.

§ 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 tribe's 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;