

(d) Notwithstanding any other provisions of this subpart, if a milk marketing history is transferred:

(1) The transferor shall not be eligible for a refund of a reduction in producer proceeds made in the year of the transfer.

(2) The marketing of milk in the year of the transfer which could be attributed to the transferor shall be considered solely to be marketings by the transferee for calculations relating to refunds of reductions made in the transfer year or in the following year; and

(3) The transferee, to the extent that other conditions are met, may claim refunds of reduction made in the proceeds of the transferor for the transfer year.

(e) A transfer of milk marketing history under this section shall become null and void if the transferor returns to dairying at any time prior to the payment of a refund to the transferee which took into account the transferor's marketings of milk.

§ 1430.347 Availability of records and facilities.

(a) *Records to be maintained.* Each responsible person and person seeking a refund shall maintain records in a manner that will demonstrate compliance with the provisions of this subpart and/or eligibility for a refund.

(b) *Availability of records and facilities.* Each responsible person or other persons affected by the provisions of this subpart shall make available to authorized representatives of the CCC or the Department all records and facilities pertaining to such person's operations that are necessary to determine compliance with the provisions of this subpart.

(c) *Retention of records.* All records required under this subpart shall be retained by the person required to keep such records for a period of three years beginning at the end of the calendar year to which such records pertain, or for such longer period as the Dairy Division or the CCC may require by notice to such person.

§ 1430.348 Adjustment of accounts.

Except as otherwise provided in this section, whenever the responsible per-

son or person obtaining a refund becomes aware through an audit or other means that an error in payment or refund has been made, such person must immediately notify the CCC of the error and make any payment to the CCC that is due the CCC, together with any late-payment interest and other charges as are provided for in this subpart. If the error is otherwise unknown to the person involved until notice is given by the CCC, the underpayment plus late-payment interest and other charges provided for in this subpart shall be made by the next date for remitting reductions as provided in § 1430.343 or within the time specified by the CCC if no subsequent remittances are required by this subpart from such person. Overpayments to the CCC by a responsible person shall be credited to the account of the responsible person remitting the overpayment and shall be applied against amount otherwise due to the CCC from the responsible person or refunded if no amounts are due to the CCC from such person. Nothing in this section shall reduce the liability of a person to the CCC for late-payment interest and other charges for underpayment or nonpayment to the CCC.

§ 1430.349 Charges and penalties.

(a) *Charge for dishonored negotiable instruments.* Each person who issues a negotiable instrument to the CCC in connection with this subpart that is not honored because of insufficient funds or any other reason will be charged \$25 plus such additional costs as may apply. The amount of this charge shall be in addition to any and all other authorized charges and penalties.

(b) *Late-Payment Interest.* Any unpaid obligation due the CCC under this subpart shall be increased by late-payment interest. Such interest shall be assessed in accordance with the provisions of 7 CFR part 1403 or successor regulations so designated by the Department. The timeliness of payment to the CCC shall be determined based on the applicable postmark date or the date of receipt by the CCC if no postmark date is available or legible.

(c) *Penalties.* (1) In addition to other penalties provided for in this subpart, a civil penalty payable to the CCC shall

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be due from any responsible person who fails to make a reduction in the price of milk as required in this subpart and from any person who fails to remit to the CCC the funds required to be collected and remitted by this subpart, or fails to comply with any other requirement or provision of this subpart. Such penalty shall be in addition to any other amount due CCC and in addition to any other liability imposed by law. The amount of the penalty shall be up to an amount which is equal to the support price for milk in effect at the time the failure occurs multiplied by the quantity of milk involved. The Vice President, CCC, or a designee, may assess a penalty at less than the maximum amount where it is determined equitable in those cases where the failure was unintentional and such relief can be granted without harm to the program.

(2) The Vice President, CCC, or a designee, shall notify any person against whom a penalty is to be assessed of the intention to assess such penalty and provide such person with an opportunity for an administrative hearing.

§ 1430.350 Limitation of authority.

(a) State and county committees or their designees do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(b) A State committee may take any action authorized or required by the regulations in this subpart to be taken by a county committee when such action has not been taken by the county committee. A State committee may also:

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

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

(c) No delegation herein to a State or county committee shall preclude DASCO, or a designee, from determining any question arising under the regulations in this subpart or from reversing or modifying any determina-

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tion made by a State or county committee.

§ 1430.351 Estates and trusts; minors.

(a) For purposes of this subpart, a receiver of an insolvent debtor's estate and the trustee of a trust estate may, for the purpose of this subpart, be considered to represent an insolvent producer and the beneficiaries of a trust, respectively, and the production of the receiver or trustee shall be considered to be production of the producer which such receiver or trustee represents. Program documents executed by the receiver or trustee will be accepted only if they are legally authorized and valid and such person has the authority to execute the applicable documents.

(b) A person seeking a refund under the provisions of this part who is a minor shall be eligible for a refund under the regulations in this subpart only if:

(1) The right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are signed by the guardian; or

(3) As determined by DASCO, an acceptable bond is furnished by an acceptable surety which protects CCC against any loss as may result to CCC in connection with the minor and the administration of this subpart.

§ 1430.352 Appeals.

Except as otherwise provided in this subpart with respect to matters under the supervision of AMS, the appeal regulations in 7 CFR part 780 shall be applicable to appeals of determinations made under this subpart.

§ 1430.353 Over-disbursement.

If a refund is disbursed under this subpart which exceeds the amount allowed in this subpart, the person receiving payment and that person's successors shall be personally liable for repayment of the amount of such excess payment plus interest computed in accordance with 7 CFR part 1403, if applicable, or in the amount allowed by law if part 1403 does not apply.