

## Commodity Credit Corporation, USDA

## § 1430.216

or farm reconstitutions undertaken in accordance with § 1430.213.

(b) CCC may modify an MILC if such modifications are desirable to carry out purposes of the program or to facilitate the program's administration.

### § 1430.213 Reconstitutions.

(a) A dairy operation receiving MILC benefits may reorganize or restructure such that the constitution or makeup of their operation is reconstituted in another organizational framework. However, any operation that changes after December 1, 2001, is subject to a review by FSA to determine if the operation was reorganized for the sole purpose of receiving multiple payments.

(b) A dairy operation that FSA determines has reorganized solely to receive additional MILC payments will be in violation of its contract and dealt in accordance with § 1430.214.

(c) If during the contract period a change in the dairy operation occurs, the modification to the MILC will not take effect until the first day of the fiscal year following the month FSA received notification of the changes. Changes include but are not limited to any producer affiliated with a dairy operation that has an approved MILC with CCC forming a new dairy operation that is not formed solely to receive additional MILC payments.

(d) Changes resulting in the following will take effect immediately upon notification to CCC, in accordance with § 1430.212:

(1) Increases or reductions of shareholders or producers and their corresponding share amounts in the dairy operation; or

(2) Purchases of a new dairy operation by a producer or producers not affiliated with an existing dairy operation that has an approved MILC with CCC.

### § 1430.214 Violations.

(a) If producers in a dairy operation violates the MILC or the requirements of this subpart, CCC may:

(1) Terminate the MILC for the remainder of the fiscal year in which the violation occurs, and allow the producer to retain any payments received under the contract; or

(2) Allow the MILC to remain in effect and require the producer to repay a portion of the payments received commensurate with the violation's severity, as CCC determines.

(3) If the MILC is terminated under this section, the participant shall forfeit all rights to further MILC benefits and shall refund all or part of the payments received as CCC determines appropriate.

(4) A producer or operation with a violation, as determined by CCC, shall refund all MILC funds disbursed under of this part. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

(b) A MILC is violated by the following actions:

(1) Failure to comply with the terms and conditions of the MILC and addendum;

(2) Reconstitutions of the dairy operation for the sole purpose of receiving multiple program benefits;

(3) Failure to comply with highly erodible land conservation and wetland provisions of this 7 CFR part 12 or their successor regulations;

(4) Failure to meet the definition of a dairy operation according to § 1430.202;

(5) Any action that tends to defeat the purpose of the program, as CCC determines.

(c) The Deputy Administrator for Farm Programs (DAFP) of the Farm Service Agency may terminate any MILC by mutual agreement upon request of the participant if DAFP determines that termination is in the best interest of the public.

(d) The DAFP may determine that failure of the dairy operation to perform the MILC does not warrant termination and may require the participant to refund part of the payments received or accept adjustments in the payment as the DAFP determines to be appropriate.

### § 1430.215 [Reserved]

### § 1430.216 Contracts not in conformity with regulations.

If it is discovered that an MILC contract does not comply with this subpart as the result of a misunderstanding by someone who has signed the contract, the contract may be

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modified by mutual agreement. If the parties to the MILC cannot reach agreement for such modification, it shall be terminated and all payments paid or payable under the contract shall be forfeited or refunded to CCC, except as may otherwise be allowed under § 1430.214.

**§ 1430.217 Offsets and withholdings.**

CCC may offset or withhold any amount due CCC under this subpart under the provisions of part 1403 of this chapter or any successor regulations.

**§ 1430.218 Assignments.**

Any producer may assign a payment to be made under this part in accordance with part 1404 of this chapter or successor regulations as designated by the Department.

**§ 1430.219 Appeals.**

Any producer who is dissatisfied with a determination made pursuant to this subpart may request reconsideration or appeal of such determination under part 11 or 780 of this title.

**§ 1430.220 Misrepresentation and scheme or device.**

(a) A dairy operation shall be ineligible for the MILC program if FSA determines that it knowingly:

(1) Adopted a scheme or device that tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a determination under this program. CCC will take steps deemed necessary to protect the interests of the government.

(b) Any funds disbursed to a producer or operation engaged in a misrepresentation, scheme, or device, shall be refunded to CCC. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

**§ 1430.221 Estates, trusts, and minors.**

(a) Program documents executed by producers legally authorized to represent estates or trusts will be accepted only if such producers furnish evidence of the authority to execute such documents.

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(b) A minor who is otherwise eligible for assistance under this part must also:

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

(2) Show that a guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) Furnish a bond under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

**§ 1430.222 Death, incompetency, or disappearance.**

In the case of death, incompetency, disappearance or dissolution of a producer that is eligible to receive benefits under this part, such persons as are specified in part 707 of this title may receive such benefits, as determined appropriate by FSA.

**§ 1430.223 Maintenance and inspection of records.**

(a) Producers approved for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified herein, as may be requested by CCC or FSA. Such records and accounts must be retained for 3 years after the date of payment to the dairy operation under this program. Destruction of the records 3 years after the date of payment shall be the risk of the party undertaking the destruction.

(b) At all times during regular business hours, authorized representatives of CCC, the Department, or the Comptroller General of the United States shall have access to the premises of the dairy operation in order to inspect the herd of cattle, examine, and make copies of the books, records, and accounts, and other written data as specified in paragraph (a) of this section.

(c) Any funds disbursed pursuant to this part to any producers or operation who does not comply with the provisions of paragraphs (a) or (b) of this section, or who otherwise receives a payment for which they are not eligible, shall be refunded with interest.