

## Commodity Credit Corporation, USDA

## § 1430.203

cows and whose production facilities are located in the United States.

*Department or USDA* means the United States Department of Agriculture.

*Deputy Administrator* means the Deputy Administrator for Farm Programs (DAFP), FSA or a designee.

*Eligible production* means milk that was produced by cows in the United States and marketed commercially during the period of December 1, 2001, through September 30, 2007, up to a maximum of 2.4 million pounds per dairy operation per fiscal year.

*Farm Service Agency or FSA* means the Farm Service Agency of the Department.

*Federal Milk Marketing Order* means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

*Fiscal Year* means the year beginning October 1 (except December 1 for fiscal year 2002) and ending the following September 30 and such that, for example, fiscal year 2003 will run from October 1, 2002 through September 30, 2003.

*Hundredweight or cwt.* means 100 pounds.

*Marketed commercially* means sold to the market to which the dairy operation normally delivers whole milk and receives a monetary amount.

*MILC* means the Milk Income Loss Contract program or the form upon which CCC and the producer agree to the terms of the payment to be made under the MILC program.

*Milk handler* means the marketing agency to or through which the producer commercially markets whole milk.

*Milk marketing* means a marketing of milk for which there is a verifiable sales or delivery record of milk marketed for commercial use.

*Participating State* means each of the 50 States in the United States of America, including the District of Columbia, and the Commonwealth of Puerto Rico, or any other State, territory, or possession of the United States.

*Payment pounds* means the pounds of milk production for which an operation is eligible to be paid under this subpart.

*Producer* means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen of, or legal resident alien in the United States, and who directly or indirectly, as determined by the Secretary, shares in the risk of producing milk, and makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of this operation.

*Transition period* means the period from December 1, 2001, until the time the dairy operation enters into MILC contract with CCC, provided that CCC may set such a deadline for the signing of the transition contract as it deems appropriate in order to accomplish the purposes of the contract.

*United States* means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico, or any other State, territory, or possession of the United States.

*Verifiable production records* means evidence that is used to substantiate the amount of production marketed and that can be verified by CCC through an independent source.

[67 FR 64476, Oct. 18, 2002, as amended at 71 FR 19622, Apr. 17, 2006]

### § 1430.203 Eligibility.

To be eligible to receive payments under this subpart, a dairy operation must:

(a) Have produced milk in the United States and commercially marketed the milk produced anytime during the period of December 1, 2001, through September 30, 2007;

(b) Enter into a MILC during the contract application period;

(c) Agree to all terms and conditions in the MILC and those that are otherwise contained in this subpart and comply with instructions issued by CCC;

(d) Provide proof of monthly milk production commercially marketed by all persons in the dairy operation during the contract period, to determine

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the total pounds of milk that will be converted to hundredweight (cwt.) used for payment;

(e) Submit timely production evidence according to §1430.209;

(f) Be actively engaged in the business of producing and marketing agricultural products anytime during the period of December 1, 2001, through September 30, 2007.

(g) In administering this program, the eligibility determination of "dairy operation" shall be made in the same manner as Dairy Market Loss Assistance (DMLA) contracts in that State. New MILC operations must be unaffiliated with prior DMLA operations.

[67 FR 64476, Oct. 18, 2002, as amended at 71 FR 19622, Apr. 17, 2006]

**§ 1430.204 Requesting benefits.**

(a) A request for benefits or contract application, under this subpart must be submitted on a form as prescribed by the Agency. Contract applications shall be submitted to the FSA office serving the county where the dairy operation is located. Contract applications must be received by FSA by the close of business on the date established by the Deputy Administrator. Contract applications received after such date shall be disapproved.

(b) The dairy operation requesting MILC benefits must certify the accuracy and truthfulness of the information in their contract application. All information provided is subject to verification by CCC. Refusal to allow CCC or any other agency of the Department to verify any information provided will result in disapproval.

(c) Contract applications will be approved by execution by FSA and producer of a MILC. All persons who share in the risk of a dairy operation's total production must sign and certify the contract application.

**§ 1430.205 Selection of starting month.**

(a) A dairy operation that enters into a MILC with CCC must designate the starting production month that it desires CCC to begin making payments to them. The starting production month must be selected on or before the 15th of the month before the month for which payment is sought during fiscal year 2002 through fiscal year 2005. The

starting production month must be selected on or before the 14th of the month before the month for which payment is sought during fiscal year 2006 and fiscal year 2007. If such date falls on a weekend, the dairy operation production start month selection must be made on the last business day preceding the weekend. A dairy operation cannot select a month for payment which:

(1) Has already begun, except as provided in paragraph (c)(1) of this section;

(2) Has already passed; or

(3) During which no milk production was produced by the dairy operation.

(b) During fiscal year 2006 only, during April 13, 2006 to May 17, 2006, a dairy operation can select from:

(1) Any month beginning October 2005 through May 2006, in which there was a payment rate in effect; or

(2) Any month beginning June 2006 through September 2006, for which the payment rate is not known and in accordance with paragraph (a) of this section.

(c) Dairy operations that submit a MILC after the CCC-designated signup period for fiscal year 2006 set forth in paragraph (b) of this section, but before September 30, 2007, can select the MILC production start month from:

(1) The month the MILC is submitted to CCC by the dairy operation or the next consecutive month with a payment rate in effect following the month the MILC is submitted to CCC by the dairy operation, if no payment rate is in effect in the month the MILC is submitted;

(2) The months remaining in the fiscal year in which the MILC is submitted for which the payment rate is not known in accordance with paragraph (a) of this section.

(d) Dairy operations may change the production starting month on or before:

(1) The 15th day of the month previously selected during fiscal years 2002 through 2005;

(2) The 14th day of the month previously selected during fiscal years 2006 and 2007.

(e) If a change of the production starting month is not made by the dates required by paragraph (d) of this