

§ 1430.204

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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 sign-up 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

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section, the MILC production starting month cannot be changed until the next fiscal year. If the selected MILC production starting month is never modified, it will remain the same throughout the duration of the contract.

(f) MILC payments will be made consecutively to the dairy operation on a monthly basis after the production starting month has been designated until the earlier of the following:

(1) Payment quantity is reached in accordance with § 1430.207; or

(2) The end of the applicable fiscal year.

(g)(1) During fiscal years 2002 through 2005, dairy operations that did not designate the month to begin receiving payments from CCC were issued consecutive payments on a monthly basis on marketed milk production beginning in the first month of the fiscal year with a payment rate in effect, unless FSA was notified that a month would be designated at a later date. During fiscal years 2006 and 2007, dairy operations must designate a MILC production start month to begin receiving payments from CCC. MILC production start month selections made during the signup period designated by CCC may be made as provided in paragraph (b)(1) of this section, otherwise MILC production start month selections must be made in accordance with paragraph (c) of this section.

(2) Dairy operations with MILC production start months that begin with the month a MILC is submitted to FSA or that begin with the first month of the fiscal year with an effective payment rate will receive payments made by CCC consecutively on a monthly basis until the earlier of the following:

(i) The maximum payment quantity is reached as determined in accordance with § 1430.207; or

(ii) The end of the applicable fiscal year.

(h) All producers involved in the dairy operation must agree to the month designated. The dairy operation assumes the risk of not reaching the maximum payment quantity based on the month selected by the dairy operation. Payments will not be issued for past months for the sole purpose of

reaching the maximum payment quantity.

[71 FR 19622, Apr. 17, 2006]

§ 1430.206 [Reserved]

§ 1430.207 Dairy operation payment quantity.

(a) The applicant's payment quantity of milk will be determined by CCC, based on the quantity of milk that was produced and commercially marketed by each dairy operation per fiscal year.

(b) The maximum quantity of eligible production for which dairy operations are eligible for payment per any fiscal year, including any in the transition year, under this subpart shall be 2.4 million pounds (24,000 cwt.) per separate and distinct operation. In accordance with these regulations, the Deputy Administrator shall determine what is a separate and distinct operation and that decision shall be final.

§ 1430.208 Payment rate and dairy operation payment.

(a) Payments under this subpart may be made to dairy operations when the Boston Class I milk price under the applicable Federal milk marketing order is below \$16.94 per cwt. No payments will be made to dairy operations for marketings during the months that the Boston Class I milk price under the applicable milk marketing order is equal to or exceeds \$16.94.

(b) A per-hundredweight payment rate will be determined for the applicable month by:

(1) Subtracting from \$16.94 the Class I milk price per cwt in Boston; and

(2) Multiplying the difference by 34 percent during the period beginning on October 1, 2005, and ending on September 30, 2007.

(c) Each eligible dairy operation payment will be calculated, as determined by the Secretary, by:

(1) Converting whole pounds of milk to hundredweight; and

(2) Multiplying the payment rate determined in paragraph (b) of this section by the quantity of eligible production marketed by the operation during the applicable month as determined according to § 1430.205 and other provisions of these regulations.