

§ 1430.202

7 CFR Ch. XIV (1-1-11 Edition)

Farm Service Agency (FSA) State and county committees and employees.

(b) State and county committees, and their employees may not waive or modify any requirement of this subpart, except as provided in paragraph (e) of this section.

(c) The State committee shall take any action required when not taken by the county committee, require correction of actions not in compliance, or require the withholding of any action that is not in compliance with this subpart.

(d) The Executive Vice President, CCC, or a designee, may determine any question arising under the program or reverse or modify any decision of the State or county committee.

(e) The Deputy Administrator, Farm Programs, FSA, may waive or modify program requirements where failure to meet such requirements does not adversely affect the operation of the Milk Income Loss Contract Program.

(f) A representative of CCC may execute Milk Income Loss Contracts and related documents under the terms and conditions determined and announced by CCC. Any document not under such terms and conditions, including any purported execution before the date authorized by CCC, shall be null and void.

§ 1430.202 Definitions.

The definitions in this section shall be applicable for all purposes of administering the Milk Income Loss Contract (MILC) program established by this subpart.

CCC means the Commodity Credit Corporation of the Department.

Class I Milk means milk, including milk components, classified as Class I milk under a Federal milk marketing order.

Contract application means a Milk Income Loss Contract as executed on a form prescribed by CCC.

Contract application period means the date established by the Deputy Administrator for producers to apply for program benefits.

County committee means the FSA county committee.

County office means the FSA office responsible for administering FSA programs to farms located in a specific area in a state.

Dairy operation means any person or group of persons who as a single unit as determined by CCC, produce and market milk commercially produced from cows, and whose production facilities are located in the United States. In administering this program, for purposes of determining what is a “dairy operation” and its eligibility under this program, those determinations will be made in the same manner as was done for the Dairy Market Loss Assistance (DMLA) contracts in the State in which the dairy is located. New MILC operations, which is to say those operations that did not participate in the MILC program for marketings prior to FY 2008, must be unaffiliated with any other DMLA or MILC operations.

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

Eligible production means milk that was produced at a time relevant to this program by cows in the United States and marketed commercially by a producer in a participating State.

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 or FY means the year beginning October 1 and ending the following September 30. Fiscal years will be designated for this part by year by reference to the calendar year in which it ends. For example, FY 2009 is from October 1, 2008, through September 30, 2009 (inclusive).

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, the District of Columbia, and the Commonwealth of Puerto Rico, or any other 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.

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 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; 73 FR 73776, Dec. 4, 2008]

§ 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 October 1, 2007, through September 30, 2012;

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

(c) Agree to all terms and conditions in the MILC and those that are other-

wise 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 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 October 1, 2007, through September 30, 2012;

(g) Meet all adjusted gross income eligibility requirements of part 1400 of this chapter as regards any person or entity seeking to receive payment under this part. No person or entity may, generally, receive any payment for FY 2009 marketings and subsequent marketings if their nonfarm yearly income for the relevant base period for the relevant marketings as determined under the adjusted gross income rules (as in effect when the payment is sought) is over \$500,000 as determined under this subpart. Further, for entities an otherwise due payment will be reduced commensurately to the extent that any person with an interest in the entity, as determined under the adjusted gross income rules had such income over that limit for the relevant period;

(h) Have submitted a contract during the applicable contract period for FYs 2008 through 2012:

(1) Except for 2009, and subject to the start month provision of §1430.205, must have for any fiscal year or month for which payment is sought to be paid submitted the FY 2008 through 2012 contract before the end of that fiscal year or month or

(2) For FY 2008 payments, if payments are generated under this part for that fiscal year, must have submitted a contract for the FY 2008 through 2012 program by October 1, 2009 and for FY 2009 the contract must have been submitted by the month for which payment is first sought except to the extent that §1430.205 explicitly permits the operation to pick a start month in