

## § 1430.601

losses occurring in these counties are eligible for payment under this program.

(c) Subject to the availability of funds, benefits shall be provided by the Commodity Credit Corporation (CCC) to eligible dairy producers. Additional terms and conditions may be set forth in the payment application that must be executed by participants to receive a disaster assistance payment for dairy production losses and dairy spoilage losses.

(d) To be eligible for payments, producers must comply with the provisions of, and their losses must meet the conditions of, this subpart and any other conditions imposed by CCC.

### § 1430.601 Administration.

(a) DDAP-II shall be administered under the general supervision of the Executive Vice President, CCC, or a designee, and shall be carried out in the field by FSA State and county committees (State and county committees) and FSA employees.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this subpart.

(c) The State committee shall take any action required by the regulations of this subpart that has not been taken by the county committee. The State committee shall also:

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

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

(d) No provision of delegation in this subpart to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by the State or county committee.

(e) The Deputy Administrator, Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines in cases where lateness or failure to meet such require-

## 7 CFR Ch. XIV (1-1-12 Edition)

ments do not adversely affect the operation of the 2005 Dairy Disaster Assistance Payment Program II and does not violate statutory limitations on the program.

(f) Data furnished by the applicants is used to determine eligibility for program benefits. Although participation in DDAP-II is voluntary, program benefits are not provided unless the participant furnishes all requested data.

### § 1430.602 Definitions.

The definitions in 7 CFR part 718 shall apply to this subpart except to the extent they are inconsistent with the provisions of this subpart. In addition, for the purpose of this subpart, the following definitions shall apply.

*Application* means DDAP-II Application.

*Application period* means the time period established by the Deputy Administrator for producers to apply for program benefits.

*Base month* means the base month for the particular 2005 hurricane assigned in § 1430.604.

*CCC* means the Commodity Credit Corporation of the Department.

*Claim period* means as assigned in this subpart the qualifying months of calendar year 2005, following the base month, in which the loss occurred.

*County committee* means the FSA county committee.

*County office* means the FSA office responsible for administering FSA programs for 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, produces and markets milk commercially from 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.

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

*Hundredweight or cwt.* means 100 pounds.

*Hurricane-affected county* means a county included in the geographic area

covered by a natural disaster declaration related to Hurricane Katrina, Hurricane Ophelia, Hurricane Rita, Hurricane Wilma or conditions related to those hurricanes, and includes counties which qualify because they are contiguous to a county that qualifies by a natural disaster declaration.

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

*Milk marketings* means a marketing of milk for which there is a verifiable sales or delivery record of milk marketed for commercial use. In counting milk toward production amounts, dumped milk will not be considered as marketed for commercial use. Such dumped milk shall be counted toward production but will be accounted for separately from milk that is marketed for normal commercial use as determined by the Deputy Administrator. All production in the months for which loss coverage is available will be counted in making determinations under this part, as determined by the Deputy Administrator, with care to avoid double counting, and with care to avoid a calculated loss that overstates the actual losses. Adjustments may be made as appropriate to accomplish these objectives.

*Natural disaster declaration* means a natural disaster declaration issued by the Secretary of Agriculture during calendar year 2005 under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 (a)), or a major disaster or emergency designation by the President of the United States during calendar year 2005 under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, including declarations and designations by both the President and Secretary made during calendar year 2006 for which a request was pending as of December 31, 2005.

*Payment pounds* means the pounds of milk production from a dairy operation for which the dairy producer 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, citizens of, or legal resident aliens in the United States, and who directly or indirectly, as determined by the Secretary, share in the risk of producing milk, and make contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity.

*Reliable production records* means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, and records to verify production costs, contemporaneous measurements, and contemporaneous diaries that are determined acceptable by the county committee.

*Starting base production* means actual commercial production marketed by the dairy operation during the base month applicable to the 2005 hurricane disaster, or alternative period established by the Deputy Administrator.

*Verifiable production records* means evidence that is used to substantiate the amount of production including any part marketed normally, dumped, or otherwise disposed of, and that can be verified by CCC through an independent source.

**§ 1430.603 Time and method of application.**

(a) Dairy producers may obtain an Application, in person, by mail, by telephone, or by facsimile from any county FSA office. In addition, applicants may download a copy of the Application at <http://www.sc.egov.usda.gov>.

(b) A request for benefits under this subpart must be submitted on a completed Application as defined in §1430.602. Applications and any other supporting documentation shall be submitted to the FSA county office serving the county where the dairy operation is located but, in any case, must be received by the FSA county office by the close of business on the date established by the Deputy Administrator. The closing date shall be no sooner than November 30, 2006. Applications not received by the close of business on such date will be disapproved as not having been timely filed and the