

§ 1430.302

7 CFR Ch. XIV (1-1-13 Edition)

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 requirements do not adversely affect the operation of the 2004 Dairy Disaster Assistance Payment Program 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 the 2004 Dairy Disaster Assistance Payment Program is voluntary, program benefits are not to be provided unless the participant furnishes all requested data.

§ 1430.302 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the 2004 Dairy Disaster Assistance Payment Program established by this subpart.

Application means the 2004 Dairy Disaster Assistance Payment Program Application.

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

CCC means the Commodity Credit Corporation of the Department.

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.

Disaster county means a county declared a disaster by the President of the United States due to a hurricane in 2004, and is only the county so declared, not a contiguous county.

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

Hundredweight or cwt. means 100 pounds.

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.

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, 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 of the proceeds of this operation.

Starting base production means actual commercial production marketed by the dairy operation during the month of July 2004, or alternative period established by the Deputy Administrator.

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

§ 1430.303 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 § 1430.302. 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 October 11, 2005. Applications not received by the close of business on such date will be disapproved as not having been timely filed and the dairy producer will not be eligible for benefits under this program.

(c) All persons who share in the risk of a dairy operation's total production must certify to the information on the Application before the Application is considered complete.

(d) Each dairy producer requesting benefits under this subpart must certify to the accuracy and truthfulness of the information provided in their application and any supporting documentation. All information provided is subject to verification by CCC. Refusal to allow CCC or any other agency of the Department of Agriculture to verify any information provided will result in a denial of eligibility. Furnishing the information is voluntary;

however, without it program benefits will not be approved. Providing a false certification to the Government may be punishable by imprisonment, fines and other penalties or sanctions.

§ 1430.304 Eligibility.

(a) Producers in the United States are eligible to receive hurricane-related dairy disaster benefits under this part only if they have suffered dairy production or dairy spoilage losses in counties declared a disaster by the President due to any hurricane in 2004. To be eligible to receive payments under this subpart, producers in a dairy operation must:

(1) Have produced and commercially marketed milk in the United States and commercially marketed the milk produced during the 2004 calendar year;

(2) Be a producer on a dairy farm operation physically located in a disaster county where production and milk spoilage losses were incurred as a result of 2004 hurricanes, and limiting their claims to losses occurring in those counties;

(3) Provide proof of monthly milk production dumped and commercially marketed by all persons in the eligible dairy operation during the third quarter of the 2004 milk marketing year, or other period as determined by FSA, to determine the total pounds of eligible losses that will be used for payment; and

(4) Apply for payments during the application period established by the Deputy Administrator.

(b) Payments may be made for losses suffered by an otherwise eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer or the producer's estate signs the application for payment. Proof of authority to sign for the deceased producer's estate or a dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly-authorized representatives must sign the application for payment.