

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 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.

§ 1430.604 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 2005 as a result of a hurricane disaster or related condition, in a hurricane-affected county. 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 2005 calendar year;

(2) Be a producer on a dairy farm operation physically located in an eligible county where dairy production and milk spoilage losses were incurred as a result of 2005 hurricanes, or a related condition, in and limiting their claims to losses occurring in those counties and contiguous counties;

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(3) Provide adequate proof, to the satisfaction of the County Committee, of monthly milk production dumped and commercially marketed by all persons in the eligible dairy operation during the base month and claim period that corresponds with the applicable hurricane-related disaster during the 2005 milk marketing year, or other period as determined by CCC, 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.

(c) Producers associated with a dairy operation must submit a timely application and comply with terms and conditions of this subpart, instructions issued by CCC and instructions contained in the Application to be eligible for benefits under this subpart.

(d) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12 for the 2005 calendar year, as applicable, and must not otherwise be barred from receiving benefits under 7 CFR part 12 or any other law or regulation.

(e) Payments are limited to losses in eligible counties, in eligible months.

(f) All payments under this part are subject to the availability of funds.

(g) Eligible losses are determined from the applicable base month that corresponds to the hurricane disaster or related condition and must have occurred during the claim periods applicable to the disaster as follows:

(1) For Hurricane Katrina and Hurricane Rita the base month is July 2005 and the corresponding claim period are the 2005 calendar months of August through December; and

(2) For Hurricane Ophelia and Hurricane Wilma the base month is September 2005 and the corresponding claim period are the 2005 calendar months of October through December.

§ 1430.605 Proof of production.

(a) Evidence of production is required to establish the commercial marketing and production history of the dairy operation so that dairy production and spoilage losses can be computed in accordance with §1430.606.

(b) A dairy producer must, based on the instructions issued by the Deputy Administrator, provide adequate proof of the dairy operation's commercial production, including any dumped production and dairy cow purchases, for each month of the applicable base month and claim period that corresponds with the applicable 2005 hurricane disaster or related condition, and must specifically identify any production during the applicable claim period that is dumped. If a month other than the applicable base month is used for base creation purposes, records for that month must be provided.

(1) A producer must certify and provide such proof as requested that losses for which compensation is claimed were hurricane-related and occurred in an eligible county in an eligible month.

(2) Additional supporting documentation may be requested by CCC as necessary to verify production or spoilage losses and dairy herd increases or decreases to the satisfaction of CCC.

(c) Adequate proof of production history of the dairy operation under paragraph (b) of this section must be based on milk marketing statements obtained from the dairy operation's milk handler or marketing cooperative. Supporting documents may include, but are not limited to: Tank records, milk handler records, daily milk marketings, copies of any payments received from other sources for production or spoilage losses, or any other documents available to confirm or adjust the production history and losses incurred by the dairy operation.