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in an otherwise eligible Presidential declaration.

Payment pounds means the pounds of milk production from a dairy operation for which the dairy producer is eligible to be paid under this part.

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 a legal resident alien in, the United States, and who directly or indirectly, as determined by the Secretary, have a share entitlement or ownership interest in a commercial dairy's milk production and who 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 evidence means records provided by the producer subject to a determination of acceptability by the county committee that are used to substantiate the amount of production reported when verifiable records are not available; the records may include copies of receipts, ledgers of income, income statements of deposit slips, register tapes, and records to verify production costs, contemporaneous measurements, and contemporaneous diaries.

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 FSA through an independent source.

§ 786.103 Time and method of application.

(a) Dairy producers may obtain an application, in person, by mail, by telephone, or by facsimile from any FSA county 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 part must be submitted on a completed DDAP–III application. Applications and any other supporting documentation must 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. 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 milk production of the dairy operation and risk of the dairy operation's total production must certify to the information on the application before the application will be considered complete.

(d) Each dairy producer requesting benefits under this part must certify to the accuracy and truthfulness of the information provided in their application and any supporting documentation. Any information entered on the application will be considered information from the applicant regardless of who entered the information on the application. All information provided is subject to verification by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided may 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.

§ 786.104 Eligibility.

(a) Producers in the United States will be eligible to receive dairy disaster benefits under this part only if they have suffered dairy production losses, previously uncompensated by disaster payments including any previous dairy disaster payment program, during the claim period applicable to a natural disaster declaration in a disaster county. To be eligible to receive payments under this part, producers in a dairy operation must:

(1) Have produced and commercially marketed milk in the United States and commercially marketed the milk produced anytime during the period of January 2, 2005 through December 30, 2007;

(2) Be a producer on a dairy farm operation physically located in an eligible county where dairy production losses were incurred as a result of a

disaster for which an applicable natural disaster declaration was issued between January 1, 2005 and December 31, 2007, and limit their claims to losses that occurred in those counties, specific to conditions resulting from the declared disaster as described in the natural disaster declaration;

(3) Provide adequate proof, to the satisfaction of the FSA county committee, of the average number of cows in the dairy herd and annual milk production commercially marketed by all persons in the eligible dairy operation during the years of the base period (2003 and 2004 calendar years) and applicable disaster year that corresponds with the issuance date of the applicable natural disaster declaration, 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.

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

(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 calendar year applicable to the natural disaster declaration and loss claim period, 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 disaster years.

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

(g) Eligible losses are determined from the applicable base annual production, as defined in § 786.102, that corresponds to the natural disaster declaration and must have occurred during that same period as follows:

(1) For disaster declarations for disasters during a calendar year (2005, 2006, or 2007), the disaster claim period is the full calendar year and

(2) For disaster declarations issued during one calendar year that ends in another calendar year, the producer will be eligible for both disaster years.

(h) Deductions in eligibility will be made for any disaster payments previously received for the loss including any made under a previous dairy disaster assistance payment program for 2005.

§ 786.105 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 losses can be computed in accordance with § 786.106.

(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 dairy herd inventory records available for the operation, for the years of the base period (2003 and 2004 calendar years) and disaster claim period that corresponds with the issuance date of the applicable natural disaster declaration.

(1) A producer must certify and provide such proof as requested that losses for which compensation is claimed were related to the disaster declaration issued and occurred in an eligible county during the eligible claim period.

(2) A producer must certify to the average number of cows in the dairy herd during the base period and applicable disaster claim period when there is insufficient documentation available for verification.