

election for each varietal group designated in the Special Provisions. The price elections you choose for each varietal group must have the same percentage relationship to the maximum price offered by us for each varietal group. For example, if you choose 100 percent of the maximum price election for one varietal group, you must also choose 100 percent of the maximum price election for all other varietal groups.

* * * * *

(f) In California, Idaho, Mississippi, Oregon, Texas, and Washington, you may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election we offer if a cause of loss that could or would reduce the yield of the insured crop is evident prior to the time that you request the increase.

4. In § 457.138, section 9(a)(2) is redesignated as 9(a)(3) and a new section 9(a)(2) is added to read as follows:

9. Insurance Period.

(a) * * *

(1) * * *

(2) In California, Idaho, Mississippi, Oregon, Texas, and Washington, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

* * * * *

Signed in Washington, DC on April 6, 1999.

Kenneth D. Ackerman,
Manager, Federal Crop Insurance
Corporation.

[FR Doc. 99-11595 Filed 5-7-99; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1430

RIN 0560-AF67

Dairy Market Loss Assistance Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule sets forth the regulations for the Dairy Market Loss Assistance Program as authorized by the Agriculture, Rural Development, Food and Drug Administration, and Related

Agencies Appropriations Act, 1999 ("the 1999 Act"). Eligible dairy producers may receive a direct payment on the first 26,000 hundredweight (cwt) of milk marketed commercially during the 1997 or 1998 calendar year. The payment per cwt will depend upon the amount of the eligible milk production under the program. This action is designed to provide immediate financial assistance to producers of dairy operations who recently experienced a severe decline in the price received for their milk.

DATES: Effective May 7, 1999.

FOR FURTHER INFORMATION CONTACT: Raellen Erickson, Program Specialist, Farm Service Agency (FSA), USDA, STOP 0512, 1400 Independence Avenue, SW, Washington, D.C. 20250-0512; telephone: (202) 720-7320.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is in conformance with Executive Order 12866 and has been determined to be significant and therefore has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any legal action may be brought regarding determinations of this rule, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR

part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates subject to the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act and Notice and Comment

Section 1133 of the 1999 Act exempts this rulemaking from notice and comment, from the Paperwork Reduction Act, and provides that the provisions of 5 U.S.C. 808 which allow exemption from layovers for Congressional review shall be applied. Accordingly this rule and its information collection requirements are made effective immediately in accordance with these provisions. Because of the foregoing provisions and because this rule provides needed time-sensitive relief, delay in completing this rule would be contrary to the public interest.

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Background

Section 1111, Market Loss Assistance, of the 1999 Act (Pub. L. 105-277, 112 Stat. 2681) directs the Secretary of Agriculture to provide \$200 million in assistance to dairy producers. Section 1131 of the 1999 Act provides that the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation (CCC) to carry out the program. The program will be administered by the Farm Service Agency (FSA).

The estimated 116,000 dairy operations in the United States account for about \$22.86 billion in milk production annually. The Basic Formula Price (BFP), which is the price that the Federal Milk Marketing Order system sets for milk used in manufacturing and is the price mover for fluid milk, exceeded previous record highs in July, August, October, November, and December 1998. The 1998 BFP averaged

\$14.20 per cwt, compared with the previous record of \$13.39 per cwt in 1996.

Milk prices were high because dairy product supplies were low relative to demand. Milk production per cow was relatively weak in the summer months of 1998 due to poor forage quality in the Northern States and relatively high temperatures in the Western States. The high milk prices and low feed costs, along with low cow cull prices have encouraged dairy farmers to increase production. Milk production in the October through December 1998 period increased 2.4 percent above the same period in 1997. This increase is significantly above the past 5-year average increase of 0.15 percent for the October through December 1998 period. The January 1999 milk production increased by 3.7 percent over January 1998 milk production.

Cow productivity is expected to increase by 2.0 percent, and cow numbers are expected to decline less than half the trend of the past decade. The increase in milk production is expected to cause the BFP to decline.

Payments under this program will be limited to dairy operations which produced and marketed milk commercially during the fourth quarter of 1998. Eligible dairy operations can receive payments with respect to the first 26,000 cwt of milk marketed commercially in either calendar year 1997 or 1998 but not both. Changes in dairy operations or producer status from the fourth quarter of 1998 to the date of application will not affect the Dairy Market Loss Assistance payment. The Dairy Market Loss Assistance payment is limited to: (1) The dairy operation that was in existence during the fourth quarter of 1998; and (2) the person(s) involved in such dairy operation during the fourth quarter of 1998.

The per cwt payment rate will be the \$200 million available for the Dairy Market Loss Assistance Program divided by the eligible production of milk (limited to 26,000 cwt per dairy operation) marketed commercially during the base period. Persons representing dairy operations making application for the benefits under this part shall self-certify with respect to either 1997 or 1998 calendar year milk production for the dairy operation. This includes any milk marketed from any person who is involved in marketed milk from the dairy operation which marketed milk during the selected marketing period. The calendar year milk marketings selected for the base period by the dairy operation cannot be combined with or changed to any milk marketings from another calendar year,

as certified on the application, Form CCC-1040.

Eligible dairy operations must also: (1) Have produced and marketed milk commercially anytime during the fourth quarter of 1998; and (2) apply for cash payments during the application period. Persons representing dairy operations shall self-certify that they meet all eligibility requirements.

Persons representing dairy operations may apply in person at county FSA offices during regular business hours and at that time complete the Dairy Market Loss Assistance Program Payment application on Form CCC-1040. Alternatively, dairy operations may request the Dairy Market Loss Assistance Program Payment application by mail, telephone, facsimile from their designated county FSA office or obtain the application via the internet. The internet website is located at www.fsa.usda.gov/dafp/psd/. The completed application, Form CCC-1040, must be received by a dairy operation's local county FSA office by the due date as specified in the program regulations and can be returned in person, by mail, or by facsimile.

This rule is being made effective immediately. Because of the negative impact the rapid decline in the price of milk has on dairy operations, particularly small dairy operations, a delay in making this assistance available would be contrary to the public interest and the purpose of the authorizing statute.

List of Subjects in 7 CFR Part 1430

Dairy products, Price support programs, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Part 1430 is amended by adding Subpart D—Dairy Market Loss Assistance Program to read as follows:

PART 1430—DAIRY PRODUCTS

1. Subpart D—Dairy Market Loss Assistance Program is added to read as follows:

Subpart D—Dairy Market Loss Assistance Program

Sec.

- 1430.500 Applicability.
- 1430.501 Administration.
- 1430.502 Definitions.
- 1430.503 Time and method for application.
- 1430.504 Eligibility.
- 1430.505 Proof of production.
- 1430.506 Payment rate and dairy operation payment.
- 1430.507 Misrepresentation and scheme or device.
- 1430.508 Maintaining records.
- 1430.509 Refunds; joint and several liability.

Authority: Pub. L. 105-227, 112 Stat. 2681.

§ 1430.500 Applicability.

This subpart establishes the Dairy Market Loss Assistance Program. The purpose of this program is to provide benefits to dairy operations under Pub. L. 105-277, 112 Stat. 2681, in order to provide financial assistance to dairy operations in connection with normal milk production that is sold on the commercial market.

§ 1430.501 Administration.

(a) The provisions of §§ 1430.351, 1430.352, 1430.354, 1430.355, and 1430.360 shall be applied to this subpart in the same manner as they are applied to the subpart in which they are located.

(b) The provisions of §§ 1430.1 through 1430.349, 1430.353, 1430.356 through 1430.359, 1430.361 through 1430.362, and 1430.400 through 1430.410 are not applicable to this subpart.

(c) This subpart shall be administered by the Farm Service Agency (FSA) under the general direction and supervision of the Executive Vice President, CCC or designee. The program shall be carried out in the field by State and county FSA committees under the general direction and supervision of the State and county FSA committees.

(d) 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 in this subpart.

(e) The State committee shall take any action required by this subpart which has not been taken by the county committee. The State committee shall also:

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

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

(f) No 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 a State or county committee.

(g) The Deputy Administrator for Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not adversely affect the operation of the program.

§ 1430.502 Definitions.

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

Application means the Dairy Market Loss Assistance Program Payment application, CCC-1040.

Application period means April 12, 1999 through May 21, 1999.

Base period means the calendar year, either 1997 or 1998, as selected by the dairy operation, during which milk was produced and marketed.

Commodity Credit Corporation means the Commodity Credit Corporation.

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 and facilities are located in the United States.

Department means the United States Department of Agriculture.

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

Eligible production means milk that has been produced by cows in the United States and marketed commercially in the United States anytime during the 1997 and or 1998 calendar year, subject to a maximum of 26,000 cwt per dairy operation.

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

Fourth quarter of 1998 means the period from October 1, 1998 through December 31, 1998.

Marketed commercially means sold to the market to which the dairy operation normally delivers whole milk and receives a monetary amount.

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.

Person 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 or citizens of, or legal resident alien or aliens in the United States.

Secretary means the Secretary of the United States Department of Agriculture or any other officer or employee of the Department who has been delegated the authority to act in the Secretary's stead with respect to the program established in this part.

United States means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1430.503 Time and method for application.

(a) Dairy operations may obtain an application, Form CCC-1040 (Dairy Market Loss Assistance Program Payment Application), in person, by mail, by telephone, or by facsimile from any county FSA office. In addition, applicants may download a copy of the CCC-1040 at <http://www.fsa.usda.gov/dafp/psd/>.

(b) A request for benefits under this subpart must be submitted on a completed Form CCC-1040. The Form CCC-1040 should be submitted to the county FSA office serving the county where the dairy operation is located but, in any case, must be received by the county FSA office by the close of business on May 21, 1999. Applications not received by the close of business on May 21, 1999, will be disapproved as not having been timely filed and the dairy operation will not be eligible for benefits under this program.

(c) All persons who share in the milk production of a dairy operation that marketed milk during the fourth quarter of 1998 must certify on the same CCC-1040 in order to obtain the total milk production of the dairy operation before the application is complete.

(d) The dairy operation requesting benefits under this subpart must certify with respect to the accuracy and truthfulness of the information provided in their application for benefits. All information provided is subject to verification and spot checks by CCC. Refusal to allow CCC or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility. Data furnished by the applicant will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it program benefits will not be approved. Providing a false certification to the Government is punishable by imprisonment, fines and other penalties.

§ 1430.504 Eligibility.

(a) To be eligible to receive cash payments under this subpart, a dairy operation must:

(1) Have produced and marketed milk commercially in the United States anytime during the fourth quarter of 1998;

(2) Indicate all milk commercially marketed by all persons in the dairy operation during calendar year 1997 and 1998 to establish the base period for

determining the total pounds of milk that will be converted to hundredweight (cwt) used for payment; and

(3) Apply for payments during the application period.

(b) A dairy operation must submit a timely application and comply with all other terms and conditions of this subpart and those that are otherwise contained in the application to be eligible for benefits under this subpart.

§ 1439.505 Proof of production.

(a) Dairy operations selected for spotchecks by CCC must, in accordance with instructions issued by the Deputy Administrator, provide adequate proof that the dairy operation was commercially marketing milk anytime during the fourth quarter of 1998. The dairy operation must also provide proof of production for the 1997 or 1998 calendar year to verify the base period. The documentary evidence of milk production claimed for payment shall be reported to CCC together with any supporting documentation under paragraph (b) of this section. The pounds of 1997 or 1998 calendar year milk production must be documented using actual records.

(b) All persons involved in such dairy operation marketing milk during the fourth quarter of 1998 shall provide any available supporting documents to assist the county FSA office in verifying that the dairy operation produced and marketed milk commercially during the fourth quarter of 1998 and the base period milk marketings indicated on Form CCC-1040. Examples of supporting documentation include, but are not limited to: tank records, milk handler records, milk marketing payment stubs, daily milk marketings, copies of any payments received as compensation from other sources, or any other documents available to confirm the production and production history of the dairy operation. In the event that supporting documentation is not presented to the county FSA office requesting the information, dairy operations will be determined ineligible for benefits.

§ 1430.506 Payment rate and dairy operation payment.

(a) Payments under this subpart may be made to dairy operations only on the first 26,000 cwt of milk produced by them from cows in the United States actually marketed in the United States during the base period. A payment rate will be determined after the conclusion of the application period, and shall be calculated by:

(1) Converting whole pounds of milk to cwt;

(2) Totalling the eligible cwt (not to exceed 26,000 cwt) of milk marketed commercially during the base period from all approved applications; and

(3) Dividing the amount available for Dairy Market Loss Assistance Program by the total eligible cwt submitted and approved for payment.

(b) Each dairy operation payment will be calculated by multiplying the payment rate determined in paragraph (a) (3) of this section by the dairy operation's eligible production.

(c) In the event that approval of all eligible applications would result in expenditures in excess of the amount available, CCC shall reduce the payment rate in such manner as CCC, in its sole discretion, finds fair and reasonable.

§ 1430.507 Misrepresentation and scheme or device.

(a) A dairy operation shall be ineligible to receive assistance under this program if it is determined by the State committee or the county committee to have:

(1) Adopted any scheme or device which tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to a dairy operation engaged in a misrepresentation, scheme, or device, or to any other person as a result of the dairy operation's actions, shall be refunded with interest together with such other sums as may become due. Any dairy operation or person engaged in acts prohibited by this section and any dairy operation or person receiving payment under this subpart shall be jointly and severally liable for any refund due under this section and for related charges. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

§ 1430.508 Maintaining records.

Dairy operations making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified in this subpart and the pounds of milk marketed commercially during the fourth quarter of 1998 and the base period. Such records and accounts must be retained for at least three years after the date of the cash payment to dairy operations under this program.

§ 1430.509 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or

condition for payment arising under the application, or this subpart, and if any refund of a payment to CCC shall otherwise become due in connection with the application, or this subpart, all payments made under this subpart to any dairy operation shall be refunded to CCC together with interest as determined in accordance with paragraph (c) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons listed on a dairy operation's application shall be jointly and severally liable for any refund, including related charges, which is determined to be due for any reason under the terms and conditions of the application or this subpart.

(c) Interest shall be applicable to refunds required of the dairy operation if CCC determines that payments or other assistance were provided to the producer was not eligible for such assistance. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available. Such interest shall accrue from the date such benefits were made available to the date of repayment or the date interest increases as determined in accordance with applicable regulations. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the dairy operation.

(d) Interest determined in accordance with paragraph (c) of this section may be waived by CCC with respect to refunds required of the dairy operation because of unintentional misaction on the part of the dairy operation, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in 7 CFR part 1403.

(f) Dairy operations must refund to CCC any excess payments made by CCC with respect to such application.

(g) In the event that a benefit under this subpart was provided as the result of erroneous information provided by any person, the benefit must be repaid with any applicable interest.

Signed at Washington, D.C., on April 30, 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99-11596 Filed 5-7-99; 8:45 am]

BILLING CODE 3410-05-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

RIN 3150-AB94

Government in the Sunshine Act Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule: Notice of intent to implement currently effective rule and request for comments.

SUMMARY: The Nuclear Regulatory Commission (Commission) is announcing its intent to implement a final rule, published and made effective in 1985, that amended its regulations applying the Government in the Sunshine Act. The Commission is taking this action to provide an opportunity for public comment on its intent because of the time that has passed since the Commission last addressed this issue. This action is necessary to complete resolution of this issue.

DATES: The May 21, 1985, interim rule became effective May 21, 1985. Submit comments by June 9, 1999. Unless the Commission takes further action, non-Sunshine Act discussions may be held beginning June 1, 1999.

ADDRESSES: Submit written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

FOR FURTHER INFORMATION CONTACT: Trip Rothschild, Assistant General Counsel, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 415-1607.

SUPPLEMENTARY INFORMATION: The Commission, through this notice of the Commission's intent to implement a rule published and made effective in 1985, seeks to bring closure to a rulemaking that amended the NRC's regulations applying the Government in the Sunshine Act. Because of the years that have elapsed, the Commission is providing this notice of its intent to implement this rule and is providing an opportunity for additional public comment on the Commission's proposal to implement.

The purpose of the rule is to bring the NRC's Sunshine Act regulations, and the way they are applied by NRC, into closer conformity with Congressional intent, as set forth in the legislative history of the Sunshine Act and as clarified in a unanimous Supreme Court decision, *FCC v. ITT World*