

(b) Minimum milk price requirements

Payments made by milk handlers to milk producers and cooperative associations of producers, and prices received by milk producers and cooperative associations, in accordance with the terms of a forward price contract authorized by subsection (a), shall be treated as satisfying—

- (1) all uniform and minimum milk price requirements of subparagraphs (B) and (F) of paragraph (5) of section 608c of this title; and
- (2) the total payment requirement of subparagraph (C) of that paragraph.

(c) Milk covered by program**(1) Covered milk**

The program shall apply only with respect to the marketing of federally regulated milk that—

- (A) is not classified as Class I milk or otherwise intended for fluid use; and
- (B) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

(2) Relation to Class I milk

To assist milk handlers in complying with paragraph (1)(A) without having to segregate or otherwise individually track the source and disposition of milk, a milk handler may allocate milk receipts from producers, cooperatives, and other sources that are not subject to a forward contract to satisfy the obligations of the handler with regard to Class I milk usage.

(d) Voluntary program**(1) In general**

A milk handler may not require participation in a forward pricing contract as a condition of the handler receiving milk from a producer or cooperative association of producers.

(2) Pricing

A producer or cooperative association described in paragraph (1) may continue to have their¹ milk priced in accordance with the minimum payment provisions of the Federal milk marketing order.

(3) Complaints**(A) In general**

The Secretary shall investigate complaints made by producers or cooperative associations of coercion by handlers to enter into forward contracts.

(B) Action

If the Secretary finds evidence of coercion, the Secretary shall take appropriate action.

(e) Duration**(1) New contracts**

No forward price contract may be entered into under the program established under this section after September 30, 2012.

(2) Application

No forward contract entered into under the program may extend beyond September 30, 2015.

(Pub. L. 110-234, title I, §1502, May 22, 2008, 122 Stat. 991; Pub. L. 110-246, §4(a), title I, §1502, June 18, 2008, 122 Stat. 1664, 1720.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

§ 8773. Milk income loss contract program**(a) Definitions**

In this section:

(1) Class I milk

The term “Class I milk” means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

(2) Eligible production

The term “eligible production” means milk produced by a producer in a participating State.

(3) Federal milk marketing order

The term “Federal milk marketing order” means an order issued under section 608c of this title.

(4) Participating State

The term “participating State” means each State.

(5) Producer

The term “producer” means an individual or entity that directly or indirectly (as determined by the Secretary)—

- (A) shares in the risk of producing milk; and
- (B) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

(b) Payments

The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production.

(c) Amount

Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)—

- (1) the payment quantity for the producer during the applicable month established under subsection (e);
- (2) the amount equal to—
 - (A) \$16.94 per hundredweight, as adjusted under subsection (d); less
 - (B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

(3)(A) for the period beginning October 1, 2007, and ending September 30, 2008, 34 percent;

(B) for the period beginning October 1, 2008, and ending August 31, 2012, 45 percent; and

(C) for the period beginning September 1, 2012, and thereafter, 34 percent.

(d) Payment rate adjustment for feed prices**(1) Initial adjustment authority**

During the period beginning on January 1, 2008, and ending on August 31, 2012, if the Na-

¹ So in original. Probably should be “its”.

tional Average Dairy Feed Ration Cost for a month during that period is greater than \$7.35 per hundredweight, the amount specified in subsection (c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds \$7.35 per hundredweight.

(2) Subsequent adjustment authority

For any month beginning on or after September 1, 2012, if the National Average Dairy Feed Ration Cost for the month is greater than \$9.50 per hundredweight, the amount specified in subsection (c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds \$9.50 per hundredweight.

(3) National average dairy feed ration cost

For each month, the Secretary shall calculate a National Average Dairy Feed Ration Cost per hundredweight using the same procedures (adjusted to a hundredweight basis) used to calculate the feed components of the estimated price of 16% Mixed Dairy Feed per pound noted on page 33 of the USDA March 2008 Agricultural Prices publication (including the data and factors noted in footnote 4).

(e) Payment quantity

(1) In general

Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.

(2) Limitation

(A) In general

The payment quantity for all producers on a single dairy operation for which the producers receive payments under subsection (b) shall not exceed—

- (i) for the period beginning October 1, 2007, and ending September 30, 2008, 2,400,000 pounds;
- (ii) for the period beginning October 1, 2008, and ending August 31, 2012, 2,985,000 pounds for each fiscal year; and
- (iii) effective beginning September 1, 2012, 2,400,000 pounds per fiscal year.

(B) Standards

For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-387; 114 Stat. 1549A-50).

(3) Reconstitution

The Secretary shall ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.

(f) Payments

A payment under a contract under this section shall be made on a monthly basis not later than

60 days after the last day of the month for which the payment is made.

(g) Signup

The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 90 days after the date of enactment of this Act and ending on September 30, 2012.

(h) Duration of contract

(1) In general

Except as provided in paragraph (2), any contract entered into by producers on a dairy farm under this section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2012.

(2) Violations

If a producer violates the contract, the Secretary may—

- (A) terminate the contract and allow the producer to retain any payments received under the contract; or
- (B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

(Pub. L. 110-234, title I, §1506, May 22, 2008, 122 Stat. 994; Pub. L. 110-246, §4(a), title I, §1506, June 18, 2008, 122 Stat. 1664, 1723.)

REFERENCES IN TEXT

Section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, referred to in subsec. (e)(2)(B), is section 805 of Pub. L. 106-387, §1(a) [title VIII], Oct. 28, 2000, 114 Stat. 1549, 1549A-50, which is not classified to the Code.

The date of enactment of this Act, referred to in subsec. (g), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

SUBCHAPTER V—ADMINISTRATION

§ 8781. Administration generally

(a) Use of Commodity Credit Corporation

Except as otherwise provided in this chapter, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this chapter.

(b) Determinations by Secretary

A determination made by the Secretary under this chapter shall be final and conclusive.

(c) Regulations

(1) In general

Except as otherwise provided in this subsection, not later than 90 days after the date of enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this chapter and the amendments made by this chapter.