

do not exceed 650,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 10 cents per pound.

(5) Butter inventories in excess of 650,000,000 pounds

If net removals for a period of 12 consecutive months exceed 650,000,000 pounds of butter, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 20 cents per pound.

(6) Nonfat dry milk inventories in excess of 600,000,000 pounds

If net removals for a period of 12 consecutive months exceed 600,000,000 pounds of nonfat dry milk, but do not exceed 800,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 5 cents per pound.

(7) Nonfat dry milk inventories in excess of 800,000,000 pounds

If net removals for a period of 12 consecutive months exceed 800,000,000 pounds of nonfat dry milk, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 10 cents per pound.

(e) Uniform purchase price

The prices that the Secretary pays for cheese, butter, or nonfat dry milk, respectively, under subsection (b) shall be uniform for all regions of the United States.

(f) Sales from inventories

In the case of each commodity specified in subsection (c) that is available for unrestricted use in the inventory of the Commodity Credit Corporation, the Secretary may sell the commodity at the market prices prevailing for that commodity at the time of sale, except that the sale price may not be less than 110 percent of the minimum purchase price specified in subsection (c) for that commodity.

(Pub. L. 110-234, title I, §1501, May 22, 2008, 122 Stat. 990; Pub. L. 110-246, §4(a), title I, §1501, June 18, 2008, 122 Stat. 1664, 1718.)

CODIFICATION

Dairy product price support program, referred to in subsec. (b), to be extended through Dec. 31, 2013, see section 701(b)(2)(A) of Pub. L. 112-240, set out as a 1-Year Extension of Agricultural Programs note under section 8701 of this title.

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 L. 110-234 was repealed by section 4(a) of Pub.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.

§ 8772. Dairy forward pricing program

(a) Program required

The Secretary shall establish a program under which milk producers and cooperative associations of producers are authorized to voluntarily enter into forward price contracts with milk handlers.

(b) Minimum milk price requirements

Payments made by milk handlers to milk producers and cooperative associations of produc-

ers, 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.)

¹ So in original. Probably should be "its".

CODIFICATION

The authorities provided by each provision of, and each amendment made by, Pub. L. 110-246, as in effect on Sept. 30, 2012, to continue, and the Secretary of Agriculture to carry out the authorities, until the later of Sept. 30, 2013, or the date specified in the provision of, or amendment made by, Pub. L. 110-246, see section 701(a) of Pub. L. 112-240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of this title.

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, 2013, 45 percent; and

(C) for the period beginning September 1, 2013, 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, 2013, if the National 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, 2013, 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, 2013, 2,985,000 pounds for each fiscal year; and

(iii) effective beginning September 1, 2013, 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).