

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Dairy Indemnity Payment Program
3-LD (Revision 7)**

Amendment 2

Approved: Acting Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Paragraph 3 has been amended to update the following:

- the source of authority for DIPP to the American Taxpayer Relief Act of 2012
- DIPP's authorized duration.

Paragraph 5 has been amended to clarify the following:

- how the base period is calculated
- how to calculate the number of days milk was commercially marketed.

Subparagraph 7 J has been added to include the requirement for corporate applicants to file AD-3030 when applying for DIPP benefits.

Subparagraph 17 C has been amended to provide updated dates in the example of the final filing date.

Subparagraph 20 A has been amended to allow a representative to sign on behalf of all members of a joint venture or joint operation according to 1-CM.

Subparagraph 43 E has been amended to include the current SF-3881 used to meet the direct deposit requirement.

Subparagraph 45 C has been amended to update contacts for eFMS allotments.

Amendment Transmittal (Continued)

Page Control Chart		
TC	Text	Exhibits
	1-3 through 1-8 1-17, 1-18 3-3, 3-4 3-13, 3-14 5-7, 5-8 5-11, 5-12	1, pages 1, 2 2, pages 1, 2

3 Sources of Authority and Related References

A Legislative History

*--The current source of authority for DIPP is the American Taxpayer Relief Act of 2012 (Pub. L. 112-240) that authorizes DIPP through 2013.

Note: The American Taxpayer Relief Act of 2012 extended the Food, Conservation, and Energy Act of 2008.

B DIPP Duration

DIPP is authorized through September 30, 2013.--*

C Federal Regulations

Regulations governing administering DIPP are provided in 7 CFR Part 760, Subpart A.

D Related Handbooks

Handbooks related to DIPP include the following.

Subject	Handbook
Appeals	1-APP
Signatures, estates, trusts, minors, or powers of attorney	1-CM
Misaction, misinformation, or equitable relief	7-CP
Scheme, device, or failure to fully comply	7-CP
HELC/WC provisions	6-CP
Issuing payments	1-FI
Deposits	3-FI
Interest rates	50-FI
Offsets	58-FI
Assignments and joint payments	63-FI
Prompt payment provisions or foreign person tax withholding	61-FI
Reporting to IRS	62-FI
Foreign person provisions	4-PL

4 Administration and Responsibilities

A DIPP Administration

DIPP is administered under DAFP general supervision, through PSD, with STC's and COC's having the primary responsibilities.

B STC Responsibilities

STC's shall:

- supervise and monitor DIPP to ensure that policies and procedures authorized in this handbook are uniformly followed by County Offices
- review FSA-373's/memorandums/letters received from County Offices for completeness and accuracy
- take any action required by this handbook that has not been taken by COC
- send FSA-373/memorandum/letter to PSD, through State Office, for approval or disapproval
- correct, or require COC to correct, any action taken by COC that is **not** authorized according to this handbook.

C COC Responsibilities

COC's shall:

- administer DIPP at the county level through CED under STC supervision
- inform producers and manufacturers about the eligibility requirements for DIPP payments
- determine, to the extent possible, the source of the contamination in each case
- determine whether the submitted documentation provides the required information needed for the base and claim periods
- complete and review applicable DIPP forms and documentation for completeness and accuracy
- send FSA-373/memorandum/letter to PSD through the State Office for approval.

Note: FSA-373/memorandum/letter may be disapproved by COC if all eligibility requirements and conditions for payment are not met by the applicant.

4 Administration and Responsibilities (Continued)

D CED Responsibilities

CED's shall:

- carryout the day-to-day operations of DIPP according to COC's determinations and this handbook
- forward FSA-373's/memorandums/letters to:
 - State Office for review and submission to the National Office for approval/disapproval
 - COC for disapproval if all eligibility requirements and conditions for payment are not met by the applicant.

E Nondiscrimination Responsibilities

STC or COC shall not, on the basis of race, color, age, sex, national origin, disability, religion, or marital status, bar any producer or manufacturer from participation in, or otherwise subject any applicant to discrimination with respect to any benefits resulting from its approval to participate in DIPP.

F Outreach Responsibilities

STC and COC shall ensure that DIPP information and awareness is communicated to underrepresented individuals, groups, and communities. Underrepresented individuals, groups, and communities, may include, but are not limited to minority, Amish, and Mennonite farmers.

5 Determining Dairy Indemnity

A Base Period

*--The base period is the calendar month preceding the month in which the milk was removed from the market.

B Base Period Days Marketed During Month

The number of days marketed for a lease period is equal to the number of calendar days of that base period. For example, February of 2013 had 28 days, which means that the number of days marketed in the base period is 28.

C Claim Period

The claim period is the calendar month period in which the milk was removed from the--* commercial market. The claim period includes the period eligible for indemnification in which the dairy operation would have sold milk in the commercial market had it not been for the removal of the milk from the commercial market pursuant to the order of a public agency because of the detection of a residue of a violating substance.

A claim period may cross over into the next month, depending on when the milk would have been marketed. However, a separate FSA-373 would be required.

Note: Do **not** determine claim periods on when the milk would have been produced.

D Determining Calendar Days Off Commercial Market

The number of calendar days off the commercial market must be determined based on the dates the milk was removed from and reinstated back to the commercial market pursuant to the direction of a public agency. The total number of days off the market depends on the following:

- time of day of milkings (am or pm)
- milkings missed during time of removal
- frequency of milk pickups.

Days of the commercial market can be calculated:

- manually on FSA-373, Part F, according to paragraph 18
- electronically by the spreadsheet calculator, according to subparagraph 41 D.

7 Additional Required Documentation (Continued)

F AD-1026's

To be eligible to receive payments under DIPP, a producer must comply with HELC/WC provisions by submitting an AD-1026, according to 6-CP.

Note: Indemnity payments must be reduced according to 6-CP before payments can be made to producers who are in violation of any procedure in 6-CP.

G Personal Letters

A personal letter from the applicant must be provided to the County Office. The letter must include the following:

- trade name, manufacturer, and date of use of any pesticide used during the 24 months just before the claim period in producing crops, on the cattle, and in the farm buildings
- USDA registration number of any pesticide involved in the contamination
- name of the personal business that marketed the violating pesticide, if available
- detailed statement describing the possible sources of the contamination and how it got into the applicant's milk

Note: If this is the second claim for the producer within FY, COC must determine whether the same feed from the first contamination caused the second contamination.

- detailed statement describing actions taken to reduce the level of contamination in the milk after discovering the milk was contaminated

Note: If this is the second claim for the producer within FY, the applicant must certify to the actions taken to remove the contaminated feed after the first claim has been paid.

- statement that explains the applicant's normal milking and milk pickup practices including the following:
 - how many times a day the cows are milked
 - approximate time of each milking
 - approximate time and how often milk is picked up by the milk handler.

7 **Additional Required Documentation (Continued)**

H Proof of Loan Repayment

Applicants who receive a loan from a dairy cooperative or association are **not** eligible for DIPP benefits **unless** proof of repaying the loan is submitted to the County Office. The following are acceptable proof of loan repayment:

- paid receipt
- canceled check.

County Offices shall:

- make a photocopy of the proof
- file the photocopy in the producer's DIPP folder.

I Spreadsheet Calculator

County Offices shall complete and attach a spreadsheet calculator to **each** DIPP claim submitted to the National Office.

***--J AD-3030**

AD-3030 will be required to be completed and submitted by corporate applicants when applying for DIPP benefits. Each time a corporate applicant applies for benefits, the applicant must complete and submit an executed AD-3030.--*

8-10 (Reserved)

17 **Filing FSA-373's**

A Where to File

Producers may file FSA-373's in either of the following:

- the County Office where the dairy operation affected by the contamination is physically located
- the producers' administrative County Office.

Note: If a producer sustains a loss more than once during FY at the same dairy operation, all subsequent FSA-373's must be filed in the same County Office as the initial FSA-373.

B Final Filing Date

FSA-373's must be filed by December 31 following the FY-end in which the loss occurred.

C Example of Final Filing Date

The following table provides an example of the final filing date.

IF the loss occurred on or after ...	THEN the final filing date to apply is...
*--October 1, 2011, but by September 30, 2012	December 31, 2012.
October 1, 2012, but by September 30, 2013	December 31, 2013.--*

17 Filing FSA-373's (Continued)

D Signature Requirements

All producers who share in the risk of a dairy operation's total production must certify to the information on FSA-373 before FSA-373 will be considered complete or approved by CCC.

County Offices shall follow 1-CM for the following:

- producer signatures and authorization provisions
- persons signing FSA-373 in a representative or fiduciary capacity
- paying amounts due persons who have died, disappeared, or have been declared incompetent.

Example: ABC Dairy Operation has 4 partners and:

- does **not** have a signature authority on file in the County Office; therefore, all producers who share in the risk of the dairy operation's total production must certify to the information on FSA-373
- has a signature authority on file the County Office; therefore, shall follow 1-CM.

20 Approving FSA-373's

A COC Approval

COC or designee shall:

- be satisfied that all applicable DIPP eligibility requirements of Part 2 have been met **before** approving FSA-373
- **not** approve any FSA-373 that was requested or received after COB on the final filing date for the applicable FY
- **not** approve FSA-373's for a joint venture or joint operation **unless** all members of the joint venture or joint operation who share in the milk marketed commercially from the ~~*--dairy operation~~ have signed FSA-373; however, a representative can sign for all members of the joint venture or joint operation according to 1-CM--*
- ensure that all additional required documentation is provided **before** approving FSA-373
- ensure that the appropriate spreadsheet calculator is completed for the applicant
- forward a copy of the entire case file to the National Office through the State Office for final review and approval.

B Delegation of Authority

Authority to approve FSA-373's and all other DIPP documents must be redelegated, in writing, to the next authority. Follow this table for **exceptions** to redelegate authority for approving FSA-373's.

IF producer is...	THEN approval authority is...
a State, Federal, or non-Federal County Office employee	CED.
COC member	
DD	
STC member	
SED	
CED	COC.

Questionable cases may be referred to the next higher authority for determination.

20 Approving FSA-373's (Continued)

C Second Party Reviews

A second party review of eligibility requirements, additional required documentation, and production evidence shall be performed **before** the following:

- approving FSA-373
- forwarding to National Office through State Office for final approval.

The reviewer must sign FSA-373 according to subparagraph 18 A when each review is complete.

21-30 (Reserved)

42 Calculating DIPP Payments Using Spreadsheet Calculator (Continued)

D Example of Net Payment Price Calculator

The following is an example of the Net Payment Price Calculator.

Net Payment Price Calculator		
Dairy Operation		Storms Oasis
Part A - Completed by Milk Producer (Base & Claim Period)		
Base Period Information		
Number of Cows Milked	650	
Pounds Marketed (not cwt.)	701,112	
Days Marketed	32	
Claim Period Information		
Number of Cows Milked	650	
Claim Period Pounds (not cwt.)	807,833	
Part B - County Office Use Only (Claim Period)		
Net Payment Price	18.70063	
Part C - Calculations - County Office Use Only		
Days Off Market	4.00	
Cows Milked (from Claim Period in 5 (B))	650	
Average Production (lbs./cows/day)	33.71	
Calculated Production Loss	87,646	
Rounded Net Payment Price	0.18701	
Payment	\$16,390.68	
Non-Refundable Payment	\$4,503.00	
Off-Set		
Insurance or Payment from Other than Handler		
Balance Due Producer	\$11,887.68	
Days Off Market Calculator		
Base Pounds	701,112	
Base Days	32	
lbs. per day	21,910	
Milkings per day	2	
lbs. per milking	10,955	
Date of Last Pickup Before Removal	2/12/08	
Date of First Pickup After Reinstatement	2/18/08	
Days Between	6	
Days Between x Milkings per Day	12	
Claim Reinstatement lbs. (first pickup)	48,346	
Claim Reinstatement lbs./lbs. per milking	4	
# of milkings missed minus above figure	8	
Add milking not included in Total # of missed		
Subtract milking included in Total # of missed		
Revised Total # of Milkings Missed	8	
Days Off Market	4.00	

43 DIPP Payment Provisions**A Assignments**

DIPP payments may **not** be assigned.

B Offsets

DIPP payments are subject to offset (58-FI). The balance due the applicant after offset, if applicable, must be entered on FSA-373, item 46, according to paragraph 18.

C Payments Subject to Refund

If an applicant receives an indemnity payment and is later compensated for the same loss by the party responsible for the loss, the applicant **must** refund to FSA within 14 calendar days, the lesser of the following:

- amount of the payment for the loss
- amount of compensation from the other source.

D Advance Payments

Advance payments will **not** be issued for DIPP.

E Direct Deposit Requirement

DCIA requires any recipient of Federal payments who becomes eligible for that payment after July 25, 1996, to receive the payment by EFT. All producers receiving benefits under *--DIPP **must** file SF-3881 or retain SF-1199A according to 1-FI, Part 7.

Note: New ACH/direct deposit information shall be obtained on SF-3881 only. County Offices may retain prior SF-1199A.--*

F Other Legal Recourse

County Offices must **not** make an indemnity payment for contamination resulting from chemicals or toxic substances, if DAFP determines within 30 calendar days after the date of FSA-373, that other legal recourse is available to the DIPP applicant.

45 Allocating Funds**A eFMS Allotments**

The National Office will allot DIPP funds to the State Office level through eFMS for payment processing. Allocations to the State Office level will be based on FSA-373's/memorandums/letters approved for payment by the National Office.

State Offices shall:

- re-allocate funds from the State Office level to the County Office level
- request unallocated funds necessary for paying DIPP claims from the National Office.

B eFMS Commodity Code

The eFMS commodity code for DIPP is "7900".

C Requests for eFMS Allotments

State Offices shall direct requests for unallocated funds by e-mail to Stacy Carroll at ***--stacy.carroll@wdc.usda.gov**, with cc's to all of the following:

- Dani Cooke at **danielle.cooke@wdc.usda.gov**
- Benjamin Thomas at **benjamin.thomas@wdc.usda.gov**
- Richard Flournoy at **richard.flournoy@wdc.usda.gov.--***

45 **Allocating Funds (Continued)**

D Unobligated Balances

Funds allocated for DIPP are available until September 30 of the applicable FY. Any FY unobligated balances that will not be used by FY-end must be returned to the National Office.

State Offices shall release FY unobligated balances, by memorandum, to PSD, by COB September 20.

Note: If September 20 falls on a weekend or holiday, send the memorandum by the next workday.

States with unobligated balances will receive FSA-357 from BUD reducing the balance to zero for the applicable FY.

E Allocation Control Ledger

State Offices shall maintain a ledger of allocations made to County Offices.

Note: Prepare one FSA-373-A for the State according to paragraph 46.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None.

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification		7, 11
AD-3030	Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants		7
CCC-314	Dairy Indemnity Payment Program Agreement	7	32
CCC-770 DIPP	Dairy Indemnity Payment Program (DIPP) Checklist	47	
FSA-325	Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent		11
FSA-357	State Program Allocation		45, 46
FSA-373	Dairy Indemnity Payment Program (DIPP) Application	18	Text
FSA-373-A	County Allocation Control Ledger for Dairy Indemnity Program	46	45
FSA-604	Debt Register		44
SF-1199A	Direct Deposit Sign-Up Form		43
SF-3881	ACH Vendor/Miscellaneous Payment Enrollment Form		43

Abbreviations Not in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
eFMS	eFile Management System	45
IPIA	Improper Payments Information Act of 2002	47

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Redelegations of Authority

Authority to approve FSA-373's and all other DIPP documents must be redelegated, in writing, to the next authority. Follow this table for **exceptions** to redelegate authority for approving FSA-373's.

IF producer is...	THEN approval authority is...
a State, Federal, or non-Federal County Office employee	CED.
COC member	
DD	
STC member	
SED	
CED	COC.

Questionable cases may be referred to the next higher authority for determination.

Definitions of Terms Used in This Handbook

Base Period

--The base period is the calendar month proceeding the month in which the milk was removed from the market.--

Chemicals or Toxic Substances

Chemicals or toxic substances are any chemical substance or mixture, as defined in the Toxic Substances Control Act (15 U.S.C. 2602).

Claim Period

Claim period is the calendar month, or months, in which milk was removed from the commercial market and usually is the calendar month immediately following the base period.

Commercial Market for Farmer

Commercial market for farmer is the market to which a producer normally delivers milk and from which it was removed because of the detection of contamination.

Milk Handler

Milk handler is the marketing agency to whom or through whom the eligible dairy producer marketed milk immediately before it was removed from the commercial market.

Normal Milk Marketings

Normal milk marketing is the sum of the quantities of whole milk which a farmer would have sold in the commercial market in each of the pay periods in the application period but for the removal of his whole milk from the commercial market because of the detection of a residue of a violating substance.

Nuclear Radiation or Fallout

Nuclear radiation or fallout is contamination by nuclear radiation or fallout from any source.

Definitions of Terms Used in This Handbook (Continued)**Payment Subject to a Refund**

Payment subject to a refund means a payment which is made by a milk handler to an affected farmer, and which such farmer is obligated to refund to the milk handler.

Pesticide

Pesticide is an economic poison that was registered with the Federal Government according to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, (7 U.S.C. 135-135K) and approved for use by the Federal Government.

Public Agency

Public agency is any of the following:

- Federal
- State
- local public regulatory agency.

Removed From the Commercial Market

Removed from the commercial market is the milk or dairy products produced and:

- destroyed or used as livestock feed
- delivered to a handler who:
 - destroyed it, or disposed of it, on a salvage basis, such as separating it, destroying the fat, and drying the skim milk
 - diverted the milk to some place other than the commercial market.

Violating Substance

Violating substance is 1 or more of the following:

- pesticides
- chemicals or toxic substances
- nuclear radiation or fallout.

Whole Milk

Whole milk is the milk as it is produced by cows.