

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Dairy Indemnity Payment Program
3-LD (Revision 6)**

Amendment 14

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

"Commercial" has been added to "market" throughout the amendment.

Subparagraph 4:

- A has been amended to include another source of authority for DIPP
- C has been amended to add handbooks related to DIPP.

Subparagraph 12:

- B has been amended to add responsibilities for STC
- C has been amended to clarify COC responsibilities when administering DIPP
- D has been amended to clarify CED responsibilities
- E has been added to provide nondiscrimination responsibilities when applying for DIPP
- F has been added to provide outreach responsibilities when applying for DIPP.

Subparagraph 13 B has been amended to clarify farm price terminology.

Subparagraph 43 B has been amended to provide information on how to apply for DIPP.

Subparagraph 44 B has been amended with a new example FSA-373.

Subparagraph 47 F has been added to provide clarification on loans received from co-ops or dairy associations.

Exhibit 2 has been amended to add definitions for normal milk marketings and payment subject to a refund.

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3 Objectives of DIPP

A

Objectives

The objectives of DIPP are to provide payments to:

- *--dairy producers for milk removed from the commercial market because it--* contained residue from substances, including:
 - pesticides
 - toxic substances and chemicals other than pesticides
 - nuclear radiation or fallout
 - manufacturers whose products are removed from the market because they contain pesticide residue.
-

B

Program Intent

The intent of DIPP is that a participating producer or manufacturer will receive from **all** sources, no more monetary compensation than if the producer or manufacturer had produced and marketed a quantity equal to normal marketings. Payments representing the fair market value as determined by COC will be made on the:

- producer's normal marketings of whole milk
 - manufacturer's milk products.
-

C

Duration of Indemnity Payments

Indemnity payments shall continue until the earliest of the following:

- the producer has been reinstated and is again allowed to sell milk in commercial markets
 - the manufacturer has removed all the contaminated products from commercial markets
 - appropriated funds for making DIPP payments have been expended.
-

4 Sources of Authority and Related References

A

Legislative History

The sources of authority for DIPP regulations are the:

- Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106-387)
 - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Pub. L. 107-76)
 - *--Farm Security Rural Investment Act of 2002 (Pub. L. 107-171).
-

B

Federal Regulations

Regulations governing the administration of DIPP are provided at 7 CFR Part 760.

C

Related Handbooks

Handbooks about DIPP include the following.

IF the material concerns...	THEN see...
appeals	1-APP.
signatures	1-CM.
scheme, device, or failure to comply	4-CP.
HELC/WC provisions	6-CP.
misaction/misinformation	7-CP.
issuing payments	1-FI.
deposits	3-FI.
interest rates	50-FI.
claims procedures/offsets--*	58-FI.
prompt payment provisions	61-FI.
reporting to IRS	62-FI.

5-10 (Reserved)

Section 2 Responsibilities and Other Basic Provisions

11 Overview

A

Introduction

--This section provides the roles and responsibilities of FSA in administering--
DIPP.

***--12 FSA Administration and Responsibilities**

A
Program Administration Administered under the general supervision of DAFP through PSD, FSA has the primary responsibility, through STC's and COC's, for administering DIPP.

- 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 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's to PSD through the State Office for approval or disapproval
 - request a fund allocation from PSD through the State Office
 - correct or require COC to correct any action taken by COC that is not authorized according to this handbook.--*
-

Continued on the next page

***--12 FSA Administration and Responsibilities (Continued)**

**C
COC
Responsibilities**

COC shall:

- administer DIPP on the county level through CED under STC supervision
- inform producers 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 FSA-373's and other documentation for completeness and accuracy
- send FSA-373's to PSD through the State Office for approval.

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

**D
CED
Responsibilities**

CED's shall carry out the day-to-day operations of DIPP according to COC's determinations and this handbook.

**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 from participation in, or otherwise subject any producer 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 under represented individuals, groups, and communities.--*

13 Rounding Procedures

A

Introduction

Specific rounding procedures must be used when computing the price for DIPP.

B

Rounding Procedures

When computing:

- *--the claim period "gross payment price", less the hauling and promotional fees, round 5 places to the right of the decimal point

- a producer's indemnity payment, in Part C of FSA-373, round the:

- base production per cow, per day, to 2 places to the right of the decimal point in item 17

Note: Carry the calculation out to 3 decimal places and round back to 2 decimal places.

- calculated production to the nearest whole pound in item 18
 - net payment price, in dollars per pound, to 5 places to the right of the decimal point in item 19.

Note: Using the net payment price in FSA-373, Part B, item 13:

- move the decimal 2 places to the left
 - calculate to 6 decimal places to the right and round back to 5 decimal places to the right.--*
-

14-20 (Reserved)

Part 3 Filing DIPP Applications

31 Overview

**A
Introduction**

This part covers the requirements for filing DIPP applications.

32 What to File

A

Background

Requests for dairy indemnity payments must be received on FSA-373.

B

Application Period

The application period for FSA-373 is as follows:

- *--begins on the date the milk was officially removed from the commercial market
- ends on the date the milk was officially reinstated to the commercial market
- may not extend past FY-end if the producer's milk is still quarantined from the commercial market.

Note: Losses from more than one FY cannot be included on one FSA-373.

C

Multiple Producers

If a dairy operation consists of more than 1 producer and those producers each receive a share of the commercially marketed milk, complete one FSA-373 for the entire dairy operation.

Notes: Include all producers and corresponding shares on FSA-373.

Determine shares according to paragraph 44.--*

D

Multiple Dairy Operations

If a producer has more than 1 dairy unit or more than 1 dairy operation, complete FSA-373 for **each** dairy unit that incurred a loss.

Note: Do not combine multiple units or dairy operations on one FSA-373.

33 Where to Apply

A

Background

When a producer requests an indemnity payment, applications for all of the producer's dairies affected with the contamination must be filed in 1 County Office.

B

One County

If a producer has an interest in a single dairy or multiple dairy units in 1 county, file the DIPP applications in the county where the producer's dairy unit or units are located.

C

Multiple Counties

If a producer has interest in multiple dairy units in more than 1 county, the County Office shall:

- advise that the producer:
 - can file for DIPP in any county where a dairy unit with contaminated milk is located
 - must file multiple applications in the same county
- inform all other County Offices that the producer has a dairy unit and that the producer has elected to file the DIPP application in this County Office
- verify that there has not been a DIPP application filed in another County Office in which the producer has a dairy unit.

Note: If a producer sustains a loss more than once during FY, all subsequent applications for DIPP must be filed in the same County Office as the initial application.

34 When to Apply

A

Background

FSA-373's may be filed monthly if the milk is off the market longer than 1 month.

B

Final Filing Date

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

Notes: Dairy producers must file FSA-373.

Manufacturers must apply according to Part 5.

C

Example of Final Filing Date

This table provides an example of the final filing date.

IF the loss occurred...	THEN the final filing date to apply is...
on or after October 1, 2003, but by September 30, 2004	December 31, 2004.
on or after October 1, 2004, but by September 30, 2005	December 31, 2005.--*

Part 4 Completing DIPP Applications

41 Overview

A

Introduction

This part covers the requirements for completing DIPP applications.

42 Applicant Certification

A

Background

The applicant shall sign the certification and answer the questions on
--FSA-373, Part A.--

Note: See 1-CM for signature requirements.

B

Certification

Request the applicant to read and discuss the certification and questions before
signing FSA-373.

C

**Disposition of
Dairy Herd**

If the producer disposed of all milk cows during the period the milk is off the
*--commercial market, eligibility for indemnity payments shall include the period
the milk was removed from the commercial market through the last day the--*
cows were milked while still in the applicant's possession.

Note: If only part of the milk cows were disposed of, report this on FSA-373
and compute normal milk marketings only for the cows remaining in the
applicant's possession.

43 Applying for Indemnity Payment

A

Purpose of FSA-373

FSA-373 shall be used to document the information necessary for:

- applying for DIPP
 - determining the indemnification amount.
-

*_B

Obtaining FSA-373

Eligible dairy producers can obtain FSA-373 to request DIPP benefits from the County Office where the dairy is physically located as follows:

- in person
- by mail
- by telephone
- by FAX.

FSA-373 may also be downloaded by the producer from the Internet from the following:

- PSD website at <http://www.fsa.usda.gov/dafp/psd>
 - eForms website at <http://www.sc.egov.usda.gov>.--*
-

C

Base Period

The base period will be a 28- to 32-day period immediately before the pay period in which the milk was removed from the market.

The exact base period will vary for producers, but will be 1 of the following:

- monthly period, for producers who receive a final payment once a month

Note: An advance payment is not a final payment.

- 2 half-month periods for producers who receive a final payment twice a month
 - 2 2-week periods for producers who receive a final payment every 2 weeks.
-

Continued on the next page

43 Applying for Indemnity Payment (Continued)

D**Claim Period**

The claim period is the 28- to 32-day period in which the milk was removed from
--the commercial market.--

Notes: A claim period may cross over into the next month, depending on when the
milk would have been marketed.

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

E**Producer
Information**

The producer must:

- report the average number of cows milked during each pay period in the base
period and the claim period
- report the beginning and end date of the DIPP application period

Note: The application period is a period that begins with the date milk is
*--removed from the commercial market and ends with the date the milk
is reinstated to the commercial market.

- list the substance causing the contamination
 - carefully read and answer FSA-373, questions 6 a through j.--*
-

44 Completing FSA-373, Application for Dairy Indemnity Payment

A

Completing FSA-373, Page 1 Complete FSA-373, page 1 according to this table, if the producer is requesting DIPP in **person** at the County Office.

Item	Instructions
1A	Enter the producer’s name and address.
1B	Enter the producer’s identification number.
2	Enter the application number. The application number is the State and county code, plus the next available application number, as applicable.
3	The County Office shall enter the date FSA-373 is received in the County Office after the producer has completed and signed FSA-373.
Part A shall be completed by the milk producer.	
4A	Enter the base period dates in terms of pay period.
4B	Enter the number of cows milked during the base period, as applicable.
4C	Enter the pounds of milk marketed during the base period.
4D	Enter the number of calendar days in the base period month.
5A	Enter the claim period dates in terms of the corresponding pay period in which the loss occurred.
5B	Enter the average number of cows milked during the pay period for which assistance is being requested.
6 a-j	The producer shall answer questions about the contamination.
7	*--Enter the dates milk was removed from, and reinstated to, the commercial market.
8A and B	The producer shall sign and date FSA-373.--*

Continued on the next page

44 Completing FSA-373, Application for Dairy Indemnity Payment (Continued)

A
Completing
FSA-373, Page 1
(Continued)

Item	Instructions
Parts B and C shall be completed by the County Office.	
9A	*--Enter the month in which the milk was marketed applicable to the claim period.--*
9B	Enter the pounds of milk marketed applicable to the claim period.
10	Enter the gross payment price received for the milk paid to the producer during the claim period. See subparagraph G for an example.
11	Enter the promotional fees. Divide the promotion fee deduction by cwt. for the milk marketed. See subparagraph G for an example.
12	Enter the hauling fees. Divide the hauling charge deduction by cwt. for the milk marketed. See subparagraph G for an example.
13	Subtract items 11 and 12 from item 10 to enter the net payment price.
14	Enter the beginning and ending date for each pay period included in the application period.
15	*--Enter the number of days milk was removed from the commercial market according to subparagraph E.
16	Enter the average number of cows milked during each claim period from item 5B.--*
17	<p>Enter the base production in terms of average pounds of milk per cow per day. Calculate as follows:</p> <ul style="list-style-type: none"> • divide the total milk production in the base period, from item 4C, by the average number of cows milked during the base period, from item 4B • divide this result by the number of days in the base period from item 4D.

Continued on the next page

44 Completing FSA-373, Application for Dairy Indemnity Payment (Continued)

A
Completing
FSA-373, Page 1
(Continued)

Item	Instructions
18	Enter the result of item 15 times item 16 times item 17. Round to the nearest cent.
19	*--Enter the net payment price calculated in item 13, with the decimal point moved--* 2 places to the left and rounded to 5 places to the right of the decimal point.
20	Calculate the payment due the producer by multiplying item 18 times item 19. Round to the nearest cent.
21	Enter the total payment due to the producer.
22	*--Enter the indemnification received from other sources, such as insurance, loan, or--* milk handler payment.
23	Enter the offset amount, if applicable.
24	Enter the result of item 21 minus item 22 and item 23, if applicable.
25A and B	CED or representative shall sign and date.

Continued on the next page

44 Completing FSA-373, Application for Dairy Indemnity Payment (Continued)

B
Example of
Completed
FSA-373, Page 1

This is an example of a completed FSA-373, page 1.

*--

This form is available electronically. Form Approved - OMB No. 0660-0116

1A. PRODUCER'S NAME AND ADDRESS <small>(Including ZIP Code)</small> Pritchett Farms 9143 Honeysuckle Dr. Anytown, USA 12345		2. APPLICATION NUMBER 51-1013-15	FSA-373 <small>(04-03-02)</small> U.S. DEPARTMENT OF AGRICULTURE <small>Farm Service Agency</small> APPLICATION FOR DAIRY INDEMNITY PAYMENT <small>(See Page 2 for Privacy Act and Public Burden Statements.)</small> 3. DATE RECEIVED IN COUNTY OFFICE (MM-DD-YYYY) 8-10-2004
--	--	--	---

PART A - COMPLETED BY MILK PRODUCER										
4. BASE PERIOD				5. CLAIM PERIOD		6. QUESTIONS FOR PRODUCER		CHECK ONE		
A. Dates (MM-DD-YYYY)	B. No. of Cows Milked	C. Pounds Marketed	D. Days Marketed-Month	A. Dates (MM-DD-YYYY)	B. Number of Cows Milked					
1) 8-1-2003 8-31-2003	300	398500	31	1) 9-1-2003 9-30-2003	300	a. Name of contaminating substance:	YES	NO		
2)				2)		b. Did you use the substance on your farm in the past 24 months?			X	
3)				3)		c. If Yes, was it used according to instructions on the label?				
CONTAMINATED COWS										
							d. Did you purchase any cows recently?			X
							e. If Yes, did you receive a certificate of purity from the seller of the cows?			
The undersigned producer hereby certifies that the data entered in Part A are true and correct to the best of my knowledge and belief, and I hereby request a milk indemnity payment for the application period indicated below.							f. Did you know or have reason to believe that such cows were carrying residues of a harmful substance?			X
7. APPLICATION PERIOD (Dates removed from and reinstated to the market) September 8 - September 12							CONTAMINATED FEEDS			
8A. SIGNATURE OF MILK PRODUCER				8B. DATE (MM-DD-YYYY)		g. Did you purchase feed that could have caused this contamination?	X			
							h. If Yes, did you receive a certificate of purity from the seller of the feed?			
							i. Did you know or have reason to believe that the contaminated feed contained a harmful substance?		X	
							j. Other:			

PART B - FOR COUNTY OFFICE USE ONLY			
9. CLAIM PERIOD			
A. Month: September	B. POUNDS: 397,133.00		
			AMOUNT
10. Gross Payment Price (Actual price producer received)			\$ 16,85689
11. Promotional Fees (Paid during claim period) (Subtract)			\$.1500
12. Hauling Fees (The hauling fees paid during claim period) (Subtract)			\$.6215
13. Net Payment Price (The result of Item 10 LESS Items 11 and 12.)			\$16.08539

PART C - CALCULATIONS - FOR COUNTY OFFICE USE ONLY (Items 14-24 below and Items 26-28 on Page 2)						
14. Pay Periods	15. Days Off Market	16. Cows Milked	17. Base Prod. Lbs/Cow/Day	18. Calculated Production	19. Claim Period	20. Payment Due
9-1-2003 9-30-2003	2.5	X 300	X 42.85	= 32,138	X 1.6085	= \$ 5,169.40
		X	X	=	X	= \$
		X	X	=	X	= \$
		X	X	=	X	= \$
		X	X	=	X	= \$
21. TOTAL PAYMENT DUE						\$ 5,169.40
22. Non-refundable payments advanced to farmer for milk removed.						\$
23. Off-Set.						\$
24. Balance due applicant.						\$

APPROVED FOR PAYMENT	25A. SIGNATURE OF COUNTY OFFICE OFFICIAL	25B. DATE (MM-DD-YYYY)
-----------------------------	--	------------------------

*--

Continued on the next page

44 Completing FSA-373, Application for Dairy Indemnity Payment (Continued)

C

Completing FSA-373, Page 2 Complete FSA-373, page 2 according to this table, if the producer is requesting DIPP in **person** at the County Office.

Item	Instructions
Shall be completed by the County Office.	
26A	Determine the average pounds of milk produced per day by dividing item 4C by item 4D.
26B	Determine the average pounds of milk per milking by dividing the result of item 26A by the number of milkings determined in item 26E.
26C	Enter the date milk was removed from the market from the Public Agency notice.
26D	Enter the date milk was reinstated to the market from the Public Agency notice.
26E	For the base period, enter the approximate time of each milking during a day.
26F	For the base period, enter the following: <ul style="list-style-type: none"> •*--how often is the milk scheduled for pickup by the milk handler • approximate time of each milk pickup.
27	Calculate the number of days removed from the commercial market according to subparagraph E.
28	Enter the total number of days milk was off the commercial market.--*
29A and B	Enter the name, address, and telephone number of the County Office.

Distribute FSA-373 as follows:

- keep original in the County Office
- give first copy to the producer
- send second copy to the State Office.

Continued on the next page

44 Completing FSA-373, Application for Dairy Indemnity Payment (Continued)

D
 Example of
 Completed
 FSA-373, Page 2

This is an example of a completed FSA-373, page 2.

*--

FSA-373 (04-03-02) Page 2

26. DAILY MILKING DOCUMENTATION:					
A. Average Pounds Marketed Per Day	B. Average Pounds Per Milking	C. Date Removed From Market (MM-DD-YYYY)	D. Date Reinstated To The Market (MM-DD-YYYY)	E. Time of Daily Milking(s) 6:00 am	F. Time of Day Milk Is Picked Up everyother day 10 am
12855	6423	09-08-2001	09-12-2001	6:30 pm	

27. CALENDAR INDICATING TIME OF DAY COWS WERE MILKED					
A. Day	B. Time of Day	A. Day	B. Time of Day	A. Day	B. Time of Day
1	AM PM	12	AM Mkt'd PM 18,162	23	AM PM
2	AM PM	13	AM PM	24	AM PM
3	AM PM	14	AM PM	25	AM PM
4	AM PM	15	AM PM	26	AM PM
5	AM PM	16	AM PM	27	AM PM
6	AM PM	17	AM PM	28	AM PM
7	AM PM	18	AM PM	29	AM PM
8	AM Mkt'd PM 26,993	19	AM PM	30	AM PM
9	AM 1 day PM 1 day	20	AM PM	31	AM PM
10	AM 1 day PM 1/2 day	21	AM PM		
11	AM PM	22	AM PM		

28. DAYS OFF MARKET	29A. FSA County Office Name and Address (Including ZIP Code)	29B. FSA County Office Telephone Number (Including Area Code)
2.5	Fredericksburg Area FSA Office 6252 Fence Post Drive Arytown, USA 55555	(555) 555-1215

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--*

Continued on the next page

44 Completing FSA-373, Application for Dairy Indemnity Payment (Continued)

F

Instructions to Producer

*--If a producer requests and submits DIPP by **mail, FAX, or Internet**, the producer shall complete FSA-373, items 1 and 4 through 8.

Item	Instructions
1A	Enter the producer's name and address.
4A	Enter the base period dates in terms of pay period.--*
4B	Enter the number of cows milked during the base period, as applicable.
4C	Enter the pounds of milk marketed during the base period.
4D	Enter the number of calendar days in the base period month.
5A	Enter the claim period dates in terms of the corresponding pay period in which the loss occurred.
5B	Enter the average number of cows milked during the pay period for which assistance is being requested.
6 a-j	The producer shall answer questions about contamination.
7	*--Enter the dates milk was removed from, and reinstated to, the commercial market.--*
8A and B	The producer shall sign and date Part A.

Continued on the next page

47 Additional Required Documentation

A

Background

Before any FSA-373 may be approved for payment, the producer must provide additional required documentation.

B

**Public Agency
Notice Removing
Producer From
the**

***--Commercial--*
Market**

The producer must provide a copy of the notice from the public agency that resulted in removing the milk from commercial markets. The notice must include the following:

- name of the violating substance causing the removal
 - dates the milk was removed from the commercial market.
-

C

**Laboratory
Analysis**

A copy of all laboratory analysis of feed and milk must be provided. If the milk is off the market for longer than 1 month, there should be at least 1 milk analysis per month.

D

**Public Agency
Notice of
Reinstatement**

The producer must also provide a copy of the letter from the public agency reinstating the producer's milk to the commercial market.

Note: This **must** include the date of reinstatement.

Continued on the next page

47 Additional Required Documentation (Continued)

E

Sales Documents Required documentation includes a copy of all sales documents for milk marketed during:

- the base period
- each claim period in the application period.

Note: The copy of the sales documents must include the producer's milk pickups during the first week or 2 after reinstatement to commercial markets. This is required so the County Office can determine how many days of milk production were in the producer's milk tank when the producer was reinstated to commercial milk markets.

***--F**

**Loans From
Co-ops or Dairy
Associations**

Producers who receive a loan from a co-op or dairy association are **not** eligible for a DIPP payment unless proof of repaying the loan has been submitted. --*

Continued on the next page

47 Additional Required Documentation (Continued)

G
Example of
Completed
CCC-314

CCC-314 must be completed and signed when applying for DIPP. This is an example of a completed CCC-314.

<p>CCC-314 (07-16-96)</p>	<p>U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation</p> <p>DAIRY INDEMNITY PAYMENT PROGRAM AGREEMENT</p>	<p>Form Approved - OMB No. 0560-0116</p>
<p><small>REPRODUCE LOCALLY. Include form number and date on reproductions.</small></p>		
<p><small>NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act of 1995, as amended. This program which was originally authorized by the Economic Opportunity Act of 1964, as amended, by the Food, Agriculture, Conservation, and Trade Act of 1990, is contingent upon the appropriation of funds. These appropriated funds and 7 C.F.R. Part 760 authorizes collection of the contamination source. The information will be used to determine eligibility for payment. Furnishing the requested information is required. Failure to furnish the requested information will result in ineligibility for payment. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 U.S.C. 286, 287, 371, 651, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729, may be applicable to the information provided.</small></p> <p><small>Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM (OMB No. 0560-0116), STOP 7630, Washington, D.C. 20250-7630. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</small></p>		
<p>In accordance with the provisions of 7 U.S.C. § 450j and the regulations at 7 C.F.R. §§ 760.1-760.9, the Department of Agriculture is making payment to the undersigned dairy farmer, <u>Harlow Erickson</u>, doing business as <u>M&R Dairy</u>, to indemnify said dairy farmer for lost milk marketings caused by the removal of the milk from the market due to contamination by <u>Aflatoxin</u>.</p> <p>The dairy farmer hereby certifies that pursuant to 7 C.F.R. §760.9(a) the application for indemnity payment contains all information necessary for the determination by the Department of Agriculture whether other legal recourse, including but not limited to compensation by the dairy farmer's own insurance company, is available to the dairy farmer. The dairy farmer agrees to refund within fourteen (14) days of the receipt of compensation the amount of indemnity payment received from the Department of Agriculture under these regulations to the extent that other legal recourse is available to the dairy farmer. With respect to compensation paid by the dairy farmer's own insurance company, the amount to be refunded to the Department of Agriculture is limited to the insurance policy's coverage of lost milk marketings.</p> <p>Additionally, the regulations which govern the making of dairy indemnity payments provide at 7 C.F.R. § 760.9(b) as follows:</p> <p style="padding-left: 40px;"><i>In the event that a farmer receives an indemnity payment under this sub-part and such farmer is later compensated for the same loss by the person (or the representative or successor in interest of such person) responsible for such loss, the indemnity payment shall be refunded by the farmer to the Department of Agriculture: Provided That the amount of such refund shall not exceed the amount of other compensation received by the farmer.</i></p> <p>The undersigned dairy farmer agrees to refund the amount of the indemnity payments received from the Department of Agriculture under these regulations to the extent the dairy farmer is compensated by the person or persons responsible for the dairy farmer's losses resulting from the same incident of <u>Aflatoxin</u> contamination causing the losses for which the dairy farmer receives indemnity payments from the Department of Agriculture. The dairy farmer further agrees that this provision is applicable to all compensation received from such person or persons as a result of said <u>Aflatoxin</u> contamination and is not limited to amounts received by the dairy farmer which are specifically designated as compensation for lost milk marketings.</p> <p>The dairy farmer agrees to make such refunds to the department of Agriculture within fourteen (14) days of receipt of compensation for such losses from the person or persons, or insurers or representatives or successors in interest of such persons, responsible for the dairy farmer losses due to the contamination of the milk.</p>		
<p><u>/s/ Harlow Erickson</u> Signature of Dairy Farmer</p>		<p><u>8-15-XX</u> Date</p>
<p><small>This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or disability.</small></p>		

Continued on the next page

47 Additional Required Documentation (Continued)

H**Personal Letter**

A personal letter from the producer must include the following:

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

- a 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 producer must certify to the actions taken to remove the contaminated feed after the first claim has been paid.

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

48 Fair Market Value of Producer's Milk

**A
One Milk
Handler**

The fair market value for each pay period will be the quantity of milk determined to be the normal marketings in each pay period, times the payment price, less the *--promotion and hauling fees.--*

**B
Multiple Milk
Handlers**

If FSA-373 is received from more than 1 handler for an applicant, enter the weighted average price as the price for each pay period.

**C
Example of
Weighted
Average**

This is an example of a weighted average price computation:

- milk marketed with handler A totaled 5000 cwt. and with handler B totaled 1000 cwt.
- handler A paid an average price of \$11.2500 per cwt. and handler B paid an average price of \$11.0000 per cwt.

Step	Action	Result
1	Add the total cwt. of milk marketed by all handlers.	6000 cwt. (5000 + 1000)
2	For each handler, multiply cwt. marketed by the handler times the price paid by that handler.	\$56,250 (\$11.2500 x 5000) \$11,000 (\$11.0000 x 1000)
3	Add the result of step 2.	\$67,250 (56,250 + 11,000)
4	Divide the result of step 3 by 6000 cwt.	\$11.2083 Carry the calculation to 6 decimal places to the right of the decimal point and round back to 4 decimal places.

49-56 (Reserved)

59 Manufacturer-Required Information

A**Background**

Manufacturers who are eligible to apply for DIPP must provide documentation necessary to determine the indemnification amount.

B**Required Information**

To apply for DIPP, the manufacturer shall provide:

- a copy of the notice from the public agency that resulted in removing the ~~product~~ from the commercial market
 - the name of the pesticide causing the removal of the product from the market and, if possible, the source of the pesticide
 - the fair market value of the product removed from the commercial market ~~--*~~
 - the name of any pesticides used by the manufacturer
 - the estimated salvage value of the product
 - a signed CCC-314 according to paragraph 47
 - any other information that DAFP requests.
-

60 Manufacturer-Eligible Losses for Indemnification

A

Indemnification

Indemnification under DIPP is limited to the fair market value of dairy products that a public agency requires the manufacturer to remove from commercial markets because the dairy products contain pesticide residue.

B

**Voluntarily
Removal**

Products that are voluntarily removed from commercial markets are not eligible for indemnification under DIPP.

C

**Ineligible for
Indemnification**

The following are not eligible for indemnification under DIPP:

- loss of market
 - loss of reputation
 - mental anguish.
-

61 Application for Payment

A

Where to File

Manufacturers shall file application for payment in the County Office serving the county where the manufacturer's headquarters is located.

B

What to File

The application may be in the form of a letter or memorandum supported by *--required documentation.--*

C

**County Office
Action**

County Offices shall submit manufacturers' applications to the State Office.

D

**State Office
Action**

State Offices shall submit all applications and related material filed by manufacturers to DAFP for:

- review
 - approval or disapproval.
-

62-71 (Reserved)

Part 6 Computing Payments

72 Overview

**A
Introduction**

This part covers the requirements for computing payments for DIPP.

73 Determining When Conditions for Payment Are Met

A

Background

County Offices shall examine the applicant's file to ensure that:

- the applicant has met all conditions of payment
 - the data serving as the basis for computing the payment is reliable and reasonable
 - the applicant was in no way responsible for the contamination
 - if a pesticide was reported as having caused the removal of the milk from the ~~commercial market~~, it was registered and approved for use by the Federal ~~Government~~ when it was used
 - the applicant has adopted practices to eliminate the contamination from the milk
 - the farm was operated as a dairy farm for the entire period covered by FSA-373.
-

B

FSA-373's Not Signed by Producer

If a legal representative is signing FSA-373 for the producer, require the legal representative to supply sufficient information to ensure that the producer has complied with the terms and conditions of DIPP.

Note: A legal representative might have no knowledge of the producer's actions.

Continued on the next page

73 Determining When Conditions for Payment Are Met (Continued)

C

Questionable Information

--If there is reason to question the information on FSA-373, or whether the -- applicant is entitled to a payment, request sufficient additional information to:

- correct the data
 - remove any doubt before the payment is approved.
-

D

Interview

If necessary, interview the applicant, or others, to verify the information submitted.

74 DIPP Payment Process

A

DIPP Payment

Compute the payment for DIPP as follows:

- *--use FSA-373, Part C to determine payment to be made according to--* paragraph 45
 - make entries and compute payments using data on FSA-373.
-

B

Deductions

Reduce computed indemnity payment by the following amounts:

- any monies received for milk or dairy products not marketed
 - nonrefundable payment, if any, the handler advanced to the producer for milk removed from the market
 - insurance payment, if any, for loss of milk marketings.
-

C

Refundable Amounts

Do not approve FSA-373 for payment until the producer provides proof that all refundable amounts the milk handler advanced to the producer, have been repaid.

Notes: The proof can be a paid receipt or a canceled check.

County Offices shall:

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

Continued on the next page

Part 7 Making DIPP Payments

85 Overview

A

Introduction

This part covers the necessary requirements for making payments for DIPP.

86 Allocation of Funds

A

**State Office
Action**

State Offices shall:

- request an allocation of funds for paying DIPP claims from PSD
- make allocations to County Offices
- request additional allocations, if needed, through * * * PSD
- maintain a ledger of allocations made to County Offices.

Note: Prepare one FSA-373-A for the State.

B

**Unobligated
Balances**

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

- request DIPP allocation for the next FY DIPP claims, as applicable.

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

Continued on the next page

Definitions of Terms Used in This Handbook

Application Period Application period is the period that begins with the date the milk is removed *--from the commercial market and ends with the date the milk is reinstated to the commercial market.

Base Period Base period is the calendar month, 2 half months, or 2 biweekly pay periods immediately before removal of the milk from the commercial 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.

Dairy Indemnity Application Period Dairy indemnity application period is any period for which FSA-373 is made during which a producer's milk is removed from the commercial market under the direction of a public agency, because of the detection of a contamination.

Dairy Indemnity Pay Period Dairy indemnity pay period is the period used by the milk handler in settling with the dairy producer for whole milk purchased. This is usually monthly, bimonthly, or biweekly.

Continued on the next page

Definitions of Terms Used in This Handbook (Continued)

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** A 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.

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.
-

Continued on the next page