

For: State and County Offices

**Dairy Market Loss Assistance (DMLA-II) Program**

Approved by: Deputy Administrator, Farm Programs



**1 Overview**

**A**

**Background**

The United States dairy producers are experiencing a decline in the Basic Formula Price (BFP). BFP is the price the Federal MILK Marketing Order system sets for milk used in manufacturing and is the price mover for fluid milk. The BFP decline may cause an economic disaster for small dairy operations.

On January 19, 2000, the Secretary announced provisions of the DMLA-II program.

**B**

**Purpose**

This notice provides:

- policy and procedure on implementing DMLA-II
- eligibility criteria
- procedure for applying for benefits
- instructions for completing CCC-1040.

**Note:** Notice LD-489 is obsolete.

<p><b>Disposal Date</b></p> <p>October 1, 2000</p>	<p><b>Distribution</b></p> <p>State Offices; State Offices relay to County Offices</p>
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## Notice LD-490

### 2 General Information

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#### A

##### Source of Authority

The source of authority for DMLA-II is the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (the 2000 Act). The 2000 Act provides an appropriation of up to \$122.6 million for direct payment to dairy producers.

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#### B

##### Program Availability

DMLA-II is available to producers on dairy operations if the dairy operation marketed milk commercially anytime from October 1, 1998, through December 31, 1998, except for new producers according to subparagraph 5 E.

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#### C

##### Application Period

Signup for DMLA-II begins on January 24, 2000, and ends on February 28, 2000. Contact producers of dairy operations may file an application for benefits anytime during this application period. Producers shall file applications for benefits in the county where the dairy operation is located.

Only producers who did not previously apply under the initial DMLA program shall apply during the signup period. All DMLA-II applications must be submitted to the applicable County Office by COB February 28, 2000. Late-filed provisions will not apply to DMLA-II. Applications received or requested after COB February 28, 2000, will **not** be approved, including FAXed or mailed applications. In these cases, accept and disapprove the application in the normal manner.

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#### D

##### National Payment Rate

Producers who did not receive a payment under the initial DMLA will receive a payment at the initial DMLA payment rate. A national payment rate for DMLA-II payments will be determined after the end of signup.

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#### E

##### Policies and Procedures

All procedural instructions for administering DMLA-II will be issued through LD notices.

All automated instructions for recording DMLA-II through APSS will be issued through PS notices.

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Continued on the next page

## Notice LD-490

### 2 General Information (Continued)

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#### F

##### Regulations

Regulations for DMLA-II will be:

- provided in 7 CFR Part 1430
  - available on BBS after it is published in FR
  - available on the PSD home page at <http://www.fsa.usda.gov/dafp/psd/>, after it is published in FR.
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#### G

##### Related Handbooks

Handbooks related to DMLA-II include:

- 1-CM for estates, trusts, or minors
  - 58-FI for offsets
  - 63-FI for assignments
  - 1-APP for appeals
  - 1-FI for issuing payments.
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### 3 Responsibilities

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#### A

##### FSA Responsibilities

FSA has primary responsibility through STC's and COC's for administering DMLA-II.

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#### B

##### STC Action

STC's shall supervise and monitor DMLA-II to ensure that policies and procedures outlined in this notice are uniformly followed by County Offices.

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#### C

##### COC Action

COC's shall:

- administer DMLA-II at the county level under STC supervision
  - inform producers about the eligibility requirements for DMLA-II payments
  - approve or disapprove requested DMLA-II payments according to this notice.
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## Notice LD-490

### 4 DMLA-II Definitions

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#### A

#### Definitions

The following definitions are applicable to DMLA-II.

- A base period is the higher of 1997 or 1998 calendar year milk marketings of milk marketed commercially.
  - A dairy operation is any person or group of persons who as a single unit produce and market milk commercially produced from cows and whose production and facilities are located in the United States.
  - Eligible production is any milk that had been produced by cows and marketed commercially anytime during the 1997 and/or 1998 calendar year, subject to a maximum of 26,000 cwt. per dairy operation.
  - Fourth quarter of 1998 is milk marketed commercially between October 1, 1998, and December 31, 1998.
  - Marketed commercially is the market to which the dairy operation normally delivers whole milk and receives a monetary amount.
  - A milk handler is the marketing agency to or through which the producer commercially markets whole milk.
  - Milk marketing is the sales or delivery record of milk marketed for commercial use.
  - A person is 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.
  - United States means the 50 United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.
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## Notice LD-490

### 5 Eligibility Requirements

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#### A

#### **Eligible Dairy Operations**

An eligible dairy operation for DMLA-II purposes is any person or group of persons who as a single unit markets milk commercially and whose production and facilities are located in the United States and may also include any of the following entities that are engaged in an operation that markets milk commercially in the United States:

- an individual that has a beneficial interest in a dairy operation, has a financial risk in the dairy operation, and is a citizen of, or legal resident alien in, the United States
  - a corporation, partnership, joint operation, estate, association, cooperative, or other business enterprise or other legal entity and, whenever applicable, a State, political subdivision of a State, or any agency thereof, and whose members are a citizen of, or legal resident alien in the United States
  - Indian tribe of the Indian Self-Determination and Education Assistance Act
  - Indian organization or entity chartered under the Indian Reorganization Act
  - economic enterprise under the Indian Financing Act of 1974.
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#### B

#### **Eligible Production**

Eligible production for DMLA-II is the calendar year milk marketings in either the 1997 or 1998 calendar year, whichever is selected by the dairy operation, subject to a maximum of 26,000 cwt. per dairy operation. For new producers, see subparagraph E.

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## Notice LD-490

### 5 Eligibility Requirements (Continued)

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#### C

##### **Dairy Operation Eligibility**

DMLA-II payments are made to a person or persons on dairy operations. Only 1 application per dairy operation is required. To be eligible to receive payment, a dairy operation must:

- have produced and marketed milk commercially during the fourth quarter of 1998 except for new producers in 1999
  - have marketed milk commercially anytime in 1997 or 1998 calendar year, except for new producers according to subparagraph E
  - include milk marketings from all persons that were involved in the dairy operation during the marketing period
  - apply for payment during the application period.
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#### D

##### **Changes in Dairy Operation**

Changes in dairy operations or producer status from December 31, 1998, to the date of application will not be affected by DMLA-II.

DMLA-II is limited to the:

- dairy operation in existence during the marketing period
  - milk marketings of only those persons involved on the dairy operation in existence during the marketing period.
- 

#### E

##### **New Dairy Producers in 1999**

Dairy producers or operators, who were new in calendar year 1999 and not affiliated with other eligible producers, may receive payments under the second DMLA program, using their 1999 production.

New dairy producers in calendar year 1999 **are not** required to have marketed milk commercially between October 1, 1998, and December 31, 1998.

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## Notice LD-490

### 6 Payment Rate and Calculations

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#### A

##### Funding

\$122.6 million is available to eligible producers on dairy operations for payments under DMLA-II.

Producers who did not receive payments under the initial DMLA program will receive a payment calculated at the initial DMLA payment rate.

Because the spending authority is limited to \$122.6 million, DMLA-II payments cannot be issued until:

- signup has ended
- a payment rate has been determined
- KCMO mainframe payment calculations have been processed.

Information about the determination of the payment rate will be issued in a future notice.

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#### B

##### National Payment Rate

The per cwt. payment rate will be established based on the first 26,000 cwt. of eligible production of milk marketed during the base period and the remaining funds available for DMLA-II.

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#### C

##### Advance Payments

Advance payments will not be issued for DMLA-II.

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#### D

##### Assignments and Offsets

DMLA-II payments are subject to assignment and offset.

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## Notice LD-490

### 7 Filing Applications

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#### A

##### Filing CCC-1040

Eligible producers on dairy operations shall file CCC-1040 to apply for DMLA-II benefits. A separate CCC-1040 shall be filed for each dairy operation that marketed milk commercially during the marketing period. The total pounds of milk marketed under the dairy operation for all persons receiving a share of the milk marketed must be included on one CCC-1040 to complete the application. More than 1 application for a dairy operation is not acceptable for DMLA-II.

Dairy operations who received payments under the original DMLA program do not need to re-apply and will automatically receive an additional payment.

**Example:** Dairy Operation 1 consists of 2 persons who jointly share in the operation 50 percent. Dairy Operation 2 consists of 1 of the persons from Dairy Operation 1, but this person has 100 percent interest in Dairy Operation 2. There will be 2 applications:

- Dairy Operation 1 files an application that includes all milk marketed by both persons on Dairy Operation 1 and the application is shared 50-50 between the 2 persons
- Dairy Operation 2 files an application for all milk marketed on Dairy Operation 2.

APSS will assign application numbers and must be manually transferred to CCC-1040 after the County Office has entered the information.

See Exhibit 1 for instructions on completing CCC-1040. CCC-1040 will be available in PDF format on BBS under the National Forms Library and from the PSD home page. The scheduled release date is February 28, 2000. The PSD website is <http://www.fsa.usda.gov/dafp/psd/>. State Offices shall locally reproduce CCC-1040.

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#### B

##### Requests

Eligible dairy operations can obtain CCC-1040 to request DMLA-II from the County Office where the dairy operation is physically located as follows:

- in person
  - by mail
  - by telephone
  - by facsimile.
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## Notice LD-490

### 7 Filing Applications (Continued)

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#### B

##### Requests (Continued)

Applications may also be downloaded by the producer from the Internet from the PSD website located at <http://www.fsa.usda.gov/dafp/psd/>.

If applications are requested by mail, telephone, facsimile, or downloaded from the Internet, the requests must be completed correctly, signed, and returned to the applicable County Office by COB February 28, 2000, to be considered eligible for DMLA-II.

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#### C

##### Signature Requirements

All producer signatures, including FAXed signatures, must be received by COB February 28, 2000.

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#### D

##### Direct Deposit

The Debt Collection Improvement Act of 1996 requires any recipient of Federal payments who becomes eligible for that payment after July 25, 1996, to receive the payment by electronic funds transfer. All producers receiving benefits under DMLA must file SF-1199A according to 1-FI, Part 3.

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#### E

##### Producer Self-Certification

Dairy operations must:

- complete CCC-1040 by self-certifying the pounds of milk marketed commercially during the base period for all persons of the dairy operation that marketed milk commercially during the marketing period
- answer the 3 questions for eligibility.

Because the producer certifies that the information is correct, no additional documentation is requested from the dairy operation at time of sign-up.

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#### F

##### COC Approval of CCC-1040

COC, or designee, shall be satisfied that all eligibility requirements of paragraph 5 have been met before approving CCC-1040.

COC, or designee, shall not approve any CCC-1040 that was requested or received after COB February 28, 2000. This includes CCC-1040's that are mailed or FAXed to the County Office.

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## Notice LD-490

### 7 Filing Applications (Continued)

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#### **F COC Approval of CCC-1040 (Continued)**

Do not approve CCC-1040 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 CCC-1040.

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### 8 Compliance

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#### **A Spot Checks**

County Offices shall spot-check 5 percent, but not less than 1, of the new, approved CCC-1040's to ensure that the program is carried out according to approved policy and procedure. Use the following procedures to implement spot checks:

- by COB June 30, 2000, select 1 out of every 20 dairy operations approved for DMLA-II
- by telephone, contact each contact producer of the selected dairy operation to:
  - inform them that a spot check is being completed for the dairy operation
  - request the name of the milk handler for the dairy operation
  - request supporting documentation according to subparagraph B.

Record the name of the milk handler on CCC-1040, Remarks section.

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#### **B Supporting Documentation**

Inform the contact producer of the dairy operation to provide, within 10 workdays, copies of supporting documents that show all of the following:

- name of person or dairy operation marketing milk
- name of milk handler
- date of when milk was commercially marketed
- pounds of milk marketed for commercial use during the base period
- pounds of milk marketed during the marketing period.

Any dairy operation that cannot provide the required documentation will be ineligible for DMLA-II.

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**Notice LD-490**

**8 Compliance (Continued)**

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**C**

**Reviewing Documentation**

When the supporting documentation is received in the County Office:

- make a copy, date stamp copy, and return originals to the contact producer
- review supporting documentation to verify that:
  - there was milk marketed commercially from October 1, 1998, through December 31, 1998, except for new dairy producers in 1999
  - all persons involved in the dairy operation during the marketing period have provided milk marketing documentation
- the total pounds of milk marketings equal the calendar year milk marketings from CCC-1040.

Attach supporting documentation to CCC-1040.

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**D**

**Completing Reviews**

Complete spot check reviews by COB August 20, 2000. This table explains the action necessary based on results of the review.

<b>IF the review verifies the milk marketings...</b>	<b>THEN...</b>
<ul style="list-style-type: none"> <li>• were marketed during the calendar year reported</li> <li>• were marketed during the marketing period</li> <li>• equal the pounds of milk marketings reported on CCC-1040</li> <li>• for all persons involved in the dairy operation were reported on CCC-1040</li> </ul>	no further action is necessary.
<p>were not marketed during either of the following periods:</p> <ul style="list-style-type: none"> <li>• the calendar year reported</li> <li>• the marketing period</li> </ul>	the dairy operation is not eligible for DMLA-II and the entire payment must be refunded.

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Continued on the next page

8 Compliance (Continued)

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**D**  
**Completing**  
**Reviews**  
**(Continued)**

IF the review verifies the milk marketings...	THEN...
were marketed during the calendar year reported on CCC-1040 and were marketed during the marketing period; however, documentation submitted raises concerns or questions about the dairy operation's eligibility and certification	COC must review and determine either of the following: <ul style="list-style-type: none"> <li>• good faith</li> <li>• misrepresentation, scheme, or device.</li> </ul>

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**E**  
**COC**  
**Determination**

If COC:

- determines good faith, **no further action is necessary**
- cannot determine good faith and determines that misrepresentation, scheme, or device occurred, the dairy operation is not eligible for DMLA-II and the entire DMLA-II payment must be refunded.

COC's shall use their judgment when determining good faith to ensure that the dairy operation did not intentionally certify incorrectly.

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**F**  
**Refunds**

For dairy operations that must refund payments because the dairy operation has been determined out of compliance, interest will accrue at the CCC borrowing interest rate from the date of payment through the date the refund is received. Inform the producer of any amounts due according to 58-FI. If refunds are not paid by the due date, establish a claim according to 58-FI in the normal manner.

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## Notice LD-490

### 8 Compliance (Continued)

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#### G

##### County Office Action

County Offices shall:

- document results of the spot check on CCC-1040, Remarks section
  - notify State Offices of the spot check results at the completion of all spot check reviews as follows:
    - total number of CCC-1040's selected for spot check
    - total number of CCC-1040's with discrepancies
    - for CCC-1040's with discrepancies only:
      - dairy operation name
      - discrepancy found
      - COC action
      - dollar amount of refund, as applicable.
- 

#### H

##### State Office Action

State Offices shall:

- maintain a file of all spot check reports
- FAX a memorandum summarizing the spot check results to PSD.

**Note:** The FAX number for PSD is 202-690-3307.

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#### I

##### Misrepresentation, Scheme, or Device

Any person who is determined by STC or COC to have committed any of the following violations shall be ineligible to receive payments under DMLA-II:

- adopted any scheme or device that tends to defeat the purpose of DMLA-II
  - made any fraudulent representation
  - misrepresented any fact affecting a program determination.
- 

#### J

##### Maintaining Records

Dairy operations requesting payment under DMLA-II shall maintain records for a period of 3 years after the date of the payment to document eligibility requirements are met.

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#### K

##### Obsolete Notice

Notice LD-489 is obsolete.

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**CCC-1040, Dairy Market Loss Assistance Program Payment Application**

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**A**

**Completing  
CCC-1040**

Complete CCC-1040 according to this table, if the producer is **requesting DMLA-II in person** at the County Office.

All persons who share in the dairy operation and who market milk commercially on the dairy operation must be added together on one CCC-1040.

Item	Instructions
1	Enter the applicable State code.
2	Enter the applicable county code.
3	ENTER "2000" for the program year.
4	Enter the application number assigned by APSS <b>after</b> CCC-1040 has been recorded in APSS.
5	Enter the name of the dairy operation.
6	Enter the producer's name, address, and telephone number. This will be the contact producer if more than 1 producer shares in the dairy operation.
7	Enter the name and address of the applicable County Office.
8	Check the applicable box in response to the question, "Did the dairy operation market milk commercially anytime between October 1, 1998 and December 31, 1998?" This is not applicable to <b>new</b> 1999 dairy operations.
9	Check the applicable box in response to the question, "Does the dairy operation have milk marketings for either 1997 or 1998 calendar years?" This is not applicable to <b>new</b> 1999 dairy operations.
10	Check the applicable box in response to the question, "Is there more than one person who marketed milk commercially from this dairy operation during the Base Period?"  <b>Note:</b> If "Yes", verify that the dairy operation has included milk marketings from all persons involved in the dairy operation in Part B, as applicable.
11	Enter the total pounds of milk marketed commercially during calendar year 1997.  <b>Note:</b> Only 1 calendar year milk marketings are acceptable.
12	Enter the total pounds of milk marketed commercially during calendar year 1998.  <b>Note:</b> Only 1 calendar year milk marketings are acceptable.
13	After reading the certification statement in Part C, all producers must sign, provide ID number, date, and indicate share, as applicable.
14	COC shall approve or disapprove CCC-1040.  <b>Note:</b> Do not approve CCC-1040 if "No" is entered in either question 8 or question 9, except for new dairy producers according to subparagraph 5 E.
15	COC or designee shall sign, provide title, and date.  <b>Note:</b> Provide a copy of CCC-1040 to the contact producer.
16	Record all spot check verifications and names of milk handlers, as applicable.

Continued on the next page

CCC-1040, Dairy Market Loss Assistance Program Payment Application (Continued)

**B**  
**Example of**  
**CCC-1040**

This is an example of CCC-1040.

<b>REPRODUCE LOCALLY.</b> Include form number and date on all reproductions.		<i>See Reverse for Privacy Act Statement.</i>	
<b>CCC-1040 U.S. DEPARTMENT OF AGRICULTURE</b> (03-23-99) Commodity Credit Corporation		1. St. Code 06	2. Co. Code 077
<b>DAIRY MARKET LOSS ASSISTANCE                  PAYMENT PROGRAM APPLICATION</b>		3. Program Year 1999	4. Application Number 1
		5. Name of Dairy Operation (Prepare 1 application per Dairy Operation) Mert's Dairy	
<b>NOTE:</b> The authority for collecting the following information is Pub. L. 105-277. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995.			
6. Name, Address, and Telephone Number of Contact Producer Merton Erickson RR 1 Box 35 Anytown, USA (999) 955-3499		7. Name and Address of County FSA Office (Including ZIP Code) Diamond County FSA Office 1123 Main St Anytown, USA	
<b>PART A - ELIGIBILITY (Check the applicable box in Items 8 through 10.)</b>			
8. Did the dairy operation market milk commercially anytime between October 1, 1998 and December 31, 1998?			YES <input checked="" type="checkbox"/>
9. Does the dairy operation have milk marketings for either 1997 or 1998 calendar years?			NO <input checked="" type="checkbox"/>
10. Is there more than one person who marketed milk commercially from this dairy operation during the Base Period?			<input checked="" type="checkbox"/>
<b>PART B - BASE PERIOD (Enter the appropriate data for milk marketed commercially in Items 11 and 12.)</b>			
Calendar Year	Total Milk Marketings		
11. 1997			
12. 1998	5,858,642		
<b>PART C - PRODUCER'S CERTIFICATION</b>			
I certify that all the information entered on this application is true and correct and all persons involved in this operation have included milk marketings applicable to the base period calendar year for the dairy operation. I understand that the calendar year milk marketings used to establish the base period can be the highest of 1997 or 1998 calendar year marketings but can only be one calendar year and that the choice of which calendar year to use to establish the base period was the dairy operation's. I also understand that the dairy operation: (1) marketed milk commercially anytime between October 1, 1998 and December 31, 1998; (2) marketed milk commercially anytime during calendar year 1997 or 1998 and has indicated above as the base period; and (3) will be paid on the first 26,000 cwt. To ensure that all program eligibility requirements are met for this dairy operation, I understand that my dairy operation may be selected for spot check. If my dairy operation is selected for spot check, I may be required to provide supporting documentation as may be required to determine program eligibility. Providing a false certification to the government is punishable by imprisonment, fines and other penalties. All information provided herein is subject to verification by the Commodity Credit Corporation. The provision of criminal and civil fraud statutes that apply to this certification, includes 18 USC 286, 297, 371, 641, 651, 1001 and 1014; USC 714m; and 31 USC 3729.			
13. PRODUCER'S SIGNATURE			
A. Producer's Signature	B. Producer's ID Number	C. Date	D. Share
/s/ Merton Erickson	433-34-6998	4-15-99	100
<b>PART D - COC DETERMINATION</b>			
14. <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved			
15. Signature of COC or Designee	Title	Date	
/s/ Bill Brown	CED	4-16-99	
16. Remarks			

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CCC-1040, Dairy Market Loss Assistance Program Payment Application (Continued)

**B**  
**Example of**  
**CCC-1040**  
**(Continued)**

CCC-1040 (REVERSE) (03-23-99)

**NOTE:** *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. 7 CFR Part 1430 authorize collection of the following information. The information will be used to determine eligibility in accordance with the requirements of the regulation for applicants who are requesting Dairy Market Loss Assistance Payment Program benefits. Furnishing the requested information is voluntary, however, failure to furnish the requested information will result in a determination of ineligibility for Dairy Market Loss Assistance Payment Program benefits. 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 that apply to this certification, includes 18 USC 286, 287, 371, 641, 651, 1001 and 1004; USC 714m; and 31 USC 3729.*  
**RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.**

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**CCC-1040, Dairy Market Loss Assistance Program Payment Application (Continued)**

**C**

**Instructions to Producer**

If a producer **requests DMLA-II by telephone, mail, or by facsimile**, County Offices shall:

- complete items 1 through 3 and 7
- **not** complete items 4 and 14 through 16 until the dairy operation has completed and returned CCC-1040 to the County Office
- send CCC-1040 to the dairy operation as requested
- provide the following instructions for the dairy operation to complete CCC-1040.

Producers who received payments under the original DMLA program do not need to re-apply for DMLA-II payments.

Item	Instructions
5	Enter the name of your dairy operation.
6	Enter your name, address, and telephone number.
8	Enter your response to the question, "Did the dairy operation market milk commercially anytime between October 1, 1998 and December 31, 1998?" This is <b>not</b> applicable to you if you are a new dairy operation in 1999.
9	Enter your response to the question, "Does the dairy operation have milk marketings for either 1997 or 1998 calendar years?" This is <b>not</b> applicable to you if you are a new dairy operation in 1999.
10	Enter your response to the question, "Is there more than one person who marketed milk commercially from this dairy operation during the Base Period?"  <b>Note:</b> If "Yes", you must include milk marketings from all persons on this dairy operation in item 11 or 12, as applicable.
11	Enter the total pounds of milk marketed commercially during the 1997 calendar year.  <b>Note:</b> You can only enter 1 calendar year of milk marketings.
12	Enter the total pounds of milk marketed commercially during the 1998 calendar year.  <b>Note:</b> You can only enter 1 calendar year of milk marketings.
13	After reading the certification statement in Part C, sign, provide your ID number, date, and indicate your share, as applicable. All producers who share in the milk marketed commercially on your dairy operation must also sign, date, indicate shares, and provide ID numbers, as applicable.  When all signatures and information have been obtained, take your completed application to the County Office in item 7 by COB February 28, 2000. If you elect to mail or FAX your completed application, the County Office in item 7 must receive the application by COB February 28, 2000.  <b>Note:</b> There are no exceptions.