

For: State and County Offices

Dairy Market Loss Assistance (DMLA-III) Program Sign-up

Approved by: Deputy Administrator, Farm Programs



1 Overview

A

Background

Section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, authorizes CCC to make supplemental payments to dairy operations who received payments under section 805 of Public Law 106-78 (DMLA-II) and to new dairy operations. The payments are to offset 35 percent of the reduction in 2000 milk prices from the past 5-year average, and USDA expects to make at least \$650 million in Dairy Market Loss Assistance (DMLA-III) payments to dairy operators. Payment calculations for all participants will be limited to the first 39,000 cwt. of production to better target small to medium-sized producers.

B

Purpose

This notice provides the policy and procedure to sign up the dairy producers who received payments on less than 12 months' production, were new for calendar year 2000, and were eligible and never signed up for DMLA-I & II.

<p>Disposal Date</p> <p>October 1, 2001</p>	<p>Distribution</p> <p>State Offices; State Offices relay to County Offices</p>
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2 General Information

A

Source of Authority

The source of authority for DMLA-III is the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (the 2001 Act).

B

Program Availability

DMLA-III will be available to dairy producers who were paid on less than 12 months' base production under DMLA-I & II, were new producers for calendar year 2000, or for dairy producers that were eligible for DMLA-I & II and never signed up for payments.

C

Application Period

Signup for DMLA-III begins on February 26, 2001, and ends on March 30, 2001. Contact producers for 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.

All new dairy producers for 2000, producers under DMLA-II whose production for payment purposes was less than 12 months, and those dairy producers that were eligible but never signed up for DMLA-I or II, must apply during the sign up period. All new DMLA-III applications must be submitted to the applicable County Office by COB March 30, 2001. Applications received or requested after COB March 30, 2001, will **not** be approved, including FAXed or mailed applications. In these cases, accept and disapprove the application in the normal manner.

D

National Payment Rate

The national payment rate for all dairy producers under DMLA-III will be \$.6468 per cwt. on production up to 39,000 cwt.

E

Policies and Procedures

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

All automated instructions for recording DMLA-III through automated price support systems will be issued through PS notices.

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2 General Information (Continued)

F

Regulations

Regulations for DMLA-III will be:

- provided in 7 CFR Part 1430
 - available on BBS after publication in the Federal Register
 - available on the PSD home page at <http://www.fsa.usda.gov/dafp/psd/>, after publication in the Federal Register.
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G

Related Handbooks

Handbooks related to DMLA-III 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.
-

3 Responsibilities

A

FSA Responsibilities

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

B

STC Action

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

C

COC Action

COC's shall:

- administer DMLA-III at the county level under STC supervision
 - inform producers about the eligibility requirements for DMLA-III payments
 - approve or disapprove requested DMLA-III payments according to this notice.
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4 DMLA-III Definitions

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Definitions

The following definitions are applicable to DMLA-III.

- The base period is 1997, 1998, or 1999 calendar years and October 1, 1999, through September 30, 2000, for dairy operations that were paid for less than 12 months' fluid milk production under previous DMLA programs or for new producers in 2000. Dairy operations that were eligible and never signed up for previous DMLA can sign up for their production in calendar years 1997, 1998, 1999, or for 2000, from October 1, 1999 through September 30, 2000.
 - 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 1997 through 2000 calendar years.
 - 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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5 Eligibility Requirements

A

Eligible Dairy Operations

An eligible dairy operation for DMLA-III 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-III is the calendar year milk marketings in 1997, 1998, or 1999 calendar years. The period October 1, 1999, through September 30, 2000, for those producers that were paid for less than 12 months, or calendar year 2000, new producers subject to a maximum of 39,000 cwt. per dairy operation.

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5 Eligibility Requirements (Continued)

C

Dairy Operation Eligibility

DMLA-III 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 received payments on less than 12 months' production under DMLA-I & II
 - be a new producer for calendar year 2000
 - have been eligible for previous DMLA programs but never signed up
 - include milk marketings from all persons that were involved in the dairy operation during the marketing period
 - apply for payment during the sign-up period.
-

E

New Dairy Producers in 2000

Dairy producers or operators, who were new in calendar year 2000 and not affiliated with other eligible producers, may receive payments under DMLA-III on their production from October 1, 1999, through September 30, 2000.

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6 Payment Rate and Calculations

A

Funding

There is no limit on funding available to eligible producers who were paid under previous DMLA programs and for new producers in calendar year 2000, producers that received payments on less than 12 months' production under previous DMLA programs, or were eligible under previous DMLA programs and did not sign-up.

B

**National
Payment Rate**

The Secretary of Agriculture determined the payment rate as an amount equal to 35 percent of the reduction in market value per unit of milk production in 2000 based on price estimates as of the date of enactment of the Act of 2001, from the previous 5-year average and on the base production of the producer used to make a payment under section 805 of Public Law 106-78. The payment rate was established at \$.6468 per hundredweight (cwt.).

C

**Advance
Payments**

Advance payments will not be issued for DMLA-III.

D

**Assignments and
Offsets**

DMLA-III payments are subject to assignment and offset.

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7 Filing Applications

A

Filing CCC-1040

All eligible producers on dairy operations that were new in calendar year 2000, received payments on less than 12 months' under previous DMLA programs, or were eligible and never signed up for previous DMLA programs, may file CCC-1040 to apply for DMLA-III benefits. 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.

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 20, 2001. The PSD website is <http://www.fsa.usda.gov/dafp/psd/>. State Offices shall locally reproduce CCC-1040.

B

Requests

Eligible dairy operations can obtain CCC-1040 to request DMLA-III 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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7 Filing Applications (Continued)

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 March 30, 2001, to be considered eligible for DMLA-III.

C

Signature Requirements

All producer signatures, including FAXed signatures, must be received by COB, March 30, 2001.

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.

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.

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 March 30, 2001. This includes CCC-1040's that are mailed or FAXed to the County Office.

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7 Filing Applications (Continued)

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.

8 Compliance

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 July 31, 2001, select 1 out of every 20 dairy operations approved for DMLA-III
- 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.

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-III.

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8 Compliance (Continued)

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 during calendar years 1997 through 1999 for producers that were eligible but never signed up, and from October 1, 1999, through September 30, 2000, for producers that were paid on less than 12 months' production, that new dairy producers had production in calendar year 2000
 - 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, new producers will have their production annualized.

Attach supporting documentation to CCC-1040.

D

Completing Spot Checks

Complete spot checks by COB August 31, 2001. This table explains the action necessary based on results of the review.

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

Continued on the next page

8 Compliance (Continued)

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"> • good faith • misrepresentation, scheme, or device.

E
COC
Determination

If COC:

- determines the certification was made in good faith, the operation is eligible and **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-III and the entire DMLA-III 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 and that payments are calculated based on actual production.

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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8 Compliance (Continued)

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.

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-III:

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

J

Maintaining Records

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

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

A

Completing CCC-1040 Complete CCC-1040 according to this table, if the producer is **requesting DMLA-III 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 "2001" for the program year.
4	Enter the application number assigned by APSS after 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	Eligible producer never signed up for DMLA-I, or II, check the applicable box in response to the question, "Did the dairy operation milk commercially in 1997, 1998 (must have had production between October 1, 1998 and December 31, 1998), or in 1999?"
9	Check the applicable box in response to the question, "Is the dairy operation new for calendar year 2000?"
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?" Note: 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	If eligible producer did not sign up for DMLA-I, enter the 1997 production if it was higher than the 1998 production. Not to exceed 3,900,000 pounds.
12	If eligible producer did not sign up for DMLA-I, enter the 1998 production if it was higher than the 1997 production. Not to exceed 3,900,000 pounds.
13	If eligible producer did not sign up for DMLA-II, enter total pounds of milk marketed commercially during calendar year 1999. Not to exceed 3,900,000 pounds.
14a	Producer that was paid for less than 12 months in DMLA-I or II, or new producer enter total pounds of milk marketed commercially during October 1, 1999, through September 30, 2000. New producer will be paid this production. Not to exceed 3,900,000 pounds.

Continued on the next page

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

**A
Completing
CCC-1040
(Continued)**

Item	Instructions
14b	Producer paid for less than 12-months, enter pounds of production signed up under DMLA I, or II, and paid for under first DMLA III, payment.
14c	Producer paid for less than 12-months under DMLA I, or II, enter pounds to be paid (14a - 14b), not to exceed 3,900,000 pounds.
15	NA for DMLA III.
16	After reading the certification statement in Part C, all producers must sign, provide ID number, date, and indicate share, as applicable.
17	COC shall approve or disapprove CCC-1040. Note: Do not approve CCC-1040 if “No” is entered in either question 8, 9, or 10.
18	COC or designee shall sign, provide title, and date. Note: Provide a copy of CCC-1040 to the contact producer.
19	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

The following is an example of CCC-1040.

REPRODUCE LOCALLY. Include form number and date on all reproductions.		<i>See Reverse for Privacy Act Statement.</i>				
CCC-1040 U.S. DEPARTMENT OF AGRICULTURE (02-05-01) Commodity Credit Corporation DAIRY MARKET LOSS ASSISTANCE PAYMENT PROGRAM APPLICATION		1. St. Code 06	2. Co. Code 077	3. Program Year 2001	4. Application Number 1	
		5. Name of Dairy Operation (<i>Prepare 1 application per Dairy Operation</i>) Dairy Land				
NOTE: <i>The authority for collecting the following information is Pub. L. 106-387. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995.</i>						
6. Name, Address, and Telephone Number of Contact Producer John Truckee RR 2 Box 361 Anytown, USA (999) 433-1201			7. Name and Address of County FSA Office (<i>Including ZIP Code</i>) Fresno County FSA Office 12763 Main Street Anytown, USA			
PART A - ELIGIBILITY						
Check the applicable box "YES" or "NO" in Item 8 through 10:						
					YES	NO
8. Did the dairy operation market milk commercially anytime between October 1, 1998 and December 31, 1998 or in 1999 or 2000?					X	
9. Does the dairy operation have milk marketings for 1997, 1998, or 1999 calendar years or for the period October 1, 1999 to September 30, 2000?					X	
10. Is there more than one person who marketed milk commercially from this dairy operation during the Base Period?						X
PART B - PRODUCTION PERIOD AND TOTAL MILK MARKETINGS						
Enter milk marketings in one of the following blocks:						
11. 1997 Calendar Year		12. 1998 Calendar Year		13. 1999 Calendar Year		
lbs.		lbs.		lbs.		
14a. October 1, 1999 through September 30, 2000	14b. Less DMLA I or DMLA II Production, if applicable	14c. Net Production		15. Other:		
3,900,000 lbs. -	900,000 lbs. =	3,000,000 lbs.		lbs.		
PART C - PRODUCER'S CERTIFICATION						
<i>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 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 through December 31, 1998 or for new producers in 1999 or from October 1, 1999 through September 30, 2000; (2) marketed milk commercially anytime during calendar years 1997, 1998, 1999, or for the period October 1, 1999 to September 30, 2000; and (3) will be paid on the first 39,000 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, 374, 641, 651, 1001 and 1014; USC 714m; and 31 USC 3729.</i>						
16. PRODUCER'S SIGNATURE						
A. Producer's Signature		B. Producer's ID Number		C. Date	D. Share (%)	
<i>Alan Berry</i>		<i>643-88-5116</i>		<i>2-15-2001</i>	<i>100</i>	
PART D - COC DETERMINATION						
17. <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved						
18. Signature of COC or Designee <i>/s/ John Green</i>			Title <i>CEO</i>	Date <i>2-20-01</i>		
19. Remarks						

Continued on the next page

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

C

Instructions to Producer

If a producer requests DMLA-III 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.

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 milk commercially in 1997, 1998 (must have had production October 1, 1998 and December 31, 1998, or in 1999.)"
9	Enter your response to the question, "For new dairy operations does the dairy have milk marketings for the period October 1, 1999 to September 30, 2000?"
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?" Note: 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	Eligible producer that did not sign up for DMLA-I, enter total pounds of milk marketed commercially during calendar year 1997 (must have had production October 1, 1998 - December 31, 1998). Enter in 11 if 1997 is greater than 1998. Not to exceed 3,900,000 pounds.
12	Eligible producer did not sign up for DMLA-I, enter total pounds of milk marketed commercially during calendar year 1998 (must have had production October 1, 1998 - December 31, 1998). Enter 12 if 1998 is greater than 1997. Not to exceed 3,900,000 pounds.
13	Eligible producer did not sign up for DMLA-II, enter total pounds of milk marketed commercially during calendar year 1999. Not to exceed 3,900,000 pounds.

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

C
Instructions to
Producer
(Continued)

Item	Instructions
14a	New producer for 2000 or producer that was paid for less than 12-months under DMLA-I or II, enter total pounds of milk marketed commercially during October 1, 1999 through September 30, 2000. For a new producer in 2000 pay on the pounds in 14a. Not to exceed 3,900,000 pounds.
14b	Producer paid on less than 12-months production, enter pounds of production paid for under first DMLA III payment.
14c	Producer paid on less than 12-months, enter pounds to be paid (14a - 14b). Not to exceed 3,900,000 pounds
15	Not Applicable for DMLA-III.
16	<p>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.</p> <p>When all signatures and information have been obtained, take your completed application to the County Office in item 7 by COB March 30, 2001. If you elect to mail or FAX your completed application, the County Office in item 7 must receive the application by COB March 30, 2001.</p> <p>Note: There are no exceptions.</p>
