

For: State and County Offices

Dairy Disaster Assistance Payment (DDAP-III) Program Policy Changes

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

The public comment period for the DDAP-III proposed rule ended December 26, 2007. A majority of comments received opposed using NASS State averages to determine base year production from which the production loss for the dairy operation was calculated. In response to this public opposition, program policy and procedure has been revised to best serve the needs of FSA customers participating in the DDAP-III program.

The DDAP-III program will provide benefits to eligible dairy producers who suffered dairy production losses as a result of natural disasters occurring during the period of January 1, 2005, through December 31, 2007. Producers will receive direct payments for eligible losses to help relieve economic injuries suffered by the dairy industry in disaster counties throughout the U.S.

B Purpose

This notice:

- provides State and County Offices with the following:
 - revised policy and procedure for implementing the DDAP-III program
 - additional information about temporarily suspending signup
 - revised FSA-747, as proposed
- obsoletes Notice LD-589.

Disposal Date	Distribution
October 1, 2008	State Offices; State Offices relay to County Offices

Notice LD-593

2 General Information

A Source of Authority

The DDAP-III program is authorized by Title IX Section 9007 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (Pub. L. 110-28). The legislation provides for the Secretary to make payments to dairy producers for dairy production losses in counties declared a natural disaster during a specified period. As provided in Notice LD-592, the eligible period was extended by the Consolidated Appropriations Act of 2008.

B Regulations

Regulations for the DDAP-III program will be:

- codified at 7 CFR Part 786
- available after publication in the Federal Register (FR) on the following:
 - FSA Intranet on the PSD Home page at www.fsa.usda.gov/dafp/psd
 - FSA Internet at <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=lare&topic=landing>.

On November 26, 2007, the proposed rule for the DDAP-III program requesting public comments was published in FR. The comment period ended on December 26, 2007. All responses to public comments received will be summarized and included in the final rule.

C Policies and Procedures

The following will be issued through forthcoming LD and PS notices respectively:

- procedural instructions for administering the DDAP-III program
- instructions for recording DDAP-III applications and processing payments by County Offices through a new web-based process called eDDAP.

D Related Handbooks

Handbooks related to DDAP-III include the following.

Purpose	Handbook
Appeals	1-APP
Signatures, estates, trusts, minors, or powers of attorney	1-CM
Scheme, device, or failure to fully comply	4-CP
HELC/WC provisions	6-CP
Misaction, misinformation, equitable relief, or finality rule	7-CP
Issuing payments	1-FI
Offsets	58-FI
Prompt payment provisions	61-FI
Reporting to IRS	62-FI
Assignments and joint payments	63-FI

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2 General Information (Continued)

E Definitions

The following definitions are applicable to the DDAP-III program.

- The application period is the time period established by DAFP for producers to apply for program benefits.
- Base year production is the pounds of production determined by multiplying the average annual production per cow calculated from base period information times the average number of cows in the dairy herd during each applicable disaster year.
- The claim period is the calendar year(s) applicable to the disaster declaration during the eligible period in which the production losses occurred.
- A dairy operation is any person or group of persons who, as a single unit, as determined by FSA, produces and markets milk commercially from cows and whose production facilities are located in the United States.
- A disaster county is a county included in the geographic area covered by a natural disaster declaration, and any county contiguous to a county that qualifies by a natural disaster declaration.
- A milk handler or cooperative is the marketing agency to, or through which, the producer commercially markets whole milk.
- Milk marketings are marketings of milk for which there is a verifiable sales or delivery record of milk marketed for commercial use.
- A producer 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 of, or legal resident alien in the United States, and who directly or indirectly, as determined by the Secretary, shares in the risk of producing milk, and makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity of the proceeds of this operation.
- Verifiable production records are evidence that is used to substantiate the amount of production marketed, including any dumped production or cow purchases that may have increased production, and that can be verified by FSA through an independent source.

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3 Eligibility Requirements

A Eligible Losses

Production losses are eligible losses under the DDAP-III program. Production losses must be:

- directly associated to the loss conditions identified in the declaration or designation during the eligible period
- previously uncompensated by disaster payments from previous DDAP programs.

B Eligible Counties

DDAP-III program benefits are only applicable to United States counties that were:

- designated a major disaster or emergency by the President of the United States
- declared a natural disaster by the Secretary of Agriculture
- included under an Administrator's Physical Loss Notification (APLN).

Note: APLN must be directly related to the natural disaster designated by the President to qualify.

Only eligible losses occurring in those counties or a contiguous county are eligible for payment.

A listing of eligible counties may be accessed from the Disaster Assistance Programs Homepage at http://www.fsa.usda.gov/Internet/FSA_File/2005-07_elig_disas_co_012908.xls.

C Eligible Period

The natural disaster declarations by the Secretary or the President must have been issued **between** January 1, 2005, and December 31, 2007. Therefore, natural disaster declarations issued on January 1, 2005, or December 31, 2007, are **not** eligible.

D Base Period Information

The base period for each disaster year 2005 through 2007 will be the average annual marketed production of calendar years 2003 and 2004. Dairy operations that were not in business during 1 or both of the base period years must determine an alternative base period according to subparagraph 8 C. To determine base period production, dairy operations must provide the following information to FSA for each year of the base period to establish the average annual production per cow:

- total annual marketed production
- average number of cows in the dairy herd during the year.

3 Eligibility Requirements (Continued)

E Eligible Dairy Operations

An eligible dairy operation for DDAP-III program 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.

F Dairy Operation Eligibility for Payment

To be eligible to receive DDAP-III program benefits, producers in a dairy operation must:

- have suffered production losses in an eligible county declared a natural disaster during the eligible period
- have produced and commercially marketed milk in the United States and commercially marketed the milk produced between January 1, 2005, and December 31, 2007
- be a producer on a dairy farm operation physically located in a disaster county where eligible losses were incurred
- provide proof, to COC's satisfaction, of annual milk production commercially marketed by all persons in the eligible dairy operation during the base period and the eligible disaster period
- certify compliance with the highly erodible land conservation (HELC) and wetland conservation (WC) provisions on AD-1026 for the calendar year applicable to the natural disaster declaration and the eligible disaster
- apply for payment during the application period.

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3 Eligibility Requirements (Continued)

G Deceased Persons and Dissolved Entities

If, subsequent to the disaster, an eligible producer is now deceased or is a dissolved entity, a representative of the deceased producer or dissolved entity may sign FSA-747, if the representative currently has authority to enter into a contract for the producer.

Note: Proof of authority to sign for the deceased producer or dissolved entity must be provided. Proof of authority may include 1 of the following:

- court order
- letter from the Secretary of State
- document approved by the Regional Attorney.

If a dairy operation is now a dissolved general partnership or joint venture, **all** members of the general partnership or joint venture at the time of dissolution, or their representatives, must sign FSA-747.

H CCC-770 Eligibility

County Offices shall ensure that all eligibility updates have been completed and CCC-770 for eligibility has been completed for each producer in the dairy operation. CCC-770 Eligibility forms should be completed according to 3-PL.

I FSA-770 DDAP

FSA-770 DDAP checklists will be required for DDAP-III. A forthcoming notice will provide more information on the FSA-770 DDAP.

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4 Applying for DDAP-III Program Benefits

A Application Signup

As provided by Notice LD-592, DDAP-III signup was temporarily suspended to update automation and policy with changes authorized by the Consolidated Appropriations Act of 2008 (2008 Act). In addition to the changes required by the 2008 Act, public comments on the DDAP-III proposed rule opposed to using NASS State averages to determine base year production for a dairy operation have made it necessary to revise FSA-747 and announce a new signup period to collect the additional information. Pending OMB approval of the form, the additional information collected will be used to determine a base from which production losses for the dairy operation will be calculated.

The **re-announced signup** period will begin on a date to be determined. An ending date has not been established. Eligible applicants may file the revised FSA-747 for benefits anytime during the application period. Completed FSA-747's must be submitted to either of the following:

- County Office where the dairy operation is physically located
- administrative County Office where the dairy operation's records are maintained.

For completed FSA-747's received since the original signup began on December 3, 2007, up through the time the signup was suspended on January 11, 2008, County Offices must:

- notify the contact producer for the dairy operation about the application change
- obtain a new completed FSA-747 from the dairy operation before the end of the signup end date
- attach completed FSA-747 received from the dairy operation on top of any previously dated version of the application form.

Notes: Complete FSA-747 according to paragraph 5.

The form will be made available to the public when OMB approval is obtained.

B Filing FSA-747

Eligible applicants must use FSA-747 to apply for DDAP-III program benefits. A separate FSA-747 shall be filed for each dairy operation that suffered qualifying losses during the eligible period. All persons who share in the risk of a dairy operation's total production must certify to the information on FSA-747 before the application will be considered complete for review by FSA. More than one FSA-747 application for benefits is **not** acceptable by the same operation during the eligible period.

4 Applying for DDAP-III Program Benefits (Continued)

B Filing FSA-747 (Continued)

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.

Note: One FSA-747 may be completed to apply for eligible losses from multiple natural disasters, when multiple declarations have been issued for a county during the eligible period.

C FSA-747 Availability

When the form is approved by OMB, FSA-747 will be made available electronically at both of the following websites:

- public eForms web site at <http://www.sc.egov.usda.gov/eforms/mainservlet>
- FSA Employee Forms/Publications Online Website at <http://intra3.fsa.usda.gov/dam/ffasforms/forms.html>

FSA-747 may also be obtained from the administrative County Office for the dairy operation or the County Office where the dairy operation is physically located as follows:

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

FSA-747 obtained according to this paragraph, must be completed correctly, signed, and returned to the applicable County Office by COB on the signup end date established by FSA, to be considered eligible for DDAP-III program benefits.

Note: Under no circumstances should FSA-747 be made available to the public until FSA-747 is approved for use by OMB and authorization has been provided by FSA.

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4 Applying for DDAP-III Program Benefits (Continued)

D Separate Dairy Operations

When more than 1 dairy operation uses the same facilities, each operation shall be considered a separate operation when **both** of the following apply:

- milk production is not commingled
- all milk marketing payments and records are separate.

E Late-Filed Applications

Late-filed provisions will **not** apply to the DDAP-III program. Applications received after the deadline date will not be approved. This includes FAXed applications.

F Multiple Producers

If a dairy operation consists of more than 1 producer:

- complete 1 application for the entire dairy operation
- include all producers who share in the operation on the application
- obtain signatures on the application of all producers in the operation according to subparagraph G.

G Signature Requirements

County Offices shall follow 1-CM for the following:

- producer signature and authorization provisions
- persons signing FSA-747 in a representative or fiduciary capacity
- payment of amounts due persons who have died, disappeared, or have been declared incompetent.

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4 Applying for DDAP-III Program Benefits (Continued)

H HELC/WC Provisions

Eligible producers in a dairy operation must comply with HELC/WC provisions according to 7 CFR Part 12. Dairy producers applying for DDAP-III program benefits must certify to HELC/WC compliance on AD-1026 before the application for payment is approved. See 6-CP for guidance on HELC/WC provisions.

I Approving FSA-747

COC, or designee, shall:

- be satisfied that all eligibility requirements provided in paragraph 3 have been met before approving FSA-747
- ensure that other applicable forms, production evidence, and any other supporting documentation that substantiates qualifying losses to their satisfaction have been received
- **not** approve any FSA-747 that was requested or received after COB on the application sign-up deadline established by DAFP
- **not** approve DDAP-III program applications for a joint venture **unless** all members of the joint venture or joint operation who share in the milk production from the dairy operation have signed FSA-747.

Note: Except for those in which CED has a monetary interest, COC may delegate the authority to approve or disapprove FSA-747's, and other program documents to CED.

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5 Completing FSA-747

A Instructions for Completing FSA-747

Complete FSA-747 according to the following.

Item	Instructions
1	COC designee shall enter the applicable State code.
2	COC designee shall enter the applicable county code.
3	COC designee shall enter the date the application is submitted.
4	COC designee shall enter the contract number assigned from the eDDAP software.
Part A – Producer Information	
5A	Enter the name of the dairy operation.
5B-5D	Enter the name, address, e-mail address, and telephone number of the contact producer for the dairy operation.
Part B – Base Period Information	
6A	Enter the average number of dairy cows in the herd during each calendar year 2003 and 2004. This number should represent both milking cows and dry cows.
6B	Enter the total annual pounds of production commercially marketed during each calendar year 2003 and 2004.
Part C – Production Information	
7A	Check the year(s) for which the dairy operation is applying. More than 1 year may be requested. However, a declared disaster condition must have occurred in all years in which benefits are being requested.
7B	Enter the average number of dairy cows in the herd during each applicable calendar year in which benefits are being requested. This number should represent both milking cows and dry cows. Note: The cows entered should represent the number of cows milked on average and should not include cow losses that may have resulted from the natural disaster occurrence.
7C	Enter the annual commercially marketed production applicable to each calendar year in which benefits are being requested.
Part D – Disaster Year Production Loss Adjustments	
8A	Enter applicable pounds of production loss adjustments to decrease production losses downward for the applicable disaster year(s).
8B	Enter the justification for the adjustment entered in 8A for the corresponding disaster year, as applicable.
8C	Enter applicable pounds of production loss adjustments to increase production losses upward for the applicable disaster year(s).
8D	Enter the justification for the adjustment entered in 8C for the corresponding disaster year, as applicable.

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6 Completing FSA-747 (Continued)

A Instructions for Completing FSA-747 (Continued)

Item	Instructions
Part E – Producer Certification	
9	<p>The contact producer for the dairy operation shall enter a check in the appropriate box to indicate if a payment was received by the operation under the 2005 DDAP-II program.</p> <p>If “yes” is selected, COC designee shall enter the dollar amount of the payment received by the dairy operation under the DDAP-II program.</p> <p>Note: The dollar amount entered will only be deducted from the payment amount calculated for DDAP-III if the dairy operation is applying for payment on the same losses in 2005.</p>
10	Each producer who has a share in the dairy operation must sign this document after carefully reading the information in Part E.
11	Enter the last 4 digits of producer’s identification number (TIN, SSN, or EIN).
12	Enter the date each producer signed FSA-747.
13	Enter each producer's corresponding share percentage of the dairy operation’s production for each applicable year in which benefits are being requested.
14	Check the appropriate box to identify any producer who elects to receive or not receive payments under this program.
Part F – COC Determination	
15	Print or type the name of COC designee.
16	Enter the title of designee signing in item 17 if someone other than COC.
17	COC designee shall sign.
18	Enter the date the COC designee signed in item 17.
19	The official signing item 17 shall check the appropriate box to indicate if FSA-747 is approved or disapproved.
20	Enter the name and address of the FSA County Office.
21	Enter the telephone number, including area code, of the FSA County Office.
22	<p>Enter any remarks that may be pertinent to any information entered on this application or related to the operation submitting the application, including additional space required to further justify any production increases or decreases made by COC in Part D.</p> <p>Note: Supplemental pages may be used as needed.</p>

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5 Completing FSA-747 (Continued)

B Example of FSA-747

The following is an example of FSA-747.

This form is available electronically.

FSA-747 (Proposal 8) DAIRY DISASTER ASSISTANCE PAYMENT PROGRAM (DDAP-III) APPLICATION	U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency		1. State Code	2. County Code
			3. Application Date (MM-DD-YYYY)	4. Application Number

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. The authority for requesting information is the U. S. Troop Readiness, Veterans' Care, Katrina, Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. 110-28. The information will be used to establish eligibility of losses and determine payment amounts for dairy operations located in an eligible county declared a natural disaster, and counties contiguous, when requesting benefits under the Dairy Disaster Assistance Payment Program III (DDAP-III). Furnishing the requested information is voluntary; however, failure to furnish the requested information will result in a determination of ineligibility for DDAP-III Program benefits unless this report is completed and filed as required by existing law and regulations provided at 7 CFR Part 786. 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 or to other request for information. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001, 1004 and 31 USC 3729, may be applicable to the information provided.

Under the Paperwork Reduction Act of 1995, where applicable, an agency generally may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is XXXX-XXXX. The time required to complete this information collection is estimated to average 15 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. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.

PART A - PRODUCER INFORMATION

5A. Name of Dairy Operation (Prepare 1 application per dairy operation)	5B. Contact Producer's Name and Address (Including Zip Code)
5C. Email Address (Optional)	5D. Telephone Number (Including Area Code)

PART B - BASE PERIOD INFORMATION

6. Enter the average number of cows in the dairy herd (wet and dry) during the year and the total annual marketed production for each calendar year 2003 and 2004.

Year	2003	2004
A. Average Number of Cows in the Dairy Herd During Year		
B. Marketed Production (pounds)		

PART C - PRODUCTION INFORMATION

7. Enter total commercially marketed production (pounds) and number of cows in the dairy herd (wet and dry) during the relevant year(s). Applicant must check the appropriate box for each applicable disaster year(s) for which benefits are being requested.

A. Disaster Year	<input type="checkbox"/> 2005	<input type="checkbox"/> 2006	<input type="checkbox"/> 2007
B. Average Number of Cows in the Dairy Herd During Year			
C. Marketed Production (pounds)			

PART D - DISASTER YEAR PRODUCTION LOSS ADJUSTMENTS - (For County Office Use Only)

8. County Office will record applicable production adjustments and corresponding justification to increase and/or decrease production losses when applicable. Enter pounds of production that need to be adjusted by applicable year. Use Item 22 for additional space.

Year	A. Decrease (-) Production Loss Downward	B. Justification for Adjustment	C. Increase (+) Production Loss Upward	D. Justification for Adjustment
2005	lbs.		lbs.	
2006	lbs.		lbs.	
2007	lbs.		lbs.	

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of Discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

6 Supporting Documentation

A Verifying Losses

To establish production history and calculate eligible losses for the dairy operation during the eligible period, DDAP-III program applicants must, to the satisfaction of COC, provide adequate proof of the following:

- commercial milk production marketed by the dairy operation during the base period and applicable disaster year(s)
- average number of cows in the dairy herd during the base period and applicable disaster year(s).

Note: The applicant may certify to the average number of cows in the dairy herd during the base period and applicable disaster years when there is insufficient documentation available for verification.

Documentation to verify losses must be provided to the FSA County Office with any other supporting documentation available to assist in verifying and calculating production losses for the dairy operation. Acceptable documentation, to the satisfaction of COC, must be provided to the FSA County Office before an applicant can be subsequently approved for payment. If adequate proof is not provided to the satisfaction of COC, the request for benefits will **not** be approved.

B Acceptable Documentation

Documents that verify production and milking cow averages include, but are not limited to, any of, or a combination of, the following:

- milk marketing statements
- inventory records
- State health certificates
- sales receipts/invoices
- Dairy Herd Improvement Association records
- feed receipts and records
- veterinarian records
- financial records
- farm loan records
- farm credit records.

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6 Supporting Documentation (Continued)

C Reviewing Documentation

When the supporting documentation is received in the County Office:

- make a copy, date stamp the copy, and return originals to the contact producer

Note: This procedure is not required for FAX copies.

- review to verify marketed production is for base period and applicable disaster year(s)
- determine if average cow numbers certified by the dairy operation for the base period and applicable disaster year(s) is reasonable, if **not** reasonable request additional documentation to substantiate
- confirm that production losses are reasonable and attributable to the declared disaster.

Attach all supporting documentation to FSA-747 providing pertinent comments in the "Remarks" Section (Item 17).

D Production Evidence Submitted by Cooperatives

County Offices may accept annual production evidence from dairy cooperatives or handlers provided the producers of the eligible dairy operation submit to their local County Office a written statement authorizing the County Office to receive the production evidence directly for the marketing cooperative or handler.

Production evidence received from the dairy cooperative or handler is subject to further verification, if necessary, and may be provided to the County Office through all available means. The following is an example of a statement authorizing the County Office to receive production evidence directly from a dairy cooperative or milk handler:

I, (Enter contact producer's name) of (Enter the name of the dairy operation), located in (Enter name of county where the dairy operation is located) County, in the State of (Enter the name of the State where dairy operation is located), authorize (Enter the name of dairy cooperative or handler) to release evidence of my annual milk marketings directly to my County Office, for purposes of the Dairy Disaster Assistance Payment (DDAP-III) Program.

6 Supporting Documentation (Continued)

E Resolving Discrepancies

All production or cow number discrepancies must be resolved to the satisfaction of COC before DDAP-III program benefits will be approved for payment to the dairy operation. COC must review and determine any of the following:

- good faith
- misrepresentation, scheme, or device.

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 DDAP-III program benefits and the entire DDAP-III program payment must be refunded.

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

F Refunding Payments

For dairy operations that must refund DDAP-III program 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.

7 DDAP-III Program Payment Rates

A Funding Availability

Eligible producers in a dairy operation may receive up to a total of \$16 million in direct payments for dairy production losses resulting from natural disasters occurring during the eligible period.

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7 DDAP-III Program Payment Rates (Continued)

B Payment Rates

Payment rates for production losses are based on the annual average mailbox milk price according to applicable State Marketing Orders where the eligible disaster county is located, as reported by AMS, during the eligible period. Payment rates for States not regulated under a Marketing Order have been determined based on a contiguous or nearby State's mailbox price. Maximum payment rates for eligible losses for dairy operations located in specific States are provided in Exhibit 1.

Each eligible dairy operation's payment is calculated by multiplying the applicable maximum payment rate by the dairy operation's total eligible losses using whole pounds of milk.

Note: If FSA determines at the conclusion of signup that the total value of eligible losses exceeds the available funding, less any reserve, then payments will be made according to the alternative method provided in subparagraph C.

C Alternative Payment Method

If FSA determines that the total value of losses at the conclusion of the signup period exceeds available funding, DDAP-III program benefits will be based on a 20 percent loss threshold of the total estimated base period production for each applicable claim period during the eligible period. When the loss threshold goes into effect, eligible dairy operations will receive a combined payment for eligible losses above 20 percent and eligible losses equal to and below 20 percent. The combined payment to the dairy operation will be determined according to this table.

Loss Level	Payment Rate
Greater than 20 percent	Applicable payment rate as provided in Exhibit 1.
Equal to or less than 20 percent	Payment rate determined by dividing eligible losses equal to or less than 20 percent by the funds remaining after making payments for all eligible losses above the 20 percent loss threshold.

D Loss Threshold Example

Producer A in Florida for 2005 has a total estimated base period production of 2 million pounds and actually produced during the claim period 1.2 million pounds. Total eligible losses for Producer A's dairy operation equals 800,000 pounds (total estimated base period production minus actual marketed production). The total estimated base period production times 20 percent equals 400,000 pounds. Therefore, 400,000 pounds of the dairy operation's total eligible losses (800,000 lbs.) qualifies as losses above 20 percent and is eligible at the 2005 Florida payment rate of \$0.1758 and the remaining 400,000 pounds will be paid at the factored rate determined for losses at or below 20 percent. Producer A will receive a combined payment of the 2 calculations.

7 DDAP-III Program Payment Rates (Continued)

E Payment Limitation

Gross revenue and per person payment limits do not apply. However, in no event shall the dairy operation's payment exceed the value determined by multiplying the producer's total eligible loss times the average price received for commercial milk production in their State.

F Offsets and Withholdings

The DDAP-III program is subject to any of the following, as applicable:

- administrative offset
- assignment
- withholding.

Note: The DDAP-III assignment code is 05-07DDAP.

G Prompt Payment Interest

Prompt payment provisions are applicable to the DDAP-III program. Prompt payment interest applies 30 calendar days from DAFP authorization and all documents are received.

H Advance Payments

Advance payments will **not** be issued for the DDAP-III program.

I Direct Deposit

The Debt Collection Improvement Act of 1996 requires that any recipient of Federal payments receive the payment by electronic funds transfer (EFT). All producers receiving benefits under the DDAP-III program must file SF-1199A according to 1-FI, Part 3.

J Issuing Payments

DDAP-III benefits cannot be issued until all of the following have occurred:

- signup period has ended
- total eligible losses are determined
- final rule is published in FR
- authorization is provided by DAFP.

K Disaster Designation Extends Over Multiple Calendar Years

DDAP-III applicants are eligible for each applicable year during the eligible period that covers the designated period in the disaster designation for the county.

Example: If County A has a disaster designation that was issued in 2006, that has a start date of March 1, 2006, and ends on February 28, 2007, the applicant is eligible for both the 2006 and 2007 disaster years.

8 Calculating DDAP-III Benefits

A Determination of Losses

Eligible production losses will be determined by establishing an average annual production per cow for the base period. Average annual production per cow is determined from the average of total annual production for calendar years 2003 and 2004, divided by the average number of cows in the dairy herd during calendar years 2003 and 2004. The average annual production per cow established from base period information is multiplied by the average number of cows in the dairy heard during each applicable disaster year to determine the base production for the dairy operation. Actual marketed production is subtracted from the base year production to determine the dairy operation's production loss eligible for payment.

Actual production that exceeds the estimated base year production means that the dairy operation incurred no eligible production losses for the applicable disaster year.

B Loss Adjustments

Actual production losses determined according to subparagraph A, may be adjusted by COC or designee, to increase production losses or decrease production losses to the extent the adjustment to the pounds of production are:

- not certified by the producer to be the result of the disaster identified in the natural disaster declaration
- determined by FSA not to be related to the natural disaster identified in the natural disaster declaration.

Production adjustments, may include, but are not limited to the following:

- production dumped for reasons unrelated to the applicable disaster condition
- dairy cows added to offset production losses
- dairy operations that go out of business
- cow deaths unrelated to the applicable natural disaster.

COC or designee must enter the production adjustment in pounds on FSA-747 and provide a justification for the adjustment. Adjustments determined by COC or designee:

- will be adjusted accordingly from the calculated production losses for the dairy operation
- must be documented in COC minutes including all factors considered in making the determination of whether to increase or decrease production losses.

When determining pounds of production for loss adjustments for dairy cows added to offset production losses or cow deaths unrelated to the applicable natural disaster, the average annual production per cow determined from the base period shall be used to determine the applicable pounds of production for the loss adjustment.

8 Calculating DDAP-III Benefits (Continued)

C Alternative Base Period Production

The base period information used to determine the average annual production per cow is based on the average of the number of total annual production marketed and cows in the dairy herd during the 2003 and 2004 calendar years. If production records cannot be obtained or the dairy operation was not operating during 1 or both of calendar years 2003 and 2004, then COC shall use production records based on the production from the base period of 3 similar dairy operations.

COC shall consider the following when selecting 3 similar dairy operations:

- size of milking herd
- type of operation (that is, confinement vs. pasture)
- location
- breed of cattle.

Note: DD must concur with all COC determinations when the base period production is based on the production from the base period of 3 similar dairy operations.

COC must record in both the COC minutes and FSA-747, item 22, the following information from the 3 similar dairy operations used to establish an alternative base period:

- dairy operation's name
- actual production for both 2003 and 2004
- other pertinent data or criteria used in the selection of the dairy.

D Calculating Payment

Each dairy operation's payment is calculated by multiplying the applicable payment rate provided in Exhibit 1 by the operation's total eligible losses. After the payment amount is calculated it will be reduced further by any amounts received for the same loss from other dairy disaster assistance programs, such as DDAP-II, for the same eligible period.

Note: Payments for amounts received from other dairy disaster assistance programs for the same loss must be indicated in FSA-747, item 9.

9 Spot Checks and Compliance

A When to Perform Spot Checks

Spot checks shall be performed to verify the producer's losses. Implement procedures to perform spot checks beginning the day after the last day of the signup period established by DAFP.

B Spot Check Procedures

County Offices shall use the following procedures to implement spot checks:

- select 1 out of every 20 dairy operations approved for the DDAP-III program
- inform each contact producer of the selected dairy operation by telephone that a spot check is being completed for the operation
- conduct spot checks on any operation where the applicant or a person in the operation is any of the following:
 - STC
 - COC member
 - FSA employee.

C Completing Verifications

Verifications of FSA-747's selected for spot check must be:

- completed within 60 calendar days after the end of the announced application period
- documented in FSA-747, item 22
- conveyed to the State Office, including the number of applications selected and the results of the verification.

Note: If spot check findings reveal that any of the criteria established for eligibility according to paragraph 3 and spot check discrepancies in subparagraph D do not comply with the certification of information on FSA-747, then the dairy operation may be determined ineligible for DDAP-III.

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9 Spot Checks and Compliance (Continued)

D Spot Check Discrepancies

Spot checks shall be performed to determine the accuracy of reported milk losses. See paragraph 6 for acceptable supporting documentation. Discrepancies that result in changes found as a result of a spot check shall be handled according to this table.

IF the eligible losses are...	THEN...
increased	no further action is necessary.
5 percent or less of the dairy operation's reported losses	<p>COC may do either of the following:</p> <ul style="list-style-type: none"> • determine good faith and adjust the eligible losses • consider the producer ineligible for benefits if COC determines that the producer: <ul style="list-style-type: none"> • adopted any scheme or other device that tends to defeat the purpose of the DDAP-III program • made any fraudulent representation or misrepresented any fact affecting a program determination.
more than 5 percent of the dairy operation's reported losses	<p>COC shall determine the producer ineligible for benefits, but may submit a request for relief to STC.</p> <p>Note: STC shall approve requests for relief only if it determines that extenuating circumstances prevented the dairy operation from providing an accurate application.</p>

E State Office Spot Check Reports

Within 5 workdays of receiving spot check information, the State Office shall:

- prepare a written report describing the results
- FAX a copy of the report to PSD at 202-690-1536.

9 Spot Checks and Compliance (Continued)

F 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 the DDAP-III program:

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

G Maintaining Records

Dairy operations requesting payments under the DDAP-III program shall maintain records for 3 years after the date of the payment to document that eligibility requirements were met.

H Verifying Dairy Operation Records

As applicable, when contacting agencies, organizations, or facilities to verify the dairy operation's supporting documents and records, the County Office shall be specific about the information requested. The request should include, but is not limited to, the following:

- dairy operation's name and address
- reason for the request
- information requested.

This request for information may include providing the agency, organization, or facility with a signed statement from the contact producer for the dairy operation authorizing the release of the information to the County Office.

I County Office Action

County Offices shall:

- review and compare FSA-747 with supporting documentation for any discrepancies
- request additional information from the dairy operation, as necessary, for verification
- verify that eligible losses occurred during an eligible month in an eligible county
- record pertinent information of spot check findings in FSA-747, item 22, "Remarks", using supplemental pages, as needed.

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10 Responsibility and Action

A FSA Responsibility

FSA has primary responsibility through STC's and COC's for administering the DDAP-III program.

B STC Action

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

C COC Action

COC's shall:

- administer the DDAP-III program at the County Office level under STC supervision
- inform producers about the eligibility requirements for DDAP-III program benefits
- approve or disapprove requested DDAP-III program benefits according to this notice or may delegate the authority to approve or disapprove.

D County Office Action

County Offices shall:

- inform all dairy producers in eligible counties of the DDAP-III program requirements through any of the following:
 - over-the-counter discussion
 - newsletters
 - other methods of communication, as applicable
- make FSA-747 available to dairy operations during the signup period pending OMB approval of the form
- accept FSA-747's according to paragraph 4
- conduct spot checks of DDAP-III program applicants according to paragraph 9
- direct questions to the State Office price support specialist.

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11 Responsibility and Action (Continued)

E State Office Action

SED's shall ensure that County Offices immediately notify producers of the contents of this notice using all available sources. State Offices shall refer any DDAP-III program policy questions to the National Office according to subparagraph F.

F Contacts

State Offices shall direct questions about this notice or the DDAP-III program to either of the following PSD employees.

Name	Telephone Number	Email Address
Dani Cooke	202-720-1919	Danielle.Cooke@wdc.usda.gov
Elizabeth Miller	202-690-8038	Elizabeth.Miller@wdc.usda.gov

Maximum DDAP-III Payment Rates**A Payment Rates**

Payment rates and calculations are rounded to 7 decimal places. The following provides maximum payment rates per pound for production losses for dairy operations located in specific States applicable to each claim period.

State	Mailbox Price 2005	Mailbox Price 2006	Mailbox Price 2007
Alabama	0.1596	0.1443	
Alaska	0.2040	0.2010	
Arizona	0.1388	0.1128	
Arkansas	0.1596	0.1443	
California	0.1388	0.1128	
Colorado	0.1403	0.1214	
Connecticut	0.1539	0.1344	
Delaware	0.1539	0.1344	
Florida	0.1758	0.1603	
Georgia	0.1596	0.1443	
Hawaii	0.2700	0.2600	
Idaho	0.1402	0.1215	
Illinois	0.1514	0.1283	
Indiana	0.1503	0.1294	
Iowa	0.1507	0.1285	
Kansas	0.1403	0.1214	
Kentucky	0.1527	0.1349	
Louisiana	0.1596	0.1443	
Maine	0.1539	0.1344	
Maryland	0.1539	0.1344	
Massachusetts	0.1539	0.1344	
Michigan	0.1478	0.1264	
Minnesota	0.1512	0.1277	
Mississippi	0.1596	0.1443	
Missouri (Northern)	0.1403	0.1214	
Missouri (Southern)	0.1467	0.1254	
Montana	0.1512	0.1277	

Maximum DDAP-III Payment Rates (Continued)

A Payment Rates (Continued)

State	Mailbox Price 2005	Mailbox Price 2006	Mailbox Price 2007
Nebraska	0.1403	0.1214	
Nevada	0.1388	0.1128	
New Hampshire	0.1539	0.1344	
New Jersey	0.1539	0.1344	
New Mexico	0.1323	0.1108	
New York	0.1539	0.1303	
North Carolina	0.1527	0.1349	
North Dakota	0.1512	0.1277	
Ohio	0.1506	0.1302	
Oklahoma	0.1596	0.1443	
Oregon	0.1402	0.1215	
Pennsylvania (Eastern)	0.1539	0.1340	
Pennsylvania (Western)	0.1539	0.1302	
Puerto Rico	0.2550	0.2570	
Rhode Island	0.1539	0.1344	
South Carolina	0.1527	0.1349	
South Dakota	0.1512	0.1277	
Tennessee	0.1527	0.1349	
Texas	0.1405	0.1194	
Vermont	0.1539	0.1344	
Virginia	0.1527	0.1349	
Washington	0.1402	0.1215	
West Virginia	0.1506	0.1302	
Wisconsin	0.1535	0.1305	
Wyoming	0.1403	0.1214	

Note: Data required to calculate the average mailbox prices for the 2007 calendar year will not be available until mid-March.