

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

**Notice MPP-50**

**For:** State and County Offices

**Margin Protection Program for Dairy Producers (MPP-Dairy)  
2018 Coverage Year Opt Out Option**

**Approved by:** Acting Deputy Administrator, Farm Programs

*Bradley Karmen*

**1 Overview**

**A Background**

The 2018 annual coverage election period began on September 1, 2017, and will end on December 15, 2017. Participating dairy operations enrolled in MPP-Dairy are required to participate with at least CAT level coverage and pay the annual administrative fee each year through December 31, 2018.

However, the Secretary, after hearing the concerns of MPP-Dairy participants and others, is authorizing participating dairy operations to **opt out** of the program for the 2018 coverage year **only**.

MPP-Dairy Regulations at 7 CFR Part 1430 are being revised to allow participating dairy operations to choose **not** to participate in 2018. Publication in the Federal Register will be forthcoming.

**B Purpose**

This notice notifies State and County Offices of the following:

- participation options for coverage year 2018
- the communication method to notify dairy operations of the 2018 options.

**C Contact**

If there are questions about this notice, State Offices shall contact either of the following according to this table.

Name	Telephone	E-mail
Dani Cooke	202-720-1919	<a href="mailto:danielle.cooke@wdc.usda.gov">danielle.cooke@wdc.usda.gov</a>
Angela Payton	202-720-0482	<a href="mailto:angela.payton@wdc.usda.gov">angela.payton@wdc.usda.gov</a>

**Disposal Date**

January 1, 2018

**Distribution**

State Offices; State Offices relay to County Offices

## Notice MPP-50

### 2 Coverage Year 2018 Participation Options

#### A Opt Out Option

A dairy operation that chooses to opt out for coverage year 2018 is **not** required to submit CCC-782 during the 2018 annual coverage election period and would **not** have to pay the annual administrative fee of \$100 for 2018. The opt out **only** applies to coverage year 2018 and dairy operations that choose to opt out would not receive any benefits if payments are triggered for 2018.

#### B Continue 2018 Coverage Option

Dairy operations that choose to elect coverage for CAT-level and buy-up coverage for 2018 must complete and submit CCC-782 and pay the \$100 administrative fee by **COB December 15, 2017**. All outstanding premium balances for 2017 and prior years must be paid in full before a dairy operation can be approved for 2018 coverage. County Offices must provide all dairy operations registering for 2018 coverage with a revised CCC-782 Appendix (09-01-17). See Exhibit 1 for an example of the revised terms and conditions.

**Note:** Late-filed CCC-782's and 2018 administrative fees received by **COB October 31, 2018**, may be approved for CAT-level coverage **only**.

#### C Notifying MPP-Dairy Participants

The postcard mailing delayed in Notice MPP-49, announcing the 2018 MPP-Dairy annual coverage election period signup, has been revised to include the choice to opt out for 2018. See Exhibit 2 for an example of the revised postcard that will be mailed from the National Office.

The National Office will provide a listing to State and County Offices of participants who are mailed a postcard. County Office must generate and mail a letter to any dairy operation not in the listing that should have received a postcard.

### 3 Actions

#### A State Office

State Offices will:

- ensure that County Offices are immediately informed of the contents of this notice
- immediately publicize the contents of this notice by all available means
- direct questions about MPP-Dairy program policy and procedure to the National Office according to subparagraph 1 C.

**3 Actions (Continued)**

**B County Office Action**

County Offices will:

- immediately notify producers, by all available means of the participation options for 2018 coverage
- not accept CCC-782's or administrative fees for 2018 coverage from dairy operations opting out of MPP-Dairy for 2018
- accept CCC-782's and administrative fees through the applicable deadlines in subparagraph 2 B from dairy operations choosing to continue coverage for 2018
- provide revised CCC-782 Appendix (09-01-17) (Exhibit 1) to dairy operations choosing to continue coverage for 2018
- generate and mail letter with language from Exhibit 2 to dairy operations not included in National Office postcard mailing list
- forward questions about the contents of this notice to the State Office MPP-Dairy specialist.

## CCC-782 Appendix, Margin Protection Program for Dairy Producers Terms and Conditions

The following is an example of CCC-782 Appendix (09-01-17).

This form is available electronically.

(See CCC-782 for Privacy Act, Paperwork Reduction and Nondiscrimination Statements)

**CCC-782 Appendix**  
(09-01-17)

**U.S. DEPARTMENT OF AGRICULTURE**  
Commodity Credit Cooperation

**MARGIN PROTECTION PROGRAM FOR DAIRY PRODUCERS**  
**Terms and Conditions**

The Margin Protection Program for Dairy Producers Program (MPP-Dairy) is administered by the Commodity Credit Corporation (CCC) through the Farm Service Agency (FSA) under secs. 1401-1410 of the Agricultural Act of 2014 (7 U.S.C. 9051-9060, Pub. L. 113-79) (2014 Farm Bill). All provisions of the Margin Protection Program for Dairy Producers (MPP-Dairy) Contract and Annual Coverage Election Application and rights and responsibilities of the parties are specifically subject to the 2014 Farm Bill. We will use the procedures (handbooks, manuals, and notices), as issued by USDA and published on the FSA website at <http://www.fsa.usda.gov> in the administration of the Contract and Annual Coverage Election Application, including provisions regarding the establishment of production history provided hereunder.

**TERMS AND CONDITIONS**

**1. Definitions.**

**Actual Dairy Production Margin** - means the difference between the all-milk price and the average feed cost.

**Administrative County Office** - means the County Office designated by FSA to make determinations, handle official records, and issue payments to producers.

**Administrative Fee** - means a non-refundable fee of \$100.00 required to be paid annually through December 31, 2018, by all participating dairy operations to CCC, except that this will not apply for dairy operations that opt out for the 2018 coverage year.

**Administrator** - means the FSA Administrator.

**All-Milk Price** - means the average price received, per hundredweight of milk, by all dairy operations for all milk sold to plants and dealers in the United States, as determined by the Secretary.

**Annual Coverage Election Period** - means the period, each calendar year established by the Deputy Administrator, for a dairy operation to register initially to participate in MPP-Dairy, pay associated administrative fees, and applicable premiums, or if already registered as a participating dairy operation, to make annual coverage elections for an applicable calendar year.

**Average Annual Growth** - means any increase in US milk production determined annually by FSA that will be applied annually to the established production history of a participating dairy operation.

**Average Feed Cost** - means the national average cost of feed used by a dairy operation to produce a hundredweight of milk, determined using the sum of the following:

1.0728 multiplied by the monthly price of corn per bushel.

0.00735 multiplied by the monthly price of soybean meal per ton.

0.0137 multiplied by the monthly price of alfalfa hay per ton.

**Buy Up Margin Protection** - means margin protection coverage for a margin protection level above \$4 per cwt of milk.

**CCC** - means the Commodity Credit Corporation of the U.S. Department of Agriculture.

**Catastrophic Level or CAT** - means the lowest level of margin coverage, \$4.00 per cwt on 90% of production history for the annual administrative fee of \$100.

**Consecutive 2-Month Period** - means a 2-month period consisting of the months of January and February, March

and April, May and June, July and August, September and October, or November and December, respectively.

**Contract** - means the terms and conditions to participate in MPP-Dairy as executed on a form prescribed by CCC and required to be completed by the producers in the dairy operation and accepted by CCC, including any contract modification made in an annual election period before coverage for the applicable calendar year commences.

**Contract Period** - means a period ending on December 31, 2018, with annual election periods provided for contract modifications, including coverage level changes for the applicable calendar year.

**County Committee or COC** - means the FSA county committee.

**County Office** - means the FSA office responsible for administering FSA programs for farms located in a specific area in a State.

**Coverage Level Percentage** - means the percentage level of coverage elected by the participating dairy operation ranging from 25 percent to 90 percent, in 5 percent increments.

**Coverage Level Threshold** - means the margin level trigger selected by the participating dairy operation, ranging from \$4.00 to \$8.00, in \$0.50 increments.

**Covered Production History** - means the production history of the dairy operation multiplied by the coverage percentage selected by the participating dairy operation.

**Coverage Period** - means a period beginning on January 1 and ending on December 31 for which a participating dairy operation has coverage under the MPP-Dairy program.

**Dairy Operation** - means a dairy operation as defined pursuant to the criteria and procedures under the Milk Income Loss Contract (MILC) Program or any dairy facility that was part of a single dairy operation that participated in the MILC program as of February 7, 2014, that consists of one or more dairy producers that produce and market milk commercially produced from cows as a single unit in which each dairy producer: (1) is at risk in the production of milk in the dairy operation; (2) contributes land, labor, management, equipment, or capital to the dairy operation which are at least commensurate with the individual or entity's share of the

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proceeds of the operation; and (3) whose production facilities are located in the United States. Operations that are determined to be "new operations" under this program will be subject to an affiliation test under these terms and conditions if the operation elects to participate in MPP-Dairy separately. The Deputy Administrator for FSA or designee will determine additional dairy operations that operate in a manner that is separate and distinct.

**Deputy Administrator** - means the Deputy Administrator for Farm Programs (DAFP) or designee.

**Farm Service Agency or FSA** - means the Farm Service Agency of the U.S. Department of Agriculture and is responsible for administering MPP-Dairy.

**Full Month of Production** - is established when a dairy operation has produced milk each day of the corresponding calendar month.

**Hundredweight or cwt** - means 100 pounds.

**Intergenerational Transfer** - means the one-time establishment of additional production history for a participating dairy operation when a lineal descendant, who is a son, daughter, grandchild, or spouse of a child or grandchild of a current member joins a participating dairy operation.

**Livestock Gross Margin-Dairy (LGM-Dairy)** - means the risk management insurance program for dairy producers offered by the Federal Crop Insurance Corporation.

**Margin Protection Program for Dairy Producers or MPP-Dairy** - means a voluntary risk management program authorized by the Agricultural Act of 2014 offering risk protection against low margins resulting from a combination of low milk prices and high feed costs for participating dairy operations.

**Marketed Commercially or Commercially Marketed** - means selling whole milk to either the market to which the dairy operation normally delivers and receives monetary compensation or other similar markets as determined by the Deputy Administrator.

**Milk Income Loss Contract or MILC** - means the program established under section 1506 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8773) and regulations in 7CFR Part 1430, Subpart B.

**Milk Marketing** - means a sale of milk for which there is a verifiable production record of milk marketed commercially.

**MPP-Dairy Payment** - means a payment made to an eligible participating dairy operation when the national margin falls below the operation's selected margin trigger for a consecutive 2-month period.

**New Dairy Operation** - means any dairy operation that did not commercially market milk at least 12 full months as of February 7, 2014.

**Open Coverage Election Period** - means the period, each calendar year, established by the Deputy Administrator, for a participating dairy operation to either register to participate in the MPP-Dairy program, pay associated administrative fees and applicable premiums, or to make annual coverage elections or change annual coverage elections for an applicable calendar year.

**Opt Out** - means to no longer be contractually obligated to participate and receive coverage and or payment, if triggered, under MPP-Dairy during the 2018 coverage year only.

**Participating Dairy Operation** - means a dairy operation that registers to participate in MPP-Dairy.

**Producer** - means 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, shares in the risk of producing milk, and makes contributions (including land, labor, management, equipment, or capital) to the dairy operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of this operation as determined by the Deputy Administrator.

**Production History** - means the highest level of annual milk production during the calendar year 2011, 2012 or 2013 determined for a dairy operation when the participating dairy operation registers in MPP-Dairy. For participating dairy operations in operation less than a year, they shall elect one of the following methods to determine production history: (1) The volume of actual milk marketing's for the months in operation extrapolated to a yearly amount; or (2) An estimate of actual milk marketing's of the participating operation based on the operation's herd size relative to the national rolling herd average data. The production history is a term used to define the established annual volume of milk marketing for a participating dairy operation used throughout the duration of the MPP-Dairy to calculate premiums and MPP-Dairy payments. This base is established using the production history of the dairy operation and is determined upon initial application for MPP-Dairy.

**Retired Dairy Operation** - means a dairy producer commercially producing and marketing milk insured under a MPP-Dairy Contract who has ended active participation in the dairy operation.

**Rolling Herd Average** - means the average of the most recent 12 months of "Milk per cow" from the NASS *Milk Production* report table titled, "Estimated Milk Cows and Production by Month - United States."

**Secretary** - means the Secretary of Agriculture or any other officer or employee who has delegated the authority to act in the Secretary's stead with respect to MPP-Dairy.

**Seasonal Dairy** - means an operation that markets milk on a fixed annual schedule less than 12 months with planned periods of no production.

**United States** - means the 50 States of the United States of America, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and any other territory or possession of the United States.

**Verifiable production records** - mean evidence that is used to substantiate the amount of production marketed and that can be verified by CCC through an independent source.

## 2. Eligibility.

- a) By signing the MPP-Dairy Contract and Annual Coverage Election the participant certifies that such participant produces milk from cows in the United States and is in the business of commercially marketing such production at the time of registration and each annual coverage election.
- b) The participant agrees to provide evidence of such production commercially marketed by all persons in the participating dairy operation to establish total pounds of

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production history that will be converted to hundredweight and subsequently used to determine payment eligibility based on the amount of coverage selected by the dairy operation.

- c) The dairy operation must comply with highly erodible land and wetland conservation provisions set out at 7 CFR Part 12, and all other provisions prescribed in the MPP-Dairy regulations at 7 CFR Part 1430, Subpart A.
- d) The dairy operation must agree to not participate in the Livestock Gross Margin for Dairy (LGM-Dairy) Program administered by the Risk Management Agency.

### 3. Restrictions on Payments

- a) Any producer who enters into a MPP-Dairy contract with CCC or participates in such contract at any time who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be ineligible to receive payments under this contract unless such person meets the requirements of 7 CFR Part 1400 which shall be applicable to this contract. A dairy operation with ineligible foreign persons as members will have any payment reduced by the proportional share of such members.
- b) Federal agencies and States, including all agencies and political subdivisions of a State, are not eligible for payments under MPP-Dairy.

### 4. Dairy Operation Determination

- a) A dairy operation that enters into a MPP-Dairy contract with CCC that was previously part of a single operation that was eligible for and participated in the Milk Income Loss Contract (MILC) program administered FSA as of February 7, 2014, will be classified in the same manner under MPP-Dairy. All other dairy operations must meet the requirements of a separate and distinct dairy operation, as established by FSA State Committee criteria under the MILC program.
- b) A participating dairy operation that purchases or forms a new dairy operation will be subject to an affiliation rule that restricts the new operation from being determined a separate and distinct dairy operation under MPP-Dairy if producers that collectively own more than 50 percent interest of the new dairy operation also collectively own more than 50 percent interest in another dairy operation registered in MPP-Dairy.
- c) A single dairy operation operated by more than one dairy producer will be treated as a single dairy operation for MPP-Dairy purposes. A producer who owns more than one eligible dairy operation determined to be separate and distinct by FSA may participate separately for each dairy operation.

### 5. Establishing Production History Under MPP-Dairy

- a) A dairy operation in the business of producing and commercially marketing milk as of February 7, 2013, agrees to establish production history based on the annual milk marketing's from the highest of the 2011, 2012, or 2013 milk marketings.

- b) A dairy operation that begins to produce and market milk after February 7, 2013, and a leased or rented dairy operation that relocates to another location and cannot transfer production history will be considered a new dairy operation and production history for such new dairy operation will be determined by either one of the two following methods, at the election of the dairy operation:

- 1) Extrapolated from actual production data for the first calendar year with at least one full month of production history, adjusted using a national seasonality index to calculate a yearly amount of production; or
- 2) Estimated based on the herd size of the dairy operation relative to the national rolling herd average production data published by USDA.

- c) The production history must be established on a form prescribed by CCC. The amount established is assigned to the participating dairy operation, not to an individual producer, and will be adjusted by an annually announced adjustment factor to reflect annual changes in the national average milk production.
- d) The established production history of a participating dairy operation that sells or changes ownership of the operation will stay with that operation and be assigned to the new owner.
- e) The established production history of a participating dairy operation that relocates or otherwise moves their operation to another location will transfer to the new location, except that production history established at a leased or rented facility cannot be transferred by the producer leasing or renting the dairy facility. If the new location has existing production history, the production history may be reconstituted combining the production history of the relocated operation and the new location to the new location and becomes available for the next calendar year of coverage.
- f) An increase in established production history is prohibited except in the following instances: 1) As provided in (c); and 2) Intergenerational Transfers as provided in (k).
- g) Only in cases where a dairy producer purchases a dairy operation with no established production history can a new history be established, subject to the affiliation rule set out in section 4a that prohibits a new dairy operation that is affiliated with a registered dairy operation under MPP-Dairy from being treated as a separate dairy operation under MPP-Dairy.
- h) Producers of more than one dairy operation that separately participate in MPP-Dairy may transfer the established production histories of these dairy operations into a previously unregistered dairy operation.
- i) FSA may reestablish production history, provided that the production history has not been transferred, in the case of the retirement of a producer in a solely owned dairy operation or the dissolution of a participating dairy operation.

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- j) All producers in the participating dairy operation are required to provide adequate proof of the dairy operation's quantity of milk commercially marketed, to establish the production history for the dairy operation. All information provided is subject to verification, spot check, and audit by FSA.
- k) Established production history of a participating dairy operation may be adjusted upward once during the term of the contract for an intergenerational transfer based on the purchase of additional cows by the new family member(s). The increase in the established production history of the participating dairy operation will be determined based on the national rolling herd average data for the current year in effect at the time of the intergenerational transfer and the quantity of the production history increase will be limited to an amount not more than 4 million pounds. The additional quantity of production history will receive coverage at the same elected coverage threshold and coverage percentage in effect for the participating dairy operation at the time the production history increase takes effect. Intergenerational transfers will not be allowed if the participating dairy operation's current annual production and the increase in herd size by the new member(s) is less than the operation's established production history. The dairy operation must notify FSA, using the appropriate CCC form(s), of the intergenerational transfer within 60 days of the purchase of the cows, except that for purchases made for intergenerational transfers occurring between January 1, 2016, and June 30, 2016, the dairy operation must notify FSA during the registration and annual coverage election period for coverage year 2017, established by the Deputy Administrator. The operation has the option of the additional production history taking effect beginning either with the consecutive 2-month period following notification, or the following January 1. If the additional production history takes effect between January 1 and August 31, the premium is due September 1, as specified in paragraph 9. If the additional production history takes effect between September 1 and December 31, the premium is due immediately.

## 6. Coverage Levels

- a) MPP-Dairy provides catastrophic level coverage at a \$4.00 coverage level threshold on a coverage level percentage of 90 percent of the dairy operations production history for an administrative fee of \$100. Buy-up margin protection is also available for a premium in addition to the administrative fee. Amounts of coverage and premiums vary based on producer selections.
- b) At the time of registration and annually thereafter, producers in a participating dairy operation must select a coverage level threshold between \$4.00 and \$8.00 (in \$.50 increments) and a coverage level percentage of production history from 25 percent to 90 percent (in 5 percent increments).
- c) Only one coverage level threshold and one coverage level percentage of production history can be selected per participating dairy operation for a calendar year of coverage.
- d) The coverage levels selected also cannot be split and all producers in a participating dairy operation must agree to the coverage levels selected.
- e) Registered dairy operations may change their levels of coverage annually during the annual coverage election period but cannot drop coverage altogether, except in cases where a producer is retiring, dies, or the operation goes out of business, or the dairy operation opts out for the 2018 coverage year.
- f) Coverage level elections must be submitted on an authorized form by the end of the initial registration or annual coverage election period.
- g) In the event a participating dairy operation fails to make a coverage election, the dairy operation will remain obligated to pay the annual administrative fee through 2018, except if the dairy operation opts out of 2018 coverage.

## 7. Margin Coverage

Payments are issued to dairy operations when the actual dairy production margin is at a level that is below the participating dairy operation's elected coverage level threshold. MPP-Dairy does not provide coverage for the death or loss or destruction of your dairy cattle, or against any unexpected decline in milk production, or in other loss or damage of any kind whatsoever.

## 8. Registration and Coverage Election

- a) Registration of a dairy operation under MPP-Dairy results in a multi-year contract between CCC and the dairy operation.
- b) A dairy operation agrees to pay an administrative fee of \$100 at registration and annually thereafter for the duration of the MPP-Dairy program by the close of each coverage election period. Except, for the 2018 coverage year only, the dairy operation may opt out of participation according to subparagraph 14c, and any dairy operation that chooses to opt out will not be obligated to pay the administrative fee for the 2018 coverage year. Non-payment of the annual administrative fee by the close of the initial registration period is considered an incomplete contract and the participation request for coverage under MPP-Dairy will not be approved.
- c) Once the coverage election period for an applicable calendar year of coverage has ended, a dairy operation's election of coverage becomes final and can only be changed for the next calendar year of coverage during the next coverage election period.
- d) All producers in a dairy operation must agree to register the operation for the program in order for that operation to be eligible for MPP-Dairy coverage.
- e) Dairy operations must agree to carry MPP-Dairy coverage for the duration of the program.
- f) Dairy operations must register and make coverage elections on a CCC prescribed form and submit completed contracts and supporting documentation to the administrative county FSA office during the annual coverage election period established by the Deputy Administrator. Registration requests and coverage



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elections submitted after the applicable allowed time for submission will not be considered, except following the first 90 calendar days from the date on which a new dairy operation first commercially markets milk, the new dairy operation may register or otherwise wait until the next registration and coverage election period is announced.

- g) To receive coverage under MPP-Dairy, separate registrations are required for each separately constituted dairy operation. If a dairy producer operates more than one separate and distinct operation, the producer shall register each operation separately for each operation to be eligible for coverage.
- h) If a participating dairy operation fails to file an update of its coverage election during the annual election coverage period, the coverage level will be reduced to the catastrophic level coverage, but such coverage will only be provided if the participating dairy operation timely pays the annual administrative fee for the relevant calendar year, and submits the appropriate form prescribed by CCC.
- i) All producers in a participating dairy operation must sign and certify to all submissions made under MPP-Dairy that relate to the registration and level of coverage. All information provided is subject to verification and FSA may require a dairy operation to provide verifiable documentation, to the satisfaction of the FSA county office committee. If the dairy operation does not provide, to the satisfaction of FSA, documentation requested to substantiate the eligibility or registration of the dairy operation, including but not limited to documents pertaining to establishing production history of the dairy operation, then the registration will not be approved.

## 9. Premium or Buy-Up Coverage

- a) Coverage level thresholds (margin triggers) above \$4.00 require payment of a premium at a rate established by the 2014 Farm Bill that corresponds to coverage level percentage elected by the dairy operation on the first 4 million pounds (40,000 cwt) of covered production history and covered production history above 4 million pounds (40,000 cwt). The premium will be determined based on the dairy operation's election of the coverage level threshold and coverage level percentage.
- b) Premiums per cwt for the covered production history that is 4 million pounds or less are as follows:

\$4.00.....	None
\$4.50.....	\$0.010
\$5.00.....	\$0.025
\$5.50.....	\$0.040
\$6.00.....	\$0.055
\$6.50.....	\$0.090
\$7.00.....	\$0.217
\$7.50.....	\$0.300
\$8.00.....	\$0.475

- c) Premiums per cwt for the part of covered production history that is over 4 million pounds are as follows:

\$4.00.....	None
\$4.50.....	\$0.020
\$5.00.....	\$0.040
\$5.50.....	\$0.100
\$6.00.....	\$0.155
\$6.50.....	\$0.290
\$7.00.....	\$0.830
\$7.50.....	\$1.060
\$8.00.....	\$1.360

- d) A new dairy operation that first registers to participate in MPP-Dairy for a calendar year after the start of the calendar year is only required to pay a pro-rated premium for that calendar year that is based on the portion of the calendar year for which the participating dairy operation is eligible and for which it purchases coverage.
- e) The dairy operation must pay 100 percent of the amount of the total premium no later than September 1 of the applicable calendar year of coverage.
- f) A participating dairy operation with an unpaid premium balance after September 1 for a calendar year of coverage will have any payments for coverage calculated on or after October 1 of the applicable coverage year reduced to CAT level coverage for the remainder of that year. If the participating dairy operation is still in arrears after September 30 of the calendar year of coverage, the dairy operation will not be eligible for buy-up coverage in the subsequent calendar year. The dairy operation will remain legally obligated to pay the full premium for the program year for which it did not pay the balance of the premium and the annual administrative fee for the duration of the MPP-Dairy program according to paragraphs 12 and 17. After coverage has been reduced to CAT level, eligibility for premium buy-up coverage for a subsequent calendar year of coverage can only be reinstated when the premium is paid in full prior to the end of the applicable subsequent coverage years' registration and coverage election period announced by FSA.
- g) The Deputy Administrator may waive the obligation to pay the premium, or refund the premium paid, of a participating dairy operation for a calendar year, in cases that include, but are not limited to, as determined by the Deputy Administrator, death, retirement, permanent dissolution of a participating dairy operation, or other circumstances determined by the Deputy Administrator.

## 10. Determining Payment

- a) MPP-Dairy payments for a dairy operation are based on a coverage level and percentage of coverage annually elected by a participating dairy operation.
- b) An MPP-Dairy payment will be made to a participating dairy operation for any consecutive 2-month period when the average actual dairy production margin for



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the consecutive 2-month period falls below the coverage level threshold in effect for the participating dairy operation.

- c) USDA will calculate the actual dairy production margin using the national all-milk price minus the national average feed cost based on prices and feed rations provided in the regulations at 7 CFR 1430.110.
- d) The MPP-Dairy payment to an eligible dairy operation for the qualifying 2-month period will equal the product obtained by multiplying the amount by which the coverage level in effect for the participating dairy operation exceeds the average actual dairy production margin for the applicable 2-month period by the coverage percentage in effect; and the production history of the dairy operation divided by 6. If the dairy operation purchased buy-up coverage at less than 90 percent and the catastrophic level also triggers then there will be two calculations to determine the payment; first the calculation for the buy-up coverage percentage; and then the calculation for the CAT level percentage, which will be the balance of the established production history up to 90 percent. The result of these calculations will be added together to determine the payment.

### 11. Coverage Period

- a) Coverage begins on the covered production history on January 1 of the applicable calendar year of coverage and ends on December 31 of that same year for participating dairy operations registering during the preceding registration and annual coverage election period.
- b) Coverage for new dairy operations registering after a registration and annual coverage election period has ended, but within the first 90 days that the operation begins to produce and commercially market milk will begin with the next consecutive 2-month period.
- c) Coverage for the month 2-consecutive periods of January and February, March and April, May and June, July and August, September and October, or November and December cannot be split.

### 12. Duration of Participation

- a) Participating dairy operations registered in MPP-Dairy are enrolled in the program until December 31, 2018. As such, a participating dairy operation is obligated to pay the initial and annual administrative fees and applicable premiums each succeeding calendar year following the date the contract is first entered into through December 31, 2018. However, a participating dairy operation may opt out of MPP-Dairy for the 2018 coverage year and in so doing will not be obligated to pay the administrative fee for coverage year 2018. If a participating dairy operation chooses to opt out of MPP-Dairy participation and not continue coverage for 2018, as provided in subparagraphs 8b and 14c, the dairy operation will not receive any benefits if payments trigger for 2018.

- b) If a participating dairy operation goes out of business before December 31, 2018, the contract will be terminated immediately, upon notification to FSA on the prescribed form, except with respect to payments accrued to the benefit of the participating dairy operation before such termination or the participating dairy operation has the option to continue contract coverage for the remainder of the coverage years provided all premium fees are current by September 1 of the applicable calendar year of coverage.

### 13. Contract Modifications

- a) Producers in a participating dairy operation must notify FSA immediately of any changes that may affect their participation in MPP-Dairy. Changes include, but are not limited to death of a producer on the contract, producer joining the operation, producer exiting the operation, relocation of the dairy operation, transfer of shares by sale or other transfer action, or dairy operation reconstitution.
- b) Payment of any outstanding premium or administrative fee for a participating dairy operation must be paid in full before a transfer of shares by sale or any other change in producers on the contract originally submitted to FSA may take effect. Otherwise, producer changes will not be recognized until the following annual open coverage election period and only if at that time all associated premiums and administrative fees from any previous calendar year of coverage have been paid in full.
- c) In the event that a statute is enacted during the duration of this contract which would materially change the terms and conditions of this contract, CCC may require the participants to elect between acceptance of modifications in the contract consistent with the provisions of such statute or termination of this contract.
- d) CCC may modify a contract under MPP-Dairy if it is determined that such modifications are desirable to carry out purposes of the program or to facilitate the program's practical administration.

### 14. Termination of Contract

- a) If a participating dairy operation fails to carry out the terms and conditions of this contract but CCC determines that such failure does not warrant termination of this contract, CCC may require such operation to refund, with interest, payments received under this contract, or require the operation to accept such adjustments in the subsequent payment as are determined to be appropriate by CCC. Interest shall run on all refunds from the date of CCC disbursement.
- b) If it is determined by the FSA County Committee that a dairy operation has reorganized for the sole purpose of establishing a new production history or to circumvent applicable premium rates under MPP-Dairy, the operation will be considered in violation of their contract and subject to termination according to this section.
- c) For the 2018 coverage year only, MPP-Dairy participants may opt out of the program by not making

## CCC-782 Appendix, Margin Protection Program for Dairy Producers Terms and Conditions (Continued)

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a coverage election during the applicable annual coverage election for the 2018 coverage year.

### 15. Corrections

CCC reserves the right to correct all errors in entering data or the results of computations in the contract.

### 16. Erroneous Representation and Scheme and Device

- a) A participant who is determined to have erroneously represented any fact affecting a determination with respect to this contract and regulations applicable to this contract, adopted any scheme or device which tends to defeat the purposes of this contract, or made any fraudulent representation with respect to this contract will not be entitled to payments or any other benefits made in accordance with this contract and the participant must refund to CCC all payments received by such participant, plus interest with respect to the contract.
- b) Unless CCC regulations provide otherwise, refunds determined to be due and owing to CCC in accordance with this contract will bear interest at the rate which CCC was required to pay for its borrowing from the United States Treasury on the date of disbursement by CCC of the monies to be refunded. Interest will accrue from the date of such disbursement by CCC.
- c) The remedies provided under this section shall be applicable in addition to any remedies under criminal and civil fraud statutes, including 18 U.S.C. 268, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729, or any other remedy available under law.

### 17. Failure to Pay Fees

- a) A participating dairy operation that fails to pay a required administrative fee or premium payment due upon application to MPP-Dairy or for a calendar year of coverage will remain legally obligated to pay such administrative fee or premium, as applicable. Failure to pay the required annual administrative fee will result in loss of coverage for the applicable year of coverage. However, CAT level coverage only may be reinstated for the applicable coverage year if the dairy operation pays the administrative fee later. Failure to pay an applicable premium payment when due will result in reduction to CAT level coverage under MPP-Dairy for the remainder of the applicable year of coverage.
- b) CCC may take such actions as necessary to collect unpaid administrative fees and premium payments.

### 18. Regulations to Prevail to the Extent They Are Not Superseded by the Agricultural Act of 2014

The regulations in 7 CFR Part 1430, Subpart A, for MPP-Dairy are incorporated herein. In the event of a conflict between the regulations and the terms of this Appendix, the provisions of the regulations will prevail, provided further that a payment may be made only if allowed by both the contract (including this Appendix) and the program regulations.

### 19. Sequestration

Payments under the MPP-Dairy may be reduced by a certain percentage due to a sequester order required by Congress and issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. If a payment reduction is required, FSA will reduce the payment by the required amount.

**Revised MPP-Dairy 2018 Annual Coverage Election Reminder Postcard**

The following is an example of the MPP-Dairy 2018 annual coverage election reminder postcard.

