

§ 1430.344

7 CFR Ch. XIV (1-1-01 Edition)

hundredths (11.25) cents per hundredweight shall be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use during the period beginning on January 1, 1992, and ending December 31, 1995.

(3) Except as provided by the provisions of paragraph (a)(5) of this section, a reduction of ten (10.00) cents per hundredweight shall be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use during the period beginning on January 1, 1996, and ending December 31, 1997.

(4) The reductions specifically provided for in paragraphs (a)(2), (a)(3) and (a)(5) of this section with respect to the price received by producers for all milk produced in the United States and marketed by producers for commercial use during the period beginning on January 1, 1992, and ending December 31, 1997, shall, as appropriate, be reduced by ten percent during the period beginning on the date of FDA BGH approval and ending 90 days after the date of such approval.

(5) For each of the calendar years 1992 through 1997, the reductions as specifically provided for in paragraphs (a)(2) and (a)(3) of this section, with respect to marketings of milk for commercial use in those respective years, shall be increased on, or before, May 1 of the year for the remainder of the year by an amount per hundredweight of milk that is necessary in order to compensate for refunds made to producers of milk for price reductions collected under this subpart on milk marketed for the immediately preceding calendar year.

(b) *Remittances.* Each responsible person shall remit to the CCC the funds represented by the reductions required by this subpart by the last day of the month following the month in which the milk was marketed. For all milk marketed outside of the United States by producers, the producer shall also remit the funds represented by the reductions to CCC by the last day of the month following the month in which the milk was marketed, unless the person paying the producer for such milk

has remitted the funds by that date, in which case the payment shall be considered to have been made by the producer and may be retained by CCC on that basis. Remittances to the CCC shall be made using negotiable instruments payable in United States currency, drawn on a United States bank, and made payable to the *Commodity Credit Corporation* or to the CCC. Remittances and reports required under this subpart shall be mailed to the location designated by the Dairy Division.

(c) *Remittance report.* (1) For each month that a person is a responsible person, such person shall, in addition to remitting the funds for the reduction, file a report as prescribed by the Dairy Division which shall include:

(i) The identity of the responsible person, including such person's business address;

(ii) The month in which the applicable marketings occurred;

(iii) The total pounds of milk to which the remittance applies; and

(iv) Any additional information required by the Dairy Division.

(2) The report required in paragraph (c)(1) of this section shall be submitted by the due date for the remittances required by this subpart.

(d) *Application of Remittances.* Funds received by the CCC pursuant to this subpart shall be applied first to any outstanding penalty, then to late-payment interest and other charges, and then to the principal amount due.

(e) The funds remitted to the CCC under this paragraph shall be considered to be included in the payments made to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 *et seq.*), as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937.

[56 FR 4527, Feb. 5, 1991, as amended at 58 FR 61001, Nov. 19, 1993]

**§ 1430.344 Refunds—General provisions for eligibility and other requirements.**

(a) A refund of a reduction in producer proceeds made under this subpart may be made only to the extent explicitly provided for in this subpart. Such refunds may be made only for milk

marketed by producers in the calendar years 1991 through 1997. The monies that may be refunded to a person shall include only the reductions in proceeds of that person as provided for in §1430.343(a) pursuant to provisions of the Omnibus Budget Reconciliation Act of 1990 and the Omnibus Budget Reconciliation Act of 1993.

(b) A person may receive a refund only for reductions actually made in that person's producer proceeds for milk and only for those monies actually remitted to CCC.

(c) If other conditions are met, a person may receive a refund of the entire refundable reduction made under this subpart for a calendar year in that person's milk producer proceeds if for that year the marketings of milk for commercial use, individually, of that person and each related person with respect to that person were not greater than their marketings of milk for commercial use in the applicable base period. This calculation will be made separately for the person seeking the refund and each related person.

(d) The person seeking the refund shall be responsible to prove that the refund is due. Such person must present all relevant data needed by the county committee to establish eligibility for the payment or requested by the County Committee for that purpose. That information will include all information needed to make the necessary determinations concerning related persons. The person seeking the refund for all relevant months must present month-by-month marketing data for that person and related persons for the relevant time periods.

(e) If the person seeking the refund was a responsible person for such person's own milk production, then such person must also provide proof that the required remittances were paid to CCC. If the responsible person was a third party, the person seeking the refund shall be required to certify whether, to the best of such person's knowledge, the reductions to be refunded were remitted to the CCC. If the third party did not make full payment for all marketings of all producers for the relevant period, the refund eligibility of individual producer shall be adjusted in such manner as DASCO determines to

be appropriate taking into consideration the purposes of this subpart.

(f) The burden of proof on all refund matters shall lie with the person seeking to obtain, or retain, a refund from CCC. Such persons may be required to obtain certifications and documentation as needed from third parties to establish eligibility for a refund.

(g) A person may seek a refund as a representative of a producer where such representation arises by reason of the death, disappearance or incompetency of the producer or by other cause as permitted by DASCO.

(h) No persons may apply for a refund before the end of the year of the reduction to be refunded.

(i) A complete application for a refund with all necessary documentation must be submitted to the county committee by March 15 of the year following the year for which the refund is requested, or if March 15 is not a business day, the next business day thereafter.

(j) If an overpayment of a refund is made, such overpayment shall be repaid to CCC with interest from the date of the overpayment. The repayment shall be due from the person who obtained the overpayment and any person who knowingly participated in a scheme or device to obtain the overpayment. If the overpayment resulted from a failure to comply with the provisions of this subpart, or results from a violation of this subpart, the persons responsible shall, in addition, be liable for a civil penalty to be paid to CCC. The amount of the penalty may be up to the amount equal to the quantity of milk involved in the overpayment multiplied by the support price for milk at the time the reduction in proceeds was made. These liabilities shall be in addition to any others imposed by law.

(k) All determinations made by county committee with respect to the granting of refunds or collection of overpayments shall be subject to review by DASCO, as deemed needed by DASCO to assure uniformity of treatment and to assure that there is full compliance with the provisions of this subpart.

[56 FR 4527, Feb. 5, 1991, as amended at 58 FR 61002, Nov. 19, 1993]