

§ 1430.345

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

§ 1430.345 Determination of marketings for refund purposes; Related persons; Refunds for years in which the person whose proceeds were reduced leaves the dairy business.

(a) For purposes of calculating refund eligibility under this subpart, the marketings of a person for commercial use shall include all such marketings for the relevant period in which such person had an interest.

(b) As determined appropriate by DASCO to accomplish the goals of the program, the county committee may also consider marketings of milk occurring in the base period or in the reduction year of any operation with respect to which the person had an interest in the herd, the dairy animals, or in the facilities involved in the production at any time during the base period or reduction year.

(c) DASCO may consider a person to be in compliance with the requirements for the refund despite a failure to comply with conditions otherwise required by this subpart if such relief is deemed to be needed to afford fair and equitable treatment and the granting of such relief will not impair the accomplishment of the goals of the program.

(d)(1) Persons considered to be a related person with another person for purposes of calculating refund eligibility shall be as follows:

(i) The spouse and minor child of such person and/or guardian of such child;

(ii) Any corporation in which the person is a stockholder, shareholder, or owner of equal to, or greater than, a 10 percent interest in such corporation;

(iii) Any partnership, joint venture, or other enterprise in which the person has an ownership interest or financial interest; and

(iv) Any trust in which the person seeking the refund or any person listed paragraphs (d)(1) (i) through (iii) of this section is a beneficiary or has a financial interest.

(2) If the person seeking a refund is a corporation, partnership, or other entity, the related persons shall be considered to be:

(i) Any participant, owner, or stockholder in the entity except, in the case

of corporations only, persons with less than a 10 percent share in the corporation shall not be considered a related person with respect to that corporation; and

(ii) As determined under the provisions of paragraph (d)(1) of this section, any person who is a related person with respect to the persons identified as a related person to an entity under (d)(2)(i) of this section.

§ 1430.346 Transfer of milk marketing history for purposes of establishing eligibility for a refund.

(a) If a producer has acquired the complete dairy operation (i.e., all land, all equipment and all dairy cattle at all locations) of a family member, the milk marketing history of the acquiring producer may be increased by the milk marketing history of the family member. The preceding sentence shall apply only if the transferor no longer has any interest in any dairy, dairy herd, or in any dairy production. No other transfer of a milk marketing history shall be permitted.

(b) A request for a transfer of the milk marketing history must be made to the county committee of the county where the acquiring producer's dairy farm is located. A transfer may be approved only if adequate records are presented to establish eligibility for the transfer.

(c) For purposes of this section:

(1) *A family member* of the transferee of the dairy operation shall include all of the following:

(i) The parent, grandparent, or legal guardian of the transferee;

(ii) The spouse of a parent or grandparent of the transferee;

(iii) The transferee's spouse;

(iv) The son, daughter, grandson or granddaughter of the transferee, or the spouse of any such persons;

(v) Siblings of the transferee and the spouses of such siblings.

(2) *Milk marketing history* means the milk marketings by the transferor of the dairy operations in the year preceding the year of the transfer of the complete dairy operation which could have been used by the transferor to claim a refund of a reduction in producer proceeds made under this subpart.