

Arkansas Agriculture Department
No. 1 Natural Resources Drive
Little Rock, AR 72205
Telephone: 501-683-4851

Arkansas Dairy Stabilization Grant

Amended Regulation Summary

An Emergency Rule was filed October 9, 2009. That Emergency Rule will expire February 9, 2010. The rule contained in this amendment is needed to continue the grant payments.

The summary below was in that Emergency Rule.

The Arkansas Legislature, Governor Beebe, the Milk Stabilization Board and the Arkansas Agriculture Department found that the dairy farmers of Arkansas are in imminent peril of going out business without assistance. This peril of loss of the dairy industry requires adopting the rule on no notice without a public hearing.

These regulations/rules will provide for continued payments to these farmers in the spirit of Act 968 of 2009. Additionally, the rule packet contains definitions, eligibility criteria, processes, procedures and the applications that must be completed and submitted to the department. These forms will require externally variable information that is important in establishing eligibility parameters and controls to administer appropriate payments to Arkansas Dairy farmers.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY: Arkansas Agriculture Department
DIVISION Office of the Secretary
DIVISION DIRECTOR Richard Bell
CONTACT PERSON Lucian Shockey
ADDRESS_1 Natural Resources Drive , Little Rock, AR 72205
PHONE NO. 501-219-6362 FAX NO. 501-219-1697 E-MAIL Lucian.Shockey@aad.ar.gov
NAME OF PRESENTER AT COMMITTEE MEETING Richard Bell
PRESENTER E-MAIL Richard.Bell@aad.ar.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule? Arkansas Milk Stabilization Program Grants
2. What is the subject of the proposed rule? Stabilization of Arkansas milk production
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation.
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes No
If yes, what is the effective date of the emergency rule? October 9, 2009
When does the emergency rule expire? February 9, 2010
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes ___ No X If yes, please provide a brief summary explaining the regulation

See attached

Does this repeal an existing rule? Yes ___ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes X No ___ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

6. Cite the state law that grants the authority for this proposed rule?

If codified, please give Arkansas Code citation. Arkansas Act 968 of 2009

7. What is the purpose of this proposed rule? Why is it necessary?

It establishes the procedure and documents to apply for and approve grants authorized by Act 968 of 2009

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://aad.arkansas.gov/>

9. Will a public hearing be held on this proposed rule? Yes X No ___

If yes, please complete the following:

Date: **July 27, 2009** _____

Time: **10:00 am** _____

Place: **#1 Natural Resources Drive** _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

July 28, 2009 _____

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

December 1, 2009 _____

12. Do you expect this rule to be controversial? Yes ___ No X If yes, please explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

NONE

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Agriculture Department
DIVISION Office of the Secretary
PERSON COMPLETING THIS STATEMENT Lucian Shockey
TELEPHONE NO. 501-219-6362 FAX NO. 501-219-1697 EMAIL: Lucian.Shockey@aad.ar.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Does this proposed, amended, or repealed rule affect small businesses?
Yes No

If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

Next Fiscal Year

General Revenue -0-
Federal Funds _____
Cash Funds -0-
Special Revenue 3.0 million
Other (Identify) _____
Total 3.0 million

General Revenue -0-
Federal Funds _____
Cash Funds -0-
Special Revenue 4.0 million
Other (Identify) _____
Total 4.0 million

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ _____-0-_____

Next Fiscal Year

\$ _____-0-_____

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

\$ _____ 3.0 million _____

Next Fiscal Year

\$ _____ 4.0 million _____

This is the cost of the Program

**Arkansas Agriculture Department
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Arkansas Milk Stabilization Program

Rules for Program Administration and Grant Applications

A. Purpose

To halt the decline in Arkansas milk production by providing grants to milk producers during periods of financial stress and provide grants to individual milk producers who increase their volume and quality of milk above production during a base period.

B. Authority

Act 968 of the 2009 regular session of the 87th Arkansas General Assembly provides for grants and incentives to assist Arkansas dairy farmers to continue producing milk in the state and authorizes the Secretary and the Arkansas Agriculture Department to administer the program.

C. Definitions

1. ~~**Milk Producer** means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative or other business or other legal entity who directly or indirectly shares in the risk of producing milk and makes contributions to the dairy operation commensurate with the share of the proceeds of the operation.~~
2. 1. **Eligible Milk Producer** means a person or entity that operates a bovine farm producing milk in Arkansas and possesses a valid permit signed by the administrator of the Arkansas Grade "A" Milk Program administered by the Arkansas Department of Health. The producer may be an individual, group of individuals, partnership, corporation, estate, trust association, cooperative or other business or other legal entity who directly or indirectly shares in the risk of producing milk and makes contributions to the dairy operation commensurate with the share of the proceeds of the operation.
3. 2. **Milk Handler** means the marketing agency or cooperative to or through

which the eligible milk producer commercially markets whole milk.

4. ~~3.~~ **Milk Production** means the volume of milk delivered by an eligible milk producer to a handler for commercial marketing.
5. ~~4.~~ **Year** means a year beginning July 1 of each calendar year and extending through June 30 of the following calendar year.
6. ~~5.~~ **Monthly Producer Milk Price** means the average price received each month by Arkansas eligible milk producers as estimated by the Secretary using blend price data from marketing agencies or cooperatives.
7. ~~6.~~ **Blend Price** means the volume-weighted average price of milk received by milk producers from all Federal Milk Marketing Order classes of milk marketed during a specified period.
8. ~~7.~~ **Department** means the Arkansas Agriculture Department.
9. ~~8.~~ **Secretary** means the secretary of the Arkansas Agriculture Department.
10. ~~9.~~ **Board** means the Arkansas Milk Stabilization Board.
11. ~~10.~~ **Cwt.** means a hundredweight or 100 pounds of whole milk.
12. ~~11.~~ **The Arkansas Milk Stabilization Board** means the board created by Act 754 of the regular session of the 86th Arkansas General Assembly.

D. Dairy Stabilization Grants

The Secretary after each month shall calculate the monthly average blend price of milk received by Arkansas eligible milk producers and obtain from the U.S. Department of Agriculture's Economic Research Service the monthly average cost of producing milk in Missouri and Tennessee.

The Secretary shall compare the monthly Arkansas average blend price of milk with 70 percent of the estimated monthly cost of producing milk in Missouri and Tennessee.

If the Secretary determines the Arkansas average blend price of milk is lower than the 70 percent of the estimated cost of producing milk in Missouri and Tennessee, eligible milk producers will be eligible for a monthly Dairy Stabilization Grant, provided funds are available.

The Secretary shall determine the amount of the monthly grant after consulting with the Arkansas Milk Stabilization Board regarding the Arkansas dairy situation and taking into

account the monthly grant cannot exceed \$5.00 per cwt. per month and the annual average grant cannot exceed \$2.00 per cwt.

The Secretary shall provide the grant to the milk producer monthly or quarterly but not later than the 15th day of the month following the end of a quarter.

E. Milk Production and Quality Incentive Grants

The Secretary will provide milk production and quality incentive grants to eligible milk producers if funds are available in accordance with the following provisions:

- (1) 50 cents per cwt. of milk for each cwt. of milk produced during a given year above the producer's average annual production during the preceding two years as reported by the producer's milk handler/marketing cooperative.
- (2) 50 cents per cwt. for the milk produced during a given year above the average annual production of the preceding two years if the somatic cell count is below four hundred thousand for milk produced during the given year, as reported by the producer's milk handler/marketing cooperative.
- (3) A milk producer who begins milk production after July 1, 2009 qualifies for production and quality incentives after completion of one year of continuous milk production in Arkansas.
- (4) Annual incentives to milk producers for milk production and quality shall ~~be limited to~~ not exceed \$50,000.00 per producer.

F. Applications Deadline

Dairy stabilization grants are available to eligible producers each state fiscal year (July 1 - June 30) as funds are available. Producers wanting to be considered for grants must make application on AAD forms ~~prior to July 31 of each fiscal year~~.

G. Records

Participants receiving Dairy Stabilization Grants and Milk Production and Quality Incentive Grants shall keep monthly and annual production, marketing and grant records and receipts for five years from the time the last monthly or annual grant is received.

H. Auditing

Participants in the Dairy Stabilization and Milk Production and Quality programs shall agree to make available to the Department's staff, upon request, all documents necessary to substantiate claims made in regards to their applications and grants received, including production and marketing records.

**Arkansas Agriculture Department
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Arkansas Dairy Stabilization Grant
Application

Name: _____
Producer, Partnership or Entity

Address: _____
Mailing Address

City State Zip

Telephone: _____
Home Office Mobile

Email: _____

County: _____

Grade "A" Permit No.: _____

Milk Handler/Marketing Cooperative:

Name

Address

Contact

Partnership or Entity Information (if applicable)

Names	Address	Share
_____	_____	_____
_____	_____	_____
_____	_____	_____

I hereby authorize the above named milk handler/marketing cooperative to provide my monthly milk marketings to the Arkansas Agriculture Department beginning July 1, 2009.

Signature of Producer or Authorize Representative

Arkansas Dairy Stabilization Grant – Cont'd

Producer Certifications and Signatures:

I hereby certify: I am a milk producer or a representative authorized to sign this application on behalf of a producer.

I have read and understand all provisions of the Arkansas Dairy Stabilization Grant Program and agree to the terms and conditions therein and further understand any false statement on the application can be subject to substantial civil and/or civil liability and sanctions.

I agree to maintain records pertaining to the Arkansas Dairy Stabilization Program for a period of 5 years from the time the last monthly grant is received.

I agree to furnish such information and reports relating to the program as may be requested by the Arkansas Agriculture Department.

I agree to forward to the Arkansas Agriculture Department copies of any and all records that support the receipt of assistance under the Arkansas Dairy Stabilization Program.

I agree to make such records available at all reasonable times for an audit or inspection by authorized representatives of the Arkansas Agriculture Department.

I understand failure to keep, or make available, such records will result in a termination of eligibility under the program and any funds received under the program shall be refunded to the Arkansas Agriculture Department, plus interest thereon, as determined by the Arkansas Agriculture Department.

Producer Signature

Date

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Arkansas Milk Production and Quality Incentives Grants

Application

Name: _____
Producer, Partnership or Entity

Address: _____
Mailing Address

City State Zip

Telephone: _____
Home Office Mobile

Email: _____

County: _____

Grade "A" Permit No.: _____

Milk Handler/Marketing Cooperative:

Name

Address

Contact

Partnership or Entity Information (if applicable)

Names	Address	Share
_____	_____	_____
_____	_____	_____
_____	_____	_____

I hereby authorize the above milk handler/marketing cooperative to provide to the Arkansas Agriculture Department my annual milk marketings from July 1, 2007 through June 30, 2008 and from July 1, 2008 through June 30, 2009 and my monthly milk marketings and somatic cell counts for the period from July 1, 2009 through June 30, 2010.

Signature of Producer or Authorize Representative

Arkansas Milk Production and Quality Incentives Grants – Cont’d

Producer Certifications and Signatures:

I hereby certify: I am a milk producer or a representative authorized to sign this application on behalf of a producer.

I have read and understand all provisions of the Arkansas Milk Production and Quality Incentive Grant Program and agree to the terms and conditions therein and further understand any false statement on the application can be subject to substantial civil and/or civil liability and sanctions.

I agree to maintain records pertaining to the Arkansas Production and Quality Incentive Grant Program for 5 years after receiving a grant.

I agree to furnish such information and reports relating to the program as may be requested by the Arkansas Agriculture Department.

I agree to forward to the Arkansas Agriculture Department copies of any and all records that support the receipt of assistance under the Arkansas Milk Production and Quality Incentive Grant Program.

I agree to make such records available at all reasonable times for an audit or inspection by authorized representatives of the Arkansas Agriculture Department.

I understand failure to keep, or make available, such records will result in a termination of eligibility under the program and any funds received under the program shall be refunded to the Arkansas Agriculture Department, plus interest thereon, as determined by the Arkansas Agriculture Department.

Producer Signature

Date