CHAPTER 611

MILK POOLING

§3151. Legislative Findings and Intent

The Legislature finds that among Maine's dairy farmers, prices received for milk differ substantially, and that these differences arise in part from a dual marketing system whereby approximately 1/2 the milk produced in Maine is marketed in Maine subject to the price control authority of the Maine Milk Commission, Maine market, while the other 1/2 is marketed to handlers selling in southern New England, commonly known as the Boston market, subject to the price regulations of the northeast marketing area milk marketing order. [PL 1999, c. 679, Pt. B, §6 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

The Legislature finds that under this dual system, producers selling on the Maine market receive a significantly higher price for their milk than do their Boston market counterparts; that, in terms of net income after operating costs, producers on the Maine market receive, on the average, 50% more than their Boston market counterparts of equal size; that the lower net returns received by producers selling on the Boston market seriously limits their ability to withstand cost fluctuations caused by unpredictable increases in costs of fuel, credit, feed and other input costs or price fluctuations resulting from changing milk price support policies, all of which are largely controlled by national and international policies and other events beyond their control; that this relative vulnerability engenders an instability in the present marketing system resulting in a destructive competition for higher priced markets; that this instability has recently been aggravated by the introduction of store-brand milk in Maine markets; that the result is a serious threat not only to the viability of these Boston market farms but also to the Maine dairy industry as a whole; and that the loss of these dairy farms would seriously erode Maine's agricultural base. [PL 1983, c. 573, §4 (NEW).]

The Legislature finds that the higher prices paid to Maine milk producers selling on the Maine market result from the state and federal regulatory framework of the milk industry, as well as from actual cost differences which would exist independent of any regulatory framework. Specifically, higher prices on the Maine market are found to derive from cost savings realized by the Maine market producers in transporting milk to local markets, and from a comparatively higher fluid milk, Class I, utilization rate. Whereas, this favorable utilization rate is made possible by the presence of 2 independently regulated markets which allow the sale of excess Maine production on the Boston market, with the result that such excess is excluded from the calculation of utilization rates on the Maine market, the Legislature finds that the resulting price difference is in the nature of an economic benefit which has arbitrarily accrued to Maine market producers over Boston market producers. [PL 1983, c. 573, §4 (NEW).]

The Legislature finds that it is in the best interest of the Maine dairy industry and the well-being of the State as a whole to adjust prices paid to Maine milk producers to redistribute this benefit among Maine milk producers in both markets. In so doing, it is the intention of the Legislature to eliminate those differences attributable to the higher utilization rates which are a product of the 2 regulated markets. [PL 1983, c. 573, §4 (NEW).]

The Legislature finds that dairy farms in Aroostook, Washington and northern Penobscot Counties presently operate at significantly higher costs because of their remoteness from markets and supplies; that they face greater risks because they operate on a closer margin; that their markets are less secure; and that negative changes in the overall economy have a magnified effect in the northern Maine region. [PL 1999, c. 679, Pt. B, §6 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

It is the intent of the Legislature that the reblending of Class I premiums under the Maine Milk Pool created by this chapter be deemed to be the reapportionment of an economic benefit created by regulation in order to smooth out differences in milk prices between different markets and not as a tax on the income of Maine market producers. It is also the interest of the Legislature that deductions from the Maine Milk Pool for promotion be deemed to be deductions from the amounts otherwise payable from the pool to Maine and Boston market producers. [PL 1983, c. 573, §4 (NEW).]

In addition to the above findings and as a result of the possible implementation of an over-order premium to be paid to milk producers, the Legislature finds that legislation is necessary to ensure that such a premium is distributed in a manner which is most advantageous and most equitable for all Maine milk producers and intends to achieve that result by enacting the provisions of this chapter relating to over-order pricing. The Legislature also finds that while the pooling and redistribution of such a premium as provided in this chapter is in the best interest of all Maine milk producers, it intends that redistribution to be a separate and distinct purpose and function of the Maine Milk Pool not essential to the purpose and function of the pool as originally enacted. [PL 1987, c. 447, §3 (NEW).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1987, c. 447, §3 (AMD). PL 1999, c. 679, §B6 (AMD). PL 1999, c. 679, §B14 (AFF).

§3152. Definitions

As used in this chapter, unless the context indicates otherwise, the following words have the following meanings. [PL 1983, c. 573, §4 (NEW).]

1. Blend price. "Blend price" means the price of milk per hundredweight computed as the sum of the Class I price multiplied by the percentage of milk sold as Class I milk, the Class II price multiplied by the percentage sold as Class II milk and the Class III price multiplied by the percentage sold as Class III milk. The blend price must be separately calculated for the base minimum price and the over-order premium.
[PL 1991, c. 266, §3 (AMD).]

1-A. Base minimum price. "Base minimum price" means Class I, Class II and Class III prices established pursuant to the northeast marketing area milk marketing order.
[PL 2005, c. 382, Pt. F, §25 (AMD).]

1-B. Adjusted base minimum price. "Adjusted base minimum price" means the base minimum price plus any amounts established by the Maine Milk Commission to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A.
[PL 2005, c. 382, Pt. F, §26 (AMD).]

2. Boston market dealer. "Boston market dealer" means any dealer as defined in subsection 4 who purchases milk from producers subject to the price regulations of the northeast marketing area milk marketing order.
[PL 1999, c. 679, Pt. B, §9 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

3. Boston market producer. "Boston market producer" means any Maine milk producer selling to a dealer marketing milk subject to the northeast marketing area milk marketing order, or any agricultural cooperative that buys milk from or handles milk for such a producer and sells it to such a dealer.
[PL 1999, c. 679, Pt. B, §9 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

4. Dealer. "Dealer" means any person or entity who purchases or receives milk from a producer within the State for processing and sale within or outside the State.

A. A producer-dealer which is not an agricultural cooperative shall be deemed a dealer only with respect to milk purchased or received from other producers. [PL 1985, c. 646, §1 (NEW).]

B. A producer-dealer which is an agricultural cooperative shall be deemed a dealer:

(1) With respect to all milk purchased or received from other producers; and

(2) With respect to all milk purchased or received from its members except to the extent that it is exempt from the Maine Milk Pool under section 3152-A. [PL 1985, c. 646, §1 (NEW).]

C. An agricultural cooperative which is not a producer-dealer shall be deemed a dealer with respect to all milk subject to the producer price control authority of the Maine Milk Commission which it purchases or receives and which is not sold to a dealer. [PL 1985, c. 646, §1 (NEW).]

[PL 1985, c. 646, §1 (RPR).]

4-A. Eligible marketing cooperative. "Eligible marketing cooperative" means an association of milk producers organized to negotiate producer prices higher than the minimum producer prices established pursuant to the northeast marketing area milk marketing order and that the commissioner has determined will not, through its operation, evade, impair or undermine the purposes of this chapter.
[PL 2005, c. 382, Pt. F, §27 (AMD).]

5. Maine market dealer. "Maine market dealer" means any dealer as defined in subsection 4 who sells milk subject to the price control authority of the Maine Milk Commission.
[PL 1983, c. 573, §4 (NEW).]

6. Maine market producer. "Maine market producer" means any Maine milk producer selling to a dealer marketing milk on the Maine market, or any agricultural cooperative that buys milk or handles milk for such a producer and sells it to such a dealer.
[PL 1983, c. 573, §4 (NEW).]

7. Maine Milk Pool. "Maine Milk Pool" means the sum of collections as prescribed in section 3153, from Maine market producers.
[PL 1983, c. 573, §4 (NEW).]

8. Northern Maine market producer. "Northern Maine market producer" means any Maine milk producer located in Aroostook County or Washington County or that portion of Penobscot County north of and including the minor civil divisions of Medway, T.A.R. 7 and Long A T.W.P. who sells to a dealer determined by the commissioner to be marketing milk on the Maine market or any agricultural cooperative that buys milk or handles milk for such a producer and sells it to such a dealer.
[PL 2005, c. 382, Pt. F, §28 (AMD).]

8-A. Over-order premium. "Over-order premium" means that part of the minimum Class I, Class II and Class III prices established by the Maine Milk Commission pursuant to chapter 603, that exceeds the applicable Class I, Class II and Class III prices established pursuant to the northeast marketing area milk marketing order as adjusted to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A.
[PL 1999, c. 679, Pt. B, §11 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

9. Plant price. "Plant price" means the F.O.B. price paid for milk at a milk processing plant, unless milk received at that plant is first collected at a federal order bulk reload station as defined by Part 1001 Federal Milk Order No. 1 in which case the plant price shall mean the price paid for milk at the reload station after deductions for subsequent transportation.
[PL 1983, c. 573, §4 (NEW).]

10. Producer-dealer. "Producer-dealer" means a dealer who himself produces a part or all of his milk or a person who produces milk and sells to a grocery store or dairy products store or similar commercial establishment, and shall include an agricultural cooperative comprised solely of dairy farmers that wholly owns and operates its processing facilities, and whose individual members hold a share of that ownership which is in direct proportion to that individual's share of all milk produced by cooperative members for the cooperative, provided that such an agricultural cooperative shall be a

"producer-dealer" under this chapter only if it was in existence on January 1, 1986, and had been recognized on or before that date by the commissioner as meeting the criteria established in this subsection.
[PL 1985, c. 646, §2 (AMD).]

11. Utilization rate. "Utilization rate" means the percentage of milk produced that is used as Class I or fluid milk, the percentage of milk produced that is used as Class II milk and the percentage of milk that is used as Class III milk.
[PL 1991, c. 266, §7 (AMD).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1985, c. 646, §§1,2 (AMD). PL 1987, c. 447, §§4,5 (AMD). PL 1989, c. 436, §§2-4 (AMD). PL 1991, c. 266, §§3-7 (AMD). PL 1999, c. 547, §B22 (AMD). PL 1999, c. 547, §B80 (AFF). PL 1999, c. 679, §§B7-11 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2001, c. 471, §A10 (AMD). PL 2001, c. 471, §A11 (AFF). PL 2005, c. 382, §§F25-28 (AMD).

§3152-A. Agricultural cooperatives which are producer-dealers

1. Exemption; pool payments. An agricultural cooperative that is a producer-dealer under section 3152, subsection 10 is exempt from payment into and redistributions out of the Maine Milk Pool to the extent that the milk sold or otherwise distributed by the agricultural cooperative does not exceed 5,000,000 pounds a month. Nothing in this subsection exempts an agricultural cooperative that is a producer-dealer from any other requirements of this chapter. In any month in which the milk sold or otherwise distributed by the agricultural cooperative that is a producer-dealer exceeds 5,000,000 pounds, the agricultural cooperative shall make payment into and redistributions out of the Maine Milk Pool in accordance with this chapter with respect to that milk that is in excess of 5,000,000 pounds.
[PL 2005, c. 382, Pt. F, §29 (AMD).]

2. Promotion; administration.

[PL 1999, c. 161, §4 (RP).]

SECTION HISTORY

PL 1985, c. 646, §3 (NEW). PL 1999, c. 161, §4 (AMD). PL 2005, c. 382, §F29 (AMD).

§3153. Maine Milk Pool

1. Establishment. Within 180 days after September 23, 1983, the commissioner shall adopt rules establishing a fund to be known as the "Maine Milk Pool," to which all money collected from Maine dealers pursuant to subsection 2 must be credited. These funds must be redistributed to eligible Maine market producers, eligible northern Maine market producers and eligible Boston market producers according to procedures established under subsection 4.
[PL 1999, c. 161, §5 (AMD).]

2. Collections from dealers. Collections from dealers must be made as follows.

A. Effective January 1, 2000, each Maine market dealer shall, on a monthly basis, calculate for its Maine market producers the amount of payment at the adjusted base minimum price that would be payable to its Maine market producers according to the price calculated using that dealer's utilization rate, referred to in this subsection as "the Maine sample payment amount," and the amount of payment that would be due its Maine market producers according to the price calculated using the applicable component prices and producer price differential for Suffolk County, Massachusetts for the northeast marketing area milk marketing order, referred to in this subsection as "the comparable Boston payment amount." Except as otherwise provided in this paragraph, in any month in which the Maine sample payment amount is more than the comparable Boston payment amount, the Maine market dealer shall pay to the Maine Milk Pool the amount of the difference. Based on the fact that northern Maine market producers presently operate at

significantly higher costs because of their remoteness from markets and supplies, that they face greater risks because they operate on a closer margin and because their markets are less secure, payments to the Maine Milk Pool at the adjusted base minimum price attributable to northern Maine market producers must be reduced by 1/2 and those producers' initial payments under this section must be increased by the corresponding amounts.

(1) For any month in which there is only one Maine market dealer subject to this paragraph and the milk sold or otherwise distributed by that dealer during that month does not exceed 1,000,000 pounds, the additional payment due to the Maine Milk Pool must instead be made by that dealer to its Maine market producers. [PL 2005, c. 382, Pt. F, §30 (AMD).]

B. For any month in which the Maine sample payment amount is less than the comparable Boston payment amount, the Maine market dealer may deduct the difference from the next month's initial payment to producers under section 2954-A, subsection 2, paragraph A. Upon the termination of their business relationship, producers are liable to dealers for all sums advanced under this paragraph that have not been recouped by way of deduction. [PL 2005, c. 382, Pt. F, §30 (AMD).]

C. For any month in which the Maine Milk Commission has established minimum prices payable to producers that include an over-order premium that the commission has determined is attributable to the activity of an eligible marketing cooperative, this paragraph applies. Each Maine market dealer shall, on a monthly basis, calculate for its Maine market producers the amount of payment from the over-order premium that would be payable to its Maine market producers according to the blend price calculated using that dealer's utilization rate. With respect to those producers who have designated an eligible marketing cooperative to receive the over-order premium, the dealer shall make the payment to the eligible marketing cooperative. With respect to those producers who have not designated an eligible marketing cooperative to receive the over-order premium, the dealer shall make the payment into the Maine Milk Pool. [PL 2005, c. 382, Pt. F, §30 (AMD).]

D. For any month in which the Maine Milk Commission has established minimum prices payable to producers that include an over-order premium that the commission has determined is not attributable to the activity of an eligible marketing cooperative, the over-order premium is not pooled. [PL 2005, c. 382, Pt. F, §30 (AMD).]

E. [PL 1987, c. 874, §§2, 4 (RP).]

E. [PL 1989, c. 436, §6 (NEW); PL 1989, c. 878, Pt. B, §8 (RP).]

F. For any month in which the Maine Milk Commission has included in Class I, Class II or Class III prices any amounts to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A, those amounts must be paid into the Maine Milk Pool for redistribution in accordance with subsection 4. [PL 2005, c. 382, Pt. F, §30 (AMD).]

G. [PL 2005, c. 382, Pt. F, §30 (RP).]

[PL 2005, c. 382, Pt. F, §30 (AMD).]

3. Additional collections for promotion.

[PL 1999, c. 161, §6 (RP).]

4. Redistribution of pool; base minimum price. The commissioner shall, by rule, adopt procedures to redistribute payments into the Maine Milk Pool under subsection 2, paragraphs A and F on an equal basis to eligible Maine market producers and eligible Boston market producers, except that:

A. If any Boston market producer whose farm is located within 140 miles of Boston receives a plant price, excluding deductions or additions imposed by the northeast marketing area milk marketing order that is greater than the amount of the initial payment to Maine market producers under section 2954-A, subsection 2, paragraph A, the commissioner shall credit that additional

amount against the redistribution from the Maine Milk Pool to which that producer would otherwise be entitled in order to avoid potential inequities arising from equal redistribution; [PL 2005, c. 382, Pt. F, §31 (AMD).]

B. If the credit against redistribution exceeds the pool payment due the producer, that producer shall pay into the Maine Milk Pool an amount equal to the excess or that producer's share of the cost of promotion, whichever is less. The commissioner may provide by rule that these amounts must be deducted from future pool payments made under this subsection to that producer or from pool payments due to that producer under subsection 5, or from future payments due to that producer for milk; and [PL 2005, c. 382, Pt. F, §31 (AMD).]

C. If the commissioner determines that payments from the pool will be made to dairies, cooperatives or some other entity as a representative of producers, then the dairy, cooperative or other representative shall pay to the producer the amount owed to that producer within such time period as is determined by the procedures established by rule under this subsection. [PL 2005, c. 382, Pt. F, §31 (AMD).]

D. [PL 1987, c. 447, §7 (RP).]

[PL 2005, c. 382, Pt. F, §31 (AMD).]

5. Redistribution of pool; over-order premium. Redistribution of payments into the pool under subsection 2, paragraph C is governed by this subsection.

A. For any month in which subsection 2, paragraph C is in effect, the commissioner shall pay those Maine market producers whose over-order premium was paid into the Maine Milk Pool an initial redistribution under this paragraph. In calculating the rate of this redistribution and the timing of its payment, the commissioner shall attempt to achieve, insofar as practicable, an initial redistribution that ensures that Maine producers who are not members of eligible marketing cooperatives receive an initial redistribution equivalent to that received by Maine producers who are members of eligible marketing cooperatives. The commissioner shall consider the following factors:

(1) The gross rate of redistribution used by eligible marketing cooperatives to calculate payment to their members;

(2) Reasonable administrative and other charges deducted by eligible marketing cooperatives from the redistributions made to their members;

(3) The timing of the redistributions made by an eligible marketing cooperative to its members; and

(4) Such other factors as may be relevant to the goal of achieving, insofar as practicable, price equity among producers. [PL 2005, c. 382, Pt. F, §32 (AMD).]

B. The commissioner shall redistribute the remainder of the amount paid into the Maine Milk Pool under subsection 2, paragraph C on an equal basis to eligible Maine market producers and eligible Boston market producers; except that if any Maine market producer or Boston market producer receives an additional premium other than one attributable to the activity of an eligible marketing cooperative, the commissioner shall credit that additional premium against the redistribution to which that producer would otherwise be entitled under this paragraph in order to avoid potential inequities arising from equal redistribution. [PL 2005, c. 382, Pt. F, §32 (AMD).]

C. If the commissioner determines that the basis for redistribution adopted by an eligible marketing cooperative is disadvantageous to Maine producers belonging to that cooperative, that the cooperative has not made redistributions to its Maine members in a timely manner or that the administrative or other fees deducted by the cooperative from redistributions to its members are excessive, unjust or unreasonable, the commissioner may commence proceedings to revoke the

eligible status of the cooperative pursuant to section 3155-B. [PL 2005, c. 382, Pt. F, §32 (AMD).]

C-1. [PL 1987, c. 874, §§3, 4 (RP).]

D. The commissioner shall, by rule, adopt such procedures as are necessary to implement this subsection. If the commissioner determines that payments from the pool will be made to dairies, cooperatives or some other entity as a representative of producers, then the dairy, cooperative or other representative shall pay to the producer the amount owed to that producer within such time period as is determined by the procedures established by rule under this subsection. [PL 1987, c. 447, §8 (NEW).]

[PL 2005, c. 382, Pt. F, §32 (AMD).]

6. Rules. The commissioner shall adopt by routine technical rule such procedures as are necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 382, Pt. F, §33 (NEW).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1985, c. 506, §B5 (AMD). PL 1987, c. 447, §§6-8 (AMD). PL 1987, c. 874, §§2-4 (AMD). PL 1989, c. 436, §§5,6 (AMD). PL 1989, c. 878, §§B8,9 (AMD). PL 1991, c. 12 (AMD). PL 1991, c. 266, §8 (AMD). PL 1995, c. 693, §§17,18 (AMD). PL 1995, c. 693, §25 (AFF). RR 1997, c. 2, §32 (COR). PL 1999, c. 161, §§5,6 (AMD). PL 1999, c. 210, §1 (AMD). PL 1999, c. 679, §§B12,13 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2001, c. 433, §1 (AMD). PL 2005, c. 382, §§F30-33 (AMD).

§3153-A. Dairy stabilization subsidy

If the base price of milk falls below $16.94 per hundredweight in any month beginning September 1, 2003 and ending May 31, 2004, the administrator of the Maine Milk Pool shall distribute to Maine milk producers on a per hundredweight basis 40% for the months of January to May 2004 of the difference between $16.94 per hundredweight and the base price of milk per hundredweight. The amount distributed for milk produced during the period between January 1, 2004 and May 31, 2004 may not exceed $2,100,000. The Governor shall provide these funds to the Maine milk pool administrator for distribution to Maine milk producers, as provided for in this section, during the months of October 2003 to June 2004. The base price of milk is the Suffolk County, Massachusetts Class I price of milk as determined for each month by the Northeast Market Administrator of the United States Department of Agriculture. [PL 2003, c. 522, §1 (AMD).]

SECTION HISTORY

PL 2003, c. 120, §2 (NEW). PL 2003, c. 522, §1 (AMD).

§3153-B. Dairy stabilization

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Annual production" means the total quantity of milk produced in a 12-month period beginning June 1st and ending May 31st of the next calendar year. Total quantity is expressed in hundredweight. [PL 2003, c. 648, §2 (NEW).]

B. "Base price" means the price of milk calculated each month in accordance with subsection 2. [PL 2003, c. 648, §2 (NEW).]

C. "Suffolk County price" means the Suffolk County, Massachusetts statistical uniform price of milk as determined for each month by the Northeast Market Administrator of the United States

Department of Agriculture and expressed per hundredweight of milk. [PL 2003, c. 648, §2 (NEW).]

D. "Target price" means the short-run break-even point for each of 4 categories of annual production. Target prices are determined in accordance with subsection 3. [PL 2009, c. 467, §2 (AMD).]

[PL 2009, c. 467, §2 (AMD).]

2. Calculation of base price. Base price is calculated each month by adding to the Suffolk County price:

A. The amount per hundredweight paid to milk producers in the State as monthly premiums established by the Maine Milk Commission under section 2954, subsection 1; and [PL 2003, c. 648, §2 (NEW).]

B. The amount per hundredweight received by milk producers as a monthly payment from the Federal Government due to low milk prices. [PL 2003, c. 648, §2 (NEW).]

Cost-of-production adjustments established under section 2954, subsection 2, paragraph A are not considered premiums for the purpose of calculating base price.

[PL 2003, c. 648, §2 (NEW).]

3. Determination of target prices. The Maine Milk Commission shall establish 4 tiers of production, each representing a range of annual production. The commission shall use the most recent studies conducted in accordance with section 2952-A, subsection 3, paragraph A to estimate the short-run break-even point within each tier.

The Maine Milk Commission may establish and amend ranges of production for each tier and target prices through rulemaking. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2009, c. 467, §3 (AMD).]

4. Distribution of dairy stabilization support. Beginning July 1, 2004 for each month that the base price is below the target price, the administrator of the Maine Milk Pool shall distribute to each milk producer in the State an amount of money equal to the previous month's production in hundredweight multiplied by the difference between the applicable target price and the base price in the previous month.

[PL 2003, c. 648, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 648, §2 (NEW). PL 2005, c. 382, §F34 (AMD). PL 2007, c. 240, Pt. OOO, §1 (AMD). PL 2007, c. 262, §1 (AMD). PL 2009, c. 467, §§2, 3 (AMD).

§3153-C. Milk Income Loss Contract

(REPEALED)

SECTION HISTORY

PL 2003, c. 648, §2 (NEW). PL 2005, c. 230, §1 (AMD). PL 2009, c. 467, §4 (RP).

§3153-D. Transfer of revenues

On or before the 18th day of each month, the administrator of the Maine Milk Pool shall subtract the amount in the Maine Milk Pool, Other Special Revenue Funds account that is available for distribution for dairy stabilization support from the total amount to be distributed for the previous month pursuant to section 3153-B and certify this amount to the State Controller, who shall transfer the certified monthly amount when certified from General Fund undedicated revenue to the Maine Dairy Farm Stabilization Fund, Other Special Revenue Funds account. [PL 2013, c. 368, Pt. Y, §1 (AMD).]

SECTION HISTORY

PL 2005, c. 418, §1 (NEW). PL 2009, c. 467, §5 (AMD). PL 2011, c. 625, §2 (AMD). PL 2011, c. 690, §1 (AMD). PL 2013, c. 368, Pt. Y, §1 (AMD).

§3154. Administration

1. Authority of commissioner. The commissioner may enter into agreement with the Maine Milk Commission or other state agency for administering the provisions of this chapter, and may employ such staff and services as may be necessary.
[PL 1983, c. 573, §4 (NEW).]

2. Deductions. Prior to the redistribution of the pool as provided in section 3153, the commissioner shall deduct the following:

A. Amounts sufficient to cover the costs of administering this chapter. Those amounts must be determined annually and must be adopted by rule by the commissioner; and [PL 1995, c. 693, §19 (AMD); PL 1995, c. 693, §25 (AFF).]

B. [PL 1999, c. 161, §7 (RP).]
[PL 1999, c. 161, §7 (AMD).]

3. Records and information. The commissioner may receive and utilize such reports and other information from any dealer as furnished to the Maine Milk Commission pursuant to section 2956 for the purpose of administering this chapter. The commissioner may also require any dealer purchasing milk from producers who may be eligible for participation in the milk pool to furnish directly such reports and other information as may be necessary to determine the eligibility of those producers and the extent of their participation.
[PL 1983, c. 573, §4 (NEW).]

4. Interest on over-order premiums. Interest earned on over-order premiums paid into the Maine Milk Pool pursuant to section 3153, subsection 2, paragraph C, shall be credited to the pool. At least annually, the commissioner shall pay accrued interest on an equal basis to eligible Maine market and Boston market producers.
[PL 1987, c. 447, §9 (NEW).]

In the event that information requested is not adequately provided by any dealer, the commissioner may require producers who may be eligible for participation in the Maine Milk Pool to furnish such reports and other information as may be necessary to determine their eligibility and the extent of their participation. [PL 2005, c. 382, Pt. F, §35 (AMD).]

The cost of obtaining information required to determine eligibility and extent of participation shall be shared by all producers as provided in subsection 2, except that added costs incurred in obtaining information directly from a producer whose dealer does not furnish that information shall be assessed to that producer. [PL 1983, c. 573, §4 (NEW).]

An eligible marketing cooperative, or an organization applying for recognition as an eligible marketing cooperative, shall furnish the commissioner all information, records and reports necessary for the commissioner to determine and monitor the cooperative's initial eligibility and its ongoing compliance with this chapter. In addition to any other available remedies, the commissioner may commence proceedings pursuant to section 3155-B, to revoke the eligible status of a cooperative that willfully fails to provide information, records or reports requested by the commissioner. [PL 2005, c. 382, Pt. F, §36 (AMD).]

The commissioner shall prescribe by rule the form, content and time for filing of any reports which may be required under this section. All reports shall be subject to audit. [PL 1983, c. 573, §4 (NEW).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1985, c. 506, §B6 (AMD). PL 1987, c. 447, §§9,10 (AMD). PL 1995, c. 693, §19 (AMD). PL 1995, c. 693, §25 (AFF). PL 1999, c. 161, §7 (AMD). PL 2005, c. 382, §§F35,36 (AMD).

§3155. Penalties

Any person who fails to furnish reports required by the commissioner pursuant to section 3154 in a timely fashion shall be subject to the following civil penalties, to be collected by the commissioner in a civil action: [PL 1983, c. 816, Pt. A, §1 (AMD).]

1. First violation. For the first violation, a civil penalty not to exceed $100; and
[PL 1983, c. 573, §4 (NEW).]

2. Subsequent violation. For each subsequent violation within one year of the first violation, a civil penalty not to exceed $500.
[PL 1983, c. 573, §4 (NEW).]

Persons who violate any other rules promulgated under this chapter shall be subject to a civil penalty not to exceed $100 to be collected by the commissioner in a civil action. All penalties collected by the commissioner shall be paid to the Treasurer of State for deposit to the General Fund. In addition to other available remedies, the commissioner may bring a civil action to collect any amounts owed to the Maine Milk Pool under this chapter. [PL 1987, c. 447, §11 (AMD).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1983, c. 816, §A1 (AMD). PL 1987, c. 447, §11 (AMD).

§3155-A. Predatory behavior of eligible marketing cooperative prohibited

1. Violations. No eligible marketing cooperative may:

A. Collect or attempt to collect from a Maine market dealer, directly or indirectly, all or any part of an over-order premium with respect to the milk of a Maine market producer who has not designated that cooperative to receive the over-order premium pursuant to section 3153, subsection 2, paragraph C; [PL 1987, c. 447, §12 (NEW).]

B. Collect or attempt to collect from a Maine market dealer, directly or indirectly, any handling charge, fee or other payment in lieu of an over-order premium which the cooperative is barred from collecting under paragraph A; [PL 1987, c. 447, §12 (NEW).]

C. Discriminate against any Maine market dealer making payments in accordance with section 3153, subsection 2, paragraph C, in the marketing of its members' milk based in whole or in part on the extent to which the dealer's producers have joined or refused to join the cooperative; or [PL 1987, c. 447, §12 (NEW).]

D. Collect or attempt to collect all or any part of an over-order premium from a Maine market dealer prior to determination of its eligibility or during any period for which its eligible status has been revoked by the commissioner. [PL 1987, c. 447, §12 (NEW).]
[PL 1987, c. 447, §12 (NEW).]

2. Civil penalties. Each violation of this section is punishable by a civil penalty not to exceed $2,000 for a first violation and $5,000 for each subsequent violation, which penalties may be collected by the commissioner in a civil action. All penalties collected by the commissioner shall be paid to the Treasurer of State for deposit into the General Fund.
[PL 1987, c. 447, §12 (NEW).]

3. Injunctive relief. The Superior Court shall have jurisdiction upon complaint filed by the commissioner to restrain or enjoin any person from committing any act prohibited by subsection 1 or from violating any order or decision issued by the commissioner pursuant to subsection 4. The

commissioner shall not be required to post a bond when applying for an injunction under this subsection.
[PL 1987, c. 447, §12 (NEW).]

4. Administrative enforcement. When the commissioner, after such investigation as the commissioner determines appropriate, believes that a violation of this section has occurred, the commissioner may order the eligible marketing cooperative to cease that violation. In lieu of, or in addition to, such an order and notwithstanding Title 4, section 152, subsection 9 and Title 5, section 10051, subsection 1, the commissioner may also revoke the eligible status of the cooperative for purposes of this chapter for a period not to exceed one year for a first violation, 2 years for a 2nd violation and permanently for a 3rd or subsequent violation. Before issuing such an order or revoking a cooperative's eligibility, the commissioner shall afford the cooperative an opportunity for a hearing. Any person aggrieved by a final order or decision issued under this subsection may obtain judicial review in Superior Court by filing a petition in accordance with Title 5, section 11001 and the Maine Rules of Civil Procedure, Rule 80C. In responding to such a petition, the commissioner may seek enforcement of the order or decision, including civil penalties for any violation found, and the court, if it upholds the order or decision, may order its enforcement, including civil penalties.
[PL 1999, c. 547, Pt. B, §23 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

Nothing in this section is intended to require that the commissioner take administrative enforcement action prior to seeking judicial relief for any violation of this section or is intended to limit the commissioner's ability to bring an independent action to enforce any decision or order issued by him, including civil penalties for any violation found by him. [PL 1987, c. 447, §12 (NEW).]

SECTION HISTORY

PL 1987, c. 447, §12 (NEW). PL 1999, c. 547, §B23 (AMD). PL 1999, c. 547, §B80 (AFF).

§3155-B. Eligible marketing cooperative; revocation of status

Notwithstanding section 3155-A, Title 4, section 152, subsection 9 and Title 5, section 10051, subsection 1, the commissioner may revoke the eligible status of a marketing cooperative upon a determination that it has through its operation evaded, impaired or undermined the purposes of this chapter. [PL 2005, c. 382, Pt. F, §37 (NEW).]

SECTION HISTORY

PL 2005, c. 382, §F37 (NEW).

§3156. Transportation allowances

The commissioner shall annually conduct a study investigating the costs of transporting milk from producers' farms to dairy processing plants and shall examine existing and practicably achievable cost efficiencies by market areas as defined by the Maine Milk Commission pursuant to section 2951, subsection 5. Based upon that study, the commissioner shall annually recommend a schedule of maximum allowable transportation charges to the Maine Milk Commission. [PL 1983, c. 573, §4 (NEW).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW).

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