



MAINE MILK COMMISSION

**MAINE GOVERNMENT EVALUATION ACT
REPORT TO THE JOINT STANDING
COMMITTEE ON AGRICULTURE,
CONSERVATION AND FORESTRY**

January 1, 2024



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GOVERNOR

DEPARTMENT OF AGRICULTURE,
CONSERVATION & FORESTRY

MAINE MILK COMMISSION

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Rep. Bill Pluecker, House Chair

Joint Standing Committee on Agriculture, Conservation and Forestry

RE: Agency review under the Government Evaluation Act

As required by the Government Evaluation Act (MRS Title 3, Chapter 35) the following report has been compiled.

The information is presented to explain the operational structure of the Maine Milk Commission, its responsibilities and jurisdictions, a brief history of the Commission and the evolution of the statutes and rules that form its core and frame its existence as part of Maine's dairy industry.

The report is designed to provide the background for the Joint Standing Committee on Agriculture, Conservation and Forestry (ACF) to review the structure and mission of the Maine Milk Commission and to gain a stronger understanding of the Commission's role in serving the people of Maine. In addition, the information contained within the report can be used as a reference guide for complex discussions about state dairy policy as well as the individual tasks and programs administered by the Commission.

I look forward to appearing before the ACF Committee to present this report and answer any questions about the Maine Milk Commission and Maine's dairy sector.

Sincerely,

Julie Marie R. Bickford

Julie-Marie R. Bickford
Executive Director
Maine Milk Commission

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Section A: History, Organizational Structure and Mission

HISTORY

The Maine Milk Control Law was enacted by the 87th Legislature in 1935 to eliminate serious problems confronting the dairy industry and the milk-drinking public. These included price wars, farmers failing to receive payment for milk deliveries, dealer bankruptcies, and public concern over the safety and quality of the milk supply. Under the law, an entity was created to arbitrate differences; conduct hearings to establish minimum prices paid to producers as well as minimum retail and wholesale milk prices; and exercise general supervision over the milk industry.

In 1937 the federal government passed the Agricultural Marketing Act and began to regulate milk pricing in southern New England through a newly created system of federal milk marketing orders. Maine farmers voted against participating in the federal system, opting to remain under a state-controlled order that could be more responsive to local needs. A consumer was added to the entity's makeup in 1951 and the agency's name was changed to the Maine Milk Commission. The Milk Commission was given the authority to audit dealers' books and to determine the utilization of all milk purchased.

The Maine Milk Commission's basic function was and still is to ensure a plentiful supply of pure, wholesome Maine produced & processed milk available at all times throughout the state.

Following a State government reorganization in 1973, the Commission was incorporated into the Department of Agriculture.

The Commission's statute was amended in 1975 to require that the Commission be comprised of four consumer members and an ex officio representative of the Commissioner of Agriculture. The statute stated that none of the four members of the Commission shall at the time of appointment or while serving as a member of the Commission, and no employee of the Commission, shall have any official business or professional connection with any person or firm whose activities are subject to the jurisdiction of the Commission.

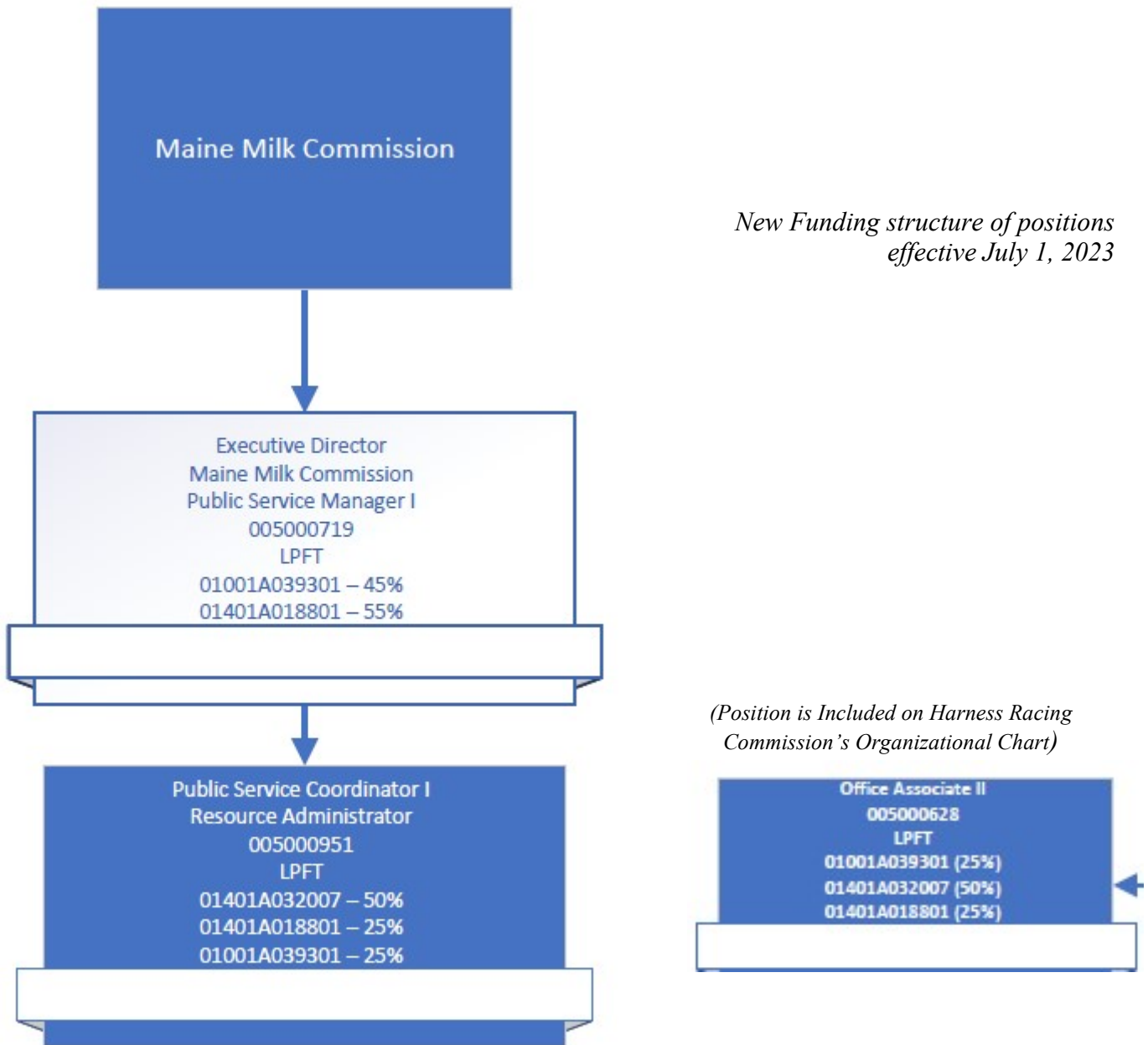
Though Commission staff work for what is now the Department of Agriculture, Conservation & Forestry and broadly provide content-area expertise to the Department, the Commission functions independently of the Department as a policy-making body.

The Commission holds regular meetings each calendar month and the chair can call special meetings upon agreement of a majority of the members. The Commission is financed primarily by a fee assessment on milk produced and processed by industry members, as well as through annual licensing. In addition, the Department has tasked the Commission with the task of managing the Maine Milk Pool (created in 1983) and the Maine Dairy Stabilization "Tier" Program (created in 2003).

ORGANIZATIONAL STRUCTURE

STAFF:

The Commission is staffed by a full-time Executive Director, along with two employees who are shared with the Maine Harness Racing Commission and the Department of Agriculture, Conservation & Forestry. One position is an Office Associate II, whose duties include licensing, assisting with commission meeting preparation, and general clerical duties. Additionally, this person processes payments from licensees. The other position is a Resource Administrator, whose duties include managing and tracking the Commission’s financial resources and assisting with the procurement process for contracts and the distribution of funds. This position also acts as an administrative backup for the Milk Pool and “Tier” Program.



MISSION

GOAL: The Maine Milk Commission (MMC) was established to bring order and stability to the sales of milk through economic management of the purchasing, distribution, and sale of milk within the State, while taking into consideration the impacts on public health and welfare and the need to ensure an adequate and consistent supply of milk. The Commission has the power to conduct hearings, subpoena and examine under oath any dealers, their records, books and accounts, and any other person from whom information may be desired. The Commission may have access to all books and records relating to milk for the purpose of ascertaining facts to enable it to administer the law.

PROGRAMMING OBJECTIVES: The Maine Milk Commission regulates the minimum price of milk produced, processed, and sold in Maine which, in turn, affects dairy processors, retailers, farmers and consumers of milk and milk products. The Commission is charged with balancing the needs of the various segments of the industry to ensure sustainability and consumer access to Maine-produced and Maine-processed milk through all retail channels.

The Commission meets monthly to review federal price announcements and make adjustments for Maine conditions. It also tracks trends and identifies potential risks to Maine's dairy sector, whether they be financial, weather, health, safety, or supply chain concerns. These meetings provide predictable and accessible opportunities for any interested party to comment or share information with the Commission and encourage dialogue between Commission members and the regulated community. By establishing minimum monthly prices, the MMC provides economic stability for Maine's processors and producers, and improved predictability for Maine retailers--all of which helps maintain the supply of fresh wholesome Maine milk to Maine consumers.

REGULATORY OBJECTIVES: The Commission is responsible for ensuring 100% compliance with all state and federal milk pricing laws to achieve the goal of sustaining an adequate supply of wholesome milk for all people within the State of Maine.

Section B: Programs and Responsibilities

The Maine Milk Commission engages in a variety of task and activities to execute and enforce its minimum pricing authority and bring stability to the Maine milk marketplace. These include:

- Preparing and publishing minimum milk pricing schedules each month, including any premium adjustments for Maine-specific conditions;
- Completing milk cost studies for the various segments of the dairy industry to identify trends and patterns and detect outliers or variants in pricing and/or expenses that pose a risk to fulfilling the mission of the MMC;
- Tracking all federal milk pricing requirements and actions and ensuring that Maine’s pricing order is in compliance and remains competitive with the dairy sector beyond the borders of the state;
- Maintaining statewide records and statistics for the production, movement, and pricing of milk at the producer, dealer and retail levels;
- Licensing of all milk dealers and sub-dealers handling milk at the wholesale and retail levels in the state and reviewing monthly submissions of reports & fees for accuracy;
- Conducting audits and surveys to ensure compliance with minimum milk prices at the wholesale and retail levels;
- Following all state procedures and requirements for open and transparent Commission meetings and any development of reports, charts, or records used in the monthly setting of minimum prices;
- Enforcing state statutes and rules involving the movement, payment, licensing, reporting, and utilization of milk in Maine at the producer, wholesale, and retail levels.

The Commission has also been tasked with the administration of two additional Maine programs created to aid in stabilizing the sectors of the dairy industry.

- The Maine Milk Pool collects fees from a premium included in the minimum pricing structure for Maine-produced milk that remains in Maine for processing and retail sale. The fees are then redistributed to all Maine producers regardless of where their milk is processed, thus reducing a financial disparity associated with the final location of the shipment of their milk for processing.
- The Maine Dairy Stabilization “Tier” Program was designed to be a financial safety net for Maine dairy producers/farmers to compensate for a disconnect between the price that farmers receive for their milk and the costs associated with producing milk in Maine.

The Executive Director of the Commission serves as a dairy policy specialist for the Executive and Legislative branches of government. In order to stay informed about dairy industry changes at the state, national, and global levels, the Executive Director regularly attends meetings, informational seminars, webinars and conference calls, dairy gatherings and events, as well as maintaining industry contacts, extensively reading trade journals, federal market order bulletins, and other key sources of dairy information. The Executive Director is also charged with representing the Department of Agriculture, Conservation & Forestry, the Commissioner of the DACF, and/or the state of Maine on various dairy industry groups, at the state, national, and international levels.

MAINE MILK MARKETING ORDERS / MINIMUM PRICING

The Maine Milk Commission was established by the Maine Legislature to provide structure and security to sales and transactions involving fluid milk – a highly perishable and bulky agricultural product.

The Maine Milk Commission uses all available information to find the lowest achievable cost at which milk purchased from Maine producers can be received, processed, packaged and distributed within the State at a just and reasonable return, while ensuring an adequate supply of pure and wholesome milk to Maine consumers. Within this authority, the Commission has the ability to reflect regional premiums available in the marketplace as well as to set unique premiums to adjust for Maine conditions to strive for long-term stability and economic viability of the Maine dairy sector.

Maine's regulations cover various points as milk makes its way from the farm to the consumers' table. The Commission regularly sets minimum prices for the following transactions:

- The price paid by dairies (processors) to producers (farmers) per hundred pounds of milk delivered for processing;
- The margin per gallon that dairies must receive for processing and delivering milk at the wholesale level;
- The price with margin per gallon that retailers can charge for milk sold to consumers at retail stores.

This regulation was put in place to stabilize dairy farmer incomes and maintain dairy farm operations, to ensure that dairies in Maine that process milk for Maine consumption can be paid a reasonable rate of return, and create a safety net of pricing to encourage stores and retail establishments to make investments in milk storage to make fresh milk accessible for Maine consumers. Milk is a highly perishable commodity and a basic food item; therefore price regulation is intended to avoid situations where price haggling could delay the sale of milk and lead to spoilage or dumping. By setting minimum prices with limited rates of return, regulators could encourage efficient dairy operations to provide consumers with high quality milk and milk products while maintaining a reasonable cost for the consuming public.

How are Minimum Producer Milk Prices Established by the Maine Milk Commission?

The producer milk price is the minimum price that the producer receives for milk sold to a dairy. Pricing is based on 100 pounds (hundredweight or CWT) of milk with standards of 3.5 % butterfat, 2.99 % Protein and 5.69 % Other Solids. Milk is classified based on its actual end use, as follows:

Class I - Fluid milk containing less than 9 % butterfat, skim, flavored milk, eggnog and buttermilk sold for human consumption.

Class II - Packaged fluid cream, sour cream, cottage cheese, and product sold to produce ice cream, ice milk, custards, and semi-solid products resembling Class II products.

Class III - Milk or cream used to manufacture hard products such as hard cheese and dry powder.

Class IV - Milk used to make butter and nonfat dry milk.

The Maine Milk Commission primarily has statutory authority to regulate Class I processing and sale within the State of Maine, with a limited authority to regulate Class II products and production. The Commission has no direct authority over Class III and Class IV processing activities or retail pricing. Each class of milk processing is assigned a different price value using formulas established by USDA rules. Each month the United States Department of Agriculture (USDA), Federal Milk Market Administrator announces the advanced Class I fluid price for the *following* month (which the Milk Commission uses to create minimum wholesale and retail milk prices for Maine), announces the prices for the other 3 classes of milk for the *previous* month, as well as the price farmers will be paid on components that are above the standard levels. After all of this, the farmer’s “mailbox price” – or the price they will actually be paid for their milk – is a blending of all of the milk that was processed in the previous month into all 4 classes of products.

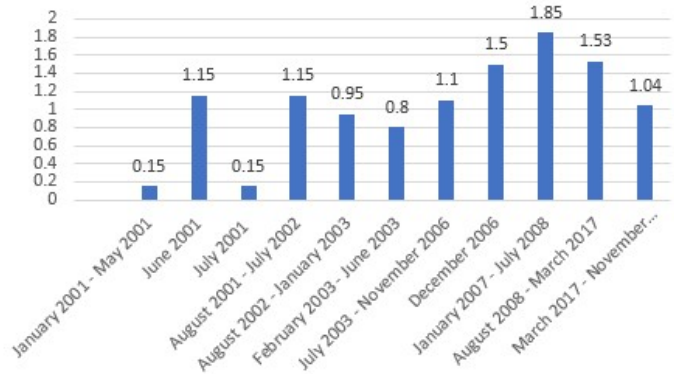
This is called the Statistical Uniform Blend price, or federal “Pool price”. The Commission also adopts the “Blend price” as the minimum base price paid to Maine farmers, with a few additions.

The Maine Milk Commission recognizes an informally-set regional premium called the Over-Order Premium (OOP). This financial incentive in the competitive marketplace is returned to producers in exchange for the farm’s commitment to provide consistent supplies of milk that processors can rely on receiving at regular intervals (either daily or every other day). The regional dairy cooperatives utilize an OOP when pricing milk for processors and report that OOP to the Commission each month. The Commission then incorporates the amount – renamed the Maine Milk Commission Premium - in the minimum prices set each month that wholesalers are required to pay to producers.

Calendar Year	Total Pounds	Average OO Premium/CWT	Total OO Premium Paid
2012	609,358,911	\$0.69	\$4,216,532
2013	603,668,280	\$0.60	\$3,632,378
2014	596,638,850	\$0.54	\$3,247,968
2015	592,120,664	\$0.53	\$3,135,110
2016	626,257,795	\$0.50	\$3,097,988
2017	625,792,034	\$0.35	\$2,180,368
2018	614,510,874	\$0.32	\$1,970,650
2019	616,951,565	\$0.29	\$1,811,420
2020	587,752,533	\$0.29	\$1,715,142
2021	568,210,208	\$0.30	\$1,694,461
2022	550,470,201	\$0.32	\$1,746,363
10 Year Total 2012-2022	6,591,731,916	\$0.39	\$28,448,379
2023 (Jan-Jun)	275,230,570	\$0.30	\$814,860

The chart above shows the annual milk production on Maine farms, and the average premium that was returned to the farmer out of the Over-Order Premium.

MMC - OOP



The chart to the right shows the history of the Over-Order Premium as it is added to the Commission's Class I pricing formula through the monthly orders that sets the minimum wholesale and retail milk prices on gallons, half gallons, quarts, and bulk sizes of white milk. The current level of \$1.04/cwt has been consistent since March 2017.

The Maine Milk Commission pricing formula includes a premium adjustment for Maine conditions, also known as a Producer Margin, or Cost of Production Adjustment. This amount is discussed at monthly public hearings where the appointed members of the Commission deliberate over the level of the premium. The Commission conducts formal Cost of Production studies every three years to compare what it costs to produce milk on Maine farms as compared to farms in other states within the milk marketing region. The Producer Margin premium is specifically assessed on milk that is produced, processed, and sold completely within the state of Maine. This premium is collected each month by the processors and submitted to the Commission and creates the Maine Milk Pool. (See page 15 for more information on the Maine Milk Pool.)

DATE	Class I	Producer Margin	DATE	Class I	Producer Margin	DATE	Class I	Producer Margin	DATE	Class I	Producer Margin
Apr-24			Dec-20	\$23.12	\$1.63	Aug-17	\$19.97	\$1.58	Apr-14	\$26.90	\$1.25
Mar-24			Nov-20	\$21.29	\$1.63	Jul-17	\$19.84	\$1.58	Mar-14	\$26.89	\$1.25
Feb-24			Oct-20	\$18.45	\$1.63	Jun-17	\$18.56	\$1.58	Feb-14	\$25.27	\$1.35
Jan-24			Sep-20	\$21.69	\$1.63	May-17	\$18.45	\$1.58	Jan-14	\$24.73	\$1.40
Dec-23			Aug-20	\$23.03	\$1.63	Apr-17	\$19.30	\$1.53	Dec-13	\$23.62	\$1.48
Nov-23	\$23.00		Jul-20	\$19.81	\$1.63	Mar-17	\$20.15	\$1.53	Nov-13	\$23.45	\$1.48
Oct-23	\$22.72	\$1.63	Jun-20	\$14.67	\$1.63	Feb-17	\$19.98	\$1.53	Oct-13	\$22.45	\$1.53
Sep-23	\$22.15	\$1.63	May-20	\$16.20	\$1.63	Jan-17	\$20.70	\$1.53	Sep-13	\$22.41	\$1.53
Aug-23	\$19.87	\$1.63	Apr-20	\$19.89	\$1.58	Dec-16	\$20.13	\$1.58	Aug-13	\$22.13	\$1.53
Jul-23	\$20.57	\$1.63	Mar-20	\$20.71	\$1.53	Nov-16	\$18.03	\$1.58	Jul-13	\$22.16	\$1.53
Jun-23	\$21.26	\$1.63	Feb-20	\$20.80	\$1.53	Oct-16	\$19.85	\$1.48	Jun-13	\$22.18	\$1.53
May-23	\$22.82	\$1.63	Jan-20	\$22.26	\$1.53	Sep-16	\$19.81	\$1.53	May-13	\$21.01	\$1.53
Apr-23	\$22.10	\$1.63	Dec-19	\$22.58	\$1.53	Aug-16	\$18.32	\$1.58	Apr-13	\$20.91	\$1.53
Mar-23	\$22.24	\$1.63	Nov-19	\$21.39	\$1.53	Jul-16	\$16.95	\$1.58	Mar-13	\$21.05	\$1.53
Feb-23	\$24.03	\$1.63	Oct-19	\$21.09	\$1.53	Jun-16	\$16.39	\$1.58	Feb-13	\$21.46	\$1.53
Jan-23	\$25.66	\$1.58	Sep-19	\$21.10	\$1.53	May-16	\$16.95	\$1.45	Jan-13	\$22.22	\$1.53
Dec-22	\$25.66	\$1.58	Aug-19	\$21.14	\$1.53	Apr-16	\$16.99	\$1.45	Dec-12	\$24.64	\$1.48
Nov-22	\$27.34	\$1.58	Jul-19	\$20.43	\$1.63	Mar-16	\$17.03	\$1.45	Nov-12	\$23.95	\$1.48
Oct-22	\$25.96	\$1.58	Jun-19	\$20.32	\$1.63	Feb-16	\$16.89	\$1.45	Oct-12	\$22.13	\$1.48
Sep-22	\$26.87	\$1.58	May-19	\$19.67	\$1.63	Jan-16	\$19.29	\$1.35	Sep-12	\$20.84	\$1.48
Aug-22	\$28.38	\$1.58	Apr-19	\$19.01	\$1.63	Dec-15	\$19.96	\$1.35	Aug-12	\$19.80	\$1.48
Jul-22	\$29.12	\$1.58	Mar-19	\$19.23	\$1.63	Nov-15	\$19.73	\$1.35	Jul-12	\$18.76	\$1.48
Jun-22	\$29.12	\$1.58	Feb-19	\$18.55	\$1.63	Oct-15	\$19.09	\$1.35	Jun-12	\$18.49	\$1.48
May-22	\$28.70	\$1.58	Jan-19	\$18.37	\$1.63	Sep-15	\$19.59	\$1.35	May-12	\$19.10	\$1.48
Apr-22	\$27.63	\$1.58	Dec-18	\$18.30	\$1.63	Aug-15	\$19.53	\$1.35	Apr-12	\$18.91	\$1.48
Mar-22	\$26.13	\$1.58	Nov-18	\$18.77	\$1.63	Jul-15	\$19.78	\$1.35	Mar-12	\$19.55	\$1.40
Feb-22	\$24.89	\$1.63	Oct-18	\$19.58	\$1.63	Jun-15	\$19.39	\$1.35	Feb-12	\$20.28	\$1.35
Jan-22	\$22.96	\$1.63	Sep-18	\$18.10	\$1.63	May-15	\$19.08	\$1.35	Jan-12	\$22.05	\$1.35
Dec-21	\$22.42	\$1.63	Aug-18	\$17.40	\$1.63	Apr-15	\$18.75	\$1.35	Dec-11	\$21.72	\$1.35
Nov-21	\$21.23	\$1.63	Jul-18	\$18.61	\$1.63	Mar-15	\$18.81	\$1.35	Nov-11	\$21.70	\$1.35
Oct-21	\$20.33	\$1.63	Jun-18	\$18.50	\$1.63	Feb-15	\$19.49	\$1.35	Oct-11	\$22.81	\$1.35
Sep-21	\$19.84	\$1.63	May-18	\$17.69	\$1.63	Jan-15	\$21.83	\$1.25	Sep-11	\$25.03	\$1.25
Aug-21	\$20.15	\$1.63	Apr-18	\$17.35	\$1.63	Dec-14	\$25.78	\$1.16	Aug-11	\$24.68	\$1.25
Jul-21	\$20.67	\$1.63	Mar-18	\$16.61	\$1.63	Nov-14	\$27.31	\$1.16	Jul-11	\$24.28	\$1.35
Jun-21	\$21.54	\$1.63	Feb-18	\$17.50	\$1.63	Oct-14	\$27.44	\$1.16	Jun-11	\$23.57	\$1.35
May-21	\$20.35	\$1.63	Jan-18	\$18.69	\$1.63	Sep-14	\$26.88	\$1.16	May-11	\$23.00	\$1.35
Apr-21	\$18.76	\$1.63	Dec-17	\$20.13	\$1.58	Aug-14	\$27.12	\$1.16	Apr-11	\$22.68	\$1.35
Mar-21	\$18.45	\$1.63	Nov-17	\$19.66	\$1.58	Jul-14	\$26.27	\$1.16	Mar-11	\$21.48	\$1.48
Feb-21	\$18.79	\$1.63	Oct-17	\$19.69	\$1.58	Jun-14	\$26.11	\$1.16	Feb-11	\$19.14	\$1.48
Jan-21	\$18.39	\$1.63	Sep-17	\$19.96	\$1.58	May-14	\$27.72	\$1.16	Jan-11	\$18.45	\$1.48

History of Producer Margin / Cost of Production 2011-2023

Example of Monthly Maine Milk Commission Minimum Price Order per 100 lb (CWT) of Milk

Jul-23							
Class I Price	Federal announced price	Jul-23	\$20.570	Per CWT	Protein Price Per Pound	May-23	\$1.8002
Milk Commission Premium		Jul-23	\$1.040	Per CWT	Butterfat Price Per Pound	May-23	\$2.7572
Producer Margin		Jul-23	\$1.630	Per CWT	Other Solids Per Pound	May-23	\$0.1877
Total Class I Producer Price		Jul-23	\$23.24	Per CWT	Nonfat Solids Per Pound	May-23	\$0.9729
Federal Promotion Fee		Jul-23	\$0.200	Per CWT			
Handling Fee		Jul-23	\$0.93	Per CWT			
Total Class I Dealer Cost		Jul-23	\$24.37	Per CWT	This is the total that fluid milk processors must pay for milk in Maine		
Basic Price of Milk		Jul-23	\$20.570	Per CWT			
Class II Price & Margin		May-23	\$19.260	Per CWT			
Class III for		May-23	\$16.110	Per CWT			
Class IV for		May-23	\$18.100	Per CWT			
Producer Price Differential		May-23	\$3.350	Per CWT			
Statistical Uniform Blend		May-23	\$19.460	Per CWT	This is what farmers get paid for their milk a month after it has left the farm		
Butterfat price per lb. Suffolk County, MA		June-23	\$2.7737				
Chicago AA Butter Price Announced		June 16, 2023	2.3650				

In the example above from the Commission’s public hearing meeting held in June 2023, USDA Federal Milk Marketing Order announced a Class I advanced price of \$20.57 per cwt for milk produced and sold in July 2023. To that Class I price, the Commission recognized a Milk Commission Over-Order Premium of \$1.04/cwt (this premium is distributed by the handler of the milk and shared among all producers under that handler), a Producer Margin (Cost of Production adjustment) of \$1.63/cwt (from which the farmer gets paid a percentage of the premium that equals the amount of their milk that was both processed and sold in Maine), a Federal Promotion fee (paid by the processor to a national check-off organization), and the Maine Milk Handling Fee (which is charged on every gallon on milk sold in Maine and paid by the first person to “touch” the milk in Maine – usually a Maine processor or a distribution company). This creates the Dealer Cost – which is the total minimum that a Maine processor will pay for Maine milk.

The Class II, III, and IV prices for May are reflected in the bottom section of this example, along with the most recent Statistical Uniform Blend price that serves as the base price to farmers for milk produced in May 2023. It is also called the farmer’s “mailbox price” and is the minimum payment before any deductions for stop charges and transportation charges to haul the milk from the farm to the plant, or cooperative membership or marketing fees, or any other payment to a vendor that the farmer has authorized to come directly out of the milk check. Butterfat values for the Boston market, as well as a Chicago Mercantile “spot price” for butter is at the bottom of the column. Payments for any component levels that tested above the standard percentages in the raw milk shipped are listed in the upper right.

How are Minimum Milk Wholesale Prices Established by the Maine Milk Commission?

Minimum prices paid to processors (dairies) are established to reflect the lowest price at which milk purchased from Maine producers at Maine minimum prices can be received, processed, packaged, and distributed to retailers within the state at a just and reasonable return. To arrive at the dairy processing cost, also known as the dealer margin, the Commission conducts a cost study that compares Maine processing plants to other comparably sized dairy processing facilities in the Northeast. Using current cost data for supplies, labor, electricity, trucking, etc., a lowest achievable price is calculated, which is the theoretical price at which a dairy should be able to process milk from raw product to finished product and deliver it to the retailer. The Commission adjusts that price to take into account Maine conditions to arrive at a proposed processor margin. The Commission conducts a public hearing on the proposed processor margin and after considering the input of processors, any other interested parties, and the public, the Commission adopts a rule establishing the processor margin. This margin is the return that processors are guaranteed until a new study is completed. Processors may obtain a higher price for a gallon of milk from retailers, but the price paid by retailers cannot fall below the minimum processor margin. By statute, a cost study is required every three years.

How are Minimum Retail Prices Established by the Maine Milk Commission?

Retail minimum prices paid by consumers are based on the minimum processor margin and a reasonable rate of return to the retailer. To arrive at the cost of selling milk at the retail level, the Commission conducts a cost study of Maine stores and supermarkets. The cost study identifies methods now in practice for the delivery of milk to Maine supermarkets and for in-store handling and selling of milk. It also considers changes that could be made to make this process more efficient. The Commission conducts a public hearing on the proposed retail margin, and after considering the input of retailers, any other interested parties, and the public, the Commission adopts a rule establishing the retail margin. As with the dealer margin, the retail margin does not change until a new study is done and the rulemaking process to adopt it is complete.

This chart is also from the June 2023 Milk Commission public hearing/meeting to adopt minimum milk prices for July 2023. This shows the minimum wholesale and retail prices that can be charged in Maine on a unit level instead of on a bulk level per cwt. This chart deals with packaged milk that has already been processed and put into various sizes of containers for sale. The wholesale is the minimum price that the processor can sell it to the stores, and the retail minimum is the lowest price that a store can offer that size and milkfat percentage category of milk for sale in Maine retail stores.

THE MAINE MILK COMMISSION SCHEDULE OF MINIMUM WHOLESALE AND RETAIL					
EFFECTIVE		DATE:	July 2, 2023	ORDER NO:	7-23
			MINIMUM	HANDLER	MINIMUM
			WHOLESALE	FEE	RETAIL
GALLON:	Whole Milk		\$3.58	\$0.08	\$4.03
	Lowfat 2.0%		\$3.34	\$0.08	\$3.79
	Lowfat 1.5%		\$3.26	\$0.08	\$3.71
	Lowfat 1.0%		\$3.17	\$0.08	\$3.62
	Skim		\$3.08	\$0.08	\$3.53
1/2 GALLON:	Whole Milk		\$1.83	\$0.04	\$2.08
	Lowfat 2.0%		\$1.71	\$0.04	\$1.96
	Lowfat 1.5%		\$1.67	\$0.04	\$1.92
	Lowfat 1.0%		\$1.63	\$0.04	\$1.88
	Skim		\$1.58	\$0.04	\$1.83
QUART:	Whole Milk		\$1.05	\$0.02	\$1.19
	Lowfat 2.0%		\$0.99	\$0.02	\$1.13
	Lowfat 1.5%		\$0.97	\$0.02	\$1.11
	Lowfat 1.0%		\$0.95	\$0.02	\$1.09
	Skim		\$0.93	\$0.02	\$1.07

The Handler Fee is the Maine Milk Handling Fee that is assessed on every gallon, half-gallon, and quart of milk sold in Maine and paid by the first person to handle the milk in Maine. (*36 M.R.S. Chapter 721 Section 4902*) This means that even if the milk was produced and packaged outside of the state, once it comes into Maine it is subject to the fee. The fee is collected by Maine Revenue Services and is not dedicated to any program but is deposited into the state's General Fund.

Maine Dealer & Sub-Dealer Licensing

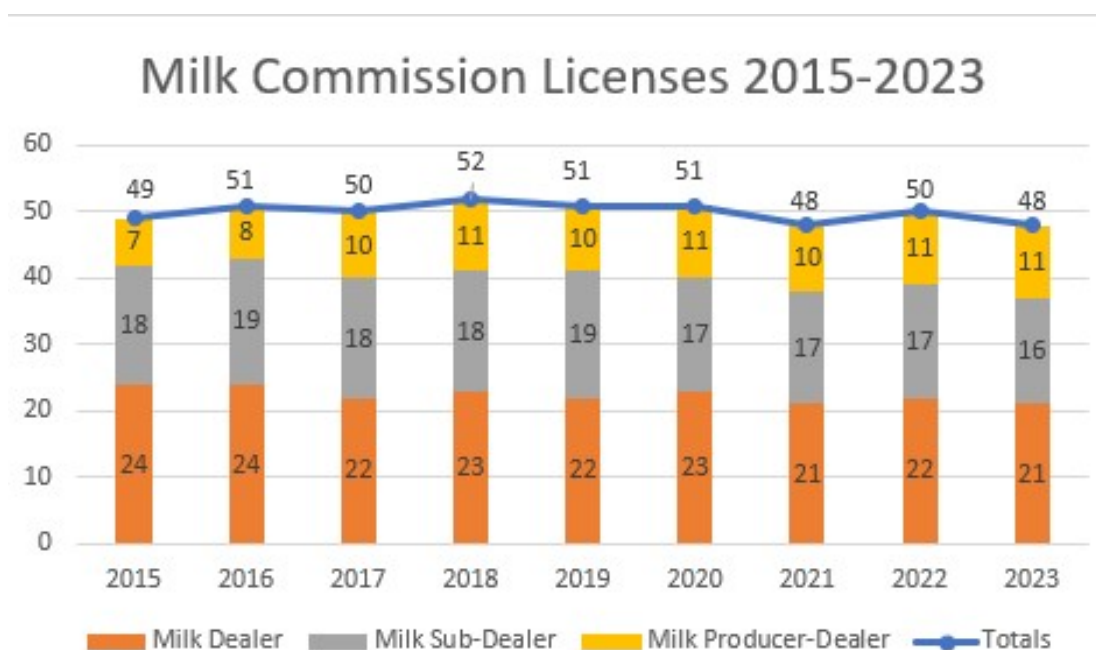
The Maine Milk Commission licenses Maine milk dealers and sub-dealers who sell milk in Maine. These can be processors, distribution or warehouse suppliers, retail distribution networks and centralized warehouses that service a particular chain of retail stores, or producer-dealers (farms that package and distribute their own milk and dairy products directly to retailers or consumers). Essentially, anyone responsible for moving packaged milk from its processing/packaging location to a location where it can be purchased by Maine consumers must be licensed.

The fee for a Maine Milk Commission license has not been adjusted since it was established in 1935. The annual cost of a license is only one dollar. However, licensees are required to file reports of their wholesale and retail sales and pay \$0.05/cwt on that total to the Commission each month. The \$0.05/cwt fee is also charged on all milk produced in Maine, and that cost can be shared between the producer and the processor of the milk.

The number of licensees hasn't changed much during the last nine years. However, the Commission has seen an uptick in the number of producer-dealers in the state who are bottling milk on the farm and selling it at locations off the farm. Bringing all of those entities into compliance with the Commission will increase the number of licensees, but the volume of milk produced and sold at that level will represent a less than 1% increase in the total Milk Commission cwt fees.

LICENSES:

In calendar year 2022, Maine had 22 licensed milk dealers, 17 licensed sub-dealers, and 11 licensed producer dealers for a total of 50 licensees. The hundredweight fees collected from these licensees generated \$248,867.71 in revenues for the Milk Commission and represented 370,095,788 pounds of milk sold in Maine, or 67% of all of the milk produced in Maine.



MAINE MILK POOL

In 1983 the Maine Legislature created the Milk Pool to equalize payments to farmers and ensure an adequate, wholesome, and safe supply of milk within the state. Prior to the existence of the Milk Pool, farms providing milk for Maine market suppliers received more for their milk than those farms whose milk was shipped to a processing facility outside the state as a result of the state and federal regulatory milk pricing framework, as well as from actual transportation and cost differences independent of any regulatory actions. Specifically, higher prices on the Maine market were from cost savings realized by Maine market producers in transporting milk to local markets, and from a comparatively higher fluid milk (Class I) utilization rate. Other input costs or price fluctuations result from changing milk price support policies and are largely controlled by national and international policies and are far beyond the control of the Maine dairy farmer.

This relative vulnerability engendered instability in the marketing system resulting in destructive competition for the higher-priced markets among Maine's dairy farmers. This instability was and still is a serious threat not only to the viability of those farms whose milk was diverted to out of state plants, but also to the Maine dairy industry as a whole. The impacts associated with the loss of Maine dairy farms result in a loss of agricultural infrastructure, which negatively impacts Maine's entire agricultural sector and risks serious erosion of Maine's agricultural base and economic sector.

Maine dairy farms are limited by geography in where they can ship their milk for processing. Maine only shares a border with one other state (New Hampshire), and the majority of that border is made up of heavily wooded and scarcely populated areas. There are significant limitations on the shipment of raw milk, and that includes the inability to ship raw milk across the border into Canada. Maine's long coastline limits milk movement even more, since raw milk is bulky in its liquid form and not practical to be moved via boat. That means all milk produced in Maine either must be delivered to a Maine-based processing facility, or it must travel south via Kittery by truck to find a processor outside of Maine.

In 1983, the Legislature believed it was in the best interest of the Maine dairy industry and the well-being of the State to adjust prices paid to Maine milk producers and to redistribute this benefit among Maine milk producers in both markets. Therefore, the legislature established the Milk Pool in order to achieve this goal and to eliminate differences attributable to the higher utilization rates that are a product of the two separately regulated markets.

Beginning in February 2001, the only milk plant in Maine not subject to the Federal Order milk pool was Houlton Farms in Aroostook County. This meant they were the only contributor to the Maine milk pool. Because Houlton Farms is a small dairy located in northern Maine and because the intent of the legislature was to maintain stability in the milk industry, the milk pool statute was changed in May 2001. It exempts a single dairy processor, with a handle of less than 1,000,000 pounds per month, from being subject to the Maine milk pool when that dairy is the only dairy subject to the provisions of the Maine pool. This change effectively brought the other larger Maine processing plants into the Pool Program.

The Maine Milk Commission is the contractual administrator of the Maine Milk Pool, which balances prices paid to producers whether they ship milk to the "Boston market" or the "Maine market". The amount of milk that was produced on a Maine dairy farm, shipped to a Maine dairy processing plant, and packaged for sale to Maine distributors and retail businesses is calculated each month. Since 2001 the funds distributed by the Maine Milk Pool are derived directly from the Producer Margin/ Cost of Production premiums established by the Commission each month as part of the public hearing to set the minimum prices for the following month.

The state’s pooling process lends financial stability to all Maine dairy farms and eliminates the financial incentives/disincentives attached to a specific processor or processing location that may result in erratic movements of milk for the purpose of gaining financial advantage. Instead, milk movement is managed in an orderly manner to allow each processor access to a consistent milk supply and each producer an opportunity to share in the benefits related to keeping their milk in Maine. This functions similarly to how milk is balanced in the federal milk marketing order system.

Calendar Year	Total Pounds	Pool Rate Average/CWT	Total Pool Payments
2014	596,638,850	\$0.38	\$2,281,777
2015	592,120,664	\$0.44	\$2,579,042
2016	626,257,795	\$0.46	\$2,850,336
2017	625,792,034	\$0.46	\$2,854,591
2018	614,510,874	\$0.47	\$2,850,538
2019	616,951,565	\$0.42	\$2,594,059
2020	587,752,533	\$0.43	\$2,506,877
2021	568,210,208	\$0.46	\$2,578,674
2022	550,470,201	\$0.45	\$2,412,621
2023	538,315,281	\$0.45	\$2,207,897
<i>10 Year Total 2014-2023</i>	5,917,020,006	\$0.44	\$25,716,414

In summary, the milk pool balances monthly milk prices and distributes any premiums set by the Commission. This balancing procedure is similar to the manner in which the Federal Market Administrator equalizes processor and producer prices in the Northeast Marketing Area. Currently Maine has three dairy bottling/processing plants that regularly contribute an average total of \$200,000/month to the Milk Pool. The money is distributed back to Maine farmers each month at an average rate of between \$0.40-\$0.50/cwt.

MAINE DAIRY STABILIZATION “TIER” PROGRAM

The Maine Dairy Stabilization Program—often referred to as the “Tier Program”—was established by the Legislature in 2003 to provide economic relief to Maine dairy farmers in times of low milk prices. Based on routine studies that analyze the costs of producing milk on Maine farms as compared to farms in neighboring regions, the program provides payments to Maine dairy farms when the price they receive for their milk through the regulated marketplace falls below the identified short run/breakeven cost of production. New studies are conducted on a regular basis to allow the program to react to changes in the economics of operating a Maine dairy farm. This provides a consistent safety net to the state’s milk producing sector to the benefit of dairy producers, processors, and consumers.

Structure & Process

The Executive Director of the Maine Milk Commission is responsible for gathering information regarding milk production and disposition each month. This includes detailed information about the amount of milk produced, shipped, or dumped from each Maine farm per month, and a confirmation of any Over-Order Premiums paid to producers by processors or co-operatives for receipt of the milk at a processing plant. All of the information is entered into a specially created and proprietary computer program (TierPay) and unique payments per farm are calculated as prescribed in Title 7, Chapter 611, and subsection 3153-B. The amount of each farm’s payment is determined by their total production for the month, the federally-announced statistical uniform minimum blend price that serves as the minimum producers price for the month, the amount of Over-Order Premiums each farm received, and each farm’s cumulative total milk production for the specific month that have accumulated during the time period of June 1 through May 30 of any given yearly cycle. These individualized amounts are compared against the minimum support “target” levels that are adopted by the Legislature to determine the payment rate and total payment for each farm each month.

7 M.R.S.A. Section 3153-B <http://www.mainelegislature.org/legis/statutes/7/title7sec3153-B.html> explains how base price is calculated. A monthly base price is established by adding the Federal Milk Order One Suffolk County Statistical Uniform Price of milk to the amount received by producers as a result of the Maine Milk Premium (Over-Order Premium) adjustments added to the Class I price in the monthly pricing orders. Section 3153-B identifies a target price as the most recent short-run-breakeven cost of production adopted by the Maine Milk Commission for each producer. See link to Chapter 26 at the website below: https://www.maine.gov/dacf/milkcommission/statutes_rules.shtml

Once the base price is established for each producer, it is then compared to the target price for that producer. If the base price is less than the target price, the difference is paid to the producer. The target price for a producer depends on which of four production ranges a producer is in. All producers begin in the first level of production beginning June 1. Annual production is counted from June 1 to May 31. As the amount of milk produced on the farm increases above the established target levels, the level of support is adjusted to reflect the findings of the Milk Commission’s Cost of Production. Farms with more cows and higher monthly production may move from one level to the next, each in their own individual time frame, based on their farm size and operation. Some farms remain in the first level for the entire year.

The Cost of Production Studies are reviewed by the Milk Commission and officially approved through the Commission’s rulemaking process for use and guidance in the setting of Commission premiums at the monthly pricing hearings. The results are then forwarded to the Legislature for review (under the major substantive rulemaking review process) to determine whether or not to update and amend the target support price levels of the Tier Program. This deliberation process is often complicated by the unpredictability of future milk prices and the complexity of balancing the multitude of programs and priorities considered as part of the biennial budget process. The target prices have only been amended once since 2012, despite significant changes reported in the costs on Maine dairy farms cited in the three different reports completed during that time.

Funding for Tier Program payments is derived first from a .5% assessment on the slots revenue generated at the Oxford Casino¹, and any additionally needed funds are drawn from the state’s General Fund.

Annual Milk Production / Annual Tier Payment / Average Tier Payment per cwt (Calendar Year, not Fiscal Year)

Calendar Year	Total Pounds	Total Tier Payment	Average Tier Payment/CWT
2014	596,638,850	\$0	\$0.00
2015	592,120,664	\$12,599,061	\$2.13
2016	626,257,795	\$20,810,898	\$3.32
2017	625,792,034	\$12,124,902	\$1.94
2018	614,510,874	\$19,634,113	\$3.20
2019	616,951,565	\$8,733,053	\$1.42
2020	587,752,533	\$13,626,153	\$2.32
2021	568,210,208	\$9,586,063	\$1.67
2022	550,470,201	\$0	\$0.00
2023	538,315,281	\$7,357,177	\$1.25
10 Year Total 2014-2023	5,917,020,006	\$104,471,420	\$1.72

The

Maine Milk Commission conducts Maine Cost of Production Studies / Chapter 26 major substantive rulemaking every three years which forms the framework for any updates to the Tier Program safety net levels to meet the statutory objective of providing financial stability for Maine’s dairy sector through providing safety net payments to dairy farm to offset low producer prices.

¹ The Handler Fee is the Maine Milk Handling Fee that is assessed on every gallon, half-gallon, and quart of milk sold in Maine and paid by the first person to handle the milk in Maine. (36 M.R.S. Chapter 721 Section 4902) This means that even if the milk was produced and packaged outside of the state, once it comes into Maine it is subject to the fee. The fee is collected by Maine Revenue Services and is not dedicated to any program but is deposited into the state’s General Fund.

Section C: Demographics of Maine's Dairy Industry

Production

As of December 31, 2023 Maine has 145 commercial cattle dairy farms who are shipping milk every day or every other day to a processing plant. The demographics of these farms break down as follows:

- 94 farms are producing milk conventionally (using recognized best management standards and shipping milk to a standard processing facility);
- 51 farms are using organic production methods and guidelines and shipping to an organic processor;
- 12 farms are producer-dealers (farms that are processing, packaging, and distributing their own milk directly to retail stores and customers) who are licensed to sell their milk in retail stores;
- 96 farms are members of a co-operative that handles the marketing of their milk (Today, most co-operatives own dairy processing facilities in which their farmer-owners have invested funds and have a vested interest in the long-term success of the processing business.)
- 37 farms are considered as independent producers (are not members of a co-operative) and have a direct relationship with the processor that receives their milk.

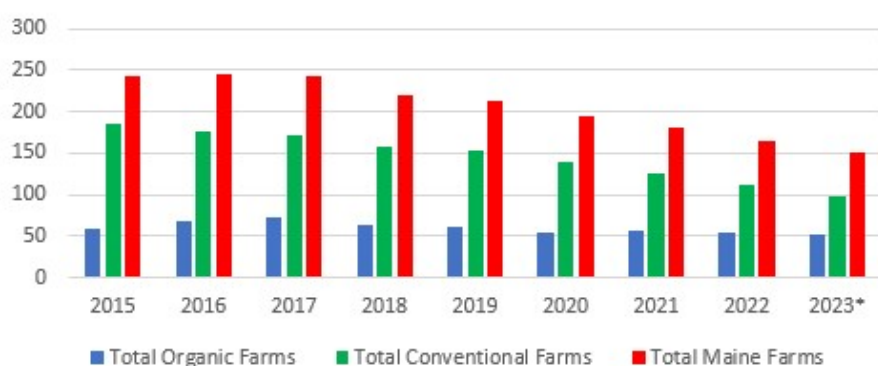
The breakdowns above represent farmers who either sell their milk directly to a processing facility, or package their own milk and are licensed by the Milk Commission to sell their milk in locations off the farm (producer-dealers).

Maine also has other dairy farms producing milk and dairy products with goats, sheep, and even water buffalo. While Maine also has an active raw milk / direct-to-consumer sector within its dairy

industry (packaging fluid milk and processing both organic and conventional milk into cheese, yogurt, and other dairy products) the volume is less than 1% of the total production and less than 1% of the total milk sales in Maine. If the milk is only sold on the farm where it is produced, those farms are not required to be licensed by the Commission.

Historically, Maine dairy farmers have produced and shipped an average of 600 million pounds of milk per year. The exact amount of milk produced on a farm varies depending on any number of factors. For instance, cows don't produce as much milk in hot weather, but actually prefer the colder temperatures. If the crop growing season was too wet or too dry it can impact the quality and quantity of the feed crops for the cows, and cows prefer a consistent, nutrient-dense feed in order to produce a bathtub-full amount of milk per day. The dairy marketplace has occasionally taken steps to try to stabilize the producer milk price by managing the supply of raw milk. In response to the recent worldwide pandemic and the resulting shifts in product demand, the management involved placing quotas or creating base-excess plans that limited the amount of milk farms could ship into various markets. The limitations were put in place by individual handlers/co-operatives who market a large portion of the milk in the region for delivery to processing plants. These programs discouraged increasing milk production through penalty fees or by

Maine Dairy Farm Numbers
2015-2023

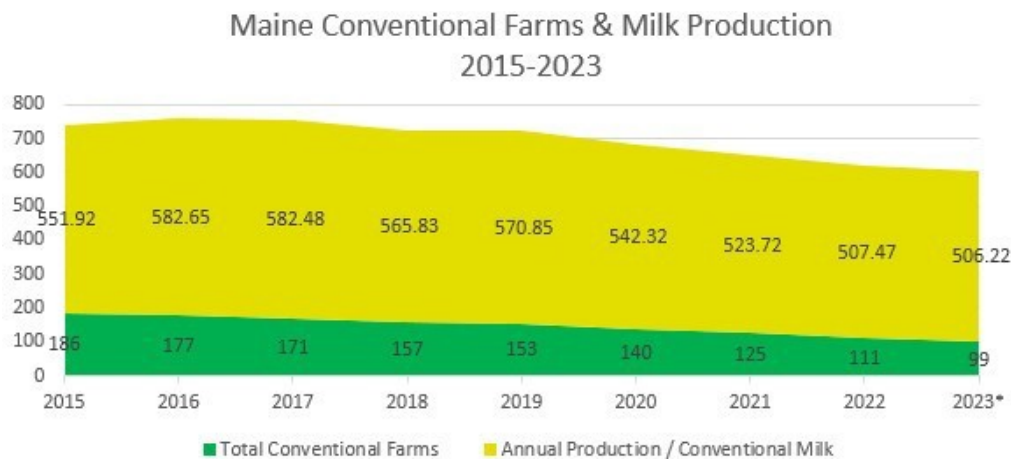


only paying the lowest possible “bargain basement” prices for what it terms “excess” milk. This minimized the amount of milk that could not be utilized by a processor and thus reduced the amount of milk that needed to be diverted away from food production channels.

Dairy farmers are price *takers*, not price *setters*. They have very few options to increase the margin between what it costs to produce milk and the price they receive from the marketplace for their milk. Maine farmers must embrace one of two operational models in order to achieve financial viability – either reduce expenses or find ways to increase their income, or both.

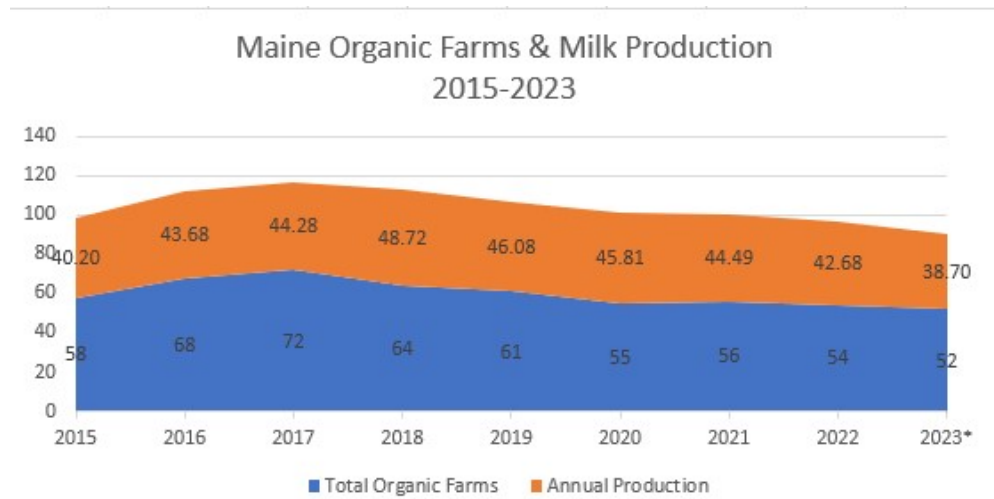
A common way for dairy farms to raise their income is to diversify or decrease reliance on fluid markets with volatile pricing for their revenues. Examples of diversified niche markets for fluid milk include organic, grass-fed, A2 (milk only from cows with the A2 gene), local direct-to-consumer, or selling milk as an ingredient for use in the production of non-dairy products.

Another route is to couple dairy/milk production with the production and sale of other products, such as hay, grain, vegetables, maple syrup, or meat. Some have added non-cattle dairy animals, or are raising and selling young stock/replacement dairy animals. Often farms will add value-added processing such as on-farm cheese, yogurt, butter, ice cream or other non-fluid dairy products as a way to find new incomes. Others have embraced agri-tourism, or direct- to-consumer sales of milk or other dairy products,. All of these activities require additional time & resources to develop the production/processing/sale of the alternative products.

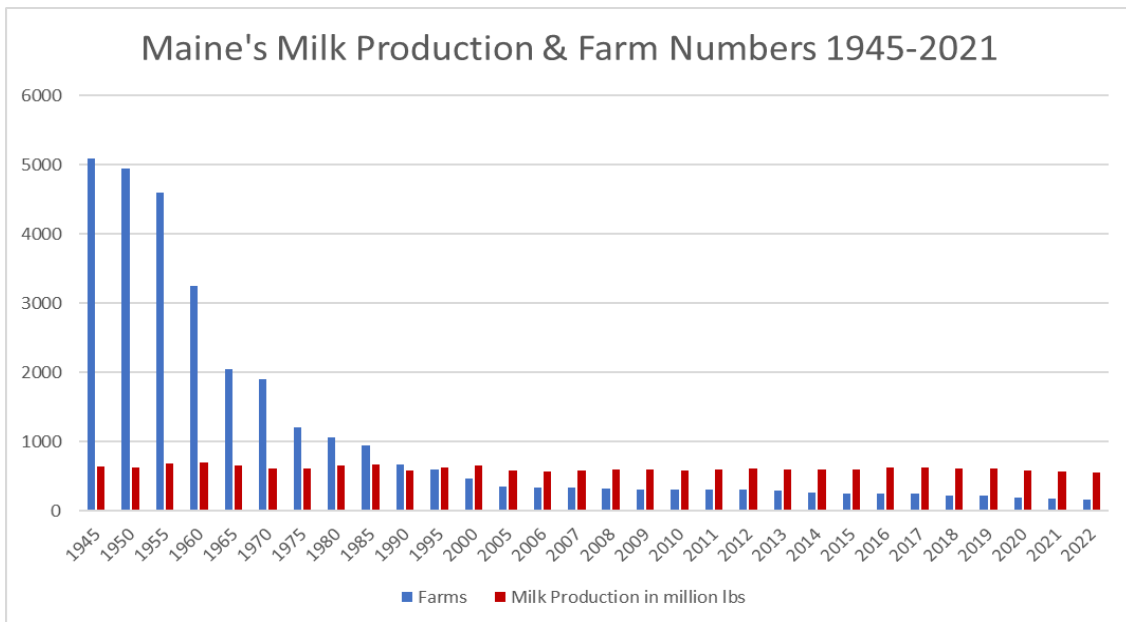


Many farms convert to organic management practices because organic milk processors offer milk contracts that consistently above the Federal Milk Marketing Order Statistical Uniform Price that serves as a minimum payment to conventional producers. Organic dairy farms receive a guarantee that each month they will be paid the same contract price for the duration of the contract, instead of the having the uncertainty faced by conventional farms of waiting for a market announcement to know how much they will be paid for the milk they shipped the previous month.

However, the cost of organic supplies and inputs tends to be higher because they are also considered niche market goods and services. This spiked dramatically over the last few years as a result of the world-wide pandemic and geo-political uncertainty across the globe. In addition, the base level of organic dairy contracts has fallen over the last 10 years, leaving organic dairy farmers with slimmer margins between income and expenses.



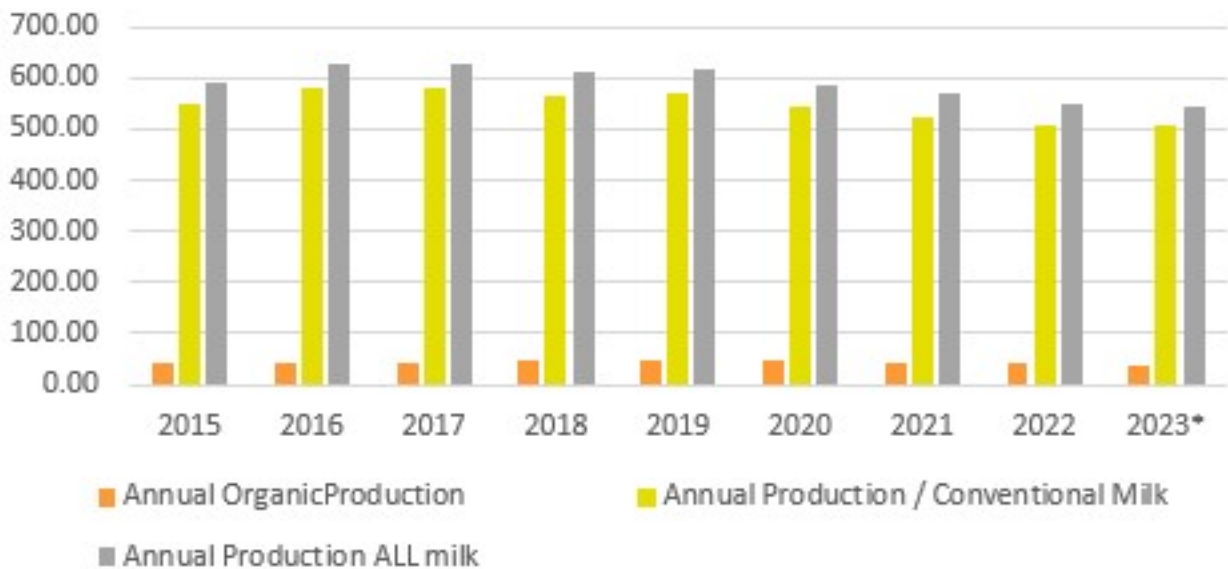
Although organic farms make up one-third of the total farms in Maine, those organic farms are only producing about 7% of the milk produced in the state. Maine currently does not have any organic dairy processing plants, so all of the milk produced by Maine organic farmers must either go to a conventional dairy plant or be hauled out of state to an organic processor. The closest organic processing plant - and the location where almost all of Maine’s organic milk ends up – is the Stonyfield yogurt plant in Londonderry, New Hampshire.



The number of dairy farms has been declining in the US for many decades. The rise in manufacturing and technology created many good jobs as an alternative to farming. The invention of refrigeration increased the distances that milk could travel and still be fresh and nutritious. Suburban “sprawl” meant that in many areas, farmland was turned into housing and zoning requirements pushed farm activities – especially involving livestock – to the edges of towns and communities.

In many instances, when a Maine farm exits the dairy industry, that herd is purchased by another Maine farm, thus keeping the animals in state and allowing the purchasing farm to increase their production. Simultaneously, farmers are always learning and adopting new management techniques and practices to increase their overall efficiency on the farm. This allows them to produce more milk with fewer inputs and lower expenses. These dynamics have historically helped Maine farmers maintain the amount of milk produced in Maine at stable level despite the drop in the number of farms.

Maine Milk Production (in million lbs)
2015-2023



The customary way to reduce expenses on the farm is to adjust size and management practices to maximize efficiencies through scale, technology, or both. The pressure to achieve more production with fewer resources is one of the most common characteristics of a supply and demand economic environment. The dairy industry has seen significant consolidation at the wholesale (processors & co-operatives) and retail (any one of the larger store chains) levels. In turn, those sectors put downward pressure on producers to reduce costs and increase production.

Maine dairy farms are not “one size fits all”. Some farms may achieve maximum efficiency by reducing their herd size, which could result in hiring fewer people to work on the farm and reducing labor expenses, or reducing the amount of purchased feed required for their herd. Each Maine farm is unique (size, location, hauler, handler/co-op, processor, market, family dynamics, or any number of other characteristics) and no two farms will achieve efficiencies in exactly the same ways.

Processing

The vast majority of Maine-produced milk is sold as Class I, i.e., in fluid form for drinking. Maine has four licensed milk bottling facilities. The two largest are located in Portland and are utilizing 100% Maine milk in their operations. These are able to package enough milk to meet the needs of Maine consumers. In fact, they are bottling enough milk, cream, half-and-half, and other fluid milk variations to ship significant volumes of their packaged products outside of Maine to meet the consumer needs of our neighboring states.

The remainder of the milk produced on Maine farms goes to either of the two smaller bottling facilities (one in Houlton and the other in Westbrook), or is shipped to the region’s largest milk bottling plant that services the greater Boston area. Other loads of milk are diverted to Pineland Farms Creamery in Bangor to be made into cheese, or are shipped to the Stonyfield plant in New Hampshire that makes organic yogurt. The state also has a vibrant network of local and regional ice cream manufacturer and facilities that produce butter, drawing their milk indirectly from Maine farms by purchasing pasteurized but not-yet-package milk from a fluid processors.

The state’s artisan cheese industry is also thriving with over a hundred Maine creameries that make a variety of cheeses. Some on-farm creameries also make and sell butter, yogurt, ice cream or gelato sourced from their own milking animals or from a neighboring farm. The manufacturing and sale of those non-fluid dairy products is not regulated by the Commission.

Over the last few years, Maine’s fluid milk processors have been operating using 100% Maine milk. This is a positive trend and processors can market their milk using the Maine Quality Seal program through the Department of Agriculture, Conservation & Forestry to identify that their milk is sourced entirely from within the state. This has not always been the case.

Larger percentages of Maine milk used to leave the state to provide milk for plants throughout the New England region. However, over the last decade a combination of factors has reduced the number of processing facilities overall in the region, pushing a greater reliance on Maine’s fluid processors to provide milk to drink for customers throughout the region. Consolidation of companies has played a big role in reducing the processing capacity of the Northeast. As smaller, independent manufacturing were bought out by larger conglomerates, plants were closed to focus production in areas closer to the population centers, or processing lines were moved to other locations for better operational efficiency. In 2012 one of those conglomerates closed a milk bottling facility in Bangor, then later in 2018 they closed another facility in Lynn, Massachusetts where Maine farms has been supplying milk. All these changes have increased the regional reliance on Maine’s remaining fluid milk processors which is good for Maine’s dairy sector. However, consumer purchases of milk continue to decline due to behavioral trends, competition from other types of beverages, and increase in consumption of other types of dairy products (yogurt, cheese, cottage cheese, etc.) instead of milk to get key nutrients as part of a balanced diet.

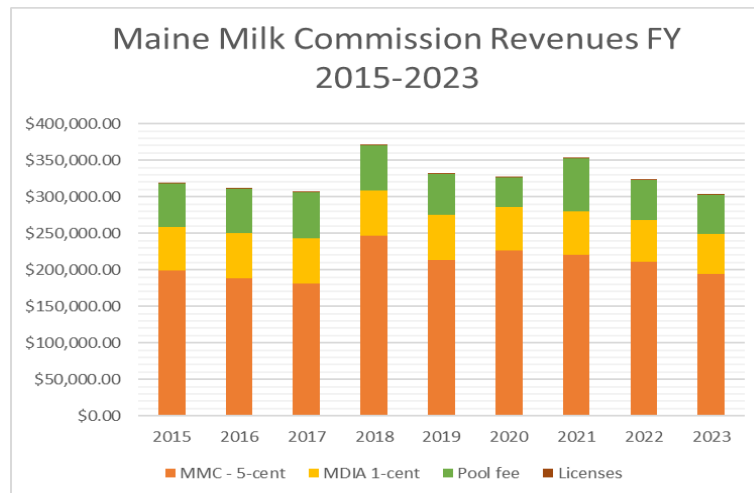
	Annual Maine Milk Production - by processing location							
	2015	2016	2017	2018	2019	2020	2021	2022
Producer/Dealers	2,062,553	2,691,181	2,942,251	3,433,018	3,813,799	4,477,739	7,173,073	4,150,038
Maine Processors	244,114,253	253,649,859	252,830,343	244,184,698	244,631,382	233,338,037	195,415,360	370,095,788
Out of State Processors	345,947,901	369,989,989	370,985,061	366,929,253	368,486,441	350,311,524	356,023,239	175,905,955
Total Milk Production	592,124,707	626,331,029	626,757,655	614,546,969	616,931,622	588,127,299	568,210,208	550,151,781

Section D: Financial Summary

Revenues FY 2015-2023

The Maine Milk Commission receives revenues from several sources.

- Hundredweight (cwt) fees provide the majority of the income, with producers (through co-ops), processors, and dealer/handlers submitting monthly reports of the amount of milk (raw or packaged) that they handled for the previous month and related fees at a rate of \$0.05 per hundredweight (which equals 100 lbs of milk). In most cases, this fee is split between the farmer and processor with each paying \$0.025 per cwt of milk produced and processed. This fee currently is set statutorily and can only be changed by legislative action.
- Licensing fees – originally set at \$1.00 per year in 1935 – have remained unchanged, but the number of entities licensed each year has continued to diminish as individual processors and distributors of milk and milk products have closed or consolidated. The last 10 years have averaged 48 licensed dealers per year for an income of \$48 per year for the Commission. This fee is also set in statute and currently requires legislation to make any adjustments.
- The Maine Milk Pool is a statutory responsibility of the Department of Agriculture, Conservation & Forestry. However, historically the staff of the Commission has contracted with DACF each year to manage and administer the Milk Pool. In return, the Commission receives an administrative fee for the service. The fee can be adjusted each year through required annual rulemaking, depending on the actual costs associated with completing the work on the Milk Pool. Despite increasing costs and declining volumes of milk (which reduces the total amount the Commission receives) the fee has remained unchanged at \$0.01/cwt each year since at least 2013. While this fee can be adjusted more nimbly through the rulemaking process, the Commission has been reluctant to increase the fee because it is paid directly out of the total funds collected via premiums and any increase in the fees would result in a corresponding decrease to the amount of money returned to Maine dairy farmers.



In addition, the Milk Commission serves as the collection agent for the Dairy Industry Fund (7 MRS Chapter 603 §2956-A. Dairy Industry Fund). This fund, established in 2001, requires the collection of \$0.01/cwt from every Maine dairy farmer to support a statewide dairy organization that has been approved by a majority of Maine dairy farmers. That group is the Maine Dairy Industry Association (MDIA) and the fees that are received by the Maine Milk Commission for this purpose are 100% passed through to MDIA in payment transfers sent monthly. While this money appears in the Milk Commission accounts, the only reason is so the

Commission can maintain oversight to ensure compliance with the statute and reflect that the money was sent in and then the Commission redirected that same money to its final destination.

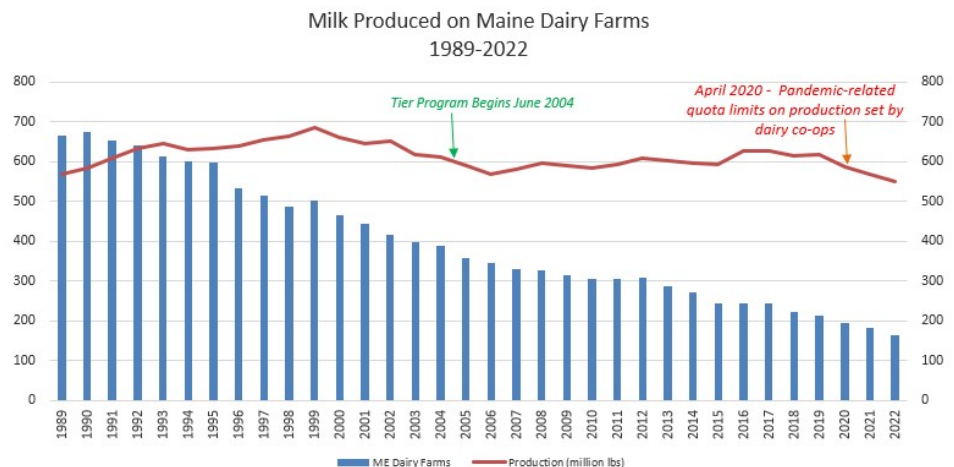
TABLE: Maine Milk Commission Revenues

FY	MMC 5-cent	MDIA 1-cent *	CH 61 Pool fee	Annual Licenses	Total Revenues	One Time Revenues	
						Other Approp - CoP	DACF Bridge LOAN
2015	\$199,190.63	\$59,415.08	\$59,157.43	\$42.00	\$317,805.14		
2016	\$188,371.26	\$61,512.54	\$60,973.31	\$48.00	\$310,905.11		
2017	\$180,792.86	\$62,615.01	\$62,250.38	\$49.00	\$305,707.25		
2018	\$246,940.06	\$61,876.60	\$61,564.27	\$50.00	\$370,430.93		
2019	\$211,001.53	\$63,713.23	\$56,333.80	\$49.00	\$331,097.56		
2020	\$223,709.82	\$62,823.59	\$39,750.10	\$48.00	\$326,331.51		
2021	\$221,710.00	\$57,810.77	\$72,673.37	\$47.00	\$352,241.14		
2022	\$211,154.69	\$56,540.48	\$55,010.02	\$41.00	\$322,746.19		
2023	\$194,406.87	\$54,460.84	\$54,214.75	\$43.00	\$303,125.46	\$50,000.00	\$85,000.00

* Pass-through only per MRS Title 7, §2956-A. Dairy Industry Fund

The COVID Pandemic initially saw a drastic reduction in the amount of milk sold/handled as schools and other public gathering places closed and people went into “lockdown”. It rebounded slightly in 2020 as people began purchasing more milk because they were doing more home cooking, including having breakfast at home instead of “on the go”. Programs that made milk and meals available to all school-aged families helped to boost the consumption and sales of milk as well. As the US and the world began to emerge from isolation and resumed normal work, school, and travel routines, the amount of milk sold & handled backed off again to pre-pandemic levels. The volume of fluid milk sales has continued to drop as competition from dairy-alternative beverages and other specialty drinks increased, resulting in some of the lowest fluid sales – and correspondingly, the lowest Milk Commission revenues – in generations.

Over the years as financial pressures and other factors have resulted in a reduction in the number of Maine dairy farms, the total amount of milk produced on Maine farms has also remained fairly consistent as farmers embraced new technology and production methods to achieve efficiencies. However, in this post-pandemic environment, the trend has shifted and the amount of milk being produced is on the decline.



This trend will have a direct impact on future revenues for the Milk Commission and other programs/groups that base their fee structures on Maine milk production and/or sales.

Expenses FY 2014-2023

The Milk Commission has a history of managing its programs and conducting its regulatory duties with a relatively streamlined budget. The largest expenses are related to the Commission staff positions.

Salary schedules & benefit costs are negotiated, contracted, and set by the State of Maine. Maine Milk Commission employees are state employees & the Commission cannot adjust the salary and benefit lines.

In 2021 the former Executive Director retired from the position, effective September 30. However, the employee remained under a temporary staffing contract until the end of the calendar year to cover the duties of the position until a new Executive Director could be hired and trained. For FY 2022 there was a period of time where the Commission had the cost of both the temporary contract and a new hire, which increased the expense lines.

The next largest sectors of expenses for the Commission are administrative costs collected through the Department Indirect Cost Allocation Plan (DICAP) and the State Indirect Cost Allocation Plan (STACAP) lines of the budget. The DICAP line captures a percentage of the total revenues and remits them to the State for reimbursement of shared services, such as the Natural Resource Service Center that processes all financial transactions associated with sending and receiving money. The STACAP line reflects use of shared space & services such as office space, meeting rooms, bathrooms, break rooms, centralized printer rooms, and custodial services. These plans are reviewed and approved by our federal partners and amounts are billed through set formulas and the Commission cannot adjust or reduce those expense lines.

Total Operating Expenses includes payment/transfer of MDIA fees, staff salaries/benefits, office operational expenses.

Maine Milk Commission Expenses					
				Total	
	Total Operating	DICAP Deduct from	STACAP	DICAP/STACAP	% of total
FY	Expenses	Revenues	Expenses	Expenses	Expenses
2015	\$262,018.52	-\$31,738.56	\$12,721.41	\$44,459.97	17%
2016	\$284,879.09	-\$34,844.70	\$12,934.66	\$47,779.36	17%
2017	\$292,827.21	-\$36,807.13	\$10,562.21	\$47,369.34	16%
2018	\$313,886.53	-\$31,670.79	\$5,930.56	\$37,601.35	12%
2019	\$326,943.70	-\$39,416.46	\$5,865.32	\$45,281.78	14%
2020	\$369,756.45	-\$44,479.78	\$8,371.64	\$52,851.42	14%
2021	\$323,645.88	-\$36,670.75	\$7,604.80	\$44,275.55	14%
2022	\$394,093.94	-\$28,597.62	\$16,226.38	\$44,824.00	11%
2023	\$328,554.83	-\$39,514.89	\$16,159.58	\$55,674.47	17%

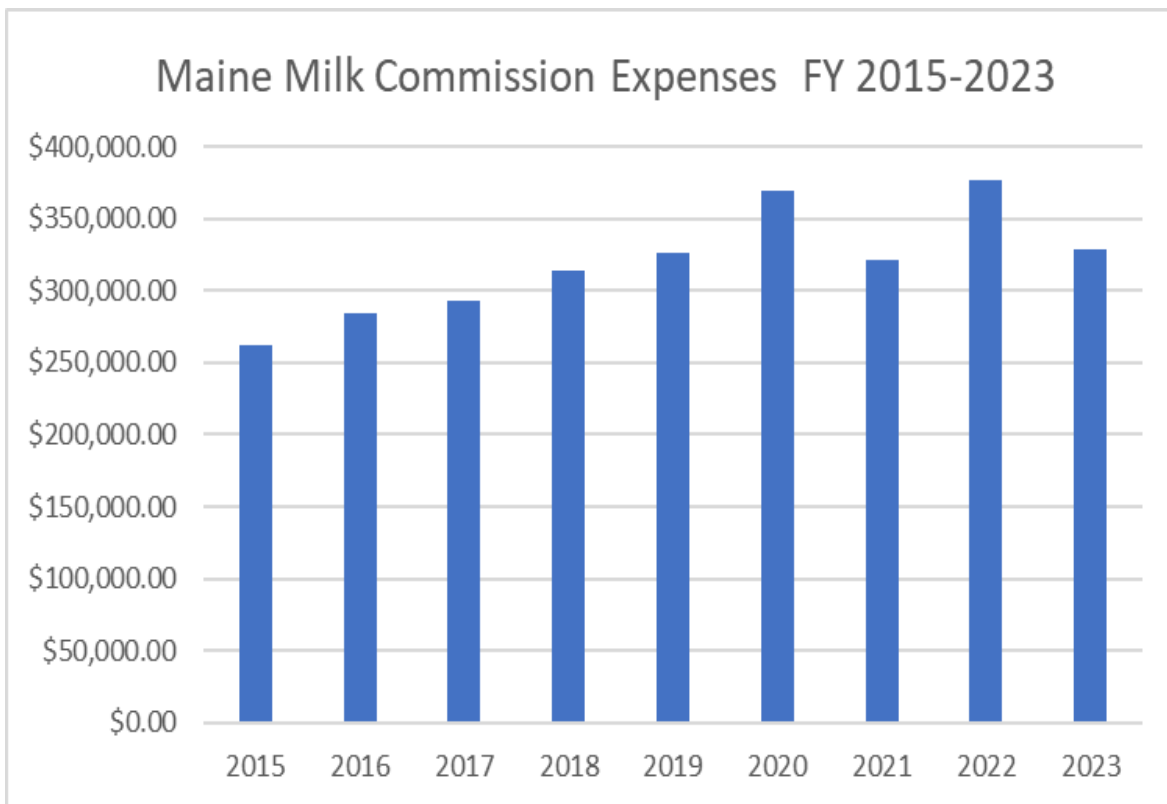
The third largest expense for the Commission is the contracting with research professionals to conduct the various cost studies that are required by statute to be done on a rotating basis, one each year and no greater than three years from the previous version of the study. These studies are advertised through the state's RFP bidding process and are subject to the variations of the submitted bids. While the Commission has a history of finding extremely qualified professionals to complete the work, the costs associated with conducting these studies continue to go up in response to market forces.

The Commission has been able to contain some expenses, such as reducing printing and mailing costs by switching to online and electronic communication platforms, utilizing the state surplus property warehouse & sales for equipment and office supplies, and restricting unnecessary travel and other expenditures.

With such a large percentage of the expenditures beyond the managerial control of the Commission, in late 2022 the Commission began discussions with the Department of Agriculture, Conservation & Forestry to brainstorm ways to improve the long-term financial viability of the Commission. DACF responded by providing a bridge loan to the Commission to ensure that the encumbered costs associated with employees, paying for state services, and honoring contractual agreements would be covered.

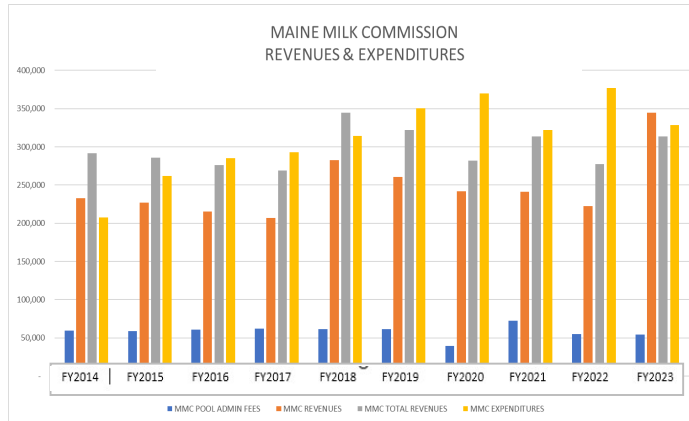
DACF, in recognition of the services provided to the Department by the Commission and its staff, especially in the area of dairy policy, and after reviewing the percentage of time each shared staff member spent on work for the Commission, put forward a budget proposal in the FY 24-25 Biennial State Budget to redistribute the financial responsibility for the shared positions and the Executive Director and DACF funded a portion of each salary line. (See page 5 for updated organization chart with new financial arrangement.)

While this measure has eased some of the immediate financial concerns for the Commission, efforts to engage in discussions with the regulated community around the Commission’s long-term financial stability were begun in 2022, and have continued in 2023 to strategize potential adjustments to revenue streams, and/or expense lines through re-evaluating the Commission’s mission and value to the industry.



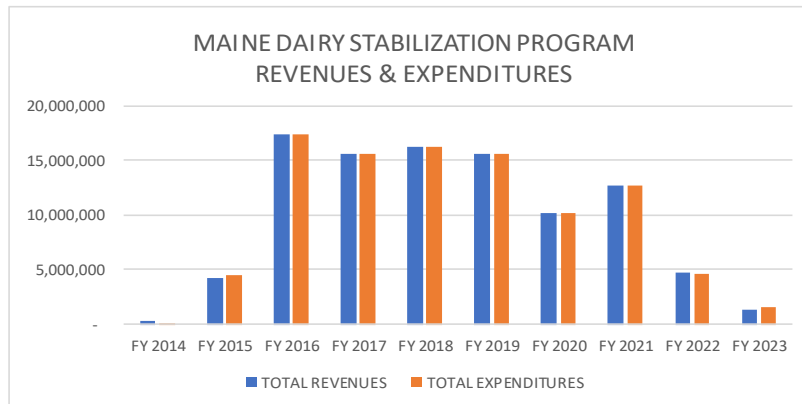
Maine Milk Commission - Operations

Revenues v. Expenses FY 2014-2023



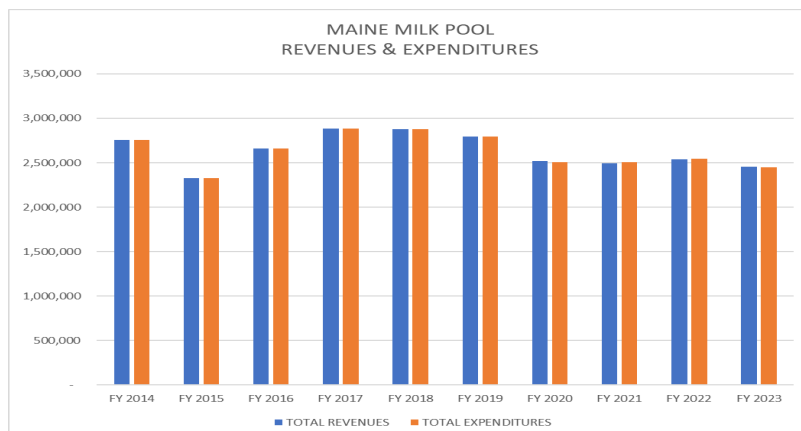
Maine Dairy Stabilization "Tier" Program

Revenues v. Expenses FY 2014-2023



Maine Milk Pool

Revenues v. Expenses FY 2014-2023



SECTION E: Performance Measures and Assessments

MAINE MILK COMMISSION

Objectives:

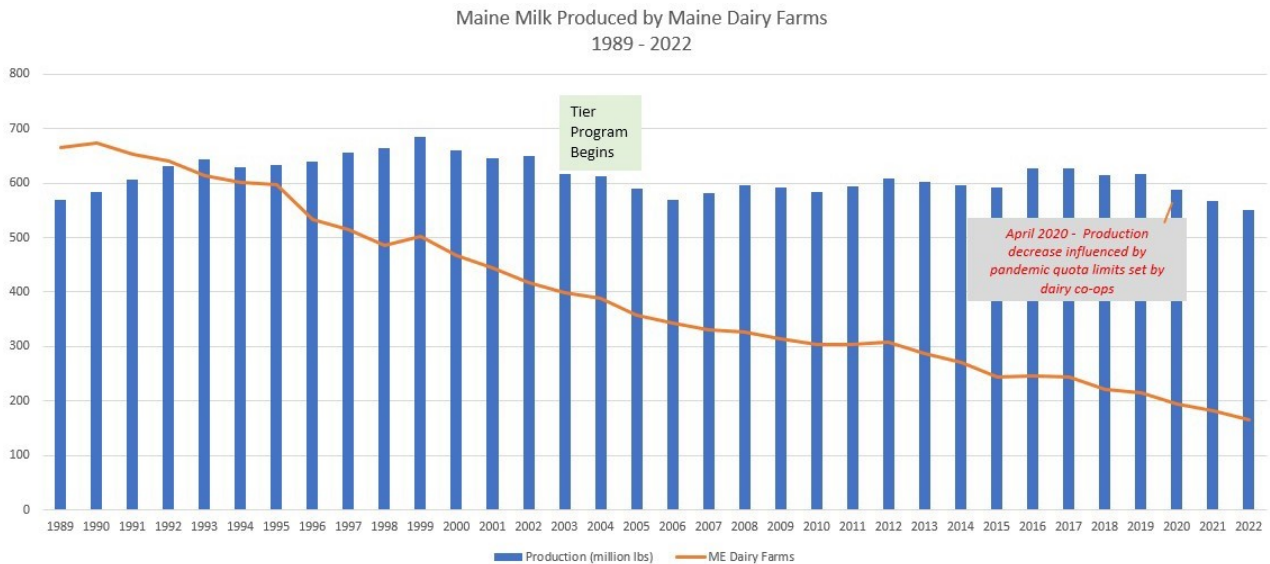
- Continue 100% compliance with all state and federal milk pricing laws.
- Provide orderly marketing of Maine milk at the production, wholesale, and retail levels to ensure an adequate supply of wholesome milk within the State of Maine.

<u>Performance Measures</u>	Baseline	2007-08	2014-15	2022-23
1. % of Maine citizens with access to wholesome milk that is produced, processed and sold in Maine		100%	100%	100%
2. % of fresh milk sold in Maine which is produced by Maine farmers.		95%	94%	92%

ASSESSMENT

The Commission believes it is vital to its mission to use every available tool to help Maine dairy farmers stay in business and compete with producers in other states. Otherwise, Maine will become dependent on out-of-state supplies of milk and consumers will experience increased transportation costs resulting in higher milk prices, have less control over milk quality, and risk reduced access to supplies of fresh milk in emergencies or a crisis. The COVID-19 worldwide pandemic demonstrated the risks associated with relying on importing goods – including food – into the state to meet Maine people’s needs. While many areas of the state did experience limited shortages on store shelves of milk, butter, and other dairy products, the cause was not a lack of local product availability, but difficulties in physically moving supplies of product fast enough from Maine processors and providers to the retail stores in order to meet rapidly changing consumer demands associated with the pandemic. Maine dairy farms never stopped producing milk and Maine dairy processors never stopped bottling/packaging milk and dairy products and shipping them to Maine stores, schools, and other locations to feed Maine people.

With 92% of the fresh milk consumed in Maine produced by Maine farmers, the Commission believes it continues to meet its goal of providing stability to the state’s dairy industry, thus ensuring that Maine people can purchase and access milk produced on a Maine dairy farm, processed in a Maine dairy plant, and sold in Maine retail stores all across the state.



SECTION F: COOPERATION WITH OTHER AGENCIES

The Maine Milk Commission routinely coordinates its efforts in order to uphold its statutory obligations and regularly assess the health of the Maine dairy industry. This includes, but is not limited to, serving as a dairy policy advisor to the Department of Agriculture, Conservation & Forestry, and other Executive departments and officials. The Commission also manages the Maine Milk Pool and the Maine Dairy Stabilization “Tier” Program, both of which are statutory responsibilities of the Department of Agriculture, Conservation & Forestry.

The Commission must comply with 7 M.R.S.A. Chapter 603 Section 2952-A Subsection 3 that requires the Commission to conduct formal studies of the cost of producing milk in Maine no less than every three years in a manner that provides information to service the Maine Dairy Stabilization Program.

The Maine Milk Commission, Herbein & Co., University of Maine’s faculty/staff, and other qualified industry consultants have established contractual arrangements through the R.F.P. process as needed to conduct study costs associated with producing, processing, and retailing milk in Maine.

Funds for the projects are drawn from within existing resources of the Milk Commission.

The Maine Milk Commission also coordinates with the Maine Revenue Service in the setting and collection of the Milk Handling Fee each month.

SECTION G: ALTERNATIVE DELIVERY SYSTEMS

The Maine Milk Commission provides a state marketing order to help stabilize and regulate the movement of milk and create a more level competitive environment that ensures that Maine residents can purchase Maine-produced and processed milk from a Maine retailer.

Milk movement is one of the biggest challenges facing Maine's dairy industry and is almost entirely a factor of the state's geography and geo-political placement. International trade laws severely limit the movement of raw milk across the Canadian border, and Maine only shares a border with one other US state (New Hampshire - and most of that border is heavily wooded and scarcely populated), and the remainder of Maine is ocean coastline. This creates a unique dynamic for moving perishable products such as raw and packaged milk and milk products.



There really is no alternative method of providing this protection and stability. The USDA Federal Milk Marketing Order system's Federal Milk Marketing Order One is the only other marketing entity operating in New England, but its objectives are focused on providing stable marketing to the greater Northeast region, from New Hampshire, Vermont, Massachusetts, through most of New York and part of Pennsylvania, down to New Jersey, Delaware, Maryland, part of northern Virginia and the District of Columbia. The vast majority of these areas about other federal milk marketing areas and provide much greater opportunities for sales and distribution of milk and milk products than exists in the state of Maine.

The Maine Milk Commission is uniquely structured and focused to address the specific challenges associated with Maine's geography, economy, and consumer needs.



**Northeast Marketing Area
Federal Milk Marketing Order 1**

Shawn M. Boockoff - Market Administrator

USDA United States Department of Agriculture
Agriculture Marketing Service
Dairy Program

Section H: Compliance with Federal & State Workplace Health and Safety Laws



JANET T. MILLS
GOVERNOR

DEPARTMENT OF AGRICULTURE,
CONSERVATION & FORESTRY

MAINE MILK COMMISSION

28 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0028

AMANDA E. BEAL
COMMISSIONER

MICHAEL WIERS
CHAIRMAN

JULIE-MARIE R. BICKFORD
EXECUTIVE DIRECTOR

The Maine Milk Commission complies with all applicable Federal and State health and safety laws.

The Maine Milk Commission, as part of the official structure operating in the interests of the State of Maine, is a workplace in full compliance with all rules and statutes governing employers in efforts to ensure a positive, respectful, and safe work environment.

SECTION I: EMERGING ISSUES

Milk Pricing

The Milk Commission monthly price setting meetings continue to be a forum for airing difficulties and issues, many of which the Commission has no control over. Much of this is related to three dynamics of the national U.S. dairy industry:

1. Increasing globalization of dairy/milk markets and market dynamics which originate well beyond the sphere of influence of Maine's dairy farmers and processors;
2. Intensifying consolidation within the dairy industry at the retailer, processor, and even the farm level that demands that lower costs be the ultimate driver of success; and
3. Extremely complicated federal pricing policies and mechanisms that cater to a small number of highly competitive entities with significant policy influence, but are not reflective of the vast majority of local farms, processors, and retailers that make up the bulk of the US dairy industry.

The minimum prices at the federal level have nationally-averaged adjustments to reflect increases in costs and the efforts to keep such adjustments updated is cumbersome and time consuming and caters to the lowest cost providers. The federal system has mechanisms to reflect increased costs at the processing level but does not have any similar mechanism for adjustments to the producer level. However, there are long periods of time between these adjustment due to the complex administrative hearing process required by federal law. The federal milk marketing system does not regulate retail prices.

Transportation

Maine's unique geography places it at the end of the line for many good and services, as well as imposing limits on where milk must travel from farm to processor to market. Distances from supply centers, the further concentration and consolidation of marketers and processors in dairy marketing regions, increasing transportation costs, and the ever-increasing costs of raw materials are important factors that challenge the survival of Maine's dairy industry and the commitment to supplying fresh milk for Maine consumers.

The transportation of milk from the farm to the plant is becoming more difficult and more expensive in Maine. As the number of dairy farms have decreased, it has become harder to create trucking routes where a hauler can efficiently pick up an entire tankerload of milk that is committed to a specific processing plant. The remaining operating dairy farms are spread out across the state, often in rural areas away from the central interstate corridors. Milk truck haulers and/or the co-operatives and entities that co-ordinate the marketing of milk from farm to plant are having to increase the stop charge (a fee for the truck to stop at the farm to pick up milk) and/or the hauling fee (amount paid per mile to transport the milk from the farm to the plant). This issue is further exacerbated by the distance milk needs to travel to reach the processor because of Maine's geography. If the milk doesn't have a "home" in Portland or another Maine location, the next closest plant could be just outside of Boston or even upstate New York.

Labor

Labor is one of the biggest challenges for all sectors of the dairy industry – especially since the COVID pandemic. Whether it is finding people to milk cows or plant and harvest crops, or truck drivers for raw milk or packaged milk, or retail employees to keep shelves neat and well stocked – the dairy industry is like many many other industries who are struggling to find and afford employees in this post-pandemic labor environment.

Processing Capacity

Maine is able to provide roughly two-thirds of all of the milk produced here to a processing plant located in the state. However, Maine's largest plants are packaging fluid milk. Unless sales trends reverse and consumption of fluid milk increases, Maine milk may have to travel farther distances to find a processing home. The existing fluid plants are already supplementing their revenues by bottling water, juice, and other beverages to meet consumers needs and fully utilize the plants efficiently. The lack of larger-scale processing of other dairy products makes it more difficult for the existing processors to balance the milk supply (meaning that they cannot always find a processor to take the skim milk or milk solids that are excess or by-products of the bottling process). A relatively new Maine cheese processor has expanded into what was formerly a fluid bottling plant that was closed. The company has successfully increased their production and have increased their operation to a larger scale. In order to handle all of Maine's milk balancing needs and also provide more price stability for Maine farmers, the state needs more processing businesses who can turn out a variety of dairy products and provide alternative "homes for Maine-produced milk.

There are no organic dairy processors operating at a commercial level in Maine. Consequently, all Maine organic milk must leave the state in order to be processed and must be shipped back into the state in packaged form for sale. This is simultaneously a challenge and an opportunity for Maine to develop a state-branded organic dairy plants and reduce the distance that Maine organic milk must travel from farm to processor and from processor to Maine consumer.

Commission Operations

The Maine Milk Commission is facing a financial challenge as milk sales and milk production continue the declining trend. The primary source of revenue for the Commission is from the in-state production and sale of fluid milk.

During the COVID pandemic when people were staying at home, retail milk sales increased as people returned to eating cereal for breakfast instead of grab-and-go foods, and more people were cooking meals at home (which tend to use more milk and dairy products) instead of eating out. As people returned to work, sales reverted to their previous trend of declining fluid milk sales in favor of alternative beverages, such as soda, juice, bottled water, and plant-based beverages. Convenience food once again became more popular than the home cooked meal, and fluid milk sales reverted to its previous downward trend.

The number of dairy farms in Maine continues to decline. For the first time in several decades, the amount of Maine milk being produced in a post-COVID pandemic environment is much less due to several factors. (*see pages 20-23*) Less milk being produced means less revenue for the Commission and other groups and agencies who rely on assessments per hundredweight. (*see page 27*)

The Next Generation

The most daunting challenge Maine faces is identifying and encouraging the next generation of Maine dairy farmers. For a large percentage of existing farms, there is no succession plan because there aren't any family members who are interested or willing to take on the challenge of operating a dairy farm in such an economically volatile environment. This is not a unique challenge for Maine, however when added to our statistically older population and the large number of primary farm operators who are nearing, at, or beyond retirement age, Maine is very vulnerable to more dairy farms shutting down when the current generation decides to stop milking cows at least twice a day, 7 days a week, 365 days a year.

SECTION J: CONCLUSIONS

The mission of the Commission to ensure that Maine people can purchase milk produced on a Maine dairy farm, processed in a Maine plant, and sold in a Maine store is challenging in the changing and consolidating global market. The Commission serves as a hub for discussing critical issues impacting all sectors of the industry. While the Commission cannot always take direct action to address issues, it can foster further examination and push for unique creative solutions.

Maine is the only state in the Northeast that operates their own state order and is also not officially included in Federal Milk Marketing Order One. Several factors continue to be required in order to achieve the dual goals of financial stability and orderly marketing within Maine's dairy industry. It is up to the Maine Milk Commission to track milk production, processing, retail sales, and overall milk movement in the state in order to account for all the diverse styles of dairy operations at work here.

The Maine Milk Commission continues to protect the Maine milk industry through the minimum prices set for both the retail and wholesale sales of milk within Maine. The success of this protection can be measured by the fact that over time Maine's milk production has remained fairly stable while milk production in neighboring New England states has declined. This success can also be attributed to the Maine Dairy Stabilization "Tier" Program. Maine's farm numbers are still declining and this continues to be a concern for the Commission members and is discussed during each month's deliberations. On the retail side of the dairy business in 2021, we had almost 80 percent of our production volume sold in some form within the State of Maine. Not all of these products were processed and packaged in Maine but a majority of them never had to leave the state. (67% of all Maine produced milk remains in Maine for processing.)

The Maine Milk Commission is able to be more responsive to cost shifts at the wholesale and retail pricing levels by conducting routine cost studies and making adjustments to pricing formulas through the rulemaking process. However, the premium-setting mechanisms available to the Commission to assist the producer level are limited. The Commission cannot raise premiums to a high enough level to assist farmers without creating a disparity in the cost structure for Maine processors that could put them at a disadvantage with competitors from outside the state.

The Maine Legislature has a history of recognizing the Commission's limitations to assist producers within their jurisdiction and powers and has passed a variety of support programs to help Maine dairy farms be both more competitive and achieve greater financial stability and predictability. These programs and supportive measures have received acclaim from around the U.S. and have proven successful in efforts to provide a safety net for farms and the infrastructure businesses that service dairy and all of Maine agriculture. The Maine Milk Pool, the Maine Dairy Stabilization "Tier" Program, and the Maine Dairy Improvement Fund are 3 highly successful programs that have found creative, supportive, and uniquely Maine solutions to assist Maine dairy farmers. The dairy farmers, in turn, provide the economic underpinnings of the broad agricultural infrastructure that serves all different sectors of Maine agriculture.

Maine is an important provider of fluid milk for the greater New England region and plays a large role in ensuring that our major urban population centers have reliable supplies of fluid milk, while continuing to supply all of our rural communities as well. Maine's dairy industry has a history of being resilient, innovative, and family-centered. Creative responses to the challenges faced by the hundreds of small businesses that make up Maine's farm, processing, and retail dairy sector will be the key to supporting the next generation who will take pride in feeding their neighbors nutrient-rich dairy food from Maine.

APPENDIX 1: Milk Commission Statutes

Title 7: AGRICULTURE AND ANIMALS

Part 7. MILK AND MILK PRODUCTS

Chapter 603: MILK COMMISSION

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Title 7, Chapter 603, MILK COMMISSION

§2951. Definitions

As used in this chapter, unless the context otherwise requires, the following words shall have the following meaning:

1. **Books and records.** "Books and records" means books, records, accounts, memoranda or other data pertaining to the purchase and distribution of milk.
2. **Commission.** "Commission" means the Maine Milk Commission.
3. **Consumer.** "Consumer" means any person other than a milk dealer who purchases milk for fluid consumption.
4. **Dealer.** "Dealer" means any person who purchases or receives milk for sale as the consignee or agent of a producer, or handles for sale, shipment, storage or processing within the State and shall include a producer-dealer and a sub-dealer, but shall not include a store other than an integrated operation.
[PL 1985, c. 717, §1 (AMD).]
 - 4-A. **Integrated operation.** "Integrated operation" means a person who is a dealer and who also sells at retail the milk that the person handles for sale, shipment, storage or processing within the State.
[RR 2021, c. 1, Pt. B, §138 (COR).]
5. **Market.** "Market" means any city, town or parts thereof of the State, or 2 or more of the same or parts thereof designated by the commission as a natural marketing area.
6. **Milk.** "Milk" means any of the following, regardless of the presence of any flavoring:
 - A. Whole milk or cream, whether fresh, sour or storage; [PL 2005, c. 382, Pt. F, §2 (NEW).]
 - B. Skimmed milk; or [PL 2005, c. 382, Pt. F, §2 (NEW).]
 - C. Buttermilk. [PL 2005, c. 382, Pt. F, §2 (NEW).][PL 2005, c. 382, Pt. F, §2 (AMD).]
7. **Person.** "Person" means any individual, partnership, firm, corporation, association or other unit, and the State and all political subdivisions or agencies thereof, except state owned and operated institutions.
8. **Producer.** "Producer" means any person who produces milk and sells such milk only to dealers.
[RR 2021, c. 1, Pt. B, §139 (COR).]
9. **Producer-dealer.** "Producer-dealer" means a dealer who produces a part or all of the dealer's milk or a person who produces milk and sells to a grocery store or dairy products store or similar commercial establishment.
[RR 2021, c. 1, Pt. B, §140 (COR).]
10. **Retail sale.** "Retail sale" means a doorstep delivery and over-the-counter sales by stores.
11. **Store.** "Store" means a grocery store, dairy product store, canteen, milk vending machine operator, milk dispensing operator or any similar commercial establishment or outlet or any other sale where milk is sold to consumers for consumption off the premises where sold.
12. **Sub-dealer.** "Sub-dealer" means any person who does not process milk and who purchases milk from a dealer and sells such milk in the same containers in which the person purchased it, but does not include a store.
[RR 2021, c. 1, Pt. B, §141 (COR).]
13. **Wholesale sale.** "Wholesale sale" means sale to any other person not included in retail.
14. **Retail store.** "Retail store" means a grocery store, dairy product store or any similar commercial establishment where milk is sold to consumers for consumption off the premises.
[PL 1973, c. 758, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 758, §1 (AMD). PL 1985, c. 717, §§1,2 (AMD). PL 2005, c. 382, §F2 (AMD). RR 2021, c. 1, Pt. B, §§138-141 (COR).

§2952. Organization

1. Members. The Maine Milk Commission, as established by Title 5, section 12004-E, subsection 2, consists of the following 5 members:

A. The commissioner or the commissioner's designee, ex officio; and [PL 2005, c. 382, Pt. F, §3 (NEW).]

B. Four members, who must be residents of the State, appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture matters and subject to confirmation by the Legislature. [PL 2005, c. 382, Pt. F, §3 (NEW).]
[PL 2005, c. 382, Pt. F, §3 (NEW).]

2. Conflict of interest. In addition to the limitations imposed under Title 5, section 18, the following conflict of interest restrictions apply.

A. A member of the commission appointed under subsection 1, paragraph B may not, at the time of appointment or while serving as a member of the commission, have a business or professional relationship or connection with or a financial interest in any producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission. The retail purchase of milk for consumption is not a violation of this paragraph. [PL 2005, c. 382, Pt. F, §3 (NEW).]

B. An employee of the commission may not have a business or professional relationship or connection with or a financial interest in any producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission. The retail purchase of milk for consumption is not a violation of this paragraph. [PL 2005, c. 382, Pt. F, §3 (NEW).]

C. A member or employee of the commission may not render, or be a member of a firm that renders, any professional or other service for or against a producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission. [PL 2005, c. 382, Pt. F, §3 (NEW).]
[PL 2005, c. 382, Pt. F, §3 (NEW).]

3. Terms; vacancies. Members of the commission appointed under subsection 1, paragraph B serve for a term of 4 years or until their successors are duly appointed and qualified, except that the initial terms of these members are for one, 2, 3 and 4 years so that the terms of the members of the commission are staggered. A vacancy in the membership of the commission must be filled by appointment by the Governor. [PL 2005, c. 382, Pt. F, §3 (NEW).]

4. Chair; employees and resources. The members of the commission shall elect a chair. With the approval of the commission, the commissioner may employ, subject to the Civil Service Law, a secretary and such officers, clerks, assistants and other employees as the commission determines necessary. To the extent possible, the commission shall make use of professional, expert or other resources available within the various departments of State Government, including, but not limited to, the department, the Department of Health and Human Services and the Department of the Attorney General, and such departments shall, as resources allow, provide necessary and appropriate services at the request of the commission. To the extent these services are not available or otherwise adequate, the commission may employ appropriate experts, professionals or others to assist it in carrying out its duties. [PL 2005, c. 382, Pt. F, §3 (NEW).]

5. Compensation; office; supplies. Members of the commission are compensated as provided in Title 5, chapter 379, as determined by the Governor. The administrative costs of the commission, including expenses and compensation of members, may not exceed the amount of fees collected under this chapter. The commission must be furnished a suitable office at the seat of government, together with all necessary equipment and supplies. [PL 2005, c. 382, Pt. F, §3 (NEW).]

6. Special meetings. The chair shall call special meetings of the commission whenever requested in writing by 2 or more members of the commission. [PL 2005, c. 382, Pt. F, §3 (NEW).]

SECTION HISTORY

PL 1969, c. 362 (AMD). PL 1971, c. 594, §12 (AMD). PL 1973, c. 758, §2 (AMD). PL 1975, c. 293, §4 (AMD). PL 1975, c. 517, §1 (RPR). PL 1975, c. 771, §§100,101 (AMD). PL 1977, c. 78, §31 (AMD). PL 1979, c. 731, §19 (AMD). PL 1979, c. 734, §6 (AMD). PL 1983, c. 484, §1 (AMD). PL 1983, c. 812, §§52,53 (AMD). PL 1985, c. 517 (AMD). PL 1985, c. 785, §B48 (AMD). PL 1989, c. 410, §21 (AMD). PL 1989, c. 503, §B46 (AMD). PL 1999, c. 679, §B1 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2003, c. 689, §B6 (REV). PL 2005, c. 382, §F3 (RPR).

§2952-A. Powers and duties

1. Powers; general. The commission may:

A. Establish and change the minimum wholesale and retail prices for the sale of milk within the State; [PL 2005, c. 382, Pt. F, §4 (NEW).]

B. Adopt and enforce all rules and orders necessary to carry out this chapter; and [PL 2005, c. 382, Pt. F, §4 (NEW).]

C. In administering this chapter:

(1) Conduct hearings;

(2) Subpoena and examine under oath persons whose activities are subject to the jurisdiction of the commission, including producers, dealers and stores and their officers, agents and representatives; and

(3) Subpoena and examine the business records, books and accounts of persons whose activities are subject to the jurisdiction of the commission, including producers, dealers and stores and their officers, agents and representatives.

Any member of the commission and any employee designated by the commission may sign subpoenas and administer oaths to witnesses. [PL 2005, c. 382, Pt. F, §4 (NEW).]

[PL 2005, c. 382, Pt. F, §4 (NEW).]

2. Limitations. The commission may not modify, add to or annul any sanitary regulations imposed by any state or municipal authority or compel pasteurization in any market area.

[PL 2005, c. 382, Pt. F, §4 (NEW).]

3. Duties. The commission shall:

A. Not less than once every 3 years, conduct independent studies of the economics and practices of the milk industry in order to assist the commission in establishing minimum prices. The studies must include the compilation of cost data for farms at 4 different levels of production; and [PL 2009, c. 467, §1 (AMD).]

B. Ensure that distributors give 30 days' notice before terminating delivery to any customer in their delivery area or in the traditional delivery area of a distributor they have purchased. The 30-day notice does not apply to cancellations resulting from a failure to pay bills. [PL 2005, c. 382, Pt. F, §4 (NEW).]

[PL 2009, c. 467, §1 (AMD).]

4. Authority; accounts and records. To enable the commission to perform its duties, the commission may inquire into the management of the businesses of the producers, dealers and stores to obtain from them all necessary information. Every producer, dealer and store shall keep and render to the commission, at such times and in such manner and form as may be prescribed by the rules of the commission, accounts of all business transacted that is related to the production, purchasing, processing, sale or distribution of milk. Such accounts must reasonably reflect, in such detail as the commission considers appropriate, income, expense, assets, liabilities and such other accounting entries as the commission considers necessary, to assist the commission in making its determinations as to:

A. Minimum prices generally; [PL 2005, c. 382, Pt. F, §4 (NEW).]

B. Separate minimum price categories to be established to reflect different container costs; [PL 2005, c. 382, Pt. F, §4 (NEW).]

C. Separate minimum price categories to be established for different quantities of milk packaged and sold in separate containers; [PL 2005, c. 382, Pt. F, §4 (NEW).]

D. Separate minimum price categories to reflect identifiable distribution costs; and [PL 2005, c. 382, Pt. F, §4 (NEW).]

E. All matters pertinent to the proper performance of its duties. [PL 2005, c. 382, Pt. F, §4 (NEW).]

The commission shall adopt routine technical rules that establish procedures to enable the commission to inspect the records, books and accounts of dealers, producers and stores at their various offices and places of business at reasonable times. 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, §4 (NEW).]

SECTION HISTORY

PL 2005, c. 382, §F4 (NEW). PL 2009, c. 467, §1 (AMD).

§2953-A. Interstate conferences and compacts

The commissions shall have power to enter into compacts, subject to congressional approval, with legally constituted milk commissions or similar authorities of other states or of the United States of America to effect a uniformity in regulating and insuring an adequate supply of pure and wholesome milk to the inhabitants of this State, to provide uniform control of milk produced in this State and handled in interstate commerce and to exercise all the powers hereunder for such purpose as well as the following powers: [PL 1965, c. 463 (NEW).]

1. Hearings. To conduct joint investigations and hearings and to issue joint or concurrent orders. [PL 1965, c. 463 (NEW).]

2. Enforcement. To employ or designate a joint agent or agencies to enforce such orders or compacts.

[PL 1965, c. 463 (NEW).]

3. Classification. To provide for classifications of milk in accordance with the form in which it is used or moved with uniform minimum prices or methods of fixing such prices for each class.

[PL 1965, c. 463 (NEW).]

4. Payments. To provide for payment to all producers and associations of producers delivering milk to dealers of uniform prices, subject to adjustments with the joint agent for location and butterfat content.

[PL 1965, c. 463 (NEW).]

4-A. Northeast Interstate Dairy Compact. To enter into the Northeast Interstate Dairy Compact.

A. Maine's representatives to the Northeast Interstate Dairy Compact are as follows:

(1) The commissioner or designee;

(2) The chair of the Maine Milk Commission or designee; and

(4) A dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, to be appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Legislature. [PL 2005, c. 382, Pt. F, §6 (AMD).]

B. [PL 2005, c. 382, Pt. F, §7 (RP).]

C. The Northeast Interstate Dairy Compact may establish rules using the procedures outlined in the Federal Administrative Procedure Act and may proceed under emergency rule-making provisions without making findings of emergency. [PL 1989, c. 437 (NEW).]

D. This subsection shall not take effect until the Northeast Interstate Dairy Compact is enacted by 3 other states and approved by the Congress of the United States. [PL 1989, c. 437 (NEW).]

[PL 2005, c. 382, Pt. F, §§6, 7 (AMD).]

5. Regulations. To make such joint regulations as may be incidental to the foregoing and not inconsistent thereto and as may be necessary to effectuate the above mentioned powers.

[PL 1965, c. 463 (NEW).]

6. Compensation. Members serving pursuant to subsection 4-A, paragraph A, subparagraphs (2) and (4) are compensated for attendance at Northeast Interstate Dairy Compact meetings in amounts not to exceed those set forth in Title 3, section 2, except that employees of the State who are compensated as part of their employment do not receive additional compensation under this subsection.

[PL 1999, c. 679, Pt. B, §2 (NEW); PL 1999, c. 679, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1965, c. 463 (NEW). PL 1989, c. 437 (AMD). PL 1993, c. 274, §1 (AMD). PL 1999, c. 679, §B2 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2005, c. 382, §§F6,7 (AMD).

§2953-B. Hearings in a new or expanded market area

At least 14 days and not more than 21 days prior to designating a new or expanded natural market area, the commission shall hold a public hearing in the proposed area to determine whether to designate that area as a market. As a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony in addition to the data received through the implementation of the information gathering procedures of its rules and regulations. Due notice of the public hearing shall be given by publishing the notice as provided in the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1979, c. 672, Pt. A, §39 (NEW).]

SECTION HISTORY

PL 1979, c. 672, §A39 (NEW).

§2954. Establishment of minimum prices

1. Commission empowered to establish prices; public hearing. The commission is vested with the power to establish and change, after investigation and public hearing, the minimum wholesale and retail prices to be paid to producers, dealers and stores for milk received, purchased, stored, manufactured, processed, distributed or otherwise handled within the State. The commission shall hold a public hearing prior to the establishing or changing of such minimum prices. The commission may proceed, however, under the emergency rule-making provisions of Title 5, section 8054 without making findings of emergency when the only changes to be made in the minimum prices are to conform with the orders of any federal or other agency duly authorized by law to establish or negotiate producer prices, are to respond to other conditions affecting prevailing Class I, Class II and Class III prices in southern New England or are to reflect the milk handling fee levied and imposed by Title 36, chapter 721. Title 5, section 8054, subsection 3, the 2nd sentence, does not apply to minimum prices adopted under this subsection. Due notice of the public hearing must be given by publishing notice as provided in Title 5, chapter 375. The commission shall hold such a public hearing not less frequently than once every 12 months to determine whether the minimum wholesale and retail prices then established should be changed. In addition to the data received through the implementation of the information gathering procedures of its rules as a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony at hearings to determine whether the minimum wholesale and retail prices then established should be changed and whether the proposed minimum wholesale and retail prices are just and reasonable. [PL 2005, c. 683, Pt. A, §13 (AMD).]

2. Considerations in establishing prices. The minimum wholesale and retail prices established by the commission must be just and reasonable taking into due consideration the public health and welfare and the insuring of an adequate supply of pure and wholesome milk to the inhabitants of this State under varying conditions in various marketing areas; prevailing prices in neighboring states; seasonal production and other conditions affecting the costs of production, transportation and marketing in the milk industry, including a reasonable return to producer, dealer and store; and the public need for the establishment of retail milk prices at the lowest practicable levels.

A. The minimum wholesale prices paid to producers are based on the prevailing Class I, Class II and Class III prices in southern New England except that, after investigation, the Maine Milk Commission may set different minimum wholesale prices paid to producers to reflect the costs of producing milk in this State. [PL 2005, c. 382, Pt. F, §8 (AMD).]

B. The minimum wholesale prices paid to dealers must be established to reflect the lowest prices at which milk purchased from producers in this State at minimum prices in the State can be received, processed, packaged and distributed within the State at a just and reasonable return, and in addition must include the amount of any fee levied and imposed by Title 36, chapter 721. [PL 2005, c. 396, §2 (AMD).]

C. The minimum retail prices established for payment by consumers must be based on the minimum wholesale price paid to dealers and a rate of return determined to be just and reasonable by the Maine Milk Commission. [PL 2005, c. 382, Pt. F, §8 (AMD).]

D. In establishing and changing minimum wholesale and retail prices, the commission shall consider the effect of possible pricing decisions on the ability of the Maine dairy industry to compete in supplying milk to Maine consumers and, in such a consideration, shall include the following factors:

- (1) The strength and viability of the Maine dairy industry as a whole;
- (2) The extent of any social or economic benefits of maintaining dairy processing plants in different geographic regions or natural marketing areas of the State; and
- (3) The encouragement of consumption by Maine consumers of milk produced and processed within the State, consistent with the Constitution of Maine and the United States Constitution. [PL 2005, c. 382, Pt. F, §8 (NEW).]

E. The commission may not set different minimum wholesale prices for different retail delivery volumes of milk. [PL 2005, c. 382, Pt. F, §8 (NEW).]

[PL 2005, c. 382, Pt. F, §8 (AMD); PL 2005, c. 396, Pt. F, §8 (AMD).]

3. Exemption for on-premise sales of raw milk. The minimum price provisions of this chapter shall not apply to sales by producers of raw milk produced and sold to consumers on the premises of the producers.

[PL 1975, c. 517, §3 (RPR).]

4. Commission empowered to establish classifications of milk. The commission may establish and change, after investigation and public hearing, classifications of milk according to its various usages and shall specify to what classification the prices established under this chapter apply.

[PL 2005, c. 382, Pt. F, §9 (AMD).]

5. Minimum price schedule. Minimum prices set by the commission may vary in the several market areas of the State. The commission shall furnish all dealers registered in each market with a schedule of applicable prices and shall publish the schedule in appropriate newspapers in that market. Once minimum prices for a market take effect, no dealer, store or other person handling milk in that market may buy or offer to buy, sell or offer to sell milk for prices less than the scheduled minimum prices established for that market.

[PL 2005, c. 382, Pt. F, §10 (AMD).]

6. Schedule of maximum transportation allowances; adjustments. The commission may annually establish a schedule of maximum transportation allowances that may be charged by any Maine dealer for hauling milk from a producer's farm to the dealer's dairy plant. The commission shall base its schedule on the recommendations of the commissioner pursuant to section 3156 and shall conduct hearings prior to establishing that schedule. Any dealer may petition the commission at any time to approve a proposed adjustment in that schedule of transportation charges for that dealer. The burden is on the dealer to substantiate the need and reasonableness of such a proposed adjustment, and in the absence of evidence, the proposed adjustments must be denied.

[PL 2005, c. 382, Pt. F, §11 (AMD).]

7. Prohibition. A person may not engage in any practice destructive of the scheduled minimum prices for milk established under this chapter for any market, including but not limited to offering any discount, rebate, gratuity, advertising allowance or combination price for milk with any other commodity. A purchaser of milk at retail may tender a coupon or any item of value if the coupon or item of value is not brand specific and is redeemable for cash by the retailer and if the total value tendered by the purchaser is not less than the minimum retail price established by the commission.

[PL 2005, c. 382, Pt. F, §12 (AMD).]

8. Milk produced outside the State. Whenever milk produced outside the State becomes a subject of regulation by the State in the exercise of its police powers, this chapter applies and the

powers of the commission attach. After any such milk so produced comes within the jurisdiction of this State, no sale or purchase by dealers of such milk within this State may occur at a price less than the scheduled minimum price established according to usage in any given market.
[PL 2005, c. 382, Pt. F, §12 (AMD).]

9. Minimum wholesale prices paid to producers for their milk. Notwithstanding any other provisions of this chapter or chapter 611, minimum wholesale prices paid by dealers to producers for their milk that is sold in this State are subject to the minimum producer prices established by the Maine Milk Commission, regardless of whether the dealer is subject to federal milk pricing regulation in addition to state milk pricing regulation.
[PL 1999, c. 56, §1 (AMD).]

10. Additional considerations in establishing prices.
[PL 2005, c. 382, Pt. F, §13 (RP).]

11. Adjustments for over-order premiums. If following the establishment of minimum prices under subsection 1, which include an over-order premium as defined by section 3152, subsection 8-A, the commission receives new evidence showing that the actual over-order premium in effect in the period during which the minimum prices apply, or any portion thereof, are different from the over-order premium included in the prices, the commission may adjust minimum prices in a subsequent period to offset that difference. Any such adjustment shall be made equally applicable to wholesale and retail minimum prices.
[PL 1987, c. 857 (NEW).]

12. Adjustments for changes in costs of production. Notwithstanding any other provisions of this section, the commission may only adjust minimum prices to reflect changes in costs of production after posting notice of rulemaking in accordance with Title 5, section 8053. The commission may not adjust any minimum price to reflect changes in costs of production under the emergency rule-making provisions of Title 5, section 8054.
[PL 1989, c. 436, §1 (NEW).]

13. Report to State Tax Assessor.
[PL 2005, c. 382, Pt. F, §14 (AMD); PL 2005, c. 396, §3 (RP).]

14. Effective date of certain prices. Any new minimum wholesale prices paid to dealers and new minimum retail prices established pursuant to this section are effective on the Sunday closest to the first day of the month.
[PL 1993, c. 274, §2 (AMD).]

15. Exception.
[PL 2005, c. 382, Pt. F, §15 (RP).]

16. Initial notification and subsequent reports to State Tax Assessor. The Maine Milk Commission shall notify the State Tax Assessor the first time after May 1, 2005 that the basic price of milk as defined in Title 36, section 4901, subsection 1 is below \$18 for 2 consecutive months. After initial notification, the Maine Milk Commission shall report before the first of each month to the State Tax Assessor the basic price of milk established for that month in Title 36, chapter 721.
[PL 2005, c. 396, §4 (NEW).]

SECTION HISTORY

PL 1965, c. 245 (AMD). PL 1965, c. 425, §§5-B (AMD). PL 1971, c. 129 (AMD). PL 1973, c. 758, §§3-7 (AMD). PL 1975, c. 517, §3 (RPR). PL 1977, c. 694, §140 (AMD). PL 1983, c. 573, §§1,2 (AMD). PL 1985, c. 42, §1 (AMD). PL 1987, c. 402, §A80 (AMD). PL 1987, c. 447, §1 (AMD). PL 1987, c. 857 (AMD). PL 1989, c. 436, §1 (AMD). RR 1991, c. 1, §17 (COR). PL 1991, c. 266, §§1,2 (AMD). PL 1991, c. 376, §27 (AMD). PL 1991, c. 526, §§1-3 (AMD). PL 1991, c. 824, §A8 (AMD). PL 1993, c. 104, §1 (AMD). PL 1993, c. 274, §2 (AMD). PL 1993, c. 663, §3 (AMD). PL 1995, c. 2, §§1-3 (AMD). PL 1999, c. 56, §1 (AMD). PL 1999, c. 679, §B3 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2005, c. 382, §§F8-15 (AMD). PL 2005, c. 396, §§1-4 (AMD). PL 2005, c. 683, §A13 (AMD).

§2954-A. Payment by dealers to producers

Payment by dealers to producers is governed by this section. For purposes of this section, the term "delivery month" means the calendar month in which milk is delivered to a dealer from the producer. [PL 2005, c. 382, Pt. F, §16 (NEW).]

1. First 15 days. On or before the 5th day after the end of a delivery month, a dealer shall pay the producer for milk received from that producer during the first 15 days of the delivery month at a rate that is not less than the most recently published northeast marketing area milk marketing order statistical uniform price for Penobscot County.

[PL 2005, c. 382, Pt. F, §16 (AMD).]

2. Balance due. A dealer shall pay the producer for the balance due for milk received during that delivery month as follows.

A. On or before the 20th day after the end of the delivery month, the dealer shall pay the producer for milk received from that producer during the delivery month an initial payment calculated using the minimum prices set by the commission pursuant to section 2954, subsection 2, paragraph A minus:

(1) Any portion of that amount deposited in the Maine Milk Pool or deducted pursuant to section 3153, subsection 2; and

(2) The amount of the payment made to the producer under subsection 1. [PL 2005, c. 382, Pt. F, §16 (AMD).]

B. On or before the 5th day after the end of the month in which the payments required by subsection 1 and paragraph A are made, each dealer shall pay each of the dealer's producers any sums received on behalf of the producers pursuant to section 3153, subsection 4 and Maine Milk Pool rules. [PL 2005, c. 382, Pt. F, §16 (AMD).]

[PL 2005, c. 382, Pt. F, §16 (AMD).]

3. Penalties. The license of any dealer who violates this section may be suspended or revoked in accordance with Title 5, chapter 375.

[PL 1985, c. 172 (NEW).]

SECTION HISTORY

PL 1965, c. 449 (NEW). PL 1985, c. 172 (RPR). PL 1987, c. 447, §2 (AMD). PL 1999, c. 679, §B4 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2005, c. 382, §F16 (AMD).

§2954-B. Study of milk price regulatory options

1. Study commission. The Legislature directs that a study be undertaken as outlined in this section for the purpose of analyzing the situation of the Maine dairy industry under current milk pricing legislation and of analyzing the options for ensuring the long-term stability of the industry. The Commissioner of Agriculture, Food and Rural Resources shall provide for a study of the intent, regulatory approach and economic consequences of various milk pricing programs in Maine, including the Maine Milk Commission, Maine Milk Pool and the destructive competition laws, and of other potential mechanisms for pricing regulation, including, without limitation, minimum pricing at the producer level only, minimum wholesale pricing that reflects various costs of distribution, prohibiting below-cost pricing, establishing presumptive pricing and elimination of state pricing regulations.

[PL 1985, c. 42, §2 (NEW).]

2. Basis for evaluation. The study shall, at a minimum, evaluate existing and alternative pricing mechanisms in terms of their ability to:

A. Stabilize dairy farmer incomes and assure that Maine farmers benefit to the greatest extent possible from the higher proportion of fluid milk processed and sold in Maine; [PL 1985, c. 42, §2 (NEW).]

B. Maintain dairies in Maine which process fluid milk for Maine consumption; and [PL 1985, c. 42, §2 (NEW).]

C. Encourage efficient farm and processor operations which provide consumers high quality, low-cost milk and milk products. [PL 1985, c. 42, §2 (NEW).]

[PL 1985, c. 42, §2 (NEW).]

3. Report content. The study's findings and conclusions shall be expressed in a final report which shall discuss the merits of each of the existing and alternative pricing mechanisms reviewed in terms of each of the objectives established in subsection 2, and shall outline the long-term changes in the dairy industry which might reasonably be expected to occur as a result of continuance or establishment of each of these alternatives.

[PL 1985, c. 42, §2 (NEW).]

4. Study panel. The study shall be carried out by a panel of recognized experts in the economics of regulation and pricing. This panel shall be named by the Commissioner of Agriculture, Food and Rural Resources after consultation with the joint standing committee of the Legislature having jurisdiction over agriculture and shall be convened no later than May 1, 1985.

[PL 1985, c. 42, §2 (NEW).]

5. Select Committee on Milk Pricing. There is a Select Committee on Milk Pricing consisting of 10 members to advise the study panel on the design of the study and on the options and policies to be evaluated. The committee is composed of 3 members of the House of Representatives, appointed by the Speaker of the House of Representatives, one of whom must represent each political party; 2 members of the Senate, appointed by the President of the Senate, one of whom must be chosen to represent each political party; and 3 members named by the Governor, one of whom must be knowledgeable of the dairy processing industry, one of whom must be knowledgeable of milk retailing and one milk producer who is knowledgeable of marketing systems. The Public Advocate or the Public Advocate's designee shall also serve on the committee, representing consumer interests. The Commissioner of Agriculture, Food and Rural Resources shall serve ex officio as chair of the committee.

[RR 2021, c. 1, Pt. B, §142 (COR).]

6. Panel to meet with select committee. The panel shall meet with the Select Committee on Milk Pricing no later than July 1, 1985, to present to the committee its preliminary study design, including the alternative pricing mechanisms to be evaluated and at other times at the request of the Select Committee on Milk Pricing. The panel shall issue its final report to the Select Committee on Milk Pricing no later than November 1, 1985.

[PL 1985, c. 42, §2 (NEW).]

7. Preparation of legislation. After consultation with the Select Committee on Milk Pricing, the commissioner shall prepare legislation based on the report of the panel. The proposed legislation shall be provided to the members of the joint standing committee of the Legislature having jurisdiction over agriculture by December 15, 1985, for their review prior to its submission to the Legislature.

[PL 1985, c. 42, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 42, §2 (NEW). RR 2021, c. 1, Pt. B, §142 (COR).

§2954-C. Applicability to integrated operation

The provisions of this chapter which apply to dealers, including, but not limited to, the provisions of section 2956, shall apply to the dealer phase of the business of an integrated operation and those which apply to retail stores shall apply to the retail phase of the business of an integrated operation.

[PL 1985, c. 717, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 717, §3 (NEW).

§2955. Licenses

A dealer may not buy milk from producers or others for sale or process, distribute, sell or offer to sell milk in any market in the State designated by the commission unless duly licensed by the commission. A license may not be required of any person who produces or sells milk for consumption only on the premises of the producer or seller. Each person, before engaging in the business of a dealer in any market designated by the commission, shall make application to the commission for a license, which the commission is authorized to grant. A retailer may not sell or offer to sell milk in any market in the State that the retailer has purchased in Maine from an unlicensed dealer. [RR 2021, c. 1, Pt. B, §143 (COR).]

The license year shall commence on January 1st and end December 31st following. Application for a license shall be made on a form prescribed by the commission.

Licenses required by this chapter shall be in addition to any other license required by law.

The District Court as designated by Title 4, chapter 5 may, upon proper evidence, decline to grant a license or may suspend or revoke a license already granted upon due notice and after hearing. Violation of this chapter or of any order, rule or regulation made, or conviction of violating any other law or regulation of the State relating to the production, distribution and sale of milk, is sufficient cause to suspend, revoke or withhold such license. [PL 1999, c. 547, Pt. B, §21 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

Upon revocation or suspension of a license it shall not be reissued until the commission shall determine upon application and hearing that the cause for such revocation or suspension no longer exists, and that the applicant is otherwise qualified.

SECTION HISTORY

PL 1973, c. 303, §3 (AMD). PL 1975, c. 517, §4 (AMD). PL 1977, c. 694, §141 (AMD). PL 1999, c. 547, §B21 (AMD). PL 1999, c. 547, §B80 (AFF). RR 2021, c. 1, Pt. B, §143 (COR).

§2956. Records and fees

All dealers in any market designated by the commission shall keep the following records: [PL 1975, c. 517, §5 (RPR).]

1. Names and addresses of producers or milk dealers. A record of the quantity of all milk received or produced, detailed as to location and as to names and addresses of producers or milk dealers from whom received, or of importer of such milk into the State; [PL 1975, c. 517, §5 (RPR).]

2. Use, location and market outlet. A record of the quantity of all milk sold, detailed as to use, location and market outlet; and [PL 2005, c. 382, Pt. F, §17 (AMD).]

3. Other records and information. Such other records and information in such form and at such times as the commission may deem necessary for the proper enforcement of this chapter. [PL 1975, c. 517, §5 (RPR).]

Each dealer shall furnish to that dealer's producers a statement of the amount of milk purchased, the price per hundredweight or pound, the total amount paid for each pay period, the itemized deductions for transportation and other services, the percentages of milk in each classification and the butterfat test, protein test and other solids test when weight and test method of payment is used, and shall pay Maine producers in accordance with section 2954-A. [PL 2005, c. 382, Pt. F, §18 (AMD).]

Each licensed dealer shall pay to the commission an annual license fee of \$1 and the sum of 5¢ per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. Two and one-half cents per hundredweight may be deducted by dealers from amounts paid by them to producers of such

milk, except that the milk farm-processed into cream for the manufacture of butter is not subject to such sums of 5¢ per hundredweight. [PL 1999, c. 161, §1 (AMD).]

Dealers shall file reports together with the prescribed hundredweight fees with the commission at its office in Augusta not later than the 20th of the following month, on forms provided for this purpose, of all matters on account of which a record is required to be kept and such other information or facts as may be pertinent and material within the scope of this chapter; except that dealers who sell less than 100 quarts of milk per day may file reports and pay the prescribed hundredweight fees every 3 months. [PL 1975, c. 517, §5 (RPR).]

In case the same milk is handled by more than one dealer, the first dealer within the State dealing in or handling said milk shall be deemed to be the milk dealer within the meaning of this section. For the purpose of computing fees as provided, 1/2 pint of cream shall be considered the equivalent of one quart of milk. [PL 1975, c. 517, §5 (RPR).]

SECTION HISTORY

PL 1969, c. 214, §1 (AMD). PL 1971, c. 128, §§1,2 (AMD). PL 1975, c. 444, §3 (AMD). PL 1975, c. 514 (AMD). PL 1975, c. 517, §5 (RPR). PL 1975, c. 770, §45 (AMD). PL 1981, c. 481, §1 (AMD). PL 1983, c. 573, §3 (AMD). RR 1993, c. 1, §17 (COR). PL 1995, c. 693, §5 (AMD). PL 1995, c. 693, §25 (AFF). PL 1999, c. 161, §1 (AMD). PL 1999, c. 679, §B5 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2005, c. 382, §§F17,18 (AMD).

§2956-A. Dairy Industry Fund

1. Fund established; source. The Dairy Industry Fund, referred to in this section as the "fund," is established. In addition to payments to the commission pursuant to section 2956, a dealer shall deduct 1¢ per hundredweight from amounts paid by the dealer to each Maine milk producer and pay that amount into the fund as a monthly payment.
[PL 2001, c. 8, §1 (NEW).]

2. Distributions from fund. Notwithstanding section 2957, the commission shall make distributions from the fund to a statewide association that has been approved by the majority of dairy farmers in the State in amounts allocated from the fund for that purpose.
[PL 2001, c. 8, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 8, §1 (NEW).

§2957. Expenditure of funds

Moneys received through this chapter shall be paid forthwith to the Treasurer of State and shall be appropriated and used for the following purposes:

- 1. Collection.** For the collection of all fees and assessments provided for by this chapter;
- 2. Administration.** For the cost of administering this chapter.

Moneys received through this chapter shall remain a continuing carrying account and shall not lapse.

SECTION HISTORY

PL 1969, c. 214, §2 (AMD). PL 1971, c. 594, §13 (AMD). PL 1975, c. 444, §4 (AMD).

§2959. Injunctions and civil penalties

1. Injunction. In addition to any other remedy set forth in this chapter for the enforcement of this chapter or any rule, order or decision of the commission, the Superior Court has jurisdiction upon complaint filed by the commission, or any person duly authorized to act for the commission, including, but not limited to, its executive secretary, to restrain or enjoin any person from committing any act prohibited by this chapter or prohibited by any rule, order or decision of the commission. If it is established upon hearing that the person charged has been or is committing any unlawful act under this chapter or is in violation of any rule, order or decision of the commission, the court shall enter a decree enjoining that person from committing further such violations. In case of violation of any injunction issued under this section, the court shall summarily try and punish the person for contempt of court. The existence of other civil or criminal remedies is no defense to this proceeding. The commission or its authorized agent may not be required to give or post a bond when making an application for an injunction under this section.

[PL 2005, c. 382, Pt. F, §19 (AMD).]

2. Civil penalties. Any person who violates any provision of this chapter or of any rule, order or decision of the commission shall be subject to the following civil penalties, to be collected by the commission in a civil action:

A. For the first violation, a civil penalty not to exceed \$1,000; and [PL 1985, c. 717, §4 (NEW).]

B. For each subsequent violation, a civil penalty not to exceed \$2,000. [PL 1985, c. 717, §4 (NEW).]

All penalties collected by the commission shall be paid to the Treasurer of State for deposit to the General Fund.

[PL 1985, c. 717, §4 (NEW).]

SECTION HISTORY

PL 1985, c. 717, §4 (RPR). PL 2005, c. 382, §F19 (AMD).

§2962. Administrative enforcement

When the commission, after such investigation as it considers appropriate, believes that a violation of this chapter or of any rule, order or decision of the commission has occurred, it may order any person to cease that violation. Before issuing such an order, the commission shall afford any person who would be aggrieved by the order an opportunity for a hearing. In any such investigation or hearing, the commission may exercise all of the powers given to it by section 2952-A. Any person aggrieved by a final order issued under this section may obtain judicial review of the order 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 commission may seek enforcement of its order, including civil penalties for any violation found, and the court, if it upholds the order, may order its enforcement, including civil penalties. [PL 2005, c. 382, Pt. F, §21 (AMD).]

Nothing in this section is intended to require that the commission take administrative enforcement action prior to seeking judicial relief for any violation of this chapter or of any rule, order or decision of the commission, nor intended to limit the commission's ability to bring an independent action to enforce any decision or order issued by it, including civil penalties for any violation found by it. [PL 1985, c. 717, §6 (NEW).]

SECTION HISTORY

PL 1985, c. 717, §6 (NEW). PL 2005, c. 382, §F21 (AMD).

§2963. Transportation allowance study

The Legislature finds that historically the commission has allowed a deduction in the price paid to producers for Class II milk sold by Maine dealers to federally regulated plants. This transportation allowance has remained constant while the ability to transport milk and the shipping and sales practices of dealers have changed. In order to further understanding of the transportation allowance the commission shall: [PL 1989, c. 438 (NEW).]

1. Original intent. Examine the original intent of the transportation allowance;
[PL 1989, c. 438 (NEW).]

2. Current practice. Determine whether the transportation allowance is being applied in situations other than those originally intended;
[PL 1989, c. 438 (NEW).]

3. Finding. Determine whether the transportation allowance should be applied to transfers of milk that are ordinary business practice or are recurring transactions;
[PL 1989, c. 438 (NEW).]

4. Adopt rules. In accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt any necessary rules which the commission determines, after hearing, are not inconsistent with the original intent, and current use of the transportation allowance; and
[PL 1989, c. 438 (NEW).]

5. Report. Report its findings, any actions taken by the commission and any recommendations for legislation by March 1, 1990, to the joint standing committee of the Legislature having jurisdiction over agricultural matters. The committee may introduce any legislation necessary to address the findings or actions of the commission.

[PL 1989, c. 438 (NEW).]

SECTION HISTORY

PL 1989, c. 438 (NEW).

§2964. Donations of fresh milk to food banks

The minimum price provisions of this chapter do not apply to donations of fresh milk produced and processed within the State by a dealer or producer-dealer to an incorporated nonprofit organization within the State established for the purpose of reducing hunger and increasing food security. Donations under this section may occur only if the fresh milk produced and processed within the State to be donated does not have a wholesale or retail market that will provide a higher monetary value to the dealer or producer-dealer. [PL 2019, c. 357, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 357, §1 (NEW).

Title 7: AGRICULTURE AND ANIMALS

Part 7. MILK AND MILK PRODUCTS

Chapter 603-A: DESTRUCTIVE COMPETITION

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§2981. Definitions

Unless the context otherwise indicates, the definitions contained in section 2951 shall apply to this chapter. [PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

§2982. Applicability; authority

Dealers shall observe this chapter only when no applicable minimum dealer price for milk established under chapter 603 is in effect. Retail stores shall observe this chapter only when no applicable minimum retail price or minimum retail margin for milk established under chapter 603 is in effect. This chapter shall be administered by the Maine Milk Commission. [PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

§2983. Selling below cost

It is unlawful for any dealer or retail store to sell milk for fluid consumption at less than the cost thereof to the dealer or retail store with the purpose or intent to injure competitors or destroy competition. In all proceedings brought to enforce this section, proof of consistent and repeated advertisements, offers to sell or sales of milk for fluid consumption by any dealer or retail store at less than cost to them, as defined in sections 2984 and 2985, the advertisements, offers to sell and sales thereby forming a pattern of sales below cost, shall be prima facie evidence of intent to injure competitors and destroy competition. This section shall not apply where the price of milk for fluid consumption is set in good faith to meet legal competition. [PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

§2984. Cost of milk to a dealer

"Cost of milk to a dealer" means the dealer's raw product cost, plus any shrinkage allowance permitted by the commission, to which shall be added the dealer's expenses directly and indirectly incurred in receiving, processing, packaging and delivering milk. Without limitation, these expenses shall include labor, including salaries and bonuses of executives and officers, rent, depreciation, selling costs, maintenance of equipment, utilities, delivery costs, interest, licenses, taxes, insurance, advertising, professional services and all other fixed and variable expenses. The commission may determine the dealer's expenses directly and indirectly incurred in receiving, processing, packaging and delivering fluid milk by either of the following methods: [PL 1983, c. 484, §2 (NEW).]

1. Cost accounting data. Through reliance upon cost accounting data, relating to the dealer, gathered or received by the commission pursuant to section 2952-A or 2986 for any 3-month period within one year preceding and one year following the date of an alleged violation, unless the dealer proves that changed circumstances render any cost accounting data relied upon by the commission incapable of proving that the violation occurred; or
[PL 2005, c. 382, Pt. F, §22 (AMD).]

2. Expenses; percentage of dealer price. By imputing an amount to cover these expenses which, unless the dealer proves lower actual costs, shall be deemed to be the percentage of the total dealer price of the milk as the commission shall by rule establish in conjunction with any milk pricing orders which change base dealer margins.
[PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW). PL 2005, c. 382, §F22 (AMD).

§2985. Cost of milk to a retail store

"Cost of milk to a retail store" means the price paid by a retail store to a dealer for fluid milk, to which shall be added the retail store's expenses directly and indirectly incurred in shipping, handling and selling fluid milk. Without limitation, these expenses shall include labor, including salaries and bonuses of executives and officers, rent, depreciation, selling costs, maintenance of equipment, utilities, shipping costs, interest, licenses, taxes, insurance, advertising, professional services and all other fixed and variable expenses. The commission may determine the retail store's expenses directly and indirectly incurred in shipping, handling and selling milk by any of the following methods: [PL 1983, c. 484, §2 (NEW).]

1. Cost accounting data. Through reliance upon cost accounting data, relating to the retailer, gathered or received by the commission pursuant to section 2952-A or 2986 for any 3-month period within one year preceding and one year following the date of an alleged violation, unless the retail store proves that changed circumstances render the cost accounting data relied upon by the commission incapable of proving that the violation occurred; [PL 2005, c. 382, Pt. F, §23 (AMD).]

2. Expenses; percentage of total retail price. By imputing an amount to cover these expenses which, unless the retail store proves lower actual costs, shall be deemed to be the percentage of the total retail price of the milk as the commission shall by rule establish in conjunction with any milk pricing orders which change retail margins; or [PL 1983, c. 484, §2 (NEW).]

3. Other expenses. By imputing an amount to cover these expenses which, unless the retail store proves lower actual costs, shall be determined by dividing total store expenses by total store sales and multiplying the percentage obtained by the total retail price of the milk. [PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW). PL 2005, c. 382, §F23 (AMD).

§2986. Investigations; hearings; inspections

1. Investigatory powers. To aid the commission in determining if a dealer or retail store is selling fluid milk below cost, the commission may:

A. Conduct investigations and hearings; [PL 2005, c. 382, Pt. F, §24 (NEW).]

B. Subpoena and examine under oath persons possessing relevant information, including, but not limited to, dealers and retail stores and their officers, agents and representatives; [PL 2005, c. 382, Pt. F, §24 (NEW).]

C. Subpoena and examine the business records, books and accounts of dealers, retail stores or other persons who possess relevant business records, books or accounts; and [PL 2005, c. 382, Pt. F, §24 (NEW).]

D. Inspect at reasonable times the business records, books and accounts of a dealer or retail store at the dealer's or store's office or place of business. [PL 2005, c. 382, Pt. F, §24 (NEW).]

[PL 2005, c. 382, Pt. F, §24 (NEW).]

2. Oaths and subpoenas. Any member of the commission or any employee designated by the commission may sign subpoenas and administer oaths to witnesses. [PL 2005, c. 382, Pt. F, §24 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW). PL 2005, c. 382, §F24 (RPR).

§2987. Rules

The commission may adopt all rules establishing or relating to hearing procedures, cost accounting and the collection of information as may be necessary to carry out this chapter. [PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

§2988. Civil action by injured person

1. Injunctive relief; damages and costs. Any person damaged or who is threatened with loss or injury by reason of a violation of section 2983 may bring a civil action in the Superior Court in the county where the person resides, to prevent, restrain or enjoin the violation or threatened violation. If in that action a violation or threatened violation of section 2983 is established, the court may enjoin and restrain or otherwise prohibit the violation or threatened violation. In that action it is not necessary that actual damages to the plaintiff be alleged or proved. In addition to the injunctive relief, the plaintiff in the action is entitled to recover from the defendant 3 times the amount of actual damages sustained by the plaintiff and the costs of the action, including reasonable attorneys' fees. [RR 2021, c. 1, Pt. B, §144 (COR).]

2. Damages only. In the event no injunctive relief is sought or required, any person injured by a violation of section 2983 may maintain an action for damages alone in the Superior Court in the county where the person resides and the measure of damages in the action is the same as prescribed in subsection 1.

[RR 2021, c. 1, Pt. B, §144 (COR).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW). RR 2021, c. 1, Pt. B, §144 (COR).

§2989. Civil action by the commission

1. Civil penalties. Any dealer or retail store which violates section 2983 shall be subject to the following civil penalties, to be collected by the commission in a civil action:

A. For the first violation, a civil penalty not to exceed \$1,000; and [PL 1983, c. 484, §2 (NEW).]

B. For each subsequent violation, a civil penalty not to exceed \$2,000. [PL 1983, c. 484, §2 (NEW).]

All penalties collected by the commission shall be paid to the Treasurer of State for deposit to the General Fund.

[PL 1983, c. 484, §2 (NEW).]

2. Injunction. In lieu of or in addition to the collection of civil penalties under subsection 1, the commission may bring a civil action in the Superior Court to prevent, restrain or enjoin a violation of section 2983. If in that action a violation or threatened violation of section 2983 shall be established, the court may enjoin and restrain or otherwise prohibit the violation or threatened violation. In the action it shall not be necessary that actual damages to any person be alleged or proved.

[PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

Title 7: AGRICULTURE AND ANIMALS

Part 7. MILK AND MILK PRODUCTS

Chapter 611: MILK POOLING

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§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 produces a part or all of the dealer's milk or a person who produces milk and sells to a grocery store or dairy products store or similar commercial establishment, and includes 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 that is in direct proportion to that individual's share of all milk produced by cooperative members for the cooperative, except that such an agricultural cooperative is 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.

[RR 2021, c. 1, Pt. B, §145 (COR).]

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). RR 2021, c. 1, Pt. B, §145 (COR).

§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 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). 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

§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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APPENDIX 2- Regulatory Agenda

01-015

AGENCY UMBRELLA - UNIT NUMBER: **01-015**

AGENCY NAME: Department of Agriculture, Conservation and Forestry, **Maine Milk Commission**

CONTACT INFORMATION FOR THE AGENCY **RULEMAKING LIAISON**: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA:

Chapter 3, Schedule of Minimum Prices (monthly)

EXPECTED 2023-2024 RULE-MAKING ACTIVITIES:

CHAPTER 1: Orders

STATUTORY AUTHORITY: 7 MRSA §§ 2952-A through 2989

PURPOSE: Reflect Commission rulings and legal interpretations, required records, price computations, container sizes, and other matters necessary to carry out *Maine Milk Commission Law*.

SCHEDULE FOR ADOPTION: Prior to October 1, 2024

AFFECTED PARTIES: Any or all segments of the dairy industry

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

CHAPTER 2: Hearing Procedures

STATUTORY AUTHORITY: 7 MRSA §§ 2952-A through 2989

PURPOSE: Amend present rules to reflect changing industry standards, new APA requirements, and/or to upgrade and modernize past practices.

SCHEDULE FOR ADOPTION: Prior to October 1, 2024

AFFECTED PARTIES: Commission, intervenors and industry

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

CHAPTER 3: Schedule of Minimum Prices for Milk – Monthly Orders

STATUTORY AUTHORITY: 7 MRSA §§ 2952-A through 2989

PURPOSE: Set minimum prices for Maine milk in all forms to reflect current market conditions and mirror USDA federal pricing regulations.

SCHEDULE FOR ADOPTION: Monthly through Emergency Rulemaking

AFFECTED PARTIES: Commission, intervenors and industry

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

CHAPTER 5: Dealer Cost Accounting and Reporting System

STATUTORY AUTHORITY: 7 MRSA §§ 2952-A through 289

PURPOSE: Amend present rules to reflect changing industry standards, new APA requirements, and/or to upgrade and modernize past practices.

SCHEDULE FOR ADOPTION: Prior to October 1, 2024

AFFECTED PARTIES: Commission, intervenors and industry

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

CHAPTER 6: Inspection of Records, Books and Accounts

STATUTORY AUTHORITY: 7 MRSA §§ 2952-A through 2989

PURPOSE: Amend present rules to reflect changing industry standards, new APA requirements, and/or to upgrade and modernize past practices.

SCHEDULE FOR ADOPTION: Prior to October 1, 2024

AFFECTED PARTIES: Commission, intervenors and industry

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

CHAPTER 13 and 27: Retail Cost Studies & Retail Margins

STATUTORY AUTHORITY: 7 MRSA §§ 2952-A through 2989

PURPOSE: Set new minimum retail margins according to cost study and hearing testimony.

SCHEDULE FOR ADOPTION: Prior to October 1, 2023

AFFECTED PARTIES: Retailers and consumers

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

CHAPTER 26: Producer Margin / Cost of Production

STATUTORY AUTHORITY: 7 MRSA §2953-2954

PURPOSE: Set minimum producer price based on Federal order and actual cost of production.

ANTICIPATED SCHEDULE: Prior to July 1, 2024

AFFECTED PARTIES: Producers, dealers, retailers and consumers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

CHAPTER 29: Dealer Margin

STATUTORY AUTHORITY: 7 MRSA §2953-2954

PURPOSE: Set minimum producer price based on Federal order and actual cost of production.

ANTICIPATED SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Producers, dealers, retailers and consumers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

CHAPTER 61: Maine Milk Pool Cost of Administration

STATUTORY AUTHORITY: 7 MRSA §§ 2952-A through 2954 and 3154

PURPOSE: Set new cost of administration of Maine Milk Pool after public hearings and testimony.

SCHEDULE FOR ADOPTION: Prior to November 1, 2023

AFFECTED PARTIES: Processors and producers

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

NEW RULE CHAPTER (# to be assigned): Rules to Adjust the Milk Dealer License Fees

STATUTORY AUTHORITY: 7 M.R.S.A. §2955 through §2956.

PURPOSE: Adjust the Fees charged for an annual Milk Dealer License

SCHEDULE FOR ADOPTION: Prior to October 1, 2024.

AFFECTED PARTIES: Milk Dealers

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

NEW RULE CHAPTER (# to be assigned): Rules to Adjust the Maine Milk Commission Fees

STATUTORY AUTHORITY: 7 M.R.S.A. §2956.

PURPOSE: Adjust the per hundredweight fees charged for to support the activities of the Maine Milk Commission

SCHEDULE FOR ADOPTION: Prior to October 1, 2024.

AFFECTED PARTIES: Maine dairy producers and Maine dairy processors & handlers

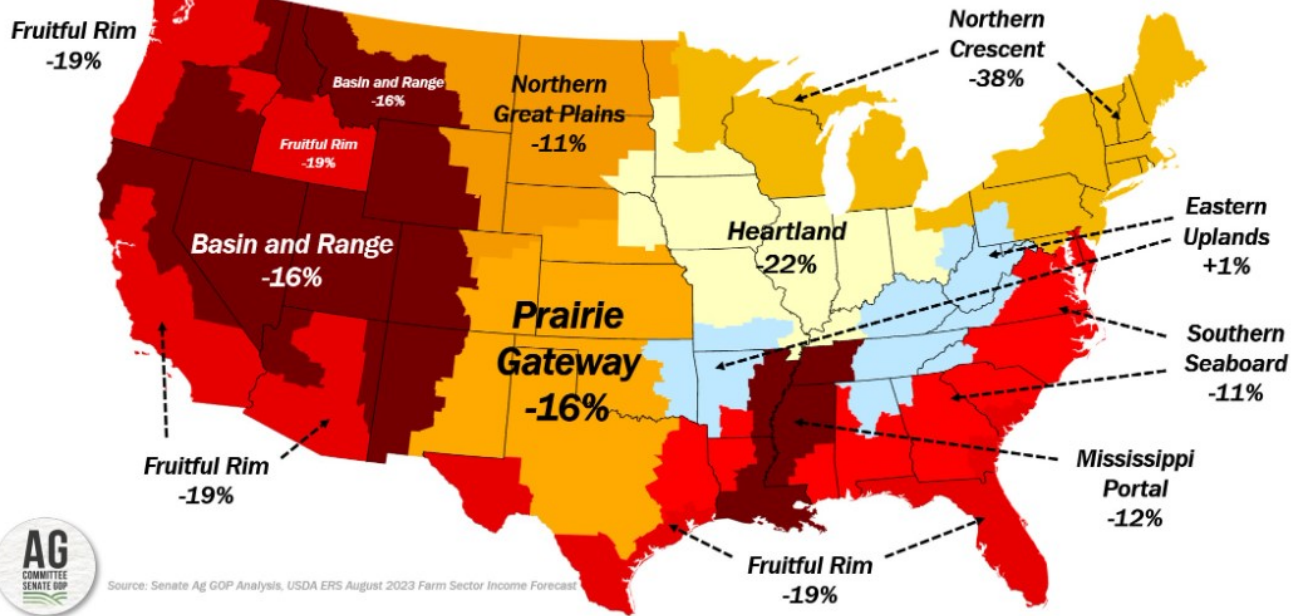
CONSENSUS-BASED RULE DEVELOPMENT: N/A

CONTACT PERSON: Julie-Marie R. Bickford, 28 SHS, Augusta, Maine 04333, (207) 287-7521, julie-marie.bickford@maine.gov

APPENDIX 3 – US Dairy Trends

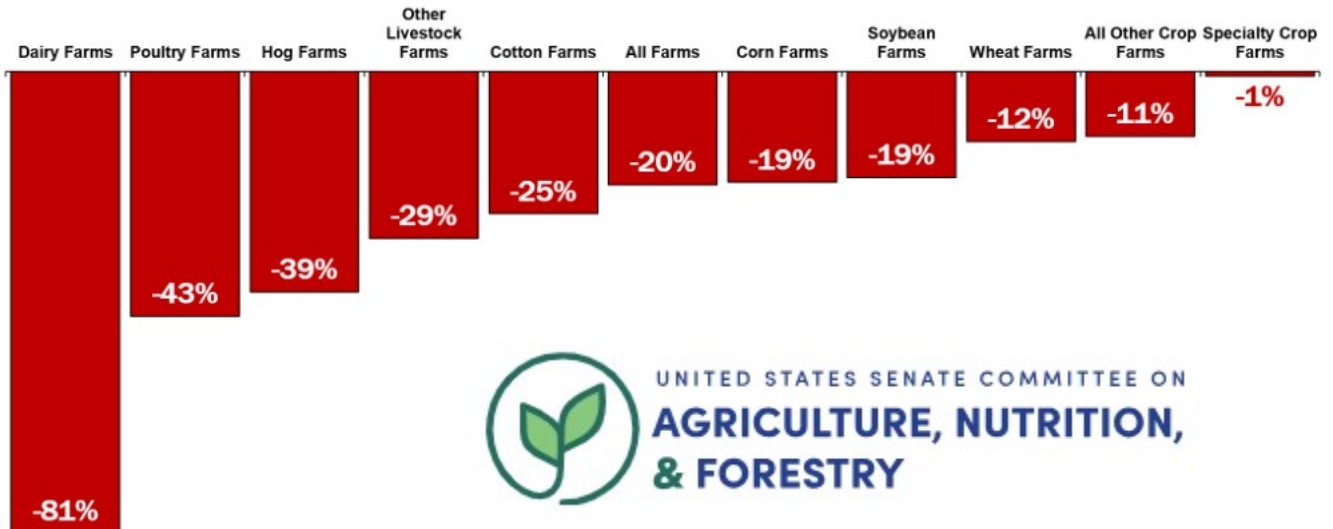
U.S. Farm-Level Net Cash Farm Income Down 20%

Percentage Change In U.S. Average Net Cash Income, 2022 to 2023 Forecast



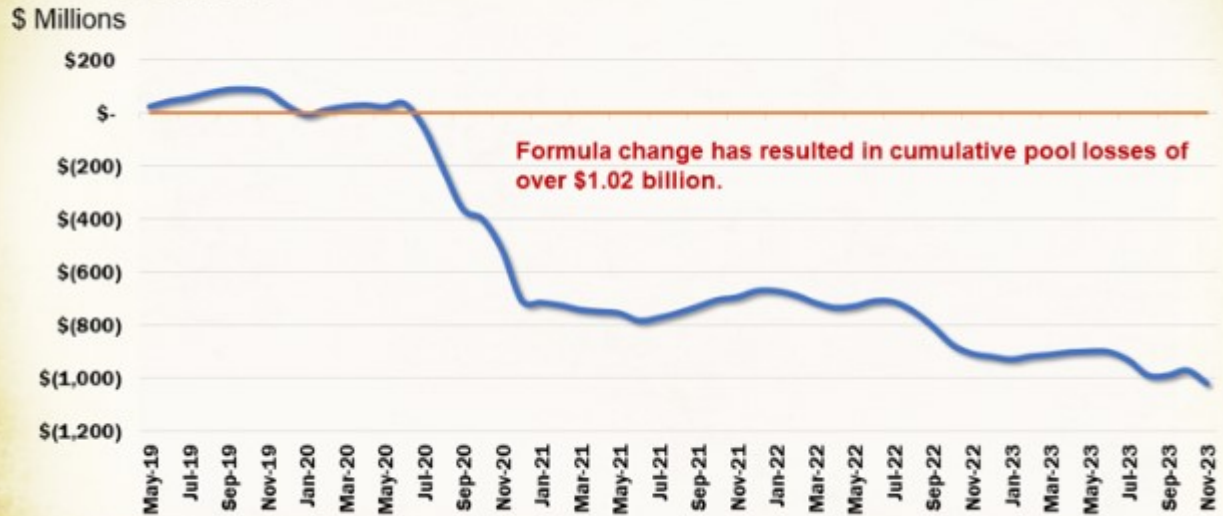
Rapid Declines In Farm-Level Income

Percentage Change In Farm-Level Average Net Cash Farm Income, 2022 to 2023 Forecast



Source: Senate Ag GOP Analysis, USDA ERS August 2023 Farm Sector Income Forecast

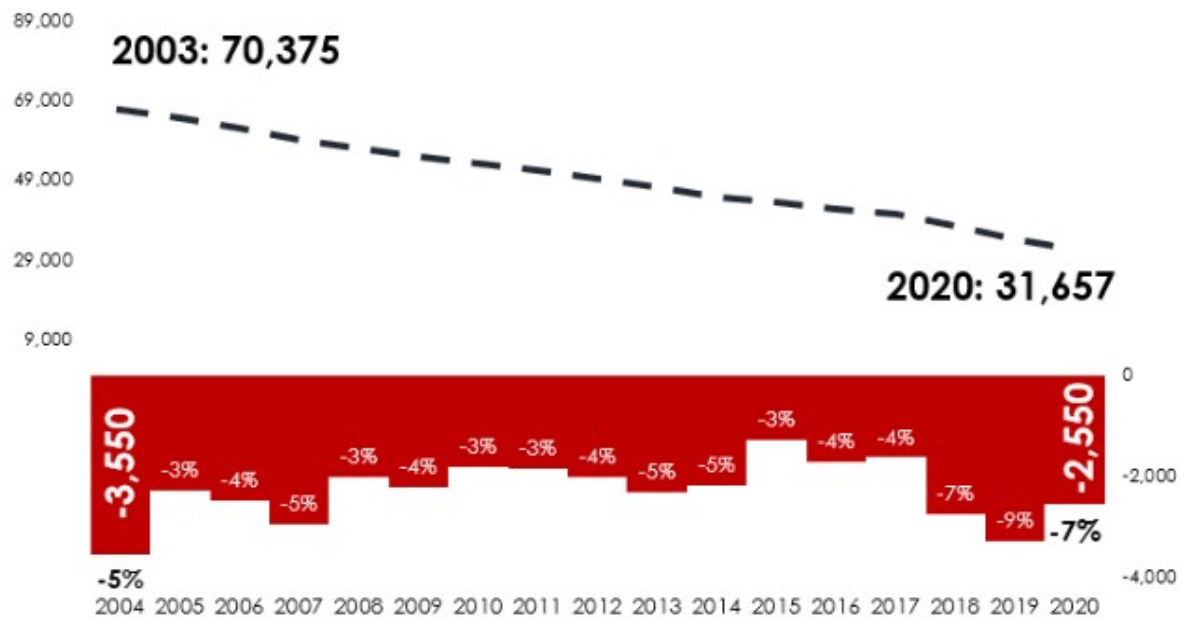
FIGURE 1: CUMULATIVE FEDERAL ORDER POOL LOSSES DUE TO CLASS I MOVER CHANGE



AFB
AMERICAN FARM BUREAU FEDERATION*

Source: AFBF Calculations, USDA NASS

Figure 3. Declining Number of Licensed Dairy Herds

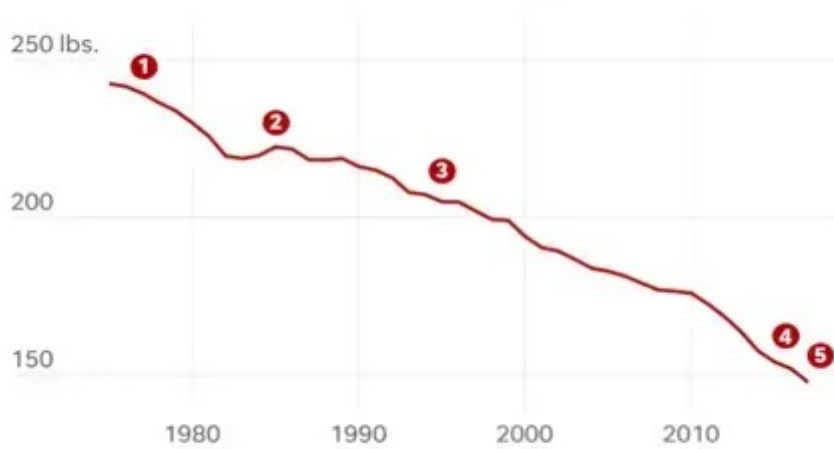


AFB FARM BUREAU*
Source: USDA NASS, AFBF Analysis

■ YOY Change — Licensed Dairy Herds

Americans are drinking less and less milk

Per capita consumption of fluid milk in the U.S.



Key dates

- 1** **Mid-1970s**
Sales of soft drinks surpass milk as the nation's No. 1 beverage.
- 2** **1985**
USDA recommends low-fat dairy to reduce fat intake.
- 3** **1990s**
Consumers object to use of rBGH in milk production.
- 4** **2016**
Wisconsin produces 30 billion pounds of milk, a milestone.
- 5** **2017**
Bottled water becomes the top selling drink.

Source: U.S. Department of Agriculture; U.S. Census Bureau

Figure 4. 2020 YOY Change In Licensed Dairy Operations By State

