

CHAPTER 51

EMERGENCY STATE MILK ORDER PRICE

Authority

N.J.S.A. 4:12A-1 et seq., specifically 4:12A-22 and 23.

Source and Effective Date

R.1998 d.132, effective February 6, 1998. See: 30 N.J.R. 238(a), 30 N.J.R. 1037(a).

Executive Order No. 66(1978) Expiration Date

Chapter 51, Emergency State Milk Order Price, expires on June 30, 1998.

Chapter Historical Note

All provisions of Chapter 51 were filed and became effective prior to September 1, 1969. Former Chapter 51 was repealed by R.1976 d.359, effective January 1, 1977. See: 8 N.J.R. 450(b), 8 N.J.R. 542(c).

Chapter 51, Emergency State Milk Order Price, was adopted as Emergency New Rule, R.1991 d.322, effective May 31, 1991 (operative June 1, 1991). See: 23 N.J.R. 1966(b). The provisions of R.1991 d.322 were readopted without change as R.1991 d.448, effective July 29, 1991. See: 23 N.J.R. 1966(b), 23 N.J.R. 2498(b).

Pursuant to N.J.A.C. 2:51-3.1, Chapter 51, Emergency State Milk Order Price, expired on May 31, 1992.

Chapter 51, Emergency State Milk Order Price, was adopted as Emergency New Rule, R.1998 d.45, effective December 16, 1997, to expire February 14, 1998. See: 30 N.J.R. 238(a). The provisions of R.1998 d.45 were readopted as R.1998 d.132, effective February 6, 1998. See: 30 N.J.R. 238(a), 30 N.J.R. 1037(a). See: Source and Effective Date.

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SUBCHAPTER 1. DEFINITIONS

2:51-1.1 Definitions

Words used in this chapter, unless otherwise expressly stated or unless the context or subject matter otherwise requires, shall have the following meanings:

"Class 1 milk" shall mean milk classified as Class 1 pursuant to joint and concurrent Federal-State orders in effect in New Jersey (7 C.F.R. Parts 1002 and 1004).

"Class 1 utilization" shall mean the percentage of total milk used for Class 1 purposes.

"Dealer" shall mean any person who purchases milk from producers for processing or resale who is licensed as a dealer under the Milk Control Act, N.J.S.A. 4:12A-1 et seq., and is also classified as a handler by the Market Administrator pursuant to 7 C.F.R. Part 1002 and 7 C.F.R. Part 1004.

"Director" shall mean the director of the Division of Dairy and Commodity Regulation, New Jersey Department of Agriculture or such other authority as designated by the New Jersey Secretary of Agriculture.

"Producer" shall mean a dairy farmer operating in New Jersey and producing Grade A milk for sale to milk dealers, as hereinafter defined.

"Settlement fund" shall mean the fund established by the Director for the purpose of equalizing obligations of individual dealers with payments to producers.

SUBCHAPTER 2. CLASS 1 PRICES FOR MILK PURCHASED FROM NEW JERSEY PRODUCERS

2:51-2.1 Additional payments to producers

Each dealer purchasing milk from New Jersey producers shall pay such producers an amount equal to \$16.89 per hundredweight or the Federal milk market order minimum price for Class 1 milk under the terms of Federal-State Order No. 4 (7 CFR Parts 1002 and 1004). Dealers handling milk from producers from other states shall prorate total Class 1 usage to New Jersey producers based upon the proportion of total receipts represented by milk from New Jersey producers. Any additional price above Federal-State Order No. 4 to reach the amount of \$16.89 shall be termed "New Jersey premium."

Amended by R.1998 d.306, effective June 15, 1998. See: 30 N.J.R. 1354(a), 30 N.J.R. 2203(a).

Deleted references to Federal-State Order No. 2 throughout, deleted "whichever is higher," at the end of the first sentence, and substituted "handling" for "processing" following "Dealers" in the second sentence.

2:51-2.2 Reports by dealers

(a) By January 2, 1998, each milk dealer shall report its monthly Class 1 utilization for the period from November 1,

1996 to October 31, 1997 for plants receiving New Jersey produced milk.

(b) The Director shall announce, by or before January 12, 1998, the New Jersey Statewide average utilization, which shall be in effect.

(c) For each month that this chapter is in effect, each dealer receiving milk from New Jersey producers shall, no later than the 10th day of the following month, report to the Director on forms provided for such purposes as follows:

1. The volume of milk received from New Jersey producers for the preceding month; and
2. Such other information as may be required by the Director to administer and enforce the provisions of the chapter.

### 2:51-2.3 Pay price to producers

(a) Computation of price shall be as follows:

1. Each month that this chapter is in effect, the Director shall announce the amount of New Jersey's Class 1 Price that is in excess of the announced price from Federal-State Order No. 4 for the succeeding month. This will be announced no later than the 15th of each month.

2. The monthly price hereinafter designated as the month's "New Jersey premium" shall be announced by the Director no later than the 15th day of the month. Each dealer shall be notified by phone or fax with confirmation in writing.

(b) Payment of premium shall be as follows:

1. An amount determined by multiplying the announced "New Jersey premium" price times each New Jersey producer's total deliveries times the average Class 1 utilization from November 1, 1996 to October 31, 1997 shall be paid to such producer no later than the 20th day of each succeeding month; or, in the case of producers whose milk is marketed by cooperatives, payments shall be made to such cooperatives no later than the 18th day of the succeeding month.

2. The monthly "New Jersey premium" shall be clearly designated as such on New Jersey producer check statements.

3. If a new corporation is formed to sell and/or buy milk in New Jersey utilizing the same processing plant and having substantially the same principals as the corporation that is currently licensed to sell and/or buy for that plant, the Class 1 utilization percentages of the currently licensed corporation for the period from November 1, 1996 to October 31, 1997 will apply to the new corporation.

Amended by R.1998 d.306, effective June 15, 1998.

See: 30 N.J.R. 1354(a), 30 N.J.R. 2203(a).

In (a)1, deleted a reference to Federal-State Order No. 2.

### 2:51-2.4 Operation of settlement fund

(a) The Director shall establish a "settlement fund" for the purpose of equalizing the obligations of individual New Jersey plants under the terms of this chapter, with payments to producers for the monthly "New Jersey premium" price as follows:

1. Dealers with a total monthly obligation under this chapter for receipts of milk from New Jersey producers in excess of the monthly "New Jersey premium" shall, no later than the 16th day of the month, pay such excess amount into the settlement fund.

2. Dealers with a total monthly obligation under this chapter, which is less than the monthly "New Jersey premium" payable to New Jersey producers delivering milk to said plants, shall be paid the difference from the fund. The Director shall make such equalization payment to the dealer not later than the 17th day of the month.

3. The Director shall establish such financial reserves as are necessary to operate the settlement fund and to pay the actual cost of fund operation, such as checks and bank charges, by withholding the necessary sum from the first month's "average New Jersey premium" payable to producers. Such reserve shall be paid to producers prior to the termination of this or any succeeding chapter.

### 2:51-2.5 Enforcement

Enforcement of this chapter shall be pursuant to the Milk Control Laws, N.J.S.A. 4:12A-1 et seq.

New Rule, R.1998 d.306, effective June 15, 1998.

See: 30 N.J.R. 1354(a), 30 N.J.R. 2203(a).

## SUBCHAPTER 3. TERMINATION OF CHAPTER

### 2:51-3.1 Chapter expiration

This chapter shall be effective until June 30, 1998 unless extended or modified pursuant to the Administrative Procedure Act.