

§2903-A. Refusal to purchase

1. Notice of refusal. A milk plant owner or operator who has a verbal or written contract with a milk producer for the purchase of milk may not refuse to continue to purchase milk under the contract without first giving notice to the producer in accordance with this section. The milk plant owner or operator shall give written notice of intent to refuse to purchase to the producer and to the commissioner. The notice must state the date upon which the refusal will become effective.

A. Except as provided in paragraph B, the refusal does not become effective until 30 days following the milk plant owner or operator's notice of intent to refuse to purchase milk from the producer. [PL 1999, c. 679, Pt. A, §8 (AMD).]

B. If a milk plant owner or operator's refusal to continue to purchase milk is based on failure of the producer's milk to meet the milk plant owner or operator's quality criteria or the Interstate Milk Shipments Conference Standards, whichever is applicable, the refusal may become effective on less than 30 days' notice. Upon issuance of notice of intent to refuse purchase because of failure to meet the criteria or standards, the milk plant owner or operator shall cause a sample of the refused milk to be taken immediately and transferred to the commissioner for testing in the state central laboratory. Upon receipt of the test results that the sample does not meet the milk plant owner or operator's quality criteria or the Interstate Milk Shipments Conference Standards, whichever is applicable, refusal to continue to purchase becomes effective immediately. Notice must be given to the producer by the milk plant owner or operator immediately upon the milk plant owner or operator's receipt of the test results. The state central laboratory shall mail the results of the test to the milk plant owner or operator and milk producer. [PL 1999, c. 679, Pt. A, §8 (AMD).]
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2. Challenge of refusal; adjudicatory hearing. If the producer or the milk plant owner or operator desires to question the refusal to purchase or the test given under subsection 1, paragraph B, either may do so within 10 days after receipt of the notice from the milk plant owner or operator of the test results by requesting, in writing, that the commissioner conduct an adjudicatory hearing pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. If a request for hearing is made by the milk plant owner or operator, refusal to purchase does not become effective until the hearing is held and a decision upholding the milk plant owner or operator's refusal has been issued by the commissioner. The decision of the commissioner as to the reasonableness of the milk plant owner or operator's refusal to purchase is considered final agency action for purposes of the Maine Administrative Procedure Act.
[PL 1999, c. 679, Pt. A, §8 (AMD).]

SECTION HISTORY

PL 1981, c. 574, §2 (NEW). PL 1999, c. 679, §A8 (AMD).

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