

FOOD AND AGRICULTURAL CODE - FAC
DIVISION 21. MARKETING [58001 - 63129]

(Division 21 enacted by Stats. 1967, Ch. 15.)

PART 3. MARKETING LAWS REGARDING PARTICULAR PRODUCTS [61301 - 63129]

(Part 3 enacted by Stats. 1967, Ch. 15.)

CHAPTER 2.5. Milk Producers Security Trust Fund [62500 - 62667]

(Chapter 2.5 added by Stats. 1987, Ch. 156, Sec. 55.)

ARTICLE 5. Milk Producers Security Trust Fund Coverage [62580 - 62587]

(Article 5 added by Stats. 1987, Ch. 156, Sec. 55.)

62580.

(a) Except as otherwise provided in this chapter, milk shipped by a producer to a handler who meets all of the following criteria shall be considered for coverage pursuant to this chapter:

(1) A valid contract between the producer and handler pursuant to Chapter 1 (commencing with Section 61310) or Chapter 2 (commencing with Section 61801) has been filed with the secretary before the date the milk was shipped, unless the shipment was made in the first five days after the contract was executed. Filing may be accomplished by providing the department electronic notification of the contract.

(2) The handler was licensed and bonded as required by Chapter 1 (commencing with Section 61301) or Chapter 2 (commencing with Section 61801) when the contract was filed with the secretary.

(3) The milk was produced within the state and delivered to a plant within the state.

(4) The secretary has not issued a prior notice that the shipments would not be covered by the fund.

(5) The shipment was not made under a custom processing arrangement with the producer retaining title.

(6) (A) The producer shipping the milk had a direct contract with the handler. Milk shipped to a handler under a contract held by intermediaries, brokers, or agents is not covered.

(B) In the case of a nonprofit cooperative association, only the milk of its members shipped under the contract is covered. Notwithstanding subparagraph (A), milk shipped by a nonprofit cooperative association to a handler under a contract held by another nonprofit cooperative association, as verified by the secretary, is covered.

(7) (A) The producer does not have a beneficial ownership interest in the handler to whom shipments were made.

(B) For purposes of this paragraph, the term “beneficial ownership interest” means the holding of any ownership share in the handler to whom shipments are made, or, if the handler is a publicly traded company, an ownership share of more than 1 percent.

(8) The producer is in compliance with this chapter.

(b) Milk shall not be excluded from coverage pursuant to this chapter due to its pooled or nonpooled status.

(Amended by Stats. 2019, Ch. 304, Sec. 33. (AB 590) Effective January 1, 2020.)

62580.5.

Any producer entity, including a nonprofit cooperative association that severs a disqualifying beneficial ownership interest in a handler to whom it supplies bulk milk, shall not have trust fund coverage for future milk shipments to that handler for a period of 12 months after notice is given to the secretary of termination of the beneficial ownership interest unless a waiver is granted subject to Section 62587.

(Amended by Stats. 2019, Ch. 304, Sec. 34. (AB 590) Effective January 1, 2020.)

62581.

Only shipments which occur during the first 35 days from the date of the earliest shipment for which a producer has not been paid are eligible.

(Amended by Stats. 1990, Ch. 476, Sec. 1.)

62582.

If future shipments to a handler are not eligible for coverage under this chapter in the event of a default, the secretary shall notify all producers who have a contract on file with the secretary, all nonprofit cooperative associations, and other interested parties. Future shipments shall not be eligible when any of the following events occur:

(a) The handler fails to maintain a valid license or bond as required under Chapter 1 (commencing with Section 61301) or Chapter 2 (commencing with Section 61801).

(b) The handler fails to pay producers as required under Section 1051.73 of the Federal Milk Marketing Order, or, in the case of nonpooled or Grade B milk, by the contract filed with the secretary pursuant to paragraph (1) of subdivision (a) of Section 62580.

(c) The handler fails to submit, when requested by the secretary, executed contracts that establish the relationship between affected parties.

(Amended by Stats. 2019, Ch. 304, Sec. 35. (AB 590) Effective January 1, 2020.)

62583.

If, on the date of the notice issued pursuant to Section 62582, a producer has a contract with the handler which is on file with the secretary, and that producer has received payment from a handler whose milk purchases have been declared ineligible, shipments by that producer which occur more than five days from the date of the notice of ineligibility issued by the secretary will not be considered in determining any claim the producer may make against the fund, unless the secretary reestablishes eligibility for future shipments to be covered by the fund. *(Amended by Stats. 2008, Ch. 236, Sec. 8. Effective August 1, 2008.)*

62584.

If, on the date of the notice issued pursuant to Section 62582, a producer does not have a contract with the handler which is on file with the secretary, shipments by that producer which occur more than five days from the date of the notice of ineligibility issued by the secretary will not be considered in determining any claim the producer may make against the fund, unless the secretary reestablishes eligibility for future shipments to be covered by the fund. *(Amended by Stats. 2008, Ch. 236, Sec. 9. Effective August 1, 2008.)*

62585.

If the secretary issues a notice pursuant to Section 62582, the secretary may again qualify shipments to the handler if the handler has corrected the deficiency upon which the notice was originally issued and has done all of the following:

- (a) Paid all amounts owed to producers, including interest. Producers are not entitled to receive interest on amounts for which they have been paid by the fund after the date of payment by the fund.
- (b) Reimbursed the fund for any payments made by the fund due to a default by the handler plus interest at the rate of 12 percent per annum from the date of payment by the fund.
- (c) Paid any assessments, penalties, or other amounts owed under federal, state, or local laws.

(Amended by Stats. 2019, Ch. 304, Sec. 36. (AB 590) Effective January 1, 2020.)

62586.

The secretary shall, at least monthly, publish a current list of all handlers to whom shipments are not eligible for coverage under the fund. *(Amended by Stats. 2019, Ch. 304, Sec. 37. (AB 590) Effective January 1, 2020.)*

62587. The secretary may waive any of the provisions of this article if, after consultation with the board, the secretary finds that a hardship would be imposed on persons subject to this chapter that is not consistent with the intent of this chapter. *(Amended by Stats. 2019, Ch. 304, Sec. 38. (AB 590) Effective January 1, 2020.)*