

PA Milk Marketing Board
Carol A. Hardbarger

Explaining the New Regulations on Dealer-Producer Termination

The board had been working for over two years on a regulation change to 7 Pa. Code sec. 143.31 that previously required only a 28-day producer notice if a dealer wished to cancel their agreement. The new regulation requires a 90-day termination notice and was effective in the fall of 2021.

Due to the recent decision by the Wakefern company to close its Readington Farms New Jersey processing plant, the over 100 affected farmers have received notices that reflect a less than 90-day time period for termination. As you can imagine, board staff and I are receiving many phone calls and email messages questioning the legality of these notices.

My greatest desire for communications with our constituents and my readers is to be transparent about all that we do. Having received so many inquiries from farmers, I thought devoting one of my columns to an explanation of the Readington termination notices would be beneficial and would help clear up any misunderstandings.

As with most things there are “exceptions to the rule” and 7 Pa. Code sec. 143.31 is no exception to that old adage.

7 Pa. Code sec. 143.31 does require that dealers provide a 90-day written notice to farmers before terminating a contract or purchasing agreement. However, as part of the enacted regulation, Section 143.31(f) outlines conditions under which exemptions can be granted to the 90-day requirement.

The specific wording is “A dealer may terminate a contract or purchasing agreement or ordinary continuance of a previous course of dealing with a producer by giving a 28-day notice if the dealer has raw milk volumes for which there is insufficient plant output due to a verifiable catastrophic event affecting a milk plant’s ability to handle, process or sell/deliver historical volumes of packaged milk products, which is reasonably expected to last beyond 28-days.”

One of the conditions that determines a catastrophic event and permits a 28-day notice is a plant closing.

On December 29, 2021, Readington Farms requested an exemption based on documentation provided to board staff in an official 28-day notice request. Staff approved the request on January 6, 2022. Since 7 Pa. Code sec. 143.31(g) provides that the 28-day notice period begins on the date the exemption request is approved Readington's 28-day notice period began on January 6, 2021.

The regulation also requires that the board provide a list of resources to producers whose contracts have been terminated. We have found that the Center for Dairy Excellence is the best source of information and we particularly recommend that producers utilize the following: 1)

Stress and Wellness Resources, 2) Financial Planning Resources, and 3) Transition and Transformation Resources.

The board thanks the Center for providing these resources and others.

PMMB is always available to respond to questions and concerns. I can be reached at 717-210-8244 or by email at chardbarga@pa.gov.