

State of New York  
Department of Agriculture and Markets  
Division of Milk Control and Dairy Services  
10B Airline Drive  
Albany, NY 12235

**Milk Security Program - New York State**

The main objective of the security program is to protect producers against loss of income in the event a milk dealer defaults in paying for milk received. Pursuant to Section 258-b of Agriculture and Markets Law, licensed dealers who purchase milk directly from producers or cooperatives are required to secure their purchases by either participating in the state's Milk Producers Security Fund (MPSF) or by filing full alternate security in the form of a bond or letter of credit. Milk sales between cooperatives are exempt from this security provision.

Dealers who elect to join the MPSF are required to [report](#) their monthly purchases from producers/cooperatives and pay an assessment, currently set at \$.012 per hundredweight, on such milk purchases. In addition, unless exempted, dealers must supplement such payments with the filing of a [surety bond](#) or [letter of credit](#) covering a minimum of twelve days' purchases. Dealers have the opportunity to apply for exemption. The criteria for exemption include such factors as the dealer's financial condition, value of its milk purchases, payment practices, and status of the Fund's balance and any pending claims. Generally, dealers whose 40-day purchases are less than \$250,000 are exempted from filing mandatory minimum security. Dealers who pose a significant risk to the MPSF may be required to file more than the mandatory minimum amount of security.

[Procedure for joining the NYS Milk Producers Security Fund \(MPSF\)](#)

Dealers who opt to file full alternate security are required to file with the Commissioner a bond or letter of credit that covers 40 days worth of milk purchases. The calculation is based on the maximum value of milk purchased from producers in any two consecutive months during the preceding twelve-month period. The bond or letter of credit is required to be filed at least sixty days prior to the beginning of each license year. The [bond](#) or [letter of credit](#) must be executed by or with a company that is authorized to do business in New York State.

[Procedure for filing Full Alternate Security](#)

When a licensed milk dealer defaults in payment, the Commissioner is required to provide reasonable notice to affected producers to file [verified statements](#) of their claims. An audit and investigation of the claims is made to verify and to determine the amounts found to be owing from the defaulting dealer to the milk producers. If the defaulting dealer and milk producer claimants do not dispute such amounts, the Commissioner can issue a determination certifying the amounts to be paid to the producers. If there is disagreement over the amounts of the claims, a hearing is required.

Payment of claims is limited to the appropriate uniform price of the milk and in no event may a claim be allowed for deliveries of milk in excess of the amount owed for milk sold or delivered within the first 40-day consecutive period for which payment was not received from a dealer.

No claims may be allowed for sales of milk to unlicensed dealers, or for sales made subsequent to a dealer's failure to pay within the statutorily prescribed time frame if the Commissioner finds, following notice and an opportunity to be heard, that the extension of credit by the producer to the dealer did not constitute a reasonable exercise of business judgment.