

Schedule 1 - General Regulations

made under Section 9 of the

Dairy Industry Act

S.N.S. 2000, c. 24

N.S. Reg. 198/89 (August 11, 1989)

as amended to N.S. Reg. 310/2015 (August 19, 2015, effective September 1, 2015)

[Note: the Nova Scotia Dairy Commission does not exist under the Dairy Industry Act; the Dairy Farmers of Nova Scotia and the Natural Products Marketing Council regulate the industry under the new Act.]

1 In these regulations, unless the context otherwise requires

(a) “Act” means the Dairy Industry Act;

(b) “chocolate partially skimmed milk” means chocolate flavoured milk containing not less than 2% butterfat or 20.7 grams of butterfat per litre;

(c) “Commission” means the Nova Scotia Dairy Commission as now or from time to time hereafter constituted under the provisions of the Dairy Commission Act;

(d) “consumer” means any person who purchases milk for consumption and not for resale;

(e) “Cream” means a product of milk containing not less than 5% butterfat,

Clause 1(e) amended: N.S. Reg. 127/2014.

(i) “Light Cream” means cream containing not less than 5% butterfat and less than 10% butterfat, and

Subclause 1(e)(i) amended: N.S. Reg. 127/2014.

(ii) “Blend” means cream testing not less than 10% butterfat or 103 grams per litre and not more than 17.9% butterfat or 182 grams of butterfat per litre, and

(iii) “Coffee Cream” means cream testing not less than 18% butterfat or 183 grams of butterfat per litre and not more than 34.9% butterfat or 360 grams of butterfat per litre, and

(iv) “Whipping Cream” means cream testing not less than 35.0% butterfat or 361 grams of butterfat per litre;

Clause 1(e) replaced: N.S. Reg. 38/98.

(f) “cream producer” means a producer who delivers farm separated cream to a processor;

(g) “dairy product” means dairy product as defined in the Act;

(h) “distributor”, except as otherwise provided in these regulations, means a person who carries on the business of processing, marketing or distributing milk or fluid milk for fluid consumption, but does not include a jobber or storekeeper, or any person designated by the regulations as a person to whom Section 6 of the [Dairy Commission] Act shall not apply;

Clause 1(h) amended: N.S. Reg. 188/2011.

(i) “fluid milk” means any processed dairy product prepared for sale in liquid form;

Clause 1(i) added: N.S. Reg. 62/99.

(j) “inspector” means an inspector appointed by the Commission;

Clause 1(i) relettered (j): N.S. Reg. 62/99.

(k) “jobber” means any person who purchases or receives from a licensed distributor for resale, but does not include a storekeeper nor any persons designated by the regulations as a person to whom Section 6 of the [Dairy Commission] Act shall not apply;

Clause 1(j) relettered (k): N.S. Reg. 62/99.

(l) “milk” means milk as defined in the Act;

Clause 1(k) relettered (l): N.S. Reg. 62/99.

(m) “monthly basis” means the practice of paying with[in] fifteen days of the close of each calendar month for all milk purchased during such month;

Clause 1(l) relettered (m): N.S. Reg. 62/99.

(n) “partially skimmed milk” means milk that has had a portion of the butterfat removed,

Clause 1(m) relettered (n): N.S. Reg. 62/99.

(i) “0.5% milk” means milk containing not less than 0.5% butterfat or 5.2 grams of butterfat per litre, and not more than 0.7% butterfat or 7.2 grams of butterfat per litre,

Subclause 1(n)(i) added: N.S. Reg. 62/99.

(ii) “1% partially skimmed milk” means milk containing not less than 1% butterfat or 10.4 grams of butterfat per litre and not more than 1.2% butterfat or 12.4 grams of butterfat per litre, and

Subclause 1(n)(i) renumbered (ii): N.S. Reg. 62/99.

(iii) “1% partially skimmed milk with added milk solids” means milk containing not less than 1.0% butterfat or 10.4 grams per litre and not more than 1.2% butterfat or 12.4 grams per litre and containing not less than 10% milk solids not including butterfat, and

Subclause 1(n)(ii) renumbered (iii): N.S. Reg. 62/99.

(iv) “2% partially skimmed milk” means milk containing not less than 2% butterfat or 20.7 grams of butterfat per litre and not more than 2.2% butterfat or 22.8 grams of butterfat per litre;

Subclause 1(n)(iii) renumbered (iv): N.S. Reg. 62/99.

(o) Every reference to the percentage of butterfat content of milk is on the basis of weight and not of volume;

Clause 1(n) relettered (o): N.S. Reg. 62/99.

(p) “processor” means a person engaged in processing;

Clause 1(o) relettered (p): N.S. Reg. 62/99.

(q) “processing” means processing as defined in the Act;

Clause 1(p) relettered (q): N.S. Reg. 62/99.

(r) “producer” means a producer of milk or cream to whom a Total Production Quota has been allotted by the Commission;

Clause 1(q) relettered (r): N.S. Reg. 62/99.

(s) “producer processor” means any person who processes milk, all or any part of which he is the producer;

Clause 1(r) relettered (s): N.S. Reg. 62/99.

(t) (i) “skim milk” means milk containing not more than .3% butterfat or 3.1 grams of butterfat per litre,

(ii) “skim milk with added milk solids” means, milk containing not more than .3% butterfat or 3.1 grams of butterfat per litre, and containing not less [than] 10% milk solids, not including butterfat;

Original clause 1(s) replaced: N.S. Reg. 115/97.

Clause 1(s) relettered (t): N.S. Reg. 62/99.

(u) “storekeeper” means any person who carries on a retail grocery business, and includes wholesale and discount food stores;

Clause 1(t) relettered (u): N.S. Reg. 62/99.

(v) “transporter” means a transporter of milk or cream;

Clause 1(u) relettered (v): N.S. Reg. 62/99.

(w) “ultra high temperature milk” means milk that has been heated without appreciable change in volume to a temperature of not less than 135o C for not less than two seconds or such other temperature time relationship as may be required to ensure a bacteriological shelf life of at least four weeks in the package at a temperature of not less than 20o C;

Clause 1(v) relettered (w): N.S. Reg. 62/99.

(x) “unnatural inhibitor” means any antibiotic, medicine or chemical preparation that can be detected in milk;

Clause 1(w) relettered (x): N.S. Reg. 62/99.

(y) “whole milk” means milk containing not less than 3.25% butterfat and less than 5% butterfat.

Clause 1(x) relettered (y): N.S. Reg. 62/99; amended: N.S. Reg. 127/2014.

Section 1 replaced: N.S. Reg. 116/94.

2 Every application for a licence or for the renewal of a licence shall be on the form supplied by the Commission, and shall contain the information asked for thereon, and be accompanied by the prescribed fee (if any) which shall be returned in the event of the licence or renewal of licence being refused.

3 Every licence shall be limited to the premises identified by such licence, and except as otherwise stated herein, shall be valid for a period of three years, as stated on the licence.

Section 3 replaced: N.S. Reg. 7/99.

4 Every licensee who purchases milk shall pay for all milk purchased by him on the basis specified in the licence issued to him or in the Act or in the regulations made by the Commission.

Subsection 5(1) repealed: N.S. Reg. 63/2001 (Producer and Distributor Licence Fees Regulations).

Subsections 5(2)-(5) repealed: N.S. Reg. 88/97.

6 Every distributor on or before the 15th day of each month shall furnish the Commission with

(a) a statement of all milk purchased and sold by him during the previous month, and such statement shall show separately the amounts of milk purchased for Class 1 Milk, Class 2 Milk, and for any other purposes, as required in the monthly fluid milk and cream report, together with the prices paid therefor; and

(b) a statement of all milk purchased and the utilization of such milk as required in the plant balance report form.

7 Clause 7(a) repealed: N.S. Reg. 63/2001 (Producer and Distributor Licence Fees Regulations).

(b) The fee to be paid for a jobber licence shall be \$5.00 and shall be paid in advance to the Commission.

Section 7 replaced: N.S. Reg. 87/96.

8 The percentage of butterfat content shall be determined by the “Official Babcock Method” or by means of the Foss Electronic System of milk testing for butterfat.

9 (1) For the purpose of determining butterfat content,

(a) samples of milk or cream purchased for a producer shall be taken by the distributor or processor from each weighing delivered to the plant, other than by milk tank truck, and the distributor or processor shall make a composite sample of the milk and cream received from each producer by putting each sample of milk and cream received from the producer into one container on which is clearly marked the name or number of the producer in a period of not more than 16 days;

(b) a distributor or processor shall make a composite sample of the milk and cream received from each producer by milk tank truck by putting each sample of milk or cream delivered to him by the milk tank truck grader pursuant to Section 13 of the regulations with respect to the transportation of milk made by the Nova Scotia Dairy Commission under the provisions of the Dairy Commission Act of milk or cream received from the producer in a period of not more than 16 days into the one container on which is clearly marked the name or number of the producer.

(2) The distributor or processor shall test or cause to be tested each composite sample of milk or cream for butterfat content with[in] 5 days after the last sample has been added to the composite sample.

(3) Where the butterfat content as determined by an inspector's check test varies from the tests made by the distributor or processor by two-tenths of one percent or more in the case of a milk test or by two percent or more in the case of a cream test, the check tests so made by the inspector shall be deemed to be the correct test and shall be used in computing the price of the milk or cream.

Section 9 replaced: N.S. Reg. 116/94.

10 After testing, the remainder of all samples shall be kept for a period of ten days under like conditions as if being kept for testing, or for such period as the Commission, in any case, may require.

11 The inspector shall have access at all times to all milk in transit or in the possession of any licensee and may take samples thereof without payment therefor.

12 As between a distributor and a producer, the price of milk shall be determined on a volume and butterfat test basis.

13 A distributor purchasing milk from a producer on a volume and test basis, shall keep a record of the producer's name, address and the daily volume of milk received from such producer. When making returns to the producer, the distributor shall furnish the producer with a statement, accompanying payment, showing the period for which the payment is made, the total volume of the milk received during the period, either the butterfat at test for each test period or the average of the two butterfat tests extended to the second place after the decimal and unless otherwise authorized by the Commission, the volumes of milk purchased for Class 1 milk and for any other purposes, the rate or rates paid per 100 litres for such milk, the total amount paid and particulars of any deductions, and where a quota has been established, the statement shall show the amount of such quota.

14 Where a wholesale and a retail price is indicated in the regulations,

(a) the wholesale price shall be charged every storekeeper irrespective of the quantity purchased;

(b) the wholesale price shall be charged for all milk or fluid milk supplied under military, navy, air force and institutional contract;

Clause 14(b) amended: N.S. Reg. 188/2011.

(c) the wholesale price may be charged for milk, fluid milk or cream purchased by an employee of a distributor, irrespective of the quantity purchased;

Clause 14(c) amended: N.S. Reg. 188/2011.

(d) provided this regulation [Section] shall not apply to purchases made by a jobber from a distributor; and

(e) in all other cases, the retail price shall be charged.

15 Every licence shall comply with the relative provisions of the "Health Act".

16 (1) These regulations shall apply to the whole of the Province.

(2) All persons other than

(a) producers who produce for sale to distributor[s] who are required to be licensed;

(b) distributors and jobbers anywhere within the Province who sell or distribute 10 litres or more of milk or fluid milk daily; and

Clause 16(2)(b) amended: N.S. Reg. 188/2011.

(c) producer processors, and persons carrying on, establishing or commencing the operation of a dairy manufacturing plant,

are hereby designated as persons not required to be licensed under the Act.

Section 16 replaced: N.S. Reg. 116/94.

17 (1) No distributor shall discontinue the purchase of milk from a producer without leave of the Commission except

(a) where milk has been found by the distributor to be of unsanitary quality and the producer has been notified of such finding and such finding has been confirmed by the Nova Scotia Dairy Commission;

(b) where a producer has shipped at a rate of less than 110 litres per day for more than two consecutive months.

(2) No producer shall discontinue the sale of milk to a distributor without leave of the Commission.

18 No distributor shall make any charge to or debit the account of a producer for weighing, testing, refrigerating or processing milk sold or being sold by the producer to the distributor.

19 No distributor shall compel or induce producers to invest money either directly or indirectly in a dairy manufacturing plant or other equipment in order that such producers may obtain or retain a market for their milk, except as provided in Section 12(1)(d) of the Dairy Commission Act. [Note: Section 12 of the Dairy Commission Act was repealed by S.N.S. 1994, c. 17, s. 7.]

Section 19 replaced: N.S. Reg. 116/94.

20 No distributor shall compel or induce a producer to lend, give or pay monies in order to obtain or retain a market for milk, except as provided in Section 12(1)(d) of the Dairy Commission Act. [Note: Section 12 of the Dairy Commission Act was repealed by S.N.S. 1994, c. 17, s. 7.]

Section 20 replaced: N.S. Reg. 116/94.

Section 21 repealed: N.S. Reg. 23/2003 (Bulk Haulage Regulations).

22 (1) No distributor, jobber or storekeeper shall sell milk or fluid milk or any grade or grades thereof within the Province of Nova Scotia in containers or quantities other than as follows:

Subsection 22(1) amended: N.S. Reg. 188/2011.

(a) Containers

spout (i) waxed or plastic-coated paper containers with or without a threaded pouring

(ii) plastic pouch

(iii) plastic dispenser bag

(iv) plastic containers

(v) plastic bottles

(vi) glass

Subclause 22(1)(a)(vi) added: N.S. Reg. 347/2009.

(b) Container Sizes

(i) 20 L

(ii) 10 L

(iii) 5 L

(iv) 4 L

(v) 2 L

(vi) 1 L

(vii) 500 ml or smaller.

Subclause 22(1)(b)(vii) replaced: N.S. Reg. 310/2015.

Subclauses 22(1)(b)(viii) to (xviii) repealed: N.S. Reg. 310/2015.

Clause 22(1)(b) replaced: N.S. Reg. 94/2003.

(2) All milk or fluid milk containers offered for sale in Nova Scotia shall be labelled [labelled] with a registered brand name of a distributor licensed by the Commission, and shall not display any other brand name.

Subsection 22(2) amended: N.S. Reg. 188/2011.

(3) A 60 day notice must be given to the Commission prior to the use of any new package, or variation of an existing package, for fluid milk.

(4) Unless otherwise ordered by the Commission, upon expiration of the 60 day notice period, any distributor may utilize a new package that complies with these regulations.

Section 22 replaced: N.S. Reg. 197/2000.

23 No distributor, jobber or storekeeper shall sell milk or fluid milk of any grade or grades thereof within the limits of any area of the Province designated by the Commission

Section 23 amended: N.S. Reg. 188/2011.

(a) at a price other than the price prescribed by the Commission or at a price higher than the maximum price or lower than the minimum price prescribed by the Commission; or

(b) at prices other than prescribed by the Commission for milk or fluid milk when sold in a quantity or container prescribed by the Commission or at prices higher than the maximum or lower than the minimum prices prescribed by the Commission for sales in quantities or containers prescribed by the Commission.

Clause 23(b) amended: N.S. Reg. 188/2011.

24 The manufacture, sale and distribution of reconstituted fluid milk is prohibited except by written approval of the Commission.

Section 24 amended: N.S. Reg. 188/2011.

25 The manufacture, sale and distribution of ultra high temperature fluid milk is prohibited except by written approval of the Commission.

Section 25 amended: N.S. Reg. 188/2011.

Section 26 added: N.S. Reg. 62/99; repealed: N.S. Reg. 110/2001 (Fluid Milk Categories and Classes Regulations).