

CHAPTER 48
GENERAL PROVISIONS

Authority

N.J.S.A. 4:12A-1 et seq., specifically 4:12A-7 and 20.

Source and Effective Date

R.2005 d.326, effective September 22, 2005.
See: 37 N.J.R. 1912(a), 37 N.J.R. 3967(a).

Chapter Expiration Date

Chapter 48, General Provisions, expires on September 22, 2010.

Chapter Historical Note

Chapter 48, General Provisions, was filed and became effective prior to September 1, 1969.

Chapter 48, General Provisions, was adopted as R.1976 d.359, effective January 1, 1977. See: 8 N.J.R. 450(b), 8 N.J.R. 542(c).

Subchapter 5, Restrictions on the Use of Coupons in Milk Production, was adopted as R.1980 d.519, effective December 2, 1980. See: 12 N.J.R. 627(a), 13 N.J.R. 6(a).

Pursuant to Executive Order 66(1978), Chapter 48, General Provisions, was readopted as R.1985 d.649, effective November 27, 1985. See: 17 N.J.R. 2486(a), 18 N.J.R. 77(a).

Subchapter 3, Sales of Milk in New Container Size, was repealed by R.1988 d.385, effective August 15, 1988. See: 20 N.J.R. 1129(a), 20 N.J.R. 2052(b).

Pursuant to Executive Order No. 66(1978), Chapter 48, General Provisions, was readopted as R.1990 d.572, effective October 25, 1990. Subchapter 4, Reports, was recodified as Subchapter 3, Reports, and Subchapter 5, Restrictions on the Use of Coupons in Milk Production, was recodified as Subchapter 4, Restrictions on the Use of Coupons in Milk Production, by R.1990 d.572, effective December 3, 1990. See: 22 N.J.R. 2625(a), 22 N.J.R. 3619(a).

Pursuant to Executive Order No. 66(1978), Chapter 48, General Provisions, was readopted as R.1995 d.454, effective July 28, 1995. See: 27 N.J.R. 2033(b), 27 N.J.R. 3155(b).

Pursuant to Executive Order No. 66(1978), Chapter 48, General Provisions, was readopted as R.2000 d.226, effective May 5, 2000. See: 32 N.J.R. 734(b), 32 N.J.R. 2046(a).

Administrative change: Pursuant to Reorganization Plan No. 003-2002, the Division of Dairy Industry was renamed Division of Marketing and Development, effective February 27, 2003. See: 35 N.J.R. 3(a), 35 N.J.R. 1539(b).

Chapter 48, General Provisions, was readopted by R.2005 d.326, effective September 22, 2005. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. MARKETING AREAS

2:48-1.1 Marketing areas defined

(a) The milk marketing areas in the State of New Jersey shall be and hereby are defined as follows.

1. North Jersey shall include those areas of New Jersey included in:

i. The counties of Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean (except the boroughs of Barnegat Light, Beach Haven, Harvey Cedars, Ship Bottom, Surf City and Tuckerton, and the townships of Eagleswood, Lacey, Little Egg Harbor, Long Beach, Ocean, Stafford and Union), Passaic, Somerset, Sussex, Union and Warren;

2. South Jersey shall include those areas in New Jersey included in:

i. The counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer and Salem, and, in Ocean County, the boroughs of Barnegat Light, Beach Haven, Harvey Cedars, Ship Bottom, Surf City and Tuckerton, and the townships of Eagleswood, Lacey, Little Egg Harbor, Long Beach, Ocean, Stafford and Union.

(b) Both of the areas in (a) above are included in Federal Milk Order No. 1 (Northeast Marketing Area).

Amended by R.2000 d.226, effective June 5, 2000. See: 32 N.J.R. 734(b), 32 N.J.R. 2046(a).

In (a)1, substituted "North Jersey" for "area one" and deleted reference to State-Federal milk marketing order number 2; in (a)2, substituted "South Jersey" for "area two" and deleted reference to State-Federal milk marketing order number 4; and added (b).

**SUBCHAPTER 2. PROHIBITION OF FALSE,
MISLEADING OR UNFAIR ADVERTISEMENTS
OF MILK AND MILK PRODUCTS**

2:48-2.1 Advertising of milk and milk products

(a) It shall be an unfair trade practice and unlawful for any licensee of the Division of Marketing and Development to directly or indirectly publish, promulgate, or distribute any false, misleading, or unfair advertisements through any form of advertising medium, or to make any misrepresentation which has the effect of deceiving, defrauding, or confusing consumers pertaining to the quality of his milk and milk products or the quality of the product of any other licensee.

(b) Any licensee offering milk products for sale to consumers in this State shall not represent such products as being milk unless such product meets the standards for milk as defined in the laws governing the production, handling and distribution of milk, cream and milk products in the State of New Jersey (see N.J.S.A. 24:10-57.1 et seq., as amended, and N.J.A.C. 8:21-10).

(c) Advertising copy (including lettering of all sizes and kinds) designed to induce customers to purchase milk or milk products shall include the product name shown on the label of the milk products container and if such advertisement term includes the word "milk," it shall not be any larger or of a different color than the other parts of the product name. Copies of all advertisement media must be included with the request to conduct a sales promotion, including, but not limited to, "cents off," "Bonus Card" or "refund" promotions, according to N.J.A.C. 2:48-4.1.

(d) Milk products referred to in this regulation shall mean those milk products defined in N.J.S.A. 24:10-57.1 et seq. and N.J.A.C. 8:21-10.

As amended, R.1978 d.57, eff. February 21, 1978.

See: 9 N.J.R. 110(a), 10 N.J.R. 92(a).

Amended by R.1990 d.572, effective December 3, 1990.

See: 22 N.J.R. 2625(a), 22 N.J.R. 3619(a).

Stylistic correction to cites.

Amended by R.2005 d.326, effective October 17, 2005.

See: 37 N.J.R. 1912(a), 37 N.J.R. 3967(a).

In (c), added "advertisement" following "and if such", and added the last sentence.

SUBCHAPTER 3. REPORTS

**2:48-3.1 Confidentiality of reports and records by
dealers, processors, subdealers and stores**

(a) The New Jersey Department of Agriculture will hold confidential any information obtained while implementing the rules set forth in this chapter, which constitutes proprietary commercial or financial information, or is otherwise protected from disclosure under 7 CFR Part 205.501 and 205.504 or the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., subject to the limitations set forth therein.

(b) The confidential reports and records referred to herein include, but shall not be limited to, financial data submitted in support of license applications, records and reports of purchases and sales of milk and milk products, prices at which such products are sold, the cost of processing and distributing such milk and milk products, audit work papers and audit reports, and any list of accounts served.

R.1977 d.366, eff. September 30, 1977.

See: 9 N.J.R. 402(b), 9 N.J.R. 502(a).

Recodified from N.J.A.C. 2:48-4.1 by R.1990 d.572, effective December 3, 1990.

See: 22 N.J.R. 2625(a), 22 N.J.R. 3619(a).

Amended by R.2005 d.326, effective October 17, 2005.

See: 37 N.J.R. 1912(a), 37 N.J.R. 3967(a).

In rule heading, added "and records"; rewrote (a).

**SUBCHAPTER 4. RESTRICTIONS ON THE USE OF
COUPONS IN MILK PROMOTION**

2:48-4.1 Coupons for milk restricted

(a) It shall be unlawful and a violation of these regulations for any licensee directly or indirectly through an entity associated in any way with the licensee to print or cause to be printed any "cents off," "Bonus Card Program" or "refund" coupon in any newspaper or other advertising media (including the milk container) which is redeemable either directly or indirectly through a third party by the consumer upon his purchase of any milk or fluid milk product unless prior written permission is granted by the Division of Marketing and Development to conduct such programs. All documentation concerning, but not limited to, "cents off," "Bonus Card Program" or "refund" promotions must be submitted 60 days prior to the program commencing to determine if the promotion will result in the sale of such products to be below variable cost as defined in rules of the Division, specifically N.J.A.C. 2:52-7 and 2:53-6.

(b) Any and all newspaper and advertising media (including the milk container) must also be approved by the Division of Marketing and Development prior to use in order to determine if such advertisement is false and misleading and conforms to N.J.A.C. 2:48-2.1(c).

(c) The information to be submitted to the Department, pursuant to (a) and (b) above, shall be sent to the Coordinator, Dairy Program and Enforcement, New Jersey Department of Agriculture, Division of Marketing and Development, PO Box 330, Trenton, NJ 08625-0330.

Amended by R.1990 d.572, effective December 3, 1990.

See: 22 N.J.R. 2625(a), 22 N.J.R. 3619(a).

Recodified from N.J.A.C. 2:48-5.2 and (b) was repealed which required the notification to Director before licensee instituted "cents off" or "refund" couponing.

Amended by R.2005 d.326, effective October 17, 2005.

See: 37 N.J.R. 1912(a), 37 N.J.R. 3967(a).

Rewrote (a); added (b) and (c).