

**CHAPTER 50
PRODUCERS**

Authority

N.J.S.A. 4:1-24; 4:12-2, 14 and 15; and 4:12A-1 et seq., specifically 4:12A-7, 20, 21, 22, 23 and 27.

Source and Effective Date

R.2002 d.161, effective April 30, 2002.
See: 34 N.J.R. 5(a), 34 N.J.R. 1858(a).

Chapter Expiration Date

Chapter 50, Producers, expires on April 30, 2007.

Chapter Historical Note

Chapter 50, Producers, was adopted and became effective prior to September 1, 1969, with Subchapter 1, Terminating Purchases from Producers, and Subchapter 2, Producer Sponsored Sales Promotions.

Subchapter 1, Terminating Purchases from Producers was renamed Notice to Dealers by Dairy Farmers; Subchapter 2, Producer Sponsored Sales Promotions, was repealed and a new Subchapter 2, Notice to Dairy Farmers by Dealers, was adopted; and Subchapter 3, Measuring and Sampling of Milk from Farm Bulk Tanks, was recodified from N.J.A.C. 2:48-5 by R.1976 d.359, effective January 1, 1977. See: 8 N.J.R. 450(b), 8 N.J.R. 542(c).

Pursuant to Executive Order No. 66(1978), Chapter 50, Producers, was readopted as R.1987 d.232, effective May 1, 1987. See: 19 N.J.R. 433(a), 19 N.J.R. 927(a).

Pursuant to Executive Order No. 66(1978), Chapter 50, Producers, was readopted as R.1992 d.229, effective May 1, 1992. See: 24 N.J.R. 893(a), 24 N.J.R. 2048(a).

Pursuant to Executive Order No. 66(1978), Chapter 50, Producers, was readopted as R.1997 d.213, effective April 25, 1997. See: 29 N.J.R. 721(a), 29 N.J.R. 2266(a).

Chapter 50, Producers, was readopted as R.2002 d.161, effective April 30, 2002. See: Source and Effective Date.

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

Subchapter 4, Premiums and Other Payments to Producers, was adopted as emergency new rules by R.2007 d.69, effective January 29, 2007 (operative February 1, 2007, expired March 30, 2007). Subchapter 4, Premiums and Other Payments to Producers, was adopted as concurrent new rules by R.2007 d.128, effective March 30, 2007. See: 39 N.J.R. 673(a), 39 N.J.R. 1663(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. NOTICE TO DEALERS BY DAIRY FARMERS

2:50-1.1 Dairy farmers notice to dealers of intent to discontinue sales of milk

SUBCHAPTER 2. NOTICE TO DAIRY FARMERS BY DEALERS

2:50-2.1 Dealer notice to dairy farmers of intent to discontinue purchase of milk
2:50-2.2 Dealer to report names of new or discontinued dairy farmers

SUBCHAPTER 3. MEASURING AND SAMPLING OF MILK FROM FARM BULK TANKS

2:50-3.1 Applicant for weigher and sampler certificate to pass examination
2:50-3.2 Milk weighing, measuring and sampling procedures
2:50-3.3 Maintenance of milk samples
2:50-3.4 Additional methods for the determination of butterfat of milk or cream

SUBCHAPTER 4. PREMIUMS AND OTHER PAYMENTS TO PRODUCERS

2:50-4.1 Definitions
2:50-4.2 Payments for a fuel adjustment add-on
2:50-4.3 Adjustment of the fuel adjustment add-on for Class utilization
2:50-4.4 Reporting and requests for assistance
2:50-4.5 Penalties

SUBCHAPTER 1. NOTICE TO DEALERS BY DAIRY FARMERS

2:50-1.1 Dairy farmers notice to dealers of intent to discontinue sales of milk

(a) Before a dairy farmer selling milk to New Jersey dealers may discontinue selling milk to such dealer, he shall give the dealer at least 28 days written notice of his intent to discontinue such sale.

(b) The notice of discontinuance shall be sent to the dealer by letter or on forms supplied by the Division of Marketing and Development. A copy of such letter or form shall be filed with the Division of Marketing and Development and the 28-day period shall begin on the date such notice is received by the Division.

(c) The notice shall not be required from dairy farmers shipping to a cooperative association of which they are a member or when the termination is mutually agreeable to the dealer and the dairy farmer, provided that the Division of Marketing and Development is notified by both parties in advance of the change.

(d) The notice shall not be required for dairy farmers shipping to dealers who fail to make full payment in time and manner required by joint orders of the Division of Marketing and Development and the United States Department of Agriculture.

(e) Upon written request by a dairy farmer or cooperative association, the notice provisions of this subchapter may be waived by the Secretary of Agriculture upon a finding of the following:

1. Compliance with the notice provision in (a) above would adversely impact the dairy industry in New Jersey;
2. Reasonable belief that dealer will fail to make payment to dairy farmers or cooperative associations based on

dealer's failure to make timely payments to other dairy farmers or cooperative associations in New Jersey or other jurisdictions;

3. Filing of notice of bankruptcy by the New Jersey dealer; or

4. A reasonable belief that there is a risk of interruption in the availability of an adequate supply of fresh wholesome milk to consumers, as required by the Milk Control Act of 1941, N.J.S.A. 4A:12-1 et seq.

(f) This rule shall not affect or interfere with any private contractual obligations between dairy farmers, cooperative associations and milk dealers.

Amended by R.1976 d.359, effective January 1, 1977.

See: 8 N.J.R. 450(b), 8 N.J. 542(c).

Amended by R.1982 d.238, effective August 2, 1982.

See: 14 N.J.R. 489(b), 14 N.J.R. 833(d).

(d) added.

Amended by R.1991 d.323, effective July 1, 1991.

See: 23 N.J.R. 929(a), 23 N.J.R. 2010(b).

Notice of intent to discontinue changed from 60 days to 28 days.

Amended by R.1997 d.213, effective May 19, 1997.

See: 29 N.J.R. 721(a), 29 N.J.R. 2266(a).

Substituted "Division of Dairy and Commodity Regulation" for "Division of Dairy Industry" throughout the section.

Emergency amendment, R.2004 d.85, effective January 26, 2004 (to expire March 26, 2004).

See: 36 N.J.R. 1120(a).

Added (e) and (f).

Emergency amendment, R.2004 d.85, expired March 26, 2004.

Deleted (e) and (f).

Amended by R.2004 d.200, effective June 7, 2004.

See: 36 N.J.R. 1120(a), 36 N.J.R. 2715(a).

Added (e) and (f).

SUBCHAPTER 2. NOTICE TO DAIRY FARMERS BY DEALERS

2:50-2.1 Dealer notice to dairy farmers of intent to discontinue purchase of milk

(a) Before a dealer purchasing milk from New Jersey dairy farmers may discontinue such purchase, he shall give the dairy farmer(s) at least 28 days written notice of his intent to discontinue such purchase.

(b) The notice of discontinuance shall be sent to the dairy farmer and a copy filed with the Division of Marketing and Development on forms supplied by the Division for this purpose. The 28-day notice period shall begin on the day that such notice is received by the Division of Marketing and Development.

(c) The notice shall not be required for a dealer to temporarily discontinue purchasing milk from a dairy farmer whose milk does not meet the quality standards of the appropriate health authority or when the termination is mutually agreeable to the dealer and the dairy farmer, providing that the Division of Marketing and Development is notified by both parties in advance of the change.

Amended by R.1991 d.323, effective July 1, 1991.

See: 23 N.J.R. 929(a), 23 N.J.R. 2010(b).

Notice of intent to discontinue changed from 60 days to 28 days.

Amended by R.1997 d.213, effective May 19, 1997.

See: 29 N.J.R. 721(a), 29 N.J.R. 2266(a).

Substituted "Division of Dairy and Commodity Regulation" for "Division of Dairy Industry" throughout the section.

2:50-2.2 Dealer to report names of new or discontinued dairy farmers

A milk dealer purchasing milk from New Jersey dairy farmers shall send a notice to the Division of Marketing and Development of any new dairy farmer(s) and of any dairy farmer(s) discontinuing to sell milk to the dealer. Such information shall be filed monthly on or before the tenth day of each month.

Amended by R.1997 d.213, effective May 19, 1997.

See: 29 N.J.R. 721(a), 29 N.J.R. 2266(a).

Substituted "Division of Dairy and Commodity Regulation" for "Division of Dairy Industry".

SUBCHAPTER 3. MEASURING AND SAMPLING OF MILK FROM FARM BULK TANKS

2:50-3.1 Applicant for weigher and sampler certificate to pass examination

(a) Before a person shall be approved by the Secretary of Agriculture or his authorized representative to be competent to weigh, measure and sample milk and cream pursuant to the provisions of N.J.S.A. 4:12-41.5, said person shall satisfactorily complete an examination to be conducted by the secretary or his authorized representative. The examination shall consist of both a written test and satisfactory demonstration of proper performance of the actual weighing or measuring and sampling techniques herein required.

(b) Failure to satisfactorily complete the written test shall make the applicant ineligible for the performance test, but failure to satisfactorily complete the performance test shall not require the applicant to be reexamined for the written test. Reexamination for either the written test or the performance test shall be made at the request of the applicant to the secretary or his authorized representative, orally or in writing, and will be given as soon as practicable at a time and place mutually agreeable to the secretary or his authorized representative and the applicant.

(c) Upon the satisfactory completion of the examination, a certificate shall be issued to the applicant. Certificates shall be issued for the fiscal year ending June 30. Certificates, when renewed, shall be renewed for a period of two years. As a condition to renewal of the certificate, the secretary may require attendance at a refresher course designed to train milk samplers in proper procedures and techniques of weighing, measuring and sampling milk.

Amended by R.1997 d.213, effective May 19, 1997.

See: 29 N.J.R. 721(a), 29 N.J.R. 2266(a).