

CHAPTER 55**SCHOOL MILK PURCHASE REGULATIONS****Authority**

N.J.S.A. 18A:18A-6.

Source and Effective Date

R.2006 d.439, effective November 21, 2006.
See: 38 N.J.R. 3096(a), 38 N.J.R. 5351(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 55, School Milk Purchase Regulations, expires on November 21, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 55, School Milk Purchase Regulations, was adopted as R.1972 d.103, effective June 1, 1972. See: 4 N.J.R. 86(b), 4 N.J.R. 116(b).

Chapter 55, School Milk Purchase Regulations, was readopted as R.2006 d.439, effective November 21, 2006. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. DEFINITIONS**

2:55-1.1 Definitions

SUBCHAPTER 2. REPORTS

2:55-2.1 Reports by boards
2:55-2.2 Reports by vendors
2:55-2.3 Reports by associations of producers
2:55-2.4 Confidentiality of reports

SUBCHAPTER 3. ALLOCATION OF MILK FROM NEW JERSEY PRODUCERS

2:55-3.1 Computations
2:55-3.2 Allocation to associations of producers

SUBCHAPTER 4. PROOF OF UNAVAILABILITY OF MILK

2:55-4.1 Burden of proof
2:55-4.2 Responsibility of Secretary

SUBCHAPTER 5. EFFECT OF DEALER'S FAILURE TO ACQUIRE NEW JERSEY-PRODUCED MILK

2:55-5.1 Penalties

SUBCHAPTER 1. DEFINITIONS**2:55-1.1 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Agreement" means the agreement required by N.J.S.A. 18A:18A-6.

"Association of producers" means an association engaged in the business of selling or distributing fresh milk, qualified to do business in the State of New Jersey and whose membership includes at least one New Jersey producer.

"Board" means board of education of any school district in the State of New Jersey.

"Department" means the New Jersey Department of Agriculture.

"Fresh milk" means the natural product of a dairy animal or animals produced by New Jersey producers or associations of producers and includes fluid milk and cream, whole milk, skim milk, low fat milk, fortified whole or skim milk, buttermilk, flavored milk, any milk drink, cream and mixtures of milk and cream, all of which products are considered in the trade as "fluid milk."

"New Jersey producers" means any person engaged in the business of producing milk in New Jersey.

"Person" means any individual, corporation, business, partnership, association, cooperative, limited liability company, or other legal entity.

"School milk" means all milk sold to boards which is intended for direct consumption and shall include fluid milk and cream, whole milk, skim milk, low fat milk, fortified whole or skim milk, buttermilk, flavored milk, any milk drink, cream and mixtures of milk and cream, all of which products are considered in the trade as "fluid milk."

"Secretary" means Secretary of Agriculture of the State of New Jersey or his or her designee.

"Vendor" means any person who sells or offers to sell school milk to any board as defined in this section including, but not limited to, any person required to be licensed pursuant to N.J.S.A. 4:12-2 or 4:12A-28.

"Year" means the school year during which school milk is offered to be sold or sold to a "board" as defined in this section.

Amended by R.2006 d.439, effective December 18, 2006.
See: 38 N.J.R. 3096(a), 38 N.J.R. 5351(a).

Added introductory paragraph and definitions "Association of producers", "Department", "New Jersey producers", "Person" and "School milk"; in definition "Agreement", updated the N.J.S.A. reference; re-wrote definitions "Fresh Milk" and "Vendor"; deleted definition "New Jersey Association of Producers"; in definition "Secretary", inserted "or his or her designee"; and in definition "Year", deleted "contract or" preceding "school year", and substituted "school" for "fresh" preceding "milk" and "section" for "Section".

SUBCHAPTER 2. REPORTS

2:55-2.1 Reports by boards

(a) On or before September 1 of each year, the Secretary shall send each board a form inquiring as to whether the board has purchased or will be purchasing school milk for the year. The board must fill out the form and return it to the Department within 15 days of receipt.

(b) For all contracts entered into for the purchase of school milk from and after the effective date of this chapter, each board shall file a copy of the agreement with the Secretary before the effective date of the contract or within 15 days after the agreement is signed, whichever occurs first. Such copy may be a facsimile, a photocopy or a certified copy of the original on file in the office of the board.

Amended by R.2006 d.439, effective December 18, 2006.
See: 38 N.J.R. 3096(a), 38 N.J.R. 5351(a).
Rewrote the section.

2:55-2.2 Reports by vendors

(a) For all contracts entered into for the purchase of school milk from and after the effective date of this chapter all vendors shall notify the Secretary of such contract before the effective date of the contract or within 15 days after the contract is awarded, whichever occurs first. Notification to the Secretary shall include a list of all schools to be served and a list of the boards with whom the vendor has entered into contract for the supply of school milk.

(b) All vendors shall file verified monthly reports on forms provided by the Department detailing the amount of fresh milk purchased from any source, the amount of school milk sold to schools during the preceding month, and the amount of fresh milk transferred during the month and to whom it was transferred. Such reports shall be filed to reach the Office of the Secretary on or before the 20th day of the month following the month for which the report is prepared. Such reports shall be on forms prescribed and furnished by the Secretary.

Amended by R.2006 d.439, effective December 18, 2006.
See: 38 N.J.R. 3096(a), 38 N.J.R. 5351(a).
Deleted former (a); recodified former (b) and (c) as (a) and (b); and rewrote new (a) and (b).

2:55-2.3 Reports by associations of producers

(a) Associations of producers shall determine the amount of fresh milk received and shall report sales of such milk to vendors each month.

(b) Such report shall be in addition to any other reports required to be filed by the Milk Control Act of the State of New Jersey, N.J.S.A. 4:12A-1 et seq.

Amended by R.2006 d.439, effective December 18, 2006.
See: 38 N.J.R. 3096(a), 38 N.J.R. 5351(a).

Section was "Reports by association". In (a), deleted ", other than vendors," following "Associations of producers" and "from New Jersey producers" following "received" and inserted "fresh"; and in (b), inserted ", N.J.S.A. 4:12A-1 et seq.".

2:55-2.4 Confidentiality of reports

The New Jersey Department of Agriculture will hold confidential any information obtained pursuant to N.J.A.C. 2:55-2.1 through 2.3 that constitutes proprietary commercial or financial information, or is otherwise protected from disclosure under 7 CFR 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.

New Rule, R.2006 d.439, effective December 18, 2006.
See: 38 N.J.R. 3096(a), 38 N.J.R. 5351(a).

SUBCHAPTER 3. ALLOCATION OF MILK FROM NEW JERSEY PRODUCERS

2:55-3.1 Computations

(a) In determining whether a vendor complied with the requirement to purchase fresh milk from the New Jersey producers or associations of producers, the following computations shall be made for each month during the year:

1. Compute the total amount of school milk sold to all boards subject to the provisions of N.J.S.A. 18A:18A-6 by each vendor;
2. Compute the total fresh milk purchased by each vendor during the month by adding the total amount of fresh milk received by the vendor from all sources; and
3. Subtract the pounds of school milk sold by each vendor to all boards from the pounds of fresh milk purchased. Any plus amount represents the maximum amount that the vendor could transfer to other vendors during the month for use in meeting the requirements of N.J.S.A. 18A:18A-6 and this chapter for the purchase of fresh milk, but any such amount may not be credited against transfers to other vendors in subsequent months.

Amended by R.2006 d.439, effective December 18, 2006.
See: 38 N.J.R. 3096(a), 38 N.J.R. 5351(a).
Rewrote the section.

2:55-3.2 Allocation to associations of producers

Any fresh milk sold to a vendor by an association of producers must be fresh milk received by the association of producers during the month within which it was sold.

Repeal and New Rule, R.2006 d.439, effective December 18, 2006.
See: 38 N.J.R. 3096(a), 38 N.J.R. 5351(a).
Section was "Allocation to associations".