

**CHAPTER 53****STORES****Authority**

N.J.S.A. 4:1-11.1, 24 and 25; and 4:12A-1 et seq., specifically 4:12A-7, 20 through 23, 37 and 38.

**Source and Effective Date**

R.2006 d.97, effective February 7, 2006.  
See: 37 N.J.R. 4094(a), 38 N.J.R. 1315(b).

**Chapter Expiration Date**

Chapter 53, Stores, expires on February 7, 2011.

**Chapter Historical Note**

Chapter 53, Stores, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Subchapter 4, Notice of Intent to Change Source of Supply, was readopted as R.1985 d.336, effective June 7, 1985. See: 17 N.J.R. 1011(a), 17 N.J.R. 1645(a).

Pursuant to Executive Order No. 66(1978), Subchapter 3, Sales Below Cost; Stores, expired on November 1, 1985.

Pursuant to Executive Order No. 66(1978), Subchapter 3, Sales Below Cost; Stores, expired on November 1, 1985. Subchapter 3, Sales Below Cost; Stores, was adopted as emergency new rules by R.1985 d.648, effective November 26, 1985, expired January 25, 1986. See: 17 N.J.R. 3014(a). The provisions of R.1985 d.648 were readopted as R.1986 d.43, effective March 3, 1986. See: 17 N.J.R. 3014(a), 18 N.J.R. 476(a).

Subchapter 3, Sales Below Cost; Stores, and Subchapter 4, Notice of Intent to Change Source of Supply, were repealed and Subchapter 6, Sales Below Cost; Stores, and Subchapter 7, Notice of Intent to Change Source of Supply, were adopted as emergency new rules by R.1990 d.252, effective April 25, 1990, to expire June 24, 1990. See: 22 N.J.R. 1629(a). The provision of R.1990 d.252 were readopted as R.1990 d.355, effective June 22, 1990. See: 22 N.J.R. 1629(a), 22 N.J.R. 2138(a).

Pursuant to Executive Order No. 66(1978), Chapter 53, Stores, was readopted as R.1991 d.51, effective January 10, 1991. See: 22 N.J.R. 3609(a), 23 N.J.R. 294(a).

Pursuant to Executive Order No. 66(1978), Chapter 53, Stores, was readopted as R.1996 d.45, effective December 21, 1995. See: 27 N.J.R. 4477(a), 28 N.J.R. 259(a).

Pursuant to Executive Order No. 66(1978), Chapter 52, Stores, was readopted as R.2000 d.438, effective October 4, 2000. See: 32 N.J.R. 2635(a), 32 N.J.R. 3973(b).

Administrative change: Pursuant to Reorganization Plan No. 03-2002, 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).

Chapter 53, Stores, was readopted by R.2006 d.97, effective February 7, 2006. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS****SUBCHAPTER 1. (RESERVED)****SUBCHAPTER 2. PRICE POSTING**

2:53-2.1 Price posted in store

**SUBCHAPTERS 3 THROUGH 4. (RESERVED)****SUBCHAPTER 5. STORE RECORDS AND REPORTS**

2:53-5.1 Store books of record and account  
2:53-5.2 Reports by stores  
2:53-5.3 Confidentiality

**SUBCHAPTER 6. SALES BELOW COST; STORES**

2:53-6.1 Sales below variable cost prohibited  
2:53-6.2 Variable cost defined

**SUBCHAPTER 7. NOTICE OF INTENT TO CHANGE SOURCE OF SUPPLY**

2:53-7.1 Notice of intent

**SUBCHAPTER 1. (RESERVED)****SUBCHAPTER 2. PRICE POSTING****2:53-2.1 Price posted in store**

(a) Every licensed store shall post at the milk display case a current price list showing all the prices at which it will sell milk and milk products.

(b) The price posting shall be so placed in the store that it may be readily seen and read by all customers purchasing milk or milk products.

(c) Prices legibly marked on the individual containers of each and every package of milk or milk products offered for sale will be deemed as compliance with this provision.

**SUBCHAPTERS 3 THROUGH 4. (RESERVED)****SUBCHAPTER 5. STORE RECORDS AND REPORTS****2:53-5.1 Store books of record and account**

(a) Every store selling milk or milk products shall maintain such books and records, including records of any and all transactions relating to the licensee's business as are necessary for a determination by the Division of Marketing and Development that the store has complied with the applicable statutes and rules and regulations of the Division. These records shall include, but not be limited to, the following:

1. A purchase record including a detailed daily record of all purchases of milk and milk products showing the supplier's name and number of units and prices of all products with the value of each product extended and totaled;

2. A record of rebates, discounts or allowances received, directly or indirectly, from suppliers of milk and milk products;

3. A record of equipment, loans or other items of value received or purchased from suppliers of milk and milk products with applicable documentation;

4. A detailed daily record of all payments to suppliers of milk and milk products, directly or indirectly, for loans, purchases or leases of equipment, or any other purchases;

5. A record and documentation for any agreement, arrangement, contract or common understanding with any other division licensee;

6. All books and records shall be retained at the store or other convenient location within the State of New Jersey for a period of three years to begin at the end of the calendar month to which such books and records pertain; provided that, if within such three-year period the Director of the Division of Marketing and Development notifies the store in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under the act or a court action specified in such notice, the store shall retain such books and records until further written notice from the Director:

i. A store may maintain its books and records outside the State of New Jersey by notifying the director in writing and by agreeing in writing to make such records available for inspection and audit as if the records were physically located within this State.

Amended by R.2000 d.438, effective November 6, 2000.  
See: 32 N.J.R. 2653(a), 32 N.J.R. 3973(b).

In (a), substituted "and Commodity Regulation" for "Industry" in the introductory paragraph and 6.

### 2:53-5.2 Reports by stores

(a) All stores selling milk or milk products shall report on forms provided by the Department for such purposes, the following information by April 1, 2007, broken down on a per point basis for the time period between January 1 to December 31, 2006:

1. The following sales information for each store premises:

i. The store location, including street address, city and zip code;

ii. The total annual amount of money received in sales of licensed milk and milk products;

iii. The total annual amount of money received in sales for all products;

iv. The price of all licensed milk and milk products charged to consumers on a monthly basis, for each size container;

v. A list of all rebates, price cuts, credits, give-backs, advertising allowance or any other reduction in the price charged to the consumer;

vi. The total volume of milk sold calculated on a point basis;

vii. The total volume of licensed milk products sold calculated on a point basis; and

viii. Any other similar cost information as may be deemed necessary by the Director of the Division of Marketing and Development;

2. A statement of costs and other expenses, showing the following information for each store premises, reported on a per point basis:

i. The store location including street address, city and zip code;

ii. The cost of all licensed milk and milk products purchased by the store;

iii. Total labor costs attributable to the sale of licensed milk and milk products;

iv. Total labor costs of the store;

v. The total costs of utilities, cooling and storage attributable to the sale of licensed milk and milk products;

vi. The total costs of utilities, cooling and storage attributed of the sale of all refrigerated products;

vii. Fixed expenses or costs of running the store, including, but not limited to, rent, lease payments or mortgage payments, interest, depreciation, license fees, taxes, advertising and insurance attributable to the sale of licensed milk and milk products; and

viii. Any other similar cost information as may be deemed necessary by the Director of the Division of Marketing and Development; and

3. For purposes of reporting pursuant to (a)2 above, points will be calculated as follows:

i. Point value for allocation of plant cost centers shall be as follows:

(1) Fluid gallon-milk, milk drinks, etc., ice cream, others in fruit drink.....Four points;

(2) Yogurt, dips, sour cream, cottage cheese  
(A) 12 to 16 ounces.....One point;  
(B) Under 12 ounces.....1/2 point;

(3) Butter, margarine, bread, eggs...One point per pound, loaf, dozen;

(4) Aerated whips, cream.....One point per can;

(5) Ice cream novelties.....Two points per dozen; and

(6) All other items.....Two points per \$1.00 sales;

(A) All other items shall include, but not be limited to, non-processed fruit drinks purchased for resale in unchanged form and package.