REPEALED

Repealed by M.R. 132/2006.
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ABROGÉ

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Milk Quality Penalties Regulation*

Regulation 229/2004
Registered December 15, 2004

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Definitions

1 In this regulation,

"**board**" means Dairy Farmers of Manitoba;

"**latest 12-month period**" when used in reference to a contravention, means the 12-month period beginning on the first day of the month 11 months before the month in which the contravention occurred and ending on the last day of the month in which the contravention occurred;

"**tested**" means tested by the Animal Industry Branch of Manitoba Agriculture, Food and Rural Initiatives or by MFC Testing and Research Inc.

* This regulation is made under the *Dairy Farmers of Manitoba Marketing Plan Regulation*, Manitoba Regulation 89/2004, and is Regulation No. 2, 2004 of Dairy Farmers of Manitoba.

All persons making use of this consolidation are reminded that it has no legislative sanction. Amendments have been inserted into the base regulation for convenience of reference only. The original regulation should be consulted for purposes of interpreting and applying the law. Only amending regulations which have come into force are consolidated. This regulation consolidates the following amendments: 124/2005.

Penalty re bacteria

2(1) In this section, "**contravention**" means the marketing of milk that is tested and found to have a bacteria count of 50,000 or more per millilitre on the plate loop count method or 122,000 or more per millilitre on the imuno-fluoro-electronic method.

M.R. 124/2005

2(2) A producer who commits a contravention under this section is to receive a warning from the board for the first contravention in the latest 12-month period.

2(3) Subject to subsection 6(2), a producer who commits more than one contravention in the latest 12-month period shall pay a penalty with respect to all milk marketed by the producer in the month in which the contravention occurs of

(a) $3.00 per hectolitre if the contravention is the producer's second contravention in the latest 12-month period;

(b) $4.00 per hectolitre if the contravention is the producer's third contravention in the latest 12-month period;

(c) $5.00 per hectolitre if the contravention is the producer's fourth contravention in the latest 12-month period; and

(d) $7.00 per hectolitre if the contravention is the producer's fifth contravention in the latest 12-month period.

2(4) Subject to subsection 6(2), where a producer is liable to pay a penalty under clause 2(3)(d), milk pickups from that producer shall, unless the board is satisfied that adequate measures are being taken to avoid any further contraventions, be suspended until two consecutive milk samples taken at least six days apart are tested and found to have a bacteria count which would not constitute a contravention.

Penalty re adulteration

3(1) In this section, "**contravention**" means the marketing of milk that is tested and found to have a freezing point of –0.505°C or higher.

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3(2) A producer who commits a contravention under this section is to receive a warning from the board for the first contravention in the latest 12-month period.

3(3) Subject to subsection 6(2), a producer who commits more than one contravention in the latest 12-month period shall pay a penalty with respect to all milk marketed by the producer in the month in which the contravention occurs of

(a) $3.00 per hectolitre if the contravention is the producer's second contravention in the latest 12-month period;

(b) $4.00 per hectolitre if the contravention is the producer's third contravention in the latest 12-month period;

(c) $5.00 per hectolitre if the contravention is the producer's fourth contravention in the latest 12-month period; and

(d) $7.00 per hectolitre if the contravention is the producer's fifth contravention in the latest 12-month period.

3(4) Subject to subsection 6(2), where a producer is liable to pay a penalty under clause 3(3)(d), milk pickups from that producer shall, unless the board is satisfied that adequate measures are being taken to avoid any further contraventions, be suspended until two consecutive milk samples taken at least six days apart are tested and found to have a freezing point of less than –0.505°C.

M.R. 124/2005

Penalty re premises

4(1) In this section, "**contravention**" means the marketing of milk that has been

(a) produced in premises that do not comply with *The Dairy Act* or regulations made under it; or

(b) handled with equipment that does not comply with *The Dairy Act* or regulations made under it.

4(2) Subject to subsection 6(2), a producer who commits a contravention in the latest 12-month period shall pay a penalty with respect to all milk marketed by the producer in the month in which the contravention occurs of

(a) $3.00 per hectolitre if the contravention is the producer's first contravention in the latest 12-month period;

(b) $4.00 per hectolitre if the contravention is the producer's second contravention in the latest 12-month period;

(c) $5.00 per hectolitre if the contravention is the producer's third contravention in the latest 12-month period; and

(d) $7.00 per hectolitre if the contravention is the producer's fourth contravention in the latest 12-month period.

4(3) Subject to subsection 6(2), where a producer is liable to pay a penalty under clause 4(2)(d), milk pickups from that producer shall be suspended until the producer's premises and equipment are inspected by a dairy inspector appointed under *The Dairy Act* and found to comply with *The Dairy Act* and regulations made under it.

Penalty re somatic cell count

5(1) In this section, "**contravention**" means the marketing of milk that is tested and found to have a somatic cell count of 500,000 or more per millilitre.

5(2) A producer who commits a contravention under this section is to receive a warning from the board for the first contravention in the latest 12-month period.

5(3) Subject to subsection 6(2), a producer who commits more than one contravention in the latest 12-month period shall pay a penalty with respect to all milk marketed by the producer in the month in which the contravention occurs of

(a) $3.00 per hectolitre if the contravention is the producer's second contravention in the latest 12-month period;

(b) $4.00 per hectolitre if the contravention is the producer's third contravention in the latest 12-month period;

(c) $5.00 per hectolitre if the contravention is the producer's fourth contravention in the latest 12-month period; and

(d) $7.00 per hectolitre if the contravention is the producer's fifth contravention in the latest 12-month period.

5(4) Subject to subsection 6(2), where a producer is liable to pay a penalty under clause 5(3)(d), milk pickups from that producer shall, unless the board is satisfied that adequate measures are being taken to avoid any further contraventions, be suspended until two consecutive milk samples taken at least six days apart are tested and found to have a somatic cell count of less than 500,000 per millilitre.

Highest penalty only payable

6(1) Subject to subsection 6(2), where a producer in a month commits more than one contravention under a section of this regulation, the producer shall pay only one penalty for the month under that section based on the last contravention in the month.

6(2) The board may waive or reduce a penalty under this regulation if it is satisfied that it is appropriate to do so, considering any factors the board reasonably considers relevant including the following:

(a) public interest in a good quality milk supply;

(b) reasonable requirements of manufacturers and processors;

(c) effects of the contravention on other milk producers;

(d) any special circumstances of the contravention or the producer;

(e) any measures taken or promised by the producer to prevent further contraventions.

Notification

7 Where a producer is liable to pay a penalty under this regulation, the board shall notify the producer in writing of the penalty, stating the amount of the penalty and how it was calculated.

Due date for penalties

8 A penalty under this regulation is due and payable by the producer to the board on receipt by the producer of a notice under section 7, and the amount of the penalty shall be deducted and retained from money that the board receives from the sale of milk marketed by the producer.

Repeal

9 The *Milk Quality Penalties Regulation*, Manitoba Regulation 220/98, is repealed.

Coming into force

10 This regulation comes into force on January 1, 2005, or the day it is registered under *The Regulations Act*, whichever is later.

December 13, 2004

DAIRY FARMERS OF MANITOBA:

William Swan
Chairman

W.J.S. Wade
Secretary

APPROVED

December 13, 2004

MANITOBA FARM
PRODUCTS MARKETING COUNCIL:

David Gislason
Chairman

G.H. MacKenzie
Secretary

The Queen's Printer
for the Province of Manitoba