



ADMINISTRATIVE RULES OF MONTANA



32.24.150 DEFINITIONS

As used in this chapter, unless the context otherwise requires, the following definitions apply:

- (1) "Act" or "Milk Control Act" means the milk control laws contained in Title 81, chapter 23, MCA.
- (2) "Board" means the Board of Milk Control.
- (3) "Bureau" means the Milk Control Bureau of the department.
- (4) "Classes of utilization." All milk subject to the Act will be classified by utilization as defined here, regardless of the location of such utilization. For purposes of classification, the ultimate utilization of milk, if unknown, may be presumed to be the reasonably expected utilization of that milk.
 - (a) "Class I milk" means all skim milk and butterfat:
 - (i) disposed of in the form of fluid milk products, except as otherwise provided in this section;
 - (ii) in packaged fluid milk products in inventory at the end of the month; and
 - (iii) in shrinkage in excess of 2% of current producer receipts and plant overages.
 - (b) "Class II milk" means all skim milk and butterfat:
 - (i) in fluid milk products in containers larger than 1 gallon and fluid cream products disposed of or diverted to a commercial food processing establishment, because of the authority provided to the department in 81-23-401, MCA; or
 - (ii) used to produce:
 - (A) cottage cheese, low fat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;
 - (B) milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in half-gallon containers or larger and intended to be used in soft or semi-solid form;
 - (C) aerated cream, frozen cream, sour cream, sour half-and-half, sour cream mixtures containing nonmilk items; yogurt, including yogurt containing beverages with 20 percent or more yogurt by weight and kefir, and any other semi-solid product resembling a Class II product;
 - (D) custards, puddings, pancake mixes, coatings, batter, and similar products;

- (E) buttermilk biscuit mixes and other buttermilk for baking that contain food starch in excess of 2% of the total solids, provided that the product is labeled to indicate the food starch content;
 - (F) products especially prepared for infant feeding or dietary use (meal replacements) that are packaged in hermetically sealed containers and products that meet the compositional standards of fluid milk product but contain no fluid milk products included in the definition of fluid milk product;
 - (G) candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products;
 - (H) a fluid cream product or any product containing artificial fat or fat substitutes that resembles a fluid cream product, except as otherwise provided in (c) of this section; and
 - (I) any product not otherwise specified in this section.
- (c) "Class III milk" means all skim milk and butterfat:
- (i) used to produce:
 - (A) cream cheese and other spreadable cheeses, and hard cheese of types that may be shredded, grated, or crumbled;
 - (B) plastic cream, anhydrous milkfat, and butteroil;
 - (C) butter;
 - (D) Evaporated or sweetened condensed milk in a consumer-type package; and
 - (E) any milk product in dried form;
 - (ii) in shrinkage of 2% or less of current producer receipts;
 - (iii) in inventory at the end of the month of fluid milk products and fluid cream products in bulk form;
 - (iv) in the skim milk equivalent of nonfat milk solids used to modify a fluid milk product that has not been accounted for in Class I; or
 - (v) used for other uses, including skim milk and butterfat used in any product described in this section that is dumped, used for animal feed, destroyed, or lost by a handler in a vehicular accident, flood, fire, or similar occurrence beyond the handler's control. Such uses of skim milk and butterfat are assigned to Class III instead of being assigned to shrink for the month to the extent that the quantities destroyed or lost can be verified from records satisfactory to the bureau.
- (5) "Dairy animal" means a lactating cow.
- (6) "Dealer" means a producer, distributor, producer-distributor, jobber, or independent contractor.
- (7) "Department" means the Montana Department of Livestock.

- (8) "Distributor" means a person purchasing milk from any source, either in bulk or in packages, and distributing it for consumption in this state. The term includes what are commonly known as jobbers and independent contractors. The term does not include a person purchasing milk from a dealer licensed under this chapter for resale over the counter at retail or for consumption on the premises.
- (9) "Dumped milk" or "dumped" means or refers to milk that is dumped or otherwise destroyed without further processing or usage and includes skim milk that is dumped after separation.
- (10) "Eligible producer" is a producer who is eligible to own quota by the fact that the producer:
- (a) is licensed to produce milk in Montana;
 - (b) has a contractual agreement with a pool plant; and
 - (c) has either produced milk in Montana and sold milk to a Montana pool plant within 90 days or been accepted by a pool plant as a producer and produces milk delivered to a pool plant not later than the last day of the month.
- (11) "Excess milk" means all the milk received from a pool producer during the month which is in excess of the pool producer's quota milk.
- (12) "Excess price" means the weighted average price for all excess milk testing 3.5% butterfat as computed for the month by the bureau as provided for in ARM 32.24.513.
- (13) "Farm pickup charges" means the actual freight charges to the producer for transporting milk to a pool plant.
- (14) "Fluid cream product" means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9% or more butterfat, with or without the addition of other ingredients.
- (15) "Fluid milk product"
- (a) Except as provided in (b), fluid milk product means any milk products in fluid or frozen form that are intended to be used as beverages containing less than 9% butterfat and 6.5% or more nonfat solids or 2.25% or more true milk protein. Sources of such nonfat solids/protein include but are not limited to: Casein, whey protein concentrate, milk protein concentrate, dry whey, caseinates, lactose, and any similar dairy derived ingredient. Such products include, but are not limited to: Milk, fat-free milk, low fat milk, light milk, reduced fat milk, milk drinks, eggnog and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added or reduced nonfat solids, sterilized, concentrated, or reconstituted. As used in this part, the term concentrated milk means milk that contains not less than 25.5%, and not more than 50%, total milk solids.
 - (b) The term fluid milk product does not include:
 - (i) Any product that contains less than 6.5% nonfat milk solids and contains less than 2.25% true milk protein; whey; plain or sweetened evaporated milk/skim milk; sweetened condensed milk/skim milk; yogurt containing beverages with 20 or more percent yogurt by weight and kefir; products especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers; and products that meet the compositional standards specified in (a) but contain no fluid milk products included in (a).

- (ii) The quantity of skim milk equivalent in any modified product specified in (a) that is greater than an equal volume of an unmodified product of the same nature and butterfat content.
- (16) "Hardship" means a casualty, act of nature, or detrimental health of an eligible producer that prevents milk production.
 - (a) Terminal illness, progressive degenerative illness, or permanent disability may be a hardship.
 - (b) Loss of milk production due to inability to obtain adequate labor to maintain milk production is not a hardship.
- (17) "Hundredweight" or "cwt" means one hundred pounds. A hundredweight is a common measure of weight for milk, particularly raw milk.
- (18) "Import jobber" means a distributor who purchases milk already processed and packaged for resale to wholesale and retail customers from a source or sources whose headquarters are geographically located outside the boundaries of Montana.
- (19) "Jobber" means any independent business person other than a store, wholesale grocery purchasing organization, or wholesale grocery broker, who has no financial connection with any distributor other than acquiring the distributor's packaged product and distributing and selling the same, and whose business practices and policies are within the jobber's exclusive province to establish, and not subject to any influence or control from the distributor.
- (20) "Milk" means the lacteal secretion of a dairy animal, including those secretions when raw, cooled, pasteurized, standardized, homogenized, recombined, concentrated fresh, or otherwise processed.
- (21) "Milk price forward contract" means a voluntary agreement between a distributor and a producer to establish a mechanism to adjust a future producer price on a future delivery of milk at a future date, as a means of hedging the future milk price received by the producer.
- (22) "New eligible producer" is a producer who is eligible for an assignment of quota as provided for in ARM 32.24.503 because the producer:
 - (a) is licensed to produce milk in Montana;
 - (b) produces milk within Montana;
 - (c) has a contractual agreement with a pool plant; and
 - (d) has not ceased production of milk in Montana or disposed of any Montana quota during the three-year period prior to re-entry into the market.
- (23) "Nonpool milk" means any milk received or marketed by a pool handler, other than pool milk.
- (24) "Nonpool plant" means any milk processing, packaging, or receiving plant which is not a pool plant.
- (25) "Other source milk" means all milk as defined in the Act that is received in a plant from any source other than a producer licensed under the Act.
- (26) "Overage" means that amount by which milk accounted for exceeds plant receipts.
- (27) "Plant" means the processing plant of a distributor.

- (28) "Plant receipts" means all milk received from producers, other plants, and other sources, inventory, and all additives used in fluid products.
- (29) "Pool area" includes all territory within the borders of the state of Montana.
- (30) "Pool handler" means any person who operates one or more pool plants, or an association of milk producers which is incorporated as a cooperative association and which has been approved by the bureau for the marketing of milk produced by pool producers.
- (31) "Pool milk" means all of the milk produced by pool producers, under licenses issued by the bureau, which is received at pool plants or marketed to a nonpool plant by a pool handler.
- (32) "Pool plant" means any milk plant located within the pool area which receives milk from a producer located in Montana and which is licensed by the department and operated by a distributor or a producer-distributor licensed by the bureau. A milk plant operated by a producer-distributor is a pool plant if it receives dairy products in fluid form from another person in excess of 2,500 pounds of milk or 5% of the producer-distributor's Class I milk dispositions in a month, whichever is less.
- (33) "Pool producer" means any producer who produces milk within the pool area which is marketed to or through a pool handler.
- (34) "Pool settlement fund" means a reserve fund of money belonging to pool producers that the bureau retains on a revolving basis for the purpose of receiving monies from or paying monies to pool handlers, as provided for in 81-23-302(15), MCA.
- (35) "Producer" means a person who produces milk for consumption in this state and sells it to a distributor.
- (36) "Producer committee" means the committee provided for in ARM 32.24.506.
- (37) "Producer-distributor" means a person both producing and distributing milk for consumption in this state.
- (38) "Quota" is a daily figure expressed in pounds of milk that entitles an eligible producer or new eligible producer to receive the quota price for quota milk sold to a pool plant.
- (39) "Quota milk" means that share of producer milk received during the month from a pool producer which falls within the limits of a figure computed by multiplying such pool producer's daily quota by the number of days in the month.
- (40) "Quota price" means the weighted average price for all quota milk testing 3.5% butterfat as computed for the month by the bureau as provided for in ARM 32.24.513.
- (41) "Quota transfer" means a transfer of ownership of all or a minimum portion of an eligible producer's quota.
- (42) "Shrinkage" or "shrink" means that amount by which milk receipts exceed milk otherwise accounted for.
- (43) "Surplus":
 - (a) means all pool milk received by a pool handler originating from pool producers that exceeds the sum of the following:
 - (i) the pool handler's sales of milk sold for consumption in Montana;

- (ii) sales or transfers of bulk unprocessed milk to other pool handlers; and
 - (iii) sales of bulk unprocessed milk to nonpool plants located in Montana.
 - (b) does not include shrink, dumped milk, inventory, and fluid cream products, including fluid cream products sold in bulk.
- (44) "Utilization value" means a sum of money computed for each pool handler with respect to the butterfat and skim milk contained in pool milk received from pool producers and disposed of or utilized during the month. The sum is computed, using the class prices and assignment of classes of utilization to the pool milk received, subject to any interplant hauling, reclassification, or other adjustments that are established under rules of the bureau.

Authorizing statute(s): 81-23-103, 81-23-104, 81-23-302, 81-23-303, 81-23-402, MCA

Implementing statute(s): 81-23-101, 81-23-103, 81-23-302, 81-23-303, 81-23-402, MCA

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