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Regulations Amending the Food and Drug Regulations and the Dairy Products Regulations

Statutory authority

Canada Agricultural Products Act and Food and Drugs Act

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Canadian Food Inspection Agency

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REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

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Description

Introduction

The Canadian Food Inspection Agency (the Agency) is proposing to revise the *Dairy Products Regulations* (DPR) and the *Food and Drug Regulations* (FDR) by amending existing cheese identity and compositional standards. These revised standards would harmonize existing federal regulations, enhance consumer interests by reflecting the tradition of cheese making, allow for technological advances in cheese production and provide for consistency with certain international food standards, as appropriate. This proposal has been developed cooperatively with Agriculture and Agri-Food Canada (AAFC) and in consultation with Health Canada (HC) and Foreign Affairs and International Trade (DFAIT).

The proposed regulatory amendments would continue to support the long-term growth of the dairy sector, result in the further harmonization of the relevant federal regulatory instruments, clarify the ingredients which may be used to manufacture cheese and

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provide for consumer interest and choice in the marketplace, while allowing for industry innovation.

Canadian dairy industry

The dairy industry in Canada has been one of the slower growing sectors of the food-processing industry, with typically static or declining growth over the last 15 years. Changes in the domestic marketplace and in consumer habits are encouraging dairy companies to be more active in the development of new products. Cheese production has been one of the few product areas which has experienced growth, reaching 379 286 tonnes in 2005 from 307 076 in 1994. This increase of 24% may be explained by the rise in popularity of specialty cheeses, consumption of which has increased by 31%. Therefore, cheese is one area which provides a significant growth opportunity to the Canadian dairy industry.

Cheese standards in Canada and around the world

In Canada, cheese compositional standards exist both in the FDR and in the DPR. The main purpose of these standards is to describe the basic requirements for cheese so that cheese available to consumers has a uniform composition and nutritive value. These Regulations describe the essential characteristics of the cheese and the process for the manufacturing of particular varieties of cheese. Similar to other food compositional standards, those for cheese also include essential ingredients used in its manufacture, along with permitted additives.

Food standards provide a system through which consumer interests are protected and consumer expectations of a food are met. Foods may be defined or distinguished by their essential characteristics, such as ingredients, compositional and physical properties, levels of certain nutrients, or the manner in which they are produced. Food standards are beneficial because they provide assurance to consumers of product uniformity, resulting in the expectation and belief that all products bearing a particular name will possess the same essential characteristics irrespective of where they are purchased or by whom they are manufactured or distributed. Consumers have a lack of understanding of the ingredients used in cheese making and have identified that having uniform product names with certain defined characteristics is important to facilitate their purchase decision-making, as it allows them to distinguish one cheese from another.

The Codex Alimentarius Commission (Codex) has both a General Standard for Cheese (A6 General Standard) and individual standards for cheese (C Standards); both have been taken into account in this proposal. The Codex C Standards, which are in the process of being amended, currently only permit the use of milk in the manufacture of named varietal cheese. The A6 General Standard permits the use of both milk and milk products in the manufacture of cheese.

Cheese standards from Canada's major trading partners have also been considered. The European Commission does not have specific regulations regarding compositional standards for cheese; however, member states may have cheese compositional standards. France requires that cheese be made from milk, partially or totally skimmed milk, cream, fat and buttermilk and limits the amount of proteins of milk origin. In Switzerland, in addition to milk, milk components can only be added to ripened cheeses, not to unripened varieties. The United States requires that cheese be made only from

milk or non-fat milk in their liquid, concentrated, reconstituted or dried forms. New Zealand and Australia have compositional standards for cheese that do not specify amounts of milk and milk products.

In Canada, a comprehensive review of the requirements for cheese in both regulations was completed in the latter part of the 1970s. Subsequent to this review, a series of less significant amendments to both sets of regulations inadvertently resulted in inconsistencies between the two. These inconsistencies have created a number of application, operational and compliance issues for both industry and the Government. Furthermore, this has also created challenges for provincial and territorial partners in achieving consistency with federal standards.

Currently, the FDR permit cheese to be made only with milk, skim milk, partly skimmed milk, buttermilk, whey cream and cream, or these same ingredients in their concentrated, dried or reconstituted form, whereas the DPR allow these same ingredients as well as whey, butter, butter oil, whey butter, whey protein concentrates and other milk solids. Technological advances in cheese making have made possible the inclusion of higher levels of milk solids in the manufacture of cheese, resulting in fewer cheeses being made solely with milk, skim milk, partly skimmed milk, buttermilk, whey cream and cream. Neither the FDR nor the DPR standards permit both the flexibility in the technology used to manufacture cheese and the preservation of the essential characteristics or basic nature of the cheese. This proposal sets out standards that would provide greater product uniformity and, in the case of Cheddar cheese, distinguish traditionally prepared Cheddar cheese from that prepared using modern manufacturing processes.

Regulatory framework

The proposed Regulations would eliminate inconsistencies between the FDR and the DPR with respect to cheese compositional standards. These standards are necessary to provide a benchmark to ensure cheese identity and to serve consumer interests. This proposal has considered the Codex Standards and requires that cheese does not exceed the whey protein to casein ratio of milk, as well as clarifying the minimum percentage of proteins to be derived from milk for varietal cheeses (e.g. Havarti, Brie, Colby).

The proposed amendments would harmonize the definition for milk product in both the FDR and the DPR. This change would provide clarification and consistency on the ingredients which may be used for the manufacture of cheese.

These proposals would add specific compositional requirements for Traditional Cheddar cheese. Traditional Cheddar cheese would be required to be made from milk, partly skimmed milk, skim milk or cream and manufactured using the cheddaring process. Consumers would be able to differentiate Traditional Cheddar cheese from Cheddar cheese produced using other milk products and processes.

The proposed Regulations would provide additional criteria for named varietal cheeses which would contribute to the organoleptic (such as smell, taste and texture) and physical properties which consumers associate with the named variety by specifying the minimum percentage of proteins to be derived from fluid milk. The proposal would also maintain the essential chemical characteristics and nutritional composition of the cheese.

In addition, the proposed Regulations would introduce a compositional standard for Pizza

Mozzarella cheese and Part Skim Pizza Mozzarella cheese. The food manufacturing sector has need for a category of Mozzarella cheese that can meet complex specifications for use in food processing and food preparation. The addition of Pizza Mozzarella cheese and Part Skim Pizza Mozzarella cheese would allow for the manufacture of a cheese which would meet this demand.

The proposed changes to the FDR would harmonize more closely with the Codex A6 General Standard by allowing the use of both milk and milk products in the manufacture of cheese. As a result of this proposal, there would be more compositional flexibility for varieties of cheese.

In order to provide for a fair and effective regulatory regime, the proposed amendments would require licensing of cheese importers. This would allow the Agency to work with importers to verify that imported cheese meets the same regulatory standards as domestic cheese and to monitor the application of safe and acceptable food-handling practices.

These proposed Regulations would come into force one year from the day upon which they are registered. This is intended to provide manufacturers and importers with sufficient time to modify or source products and revise labels as required.

Alternatives

In the development of these Regulations, the following three options were considered.

Option one — The status quo

Current federal regulations are not consistent with respect to the ingredients permitted in cheese making. Under the FDR, cheese may be made only with milk, skim milk, partly skimmed milk, buttermilk, whey cream and cream, or these ingredients in their concentrated, dried or reconstituted form. The DPR permits the same ingredients as well as whey, butter, butter oil, whey butter, whey protein concentrates and other milk solids. This has created operational and enforcement challenges regarding the consistent application of these Regulations, which has led to uncertainty among industry stakeholders and provincial and territorial partners.

The current FDR do not reflect modern industry practices in the manufacturing of cheese. Technological advances in cheese making have enabled the inclusion of higher levels of other milk solids in the manufacture of cheese, providing flexibility in achieving higher yields and economic savings. Furthermore, the current standards of the DPR are broad, and the varietal name of the cheese may be at risk of losing the organoleptic, chemical and physical properties typical for the variety.

Technological advances have impacted traditional cheese making so that fewer cheeses are made solely with milk, skim milk, partly skimmed milk, buttermilk, whey cream and cream. Current regulations do not distinguish cheese made traditionally from cheese made with milk combined with other milk solids.

This option would not address the issues associated with a lack of harmonization between existing regulations and would not completely reflect modern cheese-making

practices while maintaining historical varietal cheese distinctions.

Option two — Conformity with international standards

The current Codex C Standards only permit the use of milk in the preparation of varietal cheese. This approach is restrictive and does not allow for the use of new manufacturing technologies in cheese making. These standards are currently in the process of being amended.

Internationally, regulations vary with respect to the range of ingredients permitted in the manufacture of cheese. Several countries have regulatory standards which restrict or limit the use of other milk solids in the preparation of cheese, whereas others have very permissive or no standards.

Due to the lack of consistency in the standards of other countries, as well as the state of the current Codex C Standards, it is difficult to develop proposals that fully reflect international standards.

Option three — Modernization of the regulations

Modernizing and harmonizing the compositional standards for cheese in the FDR and the DPR would allow for greater transparency and consistency in the application and enforcement of the federal regulations.

This option would add a compositional requirement for Traditional Cheddar cheese as well as standards for Pizza Mozzarella cheese and Part Skim Pizza Mozzarella cheese. It would also establish additional compositional criteria for varietal cheeses. The requirement for Traditional Cheddar cheese would also reflect that this variety could only be made using the traditional cheddaring process.

This option would also add a requirement for the licensing of cheese importers. This would allow the Agency to work with importers to verify that imported cheeses meet the same compositional standards as domestic cheeses.

International standards such as those from Codex and the requirements of countries such as the United States, France, Switzerland, Australia and New Zealand have been considered in the development of this option.

This option would continue to support the long-term growth of the dairy sector, result in the further harmonization of the relevant federal regulatory instruments, clarify the ingredients which may be used to manufacture cheese and provide for consumer interest and choice in the marketplace, while allowing for industry innovation.

Conclusion

Option three is the recommended option. This option would result in regulatory harmonization between the FDR and DPR with respect to compositional standards for cheese, encourage market growth, allow for technological innovation, ensure transparency in the marketplace and provide for consumer interest and choice.

Strategic environmental analysis

An environmental assessment has been conducted and it has been determined that the proposal has the potential to cause negative environmental effects if whey is not disposed of in an environmentally acceptable manner. However, whey can be used as a valuable commodity and there are various food and animal feed applications for it. Alternatively, whey can be treated prior to land application or disposal as effluent.

Consultation

Since the early 1990s, extensive consultation has been ongoing with the goal of updating national standards for the dairy industry. In 1993, the Canadian Food Inspection System (CFIS), a collaborative initiative of all levels of government, was launched to develop an integrated Canadian food inspection system which would be responsive to both consumers and industry. Eight working committees, including the National Dairy Code Committee, were formed and were tasked with the development of model regulations and codes with the aim of achieving national harmonization and integration objectives.

As a result, the National Dairy Code (NDC) was developed and agreed to in 1997 by dairy industry stakeholders (producers, processors) and government partners (federal, provinces and territories) to provide a national standard for the production of milk and processing of dairy products. Governments committed to amending their respective sets of regulations to reflect that which was agreed to in the NDC.

Subsequently, the Agency and HC reviewed and proposed amendments to dairy product compositional standards in order to incorporate the concepts of the NDC. Public consultations with industry and consumer stakeholders were held in 2003, which identified a number of unresolved issues primarily related to ingredients in compositional standards. Some stakeholders felt that individual standards specifying compositional and processing requirements should be established for each dairy product in order to have meaningful standards with expected ingredients. Others recognized the need for standards to be adaptable and supported the use of a number of different ingredients to produce safe, quality dairy products for Canadians. The Agency held further consultations with industry stakeholders and provincial partners. Although the Agency proposed compromise solutions, the individual stakeholders were unable to come to an agreement.

In 2005, the Minister of Agriculture and Agri-Food, recognizing that solutions to issues facing Canada's dairy industry could only be developed by producers and processors working closely together, created the Dairy Industry Working Group (DIWG), an industry-led initiative to work towards reaching common ground on various dairy issues. While producers and processors reached a consensus on the need for additional compositional criteria in the standards for cheese, there were divergent views regarding permitted ingredients. Following the most recent round of DIWG meetings and in the absence of consensus, a series of recommendations were made by the moderator. Specific to compositional standards for cheese, the moderator's proposal recommends minimum percentages of proteins derived from milk to produce various cheeses and allows for the balance to be filled by proteins from other dairy sources. These recommendations have been used as the basis for the proposed updates to the standards of composition and identity for cheese.

Benefits and costs

Contained in this section is a narrative description of a business impact assessment conducted by the Agency in cooperation with AAFC, utilizing input from stakeholders.

Background

The purpose of this analysis is to examine the economic impacts on stakeholders by analyzing the effects of changing current cheese composition to the compositional standards being proposed. The analysis includes a quantitative economic model, as well as a qualitative economic assessment of the broader impact to stakeholders.

The economic model provides a quantitative analysis of the financial impact of an increase in the cost of ingredients used in cheese making. Additional impacts, such as labelling costs and excess whey disposal, have not been included in this model, but have been considered in the qualitative assessment. The Agency's qualitative assessment also addresses the impact on consumers, further processors, food service, retailers, importers and Government.

In conducting the quantitative analysis, difficulties were encountered in establishing the actual milk versus milk product ratios used by industry for cheese making. Actual ratios were unavailable due to confidentiality concerns. Therefore, assumptions had to be made regarding the current ratios in use by industry. These assumptions have been based upon the dairy industry knowledge from experts within the Agency and AAFC and, with respect to the current ratios in use by industry, by input and consultations with representatives of key cheese processors in the context of the DIWG. The current milk to milk product ratios are assumed to be Mozzarella 60%, Cheddar and Cheddar types 70%, and other varietal cheeses 80%. These ratios are assumed to represent the maximum amount of milk to milk products in current use. The assumption is also made that individual varietal cheese production would remain constant after the proposed amendments come into force.

The analysis considers 12 varieties of cheese, which represent more than 90% of the total production of varietal cheese in Canada. The results summary table listed below was calculated by taking the weighted average of the 12 varieties of cheeses and is considered to be representative of the cheese-making sector.

Summary table

| Impact Measure | Benefits (- Costs) per Year |
|---|-----------------------------|
| Producer Revenue Increase (Proteins and Solids) | \$187,074,459.00 |
| Cheese Ingredients Cost Increase | -\$72,212,194.00 |

The anticipated increased costs of cheese ingredient of \$72,212,194.00 represent 1.6% of estimated total processor sales of cheese (\$4.4 billion in sales in 2005), equating to a weighted average increase of \$0.25 per kilogram in the cost of the raw materials used in the production of cheese.

Milk producers

Canada has operated under a supply management system for milk production since the early 1970s. Milk is a product composed of butterfat and solids non-fat (proteins and other solids). The industrial milk production quota in Canada has always been based on butterfat requirements measured by domestic disappearance of butterfat. Historically, the level of solids non-fat in Canada has exceeded domestic requirements. Some of the surplus solids non-fat is processed into skim milk powder and is sold in the domestic market for animal feed, yielding a low return.

The proposed cheese compositional standards would stabilize the proportion of protein in cheese sourced directly from raw milk. Milk production would not increase, because the protein required to meet the proposed standards is already available. The proposed compositional standards are expected to provide an ongoing market for protein in cheese sourced directly from raw milk. This brings higher returns to producers than alternative markets for milk protein (e.g. animal feed).

Cheese processors

The Agency's quantitative economic model estimates that, overall, the proposed amendment would impact cheese processors by increasing ingredient costs, as a result of potential replacement of milk products with milk for a value of \$72,212,194.00 per year.

Cheese processors currently producing cheese in compliance with the FDR would not be negatively affected by the proposal, as they would have the ability to utilize additional milk products, possibly reducing production costs. Alternatively, some processors may have some products with compositions that would experience a higher degree of impact as a result of the proposal.

Other additional costs to cheese processors as a result of the proposed Amendments include one-time costs to modify labels. The one-year transition clause included in the proposal would serve to mitigate some of the costs related to labelling.

The proposed amendment would result in cheese processors having more available whey. This is because whey is a by-product of making cheese from raw milk. Whey contains lactose, whey proteins and minerals and can be processed into whey products, such as whey powder, whey protein concentrate and lactose. These products can be marketed for human food and animal feed use, thus avoiding the environmental issues involved in disposing of whey. Both North American and world markets for whey products are currently very strong, with market prices for whey powder achieving record levels in the first quarter of 2007. Processors may experience additional costs when changing their current whey management practices and while developing further markets for whey products. It is expected that cheese processors would be able to take advantage of the opportunity to sell or process the extra whey available and increase their whey product marketing profitably.

At the Agency's request, the Dairy Processors Association of Canada (DPAC) provided the Agency with a separate economic impact analysis. They estimated an annual net loss of \$165 million in direct sales by cheese manufactures to retail, food service and industrial customers.

Manufacturers of dairy ingredients

Dairy ingredients have many industrial uses, including those for the food industry. Data limitations have not allowed for a quantitative assessment of the impact on this stakeholder group; however, the Agency anticipates minimal, if any, impact on this sector as a result of this proposal.

Importers

Given that Canada has an annual cheese tariff rate quota of 20 412 metric tonnes and that imported speciality cheeses are in high demand, the proposed amendments would have minimal impacts on the volume and value of imported cheeses. Imported cheese must meet the same compositional standards as domestic cheese, and some cheese currently imported may not meet the proposed standards.

It is expected that the composition of most imported cheeses would be consistent with this proposal. For example, cheeses from the United States, as well as those with protected designation of origin (PDO), should comply with these proposed amendments because they are required to be made completely or primarily from milk. For other cheeses, importers may need to source varietal cheese from different suppliers, require reformulation or import other varieties. Although specific varietal cheese imports could be affected, total quantities of imported cheeses are not expected to change, nor is there expected to be any significant financial impact on the sector. The one-year transition period provided in the proposed amendments would contribute to minimizing any effect.

Further processors

These are processors that use cheese as an ingredient in the manufacture of other food products, such as pizza, soups and pasta products. Every year, approximately 8–10% of cheese is sold for further manufacture. It is not expected that the costs paid for cheese by further processors would be significantly impacted by the proposed standards, because processors of cheese for further processing already benefit from lower milk prices.

The CFIA's quantitative economic model includes costs of all cheese production, including cheese for further processing, without including any discounted prices for milk to produce cheese for further processing.

Retailers and food service

It is anticipated that increased ingredient costs incurred by cheese processors would be passed along the food value chain, which includes retailers and food service. As the retail market is not price regulated, the incremental price increase from processors to retailers may be 100%. The increase could be lower for some products, depending on retailer or food service strategies with respect to product positioning and profit margins.

However, the Agency received comments from stakeholders in this sector indicating their concern that this proposal could have a significant impact on their industry's ability to sell Canadian dairy products and meet the evolving needs of Canadian consumers.

Consumers

Harmonized cheese standards that clarify the permitted ingredients for varietal cheeses would provide consumers with greater product uniformity. All cheeses bearing a particular varietal name would possess similar essential characteristics, irrespective of where they are purchased or by whom they are manufactured or distributed, which would support consumer expectations and beliefs.

Notwithstanding the quantitative analysis above, it is anticipated that increased ingredient costs incurred by cheese processors would be passed along the food value chain. As a result, consumers may experience an increase in the cost of cheese and food products containing cheese at the retail level. This increase would vary depending on the type of product or variety of cheese and may result in reduced cheese consumption.

Government

The Agency would experience increased costs as a result of the proposed amendment, including increased inspection responsibilities in registered establishments, additional responsibilities as a result of importer licensing, training, additional ingredient verification and possible increased enforcement action. These costs would include additional labelling, training and enforcement costs and are estimated at \$3.2 million in year one and \$2.2 million per year in ongoing costs.

Conclusions

In summary, the proposed changes to the cheese compositional standards would be expected to have a positive impact on milk producers in terms of a revenue increase of approximately \$187,074,459.00 per year.

The proposed changes would also have a positive impact on consumers by satisfying the expectation that cheese be made primarily from milk rather than milk products; however, retail cheese prices would be expected to increase.

Cheese processors would experience a negative impact as a result of increased ingredient costs. This impact is estimated at \$72,212,194.00 per year. In addition, some additional costs, such as labelling, may also be incurred. However, it is expected that some or all of these additional costs would be recovered by passing them along the food value chain to retailers, food service and further processors. Higher cheese prices may result in a reduced demand for varietal cheeses and food products containing these cheeses.

Compliance and enforcement

The Agency would verify compliance and enforce these regulations in accordance with its statutory authorities, including those found in the *Canada Agricultural Products Act* and the *Food and Drugs Act*. Compliance and enforcement activities would be based upon risk and priority and would include inspection for compliance with regulatory requirements and response to complaints.

Contacts

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PROPOSED REGULATORY TEXT

Notice is hereby given that the Governor in Council, pursuant to section 32 ([see footnote a](#)) of the *Canada Agricultural Products Act* ([see footnote b](#)) and subsection 30(1) ([see footnote c](#)) of the *Food and Drugs Act*, proposes to make the annexed *Regulations Amending the Food and Drug Regulations and the Dairy Products Regulations*.

Interested persons may make representations concerning the proposed Regulations within 75 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be sent to Dr. Jaspinder Komal, Director, Agrifood Division, Canadian Food Inspection Agency, 159 Cleopatra Drive, Ottawa, Ontario K1A 0Y9 (tel.: 613-221-7178; fax: 613-221-7294; e-mail: fromagecheesemodifications@inspection.gc.ca).

Ottawa, June 7, 2007

MARY O'NEILL
Assistant Clerk of the Privy Council

REGULATIONS AMENDING THE FOOD AND DRUG REGULATIONS AND THE DAIRY PRODUCTS REGULATIONS

Food and Drug Regulations

1. Paragraph B.08.001.1(a) of the *Food and Drug Regulations* ([see footnote 1](#)) is replaced by the following:

(a) with respect to butter or whey butter, any of the following products, namely,

(i) partly skimmed milk, skim milk, cream, buttermilk and whey cream, and

(ii) milk in concentrated, dried or reconstituted form and any product referred to in subparagraph (i) in concentrated, dried or reconstituted form,

(a.1) with respect to cheese, any of the following products, namely,

(i) partly skimmed milk, skim milk, cream, buttermilk, whey and whey cream,

(ii) milk in concentrated, dried, frozen or reconstituted form and any product referred to in subparagraph (i) in concentrated, dried, frozen or reconstituted form,

(iii) butter, butter oil and whey butter,

(iv) any constituent of milk — other than water — singly or in combination with other constituents of milk, and

(v) whey protein concentrate,

2. (1) Paragraph B.08.033(1)(a) of the Regulations is amended by adding the following after subparagraph (i):

(i.1) have a casein content that is derived from milk or from partly skimmed milk, skim milk or cream, rather than from other milk products, that is at least the following percentage of the total protein content of the cheese, namely,

(A) 63 per cent in the case of Pizza Mozzarella cheese and Part Skim Pizza Mozzarella cheese,

(B) 83 per cent, in the case of Brick cheese, Canadian Style Brick cheese, Canadian Style Munster cheese, Colby cheese, Farmer's cheese, Jack cheese, Monterey (Monterey Jack) cheese, Mozzarella (Scamorza) cheese, Part Skim Mozzarella (Part Skim Scamorza) cheese, Part Skim Pizza cheese, Pizza cheese and any other variety of cheese not referred to in clause A or C, and

(C) 95 per cent, in the case of any other variety of cheese named in the table to this section,

(i.2) have a whey protein to casein ratio that does not exceed the whey protein to casein ratio of milk,

(2) Part I of the table to section B.08.033 of the Regulations is amended by adding the following after item 38:

| | Column I | Column II | Column III |
|-------------|--------------------------|---------------------------------------|---------------------------------------|
| Item | Variety of Cheese | Maximum percentage of moisture | Minimum percentage of milk fat |

| | | | |
|------|-------------------------------|------|------|
| 38.1 | Part Skim Pizza Mozzarella | 74.0 | 11.0 |
|------|-------------------------------|------|------|

(3) Part I of the table to section B.08.033 of the Regulations is amended by adding the following after item 39:

| | Column I | Column II | Column III |
|------|-------------------|--------------------------------|--------------------------------|
| Item | Variety of Cheese | Maximum percentage of moisture | Minimum percentage of milk fat |
| 39.1 | Pizza Mozzarella | 71.0 | 15.0 |

3. (1) Subparagraph B.08.034(1)(a)(i) of the Regulations is replaced by the following:

(i) be the product that is made by coagulating milk, milk products or a combination of those things with the aid of bacteria to form a curd and subjecting the curd to the cheddar process or any process other than the cheddar process that produces a cheese having the same physical, chemical and organoleptic properties as those of cheese produced by the cheddar process,

(i.1) have a casein content that is derived from milk or from partly skimmed milk, skim milk or cream, rather than from other milk products, that is at least 83 per cent of the total protein content of the cheese,

(i.2) have a whey protein to casein ratio that does not exceed the whey protein to casein ratio of milk, and

(2) Subsection B.08.034(1) of the Regulations is amended by striking out the word "and" at the end of paragraph (a), by adding the word "and" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) shall be labelled or advertised as **Traditional Cheddar Cheese** if

(i) it is made solely with milk, partly skimmed milk, skim milk or cream or a combination of those things, and

(ii) the curd is subjected only to the cheddar process.

Dairy Products Regulations

4. The definitions "milk product" and "milk solids" in section 2 of the *Dairy Products Regulations* ([see footnote 2](#)) are replaced by the following:

"milk product" means any of the following, namely,

(a) partly skimmed milk, skim milk, cream, buttermilk, whey and whey cream,

(b) milk in concentrated, dried, frozen or reconstituted form and any product named in paragraph (a) in concentrated, dried, frozen or reconstituted form,

(c) butter, butter oil and whey butter,

(d) milk solids, and

(e) whey protein concentrate; (*produit du lait*)

"milk solids" means

(a) in respect of a dairy product, other than cheese, for which a grade or standard is established under these Regulations, any constituent of milk — other than water or casein — singly or in combination with other constituents of milk, that has not been altered in its chemical composition, and

(b) in respect of cheese, any constituent of milk — other than water — singly or in combination with other constituents of milk; (*solides du lait*)

5. Subsection 6(3) of the Regulations is amended by striking out the word "and" at the end of paragraph (a) and by adding the following after paragraph (b):

(c) shall have

(i) a casein content that is derived from milk or from partly skimmed milk, skim milk or cream, rather than from other milk products, that is at least 83 per cent of the total protein content of the cheese, and

(ii) a whey protein to casein ratio that does not exceed the whey protein to casein ratio of milk; and

(d) shall be designated as "traditional cheddar cheese" if

(i) it is made solely with milk, partly skimmed milk, skim milk or cream or a combination of those things, and

(ii) the curd is subjected only to the cheddar process.

6. Subsection 19(1) of the Regulations is amended by striking out the word "and" at the end of paragraph (j.1) and by adding the following after that paragraph:

(j.2) the words "traditional cheddar cheese" in the case of traditional cheddar cheese; and

7. Subsection 20(1) of the Regulations is amended by striking out the word "and" at the end of paragraph (o), by adding the word "and" at the end of paragraph (p) and by adding the following after paragraph (p):

(q) the words "traditional cheddar cheese" in the case of traditional cheddar cheese.

8. (1) Paragraph 26(1)(f) of the Regulations is amended by adding the following after subparagraph (iii):

(iii.1) if the dairy product is cheese, the importer's cheese import licence number,

(2) Subparagraph 26(1)(f)(vii) of the Regulations is amended by adding the following after clause (D):

(D.1) in the case of cheese, meets the standards set out in these Regulations,

9. The Regulations are amended by adding the following after section 26:

26.01 (1) No person shall import into Canada any cheese unless the person holds a cheese import licence issued under section 26.2.

(2) Subsection (1) does not apply in respect of a shipment of cheese to which subsection 26(3) applies.

10. (1) Section 26.1(1) of the Regulations is amended by striking out the word "and" at the end of paragraph (a), by adding the word "and" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) in the case of cheese, provide an inspector with evidence that substantiates that the cheese meets the requirements of these Regulations.

(2) Subsection 26.1(2) of the Regulations is replaced by the following:

(2) Subsection (1) does not apply in respect of a shipment of dairy products to which subsection 26(3) applies.

11. The Regulations are amended by adding the following after section 26.1:

CHEESE IMPORT LICENCE

Application for licence

26.2 (1) An application for the issuance, renewal or amendment of a cheese import licence shall be made to the Director, in a form provided by the Agency, and shall contain the following information:

(a) the name, the address, including the postal code, the telephone number and, if any, the e-mail address and the facsimile number of the importer;

(b) whether it is an application for a new cheese import licence or for the renewal or amendment of a cheese import licence; and

(c) the number of the importer's existing cheese import licence, if any.

(2) The application shall have annexed to it

(a) a copy of the importer's program for the recall of cheeses that do not meet the requirements set out in these Regulations, indicating

(i) the person responsible for carrying out the program,

(ii) descriptions of the coding system for the cheeses, and

(iii) notification and other procedures to effect the recall;

(b) a list of cheeses expected to be imported during the period of the cheese import licence, and the country in which they originate; and

(c) if the importer has an establishment in Canada for the purpose of the preparation of imported cheese, other than a registered establishment,

(i) plans and specifications for the establishment including descriptions of the location of the establishment in relation to adjacent facilities, intended uses of rooms, and types and locations of equipment to be used,

(ii) a copy of an outline of a sanitation program for the establishment, indicating

(A) the person responsible for carrying out the program,

(B) the equipment and chemical agents available for use to bring about and maintain clean and sanitary conditions, and

(C) the measures proposed to be taken to ensure clean and sanitary conditions,

(iii) a copy of the pest control program for the establishment, indicating

(A) the person responsible for carrying out the program, and

(B) the measures proposed to be taken to safely and effectively control insects, birds, rodents and other vermin, and

(iv) an indication of the source of water to be used at the establishment for drinking or for cheese preparation and a copy of a certificate of microbiological analysis of the water.

(3) In the case of an application for the renewal or amendment of a cheese import licence, the applicant is not required to provide the information referred to in subsection (2), other than the information referred to subparagraph (2)(c)(iv), unless there has been a change in the information.

(4) If the application meets the requirements of subsections (1) and (2), the Director shall issue a cheese import licence and assign a number to it or shall amend or renew an existing cheese import licence, as the case may be.

(5) The cheese import licence is not assignable and expires two years after the date of issue indicated on it.

26.3 Every importer who holds a cheese import licence shall

(a) maintain the recall program referred to in paragraph 26.2(2)(a);

(b) maintain and carry out the programs referred to in subparagraphs 26.2(2)(c)(ii) and (iii), if the importer has an establishment in Canada for the purpose of the preparation of imported cheese, other than a registered establishment;

(c) provide to an inspector the certificate of microbiological analysis referred to in subparagraph 26.2(2)(c)(iv) once a year, if the importer has an establishment in Canada for the purpose of the preparation of imported cheese, other than a registered establishment; and

(d) provide to an inspector evidence from the manufacturer of each cheese imported by the importer that substantiates that the cheese meets the requirements set out in these Regulations.

26.4 An importer who holds a cheese import licence shall keep for two years at an address in Canada, in respect of each imported cheese,

(a) a copy of the import declaration referred to in paragraph 26(1)(f);

(b) a copy of any evidence in the possession of the importer that substantiates that the cheese meets the requirements set out in these Regulations; and

(c) records of

(i) the product code for the cheese,

(ii) the names, addresses and telephone number of the persons to whom the cheese was distributed,

(iii) any complaints received about the cheese and how the complaints were handled, and

(iv) any recall carried out with respect to the cheese.

Suspension of Licence

26.5 (1) The Director may suspend a cheese import licence if

(a) the importer has

(i) provided false or misleading information to the Director for the purpose of obtaining a cheese import licence,

(ii) failed to submit an import declaration as required by paragraph 26.1(1)(a),

(iii) provided false information to an inspector in an import declaration required to be submitted by paragraph 26.1(1)(a),

(iv) failed to provide evidence required by paragraph 26.1(1)(c) or 26.3(d),

(v) failed to keep a record in accordance with paragraph 26.4(c), or

(vi) otherwise failed to meet the requirements of the Act or these Regulations; or

(b) it is reasonable to believe that public health will be endangered if the importer is allowed to continue importing.

(2) An import licence shall not be suspended under paragraph (1)(a) unless an inspector notifies the importer in writing of the reasons for the suspension and of the date by which the importer must meet the requirements of the Act and these Regulations in order to avoid the suspension or to avoid the cancellation of the licence under section 26.6.

(3) A suspension of a cheese import licence shall remain in effect

(a) until an inspector verifies that the importer meets the requirements of the Act and these Regulations; or

(b) if a cancellation procedure has been commenced under section 26.6, until the resolution of the cancellation issue.

Cancellation of Licence

26.6 (1) The Director may cancel a cheese import licence if the importer continues to fail to meet the requirements of the Act and these Regulations after

(a) the 30-day period following the day on which the cheese import licence was suspended; or

(b) any longer period allowed under subsection (2).

(2) If it is not possible for the importer to meet the requirements of the Act and these Regulations within 30 days, the Director may, on the request of the importer, allow a longer period to do so.

(3) A cheese import licence shall not be cancelled unless an inspector notifies the importer in writing of the reasons for the cancellation and the importer is provided an opportunity to be heard in respect of the cancellation.

12. (1) Paragraph 28(1)(a) of the Regulations is amended by adding the following after subparagraph (i):

(i.1) have a casein content that is derived from milk or from partly skimmed milk, skim milk or cream, rather than from other milk products, that is at least the following percentage of the total protein content of the cheese, namely,

(A) 63 per cent, in the case of Pizza Mozzarella cheese and Part Skim Pizza Mozzarella cheese,

(B) 83 per cent, in the case of Brick cheese, Canadian Style Brick cheese, Canadian Style Munster cheese, Colby cheese, Farmer's cheese, Jack cheese, Monterey (Monterey Jack) cheese, Mozzarella (Scamorza) cheese, Part Skim Mozzarella (Part Skim Scamorza) cheese, Part Skim Pizza cheese, Pizza cheese and any other variety of cheese not referred to in clause A or C, and

(C) 95 per cent, in the case of any other variety of cheese named in the table to this section,

(i.2) have a whey protein to casein ratio that does not exceed the whey protein to casein ratio of milk,

(2) Subsection 28(2) of the Regulations is repealed.

(3) Paragraph 28(3)(b) of the Regulations is replaced by the following:

(b) the product name includes descriptive terminology that meets the requirements of the *Food and Drugs Act* and the *Food and Drug Regulations* with respect to claims and statements.

(4) Part I of the table to section 28 of the Regulations is amended by adding the following after item 38:

| | Column I | Column II | Column III |
|-------------|----------------------------|---------------------------------------|---------------------------------------|
| Item | Variety of Cheese | Maximum percentage of moisture | Minimum percentage of milk fat |
| 38.1 | Part Skim Pizza Mozzarella | 74.0 | 11.0 |

(5) Part I of the table to section 28 of the Regulations is amended by adding the following after item 39:

| | Column I | Column II | Column III |
|------|-------------------|--------------------------------|--------------------------------|
| Item | Variety of Cheese | Maximum percentage of moisture | Minimum percentage of milk fat |
| 39.1 | Pizza Mozzarella | 71.0 | 15.0 |

COMING INTO FORCE

13. These Regulations come into force one year after the day on which they are registered.

[24-1-o]

[Footnote a](#)

S.C. 2001, c. 4, s. 64

[Footnote b](#)

R.S., c. 20 (4th Supp.)

[Footnote c](#)

S.C. 1999, c. 33, s. 347

[Footnote 1](#)

C.R.C., c. 870

[Footnote 2](#)

SOR/79-840

NOTICE:

The format of the electronic version of this issue of the *Canada Gazette* was modified in order to be compatible with hypertext language (HTML). Its content is very similar except for the footnotes, the symbols and the tables.

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Updated: 2007-06-15

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