

Gouvernement du Québec

O.C. 1562-2024, 30 October 2024

Food Products Act
(chapter P-29)

Food

— Amendment

Regulation to amend the Regulation respecting food

WHEREAS, under paragraph *a* of section 40 of the Food Products Act (chapter P-29), the Government may, by regulation, prescribe rules respecting the sale of a product, the production, preservation, handling, preparation, conditioning, processing, transportation or stamping of a product or the storing of a product with intent to sell it or to give it for promotional purposes, the furnishing of a service for remuneration or the display of a product;

WHEREAS, under paragraph *a.0.1* of section 40 of the Act, the Government may, by regulation, regulate the preparation processes, in particular pasteurization, canning, aseptic packaging and sterilization;

WHEREAS, under paragraph *a.1* of section 40 of the Act, the Government may, by regulation, establish, in particular for the purposes of sanitation, the rules respecting the construction, layout, installation, material, equipment, location, operation and maintenance, in particular of establishments, premises or vehicles where operations referred to in paragraph *a* of the Act are carried on;

WHEREAS, under paragraph *a.3* of section 40 of the Act, the Government may, by regulation, determine, for the purposes of subparagraph *a.3* of the first paragraph of section 1 of the Act, the cases in which milk or any derivative of milk ceases to be a dairy product after being treated, modified, processed or reconstituted;

WHEREAS, under paragraph *a.4* of section 40 of the Act, the Government may, by regulation, authorize standardization of the proportion of fat and other solids of any dairy product it indicates, subject to the conditions and according to the processes it determines, including skimming;

WHEREAS, under paragraph *b* of section 40 of the Act, the Government may, by regulation, prohibit or regulate the use or level of substances capable of impairing the quality or wholesomeness of a product;

WHEREAS, under paragraph *e* of section 40 of the Act, the Government may, by regulation, establish classes, categories, appellations, qualifiers or designations of products and prohibit any unlawful use thereof, require the grading of products and set standards of composition, form, quality, wholesomeness, colour, proportion of constituents, presentation and uniformity;

WHEREAS, under paragraph *f* of section 40 of the Act, the Government may, by regulation, determine the conditions of issue or renewal of a permit, the documents or the information to be furnished by an applicant or holder, the fees payable for the permits according to the period of validity, the nature or the category, subcategory or class of the holders or permits, the costs for the opening and examination of an application for a permit or authorization;

WHEREAS, under paragraph *g* of section 40 of the Act, the Government may, by regulation, determine the categories of permits and the conditions and restrictions governing each category;

WHEREAS, under paragraph *j* of section 40 of the Act, the Government may, by regulation, prescribe rules respecting containers and in particular their size, capacity and characteristics, the inscriptions, labelling or packaging of products and the inscriptions which must appear on means of transportation used for transporting products;

WHEREAS, under paragraph *n* of section 40 of the Act, the Government may, by regulation, exempt any person, product, animal, establishment or activity it determines, or a class thereof, from the application of the Act or the regulations, or any provision thereof, on such conditions as it may determine;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting food was published in Part 2 of the *Gazette officielle du Québec* of 1 May 2024 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Agriculture, Fisheries and Food:

THAT the Regulation to amend the Regulation respecting food, attached to this Order in Council, be made.

DOMINIQUE SAVOIE
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting food

Food Products Act
(chapter P-29, s. 40, pars. *a*, *a.0.1*, *a.1*, *a.3*, *a.4*, *b*, *e*, *f*, *g*, *j* and *n*).

1. Section 1.3.1.1.3 of the Regulation respecting food (chapter P-29, r. 1) is amended by striking out paragraphs 3 and 4.

2. Section 1.3.1.1.4 is amended by striking out the second paragraph.

3. Section 1.3.1.1.6 is amended by replacing “the permits referred to in paragraph 2 of section 1.3.5.H.1 and” in the second paragraph by “the permit referred to in”.

4. Section 1.3.1.17 is revoked.

5. Section 1.3.5.B.4.1 is amended by striking out “paragraph 2 of”.

6. Section 1.3.5.C.4.1 is amended by striking out “paragraph 2 of”.

7. Section 1.3.5.C.5 is amended by replacing subparagraph 2 by the following:

“(2) a person responsible for one of the following resources:

(a) an intermediate resource within the meaning of section 538 of the Act respecting the governance of the health and social services system (chapter G-1.021) or section 302 of the Act respecting health services and social services for the Inuit and Naskapi (chapter S-4.2), if that resource receives not more than nine users;

(b) a family-type resource within the meaning of section 552 of the Act respecting the governance of the health and social services system or section 312 of the Act respecting health services and social services for the Inuit and Naskapi;

(2.1) a person operating a private seniors’ residence within the meaning of section 557 of the Act respecting the governance of the health and social services system or section 346.0.1 of the Act respecting health services and social services for the Inuit and Naskapi, if the residence has not more than 9 residents;”.

8. Section 1.3.5.D.4 is replaced by the following:

“**1.3.5.D.4.** The Minister may issue the permits provided in subparagraph *m* or *n* of the first paragraph of section 9 of the Act for a period of less than 12 months where a person bound to hold a permit carries on their activities for a period of 30 consecutive days or less.”.

9. Sections 1.3.5.H.1 to 1.3.5.H.3 are replaced by the following:

“**1.3.5.H.1.** A dairy distributor permit authorizes the holder to deliver milk or cream.”.

10. Section 1.3.6.7.5 is amended

(1) by adding “\$31.” at the end in the portion before paragraph 1;

(2) by striking out paragraphs 1 and 2.

11. Section 1.3.6.11 is revoked.

12. Section 1.3.6.12 is amended by striking out “, paragraph 2 of section 1.3.5.H.1” in the second paragraph.

13. Section 5.1.1 is amended

(1) by striking out the word “Canada” wherever it appears in the definition of “grade”;

(2) by replacing “Division 16 of Part B of the Food and Drug Regulations (C.R.C., c. 870)” in the definition of “colouring agent” by “the Food and Drugs Act (R.S.C., 1985, c. F-27) and its regulations”.

14. Section 5.1.2 is amended by replacing “at retail at the producer’s establishment are not graded or marked provided that the eggs are clean and do not leak” in the third paragraph by “at retail by any producer are not graded or marked provided that the eggs meet the requirements provided for in section 5.5”.

15. Section 5.1.3 is amended

(1) by replacing paragraph 4 by the following:

“(4) they are clean and do not leak;”;

(2) by striking out paragraph 7.

16. Section 5.1.4.1 is amended by replacing the fourth paragraph by the following:

“Eggs are also marked with the identifying code of the grading station. Eggs graded in an egg station operated in conformity with the Safe Food for Canadians Act (S.C. 2012, c. 24) and its regulations are marked with the grading station’s registration or licence number assigned by the Canadian Food Inspection Agency. Eggs graded in another grading station are marked with the identifying code confirmed by the Minister pursuant to section 5.1.4.4.”.

17. Section 5.3.1 is amended by replacing “not exceeding 13 °C and at a relative humidity between 70% and 85%” by “which will ensure their preservation”.

18. Section 5.4.1 is amended in the first paragraph

(1) by striking out the word “Canada” in subparagraph 3;

(2) by replacing “a date not later than 42 days after the date of grading” in subparagraph 4 by “the durable life date”;

(3) by replacing subparagraph 6 by the following:

“(6) the name and address of the grading station and the registration or licence number assigned to that station pursuant to the Safe Food for Canadians Act (S.C. 2012, c. 24) and its regulations or the identifying code confirmed by the Minister.”.

19. Section 5.4.4 is revoked.

20. The title of section 5.5 is amended by inserting “UNGRADED EGGS AND” after “APPLYING TO”.

21. Section 5.5.1 is amended by replacing the word “Eggs” at the beginning of the portion before paragraph 1 by “Ungraded eggs sold in accordance with the third paragraph of section 5.1.2 or”.

22. Section 5.5.2 is amended

(1) in the first paragraph

(a) by adding “or the words “ungraded eggs” in the case of ungraded eggs sold in accordance with the third paragraph of section 5.1.2” at the end of subparagraph 1;

(b) by striking out subparagraph 5;

(2) by adding the following paragraph at the end:

“Notwithstanding this section, the packaging of ungraded eggs sold by a producer at the producer’s establishment may bear only the producer’s name and address.”.

23. The following is added after section 5.6.1:

“**5.6.1.1.** A producer referred to in the third paragraph of section 5.1.2 may make egg-based preparations using ungraded and unmarked eggs that are compliant with section 5.5.1 and sell those preparations at retail. Sections 5.6 to 5.8 do not apply in that case.”.

24. Section 5.6.4 is replaced by the following:

“**5.6.4.** Eggs may be processed only if:

“(a) they are free from any odour not found in healthy eggs;

(b) they are not mouldy;

(c) they are not being incubated and have not been in an incubator;

(d) they are free of any pathogenic microorganism, unless they are intended for pasteurization;

(e) they are free of blood spots;

(f) they are free of dirt and of any spot, other than blood spots, whose total surface exceeds one-third of the surface of the shell;

(g) they do not leak, and do not show extensive, multiple or deep-seated alterations;

(h) where they are obtained by the slaughter of domestic fowl, they are fully formed and:

i. they have been kept at a temperature not exceeding 13 °C between collecting and processing;

ii. they are intended for pasteurization.”.

25. Section 11.1.1 is amended by striking out “or dairy product substitute” in the definition of “commercial sterility”.

26. Section 11.1.3 is amended by striking out “, except Division 11.9,” in the portion before paragraph 1.

27. Section 11.8.1 is amended

(1) in the first paragraph by striking out

(a) “, and have a Vitamin D content per litre of not less than 355 and not more than 465 international units” in subparagraph 1;

(b) “, and have a Vitamin A content per litre of not less than 1,410 and not more than 2,930 international units and a Vitamin D content per litre of not less than 355 and not more than 465 international units” wherever it appears in subparagraphs 2, 3, 4 and 5;

(2) by inserting the following after the first paragraph:

“The Vitamin A and D content in the milk products referred to in subparagraphs 1 to 5 of the first paragraph must be the content provided for in the Food and Drugs Act (R.S.C., 1985, c. F-27) and its regulations.”;

(3) by replacing “the Dairy Products Regulations (SOR/79-840)” in the fourth paragraph by “the Food and Drugs Act (R.S.C., 1985, c. F-27) and its regulations”;

(4) by replacing “subparagraphs 1 to 5 of the first paragraph” in the fifth paragraph by “the second paragraph”;

(5) in the sixth paragraph

(a) by replacing “third” by “fourth”;

(b) by replacing “the composition standards set out in subparagraphs 1 to 5 of the first paragraph apply” by “the milk must contain Vitamins A and D according to the conditions set out in the Food and Drugs Act and its regulations”.

28. Section 11.8.6 is amended

(1) by replacing “Food and Drug Regulations (C.R.C., c. 870) and in the Dairy Products Regulations (SOR/79-840)” in the first paragraph by “Food and Drugs Act (R.S.C., 1985, c. F-27) and in the Safe Food for Canadians Act (S.C. 2012, c. 24), and its regulations”;

(2) in the second paragraph

(a) by replacing “applicable standards set out in Parts B, D and E of the Food and Drug Regulations” by “standards set out in the Food and Drugs Act and its regulations”;

(b) by replacing “those regulations” by “that Act or its regulations”.

29. Section 11.8.8 is replaced by the following:

“**11.8.8.** The addition of any ingredient to the dairy products referred to in subparagraphs 1 to 5 of the first paragraph of section 11.8.8 is prohibited, except lactase, vitamins, a fat content standardization process that meets the standards under section 11.8.7, flavouring preparations that meet the standards under the Food and Drugs Act (R.S.C., 1985, c. F-27) and its regulations and, if such a preparation is added, sweeteners, salt, food colours, stabilizers and not more than 0.5% starch.”.

30. Section 11.8.12 is amended by replacing the second paragraph by the following:

“Unripened firm or semi-soft cheese made from pasteurized milk with a minimum milk fat content of 25% and a moisture content of not less than 36% and not more than 44% may be stored at a room temperature of not more than 24 °C for 24 hours after the date of their preparation at the dairy plant.”.

31. Section 11.8.13 is amended

(1) by replacing “section 70 of the Dairy Products Regulations (SOR/79-840), the information prescribed by that section” in paragraph 1 by “the Food and Drugs Act (R.S.C., 1985, c. F-27) and the Safe Food for Canadians Act (S.C. 2012, c. 24) or their regulations, and the information prescribed by those Acts or regulations”;

(2) by striking out paragraph 15.

32. Section 11.8.14 is amended

(1) by striking out paragraph 1;

(2) by striking out “, or for sour cream, if the volume of the product is greater than 500 ml, in 1 or 2-litre containers or packages” in paragraph 2;

(3) by replacing paragraph 3 by the following:

“(3) milk referred to in subparagraphs 1 to 5 of the first paragraph of section 11.8.1 or in section 11.8.8 must be packaged in containers or packages of at least 15 ml but not more than 500 ml, or in containers or packages of 1, 1.5, 2, 4, 10 or 20 litres. Such milk may also be packaged in a returnable or reusable 1.89-litre glass bottle.”.

33. Section 11.9 is revoked.**34.** Section 11.12.7 is revoked.

35. Schedule 5.A to the Regulation is amended by striking out the word “Canada” wherever it appears.

36. Schedule 5.B is amended by striking out the word “Canada” wherever it appears.

37. Schedule 11.D is revoked.

38. All “distributor/vendor” and “distributor/deliverer” category permits in force on 30 November 2024 held by an operator are replaced by a “dairy distributor” category permit referred to in section 1.3.5.H.1 introduced by section 9 of this Regulation. The “dairy distributor” category permit is valid for a period of 12 months and it is issued without further formality.

39. Applications for the issue or renewal of “distributor/vendor” and “distributor/deliverer” category permits that are pending on 1 December 2024 are governed by the Regulation respecting food, as amended by this Regulation, and processed as “dairy distributor” category permit applications.

40. This Regulation comes into force on 1 December 2024.

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