**IC 15-18-2**

Chapter 2. Milk and Cream Purchases

**IC 15-18-2-1**

**"Babcock test"**

Sec. 1. As used in this chapter, "Babcock test" means the official Babcock test for milk and for cream.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-2**

**"Board"**

Sec. 2. As used in this chapter, "board" refers to the creamery examining board established by section 9 of this chapter.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-3**

**"Milk distributor"**

Sec. 3. As used in this chapter, "milk distributor" means any person or person's agent that purchases market milk or market cream from a bargaining agent or another plant for resale.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-4**

**"Other processing plant"**

Sec. 4. As used in this chapter, "other processing plant" means any place, premises, or establishment:

(1) where milk or cream is received, processed, or manufactured; and

(2) that is not specifically identified in this chapter.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-5**

**"Person"**

Sec. 5. As used in this chapter, unless the context otherwise indicates, "person" includes an individual, a partnership, a limited liability company, a corporation, and an association.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-6**

**"Receiving station"**

Sec. 6. As used in this chapter, "receiving station" means any place other than a dairy processing plant where milk or cream is received, weighed, sampled, or tested for shipment to any other processing plant.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-7**

**"Standard Babcock testing glassware"**

Sec. 7. As used in this chapter, "standard Babcock testing glassware" means glassware and weights that comply with

specifications for official apparatus for the Babcock method as defined in the latest edition of Official Methods of Analysis of AOAC International.
*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-8**
**Enforcement**
Sec. 8. The creamery license division of Purdue University, in cooperation with the board, shall enforce this chapter.
*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-9**
**Creamery examining board; membership**
Sec. 9. (a) The creamery examining board is established. The board consists of eight (8) members composed of the following:
(1) Three (3) producers of milk and cream.
(2) Three (3) processors of milk and cream.
(3) One (1) member of the animal sciences department who shall be appointed by the dean of agriculture of Purdue University.
(4) One (1) milk hauler.
The board shall elect a chairperson annually.
(b) Two (2) of the producer members shall be elected to the board by the Indiana Cooperative Milk Producer's Federation, Inc. The third producer member shall be elected to the board by the Indiana State Dairy Association.
(c) The three (3) processor members shall be elected to the board by the Midwest Dairy Products Association.
(d) The Midwest Dairy Products Association shall elect one (1) member each year. The Indiana federation of cooperatives shall elect a producer member to the board two (2) out of every three (3) years and the Indiana State Dairy Association shall select a producer member during the third year.
(e) The milk hauler member shall be appointed to the board by the dean of agriculture of Purdue University or the dean's designee.
*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-10**
**Terms**
Sec. 10. (a) The term of a board member is three (3) years.
(b) A vacancy in any membership of the board shall be filled by the same process for the unexpired term.
*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-11**
**Reimbursement**
Sec. 11. Board members shall be reimbursed by the creamery license division for actual traveling expenses and subsistence while attending a regular or called meeting.
*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-12**

**Duties**

Sec. 12. The board shall do the following:

(1) Hold regular quarterly meetings and in addition meet in special called sessions at a date, time, and place designated by the chairperson.

(2) Review all cases of violation of this chapter.

(3) Recommend the revocation of any license issued under this chapter.

(4) Adopt specific rules under IC 4-22-2 relative to weighing, sampling, and testing of milk and cream and to the enforcement of the creamery license law.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-13**

**Inspection**

Sec. 13. On recommendation of the board and with the approval of the dean of agriculture of Purdue University, inspectors of the creamery license division may inspect records or collect data on the quality of milk and cream in plants that:

(1) cooperate with Purdue University in the quality improvement program; or

(2) assist in any other project that will be of mutual benefit to the Indiana dairy industry and the Purdue University animal sciences department.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-14**

**Basis of milk purchases; fresh samples; composite samples**

Sec. 14. (a) Milk and cream must be purchased on the basis of weight or volume and:

(1) the butterfat content;

(2) the protein content; or

(3) a combination of butterfat and protein content;

as determined by any test or tests approved by the board, which may also have been designated official by AOAC International.

(b) A payment for milk must be made either on the basis of:

(1) a fresh sample taken and tested according to procedures established under rules adopted by the board; or

(2) a composite test.

A composite sample must cover a period of not more than sixteen (16) days. In each plant, all composite samples must cover the same period for each test and succeeding periods must be as nearly equal as possible. All composite samples must cover the same period. A uniform sample consisting of at least ten (10) cubic centimeters of milk must be taken each day, except when milk is frozen or partly churned, from the milk furnished by each person. An approved preservative must be added to the sample and each composite sample must be held in an approved, rubber stoppered, airtight bottle that is plainly labeled to show the name or number of the person whose

milk the composite sample represents. The milk to be sampled must be poured into a weigh tank approved by the creamery license division meeting the standards prescribed in rules, be run through a fine mesh or perforated metal strainer, and be homogeneous in richness before any sample is taken. The composite samples must be kept in a refrigerated cabinet or cooler in or near the receiving room at a temperature of not more than forty-two (42) degrees Fahrenheit, away from strong light, and must be kept free of mold. The test must be made within seventy-two (72) hours, excluding Sundays and holidays, after the last sample has been added to the composite sample.

(c) If at the close of any composite period the composite samples are inaccurate as determined by the creamery license division, three (3) daily samples must be taken within the first five (5) days of the following composite period. The average of the three (3) fresh samples determines the basis of payment for the composite period in question.

(d) In each plant where composite samples of milk are taken, the owner or manager shall delegate an individual who is responsible for the care, condition, and accuracy of all composite samples.

(e) After the composite samples are emptied, the sample bottles must be thoroughly washed, and all bottles and rubber stoppers shall be sterilized before being used again.

(f) Composite samples may be removed from the plant for testing elsewhere only on written permission from the creamery license division.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-15**

**Unfair samples; fraudulent manipulation of weights or samples; method of weighing and sampling**

Sec. 15. (a) A hauler of milk or cream or other person or dairy processing plant or other milk plant or agent receiving milk or cream by weight or test or by weight and test may not fraudulently manipulate the weights of milk or cream of any person to take unfair samples or fraudulently manipulate the samples.

(b) When milk is received from farm bulk tanks, the hauler shall:

(1) weigh or measure the milk of each person accurately and correctly; and

(2) thoroughly mix the milk of each person by stirring until the milk is uniform and homogeneous in richness before the sample is taken from the milk.

When the weighing or sampling of the milk or cream of each person is done at the dairy processing plant, receiving station, other factory, or other location, the same procedures for buying and paying for milk or cream on the basis of the butterfat and protein apply.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-16**

**Fraudulent manipulation of tests**

Sec. 16. A person acting alone or as the officer, servant, agent, or employee of any person buying and paying for milk or cream on the basis of the total composition of milk, the protein, or fat components of milk may not:

(1) underread, overread, or otherwise fraudulently manipulate the test used to determine the total composition of milk or the protein and fat components of milk; or

(2) pay for milk or cream on any test except the true test of the lot or lots of milk or cream received.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-17**

**Babcock and other test equipment; inspection for accuracy and approval**

Sec. 17. (a) A person or a person's agent buying or paying for milk or cream on the basis of the amount of butterfat contained in the milk or cream as determined by the Babcock test shall use standard Babcock testing glassware and accurate scales.

(b) All standard Babcock testing glassware and weights must be:

(1) inspected for accuracy by Purdue University; and

(2) legibly and indelibly marked by Purdue University with the letters "S.G.P." (Standard Glassware Purdue).

A bottle or pipette may not be used for a test unless the bottle or pipette is examined and marked by Purdue University.

(c) A person or a person's agent may not use test bottles and pipettes other than standard bottles or pipettes that have been examined and marked as provided in this section to determine the amount of fat in milk or cream bought or paid for on the butterfat basis.

(d) In conducting tests other than an approved test for determining the total composition of milk and the protein and fat components of milk, test equipment used that will influence test results must be approved by the creamery license division before use in determining producer pay tests.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-18**

**License for milk or cream buyers; fees; revocation**

Sec. 18. (a) A dairy processing plant, a receiving station, a milk shipping station, a milk factory, a milk distributor, a cheese factory, a condensery, an ice cream factory, other processing plant, person, or person's agent that handles, receives, buys, or pays for milk or cream from a producer, a bargaining agent, or another plant shall obtain a license from the creamery license division.

(b) A license must be issued to the dairy, dairy processing plant, receiving station, milk factory, milk distributor, cheese factory, condensery, ice cream factory, other processing plant, person, or person's agent by the creamery license division upon:

(1) compliance with sections 14 through 17 of this chapter; and

(2) payment of a license fee as provided in sections 22 and 23

of this chapter.

A license shall be revoked by Purdue University upon recommendation of the board if the licensee fails to comply with the rules under which the license was granted.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-19**

**Tester's license; employment of licensed tester; examination; license fee; revocation**

Sec. 19. (a) A person who does testing in connection with the receiving, buying, or paying for milk or cream on the basis of the total composition or the protein and fat components contained in the milk or cream, either for the person or as an officer, a servant, an agent, or an employee of any person, must hold a tester's license.

(b) A dairy processing plant, receiving station, or other factory, or person, or person's agent, that receives, buys, or pays for milk or cream on the basis of the total composition or the protein and fat components contained in the milk or cream shall employ a licensed tester to supervise and is responsible for the operation of the testing of milk or cream.

(c) A milk tester's license or cream tester's license shall be issued to a person by the creamery license division if the person:

(1) passes a satisfactory examination as provided for in the rules adopted by the board and demonstrates that the person is competent and qualified to test milk or cream; and

(2) pays a license fee as provided in section 24 of this chapter.

A license shall be revoked by the creamery license division upon recommendation of the board if the licensee fails to comply with the rules under which the license was granted.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-20**

**Sampler's license; employment of licensed sampler; examination; license fees; revocation**

Sec. 20. (a) A person who does sampling in connection with receiving, buying, or paying for milk or cream on the basis of the total composition of milk or the protein and fat components contained in the milk or cream, either for the person, or as officer, servant, agent, or employee of any person, must hold a sampler's license.

(b) A dairy processing plant, receiving station, other factory, person, or person's agent, that receives, buys, or pays for milk or cream on the basis of the amount of butterfat contained in the milk or cream shall employ a licensed sampler to supervise and is responsible for the sampling and weighing of milk or cream to obtain a representative sample and make and record correct weights of the whole amount of milk or cream delivered.

(c) A milk sampler's license or cream sampler's license shall be issued to a person by the creamery license division if the person:

(1) passes a satisfactory examination as provided for in the rules

adopted by the board and demonstrates that the person is competent and qualified to sample milk or cream; and

(2) pays a license fee as provided in section 25 of this chapter.

A license shall be revoked by the creamery license division upon recommendation of the board if the licensee fails to comply with the rules under which the license was granted.

(d) A license to test milk or cream includes the authority to sample and weigh milk or cream.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-21**

**Temporary permit for samplers and testers**

Sec. 21. (a) A person who desires to test or sample and weigh either milk or cream before taking the examination must apply to the creamery license division for a temporary permit.

(b) A temporary permit entitles the holder to test or sample and weigh milk or cream until the date specified for taking the examination. A permit holder has the same responsibilities as a licensee in complying with this chapter.

(c) An application for a temporary permit to test must be accompanied by the payment of a fee of thirty dollars ($30). An application for a temporary permit to sample or weigh must be accompanied by the payment of a fee of twenty dollars ($20). The fee shall pay for the first regular tester's or sampler's license issued to the applicant. If the applicant fails the examination or discontinues work before the examination can be given, the applicant forfeits the fee paid for the temporary permit.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-22**

**Plant license**

Sec. 22. The creamery license division shall issue a plant license to every dairy processing plant, receiving station, milk factory, cheese factory, condensery, ice cream factory, or other person that complies with section 18 of this chapter and pays to the creamery license division seventy-five dollars ($75) plus a fee of:

(1) twelve dollars ($12) per million on milk receipts of at least ten million (10,000,000) but not more than fifty million (50,000,000) pounds;

(2) nine dollars ($9) per million on milk receipts of at least fifty million (50,000,000) but not more than one hundred million (100,000,000) pounds; and

(3) five dollars ($5) per million on milk receipts of at least one hundred million (100,000,000) pounds;

during the preceding year ending December 31. The maximum fee may not exceed one thousand dollars ($1,000) regardless of volume received. Out-of-state milk receipts are exempt from the payment of fees.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-23**

**Receiving station or other milk or cream processing plant license**

Sec. 23. A license shall be issued to a receiving station or other milk or cream processing plant upon payment to the creamery license division a fee of twenty-five dollars ($25).

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-24**

**Milk or cream tester's license**

Sec. 24. A license shall be issued to an applicant for a milk tester's license or cream tester's license if the applicant:

(1) complies with section 19 of this chapter; and

(2) pays to the creamery license division a fee of fifteen dollars ($15).

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-25**

**Sampler's license**

Sec. 25. A license shall be issued to an applicant for a sampler's license if the applicant:

(1) complies with section 20 of this chapter; and

(2) pays to the creamery license division a fee of ten dollars ($10).

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-26**

**License expiration**

Sec. 26. A license issued under this chapter expires March 31 following its issue. A license is not transferable.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-27**

**Glassware examining fees**

Sec. 27. The board shall establish fees for examining glassware based on the actual cost.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-28**

**Fees on milk purchases; charge-back to producers**

Sec. 28. (a) To secure sufficient funds to implement this chapter and to ensure accuracy to milk and cream producers in the weighing, sampling, and testing of milk and cream:

(1) a dairy processing plant;

(2) a receiving station;

(3) a milk factory;

(4) a milk distributor;

(5) a cheese factory;

(6) a condensery;

(7) an ice cream factory;

(8) any other processing plant; or

(9) a person purchasing fluid milk or cream in Indiana directly from producers or a producers' association or otherwise receiving milk directly from producers;

shall, during the month of May of each year, pay to the treasurer of Purdue University for the fluid milk or cream delivered during the month of May a sum equal in amount to two and one-half cents ($.025) per one hundred (100) pounds for all fluid milk purchased during that time. For the financing of the producers' share of this program, the processor shall charge the two and one-half cents ($.025) per one hundred (100) pounds back to the producer association or cooperative. For those patrons who do not belong to producer associations or cooperatives, the processor shall make this charge directly to the individual producer. Butterfat purchased from producers other than in the form of fluid milk shall be converted for the purpose of the deduction into four percent (4%) milk equivalent. Out-of-state receipts are exempt from the payment of these fees.

(b) All persons required to make payments under this section shall make reports of all purchases of milk and cream at the times and in the form as required by the creamery license division.

(c) It is a violation of this chapter for a person to fail to make:

(1) the payments required under this section; or

(2) an accurate accounting of the amount of fluid milk and cream purchased.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-29**

**Payment of fees; use of funds**

Sec. 29. Payments under section 28 of this chapter shall be made to the treasurer of Purdue University not later than June 20 of each year. The money received is for the exclusive use of the creamery license division. The money shall be expended for the following:

(1) Salaries and traveling expenses of inspectors.

(2) Necessary equipment and supplies for the inspection of all plants and stations.

(3) The examination of applicants for licenses.

(4) Disseminating information and instruction by means of publication.

(5) All other expenses necessary in administering this chapter.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-30**

**Late fees**

Sec. 30. If a person is more than thirty (30) days late paying a fee required under this chapter, the board shall assess a late fee of the greater of the following:

(1) Ten percent (10%) of the amount due.

(2) Five dollars ($5).

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-31**

**Disposition of license fees**

Sec. 31. (a) The money for license fees and for inspection fees as provided in this chapter shall be paid to the treasurer of Purdue University. The Purdue University board of trustees shall expend the collected fees, on proper vouchers to be filed with the auditor of state, in meeting all necessary expenses in carrying out this chapter, including the employment of inspectors, traveling expenses of inspectors, expenses of issuing publications, and glassware equipment, testing device, and factory inspection as provided in this chapter.

(b) The treasurer's annual report to the governor must include a classified report showing the total receipts and expenditures of all fees received under this chapter.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-32**

**Annual report; statistics; records**

Sec. 32. Plants and stations covered by this chapter as listed in section 18 of this chapter (dairy processing plant and receiving station licenses) shall report before April 1 of each year the amount of milk or cream, or both, purchased during the last calendar year with the amount of butterfat in the milk or cream. Any other data or statistics desired by the creamery license division pertaining to the purchase of milk or cream must be reported to the creamery license division by the person according to and on forms furnished by the creamery license division. A person providing information under this section shall keep complete and accurate records of the person's business.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-33**

**Powers of inspectors; powers of creamery examining board**

Sec. 33. (a) For purposes of this chapter, inspectors of the creamery license division may do the following:

(1) Enter at all reasonable hours all places where milk or cream is being stored, bottled, or processed, or where milk or cream is being bought, sold, or handled, to inspect records pertaining to the purchase and payment of milk or cream.

(2) Inspect and copy the records pertaining to the purchase and payment of milk or cream.

(3) Take testimony to ascertain facts pertaining to the purchase and payment of milk or cream that in the judgment of the creamery license division are necessary to administer this chapter.

(b) The board may determine the truth and accuracy of the books, records, papers, documents, accounts, and reports required to be furnished in accordance with this chapter.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-34**

**Interference with or obstruction of inspector**

Sec. 34. (a) A person or an officer, a servant, an agent, or an employee of a person may not interfere with an authorized inspector of the creamery license division who is:

(1) making an inspection; or

(2) taking a sample;

required under this chapter.

(b) A person that owns or operates or is in charge of a dairy processing plant, a receiving station, a milk factory, a cheese factory, a condensery, an ice cream factory, or other processing plant that is subject to inspection or entry by an inspector of the creamery license division may not refuse to allow or may not obstruct an inspector's entry or inspection.

*As added by P.L.2-2008, SEC.9.*

**IC 15-18-2-35**

**Violations**

Sec. 35. A person who recklessly violates this chapter commits a Class A misdemeanor.

*As added by P.L.2-2008, SEC.9.*