



Canadian Dairy
Commission

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Information Guide for Further Processors

Special Milk Class Permit Program

Canada 

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1. PROGRAM OVERVIEW

This program Information Guide outlines the general terms and conditions that govern the eligibility and reporting requirements of the Special Milk Class Permit Program (SMCPP). In addition, this guide will assist further processors in applying for a Permit and completing the Application under the Program.

The Canadian Milk Supply Management Committee (CMSMC) is the authority responsible for creating the Special Milk Class Permit Program (the Program). It has delegated the Canadian Dairy Commission (CDC) to administer the Program.

The Program was implemented by the CDC in August of 1995. The main objective of the Program is to provide Canadian Further Processors with the opportunity, under certain terms and conditions, to access Special Milk Class Pricing for Dairy Products (as defined under the Program) used as ingredients in the manufacture of Further Processed Products.

Milk produced and sold in Canada and purchased by dairy processors is done in accordance with the Harmonized Milk Classification System, a class system that dictates milk class and price according to its end use. The Program governs Special Milk Classes 5(a), (b), and (c) of the Harmonized Milk Classification System.

Three Permit categories have been established to address the activities considered eligible under the Program, they are: Class 5(a), Class 5(b) and Class 5(c).

Class 5(a)	Class 5(b)	Class 5(c)
Cheese as a Dairy Product used as ingredients in further processing for the domestic and export markets.	All other Dairy Products used as ingredients in further processing for the domestic and export markets.	Dairy Products used as ingredients in the confectionery sector destined for the domestic and export markets.

Further Processors who are accepted to participate in the Program are required to sign the Special Milk Class Permit Agreement with the CDC. Only then will the CDC issue a Special Milk Class permit to the Further Processor.

Under the Program and subject to the Agreement, the CDC issues a Permit to the Further Processor which authorizes them to obtain Special Milk Class Pricing for the purchase of Dairy Products specified on their permit to be used as ingredients in the manufacturing in Canada of an eligible further processed product.

2. DEFINITION OF TERMS

To facilitate the interpretation of this Guide, the following definitions are provided to explain the meaning of certain key terms that are used in this document.

“Agreement” means this Special Milk Class Permit Agreement between the CDC and the Further Processor and includes, the Information Guide for Further Processors, the Further Processor Application and the Consent Form.

“Blend” means a product accepted under the Program by the CDC that is a combination of more than one Dairy Products or a combination of Dairy Products and other ingredients (includes Dairy Based Blend, Dairy Blend, Industrial Food Blend, Blended or Processed Cheese, and Dairy Cheese Blend).

“Confectionery Product” means a further processed product which contains Dairy Products and which is marketed/sold as a confectionery product, e.g.: chocolate products, candy products, candy coated products, frozen dairy novelties.

“Dairy Product” means any of the following products made in Canada, wholly or mainly from Canadian milk: butter, cheese, all types of milk, powders, evaporated milk, sweet condensed milk, whole milk, partially skim milk, skim milk, cream, buttermilk, yogurt, and excludes whey (except for whey butter and whey cream) and products made wholly or mainly from whey. For the purpose of this definition and this Agreement, a Dairy Product must also conform to the product standards dictated by the *Dairy Products Regulations, SOR/79-840*.

“Dairy Based Blend” means a product that is a combination of Dairy Products and other ingredients. For the purpose of this definition, the Dairy Products combined to make a Dairy Based Blend must conform to the product standards dictated by the *Dairy Products Regulations, SOR/79-840*.

“Dairy Blend” means a product that is a combination of Dairy Products and is 100% dairy. For the purpose of this definition, the Dairy Products combined to make a Dairy Blend must conform to the product standards dictated by the *Dairy Products Regulations, SOR/79-840*.

“Dairy Processor” means a registered Dairy Processor in Canada who manufactures and sells Dairy Products.

“Distributor” includes a distributor blender and means a registered company which has been issued a Permit from the CDC and purchases Dairy Products for resale to a Permit Holder and/or is a registered company which has been issued a Permit from the CDC and purchases Dairy Products to be used as an ingredient by the Distributor in the manufacture in Canada of a Blend and destined for sale to a Permit Holder in Canada (Distributor/ Distributor Blender).

“Frozen Dairy Novelties” for the purpose of the Program, frozen dairy novelties are defined as single serve (not to exceed 300 ml) individually packaged/sealed ice cream, ice milk and frozen dairy dessert products destined for retail sale including bars, sandwiches, sundaes and stick products, e.g.: fudgesicles. Single serve frozen dairy novelties may be multi-packed (example, 8-12 single serve units per box).

“Further Processor” means a registered Canadian food processing facility that uses Dairy Products (either directly or through a Blend) as an ingredient in the manufacturing, in Canada, of a Further Processed Product and has been issued a Permit by the CDC.

“Further Processor Application” means the form and all relevant information submitted to the CDC by the Further Processor as required under the Program and described in the Information Guide for Further Processor, in applying to have a further processed product registered under the Program and which forms the basis for acceptance in the Program by the CDC and Permit issuance.

“Further Processed Product” means, subject to the Special Milk Class Permit Agreement, a finished food product as accepted by the CDC which incorporates Dairy Products (either directly or through a Blend) with other food ingredients.

“Industrial Food Blend” means a combination of Dairy Products with other ingredients to create a product destined for sale to a Further Processor. For the purpose of this definition, the Dairy Products combined to make an Industrial Food Blend must conform to the product standards dictated by the *Dairy Products Regulations, SOR/79-840*.

“Milk Components” for the purpose of the Program, means the three main components found in milk: *butterfat, protein* and *other solids*.

“Permit” means the Permit issued by the CDC and which authorizes the Further Processor to buy Dairy Products made with components obtained at Special Milk Class Prices and states the name of the Further Processor and the Dairy Product which can be purchased either directly or as part of a Blend under the Permit for delivery in Canada and used as an ingredient in a Further Processed Product as accepted by the CDC. For the purposes of this Agreement, the Further Processor holds the Permit (Permit Holder).

“Recipe” for the purposes of the Program, means the quantity in kilogram or litres of each Dairy Product used in the manufacture of an eligible Further Processed Product. The net weight in kilogram or litres of the Further Processed Product format must also be included as part of the recipe information. For example:

<u>Further processed product</u>	<u>Quantity of dairy ingredient in further processed product</u>
Frozen Lasagna	0.13 kg of mozzarella cheese in each 0.5 kg lasagna

“Special Milk Class” means class 5 (a), (b) and (c) of the Harmonized Milk Classification System.

“Special Milk Class Pricing” means pricing for Dairy Products of the Special Milk Classes. See the Section on Special Milk Class Pricing for details.

“Ultimate Manufacturer” means the food processing plant or facility in Canada which in fact manufactures the Further Processed Product.

3. PROGRAM ELIGIBILITY REQUIREMENTS

A further processor must submit an application (see Section 6) to the CDC in order to apply to participate in the Special Milk Class Permit Program (SMCPP). The CDC will evaluate the application to determine whether the further processed product meets the eligibility criteria under the Program. The following section outlines the main eligibility requirements of the SMCPP.

- 3.1 The further processor must show that the further processed product it manufactures is a finished food product made with a Dairy Product and is intended for sale to retailers and/or to food service/restaurants.
- 3.2 The Further Processor must demonstrate that the further processed product it manufactures is not subject to Tariff Rate Quota controls, unless approved by the CMSMC.
- 3.3 A Permit issued by the CDC can only provide access to Special Milk Class Pricing for Dairy Products as defined herein and which also conform to the product standards dictated by the *Dairy Products Regulations, SOR/79-840*.

4. PRICING

Pricing for the Dairy Products of the Special Milk Classes under the Program is calculated by the CDC on the basis of the following:

- 4.1 **Classes 5(a) and 5(b)**
Pricing for Classes 5(a) and 5(b) of the Program is based on the pricing applicable in the U.S. for Class 3 (cheese) and Class 4 (butter/skim milk powder) categories for a given month and announced each month for the subsequent month.
- 4.2 **Class 5(c)**
The Class 5(c) BF price is calculated based on the average of the two lowest prices obtained from Oceania, Western Europe, and the US. The Class 5(c) SNF price is calculated based on the lowest price obtained from Oceania, Western Europe, and the US. The calculated prices are announced by the CDC, to be effective in the subsequent month.
- 4.3 **Dairy Product Pricing**
It is the responsibility of the Further Processor to negotiate directly with the Dairy Processor or Distributor and NOT the CDC for the purchase price of the Dairy Products purchased with a Special Milk Class permit.
- 4.4 **Announcement of Special Milk Class Prices**
Special Milk Class prices for all Dairy Products under the Program are announced each month and appear on www.cdc-ccl.ca/en. If you wish to be included on the Special Milk Class Prices email notice distribution list, send an email request to: applications.demandes@cdc-ccl.gc.ca.

5. FURTHER PROCESSED PRODUCT ELIGIBILITY

- 5.1** A further processed product which, according to the CDC has the potential to displace the sale of an existing Dairy Product in the marketplace may be considered ineligible under the Program. This condition may also apply to further processed product with a dairy content exceeding 50% dairy by net weight.
- 5.2** Fresh products with limited shelf life (less than 30 days) are not eligible under the Program with the exception of bakery products mentioned in Section 5.5.
- 5.3** The further processed product must be manufactured and package in a way as to promote a minimum shelf life of 30 days. This requires that the product be:
- frozen prior to shipment or sale from the Further Processor's facility or;
 - packaged using methods/materials that promote extended shelf life e.g.: vacuum sealed, gas flushed, canned, dried, etc.
- 5.4** The following are examples of further processed products which may qualify under the Program:

Frozen Products

Other Products

Frozen dough Dry baking mix
Dry and frozen sauce Salad dressing in bottles
Frozen cake/pastry Dry and canned soup
Frozen pizza Confectionery products
Frozen dinners/entrées Milk bread (skim milk powder only)
Ghee/clarified butter * Snack foods (dry, frozen)
Frozen dairy novelties

* Ghee/clarified butter must be packaged/sold for retail in containers of 3kg or less.

5.5 Butter and butter oil used in the manufacture of fresh bakery products

Where the Further Processor manufactures fresh bakery products containing butter and/or butter oil and other Dairy Products, only the butter and/or butter oil shall be deemed eligible to receive Special Milk Class pricing.

5.6 OTHER REQUIREMENTS

- 5.6.1** The further processor is required to supply the CDC with the brand names of the competing products in relation to the further processed products along with copies of actual packaging and/or label samples (if requested by the CDC).
- 5.6.2** The further processor must submit labels for the products it wishes to register in the Program. The product label must bear the name of both the further processor and the further processed product. In addition, the label must include the complete list of ingredients and a "keep frozen" statement or other information concerning the shelf life or packaging details of the further processed product.
- 5.6.3** The Dairy Products purchased under a Permit may only be used in the manufacture in Canada of a CDC-approved further processed product and may not be used for any other purpose or be sold.

6. APPLICATION AND ADMINISTRATIVE PROCEDURES

In order to access Special Milk Class pricing, a Further Processor must submit an application, sign a Special Milk Class Permit Agreement (the Agreement) and receive a Permit from the CDC.

6.1 APPLICATION

In order to apply for a Special Milk Class Permit, the further processor must submit the following information. All forms can be obtained at the CDC website (www.cdc-ccl.ca/en) or by contacting the CDC Marketing Program Officer; see page 12 of this *Information Guide* for contact details.

- a) A copy of the certificate of incorporation or business registration.
- b) Section A Form - Company Information Form
- c) Further Processed Product Application Form. The form must be duly completed and include the recipe information for each further processed product and be accompanied by copies of the further processed product labels (see 5.6.2 for details). In addition, the application must include any supplementary detail or information requested by the Marketing Program Officer.
- d) Section C Form – Accounting, Credit Check & Attestation
- e) Company Questionnaire
- f) Consent Form: As part of the Agreement, the Applicant is asked to consent to having customs information pertaining to the further processor under the Import for Re-Export Programs administered by Global Affairs and the Duty Deferral Program administered by the Canada Border Services Agency (CBSA) released and disclosed by Global Affairs and the CBSA to the CDC, upon the CDC's request if considered necessary by the CDC for the purposes of completing any audit of the further processor under the Program.

Information provided to the CDC in respect of the Program shall be treated in accordance with the requirements of the access to information and privacy legislation as the case may be.

6.2 CO-PACKING ARRANGEMENT

Where the Further Processed Product is not manufactured by the Further Processor but rather by a third party (the ultimate manufacturer) on its behalf through a commercial agreement, including but not limited to a co-packing arrangement, the Further Processor must ensure that it has an agreement with the ultimate manufacturer that binds the ultimate manufacturer to obligations and comprises terms and conditions that are consistent with, and reflect the terms and conditions of the reporting requirements and program audit requirements included in the Special Milk Class Agreement and that a copy of such agreement be provided to the CDC prior to signing the Special Milk Class Agreement. All Dairy Products purchased under the Program must be delivered to a registered food processing plant/facility in Canada and used in the manufacture, in Canada, of a Further Processed Product.

For further clarity, the Further Processor undertakes to ensure that under no circumstances will the CDC's rights under the Special Milk Class Agreement, including but not limited to it auditing rights, be prejudiced in any manner by engaging in a commercial arrangement, including a co-packing arrangement, whereby a third party in fact manufactures the further processed product.

6.3 AGREEMENT

Once an application to the Program has been approved, the CDC will forward an Agreement to the Further Processor which must be signed by an official signing officer of the company. The entire Agreement and Appendix A must be returned to the CDC by e-mail as an attachment in portable document format (.PDF). The Further Processor may also forward a signed original copy by regular mail.

6.4 PERMIT

Once the Agreement has been signed and returned to the CDC, a Permit will then be issued and forwarded to the Further Processor. Permits are not issued retroactively and are only effective as of the date they are issued. Information pertaining to the start date of the dairy product eligibility is mentioned on the Permit itself. Permits are non-transferable and have no commercial value and cannot be sold. Once the Further Processor has received the Permit, it can then proceed to negotiate the purchase price of the Dairy Product with the Dairy Processor or Distributor. Special Milk Class component prices do not appear on the Permit. Those component prices are published monthly and posted on www.cdc-ccl.ca/en (refer to Section 4.0 for pricing information).

6.5 PERMIT IDENTIFICATION

In order to access Special Milk Class prices the Further Processor must communicate its Permit number to the Dairy Processor or Distributor at time of purchase of Dairy Products. The Permit number must be recorded on the purchase invoice.

7. REPORTING REQUIREMENTS

The CDC has developed two types of reporting mechanisms which take into account certain factors such as the volume of Special Milk Class dairy products purchased by a Further Processor in a year. The Further Processor will be required to follow one of the reporting procedures outlined in Section 7.1 or Section 7.2.

The CDC will determine the appropriate reporting methodology depending on the nature of the Further Processor's activities and will communicate these requirements at time of Permit issuance.

The Canadian Dairy Commission developed a web-based reporting system called the Milk Ingredient Reporting System (MIRS). Permit holders are strongly encouraged to register for MIRS in order to report their permit activity. MIRS provides participants with access to all past reporting data and allows permit holders to make corrections to submitted data at any time. Purchase, sales/production and closing inventory reporting as well as aspects of the end-of-year reconciliations can also be completed via MIRS. Although Further Processors with a large number of monthly purchase and sales transactions may still submit their reports via e-mail to their Program Agent, it is important that all companies register for MIRS.

Please note that any unjustified discrepancies in the permit reconciliation may result in an automatic claim.

7.1 MONTHLY REPORTING

This reporting procedure requires that the Further Processor complete and return the following reports by email or complete the reporting via the MIRS web portal.

MONTHLY PURCHASE REPORT

The Further Processor is required to submit a monthly report of its Special Milk Class dairy product purchases. This information must be submitted to the CDC no later than 30 days following each month's end and must include the actual purchase price paid.

MONTHLY SALES / MONTHLY PRODUCTION REPORT

The Further Processor is required to submit monthly data on its further processed product sales, or a monthly plant production report which provides information on approved further processed products. One of these reports must be submitted to the CDC no later than 30 days following each month's end.

FINANCIAL YEAR END INVENTORY REPORT

The Further Processor is required to submit a closing inventory report on Special Milk Class dairy products. In the case where a monthly sales report is being supplied, a closing inventory of the further processed products containing eligible dairy ingredients must also be submitted. This report must be submitted to the CDC no later than 30 days following the company's financial year end.

CHANGES TO RECIPE INFORMATION

Any changes that are made by the Further Processor to the dairy content in an approved further processed product must be promptly reported to the CDC. Further processed product formulations are used by the CDC to reconcile dairy ingredient purchases, sales and product manufacturing activities.

7.2 SPECIAL REPORTING OPTIONS

7.2.1 ANNUAL C5 CERTIFICATION REPORT

Thirty days after the company's fiscal year end, the Further Processor will receive an automated notice from the CDC with the summary of permit sales reported by its supplier(s). The C5 Further Processor is required to review the sales reported by their supplier(s) and indicate whether or not the company is in agreement with the reported quantities. If the Further Processor is in agreement with the quantities reported by the supplier(s), they must sign the C5 Certification Report and return it to their Program Agent at the CDC within 30 days of receipt of the notice.

If the Further Processor is not in agreement with the permit sales reported by their supplier(s), they must provide copies of the relevant invoices or provide an explanation for the required corrections. In any event, the Further Processor must complete the C5 Certification Report with the total quantity of permit dairy products purchased for the fiscal period.

In completing the C5 Certification Report, the company certifies the quantity of dairy products purchased at permit pricing and confirms that these dairy products were used in the further processing of eligible further processed products in accordance with the terms and conditions of the Special Milk Class Permit Program Agreement.

7.2.2 ANNUAL C6 REVIEW REPORT

The Further Processor is required to complete and return a monthly purchase report and an annual review report which will be based on the company's financial year. The annual review report must be signed by a professional accountant certified for public practice. This report must be submitted to the CDC no later than 60 days following the company's financial year end.

8. RECONCILIATION REQUIREMENTS

The CDC conducts a complete reconciliation exercise on the activities of the Special Milk Class Permit holders including Further Processors and this activity is performed immediately following the Permit Holders' financial year end or; at time of suspension/cancellation of permit where warranted.

In both cases, the Further Processor will be supplied with the results of the CDC's reconciliation exercise of the Further Processor's financial year end which take into account its sales and year-end inventory. The Further Processor will be required to review the CDC's reconciliation report and provide explanations in writing with regards to any variances/discrepancies that are highlighted. The Further Processor will have a set period of time in which to respond.

If discrepancies cannot be reasonably justified by the Further Processor, the Further Processor agrees to pay the CDC the difference in price between the Canadian domestic price and the Special Milk Class price. The price difference shall be calculated as of the actual date of the purchase of the dairy products. On that basis, a claim invoice will be generated and electronically remitted to the Further Processor.

9. AUDIT

In addition to the reporting requirements, further processors may be required to submit to audit measures identified in the Special Milk Class Permit Agreement which will be conducted by auditors from the CDC Audit Section or its representatives designated under the CDC Act.

10. PRIVACY NOTICE

The CDC shall ensure that all documents/records related to the further processor's application and participation in the SMCPP are managed in accordance with the requirements of the *Access to Information Act (R.C.S, 1995, c.A-1)* and the *Privacy Act (R.C.S., 1995, c.p-21)*.

11. CONTACT INFORMATION

For more information about the Program, please contact:

Canadian Dairy Commission
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Central Experimental Farm
960 Carling Avenue,
Ottawa, ON, K1A 0Z2

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