

**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE**

**CHAPTER 0080-03-08
DAIRY LICENSURE**

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0080-03-08-.01 DAIRY MANUFACTURERS.

For purposes of this rule, definitions of “milk” and “cream” as defined under 0080-03-02-.01 shall apply.

- (1) Plants receiving fluid milk or cream. Every dairy products plant or trade products plant that receives primarily milk or cream for manufacturing, processing, or packaging of its products shall pay an annual license fee based on the plant’s period of operation and combined weight of milk and cream received during the previous calendar year (January 1 – December 31). The fee shall be determined under T.C.A. § 43-1-703(f) according to the following schedule.
 - (a) Up to 10,000 pounds of milk and cream received and plant operated less than six months: Tier 5 fee.
 - (b) Up to 10,000 pounds of milk and cream received and plant operated six months or more: Tier 9 fee.
 - (c) 10,001 to 1,000,000 pounds of milk and cream received: Tier 10 fee.
 - (d) 1,000,001 to 30,000,000 pounds of milk and cream received: Tier 11 fee.
 - (e) More than 30,000,000 pounds of milk and cream received: the license fee shall be determined by dividing the total pounds of milk and cream received by 30,000,000 pounds, and multiplying the dividend by a Tier 11 fee.
- (2) Plants not receiving milk or cream. Every dairy products plant or trade products plant that does not receive primarily milk or cream for manufacturing, processing, or packaging of its products shall pay an annual license fee based on the plant’s output of dairy and trade products during the previous calendar year (January 1 – December 31). The fee shall be determined under T.C.A. § 43-1-703(f) according to the following schedule.
 - (a) Up to 10,000 pounds of product manufactured, processed, or packaged: Tier 5 fee.
 - (b) 10,001 to 1,000,000 pounds of product manufactured, processed, or packaged: Tier 10 fee.
 - (c) 1,000,001 to 30,000,000 pounds of product manufactured, processed, or packaged: Tier 11 fee.
 - (d) More than 30,000,000 pounds of product manufactured, processed, or packaged: the license fee shall be determined by dividing the total pounds of product manufactured, processed, or packaged by 30,000,000 pounds, and multiplying the dividend by a Tier 11 fee.

(Rule 0080-03-08-.01, continued)

- (3) For any applicant who was not in business for the full duration of the previous calendar year (January 1 – December 31), the annual license fee shall be determined under the appropriate schedule based on the plant's expected operating period, milk and cream receipts, and dairy and trade product outputs during the licensure year for which application is made.
- (4) An applicant for licensure under this rule shall remit its application and annual license fee to the department on or before July 1 of each year. Any license issued under this rule shall expire on June 30 following its issuance. If an applicant for renewal fails to pay the annual license fee by the following July 16, the applicant shall also be required to pay a late charge under T.C.A. § 43-1-703 prior to renewal of the applicant's license.

Authority: T.C.A. §§ 4-3-203, 43-1-703, and 53-3-106. **Administrative History.** Original rule filed March 24, 2016; effective June 22, 2016. Amendments filed March 30, 2017; effective June 28, 2017.

0080-03-08-.02 FROZEN DESSERT MANUFACTURERS.

For purposes of this rule, the definition of "mix" as defined under 0080-03-01-.01 shall apply.

- (1) Every frozen dessert manufacturer shall pay an annual license fee based on the manufacturer's period of operation and volume of mix used during the previous calendar year (January 1 – December 31). The fee shall be determined under T.C.A. § 43-1-703(f) according to the following schedule.
 - (a) Up to 5,000 gallons of mix used and manufacturer operated less than six months: Tier 5 fee.
 - (b) Up to 5,000 gallons of mix used and manufacturer operated six months or more: Tier 9 fee.
 - (c) 5,001 to 100,000 gallons of mix used: Tier 10 fee.
 - (d) 100,001 to 1,650,000 gallons of mix used: Tier 11 fee.
 - (e) More than 1,650,000 gallons of mix used: the license fee shall be determined by dividing the volume of mix used by 1,650,000 gallons, and multiplying the dividend by a Tier 11 fee.
- (2) For any applicant who was not in business for the full duration of the previous calendar year (January 1 – December 31), the annual license fee shall be determined under the appropriate schedule based on the manufacturer's expected operating period and mix usage during the licensure year for which application is made.
- (3) An applicant for licensure under this rule shall remit its application and annual license fee to the department on or before July 1 of each year. Any license issued under this rule shall expire on June 30 following its issuance. If an applicant for renewal fails to pay the annual license fee by the following July 16, the applicant shall also be required to pay a late charge under T.C.A. § 43-1-703 prior to renewal of the applicant's license.

Authority: T.C.A. §§ 4-3-203, 43-1-703, and 53-3-106. **Administrative History.** Original rule filed March 24, 2016; effective June 22, 2016. Amendments filed March 30, 2017; effective June 28, 2017.

0080-03-08-.03 DISTRIBUTORS.

- (1) The fee for a distributor's license shall be a Tier 1 annual license fee under T.C.A. § 43-1-703(f) for each truck the distributor uses in the distribution of dairy products, trade products, or frozen desserts.
- (2) An applicant for licensure under this rule shall remit its application and annual license fee to the department on or before July 1 of each year. Any license issued under this rule shall expire on June 30 following its issuance. If an applicant for renewal fails to pay the annual license fee by the following July 16, the applicant shall also be required to pay a late charge under T.C.A. § 43-1-703 prior to renewal of the applicant's license.

Authority: T.C.A. §§ 4-3-203, 43-1-703, and 53-3-106. **Administrative History.** Original rule filed March 24, 2016; effective June 22, 2016.

0080-03-08-.04 SAMPLERS AND TESTERS.

- (1) The fee for a samplers license is a Tier 1 annual fee under T.C.A. § 43-1-703(f). However, no license fee shall be required for the license of a sampler employed exclusively by a licensed dairy products plant, trade products plant, or frozen dessert manufacturer.
- (2) The fee for a milk testers license is a Tier 2 annual fee under T.C.A. § 43-1-703(f). However, no license fee shall be required for the license of a tester employed exclusively by a licensed dairy products plant, trade products plant, or frozen dessert manufacturer.
- (3) An applicant for licensure under this rule shall remit its application and annual license fee to the department on or before July 1 of each year. Any license issued under this rule shall expire on June 30 following its issuance. If an applicant for renewal fails to pay the annual license fee by the following July 16, the applicant shall also be required to pay a late charge under T.C.A. § 43-1-703 prior to renewal of the applicant's license.

Authority: T.C.A. §§ 4-3-203, 43-1-703, and 53-3-105. **Administrative History.** Original rule filed March 24, 2016; effective June 22, 2016.