



Milk SA - Dairy Regulations & Standards 2022

(PRJ-0316-2022)

Dairy Standard Agency

Year 2022/2022 (January 2022 till December 2022)

Project goals

Goal 1 - Deliberation of industry regulations relating to food safety, product composition, metrological and related standards as well as voluntary industry related standards e.g. animal welfare and related matters

Achievements

The regulatory landscape relating to milk and other dairy products is of multi-dimensional nature and involves regulations relating to product composition, food safety, animal health and welfare, animal feed, milking parlours, and the transportation of milk, processing plants, storage and related matters such as environmental management and export requirements. On all platforms, where possible, matters of collective interest to the dairy industry and which related to the above, the Regulation and Standards Project actively participated in and reported back to Milk SA.

No Non-achievements / underperformance has been reported

Goal 2 - Liaison with industry and statutory bodies in terms of draft, promulgated and repealed legislation and effective communication through the Milk SA organisational structures

Achievements

The following matters received priority attention during 2022:

1. DEPARTMENT OF HEALTH – FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT

1.1 Front-of-pack nutrition labelling and the draft Regulations relating to the Labelling and Advertising of Foodstuffs

Front-of-pack nutritional labelling (FOPNL) refers to a nutrition labelling system that is presented on the front of food packages with the aim of supporting consumers to make healthier food choices at the point of purchase by delivering simplified and at-a-glance nutritional information.

Previously falling under the Directorate Food Control of the Department of Health (DoH), front of pack labelling is now administrated under the Directorate Nutrition of the same department, which proposes a warning sign on the front of processed food packaging, that warns the consumer if the product is high in fat, salt and/or sugar. These are the nutrients that are associated with increased health risks. The

revision of the R146 of 2010 resulted in draft regulations designed by DoH of which the final draft was expected during 2022. The draft is expected early 2023.

In principle the organised dairy industry has no reason not to support the overarching goal of improving the health of South Africans, subject to an objective scientific based approach on FOPNL and provided that any developed FOPNL warning system by DoH will not harm the undisputable contribution of the nutritional value of milk and other dairy products as part of an overall healthy lifestyle.

In the participation process, the Regulations and Standards Project and Consumer Education Project of Milk SA collaborated with the CGCSA, with the aim to support a unified approach on FOPNL to assist companies to provide consumers with accurate, transparent, and holistic nutrition information, based on sound science. The collaboration by the Regulations and Standards Project and Consumer Education Project of Milk SA took place through a working group referred to as the Milk SA Task Team, which aims to strengthen the position of the dairy industry, with specific reference to the unique nutritional composition of dairy.

The Milk SA Task Team was supported by a team of experts to formulate the scientific arguments for a submission to DoH under the umbrella of the Regulations and Standards Project of Milk SA. The intention of the task team is to develop an evidence-based submission so that the DoH would:

consider excluding lactose as intrinsic sugar in dairy products in the calculation of total sugars for the purpose of FOPNL;

to consider an argument for dairy fats in FOPNL, taking into account emerging research results on the health benefits of dairy towards cardiovascular disease and the overall lowering of risks of non-communicable diseases; and

to propose reasonable cut-off values for intrinsic sugars and saturated fats for consideration by the DoH.

The framework for the development of a submission to the DoH was completed by the Milk SA Task Team and the final document will be submitted once the formal draft regulation has been published in 2023.

1.2 Matters relating to R1555 of November 1997, Regulations relating to milk and dairy products under the Foodstuffs, Cosmetics and Disinfectants Act.

A document on "Proposed Microbiological Criteria for Revision" was completed with the assistance of a Milk SA Technical Workgroup (TWG) which firstly dealt with scientific issues followed all the other restrictive issues and prohibitions in the draft regulation. In support of the dairy food safety standards in the latest proposed draft, consensus was achieved for a scientifically driven guideline document for the purpose of interpretation of proposed standards. The work of this project has been delayed due to the amount of time vested in amongst other related regulatory activities including the proposed draft regulation relating to dairy and imitation dairy products under the Agricultural Product Standards Act and will continue in 2023.

2. DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT - AGRICULTURAL PRODUCTS STANDARD ACT

2.1 Review of dairy and imitation dairy product regulations

The Regulation and Standards Project of Milk SA continued to liaise with industry through the Milk SA established Technical Workgroup (TWG). The first meeting was held in March 2022 and a draft proposal was forwarded to industry end of April 2022 for comments.

The Milk SA TWG convened during the second quarter following which another proposal was compiled as well as comments on the first draft and circulated for comments in July 2022. Comments were collated by the Milk SA Technical Workgroup and a second draft was circulated to industry for comment with the closing date 21 October 2022. The information was collated for the purpose of discussion by the TWG which convened, and a scheduled meeting took place with DALRRD, Directorate Food safety and Quality during December 2022 to present and resolve principal issues presented in the proposed draft. Work on the proposed draft is to continue during 2023.

2.2 Matters relating the Border Management Authority Act, 2020

The Border Management Authority Act of 2020 was communicated to the members of the Regulations and Standards Committee noting that the Border Management Authority (BMA) was intended to take charge in the border control area, which effectively meant that it would replace the roles of the Departments of Health and Department of Agriculture, Land Reform and Rural Development and the South African Revenue Service at imports and exports. Monitoring continued during the fourth quarter of 2022 with specific reference to border control and services to be rendered by the Directorate: Inspection Services under the Agricultural Product Standards Act. It is expected that once the 2022/2023 National Budget has been approved, that the role out of the processes will be implemented.

It was noted that the Border Management Authority is an organ of state and that competencies and funding would be drawn from the current departments to assist in putting this authority together; and that the industry would be informed once there was more information.

2.3. Draft regulations relating to the protection of geographical indications (GIs) used on agricultural products intended for sale in the Republic of South Africa

A Department of Agriculture, Land Reform and Rural Development (DALRRD) meeting was held on 7 June 2022 to discuss the third draft amendment regulations for geographical indications (GIs) together with the industry members. During the meeting it was resolved that several regulations in the third draft amendment document will be revisited by the DALRRD. The fourth draft amendment regulations for GIs and designation of origin was circulated for comments and it is expected that the regulation will be published in 2023.

3. DALRRD AND THE APPOINTED ASSIGNEE: NEJAHMOGUL TECHNOLOGIES AND AGRIC SERVICES

The management committee of the Regulation and Standards Project of Milk SA regularly consulted with the Milk SA attorney, regarding the situation of the assignee being in business rescue, the change of business rescue practitioner during 2021 without notification to Milk SA as affected party and the order to pay legal costs as per the ruling of Judge Swanepoel during the high court case of 22 February 2021.

The notice relating to the revocation of the Nejahmogul as appointed assignee, as published in the Government Gazette was circulated to industry. A formal meeting was scheduled with DALRRD, Directorates Food Safety and Quality Assurance, Inspection Services as well the office of the Executive Officer in December 2022. The meeting was meaningful in the sense that proper communication channels were established through which the DSA will in future correspond test results to designated persons in DALRRD Directorate Inspection Services to render inspection services where remedial action on non-conformances in terms of the Act and regulations are required.

With the disappearance of the assignee's business rescue practitioner the Regulation and Standards Project of Milk SA regularly consulted with the Milk SA attorney, regarding the order to pay legal costs as per the ruling of Judge Swanepoel during the high court case of 22 February 2021. The matter was taken under review with the decision the hold the DALRRD responsible for payment of legal costs to Milk SA and Woodlands Dairy. The matter is to be further pursued in 2023.

4. INCREASE IN HEALTH PROMOTION LEVIES (NATIONAL BUDGET 2022)

In the National Budget of 2022 on page 50 under Table 4.7, titled "Increase in health promotion levy", which stated that "the health promotion levy for beverages with more than 4g of sugar content per 100ml were increased from 2.21c/g to 2.31c/g from 1 April 2022". Consultations were also initiated to consider lowering the 4g threshold and extending the levy to fruit juices. This implied that fruit juices, previously exempted would be affected and that clarity was needed, clarity on whether the dispensation on the issue of tariff codes still stood, or how would it be addressed in terms of dairy. In terms of the industry objections raised, a media statement was issued by SARS, stating that the idea of addressing the health promotion levy on sugar would stand over for consultation until 1 April 2023.

5. AGRICULTURAL PRODUCT STANDARDS AMENDMENT BILL

The Bill upon which comments were rendered since 2016 was taken under review. Response was awaited from DALRRD following industry comments rendered to the Portfolio Committee on Agriculture, Land Reform and Rural Development following a submission that was made by Milk SA in conjunction with the Consumer Council of SA on 29 September 2022. Approval of the Bill is expected in 2023.

6. FORMAL ACTION AGAINST THE DALRRD IN FAILURE TO EXECUTE THE AGRICULTURAL PRODUCT STANDARDS ACT

The failure by the executive officer (EO) of the Agricultural product Standards Act (APS) to take appropriate legal action against the misuse of the name “plant butter” as well as allowing the contravention to continue in terms of the section 6 of the APS resulted in action by Milk SA. This action includes the right of Milk SA to proceed with legal action against the executive officer of the DALRRD.

The response of the executive officer was noted and follow up action is to be considered according to the failure to uphold subsequent commitments by the EO. Actions were prepared to continue in the first quarter of 2023.

7. FORMAL OPPOSITION BY MILK SA AGAINST SIQALO FOODS USING PLANT BUTTER TRADE NAMES IN CONTRADICTING WITH THE APS ACT

The Regulation and Standards Project of Milk SA formally objected to the applications for trade mark registrations upon which the manufacturer indicated that it would appeal. The tribunal of the Registrar of Trade Marks of RSA in terms of the Trade Marks Act of 1993, in the matter relating to Trade Mark Application No. 2020/271321 FLORA PLANT BUTTER in class 29, between MILK SOUTH AFRICA NPC (Opponent) and SIQALO FOODS (PTY) LTD (Respondent and Trade Mark Applicant) will continue in 2023.

8. SABS AND AFRICAN ORGANIZATION FOR STANDARDIZATION

The project manager attended the relevant meetings of the SABS and fulfilled the role as SABS representative at the African Standards Organisation on the Standing Committee for Milk and Dairy products.

The African Organization for Standardization's (ARSO) ambition is to have a minimum of 75 different standards for dairy products developed for the African continent in support of its strategic objective, which is to harmonize trade in Africa in the next four years. Three workgroups for milk and milk products (TC 05) exist that meets monthly as well as one plenary session during which progress is discussed. The Milk SA project manager with the assistance of a contracted expert attended the monthly meetings and also convened workgroup one, making contributions to the development of the standards.

9. OTHER

The review of the VPN 20 (Veterinary procedure for the registration of a veterinary approved dairy establishment for export) was finalised during 2021 and submitted to DALRRD: Veterinary Services for comment. No feedback has been received from the department and it was followed up during 2023.

All IDF documents relating to the disciplines of standards on identity and labelling as well as animal welfare and hygiene as applicable to the mandate of the Dairy Standard Agency and the Regulations and Standards Project were reviewed and communicated to the organised dairy industry. Requests from IDF for comments on Codex related matters e.g., general standards for food additives, front-of-pack labelling were attended and where applicable, shared with the Codex Contact Point in South Africa (DoH). The DSA managing director has been nominated as the technical secretariat/convenor of SANCIDF as replacement of Dr Jan Floor who has retired.

No Non-achievements / underperformance has been reported

Goal 3 - Liaison and consultation on an internal and external basis and comment within specified time frames via Milk SA organisational structures

Achievements

The Project Effective communicated on regulations and standards and aspects relating to the enforcement thereof , that the dairy industry is required to be fully conversant of current and proposed changes to legislation and voluntary standards on a continual basis. To assist in this regard, the activities of the project were executed according to its Project Plan which is subject to review on an annual basis. The project management of the Regulations and Standards Project (R&D) of Milk SA regularly consulted during the report year with the organised dairy industry and other stakeholders with specific reference to the following:

Interaction on a regular basis with the project managers of the Milk SA's Consumer Education Project (CEP), South African Milk Processors' Organization (SAMPRO), Milk Producers Organisation(MPO) as well as the Project Coordinating Committee of Milk SA (DSA, CEP and Dairy Research and Development Committee (DRDC) of Milk SA).

As member of the DRDC and management committee, meetings were regularly attended, and subsequent contributions were made towards regulatory matters regarding sustainability with specific reference to environmental management and animal welfare.

Joint interaction on International Dairy Federation (IDF) matters, as well as with the Consumer Goods Council of South Africa (CGCSA) continued to ensure comprehensive reports, based on science to the respective regulatory bodies.

No Non-achievements / underperformance has been reported

Goal 4 - Report to industry via Milk SA structures

Achievements

The project manager regularly commucated trough structures of Milk SA including submissions of quaterly reports as per contractual agreement.

No Non-achievements / underperformance has been reported

Income and expenditure statement

Income and expenditure statement	PRJ-0316 Dec 2022.pdf
Unnecessary spending during period	No

Popular Report

[R&S Project Popular Annual report 2022.pdf](#)

Additional documentation

No file has been uploaded

Statement

Levy funds were applied only for the purposes stated in the contract	Yes
Levy funds were applied in an appropriate and accountable manner	Yes
Sufficient management and internal control systems were in place to adequately control the project and accurately account for the project expenditure	Yes
The information provided in the report is correct	Yes