

Artisan Dairy Herdshares Regulation

Clauses of the Proposed Regulation	Notes and Comments
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<p>Definitions</p> <p>1 In this regulation</p> <p>“Act” means the Milk Industry Act;</p>	<p>An alternative would be to pass a governing regulation under the Natural Products Marketing Act, establishing an independent herdsharing commission and standards under supervision of the Farm Industry Review Board.</p>
<p>“agister” means a person hired by livestock owners to perform services related to the care and management of their animals;</p> <p>“agistment” refers to the care of livestock on behalf of the owners of those animals;</p> <p>“agistment agreement” refers to a written contractual relationship between a livestock owner and an agister;</p> <p>“herdshare” refers to an arrangement involving fractional ownership of livestock by multiple owners and includes cowshares, goatshares, and sheepshares.</p>	<p>Standard terminology in the herdshare agricultural sector</p>
<p>“inspector” means any inspector under the Act;</p>	<p>A dairy inspector employed by the Ministry of Agriculture and appointed under the Milk Industry Act</p>
<p>“livestock owner group” and “livestock owners” mean the members of a herdshare, collectively.</p>	<p>Standard terminology in the herdshare agricultural sector</p>

<p>Application of regulation</p> <p>2 (1) This regulation applies to all herdshares within the Province of British Columbia.</p> <p>(2) This regulation does not apply to livestock kept for the personal and family use of farm occupants or employees.</p>	<p>Retains the B.C. Milk Marketing Board’s personal use exemption policy.</p> <p>This personal use exemption is also currently allowing unpasteurized milk from commercial farms to be distributed – without prosecution – to family and friends of owners and employees of those farms.</p>
<p>(3) Farms certified under this Regulation are exempted from the <u>Milk Industry Standards Regulation</u> and the <u>British Columbia Milk Marketing Board Regulation</u>.</p>	<p>Milk from herdshares is not being produced for sale and does not go to the general public. There is no law stating that a licence is necessary by any citizen for the purchase of livestock.</p> <p>It is not appropriate for individual private livestock ownership to be supply-managed.</p>
<p>Herdshare agreements</p> <p>3 (1) Herdshare agreements must include evidence of legally valid and enforceable transfer of title, providing the purchaser with fractional ownership in an individual animal or in the herd.</p>	<p>In <u>R. v. Schmidt, 2011 ONCJ482</u> (paragraphs 51 to 54), Justice Tetley outlined requirements for legal herdshares. This clause includes these elements.</p>
<p>(2) Livestock owners may organize as a cooperative, society, partnership, trust, or similar legal structure for purposes such as joint ownership of livestock and decision-making.</p>	<p>Respects freedom of association under the <i>Charter of Rights and Freedoms</i>.</p>
<p>(3) Documentation provided to prospective livestock purchasers shall include:</p> <ul style="list-style-type: none"> (a) bill of sale and agistment agreement; (b) current inventory of livestock, estimated total replacement value, and production figures of the herd; and (c) maximum number of fractional ownership units that products will be divided between. 	<p>Standard consumer protection clauses - all livestock buyers require this information. (For an example of other consumer protection law, see Section 19 of the <u>Business Practices and Consumer Protection Act</u>.)</p>

Ownership of products from livestock

4 (1) Livestock owners are entitled to the products which are produced by their livestock and to make decisions regarding distribution of these products among members or as partial payment to the agister for his or her services.

2) Products produced by the herd are the property of the livestock owners and are not being purchased or sold.

(3) Livestock owners may contract for delivery and processing services.

Illustrates a difference between “raw milk sales” and ownership of the animals. Products from livestock are the personal property of the animals’ owners.

It is not practical for all livestock owners to drive out to the farm, nor should a law discriminate against people who are limited by available transportation options or disability.

This clause also recognizes that owners have the right to privately contract services for their personal property.

Registration with the Ministry of Agriculture, pursuant to Section 4 of the [Milk Industry Act](#).

Certification of herdshare farms

5 (1) In accordance with section 4 of the Act, upon proof of compliance with this regulation an inspector may issue a certificate setting out that the farm is approved for the purpose of providing agistment services to a livestock owner group.

The government has stated that in order for herdshares to be legalized, it is necessary to have some type of certification or registration process. Licensing is not appropriate as no person or group currently requires a licence to buy a cow.

This is similar to the [herdshare registration process in Idaho](#).

(2) Certification requirements shall include:

- (a) successful completion of the Raw Milk Institute’s Risk Analysis and Management Planning on-farm food safety training program or equivalent program;
- (b) successful completion of FOODSAFE Level 1 or its equivalent; and
- (c) three consecutive milk sample test results that meet the standards detailed in section 7.

The Ministry of Health stated that training and certification of agisters in food safety will be mandatory.

(3) The application form shall include:

- (a) name, mailing address, phone number, and email address of the agister;
- (b) physical address of the farm where the herd is currently located;
- (c) current livestock type and number of animals being milked;

Similar to raw milk farm registrations in several U.S. states and in the U.K.

- (d) certificate or equivalent showing that the agister has successfully completed an on-farm food safety training program specific to the production of raw milk for direct consumption as per 5(2)(a);

The Ministry of Health stated that training and certification of agisters in food safety will be mandatory.

Note that the Minister can designate alternatives to RAWMI training, once such alternatives exist.

- (e) on-farm food safety plans including a risk analysis and management plan (RAMP) and standard sanitary operating procedures (SSOP) as per section 6(1);

The Ministry of Health stated that on-farm food safety plans will be mandatory.

- (f) foodborne disease outbreak response plan as per section 8(1); and

See Section 8.

- (g) milk sample test results or veterinarian's certificate showing that the herd is free of Tuberculosis and Brucellosis.

Similar to raw milk farm registrations in other states.

[MB Laboratories](#) in Sidney B.C. will test milk for these pathogens. Contact them for details.

Food safety

6 (1) Each registered herdshare shall have on-farm food safety plans which include standard sanitary operating procedures (SSOP) and a risk analysis and management plan (RAMP).

(2) Milk must be cooled as follows:

(a) if raw milk is placed into jars or into a milk cooling tank, the milk must be cooled to

(i) 10°C or less within one hour of commencing milking, and

(ii) above 0°C and below 4°C within 2 hours of completing milking;

(b) if raw milk is placed into a milk cooling tank that contains milk from a previous milking, the temperature of the combined milk must be:

(i) 10°C or less at the time the raw milk is combined, and

(ii) reduced to above 0°C and below 4°C within one hour of completing milking.

(3) After milk is cooled in accordance with section 2, the milk must be maintained at a temperature above 0°C and below 4°C until picked up.

(4) A herdshare must ensure that livestock owners are aware of food safety procedures for consumer transport, storage, and handling of products.

Parallel to sections 55.2 of the [Milk Industry Standards Regulation](#):

Bacterial testing standards

7 (1) Milk for direct consumption shall be tested a minimum of once a month at a government-approved laboratory.

2) Tests shall include total coliforms, standard plate count, *Salmonella* spp., *E. coli* 0157:H7, *Campylobacter* spp., and *Listeria monocytogenes*.

Washington State mandates monthly pathogen testing on raw milk samples. Note that coliform testing cannot detect non-coliforms such as *Campylobacter* (which caused 72% of all raw milk outbreaks in the U.S. from 2006-2015).

<p>(3) Milk must meet the following microbiological standards:</p> <p>Standard plate count: < 15,000 cfu per ml Total coliforms: < 10 cfu per ml</p>	<p>Same standards as Vermont and California. Of 18 U.S. states with bacterial standards, 13 have Total Coliforms <10. SPC <15,000 is the same as RAWMI Common Standards. See also http://bcherdshare.org/information/testing-standards/ for examples.</p>
<p>(4) Somatic cell count shall not exceed:</p> <p>(a) for milk from cows and water buffalo: 400,000 per ml (b) for milk from goats and sheep: 1,500,000 per ml</p>	<p>See Milk Industry Standards Regulation section 112.1</p>
<p>(5) Test results shall be provided to livestock owners.</p>	<p>Consumers can make informed decisions regarding product consumption.</p>
<p>(6) The Ministry may set standards regarding data collection procedures and public reporting of test results.</p>	<p>Standard clause.</p>
<p>(7) A boil-milk notice will be issued when a milk sample tests positive for pathogens and will remain in effect until the milk tests negative and the agister has identified and successfully addressed the cause of contamination.</p>	<p>Presented as one option for consideration.</p>
<p>Product recall and outbreak response</p> <p>8 (1) Herdshares shall create response plans detailing procedures for alerting livestock owners about product recalls and boil-milk notices.</p>	<p>WA State and South Carolina require raw milk farms to have recall plans.</p>
<p>(2) A foodborne disease outbreak which has been reported under section 10 of the Public Health Act falls under the jurisdiction of that Act.</p>	<p>This clause clarifies that outbreaks are reportable, but unlike the current situation, simply operating a herdshare is not a reportable offence.</p>