




**MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND
CO-OPERATIVES**

**IN THE MATTER OF THE *PROPOSED DAIRY INDUSTRY
REGULATIONS, 2020***

**IN THE MATTER OF SECTION 7(4) OF THE STATUTORY
INSTRUMENTS ACT, NO. 23 OF 2013**

CERTIFICATE OF COMPLIANCE

NOVEMBER, 2020

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 MAR 2021	
DAY: Tuesday	
TABLED BY:	LDM Hon. Amos Kimunya
CLERK-AT THE-TABLE:	Moses Lemana

Certificate of Compliance
(s. 7(4) of the Statutory Instruments Act)

The Ministry of Agriculture, Livestock, Fisheries and Irrigation, in accordance with section 6 of the Statutory Instruments Act, No. 23 of 2013, has undertaken an independent comprehensive regulatory impact assessment of the proposed *Dairy Industry Regulations, 2020*, that is to say:

1. Dairy Industry (Registration, Licensing, Cess and Levy) Regulations, 2020;
2. Dairy Industry (Returns, Reports & Estimates) Regulations, 2020;
3. Dairy Industry (Compliance Officer) Regulations, 2020;
4. Dairy Industry (Traceability and Recall) Regulations, 2020;
5. Dairy Industry (Milk Sale Contract) Regulations, 2020;
6. Dairy Industry (Pricing of Milk) Regulations, 2020;
7. Dairy Industry (Imports and Exports) Regulations, 2020; and
8. Dairy Industry (Dairy Produce Safety) Regulations, 2020.

In accordance with section 7(4) of the Statutory Instruments Act, I certify, in respect of each of the Regulations listed above, –

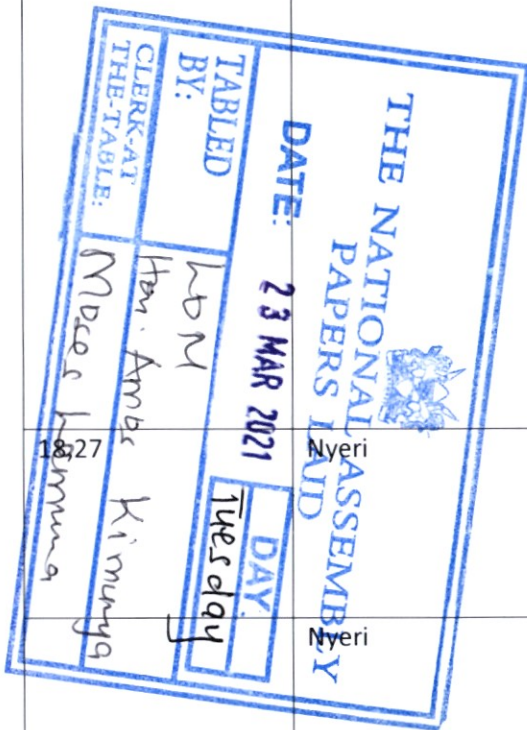
- a) that the requirements relating to regulatory impact statements as provided in the Statutory Instruments Act and the guidelines have been complied with; and
- b) that in my opinion, the regulatory impact statement prepared for each of the listed regulations adequately assesses the likely impact of the proposed Regulations

Dated this day of2020.


.....
Hon. Peter G. Munya, EGH
CABINET SECRETARY, MINISTRY OF AGRICULTURE, LIVESTOCK,
FISHERIES AND CO-OPERATIVES

COMMENTS AND SUBMISSIONS BY STAKEHOLDERS ON DAIRY REGULATIONS 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Nyeri	Can the method of collecting the Consumer Safety Levy be clarified further for stakeholders to understand how it will be operationalized?	Surveys conducted indicate that most of the milk sold to consumers is through the informal market, and hence the method of collecting levy only from actors in the formal market will be unfair to only a segment of actors and not all the consumers entirely.	<ol style="list-style-type: none"> The manner of collecting the consumer safety levy is clarified under Regulation 37 of the Dairy Industry (Registration, Licensing, Cess and Levy) Regulation. The regulations aim at ensuring that all milk marketing channels meet consumer safety requirements for issuance of a regulatory permit. <p>1. DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS2020.docx</p> <p>Recovery and remittance of consumer safety levy.PNG</p>
	Nyeri	Licensing and issuing of regulatory permits to processors will result to double taxation or licensing.	County Government will issue processors with Licenses and the Board will charge the same processors with a regulatory permit.	Licensing and Regulatory permits are different. Whereas licensing is a way of registering a business, regulatory permit is meant to ensure consumer safety.
	Nyeri	Dairy producers may not meet all the requirements in this regulation and hence will affect the volume of milk produced in the country		Not all regulations apply to the dairy producers. Implementation of these regulations will be supported by an extensive capacity building programs.
	Nyeri	Cancellation of licenses should take into consideration of the magnitude of the impact of cancellation considering that some action may have resulted from one or two officials and	Penalize the leaders instead rather than withdraw licenses	Reasons for cancelling a license are variant. If it is for safety reasons then the license may be cancelled to prevent harm to the consumers. Licenses may also be cancelled if the licensee has failed to pay for produce delivered to them.



1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

		hence affect all the producers who are members of the cooperative or self-help group.		
Form F	Marsabit	There is need for categorization of the various license fees and payment structures in this regulation to accommodate the capacities of various actors.	License fees charged by the county, especially in cooling plants fee are weighty on the small-scale traders and producers at the county level. County operators and producers cannot operate without cooling plants and hence	The various license fees have been structured in accordance with their capacities. Categorization of licenses and permits.PNG
18,24	Marsabit	The fees set aside for the regulatory permit of processors at 25,000 and 50,000; will it be collected by the Board or the County Government.	If collected by the board then it will be double licensing as the same operator will be licensed by the county.	The Regulatory Permit will be issued by the Board.
37 (1)	Meru	Revise/review the rate of consumer safety levy	There are so many levies and fees charged on the producers and dairy business operators both by the national and the county government and the imposition of this levy will be an extra burden.	The proposed rate of levy has been calculated and found to be commensurate with the cost involved in ensuring compliance and consumer safety. The proposed charge was arrived at after benchmarking with similar charges in other dairy industries across the world.
8(2)	Meru	What mechanism will be put in place as regards the registration of the producers at the county level, so as to capture all the		The Board will develop an intergraded ICT system that will enable all players including producers to easily and cost effectively submit information to the County Regn of primary producers.PNG

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

		farmers' details as required by the regulations.		
9(2)	Meru	How will the farmers who are in cooperatives or self-help groups be registered, especially in the umbrella of cooperatives as is common in Meru County.		The dairy cooperatives will play a major role in registration of milk producers. Regn of producers through coops.PNG
37(1)(2)	Meru	Consumer safety levy is too high and should not be heaped to the consumer. How will the informal market consumers pay consumer safety levy?	Its operationalization should be explained knowing that hawking takes a great chunk of the market and is also supporting consumers. It is unfair for only consumers in the formal chain to pay consumer safety levy and leave out consumers of the informal market.	The proposed rate of levy has been calculated and found to be commensurate with the cost involved in ensuring compliance and consumer safety. The proposed charge was arrived at after benchmarking with similar charges in other dairy industries across the world. All dairy business operators shall be required to comply milk quality and safety requirements. Informal milk marketers who wish to continue trading milk shall be required to transform and meet the requirements for them to be recognized as dairy operators.
21(1)(2)	Meru	Will cess be charged uniformly across the counties? There will be need to standardize the cess charged across counties to avoid exploitation by the counties.	Standard cess will reduce exploitation by county governments	The setting of fees or charges by County government is stipulated in the constitution and cannot be directed by the National government. However, the proposed regulations allow stakeholder consultation between the County government and their stakeholders. Payment of cess shall be at the devolved level of government and therefore will be determined by the individual County government.
21(1)(2)	Meru	Do not expose primary producers to the county	Charging cess on the producers by the county government will expose	The setting of fees or charges by County government is stipulated in the constitution and cannot be

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

		governments as this will reduce or affect their operations through cess charging. 10 cents of the cess to go to the County Government and the remaining 10 cents to go to the Board.	harassment to the farmers. There should be a cessing formula agreed upon to facilitate development in the county just like the tea cess.	directed by the National government. However, the proposed regulations allow stakeholder consultation between the County government and their stakeholders. Payment of cess shall be at the devolved level of government and therefore will be determined by the individual County government.
21(1)	Meru	Remove “may impose” on the requirements of the county government to charge cess.		May is appropriate as it gives an option to charge or not to charge
Form F	Meru	License fee for cooling plants should be dropped in the current regulation	This will support the development of cooling plants in the county and discourage investments in cooling which has become the requirement for managing hygiene.	The fees charged on cooling plant has been set at low levels as not to discourage such investments Cooling plant permit fees.PNG
	Meru	Do not allow the County Government to manage aspects of regulating the dairy industry as it will be oppressive to the farmers and traders.		The role of the County government is stipulated in schedule 4 of constitution. However, counties shall operate under guidance polices and standards set at the National level. Further continuous capacity building will be conducted by the Board to counties.
2	Garissa	Redefine cottage industry to handle up to 1,000 litres of milk per day	Promote investment and sustainability of decentralized milk processing units	Increasing the volumes to 1000 for cottage industry will lockout many actors under this category who deal with low volumes.
37(1)	Makueni	Revise the rate of consumer safety levy from 1% to a flat rate of 40 cents per litre	Minimize add-on effects to the consumer price of milk and milk products	The proposed rate of levy has been calculated and found to be commensurate with the cost involved in ensuring compliance and consumer safety. The proposed charge was arrived at after benchmarking

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

				with similar charges in other dairy industries across the world The change from 40cents to a percentage is meant to avoid erosion over time due to inflation.
21(1)(2)	Makueni	(1) Remove the cess and levy payable to county governments (2) Commit cess and levy for service provision in the dairy industry	Ceiling is not provided and this may increase the costs of operation by primary producers and dairy business operators	1. Cess and levy are meant to support service delivery in the dairy industry. 2. To ensure uniformity across counties and avoid over burdening of primary producers the cess payable has been set to not more than 0.5 per cent of farm gate price. Cess by county 1.PNG
8(2)	Makueni	Provide for online registration of primary producers	Improve ease of registration	This has been provided for in regulation 8(2) of the Regulation electronic registration.PNG
Form F	Mombasa	Reconsider the need for regulatory permit as licensing is provided	Increased cost of compliance for certain categories of dairy business operators	Licensing is a Premise license issued by the County government whereas the regulatory permit issued by the Board is a food safety requirement whose aim is to ensure compliance to quality and safety requirements and shall be free for County based dairy operators.
21,37	Mombasa	(a) Expunge cess and levy payment to the county (b) Require cess and levy to be used for dairy development	Imbalances on cost of production between counties who cess and those who do not	Cess and levy are meant to support service delivery in the dairy industry.

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

			The ceiling is not set and may lead to higher costs of production	
Form F	Kakamega	Bring all licenses under KDB to avoid lots of regulators and duplicity of licenses (Harmonization of licenses) Dairy licenses are many, is it possible that they are reduced? Cess, permits, processors levy, county licenses, PHO requirements etc.		Whereas Consumer protection is a National function and attract levies payable to the Board; trade licenses is a function of the County government and license fees are payable to counties
21(1), 37(1)	Kakamega	Is the trader remitting from the consumer or is the trader also to pay the levy	-	The levy is paid once by the dairy business operator on behalf of the producers in the case of cess and consumer in the case of levy Cess by County govts.PNG Consumer safety levy.PNG
8	Kisumu	Double levy resulting from registration by Board and County Government		Registration will be done once by the County government and its free; therefore there is no double registration.
16 (a)	Kisumu	The use of the word "valid" presupposes that the certificate can be invalidated thus delete the word		The word valid is correctly used because it denotes that the certificate is in force and primary producer has not violated any part of the regulation
18(1)	Kisumu	The trade license to be issued by the County Government to		A dairy business license will be issued by the County Executive Committee Member

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

		be the single business permit for ease of doing business		responsible for dairy matters before engaging in any dairy produce business or operation.
37 (1)	Kisumu	What is the difference between what was passed in parliament 0.2% and 1% per centum		0.2% which was passed by National Assembly is currently being debated in Senate where there is a proposed amendment to reinstate the rate to 1%. However the figure that will be agreed by the Senate and the National Assembly will take precedence.
37(1)	Kisumu	At what level does consumer pay	Matter clarified as provided by in regulation 37 (1)	The Dairy business operator will deduct the consumer levy and pass on the same to the consumer. Consumer safety levy.PNG
2	Kisii	Define the term “process” to bring out the exact meaning of process. To avoid any ambiguity in executing the law		This has been defined in the Regulation to remove any perceived ambiguity Defn of process.PNG
21 (1)(2)	Kisii	A county should charge cess on produce coming into the county so as to protect the producers of the consuming county		The Constitution presupposes that Kenya exists as a single economic unit and thus multiple charges goes against Article 191, 2(a) (b), 3(c)(ii,iii,iv), Conflict of laws.PNG
12	Kisii	Let the regulation be clear on how county will determine the conditions for certificate. It will open window of taxing or		The Regulation has specified that the registration shall be free and one off.

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

		charging primary producers for registration		
	Kisii	Penalty for offence for failure to register – The officer issuing certificate should also pay penalty for fraudulent acquisition of primary producer license. To ensure county officers registering primary producers also take responsibility of offences committed		The penalty for misconduct of Compliance Officer is catered for by Regulation 18 of the Dairy Industry (Compliance Officers) Regulation. Offence by Compliance Officer.PNG
9(2)	Bomet	<ul style="list-style-type: none"> - Cooperatives to do the registration. Most primary producers are producing less than 1 litre so cooperatives level can handle the small scale producers - Let registration provide the minimum number of litres for one to qualify. We propose registration for those producing at least 50 litres. 		Registration by cooperatives is provided for in Regulation 9(2) of the Dairy Industry (Registration, Licensing, Cess and Levy) Regulations Regn through coops.PNG
6	Bomet	Exclude farmers producing less than 50 litres		Registration is made to provide for quality and safety of all marketed milk dairy produce irrespective of the quantity should be traceable to a registered primary producer.

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

8	Bomet	All standards developed to be subjected to public participation Is the Act of Parliament in line with the regulations		It's a requirement all Standards are subjected to public participation. These regulations are aligned to Dairy Industry Act.
Form D	Bomet	In Form D include location of where the business operator is collecting milk for traceability	-	Form D captures the details of Primary Producer only. Form D.PNG
21(2)	Bomet	(2) Need clarification as relates to inter-county charges		There shall be no inter-county charges. Cess shall be charged at source Cess at source.PNG
7	Narok	Registration of farmers to be conducted by the county governments & to be free		Covered in the Regulation 7 of the Dairy Industry (Registration, Licensing, Cess and Levy) Regulation. Regn free.PNG
24(3)	Nyandarua,Laikipia	Proposed for more categories for regulatory fees as follows 15000-20000 10,000- 15000 0-5000	With different fee for each category -Clarify the regulatory levy as charge is imposed on consumers	-The range provided by the Regulations allows for SMEs to thrive and create employment opportunities. -The players in informal sector pose serious consumer safety and levying them would be a way of promoting of hawking and hence undermining the sustainability of dairy industry

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

		-The levy targets only the formal sector		
25	Kitale	Penalties for violation of any regulation should include suspension of license for a maximum of 3 months during which investigations will be carried and verdict made Promote diversification of milk products.		-This has been provided under regulation 27(2) of this regulation Suspension not exceeding 3 months.PNG -Promotion of diversification shall be addressed administratively.
	Uasin Gishu, Elgeyo Marakwet, Nandi	Registration should be voluntary and registered farmers should be encouraged through affirmative action as subsidies, training, loans and pricing	The requirement should be facilitative rather than inhibitive.	The registration becomes mandatory when one wants to do trade in dairy produce and is free.
21	Uasin Gishu, Elgeyo Marakwet, Nandi	If devolved will the funds be devolved Farmer is not well defined Cess by counties should be specified and harmonized		<ul style="list-style-type: none"> - Payment of cess has been devolved to the County as provided for in Regulation 21 of the Dairy Industry (Registration, Licensing, Cess and Levy) Regulation - Farmers is defined as primary producer - Taxation laws by the County is provided for in the constitution. Cess by County govts.PNG Farmer as primary producer.PNG
4(d)	Nakuru, Baringo	Object of the regulation: Specify how levy will benefit the stakeholders	Too many multiple licenses/permits/certificates	This is addressed under Regulation 4(d) of the Dairy Industry (Registration, Licensing, Cess and Levy) Regulation. Cess to benefit industry..PNG

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

		Conditions for issuance of permit – Awareness or training for the dairy operator by KDB is required -		Awareness and training will be addressed administratively
21(2)	Nakuru, Baringo	Harmonize intercountry levy to avoid double taxation		This is addressed in Regulation 21 (2) of the Dairy Industry (Registration, Licensing, Cess and Levy) Regulation. Dairy produce from another county.PNG
Form F	Nakuru, Baringo	-Payment of regulatory permit would disadvantage the small dairy traders -Cooperatives should not be compelled to pay for license for non-operative cooling plant -Regulators/ inter counties should harmonize licenses to avoid double payment	- This is double levy - Licensing is expensive and many same requirements e.g. medical certificates required by several counties for the same person	- Form F of the Third Schedule under the Dairy Industry (Registration, Licensing, Cess and Levy) Regulation provides for only the processors will be required to pay for regulatory permit fees. - Non operative dairy premises of all nature are not required to pay for license. - Licenses are only issued for the premise which is selling milk. Medical certificate is also issued once by the County of origin and shall serve inter-county trade. Most Permit fees free.PNG
	Nyeri	Adjust volumes of cottage industry to 1000 litres from the current definition of 500 litres per day	Most cottage industries handling more than 500 litres per day and hence will be breaking the law to operate above the defined limits.	Increasing the minimum volumes for cottage industries will lockout many entrepreneurs from carrying out dairy business cottage industries Form F.PNG
	Makueni	Enhance and graduate the penalties for food safety related offences	Discourage food fraud in the dairy industry	It is not possible to enhance the penalties beyond the provisions of the Dairy Industry Act and the Statutory Instruments Act. However, the Act is under review and the penalties will be revised once the Act is amended.

1. THE DAIRY INDUSTRY (REGISTRATION, LICENCING, CESS AND LEVY) REGULATIONS, 2020

	Bomet	How will the farmer determine the level of microorganisms in the milk?		<p>Farmer will conduct basic tests like clot on boiling and others that indicate the extent of microbial growth or presence in milk.</p> <p>Collection centers will conduct more detailed microbial tests on behalf of the farmer periodically as provided for in the PART IV: REQUIREMENTS FOR EXAMINING OF DAIRY PRODUCE</p> <p>Examining dairy produce.PNG</p>
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2. THE DAIRY INDUSTRY (RETURN, REPORT AND ESTIMATE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Makueni	Provide for online monthly returns to counties and Kenya Dairy Board	Efficiency and ease of submitting returns by dairy business operators	Amendment provided under regulation 5(2) of the Regulation. Electronic filing of returns.PNG
5(1)	Mombasa	Revise submission period from monthly to quarterly or half yearly	Simplify ease of compliance	Monthly returns are necessary for planning and decision making to address the dynamisms of the dairy industry.
5(1)	Kakamega	At what level are returns supposed to be submitted? At producer level, transport, processor?		Submission of returns are as stipulated in Regulation 5 of the Dairy Industry (Returns, Reports and Estimates) Regulations Submission of returns.PNG
7	Kisumu	Reduce the penalties so that it becomes affordable		Penalties are meant to act as deterrent against noncompliance. The law provides only for the maximum and court is left to decide the amount on case by case.
5	Kisumu	The business operators not be under duress to file returns,		Filing of returns is mandatory to ensure correct and timely County and National data and information is generated for planning and decision making
Form A	Kisumu	Schedule to capture "rejected milk" to monitor impact and trigger training of stakeholders for corrective action		Schedule in Form A for rejected milk has been developed under the Dairy Industry (Dairy Produce Safety) Regulation. Form A.PNG

2. THE DAIRY INDUSTRY (RETURN, REPORT AND ESTIMATE) REGULATIONS, 2020

Form A	Kisii	Returns for fresh milk is not included, draft to include returns for raw milk.		The Form A of the Schedule has been revised to incorporate fresh and other types of milk.
5(1)	Bomet	All information to be forwarded to County Government. Kenya Dairy Board to get the information from the County Governments.		This will delay the collection of data and information generation necessary for planning and decision making
7 (Penalties)	Bomet	Double the penalties to 20k and imprisonment to 6 months to discourage false information		The regulations have been amended to revise the penalties to 20,000/=
Form A	Nyandarua, Laikipia	-Document to clarify the extend of the source -Form A does not capture sale of raw milk		Form A of the Schedule under the Dairy industry (Return, Reports and Estimates) Regulation, has been reviewed to deal with the concerns
5 (2) (3) Form B, C	Kitale	Inspectors to monitor and report on the usage of levies charged by processors.		The scope of this regulation does not include what is proposed. Regulation 5(3), (7) and Form C have been deleted
2(Interpretation)	Nakuru	Need to more specifically define who "dairy business operator" is e.g. there are instances situations where a transporter maybe required to file returns and others not .		The definition of milk transporter as per Regulation 2 of the Dairy Industry (Dairy Produce Safety) Regulation, spells out the role of a milk transport does not need to file returns. Defn of Milk transporter.PNG

2. THE DAIRY INDUSTRY (RETURN, REPORT AND ESTIMATE) REGULATIONS, 2020

Form A	Nakuru	Include provision for recording raw milk sales (to capture trade by milk bulking enterprises)		Raw milk sales records have been considered in the revised Form A of the Dairy Industry (Returns, Reports and Estimates) Regulation Form A.PNG
Form A		Under Declaration include phone and email address		This has been addressed the revising Form A of the schedule.

3. THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Nyeri	Inspector at the County should be an Extension Officer and not as an inspector	Inspector will do a lot of harm to the primary producer.	A compliance officer in the County may double up as an extension officer as per regulation 6 of this Regulation 3. DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS 2020FINAL.docx
	Nyeri	Regulation does not include sanitary requirements, yet some dairy effluents are offensive and are public nuisance. How will the issue of effluent treatment be handled in the regulations?	Engineer's qualification is not prescribed as requirements for a dairy inspector.	Management of sanitary requirements and effluent are fully covered under the Dairy Industry (Dairy Produce Safety) regulations and other relevant laws. Sanitary requirements.1.PNG
13,18	Nyeri	Where can a dairy business operator report injustice/s meted on him/her by the Board or its inspector?	Inspections need to be structured in a friendly manner so as to have amicable solutions and avoid cases of harassment.	Injustices against dairy business operator has been provided under newly introduced in regulation 19 of Compliance Officer Regulations
2(Interpretation)	Nyeri	Change the name of inspector to a Quality Assurance Officer	Inspector is seen as a bully or a person to intimidate an actor.	Changed inspector to "compliance officer".
	Meru	Consider the change of name of inspectors to either trainers or quality assurance officers.	Name of "inspector" considered as a person who harasses people,	The name has been changed to compliance officer

3. THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
			scary, intimidating to the operators.	
	Meru	The procedure for nomination of inspectors by the county government should be well explained and the Board should also vet the nominees before appointment.		This has been provided under regulation 6 of the Compliance Officers Regulation. Nomination of compliance officer by County.PNG
5,6,7 (Appointment, Nomination, Qualification)	Meru	Are other persons legible for employment/deployment as inspectors apart from officers of the County, Board or National Government?		After considering issues to do with administration and the sensitivity of the work of the compliance officer this has been limited to employees of the County, Board or National Government.
11	Meru	Will the inspector only manage local produce or even the imported dairy produce?		The compliance officer will manage all aspects of the dairy industry.
5,6	Kakamega	Proposed to have inspectors be appointed to the sub-county level for effective enforcement		This will be dealt with administratively.
	Kisumu	Inspection of public health and KDB are on the same parameters leading to multiple licensing. Could that be harmonized		The Public Health Act does not address provisions administered by the Dairy Industry Act.

3. THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
11	Kisumu	Inspectors to be assigned to specific zones or areas of operations		This is true but will be dealt with administratively.
10 (2)	Kisumu	Need to establish a digital platform for ease of access and verification by stakeholders on inspectors		That is already provided under Regulation 10(2) of the Dairy Industry (Compliance Officers) Regulation. Verification of compliance officers.PNG
18	Kisumu	Need to provide for feedback on inspectors conduct		This will be dealt with administratively.
10(1)(2)	Kisumu	Identification of inspector should include photo, name/ID number in the card to trace the inspector		That is already provided under Regulation 10(1)(2) of the Dairy Industry (Compliance Officers) Regulation.
11	Kisii	The inspector to visit the farm accompanied by extension officer. Fines to be reviewed to allow higher penalties		A compliance officer in the County may double up as an extension officer as per regulation 6 of this Regulation
5,6,7 (Appointment, Nomination, Qualification)	Bomet	Be specific with employment; where county the reporting should also be to the county governments to avoid conflicts.		While compliance officers employed by the County shall report on day to day matters to the County, where the report involves food safety matters, the compliance officer shall make reports to the Board and copy to the CECM responsible for dairy matters. Reporting Mechanisms.PNG

3. THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
		The employment levels to be specific for proper coordination to avoid duplication of duties		Recruitment and nomination for appointment of compliance officer will be done by the County government while Gazettement to be a compliance officer shall be done Board.
	Bomet	Who appoints the dairy inspector? The appointee from the county is one with the farmers.		The Recruitment and nomination for appointment of compliance officer who are employed by County government will be done by the County government while Gazettement of this category of officer will be done by the Board as specified in Regulation 5 and 6 the Dairy Industry (Compliance Officers) Regulation.
2(Interpretation)	Bomet	Replace inspector with Quality assurance officer. The name inspector sounds punitive (terrorizes the mind)		Inspector has been changed to Compliance Officer
11 (a)(b)(c) (Duties of a Compliance Officer)	Bomet	KDB has failed to control hawking of milk leading to cooperatives operating at low capacities; no supplies of milk from producers to the coops. (Brokers)	-	This has been addressed in Regulation 11(a)(b)(c) the Dairy Industry (Compliance Officers) Regulation. Duties of a compliance officer.PNG

3. THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
11 (a)(b)(c) (Duties of a Compliance Officer)	Kericho	There's weak enforcement of the regulations by the Board leading to lack of confidence by the producers		As Above
7 (Qualification of Compliance Officers)	Narok	Qualifications of inspectors should be guided by a professional body		Compliance officers are recruited from various professional disciplines that guide the conduct of their respective members.
Form B (Inspection order)	Nyandarua, Laikipia	The time to obtain information to be extended to 14 days.		Form B has been modified accordingly. Inspection order.PNG
19 (Penalties)	Nyandarua, Laikipia	The fines are too lenient and should be adjusted to 20,000 or 2 years in jail		There are ongoing amendments in Parliament of the Dairy Industry Act which will allow for imposition of higher fines and penalties
	Nyandarua, Laikipia	Introduce a tribunal		There is no provision in the Dairy Industry Act for establishment of tribunal and therefore Regulations cannot be used to create one.
	Nyandarua, Laikipia	The regulation does not include sanitary requirements		Sanitary requirements are provided under the Dairy Industry (Dairy Produce and Safety) Regulations Sanitary requirements.1.PNG

3. THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Nyandarua, Laikipia	Capacity building for operators to understand regulation		Capacity building will be dealt with administratively.
	Uasin Gishu, Elgeyo Marakwet, Nandi	Provide inspectors with powers to protect the farmer	Currently the processor controls and farmers are oppressed	Compliance officers are adequately empowered by the Dairy Industry (Raw Milk Sales) and the Dairy Industry (Pricing of Dairy Produce) Regulations
	Nakuru and Baringo	<p>For Verification of the legitimacy of the inspector, all should have identification cards.</p> <p>The inspectors should be friendly and approachable. There should be clear clauses on integrity and conflict of interest</p> <ul style="list-style-type: none"> - Monitoring and evaluation should be done regularly - Standardization of inspections across the country - Prior inspection should be done before issuing the licenses - Cooperatives staff to be trained to improve hygiene and compliance - Inspectors should undergo professionally approved training 		<p>These proposals are fully catered for in the Dairy Industry (Compliance Officers) regulation.</p> <p>Training of Cooperative staff will be addressed administratively.</p>
7	Nakuru	<p>Qualifications:</p> <ul style="list-style-type: none"> - Is an employee of a public institution of higher learning 		A person to be appointed as Compliance Officers has been limited to employees of government for proper control and accountability. The Compliance

3. THE DAIRY INDUSTRY (COMPLIANCE OFFICER) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
(Qualification of Compliance Officers)		<p>mandated to train on dairy or related fields?</p> <ul style="list-style-type: none"> - Accreditation from a recognized authorized institution. - Undertake continuous development programmes 		officers derive their authority from the Dairy Industry (Compliance Officers) Regulation under the Dairy Industry Act.
6 (Nomination by County)	Nakuru	Inspectors should be under the KDB jurisdiction and not the county	To ensure KDB policies are enforced easily	Compliance officers from the County Government will operate under the supervision of the Board as provided for under the Dairy Industry (Compliance Officers) Regulation.

4. THE DAIRY INDUSTRY (PRODUCE TRACEABILITY AND RECALL) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Nyeri	How is the Board going to assist in facilitating for the required tests for traceability?	Most dairy cooperatives do not have capacity to measure the required parameters.	The Board has set up a National Laboratory which will be supported by a mobile laboratory that is collecting and testing samples. Each dairy business operator will be required to set up at least a basic laboratory.
	Marsabit	How will the Board leverage on existing technologies and projects to facilitate traceability?	There is an ongoing project namely LITS that can facilitate traceability across the dairy value chain.	Traceability systems require an efficient ICT based management systems. Existing and emerging technologies will be adopted to facilitate traceability.
13(1) (Requirement for Traceability)	Meru	How does a business operator treat or manage a complaint received from the consumer?	Traceability should be the responsibility of the regulator not of the dairy business operator in managing recall.	The management of complaints is provided under Regulation 13 (1) of the Dairy Industry (Traceability and Recall) Regulations. Complain from consumers.PNG
5 (Requirements for Traceability)	Meru	Apportion responsibility of quality and safety to every actor along the value chain to ensure effective implementation of this regulation.	Where does the responsibility for quality start and end knowing that our farmers are small scale operators and bulking is done before processing. Need to be careful so that we don't apportion mistakes to the wrong persons or jointly.	Throughout these Regulations the responsibility for quality and safety of dairy produce is the under the dairy business operators at every level. The responsibility of Board shall be to ensure compliance
5	Meru	Traceability to apply even in the local market not just for international market.		Traceability applies to all markets both local and international.

4. THE DAIRY INDUSTRY (PRODUCE TRACEABILITY AND RECALL) REGULATIONS, 2020

(Requirements for Traceability)				
15 (General Penalty)	Meru	Fine of Kshs 10,000 is not deterrent enough.		Kshs. 10,000/= is based on the maximum allowable provision by the Act. However, review of this amount has been submitted to Parliament for enhancement.
5 (Requirements for Traceability)	Garissa	Address traceability and recall requirements in two stages; (a) farmer to processor (b) processor to consumer	Operations, procedures and requirements on traceability may differ for the two stages	Traceability and recall applies to dairy produce along the entire value chain. Application of traceability.PNG
5 (Requirements for Traceability)	Mombasa	Exclude primary producers from traceability requirements	Primary producers are mainly smallholders and have limited knowledge and capacity	Primary producers are major pillars and beneficiaries of a quality assurance, traceability and recall mechanism. Exclusion of primary producers will make traceability and recall mechanism incomplete.
6 (2)(g)	Kisumu	GPS coordinates to be included to access supplier		This has been provided under the Regulation 6 (2)(g) of the Dairy Industry (Produce Traceability and Recall) Regulation. Suppliers and customers to be identified.PNG
7(1)(b) (Mandatory Information on Consignments)	Kisumu	Quality to be included and parameters to determine that quality		This has been provided under the Regulation 7(1)(b) of the Dairy Industry (Produce Traceability and Recall) Regulation. Description of dairy produce.PNG

4. THE DAIRY INDUSTRY (PRODUCE TRACEABILITY AND RECALL) REGULATIONS, 2020

	Kisumu	Inspectors to support the dairy producers on how to conduct a recall		Capacity building of producers and other stakeholders will be conducted administratively by the Board in liaison with the County government.
	Kisumu	Regulations to encourage self-regulations		To enhance self-regulation, the responsibility for quality and safety of dairy produce is under the dairy business operators at every level. The responsibility of Board shall be to ensure compliance
10 (Labeling of Dairy Produce)	Kisumu	How will reconstituted milk be traced? There should be labeling for the consumer to know milk has been reconstituted		The Standard on Milk and Milk Products which is in use requires that reconstituted milk is declared accordingly. Regulation 10 of the Dairy Industry (Producer Traceability and Recall) Regulation and Regulation 11 of the Dairy Industry (Dairy Produce Safety), provides for information on labeling.
5 (Requirements for Traceability)	Narok	Emphasize on traceability from farm to fork as is the case in meat.		Provided for under the Dairy Industry (Traceability and Recall) Regulation
7 (1)(i) (Mandatory Information on consignments)	Nyandarua, Laikipia	-Add a provision to add a seal where possible		-Provision of seal has been provided for in Regulation 7(1)(i) of the Dairy Industry (Traceability and Recall) Regulation Mandatory info on consignments.PNG

4. THE DAIRY INDUSTRY (PRODUCE TRACEABILITY AND RECALL) REGULATIONS, 2020

15 (General Penalty)		<p>-Words consignee and consignor used wrongly</p> <p>-Base penalties on scale of operation which should be different for cooperatives and processors</p>		<p>-The responsibility of food safety lies with the Dairy business operator thus it's their responsibility to ensure the safety of dairy produce that they handle.</p> <p>-Creating separate penalties is discriminative. It's up to the court to weigh and dispense justice accordingly.</p>
5 (Requirements for Traceability)	Nakuru, Baringo	<p>Registration and traceability- tracing should start from the production level.</p> <p>Institute farm gate quality control Quality control to be done at the farm gate not at the processing level.</p> <p>For Traceability case, testing equipment/gadgets should be available at every collection point.</p>		<p>Traceability is covered in Regulation 5 of the Dairy Industry (Traceability and Recall) Regulation</p> <p>Farm gate quality control is provided for in Regulation 52 Part VII of the Dairy Industry (Dairy Produce Safety) Regulation Safety in dairy farms.PNG</p> <p>The primary producers are source of milk. The regulation provides quality control from farm to fork Examination of dairy produce.PNG</p>
	Nakuru, Baringo	Would the operator be required to have Movement permit?		The delivery note shall act as movement permit.
7(2)	Nakuru, Baringo	Include imported milk products should be traced and monitored too		<p>Tracing and monitoring of imported dairy products is catered for in Regulation 11, 12, 13, 14 of the Dairy Industry (Imports and Exports) and Regulation 5(2) of the Dairy Industry (Returns, Reports and Estimates) Regulations.</p> <p>Conditions for issuance of a permit.PNG</p>

4. THE DAIRY INDUSTRY (PRODUCE TRACEABILITY AND RECALL) REGULATIONS, 2020

				Requirement to render returns.PNG
	Nakuru, Baringo	The business operators should be sensitized on all regulations relating to collection, sampling, labeling etc.		A comprehensive pre-implementation framework will be developed and carried out prior to the commencement date of these regulations

5. THE DAIRY INDUSTRY (RAW MILK SALES CONTRACT) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
5 (1)(e)	Nyeri	How can farmers benefit in cases of under or over supply of milk?	Over supply and under supply should cut across all the parties and should be considered during the contract formulation.	The Dairy Industry (Raw Milk Sales Contract) Regulation serves to protect the interests and ensures fair trade of raw milk at all times. 5. DAIRY INDUSTRY (RAW MILK SALES CONTRACT)REGULATIONS 2020FINAL.docx Contractual arrangements 1.PNG
5(1)(g)	Nyeri	Rejection to be done at the collection point and not at the processors level.	Test and reject the milk at the point where the farmer will understand why the rejection was done.	Amendment has been introduced in regulation 19(3)(a) of the Dairy Produce Safety Regulations Rejection and disposal.PNG
5(1)(k)(l)	Nyeri	Payment duration to be set in the contracts.		This is already provided for in The Dairy Industry (Raw Milk Sales Contract) Regulation prompt payment.PNG
5(2)	Nyeri	Board to be monitoring the contracts and give legal advice.	Cases of skewed contracts in favor of buyer and seller and be in legible and understandable manner.	This is already provided for in The Dairy Industry (Raw Milk Sales Contract) Regulation
5(1)(d)	Marsabit	How will the regulation manage the low volumes of dairy produce by sellers?		Farmers with low volumes will be encouraged to aggregate to maximize on economies of scale. Provisions have been done in the Raw Milk Contracts Regulation for individual or group contracts. Contracts by individual or in groups.PNG

5. THE DAIRY INDUSTRY (RAW MILK SALES CONTRACT) REGULATIONS, 2020

6(1)(2)	Makueni	Provide for the establishment of a county tribunal to settle disputes arising from raw milk sales contracts.	Decentralize and speed up resolution of disputes	Alternative disputes resolution mechanisms have been provided which involves the CECM responsible for dairy matters. Disputes (Raw milk sales contract).PNG
	Mombasa	The contracts are in favour of milk processors and often change the terms midway. They also delay payments even up to 60 days.		The proposed Raw Milk Sales Contract will eliminate any bias, discrimination or exploitation.
5 (1)(l)	Kisumu	Illegalities: Cooperative vs. producer organizations The contract to be between producers/cooperatives/seller organizations. There should be contractual time frame. Poor/low understanding of the contract-trainings should be done across the dairy industry chain.		The Board shall continue capacity building for better understanding of the regulation. This is administrative.
6(1)(2)	Kisumu	Disputes resolving Centres should be at the county level		Regulation 6(1) of the Dairy Industry (Raw Milk Sales Contract) provides for alternative disputes resolution mechanism which may be based at the County.

5. THE DAIRY INDUSTRY (RAW MILK SALES CONTRACT) REGULATIONS, 2020

5(1)(f,g,h)	Bomet	Primary producers/dairy farmer to be well protected as bulking of milk at the cooperatives can lead to contamination of produce. Risk of misuse by the processors/transporters/transporters/cooperatives		The issue is addressed in Regulation 5(1) (f, g, h) of the Dairy Industry (Raw Milk Sales Contract) Regulation. Contractual arrangements 2.PNG
5(1) (a, e)	Nyandarua, Laikipia	<p>- over supply and under supply should protect both parties factoring the seasonality</p> <p>-Specify parties in the contracts</p> <p>The contract should read raw chilled and pasteurized</p> <p>The fines should be 10% of the amount in dispute</p> <p>-testing and rejection to be done at the collection point</p> <p>Set duration for payment</p> <p>Dairy Board to be monitoring contracts and giving legal advice.</p> <p>To be written by in language understood by both parties</p>		<p>- This is catered for under Regulation 5 of the Dairy Industry (Raw Milk Sales Contract) Regulation</p> <p>Contractual arrangement 4.PNG</p> <p>Done in 5(1)(a)</p> <p>- Not all milk suppliers will manage to chill and pasteurize.</p> <p>- Determination of fine is the prerogative of the court.</p> <p>- Testing and rejection is covered under Regulation 5(g) of the Dairy Industry (Raw Milk Sales Contract) Regulation.</p> <p>- Setting duration for payment is set put in the Regulation 5(l) of the Dairy Industry (Raw Milk Sales Contract) Regulation.</p> <p>- Monitoring is set out in Regulation 5(2) of the Dairy Industry (Raw Milk Sales Contract) Regulation.</p>

5. THE DAIRY INDUSTRY (RAW MILK SALES CONTRACT) REGULATIONS, 2020

				- The language will be determined by the buyer and seller.
7 (Penalty)	Kitale	Increase the penalty	What you have provided is very low.	There are ongoing amendments in Parliament of the Dairy Industry Act which will allow for imposition of higher fines and penalties.
	Kitale	Introduce penalty to those processor who discourage others.		The Dairy Industry (Raw Milk Sales Contract) Regulation deals with this matter.
	Kitale	All buyers should sign contracts. KDB should ensure the contracts are enforceable.	To make the pricing formula work.	This is provided for in the Dairy Industry (Raw Milk Sales Contract) Regulation
5 (1)(2)	Uasin Gishu, Elgeyo Marakwet, Nandi	Spread the contracts throughout the year	To take care of dry season when milk production is low	This is covered in the Dairy Industry (Raw Milk Sales Contract) Regulation.
		Proper regulations be put in place between farmer and cooperatives and the processor -contracts should protect the farmer and be enforceable	To avoid pulling out by parties and will safe guard the interests of the farmer/cooperative in case of loans/farm inputs within the contracting period with the processor. Also price determination will not be affected in the due to course of the agreement Currently the processors are in control	Contractual arrangement 5.PNG

5. THE DAIRY INDUSTRY (RAW MILK SALES CONTRACT) REGULATIONS, 2020

5(1)(2)(6)(7)	Nakuru, Baringo	<p>The contractual agreements should clearly state that it is for milk and milk products.</p> <p>Will Prices be based in Kg or Litres?</p> <p>KDB should be a witness in the contract</p> <p>On Penalty for violators, add suspension of practicing licenses for a period of time and a process of recovering associated loss</p>	<p>To reduce exploitation of farmers. Processors fear making contract agreements with farmers organizations</p>	<p>The Dairy Industry (Raw Milk Sales Contract) Regulation is meant to protect the vulnerable players in the value chain (farmers) against exploitation. Other players in the value chain are capable of protecting their interest.</p> <p>Prices will be based kilogram of milk delivered</p> <p>In order to ease doing of business Regulation 5(2) of the Dairy Industry (Raw milk Sales Contract) Regulation only provides for Kenya Dairy Board to monitor the contract.</p> <p>Suspension of license has been provided for under Regulation 25 of the Dairy Industry (Registration Licensing, Cess and Levy) Regulation.</p> <p>The Regulations cannot be extended to recoveries as debit incurred by buyers is civil debts and there is a law covering that.</p> <p>Debt Recovery.PNG</p>
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6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
Pricing of Dairy Produce	Nyeri	How will the regulations support producers whose cost is above the prescribed cost of production, which is used as a basis of setting the minimum return on the producer.	Using a low cost of production to develop a minimum farm gate price will be unfair to someone or to a producer who is incurring a high cost of production per litre based on several circumstances e.g. the cost of feed or Labour etc.	<p>The formula is based on efficient production system. The objective is to encourage efficiency along the dairy value chain as per the provision of the Dairy Industry Act.</p> <p>The determination of minimum price shall be based on periodic studies on the average production cost under various production systems across the country.</p> <p>6. DAIRY INDUSTRY(PRICING OF DAIRY PRODUCE)REGULATION- 2020 FINAL.docx</p>
	Nyeri	Prices to be regional based due to the various factors that contribute to the cost of production.	Different regions will produce milk at different costs depending on their unique conditions.	This is a minimum price guide across the country and doesn't stop buyers offering higher prices depending on seasonality, quality or other considerations.
6(2)	Nyeri	Regulations to incorporate the minimum quality parameters for pricing of dairy produce	The dairy processors need to determine what they require to put in place for quality-based payment and pricing.	<p>The parameters to be used in the quality based payment shall be determined from time to time by the Board in consultation with the Dairy Industry Stakeholders.</p> <p>quality payment.PNG</p>
	Nyeri	Unfair competition from hawkers and other non-compliant actors should be addressed by the regulations	Non-compliant actors undercutting formal establishment that are working towards quality assurance and safety of	To ensure fair play, all dairy business operators shall be required to comply in all aspects demanded by the regulations.

6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
			their dairy produce hence demotivating such establishments.	
	Marsabit	How does the Board intend to address the regionality of pricing across the counties taking into consideration the various factors that contribute to the cost of production and eventual pricing?	Pricing is tricky in the camel milk value chain.	Periodic studies across the country will help to determine the price of milk based on animal source, quality and production cost.
Pricing of Dairy Produce	Meru	Price control is important How will the pricing control be implemented especially in areas that have different cost of inputs and infrastructural cost that directly affect the cost of production.		The pricing of raw milk shall be based on periodic studies conducted by Kenya Dairy Board.
		Government to waive some taxes on animal feeds to make them affordable to the local farmer.		This will be addressed through periodic finance bills.
		Minimum farm gate price will vary between different grazing systems and different ecological zones and on different levels of development hence need to consider all these aspects in prescribing the minimum price.	Framers will need to be incorporated while determining the pricing formula.	This is a minimum price guide across the country and doesn't stop buyers offering higher prices depending on seasonality, quality or other considerations.

6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Garissa	Expand price regulation to retailing of milk and milk products and set maximum consumer prices	Protect consumers from price exploitation	This proposal is accepted and action taken. Maximum Consumer Price.PNG Formula.PNG
	Garissa	Delete the regulation	The dairy industry is liberalized and price should be determined by market forces of supply and demand	This regulation is necessary to protect the investment interest of both buyers and seller of dairy produce.
	Garissa	Add that maximum payout price will be set based on regions.	Costs of milk production and other operational costs vary across regions and production systems	This is a good recommendation and it will be considered during the periodic studies and milk price pronouncements.
	Kakamega	<p>Controls on milk pricing – how is the middle man regulated? They are the one who exploit the farmer.</p> <p>How will price controls be sustained(Fear)</p> <p>The government is bringing conflict between farmers and milk traders. The current one was given to New K.C.C supplies</p> <p>Pricing of milk will be determined by the distance the milk is being moved. It may</p>		<ul style="list-style-type: none"> - All persons who trade in milk shall be required to be licensed and conform to the regulations. - The prices are market driven but through periodic studies the Board will provide guidelines on the minimum producer prices to support sustainability of the dairy industry. - The Regulations aim to minimize conflicts.

6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
		be higher than the recommended and it's a variable.		- Market forces will determine the prices.
6(2)	Kakamega	The quality of milk has not been considered in the formula provided for calculating milk pricing There is cheap milk coming from Uganda yet the Board is setting a fixed price for milk. It is putting milk traders in a fix.	Cushioning through strategic Food Reserves to stabilize pricing	The formula will be reviewed periodically to incorporate quality parameters and their values. Compensation for quality.PNG The proposed imports and exports will control the entry of cheap/subsidized dairy products from other countries.
	Kakamega	Dairy cooperatives – there is lots of seasonality in production and it affects pricing		The milk pricing formula will take in consideration the seasonality of production.
		Does the quality based milk payment system (as considered to milk pricing) consider milk fat?		Yes. Milk fat is one of the parameters to be considered.
	Kisumu	Statutory deductions to be disclosed to public		All forms of taxes including cess and levies are governed by the Public Finance Management Act and the relevant statutes governing the institution. Annual financial reports are published and made available to the public
	Kisumu	Let profit margin be determined by milk traders		Due to persistent exploitation of some categories of dairy players and consumers the government finds it necessary to

6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
				rationalize the distribution of revenues along the entire dairy value chain. The Regulations aims at protecting the investment interest of both buyers and sellers of milk.
	Kisii	Pricing of dairy produce – the pricing of raw milk products listed in this section to be practiced in all areas because the regions covered since we are given a minimum price and not a maximum price. The regulation should be practiced.		This is good proposal.
	Kisii	Raw milk to get the minimum prices.		This is provided in the regulation including minimum price
	Bomet	Introduction of Farmer Union, County government etc. Pricing of milk to be consultative Expound on the formula		This will be addressed administratively The periodic studies to be conducted will gather information from stakeholders and therefore will be consultative.
	Bomet	Currently contracts are drafted by processors without involving the producers which do not work in favor of the producers. Dairy Board to work closely with individual county Governments.		This is addressed through the Dairy Industry (Raw Milk Sales Contract) Regulations. Regulations provide close working relations between the Board and the County government.

6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Nyandarua, Laikipia	Compensations for quality and statutory deductions based on the formula contradicts the cooperative Act Cancellation of license should be evaluated for the case of cooperatives		The statutory deductions are done by the - Government while Cooperatives deduct for their operational costs therefore there is no contradictions. The law must apply equitably to all business operators.
	Nyandarua, Laikipia	Prices should be regional based on seasonality.		-Pricing will be determined by studies.
	Nyandarua, Laikipia	Recommend to retain schedule A and do away with schedule B. Schedule B is for the processor.		Form B should not be deleted because it determines the farm gate prices while Form A determines payout price. Form A 1.PNG Form B 1.PNG
	Nyandarua, Laikipia	Timeline for the disclosure for the payout information should be at the beginning of every month.		Payout disclosure should be made available as provided for in Regulation 7 of the Dairy Industry (Pricing of Dairy Produce) Regulation. Disclosure of payout info...PNG
	Nyandarua, Laikipia	The document to provide provision for the procedure and policy for inspecting the payout made by purchaser.		The policy on guarantee minimum returns is stipulated in the Livestock Policy and Dairy Development Policy and this Regulation is there to implement. While the procedure for inspecting the payout is covered under the Dairy Industry (Compliance Officers) Regulation, and Regulation 9 of the Dairy

6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
				Industry (Pricing of Dairy Produce) Regulation.
	Nyandarua, Laikipia	Concerns were raised on quality based payments. Minimum pay out price should have wider consultations with stakeholders' not just cabinet secretary and the Board.		The Board and Cabinet Secretary make decisions based on consultations with the stakeholders in addition the provision of section 19 of the Dairy Industry Act requires that the Cabinet Secretary Gazettes the regulations on advice of the Board. The Board will ensure adequate consultation with stakeholders including doing carrying out surveys.
5 (2)	Kitale	Replace the word may with shall(clause 2) of No.20	The word may create room for options by the cabinet secretary and it should be mandatory	Word has been changed from 'may' to 'shall' in Regulation 5(2) of the Dairy Industry (Pricing of Dairy Produce) Regulation. Minimum payout price 1.PNG
	Kitale	Include consultations with the counties in deciding the price.		Minimum payout price shall be determined through periodic studies and consultation with stakeholders and shall be based on verifiable findings.
	Kitale	All buyers should have contracts with the farmers.		This is addressed by Regulation 5(1) of the Dairy Industry (Raw Milk Sales Contract) Regulation. Contractual arrangements...PNG

6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Kitale	All milk should be channeled through cooperative societies.	To reduce sale of raw unpasteurized milk to consumers.	This has been catered for through review of Regulation 5 of the Dairy Industry (Dairy Produce Safety) Regulation. Conditions for sale of dairy produce...PNG
	Kitale	Clarify the formula	Production cost should be county based since prices vary.	<i>The formula was clarified during the Public Participation forum for the Region.</i>
	Kitale	Indicate price period	To assist for proper planning	The price period is provided for in the Dairy Industry (Pricing of Dairy Produce) Regulation. Periodic review.PNG
	Kitale	The pricing formula should recognize supply and demand, regional variations in cost of production.		The pricing formula takes account of production costs, regional variations, supply and demand among other variables.
	Kitale	-Fix maximum price and develop formula to regulate pricing of milk across the whole dairy value chain. -Promote and implement quality based payment		This is provided for in Regulation 5 and Form A, B & C in the Schedule of the Dairy Industry (Pricing of Produce) Regulation.
	Kitale	Disclosure of information by processors to be made mandatory.		This is addressed in Regulation 7 of the Dairy Industry (Returns, Reports and Estimates) Regulation. Disclosure of payout info...PNG
	Kitale	Dairy Cooperatives who violate any of the regulations should be penalized .		All these Regulations provide for penalties for any violation.

6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Uasin Gishu, Elgeyo Marakwet, Nandi	<p>Base milk price on price of milk in the shelf</p> <p>Base milk on shelf price as follows</p> <p>Farmer 34%</p> <p>Co-op 5%</p> <p>Transporter 4%</p> <p>Processor 51%</p> <p>Retailer 6%</p>	<p>This is easy to understand and cuts across the value chain</p> <p>To improve net for farmers and make Kenya milk competitive</p> <p>Multi agency approach to work on how to reduce cost of production</p>	<p>The regulation has taken care of both minimum farm gate and maximum consumer price.</p> <p>Min farm gate, Max consumer.PNG</p>
	Nakuru, Baringo	<p>On the objective of the regulation; add to protect the interest of consumers.</p> <p>A maximum allowable duration for payment should be set</p> <p>Consider a clause on goat milk. And camel</p> <p>Consider a committee for milk pricing and milk formula</p>	<p>Cooperatives have commitments to pay</p>	<p>-Interest of Consumer is catered for in Regulation 4,5 of the Dairy Industry (Pricing of Dairy Produce) Regulation</p> <p>-Fixing a maximum for proposed dairy produce aims to protect the farmer and consumer and makes produce competitive.</p> <p>- Currently the Scope of the Dairy Industry Act does not cover Goat and Camel milk. The formula will be amended to provide for the weighting once the amendment is concluded.</p> <p>- This has been addressed by introducing FORM C in the Schedule of the Dairy Industry (Pricing of Raw Milk) Regulation.</p>
		<p>The minimum farm gate price should be set by a relevant, neutral authority</p>		<p>Minimum payout price shall be determined through periodic studies and consultation</p>

6. THE DAIRY INDUSTRY (PRICING OF DAIRY PRODUCE) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
		informed by sufficient surveys and should be done quarterly.		with stakeholders and shall be based on verifiable findings.
		A well thought through mechanisms to determine the pay-out price should be developed to include all stakeholders.		These proposals are adequately catered for in the Dairy Industry (Raw Milk Sales Contract, the Dairy Industry (Pricing of Dairy Produce) Regulations.
		Extend price control/regulation to processed milk products		This has been done

7. THE DAIRY INDUSTRY (IMPORT AND EXPORT) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Nyeri	Regulations good for all stakeholders. How does the Board intend to use statistics to cushion the dairy farmers against exploitation by regional or international marketers of dairy produce like the recent cases of importations of dairy produce from our neighbors and hence affect marketing and pricing of local produce?		The Board shall establish and maintain dairy industry data bases to enable use of statistics for planning and decision making.
	Meru	Recommends the import levy to be higher at 60% to discourage importation of cheap and substandard dairy produce.	Industry has collapsed because of unregulated import of dairy produce. What is the commitment of the regulator to implement this regulation?	Currently KRA charges 60% CIF on milk powder, 25% on other specialized milk products while Kenya Dairy Board charges 7% (CIF) of all milk products which is now being increased to 10%.
	Meru	Proposal to have 30% of the levy support the local industry towards its development and improving competitiveness		The whole amount collected as import levy is always utilized to develop the Kenya dairy industry.
		Will the inspector only manage local produce or even the imported dairy produce?		The compliance officer will manage all aspects of the dairy industry.
	Meru	Import levy charged at 10% CIF is not supportive, and is too minimal to the industry knowing that European farmers are highly subsidized.		The proposed 10% charge is in addition to 60% or 25%(depending on the product) duty charged by KRA, IDF, Port Health, KEBS.

7. THE DAIRY INDUSTRY (IMPORT AND EXPORT) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Meru	The Board to be more proactive in management of strategic reserves to avoid the recent cases of dumping of milk into the Kenyan market and affect the producer prices		The Government is in the process of reforming the Strategic Food Reserves management and broadening scope.
	Garissa	Provide controls to establish the origin of imported dairy produce	Protection of the local dairy industry from cheap milk imports of uncertified origin	Imports and exports regulations – <i>pg. 45, clause 37</i>
	Makueni	Add conditions for importation of dairy equipment	Prevent importation and sale of sub-standard dairy equipment in the local market	Regulation 15 of the Dairy Industry (Imports and exports) Regulation Conditions for importation of equipment.PNG
	Kakamega	The penalty is very low for people defaulting on export/import defaulters		
	Kisumu	Specify how the shall Board protect local market		Reg. 11(1)(a) Conditions for issuance of a permit 1.PNG
	Kisumu	Fees payable to be raised to discourage imports into the country.		Reg. 9 Form C 1.PNG
	Kisumu	Deal with offence – 10k to 3 million		Penalty
	Kisii	The percentage levy charge on imported products/goods be based on prevailing market prices in Kenya for similar commodity rather than the gross cost-plus freight and		This is the internationally accepted way of imposing levy on imports. Imposition of import levy.PNG

7. THE DAIRY INDUSTRY (IMPORT AND EXPORT) REGULATIONS, 2020

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
		insurance. This will ensure that locally made products remain competitive.		
	Kisii	Products that have not been paid for be forfeited to the Board.		Reg.17 (e) Forfeiture or destruction.PNG
	Kisii	Increase the fines so as to reduce importations.		
	Bomet	Inspection letter/electronic card per county to where the milk came from up to where it goes, (as long as you have one single business license) this will not kill the transporter/importers who are going long distance.		This will be pursued administratively.
	Bomet	Import license should be higher than export license – this will help the Kenyan dairy farmers To put regulation the traffic police not to delay the milk		This is the case. Form C 1.PNG
	Bomet	Fines should be over 1m for importers		Penalties

8. THE DAIRY INDUSTRY (DAIRY PRODUCE SAFETY) REGULATIONS

REGULATION	FORUM LOCATION	PROPOSAL	JUSTIFICATION	ACTION BY TASK FORCE
	Nyeri	Expand the definitions of containers to take care of all containers that can be used in handling of milk and dairy produce.	Definitions are wanting e.g. definition of containers only describes the container for carrying milk and similar containers are used in other premises e.g. milk dispensers.	Expanding the meaning of term "container" will cause harm to the Dairy business operator. Definitions are pegged on standards and based on generally accepted definitions by the international community. Container.PNG
	Nyeri	Adjust volumes of cottage industry to 1000 litres from the current definition of 500 litres per day	Most cottage industries handling more than 500 litres per day and hence will be breaking the law to operate above the defined limits.	Once an operator exceeds 500 litres per day they will be graduated to a mini dairy operator.
	Nyeri	Define properly which vehicles to carry milk.	Vehicles to carry milk not properly defined	The term carrier has been used instead of vehicle because carrier may be used in a broader sense to include e.g., hand drawn or animal drawn carts. Carrier.PNG
	Nyeri	Not seen anywhere in the regulations where the skills are required to manage various types of dairy business or for various types of dairy business operators.		Its provided in Regulation 28 of The Dairy Industry (Dairy Produce Safety) Regulations.
	Nyeri	Motor cycles needs to be included as a means of transportation in rough terrain		Motor cycles and hand drawn and animal drawn vehicles have been permitted as transport vessels.

8. THE DAIRY INDUSTRY (DAIRY PRODUCE SAFETY) REGULATIONS

		infrastructure and hence be recognized in the regulations.		
		Accreditation of suppliers of dispensers so that the dairy business operators can be able to source for the right equipment's. This should be factored in the regulations.		This has been provided for in Regulation 37 and Part X of the Dairy Industry (Dairy Produce Safety) Regulations. Milk Dispensers.PNG Requirement for dairy equipment.PNG
		Need for Zoning of Cooperatives to avoid undercutting tactics and penetration of established zones by other dairy cooperatives.		Undercutting will be addressed through adherence to strict contractual arrangements, enhanced, competitiveness and efficiency.
	MarsabitNo sale of dairy produce without a valid regulatory permit..... as it will be an offence How will this be addressed by the pastoralism community knowing that the producers are always on the move and can sell milk at any point.	The county has a lot of pastoralists who keep moving from one point to the other and acquisition of the regulatory permit may be a concern.	Sale of raw milk to neighbors is not prohibited and therefore pastoral communities will not be affected by the Gazettement of this regulation. Conditions for sale of dairy produce...PNG
	Makueni	Need to impose serious penalties on contravention of the dispenser regulations and requirements to ensure safe milk dispensation.	Dispensers have messed up the market by distributing bad quality milk.	This is true and demonstrates the urgent need to finalize, gazette and implement these regulations.
	Makueni	Combine dairy produce safety regulation and traceability and recall regulation (to be one regulation)	Both address food safety	For clarity the two regulations should remain separate Recall and withdrawal.PNG

8. THE DAIRY INDUSTRY (DAIRY PRODUCE SAFETY) REGULATIONS

	Makueni	Prohibit hawking of raw milk to consumers.	Address consumer safety and support growth of milk producer groups	Dairy produce safety regulations – part II, safety of dairy produce requires a dairy business operator to adhere to certain requirements which includes standards and compliance parameters. Clause (5) defines the conditions on which raw milk will be sold and in what manner. Sale of milk.PNG
	Makueni	Prohibit resale of raw milk that has failed quality tests conducted by a dairy business operator	Prevent sale of poor-quality milk to unsuspecting consumers	Dairy Produce safety regulations clause 19(3)(a) requires the food business operator to dispose of the rejected dairy produce if it does not meet the requirements of the standard. Rejection and disposal.PNG
	Makueni	Enhance and graduate the penalties for food safety related offences	Discourage food fraud in the dairy industry	The provisions for the penalty on related offences are guided by the Dairy Industry Act and the Statutory Instruments Act.
	Mombasa	Provide window for sale of raw milk where processing units are not available	The Coast region has limited operational milk processing units	Providing the window will result to discriminatory practice and open up the statutory instrument to personal interpretation and unfair administrative action.
	Mombasa	Provide or make available the ‘relevant Kenyan standards’ as referred in the clauses	Limited knowledge and access to dairy standards by primary producers and dairy business operators	Kenya Dairy Board in consultation with Kenya Bureau of Standards to post the standards in the KDB website.
	Mombasa	Provide for transportation of raw milk using public transport vehicles in certain regions.	The coast region has few, widely distributed and poorly organized farmers to support pooled transport of raw milk	Use of public transport will expose the produce to unsafe environment and eventually lead to contamination.

8. THE DAIRY INDUSTRY (DAIRY PRODUCE SAFETY) REGULATIONS

	Mombasa	Consider functions and comfort of personnel, and environmental conditions in prescribing requirements on protective clothing.	Personnel may be in high or low risk areas. Environmental conditions may not be conducive for certain protective wear e.g. overalls and gumboots in hot and humid regions.	Provisions of clause 27(1)(b) has provided an opportunity for the food business operator to design the requirements of protective clothing that suits the environment one is operating from, provided the produce is not exposed to an unsafe condition. Protective clothing.PNG
	Kisumu	Milk handling containers should be food grade not necessary aluminum.	It's the aseptic procedure that matter most as opposed to the container.	Dairy Produce Safety Regulations have provided for approved food grade containers for use in handling dairy produce. Prescribed container.PNG
	Kisii	The said regulations/proposal are good for the dairy industry we support it fully that should be put in place.		Noted
	Kisii	To have a functional mini laboratory to proof and protect milk quality		Requirement for examining dairy produce will mandate every dairy food business operator to establish a functional laboratory on business premise.
	Kisii	Farmers to be trained and empowered to own the regulations		Noted
	Kisii	How to be sure what time the milk has been delivered. Measures to be put on the same.		Delivery time varies depending on the infrastructure available to the supplier. The time of collection shall stipulated in the Raw Milk Sales contract
	Kisii	Government to think of providing means of carrying milk.		Government cannot provide transport as this is Private sector undertaking.
		KDB to designate labs to be used for analysis in order to obtain credible results.		The Board will designate laboratories for the purpose of executing the provisions of the regulations as provided for in Regulation 20(1) of the Dairy Industry (Dairy Produce Safety) Regulations.

8. THE DAIRY INDUSTRY (DAIRY PRODUCE SAFETY) REGULATIONS

			Sampling for official cntrol.PNG
		Capacity building of producers required for successful implementation	Noted. This will be done.
		Improve on definitions e.g. milk, dairy, source etc.	Definitions are pegged on standards and based on generally accepted definitions by the international community.
		Prices to be pegged on the butter fat content	This has been provided for.
		What is Government doing in order to ensure highly hygiene standards in the collection centers?	The regulations PART V11I: MILK COLLECTION CENTERS provide for the requirements of milk collection centers in order to promote appropriate degree of hygiene. Milk Collection centres.PNG
		Risk management is missing in the regulations.	All the regulations aim at managing hazards and risks in the industry.
		What is the role of the hawker in the regulations?	The hawker will be treated as a food business operator if he/she meets the requirements provided for in these regulations.
		Capacity building to be emphasized	Noted. This will be done.
	Bomet	How will the farmer determine the level of microorganisms in the milk?	Farmer will conduct basic tests like clot on boiling and others that indicate the extent of microbial growth or presence in milk. Collection centers will conduct more detailed microbial tests on behalf of the farmer periodically as provided for in the PART IV: REQUIREMENTS FOR EXAMINING OF DAIRY PRODUCE
		Include boiling as part of processing.	The internationally recognized method which ensures safety in processing milk is pasteurization. Boiling is discouraged because it destroys essential nutrients and

8. THE DAIRY INDUSTRY (DAIRY PRODUCE SAFETY) REGULATIONS

				difficult to ascertain the attainment of recommended pasteurization temperatures and processes. Sale of milk.PNG
		What are the recommended containers to be used?		Approved food grade containers provided in the regulations.
		Could the recommended standards be availed at all units of processing?		Available on request from Kenya Bureau of Standards.
		The cost of submitting samples.		Sampling for official cntrol.PNG
	Bomet	Government to build shades for collecting milk.		Noted.
		Include regulation on use of disinfecting hands and legs as a person enters a zero-grazing unit.		Provided for in Regulation 29 (c) of the Dairy Industry (Dairy Produce Safety) Regulation. Sanitation requirements.PNG
	Bomet	Give recommendations for the containers to be used in the Dairy Industry.		Approved food grade containers provided in Regulation 32 (1)(2) of the Dairy Industry (Dairy Produce Safety) Regulations. Prescribed container.PNG
		Emphasize on grading to eliminate chemical contamination.		Provided for in PART IV of the : Dairy Industry (Dairy Produce Safety) Regulations on REQUIREMENTS FOR EXAMINING OF DAIRY PRODUCE
	Bomet	Calibration & Inspection to be done regularly.		Provided in PART XI of the Dairy Industry (Dairy Produce Safety) Regulations on CALIBRATION OF EQUIPMENT AND APPARATUS

COMMENTS DURING THE 14 DAYS WINDOW

An advert was published on the newspaper on 1/12/2020 requesting the public for comments on Draft Dairy Industry Regulations and Regulatory Impact assessment. Comments were to be forwarded to the websites of the Ministry on directpolicy@kilimo.go.ke and Kenya Dairy Board on dairyregulations2020@kdb.co.ke using a standard form developed

A standard form was provided to constantly monitor the feedback and comments during the 14 days' window.

NATIONAL VALIDATION

A national Validation forum was organized by The Ministry and the Board on 21/12/2020 in Bomas of Kenya. The objective of which was to discuss and receive stakeholders' comments on the Draft Dairy Industry Regulations, 2020 and the Regulatory Impact Assessment.

The public validation forum which was attended by Farmers, Processors, Leaders of farmers' organizations, Private sector, both County and National Government officials among others agreed that;

The stakeholders had adequately participated in all the processes of developing the draft dairy regulations

- The process used in developing the draft dairy regulations was very comprehensive and stakeholder comments were inputted
- The role of Counties in the draft dairy regulations had been adequately captured and therefore approved to move to the next level

Conclusion

The stakeholder who attended the national draft dairy regulation resolved to pass the Draft Dairy Regulations and Regulatory Impact Assessment and recommended that the draft regulations be moved to the next level

Yours faithfully,

MARGARET R. KIBOGY, OGW,
MANAGING DIRECTOR