

02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 37-303, 37-402, 37-405, and 37-516, Idaho Code. (3-15-22)

001. SCOPE.

These rules govern procedures for the design, construction, production, manufacture, distribution, handling, storage, quality, analysis and sale of Grade A Milk and Manufacture Grade Milk and Milk Products. (3-15-22)

002. -- 103. (RESERVED)

SUBCHAPTER A – GRADE A MILK AND MILK PRODUCTS

104. INCORPORATION BY REFERENCE.

All Grade A Milk and Milk Products shall comply with the provisions set forth in the following documents incorporated by reference in this Subchapter A only: (3-15-22)

01. **Grade “A” Pasteurized Milk Ordinance.** The Grade “A” Pasteurized Milk Ordinance, ~~2023-2025~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except the bacterial limit standard and the somatic cell count standard in Section 7 of the document. Available online at <https://www.fda.gov/media/180975/download?attachment>. (7-1-25)

02. **Evaluation of Milk Laboratories.** The Evaluation of Milk Laboratories, ~~2023-2025~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <https://www.fda.gov/media/180977/download?attachment>. (7-1-25)

03. **Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures.** The Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures, ~~2023-2025~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <https://www.fda.gov/media/180976/download?attachment>. (7-1-25)

04. **Interstate Milk Shipments.** The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, ~~2023-2025~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and the National Conference on Interstate Milk Shipments. Available online at <https://www.fda.gov/media/180974/download?attachment>. (7-1-25)

105. -- 119. (RESERVED)

120. GRADE A MILK AND MILK PRODUCTS QUALITY STANDARDS.

The following standards are substituted for the bacterial limit standard and the somatic cell count standard for Grade A raw milk and milk products for pasteurized, ultra-pasteurization or aseptic processing in Section 7 of the Grade “A” Pasteurized Milk Ordinance. (3-15-22)

01. **Bacterial Limit Standard.** The bacterial limit standard is eighty thousand (80,000) per mL. (3-15-22)

02. **Somatic Cell Count Standard.** The somatic cell count standard is four hundred thousand (400,000) per mL. (3-15-22)

03. **Out of State Milk.** Milk from other states, if processed in Idaho, shall comply with the Idaho

somatic cell count standard. (3-15-22)

121. -- 209. (RESERVED)

SUBCHAPTER B – MILK AND CREAM PROCUREMENT AND TESTING

210. DEFINITIONS.

In addition to the definitions found in Chapters 3 and 5, Title 37, Idaho Code, the following definitions apply to the interpretation and enforcement of Subchapter B only: (3-15-22)

01. Abnormal Test. A test result from a producer sample that is dissimilar from recent producer milk component or quality parameter testing results; an anomaly. (3-15-22)

02. Accuracy Check. A test made at the beginning of each testing session and once per hour thereafter to determine the continued accuracy of the testing device. (3-15-22)

03. Approved Testing Methods. Methods approved by the director for testing milk or cream components and quality parameters when those components and parameters are used as a basis of payment. (3-15-22)

04. Calibration. The settings established on a testing device that will result in an average number of results that are within tolerance. (3-15-22)

05. Clearance Test. A sample set issued to an official laboratory, by the Department, to maintain a probationary testing license or reinstate a suspended testing license. (3-15-22)

06. Control Samples. Milk samples used to determine or set the calibration of the testing device. (3-15-22)

07. Component Testing. An analysis of milk or cream constituents including milkfat, protein, lactose or solids-nonfat, which is used as a basis of payment. (3-15-22)

08. Detailed Pricing Description. The method used by the purchaser of milk or cream as the criteria for determining the price paid. (3-15-22)

09. Milk Component or Component. A unique compound within milk whose relative mass within the milk may be used to determine the payment to producers. Component parts of milk include milkfat, protein, lactose, solids-nonfat, other solids, and total solids. (3-15-22)

10. Official Laboratory. A facility, licensed by the department, that tests milk or cream components or quality parameters for the purpose of determining the value of the product when sold or purchased by producers or processors. (3-15-22)

11. Outlier. A regulatory sample result that appears to deviate markedly from other members of the sample set in which it occurs. (3-15-22)

12. Pay Records. Signed written or printed records, which itemize milk volume, milk component and quality parameters used as payment to a producer or other processor. (3-15-22)

13. Performance Error. The difference between the known percentage content of each milk component in the control sample, as determined by the sample provider, and the percentage content as measured by the testing device. (3-15-22)

14. Producer. A dairy farm permitted by the department to sell milk for human consumption. (3-15-22)

15. Processor. A creamery, milk plant, shipping or cream buying station, milk condensing plant, cheese factory, mix making plant, ice cream factory, reprocessing plant, casein plant, powdered milk plant, or factory of milk products, or other person receiving or purchasing milk or cream in bulk other than a retail vendor of milk on the basis of volume, milk components, or milk quality. (3-15-22)

16. Quality Parameter. The quality of milk or cream as determined by the bacteria/plate count method, somatic cell count, temperature, drug residues or other parameters as approved by the department. (3-15-22)

17. Rolling Group of Thirteen (13). A series of thirteen (13) consecutive sample testing dates where the lab performance error of each biweekly component test is averaged together to represent the long-term accuracy of the lab. To be considered a valid testing date, a lab must evaluate and provide results on no less than nine (9) component samples from each round of testing. (3-15-22)

18. Testing Device. The equipment used to determine the percentage of milk or cream components. (3-15-22)

19. Sample Set. A group of not less than nine (9) milk samples issued by the Department to each official laboratory to evaluate component testing accuracy. (3-15-22)

20. Tolerance. The acceptable performance error from the control values of each sample set as determined by the sample provider. (3-15-22)

211. – 219. (RESERVED)

220. MILK AND CREAM PROCUREMENT AND TESTING REQUIREMENTS.

All bovine milk and cream produced, purchased, or sold in the state of Idaho at a price based upon or determined by the milkfat, protein, lactose, solids-nonfat, somatic cell counts, or other quality parameters, shall comply with the requirements of Subchapter B. (3-15-22)

221. LABORATORY LICENSING REQUIREMENTS.

01. License Required. All laboratories that test bovine milk or cream components and quality parameters for a basis of payment must be licensed by the department as an official laboratory. (3-15-22)

02. License Application. A laboratory must apply for a license on a form prescribed by the department. The laboratory must identify (on the application form) the names of all persons who will test milk or cream components and quality parameters. (3-15-22)

03. License Fee. The license fee, per laboratory, is twenty-five dollars (\$25). (3-15-22)

04. License Term. The official laboratory license is valid for three (3) calendar years after issuance by the department, unless otherwise suspended or revoked in accordance with these rules. The license expires on December 31 of the third year. (3-15-22)

222. – 229. (RESERVED)

230. OFFICIAL LABORATORIES - RESPONSIBILITIES AND OPERATING PROCEDURES.

01. Facility Requirements. The areas in official laboratories where component or quality parameter testing is conducted shall be well lighted, kept clean, appropriately ventilated and sufficient in size to provide for accurate testing. Laboratories that are certified under the Grade A program set forth in Subchapter B are deemed to satisfy the facility requirements for an official laboratory. (3-15-22)

231. – 240. (RESERVED)

241. CALIBRATION OF MILK COMPONENT TESTING DEVICES.

All testing devices shall be calibrated according to the protocols set by the testing device manufacturer, or as set forth in Subchapter B. (3-15-22)

01. Calibration Procedure. To calibrate a testing device, the official laboratory must use the device to test a set of calibration samples. The testing device shall be adjusted, as necessary, to satisfy each of the following requirements: (3-15-22)

a. The performance error on each calibration sample shall be as near as practicable to zero (0). (3-15-22)

b. The standard deviation of test results, calculated for the set of calibration samples shall not exceed forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat. (3-15-22)

242. DAILY PERFORMANCE CHECKS.

All testing devices must be subjected to a daily performance check before each day's testing, in accordance with the standards set by the testing device manufacturer, or as set forth in this Subchapter B. (3-15-22)

01. Calibration Based On Daily Performance Check. If the mean difference calculated on a daily performance check exceeds plus or minus forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat, the testing device shall not be used until it is recalibrated in accordance with Section 241. (3-15-22)

243. -- 249. (RESERVED)

250. SAMPLE INTEGRITY.

Milk or cream samples must be handled, stored, and shipped in a manner that maintains the integrity of the samples. Samples must be maintained in a temperature range of thirty-three degrees (33°) to forty-five degrees (45°) Fahrenheit (zero point fifty-five hundredths degrees (0.55°) to seven point twenty-two hundredths degrees (7.22°) Celsius). (3-15-22)

251. -- 259. (RESERVED)

260. ABNORMAL TESTS.

Whenever an abnormal test occurs on a producer's sample, that result may not be used as a basis of payment. (3-15-22)

01. Alternate Tests. In the case of an abnormal test, the official laboratory will use an average of the previous three (3) tests from that producer or another department approved method. (3-15-22)

02. Accidents and Sampling Errors. Laboratory accidents or sampling errors on milk or cream to be tested will not be used as official results and the criteria in Subsection 260.01 will be instituted. (3-15-22)

03. Documentation. All abnormal tests must be documented by the person conducting the test. (3-15-22)

261. -- 269. (RESERVED)

270. DETAILED PRICING DESCRIPTION.

On each pay record to the seller, purchasers or procurers of milk or cream must provide the seller with all pricing detail needed to determine the net payment for the product sold. At a minimum, the detail must include the following: (3-15-22)

01. Pricing Method and Pounds Purchased. If more than one (1) pricing method is used, the detail must include the pounds purchased at each method. The pricing method may include: (3-15-22)

- a. The value of each component per pound; (3-15-22)
- b. The total value of total component pounds; (3-15-22)
- c. The yield formula type and value of the end product(s); or (3-15-22)
- d. Fixed pricing type. (3-15-22)
- 02. Total Weight or Volume.** If weight is used, it must be expressed by pounds. If volume is used, it must be expressed in U.S. gallons. (3-15-22)
- 03. Component Information.** All relevant component testing averages or pounds of solids for each component. (3-15-22)
- 04. Bonuses and Deductions.** All quality bonuses or deductions and the applicable quality parameters used to calculate the bonuses or deductions. (3-15-22)
- 05. Hauling Charges.** All hauling charges and any applicable surcharges. (3-15-22)
- 06. Other Deductions.** All other payment deductions including check-offs, administrative fees, and laboratory fees. (3-15-22)
- 07. Other Factors.** All other factors affecting net payment. (3-15-22)
- 08. Availability.** Pay records must be made available to the department upon request, and be maintained by the procurer or processor for at least one (1) year. (3-15-22)

271. AUDITING PAYMENTS FOR MILK OR CREAM

The Department shall initiate an audit of samples and test results of milk and cream, tested in accordance with the most current edition of the "Standard Methods for the Examination of Dairy Products", at the request of a buyer or seller. The audit shall be conducted to determine the accuracy of payments for milk and cream by the buyer to the seller where price is based on or determined by the milkfat, protein, lactose, solids nonfat, or somatic cell counts, or by any other quality parameter or other analyte, of the milk or cream. Any such audit shall be according to the following procedures:

01. Commencement of Audit. The Department shall commence an audit upon receipt of a written request from a buyer or seller. All audit requests must be submitted to the Department within sixty (60) days of the collection of any sample that is disputed. The scope of any audit is limited to the 60 days preceding the date of the request and the time period during which the audit is conducted. ▲

02. Notifications and Responses to an Audit. The Department shall notify all interested parties (buyer/seller) of the audit request within five (5) business days of receipt. The party responding to the audit request is subsequently required to file an answer with the Department within ten (10) business days after receipt of the request. The answer to the audit request shall then be served upon the buyer and seller by the Department within five (5) business days of receipt. ▲

03. Split Samples. During the audit process, the buyer and seller have the right to request and receive splits from the same samples for independent testing or provide split sample results that were previously tested. ▲

04. Audit Committee. The Department shall refer the request for audit, and the answer, to a three (3) person audit committee. No member of the audit committee may have a financial or pecuniary interest in the outcome of the audit. Any members of the audit committee not employed by the State of Idaho shall be compensated as provided in section 59-509(b), Idaho Code. The three (3) member committee shall select a chairman from its membership who will conduct deliberations of the audit committee and direct all of its other activities. Upon request, the Department may provide administrative support to the audit committee. ▲ The audit committee shall consist of the following individuals. ▲

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a. A representative selected by the president of the Idaho Dairymen's Association;

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b. A representative selected by the president of the Intermountain Milk Processors Association;
and

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c. The director or the director's designee from within the Department.

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05. Audit Committee Investigation and Report. The audit committee shall complete a full investigation of the audit request and report its findings to the parties within thirty (30) days of the responding party's answer, or such later date as agreed by the buyer and seller. The audit committee shall issue a written report of its investigation that includes findings regarding the test sample results and the amount of discrepancy, if any, in payments for milk and cream by the buyer to the seller. The written report shall be served on the buyer and seller upon its issuance. The audit committee's report shall be deemed the final action of the Department.

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06. Investigatory Authority. In the course of its investigation, the audit committee may:

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a. Examine the buyer and the seller on all matters which the audit committee considers relevant.

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b. Submit milk or cream samples for testing by the state laboratory or state-designated laboratory, with said samples to be collected by a department-licensed bulk milk hauler.

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c. Hold non-public meetings at such time and place as the chairman may direct upon reasonable notice to all parties.

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d. Upon the chairman's request, call any person in for comments knowledgeable on any matter under investigation.

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07. Non-Waiver. The rights and procedures provided to the audit process described by this rule may not be altered or varied by agreement, contract or otherwise.

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~~271~~272. -- 279. (RESERVED)

280. REGULATORY COMPLIANCE - INSPECTIONS AND RECORDS REVIEW.

The department shall have access at any time to official laboratories to review testing procedures, records, or to conduct other inspections or tests to determine compliance with Subchapter B and Title 37, Chapter 5, Idaho Code. Any time a testing device is being operated to test for milk components or other quality parameters, the department may provide samples to an official laboratory, and require the official laboratory to immediately process those samples in order to ensure compliance with Subchapter B of this rule. (3-15-22)

281. REGULATORY SAMPLES.

01. Sample Set. (3-15-22)

a. The department will provide sample sets to official laboratories, on a bi-weekly basis or at a frequency determined by the department to be necessary to ensure accurate component testing results. (3-15-22)

b. The department may provide regulatory samples from other sources if necessary. (3-15-22)

c. The official laboratory must immediately process the samples for those components used by the processor or procurer as a basis of payment while being observed by a department employee or representative. (3-15-22)

d. The official laboratory must evaluate the sample set using identical control standards and device settings which are used to routinely evaluate Idaho producer milk components for basis of payment. (3-15-22)

e. If the official laboratory is unable to process the samples due to maintenance or mechanical issues, the department may obtain and deliver an additional set of regulatory samples. (3-15-22)

02. Regulatory Sample Results. The regulatory sample results will be compiled and evaluated by the department in rolling groups of thirteen (13). (3-15-22)

03. Outliers. Sample results that have been identified as outliers will not be used in the calculation of tolerance for regulatory test results. (3-15-22)

04. Regulatory Sample Tolerances. Each group of rolling thirteen (13) average shall be within the following tolerances for those components used as a basis of payment by the processor or procurer: (3-15-22)

a. Plus or minus two hundredths percent (.02%) for milkfat and protein. (3-15-22)

b. Plus or minus sixty-five thousandths percent (.065%) for solids, other than milkfat or protein. (3-15-22)

282. LICENSE SUSPENSION AND REVOCATION BASED ON REGULATORY SAMPLES.

01. Two (2) Out of Four (4) Violation. Whenever the average performance error of two (2) of the last four (4) rolling groups of thirteen (13) exceed the tolerance for milkfat, protein, or solids as set forth in Subsection 281.04 of this rule, the Department will issue a written notice to the official laboratory. This notice is in effect as long as two (2) of the last four (4) rolling groups of thirteen (13) exceed the allowable tolerance for component testing. (3-15-22)

02. License Suspension. If two (2) out of four (4) of an official laboratory's rolling groups of thirteen (13) average are out of tolerance pursuant to Subsection 281.04 of this rule, the Department will evaluate the following items prior to suspending the testing license. (3-15-22)

a. Two (2) out of Four (4) Testing Requirement. The average performance error of each component tested by an official laboratory under a two (2) out of four (4) violation notice must be within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat and sixty-five thousandths percent (.065%) other solids on all scheduled sample sets, until the official laboratory no longer exceeds the performance tolerance on two (2) out of four (4) rolling groups of thirteen (13) average. (3-15-22)

i. Test results from laboratories under a two (2) out of four (4) notice will be included in rolling group of thirteen (13) averages. (3-15-22)

03. Three (3) out of Five (5) Violation. An official laboratory under a two (2) out of four (4) violation notice that does not meet the performance requirements listed in this section on each component of a scheduled sample set will have committed a three (3) out of five (5) violation. A three (3) out of five (5) violation will result in immediate license suspension. (3-15-22)

04. License Reinstatement. An official laboratory may seek reinstatement of a suspended license by completing the following: (3-15-22)

a. Clearance Test. The average performance error of the official laboratory must be within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids on a sample set issued by the Department. The official laboratory will

be responsible for the cost of a reinstatement sample set if it does not coincide with the normal sample set schedule. Clearance test results used for license reinstatement are not included in rolling group of thirteen (13) averages.

(3-15-22)

05. License Revocation for Repeated Out of Tolerance Test Results. If the regulatory sample results are repeatedly out of tolerance, the department may initiate steps to revoke the official laboratory's license to conduct component testing for three (3) months or more.

(3-15-22)

283. – 289. (RESERVED)

290. RECORD KEEPING.

Records must be maintained by the official laboratory in accordance with this section, and must be made available for examination by the department, upon the department's request.

(3-15-22)

01. General Provisions.

(3-15-22)

a. No record may be altered except that errors may be corrected by striking through the original entry and inserting the correct entry immediately adjacent to the original. A corrected entry shall be initialed by the person who made the corrected entry.

(3-15-22)

b. Records may be maintained in paper or electronic format. In either case, the records must:

(3-15-22)

i. Be effectively secured against loss or tampering.

(3-15-22)

ii. Be readily retrievable for inspection by the dairy plant operator and the department.

(3-15-22)

iii. If corrected, have the correction identified so that the reader may easily compare the corrected version to the original.

(3-15-22)

02. Records Retention - Time Limit. The dairy plant operator or the official laboratory must maintain the records required under this section of Subchapter B for at least one (1) year.

(3-15-22)

291. ENFORCEMENT.

01. License Suspension. The director may suspend official laboratory component testing from any laboratory not meeting the requirements set forth in Subchapter B until the official laboratory has satisfactorily demonstrated compliance with Subchapter B.

(3-15-22)

02. Effect of License Suspension. If an official laboratory's license is suspended, the official laboratory cannot conduct component testing for use as a basis of payment and must use a licensed third-party laboratory. Procurers of milk who must use a licensed third-party laboratory must pay any associated component testing fees.

(3-15-22)

292. -- 303. (RESERVED)

SUBCHAPTER C – MANUFACTURE GRADE MILK

304. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this Subchapter C only.

(3-15-22)

01. Standard Methods for the Examination of Dairy Products (Standard Methods). (17th Edition, June 1, 2004) published by the American Public Health Association.

(3-15-22)

02. United States Sediment Standards for Milk and Milk Products (September 1, 1977) (USDA AMS Dairy Division). This document is available online at

<https://www.ams.usda.gov/sites/default/files/media/USsedimentStandardsforMilkandMilkProducts.pdf>. (3-15-22)

03. United States Standards for Grades of Butter (August 31, 1989) (USDA AMS Dairy Division). This document is available online at [https://www.ams.usda.gov/sites/default/files/media/Butter_Standard\[1\].pdf](https://www.ams.usda.gov/sites/default/files/media/Butter_Standard[1].pdf). (3-15-22)

04. Appendix D “Standards for Water Sources” of the Grade “A” Pasteurized Milk Ordinance. The Grade “A” Pasteurized Milk Ordinance, 2013 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. This document is available online at <https://www.fda.gov/media/123139/download>. (3-15-22)

05. “Subpart E – Requirements for Licensed Dairy Plants,” of the ‘Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements’ published by USDA, AMS, Dairy Programs and made effective July 21, 2011. Copies of this document may be obtained from the Idaho State Department of Agriculture or accessed online at <https://www.ams.usda.gov/sites/default/files/media/Milk%20for%20Manufacturing%20Purposes%20and%20its%20Production%20and%20Processing.pdf>. (3-15-22)

06. Grade “A” Pasteurized Milk Ordinance. The Grade “A” Pasteurized Milk Ordinance, 2019 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except those provisions establishing raw milk standards for raw milk for pasteurization, available online at <https://www.fda.gov/media/140394/download>. (3-15-22)

305. -- 309. (RESERVED)

310. DEFINITIONS.

In addition to the definitions found in Chapters 3, 4, and 5, Title 37, Idaho Code, the following definitions apply to the interpretation and enforcement of Subchapter C only: (3-15-22)

01. 3-A Sanitary Standards. The standards for dairy equipment formulated by the 3-A Sanitary Standards, Inc. (3-A SSI). 3-A SSI is comprised of equipment fabricators, Dairy Processors, and regulatory sanitarians, which include state milk regulatory officials, USDA Agricultural Marketing Service Dairy Programs, the US. Public Health Service, the Food and Drug Administration, academic representatives, and others. (3-15-22)

02. Acceptable Milk. Milk that qualifies as to appearance and odor and that is classified No. 1 or No. 2 for sediment content. (3-15-22)

03. Adulterated Milk. Weakened or lessened in purity by the addition of a foreign or inferior substance or element rendering the milk unsuitable for human consumption. (3-15-22)

04. Atmosphere Relatively Free From Mold. No more than ten (10) mold colonies per cubic foot of air as determined in Standard Methods. (3-15-22)

05. Bulk Milk Hauler or Bulk Milk Sampler. A person licensed by the Department who is qualified and trained for the grading or sampling of raw milk in accordance with the quality standards and procedures of these rules and the Universal Sample. (3-15-22)

06. C-I-P or Cleaned-in-Place. The procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation. (3-15-22)

07. Commingled Milk. Milk that has left the Dairy Farm and has been mixed with other individual Producer milk in a Transportation Tank or at a Dairy Plant. (3-15-22)

08. Dairy Farm or Farm. A place or premise certified by the Department where one (1) or more milking cows, sheep, goats, or water buffalo are kept, and from which all or a portion of the milk produced thereon is delivered, sold, or offered for sale to a Dairy Plant. (3-15-22)

09. Dairy Permit. A Department-issued document acknowledging a dairy facility has met the applicable requirements of Section 360 for the production of milk to be used for manufacturing purposes. (3-15-22)

10. Dairy Plant or Dairy Processor. Any place, premise, or establishment licensed by the Department where milk or dairy products are transported, graded, received or handled for processing or manufacturing and/or prepared for distribution. (3-15-22)

11. Dairy Products. Butter, cheese (natural or processed), dry whole milk, nonfat dry milk, dry buttermilk, dry whey, evaporated milk (whole or skim), condensed whole milk and condensed skim milk (plain or sweetened), and such other products, for human consumption, as may be otherwise designated. (3-15-22)

12. Excluded Milk. All of a Producer's milk excluded from the market by the provisions of Section 341. (3-15-22)

13. Farm Tank. A tank used to cool, store or cool, and store milk prior to transportation to the processing plant. (3-15-22)

14. Fieldman. A person qualified and trained in the sanitary methods of production and handling of milk as set forth herein, and generally employed by a Dairy Plant for the purpose of making Dairy Farm surveys and doing quality control work. (3-15-22)

15. Fieldman, Approved. A Fieldman qualified, trained, and approved by the Department to perform Dairy Farm inspections and raw milk grading or sampling. (3-15-22)

16. Inspector. A qualified, trained person employed by the Department to perform Dairy Farm or Dairy Plant inspections and raw milk grading or sampling. (3-15-22)

17. Milk. The lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy cows, goats, sheep, or water buffalo for manufacturing purposes. (3-15-22)

18. Milk for Manufacturing Purposes. Milk produced from a Department-permitted Dairy Farm for processing and manufacturing into products for human consumption. (3-15-22)

19. Probational Milk. Milk classified No. 3 for sediment content. (3-15-22)

20. Producer. The person or persons who exercise control over the production of the milk delivered to a Dairy Plant. (3-15-22)

21. Rejected Milk. Milk rejected from the market according to the provisions of Section 340. (3-15-22)

22. Sanitizing Treatment. Application of any effective method or sanitizing agent to clean surface for the destruction of pathogens and other organisms as far as is practicable. The sanitizing agents used shall comply with the Standard Methods. (3-15-22)

23. Transportation Tank. A tank used to transport milk or supply milk from a Dairy Farm to a Dairy Plant. (3-15-22)

24. Universal Sample. A single milk sample taken for the purpose of chemical, biochemical, or bacterial analyses typically used for regulatory purposes. (3-15-22)

311. -- 319. (RESERVED)

320. RAW MANUFACTURE GRADE MILK OR CREAM.

All raw milk or cream for manufacturing purposes from all sources shall be based on the following quality

specifications. (3-15-22)

01. Raw Milk. The appearance and odor of acceptable raw milk is normal, fresh, and sweet and free from objectionable feed and other off odors that would adversely affect the finished dairy product. (3-15-22)

02. Milk or Cream. Milk or cream is unacceptable which: (3-15-22)

a. Is other than the lacteal secretion obtained by the complete milking of one (1) or more healthy cows, goats, sheep, or water buffalo properly kept and fed; (3-15-22)

b. Contains added water; (3-15-22)

c. Contains colostrum, is ropy, bloody or gives any indication of having come from diseased or injured udders; (3-15-22)

d. Contains filth, is contaminated with flies, earwigs or other insects, dirt, oil, economic poisons, pesticides or other foreign matter which renders it unfit for human consumption; (3-15-22)

e. Tests positive for antibiotics or inhibitors as tested by the accepted methods of the Standard Methods or by tests approved by the Department; (3-15-22)

f. In the case of cream, is rancid, putrid, or actively foaming; (3-15-22)

g. Is more than three (3) days or seventy-two (72) hours old when picked up at the Dairy Farm; (3-15-22)

h. Does not meet the quality standards as set forth in Subchapter C. (3-15-22)

321. QUALITY REQUIREMENTS FOR MILK FOR MANUFACTURING PURPOSES.

01. Basis. The quality classification of raw milk for manufacturing purposes from each Producer shall be based on an organoleptic examination for appearance and odor, a drug residue test and quality control tests for sediment content, bacterial estimate and somatic cell count. (3-15-22)

a. At least once each month the Bulk Milk Haulers shall bring in not less than a two (2) ounce sample of mixed milk from a Producer's Farm Tank. The sample shall be taken in accordance with recommended procedures outlined in the Standard Methods. (3-15-22)

02. Appearance and Odor. The appearance of acceptable raw milk shall be normal and free of excessive coarse sediment when examined visually or by an acceptable test procedure. The milk shall not show any abnormal condition (including but not limited to curdles, ropy, bloody or mastitic condition), as indicated by sight or other test procedures. The odor shall be fresh and sweet. The milk shall be free from objectionable feed and other off-odors that would adversely affect the finished dairy product. (3-15-22)

03. Sediment Testing. Methods for determining the sediment content of the milk of individual Producers shall be those described in the Standard Methods. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products as incorporated by reference. (3-15-22)

04. Frequency of Test. At least once each month, at irregular intervals, the milk from each Producer shall be tested as follows: (3-15-22)

a. Milk in Cans. One (1) or more cans of milk selected at random from each Producer. (3-15-22)

b. Milk in Farm Tanks. A sample taken from each Farm Tank. (3-15-22)

05. Acceptance or Rejection of Milk. If the sediment disc is classified as No. 1, No. 2, or No. 3, the Producer's milk may be accepted. If the sediment disc is classified No. 4 the milk shall be rejected: provided, that if the shipment of milk is commingled with other milk in a Transport Tank the next shipment shall not be accepted until its quality has been determined at the Dairy Farm before being picked up; however, if the person making the test is unable to get to the farm before the next shipment it may be accepted but no further shipments shall be accepted unless the milk meets the requirements of No. 3 or better. In the case of milk classified as No. 3 or No. 4, if in cans, all cans shall be tested. Producers in No. 3 or No. 4 (milk cans or bulk) shall be notified immediately, and furnished applicable sediment discs and the next shipment will be tested. (3-15-22)

06. Retests. On test of the next shipment (if in cans, all cans shall be tested) milk classified as No. 1, No. 2, or No. 3, may be accepted, but No. 4 milk shall be rejected. Retests of bulk milk classified as No. 4 shall be made at the Dairy Farm before pickup. The Producers of No. 3 or No. 4 milk shall be notified immediately, furnished applicable sediment discs and the next shipment tested. This procedure of retesting successive shipments and accepting probational (No. 3) milk and rejecting No. 4 milk may be continued for not to exceed ten (10) calendar days. If at the end of this time all of the Producer's milk does not meet the acceptable sediment content classification (No. 1 or No. 2) the milk shall be excluded from market. (3-15-22)

322. -- 329. (RESERVED)

330. BACTERIAL ESTIMATE CLASSIFICATION.

A laboratory examination to determine the bacterial estimate shall be made on each Producer's milk at least once each month at irregular intervals. Samples shall be analyzed at a laboratory approved by the Department. (3-15-22)

01. Methods of Testing. Milk shall be tested for bacterial estimate by using testing methods approved by USDA or the Department: (3-15-22)

02. Bacterial Estimate Procedures. Whenever the bacterial estimate indicates the presence of more than two hundred thousand (200,000) bacteria per milliliter, the following procedures shall be applied: (3-15-22)

a. The Producer will be notified with a warning of the excessive bacterial estimate. (3-15-22)

b. Whenever two (2) of the last four (4) consecutive bacterial estimates exceed two hundred thousand (200,000) per milliliter, the Department shall be notified and a written warning notice given to the Producer. The notice is in effect so long as two (2) of the last four (4) consecutive samples exceed two hundred thousand (200,000) per milliliter. (3-15-22)

c. An additional sample will be taken between three (3) days and twenty one (21) days after the date of the written notice. Subsequent milkings shall be excluded from the market until the bacterial estimate of the sample is less than two hundred thousand (200,000) per milliliter. The Producer will be fully reinstated when three (3) out of four (4) consecutive bacterial estimate test do not exceed two hundred thousand (200,000) per milliliter. (3-15-22)

331. -- 339. (RESERVED)

340. REJECTED MILK.

A plant shall reject specific milk from a Producer if the milk fails to meet the requirements for appearance and odor, if it is classified No. 4 for sediment content, or if it tests positive for drug residue. All reject milk shall be identified with a reject tag and/or colored with harmless food coloring. (3-15-22)

341. EXCLUDED MILK.

A Dairy Plant shall not accept milk from a Producer if: (3-15-22)

01. Probational Sediment Content. The milk has been in a probational (No. 3) sediment content classification for more than ten (10) calendar days. (3-15-22)

02. Exceeding Maximum Bacteria. Three (3) of the last five (5) milk samples have exceeded the

maximum bacteria estimate of two hundred thousand (200,000) per milliliter. (3-15-22)

03. Maximum Somatic Cell Count. Three (3) of the last five (5) milk samples have exceeded the maximum somatic cell count level of seven hundred fifty thousand (750,000) per milliliter or one million five hundred thousand (1,500,000) per milliliter for goat or sheep milk. (3-15-22)

04. Positive Drug Test. The Producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test. (3-15-22)

342. -- 349. (RESERVED)

350. RECORDS OF TESTS.

Accurate records of the results of the milk quality and drug residue tests for each Producer shall be kept on file for a period of not less than twelve (12) months. The records shall be available for examination by the Department. (3-15-22)

351. SOMATIC CELL COUNT.

01. Level of Somatic Cells. A laboratory examination to determine the level of somatic cells shall be made on each Producer's milk at least four (4) times in each six (6) month period at irregular intervals. Samples shall be analyzed at a laboratory and by a method approved by the Department. (3-15-22)

02. Procedures. Whenever the confirmatory somatic cell count indicates the presence of more than seven hundred fifty thousand (750,000) somatic cells per milliliter, (one million five hundred thousand (1,500,000) per milliliter for goat and sheep) the following procedures shall be applied: (3-15-22)

a. The producer will be notified with a warning of the excessive somatic cell count. (3-15-22)

b. Whenever two (2) of the last four (4) consecutive somatic cell counts exceed seven hundred fifty thousand (750,000) per milliliter, (one million five hundred thousand (1,500,000) per milliliter for goat and sheep) the Department shall be notified and a written warning notice given to the Producer. The notice will be in effect so long as two (2) of the last four (4) consecutive samples exceed seven hundred fifty thousand (750,000) per milliliter, (one million five hundred thousand (1,500,000) per milliliter for goat and sheep). (3-15-22)

c. An additional sample shall be taken between three (3) days and twenty one (21) days after the date of the written notice. Subsequent milkings shall be excluded from the market until the somatic cell count of the sample is less than seven hundred fifty thousand (750,000) per milliliter, (one million five hundred thousand (1,500,000) per milliliter for goat and sheep). The Producer will be fully reinstated when three (3) out of four (4) consecutive somatic cell count tests do not exceed seven hundred fifty thousand (750,000) per milliliter, (one million five hundred thousand (1,500,000) per milliliter for goat and sheep). (3-15-22)

352. DRUG RESIDUE LEVEL.

01. Dairy Plant's Sampling and Testing Responsibilities. All milk shipped for processing or intended to be processed on the Dairy Farm where it was produced will be sampled and tested, prior to processing, for beta lactam drug residue or other drugs as determined by the Department. Collection, handling and testing of samples shall be done according to procedures established by the Department. (3-15-22)

a. When so specified by the US. Food and Drug Administration (FDA), all milk shipped for processing, or intended to be processed on the Dairy Farm where it was produced, will be sampled and tested, prior to processing, for other drug residues under a random drug sampling program. A random drug sampling program may be conducted at a frequency determined by the Department. (3-15-22)

b. When the Commissioner of the FDA determines that a potential problem exists with an animal drug residue or other contaminant in the milk supply, a sampling and testing program will be conducted, as determined by the FDA. (3-15-22)

c. Dairy Plants shall analyze samples for beta lactams and other drug residues by methods evaluated by OMA and accepted by the FDA as effective in determining compliance with established “safe levels” or tolerances. “Safe levels” and tolerances for particular drugs are established and amended by the FDA. (3-15-22)

d. Individual Producer sampling. (3-15-22)

i. Bulk Milk. A milk sample for beta lactam drug residue testing shall be taken at each farm and will include milk from each Dairy Farm Tank. (3-15-22)

ii. Can Milk. A milk sample for beta lactam drug residue testing shall be performed separately at the receiving Dairy Plant for each can milk Producer included in a delivery, and be representative of all milk received from the Producer. (3-15-22)

iii. Producer Dairy Plant. For those Producers who also have a licensed Dairy Plant, a milk sample for beta lactam drug residue testing shall be performed on each batch of milk to be processed. (3-15-22)

e. Load sampling and testing. (3-15-22)

i. Bulk milk. A load sample shall be taken from the Transport Tank after its arrival at the Dairy Plant and prior to further commingling. (3-15-22)

ii. Can milk. A load sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle. (3-15-22)

iii. Producer Dairy Plant. A load sample shall be tested at the Dairy Plant using a sampling procedure that includes all milk produced and received. (3-15-22)

f. Sample and record retention. A load sample that tests positive for drug residue shall be retained according to guidelines established by the Department. The records of all sample test results shall be retained for a period of not less than twelve (12) months. (3-15-22)

g. Dairy Plant follow-up. (3-15-22)

i. When a load sample or individual Producer sample tests positive for drug residue, Dairy Plant personnel shall notify the Department immediately, of the positive test result and of the intended disposition of the shipment of milk containing the drug residue. All milk testing positive for drug residue shall be disposed of in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines. (3-15-22)

ii. Each individual Producer sample represented in the positive-testing load sample shall be individually tested as directed by the Department to determine the Producer of the milk sample testing positive for drug residue. Identification of the Producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the Department. (3-15-22)

iii. Milk shipment from the Producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue. (3-15-22)

02. Department’s Monitoring and Surveillance Responsibilities. The Department will monitor the Dairy Plant’s drug residue program by conducting unannounced on-site inspections to observe testing and sampling procedures and to collect samples for comparison drug residue testing. In addition, the Department will review industry records for compliance with these rules. The review will seek to determine that: (3-15-22)

a. Each Producer is included in a routine, effective drug residue milk monitoring program utilizing

FDA-approved methods to test samples for the presence of drug residue; (3-15-22)

b. The Department receives prompt notification from industry personnel of each occurrence of a sample testing positive for drug residue, and of the identity of each Producer identified as a source of milk testing positive for drug residue; (3-15-22)

c. The Department receives prompt notification from industry personnel of the intended and final disposition of milk testing positive for drug residue, and that disposal of the load is conducted in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines; and (3-15-22)

d. Milk shipment from a Producer identified as a source of milk testing positive for drug residue completely and immediately ceases until a milk sample taken from the dairy herd does not test positive for drug residue. (3-15-22)

03. Enforcement. If a Producer ships milk testing positive for drug residue three (3) times within a twelve (12) month period, the Department may initiate procedures to suspend the Producer's milk shipping privileges. (3-15-22)

353. -- 359. (RESERVED)

360. FARM REQUIREMENTS OF MILK FOR MANUFACTURING.

01. Health of Herd. (3-15-22)

a. Tuberculin Test. Cows and goats shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd as determined by the U.S. Department of Agriculture (USDA). If the animals are not located in such areas, they shall be tested annually under the jurisdiction of the aforesaid program. All additions to the herd shall be from an area or from herds meeting those same requirements. (3-15-22)

b. Brucellosis Test. The cows shall be located in States consistent with Certified-Free status, or shall be involved in a milk ring test program or state of Idaho blood testing program. All additions to the herd shall be from an area or from herds meeting these same requirements. (3-15-22)

c. Abnormal Milk. Milk from animals known to be infected with mastitis or milk containing residues of antibiotics or other drugs, or milk containing pesticides or other chemical residues in excess of the established limits shall not be sold or offered for sale for human consumption. The milk shall be disposed of in a method approved by the Department. (3-15-22)

02. Water Supply. The Dairy Farm water supply shall meet the requirements in Appendix D of the 2019 Pasteurized Milk Ordinance. A source that does not conform with the construction requirements of Appendix D, but is tested annually by an approved laboratory and found to be safe and of sanitary quality, shall be satisfactory: provided any new sources of water supply or any farm water supply requiring repairs or reconstruction or any source from which tested samples have been found unsatisfactory shall meet the construction requirements of the Department. (3-15-22)

03. Qualifications for Dairy Permit. Dairy Farm Permits require satisfactory compliance with the requirements in Section 370. (3-15-22)

361. -- 369. (RESERVED)

370. DAIRY FARM PERMIT.

No milk for manufacturing purposes produced on non-permitted Dairy Farm shall be bought or sold for human consumption. Inspections shall be conducted pursuant to the construction and sanitation standards of the 2019 Pasteurized Milk Ordinance. (3-15-22)

371. -- 379. (RESERVED)

380. STANDARDS FOR BULK MILK HAULERS.

All Bulk Milk Haulers must possess a permit issued by the Department and are subject to the provision of Appendix B in the Pasteurized Milk Ordinance (PMO) and Title 37-3 and 37-4, Idaho Code. (3-15-22)

381. -- 389. (RESERVED)

390. STANDARDS OF IDENTITY, LABELING, AND QUALITY STANDARDS FOR ICE CREAM AND FROZEN DAIRY PRODUCTS AND DESSERTS.

01. Definitions. The standards of identity for ice cream and frozen custards, frozen yogurt, frozen yogurt dessert mix, frozen yogurt dairy products, frozen dairy dessert, ice milk, sherbet and water ices are as defined by the Food and Drug Administration, United States Department of Health Education and Welfare, in Title 21, Part 135, of the Code of Federal Regulations. (3-15-22)

02. Labeling. Each of the products required to be labeled by Section 37-1202, Idaho Code shall also bear on each container an identifiable code identifying the lot and/or date in which the product was manufactured. (3-15-22)

03. Quality Standards. The following quality standards must be met: (3-15-22)

a. Coliform Standard. A sample shall not exceed ten (10) coliform colonies per gram in two (2) of the last four (4) consecutive samples. (3-15-22)

b. Bacteria Standard. A sample shall not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the dairy product is cultured, the bacteria test, using the standard plate count or equivalent method would not be applicable. (3-15-22)

c. Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of ice cream and frozen dairy products and deserts will be collected and tested. If test results exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the dairy product cannot be sold for human consumption. A subsequent sample must meet the quality standards before the dairy product may be sold for human consumption. (3-15-22)

04. Licensed Manufacturers. All frozen dessert mixes except nondairy frozen dessert shall be secured from a licensed manufacturer and manufactured into a semifrozen state without adulteration. Freezing device salvage shall not be reused as a mix. (3-15-22)

05. Violations. The Director will issue and enforce a written stop sale order to the owner or custodian of any quantity of frozen desserts or frozen novelties which are in violation of Title 37 Chapters 3, 5, and 12, Idaho Code, or Subchapter C of these rules. Disposition of products not in compliance will be at the discretion of the Director. (3-15-22)

391. STANDARDS FOR BUTTER.

Butter grading will be performed in accordance with the United States Standards for grades of butter as incorporated by reference. (3-15-22)

392. -- 394. (RESERVED)

395. NEW DAIRY PRODUCTS.

01. General. Upon request of any interested person, the Director may establish a temporary definition and standard for a new dairy product provided, all the following conditions exist: (3-15-22)

a. Research in the uses of milk and the products or by products of milk has developed a new dairy product for which no definition or standard is prescribed. (3-15-22)

b. The new dairy product cannot be produced or marketed because no definition in standard is prescribed for it. (3-15-22)

c. The public interest would be served by the dairy product. (3-15-22)

d. The quality, wholesomeness and manufacturing requirements of the dairy product are at least equal to established standards for similar dairy products. (3-15-22)

e. The dairy product is labeled in accordance with guidelines for a food product and approved by the Department. (3-15-22)

02. Permits. The Director may issue a special permit to the manufacturer/distributor for the production and sale of a new dairy product(s). The fee for this permit will be twenty five dollars (\$25) per dairy product. Such manufacturer/distributor is subject to the provisions of Title 37 Idaho Code and regulations adopted pursuant thereto applicable to Dairy Plants and milk products. (3-15-22)

03. Expiration. After two (2) years from the date a temporary permit has been issued for a new dairy product(s), the Department will promulgate rules to establish definitions and standards for the new, nonstandardized dairy product(s). (3-15-22)

396. -- 403. (RESERVED)

SUBCHAPTER D – LICENSED DAIRY PLANTS

404. INCORPORATION BY REFERENCE.

The following document is incorporated by reference in this subchapter D only: (3-15-22)

01. “Subpart E -- Requirements for Licensed Dairy Plants,” of the ‘Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements’ published by USDA, AMS, Dairy Programs and made effective July 21, 2011. Copies of this document may be obtained from the Idaho State Department of Agriculture or accessed online at <https://www.ams.usda.gov/sites/default/files/media/Milk%20for%20Manufacturing%20Purposes%20and%20its%20Production%20and%20Processing.pdf>. (3-15-22)

405. -- 999. (RESERVED)