

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE
02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK
DOCKET NO. 02-0405-2401
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 37-303, 37-402, 37-405, AND 37-516, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule updates changes in federal code regarding pasteurized milk ordinances, methods of making sanitation rating milk shippers, evaluation of milk laboratories, and procedures governing the cooperative state-public health service/Food and Drug Administration Program of the National Conference on Interstate Milk Shippers. This rule governs 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 to ensure safe and wholesome dairy products.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are to the publication dates of documents that were already incorporated into these rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

PMO- Pasteurized Milk Ordinances:

The standards for continuous water disinfection using Ultraviolet (UV) treatment have been relaxed, particularly for water used in dairy production.

New labeling requirements have been introduced for homeopathic drugs, which previously did not have any labeling guidelines.

The PMO has removed the requirements for lighting and ventilation in Automated Milking Installations (AMIs). Previously, AMIs were required to have positive air ventilation systems in operation during the cleaning or sanitizing of the milking system.

MMSR- Methods of Making Sanitation Rating Milk Shippers:

Ratings are now due by the last day of the month; prior ratings were due exactly on the anniversary date from the last rating.

A proposal eliminates the evaluation of the Milking Time Inspection program for dairy farms from the calculations of enforcement ratings under Part I. Prior version required an Inspection of a producer while milking and not milking.

A proposal included additional pertinent animal health information to be updated within the MMSR. This information included the specific testing requirements and current language within Section 8 of the PMO with regards to Tuberculosis and Brucellosis testing for animals intended for Grade “A” milk production.

EML-Evaluation of Milk Laboratories:

No Proposals were passed that addressed changes to the Evaluation of Milk Laboratories (EML). Procedures Governing the Cooperative State-Public Health Service/ Food and Drug Administration Program of the National Conference on Interstate Milk Shipments

A proposal formalizes the NCIMS Aseptic Program Committee (APC) as a standing committee in accordance with the NCIMS Constitution and Bylaws

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government does regulate Grade A Milk and Manufacture Grade Milk. Idaho Code mimics federal regulation to ensure compliance with federal law. This activity is defined in Idaho Code.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0405-2401
(Only Those Sections With Amendments Are Shown.)

02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK

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, 2019~~23~~ 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/140394/download~~ <https://www.fda.gov/media/180975/download?attachment>. (3-15-22)()

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, 2019~~23~~ 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/137754/download~~ <https://www.fda.gov/media/180977/download?attachment>. (3-15-22)()

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, 2019~~23~~ 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/138393/download~~ <https://www.fda.gov/media/180976/download?attachment>. (3-15-22)()

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, 2019~~23~~ 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/138115/download~~ <https://www.fda.gov/media/180974/download?attachment>. (3-15-22)()