Rulemaking Summary

IDAPA 02.04.05 – Rules Governing Grade A Milk and Milk Products

Where is the rulemaking authority?

Authority for this rulemaking resides in the Title 37-303; 37-402; 37-405 and 37-516 Idaho Code

What does this rule do?

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.

What is the agency proposing to change?

The agency has performed Zero Based Regulation to simplify, clarify or remove outdated, unnecessary or irrelevant language in sections highlighted blue in the attached strawman. The amended language in these sections does not change the regulatory impact, scope, intent or authority in the current rule.

The agency has conducted an internal audit of this rule and identified multiple sections that may require amendments due to inaccurate or confusing language, recommendations to improve the efficiency of the program or changes that must be made to coincide with recent statutory amendments. The changes listed below, and highlighted in yellow in the attached strawman, may result in a change to the regulatory impact, scope, intent or authority in the current rule.

- Updating incorporations by reference to current version (Section 104)
- Add "Subpart E – Requirements for Licensed for Dairy Plants" as an incorporation by reference (Section 304)
- Add definition of adulterated milk (Section 310)
- Delete unavailable testing modalities (Section 330)
- Change bacterial standard to be consistent with PMO (Section 330)
- Add coliform standard (Section 341)
- Change somatic cell count to be consistent with PMO (Section 341 & 351)
- Modify drug testing language to include "failure to test" (Section 341)
- Default sanitation inspection criteria to the PMO (Section 370)

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. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Grade A Milk and Manufacture Grade Milk." ( )

02. 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. ( )

002. -- 103. (RESERVED)

SUBCHAPTER A – GRADE A MILK AND MILK PRODUCTS

104. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference in Subchapter A only: ( )

01. Grade "A" Pasteurized Milk Ordinance. The Grade "A" Pasteurized Milk Ordinance, ~~2017~~ 2019 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/114169/download. ( )

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, ~~2017~~ 2019 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/115265/download. ( )

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, ~~2017~~ 2019 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at http://ncims.org/wp-content/uploads/2018/08/2017-Milk-Methods.pdf. ( )

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, ~~2017~~ 2019 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/111155/download. ( )

105. REGULATORY FRAMEWORK.
All Grade A and Manufacture Grade A Milk and Milk Products shall comply with the provisions set forth in the documents incorporated by reference in this Subchapter A. ( )

106. -- 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. ( )

01. Bacterial Limit Standard. The bacterial limit standard is eighty thousand (80,000) per mL. ( )

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

03. Out of State Milk. Milk from other states, if processed in Idaho, shall comply with the Idaho somatic cell count standard. ( )

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: ( )

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. ( )

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. ( )

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. ( )

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

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. ( )

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

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. ( )

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

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. ( )

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. ( )

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

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. ( )

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. ( )

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

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. ( )

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. ( )

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. ( )

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

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. ( )

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

211. – 219. (RESERVED)

220. MILK AND CREAM PROCUREMENT AND TESTING REQUIREMENTS.
All 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. ( )

221. LABORATORY LICENSING REQUIREMENTS.

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

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. ( )

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

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. ( )

222. – 229. (RESERVED)

230. OFFICIAL LABORATORIES - RESPONSIBILITIES AND OPERATING PROCEDURES.

~~**01. Competency in Testing**. Official laboratories are responsible for ensuring that employees who~~

operate testing devices are competent to operate the devices, and for conducting testing according to Subchapter B. ( )

02. 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. ( )

03. Operating Procedures. An official laboratory shall establish and follow written standard operating procedures consistent with the recommended procedures for operation and maintenance set forth by the manufacturer of the testing device. ( )

231. Third Party Laboratories.
Procurers of milk who use official laboratories other than one owned or operated by the procurer are not responsible for that laboratory's failure to comply with Subchapter B. ( )

232. – 239. (RESERVED)

240. MILK COMPONENT TESTING DEVICES.
If an automated testing device is used to perform a milk component test for any milk component, that device must be calibrated and regularly checked to ensure that it accurately tests for that milk component. ( )

01. Calibration and Checks. Calibration and checks must include the utilization of calibration samples, performance checks and accuracy checks. ( )

02. Calibration Standards. Calibration may be done either in accordance with the standards set forth by the manufacturer of the testing device, or as set forth in Sections 240, 241 and 243 of Subchapter B. ( )

03. Calibration Record Keeping. In either case, the official laboratory must be able to demonstrate, through records kept in accordance with Section 290, that calibration and checks have been performed in accordance with Subchapter B, and that the testing device produces test results within the tolerances established in Subchapter B. ( )

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. ( )

01. Calibration Frequency. A milk component testing device shall be calibrated whenever the mean difference on a daily performance check under Section 242 herein 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. ( )

02. Calibration Samples. A set of calibration samples may consist of commercially available samples or samples made by the official laboratory. A set of calibration samples must consist of at least nine (9) individual samples, each of which: ( )

a. Cannot be more than twenty-one (21) days old; ( )

b. Must be a fresh milk sample preserved with bronopol (2-bromo-2-nitro-1, 3-propanediol) or another approved preservative. Preservative methods, formulations and concentrations must be approved by the department.( )

c. Must have a known percentage content of each relevant milk component, determined by the sample provider. ( )

d. Must meet the requirements of Section 250 of this rule. ( )

~~03. 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: ( )~~

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

~~b. The mean difference for the entire set of calibration samples shall be as near as practicable to zero (0), and not exceed 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 mean difference is the sum of the performance errors for the individual calibration samples, divided by the number of samples in the set. ( )~~

c. 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. ( )

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. ( )

~~01. Daily Performance Check Samples. ( )~~

~~a. Source. A set of daily performance check samples must be obtained from a sample provider approved by the department, or may be made by the official laboratory. ( )~~

~~b. Number. Unless otherwise specified by the manufacturer of the testing device, a minimum of two (2) control milk samples must be analyzed before daily component testing begins. ( )~~

~~c. Requirements. The control samples must comply with the requirements set forth in Section 241 of Subchapter B and fall within the component ranges typically found in the samples to be tested. ( )~~

~~02. Procedure. To conduct a daily performance check, the official laboratory must test a set of daily performance check samples. Based on the daily performance check, the official laboratory must do the following: ( )~~

~~a. Determine the performance error of the testing device with respect to each daily performance check sample. The performance error is the difference between the known percentage content of each milk component in that sample, as determined by the sample provider, and the percentage content as measured by the testing device; and ( )~~

~~b. Calculate the mean difference for the set of daily performance check samples. The mean difference is the sum of the performance errors for the individual samples, divided by the number of samples in the set. ( )~~

03. 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. ( )

~~243. ACCURACY CHECKS.~~
~~All testing devices shall be subjected to daily and hourly accuracy checks in accordance with the protocols set by the testing device manufacturer, or as set forth in this Section of Subchapter B. ( )~~

~~01. Daily Accuracy Check. A daily accuracy check must be conducted for each relevant milk~~

~~component before each day's testing at the same time that the daily performance check is conducted. The official laboratory must perform ten (10) tests on a reference sample. The reference sample may be a homogenized milk sample prepared by the official laboratory, or it may be a daily performance check sample obtained from an approved sample provider. The ten (10) test results must be averaged, and the average result will be used as a comparison value for the hourly accuracy checks required in Subsection 243.02. ( )~~

~~02. Hourly Accuracy Check. An hourly accuracy check must be conducted for each milk component before each hour's testing for that component. ( )~~

~~a. To conduct an hourly accuracy check, the official laboratory must test the same reference sample used for the daily accuracy check. ( )~~

~~b. For each relevant milk component, the hourly accuracy check result must be compared to the average result obtained on the daily reference check under Subsection 243.01. If an hourly accuracy check result differs from the average result on the daily accuracy check by more than thirty-four thousandths percent (.034%) for milkfat or protein, or sixty-four thousandths percent (.064%) for total solids or solids-nonfat, the testing device shall not be used until the condition causing the difference is found and corrected. ( )~~

~~c. Test results obtained before the device is corrected, and subsequent to the last previous conforming accuracy check, must not be used in determining the amount paid to milk producers. ( )~~

244. – 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). ( )

Commented [DSL1]: Adjust the temperature margins?

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. ( )

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. ( )

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. ( )

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

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: ( )

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: ( )

a. The value of each component per pound; ( )

b. The total value of total component pounds; ( )

c. The yield formula type and value of the end product(s); or ( )

d. Fixed pricing type. ( )

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. ( )

03. Component Information. All relevant component testing averages or pounds of solids for each component. ( )

04. Bonuses and Deductions. All quality bonuses or deductions and the applicable quality parameters used to calculate the bonuses or deductions. ( )

05. Hauling Charges. All hauling charges and any applicable surcharges. ( )

06. Other Deductions. All other payment deductions including check-offs, administrative fees, and laboratory fees. ( )

07. Other Factors. All other factors affecting net payment. ( )

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. ( )

271. -- 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. ( )

281. REGULATORY SAMPLES.

01. Sample Set. ( )

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. ( )

b. ~~The samples will be obtained from the company or entity that provides calibration samples to the official laboratory, if available.~~ The department may provide regulatory samples from other sources if necessary. ( )

c. The official laboratory must immediately process the samples for those components used by the processor or procurer as a basis of payment. ( )

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. ( )

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. ( )

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

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

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: ( )

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

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

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. ( )

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. ( )

~~**a.** Records Review. The Department shall review records kept by the official laboratory pursuant to Section 290 of this rule.~~ ( )

b. 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 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. If an official laboratory does not meet these performance requirements on each component of the clearance test, the testing license will be suspended. ( )

c. Probation. The Department may place an official laboratory on probation for two (2) weeks if: ( )

~~i. The records demonstrate all calibration and performance checks of all testing devices were performed, as required under these rules, and are operating within the tolerances set forth in Sections 240, 241, and 243 of this rule; and ( )~~

ii. The average performance error in the clearance test sample set was within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids. Clearance test results from laboratories on probationary status ~~shall~~ will be included in ~~the calculation of the~~ rolling group of thirteen (13) averages. ( )

03. License Reinstatement. An official laboratory may seek reinstatement of a suspended license by completing the following: ( )

~~**a.** Written Request. The official laboratory shall provide the Department a written request for reinstatement of their testing license. The request shall include documentation detailing the procedural corrections that have been made to the testing device(s), as well as a minimum of two (2) weeks of component testing results demonstrating that the testing device(s) have been and will remain in tolerance. ( )~~

b. 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. If the request for reinstatement does not coincide with the normal biweekly sample set issued by the Department, the The official laboratory will be solely responsible for the cost of procuring and shipping the additionala reinstatement sample set if it does not coincide with the normal sample set schedule. Clearance test results used for license reinstatement shall arenot be included in the calculation of the rolling group of thirteen (13) averages. ( )

04. 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. ( )

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. ( )

01. General Provisions. ( )

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. ( )

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

i. Be effectively secured against loss or tampering. ( )

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

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

02. Calibration Check Equipment Records. All calibration check and equipment maintenance records must be documented and provided during an inspection by the department. The documentation must include the following: ( )

a. Instrument identification. ( )

b. Name of the laboratory technician or maintenance person who performed the calibration or maintenance. ( )

c. Time and date of the calibration check or maintenance. ( )

d. Type of analytical test or maintenance performed. ( )

e. Results of the analytical test or maintenance. ( )

f. Details of action taken to correct calibration tolerances or mechanical problems. ( )

03. 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. ( )

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. ( )

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. ( )

292. -- 303. (RESERVED)

SUBCHAPTER C – MANUFACTURE GRADE MILK

304. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into Subchapter C only. ( )

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

02. ~~Official Methods of Analysis of AOAC International (OMA), 19th Edition, 2012~~. ( )

Commented [DSL2]: Lab no longer uses this document.

03. 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. ( )

04. 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. ( )

05. 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 ( )

"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.

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: ( )

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. ( )

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

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.

03. Atmosphere Relatively Free From Mold. No more than ten (10) mold colonies per cubic foot of

air as determined in Standard Methods. ( )

04. 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. ( )

05. 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. ( )

06. 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. ( )

07. 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. ( )

08. Dairy Certification. Certification by an Inspector or Approved Fieldman that a Producer's herd, milking facility and housing, milking procedure, cooling, milkhouse or milkroom, utensils and equipment and water supply have been found to meet the applicable requirements of Section 360 for the production of milk to be used for manufacturing purposes. ( )

09. 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. ( )

10. 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. ( )

11. Excluded Milk. All of a Producer's milk excluded from the market by the provisions of Section 341. ( )

12. Farm Tank. A tank used to cool, store or cool, and store milk prior to transportation to the processing plant. ( )

13. 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. ( )

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

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

16. 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. ( )

17. Milk for Manufacturing Purposes. Milk produced from a Department certified Dairy Farm for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements. ( )

18. Probational Milk. Milk classified No. 3 for sediment content. ( )

19. Producer. The person or persons who exercise control over the production of the milk delivered to a Dairy Plant. ( )

20. **Rejected Milk**. Milk rejected from the market according to the provisions of Section 340. ( )

21. **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. ( )

22. **Transportation Tank**. A tank used to transport milk or supply milk from a Dairy Farm to a Dairy Plant. ( )

23. **Universal Sample**. A single milk sample taken for the purpose of chemical, biochemical, or bacterial analyses typically used for regulatory purposes. ( )

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. ( )

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. ( )

02. **Milk or Cream**. Milk or cream is unacceptable which: ( )

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; ( )

b. Contains added water; ( )

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

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; ( )

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

f. Has more than seventeen one hundredths of one percent (.17%) acid calculated as lactic and does not meet the criteria in Subsection 320.01; ( )

g. In the case of cream, is rancid, putrid, or actively foaming; ( )

h. In the case of cream, contains more than eight tenths of one percent (.8%) acid calculated as lactic; ( )

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

j. Does not meet the quality standards as set forth in Subchapter C. ( )

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. ( )

~~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.~~ ( )

~~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. ( )~~

~~03. Sediment Content Classification. Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination described in Subsection 321.02. The USDA Sediment Standard is as follows. ( )~~

~~a. No. 1 (acceptable) - not to exceed five tenths (.5) milligram or equivalent. ( )~~

~~b. No. 2 (acceptable) - not to exceed one and five tenths (1.5) milligram or equivalent. ( )~~

~~c. No. 3 (probational, not over ten (10) days) - not to exceed two and five tenths (2.5) milligram or equivalent. ( )~~

~~d. No. 4 (reject) - over two and five tenths (2.5) milligram or equivalent. ( )~~

04. Method of 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. ( )

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

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

b. Milk in Farm Tanks. A sample taken from each Farm Tank. ( )

06. 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. ( )

07. 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. ( )

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. ( )

01. Methods of Testing. Milk shall be tested for bacterial estimate by using one (1) of the following methods or any other method approved by Standard Methods or a test approved by the Department: ( )

a. BactoScan FC. ( )

b. Direct microscopic clump count. ( )

Hydrophobic membrane filter count

Impedance conductance count

c. Standard plate count. ( )

d. ~~Plate loop count.~~ ( )

e. Petrifilm aerobic count. ( )

f. ~~Spiral plate count.~~ ( )

02. Bacterial Estimate Procedures. Whenever the bacterial estimate indicates the presence of more than two hundred thousand (~~200~~400,000) bacteria per milliliter, the following procedures shall be applied: ( )

Commented [DSL3]: More stringent than USDA (400,000). (Subpart E ; 2011)

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

b. Whenever two (2) of the last four (4) consecutive bacterial estimates exceed ~~two~~ four hundred thousand (~~200~~400,000) 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~~ four hundred thousand (~~200~~400,000) per milliliter. ( )

c. An additional sample will be taken ~~after a lapse of~~between three (3) days ~~but within~~and twenty one (21) days ~~of~~ after the date of the written notice~~notice required in Subsection 330.02.b. If this sample also exceeds two hundred thousand (200,000) per milliliter,~~ Ssubsequent milkings shall be excluded from the market until ~~satisfactory compliance is obtained~~the bacterial estimate of the sample is less than four hundred thousand (400,000) per milliliter. ~~. Shipment may be resumed and a temporary status assigned to the Producer by the Department when an additional sample of herd milk is tested and found satisfactory.~~ The Producer will be ~~assigned a~~ fully ~~reinstatement~~ reinstated ~~status~~ when three (3) out of four (4) consecutive bacterial estimate tests do not exceed ~~two~~ four hundred thousand (~~200~~400,000) per milliliter. ( )

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. ( )

341. EXCLUDED MILK.
A Dairy Plant shall not accept milk from a Producer if: ( )

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

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. ( )

03. Insanitary Conditions. If the milk is produced in unclean conditions such as, but not limited to, unclean milk contact surfaces, unclean conditions in the parlor or milk room, poor milking procedures, or poor animal housing conditions. ( )

Coliform Count. Three (3) of the last five (5) milk samples have exceeded the maximum coliform estimate of twenty-five (25) colonies per gram for raw milk intended for pasteurization, ten (10) colonies per gram for post pasteurized milk or one hundred (100) colonies per gram for pasteurized bulk milk.

04. 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. ( )

Commented [DSL4]: SCC More stringent than subpart E (1.5M)

05. 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 positive or fail to be tested for drug residue. ( )

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.
( )

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. ( )

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: ( )

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

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) ~~(1,000,000)~~ 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 ~~(1,000,000)~~ per milliliter for goat and sheep). ( )

c. An additional sample shall be taken between three (3) days and twenty one (21) days after the date of the written notice.~~after a lapse of three (3) days but within twenty-one (21) days of the notice required in Subsection 351.02.b. If this sample also exceeds seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep) subsequent~~ Subsequent milkings shall be excluded from the market until ~~satisfactory compliance is obtained~~ 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).. ~~Shipment may be resumed and a temporary status assigned to the producer by the Department when an additional sample of herd milk is tested and found satisfactory.~~ The Producer will be ~~assigned a~~ fully ~~reinstatement~~ reinstated ~~status~~ 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). ( )

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. ( )

~~**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. ( )~~

~~**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. ( )~~

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. ( )

d. Individual Producer sampling. ( )

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. ( )

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. ( )

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. ( )

e. Load sampling and testing. ( )

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. ( )

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. ( )

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. ( )

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. ( )

g. Dairy Plant follow-up. ( )

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. ( )

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. ( )

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. ( )

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: ( )

a. Each Producer is included in a routine, effective drug residue milk monitoring program utilizing ~~AOAC-evaluated and~~ FDA-approved methods to test samples for the presence of drug residue; ( )

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; ( )

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 ( )

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. ( )

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. ( )

~~353. Radionuclides.~~
~~Composite milk samples from selected areas within in the state of Idaho should be tested for biologically significant radionuclides at a frequency which the FDA determines to be adequate to protect the consumer. ( )~~

~~354. Pesticides And Herbicides.~~
~~Composite milk samples should be tested for pesticides and herbicides at a frequency the FDA determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits. ( )~~

355. ADDED WATER.
~~Milk samples from each Producer should be tested for added water at a frequency the Department determines is adequate to prevent the addition of water to the milk.~~ ( )

Commented [DSL5]: Plants test at their own discretion....is this necessary?

356. -- 359. (RESERVED)

360. FARM REQUIREMENTS OF MILK FOR MANUFACTURING.

01. Health of Herd. ( )

~~**a.** General Health. All animals in the herd shall be maintained in a healthy condition, properly fed and kept. ( )~~

~~**b.** Tuberculin Test. The cows and water buffalo shall be located in a Modified Accredited Area, an~~

~~Accredited Free State, or an Accredited Free Herd as determined by the US. Department of Agriculture (USDA). The goats shall be located in States meeting the current USDA Uniform Methods and Rules and for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. 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. ( )~~

c. Brucellosis Test. The cows shall be located in States ~~meeting Class B status, or~~consistent with Certified-Free ~~Herds~~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. ( )

d. Abnormal Milk. Milk from animals known to be infected with mastitis or milk containing residues of antibiotics or others 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. ( )

~~**02. Milking and Facility Housing.** ( )~~

Commented [DSL6]: These provisions are less strict that the Unlimited Raw requirements.

~~**a.** A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean, the manure removed daily and stored to prevent access of animals to accumulation thereof. No swine or fowl are permitted in any part of the milking area. ( )~~

~~**b.** If milk is exposed during straining or transferring in the milking areas it shall be protected from falling particles from areas above milk facility. ( )~~

~~**c.** The yard or loafing area shall be of ample size to prevent overcrowding, drained to prevent forming of standing water pools, insofar as practicable, and kept clean. ( )~~

~~**03. Milking Procedure.** ( )~~

~~**a.** The udders and flanks of all milking animals shall be kept clean. The udders and teats shall be washed or wiped immediately before milking with a clean, damp cloth or paper towel moistened with a sanitizing solution and wiped dry, or by any other sanitary method. ( )~~

~~**b.** The milker's outer clothing shall be clean and hands clean and dry. No person with an infected cut or open sores on their hands or arms shall milk animals, or handle milk or milk containers, utensils or equipment. ( )~~

~~**c.** Animals that secrete abnormal milk shall be milked last or with separate equipment. This milk shall be excluded from the supply as required in Subsection 360.01.d. ( )~~

~~**d.** Milk stools, surcingles and antikickers shall be kept clean and properly stored. Dusty operations should not be conducted immediately before or during milking. Strong flavored feeds should only be fed after milking. ( )~~

~~**04. Cooling.** ( )~~

~~**a.** Milk in cans shall be cooled immediately after milking to forty-five (45) degrees Fahrenheit or lower unless delivered to the Dairy Plant within two (2) hours after milking. The devices, such as cooler, tank, or refrigerated unit to cool milk can or canned milk, shall be kept clean. ( )~~

~~**b.** Milk in Dairy Farm Tanks shall be cooled to forty (40) degrees Fahrenheit or lower within two (2) hours after the first milking and maintained at forty-five (45) degrees Fahrenheit or lower until transferred to the Transport Tank. ( )~~

05. Milkhouse or Milkroom. ( )

a. A milkhouse or milkroom conveniently located and properly constructed, lighted, and ventilated shall be provided for handling and cooling milk and for washing, handling, and storing the utensils and equipment. Other products shall not be handled in the milkroom which would be likely to contaminate milk, or otherwise create a public health hazard. ( )

b. It shall be equipped with wash and rinse vat, utensil rack, milk cooling facilities and have an adequate supply of hot water available for cleaning milking equipment. If a part of the barn or other building, it shall be partitioned, screened, and sealed to prevent the entrance of dust, flies, or other contamination. A milking parlor used strictly as a milking facility in combination with a milkhouse or milkroom, when properly equipped, arranged and maintained, need not be partitioned. Concentrates and feed, if stored in the building, shall be kept in a tightly covered box or bin. The floor of the building shall be of concrete or other impervious material and graded to provide proper drainage. The walls and ceilings shall be constructed of smooth easily cleaned material. All outside doors shall open outward and be self-closing, unless they are provided with tight-fitting screen doors that open outward or unless other effective means are provided to prevent the entrance of flies. ( )

c. If a Dairy Farm Tank is used, it shall be properly located in the milkhouse or milkroom for access to all areas for cleaning and servicing. It shall not be located over a floor drain or under a ventilator. ( )

d. A small platform or slab constructed of concrete or other impervious material shall be provided outside the milkhouse, properly centered under a suitable port opening in the wall for milkhouse connections. The opening shall be fitted with a tight, self-closing door. The truck approach to the milkhouse or milkroom shall be properly graded and surfaced to prevent mud or pooling of water at point of loading. ( )

e. The milkhouse or milkroom shall be kept clean and free of trash. Animals and fowl are not allowed access to the milkhouse or milkroom at any time. ( )

06. Farm Chemicals and Animal Drugs. ( )

a. Animal biologics and other drugs intended for treatment of animals, and insecticides approved for use in dairy operations, shall be properly labeled and used in accordance with label instructions, and stored in a manner which will prevent accidental contact with milk and milk contact surfaces. ( )

b. Only drugs that are approved by the FDA or biologics approved by the USDA for use in dairy animals that are properly labeled according to FDA or USDA regulations shall be administered to such animals. ( )

c. When drug storage is located in the milkroom, milkhouse, or milking area, the drugs shall be segregated in such a way so that drugs labeled for use in lactating dairy animals are separated from drugs labeled for use in non-lactating dairy animals. ( )

d. Herbicides, fertilizers, pesticides, and insecticides that are not approved for use in dairy operations shall not be stored in the milkhouse, milkroom, or milking area. ( )

07. Utensils and Equipment. ( )

a. Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any unsanitary condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use with at least fifty (50) parts per million chlorine solution or its equivalent. New or replacement can lids shall be umbrella type. All new utensils and equipment shall comply with applicable 3-A Sanitary Standards. ( )

b. Dairy Farm Tanks shall meet 3-A Sanitary Standards for construction at the time of installation and shall be installed in accordance with regulations of the Department. ( )

~~c. Single service articles shall be properly stored and not reused. ( )~~

08. Water Supply. The Dairy Farm water supply shall meet the requirements in Appendix D of the 2019 Pasteurized Milk Ordinance~~, as incorporated herein by reference~~. 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. ( )

~~**09. Sewage Disposal**. House, milkhouse or milkroom and toilet wastes shall be disposed of in a manner that will not pollute the soil surface, contaminate any water supply, or be exposed to insects. ( )~~

10. Qualifications for Dairy Farm Certification. Dairy Farm certification requires satisfactory compliance with the requirements in Section 370. ( )

361. -- 369. (RESERVED)

370. DAIRY FARM ~~CERTIFICATION~~PERMIT.

No milk for manufacturing purposes produced on an uncertified Dairy Farm shall be bought or sold for human consumption. Inspections shall be conducted pursuant to the 2019 Pasteurized Milk Ordinance. ( )

Commented [DSL7]: Cite to the performance section of current PMO.

~~**01. Initial Inspection**. Certified Dairy Farms shall be inspected at least annually after initial certification to determine eligibility for recertification. The inspection criteria for recertification is the same as that for initial certification. ( )~~

~~**02. Inspection**. Each Dairy Farm shall be inspected by an Inspector or Approved Fieldman. When evidence indicates that it is advisable to do so, the Department may require an examination of the herd by a licensed veterinarian. If the Dairy Farm meets the applicable requirements for Dairy Farm certification described in Section 360, as indicated by the Farm Certification Report Form, the Dairy Farm shall be certified as described in Subsection 370.03. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall be reinspected within thirty (30) days after the initial inspection. If the Dairy Farm then meets the requirements for certification, the Dairy Farm shall be certified. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall not be certified, and the Producer's authorization to sell milk for human consumption from that Dairy Farm will be withheld by the Department until such time as the Dairy Farm qualifies for certification. Repeat violations on any item may cause a Dairy Farm to lose certification. Provided that, if the Inspector determines during any of these inspections that corrections on the Dairy Farm will require some capital investment, a reasonable extension of the prescribed time limits may be granted by the Department. ( )~~

~~**03. Certification**. An Inspector or Approved Fieldman will certify Dairy Farms that meet the requirements of Section 360, as applicable, based upon the inspection criteria described in Subsection 370.02. The scoring criteria approved by the Department will be utilized in determining compliance with the provisions of Section 360. Dairy Farm certification shall authorize the sale from that Dairy Farm of milk for manufacturing purposes that meets the quality standards. ( )~~

~~**04. Probationary Period**. If at any time an Inspector or Approved Fieldman determines that a certified Dairy Farm does not meet the requirements for certification, the Department may allow a reasonable probationary period for the Producer to bring the Dairy Farm within the requirements for certification. If at the end of this time the Dairy Farm does not meet the requirements for certification, the Department may revoke the Dairy Farm certification. ( )~~

~~**05. Reinstatement**. If, after a period of withholding, probation, or revocation of Dairy Farm certification, a Producer makes the necessary corrections at the Dairy Farm, the Producer may apply for reinspection. When conditions have been corrected, the Dairy Farm will be reinspected by an inspector or Approved Fieldman. When the Inspector or Approved Fieldman determines that requirements for certification have been met, the Dairy Farm will be certified. ( )~~

371. -- 379. (RESERVED)

380. STANDARDS FOR BULK MILK HAULERS.

01. Permits. All Bulk Milk Haulers must possess a permit issued by the Department. The permit will cost twenty-five dollars ($25) and will be issued to the applicant after a training session on proper procedures and successfully passing an examination administered by the Department. ( )

a. No permit will be issued unless a score of seventy percent (70%) or better is made on the examination. ( )

~~**b.** A training and refresher course conducted by the Department will be given in each area of the state of Idaho once each year.~~ ( )

c. Every holder of a permit must attend a training and refresher course every third year. ( )

d. Each new Bulk Milk Hauler ~~shall apply to the Department for a permit. The bulk milk hauling company shall provide basic instructions on bulk milk protocols, including milk sample collection, pick up procedures, and safety measures. A permit~~ will be issued a permit upon satisfactory completion of a special training and licensing session held by the Department. ( )

e. A substitute Bulk Milk Hauler in case of emergency can haul milk for three (3) days without a permit ~~provided the Department has been notified and the substitute Bulk Milk Hauler is provided instruction on approved milk pickup and delivery requirements by the bulk milk hauling company. At the end of three (3) days the substitute Bulk Milk Hauler must apply for a permit.~~ ( )

~~**02. Adulteration**. If the truck is left unattended, Bulk Milk Haulers shall affix a seal or lock on all Transportation Tank ports, covers, and doors to protect the milk from possible adulteration.~~ ( )

03. Authorization. No Bulk Milk Hauler shall grade, measure or sample his own milk without written authorization from the Dairy Plant receiving the milk. ( )

04. Permit Revocation. The permit may be revoked if: ( )

~~**a.** The Bulk Milk Hauler fails to grade milk in a Dairy Farm Tank to its odor and appearance and fails to reject all milk that is abnormal in odor or flavor or that contains visible garget or other extraneous matter.~~ ( )

~~**b.** The Bulk Milk Hauler does not accurately take and record the temperature of milk or if he fails to reject the milk in excess of forty-five (45) degrees Fahrenheit.~~ ( )

~~**c.** The Bulk Milk Hauler fails to wash his hands before he proceeds to measure and sample the milk.~~ ( )

~~**d.** The Bulk Milk Hauler fails to follow acceptable procedures in measuring the amount of milk in the Farm Tank or if he does not, immediately after taking the reading convert the reading to pounds or gallons using the chart of the Farm Tank manufacturer and record it on duplicate forms, with one (1) copy to be posted in the milk house and one (1) transmitted to the Dairy Plant.~~ ( )

~~**e.** The Bulk Milk Hauler fails to agitate the milk for at least five (5) minutes in Farm Tanks less than one thousand (1,000) gallons and ten minutes in Farm Tanks over one thousand (1,000) gallons before taking a sample or if he withdraws any part of the milk from the Farm Tank before the sample is taken.~~ ( )

~~**f.** The Bulk Milk Hauler does not take a sample for component testing and/or milk quality analysis in an approved manner or sufficient size in an approved container properly labeled, and that the sample has been cooled~~

Commented [DSL8]: Cite Appendix B in PMO for bulk hauler standards

Commented [DSL9]: Does Manufacture Grade Milk need this provision?

Commented [DSL10]: Renew permit every 3 years?

Commented [DSL11]: More stringent than Grade A PMO.

and maintained between thirty-two (32) degrees Fahrenheit to forty (40) degrees Fahrenheit. ( )

g. The Bulk Milk Hauler rinses the bulk Farm Tank before disconnecting and capping the hose. ( )

h. The Bulk Milk Hauler siphons milk from milk cans, water troughs or other containers other than the Farm Tank. Milk poured into the bulk Farm Tank from other than regular milking machine pails will not be allowed. ( )

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. ( )

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. ( )

03. Quality Standards. The following quality standards must be met: ( )

a. Coliform Standard. Compliance with the coliform standard is deemed to have been met if the coliform count does A sample shall not exceed ten (10) coliform colonies per gram in two (2) of the last four (4) consecutive samples. No enforcement action will be taken if the last sample is within the standard. ( )

b. Bacteria Standard. A sample shall not Compliance with the bacteria standard is deemed to have been met if the bacteria count per gram does 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. ( )

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 the test or tests 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. For the dairy product to be eligible for human consumption, aA subsequent sample must meet the quality standards before the dairy product may be sold human consumption. ( )

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. ( )

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. ( )

391. STANDARDS FOR BUTTER.

01. Grading. Butter grading will be performed in accordance with the United States Standards for grades of butter as incorporated by reference. ( )

02. Quality Standards. The following quality standards must be met: ( )

a. Coliform Standard. Compliance with the coliform standard is deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. ( )

b. Bacteria Standard. Compliance with the bacteria standard is deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable.( )

c. Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of butter will be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the butter cannot be sold for human consumption. For the butter to be eligible for human consumption, a subsequent sample must meet the quality standards. ( )

392. Standards For Whey Butter.

01. Basis for Determining the Acceptability of Whey Butter. The acceptability of whey butter is determined on the basis of classifying first the flavor characteristics and then the characteristics in body, color and salt. Flavor is the basic quality factor in grading whey butter and is determined organoleptically by taste and smell. The flavor characteristic is identified and together with it relative intensity, is rated according to the applicable classification. When more than one flavor characteristic is discernible in a sample of whey butter, the flavor classification of the sample is established on the basis of the flavor that carries the lowest rating. Body, color and salt characteristics are then noted and any defects are disrated in accordance with the established classification. Acceptability for the sample is then established in accordance with the flavor classification, subject to disratings for body, color and salt. When the disratings for body, color and salt exceed the permitted amount or if the flavor is not acceptable, the whey butter will not be allowed to be sold or distributed within the state of Idaho unless the packages are labeled as provided. ( )

02. Specifications for Acceptability of Whey Butter. Whey butter shall be free of foreign materials and visible mold. It shall possess a fine and highly pleasing whey butter flavor. May possess any of the following flavors to a slight degree: flat, malty, musty, neutralized, scorched, utensil, stale, and woody. May possess the following flavors to a definite degree: cooked, aged, bitter, coarse-acid, smothered, storage and old cream. May possess feed flavor to a pronounced degree. The permitted total disratings in body, color and salt characteristics are limited to one and one-half (1 1/2). ( )

03. Whey Butter Label Requirements. It is hereby declared to be unlawful to sell or offer for sale any whey butter within the state of Idaho unless the wrappers and containers in which said butter is packaged are conspicuously labeled as herein provided: ( )

a. The name of the product is whey butter or whey cream butter or "Butter made from whey cream." ( )

b. The name of the product is placed on the principal display panel(s) and shall be of uniform type and prominence. ( )

c. The manufacturer identification number is conspicuously placed on each wrapper and container of whey butter. ( )

d. Labels of whey butter sold or distributed within Idaho shall be approved by the Department. ( )

04. Quality Standards. The following quality standards must be met: ( )

a. Coliform Standard. Compliance with the coliform standard is deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. (

)

b. Bacteria Standard. Compliance with the bacteria standard shall be deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the whey butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable. ( )

c. Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of whey butter will be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the Butter cannot be sold for human consumption. For the whey butter to be eligible for human consumption, a subsequent sample must meet the quality standards. ( )

05. Enforcement. Whey butter which fails to meet flavor or body, color and salt requirements as defined in Section 392.01 may be sold or distributed within the state of Idaho, provided the word, "undergrade" is placed on the principal display panel(s) immediately preceding or following the product name and is of uniform type size and prominence. ( )

06. Table I – Classification of Flavor Characteristics.

Identified Flavors	Acceptable	Unacceptable
Flat	S	D
Malty	S	D
Musty	S	D
Neutralized	S	D
Scorched	S	D
Utensil	S	D
Cooked	D	P
Aged	D	P
Bitter	D	P
Smothered	D	P
Storage	D	P
Old Cream	D	P
Feed	P	-
Acid	D	P
Weed	S	D

( )

07. Table II – Characteristics and Disratings in Body, Color, and Salt.

Characteristics	Body Disratings		
	S	D	P
Crumbly	1/2	1	
Gummy	1/2	1	
Leaky		1/2	1
Mealy or grainy		1/2	1
Short		1/2	1
Weak	1/2	1	
Sticky	1/2	1	
Ragged boring	1	2	

S -- Slight; D -- Definite; P -- Pronounced ( )

08. Explanation of Terms with Respect to Flavor, Intensity, and Characteristics: ( )

a. Slight: Detected only upon critical examination. ( )

b. Definite: Detectable but not intense. ( )

c. Pronounced: Readily detectable and intense. ( )

d. Aged: Characterized by lack of freshness. ( )

e. Bitter: Astringent, similar to taste of quinine and produces a puckery sensation. ( )

f. Coarse-acid: Lacks a delicate flavor or aroma and is associated with an acid condition but there is no indication of sourness. ( )

g. Cooked (fine): Smooth, nutty-like character resembling a custard flavor. ( )

h. Feed: Aromatic flavor characteristic of feeds eaten by cows. ( )

i. Flat: Lacks natural butter flavor. ( )

j. Malty: A distinctive, harsh flavor suggestive of malt. ( )

k. Musty: Suggestive of the aroma of a damp vegetable cellar. ( )

l. Neutralizer: Suggestive of a bicarbonate of soda flavor or the flavor of similar compounds. ( )

m. Old Cream: Aged cream characterized by lack of freshness and imparts a rough aftertaste on the tongue. ( )

n. Scorched: A more intensified flavor than cooked (coarse) and imparts a harsh aftertaste. ( )

o. Sour: Characterized by an acid flavor and aroma. ( )

p. Smothered: Suggestive of improperly cooled cream. ( )

q. Storage: Characterized by a lack of freshness and more intensified than "aged" flavor. ( )

r. Utensil: A flavor suggestive of unclean cans, utensils and equipment. ( )

s. Weed: Aromatic flavor characteristic of the weeds eaten by cows. ( )

09. With Respect to Body: ( )

a. Crumbly: The particles lack cohesion. The intensity is described as "slight" when the trier plug tends to break and the butter lacks plasticity; and "definite" when the butter breaks roughly or crumbles. ( )

b. Gummy: Gummy bodied butter does not melt readily and is inclined to stick to the roof of the mouth. The intensity is described as "slight" when the butter tends to become chewy and "definite" when it imparts a gum-like impression in the mouth. ( )

c. Leaky: Present when on visual examination there are beads of moisture on the surface of the trier plug and on the back of the trier or when slight pressure is applied to the butter on the trier plug. The intensity is described as "slight" when the droplets or beads of moisture are barely visible and about the size of a pinhead; "definite" when the moisture drops are somewhat larger or the droplets are more numerous and tend to run together; and "pronounced" when the leaky condition is so evident that drops of water drip from the trier plug. ( )

d. Mealy or grainy: Condition that imparts a granular consistency when the butter is melted on the tongue. The intensity is described as "slight" when the mealiness or graininess is barely detectable on the tongue and "definite" when the mealiness or graininess is readily detectable. ( )

e. Ragged boring: In contrast to solid boring, ragged boring is when a sticky-crumbly condition is presented to such a degree that a full trier of butter cannot be drawn. The intensity is described as "slight" when there is a considerable adherence "definite" when it is practically impossible to draw a full plug of the butter. ( )

f. Short: The texture is short-grained, lacks plasticity and tends toward brittleness. The intensity is described as "slight" when the butter lacks pliability and tends to be brittle; and "definite" when sharp and distinct breaks form as pressure is applied against the plug. ( )

g. Sticky: The butter adheres to the trier as a smear and possesses excessive adhesion. The intensity is described as "slight" when the smear is present only on a portion of the back of the trier and "definite" when the trier becomes smeary throughout its length. ( )

h. Weak: Body lacks firmness and tends to be spongy. The intensity is described as "slight" when the plug of butter, under slight pressure, tends to depress and is not firm and compact; and "definite" when the plug of butter, under slight pressure, tends to depress easily and definitely lacks firmness and compactness. ( )

10. With Respect to Color: ( )

a. Mottled: Appears as a dappled condition with spots of lighter and deeper shades of yellow. The intensity is described as "slight" when the small spots of different shades of yellow, irregular in shape, are barely discernible on the plug of butter and "definite" when the mottles are readily discernible on the plug of butter. ( )

b. Specks: Usually appear in butter as small white or yellow spots, however, the latter may be of

~~variable size. The intensity is described as "slight" when the spots are few in number and "definite" when they are noticeable in large numbers. ( )~~

~~**c.** Streaked: Appears as light colored portions surrounded by more highly colored portions. The intensity is described as "slight" when only a few are present and "definite" when they are more numerous on the trier plug. ( )~~

~~**d.** Wavy: Uneven in the color in the butter that appears as waves of different shades of yellow. The intensity is described as "slight" when the waves are barely discernible and "definite" when they are readily noticeable on the trier plug. ( )~~

~~**11. With Respect to Salt**: ( )~~

~~**a.** Sharp: Characterized by taste sensations suggestive of salt. The intensity is described as "slight" when the salt taste predominates in flavor; and "definite" when the salt taste distinctly predominates in flavor. ( )~~

~~**b.** Gritty: Condition detected by the gritty feel of the grains of undissolved salt, imparting a sand-like feeling on the tongue. The intensity is described as "slight" when only a few grains of undissolved salt are detected and "definite" when the condition is more readily noticeable. ( )~~

393. -- 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: ( )

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. ( )

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

c. The public interest would be served by the dairy product. ( )

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

e. The dairy product is labeled in accordance to guidelines for a food product and approved by the Department. ( )

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. ( )

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). ( )

396. -- 403. (RESERVED)

SUBCHAPTER D – LICENSED DAIRY PLANTS

404. INCORPORATION BY REFERENCE.

The following document is incorporated by reference in this subchapter D only: ( )

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. ( )

405. -- 999. (RESERVED)

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. ( )

001. ~~TITLE AND~~ SCOPE.

01. ~~Title~~. ~~The title of this chapter is "Rules Governing Grade A Milk and Manufacture Grade Milk."~~ ~~( )~~

~~02.~~ 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. ( )

002. -- 103. (RESERVED)

SUBCHAPTER A – GRADE A MILK AND MILK PRODUCTS

104. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference in Subchapter A only: All Grade A Milk and Milk Products shall comply with the provisions set forth in the documents incorporated by reference in this Subchapter A.( ) ( )

01. Grade "A" Pasteurized Milk Ordinance. The Grade "A" Pasteurized Milk Ordinance, ~~2017~~ 2019 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/114169/download. ( )

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, ~~2017~~ 2019 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/115265/download. ( )

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, ~~2017~~ 2019 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at http://ncims.org/wp-content/uploads/2018/08/2017-Milk-Methods.pdf. ( )

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, ~~2017~~ 2019 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/111155/download. ( )

~~105. REGULATORY FRAMEWORK.~~
~~All Grade A and Manufacture Grade A Milk and Milk Products shall comply with the provisions set forth in the documents incorporated by reference in this Subchapter A.~~ ~~( )~~

~~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. ( )

01. Bacterial Limit Standard. The bacterial limit standard is eighty thousand (80,000) per mL. ( )

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

03. Out of State Milk. Milk from other states, if processed in Idaho, shall comply with the Idaho somatic cell count standard. ( )

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: ( )

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. ( )

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. ( )

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. ( )

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

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. ( )

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

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. ( )

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

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. ( )

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. ( )

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

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. ( )

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. ( )

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

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. ( )

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. ( )

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. ( )

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

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. ( )

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

211. – 219. (RESERVED)

220. MILK AND CREAM PROCUREMENT AND TESTING REQUIREMENTS.
All 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. ( )

221. LABORATORY LICENSING REQUIREMENTS.

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

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. ( )

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

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. ( )

222. – 229. (RESERVED)

230. OFFICIAL LABORATORIES - RESPONSIBILITIES AND OPERATING PROCEDURES.

~~**01. Competency in Testing**. Official laboratories are responsible for ensuring that employees who operate testing devices are competent to operate the devices, and for conducting testing according to Subchapter B. ( )~~

~~02~~**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. ( )

~~**03. Operating Procedures**. An official laboratory shall establish and follow written standard operating procedures consistent with the recommended procedures for operation and maintenance set forth by the manufacturer of the testing device. ( )~~

~~231. Third Party Laboratories.~~
~~Procurers of milk who use official laboratories other than one owned or operated by the procurer are not responsible for that laboratory's failure to comply with Subchapter B. ( )~~

~~232~~231. – ~~239~~40. (RESERVED)

~~240. MILK COMPONENT TESTING DEVICES.~~
~~If an automated testing device is used to perform a milk component test for any milk component, that device must be calibrated and regularly checked to ensure that it accurately tests for that milk component. ( )~~

~~**01. Calibration and Checks**. Calibration and checks must include the utilization of calibration samples, performance checks and accuracy checks. ( )~~

~~**02. Calibration Standards**. Calibration may be done either in accordance with the standards set forth by the manufacturer of the testing device, or as set forth in Sections 240, 241 and 243 of Subchapter B. ( )~~

~~**03. Calibration Record Keeping**. In either case, the official laboratory must be able to demonstrate, through records kept in accordance with Section 290, that calibration and checks have been performed in accordance with Subchapter B, and that the testing device produces test results within the tolerances established in Subchapter B. ( )~~

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. ( )

~~**01. Calibration Frequency**. A milk component testing device shall be calibrated whenever the mean difference on a daily performance check under Section 242 herein 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. ( )~~

~~**02. Calibration Samples**. A set of calibration samples may consist of commercially available samples or samples made by the official laboratory. A set of calibration samples must consist of at least nine (9) individual samples, each of which: ( )~~

~~**a.** Cannot be more than twenty one (21) days old; ( )~~

~~**b.** Must be a fresh milk sample preserved with bronopol (2 bromo 2 nitro 1, 3 propanediol) or another approved preservative. Preservative methods, formulations and concentrations must be approved by the department.( )~~

~~**c.** Must have a known percentage content of each relevant milk component, determined by the sample~~

~~provider. ( )~~

~~**d.** Must meet the requirements of Section 250 of this rule. ( )~~

~~**03**__**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: ( )

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

~~**b.** The mean difference for the entire set of calibration samples shall be as near as practicable to zero (0), and not exceed 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 mean difference is the sum of the performance errors for the individual calibration samples, divided by the number of samples in the set. ( )~~

~~**e**__**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. ( )

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. ( )

~~**01. Daily Performance Check Samples**. ( )~~

~~**a.** Source. A set of daily performance check samples must be obtained from a sample provider approved by the department, or may be made by the official laboratory. ( )~~

~~**b.** Number. Unless otherwise specified by the manufacturer of the testing device, a minimum of two (2) control milk samples must be analyzed before daily component testing begins. ( )~~

~~**c.** Requirements. The control samples must comply with the requirements set forth in Section 241 of Subchapter B and fall within the component ranges typically found in the samples to be tested. ( )~~

~~**02. Procedure**. To conduct a daily performance check, the official laboratory must test a set of daily performance check samples. Based on the daily performance check, the official laboratory must do the following: ( )~~

~~**a.** Determine the performance error of the testing device with respect to each daily performance check sample. The performance error is the difference between the known percentage content of each milk component in that sample, as determined by the sample provider, and the percentage content as measured by the testing device; and ( )~~

~~**b.** Calculate the mean difference for the set of daily performance check samples. The mean difference is the sum of the performance errors for the individual samples, divided by the number of samples in the set. ( )~~

~~**03**__**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. ( )

~~**243. ACCURACY CHECKS.**~~
~~All testing devices shall be subjected to daily and hourly accuracy checks in accordance with the protocols set by the~~

~~testing device manufacturer, or as set forth in this Section of Subchapter B. ( )~~

~~**01. Daily Accuracy Check**. A daily accuracy check must be conducted for each relevant milk component before each day's testing at the same time that the daily performance check is conducted. The official laboratory must perform ten (10) tests on a reference sample. The reference sample may be a homogenized milk sample prepared by the official laboratory, or it may be a daily performance check sample obtained from an approved sample provider. The ten (10) test results must be averaged, and the average result will be used as a comparison value for the hourly accuracy checks required in Subsection 243.02. ( )~~

~~**02. Hourly Accuracy Check**. An hourly accuracy check must be conducted for each milk component before each hour's testing for that component. ( )~~

~~**a.** To conduct an hourly accuracy check, the official laboratory must test the same reference sample used for the daily accuracy check. ( )~~

~~**b.** For each relevant milk component, the hourly accuracy check result must be compared to the average result obtained on the daily reference check under Subsection 243.01. If an hourly accuracy check result differs from the average result on the daily accuracy check by more than thirty-four thousandths percent (.034%) for milkfat or protein, or sixty-four thousandths percent (.064%) for total solids or solids-nonfat, the testing device shall not be used until the condition causing the difference is found and corrected. ( )~~

~~**c.** Test results obtained before the device is corrected, and subsequent to the last previous conforming accuracy check, must not be used in determining the amount paid to milk producers. ( )~~

~~244~~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). ( )

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. ( )

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. ( )

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. ( )

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

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: ( )

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: ( )

a. The value of each component per pound; ( )

b. The total value of total component pounds; ( )

c. The yield formula type and value of the end product(s); or ( )

d. Fixed pricing type. ( )

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. ( )

03. Component Information. All relevant component testing averages or pounds of solids for each component. ( )

04. Bonuses and Deductions. All quality bonuses or deductions and the applicable quality parameters used to calculate the bonuses or deductions. ( )

05. Hauling Charges. All hauling charges and any applicable surcharges. ( )

06. Other Deductions. All other payment deductions including check-offs, administrative fees, and laboratory fees. ( )

07. Other Factors. All other factors affecting net payment. ( )

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. ( )

271. -- 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. ( )

281. REGULATORY SAMPLES.

01. Sample Set. ( )

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. ( )

b. ~~The samples will be obtained from the company or entity that provides calibration samples to the official laboratory, if available.~~ The department may provide regulatory samples from other sources if necessary. ( )

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. ( )

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. ( )

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. ( )

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

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

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: ( )

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

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

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. ( )

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. ( )

~~**a.** Records Review. The Department shall review records kept by the official laboratory pursuant to Section 290 of this rule. ( )~~

~~**b**~~**a.** ~~Clearance~~ Two (2) out of Four (4) Testing Requirement. The average performance error of each component tested by ~~the~~ 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. ~~If an official laboratory does not meet these performance requirements on each component of the clearance test, the testing license will be suspended. ( )~~

~~**c.** Probation. The Department may place an official laboratory on probation for two (2) weeks if:~~ ( )

~~i. The records demonstrate all calibration and performance checks of all testing devices were performed, as required under these rules, and are operating within the tolerances set forth in Sections 240, 241, and 243 of this rule; and ( )~~

i. ~~The average performance error in the clearance test sample set was within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids. Clearance t~~Test results from laboratories ~~on probationary~~ under a two (2) out of four (4) notice ~~status shall~~ will be included in ~~the calculation of the~~ rolling group of thirteen (13) averages. ( )

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.

~~03~~04. License Reinstatement. An official laboratory may seek reinstatement of a suspended license by completing the following: ( )

~~**a.** Written Request. The official laboratory shall provide the Department a written request for reinstatement of their testing license. The request shall include documentation detailing the procedural corrections that have been made to the testing device(s), as well as a minimum of two (2) weeks of component testing results demonstrating that the testing device(s) have been and will remain in tolerance. ( )~~

~~b~~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. ~~If the request for reinstatement does not coincide with the normal biweekly sample set issued by the Department, the~~ The official laboratory will be ~~solely~~ responsible for the cost of ~~procuring and shipping the additional~~ a reinstatement sample set if it does not coincide with the normal sample set schedule. Clearance test results used for license reinstatement ~~shall~~ are not ~~be~~ included in ~~the calculation of the~~ rolling group of thirteen (13) averages. ( )

~~04~~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. ( )

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. ( )

01. General Provisions. ( )

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. ( )

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

i. Be effectively secured against loss or tampering. ( )

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

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

~~**02. Calibration Check Equipment Records**. All calibration check and equipment maintenance records must be documented and provided during an inspection by the department. The documentation must include the following: ( )~~

~~**a.** Instrument identification. ( )~~

~~**b.** Name of the laboratory technician or maintenance person who performed the calibration or maintenance. ( )~~

~~**c.** Time and date of the calibration check or maintenance. ( )~~

~~d. Type of analytical test or maintenance performed. ( )~~

~~e. Results of the analytical test or maintenance. ( )~~

~~f. Details of action taken to correct calibration tolerances or mechanical problems. ( )~~

~~03~~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. ( )

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. ( )

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. ( )

292. -- 303. (RESERVED)

SUBCHAPTER C – MANUFACTURE GRADE MILK

304. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into Subchapter C only. ( )

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

~~**02. Official Methods of Analysis of AOAC International (OMA), 19th Edition, 2012**. ( )~~

~~03~~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. ( )

~~04~~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. ( )

~~05~~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 ( )

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.

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/114169/download. ( )

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: ( )

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. ( )

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

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.

~~03~~04. Atmosphere Relatively Free From Mold. No more than ten (10) mold colonies per cubic foot of air as determined in Standard Methods. ( )

~~04~~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. ( )

~~05~~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. ( )

~~06~~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. ( )

~~07~~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. ( )

~~08~~09. Dairy Certification. Certification by an Inspector or Approved Fieldman that a Producer's herd, milking facility and housing, milking procedure, cooling, milkhouse or milkroom, utensils and equipment and water supply have been found to meet the applicable requirements of Section 360 for the production of milk to be used for manufacturing purposes. ( )

~~09~~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. ( )

~~10~~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. ( )

~~11~~12. Excluded Milk. All of a Producer's milk excluded from the market by the provisions of Section 341. ( )

~~12~~13. Farm Tank. A tank used to cool, store or cool, and store milk prior to transportation to the processing plant. ( )

~~13~~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. ( )

~~14~~15. Fieldman, Approved. A Fieldman qualified, trained, and approved by the Department to perform

Dairy Farm inspections and raw milk grading or sampling. ( )

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

~~16~~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. ( )

~~17~~18. **Milk for Manufacturing Purposes**. Milk produced from a Department certified Dairy Farm for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements. ( )

~~18~~19. **Probational Milk**. Milk classified No. 3 for sediment content. ( )

~~19~~20. **Producer**. The person or persons who exercise control over the production of the milk delivered to a Dairy Plant. ( )

~~20~~21. **Rejected Milk**. Milk rejected from the market according to the provisions of Section 340. ( )

~~21~~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. ( )

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

~~23~~24. **Universal Sample**. A single milk sample taken for the purpose of chemical, biochemical, or bacterial analyses typically used for regulatory purposes. ( )

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. ( )

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. ( )

02. Milk or Cream. Milk or cream is unacceptable which: ( )

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; ( )

b. Contains added water; ( )

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

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; ( )

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

f. Has more than seventeen one hundredths of one percent (.17%) acid calculated as lactic and does

not meet the criteria in Subsection 320.01; ( )

g. In the case of cream, is rancid, putrid, or actively foaming; ( )

h. In the case of cream, contains more than eight tenths of one percent (.8%) acid calculated as lactic; ( )

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

j. Does not meet the quality standards as set forth in Subchapter C. ( )

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. ( )

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. ( )

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. ( )

~~**03. Sediment Content Classification**. Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination described in Subsection 321.02. The USDA Sediment Standard is as follows. ( )~~

~~**a.** No. 1 (acceptable) - not to exceed five tenths (.5) milligram or equivalent. ( )~~

~~**b.** No. 2 (acceptable) - not to exceed one and five tenths (1.5) milligram or equivalent. ( )~~

~~**c.** No. 3 (probational, not over ten (10) days) - not to exceed two and five tenths (2.5) milligram or equivalent. ( )~~

~~**d.** No. 4 (reject) - over two and five tenths (2.5) milligram or equivalent. ( )~~

~~04~~03. Method of 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. ( )

~~05~~04. Frequency of Test. At least once each month, at irregular intervals, the milk from each Producer shall be tested as follows: ( )

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

b. Milk in Farm Tanks. A sample taken from each Farm Tank. ( )

~~06~~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. ( )

~~07~~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. ( )

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. ( )

01. **Methods of Testing**. Milk shall be tested for bacterial estimate by using ~~one (1) of the following methods or any other~~ a method approved by Standard Methods or a test approved by the Department: ( )

~~**a.** BactoScan FC. ( )~~

~~**b.** Direct microscopic clump count. ( )~~

~~**c.** Standard plate count. ( )~~

~~**d.** Plate loop count. ( )~~

~~**e.** Petrifilm aerobic count. ( )~~

~~**f.** Spiral plate count. ( )~~

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: ( )

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

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. ( )

c. An additional sample will be taken ~~after a lapse of~~ between three (3) days ~~but within~~ and twenty one (21) days ~~of~~ after the date of the written notice.~~notice required in Subsection 330.02.b. If this sample also exceeds two hundred thousand (200,000) per milliliter,~~ Ssubsequent milkings shall be excluded from the market until ~~satisfactory compliance is obtained~~ the bacterial estimate of the sample is less than two hundred thousand (200,000) per milliliter. ~~. Shipment may be resumed and a temporary status assigned to the Producer by the Department when an additional sample of herd milk is tested and found satisfactory.~~ The Producer will be ~~assigned a~~ fully ~~reinstatement~~ reinstated ~~status~~ when three (3) out of four (4) consecutive bacterial estimate tests do not exceed two hundred thousand (200,000) per milliliter. ( )

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. ( )

341. EXCLUDED MILK.
A Dairy Plant shall not accept milk from a Producer if: ( )

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

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. ( )

03. Insanitary Conditions. If the milk is produced in unclean conditions such as, but not limited to, unclean milk contact surfaces, unclean conditions in the parlor or milk room, poor milking procedures, or poor animal housing conditions. ( )

04. 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 (1,5~~0~~00,000) per milliliter for goat or sheep milk. ( )

05. 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. ( )

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.
( )

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. ( )

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 (1,5~~0~~00,000) per milliliter for goat and sheep) the following procedures shall be applied: ( )

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

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) ~~(1,000,000)~~ 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) ~~(1,000,000)~~ per milliliter for goat and sheep). ( )

c. An additional sample shall be taken between three (3) days and twenty one (21) days after the date of the written notice.~~after a lapse of three (3) days but within twenty-one (21) days of the notice required in Subsection 351.02.b. If this sample also exceeds seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep) subsequent~~ Subsequent milkings shall be excluded from the market until ~~satisfactory compliance is obtained~~ 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).. ~~Shipment may be resumed and a temporary status assigned to the producer by the Department when an additional sample of herd milk is tested and found satisfactory.~~ The Producer will be ~~assigned a~~ fully ~~reinstatement~~ reinstated ~~status~~ 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) ~~(1,000,000)~~ per milliliter for goat and sheep). ( )

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. ( )

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.( )

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. ( )

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. ( )

d. Individual Producer sampling. ( )

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. ( )

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. ( )

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. ( )

e. Load sampling and testing. ( )

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. ( )

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. ( )

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. ( )

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. ( )

g. Dairy Plant follow-up. ( )

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. ( )

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. ( )

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. ( )

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: ( )

a. Each Producer is included in a routine, effective drug residue milk monitoring program utilizing ~~AOAC evaluated and~~ FDA-approved methods to test samples for the presence of drug residue; ( )

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; ( )

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 ( )

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. ( )

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. ( )

~~353. Radionuclides.~~
~~Composite milk samples from selected areas within in the state of Idaho should be tested for biologically significant radionuclides at a frequency which the FDA determines to be adequate to protect the consumer. ( )~~

~~354. Pesticides And Herbicides.~~
~~Composite milk samples should be tested for pesticides and herbicides at a frequency the FDA determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits. ( )~~

~~**355. ADDED WATER.**~~
~~Milk samples from each Producer should be tested for added water at a frequency the Department determines is adequate to prevent the addition of water to the milk. ( )~~

~~356~~353. -- 359. (RESERVED)

360. FARM REQUIREMENTS OF MILK FOR MANUFACTURING.

01. Health of Herd. ( )

~~**a.** General Health. All animals in the herd shall be maintained in a healthy condition, properly fed and kept. ( )~~

~~**b.** Tuberculin Test. The cows and water buffalo shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd as determined by the US. Department of Agriculture (USDA). The goats shall be located in States meeting the current USDA Uniform Methods and Rules and for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. 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. ( )~~

~~**c**~~**a.** Brucellosis Test. The cows shall be located in States ~~meeting Class B status, or~~ consistent with Certified-Free ~~Herds~~ 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. ( )

~~**d**~~**b.** Abnormal Milk. Milk from animals known to be infected with mastitis or milk containing residues of antibiotics or others 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. ( )

~~**02. Milking and Facility Housing**. ( )~~

~~**a.** A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean, the manure removed daily and stored to prevent access of animals to accumulation thereof. No swine or fowl are permitted in any part of the milking area. ( )~~

~~**b.** If milk is exposed during straining or transferring in the milking areas it shall be protected from falling particles from areas above milk facility. ( )~~

~~**c.** The yard or loafing area shall be of ample size to prevent overcrowding, drained to prevent forming of standing water pools, insofar as practicable, and kept clean. ( )~~

~~**03. Milking Procedure**. ( )~~

~~**a.** The udders and flanks of all milking animals shall be kept clean. The udders and teats shall be washed or wiped immediately before milking with a clean, damp cloth or paper towel moistened with a sanitizing solution and wiped dry, or by any other sanitary method. ( )~~

~~**b.** The milker's outer clothing shall be clean and hands clean and dry. No person with an infected cut or open sores on their hands or arms shall milk animals, or handle milk or milk containers, utensils or equipment. ( )~~

~~**c.** Animals that secrete abnormal milk shall be milked last or with separate equipment. This milk shall be excluded from the supply as required in Subsection 360.01.d. ( )~~

~~**d.** Milk stools, surcingles and antikickers shall be kept clean and properly stored. Dusty operations should not be conducted immediately before or during milking. Strong flavored feeds should only be fed after milking. ( )~~

~~**04. Cooling**. ( )~~

~~**a.** Milk in cans shall be cooled immediately after milking to forty-five (45) degrees Fahrenheit or lower unless delivered to the Dairy Plant within two (2) hours after milking. The devices, such as cooler, tank, or refrigerated~~

unit to cool milk can or canned milk, shall be kept clean. ( )

b. Milk in Dairy Farm Tanks shall be cooled to forty (40) degrees Fahrenheit or lower within two (2) hours after the first milking and maintained at forty five (45) degrees Fahrenheit or lower until transferred to the Transport Tank. ( )

05. Milkhouse or Milkroom. ( )

a. A milkhouse or milkroom conveniently located and properly constructed, lighted, and ventilated shall be provided for handling and cooling milk and for washing, handling, and storing the utensils and equipment. Other products shall not be handled in the milkroom which would be likely to contaminate milk, or otherwise create a public health hazard. ( )

b. It shall be equipped with wash and rinse vat, utensil rack, milk cooling facilities and have an adequate supply of hot water available for cleaning milking equipment. If a part of the barn or other building, it shall be partitioned, screened, and sealed to prevent the entrance of dust, flies, or other contamination. A milking parlor used strictly as a milking facility in combination with a milkhouse or milkroom, when properly equipped, arranged and maintained, need not be partitioned. Concentrates and feed, if stored in the building, shall be kept in a tightly covered box or bin. The floor of the building shall be of concrete or other impervious material and graded to provide proper drainage. The walls and ceilings shall be constructed of smooth easily cleaned material. All outside doors shall open outward and be self-closing, unless they are provided with tight-fitting screen doors that open outward or unless other effective means are provided to prevent the entrance of flies. ( )

c. If a Dairy Farm Tank is used, it shall be properly located in the milkhouse or milkroom for access to all areas for cleaning and servicing. It shall not be located over a floor drain or under a ventilator. ( )

d. A small platform or slab constructed of concrete or other impervious material shall be provided outside the milkhouse, properly centered under a suitable port opening in the wall for milkhouse connections. The opening shall be fitted with a tight, self-closing door. The truck approach to the milkhouse or milkroom shall be properly graded and surfaced to prevent mud or pooling of water at point of loading. ( )

e. The milkhouse or milkroom shall be kept clean and free of trash. Animals and fowl are not allowed access to the milkhouse or milkroom at any time. ( )

06. Farm Chemicals and Animal Drugs. ( )

a. Animal biologics and other drugs intended for treatment of animals, and insecticides approved for use in dairy operations, shall be properly labeled and used in accordance with label instructions, and stored in a manner which will prevent accidental contact with milk and milk contact surfaces. ( )

b. Only drugs that are approved by the FDA or biologics approved by the USDA for use in dairy animals that are properly labeled according to FDA or USDA regulations shall be administered to such animals. ( )

c. When drug storage is located in the milkroom, milkhouse, or milking area, the drugs shall be segregated in such a way so that drugs labeled for use in lactating dairy animals are separated from drugs labeled for use in non-lactating dairy animals. ( )

d. Herbicides, fertilizers, pesticides, and insecticides that are not approved for use in dairy operations shall not be stored in the milkhouse, milkroom, or milking area. ( )

07. Utensils and Equipment. ( )

a. Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any unsanitary condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and

~~sanitized immediately before use with at least fifty (50) parts per million chlorine solution or its equivalent. New or replacement can lids shall be umbrella type. All new utensils and equipment shall comply with applicable 3-A Sanitary Standards. ( )~~

~~**b.** Dairy Farm Tanks shall meet 3-A Sanitary Standards for construction at the time of installation and shall be installed in accordance with regulations of the Department. ( )~~

~~**c.** Single service articles shall be properly stored and not reused. ( )~~

~~**08**~~**02. Water Supply**. The Dairy Farm water supply shall meet the requirements in Appendix D of the 2019 Pasteurized Milk Ordinance ~~as incorporated herein by reference~~. 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. ( )

~~**09. Sewage Disposal**. House, milkhouse or milkroom and toilet wastes shall be disposed of in a manner that will not pollute the soil surface, contaminate any water supply, or be exposed to insects. ( )~~

~~**10**~~**03. Qualifications for Dairy Farm Certification**. Dairy Farm certification requires satisfactory compliance with the requirements in Section 370. ( )

361. -- 369. (RESERVED)

370. DAIRY FARM ~~CERTIFICATION~~PERMIT.
No milk for manufacturing purposes produced on an uncertified Dairy Farm shall be bought or sold for human consumption. Inspections shall be conducted pursuant to the 2019 Pasteurized Milk Ordinance. ( )

~~**01. Initial Inspection**. Certified Dairy Farms shall be inspected at least annually after initial certification to determine eligibility for recertification. The inspection criteria for recertification is the same as that for initial certification. ( )~~

~~**02. Inspection**. Each Dairy Farm shall be inspected by an Inspector or Approved Fieldman. When evidence indicates that it is advisable to do so, the Department may require an examination of the herd by a licensed veterinarian. If the Dairy Farm meets the applicable requirements for Dairy Farm certification described in Section 360, as indicated by the Farm Certification Report Form, the Dairy Farm shall be certified as described in Subsection 370.03. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall be reinspected within thirty (30) days after the initial inspection. If the Dairy Farm then meets the requirements for certification, the Dairy Farm shall be certified. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall not be certified, and the Producer's authorization to sell milk for human consumption from that Dairy Farm will be withheld by the Department until such time as the Dairy Farm qualifies for certification. Repeat violations on any item may cause a Dairy Farm to lose certification. Provided that, if the Inspector determines during any of these inspections that corrections on the Dairy Farm will require some capital investment, a reasonable extension of the prescribed time limits may be granted by the Department. ( )~~

~~**03. Certification**. An Inspector or Approved Fieldman will certify Dairy Farms that meet the requirements of Section 360, as applicable, based upon the inspection criteria described in Subsection 370.02. The scoring criteria approved by the Department will be utilized in determining compliance with the provisions of Section 360. Dairy Farm certification shall authorize the sale from that Dairy Farm of milk for manufacturing purposes that meets the quality standards. ( )~~

~~**04. Probationary Period**. If at any time an Inspector or Approved Fieldman determines that a certified Dairy Farm does not meet the requirements for certification, the Department may allow a reasonable probationary period for the Producer to bring the Dairy Farm within the requirements for certification. If at the end of this time the Dairy Farm does not meet the requirements for certification, the Department may revoke the Dairy Farm certification. ( )~~

~~**05. Reinstatement**. If, after a period of withholding, probation, or revocation of Dairy Farm certification, a Producer makes the necessary corrections at the Dairy Farm, the Producer may apply for reinspection. When conditions have been corrected, the Dairy Farm will be reinspected by an inspector or Approved Fieldman. When the Inspector or Approved Fieldman determines that requirements for certification have been met, the Dairy Farm will be certified. ( )~~

371. -- 379. (RESERVED)

380. STANDARDS FOR BULK MILK HAULERS.

01. Permits. 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. ~~The permit will cost twenty five dollars ($25) and will be issued to the applicant after a training session on proper procedures and successfully passing an examination administered by the Department( )~~

~~**a.** No permit will be issued unless a score of seventy percent (70%) or better is made on the examination. ( )~~

~~**b.** A training and refresher course conducted by the Department will be given in each area of the state of Idaho once each year. ( )~~

~~**c.** Every holder of a permit must attend a training and refresher course every third year. ( )~~

~~**d.** Each new Bulk Milk Hauler shall apply to the Department for a permit. The bulk milk hauling company shall provide basic instructions on bulk milk protocols, including milk sample collection, pick up procedures, and safety measures. A permit will be issued upon satisfactory completion of a special training and licensing session held by the Department. ( )~~

~~**e.** A substitute Bulk Milk Hauler in case of emergency can haul milk for three (3) days without a permit provided the Department has been notified and the substitute Bulk Milk Hauler is provided instruction on approved milk pickup and delivery requirements by the bulk milk hauling company. At the end of three (3) days the substitute Bulk Milk Hauler must apply for a permit. ( )~~

~~**02. Adulteration**. If the truck is left unattended, Bulk Milk Haulers shall affix a seal or lock on all Transportation Tank ports, covers, and doors to protect the milk from possible adulteration. ( )~~

~~**03. Authorization**. No Bulk Milk Hauler shall grade, measure or sample his own milk without written authorization from the Dairy Plant receiving the milk. ( )~~

~~**04. Permit Revocation**. The permit may be revoked if: ( )~~

~~**a.** The Bulk Milk Hauler fails to grade milk in a Dairy Farm Tank to its odor and appearance and fails to reject all milk that is abnormal in odor or flavor or that contains visible garget or other extraneous matter. ( )~~

~~**b.** The Bulk Milk Hauler does not accurately take and record the temperature of milk or if he fails to reject the milk in excess of forty five (45) degrees Fahrenheit. ( )~~

~~**c.** The Bulk Milk Hauler fails to wash his hands before he proceeds to measure and sample the milk. ( )~~

~~**d.** The Bulk Milk Hauler fails to follow acceptable procedures in measuring the amount of milk in the Farm Tank or if he does not, immediately after taking the reading convert the reading to pounds or gallons using the chart of the Farm Tank manufacturer and record it on duplicate forms, with one (1) copy to be posted in the milk house and one (1) transmitted to the Dairy Plant. ( )~~

~~**e.** The Bulk Milk Hauler fails to agitate the milk for at least five (5) minutes in Farm Tanks less than one thousand (1,000) gallons and ten minutes in Farm Tanks over one thousand (1,000) gallons before taking a sample or if he withdraws any part of the milk from the Farm Tank before the sample is taken. ( )~~

~~**f.** The Bulk Milk Hauler does not take a sample for component testing and/or milk quality analysis in an approved manner or sufficient size in an approved container properly labeled, and that the sample has been cooled and maintained between thirty-two (32) degrees Fahrenheit to forty (40) degrees Fahrenheit. ( )~~

~~**g.** The Bulk Milk Hauler rinses the bulk Farm Tank before disconnecting and capping the hose. ( )~~

~~**h.** The Bulk Milk Hauler siphons milk from milk cans, water troughs or other containers other than the Farm Tank. Milk poured into the bulk Farm Tank from other than regular milking machine pails will not be allowed. ( )~~

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. ( )

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. ( )

03. Quality Standards. The following quality standards must be met: ( )

a. Coliform Standard. ~~Compliance with the coliform standard is deemed to have been met if the coliform count does~~ A sample shall not exceed ten (10) coliform colonies per gram in two (2) of the last four (4) consecutive samples. ~~No enforcement action will be taken if the last sample is within the standard.~~ ( )

b. Bacteria Standard. A sample shall not ~~Compliance with the bacteria standard is deemed to have been met if the bacteria count per gram does 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. ( )

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 ~~the test or tests~~ 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. ~~For the dairy product to be eligible for human consumption, a~~ A subsequent sample must meet the quality standards before the dairy product may be sold for human consumption. ( )

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. ( )

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. ( )

391. STANDARDS FOR BUTTER.

01. Grading. Butter grading will be performed in accordance with the United States Standards for grades of butter as incorporated by reference.

( )

~~**02. Quality Standards**. The following quality standards must be met: ( )~~

~~**a.** Coliform Standard. Compliance with the coliform standard is deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. ( )~~

~~**b.** Bacteria Standard. Compliance with the bacteria standard is deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable.( )~~

~~**c.** Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of butter will be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the butter cannot be sold for human consumption. For the butter to be eligible for human consumption, a subsequent sample must meet the quality standards. ( )~~

~~392. Standards For Whey Butter.~~

~~**01. Basis for Determining the Acceptability of Whey Butter**. The acceptability of whey butter is determined on the basis of classifying first the flavor characteristics and then the characteristics in body, color and salt. Flavor is the basic quality factor in grading whey butter and is determined organoleptically by taste and smell. The flavor characteristic is identified and together with it relative intensity, is rated according to the applicable classification. When more than one flavor characteristic is discernible in a sample of whey butter, the flavor classification of the sample is established on the basis of the flavor that carries the lowest rating. Body, color and salt characteristics are then noted and any defects are disrated in accordance with the established classification. Acceptability for the sample is then established in accordance with the flavor classification, subject to disratings for body, color and salt. When the disratings for body, color and salt exceed the permitted amount or if the flavor is not acceptable, the whey butter will not be allowed to be sold or distributed within the state of Idaho unless the packages are labeled as provided. ( )~~

~~**02. Specifications for Acceptability of Whey Butter**. Whey butter shall be free of foreign materials and visible mold. It shall possess a fine and highly pleasing whey butter flavor. May possess any of the following flavors to a slight degree: flat, malty, musty, neutralized, scorched, utensil, stale, and woody. May possess the following flavors to a definite degree: cooked, aged, bitter, coarse acid, smothered, storage and old cream. May possess feed flavor to a pronounced degree. The permitted total disratings in body, color and salt characteristics are limited to one and one-half (1 1/2). ( )~~

~~**03. Whey Butter Label Requirements**. It is hereby declared to be unlawful to sell or offer for sale any whey butter within the state of Idaho unless the wrappers and containers in which said butter is packaged are conspicuously labeled as herein provided: ( )~~

~~**a.** The name of the product is whey butter or whey cream butter or "Butter made from whey cream." ( )~~

~~**b.** The name of the product is placed on the principal display panel(s) and shall be of uniform type and prominence. ( )~~

~~**c.** The manufacturer identification number is conspicuously placed on each wrapper and container of whey butter. ( )~~

~~**d.** Labels of whey butter sold or distributed within Idaho shall be approved by the Department.~~

( )

04. Quality Standards. The following quality standards must be met: ( )

a. Coliform Standard. Compliance with the coliform standard is deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. ( )

b. Bacteria Standard. Compliance with the bacteria standard shall be deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the whey butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable. ( )

c. Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of whey butter will be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the Butter cannot be sold for human consumption. For the whey butter to be eligible for human consumption, a subsequent sample must meet the quality standards. ( )

05. Enforcement. Whey butter which fails to meet flavor or body, color and salt requirements as defined in Section 392.01 may be sold or distributed within the state of Idaho, provided the word, "undergrade" is placed on the principal display panel(s) immediately preceding or following the product name and is of uniform type size and prominence. ( )

06. Table I -- Classification of Flavor Characteristics.

Identified Flavors	Acceptable	Unacceptable
Flat	S	D
Malty	S	D
Musty	S	D
Neutralized	S	D
Scorched	S	D
Utensil	S	D
Cooked	D	P
Aged	D	P
Bitter	D	P
Smothered	D	P
Storage	D	P
Old Cream	D	P
Feed	P	-
Acid	D	P

Weed	S	D

( )

07. Table II -- Characteristics and Disratings in Body, Color, and Salt.

Characteristics	Body Disratings		
	S	D	P
Crumbly	1/2	1	
Gummy	1/2	1	
Leaky		1/2	1
Mealy or grainy		1/2	1
Short		1/2	1
Weak	1/2	1	
Sticky	1/2	1	
Ragged boring	1	2	

S -- Slight; D -- Definite; P -- Pronounced ( )

08. Explanation of Terms with Respect to Flavor, Intensity, and Characteristics: ( )

a. Slight: Detected only upon critical examination. ( )

b. Definite: Detectable but not intense. ( )

c. Pronounced: Readily detectable and intense. ( )

d. Aged: Characterized by lack of freshness. ( )

e. Bitter: Astringent, similar to taste of quinine and produces a puckery sensation. ( )

f. Coarse acid: Lacks a delicate flavor or aroma and is associated with an acid condition but there is no indication of sourness. ( )

g. Cooked (fine): Smooth, nutty-like character resembling a custard flavor. ( )

h. Feed: Aromatic flavor characteristic of feeds eaten by cows. ( )

i. Flat: Lacks natural butter flavor. ( )

j. Malty: A distinctive, harsh flavor suggestive of malt. ( )

k. Musty: Suggestive of the aroma of a damp vegetable cellar. ( )

~~**l.** Neutralizer: Suggestive of a bicarbonate of soda flavor or the flavor of similar compounds. ( )~~

~~**m.** Old Cream: Aged cream characterized by lack of freshness and imparts a rough aftertaste on the tongue. ( )~~

~~**n.** Scorched: A more intensified flavor than cooked (coarse) and imparts a harsh aftertaste. ( )~~

~~**o.** Sour: Characterized by an acid flavor and aroma. ( )~~

~~**p.** Smothered: Suggestive of improperly cooled cream. ( )~~

~~**q.** Storage: Characterized by a lack of freshness and more intensified than "aged" flavor. ( )~~

~~**r.** Utensil: A flavor suggestive of unclean cans, utensils and equipment. ( )~~

~~**s.** Weed: Aromatic flavor characteristic of the weeds eaten by cows. ( )~~

~~**09. With Respect to Body**: ( )~~

~~**a.** Crumbly: The particles lack cohesion. The intensity is described as "slight" when the trier plug tends to break and the butter lacks plasticity; and "definite" when the butter breaks roughly or crumbles. ( )~~

~~**b.** Gummy: Gummy bodied butter does not melt readily and is inclined to stick to the roof of the mouth. The intensity is described as "slight" when the butter tends to become chewy and "definite" when it imparts a gum like impression in the mouth. ( )~~

~~**c.** Leaky: Present when on visual examination there are beads of moisture on the surface of the trier plug and on the back of the trier or when slight pressure is applied to the butter on the trier plug. The intensity is described as "slight" when the droplets or beads of moisture are barely visible and about the size of a pinhead; "definite" when the moisture drops are somewhat larger or the droplets are more numerous and tend to run together; and "pronounced" when the leaky condition is so evident that drops of water drip from the trier plug. ( )~~

~~**d.** Mealy or grainy: Condition that imparts a granular consistency when the butter is melted on the tongue. The intensity is described as "slight" when the mealiness or graininess is barely detectable on the tongue and "definite" when the mealiness or graininess is readily detectable. ( )~~

~~**e.** Ragged boring: In contrast to solid boring, ragged boring is when a sticky crumbly condition is presented to such a degree that a full trier of butter cannot be drawn. The intensity is described as "slight" when there is a considerable adherence "definite" when it is practically impossible to draw a full plug of the butter. ( )~~

~~**f.** Short: The texture is short grained, lacks plasticity and tends toward brittleness. The intensity is described as "slight" when the butter lacks pliability and tends to be brittle; and "definite" when sharp and distinct breaks form as pressure is applied against the plug. ( )~~

~~**g.** Sticky: The butter adheres to the trier as a smear and possesses excessive adhesion. The intensity is described as "slight" when the smear is present only on a portion of the back of the trier and "definite" when the trier becomes smeary throughout its length. ( )~~

~~**h.** Weak: Body lacks firmness and tends to be spongy. The intensity is described as "slight" when the plug of butter, under slight pressure, tends to depress and is not firm and compact; and "definite" when the plug of butter, under slight pressure, tends to depress easily and definitely lacks firmness and compactness. ( )~~

~~**10. With Respect to Color**: ( )~~

~~**a.** Mottled: Appears as a dappled condition with spots of lighter and deeper shades of yellow. The~~

~~intensity is described as "slight" when the small spots of different shades of yellow, irregular in shape, are barely discernible on the plug of butter and "definite" when the mottles are readily discernible on the plug of butter. ( )~~

~~**b.** Specks: Usually appear in butter as small white or yellow spots, however, the latter may be of variable size. The intensity is described as "slight" when the spots are few in number and "definite" when they are noticeable in large numbers. ( )~~

~~**c.** Streaked: Appears as light colored portions surrounded by more highly colored portions. The intensity is described as "slight" when only a few are present and "definite" when they are more numerous on the trier plug. ( )~~

~~**d.** Wavy: Uneven in the color in the butter that appears as waves of different shades of yellow. The intensity is described as "slight" when the waves are barely discernible and "definite" when they are readily noticeable on the trier plug. ( )~~

~~**11. With Respect to Salt**: ( )~~

~~**a.** Sharp: Characterized by taste sensations suggestive of salt. The intensity is described as "slight" when the salt taste predominates in flavor; and "definite" when the salt taste distinctly predominates in flavor. ( )~~

~~**b.** Gritty: Condition detected by the gritty feel of the grains of undissolved salt, imparting a sand-like feeling on the tongue. The intensity is described as "slight" when only a few grains of undissolved salt are detected and "definite" when the condition is more readily noticeable. ( )~~

~~393~~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: ( )

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. ( )

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

c. The public interest would be served by the dairy product. ( )

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

e. The dairy product is labeled in accordance to guidelines for a food product and approved by the Department. ( )

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. ( )

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). ( )

396. -- 403. (RESERVED)

SUBCHAPTER D – LICENSED DAIRY PLANTS

404. INCORPORATION BY REFERENCE.
The following document is incorporated by reference in this subchapter D only: ( )

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. ( )

405. -- 999. (RESERVED)

Rulemaking Summary

IDAPA 02.04.05 – Rules Governing Grade A Milk and Milk Products

Where is the rulemaking authority?

Authority for this rulemaking resides in the Title 37-303; 37-402; 37-405 and 37-516 Idaho Code

What does this rule do?

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.

What is the agency proposing to change?

The agency has performed Zero Based Regulation to simplify, clarify or remove outdated, unnecessary or irrelevant language in sections highlighted blue in the attached strawman. The amended language in these sections does not change the regulatory impact, scope, intent or authority in the current rule.

The agency has conducted an internal audit of this rule and identified multiple sections that may require amendments due to inaccurate or confusing language, recommendations to improve the efficiency of the program or changes that must be made to coincide with recent statutory amendments. The changes listed below, and highlighted in yellow in the attached strawman, may result in a change to the regulatory impact, scope, intent or authority in the current rule.

- Updating incorporations by reference to current version (Section 104)
- Add "Subpart E – Requirements for Licensed for Dairy Plants" as an incorporation by reference (Section 304)
- Add definition of adulterated milk (Section 310)
- Delete unavailable testing modalities (Section 330)
- Change bacterial standard to be consistent with PMO (Section 330)
- Add coliform standard (Section 341)
- Change somatic cell count to be consistent with PMO (Section 341 & 351)
- Modify drug testing language to include "failure to test" (Section 341)
- Default sanitation inspection criteria to the PMO (Section 370)

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. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Grade A Milk and Manufacture Grade Milk." ( )

02. 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. ( )

002. -- 103. (RESERVED)

SUBCHAPTER A – GRADE A MILK AND MILK PRODUCTS

104. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference in Subchapter A only: ( )

01. Grade "A" Pasteurized Milk Ordinance. The Grade "A" Pasteurized Milk Ordinance, ~~2017~~ 2019 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/114169/download. ( )

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, ~~2017~~ 2019 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/115265/download. ( )

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, ~~2017~~ 2019 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at http://ncims.org/wp-content/uploads/2018/08/2017-Milk-Methods.pdf. ( )

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, ~~2017~~ 2019 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/111155/download. ( )

105. REGULATORY FRAMEWORK.
All Grade A and Manufacture Grade A Milk and Milk Products shall comply with the provisions set forth in the documents incorporated by reference in this Subchapter A. ( )

106. -- 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. ( )

01. Bacterial Limit Standard. The bacterial limit standard is eighty thousand (80,000) per mL. ( )

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

03. Out of State Milk. Milk from other states, if processed in Idaho, shall comply with the Idaho somatic cell count standard. ( )

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: ( )

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. ( )

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. ( )

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. ( )

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

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. ( )

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

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. ( )

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

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. ( )

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. ( )

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

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. ( )

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. ( )

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

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. ( )

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. ( )

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. ( )

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

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. ( )

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

211. – 219. (RESERVED)

220. MILK AND CREAM PROCUREMENT AND TESTING REQUIREMENTS.
All 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. ( )

221. LABORATORY LICENSING REQUIREMENTS.

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

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. ( )

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

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. ( )

222. – 229. (RESERVED)

230. OFFICIAL LABORATORIES - RESPONSIBILITIES AND OPERATING PROCEDURES.

~~**01. Competency in Testing**. Official laboratories are responsible for ensuring that employees who~~

~~operate testing devices are competent to operate the devices, and for conducting testing according to Subchapter B.~~
( )

02. 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. ( )

~~**03. Operating Procedures**. An official laboratory shall establish and follow written standard operating procedures consistent with the recommended procedures for operation and maintenance set forth by the manufacturer of the testing device. ( )~~

~~231. Third Party Laboratories.~~
~~Procurers of milk who use official laboratories other than one owned or operated by the procurer are not responsible for that laboratory's failure to comply with Subchapter B.~~ ( )

232. – 239. (RESERVED)

~~**240. MILK COMPONENT TESTING DEVICES.**~~
~~If an automated testing device is used to perform a milk component test for any milk component, that device must be calibrated and regularly checked to ensure that it accurately tests for that milk component. ( )~~

~~**01. Calibration and Checks**. Calibration and checks must include the utilization of calibration samples, performance checks and accuracy checks. ( )~~

~~**02. Calibration Standards**. Calibration may be done either in accordance with the standards set forth by the manufacturer of the testing device, or as set forth in Sections 240, 241 and 243 of Subchapter B. ( )~~

~~**03. Calibration Record Keeping**. In either case, the official laboratory must be able to demonstrate, through records kept in accordance with Section 290, that calibration and checks have been performed in accordance with Subchapter B, and that the testing device produces test results within the tolerances established in Subchapter B.~~
( )

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. ( )

~~**01. Calibration Frequency**. A milk component testing device shall be calibrated whenever the mean difference on a daily performance check under Section 242 herein 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. ( )~~

~~**02. Calibration Samples**. A set of calibration samples may consist of commercially available samples or samples made by the official laboratory. A set of calibration samples must consist of at least nine (9) individual samples, each of which: ( )~~

~~**a.** Cannot be more than twenty-one (21) days old; ( )~~

~~**b.** Must be a fresh milk sample preserved with bronopol (2-bromo-2-nitro-1, 3-propanediol) or another approved preservative. Preservative methods, formulations and concentrations must be approved by the department.( )~~

~~**c.** Must have a known percentage content of each relevant milk component, determined by the sample provider. ( )~~

~~**d.** Must meet the requirements of Section 250 of this rule. ( )~~

~~03. 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: ( )~~

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

~~b. The mean difference for the entire set of calibration samples shall be as near as practicable to zero (0), and not exceed 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 mean difference is the sum of the performance errors for the individual calibration samples, divided by the number of samples in the set. ( )~~

c. 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. ( )

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. ( )

~~01. Daily Performance Check Samples. ( )~~

~~a. Source. A set of daily performance check samples must be obtained from a sample provider approved by the department, or may be made by the official laboratory. ( )~~

~~b. Number. Unless otherwise specified by the manufacturer of the testing device, a minimum of two (2) control milk samples must be analyzed before daily component testing begins. ( )~~

~~c. Requirements. The control samples must comply with the requirements set forth in Section 241 of Subchapter B and fall within the component ranges typically found in the samples to be tested. ( )~~

~~02. Procedure. To conduct a daily performance check, the official laboratory must test a set of daily performance check samples. Based on the daily performance check, the official laboratory must do the following: ( )~~

~~a. Determine the performance error of the testing device with respect to each daily performance check sample. The performance error is the difference between the known percentage content of each milk component in that sample, as determined by the sample provider, and the percentage content as measured by the testing device; and ( )~~

~~b. Calculate the mean difference for the set of daily performance check samples. The mean difference is the sum of the performance errors for the individual samples, divided by the number of samples in the set. ( )~~

03. 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. ( )

~~243. ACCURACY CHECKS.~~
~~All testing devices shall be subjected to daily and hourly accuracy checks in accordance with the protocols set by the testing device manufacturer, or as set forth in this Section of Subchapter B. ( )~~

~~01. Daily Accuracy Check. A daily accuracy check must be conducted for each relevant milk~~

~~component before each day's testing at the same time that the daily performance check is conducted. The official laboratory must perform ten (10) tests on a reference sample. The reference sample may be a homogenized milk sample prepared by the official laboratory, or it may be a daily performance check sample obtained from an approved sample provider. The ten (10) test results must be averaged, and the average result will be used as a comparison value for the hourly accuracy checks required in Subsection 243.02. ( )~~

~~**02. Hourly Accuracy Check**. An hourly accuracy check must be conducted for each milk component before each hour's testing for that component. ( )~~

~~**a.** To conduct an hourly accuracy check, the official laboratory must test the same reference sample used for the daily accuracy check. ( )~~

~~**b.** For each relevant milk component, the hourly accuracy check result must be compared to the average result obtained on the daily reference check under Subsection 243.01. If an hourly accuracy check result differs from the average result on the daily accuracy check by more than thirty-four thousandths percent (.034%) for milkfat or protein, or sixty-four thousandths percent (.064%) for total solids or solids-nonfat, the testing device shall not be used until the condition causing the difference is found and corrected. ( )~~

~~**c.** Test results obtained before the device is corrected, and subsequent to the last previous conforming accuracy check, must not be used in determining the amount paid to milk producers. ( )~~

244. – 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). ( )

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. ( )

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. ( )

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. ( )

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

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: ( )

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: ( )

a. The value of each component per pound; ( )

b. The total value of total component pounds; ( )

c. The yield formula type and value of the end product(s); or ( )

d. Fixed pricing type. ( )

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. ( )

03. Component Information. All relevant component testing averages or pounds of solids for each component. ( )

04. Bonuses and Deductions. All quality bonuses or deductions and the applicable quality parameters used to calculate the bonuses or deductions. ( )

05. Hauling Charges. All hauling charges and any applicable surcharges. ( )

06. Other Deductions. All other payment deductions including check-offs, administrative fees, and laboratory fees. ( )

07. Other Factors. All other factors affecting net payment. ( )

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. ( )

271. -- 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. ( )

281. REGULATORY SAMPLES.

01. Sample Set. ( )

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. ( )

b. ~~The samples will be obtained from the company or entity that provides calibration samples to the official laboratory, if available.~~ The department may provide regulatory samples from other sources if necessary. ( )

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. ( )

Commented [DSL1]: Add language - Idaho Dairyman's Association

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. ( )

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. ( )

02. Regulatory Sample Results. The regulatory sample results will be compiled and evaluated by the

department in rolling groups of thirteen (13). ( )

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

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: ( )

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

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

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. ( )

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. ( )

~~**a.** Records Review. The Department shall review records kept by the official laboratory pursuant to Section 290 of this rule.~~ ( )

b. ~~Clearance~~ Two (2) out of Four (4) Testing Requirement. The average performance error of each component tested by ~~the~~ 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~~. If an official laboratory does not meet these performance requirements on each component of the clearance test, the testing license will be suspended.~~ ( )

~~**c.** Probation. The Department may place an official laboratory on probation for two (2) weeks if:~~ ( )

~~i. The records demonstrate all calibration and performance checks of all testing devices were performed, as required under these rules, and are operating within the tolerances set forth in Sections 240, 241, and 243 of this rule; and~~ ( )

~~ii. The average performance error in the clearance test sample set was within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids. Clearance t~~Test results from laboratories ~~on probationary~~under a two (2) out of four (4) notice ~~status shall~~ will be included in ~~the calculation of the~~ rolling group of thirteen (13) averages. ( )

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.

Commented [DSL2]: Add language. Milk Producer's of Idaho.

03. License Reinstatement. An official laboratory may seek reinstatement of a suspended license by completing the following: ( )

~~a. Written Request. The official laboratory shall provide the Department a written request for reinstatement of their testing license. The request shall include documentation detailing the procedural corrections that have been made to the testing device(s), as well as a minimum of two (2) weeks of component testing results demonstrating that the testing device(s) have been and will remain in tolerance. ( )~~

b. 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~~. If the request for reinstatement does not coincide with the normal biweekly sample set issued by the Department, the~~ The official laboratory will be ~~solely~~ responsible for the cost of ~~procuring and shipping the additional~~a reinstatement sample set if it does not coincide with the normal sample set schedule. Clearance test results used for license reinstatement ~~shall~~ are~~not be~~ included in ~~the calculation of the~~ rolling group of thirteen (13) averages. ( )

04. 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. ( )

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. ( )

01. General Provisions. ( )

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. ( )

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

i. Be effectively secured against loss or tampering. ( )

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

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

~~**02. Calibration Check Equipment Records**. All calibration check and equipment maintenance records must be documented and provided during an inspection by the department. The documentation must include the following: ( )~~

~~**a.** Instrument identification. ( )~~

~~**b.** Name of the laboratory technician or maintenance person who performed the calibration or maintenance. ( )~~

~~**c.** Time and date of the calibration check or maintenance. ( )~~

~~**d.** Type of analytical test or maintenance performed. ( )~~

~~**e.** Results of the analytical test or maintenance. ( )~~

~~**f.** Details of action taken to correct calibration tolerances or mechanical problems. ( )~~

03. 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. ( )

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. ( )

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. ( )

292. -- 303. (RESERVED)

SUBCHAPTER C – MANUFACTURE GRADE MILK

304. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into Subchapter C only. ( )

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

~~**02. Official Methods of Analysis of AOAC International (OMA), 19th Edition, 2012**. ( )~~

Commented [DSL3]: Lab no longer uses this document.

03. 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. ( )

04. 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. ( )

05. 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 ( )

06. "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.

07. 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/114169/download. ( )

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: ( )

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. ( )

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

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.

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

04. 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. ( )

05. 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. ( )

06. 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. ( )

07. 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. ( )

08. Dairy Certification. Certification by an Inspector or Approved Fieldman that a Producer's herd, milking facility and housing, milking procedure, cooling, milkhouse or milkroom, utensils and equipment and water supply have been found to meet the applicable requirements of Section 360 for the production of milk to be used for manufacturing purposes. ( )

09. 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. ( )

10. 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. ( )

11. Excluded Milk. All of a Producer's milk excluded from the market by the provisions of Section 341. ( )

12. Farm Tank. A tank used to cool, store or cool, and store milk prior to transportation to the processing plant. ( )

13. 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. ( )

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

15. Inspector. A qualified, trained person employed by the Department to perform Dairy Farm or Dairy

Plant inspections and raw milk grading or sampling. ( )

16. **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. ( )

17. **Milk for Manufacturing Purposes**. Milk produced from a Department certified Dairy Farm for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements. ( )

18. **Probational Milk**. Milk classified No. 3 for sediment content. ( )

19. **Producer**. The person or persons who exercise control over the production of the milk delivered to a Dairy Plant. ( )

20. **Rejected Milk**. Milk rejected from the market according to the provisions of Section 340. ( )

21. **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. ( )

22. **Transportation Tank**. A tank used to transport milk or supply milk from a Dairy Farm to a Dairy Plant. ( )

23. **Universal Sample**. A single milk sample taken for the purpose of chemical, biochemical, or bacterial analyses typically used for regulatory purposes. ( )

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. ( )

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. ( )

02. **Milk or Cream**. Milk or cream is unacceptable which: ( )

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; ( )

b. Contains added water; ( )

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

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; ( )

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

f. Has more than seventeen one hundredths of one percent (.17%) acid calculated as lactic and does not meet the criteria in Subsection 320.01; ( )

g. In the case of cream, is rancid, putrid, or actively foaming; ( )

h. In the case of cream, contains more than eight tenths of one percent (.8%) acid calculated as lactic; ( )

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

j. Does not meet the quality standards as set forth in Subchapter C. ( )

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. ( )

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. ( )

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. ( )

~~**03. Sediment Content Classification**. Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination described in Subsection 321.02. The USDA Sediment Standard is as follows. ( )~~

~~**a.** No. 1 (acceptable) - not to exceed five tenths (.5) milligram or equivalent. ( )~~

~~**b.** No. 2 (acceptable) - not to exceed one and five tenths (1.5) milligram or equivalent. ( )~~

~~**c.** No. 3 (probational, not over ten (10) days) - not to exceed two and five tenths (2.5) milligram or equivalent. ( )~~

~~**d.** No. 4 (reject) - over two and five tenths (2.5) milligram or equivalent. ( )~~

04. Method of 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. ( )

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

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

b. Milk in Farm Tanks. A sample taken from each Farm Tank. ( )

06. 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

Commented [DSL4]: Request to keep language. Mike Wiggs

Commented [DSL5]: Request to keep language. Milk Producer's of Idaho

Commented [DSL6]: Review clarity and language

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. ( )

07. 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. ( )

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. ( )

01. Methods of Testing. Milk shall be tested for bacterial estimate by using ~~one (1) of the following methods or any other a~~ method approved by Standard Methods or a test approved by the Department: ( )

Commented [DSL7]: Broaden the scope of permitted lab tests. Milk Producer's of Idaho

~~**a.** BactoScan FC. ( )~~

~~**b.** Direct microscopic clump count. ( )~~

~~**c.** Standard plate count. ( )~~

~~**d.** Plate loop count. ( )~~

~~**e.** Petrifilm aerobic count. ( )~~

~~**f.** Spiral plate count. ( )~~

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: ( )

Commented [DSL8]: Leave all bacterial standards intact. Milk Producer's of Idaho

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

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. ( )

c. An additional sample will be taken ~~after a lapse of~~between three (3) days ~~but within~~and twenty one (21) days ~~of~~ after the date of the written notice~~notice required in Subsection 330.02.b. If this sample also exceeds two hundred thousand (200,000) per milliliter,~~ Ssubsequent milkings shall be excluded from the market until ~~satisfactory compliance is obtained~~the bacterial estimate of the sample is less than two hundred thousand (200,000) per milliliter. ~~. Shipment may be resumed and a temporary status assigned to the Producer by the Department when an additional sample of herd milk is tested and found satisfactory.~~ The Producer will be ~~assigned a~~ fully ~~reinstatement~~ reinstated ~~status~~ when three (3) out of four (4) consecutive bacterial estimate tests do not exceed two hundred thousand (200,000) per milliliter. ( )

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. ( )

341. EXCLUDED MILK.
A Dairy Plant shall not accept milk from a Producer if: ( )

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

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. ( )

03. Insanitary Conditions. If the milk is produced in unclean conditions such as, but not limited to, unclean milk contact surfaces, unclean conditions in the parlor or milk room, poor milking procedures, or poor animal housing conditions. ( )

~~**Coliform Count.** Three (3) of the last five (5) milk samples have exceeded the maximum coliform estimate of twenty-five (25) colonies per gram for raw milk intended for pasteurization, ten (10) colonies per gram for post pasteurized milk or one hundred (100) colonies per gram for pasteurized bulk milk.~~

Commented [DSL9]: Coliform language not necessary. Milk Producer's of Idaho & Mike Wiggs

04. 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 (1,5~~0~~00,000) per milliliter for goat or sheep milk. ( )

Commented [DSL10]: SCC More stringent than subpart E (1.5M)

05. 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. ( )

Commented [DSL11]: Leave drug reside requirements intact. Milk Producer's of Idaho

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.
( )

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. ( )

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 (1,5~~0~~00,000) per milliliter for goat and sheep) the following procedures shall be applied: ( )

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

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) ~~(1,000,000)~~ 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 ~~(1,000,000)~~ per milliliter for goat and sheep). ( )

c. An additional sample shall be taken between three (3) days and twenty one (21) days after the date of the written notice.~~after a lapse of three (3) days but within twenty-one (21) days of the notice required in Subsection 351.02.b. If this sample also exceeds seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep) subsequent~~ Subsequent milkings shall be excluded from the market until ~~satisfactory~~

~~compliance is obtained~~ 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).. ~~Shipment may be resumed and a temporary status assigned to the producer by the Department when an additional sample of herd milk is tested and found satisfactory.~~ The Producer will be ~~assigned a~~ fully ~~reinstatement~~ reinstated status 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 (1,5~~0~~00,000) per milliliter for goat and sheep). ( )

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. ( )

~~**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. ( )~~

Commented [DSL12]: Review for authority if drug test mandate is issued by FDA. Mike Wiggs

~~**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. ( )~~

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. ( )

d. Individual Producer sampling. ( )

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. ( )

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. ( )

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. ( )

e. Load sampling and testing. ( )

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. ( )

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. ( )

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. ( )

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. ( )

g. Dairy Plant follow-up. ( )

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. ( )

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. ( )

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. ( )

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: ( )

a. Each Producer is included in a routine, effective drug residue milk monitoring program utilizing ~~AOAC-evaluated and~~ FDA-approved methods to test samples for the presence of drug residue; ( )

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; ( )

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 ( )

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. ( )

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. ( )

~~353. Radionuclides.~~
~~Composite milk samples from selected areas within in the state of Idaho should be tested for biologically significant radionuclides at a frequency which the FDA determines to be adequate to protect the consumer. ( )~~

~~354. Pesticides And Herbicides.~~
~~Composite milk samples should be tested for pesticides and herbicides at a frequency the FDA determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits. ( )~~

355. ADDED WATER.
~~Milk samples from each Producer should be tested for added water at a frequency the Department determines is adequate to prevent the addition of water to the milk.~~ ( )

Commented [DSL13]: Plants test at their own discretion….is this necessary?

356. -- 359. (RESERVED)

360. FARM REQUIREMENTS OF MILK FOR MANUFACTURING.

01. Health of Herd. ( )

~~**a.** General Health. All animals in the herd shall be maintained in a healthy condition, properly fed and kept. ( )~~

~~**b.** Tuberculin Test. The cows and water buffalo shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd as determined by the US. Department of Agriculture (USDA). The goats shall be located in States meeting the current USDA Uniform Methods and Rules and for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. 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. ( )~~

c. Brucellosis Test. The cows shall be located in States ~~meeting Class B status, or~~consistent with Certified-Free ~~Herds~~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. ( )

d. Abnormal Milk. Milk from animals known to be infected with mastitis or milk containing residues of antibiotics or others 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. ( )

~~**02. Milking and Facility Housing.** ( )~~

~~**a.** A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean, the manure removed daily and stored to prevent access of animals to accumulation thereof. No swine or fowl are permitted in any part of the milking area. ( )~~

~~**b.** If milk is exposed during straining or transferring in the milking areas it shall be protected from falling particles from areas above milk facility. ( )~~

~~**c.** The yard or loafing area shall be of ample size to prevent overcrowding, drained to prevent forming of standing water pools, insofar as practicable, and kept clean. ( )~~

~~**03. Milking Procedure.** ( )~~

~~**a.** The udders and flanks of all milking animals shall be kept clean. The udders and teats shall be washed or wiped immediately before milking with a clean, damp cloth or paper towel moistened with a sanitizing solution and wiped dry, or by any other sanitary method. ( )~~

~~**b.** The milker's outer clothing shall be clean and hands clean and dry. No person with an infected cut or open sores on their hands or arms shall milk animals, or handle milk or milk containers, utensils or equipment. ( )~~

~~**c.** Animals that secrete abnormal milk shall be milked last or with separate equipment. This milk shall be excluded from the supply as required in Subsection 360.01.d. ( )~~

~~**d.** Milk stools, surcingles and antikickers shall be kept clean and properly stored. Dusty operations should not be conducted immediately before or during milking. Strong flavored feeds should only be fed after milking. ( )~~

~~**04. Cooling.** ( )~~

~~**a.** Milk in cans shall be cooled immediately after milking to forty-five (45) degrees Fahrenheit or lower~~

Commented [DSL14]: Need to maintain a separate standard for manufacture grade farms vs. Grade A farms. Mike Wiggs

Commented [DSL15]: These standards should be no less stringent than Raw Milk. Idaho Dairyman's Association.

Commented [DSL16]: These provisions are less strict that the Unlimited Raw requirements.

unless delivered to the Dairy Plant within two (2) hours after milking. The devices, such as cooler, tank, or refrigerated unit to cool milk can or canned milk, shall be kept clean. ( )

b. Milk in Dairy Farm Tanks shall be cooled to forty (40) degrees Fahrenheit or lower within two (2) hours after the first milking and maintained at forty-five (45) degrees Fahrenheit or lower until transferred to the Transport Tank. ( )

05. Milkhouse or Milkroom. ( )

a. A milkhouse or milkroom conveniently located and properly constructed, lighted, and ventilated shall be provided for handling and cooling milk and for washing, handling, and storing the utensils and equipment. Other products shall not be handled in the milkroom which would be likely to contaminate milk, or otherwise create a public health hazard. ( )

b. It shall be equipped with wash and rinse vat, utensil rack, milk cooling facilities and have an adequate supply of hot water available for cleaning milking equipment. If a part of the barn or other building, it shall be partitioned, screened, and sealed to prevent the entrance of dust, flies, or other contamination. A milking parlor used strictly as a milking facility in combination with a milkhouse or milkroom, when properly equipped, arranged and maintained, need not be partitioned. Concentrates and feed, if stored in the building, shall be kept in a tightly covered box or bin. The floor of the building shall be of concrete or other impervious material and graded to provide proper drainage. The walls and ceilings shall be constructed of smooth easily cleaned material. All outside doors shall open outward and be self-closing, unless they are provided with tight-fitting screen doors that open outward or unless other effective means are provided to prevent the entrance of flies. ( )

c. If a Dairy Farm Tank is used, it shall be properly located in the milkhouse or milkroom for access to all areas for cleaning and servicing. It shall not be located over a floor drain or under a ventilator. ( )

d. A small platform or slab constructed of concrete or other impervious material shall be provided outside the milkhouse, properly centered under a suitable port opening in the wall for milkhouse connections. The opening shall be fitted with a tight, self-closing door. The truck approach to the milkhouse or milkroom shall be properly graded and surfaced to prevent mud or pooling of water at point of loading. ( )

e. The milkhouse or milkroom shall be kept clean and free of trash. Animals and fowl are not allowed access to the milkhouse or milkroom at any time. ( )

06. Farm Chemicals and Animal Drugs. ( )

a. Animal biologics and other drugs intended for treatment of animals, and insecticides approved for use in dairy operations, shall be properly labeled and used in accordance with label instructions, and stored in a manner which will prevent accidental contact with milk and milk contact surfaces. ( )

b. Only drugs that are approved by the FDA or biologics approved by the USDA for use in dairy animals that are properly labeled according to FDA or USDA regulations shall be administered to such animals. ( )

c. When drug storage is located in the milkroom, milkhouse, or milking area, the drugs shall be segregated in such a way so that drugs labeled for use in lactating dairy animals are separated from drugs labeled for use in non-lactating dairy animals. ( )

d. Herbicides, fertilizers, pesticides, and insecticides that are not approved for use in dairy operations shall not be stored in the milkhouse, milkroom, or milking area. ( )

07. Utensils and Equipment. ( )

a. Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any

~~unsanitary condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use with at least fifty (50) parts per million chlorine solution or its equivalent. New or replacement can lids shall be umbrella type. All new utensils and equipment shall comply with applicable 3-A Sanitary Standards. ( )~~

~~**b.** Dairy Farm Tanks shall meet 3-A Sanitary Standards for construction at the time of installation and shall be installed in accordance with regulations of the Department. ( )~~

~~**c.** Single service articles shall be properly stored and not reused. ( )~~

08. Water Supply. The Dairy Farm water supply shall meet the requirements in Appendix D of the 2019 Pasteurized Milk Ordinance~~, as incorporated herein by reference~~. 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. ( )

~~**09. Sewage Disposal**. House, milkhouse or milkroom and toilet wastes shall be disposed of in a manner that will not pollute the soil surface, contaminate any water supply, or be exposed to insects. ( )~~

10. Qualifications for Dairy Farm Certification. Dairy Farm certification requires satisfactory compliance with the requirements in Section 370. ( )

361. -- 369. (RESERVED)

370. DAIRY FARM ~~CERTIFICATION~~PERMIT.

No milk for manufacturing purposes produced on an uncertified Dairy Farm shall be bought or sold for human consumption. Inspections shall be conducted pursuant to the 2019 Pasteurized Milk Ordinance. ( )

Commented [DSL17]: Cite to the performance section of current PMO.

~~**01. Initial Inspection**. Certified Dairy Farms shall be inspected at least annually after initial certification to determine eligibility for recertification. The inspection criteria for recertification is the same as that for initial certification. ( )~~

~~**02. Inspection**. Each Dairy Farm shall be inspected by an Inspector or Approved Fieldman. When evidence indicates that it is advisable to do so, the Department may require an examination of the herd by a licensed veterinarian. If the Dairy Farm meets the applicable requirements for Dairy Farm certification described in Section 360, as indicated by the Farm Certification Report Form, the Dairy Farm shall be certified as described in Subsection 370.03. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall be reinspected within thirty (30) days after the initial inspection. If the Dairy Farm then meets the requirements for certification, the Dairy Farm shall be certified. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall not be certified, and the Producer's authorization to sell milk for human consumption from that Dairy Farm will be withheld by the Department until such time as the Dairy Farm qualifies for certification. Repeat violations on any item may cause a Dairy Farm to lose certification. Provided that, if the Inspector determines during any of these inspections that corrections on the Dairy Farm will require some capital investment, a reasonable extension of the prescribed time limits may be granted by the Department. ( )~~

~~**03. Certification**. An Inspector or Approved Fieldman will certify Dairy Farms that meet the requirements of Section 360, as applicable, based upon the inspection criteria described in Subsection 370.02. The scoring criteria approved by the Department will be utilized in determining compliance with the provisions of Section 360. Dairy Farm certification shall authorize the sale from that Dairy Farm of milk for manufacturing purposes that meets the quality standards. ( )~~

~~**04. Probationary Period**. If at any time an Inspector or Approved Fieldman determines that a certified Dairy Farm does not meet the requirements for certification, the Department may allow a reasonable probationary period for the Producer to bring the Dairy Farm within the requirements for certification. If at the end of this time the Dairy Farm does not meet the requirements for certification, the Department may revoke the Dairy Farm certification.~~

( )

05. Reinstatement. If, after a period of withholding, probation, or revocation of Dairy Farm certification, a Producer makes the necessary corrections at the Dairy Farm, the Producer may apply for reinspection. When conditions have been corrected, the Dairy Farm will be reinspected by an inspector or Approved Fieldman. When the Inspector or Approved Fieldman determines that requirements for certification have been met, the Dairy Farm will be certified. ( )

371. -- 379. (RESERVED)

380. STANDARDS FOR BULK MILK HAULERS.

01. Permits. 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. The permit will cost twenty-five dollars ($25) and will be issued to the applicant after a training session on proper procedures and successfully passing an examination administered by the Department. ( )

a. No permit will be issued unless a score of seventy percent (70%) or better is made on the examination. ( )

b. A training and refresher course conducted by the Department will be given in each area of the state of Idaho once each year. ( )

c. Every holder of a permit must attend a training and refresher course every third year. ( )

d. Each new Bulk Milk Hauler shall apply to the Department for a permit. The bulk milk hauling company shall provide basic instructions on bulk milk protocols, including milk sample collection, pick up procedures, and safety measures. A permit will be issued upon satisfactory completion of a special training and licensing session held by the Department. ( )

e. A substitute Bulk Milk Hauler in case of emergency can haul milk for three (3) days without a permit provided the Department has been notified and the substitute Bulk Milk Hauler is provided instruction on approved milk pickup and delivery requirements by the bulk milk hauling company. At the end of three (3) days the substitute Bulk Milk Hauler must apply for a permit. ( )

02. Adulteration. If the truck is left unattended, Bulk Milk Haulers shall affix a seal or lock on all Transportation Tank ports, covers, and doors to protect the milk from possible adulteration. ( )

03. Authorization. No Bulk Milk Hauler shall grade, measure or sample his own milk without written authorization from the Dairy Plant receiving the milk. ( )

04. Permit Revocation. The permit may be revoked if: ( )

a. The Bulk Milk Hauler fails to grade milk in a Dairy Farm Tank to its odor and appearance and fails to reject all milk that is abnormal in odor or flavor or that contains visible garget or other extraneous matter. ( )

b. The Bulk Milk Hauler does not accurately take and record the temperature of milk or if he fails to reject the milk in excess of forty-five (45) degrees Fahrenheit. ( )

c. The Bulk Milk Hauler fails to wash his hands before he proceeds to measure and sample the milk. ( )

d. The Bulk Milk Hauler fails to follow acceptable procedures in measuring the amount of milk in the Farm Tank or if he does not, immediately after taking the reading convert the reading to pounds or gallons using the chart of the Farm Tank manufacturer and record it on duplicate forms, with one (1) copy to be posted in the milk house

Commented [DSL18]: Cite Appendix B in PMO for bulk hauler standards

Commented [DSL19]: Review 37-4 for standards for manufacture grade bulk haulers. Milk Producer's of Idaho

Commented [DSL20R19]: 37-412 and 37-309 have identical language for requirements for all bulk haulers, regardless of the grade of milk they are transporting.

Commented [DSL21]: More stringent than Grade A PMO.

and one (1) transmitted to the Dairy Plant. ( )

e. The Bulk Milk Hauler fails to agitate the milk for at least five (5) minutes in Farm Tanks less than one thousand (1,000) gallons and ten minutes in Farm Tanks over one thousand (1,000) gallons before taking a sample or if he withdraws any part of the milk from the Farm Tank before the sample is taken. ( )

f. The Bulk Milk Hauler does not take a sample for component testing and/or milk quality analysis in an approved manner or sufficient size in an approved container properly labeled, and that the sample has been cooled and maintained between thirty-two (32) degrees Fahrenheit to forty (40) degrees Fahrenheit. ( )

g. The Bulk Milk Hauler rinses the bulk Farm Tank before disconnecting and capping the hose. ( )

h. The Bulk Milk Hauler siphons milk from milk cans, water troughs or other containers other than the Farm Tank. Milk poured into the bulk Farm Tank from other than regular milking machine pails will not be allowed. ( )

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. ( )

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. ( )

03. Quality Standards. The following quality standards must be met: ( )

a. Coliform Standard. Compliance with the coliform standard is deemed to have been met if the coliform count does A sample shall not exceed ten (10) coliform colonies per gram in two (2) of the last four (4) consecutive samples. No enforcement action will be taken if the last sample is within the standard. ( )

b. Bacteria Standard. A sample shall not Compliance with the bacteria standard is deemed to have been met if the bacteria count per gram does 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. ( )

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 the test or tests 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. For the dairy product to be eligible for human consumption, aA subsequent sample must meet the quality standards before the dairy product may be sold human consumption. ( )

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. ( )

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. ( )

391. STANDARDS FOR BUTTER.

01. Grading. Butter grading will be performed in accordance with the United States Standards for grades of butter as incorporated by reference.
( )

02. Quality Standards. The following quality standards must be met: ( )

a. Coliform Standard. Compliance with the coliform standard is deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. ( )

b. Bacteria Standard. Compliance with the bacteria standard is deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable. ( )

c. Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of butter will be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the butter cannot be sold for human consumption. For the butter to be eligible for human consumption, a subsequent sample must meet the quality standards. ( )

392. Standards For Whey Butter.

01. Basis for Determining the Acceptability of Whey Butter. The acceptability of whey butter is determined on the basis of classifying first the flavor characteristics and then the characteristics in body, color and salt. Flavor is the basic quality factor in grading whey butter and is determined organoleptically by taste and smell. The flavor characteristic is identified and together with it relative intensity, is rated according to the applicable classification. When more than one flavor characteristic is discernible in a sample of whey butter, the flavor classification of the sample is established on the basis of the flavor that carries the lowest rating. Body, color and salt characteristics are then noted and any defects are disrated in accordance with the established classification. Acceptability for the sample is then established in accordance with the flavor classification, subject to disratings for body, color and salt. When the disratings for body, color and salt exceed the permitted amount or if the flavor is not acceptable, the whey butter will not be allowed to be sold or distributed within the state of Idaho unless the packages are labeled as provided. ( )

02. Specifications for Acceptability of Whey Butter. Whey butter shall be free of foreign materials and visible mold. It shall possess a fine and highly pleasing whey butter flavor. May possess any of the following flavors to a slight degree: flat, malty, musty, neutralized, scorched, utensil, stale, and woody. May possess the following flavors to a definite degree: cooked, aged, bitter, coarse-acid, smothered, storage and old cream. May possess feed flavor to a pronounced degree. The permitted total disratings in body, color and salt characteristics are limited to one and one-half (1 1/2). ( )

03. Whey Butter Label Requirements. It is hereby declared to be unlawful to sell or offer for sale any whey butter within the state of Idaho unless the wrappers and containers in which said butter is packaged are conspicuously labeled as herein provided: ( )

a. The name of the product is whey butter or whey cream butter or "Butter made from whey cream." ( )

b. The name of the product is placed on the principal display panel(s) and shall be of uniform type and prominence. ( )

c. The manufacturer identification number is conspicuously placed on each wrapper and container of whey butter. ( )

d. Labels of whey butter sold or distributed within Idaho shall be approved by the Department. ( )

04. Quality Standards. The following quality standards must be met: ( )

a. Coliform Standard. Compliance with the coliform standard is deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. ( )

b. Bacteria Standard. Compliance with the bacteria standard shall be deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the whey butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable. ( )

c. Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of whey butter will be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the Butter cannot be sold for human consumption. For the whey butter to be eligible for human consumption, a subsequent sample must meet the quality standards. ( )

05. Enforcement. Whey butter which fails to meet flavor or body, color and salt requirements as defined in Section 392.01 may be sold or distributed within the state of Idaho, provided the word, "undergrade" is placed on the principal display panel(s) immediately preceding or following the product name and is of uniform type size and prominence. ( )

06. Table I -- Classification of Flavor Characteristics.

Identified Flavors	Acceptable	Unacceptable
Flat	S	D
Malty	S	D
Musty	S	D
Neutralized	S	D
Scorched	S	D
Utensil	S	D
Cooked	D	P
Aged	D	P
Bitter	D	P
Smothered	D	P
Storage	D	P
Old Cream	D	P
Feed	P	-

Acid	D	P
Weed	S	D

( )

07. Table II -- Characteristics and Disratings in Body, Color, and Salt:

Characteristics	Body Disratings		
	S	D	P
Crumbly	1/2	1	
Gummy	1/2	1	
Leaky		1/2	1
Mealy or grainy		1/2	1
Short		1/2	1
Weak	1/2	1	
Sticky	1/2	1	
Ragged boring	1	2	

S -- Slight; D -- Definite; P -- Pronounced ( )

08. Explanation of Terms with Respect to Flavor, Intensity, and Characteristics: ( )

a. Slight: Detected only upon critical examination. ( )

b. Definite: Detectable but not intense. ( )

c. Pronounced: Readily detectable and intense. ( )

d. Aged: Characterized by lack of freshness. ( )

e. Bitter: Astringent, similar to taste of quinine and produces a puckery sensation. ( )

f. Coarse acid: Lacks a delicate flavor or aroma and is associated with an acid condition but there is no indication of sourness. ( )

g. Cooked (fine): Smooth, nutty-like character resembling a custard flavor. ( )

h. Feed: Aromatic flavor characteristic of feeds eaten by cows. ( )

i. Flat: Lacks natural butter flavor. ( )

j. Malty: A distinctive, harsh flavor suggestive of malt. ( )

k. Musty: Suggestive of the aroma of a damp vegetable cellar. ( )

l. Neutralizer: Suggestive of a bicarbonate of soda flavor or the flavor of similar compounds. ( )

m. Old Cream: Aged cream characterized by lack of freshness and imparts a rough aftertaste on the tongue. ( )

n. Scorched: A more intensified flavor than cooked (coarse) and imparts a harsh aftertaste. ( )

o. Sour: Characterized by an acid flavor and aroma. ( )

p. Smothered: Suggestive of improperly cooled cream. ( )

q. Storage: Characterized by a lack of freshness and more intensified than "aged" flavor. ( )

r. Utensil: A flavor suggestive of unclean cans, utensils and equipment. ( )

s. Weed: Aromatic flavor characteristic of the weeds eaten by cows. ( )

09. With Respect to Body: ( )

a. Crumbly: The particles lack cohesion. The intensity is described as "slight" when the trier plug tends to break and the butter lacks plasticity; and "definite" when the butter breaks roughly or crumbles. ( )

b. Gummy: Gummy-bodied-butter does not melt readily and is inclined to stick to the roof of the mouth. The intensity is described as "slight" when the butter tends to become chewy and "definite" when it imparts a gum-like impression in the mouth. ( )

c. Leaky: Present when on visual examination there are beads of moisture on the surface of the trier plug and on the back of the trier or when slight pressure is applied to the butter on the trier plug. The intensity is described as "slight" when the droplets or beads of moisture are barely visible and about the size of a pinhead; "definite" when the moisture drops are somewhat larger or the droplets are more numerous and tend to run together; and "pronounced" when the leaky condition is so evident that drops of water drip from the trier plug. ( )

d. Mealy or grainy: Condition that imparts a granular consistency when the butter is melted on the tongue. The intensity is described as "slight" when the mealiness or graininess is barely detectable on the tongue and "definite" when the mealiness or graininess is readily detectable. ( )

e. Ragged boring: In contrast to solid boring, ragged boring is when a sticky crumbly condition is presented to such a degree that a full trier of butter cannot be drawn. The intensity is described as "slight" when there is a considerable adherence "definite" when it is practically impossible to draw a full plug of the butter. ( )

f. Short: The texture is short-grained, lacks plasticity and tends toward brittleness. The intensity is described as "slight" when the butter lacks pliability and tends to be brittle; and "definite" when sharp and distinct breaks form as pressure is applied against the plug. ( )

g. Sticky: The butter adheres to the trier as a smear and possesses excessive adhesion. The intensity is described as "slight" when the smear is present only on a portion of the back of the trier and "definite" when the trier becomes smeary throughout its length. ( )

h. Weak: Body lacks firmness and tends to be spongy. The intensity is described as "slight" when the plug of butter, under slight pressure, tends to depress and is not firm and compact; and "definite" when the plug of butter, under slight pressure, tends to depress easily and definitely lacks firmness and compactness. ( )

10. With Respect to Color: ( )

~~a. Mottled: Appears as a dappled condition with spots of lighter and deeper shades of yellow. The intensity is described as "slight" when the small spots of different shades of yellow, irregular in shape, are barely discernible on the plug of butter and "definite" when the mottles are readily discernible on the plug of butter. ( )~~

~~b. Specks: Usually appear in butter as small white or yellow spots, however, the latter may be of variable size. The intensity is described as "slight" when the spots are few in number and "definite" when they are noticeable in large numbers. ( )~~

~~c. Streaked: Appears as light colored portions surrounded by more highly colored portions. The intensity is described as "slight" when only a few are present and "definite" when they are more numerous on the trier plug. ( )~~

~~d. Wavy: Uneven in the color in the butter that appears as waves of different shades of yellow. The intensity is described as "slight" when the waves are barely discernible and "definite" when they are readily noticeable on the trier plug. ( )~~

~~11. With Respect to Salt: ( )~~

~~a. Sharp: Characterized by taste sensations suggestive of salt. The intensity is described as "slight" when the salt taste predominates in flavor; and "definite" when the salt taste distinctly predominates in flavor. ( )~~

~~b. Gritty: Condition detected by the gritty feel of the grains of undissolved salt, imparting a sand-like feeling on the tongue. The intensity is described as "slight" when only a few grains of undissolved salt are detected and "definite" when the condition is more readily noticeable. ( )~~

393. -- 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: ( )

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. ( )

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

c. The public interest would be served by the dairy product. ( )

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

e. The dairy product is labeled in accordance to guidelines for a food product and approved by the Department. ( )

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. ( )

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). ( )

396. -- 403. (RESERVED)

SUBCHAPTER D – LICENSED DAIRY PLANTS

404. INCORPORATION BY REFERENCE.
The following document is incorporated by reference in this subchapter D only: ( )

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. ( )

405. -- 999. (RESERVED)

Grade A Milk Fiscal Report

Dairy Dedicated Fund

Butterfat Levy - 3.25 mills/lb

<u>Provides Funding for:</u>
Grade A Farm Inspections (Sanitation & Waste)
Grade A Plant Inspections
Dairy Lab Testing
Raw Milk Program

	FY 2018	FY 2019	FY 2020
Revenue	1,487,102	1,618,336	2,045,895
Expense	1,663,652	1,985,167	1,757,392
Year-End Balance	433,131	66,300	386,984

Idaho State Department of Agriculture
02.04.05 Rules Governing Grade A Milk and Milk Products
April 20, 2021, 8:30 a.m.
Lloyd Knight, Dr. Scott Leibsle, Chanel Tewalt, Hosts/Facilitators

Present: Dallas Burkhalter, Office of Attorney General – ISDA; Katy DeVries, Office of Attorney General – ISDA; Mitch Vermeer, ISDA; Martha Walbey, ISDA; Mat Myers, ISDA; Pam Juker, ISDA; Bob Naerebout, Idaho Dairymen's Association; Marv Patten, Milk Producers of Idaho; Mike Wiggs; Lindsey Dimond, DFA; Loren Green, Sorrento Lactalis; Shauntey Berber, Sorrento Lactalis; Brook Leguineche, Idaho Milk; Michelle Berry, High Desert Milk.

AGENDA ITEMS

WELCOME:

Lloyd Knight started the meeting at 8:37 a.m. by teleconference. Mr. Knight discussed the house rules and indicated this was the first of three rule meetings, he then turned the meeting over to Dr. Scott Leibsle to present the strawman.

Dr. Leibsle introduced himself and explained that the strawman basis was, the items highlighted in blue are attempts to simplify the rule, and yellow highlights are changes to the rule. Scott Leibsle started the meeting by explaining the fiscal budget for the Grade A program, IDAPA 02.04.05 Rules Governing Grade A Milk and Milk Products. Scott Leibsle explained where the revenue was taken from over the last three years, where expenses were from the last three years, and the year end balances for the last three years. The funding is through a butterfat mill levy that is now at 3.25 mills, and a list of the programs this is paying for: Grade A farm inspections, Grade A plant inspections, dairy lab testing, milk component program, raw milk program and dairy nutrient management.

Marv Patten asked if there should be a different fiscal year.

Scott Leibsle said this July it will be two full years.

Scott Leibsle discussed the strawman by explaining Grade A rules, manufacture grade milk rules, dairy plants and milk component, were previously four separate rules that have now been combined into one rule.

Grade A milk and milk products are part of four documents that have been incorporated by reference.

Bob Naerebout asked instead of changing the Incorporation by reference every two years why don't you just put the language use the most recent version.

Scott Leibsle responded by explaining this is the way the Legislature wants it, as they wish to review changes made, and make decisions based upon that review and to have a say in what has changed in each version on a year-to-year basis.

Scott Leibsle explained Idaho's bacteria standards are more stringent than PMO mandates, and this was specifically requested by industry.

Section 210 - 10 labs participate currently, this is to ensure all labs are paying producers correctly. The labs are required to perform to standards under this section and are expected to perform at a certain level.

Section 221 - Clarification was made on the intent of the license fee. The cost was intended to be for an entire lab and not for individual employees.

Section 230.01 & 230.03 - there are segments of this section that are not feasible to enforce by ISDA, and subsequently were removed.

Chanel Tewalt clarified the sections were not enforceable as written, but if it needs clarity it is up for discussion from the group.

Section 231, 240 also not feasible to enforce by ISDA.

Section 241 intro remains, but subsection 01, 02 and 03 are removed (same comment – not feasible to enforce). Lab requirements to calibrate their equipment remains, subsection b is removed and subsection c will remain in place.

Section 242 intro remains in place. Subsections are removed as not feasible to enforce by ISDA, with the exception of 242.03.

Section 243 is removed - redundant language.

Section 250, sample integrity, was discussed because there has been difficulty keeping sample sets within acceptable temperature tolerances. Labs receiving the samples can refuse samples that are not within the defined temperature tolerance. At the beginning of the pandemic, ISDA has began shipping samples directly to the labs, because inspectors were not permitted inside the buildings to observe the testing process.. This new procedure has resulted in fewer rejected samples due to temperature, than the previous procedure.

Bob Naerebout said Industry is going to want the oversight back.

Scott Leibsle said the previous protocol was when ISDA shows up, labs need to stop what they are doing and run the samples immediately. Since ISDA staff/couriers do not have time to sit and wait for labs to put the samples in the fridge and run them once the temperatures are stabilized, it results in more samples being rejected because of temp,.

Bob Naerebout asked are you saying economically that's not feasible to wait an hour for samples to reach the accepted temperature range.

Scott Leibsle replied it costs approximately $12,000.00 per year to pay three couriers out of state.

Marv Patten clarified that if samples arrive out of temperature, they can't be cooled down, somewhere along the line they have become compromised.

Scott Leibsle said when we were doing direct oversight, the lab would take the temperature and accept or reject right away. We can go back to the direct oversight, but understand more samples will likely be refused by the labs.

Bob Naerebout asked if we were using FedEx or private companies, who might stay around for that oversight.

Scott Leibsle replied that in the past FedEx delivered them to private individuals and they would take them to the lab within a day or two. It has been difficult to find people out of State to reliably fulfill this role.

Brook Leguineche said if samples get to warm, the protein will plug the machine and throw the machine off.

Scott Leibsle asked if 7.2 degrees was a good temperature?

Brook Leguineche replied she wasn't sure.

Scott Leibsle replied it is difficult to make sure the samples are not too cold or too hot.

Bob Naerebout asked if Marv Patten remembered in the original rule making why we couldn't use the Federal Milk Market results.

Marv Patten responded the margin of error was not as accurate.

Scott Leibsle said I'm hearing that Industry wants oversight, but understands the difficulties with regards to having acceptable temperature samples, meaning more samples will be rejected by the receiving labs.

Marv Patten asked if the departments' process was still the same in receiving samples, changing the order and then sending them out to the labs.

Scott Leibsle answered yes…the sampels are received from Ohio, re-labelled, packaged and shipped to each of the labs.

Marv Patten asked if we check the temperature when the samples arrive.

Scott Leibsle said yes.

Marv Patten clarified that if there is a problem it's from ISDA to the labs.

Scott Leibsle said yes.

Section 260 and 270 –no changes.

Section 281.01.b – this section had the testing oversight language before it removed due to the pandemic.

Bob Naerebout stated they want the oversight requirement put back in.

Marv Patten said what's the use in having a program if you don't have any oversight to insure compliance.

Bob Naerebout stated that processors have told him you can go out to the company's website and see the results of the samples you are sending to the labs.

Scott Leibsle said that was true, so that is why we randomize them so the labs can't decrypt the results.

Mitch Vermeer said the company we use is Eastern Labs and they do publish their results because they also ship their samples to labs, that is why we randomize once they reach ISDA.

Bob Naerebout said we need to make sure integrity is kept, to insure the program's validity.

Scott Leibsle replied we can make our process available to you. We think it would be virtually impossible for labs to match up the samples.

Marv Patten said that labs have different channels on their machines, so when they see ISDA entering, they can change the channel on their machine and switch it back again when they are running producer samples.

Mike Wiggs said depending on where the labs get their samples from to calibrate their machine whether it be from DQCI or Eastern the results could be different.

Scott Leibsle replied Idaho government agencies are required to go through a bidding process and are forced to use the vendor with the successful bid on the project.

Lindsey Dimond stated that we are closer now than when we started this program. Lindsey echoed that there are concerns that when ISDA shows up that labs do switch channels on their machines.

Scott Leibsle replied he doesn't have the technical knowledge to know how difficult it is to switch channels.

Shauntey Berber said the ISDA inspector has come in and checked, and we use the same channel.

Scott Leibsle asked if there were any other questions or comments. No comments provided.

Marv Patten stated in 282.01 we should put back in the 3 out of 5 language.

Scott Leibsle responded I'll put a placeholder in this part and insert language that is consistent with the other rules, which will be present in the strawman. Noting these tolerances are different than the rolling group of thirteen….this section is for clearance tests.

Section 290 – record keeping is the same as before except to strike .02 because it is not feasible to enforce as written.

Section 291 – stays the same.

Manufacture Grade Milk, Section 304 – striking .02. This document is no longer used by dairy labs. Incorporations by references are be added for sanitation inspection purposes for manufacture grade plants.
Section 310 - add a definition for adulterated milk. No other changes to definitions.

Section 320 – no changes.

Section 321 – propose striking language 01.a to .03d.

Mike Wiggs stated we still need sediment rules. USDA still requires that, if you eliminate it from the rules you might be in conflict with USDA.

Scott Leibsle replied when issues are identified that pertain to USDA manufacture rules, they will be addressed in a separate rule.

Mike Wiggs asked where else in your rules do you have sediment requirements.

Mitch Vermeer replied we are saying it doesn't need to be in our rule, it is incorporated by reference.

Scott Leibsle said we are not removing it, we are taking it out of this section because it is redundant.

Mike Wiggs said you better double check you are not removing it.

Marv Patten asked does this apply to a farm or a plant. Does it define sediment, we need more clarity.

Mitch Vermeer agreed with Marv Patten that we need more clarity.

Scott Leibsle asked if we wanted to designate sediment testing.

Marv Patten said when you are on a farm and if you want to ship Grade A milk to a plant, but its manufacture grade, why would you want to take out appearance and odor? I think the hauler should be aware of those items.

Mike Wiggs said I think you should leave them all in, because by striking it out they are not getting the monthly testing done. This is where the hauler brings in two samples to test the milk.

Marv Patten asked Mike Wiggs if the sediment section should be left in.

Section 330 – Scott Leibsle said the ISDA dairy lab reported which tests they currently use.

Marv Patten asked would there be some of these tests that industry uses, so maybe it needs to be more broad.

Scott Leibsle said we will address the bacteria language and have it for the next meeting.

Marv Patten said it should be left at 200,000.

Section 340 – no changes.

Section 341- Scott Leibsle said coliform was missing which we thought was an oversight so it is now added.

Marv Patten said it's not in the PMO you are talking about raw.

Mike Wiggs stated he agreed with Marv Patten, there is no coliform count requirements on raw milk, only finished products.

Scott Leibsle said SCC is more stringent than the PMO….should be at least equivalent to PMO.

Marv Patten said it should be left in there.

Scott Leibsle suggested we have language to refuse a shipment if there is a positive drug or failed to test for it.

Marv Patten said if it fails a drug test the plant will reject it and notify ISDA, should leave it as is.

Section 350 – no changes.

Marv Patten asked why do we need to wait for 3 days, if they have fixed the problem why not put them back on the market immediately. I don't think you need the 21 days.

Mike Wiggs said this is referring to if you are put on probation not if you are off the market.

Marv Patten said you are correct, I withdraw my previous request.

Section 352 – striking redundant language in .01a & b.

Mike Wiggs said going back to the drugs section, if FDA comes out with a drug of the month for testing, can the department still comply with that by striking a & b.

Scott Leibsle said manufacture rules are not under the PMO.

Mike Wiggs said again when FDA comes out with a drug for all milk, are you able to comply if you strike that language.

Mitch Vermeer said if people want to adopt Federal Rules, Idaho rules will say one thing and the Federal rules will say another.

Scott Leibsle said this is a manufacture rule so wouldn't it apply here.

Mike Wiggs said if FDA says they want to test all milk, then it applies to both Grade A & manufacture grade, they have the authority to do that.

Section 353 – 355 – This is a manufacture process so we are removing it. No comments provided.

Section 360 – General health of herd, we will create our own rather than taking it from the PMO. However, should we site the PMO on the other definitions?

Mitch Vermeer said the idea is to keep it to the unlimited raw and cite to the PMO.

Mike Wiggs said he would say no, the condition of the parlor you need to abide by the PMO because it's different than manufacture grade.

Marv Patten said he agreed with Mike Wiggs, we should go with USDA storage of manufacture since it's not as stringent as Grade A.

Bob Naerebout said he agreed with Scott Leibsle, if raw is stricter, than it makes no sense to have it here. Industry does not want the raw milk rule to be any less stringent than it currently is.

Marv Patten said he didn't think it said that in the raw rule.

Marv Patten said I agree, I was thinking Small Herd.

Mike Wiggs stated regarding raw milk, if they are bottling it, that is different than milking the cows on the farm.

Scott Leibsle asked Mike Wiggs what was he proposing.

Mike Wiggs said there should be different rules for Grade A vs. manufacture grade at the farm.

Mitch Vermeer said if we changed it, at the moment it would not affect anyone.

Bob Naerebout said we don't want to weaken raw milk in any way shape or form, we seem to be discussing something in great detail that doesn't pertain to us because Idaho has not manufacture grade dairies

.09 – strike, this rule doesn't regulate sewage disposal.

Section 370 – Cite the 2019 PMO – strike all remaining language.

Lloyd Knight suggested that when the stakeholders are making their comments regarding variances to the PMO, that they be specific so we can answer questions from DFM and legislators.

Section 380 – This is not permitted for manufacture grade….bulk haulers are cited to the PMO.

Marv Patten said Title 37 Chapter 4 has bulk milk hauler standards, which need to be checked for consistency.

Section 390 –simplifying the language.

Section 391 -Scott Leibsle said the next several pages are standards for butter & whey butter….which hasn't been produced in Idaho for a long time. Proposing to strike all of the whey butter language. We can put a temporary rule in place if need be at a later date.

Marv Patten said he thinks we are fine to do that, because you can always adopt USDA standards.

Section 395 new dairy products, standard language if a new product wants to be created, ISDA will give them a temporary license and then we will address it in the next rule making.

Next section is licensed dairy plants, incorporates by reference. No comments provided.

Bob Naerebout asked if we will have comments posted on the website before the next meeting.

Scott Leibsle replied yes.

Lloyd Knight adjourned the meeting at 10:49 a.m.

IDAHO DEPARTMENT OF AGRICULTURE
2270 Old Penitentiary Road
PO Box 7249
Boise, Id 83707

02.04.05 RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK
Minutes of June 15, 2021 Meeting

HOSTS/FACILITATORS:	Lloyd Knight, ISDA Dr. Scott Leibsle, ISDA
STAKEHOLDERS PRESENT:	Bob Naerebout, Idaho Dairymen's Association Marv Patten, Milk Producers of Idaho Mike Wiggs Shauntay Berber
DEPARTMENT STAFF:	Dallas Burkhalter, Office of Attorney General – ISDA Katy Devries, Office of Attorney General – ISDA Pamm Juker, ISDA Mitch Vermeer, ISDA Dicsie Gullick, ISDA

Lloyd Knight called the meeting to order at 8:32 AM MDT. He explained that the comment period was open until June 20th and then turned the meeting over to Dr. Scott Leibsle to present the strawman.

Dr. Leibsle presented the strawman draft and explained that this draft looked different because there were no highlighting or track changes shown, just the official strike and score, which will be submitted to DFM. He also showed where to find the rules draft on the ISDA website.

Each subchapter was presented in turn. Subchapter A had some changes to the documents incorporated by reference in order to update them to their latest versions. However, they will need to be updated again later this year when the documents are updated.

Subchapter A had language struck that was unnecessary or redundant. There was language added regarding supervision for sample deliveries to labs that had been specifically requested by industry. Dr. Leibsle stated that while supervision for out of state labs could be difficult, supervision for all in-state labs should be manageable.

Bob Naerebout asked if clarification could be added to section 241 showing that these rules do not apply to goat milk. He also conceded that having supervision for out of state labs can be worked out at a later date.

Dr. Leibsle added the word "bovine" to section 221.01 for clarification.

Dr. Leibsle continued with subchapter B showing where the language regarding 3 out of 5 testing had been added per industry request.

In subchapter C, regarding manufacture grade milk, the documents incorporated by reference had been changed and the definition for adulterated milk had been added. Section 321 was struck because it is redundant and incorporated by reference. The methods of testing were simplified to simply say as approved by Department. This change was requested by industry. The somatic cell count permitted for goat and sheep milk was changed to be consistent with typical standards. There was additional language that simplified, but not changed the rule.

Marv Patten asked to review the first part of the subsection, but found no issues.

Dr. Leibsle continued the review of the subchapter beginning at rule 370 regarding Dairy Farm Permits. Language was stricken to simplify the inspection standards, which were now to be conducted pursuant to the 2019 Pasteurized Milk Ordinance.

Marv Patten disagreed with using the PMO as the standard and preferred to have the USDA standard utilized.

Mitch Vermeer asked why would manufacture grade milk be held to a lower standard than raw milk, which is held to the 2017 PMO.

Marv Patten would like to see grade B standard stay the same for small operations that are just starting.

Dr. Leibsle stated that there are currently no grade B facilities in the program. He continued his review of the strawman explaining the unnecessary and redundant language that had been removed. A large section regarding whey butter had been removed, but were covered by the US standards that were incorporated by reference.

Subchapter D was very short and had no changes.

Marv Patten stated that he would like the USDA subpart B incorporated by reference instead of the POM.

Dr. Leibsle called for further discussion and questions. Hearing none, he again stated the deadline for comments is June 20th. After all comments are received and reviewed the final draft of proposed rules will be posted in the July bulletin. There will be a comment period following the July publication, but only for those requesting official public hearings.

Dr. Leibsle thanked all that had contributed to the rule making and turned the meeting over to Lloyd Knight.

Lloyd Knight gave the email addresses where comments could be sent and adjourned the meeting at 9:03 AM MDT.

From: Jennifer Crumrine
To: Dr. Scott Leibsle
Cc: Chanel Tewalt; Lloyd Knight
Subject: FW: {External}Additional Comments 02.04.05 Subchapter C
Date: Monday, June 21, 2021 8:13:30 AM

Have a great day!

Jennifer Crumrine

Management Assistant
State Department of Agriculture
Ph: 208-332-8500|Fax: 208-334-2170

From: Marv Patten <marvrpatten@gmail.com>
Sent: Sunday, June 20, 2021 1:26 PM
To: _General Information <info@ISDA.IDAHO.GOV>
Subject: {External}Additional Comments 02.04.05 Subchapter C

When conducting Manufacture Grade Milk dairy farm inspections, the point value(s) for each inspection criteria (100 points) total were specified on the Manufacture Grade Farm Inspection Forms. Scoring criteria and regulatory inspection requirements are missing Subchapter C.
The requirements should be added to the rule.
Marv

Comments regarding IDAPA 02.04.05 Subchapter C Manufacture Grade Milk. June 18, 2021

1. 321.03 Sediment Content Classification. Leave original language in place or refer to the Incorporate by Reference.
2. 330.01 add "using acceptable USDA testing methods."
3. Leave existing Language for 353, 354, and 355 in place.
4. Section 360 Farm Requirements of Milk For Manufacturing.
5. 01. Health of Herd. a. General Health. Leave original language in place. No problem with Strawman language for Tuberculin Test or Brucellosis Test. The rest of Section 360 should have strike though eliminated.
6. 370 Dairy Farm Certification (eliminate "Permit"). Remove the underlined sentence "Inspections shall be conducted pursuant to the 2019 Pasteurized Milk Ordinance" and remove all strike through portions. The definitions' section refers to certifications not permits. "Dairy Certification", for the production of milk for manufacturing purposes. (not Grade A)! Milk for Manufacturing Purposes.....milk used for manufacturing products for human consumption "but not subject to Grade A". Milk " the lacteal secretion.....for manufacturing purposes".

The dairy industry should have options to legally ship manufacture grade milk (Grade B milk) in intrastate and interstate commerce provided the milk meets states' quality and production standards. Manufacture Grade Milk farms can be more economically conducive to construct and operate than Grade A facilities.

Regards,

Marv Patten

Marv Patten, Executive Director, Mpi

MPI

821 W State Street
Boise, Idaho 83702

208-850-8897

Idaho State Department of Agriculture
02.04.05 Rules Governing Grade A Milk and Milk Products
May 18, 2021, 8:30 a.m.
Lloyd Knight, Dr. Scott Leibsle, Chanel Tewalt, Hosts/Facilitators

Present: Dallas Burkhalter, Office of Attorney General – ISDA; Katy DeVries, Office of Attorney General – ISDA; Mitch Vermeer, ISDA; Martha Walbey, ISDA; ISDA; Kyle Wilmot, ISDA; Bob Naerebout, Idaho Dairymen's Association; Marv Patten, Milk Producers of Idaho; Mike Wiggs; Antone Mickelson, Darigold;

AGENDA ITEMS

WELCOME:

Lloyd Knight started the meeting at 8:33 a.m. by teleconference. Mr. Knight discussed the house rules and indicated this was the first of three rule meetings, he then turned the meeting over to Dr. Scott Leibsle to present the strawman.

Scott Leibsle discussed the strawman by explaining Grade A rules, manufacture rules, dairy plants, and milk component, were previously four separate rules that have now been combined into one rule.

Scott Leibsle asked if there were any comments to the Grade A rules. No comments were provided.

Component rule – clarification of language not enforceable by ISDA.

Idaho Dairymen's Association submitted a comment that we re-implement a representative to oversee the component samples when they are delivered to the labs every two weeks.

Milk Producers of Idaho submitted a comment to implement 3 out of 5 language for when a lab would lose its component testing license.

Scott Leibsle responded those above items have been addressed. No comment provided.

Manufacture rule – incorporate by reference language was incorporated.

Mike Wiggs asked to keep the bulk haulers language in 321.01.a.

Milk Producers of Idaho requested appearance and odor be left in.

Milk Producers of Idaho requested to leave the bacterial testing language broad to account for new or modified testing modalities in the future.

Milk Producers of Idaho and Mike Wiggs requested the coliform language for raw milk to be removed.

Section 351 - There was a comment to raise somatic cell count to 1,500,000.

Milk Producers of Idaho requested to leave the drug residue requirements intact.

Marv Patten asked should we be including camels, or water buffalos?

Scott Leibsle responded if you think it is necessary you can submit a comment.

Section 352 - Drug residue – Mike Wiggs made a comment that FDA has the authority to request compliance from the state.

Scott Leibsle said regarding the drug of the month, the state has to approve it before testing can be done.

Mitch Vermeer said he was fine with it.

Section 360 - Health of Herd section – the majority will be stricken, and the sanitation requirements will follow the PMO.

Marv Patten questioned the sanitation standards.

Scott Leibsle responded the sanitation requirements are currently a lesser standard than the PMO, which is used in both Grade A milk and unlimited raw milk. It was commented in the last meeting that manufacture should not be held to a lesser standard than raw milk. At the very least, it should be the same.

Bob Naerebout said there are currently no manufacture grade farms in the state and if a Grade A producer gets degraded they are going to work very hard to get back on Grade A very quickly.

Standards for manufacture grade bulk milk haulers – the state treats them the same if they are shipping manufacture or Grade A.

Mike Wiggs said are you saying you don't have to take the test or pay the $25.00

Scott Leibsle stated that remains the same they have to take the test and pay the $25.00

Mike Wiggs asked where does it say that.

Scott Leibsle brought up statute 37-309 and displayed where that requirement was.

Marv Patten asked about revoking a license.

Mitch Vermeer responded you can't revoke a license in Grade A milk. According to the PMO, you may only suspend a license.

Scott Leibsle said we are making the licenses consistent.

Mike Wiggs stated regarding the PMO, the only time you can go after someone is if they have repeat items. But the way the manufacture rules were written there were several items you had the authority as a state to go after them.

Scott Leibsle responded these rules are more stringent than the Grade A rules, so that is why we are striking those portions. However, if the stakeholders want manufacture rules to be stricter than the grade A rules you may make that suggestion. No comments provided.

Section 390 –simplifying the language.

Marv Patten said subpart E on USDA, that may refer to milk for manufacturing purposes or it might be referring to Grade A.

Scott Leibsle asked what would you like to look at.

Marv Patten said if plants are degraded from Grade A can they still process Grade B milk.

Mitch Vermeer said he'll double check to make sure there is no conflicting language.

Lloyd Knight adjourned the meeting at 9:14 a.m.

June 18, 2021

From
Mike Wiggs
MKW Consulting LLC

Comments on the Rule making process

IDAP 02.04.05 Rules Governing Grade A Milk and Manufacturing Grade Milk

With the changes to the rules as proposed the Department is eliminating manufacturing grade milk. This elimination of manufacturing grade milk does away with an opportunity for producers or processors to utilize this milk in intra and interstate commerce. In addition, it could cause greater economic burden for a small-time operation to get started into the dairy business of producing artisan cheese farmstead or ice cream business.

Sub chapter C – Manufacturing grade Milk

304 Incorporated by Reference

07 – Grade A PMO remove this reference

370 – Added inspections shall be conducted pursuant to the 2019 PMO

I feel there will be an issue with the compliance to the changes.

1) If a facility is degraded for compliance with the PMO then the facility will be off the market until such time the facility is reinstated to its grade A status since it does not meet the compliance of the PMO at the time of the degrade. There will be no option for the producer to ship his milk to a non-grade A facility for processing since the facility will need to meet the PMO requirements to be on the market.
2) A small cheese plant may want to start up as was in the past with a small herd and processing plant. The milking facility will need to meet all requirements of the PMO prior to start up with no room for any variations.
3) As proposed the manufacturing grade farm facility will need to be in compliance with the entire PMO and supporting documents.

310 Definitions

.09 uses the definition Farm Certification 370 is proposed to change certification to permit

321.03 Sediment Content Classification. Leave original language in place

330.01 add language “using acceptable USDA testing methods”

360.01 leave original language in place. June 15th straw man has stricken through TB testing also.

Leave the original language in the rest of the section 360

370 Leave the original wording for the heading Dairy Farm Certification, do not change to permit.
Remove the added underlined sentence “Inspections shall be conducted pursuant to the 2019 Pasteurized Milk Ordinance”
Remove all strike outs in 370

It is recommended if the issue is to reference documents for the Manufacturing Grade rules then it is recommended to reference the USDA document Milk for Manufacturing Purposes and its production and Processing Recommended Requirements Subpart D Farm Requirements for Milk for Manufacturing effective July 21, 2011. You are already referencing the Subpart E for the manufacturing grade processing plants.

IDAHO IDA
dairymen's association

May 24, 2021

Dr. Scott Leibsle
Idaho State Department of Agriculture
Idaho State Veterinarian

Mr. Lloyd Knight
Idaho State Department of Agriculture
Rules Revie Officer

RE: IDAPA 02.04.05 Rules Governing Grade A Milk and Manufacturing Grade Milk

Dr Leibsle and Mr. Knight,

At the Idaho Dairymen's Association board meeting held on May 19, 2021 the following concerns have been identified with IDAPA 02.04.05 Rules Governing Grade A Milk and Manufacturing Grade Milk.

First we appreciate that in section 281 -01-c the language has been added back in "while being observed by a Department employee or representative". By adding the language back in we also realize that it creates a problem for ISDA to economically perform the intent of 281-1-c in the out of state labs testing Idaho milk.

To address that concern the board believes a discussion should be had on eliminating that provision for observation oversight (281-01-c) for out of state labs, to our knowledge that will impact four (4) labs. In addition, although ISDA lab accuracy is more stringent that the Federal Milk Marketing Order (FMMO) lab requirements, potentially all parties should consider allowing those out of state labs that are governed by FMMO be exempt from ISDA lab component accuracy oversight.

Lastly, with the expansion of goat operations in Idaho the Rule needs to explicitly state that IDAPA 02.04.05 section 281 only pertains to dairy facilities that pay into the butterfat assessment.

Sincerely,

Rick Naerebout
Chief Executive Officer
Idaho Dairymen's Association, Inc.

195 River Vista Place
Twin Falls, Idaho 83301
208.736.1953
www.idahodairymens.org

Idaho State Department of Agriculture
P.O. Box 7249 • Boise, Idaho 83707
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BRAD LITTLE, GOVERNOR

CELIA GOULD, DIRECTOR

ISDA 2021 Negotiated Rulemaking

April 2021 Update

Dear Stakeholders,

As the rulemaking season approaches, we wanted to provide a roadmap as to what rulemaking will look like this year. We will have some new processes and rulemakings as a result of executive orders or legislative changes. The one constant is the importance of having your participation and involvement. We know our agency benefits from a close relationship with our programs and the needs or expectations of stakeholders.

ISDA's 2021 negotiated rulemaking will fall into two categories:

- Rules reviewed as part of the Governor's Zero-Based Regulation Executive Order, and/or
- Rules reviewed as a result of new legislation.

All notices for these negotiated rulemakings will publish in the Administrative Bulletin on April 2, 2021. The Administrative Bulletin can be found at https://adminrules.idaho.gov/bulletin/.

Zero-Based Rulemaking

Governor Little's Executive Order No. 2020-01 – Zero Based Regulation – directs agencies to facilitate an ongoing review process for existing rules, requiring agencies to put each rule on a five-year review schedule. This process aims to reduce the overall regulatory burden, or remain neutral, as compared to the original rule. Attached you will find the entire five-year review schedule for the agency. Specifically, for 2021, the following rules are scheduled for Zero Based Rulemaking. Notices will be published in the April Administrative Bulletin and meeting dates also are listed below. We strongly encourage all interested stakeholders to participate in these rulemaking meetings.

IDAPA	Name	Meeting Dates
IDAPA 02.04.05	Rules Governing Grade A Milk and Manufacture Grade Milk	Tuesday, April 20, May 18, and June 15 all from 8:30 a.m. to noon
IDAPA 02.04.13	Rules Governing Raw Milk	Tuesday, April 20, May 18, and June 15 all from 1:30 to 5 p.m.
IDAPA 02.04.19	Rules Governing Domestic Cervidae *needs to be updated per legislative action, will include ZBR*	Wednesday, April 21, May 19, and June 16 all from 8:30 a.m. to noon
IDAPA 02.06.33	Organic Food Products Rules	Wednesday, April 21, Monday, May 17, and Wednesday, June 16 all from 1:30 to 5 p.m.
IDAPA 02.04.21	Rules Governing Importation of Animals	Thursday, April 22, May 20, June 17 from 8:30 a.m. to noon
IDAPA 02.04.27	Rules Governing Deleterious Exotic Animals	Thursday, April 22,

		May 20, June 17 from 1:30 to 5 p.m.
IDAPA 02.06.06	Rules Governing the Planting of Beans	Friday, April 23, May 21, June 18 from 8:30 a.m. to noon
IDAPA 02.06.09	Rules Governing Invasive Species and Noxious Weeds	Friday, April 23, May 21, June 18 from 1:30 to 5 p.m.
IDAPA 02.04.14	Rules Governing Dairy Byproduct *needs to be updated per legislative action, will include ZBR*	Monday, April 19, Wednesday, May 19, Monday, June 14 from 1:30 to 5 p.m.

The format of each rulemaking meeting will be similar:

- Facilitated by the Rules Review Coordinator with ISDA staff on hand to answer technical questions and present draft language from previous discussions or as provided by law.
- Initial discussion drafts will be developed by agency staff simply as a starting point for the first meeting and drafts will reference those sections required by statute and those sections that may be out of date with the statute or other incorporated reference documents.
- If stakeholders have proposed changes or drafts they would like to submit for discussion during the meetings, they can email them to rulesinfo@isda.idaho.gov prior to the next meeting so they can be shared on screen.
- Meetings will be held via WebEx.
- As always, all rulemaking information will be posted on the ISDA website under "Laws and Rules." Information for joining all upcoming meetings will be posted on the website.
- Agency staff will compile minutes, presented materials, and stakeholders' recommended draft changes. This information also will be posted to the ISDA website.
- ISDA needs to have proposed rules and other supporting materials submitted to DFM in mid-July to ensure adequate time for review prior to publication in the September Bulletin, the subsequent comment period, and a final rule to be prepared for presentation for review by the 2022 Legislature.

If you have any questions or to RSVP for a meeting, please contact Lloyd Knight, ISDA's Rules Review Coordinator at rulesinfo@isda.idaho.gov.

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.05 - RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK
02.04.13 - RULES GOVERNING RAW MILK
02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE
02.06.33 – ORGANIC FOOD PRODUCTS RULES
02.04.21 - RULES GOVERNING IMPORTATION OF ANIMALS
02.04.27 - RULES GOVERNING DELETERIOUS EXOTIC ANIMALS
02.06.06- RULES GOVERNING THE PLANTING OF BEANS
02.06.09- RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS

DOCKET NO. 02-XXXX-XXXX *(OARC will assign)*

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 22-1103, 22-1907, 22-2004, 22-2006, 25-203, 25-303, 25-305, 25-401, 25-601, 25-3704, 25-3903, 37-303, 37-402, 37-405, 37-516, 37-1101(5), Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking meetings will be held as follows. Additional meetings may be scheduled and will be posted on the ISDA website.

MEETINGS SET FOR PUBLIC PARTICIPATION
VIA TELEPHONE AND WEB CONFERENCING

IDAPA 02.04.05 Rules Governing Grade A Milk and Manufacture Grade Milk **Tuesday, April 20, May 18, and June 15 from 8:30 am to noon**
IDAPA 02.04.13 Rules Governing Raw Milk **Tuesday, April 20, May 18, and June 15 from 1:30 to 5:00 pm**
IDAPA 02.04.19 Rules Governing Domestic Cervidae **Wednesday, April 21, May 19, and June 16 from 8:30 am to noon**
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IDAPA 02.06.09 Rules Governing Invasive Species and Noxious Weeds **Friday, April 23, May 21, June 18 from 1:30 to 5:00 pm**

Contact rulesinfo@isda.idaho.gov to make arrangements for participation by telephone and web conferencing.

On March 25, 2020, Governor Little issued a Proclamation declaring an emergency and taking steps to reduce and slow the coronavirus spread. In compliance with the Proclamation and Stages of Reopening, ISDA will hold this meeting via telephone and web conferencing.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact rulesinfo@isda.idaho.gov. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

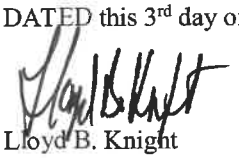
These rules are being presented for authorization as part of the ISDA's plan to review each rule every 5 years. There are no specific rulemaking changes planned by the ISDA at this time except for evaluation and amendment consistent with the Governor's Zero-Based Regulation Executive Order. It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The ISDA intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order. The ISDA will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

Incorporated by reference documents presented for review will be part of informal negotiated rulemaking and stakeholders will provide input on that process.

ASSISTANCE ON TECHNICAL QUESTIONS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Lloyd Knight, Rules Review Officer at (208) 332-8664. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: (www.agri.idaho.gov/rulemaking.)

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 20, 2021.

DATED this 3rd day of March, 2021.



Lloyd B. Knight
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