

Dear Senators RICE, Den Hartog, Jordan, and
Representatives BOYLE, Dayley, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Idaho State Department of Agriculture:

IDAPA 02.04.08 - Rules Governing Grade A Milk and Milk Products - Proposed Rule (Docket
No. 02-0408-1801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/24/2018. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/23/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: September 06, 2018

SUBJECT: Idaho State Department of Agriculture

IDAPA 02.04.08 - Rules Governing Grade A Milk and Milk Products - Proposed Rule (Docket No. 02-0408-1801)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.08 - Rules Governing Grade A Milk and Milk Products. According to the department, the purpose of the rulemaking is to incorporate by reference the 2017 edition of the Grade A Pasteurized Milk Ordinance; 2017 edition of the Evaluation of Milk Laboratories reference document; 2017 Methods of Making Sanitation Ratings of Milk Shippers reference document and 2017 edition of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration reference document. The department has attached an incorporation by reference synopsis. The department notes that the documents that are incorporated by reference are recognized nationally as the primary reference and regulatory documents related to Grade A milk and milk products. The department states that incorporating the most current version of the documents promotes uniformity throughout the United States dairy industry and the U.S. Food and Drug Administration.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. The department states that it does not anticipate any fiscal impact as a result of the rulemaking.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 37-303, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
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***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.08 – RULES GOVERNING GRADE A MILK AND MILK PRODUCTS
DOCKET NO. 02-0408-1801
NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

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

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

To incorporate by reference the 2017 edition of the Grade A Pasteurized Milk Ordinance; 2017 edition of the Evaluation of Milk Laboratories reference document; 2017 Methods of Making Sanitation Ratings of Milk Shippers reference document and 2017 edition of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration reference document.

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

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

ISDA does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules was published in the July 4, 2018 Idaho Administrative Bulletin, [Vol. 18-7, page 21](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The documents that are incorporated by reference are recognized nationally as the primary reference and regulatory documents related to Grade A milk and milk products. Incorporating the most current version of the documents promotes uniformity throughout the United States dairy industry and the U.S. Food and Drug Administration.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mitchell Vermeer, Section Manager- Division of Animal Industries at (208) 332-8551. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 2nd day of August, 2018.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0408-1801
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

The Idaho State Department of Agriculture incorporates by reference the following documents in this chapter. Copies of these documents may be obtained at the Idaho State Department of Agriculture central office. (4-7-11)

01. Grade “A” Pasteurized Milk Ordinance. The Grade “A” Pasteurized Milk Ordinance, 2015~~7~~ 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/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM612027.pdf>. (3-29-17)()

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, 2015~~7~~ 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/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM615021.pdf>. (3-29-17)()

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, 2015~~7~~ 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/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM600123.pdf>. (3-29-17)()

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, 2015~~7~~ 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/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM594813.pdf>. (3-29-17)()

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

IDAHO STATE DEPARTMENT OF AGRICULTURE
IDAPA 02.04.08 - Rules Governing Grade A Milk and Milk Products
Proposed Rulemaking - Docket No. 02-0408-1801

Amendments to the 2017 Grade A Pasteurized Milk Ordinance (PMO)

The PMO was modified to bring requirements in line with the Preventative Controls Rule of the Food Safety Modernization Act (FSMA) that will allow FDA to accept the PMO, the written Food Safety Plan and written recall plan for all regulated facilities. The 2015 NCIMS conference identified areas the PMO was deficient in meeting the requirements of the new FSMA rules. These deficiencies were addressed and a new Appendix T was written that now includes all standards relating to Grade A FSMA requirements.

Amendments to the 2017 Methods of Making Sanitation Ratings of Milk Shippers (MMSR)

The 2017 MMSR will now outline how the ratings will be conducted to enforce current FSMA requirements.

Amendments to the 2017 Interstate Milk Shipments

The 2017 Interstate Milk Shipments document now outlines the regulatory frame work to the enforcement portions of FSMA requirements when a facility is found to be non-compliant with FSMA requirements for a Grade A processing facility.

Significant changes for the 2017 Evaluation of Milk Laboratories (EML)

The 2017 EML has incorporated the new testing equipment available for use at certified laboratories as well as updated the procedures for conducting split sample testing and analysis of the split sample results.