

Dear Senators HARTGEN, Nichols, Semmelroth, and
Representatives ANDRUS, Raymond, Mathias:

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

IDAPA 02.04.05 - Rules Governing Grade A Milk and Manufacture Grade Milk - Proposed Rule
(Docket No. 02-0405-2401).

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 11/21/2024. 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 12/19/2024.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondoff
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: Legislative Drafter - Alli Olson
DATE: November 04, 2024
SUBJECT: Department of Agriculture

IDAPA 02.04.05 - Rules Governing Grade A Milk and Manufacture Grade Milk - Proposed Rule (Docket No. 02-0405-2401)

Summary and Stated Reasons for the Rule

The Idaho Department of Agriculture submits notice of proposed rulemaking for the Rules Governing Grade A Milk and Manufacture Grade Milk, IDAPA 02.04.05. The Department states that the proposed rule reflects updates to federal code. The changes appear to update the incorporated material's date and link.

Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was not conducted because the changes are to the publication dates of documents that were already incorporated into the rules. The Department also states that there are no associated fees nor fiscal impact to the General Fund.

Statutory Authority

The Department of Agriculture appears to have the authority to promulgate this rule pursuant to Sections 37-303, 37-402, 37-405, and 37-615 Idaho Code.

cc: Department of Agriculture
Lloyd Knight

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may 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.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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

Tel: 208-334-2475
legislature.idaho.gov

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 02.04.05 - Rules Governing Grade A Milk and Milk Products
Proposed Rulemaking - Docket No. 02-0405-2401

Summary of Document Changes listed below:

PMO- Pasteurized Milk Ordinances

- *The standards for continuous water disinfection using Ultraviolet (UV) treatment have been relaxed, particularly for water used in dairy production.*
- *New labeling requirements have been introduced for homeopathic drugs, which previously did not have any labeling guidelines.*
- *The PMO has removed the requirements for lighting and ventilation in Automated Milking Installations (AMIs). Previously, AMIs were required to have positive air ventilation systems in operation during the cleaning or sanitizing of the milking system.*

MMSR- Methods of Making Sanitation Rating Milk Shippers

- *Ratings are now due by the last day of the month; prior ratings were due exactly on the anniversary date from the last rating.*
- *A proposal eliminates the evaluation of the Milking Time Inspection program for dairy farms from the calculations of enforcement ratings under Part I. Prior version required an Inspection of a producer while milking and not milking.*
- *A proposal included additional pertinent animal health information to be updated within the MMSR. This information included the specific testing requirements and current language within Section 8 of the PMO with regards to Tuberculosis and Brucellosis testing for animals intended for Grade "A" milk production.*

EML-Evaluation of Milk Laboratories

- *No Proposals were passed that addressed changes to the Evaluation of Milk Laboratories (EML).*

Procedures Governing the Cooperative State-Public Health Service/ Food and Drug Administration Program of the National Conference on Interstate Milk Shipments

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

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

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

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

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

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

The proposed rule updates changes in federal code regarding pasteurized milk ordinances, methods of making sanitation rating milk shippers, evaluation of milk laboratories, and procedures governing the cooperative state-public health service/Food and Drug Administration Program of the National Conference on Interstate Milk Shippers. This rule governs procedures for the design, construction, production, manufacture, distribution, handling, storage, quality, analysis and sale of Grade A Milk and Manufacture Grade Milk and Milk Products to ensure safe and wholesome dairy products.

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

There is no change in fee or charge

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

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

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

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

PMO- Pasteurized Milk Ordinances:

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

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

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

MMSR- Methods of Making Sanitation Rating Milk Shippers:

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

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

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

EML-Evaluation of Milk Laboratories:

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

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

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

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

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

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

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

DATED this 2nd day of October, 2024.

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

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

02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK

104. INCORPORATION BY REFERENCE.

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

01. Grade “A” Pasteurized Milk Ordinance. The Grade “A” Pasteurized Milk Ordinance, 2019~~23~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except the bacterial limit standard and the somatic cell count standard in Section 7 of the document. Available online at ~~https://www.fda.gov/media/140394/download~~ <https://www.fda.gov/media/180975/download?attachment>. (3-15-22)()

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, 2019~~23~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at ~~https://www.fda.gov/media/137754/download~~ <https://www.fda.gov/media/180977/download?attachment>. (3-15-22)()

03. Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures. The Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures, 2019~~23~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at ~~https://www.fda.gov/media/138393/download~~ <https://www.fda.gov/media/180976/download?attachment>. (3-15-22)()

04. Interstate Milk Shipments. The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2019~~23~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and the National Conference on Interstate Milk Shipments. Available online at ~~https://www.fda.gov/media/138115/download~~ <https://www.fda.gov/media/180974/download?attachment>. (3-15-22)()