

**Title 2—DEPARTMENT OF
AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized
Milk Regulations**

2 CSR 80-2.190 State Milk Board Grade “A” Milk Policies. The State Milk Board is amending sections (2), (3), (11), (14), and (17).

PURPOSE: The purpose of this amendment is to update wording

PURPOSE: This rule provides for the adoption into regulation of certain policies of the State Milk Board. None of the following regulations should be interpreted to conflict with existing regulations set forth at 2 CSR 80-2 et seq.

(1) Added Water as Milk Adulterant.

(A) Samples for added water shall be collected and analyzed at least once each six (6) months. Compliance is based on a freeze point of -0.525 degrees centigrade. After five (5) days from the date of notice of the first unsatisfactory sample, a second sample should be collected and analyzed for added water. If the producer's second sample violates the freeze point test, the State Milk Board will automatically suspend the producer's permit. The producer's permit shall remain suspended until the producer's milk passes the freeze point test. A repeat violation of the freeze point test within a six (6)-month period following a permit suspension for added water will result in immediate suspension of the producer's permit. Repeated offenses during the same six (6)-month period may result in permit revocation after a hearing before the State Milk Board. No on-farm inspection for permit reinstatement is required after an added-water violation.

(2) Authentic Freeze Point Procedure.

(A) In order to obtain uniformity in establishing an authentic freezing point, the following procedure should be implemented:

1. The producer must request the assistance for the establishment of an authentic freeze point to the State Milk Board in writing;

2. The State Milk Board will notify the servicing sanitarian and fieldman of the request. In the absence of a fieldman, two (2) sanitarians from the State Milk Board or its agent should implement the procedure;

3. On the date of the test, the producer must make sure to—

A. Thoroughly wash, rinse, and sanitize all milk contact surfaces after the morning milking and milk pickup;

B. Maintain all milk contact surfaces in a manner to allow complete drainage, including the pump and all low points in the milking equipment to eliminate any entrapped water;

C. Not allow milk contact surfaces to be sanitized or allow any water to come in contact with any milk contact surfaces after the State Milk Board or its agents have arrived for testing;

D. Not dip inflations between [cows] **dairy animals** or perform any procedure that could allow any water to enter the milk supply; and

E. Prepare for and perform evening milking as normal;

4. At the conclusion of the milking procedure, the producer should not flush the pipeline with water while the pipeline is attached to the bulk tank. This is a prohibited procedure at any time. As soon as the milk has entered the bulk tank and has remained quiescent for at least five (5) minutes, the State Milk Board or its agent should measure the milk, take a sample of the milk, and place it on ice immediately;

5. The producer must follow the procedures outlined in paragraph (2)(A)3. above in order to allow all cleaned and sanitized surfaces to drain overnight;

6. Thirty (30) minutes prior to normal milking time the next morning, the State Milk Board or its agents should measure the milk in the bulk milk tank after a quiescent period of at least five (5) minutes. Next, the State Milk Board or its agents should agitate the milk thoroughly and collect a second sample;

7. The producer should follow the same procedure utilized in the previous milking to ensure that no water is allowed to come in contact with, or obtain entrance into, the milk supply;

8. At the end of the second milking, the State Milk Board or its agent must thoroughly agitate the milk and collect a sample;

9. The State Milk Board or its agent should transport the three (3) milk samples on ice directly to an approved milk testing laboratory. The laboratory should be notified in advance and arrangements should be made to conduct the freeze point test. The sample collected at the end of the first milking and the sample collected prior to the beginning of the second milking should provide a freezing point of a variance not greater than -0.002 degrees centigrade. There may be a slight variance in the two (2) samples as carbon dioxide in milk passes off as a gas between the night and morning milkings. If the variance is greater than -0.002 degrees centigrade, the milk itself was altered between milkings by something other than the release of carbon dioxide. To prevent such an occurrence, the producer should lock the milk house door between these tested milkings; and

10. If the authentic freeze point procedure outlined in this regulation is used, the producer will document the procedure and provide documentation to the State Milk Board. The samples collected immediately after the two (2) milkings will be the official non-water freezing record for the producer. For enforcement purposes, the producer will be allowed a freezing point of -0.005 degrees centigrade less than the results of the lowest number of the two (2) officially tested samples that were collected after the evening and morning milkings. Once established, the authentic freezing point will remain in effect for a producer until the producer's feeding program or herd is substantially changed.

(3) [Antibiotic] Drug Residue Test.

(A) Whenever a[n antibiotic] drug residue test is found to be positive, the State Milk Board shall immediately suspend the producer's permit.

(4) Appendix N.

(A) Whenever a bulk milk truck tank tests positive for antibiotic drug residue, the State Milk Board shall randomly verify the disposition of at least ten percent (10%) of milk tank truck loads. A memo for record of this verification will be attached to the Appendix N report.

(5) Water for Use in Milk House.

(A) Water sampling procedure for water used in the milk house will be as follows:

1. Three (3) consecutive unsatisfactory water samples shall result in a degrade;
2. Sixty (60) days is the maximum time allowed between the second bad sample collected and degrading sample collection;

3. A producer's permit is considered to be under warning during the interval that the water sample is testing unsafe. A new well or continuous disinfection system of the well should be considered a new water source and would result in a return to regulatory procedure step one above;

4. It is not the duty of the sanitarian to witness, or participate in, the act of chlorination; and

5. A producer who previously has incurred three (3) consecutive bad samples as a Grade "A" producer must be given thirty (30) days as a manufacturing grade producer in which to obtain a well water sample in compliance with state regulations.

(6) Permit Suspension.

(A) Following an initial inspection or a reinstatement inspection, a new producer or a producer under permit suspension must ship milk within seven (7) calendar days or one hundred sixty-eight (168) hours. If milk is not shipped within the required time, the barn must be re-inspected to maintain sanitary conditions prior to milk marketing.

(B) Producers who incur three (3) permit suspensions within a twelve (12)-month period shall appear before the State Milk Board or its agents for a pre-hearing. If the producer incurs an additional suspension in the following six (6) months, the producer may request a hearing before the State Milk Board.

(C) Appendix N Violations. A pre-hearing will be held after two (2) violations for antibiotics in a twelve (12)-month period, and a third antibiotics violation in a twelve (12)-month period will result in a permit revocation hearing before the State Milk Board.

(7) Grade "A" Permits Automatically Degraded After One Hundred Eighty (180) Days of Inactivity.

(A) A Grade "A" permit issued to a producer that is in degrade status for one hundred eighty (180) consecutive days will be eliminated from the records. A producer that has lost a permit in this manner will need to reapply and comply with existing Grade "A" standards before obtaining a new permit. All producers issued a new Grade "A" permit will be placed on accelerated sampling in accordance with the current Grade "A" Pasteurized Milk Ordinance to establish a quality history.

(8) Milk Procurers.

(A) Milk procurers may pick up Grade "A" producers being diverted to manufacturing utilization along with producers of the manufacturing market when arrangements can be made for providing samples and other necessary information.

(9) Route Trucks.

(A) When a farm milk truck delivers a load of milk to a plant or receiving location, the truck may start a second route without general washing and sanitizing within one (1) hour from emptying to first milk picked up except when the milk delivered is found to be contaminated with chemicals such as antibiotics.

(10) Access to Dairy Farm.

(A) Dairy farmers shall provide serviceable access to the dairy through a properly maintained road or driveway. Each road or driveway must be reasonably free of ruts, ridges, potholes, overhanging limbs, and any other attributes that will damage or contaminate the entering service vehicles, including milk trucks. It is the dairy farmer's responsibility to clear winter events of ice and snow to assure access for milk collection in accordance with these regulations.

(11) Farm Bulk Milk Collections.

(A) Farm bulk milk collections shall be made at least once every forty-eight (48) hours or every other day. Extended pickups may be granted by individual request to the executive secretary of the State Milk Board [with information showing use of milk outside the Grade “A” market. This regulation is barring an act of God or other emergencies beyond the control of the hauler or producer] **provided the safety and quality of milk is maintained and the delayed collection does not extend beyond the limit allowed by law. In the event of a natural disaster or emergency limiting milk pickups beyond the control of the hauler or producer this regulation may be waived across specified geographic regions as needed.**

(12) Milking Time Inspections—When Required.

(A) A milking time inspection shall be conducted on a new producer.

(B) A milking time inspection should be conducted when reinstating a producer permit that has been suspended for high bacteria counts, sanitation violations, or antibiotics and/or other adulterants. If it is impractical to conduct a milking time inspection at the time of reinstatement, the milking time inspection must be made within a reasonable amount of time following reinstatement. An inspection following reinstatement after suspension for somatic cell count violations is not required.

(C) Additional milking time inspections should be made in relation to producer problems at the designation of the State Milk Board or its designated representative.

(D) A milking inspection will be made on every producer within a reasonable time frame.

(13) Distributors.

(A) This regulation affects inspection and permitting of distributors.

1. A distributor number is “D” plus the required number of digits in each contractee’s permit number series.

2. “Distributor” is defined as an individual or company that handles finished dairy products beyond the responsibility of the dairy plant and prior to delivery to retailers and/or consumers and any milk processing plant-owned branch operation in which a permanent or mobile-milk cooler is operated.

3. Distribution permits shall be issued by the contractee responsible for the area in which the distributor is located.

4. Permanent branch or independent distributing points, such as milk coolers, [shall] **will** be inspected at least once each [six (6)] **twelve (12)** months according to the following current Grade “A” Pasteurized Milk Ordinance items:

- A. Item 2p. Walls and Ceilings – Construction;
- B. Item 6p. Toilet-Sewage Disposal Facilities;
- C. Item 7p. Water Supply;
- D. Item 8p. Handwashing Facilities;
- E. Item 15p. Protection from Contamination;
- F. Item 17p. Cooling of Milk and Milk Products;
- G. Item 20p. Personnel–Cleanliness;
- H. Item 21p. Vehicles; and
- I. Item 22p. Surroundings.

5. Mobile distributors [shall] **will** be inspected once every [six (6)] **twelve (12)** months and checked for the following current Grade “A” Pasteurized Milk Ordinance items:

- A. Item 15p. Protection from Contamination;
- B. Item 17p. Cooling of Milk and Milk Products;
- C. Item 20p. Personnel–Cleanliness;
- D. Item 21p. Vehicles; and
- E. Item 22p. Surroundings.

(14) Sanitizers.

(A) To be acceptable for use as a chemical sanitizer for milk contact surfaces, a product must—

1. Be clearly marked with an Environmental Protection Agency (EPA) registration number on its label;
2. Be clearly marked with instructions on the label, or instructions must be posted in the milk room that it is for use on milk contact surfaces;
3. Include a simple, practical test available to determine the strength of the sanitizing solution; and
4. Comply with the requirements of Appendix F of the current Grade “A” Pasteurized Milk Ordinance.

(B) The State Milk Board recognizes and accepts the use of certain quaternary ammonium compounds (QAC) as chemical sanitizers for milk contact surfaces provided the QAC meets the preceding requirements of policy 14, part 1-a, b, c, d, and 21 CFR 178.1010 with the exception: QACs are not acceptable sanitizers for sampling equipment. Since chlorhexidine is not listed in 21 CFR 178.1010, it is unacceptable as a sanitizer for dairy equipment, udders, and teats of dairy **animals**.

(15) Adequate Cooling.

(A) Adequate cooling of Grade “A” milk as required by the current Grade “A” Pasteurized Milk Ordinance is adversely affected if the first milking into a farm bulk tank does not touch the agitator making the milk in this instance non-grade A for marketing purposes. The portion of an agitator used for washing (spatter spray) is not acceptable for agitating milk.

(16) Transfer from One Milk Marketing Agency to Another.

(A) When a producer requests a transfer from one milk marketing agency to another, there is a mandatory three (3)-day waiting period after receipt of the transfer requested by the contracted inspection agency excluding weekends and holidays. The three (3)-day period may be waived when agreeable to both marketing agencies.

(17) Barn Plans.

(A) Barn plan review is to be accomplished by the State Milk Board or its agents provided these plans conform to the current Grade “A” Pasteurized Milk Ordinance and the current State Milk Board Informational Guide for Construction and Reconstruction of Milking Facilities as adopted by the State Milk Board. A copy of approved barn plans must be filed with the State Milk Board office. Barn plans that deviate from these requirements may be submitted to the State Milk Board for review and approval along with recommendation by the local inspection agency regarding recommended approval or disapproval of the plan.

(B) Each approved barn plan must identify all equipment and show dimensions and location including pipe lengths and physical break locations. All location of equipment and dimensions must be clearly shown in accordance with the informational guide. Other facilities to be shown are: vestibule, feed room, toilet rooms, equipment storage, stanchions, operator pit, steps, location [cows] **dairy animals** enter and exit, type of barn, [cow] **dairy animal** holding area, and housing area when part of contingent construction.

(C) The barn plan should show all dimensions drawn to scale as indicated.

(D) The name of the sanitarian/inspector when servicing the facility must be identified.

(E) Identify the preparer of the plan by name and affiliation.

(F) Identify the name and address of the person for whom the plan is developed.

AUTHORITY: section 196.939, RSMo 2000. Original rule filed June 21, 2011, effective Dec. 30, 2011.*

**Original authority: 196.939, RSMo 1972, amended 1993, 1994, 1995.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Milk Board, 1616 Missouri Boulevard, Jefferson City, MO 65109 or online at agriculture.mo.gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.