

Table of Contents

02.04.13 - Rules Governing Raw Milk

000. Legal Authority.	2
001. Title And Scope.	2
002. Written Interpretations.	2
003. Administrative Appeal.	2
004. Incorporation By Reference.	2
005. Address, Office Hours, Telephone, And Fax Numbers.	2
006. Idaho Public Records Act.	2
007. Definitions.	2
008. -- 010. (Reserved).	3
011. Adulterated Or Misbranded Raw Milk Or Raw Milk Products.	3
012. -- 019. (Reserved).	3
020. Permits.	4
021. -- 029. (Reserved).	5
030. Labeling.	5
031. -- 039. (Reserved).	5
040. Inspection Of Raw Milk Producers.	5
041. -- 049. (Reserved).	5
050. Small Herd Exemption.	5
051. -- 059. (Reserved).	6
060. Standards For Raw Milk And Raw Milk Products.	6
061. -- 069. (Reserved).	6
070. Penalty.	6
071. -- 999. (Reserved).	6

**IDAPA 02
TITLE 04
CHAPTER 13**

02.04.13 - RULES GOVERNING RAW MILK

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapters 3, 4, 7, and 8, Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Raw Milk.” (3-29-10)

02. Scope. These rules will govern the production, processing and sale of Raw Milk for human consumption, but not intended for pasteurization. The official citation of this chapter is IDAPA 02.04.13.000 et seq. For example, this section’s citation is IDAPA 02.04.13.001. (3-29-10)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-29-10)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the Department of Agriculture under this chapter. (3-29-10)

004. INCORPORATION BY REFERENCE.

The following document is incorporated by reference, and copies of the document may be obtained from the Idaho State Department of Agriculture central office at 2270 Old Penitentiary Road, Boise, Idaho, 83712: The Grade A Pasteurized Milk Ordinance 2009 Revision, U.S. Department of Health and Human Services Public Health Service Food and Drug Administration (“2009 Pasteurized Milk Ordinance”), except those provisions establishing raw milk standards for raw milk for pasteurization. (3-29-10)

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (3-29-10)

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-29-10)

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (3-29-10)

04. Telephone Number. The telephone number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 332-8550. (3-29-10)

05. Fax Number. The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062. (3-29-10)

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (3-29-10)

007. DEFINITIONS.

The following definitions shall apply in the interpretation and the enforcement of this chapter: (3-29-10)

01. Adulterated. The addition or inclusion of unclean, unwholesome, inferior, impure or foreign material into a food product, or the production and sale of raw milk or raw milk products from a facility that does not possess a valid permit from the Department. (3-29-10)

02. Cow Share. The investment of monetary value into the ownership or care of cows, goats, or sheep in exchange for raw milk or raw milk products. (3-29-10)

03. Dairy Farm. Any place or premises where one (1) or more cows, goats or sheep are milked, and from which a part or all of the raw milk or raw milk products are produced and are not intended for pasteurization, but are sold or offered for sale for human consumption without pasteurization. (3-29-10)

04. Denatured. To change the usual or normal nature of a material or substance by either chemical or physical means. (3-29-10)

05. Department. The Idaho State Department of Agriculture. (3-29-10)

06. Director. The Director of the Idaho State Department of Agriculture or his designee. (3-29-10)

07. Milk Plant. Any place, premises, or establishment where raw milk is collected, handled, stored, bottled, or processed into raw milk or raw milk products for sale or offered for sale for human consumption. (3-29-10)

08. Official Laboratory. A biological, chemical, or physical laboratory that is under the direct supervision of the State or the Department. (3-29-10)

09. Person. An individual, plant operator, partnership, corporation, company, firm, trustee, association or institution. (3-29-10)

10. Raw Milk. The lacteal secretion, practically free from colostrum, obtained by the complete milking of one (1) or more healthy cows, goats, or sheep, and that has not been pasteurized and is sold or offered for sale for human consumption. (3-29-10)

11. Raw Milk Products. Raw milk products include any milk product processed from raw milk that has not been pasteurized. Cheese made from raw milk that has been processed and aged for a minimum of sixty (60) days at a temperature greater than thirty-five degrees (35°) Fahrenheit (F) in a licensed dairy processing plant is exempt from these rules. (3-29-10)

12. Sanitization. The application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the raw milk or raw milk products or the health of consumers, and shall be acceptable to the Department. (3-29-10)

13. Small Herd. The production of raw milk or raw milk products for human consumption, for use by people other than members of their immediate household or non-paying guests, in a facility with no more than three (3) lactating cows or seven (7) lactating goats or sheep. (3-29-10)

14. Sterilized. The condition achieved by application of heat, chemical sterilant or other appropriate treatment that renders the piping, equipment and containers used for raw milk and raw milk products free of viable microorganisms. (3-29-10)

008. -- 010. (RESERVED).

011. ADULTERATED OR MISBRANDED RAW MILK OR RAW MILK PRODUCTS.

No person shall produce, provide, sell, offer, or expose for sale, or possess with intent to sell, within the State or its jurisdiction, any adulterated or misbranded raw milk or raw milk products for human consumption. Any adulterated or misbranded raw milk or raw milk product may be impounded and disposed of as directed by the Department. (3-29-10)

012. -- 019. (RESERVED).

020. PERMITS.

01. Requirements. It shall be unlawful for any person who does not possess a permit from the Department to produce, process, sell or offer for sale raw milk or raw milk products for human consumption. Raw milk shall not be sold or offered for sale through restaurant type establishments or establishments where the consumer may not know that raw milk or raw milk products are from a raw milk source. Grocery stores and similar establishments where raw milk or raw milk products are sold at retail, but not processed, are exempt from the requirements of these rules, provided those stores and establishments receive raw milk or raw milk products from Department-approved facilities. (3-29-10)

02. Obtaining a Permit. Only a person who complies with these rules may receive and retain a permit. Permits shall not be transferable with respect to persons or locations. (3-29-10)

03. Permit Suspension. The Department may suspend a permit whenever it has reason to believe that a public health hazard exists; whenever the permit holder has violated any of the requirements of these rules; or whenever the permit holder has interfered with the Department in the performance of its duties. (3-29-10)

a. Prior to suspending a permit the Department will serve a written notice of intent to suspend permit on the permit holder. The notice will specify the alleged violation(s) and afford the permit holder a reasonable opportunity to correct such violation(s) in a manner agreed to by the parties. In the absence of such agreement, the corrective actions may be designated by the Department. The reasonable opportunity to correct will be given before the permit suspension order becomes effective. A permit suspension will remain in effect until the violation has been corrected to the satisfaction of the Department. (3-29-10)

b. In cases in which the raw milk or raw milk products create or appear to create an imminent hazard to the public health, or in case of a willful refusal to permit an authorized inspection, the Department may immediately suspend the permit without the prior notice procedure set forth in these rules. The Department will provide notice and opportunity for hearing after the suspension, in accordance with Title 67, Chapter 52, Idaho Code. (3-29-10)

c. Upon written request by any person whose permit has been suspended, or any person who has been served with a notice of intent to suspend, the Department will proceed to a hearing, and upon evidence presented at such hearing may affirm, modify, or rescind the suspension or intention to suspend. (3-29-10)

d. The Department may forego permit suspension, provided the raw milk or raw milk products in violation are not sold or offered for sale or distributed for human consumption. (3-29-10)

04. Permit Revocation. Upon repeated violations, the Department may revoke a permit following reasonable notice to the permit holder and an opportunity for a hearing. This Section is not intended to preclude the institution of court action. (3-29-10)

05. Permit Reinstatement. Any raw milk producer whose permit has been suspended or revoked may make written application for the reinstatement of his permit. (3-29-10)

a. When the permit has been suspended due to a violation of any of the bacterial, coliform, or cooling-temperature standards, the Department may issue a temporary permit after raw milk samples show that the conditions responsible for the violation have been corrected. (3-29-10)

b. When the permit has been suspended due to a violation of the somatic cell count standard, the Department may issue a temporary permit if resampling of the herd milk supply indicates that the milk supply is within the somatic cell count standard. (3-29-10)

c. Whenever the permit has been suspended due to a violation of a requirement other than bacteriological, coliform, somatic cell count or cooling-temperature standards, the application for reinstatement must show that the violation has been corrected. Within one (1) week of the receipt of such application, the Department will make an inspection of the applicant's establishment, and may make additional subsequent inspections as deemed necessary. If the inspection shows that the raw milk or raw milk products meet the applicable standards and are in

compliance with these rules, the permit will be reinstated. (3-29-10)

021. -- 029. (RESERVED).

030. LABELING.

01. Requirements. all bottles, containers, and packages enclosing raw milk or raw milk products shall be conspicuously marked with the word "raw," the quantity of contents and the identity of the packaging facility. The word "goat" or "sheep," if applicable, shall precede the name of the raw milk or raw milk products. (3-29-10)

02. Misleading Labels. It is a violation of these rules to use any misleading marks, words, or endorsements upon the label. Registered trade designs or similar terms on the bottle cap or label may be used if the Department determines that the designs or terms are not misleading and do not obscure the labeling required by these rules. Any misleading labeling on the final container will cause the product to be considered misbranded. (3-29-10)

031. -- 039. (RESERVED).

040. INSPECTION OF RAW MILK PRODUCERS.

Each dairy farm whose raw milk or raw milk products are intended for human consumption within the state of Idaho shall be inspected and approved by the Department prior to the issuance of a permit. (3-29-10)

01. Inspection Frequency. Following the issuance of a permit, the Department will inspect each raw milk producer and raw milk processor at least once every three (3) months. (3-29-10)

02. Sanitation Requirements. All raw milk dairy farms and milk plants that process raw milk or raw milk products for human consumption into final containers, for use other than for members or their immediate household or non-paying guests, shall meet the requirements of the 2009 Pasteurized Milk Ordinance, in addition to Section 060 of these rules. (3-29-10)

03. Processing Location. All raw milk and raw milk products must be produced and processed on the same premises. (3-29-10)

04. Cow Share Programs. Cow Share programs are allowed, provided that the raw milk and raw milk products are produced and processed in facilities with raw milk dairy farm and raw milk plant permits issued by the Department. (3-29-10)

05. Applicability. Persons or a person with more than three (3) lactating cows or seven (7) lactating goats or sheep may sell raw milk and raw milk products for human consumption, provided that the raw milk and raw milk products are produced and processed in facilities with raw milk dairy farm and raw milk plant permits issued by the Department. (3-29-10)

041. -- 049. (RESERVED).

050. SMALL HERD EXEMPTION.

The production of raw milk and raw milk products for human consumption by a person or by individuals participating in a Cow Share program is exempt from the sanitary construction and operation standards of the 2009 Pasteurized Milk Ordinance, provided the following conditions are met: (3-29-10)

01. Testing Frequency. The raw milk and raw milk products comply with the testing frequency set forth in the 2009 Pasteurized Milk Ordinance and quality standards set forth in Section 060 of these rules. (3-29-10)

02. Applicability. The number of animals in lactation does not exceed three (3) cows or seven (7) goats or sheep. (3-29-10)

03. Permit. The person or the Cow Share owners obtain a small herd exemption permit from the Department. The permit will indicate the physical location of the facility; the mailing address of the owner or operator in charge of the herd's care and milk quality. (3-29-10)

04. Test Results Made Available. Milk quality test results shall be available from the permit holder to all individuals who purchase raw milk or raw milk products. (3-29-10)

05. Restriction for Sale. The raw milk or raw milk products may not be sold or offered for sale through restaurant-type establishments or other establishments where the consumer may not know that raw milk or raw milk products are from a raw milk source. (3-29-10)

06. Labeling. All raw milk and raw milk products must have approved labeling by the Department if sales take place at locations other than the point of production. (3-29-10)

051. -- 059. (RESERVED).

060. STANDARDS FOR RAW MILK AND RAW MILK PRODUCTS.

01. Requirements. All raw milk and raw milk products shall be produced and processed to conform with the standards listed in Table 1 below. Raw milk and raw milk products shall meet the sanitation requirements of the 2009 Pasteurized Milk Ordinance, unless the facility has a small herd exemption. (3-29-10)

02. Chemical, Bacteriological, and Temperature Standards.

RAW MILK	
Temperature	Cooled to forty degrees Fahrenheit (40F or 5C) or less within two (2) hour after milking provided that the blend temperature after the first and subsequent milking does not exceed forty-five degrees Fahrenheit (45F or 7C).
Bacterial Limits	Raw milk shall not exceed fifteen thousand (15,000) per ml.
Coliform Limits	Raw milk shall not exceed twenty-five (25) per ml.
Drugs	Milk must test negative by a test method approved by the Department.
Somatic Cell Counts	Raw milk shall not exceed five hundred thousand (500,000) per ml. Goat, or Sheep Raw Milk shall not exceed seven hundred and fifty thousand (750,000) per ml.
Tuberculosis Test	All Raw Milk shall be from animals which have been accredited as tuberculosis free or shall have passed an annual tuberculosis test.

(3-29-10)

061. -- 069. (RESERVED).

070. PENALTY.

Any person who violates any of the provisions of these rules shall be subject to the penalties provided in Section 37-408, Idaho Code, or may have their permit to sell raw milk or raw milk products for human consumption revoked or suspended. (3-29-10)

071. -- 999. (RESERVED).

Subject Index

A

Adulterated 2
Adulterated Or Misbranded Raw Milk
Or Raw Milk Products 3
Applicability -- Inspection Of Raw Milk
Producers 5
Applicability -- Small Herd
Exemption 5

C

Chemical, Bacteriological, &
Temperature Standards 3
Cow Share 3
Cow Share Programs -- Inspection Of
Raw Milk Producers 5

D

Dairy Farm 3
Definitions, IDAPA 02.04.13, Rules
Governing Retail Raw Milk 2
Denatured 3
Department 3
Director 3

I

Inspection Frequency -- Inspection Of
Raw Milk Producers 5
Inspection Of Raw Milk Producers 5

L

Labeling 5
Labeling -- Small Herd Exemption 6

M

Milk Plant 3
Misleading Labels 5

O

Obtaining a Permit 4
Official Laboratory 3

P

Penalty 6
Permit -- Small Herd Exemption 5
Permit Reinstatement 4
Permit Revocation 4
Permit Suspension 4
Permits, Retail Raw Milk 4
Person 3
Processing Location -- Inspection Of
Raw Milk Producers 5

R

Raw Milk 3
Raw Milk Products 3
Requirements, Labeling 5
Requirements, Permits 4
Restriction for Sale -- Small Herd
Exemption 6
Retail Raw Milk, Table 1 6

S

Sanitation Requirements -- Inspection
Of Raw Milk Producers 5
Sanitization 3
Small Herd 3
Small Herd Exemption 5
Standards For Raw Milk & Raw Milk
Products 6
Sterilized 3

T

Test Results Made Available -- Small
Herd Exemption 6
Testing Frequency -- Small Herd
Exemption 5