IDAPA – IDAHO DEPARTMENT OF AGRICULTURE

Animals Division

02.04.13 – Rules Governing Raw Milk

Who does this rule apply to?
All producers of raw dairy products not intended to be pasteurized for human consumption.

What is the purpose of this rule?
These rules bring certain raw milk producers in-line with the sanitation and safe handling requirements that are required of other dairy producers in the state.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statute passed by the Idaho Legislature:

- 37-1101(5), Idaho Code – Acquisition of Raw Milk and Raw Milk Products By Owner

Who do I contact for more information on this rule?

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This rule chapter will be reviewed in compliance with Section 67-5292, Idaho Code, and in accordance with the 8-year rule review schedule linked here.

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02.04.13 – RULES GOVERNING RAW MILK

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 37-1101(5) and 37-603, Idaho Code. (3-31-22)

001. SCOPE.
These rules govern the production, processing, distribution, and sale of raw milk for human consumption, but not intended for pasteurization. (3-31-22)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The following definitions apply in the interpretation and the enforcement of this chapter: (3-31-22)

01. **Adulterated**. The meaning of adulterated includes the following: (3-31-22)

a. The addition or inclusion of unclean, unwholesome, inferior, impure or foreign material into a food product; or (3-31-22)

b. The production, distribution, or sale of raw milk or raw milk products from a facility that does not possess a valid permit from the Department or is not registered with the Department as a Herd Share program; or (3-31-22)

c. Any raw milk product or facility that fails to meet any of the requirements of these rules. (3-31-22)

02. **Animal Unit (AU)**. For the purposes of nutrient management for raw dairy farms, one (1) Animal Unit is equivalent to one (1) mature cow; five (5) mature goats; or five (5) mature sheep. (3-31-22)

03. **Dairy Farm**. Any place or premises where one (1) or more cows, goats or sheep are milked and where a part or all of the raw milk or raw milk products are produced that are not intended for pasteurization, or are intended for human consumption without pasteurization, and are distributed, sold or offered for sale to persons other than members of the dairy farm's immediate household. (3-31-22)

04. **Dairy Nutrient Management Plan (DNMP)**. A plan prepared in conformance with the NMS for managing the land application of dairy byproducts that is prepared by a certified planner and approved by the Department. (3-31-22)

05. **Herd Share**. The undivided ownership interest in no more than seven (7) cows, fifteen (15) goats, or fifteen (15) sheep resulting from an investment of monetary value through a written contractual agreement between an owner and a farmer in exchange for raw milk or raw milk products. (3-31-22)

06. **Owner**. A person who has made an investment of monetary value in the ownership or care of cows, goats, or sheep and participates in a Herd Share program pursuant to a written contractual agreement. (3-31-22)

07. **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 intended for human consumption. (3-31-22)

08. **Raw Milk Permit**. Written authorization from the Department allowing raw milk and raw milk products to be sold for human consumption by a dairy farm that complies with the requirements of these rules. (3-31-22)

09. **Raw Milk Products**. Raw milk products include any milk product processed from raw milk that has not been pasteurized and is intended for human consumption by persons other than members of the dairy farm's immediate household. (3-31-22)

10. **Registration**. A requirement by the Department for the authorization of a Herd Share to provide raw milk and raw milk products for human consumption to owners of that Herd Share as provided in Section 37-1101(2), Idaho Code. (3-31-22)

011. (RESERVED)

012. ADULTERATED OR MISBRANDED RAW MILK OR RAW MILK PRODUCTS.

01. Prohibited Acts. 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. (3-31-22)

02. Restriction on Sale. Raw milk or raw milk products may not be sold or offered for sale through restaurants or other food service establishments. Grocery stores and similar establishments where raw milk or raw milk products are sold at retail, but not processed there, are exempt from the requirements of these rules, provided those stores and establishments receive raw milk or raw milk products from Department-authorized facilities. The sale of raw milk and raw milk products, produced under the authority of these rules, is limited only to locations within the state of Idaho. (3-31-22)

03. Disposition of Adulterated or Misbranded Product. Any adulterated or misbranded raw milk or raw milk product may be impounded and disposed of as directed by the Department. The Department may issue a hold order when it is deemed necessary to protect human health. (3-31-22)

013. 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 Subsection 013.02 of this rule. (3-31-22)

02. Testing Standards. Test results must be submitted to ISDA no later than the last day of the calendar month in which the previous test was conducted.

RAW MILK	
Brucellosis Test	All raw milk must be from animals that have received one of the following tests: Bovine – Negative Brucellosis Test (blood or milk) – no less than every 12 months Goats – Negative Brucellosis Card Test – no less than every 12 months Sheep – Negative Brucella Ovis Test – no less than every 12 months
Tuberculosis Test	All raw milk must be from animals that have been accredited as tuberculosis free or must have passed a tuberculosis test within the last twelve (12) months.

(3-31-22)

014. LABELING.

01. Applicability. Section 014 applies to holders of Raw Milk Permits. (3-31-22)

02. Requirements. All raw milk and raw milk products must have Department-approved labeling, with the exception of containers provided by customers. All bottles, containers, and packages enclosing raw milk or raw milk products must be conspicuously marked with the following: (3-31-22)

a. The word “raw” must precede the name of the product; (3-31-22)

b. The quantity of contents; (3-31-22)

c. The name and address or permit number of the permit holder; and (3-31-22)

d. When applicable, the word “goat” or “sheep” must precede the name of the raw milk or raw milk products. (3-31-22)

03. Product Warning. All raw milk dairy product labels must contain the following language: (3-31-22)

a. "WARNING: This product has not been pasteurized or inspected and may contain harmful bacteria. Raw milk, no matter how carefully produced, may be unsafe." (3-31-22)

b. The warning shall appear within a heavy borderline in a color sharply contrasting to that of the background. The signal word "WARNING" shall appear in capital letters of ten point type or greater. The remaining text of the warning shall be printed in capital letters of six point type or greater. (3-31-22)

04. Commingled Milk Label. The label of raw milk or raw milk products containing milk from commingled species must identify the species from which the raw milk was obtained. (3-31-22)

05. Misleading Labels. It is a violation of these rules to use any misleading marks, words, or endorsements on 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. (3-31-22)

015. -- 019. (RESERVED)

020. RAW MILK PERMITS.

01. Legal Sale. It is unlawful for any person who does not possess a raw milk permit from the Department to produce, process, sell, or offer for sale raw milk or raw milk products for human consumption to persons other than members of the dairy farm's immediate household. (3-31-22)

02. Permit Requirements. Prior to the issuance of a raw milk permit, each dairy farm must comply with the following requirements: (3-31-22)

a. Submit an application to the Department indicating the physical location of the dairy and the mailing address of the responsible party; (3-31-22)

b. Meet the tuberculosis and brucellosis standards as set forth in Section 013 of these rules; (3-31-22)

c. All raw milk and raw milk products must be produced and processed on the same premises. (3-31-22)

03. Transfer of Permits. Raw Milk Permits are not transferable to another person or location. (3-31-22)

021. -- 029. (RESERVED)

030. NUTRIENT MANAGEMENT PLANS.
All raw milk dairy farms with animals registered to the raw milk program that exceed a cumulative total of thirty (30) Animal Units shall be required to have a Dairy Nutrient Management Plan (DNMP) that is approved by the Department and conforms to the requirements set forth in IDAPA 02.04.14, "Rules Governing Dairy Byproduct," and IDAPA 02.04.30, "Rules Governing Environmental and Nutrient Management." (3-31-22)

031. -- 039. (RESERVED)

040. HERD SHARE PROGRAMS.
The dairy farm or farmer responsible for a herd participating in a herd share program must register the farm or dairy with the Department and is subject to all the provisions of Section 37-1101, Idaho Code. (3-31-22)

041. -- 049. (RESERVED)

050. PERMIT ENFORCEMENT.
Section 050 applies to the enforcement of Raw Milk Permits. (3-31-22)

01. 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. (3-31-22)

a. Prior to suspending a permit, the Department will serve a written notice of intent to suspend the permit that specifies the alleged violation(s). Reasonable opportunity to correct the violation(s) 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. (3-31-22)

b. Whenever the raw milk or raw milk products create or appear to create an imminent hazard to the public health, 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. (3-31-22)

c. Upon written request by any person whose permit has been suspended, or by 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. (3-31-22)

d. The Department may forego permit suspension provided the raw milk or raw milk products in violation are not sold, offered for sale, or distributed for human consumption. (3-31-22)

02. Permit Revocation. If repeated violations occur, the Department may revoke a permit after reasonable notice and an opportunity for a hearing have been given to the permit holder. This section is not intended to preclude the institution of court action. (3-31-22)

03. Permit Reinstatement. Any raw milk producer whose permit has been suspended or revoked may make written application for the reinstatement of the permit. (3-31-22)

a. When the permit has been suspended due to a violation of a requirement, the application for reinstatement must show that the violation has been corrected for the permit to be reinstated. (3-31-22)

051. -- 999. (RESERVED)