

NEBRASKA MILK ACT

- Administration:** This act is administered by the Nebraska Department of Agriculture, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509. Telephone: (402) 471-3422.
- Revisions:** This act was last revised during the 2013 session of the Nebraska Legislature. This reproduction was prepared following that session.
- Adopted Provisions:** This act adopts by reference provisions from the following official documents of the National Conference on Interstate Milk Shipments as published by the United States Department of Health and Human Services, United States Public Health Service/Food and Drug Administration:
1. Grade A Pasteurized Milk Ordinance, 2011 Revision.
 2. Methods of Making Sanitation Ratings of Milk Shippers, 2011 Revision.
 3. Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2011 Revision.
 4. Evaluation of Milk Laboratories, 2011 Revision.
- Rules:** No regulations have been promulgated under this act.

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2-3965. Act, how cited; provisions adopted by reference; copies. (1) Sections 2-3965 to 2-3992 and the publications adopted by reference in subsections (2) and (3) of this section shall be known and may be cited as the Nebraska Milk Act.

(2) The Legislature adopts by reference the following official documents of the National Conference on Interstate Milk Shipments as published by the United States Department of Health and Human Services, United States Public Health Service/Food and Drug Administration:

(a) Grade A Pasteurized Milk Ordinance, 2011 Revision, as delineated in subsection (3) of this section;

(b) Methods of Making Sanitation Ratings of Milk Shippers, 2011 Revision;

(c) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2011 Revision; and

(d) Evaluation of Milk Laboratories, 2011 Revision.

(3) All provisions of the Grade A Pasteurized Milk Ordinance, 2011 Revision, including footnotes relating to requirements for cottage cheese, and the appendixes with which the ordinance requires mandatory compliance are adopted with the following exceptions:

(a) Section 9 of the ordinance is replaced by section 2-3969;

(b) Section 15 of the ordinance is replaced by section 2-3970;

(c) Section 16 of the ordinance is replaced by section 2-3974;

(d) Section 17 of the ordinance is not adopted;

(e) Section 3 of the ordinance, Administrative Procedures, Issuance of Permits, is adopted with the following modifications:

(i) The department may suspend a permit for a definite period of time or place the holder of a permit on probation upon evidence of violation by the holder of any of the provisions of the Nebraska Milk Act; and

(ii) Decisions of the department may be appealed and such appeals shall be in accordance with the Administrative Procedure Act; and

(f) Section 1 of the ordinance, Definitions, is adopted except for paragraph W.

(4) Copies of the Ordinance, the Appendixes, and the publications, adopted by reference, shall be filed in the offices of the Secretary of State, Clerk of the Legislature, and Department of Agriculture. The copies filed with the Clerk of the Legislature shall be filed electronically.

2-3966. Terms, defined. For purposes of the Nebraska Milk Act, unless the context otherwise requires:

(1) 3-A Sanitary Standards means the standards for dairy equipment promulgated jointly by the Sanitary Standards Subcommittee of the Dairy Industry Committee, the Committee on Sanitary Procedure of the International Association for Food Protection, and the Milk Safety Team, Food and Drug Administration, Public Health Service, Center for Food Safety and Applied Nutrition, Department of Health and Human Services in effect on January 1, 2013;

(2) Acceptable milk means milk that qualifies under sections 2-3979 to 2-3982 as to sight and odor and that is classified acceptable for somatic cells, bacterial content, drug residues, and sediment content;

(3) Components of milk means whey, whey and milk protein concentrate, whey cream, cream, butter, skim milk, condensed milk, ultra-filtered milk, milk powder, dairy blends that are at least fifty-one percent dairy components, and any similar milk byproduct;

(4) C-I-P or cleaned-in-place means the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation;

(5) Dairy products means products allowed to be made from milk for manufacturing purposes and not required to be of Grade A quality;

(6) Department means the Department of Agriculture;

(7) Director means the Director of Agriculture or his or her duly authorized agent or designee;

(8) Field representative means an individual qualified and trained in the sanitary methods of production and handling of milk as set forth in the Nebraska Milk Act and who is generally employed by a processing or manufacturing milk plant or cooperative for the purpose of quality control work;

(9) First purchaser means a person who purchases raw milk directly from the farm for processing or for resale to a processor, who purchases milk products or components of milk for processing or resale to a processor, or who utilizes milk from the first purchaser's own farm for the manufacturing of milk products or dairy products;

(10) Grade A Pasteurized Milk Ordinance means the documents delineated in subsection (3) of section 2-3965;

(11) Milk for manufacturing purposes means milk produced for processing and manufacturing into products not required by law to be of Grade A quality;

(12) Milk distributor means a person who distributes milk, fluid milk, milk products, or dairy products whether or not the milk is shipped within or into the state. The term does not include a milk plant, a bulk milk hauler/sampler, or a milk producer, as such terms are defined in the Grade A Pasteurized Milk Ordinance, or a food establishment, as defined in the Nebraska Pure Food Act;

(13) Probational milk means milk classified undergrade for somatic cells, bacterial content, or sediment content that may be accepted by plants for specific time periods; and

(14) Reject milk means milk that does not qualify under sections 2-3979 to 2-3982.

2-3967. Activities regulated. The Nebraska Milk Act shall be used for the regulation of: (1) The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products; (2) the inspection of dairy herds, dairy farms, milk plants, plants fabricating single-service articles, transfer stations, receiving stations, milk haulers, and milk distributors; and (3) the issuance, suspension, and revocation of permits.

2-3968. Grade A milk producer permit; manufacturing grade milk producer permit; label restrictions. (1) A milk producer shall receive a Grade A milk producer permit if the milk produced is in conformance with all requirements of the Nebraska Milk Act for Grade A milk or milk products.

(2) A milk producer shall receive a manufacturing grade milk producer permit if the milk produced is in conformance with all requirements of the Nebraska Milk Act for manufacturing grade milk or dairy products.

(3) Dairy products made from milk for manufacturing purposes shall not be labeled with the Grade A designation.

2-3969. Sale of milk and milk products; conditions. (1) Except as provided in subsections (2) and (3) of this section, only milk and milk products from approved sources with an appropriate permit issued by the department or a similar regulatory authority of another state shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments.

(2) In an emergency, the sale of pasteurized milk and milk products which have not been graded or the grade of which is unknown may be authorized by the regulatory agency, in which case such milk and milk products shall be labeled as ungraded.

(3) Milk and cream produced by farmers exclusively for sale at the farm directly to customers for consumption and not for resale shall be exempt from the Nebraska Milk Act.

(4) If the permit of a Grade A milk producer is suspended for sanitary or milk quality violations, the producer may market milk, for manufacturing purposes only, for an interim period not to exceed sixty days with the approval of the department, if the milk meets the criteria of manufacturing grade milk.

2-3970. Act; administration and enforcement. The Nebraska Milk Act shall be administered and enforced by the department.

2-3971. Permit fees; inspection fees; other fees; rate. (1)(a) As a condition precedent to the issuance of a permit pursuant to the Nebraska Milk Act, the annual permit fees shall be paid to the department on or before August 1 of each year as follows:

(i) Milk plant processing 100,000 or less pounds per month	\$100.00;
(ii) Milk plant processing 100,001 to 2,000,000 pounds per month	\$500.00;
(iii) Milk plant processing more than 2,000,000 pounds per month	\$1,000.00;
(iv) Receiving station.....	\$200.00;
(v) Plant fabricating single-service articles.. ..	\$300.00;
(vi) Milk distributor.....	\$150.00;
(vii) Transfer station.....	\$100.00;
(viii) Milk tank truck cleaning facility.....	\$100.00;
(ix) Bulk milk hauler/sampler.....	\$25.00;
(x) Field representative.....	\$25.00;
(xi) Grade A Milk producer.....	No Fee; and
(xii) Manufacturing milk producer.....	No Fee.

(b) On or before each August 1 a Milk Transportation Company shall pay twenty-five dollars for each milk tank truck in service on July 1 of the current year, but in no case shall the fee be less than one hundred dollars.

(2)(a) All milk or components of milk produced or processed in Nebraska and milk or components of milk shipped in for processing shall be subject to the payment of inspection fees as provided in this subsection.

(b) There shall be three categories of inspection fees as follows:

(i) The inspection fee for raw milk purchased directly off the farm by first purchasers shall have a maximum inspection fee of two and five-tenths cents per hundredweight for raw milk and shall be paid by first purchasers;

(ii) The inspection fee for milk processed by a milk plant shall be seventy-five percent of the fee paid by first purchasers and shall be paid by the milk plant; and

(iii) The inspection fee for components of milk processed shall be fifty percent of the fee paid by first purchasers and shall be paid by the milk plant.

(c) All fees shall be paid on or before the last day of the month for milk or components of milk produced or processed during the preceding month. Any unpaid fee shall be increased one and one-half percent each month beginning with the day following the date the fee was due. Any remaining amount due, including any unpaid charges previously made pursuant to this section, shall be increased at the same rate

on the corresponding day of each succeeding month until paid. The purpose of increasing the fees is to cover the administrative costs associated with collecting fees, and all money collected as increased fees shall be remitted to the State Treasurer for credit to the Pure Milk Cash Fund.

(d) The director may raise or lower the inspection fees each year, but the fees shall not exceed the maximum fees set out in subdivision (b) of this subsection. The director shall determine the fees based on the estimated annual revenue and fiscal year-end fund balance determined as follows:

(i) The estimated annual revenue shall not be greater than one hundred seven percent of the program cash fund appropriations allocated for the Nebraska Milk Act;

(ii) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of the program cash fund appropriations allocated for the act; and

(iii) All fee increases or decreases shall be equally distributed between categories to maintain the percentages set forth in subdivision (b) of this subsection.

(3) If any person required to have a permit pursuant to the act has been operating prior to applying for a permit, an additional fee of one hundred dollars shall be paid upon application.

2-3972. Adulteration or misbranding; stop-sale, stop-use, or removal order; issuance; hearing. Whenever a regulatory agency finds milk or milk products being manufactured, processed, transported, distributed, offered for sale, or sold, in violation of the adulteration or misbranding provisions of the Nebraska Milk Act, it shall have the authority to issue and enforce a written or printed stop-sale, stop-use, or removal order to the person in charge of such milk or milk product only if the issuance of such an order is necessary for the protection of the public health, safety, or welfare. Such an order shall specifically describe the nature of the violation found and the precise action necessary to bring the milk or milk products into compliance with the applicable provisions of the act. Such an order shall clearly advise the person in charge of the milk or milk products that he or she may request an immediate hearing before the director or his or her designee on the matter. The issuance of orders under this section shall be limited to instances in which no alternative course of action would sufficiently protect the public health, safety, or welfare.

2-3973. Department; rules and regulations. The department may adopt and promulgate reasonable rules and regulations to carry out the Nebraska Milk Act.

2-3974. Violation; restraining order or injunction; prohibited acts; penalty; county attorney; duties. (1) The department may apply for a restraining order or a temporary or permanent injunction against any person violating or threatening to violate the Nebraska Milk Act or the rules and regulations adopted and promulgated pursuant to the act in order to insure compliance with the provisions thereof. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of other remedies at law and shall be granted without bond.

(2) Any person violating the act or who impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the director in the performance of his or her duties in connection with the enforcement of the act or the rules and regulations adopted and promulgated by the department is guilty of a Class V misdemeanor.

(3) It shall be the duty of the county attorney of the county in which violations of the act are occurring or are about to occur, when notified of such violations or threatened violations by the department, to cause appropriate proceedings under subsection (1) of this section to be instituted and pursued in the district court without delay.

2-3975. Director; surveys of milksheds; make and publish results. The director shall make and publish the results of periodic surveys of milksheds to determine the degree of compliance with the sanitary requirements for the production, processing, handling, distribution, sampling, and hauling of milk and milk products as provided in the Nebraska Milk Act. The director shall have the power to adopt and promulgate reasonable rules and regulations in accordance with the procedure defined in the Administrative Procedure Act for the interpretation and enforcement of this section. Such a survey or rating of a milkshed shall follow the procedures prescribed by the United States Department of Health and Human Services, United States Food and Drug Administration, in its documents, as delineated in section 2-3965, entitled Methods of Making Sanitation Ratings of Milk Shippers and Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments.

2-3976. Pure Milk Cash Fund; created; use; investment. All fees paid to the department in accordance with the Nebraska Milk Act shall be remitted to the State Treasurer for credit to the Pure Milk Cash Fund, which fund is hereby created. All money credited to the fund shall be appropriated to the uses of the department to aid in defraying the expenses of administering the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

2-3977. Field representative; powers; field representative permit; applicant; qualifications. (1) Milk plants or any entity purchasing raw milk from producers holding a permit under the Nebraska Milk Act may employ, contract with, or otherwise provide for the services of a competent and qualified field representative who may:

(a) Inform new producers about the requirements of dairy farm sanitation and assist dairy producers with milk quality problems;

(b) Collect and submit samples at the request of the department; and

(c) Advise the department of any circumstances that could be of public health significance.

(2) An applicant for a field representative permit shall be trained in the sanitation practices for the sampling, care of samples, and milk hauling requirements of the Nebraska Milk Act. Prior to obtaining a field representative permit, the applicant shall take and pass an examination approved by the department and shall pay the permit fee set forth in section 2-3971. The permit shall expire on July 31 of the year following issuance.

2-3978. Public policy. It is hereby recognized and declared as a matter of legislative determination that in the field of human nutrition, safe, clean, wholesome milk is indispensable to the health and welfare of the citizens of the State of Nebraska; that milk is a perishable commodity susceptible to contamination and adulteration; that the production and distribution of an adequate supply of clean, safe, and wholesome milk are significant to sound health; and that minimum standards are declared to be necessary for the production and distribution of milk and milk products.

2-3979. Classification of raw milk. The classification of raw milk for manufacturing purposes shall be based on sight and odor and quality control tests for somatic cells, bacterial content, sediment content, and drug residues. Classification shall be either acceptable, probational, or reject.

2-3980. Flavor and odor of acceptable raw milk for manufacturing purposes. The odor of acceptable raw milk for manufacturing purposes shall be fresh and sweet. The milk shall be free from objectionable feed and other off-odors that would adversely affect the finished product, and it shall not show any abnormal condition, including, but not limited to, curdled, ropy, bloody, or mastitic condition, as indicated by sight or odor.

2-3981. Dairy plants, milk for manufacturing purposes, and pickup tankers; quality tests; standards. (1) All dairy plants using milk for manufacturing purposes shall run the quality tests set out in this section in a state-certified laboratory and report the results to the department upon request. The test methods shall be those stated in laboratory procedures.

(2) Milk for manufacturing purposes shall be classified for bacterial content by the standard plate count or plate loop count. Bacterial count limits of individual producer milk shall not exceed five hundred thousand per milliliter.

(3) Bacterial counts for milk for manufacturing purposes shall be run at least four times in six consecutive months at irregular intervals at times designated by the director on representative samples of each producer's milk. Whenever any two out of four consecutive bacterial counts exceed five hundred thousand per milliliter, the producer shall be sent a written notice by the department. Such notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard set out in subsection (2) of this section. A producer sample shall be taken between three and twenty-one days after the second excessive count. If that sample indicates an excessive bacterial count, the producer's milk shall be rejected until subsequent testing indicates a bacterial count of five hundred thousand per milliliter or less.

(4) All standards and procedures of the Grade A Pasteurized Milk Ordinance relating to somatic cells shall apply to milk for manufacturing purposes.

(5) The industry shall test all producer's milk and bulk milk pickup tankers for drug residues in accordance with Appendix N, Drug Residue Testing and Farm Surveillance, of the Grade A Pasteurized Milk Ordinance.

2-3982. Classification for sediment content; sediment standards; determination; effect.

(1) Milk for manufacturing purposes shall be classified for sediment content, regardless of the results of the appearance and odor examination described in section 2-3980, according to sediment standards as follows:

(a) No. 1: Acceptable, not to exceed fifty-hundredths milligrams or its equivalent;

(b) No. 2: Acceptable, not to exceed one and fifty-hundredths milligrams or its equivalent;

(c) No. 3: Probational, not over ten days, not to exceed two and fifty-hundredths milligrams or its equivalent; and

(d) No. 4: Reject, over two and fifty-hundredths milligrams or its equivalent.

(2) Methods for determining the sediment content of the milk of individual producers shall be the methods described in 7 C.F.R. 58.134, as such section existed on July 1, 2011.

(3) Sediment testing shall be performed at least four times every six months at irregular intervals as designated by the director.

(4) If the sediment disc is classified as No. 1, No. 2, or No. 3, the producer's milk may be accepted. If the sediment disc is classified as No. 4, the milk shall be rejected. A producer's milk that is classified as No. 3 may be accepted for a period not to exceed ten calendar days. If at the end of ten days the producer's milk does not meet acceptable sediment classification No. 1 or No. 2, it shall be rejected from the market. If the sediment disc is classified as No. 4, the milk shall be rejected and no further shipments accepted unless the milk meets the requirements of No. 3 or better.

2-3982.01. Grade A Pasteurized Milk Ordinance requirements; facility in existence prior to July 1, 2013; other facilities; requirements applicable. A facility producing milk for manufacturing purposes in existence prior to July 1, 2013, which does not meet all of the requirements of the Grade A Pasteurized Milk Ordinance shall be acceptable for use only if it meets the requirements of sections 2-3983 to 2-3989. After July 1, 2013, all new facilities that produce milk and facilities that produce milk that are under new ownership shall be required to meet the requirements of the Grade A Pasteurized Milk Ordinance.

2-3983. Milking facility requirements. A milking facility producing milk for manufacturing purposes of adequate size and arrangement shall be provided to permit normal sanitary milking operations. Such milking facility shall be physically separated by solid partitions or doors from other parts of the barn or building which do not meet the requirements of this section. A milking facility shall meet the following requirements:

(1) Sufficient space shall be provided for each dairy animal during the milking operation. If housed in the same area, the individual dairy animal should be able to lie down comfortably without being substantially in the gutter or alley. There shall not be overcrowding of the dairy animals;

(2) Maternity pens and calf, kid, and lamb pens, if provided, shall be properly maintained and cleaned regularly;

(3) Walls and ceilings shall be of solid and tight construction and in good repair;

(4) Only dairy animals shall be permitted in any part of the milking facility;

(5) The floors and gutters of the milking facility shall be constructed of concrete or other impervious material, graded to drain, and in good repair;

(6) The milking facility shall be well lighted and well ventilated to accommodate day or night milking;

(7) The milking facility shall be kept clean with walls and ceilings kept free of filth, cobwebs, and manure. The floor shall be scraped or washed after each milking and the manure stored to prevent access by dairy animals;

(8) Only articles directly related to the normal milking operation may be stored in the milking facility; and

(9) Feed storage rooms and silo areas shall be partitioned from the milking facility.

2-3984. Yard or loafing area requirements. The yard or loafing area of a facility producing milk for manufacturing purposes shall be of ample size to prevent overcrowding, shall be drained to prevent forming of water pools, and shall be kept clean. Manure piles shall not be accessible to the dairy animals. Swine shall not be allowed in the yard or loafing area.

2-3985. Udders; teats of dairy animals; milk stools; antikickers; surcingles; drugs; requirements. All facilities producing milk for manufacturing purposes shall meet the following requirements:

(1) The udders and teats of all dairy animals shall be washed or wiped immediately before milking with a clean damp cloth or paper towel moistened with a sanitizing solution and wiped dry or by any other sanitary method. The milker's clothing shall be clean and his or her hands clean and dry. Dairy animals treated with drugs shall be milked last and the milk excluded from the supply for such period of time as is necessary to have the milk free from drug residues;

(2) Milk stools, antikickers, and surcingles shall be kept clean and properly stored. Dusty hay shall not be fed in the milking facility immediately before milking. Strong flavored feeds should not be fed before milking; and

(3) Drugs shall be stored in such manner that they cannot contaminate the milk or dairy products or milk contact areas. Unapproved or improperly labeled drugs shall not be used to treat dairy animals and shall not be stored in the barn or milking facility. Drugs intended for the treatment of nonlactating dairy animals shall be segregated from drugs used for lactating dairy animals. All drugs shall be properly labeled to include:

(a) The name and address of the manufacturer or distributor for drugs or veterinary practitioners dispensing the product for prescription and extra-labeling-use drugs;

(b) The established name of the active ingredient, or if formulated from more than one ingredient, the established name of each ingredient;

(c) Directions for use, including the class or species or identification of the animals, and the dosage, frequency, route of administration, and duration of therapy;

(d) Any cautionary statements; and

(e) The specified withdrawal or discard time for meat, milk, eggs, or any food which might be derived from the treated animal.

2-3986. Milk in farm bulk tanks; cooled; temperature. Milk for manufacturing purposes in farm bulk tanks shall be cooled to forty degrees Fahrenheit or lower within two hours after milking and maintained at fifty degrees Fahrenheit or lower until transferred to the transport tank. Milk offered for sale for manufacturing purposes shall be in a farm bulk tank that meets all 3-A Sanitary Standards.

2-3987. Milkhouse or milkroom; sanitation requirements. A milkhouse or milkroom at a facility producing milk for manufacturing purposes shall be conveniently located and properly constructed, lighted, and ventilated for handling and cooling milk in farm bulk tanks. The milkhouse or milkroom shall meet the following requirements:

(1) Adequate natural or artificial lighting shall be provided for conducting milkhouse or milkroom operations. Light fixtures shall not be installed directly above farm bulk milk tanks in areas where milk is drained or in areas where equipment is washed or stored. A minimum of thirty footcandles of light intensity shall be provided where the equipment is washed. All artificial lighting shall be from permanent fixtures;

(2) Adequate ventilation shall be provided to prevent odors and condensation on walls and ceilings;

(3) The milkhouse or milkroom shall be used for no other purpose;

(4) Adequate facilities for washing and storing milking equipment shall be provided in the milkhouse or milkroom. Only C-I-P equipment shall be stored in the milking area or milking parlor. Hot and cold running water under pressure shall be provided in the milkhouse or milkroom;

(5) If the milkhouse or milkroom is part of the milking facility or other building, it shall be partitioned and sealed to prevent the entrance of dust, flies, or other contamination. Walls, floors, and ceilings shall be kept clean and in good repair;

(6) Feed concentrates, if stored in the building, shall be kept in a tightly covered box or bin;

(7) The floor of the building shall be of concrete or other impervious material and graded to provide drainage;

(8) All doors in the milkhouse or milkroom shall be self-closing. Outer screen doors shall open outward and be maintained in good repair;

(9) No animals shall be allowed in the milkhouse or milkroom;

(10) A farm bulk tank shall be properly located in the milkhouse or milkroom for access to all areas for cleaning and servicing. It shall not be located over a floor drain or under a ventilator or a light fixture;

(11) A suitable hoseport opening shall be provided in the milkhouse or milkroom for hose connections and the hoseport shall be fitted with a tight-fitting door which shall be kept closed except when the port is in use. An easily cleanable surface shall be constructed under the hoseport adjacent to the outside wall large enough to protect the milkhose from contamination;

(12) The truck approach to the milkhouse or milkroom shall be properly graded and surfaced to prevent mud or pooling of water at the point of loading. It shall not pass through any livestock holding area;

(13) All windows, if designed to be opened, shall be adequately screened;

(14) Surroundings shall be neat, clean, and free of harborage and pooled water;
and

(15) Handwashing facilities shall be provided which shall include soap, single-service towels, running water under pressure, a sink, and a covered refuse container.

2-3988. Milk utensils; sanitation requirements. At a facility producing milk for manufacturing purposes, utensils, milk cans, milking machines, including pipeline systems, and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any unsanitary condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use. New or replacement can lids shall be umbrella type. All new utensils, new farm bulk tanks, and equipment shall meet 3-A Sanitary Standards and comply with applicable rules and regulations of the department. Equipment manufactured in conformity with 3-A Sanitary Standards complies with the sanitary design and construction standards of the Nebraska Milk Act.

2-3989. Water supply requirements; testing. The water supply at a facility producing milk for manufacturing purposes shall be safe, clean, and ample for the cleaning of dairy utensils and equipment. The water supply shall meet the bacteriological standards established by the Department of Health and Human Services at all times. Water samples shall be taken, analyzed, and found to be in compliance with the requirements of the Nebraska Milk Act prior to the issuance of a permit to the producer and whenever any major change to the well or water source occurs. Wells or water sources which do not meet the construction standards of the Department of Health and Human Services shall be tested annually, and wells or water sources which do meet the construction standards of the Department of Health and Human Services shall be tested every three years. Whenever major alterations or repairs occur or a well or water source repeatedly recontaminates, the water supply shall be unacceptable until such time as the construction standards are met and an acceptable supply is demonstrated. All new producers issued permits under the Nebraska Milk Act shall be required to meet the construction standards established by the Department of Health and Human Services for private water supplies.

2-3990. Cream for buttermaking; pasteurization. Cream for buttermaking shall be pasteurized at a temperature of not less than one hundred sixty-five degrees Fahrenheit and held continuously in a vat at such temperature for not less than thirty minutes, or at a temperature of not less than one hundred eighty-five degrees Fahrenheit for not less than fifteen seconds, or any other temperature and holding time approved by the director that will assure pasteurization and comparable keeping-quality characteristics.

2-3991. Dairy products; packaging; containers; labeling. Dairy products shall be packaged in commercially acceptable containers or packaging material that will protect the quality of the contents in regular channels of trade. Prior to use packaging materials shall be protected against dust, mold, and other possible contamination.

Commercial bulk shipping containers for dairy products shall be legibly marked with the name of the product, net weight or content, name and address of processor, manufacturer, or distributor, and plant code number. Consumer-packaged products shall be legibly marked with the name of the product, net weight or content, plant code number, and name and address of the packer or distributor.

2-3992. Director; access to facilities, books, and records; inspections authorized.

(1) The director or his or her duly authorized agent shall have access during regular business hours to any milking facility or dairy plant for which a permit is held in which milk is used or stored for use in the manufacture, processing, packaging, or storage of milk or milk products or to enter any vehicle being used to transport or hold

such milk or milk products for the purpose of inspection and to secure specimens or samples of any milk or milk product after paying or offering to pay for such sample or specimen. The director may analyze and inspect samples of raw milk and dairy products.

(2) The director or his or her duly authorized agent shall have access during regular business hours to the books and records of any permitholder under the Nebraska Milk Act when such access is necessary to properly administer and enforce such act.

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