

SUBCHAPTER 13. MILK AND MILK PRODUCTS

35:37-13-1. Purpose

The rules of this chapter implement the Oklahoma Milk and Milk Products Act, 2 O.S. Section 7-401, et seq.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-13-2. Incorporations by reference

(a) Adopted references.

(1) PMO. "Grade A Pasteurized Milk Ordinance with Administrative Procedures - 2019 Recommendations," including Appendices A through T thereto, hereinafter referred to as the "PMO," as published in the Grade A Pasteurized Milk Ordinance, 2019 Revisions, by the Department of Health and Human Services, Public Health Service/Food and Drug Administration, Washington, D.C. is hereby incorporated by reference.

(2) Code of Federal Regulations. Where mention is made to any section or sections of the Code of Federal Regulations in the PMO, that section or sections shall be incorporated by reference. The State Board of Agriculture declares that, by incorporating the PMO by reference, it does not intend to create any inconsistency with the Oklahoma Milk and Milk Products Act, in the event there may be any inconsistency.

(b) Exceptions.

(1) Section 16, "Penalty" is not incorporated by reference.

(2) Section 17, "Repeal and Date of Effect" is not incorporated by reference.

(3) Section 5, "Certified Industry Inspection" is not incorporated by reference.

(4) Appendices E, "Examples of 3-out-of-5 Compliance Enforcement Procedures" is not incorporated by reference.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 24 Ok Reg 1779, eff 6-25-07; Amended at 28 Ok Reg 2197, eff 7-25-11; Amended at 32 Ok Reg 1528, eff 9-11-15; Amended at 34 Ok Reg 837, eff 9-11-17; Amended at 37 Ok Reg 978, eff 9-14-20; Amended at 38 Ok Reg 1675, eff 9-11-21]

35:37-13-3. Terms for interfacing with the PMO and the DMO [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Revoked at 25 Ok Reg 1052, eff 7-1-08]

35:37-13-4. Suspension and revocation

(a) The Department shall immediately, upon receipt of the appropriate analysis, or upon a second consecutive inspection disclosing gross neglect of cleaning of milk contact surfaces, or upon refusal of permission to inspect a facility, notify and suspend the permit of a dairy farm or milk plant in accordance with the provisions of 2 O.S. Section 7-410. The Department may, after providing notice of intent, suspend or revoke a permit upon a finding of continuing and multiple violations of the Milk and Milk Products Act. The Department may summarily suspend a permit when public health, safety, or welfare imperatively requires such, in accordance with the Administrative Procedures Act. In all cases, opportunity shall be provided for a hearing upon the request of the permit holder.

(b) Notices provided for in 35:37-13-4(a) to the permit holder, shall be made in person, by posting on the premises or by mail, or to the designee of the permit holder according to the election made at the time of application for the permit. The Department may, for those facilities that have not had an opportunity to designate, presume that the Producer Association or company that purchases milk has been designated. Notices provided for in 35:37-13-4(a) shall contain a short and plain statement of the violation or violations involved, including the specific statute, rule or regulation violated. If a hearing is requested, further notice shall be provided, conforming to 75 O.S., Section 309, as to date, time and nature of the hearing, and all other matters contained in the Administrative Procedures Act.

(c) The Department may also send copies of notices provided for in 35:37-13-4(a) to the appropriate milk market, the marketing agent, field man, the sanitarian and to the market administrator, in accordance with the past operating practices.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-13-5. Application to manufacture grade dairies

The equipment and facility standards applicable to Grade A dairies shall also be applicable to ungraded or manufacture grade dairies.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-13-6. Chemical, bacteriological, and temperature standards for milk and milk products

For chemical, bacteriological, and temperature standards for milk and milk products, See Appendix A of this Chapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-13-7. Inspection fees

(a) The Department shall conduct inspections of milk tankers associated with milk transportation company permits pursuant to 2 O.S. § 7-408(B).

(b) The Department shall charge a fee of \$75.00 per milk tanker inspected.

[Source: Added at 28 Ok Reg 120, eff 9-17-10 (emergency); Added at 28 Ok Reg 2197, eff 7-25-11]

**APPENDIX A. CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE STANDARDS FOR
INDIVIDUAL DISTRIBUTED RAW MILK AND MANUFACTURE GRADE MILK AND MILK
PRODUCTS**

Figure 1

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Revoked and reenacted at 25 Ok Reg 1052, eff 7-1-08; Revoked and reenacted at 28 Ok Reg 2197, eff 7-25-11; Revoked and reenacted at 32 Ok Reg 1528, eff 9-11-15]

Individual Distributed Raw Milk and Manufacture Grade Raw Milk	Temperature	Cooled to 7°C (45°F) or less within two hours after milking, provided that the blend temperature after the first and subsequent milking does not exceed 10°C (50°F)
	Bacterial Limits Individual Distributed Raw Milk	Individual distributed raw milk not to exceed 35,000 per ml.
	Bacterial Limits (Manufacture Grade Raw Milk) (Note: Manufacture grade raw milk is raw milk that fails to comply with Grade A raw milk standards)	Individual producer milk for manufacturing not to exceed 500,000 per ml prior to commingling with other milk. Not to exceed 1,000,000 per ml as commingled milk to manufacturing.
	Drugs	No positive results on drug residue detection methods as referenced in Section 6 Laboratory Techniques
	Somatic Cell Count (Individual Distributed Raw Milk and Manufacture Grade Raw Milk)	Individual producer milk: Not to exceed 750,000 per ml.*
Ungraded (Manufacture Grade) Milk Products	Bacterial Limits (except cultured products)	Frozen dessert - 100,000 per ml Soft-serve mix - 30,000 per ml
	Coliform Limits	Frozen dessert - not to exceed 20 per ml Soft-serve mix – not to exceed 10 per ml Cottage cheese – not to exceed 10 per ml
	Butterfat	Must match label

*Goat Milk – 1,500,000/ml