

GRADE A MILK AND MILK PRODUCTS

CHAPTER 12:05:01

DEFINITIONS

Section

[12:05:01:01](#) Definitions.

12:05:01:02 to [12:05:01:45](#) Repealed.

12:05:01:01. Definitions. Terms defined in SDCL [39-6-1](#) and in the Grade "A" Pasteurized Milk Ordinance have the same meanings when used in this article. In addition, terms used in this article mean:

(1) "Adulterated milk and milk products," any milk or milk product which bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; bears or contains any added poisonous or deleterious substances for which no safe tolerance has been established by state or federal regulation or in excess of any tolerance established; consists in whole or in part of any substance unfit for human consumption; has been produced, processed, prepared, packed, or held under unsanitary conditions; has a container composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or has any substance added to it or mixed or packed with it to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is;

(2) "Bottled raw milk for human consumption," is milk that has not been pasteurized and is packaged for human consumption. In this definition, the word milk shall be interpreted to include cow, goat, sheep and other hoofed mammal's milk. Bottled raw milk for human consumption shall include raw milk, raw skim milk, and raw cream.

(~~2~~ 3) "Dairy fieldman," an individual authorized by a milk buyer and licensed by the secretary to provide adequate and continuous field service to assist dairy producers in maintaining quality and sanitation requirements;

(~~3~~ 4) "Misbranded milk and milk products," products whose containers bear or accompany any false or misleading written, printed or graphic matter; products which do not conform to their definitions as contained in this article; and products not labeled in accordance with chapter 12:05:04;

(4 5) "Secretary," the secretary of agriculture or an authorized representative;

(~~5~~ 6) "Pesticide," a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; a substance or mixture of substances

intended for use as a plant regulator, defoliant, or desiccant; or a substance or mixture of substances intended to be used as a spray adjuvant;

(6 7) "PMO," "Grade "A" Pasteurized Milk Ordinance," the Grade "A" Pasteurized Milk Ordinance (PMO) and Appendices, 2007, except sections 16 and 17, United States Public Health Service;

(7 8) "Processed," "processing," the physical pumping; separating; heating, including pasteurization; cooling; concentrating; treating with cultures or chemical; packaging; and/or any other method of handling/treating milk or milk products that is approved by the department.

Source: SL 1975, ch 16, § 1; 7 SDR 34, effective October 13, 1980; 12 SDR 102, effective December 25, 1985; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 17 SDR 204, effective July 8, 1991; 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002; 30 SDR 203, effective June 24, 2004; 32 SDR 203, effective June 6, 2006; 35 SDR 183, effective February 2, 2009.

General Authority: SDCL 39-6-9.; 40-32-18 (3)

Law Implemented: SDCL 39-6-9., 39-6-3

Reference: Grade A Pasteurized Milk Ordinance, 2007, published by Public Health Service/Food and Drug Administration, U.S. Department of Health and Human Services, Washington, D.C. 20740-3835. Copies may be obtained from the Milk Safety Branch HFS-626, Division of Cooperative Programs, Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740-3835; no charge. This request must include a self-return label.

CHAPTER 12:05:07 STANDARDS FOR MILK AND MILK PRODUCTS

12:05:07:11 Pasteurization Required – Exception.

The requirements of ARSD 12:05:07:10 do not apply to bottled raw milk that is produced, handled, sampled, examined, graded, and labeled for human consumption, but the bottled raw milk must be otherwise produced and processed under the requirements of ARSD 12:05:07:12 through ARSD 12:012:05:07:22.

Source:

General Authority: SDCL 40-32-18 (2) through 40-32-18(7)

Law Implemented: SDCL 39-6-3, SDCL 40-32-1

12:05:07:12. Bottled Raw Milk for Human Consumption - Permits required.

No person may offer or provide bottled raw milk for human consumption unless the milk has been packaged by a producer holding a permit under SDCL 40-32-4, the milk

has been produced by a person having a milk producer's permit issued by the secretary, and the milk meets the standards in ARSD 12:05:07:13 through ARSD 12:12:05:07:22.

No milk producer may offer or provide raw milk for human consumption on the farm premises unless the producer holds a producer's permit issued by the secretary and the milk meets the standards in ARSD 12:05:07:13 through ARSD 12:05:07:22.

Source:

General Authority: SDCL 40-32-18 (2) through 40-32-18(7)

Law Implemented: 40-32-10.1, SDCL 40-32-4, SDCL 40-32-1

12:05:07:13. Bottled Raw Milk for Human Consumption – Minimum permit requirements.

Prior to offering or providing any bottled raw milk for human consumption, the producer/processor must submit or cause an official milk sample to be submitted to an officially designated laboratory for testing at the producer's expense for somatic cell count, drug residue, and bacteria and results to be provided to the department.. All such preliminary samples must be taken using the milk sampling procedures in Appendix B of the PMO as adopted by ARSD 12:05:14:01.

Prior to offering or providing any bottled raw milk for human consumption, the producer must submit or cause an official milk sample to be submitted to an American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory for testing at the producer's expense for coliform bacteria and pathogenic bacteria (Salmonella, Listeria Monocytogenes, Campylobacter spp., and E. Coli 0157:H7) and results to be provided to the department. All such preliminary samples must be taken using the milk sampling procedures in Appendix B of the PMO as adopted by ARSD 12:05:14:01.

Prior to offering or providing any bottled raw milk for human consumption, a producer with a private water supply used in the milking operation and/or the milk plant operation must submit or cause an official water sample to be submitted to a officially designated or EPA certified laboratory for testing at the producer's expense for coliform bacteria and the results to be provided to the department. All such preliminary samples must be taken using the water sampling methods adopted in Appendix G of the PMO as adopted by ARSD 12:05:14:01 and test negative for coliform bacteria.

No bottled raw milk may be offered or provided for human consumption if laboratory test results for raw milk samples exceed the standards for milk in ARSD 12:05:07:17.

Sanitation and operating requirements of all raw milk facilities shall be the same as that required on a Grade A dairy farm producing milk, except for pasteurization. The milk processing, filling, packaging, and washing and cleaning areas shall meet the requirements for Grade A milk as set forth in ARSD 12:05:14:01.

Source:

General Authority: SDCL 40-32-18(2), (3) (5),(6)

Law Implemented: SDCL 39-6-3, SDCL 40-32-1, SDCL 40-32-22

12:05:07:14. Bottled Raw Milk for Human Consumption –Milk Plant Facilities – Requirements.

The construction requirements for facilities processing bottled raw milk for human consumption shall meet the construction requirements listed in the Grade A Pasteurized Milk Ordinance (PMO), as referenced in ARSD 12:05:14:01.

All persons working in the milk plant shall thoroughly wash hands before commencing milk plant functions and shall remove any soil and/or other contamination as often as may be required. All milk plant personnel shall wear clean outer garments and footwear, free from manure, while engaged in milk plant operations.

Source:

General Authority: SDCL 40-32-18(5), (6)

Law Implemented: SDCL 40-32-1

12:05:07:15. Bottled Raw Milk for Human Consumption – Processing Raw Milk.

Bottled raw milk for human consumption shall be bottled on the farm where it is produced. A separate building or separate rooms shall be provided to conduct processing, filling, packaging and sealing of bottled raw milk, and to conduct the washing and cleaning of returned multi-use containers. There shall be no openings between the milk plant and milking operations. Bottling and capping shall be done in a sanitary manner with equipment that complies with the Grade A Pasteurized Milk Ordinance (PMO), as referenced in ARSD 12:05:14:01. Hand-capping is prohibited. Caps or cap stock shall be kept in a clean dry place until used.

Source:

General Authority: SDCL 40-32-18(4),(5), and (6)

Law Implemented: SDCL 40-32-1

12:05:07:16. Bottled Raw Milk for Human Consumption – Sample Collection.

At a minimum, monthly samples of raw milk intended for human consumption shall be tested for somatic cell count, drug residue, bacteria and temperature.

Additionally, raw milk shall be tested for pesticides, added water and/or other adulterants, as deemed necessary by the department. A representative sample of raw milk for human consumption shall be collected and tested for Beta lactam drug residues, in accordance with Appendix – N of the Pasteurized Milk Ordinance (PMO), prior to processing and bottling of milk. Bottled raw milk shall, at a minimum, be tested monthly for bacteria, coliform bacteria, drug residue, pathogenic bacteria (Salmonella, Listeria Monocytogenes, Campylobacter spp., and E.Coli 0157:H7) at an American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory.

Additionally, bottled raw milk shall be tested for pesticides, added water and/or other adulterants, as deemed necessary by the department. The cost of the pathogenic bacteria testing will be the responsibility of the milk plant.

The tests must be undertaken using the sampling methods in ARSD 12:05:07:13 and must meet the standards in ARSD 12:05:07:17

Source:

General Authority: SDCL 40-32-18(2), (3)

Law Implemented: SDCL 40-32-1

12:05:07:17. Standards for Bottled Raw Milk for Human Consumption.

Bottled raw milk shall be produced and handled to conform with the following chemical, bacteriological, and temperature standards set forth in the Grade A PMO, as referenced in ARSD 12:05:14:01.

- (1) Temperature: Maintained at 45 degrees Fahrenheit (7 degrees Celsius) or less.
- (2) Antibiotics: No positive results on drug residue detection methods as referenced in the Grade A Pasteurized Milk Ordinance, Appendix N or any other drug as deemed necessary by the department.
- (3) Bacteria Limits: 20,000 per ml.
- (4) Coliform: Not to exceed 10 per ml.
- (5) Pathogen: No pathogenic bacteria present.

Source:

General Authority: SDCL 40-32-18(2), (3)

Law Implemented: SDCL 40-32-1

12:05:07:18. Bottled Raw Milk for Human Consumption – Contamination.

Whenever official laboratory test results indicate that a sample of bottled raw milk for human consumption contains pathogenic bacteria, the milk plant shall be notified immediately; the bottled raw milk shall immediately be removed from supplies intended for human consumption; and, the milk plant's permit shall be suspended immediately. A product recall shall be implemented immediately by the milk plant and/or the department. An official sample for permit reinstatement will be collected by the department upon the request of the milk plant. This sample will be tested, at the producer's expense, at an American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory, for the contamination that caused the permit suspension.

Following this initial sampling, an additional sample shall be collected by the department at least 1 day after the previous sample collection. This sample will also be tested, at the expense of the producer, at an American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory to determine if the contamination that caused the permit suspension is still present in milk produced or processed at the milk plant. The department shall reinstate the milk plant permit if both samples meet the standards outlined in ARSD 12:05:14:01 and ARSD 12:05:07:13.

Source:

General Authority: SDCL 40-32-18(2), (3)

Law Implemented: SDCL 40-32-1; SDCL 40-32

12:05:07:19. Bottled Raw Milk for Human Consumption – Labeling.

All bottles, containers and packages containing raw milk, raw skim milk or raw cream for human consumption shall be labeled in accordance with the applicable requirements of the Nutritional Labeling and Education Act (NELA) of 1990 and the regulations developed thereunder, and, in addition, must comply with the following requirements:

The warning label type size must be consistent with the type size of other required labeling, but not less than one-sixteenth inch in height. The warning label must be conspicuous and in contrasting color from other labeling. The warning label must be prominently displayed on the container's principal display panel. The warning label must be clearly readable.

All bottles, containers and packages containing raw milk, raw skim milk or raw cream for human consumption shall be conspicuously marked with:

- (1) The identity of the farm and plant where the raw milk is produced and bottled.
- (2) The words RAW MILK.
- (3) The common name of the animal producing the milk.
- (4) The name and grade of the contents on the exterior surface of the container.
- (5) The date of bottling.

The raw milk container must also bear the following labeling:

WARNING: This product has not been pasteurized and may contain harmful bacteria. Pregnant women, infants, children, the elderly and persons with lowered resistance to disease have the highest risk of harm from use of this product.

Source:

General Authority: SDCL 40-32-18(7)

Law Implemented: SDCL 39-6-3, SDCL 40-32-1, 40-32-18(7)

12:05:07:20. Bottled Raw Milk for Human Consumption-Customer List.

Milk plants that provide or offer bottled raw milk for human consumption shall maintain a current list of persons to whom they have provided raw milk for human consumption. The list must be continually updated and include the data for at least 60 days. This customer list shall include customer names, addresses, phone numbers, and quantities of bottled raw milk for human consumption. This list shall be provided to the department upon the department's request.

Source:

General Authority: SDCL 40-32-22, 40-32-18(5), 39-6-9

Law Implemented : SDCL 40-32-22; SDCL 40-32-1, 40-32-18(5)

12:05:07:21. Raw Milk Not for Human Consumption - Coloring Material Added.

Any producer or processor who provides raw milk to others for uses other than human consumption (such as Raw Pet Milk), or who uses raw milk for uses other than human consumption at sites other than the producer or processor's own facilities, shall add a sufficient quantity of harmless coloring matter (blue coloring dye) to make it evident that the product is not desirable for human consumption.

Source:

General Authority: SDCL 40-32-18(4)

Law Implemented: SDCL 40-32-1

12:05:07:22. Bottled Raw Milk for Human Consumption - Animal Health.

Prior to offering or providing bottled raw milk for human consumption, the producer must complete a herd test for Tuberculosis and Brucellosis where animals are housed that are used for raw milk production. Following this initial test, complete herd tests shall then be conducted every 6 months. The tests shall include beef and non-milking hoofed mammals housed with, or in close proximity to, the milking herd. All additional animals shall be tested prior to entering the herd. Testing shall be completed by a USDA accredited veterinarian. A certificate identifying each animal and the test results, signed by the veterinarian, shall be submitted to the executive secretary of the Animal Industry Board within 15 days of completion. Failure to complete and submit required herd tests will result in immediate suspension of the milk producer's permit until such tests are completed and submitted. Any animal having a positive test result will cause the immediate suspension of the milk producer's permit and milk plant permit until a complete herd test shows no positive test results.

Source:

General Authority: SDCL 39-6-9

Law Implemented: SDCL 39-6-9, SDCL 40-32-1