

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
CHAPTER 37. FOOD SAFETY**

**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.

**35:37-13-2. Incorporations by reference**

**(a) Adopted references.**

(1) **PMO.** Grade A Pasteurized Milk Ordinance with Administrative Procedures - 2001 Recommendations", including Appendices A through P thereto, hereinafter referred to as the "PMO", consisting of pages 1 through 271 as published in the Grade A Pasteurized Milk Ordinance, 2001 Revisions, by the Department of Health and Human Services, Public Health Service/Food and Drug Administration, Washington, D.C., true and correct copies of which shall be maintained by the Commissioner of Agriculture and provided to the State Librarian and Archivist, IS HEREBY INCORPORATED BY REFERENCE.

(2) **DMO.** Supplement I to the Grade A Pasteurized Milk Ordinance, 1995 Recommendations, "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey", also known as the "DMO", as published in the Grade A Pasteurized Milk Ordinance, 2001 Recommendations, by the Department of Health and Human Services, Public Health Service/Food and Drug Administration, Washington, D.C., true and correct copies of which shall be maintained by the Commissioner of Agriculture and provided to the State Librarian and Archivist, IS HEREBY INCORPORATED BY REFERENCE.

(3) **Code of Federal Regulations.** Where mention is made to any section or sections of the Code of Federal Regulations in either the PMO or DMO, 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 3, "Permits" (portions of pages 6, 7 and 8 of the PMO), is not incorporated by reference.

(2) "Table 1" (page 20 of the PMO) of Section 7 of the PMO is not incorporated by reference.

(3) Section 16, "Penalty" (page 96 of the PMO) is not incorporated by reference.

(4) Section 17, "Repeal and Date of Effect" (page 96 of the PMO), is not incorporated by reference.

(5) Section 5, "Certified Industry Inspection" (pages 12, 13

and 14 of the PMO), is not incorporated by reference.

(6) Appendices E, "Examples of 3-out-of-5 Compliance Enforcement Procedures" (pages 163 and 164 of the PMO,) is not incorporated by reference.

**35:37-13-3. Terms for interfacing with the PMO and the DMO**

For purposes of interfacing with the PMO and the DMO, the following terms apply:

(1) Entities designated by the symbol for footnote 1 in the introduction (page iv of the PMO) is synonymous with the State Board of Agriculture. In Item 7r, "Toilet" of Section 7 (pages 29 and 30 of the PMO) is synonymous with the State Board of Health. The entities designated by the symbol for footnote 1 in Section 2, "Adulterated or Misbranded Milk or Milk Products" (page 36 of the PMO), Section 3, "Permits" (page 35 of the PMO), Section 5, "Inspection of Dairy Farms and Milk Plants" (page 10 of the PMO), and Section 11, "Milk and Milk Products Which May Be Sold" (page 92 of the PMO) are synonymous with the State of Oklahoma.

(2) Ordinance is synonymous with these rules.

(3) Regulatory agency is synonymous with the Oklahoma Department of Agriculture, Food, and Forestry.

**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.

**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.

**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.

**APPENDIX A.      CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE  
STANDARDS FOR MILK AND MILK PRODUCTS**

|   |   |   |
|---|---|---|
|   |   | by Fluorometric Procedure)<br>or equivalent.  |
|   | Antibiotic  | No zone greater than or equal<br>to 16 mm with the Bacillus<br>stearothermophilus disc assay<br>method.                                   |
| Grade A<br>Aseptically<br>Processed Milk<br>and Milk Products | Temperature   | None.   |
|   | Bacterial<br>Limits                                     | No growth by test specified<br>in Section 6.  |
|   | Antibiotics   | No zone greater than or equal<br>to 16 mm with the Bacillus<br>stearothermophilus disc assay<br>method.                                   |
| Ungraded<br>(Manufacture<br>Grade) Milk<br>Products           | Bacterial<br>Limits<br>(except<br>cultured<br>products) | Frozen dessert - 100,000<br>per ml<br>Soft-serve mix - 30,000<br>per ml   |
|   | Coliform<br>Limits                                      | Frozen dessert - not to exceed<br>20 per ml<br>Soft-serve mix - not to exceed<br>10 per ml<br>Cottage cheese - not to exceed<br>10 per ml |
|   | Butterfat   | Must match label.   |