

# Regulation 61-34.1

## Pasteurized Milk and Milk Products

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**Statutory Authority:**

S.C. Code Sections 44-1-140 and 44-1-150

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## SECTION I. APPLICABILITY OF THE GRADE "A" PASTEURIZED MILK ORDINANCE, 2013 REVISION

A. The following sections, appendices, and footnotes of the Grade "A" Pasteurized Milk Ordinance (PMO), 2013 Revision apply in their entirety:

1. Section 4. Labeling;
2. Section 6. The Examination Of Milk And/Or Milk Products;
3. Section 7. Standards For Grade "A" Milk And/Or Milk Products;
4. Section 8. Animal Health;
5. Section 9. Milk And/Or Milk Products Which May Be Sold;
6. Section 10. Transferring; Delivery Containers; Cooling;
7. Section 11. Milk And/Or Milk Products From Points Beyond The Limits Of Routine Inspection;
8. Section 12. Plans For Construction And Reconstruction;
9. Section 13. Personnel Health;
10. Section 14. Procedures When Infection Or High Risk Of Infection Is Discovered;
11. Section 18. Separability Clause;
12. Footnotes; and
13. Appendices A through S.

B. The following associated documents of the Grade "A" Pasteurized Milk Ordinance, 2013 Revision apply in their entirety:

1. Procedures Governing the Cooperative State - Public Health Service, Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2013 Revision (Procedures);
2. Methods of Making Sanitation Ratings of Milk Shippers, 2013 Revision (Methods); and
3. Evaluation of Milk Laboratories, 2013 Revision.

C. The following provisions of the Grade "A" Pasteurized Milk Ordinance, 2013 Revision apply with the additions, exceptions, and superseding amendments specified below:

1. Section 1. Definitions applies with the following exceptions:
  - a. The definition RR. Regulatory Agency applies with the following amendment:

**RR. REGULATORY AGENCY:** The Regulatory Agency shall mean the State of South Carolina's Department of Health and Environmental Control ("the Department") or their authorized representative.

The term, "Regulatory Agency", whenever it appears in the *Ordinance* shall mean the appropriate agency, including a Third Party Certifier (TPC) authorized under the NCIMS voluntary International Certification Program (ICP), having jurisdiction and control over the matters embraced within this *Ordinance*.

b. Ordinance, as used in the Pasteurized Milk Ordinance, 2013 Revision, shall mean the provisions and appendices of the Pasteurized Milk Ordinance, 2013 Revision as adopted by the South Carolina Department of Health and Environmental Control ("the Department").

2. Section 2. Adulterated Or Misbranded Milk And/Or Milk Products applies with the following exceptions:

a. The following applies in addition to Section 2:

Milk and milk products shall be examined by the Regulatory Agency as often as may be necessary to determine freedom from adulteration or misbranding. The Regulatory Agency may, upon written notice to the owner or person in charge, place a hold order on any milk or milk product which it determines, or has probable cause to believe, to be unwholesome or otherwise adulterated or misbranded. Under a hold order, milk or milk products shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on milk or milk products by the Regulatory Agency, and neither such milk or milk products nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the Regulatory Agency, except on order by a court of competent jurisdiction.

When the freezing point of milk and milk products, other than cultured products, is greater than  $-0.525^{\circ}\text{H}$  ( $-0.507^{\circ}\text{C}$ ), the farm or plant owner or manager shall be notified that apparently the milk or milk product contains added water. If a second violation of this freezing point standard occurs within two (2) years, an observed milking or operation of processing shall be conducted and samples analyzed. The freezing point obtained from milk collected during the observation shall be used to determine a definite freezing point from the individual farm or plant. A violation of the determined freezing point for a specific operation by over three (3) percent within two (2) years of setting the standard shall call for a two (2) day permit suspension or equivalent.

When milk is found to be adulterated by the presence of drugs, pesticides, herbicides, or other poisonous substances, it shall be impounded and additional samples analyzed. Milk found to be adulterated shall be disposed of until analysis shows the product not to be adulterated. If testing reveals milk positive for drug residues, the milk shall be disposed of in a manner that removes it from the human or animal food chain, except where acceptably reconditioned under FDA Compliance Policy Guide (CPG 7126.20). The Regulatory Agency shall determine the producer(s) responsible for the drug residue violation and immediately suspend the producer's Grade "A" permit or equally effective measures shall be taken to prevent the sale of milk containing drug residues and a penalty shall be imposed. Future pick-ups are prohibited until subsequent testing reveals the milk is free of drug residue. The penalty shall be for the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. The Regulatory Agency may accept certification from the violative producer's milk marketing cooperative or purchaser of milk as satisfying the penalty requirements. The Grade "A" producer's permit may be reinstated, or other action taken, to allow the sale of milk for human food, when a representative sample taken from the producer's milk, prior to commingling with any other milk, is no longer positive for drug residue. Whenever a drug residue test is positive, an investigation shall be made to determine the cause. The farm inspection is completed by The Regulatory Agency to determine the cause of the residue and actions taken to prevent future violations including:

On-farm changes in procedures necessary to prevent future occurrences as recommended by the Regulatory Agency.

Discussion and education on the Drug Residue Avoidance Control measures outlined in Appendix C. of the PMO.

When pasteurized milk or milk products are found to be adulterated by drugs, pesticides, herbicides, or other poisonous substances, the adulterated products shall be removed from the market, disposed of, and sale stopped until analysis proves the product to be free from adulteration.

b. The following applies in addition to the Administrative Procedures part of Section 2:

When two (2) of the last four (4) samples of a pasteurized product are in violation of the milkfat or milk solids not fat standard for that product a warning letter shall be issued by the Department. When three (3) of the last five (5) samples are in violation, the Department shall suspend the permit.

3. Section 3. Permits applies with the following exceptions:

a. The second paragraph on page 16 of the PMO, 2013 Revision shall not apply.

b. The following replaces the entire Administrative Procedures part of Section 3:

**ISSUANCE OF PERMITS:** Every milk producer, milk distributor, bulk milk hauler/sampler, milk tank truck<sup>5</sup>, milk transportation company and each milk plant, receiving station, transfer station, milk tank truck cleaning facility operator shall hold a valid permit. The permit for a milk tank truck(s) may be issued to the milk transportation company. Milk producers who transport milk or milk products only from their own dairy farms; employees of a milk distributor or milk plant operator who possesses a valid permit; and employees of a milk transportation company that possesses a valid permit and transports milk or milk products from a milk plant, receiving station or transfer station shall not be required to possess a bulk milk hauler/sampler's permit. Grocery stores, restaurants, soda fountains and similar establishments where milk and milk products are served or sold at retail, but not processed, may be exempt from the requirements of this Section.

While compliance with the requirements for Grade "A" condensed and dry milk products is necessary to receive and retain a permit for these products, it is not the intent of this Ordinance to limit the production of a milk plant that condenses and/or dries milk or milk products, to Grade "A" products. The manufacture of ungraded products for other uses in milk plants operating under a permit for the manufacture of Grade "A" condensed and dry milk products is allowed under conditions specified in Section 7 of this Ordinance and whereby such products are processed, packaged, and stored separately. In such cases, a second permit is required, which is issued with the understanding that ungraded products shall be handled in such a manner so as to avoid confusion with the Grade "A" production.

Either or both permits may be temporarily suspended for the violation of any applicable provision of this Ordinance, or revoked for a serious or repeated violation. Suspension of permits for violation of sanitation Items of Section 7 is provided for in Section 5. In addition, the Regulatory Agency may, at any time, institute court action under the provisions of Section 6. There is no specific frequency for the issuance of permits. This should be in accordance with the policies of the Regulatory Agency and in agreement with those employed for the issuance of permits under this Ordinance.

**SUSPENSION OF PERMIT:** When any requirement(s) of this *Ordinance* is violated, the permit holder is subject to the suspension of their permit.

When the permit suspension is due to violations other than bacterial, coliform, somatic cell, cooling temperature, or drug residue test standards, the permit holder, manager or other authorized representative shall be notified by certified mail or hand delivery of the intent to suspend the permit in thirty days unless a written request for a hearing is filed with the Regulatory Agency. If no request is made in thirty (30) days, the permits shall be suspended until the violations are corrected.

The Department may without warning, notice, or hearing suspend a permit when an imminent health hazard exists. An imminent health hazard includes, but is not limited to, violations of bacterial, coliform, somatic cell, cooling temperature, or drug residue test standards. Following permit suspension, all manufacturing operations shall immediately cease.

**REINSTATEMENT OF PERMITS:** Any permit holder whose permit has been suspended may make written application for the reinstatement of their permit.

When the permit suspension has been due to a violation of any of the bacterial, coliform or cooling temperature standards, the Regulatory Agency, within one (1) week after the receipt of notification for reinstatement of permit, shall issue a temporary permit after determining by an inspection of the facilities and operating methods that the conditions responsible for the violation have been corrected. When a permit suspension has been due to a violation of the somatic cell count standard, the Regulatory Agency may issue a temporary permit whenever a resampling of the herd's milk supply indicates the milk supply to be within acceptable limits as prescribed in Section 7. Samples shall then be taken at the rate of not more than two (2) per week on separate days within a three (3) week period. This accelerated sampling applies to bacteria, coliform, somatic cell count and temperature. The Regulatory Agency shall reinstate the permit upon compliance with the appropriate standard as determined in accordance with Section 6 of this Ordinance.

Whenever the permit suspension has been due to a violation of a requirement other than bacteriological, coliform, somatic cell count, drug residue test or cooling-temperature standards, the notification shall indicate that the violation(s) has been corrected. Within one (1) week of the receipt of such notification, the Regulatory Agency shall make an inspection/audit of the applicant's facility, and as many additional inspections/audits thereafter as are deemed necessary, to determine that the applicant's facility is complying with the requirements. When the findings justify, the permit shall be reinstated.

When a permit suspension has been due to a positive drug residue, the permit shall be reinstated in accordance with the provisions of Appendix N.

4. Section 5. Inspection Of Dairy Farms And Milk Plants applies with the replacement of language in the fifth paragraph on page 22 in the PMO, 2013 Revision with:

One (1) copy of the inspection/audit report shall be provided to the operator, or other responsible person or be posted in a conspicuous place on an inside wall of the establishment. Said inspection/audit report shall not be defaced and shall be made available to the Regulatory Agency upon request.

5. Section 15. Enforcement applies with the addition of the following:

This Regulation is adopted and enforced under the authority of S.C. Code Section 44-1-140.

6. The following replaces the language of Section 16. Penalty in its entirety:

Violations shall be punishable in accordance with S.C. Code Section 44-1-150. Each day of continued violation shall be a separate offense.

7. Section 17. Repeal And Date Of Effect of the PMO, 2013 Revision shall not apply.