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DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

ARTICLE 12:05

GRADE A MILK AND MILK PRODUCTS

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**ARTICLE 12:05**

**GRADE A MILK AND MILK PRODUCTS**

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**CHAPTER 12:05:01**

**DEFINITIONS**

Section

12:05:01:01 Definitions.

12:05:01:02 Repealed.

12:05:01:03 Repealed.

12:05:01:04 Repealed.

12:05:01:05 Repealed.

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12:05:01:10 Repealed.

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12:05:01:12 Repealed.

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12:05:01:16 Repealed.

12:05:01:17 Repealed.

12:05:01:18 Repealed.

12:05:01:19 Repealed.

12:05:01:20 Repealed.

12:05:01:21 Repealed.

12:05:01:22 Repealed.

12:05:01:23 Repealed.

12:05:01:24 Repealed.

12:05:01:25 Repealed.

12:05:01:26 Repealed.

12:05:01:27 Repealed.

12:05:01:28 Repealed.

12:05:01:29 Repealed.

12:05:01:30 Repealed.

12:05:01:31 Repealed.

12:05:01:32 Repealed.

12:05:01:33 Repealed.

12:05:01:34 Repealed.

12:05:01:35 Repealed.

12:05:01:36 Repealed.

12:05:01:37 Repealed.

12:05:01:38 Repealed.

12:05:01:39 Repealed.

12:05:01:40 Repealed.

12:05:01:41 Repealed.

12:05:01:42 Repealed.

12:05:01:43 Repealed.

12:05:01:44 Repealed.

12:05:01:45 Repealed.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. For purposes of this article:

(1)  "Adulterated milk and milk products" means any milk or milk product that bears or contains any poisonous or deleterious substance in a quantity that 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 that 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)  "Dairy fieldman" means 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)  "Milk buyer" means an individual, plant operation, partnership, corporation, company, association, or institution buying raw milk from a producer in this state;

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

(5)  "Pesticide" means 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)  "Process" means physically pumping; separating; heating, including pasteurization; cooling; concentrating; treating with cultures or chemical; packaging; or any other method of handling or treating milk or milk products that is approved by the department; and

(7)  "Secretary" means the secretary of agriculture and natural resources.

**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; 36 SDR 100, effective December 14, 2009; 36 SDR 208, effective June 29, 2010; 38 SDR 219, effective June 26, 2012; 41 SDR 119, effective February 11, 2015; 43 SDR 85, effective December 12, 2016; 46 SDR 46, effective October 8, 2019; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9.

**12:05:01:02.  Buttermilk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:03.  Concentrated milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:04.  Cottage cheese and creamed cottage cheese.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:05.  Cream.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:06.  Cultured buttermilk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:07.  Cultured milk and cultured whole milk buttermilk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:08.  Eggnog.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:09.  Eggnog flavored lowfat milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:10.  Eggnog flavored milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:11.  Eggnog flavored skim milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:12.  Flavored milk and milk products.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:13.  Fortified milk and milk products.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:14.  Frozen milk concentrate.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:15.  Goat milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:16.  Grade A dry milk products.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:17.  Half and half.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:18.  Heavy cream and heavy whipping cream.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:19.  Homogenized milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:20.  Light cream.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:21.  Light whipping cream.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:22.  Lowfat cottage cheese.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 17 SDR 204, effective July 8, 1991; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:23.  Lowfat milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998

**12:05:01:24.  Milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 25 SDR 85, effective December 20, 1998; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:01:25.  Pasteurization.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 25 SDR 85, effective December 20, 1998; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:01:26.  Sanitization.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 28 SDR 77, effective June 27, 2002.

**12:05:01:27.  Skim milk and skimmed milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998

**12:05:01:28.  Sour cream and cultured sour cream.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:29.  Sour half and half and cultured half and half.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:30.  Vitamin D milk and milk products.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:31.  Whipped cream.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:32.  Whipped light cream.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:33.  Yogurt.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:34.  Acidified buttermilk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:35.  Acidified milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:36.  Acidified lowfat milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:37.  Acidified sour cream.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:38.  Acidified sour half and half.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:39.  Cottage cheese dry curd.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:40.  Cultured lowfat milk.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:41.  Lowfat yogurt.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:42.  Nonfat yogurt.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:43.  Ultrapasteurized.** Repealed.

**Source:** 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:01:44.  Reduced cholesterol lowfat milk.** Repealed.

**Source:** 17 SDR 204, effective July 8, 1991; repealed, 25 SDR 85, effective December 20, 1998.

**12:05:01:45.  Interstate milk shipper ratings.** Repealed.

**Source:** 25 SDR 85, effective December 20, 1998; repealed, 28 SDR 177, effective June 27, 2002.

**CHAPTER 12:05:02**

**ADULTERATED OR MISBRANDED MILK**

Section

12:05:02:01 Adulterated or misbranded milk or milk products.

**12:05:02:01.  Adulterated or misbranded milk or milk products.** A person may not, within the state, produce, provide, sell, offer, or expose for sale or have in possession with the intent to sell any milk or milk product which is adulterated or misbranded.

**Source:** SL 1975, ch 16, § 1; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 28 SDR 177, effective June 27, 2002.

**General Authority:** SDCL 39-6-9(1).

**Law Implemented:** SDCL 39-1-14, 39-1-15, 39-1-16.

**Note:** Federal Food, Drug and Cosmetic Act, as amended to April 1, 2002, Sections 402 and 403.

**CHAPTER 12:05:03**

**PERMITS TO PRODUCE OR PROCESS**

Section

12:05:03:01 Permit required to produce or process milk and milk products.

12:05:03:02 Suspension and revocation of permit -- Procedure.

12:05:03:03 Reinstatement of permit -- Suspension due to quality standards.

12:05:03:04 Reinstatement of permit -- Suspension due to other than quality standards.

12:05:03:05 Change of milk plant – Transfer procedure.

12:05:03:06 License for dairy fieldman.

12:05:03:07 Responsibilities of dairy fieldman.

**12:05:03:01.  Permit required to produce or process milk and milk products.** No person may sell, offer or expose for sale any milk or milk products labeled Grade A unless the milk or milk products have been produced and processed by a person having a permit issued by the secretary.

**Source:** SL 1975, ch 16, § 1; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 41 SDR 119, effective February 11, 2015.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9.

**12:05:03:02.  Suspension and revocation of permit -- Procedure.** The secretary shall suspend a permit under any of the following conditions:

(1)  If the secretary has reason to believe that milk or milk products may contain one or more of the following:

(a)  Toxins;

(b)  Pathogenic organisms;

(c)  Chemical residues;

(d)  Any other substance hazardous to public health; or

(e)  Any violative drug residue;

(2)  If the permit holder has violated any of the requirements of this article; or

(3)  If the permit holder has interfered with the secretary in the performance of duties.

In all cases described in this section, except where the milk or milk product involved creates or appears to create an imminent hazard to public health, and in all cases of willful refusal to permit an authorized inspection, the secretary shall serve upon the holder a written notice of intent to suspend the permit before making any order of suspension effective. The notice shall specify the violation in particular and shall give the holder a reasonable opportunity to correct the violation, as agreed to by both parties or as fixed by the secretary in the absence of agreement. The inspection report required in the Grade "A" Pasteurized Milk Ordinance may serve as written notice. A permit suspension shall remain in effect until the violation has been corrected to the satisfaction of the secretary. Upon repeated violation, the secretary may revoke the permit in accordance with SDCL 40-32-10.5. This section does not preclude the institution of court action.

**Source:** SL 1975, ch 16, § 1; 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002; 46 SDR 46, effective October 8, 2019.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9, 39-6-15, 39-6-16.

**12:05:03:03.  Reinstatement of permit -- Suspension due to quality standards.** If a permit suspension is due to a violation of any bacterial, coliform, or cooling temperature standards, the secretary shall issue a temporary permit upon receipt of a written application for reinstatement of permit and an inspection of the facilities and operating methods to determine that the conditions responsible for the violation have been corrected and resampling indicates that the milk or milk product is within acceptable limits. Samples shall then be taken at the rate of at least one per week within a three-week period, and the secretary shall reinstate the permit upon compliance with the appropriate standard as determined in accordance with the Grade "A" Pasteurized Milk Ordinance. Any sample not in compliance within the three-week period shall result in an automatic suspension.

If a permit suspension is due to a violation of the somatic cell count standard, the secretary shall issue a temporary permit if a resampling of the herd's milk supply indicates the milk supply to be within acceptable limits. Samples must then be taken at the rate of two per week, on separate days, within a three-week period. Any sample not in compliance within the three-week period shall result in an automatic suspension.

If a permit suspension is due to positive drug residues, the secretary shall issue a 15-day temporary permit after a representative sample taken from the producer's milk is no longer positive for drug residue. The producer's permit must be a full Grade "A" permit if the department receives within 15 days a follow-up inspection conducted by the secretary detailing the cause of the producer's drug residue, actions taken to prevent future violations including on farm changes in procedures necessary to prevent future occurrences, and discussion and education of drug residue avoidance control measures.

If the department fails to receive the completed follow-up inspection signed by the producer and the secretary within 15 days, the producer's Grade "A" temporary permit is automatically suspended until the department receives the completed and signed follow-up inspection.

**Source:** SL 1975, ch 16, § 1; 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002; 30 SDR 203, effective June 24, 2004; 43 SDR 85, effective December 12, 2016; 46 SDR 46, effective October 8, 2019.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9, 39-6-15, 39-6-16.

**12:05:03:04.  Reinstatement of permit -- Suspension due to other than quality standards.** If the permit suspension is due to a violation of a requirement other than the bacteriological, coliform, cooling temperature, or somatic cell count standards, the application for reinstatement of permit shall contain a written statement to the effect that the violation has been corrected. After receipt of the application, the secretary shall inspect the applicant's establishment and shall make as many additional inspections as necessary to determine that the applicant's establishment is complying with the requirements. When the findings justify, the permit shall be reinstated.

**Source:** SL 1975, ch 16, § 1; 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002; 30 SDR 203, effective June 24, 2004.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9, 39-6-15, 39-6-16.

**12:05:03:05.  Change of milk plant – Transfer procedure.** Before a producer discontinues milk delivery at one plant and begins delivery to a different plant for any reason, the producer shall furnish the dairy fieldman of the plant to which the milk is intended to be transferred a completed and signed transfer form prescribed by the secretary. After receiving the transfer form from the producer, the dairy fieldman shall deliver the transfer form to the local inspector and telephone the secretary to inquire about the producer's quality and inspection records. No transfer may be made if the latest quality tests do not meet the standards listed in the Grade "A" Pasteurized Milk Ordinance or if the producer's permit is suspended. The transfer may take place after the secretary's approval.

**Source:** 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9, 39-6-12.

**12:05:03:06.  License for dairy fieldman.** A person must pass a written examination under supervision of the secretary, demonstrate the ability to collect an official farm bulk tank milk sample, and demonstrate the ability to perform manufacturing grade farm certifications before the secretary grants the person a dairy fieldman's license. To retain a license, a dairy fieldman must attend an annual seminar approved by the department.

**Source:** 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9, 39-6-13.

**12:05:03:07.  Responsibilities of dairy fieldman.** In addition to making manufacturing grade farm inspections when requested to do so by the secretary, a dairy fieldman is responsible to the secretary and shall provide assistance to the milk plant's dairy producers in maintaining compliance with the Grade "A" Pasteurized Milk Ordinance. These responsibilities include the following:

(1)  Collecting dairy farm water samples;

(2)  All matters relating to the transferring of milk producers to or from another dairy plant and notifying the secretary to obtain approval before the transfer takes place;

(3)  Furnishing to the secretary, upon request, any reports and records that may be needed for the enforcement of this article;

(4)  Surveillance of bulk milk haulers for correct sampling procedures and bulk milk trucks for cleanliness and sanitation; and

(5)  Collecting farm bulk tank milk samples for official analysis.

**Source:** 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9, 39-6-12.

**CHAPTER 12:05:04**

**LABELING AND PACKAGING**

(Repealed. 28 SDR 177, effective June 27, 2002)

**CHAPTER 12:05:05**

**INSPECTION OF DAIRY FARMS AND PLANTS**

(Repealed. 28 SDR 177, effective June 27, 2002)

**CHAPTER 12:05:06**

**EXAMINATION OF MILK AND PRODUCTS**

Section

12:05:06:01 Minimum samples required.

12:05:06:02 Required tests on raw and processed milk and milk product samples.

12:05:06:03 Repealed.

12:05:06:04 Repealed.

12:05:06:05 Sampling and testing when payment is based on milk fat content.

12:05:06:06 Retail sampling.

**12:05:06:01.  Minimum samples required.** Monthly samples of raw milk for processing must be taken from each producer and monthly samples of raw milk for processing must be taken from each milk plant after receipt of the milk by the milk plant and before processing. In addition, during any consecutive six months, at least four samples of processed milk and at least four samples of each milk product must be taken from every milk plant. Samples of milk and milk products must be taken while they are in possession of the producer, processor, or distributor at any time before final delivery. Samples of milk and milk products from dairy retail stores, food service establishments, grocery stores, and other places where milk products are sold shall be examined as determined by the secretary. The results of such examinations must be used to determine compliance with the Grade "A" Pasteurized Milk Ordinance and this chapter. Proprietors of such establishments shall furnish the secretary, on request, with the names of all the distributors from whom the milk or milk products are obtained.

**Source:** SL 1975, ch 16, § 1; 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002; 35 SDR 183, effective February 2, 2009; 46 SDR 46, effective October 8, 2019.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-6, 39-6-9, 39-6-11.

**12:05:06:02.  Required tests on raw and processed milk and milk product samples.** Bacterial counts and cooling temperature checks required by the Grade "A" Pasteurized Milk Ordinance must be performed on raw milk held for processing. The required drug test, bacteria counts, somatic cell counts, and cooling temperature checks must be conducted on each producer's raw milk at least once each month. The antibiotic, pesticide, or other adulterant tests may be conducted on a commingled raw milk sample in lieu of an individual producer's sample, if all producers are represented in the milk sample. Examinations and tests to detect pesticides, herbicides, or other adulterants, may be conducted as the secretary requires. Bacterial counts, coliform determinations, phosphatase, and cooling temperature checks required by the Grade "A" Pasteurized Milk Ordinance shall be performed on processed milk and milk products. The cost of sampling, transportation, and analysis of producer milk is the responsibility of the milk buyer.

**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; 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002; 30 SDR 203, effective June 24, 2004; 35 SDR 183, effective February 2, 2009; 46 SDR 46, effective October 8, 2019.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9.

**12:05:06:03.  Enforcement procedures when samples are in violation.** Repealed.

**Source:** SL 1975, ch 16, §  1; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:06:04.  Official laboratory to analyze samples according to designated procedures.** Repealed.

**Source:** SL 1975, ch 16, § 1; 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 25 SDR 85, effective December 20, 1998; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:06:05.  Sampling and testing when payment is based on milk fat content.** When payment is made based on the milk fat content in milk purchased from a producer, the procedures for sampling and testing shall follow procedures established in chapter 12:17:05.

**Source:** SL 1975, ch 16, § 1; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9.

**12:05:06:06.  Retail sampling.** Bacterial counts, phosphatase, butterfat, and total solids/moisture testing must be performed on milk and milk products that are sampled at retail stores and other places as determined by the secretary. The results of such examinations must be determined by using validated test methods found in Standard Methods for the Examination of Dairy Products Official Methods for Analysis and by standards found in the Grade A Pasteurized Milk Ordinance and 21 CFR §131 to determine compliance. If two of the last four consecutive samples exceeded the standards, the secretary shall send a written notice to the manufacturer concerned. The notice must remain in effect as long as two of the last four samples exceed the limit of the standard. An additional sample must be taken to determine compliance. Immediate suspension of the permit must be instituted if three of the last five consecutive samples exceed the standard. When public health is in imminent danger due to high coliform counts or positive phosphatase, or any adulterant, the secretary shall immediately suspend sale of the product in violation. The secretary shall direct the procedure to reinstate these products.

**Source:** 35 SDR 183, effective February 2, 2009; 36 SDR 208, effective June 29, 2010; 38 SDR 219, effective June 26, 2012; 41 SDR 119, effective February 11, 2015; 46 SDR 46, effective October 8, 2019.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9, 39-6-10.

**CHAPTER 12:05:07**

**STANDARDS FOR MILK AND MILK PRODUCTS**

Section

12:05:07:01 Repealed.

12:05:07:02 Repealed.

12:05:07:03 Repealed.

12:05:07:04 Milk storage tank location and clearance.

12:05:07:05 Truck approach at point of loading.

12:05:07:06 Repealed.

12:05:07:07 Repealed.

12:05:07:08 Repealed.

12:05:07:09 Repealed.

12:05:07:10 Pasteurization required.

**12:05:07:01.  Chemical, bacteriological, and temperature standards for Grade A milk and milk products.** Repealed.

**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; 18 SDR 103, effective December 22, 1991; 20 SDR 109, effective January 19, 1994; 22 SDR 166, effective June 6, 1996; 25 SDR 85, effective December 20, 1998; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:07:02.  Abnormal milk standard.** Repealed.

**Source:** SL 1975, ch 16, § 1; 12 SDR 102, effective December 25, 1985; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 20 SDR 109, effective January 18, 1994; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:07:03.  Sanitation requirements for Grade A raw milk for pasteurization.** Repealed.

**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; 18 SDR 103, effective December 22, 1991; 20 SDR 109, effective January 18, 1994; 22 SDR 166, effective June 6, 1996; 25 SDR 85, effective December 20, 1998; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:07:04.  Milk storage tank location and clearance.** The milk storage tank shall be located in the milkhouse to provide the following clearance:

(1)  The working side shall be 36 inches from the wall or other equipment;

(2)  The outlet valve end shall be 36 inches from the wall or other equipment;

(3)  The side opposite the outlet valve end shall be 24 inches from the wall or other equipment; and

(4)  The rear side shall be 24 inches from the wall or other equipment.

**Source:** SL 1975, ch 16, § 1; 7 SDR 34, effective October 13, 1980; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 28 SDR 177, effective June 27, 2002; 30 SDR 203, effective June 24, 2004.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9(9).

**12:05:07:05.  Truck approach at point of loading.** The truck approach at the point of loading shall be graded and surfaced to prevent the pooling of water and to effectively protect the milk conducting hose from contamination. The area shall be provided with a concrete slab not less than four feet by eight feet centrally located adjacent to and below the port opening. The truck approach may not be located in a yard, walkway, or holding area where cattle can congregate.

**Source:** SL 1975, ch 16, § 1; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9(9).

**12:05:07:06.  Hand washing facilities.** Repealed.

**Source:** SL 1975, ch 16, § 1; 12 SDR 128, 12 SDR 154, effective July 1, 1986; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:07:07.  Sanitation requirements for Grade A pasteurized milk and milk products.** Repealed.

**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; 18 SDR 103, effective December 22, 1991; 20 SDR 109, effective January 18, 1994; 22 SDR 166, effective June 6, 1996; 25 SDR 85, effective December 20, 1998; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:07:08.  Manufacturers of single service containers and closures.** Repealed.

**Source:** 25 SDR 85, effective December 20, 1998; repealed, 28 SDR 177, effective June 27, 2002

**12:05:07:09.  Manufacturers of Grade A condensed and dry milk products and condensed and dry whey.** Repealed.

**Source:** 25 SDR 85, effective December 20, 1998; repealed, 28 SDR 177, effective June 27, 2002.

**12:05:07:10.  Pasteurization required.** No milk products may be manufactured or distributed for human use or consumption within this state unless the milk and fluid milk products used in the manufacture of such food products are pasteurized in equipment approved by the secretary. This restriction does not apply to cheese that has been cured for at least 60 days after manufacture at a temperature no lower than 35 degrees Fahrenheit and bottled raw milk for human consumption pursuant to ARSD 12:81, or raw milk sold direct to the consumer for human consumption pursuant to SDCL 39-6-3. All bulk shipped milk and milk products that have been previously pasteurized or heat treated shall be repasteurized in the plant of final processing and packaging or as deemed necessary by the department.

**Source:** 25 SDR 85, effective December 20, 1998; 28 SDR 177, effective June 27, 2002; 30 SDR 203, effective June 24, 2004; 38 SDR 219, effective June 26, 2012; 41 SDR 119, effective February 11, 2015.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9.

**CHAPTER 12:05:08**

**ANIMAL HEALTH REQUIREMENTS**

(Repealed. 28 SDR 177, effective June 27, 2002)

**CHAPTER 12:05:09**

**RESTRICTION ON USE OF CONTAINERS**

(Repealed. 28 SDR 177, effective June 27, 2002)

**CHAPTER 12:05:10**

**UNINSPECTED MILK**

(Repealed. 28 SDR 177, effective June 27, 2002)

**CHAPTER 12:05:11**

**FARM AND PLANT CONSTRUCTION**

(Repealed. 28 SDR 177, effective June 27, 2002)

**CHAPTER 12:05:12**

**HEALTH OF PERSONNEL**

(Repealed. 28 SDR 177, effective June 27, 2002)

**CHAPTER 12:05:13**

**STANDARDS, TESTS, AND METHODS**

(Repealed. 28 SDR 177, effective June 27, 2002)

**CHAPTER 12:05:14**

**ADOPTION OF DOCUMENTS AND MINIMUM REQUIREMENTS**

Section

12:05:14:01 Minimum requirements.

12:05:14:02 Sanitation ratings and interstate certification.

12:05:14:03 Official tests.

**12:05:14:01.  Minimum requirements.** The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products and the inspection and suspension of permits for dairy farms, milk plants, receiving and transfer stations, milk tank truck cleaning facilities, milk tank trucks, bulk milk hauler/sampler, and single-service manufacturing plants must be regulated in accordance with the provisions of the Grade A Pasteurized Milk Ordinance, except sections 16 and 17.

**Source:** 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; 36 SDR 208, effective June 29, 2010; 38 SDR 219, effective June 26, 2012; 41 SDR 119, effective February 11, 2015; 43 SDR 85, effective December 12, 2016; 46 SDR 46, effective October 8, 2019.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9, 39-6-10, 39-6-11, 39-6-15, 39-6-16.

**Reference:** **Grade A Pasteurized Milk Ordinance,** 2017, entire portion, 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, 5001 Campus Drive, College Park, MD 20740-3835; no charge. This request must include a self-return label.

**12:05:14:02.  Sanitation ratings and interstate certification.** Procedures and methods for certification of interstate milk shippers and for sanitation ratings must be conducted in accordance with Methods of Making Sanitation Ratings of Milk Shippers, Evaluation of Milk Laboratories, and Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments.

**Source:** 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; 36 SDR 208, effective June 29, 2010; 38 SDR 219, effective June 26, 2012; 41 SDR 119, effective February 11, 2015; 43 SDR 85, effective December 12, 2016; 46 SDR 46, effective October 8, 2019.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9, 39-6-10.

**Reference: Methods of Making Sanitation Ratings of Milk Shippers**, 2017 revision, entire portion, 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, 5001 Campus Drive, College Park, MD 20740-3835; no charge. This request must include a self-return label.

**Evaluation of Milk Laboratories**, 2017 Revision, entire portion, 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, 5001 Campus Drive, College Park, MD 20740-3835; no charge. This request must include a self-return label.

**Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments**, 2017 revision, entire portion, 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, 5001 Campus Drive, College Park, MD 20740-3835; no charge. This request must include a self-return label.

**12:05:14:03.  Official tests.** Tests performed pursuant to this title must be performed by official laboratories and must be approved by the department and in accordance with Standard Methods for the Examination of Dairy Products and Official Methods of Analysis.

**Source:** 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; 36 SDR 208, effective June 29, 2010; 38 SDR 219, effective June 26, 2012; 41 SDR 119, effective February 11, 2015; 43 SDR 85, effective December 12, 2016; 46 SDR 46, effective October 8, 2019.

**General Authority:** SDCL 39-6-9.

**Law Implemented:** SDCL 39-6-9.

**Reference: Standard Methods for the Examination of Dairy Products**, 17th edition, 2004, entire portion, H. Michael Wehr, Ph.D. and Joseph F. Frank, Ph.D., Editors, American Public Health Association, Washington, D.C. Copies may be obtained from the American Public Health Association, 1015 15th Street, N.W., Washington, D.C. 20005-2699.

**Official Methods of Analysis**, 19th edition, 2012, entire portion, Association of Official Analytical Chemists, Gaithersburg, MD. Copies may be obtained from the Association of Official Analytical Chemists International, Customer Services, 481 N. Frederick Ave., Suite 500, Gaithersburg, MD 20877-2417.

**CHAPTER 12:05:15**

**RAW MILK ASSESSMENT FEE**

Section

12:05:15:01 Raw milk assessment fee.

**12:05:15:01.  Raw milk assessment fee.** Each licensed milk buyer in the state shall pay to the secretary on or before the 15th of each month a fee of 0.7 of a cent per hundred weight of all milk purchased from producers within the state the previous month. Funds collected pursuant to this section shall be deposited in the dairy inspection fund established pursuant to SDCL 40-32-29.

**Source:** 36 SDR 100, effective December 14, 2009.

**General Authority:** SDCL 40-32-25.

**Law Implemented:** SDCL 40-32-25.