

CHAPTER 192

GRADE "A" MILK INSPECTION

Referred to in §190.1, 190.2, 191.2, 191.4

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GENERAL PROVISIONS

192.1 through 192.100 Reserved.

192.101 Short title.

This chapter shall be known and may be cited as the "Iowa Grade 'A' Milk Inspection Law". 91 Acts, ch 74, §11

192.101A Definitions.

As used in this chapter, all terms shall have the same meaning as defined in the "Grade 'A' Pasteurized Milk Ordinance" as provided in section 192.102. However, notwithstanding the ordinance, the following definitions shall apply:

1. "Bulk milk tanker" means a mobile bulk container used to transport milk or fluid milk products from a dairy farm to a milk plant or from a milk plant to another milk plant, including an over-the-road semitrailer or a tanker that is permanently mounted on a motor vehicle.

2. "Milk grader" means a person, including dairy industry milk intake personnel, other than a milk hauler, who collects a milk sample from a bulk tank or a bulk milk tanker.

3. “*Milk hauler*” means a person who takes farm samples or transports raw milk or raw milk products to or from a milk plant, receiving station, or transfer station, including a dairy industry milk field person. However, a milk hauler does not include a person who drives a bulk milk tanker, if the person does not take a milk sample or handle raw milk or raw milk products.

97 Acts, ch 94, §1; 2001 Acts, ch 129, §3; 2003 Acts, ch 44, §44; 2004 Acts, ch 1082, §12

Referred to in §194.3

[P] Further definitions, see §189.1, 191.4(2)

192.102 Grade “A” pasteurized milk ordinance.

The department shall adopt, by rule, the “Grade ‘A’ Pasteurized Milk Ordinance, 2005 Revision”, including a subsequent revision of the ordinance. If the ordinance specifies that compliance with a provision of the ordinance’s appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

91 Acts, ch 74, §12; 94 Acts, ch 1198, §39; 97 Acts, ch 33, §6; 2001 Acts, ch 129, §4; 2003 Acts, ch 44, §45; 2004 Acts, ch 1082, §13; 2006 Acts, ch 1030, §19

Referred to in §189.1, 190.14, 191.9, 192.101A, 192.110, 194.3

192.103 Sale of grade “A” milk to final consumer — impoundment of adulterated or misbranded milk.

Only grade “A” pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments; except in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the secretary, in which case, such products shall be labeled “ungraded”.

No person shall within the state produce, provide, sell, offer, or expose for sale, or have in possession with intent to sell, any milk or milk product which is adulterated or misbranded; except, in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the secretary, in which case such products shall be labeled “ungraded”.

Any adulterated or misbranded milk or milk product may be impounded by the secretary or authorized municipal corporation and disposed of in accordance with applicable laws or regulations.

[C24, 27, 31, 35, 39, §3077; C46, 50, 54, 58, 62, 66, §192.10; C71, 73, 75, 77, 79, 81, §192.11]

88 Acts, ch 1152, §2; 91 Acts, ch 74, §14

CS91, §192.103

192.104 Coloring rejected milk.

A milk hauler or a milk grader may mix a harmless coloring matter in rejected milk to prevent the rejected milk from being offered for sale.

[C54, 58, 62, 66, §192.41; C71, 73, 75, 77, 79, 81, §192.64]

CS91, §192.104

97 Acts, ch 94, §2

192.105 and 192.106 Reserved.

PERMITS — INSPECTIONS

192.107 Milk or milk products permit.

A person who does not possess a permit issued by the department shall not bring, send, or receive into the state for sale, or sell, offer for sale, or store any milk or milk product as provided in this chapter and in chapters 190 and 191. However, the department may exempt

from this requirement grocery stores, restaurants, soda fountains, or similar establishments where milk or a milk product is served or sold at retail, but not processed.

Only a person who complies with the requirements of this chapter and chapters 190 and 191 shall be entitled to receive and retain a permit from the department. Permits shall not be transferable with respect to persons or locations.

The department shall suspend a permit whenever there is reason to believe that a public health hazard exists, whenever the permit holder has violated any of the requirements of this chapter, chapter 190, or chapter 191, or whenever the permit holder has interfered with the department in the performance of its duties. However, where the milk or milk product involved creates, or appears to create, an imminent hazard to the public health, or in any case of a willful refusal to permit authorized inspection, the department shall serve upon the holder a written notice of intent to suspend the permit. The notice shall specify with particularity the violations in question and afford the holder such reasonable opportunity to correct such violations as may be agreed to by the parties, or in the absence of agreement, established by the secretary before making any order of suspension effective. A suspension of permit shall remain in effect until the violation has been corrected to the satisfaction of the department. As used in this section, the terms "*public health hazard*" and "*imminent hazard*" shall be defined by rules adopted by the department. The rules shall include examples of public health hazards and imminent hazards.

Upon written application of any person whose permit has been suspended, or upon application within forty-eight hours of any person who has been served with a notice of intention to suspend, and in the latter case before suspension, the department shall within seventy-two hours proceed to a hearing to ascertain the facts of such violation or interference and upon evidence presented at such hearing shall affirm, modify, or rescind the suspension or intention to suspend.

Upon repeated violation, the department may revoke a permit following reasonable notice to the permit holder and an opportunity for a hearing. This section is not intended to preclude the institution of a court action provided in this chapter, chapter 190, or chapter 191.

The provisions of this section are intended for the regulation of the production, processing, labeling, and distribution of grade "A" milk and grade "A" milk products under sanitary requirements which are uniform throughout the state.

[C71, 73, 75, 77, 79, 81, §192.5]

91 Acts, ch 74, §13

CS91, §192.107

Referred to in §192.108, 192.109, 192.110

192.108 Administration of the chapter — inspections required.

The department shall administer this chapter and rules adopted pursuant to this chapter. The department is responsible for the inspection of a dairy farm, milk plant, transfer station, or receiving station to ensure compliance with this chapter and chapters 190 and 191. The department may enter into an inspection contract with a person qualified to perform inspection services if the agreement for the services is cost-effective and the quality of inspection ensures compliance with state and federal law. A person entering into an inspection contract with the department for the purpose of inspecting premises, taking samples, or testing samples, shall be deemed to be an agent of the department, and shall have the same authority under this chapter provided to the department, unless the contract specifies otherwise. The department shall review inspection services performed by a person under an inspection contract to ensure quality cost-effective inspections. If a person is acting in a manner which is inconsistent with the provisions of the applicable chapter or contract, the department may revoke the inspection contract after notice and hearing, in the manner described for permit revocation in section 192.107 and perform such acts as are necessary to enforce this chapter. Except as provided in this chapter or chapter 194, a person shall not charge a milk plant, receiving station, or transfer station a fee for inspection relating to milk or milk products.

88 Acts, ch 1152, §6

C89, §192.48

91 Acts, ch 74, §19

CS91, §192.108

97 Acts, ch 94, §3

Referred to in §190.14, 191.9, 192.110

192.109 Certification of grade “A” label.

The department of agriculture and land stewardship shall annually survey and certify all milk labeled grade “A” pasteurized and grade “A” raw milk for pasteurization, and, in the event a survey shows the requirements for production, processing, and distribution for such grade are not being complied with, the fact thereof shall be certified by the department to the secretary of agriculture who shall proceed with the provisions of section 192.107 for suspending the permit of the violator or who, if the secretary did not issue such permit, shall withdraw the grade “A” declared on the label.

[C71, 73, 75, 77, 79, 81, §192.31]

CS91, §192.109

2011 Acts, ch 89, §1

[SP] Continuing effectiveness of rules, regulations, forms, orders, or directives promulgated by department of public health until amended, repealed, or supplemented by department of agriculture and land stewardship; effect on administrative hearing or court proceeding arising out of pending enforcement action or cause of action or statute of limitations relating to action taken by department of public health; transfer of personnel; replacement of signs and related items; 2011 Acts, ch 89, §2

192.110 Rating required to receive or retain a permit.

A person shall not receive or retain a permit under section 192.107, unless both of the following conditions are satisfied:

1. The person has a pasteurized milk and milk products sanitation compliance rating of ninety percent or more as calculated according to the rating system as contained in the federal public health service publications, “Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers 2003” and “Method of Making Sanitation Ratings of Milk Supplies, 2003 Revision”. The applicable provisions of these publications are incorporated into this section by this reference. A copy of each publication shall be on file with the department or in the office of the person subject to an inspection contract as provided in section 192.108.

2. The facilities and equipment used to produce, store, or transport milk or milk products comply with requirements of the “Grade ‘A’ Pasteurized Milk Ordinance” as provided in section 192.102.

[C71, 73, 75, 77, 79, 81, §192.33; 81 Acts, ch 72, §6]

90 Acts, ch 1168, §33; 91 Acts, ch 74, §18

CS91, §192.110

93 Acts, ch 132, §1; 94 Acts, ch 1198, §40; 97 Acts, ch 33, §7; 97 Acts, ch 94, §4; 2001 Acts, ch 129, §5; 2003 Acts, ch 44, §46; 2004 Acts, ch 1082, §14

192.111 Permit and inspection fees — deposit in general fund — appropriation.

1. The department shall issue and renew permits under this subsection as provided by rules adopted by the department. A permit, unless earlier revoked, is valid until the second July 1 following the issuance or renewal. The department shall establish and assess the fees for the issuance and renewal of permits annually as provided in this subsection. A permit fee for the renewal period shall be due on the date that the permit expires. Except as otherwise provided in this section, all of the following shall apply:

a. The following persons must receive a permit from and pay an accompanying permit fee to the department:

(1) A milk plant other than a receiving station which must obtain a milk plant permit and pay a permit fee not greater than two thousand dollars.

(2) A transfer station which must obtain a transfer station permit and pay a permit fee not greater than four hundred dollars.

(3) A receiving station other than a milk plant which must obtain a receiving station permit and pay a permit fee of not greater than four hundred dollars.

(4) A milk hauler which must obtain a milk hauler permit and pay a permit fee not greater than twenty dollars.

(5) A milk grader which must obtain a milk grader permit and pay a license fee not greater than twenty dollars.

b. A bulk milk tanker must operate pursuant to a bulk milk tanker permit obtained from the department. The person obtaining the permit must pay a permit fee not greater than fifty dollars.

c. The following fees, which shall be in addition to any fee required to accompany a permit as required in this section, shall be assessed:

(1) A reinspection fee that shall be paid by a person holding a permit under this subsection for which reinspection is required as a condition of retaining the permit. The amount of the reinspection fee shall not be more than forty dollars for each such reinspection.

(2) A resealing fee that shall be paid by a person holding a milk plant permit, for resealing a milk plant's pasteurizer. The amount of the resealing fee shall not be more than one hundred dollars for each such resealing.

d. A person who renews a permit and submits any accompanying renewal fee under this subsection more than thirty days after the date that the renewal period expires shall pay a late fee. The amount of the late fee shall be equal to ten percent of the permit renewal fee. However, in no instance shall the late fee be less than twenty-five dollars.

2. A purchaser of milk from a grade "A" milk producer shall pay an inspection fee not greater than one point five cents per hundredweight. The fee shall be payable monthly to the department in a manner prescribed by the secretary.

3. a. Fees collected under this section and section 194.20 shall be deposited in the general fund of the state. All moneys deposited under this section are appropriated to the department for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and chapter 194, and shall be subject to the requirements of section 8.60.

b. In each fiscal year, the secretary shall calculate the balance of funds deposited under this section by subtracting all moneys expended for the costs of inspection, sampling, analysis and other expenses necessary for the administration of this chapter and chapter 194. If the calculation shows a balance of funds deposited under this section on June 30 of any fiscal year equal to or exceeding one hundred fifty thousand dollars, the secretary shall reduce the fees provided for in subsection 2 of this section and section 194.20 for the next fiscal year in an amount which will result in an ending estimated balance of such funds for June 30 of the next fiscal year of one hundred fifty thousand dollars.

88 Acts, ch 1152, §5

C89, §192.47

91 Acts, ch 260, §1214

CS91, §192.111

92 Acts, ch 1163, §46; 93 Acts, ch 131, §5; 94 Acts, ch 1107, §38; 97 Acts, ch 94, §5; 2002 Acts, ch 1148, §1, 2, 11

Referred to in §192.113, 194.3A, 194.18, 194.20

192.112 Regulation — milk haulers, milk graders, and bulk milk tankers.

The department shall adopt rules pursuant to chapter 17A which provide standards for milk haulers, milk graders, and bulk milk tankers. The standards shall include, but need not be limited to, all of the following:

1. The construction of bulk milk tankers.
 2. The cleaning, maintenance, and sanitization of bulk milk tankers.
 3. Recordkeeping relating to the use and cleaning of bulk milk tankers.
 4. Supplies needed to perform the duties of milk hauling and milk grading.
 5. Proper milk hauling and milk grading procedures, including but not limited to sanitation, the examination and measurement of milk, the handling of milk, and the taking and handling of milk samples.
 6. Recordkeeping required for milk haulers and milk graders.
 7. Ongoing training requirements, if any, for milk haulers and milk graders.
- 97 Acts, ch 94, §6; 2002 Acts, ch 1148, §3, 11

192.113 Penalties.

1. *a.* A person shall not act as a milk hauler unless the person holds a milk hauler permit required pursuant to section 192.111. A person shall not solicit another person to act as a milk hauler or procure the services of a person to act as a milk hauler unless the person solicited or from whom the services are procured holds a milk hauler permit.

b. A person shall not act as a milk grader unless the person holds a milk grader permit required pursuant to section 192.111. A person shall not solicit another person to act as a milk grader or procure the services of a person to act as a milk grader unless the person solicited or from whom the services are procured holds a milk grader permit.

c. A person shall not operate a bulk milk tanker unless the bulk milk tanker operates pursuant to a bulk milk tanker permit required pursuant to section 192.111. A person shall not solicit another person to operate a bulk milk tanker or procure the services of a person to operate a bulk milk tanker unless the bulk milk tanker operates pursuant to a bulk milk tanker permit.

2. A person who violates this section is subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars for each violation. Each day that a violation continues shall constitute a new violation. However, a person shall not be subject to a civil penalty of more than ten thousand dollars for a continuing violation. Civil penalties shall be deposited in the general fund of the state.

97 Acts, ch 94, §7; 2002 Acts, ch 1148, §4, 11

Referred to in §194.25

192.114 Reserved.

SANITATION — LABORATORIES

192.115 Sanitary regulations.

Every person who deals in or manufactures dairy products or imitations thereof shall maintain the person's premises, utensils, wagons, and equipment in a clean and hygienic condition.

[C97, §2522; S13, §2522; C24, 27, 31, 35, 39, §3078; C46, 50, 54, 58, 62, 66, §192.11; C71, 73, 75, 77, 79, 81, §192.34]

CS91, §192.115

192.116 Bacteriologists.

The department of agriculture and land stewardship may employ dairy specialists or bacteriologists who shall devote their full time to the improvement of sanitation in the production, processing and marketing of dairy products. Said dairy specialists and bacteriologists shall have qualifications as to education and experience and such other requirements as the secretary may require.

[C46, 50, 54, 58, 62, 66, §192.12; C71, 73, 75, 77, 79, 81, §192.35]

CS91, §192.116

192.117 Duties.

Said dairy specialists and bacteriologists employed by the department shall cooperate with the dairy and food inspectors of the department and with the health departments of cities for sanitary control of the production, processing, and marketing of dairy products. The department shall provide adequate laboratory facilities for the efficient performance of their duties.

[C46, 50, 54, 58, 62, 66, §192.13; C71, 73, 75, 77, 79, 81, §192.36]

CS91, §192.117

192.118 Certified laboratories.

To insure uniformity in the tests and reporting, an employee certified by the United States public health service of the bacteriological laboratory of the department shall annually certify,

in accordance with the United States food and drug administration publication "Evaluation of Milk Laboratories" (1995 revision), all laboratories doing work in the sanitary quality of milk and dairy products for public report. The approval by the department shall be based on the evaluation of these laboratories as to personnel training, laboratory methods used, and reporting. The results on tests made by approved laboratories shall be reported to the department on request, on forms prescribed by the secretary of agriculture, and such reports may be used by the department.

The department shall annually certify, in accordance with the United States food and drug administration publication "Evaluation of Milk Laboratories" (1995 revision), every laboratory in the state doing work in the sanitary quality of milk and dairy products for public report. The certifying officer may enter any such place at any reasonable hour to make the survey. The management of the laboratory shall afford free access to every part of the premises and render all aid and assistance necessary to enable the certifying officer to make a thorough and complete examination.

[C54, 58, 62, 66, §192.40; C71, 73, 75, 77, 79, 81, §192.63]

CS91, §192.118

91 Acts, ch 74, §21; 97 Acts, ch 94, §8

192.119 and 192.120 Reserved.

CONTAINERS

192.121 Container defined.

As used in this chapter, "*container*" means a rigid or nonrigid receptacle, including but not limited to a can, bottle, case, paper carton, cask, keg, or barrel.

[C24, 27, 31, 35, 39, §3094; C46, 50, 54, 58, 62, 66, §192.33; C71, 73, 75, 77, 79, 81, §192.56]

CS91, §192.121

91 Acts, ch 74, §20

192.122 Milk bottles to be marked.

Bottles or jars used for the sale of milk shall have clearly blown or permanently marked in the side of the bottle, the capacity of the bottle, and on the bottom of the bottle the name, initials, or certification mark of the manufacturer. The designating number shall be furnished by the department on request.

[S13, §3009-k; C24, 27, 31, 35, 39, §3095; C46, 50, 54, 58, 62, 66, §192.34; C71, 73, 75, 77, 79, 81, §192.57]

CS91, §192.122

192.123 Adoption of brand.

With the approval of the department any person who deals in or transports milk, cream, skimmed milk, buttermilk, or ice cream may adopt a distinctive mark or brand to be placed upon any container owned or used by the person, and the same may be registered with the department.

[C24, 27, 31, 35, 39, §3096; C46, 50, 54, 58, 62, 66, §192.35; C71, 73, 75, 77, 79, 81, §192.58]

CS91, §192.123

192.124 Retention of marked container.

A person shall not, without the consent of the owner, retain for a longer period than three days a container bearing a registered mark, and any person receiving such a container shall immediately return it to the owner by a common carrier. A receipt from a common carrier is prima facie evidence that the container was returned.

[C24, 27, 31, 35, 39, §3097; C46, 50, 54, 58, 62, 66, §192.36; C71, 73, 75, 77, 79, 81, §192.59]

CS91, §192.124

92 Acts, ch 1076, §1; 95 Acts, ch 67, §14

192.125 Return of bottles.

Milk and cream bottles bearing registered marks shall be returned by delivering them to the owner or the owner’s agent in person or by leaving them where they may be picked up by the owner.

[C24, 27, 31, 35, 39, §3098; C46, 50, 54, 58, 62, 66, §192.37; C71, 73, 75, 77, 79, 81, §192.60] CS91, §192.125

192.126 Stray containers.

When any person comes into possession of a container bearing a registered mark which belongs to another whose name and address the person does not know, the person shall immediately notify the department in writing, giving the size, shape, and mark of the container. Upon receipt of shipping directions from the department the person shall at once forward the container by a common carrier, collect, to the address furnished. Milk or cream bottles need not be returned when the cost of return is greater than the market value of the bottles.

[C24, 27, 31, 35, 39, §3099; C46, 50, 54, 58, 62, 66, §192.38; C71, 73, 75, 77, 79, 81, §192.61] CS91, §192.126

192.127 Registered mark.

No person shall for any purpose use any registered mark or any container bearing such mark, or remove or alter any such mark placed upon a container without the consent of the owner.

[C24, 27, 31, 35, 39, §3100; C46, 50, 54, 58, 62, 66, §192.39; C71, 73, 75, 77, 79, 81, §192.62] CS91, §192.127

192.128 through 192.130 Reserved.

TESTING FOR MILK FAT

192.131 Repealed by 2002 Acts, ch 1148, § 9, 11.

192.132 Repealed by 2002 Acts, ch 1119, § 110; 2002 Acts, ch 1148, § 9, 11.

192.133 through 192.137 Repealed by 2002 Acts, ch 1148, § 9, 11.

192.138 through 192.140 Reserved.

COTTAGE CHEESE — BUTTER

192.141 Grade standards for cottage cheese.

The department may establish grade “A” standards for cottage cheese dry curd, cottage cheese, and low fat cottage cheese as a part of the ordinance required by this chapter. However, a governmental body, including the department, a county as provided in chapter 331, or a city as provided in chapter 364 shall not require a grade “A” rating for these products as a condition precedent to their sale.

[C71, 73, 75, 77, 79, 81, §192.30; 81 Acts, ch 72, §5] 88 Acts, ch 1152, §3; 90 Acts, ch 1168, §32; 91 Acts, ch 74, §15, 16, 25 CS91, §192.141

192.142 Repealed by 2002 Acts, ch 1148, § 9, 11.

192.143 Imitation butter.

Imitation butter shall be sold only under the name of oleomargarine, and no person shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any such product, the word "butter", "creamery", or "dairy", or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter.

[C97, §2517; C24, 27, 31, 35, 39, §3093; C46, 50, 54, 58, 62, 66, §192.31; C71, 73, 75, 77, 79, 81, §192.54]

CS91, §192.143

192.144 and 192.145 Reserved.

INJUNCTIONS

192.146 Injunction for violations.

A person who violates any provision of this chapter, chapter 190, or chapter 191, or a rule adopted under any of those chapters may be enjoined from continuing such violations. Each day upon which such a violation occurs constitutes a separate violation.

[C71, 73, 75, 77, 79, 81, §192.32]

91 Acts, ch 74, §17

CS91, §192.146