



EXPEDITED RULE MAKING

CR-105 (June 2024) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: July 30, 2025

TIME: 8:37 AM

WSR 25-16-047

Agency: Dept. of Agriculture

Title of rule and other identifying information: (describe subject) **Chapter 16-101 WAC—Washington State Milk and Milk Products Standards)**

Purpose of the proposal and its anticipated effects, including any changes in existing rules: In order to conform with federal standards, the Department is considering adopting: the most recent (2023) revision of the Grade 'A' Pasteurized Milk Ordinance (PMO); the "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments"; the "Methods of Making Sanitation Ratings of Milk Shippers and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers"; and the "Evaluation of Milk Laboratories".

Reasons supporting proposal: Adoption of these revisions will ensure that the milk and milk products produced in this state meet the latest standards and will assist in continued acceptance of Washington State milk and milk products shipped into other states and internationally.

Statutory authority for adoption: RCW 15.36.021

Statute being implemented: Chapter 15.36 RCW

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

Name of proponent: (person or organization) Washington State Dept. of Agriculture

☐ Private

☐ Public

☒ Governmental

Name of agency personnel responsible for:

Name

Office Location

Phone

Drafting: Kim King 1111 Washington Street SE, Olympia, WA 360-704-8736

Implementation: Wil Satak 1111 Washington Street SE, Olympia, WA 360-902-1876

Enforcement: Wil Satak 1111 Washington Street SE, Olympia, WA 360-902-1876

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- ☐ Relates only to internal governmental operations that are not subject to violation by a person;
- ☒ Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- ☐ Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- ☐ Content is explicitly and specifically dictated by statute;
- ☐ Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- ☐ Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- ☐ The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- ☐ The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- ☐ The rule is no longer necessary because of changed circumstances; or
- ☐ Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): The Grade 'A' Pasteurized Milk Ordinance (PMO); the "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments"; the "Methods of Making Sanitation Ratings of Milk Shippers and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers"; and the "Evaluation of Milk Laboratories" are federal regulations. Adopting the most recent version of these documents by reference qualifies for expedited rule making under RCW 34.05.353(1)(b).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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BEGINNING (date/time) July 31, 2025 8:00 AM **AND RECEIVED BY** (date/time) October 6, 2025 5:00PM

Date: July 30, 2025

Name: Luisa F. Castro

Title: Assistant Director

Signature:



WAC 16-101-701 Standards for the production of milk and milk products. (1) With the exception of the portions identified in subsection (2) of this section, the department adopts the Grade "A" Pasteurized Milk Ordinance, ((2017)) 2023 Revision, United States Public Health Service/Food and Drug Administration, as additional Washington state standards for the production of milk and milk products including Grade A condensed and dry milk products and condensed and dry whey products under chapter 15.36 RCW.

(2) The department does not adopt the following portions of the Grade "A" Pasteurized Milk Ordinance, ((2017)) 2023 Revision:

(a) Grade "A" Pasteurized Milk Ordinance - ((2017)) 2023 Revision.

PMO Page No.	Excepted Portion
Page 16	<ul style="list-style-type: none">Section 3, Permits, paragraph ((6)) <u>5</u>, which begins with "The regulatory agency shall suspend..."Section 3, Permits, paragraph ((7)) <u>6</u>, which begins with "Upon notification..."
Pages 28((-29))	<ul style="list-style-type: none">Section 6, The Examination of Milk and/or Milk Products, paragraph ((9)) <u>11</u>, which begins with "Whenever two (2) of the last four (4) consecutive..."
Page ((34)) <u>33</u>	<p>Section of Table 1 entitled "GRADE "A" RAW MILK AND MILK PRODUCTS FOR PASTEURIZATION, ULTRA-PASTEURIZATION, ASEPTIC PROCESSING AND PACKAGING, OR RETORT PROCESSED AFTER PACKAGING OR FERMENTED HIGH-ACID, SHELF-STABLE PROCESSING AND PACKAGING"</p> <ul style="list-style-type: none">Under Temperature: "Cooled to 10°C (50°F) or less within four (4) hours ((or less of the commencement of the first milking and to 7°C (45°F) or less within two (2) hours after the completion of milking)) after starting the milking operation. The milk shall then be cooled within two (2) more hours to 7°C (45°F) or less. Provided, that the blend temperature after the first milking and subsequent milkings does not exceed 10°C (50°F)."

PMO Page No.	Excepted Portion
	<p>Note: Milk sample submitted for testing cooled and maintained at 0°C (32°F) to 4.5°C (40°F), where sample temperature is > 4.5°C (40°F) but ≤7.0°C (45°F) and less than three (3) hours after collection has not increased in temperature;</p> <ul style="list-style-type: none"> Under Bacterial Limits: Only the sentence..."Individual producer milk not to exceed 100,000 per mL prior to commingling with other producer milk."
Pages ((34-35)) <u>33</u>	Under Somatic Cell Count: "individual producer milk not to exceed 750,000 per mL ... *Goat milk 1,500,000 mL."

(b) Standards for Grade "A" Raw Milk for Pasteurization, Ultra-pasteurization, Aseptic Processing and Packaging or Retort Processed After Packaging or Fermented High-Acid, Shelf-Stable Processing and Packaging.

PMO Page No.	Excepted Portion
Page <u>58-59</u>	Item 18r. "Raw Milk Cooling" paragraph 1, which begins with "Raw milk for pasteurization, ultra-pasteurization, aseptic processing and packaging or retort processed after packaging <u>or fermented high-acid, shelf-stable processing and packaging</u> shall be cooled..."
Page 59	I. "Administrative Procedures", item 1 only

(c) Standards for Grade "A" Pasteurized, Ultra-pasteurized, Aseptically Processed and Packaged Low-Acid Milk and/or Milk Products, and Retort Processed after Packaged Low-Acid Milk and/or Milk Products.

PMO Page No.	Excepted Portion
Page 119	Item 18p. "Bottling, Packaging and Container Filling", under Public Health Reason, first sentence only which begins with "Manual bottling, packaging, and container filling..."
Page 119	Item 18p. "Administrative Procedures", item number 2 only.
Page 121	Item 19p. "Capping, container closure and sealing and Dry Milk Product Storage", Administrative Procedures, item number 1 only.
Page 134	Sections 15 (Enforcement), 16 (Penalty), and 17 (Repeal and Date of Effect)

(d) Appendix E: Examples of 3-out-of-5 Compliance Enforcement Procedures.

PMO Page No.	Excepted Portion
Pages ((209-)) <u>210-211</u>	All of Appendix E

(3) The department does adopt the following somatic cell count standards to be: Individual producer bovine cow milk not to exceed 400,000 per mL; and goat, sheep, and all other species milk not to exceed 1,000,000 per mL.

AMENDATORY SECTION (Amending WSR 19-09-008, filed 4/5/19, effective 5/6/19)

WAC 16-101-716 Procedures for certification of interstate milk shippers. The department adopts the Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments ((2017)) 2023 Revision as Washington state procedures for the certification of interstate milk shippers.

AMENDATORY SECTION (Amending WSR 19-09-008, filed 4/5/19, effective 5/6/19)

WAC 16-101-721 Methods for making sanitation ratings of milk shippers. The department adopts the Methods of Making Sanitation Ratings of Milk Shippers and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers ((2017)) 2023 Revision, United States Health and Human Services Public Health Service/Food and Drug Administration as Washington state methods for ratings of interstate milk shippers.

AMENDATORY SECTION (Amending WSR 19-09-008, filed 4/5/19, effective 5/6/19)

WAC 16-101-726 Standard for the accrediting of milk laboratories. The department adopts the Evaluation of Milk Laboratories ((2017)) 2023 Revision United States Health and Human Services Public Health Service/Food and Drug Administration as the Washington state standard for accrediting milk laboratories and certified industry supervisors who request certification and approval for uniform collection and testing required for compliance with the Grade "A" Pasteurized Milk Ordinance.

AMENDATORY SECTION (Amending WSR 19-09-008, filed 4/5/19, effective 5/6/19)

WAC 16-101-731 Availability of the publications adopted by the department in this chapter. (1) The Grade "A" Pasteurized Milk Ordinance, ((2017)) 2023 Revision, United States Public Health Service/Food and Drug Administration, the Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, ((2017)) 2023 Revision, the Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers ((2017)) 2023 Revision, United States Department of Health and Human Services Public Health Services/Food and Drug Administration, and the Evaluation of Milk Laboratories, ((2017)) 2023 Revision, United States Department of Health and Human Services Public Health Service/Food and Drug Administration can be obtained at ((<https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/uem2007966.htm>)) <https://www.fda.gov/food/milk-guidance-documents-regulatory-information/national-conference-interstate-milk-shipments-ncims-model-documents>.

(2) For information regarding the contents and application of these publications, contact the Food Safety and Consumer Services Division at the Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560 or ((FSCS@agr.wa.gov)) foodsafety@agr.wa.gov.