**FINAL AND PROPOSAL**

**FINAL AAP**

**Maryland Register**

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**Title 10
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 15 FOOD**

**Notice of Final Action**

[19-259-F-I]

On April 28, 2020, the Secretary of Health adopted amendments to:

(1) Regulations **.02**, **.03**, and **.16** under **COMAR 10.15.06 Production, Processing, Transportation, Storage, and Distribution of Grade “A” Milk**; and

(2) Regulation **.03** under **COMAR 10.15.08 Farmstead Cheese Program**.

This action, which was proposed for adoption in 46:26 Md. R. 1180—1181 (December 20, 2019), has been adopted as proposed.

**Effective Date: May 18, 2020.**

ROBERT R. NEALL
Secretary of Health

**PROPOSAL**

**Maryland Register**

**Issue Date: December 20, 2019**

**Volume 46 • Issue 26 • Page 1180-1181**

**Title 10
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 15 FOOD**

**Notice of Proposed Action**

[19-259-P-I]

The Secretary of Health proposes to amend:

(1) Regulations **.02**, **.03**, and **.16** under **COMAR 10.15.06 Production, Processing, Transportation, Storage, and Distribution of Grade “A” Milk**; and

(2) Regulation **.03** under **COMAR 10.15.08****Farmstead Cheese Program**.

**Statement of Purpose**

The purpose of this action is to:

(1) Update the Grade “A” Pasteurized Milk Ordinance incorporated by reference in COMAR 10.15.06.03 and 10.15.08.03 to reflect the most recent version of this document from 2017;

(2) Revise the requirements for toilet facilities on milk plants in COMAR 10.15.06.16 to be consistent with requirements under COMAR 10.15.09.18; and

(3) Add a definition for “on-farm processor” to COMAR 10.15.06.02.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**These changes will not have an impact on the Maryland Department of Health but will have an indeterminate economic impact on the regulated dairy industry. Some businesses may incur costs as a result of bringing their business practices into alignment with new requirements of the updated Food Safety Modernization Act (added by Appendix T of the 2017 Pasteurized Milk Ordinance).

|  |  |  |
| --- | --- | --- |
|   | Revenue (R+/R-) |   |
| **II. Types of Economic Impact.** | Expenditure (E+/E-) | Magnitude |
|   |  |
|  |  |  |
| A. On issuing agency: | NONE |  |
| B. On other State agencies: | NONE |  |
| C. On local governments: | NONE |  |
|   |
|   | Benefit (+)Cost (-) | Magnitude |
|   |  |
|  |  |  |
| D. On regulated industries or trade groups: | (-) | Indeterminable |
| E. On other industries or trade groups: | NONE |  |
| F. Direct and indirect effects on public: | NONE |  |
| **III. Assumptions.** (Identified by Impact Letter and Number from Section II.) |
| D. This proposal will have an indeterminate economic impact on the regulated dairy industry. Some businesses may incur costs associated with changes that will bring their business practices into alignment with new requirements of the updated Food Safety Modernization Act. Some of these new requirements include conducting risk assessments, constructing a food safety plan, writing standard operating procedures, designing environmental sampling programs, and new ingredient requirements. Because of variations in current equipment and practices at each business it is not possible to predict what the overall impact of these changes will be. |

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Jake Whitaker, Acting Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through January 21, 2020. A public hearing has not been scheduled.

Editor’s Note on Incorporation by Reference

     Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Grade “A” Pasteurized Milk Ordinance, 2017 Revision, has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 46:1 Md. R. 9 (January 4, 2019), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

**10.15.06 Production, Processing, Transportation, Storage, and Distribution of Grade “A” Milk**

Authority: Health-General Article, §§2-104, 2-105, 21-207, 21-208, 21-210, 21-211, 21-406, and 21-428, Annotated Code of Maryland

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(23) (text unchanged)

*(23-1) “On-farm processor” means a licensed milk plant that is located on the same premises as a licensed milk producer.*

(24)—(35) (text unchanged)

**.03 Incorporation by Reference.**

In this chapter the following documents are incorporated by reference:

A. Grade “A” Pasteurized Milk Ordinance, **[**2015**]***2017* Revision (U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration);

B.—F. (text unchanged)

**.16 Milk Physical Plant Requirements.**

A.—D. (text unchanged)

*E. Toilet facilities shall:*

*(1) Be constructed and operated in conformance with applicable State and local laws, ordinances, and regulations and the Grade “A” Pasteurized Milk Ordinance;*

*(2) For a milk plant that is not an on-farm processor, be available within the physical plant for use by employees; and*

*(3) For a milk plant that is an on-farm processor, if not located within the physical plant building:*

*(a) Be located within 500 feet of the physical plant building;*

*(b) Be accessible at all times that the plant is in operation;*

*(c) Have documented and implemented measures for re-entry into the plant to protect against facility and product contamination; and*

*(d) Have documentation from the local approval authority that an on-site sewage disposal system, if present, is adequate for the total number of users and meets all other requirements of COMAR 26.04.02.*

**[**E.**]***F.* (text unchanged)

**10.15.08 Farmstead Cheese Program**

Authority: Health-General Article, §§21-211, 21-234, 21-406, 21-416.1, 21-417, 21-418, 21-419, 21-428, 21-434, 21-252—21-256, 21-1202, 21-1203, and 21-1215, Annotated Code of Maryland

**.03 Incorporation by Reference.**

In this chapter, the following documents are incorporated by reference:

A.—G. (text unchanged)

H. Grade “A” Pasteurized Milk Ordinance, **[**2015**]***2017* Revision (U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration), Section 8, Appendix D, Appendix G Section I, Appendix H Section II, and Appendix N only.

ROBERT NEALL
Secretary of Health