

**PROPOSED REGULATION OF THE DIRECTOR OF
THE STATE DEPARTMENT OF AGRICULTURE**

LCB File No. R126-20

September 30, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-6, 8, 9, 55, 57-60 and 89, NRS 584.067; §§ 7 and 11, NRS 584.067, 584.103 and 584.135; §§ 10, 15 and 16, NRS 584.067 and 584.103; §§ 12-14, NRS 584.067, 584.103 and 584.210; §§ 17, 18, 20, 21 and 23-53, NRS 584.067 and 584.208; §§ 19, 22 and 54, NRS 584.067, 584.208 and 584.210; § 56, NRS 561.153 and 584.067; §§ 61, 62, 65 and 71-78, NRS 584.067 and 584.547; § 63 and 64, NRS 584.067, 584.547 and 584.585; § 66, NRS 584.067, 584.079, 584.547 and 584.595; § 67, NRS 584.067, 584.079 and 584.547; §§ 68-70, NRS 584.067, 584.547 and 584.583; § 79, NRS 584.067, 584.547 and 584.670; §§ 80-84 and 86-88, NRS 233B.050 and 584.067; § 85, NRS 233B.050, 584.067 and 584.643.

A REGULATION relating to agriculture; providing that the Director of the State Department of Agriculture may place certain dairy products on hold and require certain dairy products to be denatured or destroyed; authorizing the Director to issue a warning letter; removing references to the State Dairy Commission and the Executive Director of the Commission and replacing such references with the Director; updating certain publications which the Director adopts by reference; requiring certain bottles, containers and packages enclosing dairy products to be labeled or marked with a “best if used by” date; creating new fees for milk tank trucks, warning letters and a late fee; removing the requirement that certain costs be shown in a distributor’s statement of costs; revising the authority to revoke, suspend or refuse to renew a distributor’s license in certain situations; requiring a cooperative association to make available certain reports upon request of the Director; repealing certain provisions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Director of the State Department of Agriculture to adopt and enforce regulations to carry out the provisions governing dairy products in this State. (NRS 584.067)

Existing regulations set forth requirements relating to the manufacture of dairy products. (NAC 584.0111-584.0551) **Section 3** of this regulation provides that the Director may: (1) place any dairy product on hold if the holder of the permit fails to comply with certain labeling requirements or fails to comply with the provisions governing the manufacturing of dairy

products; and (2) require the dairy farm or dairy foods manufacturing plant to denature or destroy any dairy product which the Director determines to be unfit for human consumption.

Existing regulations authorize the State Dairy Commission or the Executive Director of the Commission, as applicable, to suspend, revoke and reissue a permit to manufacture dairy products. (NAC 584.0381) **Section 13** of this regulation: (1) transfers these powers to the Director of the Department; (2) authorizes the Director to suspend a permit in certain situations; and (3) authorizes the Director to issue a warning letter to a holder of a permit that sets forth the alleged violation and requests that the holder correct the violation. **Section 13** provides that the Director will make a reinspection within 60 days after the issuance of the warning letter and requires the holder to pay a reinspection fee. **Section 56** of this regulation sets forth the fees associated with the warning letter.

During the 2017 Legislative Session, the Nevada Legislature abolished the State Dairy Commission and transferred the powers and duties of the Commission to the Director. (Assembly Bill No. 33, chapter 37, Statutes of Nevada 2017, at page 143) **Sections 6, 7, 9-16, 17-62, 64-75 and 77-88** of this regulation remove the references to the State Dairy Commission and the Executive Director of the State Dairy Commission and replace such references with the Director of the Department. **Section 89** of this regulation repeals existing regulations that define the Commission and the Executive Director.

Sections 7 and 55 update certain publications published by the United States Food and Drug Administration that the Department adopts by reference. The Director additionally adopts by reference the 2019 Revision of the *Evaluation of Milk Laboratories* in **section 55**.

Existing regulations require all bottles, containers and packages enclosing dairy products to be labeled or marked in accordance with certain standards of identity. (NAC 584.0361) **Section 11** of this regulation additionally requires such bottles, containers and packages to be labeled or marked with a “best if used by” date which indicates the date by which the dairy product should be consumed for the best quality. **Section 11** further requires such bottles, containers and packages that require time or temperature control to be labeled or marked with “Keep Refrigerated.”

Existing law authorizes the Director to prescribe a fee to cover the costs incurred by the Department for any service, product or publication provided by the Department. (NRS 561.153) Existing regulations set forth various fees that relate to permits for milk and milk products. (NAC 584.4071) **Section 56** of this regulation creates new fees for: (1) milk tank trucks; and (2) the late renewal of a permit. **Section 56** provides that the Director will revoke a permit after 60 days if a request for the renewal of the permit has not been received.

Existing regulations prohibit a distributor from selling, offering to sell, advertising or bidding for the sale of any dairy product at a price less than his or her costs as shown by his or her latest statement of costs on file with the Commission. (NAC 584.5922) **Section 63** of this regulation removes the requirement that the costs be shown by the distributor’s latest statement of costs on file with the Commission.

Existing regulations authorize the Commission to revoke, suspend or refuse to renew a distributor’s license if: (1) the licensee violates certain statutes and regulations; or (2) the Commission determines that the licensee is not serving the marketing area in which he or she is licensed. (NAC 584.6187) **Section 67** of this regulation removes the Commission’s authority to revoke, suspend or refuse to renew a distributor’s license if the Commission determines that the licensee is not serving the marketing area in which he or she is licensed.

Existing regulations require a distributor located in this State who receives, sells or transfers milk to: (1) keep a monthly usage report that includes certain information; and (2) submit the monthly usage report to the Commission's office by a certain date. (NAC 584.6417) **Section 74** of this regulation requires a distributor located in this State who receives, sells or transfers milk to report to the Director within 15 calendar days after receiving a request to submit the monthly usage report from the Director.

Existing regulations require a cooperative association of producers to: (1) furnish a monthly report to each producer from whom the association receives milk; and (2) mail a copy of the report to the Commission when the report is furnished to the producer. (NAC 584.6437) **Section 76** of this regulation requires an association to make available the report upon request of the Director. **Section 76** removes the requirement that the association mail a copy of the report to the Commission.

Existing regulations provide that if a distributor fails to pay within a certain period of time: (1) the distributor to whom the payment is owed shall notify the Commission of the failure to pay; and (2) the Commission may issue an order prohibiting all distributors from selling milk or dairy products to that distributor. (NAC 584.5941) **Section 89** repeals these provisions.

Existing regulations provide that each application for the original issuance of a distributor's license will be considered at a public meeting of the Commission. (NAC 584.6161) **Section 89** repeals these provisions.

Existing regulations authorize the Executive Director of the Commission to issue a temporary permit to an applicant to distribute dairy products in the marketing area in which the applicant wishes to distribute dairy products. The temporary permit is subject to cancellation without recourse once the holder is notified in writing of the cancellation not less than 72 hours before the permit is cancelled. (NAC 584.6177) **Section 89** repeals these provisions.

Existing regulations set forth the rules of practice before the Commission. (NAC 584.9011-594.9391) Existing regulations authorize parties to an action to stipulate to any fact at issue by a written stipulation that is introduced in evidence as an exhibit or by an oral statement shown on the record. Such a stipulation is binding upon all parties to the stipulation and may be treated as evidence. (NAC 584.9322) **Section 89** repeals these provisions.

Section 1. Chapter 584 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Director” means the Director of the Department.*

Sec. 3. *1. If any dairy product produced at a dairy farm or dairy foods manufacturing plant does not satisfy the labeling requirements set forth in NAC 584.0361 or does not meet the requirements of chapter 584 of NRS or NAC 584.0111 to 584.0551, inclusive, and this section, the Director may place the dairy product on hold until the Director determines that the dairy product may be released.*

2. The Director may require a dairy farm or dairy foods manufacturing plant to denature or destroy any dairy product, including, without limitation, any dairy product placed on hold pursuant to subsection 1, which the Director determines to be unfit for human consumption.

Sec. 4. NAC 584.005 is hereby amended to read as follows:

584.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC ~~584.0055~~ **584.0063** to 584.009, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NAC 584.0067 is hereby amended to read as follows:

584.0067 Except as otherwise provided in NAC 584.01415, “dairy products” includes any product manufactured from milk or any derivative or product of milk which is ~~intended~~ :

1. Produced by a hoofed mammal; and

2. Intended for human consumption.

Sec. 6. NAC 584.0095 is hereby amended to read as follows:

584.0095 The ~~Commission~~ **Director** will interpret the term:

1. “Fluid cream,” as defined in NRS 584.350, to include fluid cream from a hoofed mammal.

2. “Fluid milk,” as defined in NRS 584.355, to include fluid milk from a hoofed mammal.

3. “Fresh dairy products,” as defined in NRS 584.357, to include yogurt, eggnog and butter.

Sec. 7. NAC 584.0103 is hereby amended to read as follows:

584.0103 1. The ~~Commission~~ **Director** hereby adopts by reference ~~Parts 53 to 209, inclusive, of Title 7 of the Code of Federal Regulations and~~ Parts 100 to **115, inclusive, and 118 to 199, inclusive, of Title 21 of the Code of Federal Regulations, as they existed on January 1, 2011, and any subsequent revision of these regulations that have been approved by the**

~~{Executive}~~ Director for use in this State. Each revision of these regulations shall be deemed approved by the ~~{Executive}~~ Director unless ~~{, after review and consultation with the Commission,}~~ the ~~{Executive}~~ Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision.

2. *The Director hereby adopts by reference Part 117 of Title 21 of the Code of Federal Regulations, as it existed on April 1, 2019, and any subsequent revision of these regulations that have been approved by the Director for use in this State. Each revision of these regulations shall be deemed approved by the Director unless the Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision.*

3. A copy of the publications which contain these parts may be obtained from the United States Government Printing Office free of charge on the Internet website

~~{<http://www.gpo.gov/fdsys/>}~~ <https://www.govinfo.gov/>.

Sec. 8. NAC 584.01415 is hereby amended to read as follows:

584.01415 ~~{“Dairy”}~~ *“Manufactured dairy products”* means frozen desserts, frozen novelties, cheese, cheese product, butter, butter product and any other such products for human consumption as may be designated by the ~~{Commission,}~~ *Director*.

Sec. 9. NAC 584.02415 is hereby amended to read as follows:

584.02415 1. The ~~{Commission,}~~ *Director* hereby adopts by reference the following sections of *Milk for Manufacturing Purposes and Its Production and Processing: Recommended Requirements*, July 2011, published by the United States Department of Agriculture, and any subsequent revision of the publication that has been approved by the ~~{Executive}~~ Director for use in this State. Each revision of the publication shall be deemed approved by the ~~{Executive}~~

Director unless ~~[-after review and consultation with the Commission,]~~ the ~~[Executive]~~ Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision. The following sections are hereby adopted:

(a) Subpart B - Definitions.

(b) Subpart C - Quality Requirements for Milk for Manufacturing Purposes.

(c) Subpart D - Farm Requirements for Milk for Manufacturing.

(d) Subpart E - Requirements for Licensed Dairy Plants:

(1) Sec. E1. General Requirements.

(2) Sec. E2. Supplemental requirements for plants manufacturing, processing and packaging instant nonfat dry milk, nonfat dry milk, dry whole milk, dry buttermilk, dry whey, and other dry milk products.

(3) Sec. E3. Supplemental requirements for plants manufacturing, processing and packaging butter and related products.

(4) Sec. E4. Supplemental requirements for plants manufacturing and packaging cheese.

(5) Sec. E5.2 Equipment and utensils.

(6) Sec. E6. Supplemental requirements for plants manufacturing, processing and packaging pasteurized process cheese and related products.

(7) Sec E7. Supplemental requirements for plants manufacturing, processing and packaging evaporated, condensed, or sterilized milk products.

(e) Subpart F - Administrative Procedures.

2. Copies of this publication are available, free of charge, from the United States Department of Agriculture, P.O. Box 96456, Washington, D.C. 20090-6456, or on the Internet at <http://www.ams.usda.gov>.

Sec. 10. NAC 584.03515 is hereby amended to read as follows:

584.03515 Properly prepared plans and specifications for the construction, remodeling or alteration of a dairy farm or dairy foods manufacturing plant must be submitted to the ~~Commission~~ **Director** for written approval before any construction work is begun on any milkhouse, milking barn, stable or parlor, or dairy foods manufacturing plant. The plans must show the layout, arrangement, construction materials, location, size and types of facilities and fixed equipment. The owner or operator must comply with all requirements of sanitation and control of quality adopted by reference in NAC 584.02415.

Sec. 11. NAC 584.0361 is hereby amended to read as follows:

584.0361 1. All bottles, containers and packages enclosing **manufactured** dairy products must be labeled or marked in accordance with the standards of identity adopted by reference in NAC 584.0103 in addition to the requirements of the Federal Food, Drug and Cosmetic Act.

2. ***In addition to the labeling requirements set forth in this section and except as otherwise provided in this subsection 4, all bottles, containers and packages enclosing dairy products must be labeled or marked with a “best if used by” date which indicates the date by which the dairy product should be consumed for the best quality. The “best if used by” date must:***

(a) Be determined by the processor of the dairy product.

(b) Be printed either:

(1) Numerically; or

(2) Using the first three letters of the month followed by the number representing the calendar date.

↪ A space, slash or dash must be used between the month and the day.

(c) Be placed on the bottle, container or package in a manner that it is easily located and seen by the purchaser.

(d) Not interfere with the legibility of any other labeling requirements.

3. In addition to the labeling requirements set forth in this section, all bottles, containers and packages enclosing dairy products that require time or temperature control to ensure the safety of the dairy product by limiting pathogenic microorganism growth or toxin formation must be labeled or marked with “Keep Refrigerated”.

4. Products sold directly to the consumer by a processor or producer distributor and all cultured, sterilized, ultra-pasteurized or hermetically sealed products and mixes for frozen desserts which contain dairy are exempt from the requirements set forth in subsection 2.

5. All proposed labels must be submitted to the ~~Commission~~ *Director* and approved before being printed or used.

Sec. 12. NAC 584.0371 is hereby amended to read as follows:

584.0371 1. A dairy foods manufacturing plant may not receive for sale, produce, sell, offer for sale or have in storage any manufactured dairy product if the plant does not possess a permit from the ~~Commission~~ *Director*. Only a dairy foods manufacturing plant that complies with the requirements of NAC 584.0111 to 584.0551, inclusive, *and section 3 of this regulation* may receive and retain a permit.

2. Permits are not transferable.

Sec. 13. NAC 584.0381 is hereby amended to read as follows:

584.0381 1. A permit may be summarily suspended by the ~~Executive~~ *Director* when ~~it~~ :

(a) *A condition is found which constitutes an imminent health hazard ~~and prompt action is necessary to protect the public health.~~ or the Director has reason to believe that an imminent health hazard exists;*

(b) *Unsanitary conditions exist to such a degree that food would be rendered adulterated or contaminated;*

(c) *The holder of the permit has interfered with the Director in the performance of his or her duties; or*

(d) *The holder of the permit has violated any of the provisions of this chapter or NRS 584.180 to 584.211, inclusive.*

2. A permit may be revoked by the ~~Commission~~ *Director* for serious or repeated violations of chapter 584 of NRS or NAC 584.0111 to 584.0551, inclusive ~~and~~, *and section 3 of this regulation.*

3. Upon receipt of a satisfactory application after suspension of a permit because of an unsatisfactory bacterial condition or cooling temperature, the ~~Commission~~ *Director* will take further samples. The ~~Commission~~ *Director* will reissue the permit when the results of one such sample indicate the necessary compliance.

4. If the suspension of a permit is because of a violation of any of the requirements of sanitation and control of quality adopted by reference in NAC 584.02415, other than bacterial condition or cooling temperature, the application must be accompanied by a statement signed by the applicant attesting that the violated item or items of the specifications have been remedied. Upon receipt of an application and statement, the ~~Commission~~ *Director* will make a reinspection, and thereafter as many additional reinspections as it may deem necessary to assure

that the applicant is again complying with the requirements. If the findings indicate compliance, the ~~{Commission}~~ *Director* will reissue the permit.

5. Before the Director suspends or revokes a permit for a repeated violation pursuant to this section and NRS 584.210, the Director may issue a warning letter setting forth the alleged violation and requesting that the holder of the permit correct the violation. The Director will make a reinspection within 60 days after the warning letter is issued and the holder of the permit must pay the applicable reinspection fee set forth in NAC 584.4071. The Director will suspend or revoke the permit if:

(a) The reinspection fee is not paid within 60 days after the warning letter is issued; or

(b) The violation causing the suspension or revocation still exists upon reinspection.

Sec. 14. NAC 584.0386 is hereby amended to read as follows:

584.0386 1. A person who has reason to believe that an action taken by the ~~{Commission}~~ *Director* pursuant to NAC 584.0111 to 584.0551, inclusive, *and section 3 of this regulation* is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the ~~{Executive}~~ Director.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~{Commission}~~ *Director* for a hearing pursuant to NRS 584.210.

3. An applicant for a permit or a holder of a permit issued pursuant to NAC 584.0111 to 584.0551, inclusive, *and section 3 of this regulation* who is aggrieved by an action of the ~~{Commission}~~ *Director* relating to the denial of an application for or renewal of such a permit or

the suspension or revocation of such a permit may appeal that action in accordance with the provisions of NRS 584.210 after exhausting the informal procedures set forth in this section.

Sec. 15. NAC 584.0421 is hereby amended to read as follows:

584.0421 1. A person shall not manufacture, sell, offer for sale, or have in possession with intent to sell, any manufactured dairy product which is adulterated or misbranded.

2. Imitation ice cream or ice milk made of vegetable fat must be plainly labeled as being imitation ice cream or ice milk.

3. Any adulterated, misbranded or improperly labeled manufactured dairy product may be impounded by the ~~{Commission}~~ *Director* and disposed of in accordance with state law.

4. As used in this section, “adulterated” means any *manufactured* dairy product for which one or more of the conditions prescribed in 21 U.S.C. § 342 exist.

Sec. 16. NAC 584.0541 is hereby amended to read as follows:

584.0541 Manufactured dairy products from areas beyond the limits of a routine inspection may not be sold unless controlled under provisions equivalent to the requirements of NAC 584.0111 to 584.0551, inclusive ~~{}~~, *and section 3 of this regulation*. The ~~{Commission}~~ *Director* may require assurances that the agency having jurisdiction over the manufacturer of such products is properly enforcing those provisions.

Sec. 17. NAC 584.1821 is hereby amended to read as follows:

584.1821 “Official laboratory” means a biological, chemical or physical laboratory that has been designated by the ~~{Commission}~~ *Director*.

Sec. 18. NAC 584.2021 is hereby amended to read as follows:

584.2021 1. A person within this State shall not sell, offer for sale or possess with intent to sell any raw milk or product made from it that:

(a) Has not been produced in conformity with the regulations and standards adopted by the county milk commission in the county in which it is produced and certified by that county milk commission. This prohibition does not apply to a dairy licensed to produce unpasteurized grade A milk for sale to a licensed milk plant.

(b) Is adulterated or misbranded.

2. The ~~{State Dairy Commission}~~ *Director* may require such chemical and physical tests to detect the adulteration of raw milk or products made from it as the ~~{State Dairy Commission}~~ *Director* deems necessary.

Sec. 19. NAC 584.2031 is hereby amended to read as follows:

584.2031 1. After a county milk commission has certified a facility for the production of certified raw milk or a product made from it, the ~~{State Dairy Commission}~~ *Director* will inspect the facility. If the facility fully complies with this section, the ~~{State Dairy Commission}~~ *Director* will issue a permit to operate the facility.

2. The ~~{State Dairy Commission}~~ *Director* may revoke a permit if a facility ceases to comply with any requirement of NAC 584.1611 to 584.2881, inclusive.

3. A permit is not transferable between persons or locations.

Sec. 20. NAC 584.2041 is hereby amended to read as follows:

584.2041 1. A person who desires to weigh, measure and sample milk must apply to the ~~{Commission}~~ *Director* for a permit. The ~~{Commission}~~ *Director* will examine each applicant and issue him or her a permit if:

(a) The applicant is qualified to weigh, measure and sample milk; and

(b) The applicant will comply with the provisions of NAC 584.1611 to 584.2881, inclusive.

2. A person who desires to haul milk must apply to the ~~{Commission}~~ *Director* for a permit. The ~~{Commission}~~ *Director* will examine each applicant and issue him or her a permit if:

- (a) The applicant is qualified to haul milk; and
- (b) The applicant will comply with the provisions of NAC 584.1611 to 584.2881, inclusive.

Sec. 21. NAC 584.2051 is hereby amended to read as follows:

584.2051 Before issuing a permit, the ~~{Commission}~~ *Director* will inspect each certified dairy farm, milk hauler and bottling or packaging plant whose certified milk or products made from it are intended for human consumption. After issuing the permit, the ~~{Commission}~~ *Director* will inspect each certified dairy farm and milk hauler at least once every 6 months and each bottling or packaging plant at least once every 3 months.

Sec. 22. NAC 584.2061 is hereby amended to read as follows:

584.2061 If the ~~{Commission}~~ *Director* finds a violation of any of the requirements of NAC 584.1611 to 584.2881, inclusive, during an inspection, the ~~{Commission}~~ *Director* will conduct a second inspection after passage of the time deemed necessary to remedy the condition causing the violation, but not before 3 days. In the second inspection, the ~~{Commission}~~ *Director* will determine whether the condition that was in violation has been remedied. If the ~~{Commission}~~ *Director* finds a violation of any of the same requirements during its second inspection, the ~~{Commission}~~ *Director* may suspend or revoke a permit.

Sec. 23. NAC 584.2071 is hereby amended to read as follows:

584.2071 Upon completion of an inspection, the inspector shall deliver one copy of the report of the inspection to the operator or another person responsible for the establishment or post it in a conspicuous place, preferably on a wall cabinet on the inside of the establishment. The report must not be defaced and must be made available to the ~~{Commission}~~ *Director* upon

request. The inspector shall file with the ~~{Commission,}~~ *Director* a copy of the report identical to the one posted.

Sec. 24. NAC 584.2081 is hereby amended to read as follows:

584.2081 1. Every operator of a certified dairy or bottling plant shall, upon request of the ~~{Commission,}~~ *Director*, permit access of persons designated by the ~~{Commission,}~~ *Director* to all parts of his or her establishment or facilities to determine compliance with the provisions of NAC 584.1611 to 584.2881, inclusive.

2. The operator of a bottling plant shall furnish the ~~{Commission,}~~ *Director*, upon its request and for its official use only:

- (a) A true statement of the actual quantities of milk and milk products purchased, bottled and sold;
- (b) A list of all sources of the milk and milk products; and
- (c) The records of inspections and laboratory tests completed by the county milk commission.

Sec. 25. NAC 584.2091 is hereby amended to read as follows:

584.2091 1. The ~~{Commission,}~~ *Director* may obtain samples of certified raw milk and products made from it for examination as often as the ~~{Commission,}~~ *Director* deems necessary and at any time or place before the milk or product is sold to a consumer.

2. Samples must be analyzed at an official laboratory approved by the ~~{Commission,}~~ *Director*.

Sec. 26. NAC 584.2131 is hereby amended to read as follows:

584.2131 Examinations and tests must be conducted to detect adulterants, including, without limitation, pesticides, as the ~~{Commission,}~~ *Director* may require.

Sec. 27. NAC 584.2161 is hereby amended to read as follows:

584.2161 1. Properly prepared plans and specifications for the construction, remodeling or alteration of a dairy that produces or is intended to produce certified raw milk, showing the layout, arrangement, construction materials, location, size and types of facilities and fixed equipment, must be submitted to the ~~{Commission}~~ *Director* for written approval before any construction work is begun on any milkhouse, milking barn, stable, milking parlor or bottling plant. The owner or operator must comply with all requirements of sanitation and control of quality prescribed in NAC 584.1611 to 584.2881, inclusive.

2. Milkhouses and dairy barns of new and different designs are subject to the approval of the ~~{Commission}~~ *Director* but will be approved if they substantially meet the requirements for sanitation in NAC 584.1611 to 584.2881, inclusive.

Sec. 28. NAC 584.2171 is hereby amended to read as follows:

584.2171 Every dairy farm shall have a milking barn, stable or parlor, located apart from any contaminating surroundings, in which the milking herd must be housed during milking operations. Any area used for milking must:

1. Have a floor which is constructed of concrete or an equally impervious material, graded to drain liquids and coved with a 2-inch radius at the intersection of the floor and wall.

2. Have walls and ceilings with a smooth finish that are light in color and impervious to water, soil and dust.

3. Have natural or artificial light that is well distributed and suitable for milking, day or night. The working area must be illuminated by a minimum of 50 foot-candles of light and contain 4 square feet of window space for each 60 square feet of floor space unless the area is provided with adequate artificial light.

4. Have sufficient air space and air circulation to prevent condensation and excessive odors. The minimum height of a ceiling in an area where hooved mammals are milked must be 7 feet. Ventilation by means of forced air may be permitted upon approval by the ~~{Commission.}~~ *Director*. Where ventilation by forced air is not in use, the area for milking must contain a minimum of 2 square feet of window for each milking stall. The area for milking must contain ceiling vents to give adequate ventilation.
5. Contain dust-tight, covered boxes or bins, or other separate storage facilities for ground, chopped or concentrated feed.
6. Contain adequate concrete ramps outside the doors providing entrance into and exit from the milk barn or parlor. These ramps and any holding corrals which are located adjacent to the milking barn or within 25 feet of it must have surfaces of concrete with curbs graded to provide drainage. The minimum height of curbs for holding corrals is 18 inches. The extent of the area which must have a surface of concrete will depend on the location and type of construction of the barn.
7. Have provisions for the disposal of liquid wastes from the milkhouse, milk barn, stable or parlor and any adjoining ramps in a manner that prevents the pollution of any waterway or underground supply of water, the creation of odors and the breeding of flies. If the area contains a tank or tanks for liquid manure, the size of the pit which is necessary will be determined by the size of the operation and the length of time between pumpings.

Sec. 29. NAC 584.2181 is hereby amended to read as follows:

584.2181 1. The owner or operator of a dairy must obtain the approval of the ~~{Commission.}~~ *Director* for each installation of a tank for the storage of liquid manure.

2. Liquid waste may be disposed of in irrigation water only if that water is confined to the land belonging to the owner of the dairy or is used on land for which permission has been granted to dispose of the waste. In no case may any water containing that waste enter into any stream or slough or otherwise leave the land concerned.

3. The tanks must be constructed to prevent seepage to adjacent areas and to prevent the waste from becoming a nuisance.

4. All drains leading to the tank for liquid manure must contain traps. Pipe for the drain must be a minimum of 4 inches in diameter and be laid with a grade that assures adequate drainage without regard to the volumes of liquid.

Sec. 30. NAC 584.2241 is hereby amended to read as follows:

584.2241 1. The working areas must be illuminated by a minimum of 50 foot-candles of natural light or artificial light, or both.

2. The milkhouse must be adequately ventilated to minimize odors and the condensation of moisture on floors, walls, ceilings and clean utensils and must contain ceiling vents in a ratio of 1 square inch of venting for each square foot of floor space. Ventilation by means of forced air may be permitted upon approval by the ~~Commission~~ *Director*.

3. The milkhouse must contain windows whose combined area is not less than 10 percent of the floor area. The windows must be screened with standard, number 16 mesh screens.

Sec. 31. NAC 584.2341 is hereby amended to read as follows:

584.2341 1. The udders and teats of animals to be milked must be cleaned and rinsed with an approved bactericidal solution and dried before each milking. An alternative method of udder preparation may be used if the ~~Commission~~ *Director* has evaluated and approved the particular method.

2. The flanks, bellies and tails of all hoofed mammals must be free of visible dirt at the time of milking. The hair on the udder, tail and that portion of the flank adjacent to the udder must be clipped at least once per year, or more often if needed.

3. Each milker shall clean and rinse his or her hands with a bactericidal solution and dry them before each milking. A milker shall not milk with wet hands. Each milker and milk handler shall wear clean clothing while milking or handling milk or products made from it.

Sec. 32. NAC 584.2351 is hereby amended to read as follows:

584.2351 After milk is obtained from a hoofed mammal, the milk must be transported by means of an enclosed pipeline. The transfer of milk from a bulk holding or cooling tank to a transport tank must be through a port for the hose located in the wall of the milkhouse. The port must be constructed so that it is self-closing and easily cleaned. The area under the port on the outside wall must be a surface that is easily cleaned and is sufficiently large to protect the milk hose from contamination. All this equipment is subject to the approval of the ~~Commission.~~ *Director.*

Sec. 33. NAC 584.2361 is hereby amended to read as follows:

584.2361 1. A thermometer must be installed to record, on a chart, the temperature in each bulk milk tank used to cool or store certified raw milk intended for packaging.

2. A recording thermometer may not be installed on or attached to a tank for storing milk. The thermometer may be suspended on metal brackets from a ceiling or firmly attached to an inside wall of the milkhouse or the wall of the side of the milkhouse on which the passageway is located or at any other location approved by the ~~Commission.~~ *Director.*

3. The bulb or other device for sensing the temperature must be located so as to record the temperature of the milk in the tank when the amount of milk in the tank reaches 10 percent of the tank's volume.

Sec. 34. NAC 584.2371 is hereby amended to read as follows:

584.2371 1. The chart for recording the temperature:

(a) If circular, must make one revolution each 24-hour or 48-hour period; or

(b) If a strip, must move not less than 1 inch per hour and may be continuous to a maximum of 1 month.

2. The clock that governs the movement of the chart may be either manually wound or electrically operated. The time that is recorded must be the actual time.

3. A circular chart for recording temperature must be a minimum of 10 inches in diameter if the minimum temperature is recorded at the maximum distance of the chart and 12 inches in diameter if the minimum temperature is recorded at the minimum distance of the chart. If a strip chart is used, the minimum temperature may be recorded at either the top or bottom of the chart but the width must be sufficient to enable the device to conform to the requirements of subsection 5.

4. The case of the device for recording temperature must be moisture-proof when the device is operating.

5. The device must be capable of recording temperatures from 30° to 160°F or above on a chart with lines for demarcating temperature of 1 degree or less between the range of 30° and 60°F. The device must be accurate to plus or minus 1 degree in the range of 30° to 60°F.

6. The charts on which temperatures have been recorded must be kept at the dairy for 90 days and be available to the ~~Commission~~ *Director* during that time unless otherwise provided.

Sec. 35. NAC 584.2391 is hereby amended to read as follows:

584.2391 When it is obvious that an emergency exists which could conceivably cause significant variations in the temperature of the market milk in the farm tank, the anticipated buyer of that milk and the ~~{Commission}~~ *Director* must be immediately notified and the milk removed from the farm tank. The sale of milk from that tank at a subsequent milking must be approved by the ~~{Commission}~~ *Director*.

Sec. 36. NAC 584.2441 is hereby amended to read as follows:

584.2441 Every milk plant must contain toilet facilities. The toilet rooms must not open directly into any room in which milk or products made from it are processed. Toilet rooms must be completely enclosed and have tight-fitting, self-closing doors. Dressing rooms and toilet rooms and their fixtures must be kept clean, in good repair and well-ventilated and lighted. Sewage and other liquid wastes from these rooms must be disposed of in a manner approved by the ~~{Commission}~~ *Director*.

Sec. 37. NAC 584.2451 is hereby amended to read as follows:

584.2451 1. Water used in milk plants must be obtained from a source approved by the ~~{Commission}~~ *Director*. The lines for the approved sources of water may not be cross-connected with any unsafe or questionable sources of water or any sources of pollution through which the approved supply may become contaminated. The pipes for the approved sources of water must not be connected with any makeup tank, used for such purposes as cooling or condensing, unless the source of water is protected by an air gap or an effective method of preventing backflow.

2. Any new, individual system for the supply of water and any system that has been repaired or has become contaminated must be disinfected before being placed in use. Before any samples

for bacteriological testing are collected, the system must be flushed with water disposed of as waste to ensure that the system is free of the disinfectant.

3. Samples for the bacteriological testing of an individual water system will be taken upon initial approval of the structure or installation of the system and semiannually thereafter, and after a water system has been repaired or altered.

4. Water that is recirculated in a cooling system must be obtained from a source which is safe and protected from contamination. That water must be tested semiannually and comply with the bacteriological standards for potable water. Chemicals for depressing the freezing point of water and chemical coolants that are used in cooling systems must be nontoxic.

Sec. 38. NAC 584.2471 is hereby amended to read as follows:

584.2471 1. All rooms in which milk or products made from it are handled, processed or stored, or in which containers, equipment or utensils are washed or stored, must be kept clean and free of insects and rodents or any evidence of them.

2. The rooms used for processing, cooling, packaging and the storage of bulk milk may only contain equipment that is directly related to the processing operations or to the handling of containers, equipment or utensils.

3. Pesticides must be used in a safe manner. Only pesticides approved by the ~~Commission~~ *Director* or registered with the United States Department of Agriculture may be used for the control of insects and rodents. Such pesticides may be used only in accordance with the manufacturer's directions and must not contaminate any milk, containers, equipment or utensils.

Sec. 39. NAC 584.2481 is hereby amended to read as follows:

584.2481 1. All sanitary piping, fittings and connections that are exposed to milk or products made from it, or from which liquids may drip, drain or be drawn into the milk or

product, must be constructed of smooth, impervious, corrosion-resistant, nontoxic and easily cleaned materials.

2. All piping must be maintained in good repair.

3. Milk and products made from it must be transferred from one piece of equipment to another only through sanitary piping.

4. The materials used in the manufacture of sanitary piping must be approved by the ~~Commission~~ *Director*.

Sec. 40. NAC 584.2491 is hereby amended to read as follows:

584.2491 1. All containers that are designed for repeated use and come in contact with milk or products made from it must be:

(a) Made of smooth, impervious, corrosion-resistant and nontoxic material;

(b) Easy to clean; and

(c) Kept in good repair.

2. Only stainless steel or a metal that is equally resistant to corrosion and is nontoxic and nonabsorbent may be used, except plastic, rubber or rubber-like materials approved by the ~~Commission~~ *Director* for use as gaskets and flexible piping, where necessary. Flexible tubing may not be used to replace solid piping unless it is necessary and approved by the ~~Commission~~ *Director*.

3. All containers, enclosures, gaskets and other articles which are designed to be used only once and which come in contact with milk or products made from it must be made of nontoxic materials and be manufactured, packaged, transported and handled in a sanitary manner. Articles that are designed or intended to be used only once must not be reused.

Sec. 41. NAC 584.2511 is hereby amended to read as follows:

584.2511 1. The surfaces of all containers, equipment and utensils that are designed for repeated use and are used in the transportation, processing, handling and storage of milk or milk products must be cleaned and sanitized before each use.

2. Every person who receives deliveries of milk or products made from it shall thoroughly clean any containers designed for repeated use in which the milk or product is delivered before returning the container to the milk plant. Employees of the plant shall not pick up, for return to the plant, any container designed for repeated use that is dirty.

3. Any bottling plant in which containers designed for repeated use are washed manually must be equipped with:

(a) A two-compartment wash-and-rinse vat for that purpose; and

(b) A steam cabinet or an individual steam jet and hood for sanitizing the cleaned containers, or an additional vat if sanitizing is done with chemicals. Containers cleaned in this manner must be properly drained before use.

4. If a plant utilizes bottle washers which are automatic, those washers must treat the bottles for bacteria with steam, hot water or chemically. If a plant utilizes bottle washers of the soaker type, in which bactericidal treatment depends upon the causticity of the washing solution, the caustic strength for a given temperature and time for soaking must be that specified by the ~~Commission~~ *Director*. The containers washed and treated in this manner must be rinsed to ensure that they are free of residues from cleaning compounds and live harmful organisms.

5. A cleaning compound other than one which is caustic may be approved by the ~~Commission~~ *Director* if its effectiveness in cleaning is equivalent to that achieved by a caustic solution.

Sec. 42. NAC 584.2541 is hereby amended to read as follows:

584.2541 All cleaning systems that are mechanical must be equipped with a device for recording temperature which is approved by the ~~{Commission.}~~ *Director*. That device must be installed in the line for the return of the cleaning solution and record the temperature and time during which the line and its equipment are performing the operations of cleaning and sanitizing. Each chart for recording temperature must be identified, dated and retained for 3 months.

Sec. 43. NAC 584.2571 is hereby amended to read as follows:

584.2571 1. Certified raw milk and its products may be bottled or packaged at the place where they are produced if the mechanical equipment is approved by the ~~{Commission.}~~ *Director*.

2. The cap or other device for closing a bottle must protect the pouring lip and be tamper proof.

Sec. 44. NAC 584.2581 is hereby amended to read as follows:

584.2581 1. All certified raw milk and products made from it, except those to be cultured, must be stored and packaged at a temperature of 45°F (7.2°C) or less. The milk or product must be cooled in equipment that is approved by the ~~{Commission.}~~ *Director* and is located in the processing room, separated from all milking activities.

2. On delivery vehicles, the temperature of the certified milk and products made from it must not exceed 45°F (7.2°C). Every room, tank or truck in which milk or products made from it are stored must be equipped with an accurate thermometer.

Sec. 45. NAC 584.2591 is hereby amended to read as follows:

584.2591 1. All tanker vehicles used for transporting certified raw milk or products made from it and all pumps for transferring milk must be constructed to meet the standards of

sanitation generally accepted in the dairy industry. All hoses used for transfers of milk must be approved by the ~~Commission~~ *Director*.

2. All vehicles used in the transportation of certified milk and products made from it must be constructed and operated so that milk and products are maintained at 45°F (7.2°C) or less and are protected from the sun, freezing and contamination. The vehicles must be easily cleaned and kept in a state of cleanliness.

Sec. 46. NAC 584.2621 is hereby amended to read as follows:

584.2621 1. Each bottle or other package containing certified raw milk or a product made from it must be plainly labeled and marked with:

- (a) The name of the milk or product, as prescribed in the standards of identity adopted by reference in NAC 584.0103, which accurately describes the content of the bottle or package;
- (b) The name of the dairy or packaging plant and its location;
- (c) In the case of milk or a product fortified with vitamins, a nutritional label which states the percentage of the daily allowance, as recommended by the United States Government, of the vitamins that the product contains;
- (d) A statement of quantity; and
- (e) The following statement:

Unpasteurized dairy products may contain disease causing organisms. Persons at highest risk of disease from these organisms include newborns and infants, the elderly, pregnant women and those with illnesses or other conditions that weaken their immunity.

2. Proposed labels for certified milk and products made from it must be submitted to and approved by the ~~{Commission}~~ *Director* before being printed or used.

Sec. 47. NAC 584.2661 is hereby amended to read as follows:

584.2661 Nothing in NAC 584.2621 to 584.2671, inclusive, precludes the ~~{Commission}~~ *Director* from ordering the removal of any or all of a product from sale before the expiration of the date respecting the assurance of quality if analysis indicates that the certified milk or product made from it fails to meet applicable standards.

Sec. 48. NAC 584.2671 is hereby amended to read as follows:

584.2671 Any deviation from the requirements governing the location of the date respecting the assurance of quality may be made only after obtaining written permission from the ~~{Commission}~~ *Director*.

Sec. 49. NAC 584.2691 is hereby amended to read as follows:

584.2691 1. A person who is known to be a carrier of any communicable disease that is known to be milk-borne may not be employed at or reside on a farm that produces certified raw milk.

2. If any person employed at or residing on a farm that produces certified milk becomes infected with any disease which may be transmitted through milk, the owner or operator of the dairy shall immediately:

(a) Remove the person from the farm or isolate him or her under the direction of the county milk commission and its physician; and

(b) Notify the ~~{State Dairy Commission}~~ *Director*.

Sec. 50. NAC 584.2771 is hereby amended to read as follows:

584.2771 1. Each animal in a certified herd must be tested for tuberculosis and satisfactorily pass the test before any milk from the animal is sold. Each animal must be retested at least once every 12 months. The test must be performed by a licensed veterinarian who is certified to administer the test by the Division of Animal Industry of the Department.

2. Any animal found to be infected after the test must be disposed of in accordance with the requirements approved by the Division of Animal Industry of the Department. A certificate signed by the veterinarian or attested to by the ~~{Commission}~~ *Director* constitutes evidence of the test.

3. A veterinarian performing a test for tuberculosis shall make a complete record of the test, and the record must be kept on file at the dairy for 3 years. A summary of the test must be filed with the ~~{Commission}~~ *Director*.

4. A hoofed mammal that reacts to a tuberculosis test must be removed from the herd immediately upon discovery of the reaction, and the milk must be discarded. The barn and exercise yards used by the animal must be cleaned and disinfected in a manner approved by the Division of Animal Industry of the Department.

Sec. 51. NAC 584.2821 is hereby amended to read as follows:

584.2821 The ~~{Commission}~~ *Director* may at any time require any test or examination ~~{it}~~ *the Director* deems necessary. ~~{after consultation with the Division of Animal Industry of the Department}~~ If the Division *of Animal Industry of the Department* requires additional tests and an animal reacts to a test, the diseased animal must be disposed of as the Division of Animal Industry ~~{of the Department}~~ may require.

Sec. 52. NAC 584.2831 is hereby amended to read as follows:

584.2831 1. If a disease occurs that appears to be of a serious nature, or if a number of hoofed mammals become sick at about the same time, the dairyman shall withdraw such hoofed mammals from the certified herd, destroy their milk and notify a veterinarian and the ~~Commission~~ *Director* immediately.

2. The carcass of any dead hoofed mammal, whether diseased or not, must be disposed of in a sanitary manner.

Sec. 53. NAC 584.2861 is hereby amended to read as follows:

584.2861 The ~~Commission~~ *Director* will enforce all the provisions of NAC 584.1611 to 584.2881, inclusive.

Sec. 54. NAC 584.2876 is hereby amended to read as follows:

584.2876 1. A person who has reason to believe that an action taken ~~by the Commission~~ pursuant to NAC 584.1611 to 584.2881, inclusive, is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the ~~Executive~~ *Director*.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~Commission~~ *Director* for a hearing pursuant to NRS 584.210.

3. An applicant for a permit or a holder of a permit who is aggrieved by an action of the ~~Commission~~ *Director* taken pursuant to NRS 584.210 may appeal that action after exhausting the informal procedures set forth in this section.

Sec. 55. NAC 584.3001 is hereby amended to read as follows:

584.3001 1. The ~~Commission~~ *Director* hereby adopts by reference the following publications:

(a) *Grade “A” Pasteurized Milk Ordinance (Includes provisions from the Grade “A” Condensed and Dry Milk Products and Condensed and Dry Whey--Supplement I to the Grade “A” PMO)*, ~~2011~~ 2019 Revision, except as otherwise noted in this section, and any subsequent revision of the publication that has been approved by the ~~Executive~~ Director for use in this State. Each revision of the publication shall be deemed approved by the ~~Executive~~ Director unless ~~after review and consultation with the Commission,~~ the ~~Executive~~ Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision. The following changes are made to the *Ordinance*:

- (1) The fourth paragraph of section 3 is deleted.
- (2) Section 15 is deleted.
- (3) Section 16 is deleted.
- (4) Section 17 is deleted.
- (5) Appendix P is deleted.
- (6) The somatic cell count of 750,000 per mL for an individual producer in Table 1 of Section 7, Standards for Grade “A” Milk and Milk Products, is deleted and replaced with 400,000 per mL, exclusive of goat milk.
- (7) In Table 12 of Appendix E, Example of Enforcement Procedures for Raw Milk Laboratory Examinations, the somatic cell count of:
 - (I) 750,000 per mL which is used as the standard is deleted and replaced with 400,000 per mL;
 - (II) 500,000 per mL is deleted and replaced with 300,000 per mL;
 - (III) 600,000 per mL is deleted and replaced with 350,000 per mL;
 - (IV) 800,000 per mL is deleted and replaced with 450,000 per mL;

- (V) 900,000 per mL is deleted and replaced with 550,000 per mL;
- (VI) 1,200,000 per mL is deleted and replaced with 900,000 per mL;
- (VII) 700,000 per mL is deleted and replaced with 375,000 per mL;
- (VIII) 550,000 per mL is deleted and replaced with 325,000 per mL; and
- (IX) 400,000 per mL is deleted and replaced with 200,000 per mL.

(b) *Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, ~~2011~~ 2019* Revision, and any subsequent revision of the publication that has been approved by the ~~Executive~~ Director for use in this State. Each revision of the publication shall be deemed approved by the ~~Executive~~ Director unless ~~after review and consultation with the Commission,~~ the ~~Executive~~ Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision.

(c) *Methods of Making Sanitation Ratings of Milk Shippers, ~~2011~~ 2019* Revision, and any subsequent revision of the publication that has been approved by the ~~Executive~~ Director for use in this State. Each revision of the publication shall be deemed approved by the ~~Executive~~ Director unless ~~after review and consultation with the Commission,~~ the ~~Executive~~ Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision.

(d) Evaluation of Milk Laboratories, 2019 Revision, and any subsequent revision of the publication that has been approved by the Director for use in this State. Each revision of the publication shall be deemed approved by the Director unless the Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision.

2. Copies of these publications are available, free of charge, from the Food and Drug Administration, Milk Safety Branch, 5100 Paint Branch Parkway, College Park, Maryland 20740-3835, or on the Internet at <http://www.fda.gov>.

Sec. 56. NAC 584.4071 is hereby amended to read as follows:

584.4071 1. The ~~{Commission}~~ *Director* will charge and collect fees for annual permits in accordance with the following schedule:

For a dairy producing:

1,000 gallons or less per day	\$75
1,001 to 3,000 gallons per day	100
More than 3,000 gallons per day	150

For a milk plant producing:

Less than 2,000 gallons per day	150
2,000 to 10,000 gallons per day	300
More than 10,000 gallons per day	500

For a dairy foods manufacturing plant:

Under 1,000 square feet	150
1,000 to 3,000 square feet	180
3,001 to 5,000 square feet	230
Over 5,000 square feet	280

For a single service plant..... 115

For a hauler of milk..... 20

For a milk tank truck transportation company..... 150

For a milk tank truck wash station..... 75

For the review of a label 25

2. The ~~Commission~~ *Director* will charge the following fees for review of plans for dairies, dairy foods manufacturing plants and milk plants:

For a plan for a new facility \$200

Plus an amount equal to the fee for an annual permit for a facility having the production of the facility under review.

For a plan for remodeling a facility which has a permit 50

Plus an amount equal to one-half of the fee for an annual permit to operate the facility after the remodeling.

3. The Director will charge the following fees for a reinspection when a repeat violation prompts the issuance of a warning letter pursuant to subsection 5 of NAC 584.0381:

For a dairy farm \$50

For a milk plant..... 100

For a dairy foods manufacturing plant..... 75

4. The Director will charge a late fee of \$30 for the renewal of a permit if the request for the renewal of the permit has not been received within 30 days after the deadline to renew the permit.

5. If a request to renew a permit has not been received within 60 days after the deadline to renew the permit, the Director will revoke the permit and holder of the permit must reapply for a permit.

Sec. 57. NAC 584.4321 is hereby amended to read as follows:

584.4321 1. At the time of sale to the consumer by a retail store of any milk or milk product, there must appear upon the package or container of the product the date established by the processor as the date on which, in order to ensure quality, the product is to be removed from the shelf or similar location or vehicle from which the product is offered for sale to the consumer. This section does not apply to any bulk milk shipments of milk or milk products between distributors.

2. The date respecting assurance of quality must appear at the top of the carton or package and must be indelible and in a contrasting color to the carton or package in the area where the date is affixed. The date respecting assurance of quality must be the first three letters of the month followed by the day of the month. The date must be of a size commensurate with the size of the container and the location on the container, but in no case may the letters be less than three-sixteenths of an inch in height.

3. Any heat or pressure sensitive seal conveying the quality assurance date must not cover any other legally required information.

4. The date respecting assurance of quality must be placed on the various types of containers in accordance with one of the following options:

(a) Glass or rigid plastic:

(1) Embossed, imprinted or overlaid in fine, clearly visible lettering on the cap or containers;

- (2) Heat or pressure sensitive seal; and
 - (3) Collar or tag.
- (b) Plastic bags:
- (1) Heat or pressure sensitive seal;
 - (2) Upper or lower seal margin; and
 - (3) Overlay in fine, clearly visible lettering.
- (c) Gable-topped rectangular containers, with the date placed on the upper flat margin above gable.
- (d) Flat-top, rectangular carton, with the date affixed to the flat panel or margin of top.
- (e) Cylindrical glass, plastic or fiberboard, straight sided or nested with the lid embossed, imprinted or overlaid in fine, clearly visible lettering, or on the side or bottom of the container.

5. Nothing in this section precludes the removal by the ~~{Commission}~~ *Director* of any product from sale before the expiration of the quality assurance date if analysis indicates that the product fails to meet applicable standards.

6. Deviations from the location of the date respecting assurance of quality or the manner of declaring the date may only be made with written permission from the ~~{Commission}~~ *Director*.

Sec. 58. NAC 584.4551 is hereby amended to read as follows:

584.4551 1. All milk for pasteurization must be from herds that are free from communicable disease as determined in a method set down by the ~~{Commission}~~ *Director*.

2. Any dairy animal that, upon sufficient laboratory finding or upon inspection by a licensed veterinarian, is found to be carrying any type of communicable disease must be disposed of in a method directed by the ~~{Commission}~~ *Director*. The milk from these animals must be

immediately withdrawn from sale in this State and disposed of in a method established by the ~~{Commission}~~ *Director*.

3. Any inspection or individual laboratory testing that the ~~{Commission}~~ *Director* deems necessary must be done in an approved laboratory or by a veterinarian who is licensed in this State. The expense of such inspection or laboratory determination is the responsibility of the owner of the particular animals inspected or tested.

Sec. 59. NAC 584.4571 is hereby amended to read as follows:

584.4571 1. A tuberculin test of all animals in a herd, and any additions to the herd, must be made before any milk from the herd is sold and at least once every 12 months thereafter.

2. This testing must be done by a licensed veterinarian duly certified to run these tests by the Division of Animal Industry of the Department. The tests must be given and any reactors disposed of in accordance with the requirements approved by the Division of Animal Industry of the Department.

3. A certificate signed by the veterinarian or attested to by the ~~{Commission}~~ *Director* is evidence of the tests. In tuberculosis free counties that used the tuberculosis free system approved by the United States Department of Agriculture or the Division of Animal Industry of the Department, this annual testing is not required.

Sec. 60. NAC 584.4581 is hereby amended to read as follows:

584.4581 1. Hoofed mammals that show a complete induration of one quarter or extensive induration on one or more quarters of the udder upon physical examination, whether secreting abnormal milk or not, must be permanently excluded from the milking herd. This does not apply in the case of a quarter that is completely dry.

2. Hoofed mammals giving bloody, stringy or otherwise abnormal milk, but without entire or extensive induration of the udder, must be excluded from the herd until reexamination shows that the milk has become normal.

3. The ~~{Commission}~~ *Director* may require any test or examination it deems necessary after consultation with the Division of Animal Industry of the Department. In the event the ~~{Commission}~~ *Director* does require additional tests, and in the event a reactor is found among a herd, that particular diseased animal must be disposed of as the Division of Animal Industry of the Department requires.

Sec. 61. NAC 584.5567 is hereby amended to read as follows:

584.5567 “Class differential” means the price set by the ~~{Commission}~~ *Director* and added to the advanced pricing factors or the component prices, as applicable, to determine the minimum price to be paid to a producer by a distributor for each class of fluid milk and fluid cream.

Sec. 62. NAC 584.5792 is hereby amended to read as follows:

584.5792 1. Each distributor shall submit to the ~~{Commission,}~~ *Director*, on a form prescribed and furnished by the ~~{Commission,}~~ *Director*, or on a facsimile of the form, a monthly remittance report showing the distributor’s monthly distribution dairy products that are subject to assessment by the ~~{Commission}~~ *Director* pursuant to NRS 584.647 or 584.648.

2. The monthly remittance report must be submitted to the ~~{Commission}~~ *Director* at ~~{its}~~ *his or her* office in Sparks, Nevada, on or before the 20th day of the month following the month during which the dairy products that are subject to assessment by the ~~{Commission}~~ *Director* pursuant to NRS 584.647 or 584.648 were distributed.

Sec. 63. NAC 584.5922 is hereby amended to read as follows:

584.5922 Except as otherwise provided in NRS 584.583, a distributor shall not sell, offer to sell, advertise or bid for the sale of any dairy product at a price less than his or her costs . ~~as shown by his or her latest statement of costs on file with the Commission.~~

Sec. 64. NAC 584.5971 is hereby amended to read as follows:

584.5971 1. Except as otherwise provided in subsection 2, a distributor shall not make or renew a loan of money to a current or prospective wholesale customer or in any way assist such a customer to obtain a loan of money.

2. A distributor may make or renew a loan of money to a prospective wholesale customer or a member of a cooperative grocery which is a current wholesale customer if:

(a) The distributor advises the ~~Commission~~ *Director* that he or she wishes to make or renew the loan;

(b) The loan is appropriately secured and requires payment of the prevailing market rate of interest;

(c) The loan is not contingent upon the purchase of dairy products; and

(d) The ~~Commission~~ *Director* approves the loan

3. As used in this section, “wholesale customer” means any customer of a distributor other than a retail customer.

Sec. 65. NAC 584.6131 is hereby amended to read as follows:

584.6131 1. An applicant for a distributor’s license must complete and file with the ~~Commission~~ *Director* all forms required by the ~~Commission~~ *Director*. The applicant must answer all applicable questions on the forms and must furnish the ~~Commission~~ *Director* with any other information that the ~~Commission~~ *Director* requires.

2. The application must include a designation of each marketing area in which the applicant intends to distribute dairy products.

Sec. 66. NAC 584.6171 is hereby amended to read as follows:

584.6171 The ~~Commission~~ *Director* will not deny an application for a license as a distributor of dairy products or dairy by-products, or both, in this State, or an application for the amendment of a distributor's existing license unless it finds:

1. That the applicant or licensee has not complied with the applicable requirements set forth in chapter 584 of NRS or NAC 584.5551 to 584.9391, inclusive;

2. That the applicant or licensee has failed to provide satisfactory evidence that the dairy product which the applicant or licensee wishes to distribute is listed on the Interstate Milk Shippers List;

3. That the applicant or licensee has failed to provide satisfactory evidence that the plant or the facilities from which the applicant or licensee plans to ship dairy products has been inspected by the agency responsible for conducting such inspections in the state where the plant or facility is located; or

4. That the issuance of a license is not in the public interest, as the public interest and policy of the State of Nevada are set forth in NRS 584.390, 584.395, 584.410 and 584.415.

Sec. 67. NAC 584.6187 is hereby amended to read as follows:

584.6187 The ~~Commission~~ *Director* may revoke, suspend or refuse to renew a distributor's license if ~~the~~

~~1. The~~ *the* licensee violates any of the applicable provisions of chapter 584 of NRS or NAC 584.5551 to 584.9391, inclusive. ~~the~~

~~—2.—The Commission determines that the licensee is not serving the marketing area in which he or she is licensed.~~

Sec. 68. NAC 584.6261 is hereby amended to read as follows:

584.6261 1. Each distributor shall, upon request of the ~~{Commission,}~~ *Director*, file with the ~~{Commission}~~ *Director* the statement of costs required by subsection 2 of NRS 584.583. The statement of costs must separately show the cost for each container size of each product distributed, regardless of whether the product was processed, manufactured or purchased for resale.

2. The statement of costs must separately show the dock cost, wholesale delivered cost and retail delivered cost.

Sec. 69. NAC 584.6281 is hereby amended to read as follows:

584.6281 For enforcement of a plan authorized by NRS 584.547, the ~~{Commission}~~ *Director* will consider a filed statement of costs to be prima facie evidence of the distributor's costs for the period reported on the statement.

Sec. 70. NAC 584.6311 is hereby amended to read as follows:

584.6311 Before commencing the sale of new dairy products, a distributor must file a statement of costs covering each item which he or she distributes. Where new products are being manufactured or new operations are begun and the distributor is unable to submit sufficient cost data as required by NAC 584.6261 to 584.6362, inclusive, the distributor must file projected cost data which is acceptable to the ~~{Commission,}~~ *Director*.

Sec. 71. NAC 584.6392 is hereby amended to read as follows:

584.6392 Before selling or offering or agreeing to sell any dairy product, each distributor who processes or manufactures fluid milk, fluid cream, butter or fresh dairy by-products shall

file with the ~~{Commission}~~ *Director* separate price lists for retail prices and distributor's or dock prices for each marketing area in which such products are distributed. A separate price must be filed for each size of each product distributed. The price of like products distributed under different brand names or trademarks must be separately filed. No price may be filed for any product at less than the cost of the product.

Sec. 72. NAC 584.6397 is hereby amended to read as follows:

584.6397 1. A price list filed by a distributor must:

- (a) Clearly state the marketing area in which the prices apply;
- (b) Include all terms and conditions of service which are applicable in determining the net price ultimately available to other distributors; and
- (c) Designate its effective date.

2. A price list filed by a distributor is confidential and not open for public inspection.

Information contained in the price list will not be made available to any person, other than members of the ~~{Commission}~~ *Director* and authorized members of its staff, except when the information is to be used in judicial proceedings or administrative proceedings held pursuant to the provisions of chapter 584 of NRS.

Sec. 73. NAC 584.6412 is hereby amended to read as follows:

584.6412 Upon request by the ~~{Commission}~~ *Director*, a distributor shall provide a current list of its wholesale accounts in the form prescribed by the ~~{Commission}~~ *Director*.

Sec. 74. NAC 584.6417 is hereby amended to read as follows:

584.6417 1. A distributor located in this State who receives, sells or transfers milk shall keep a monthly usage report which includes:

- (a) The quantity of milk received, sold or transferred;

- (b) The class of usage of the milk;
- (c) The price;
- (d) The total gallons of milk processed by product type during the month;
- (e) The total weight of milk processed by product type;
- (f) The results of a butterfat test for the various product types;
- (g) The total butterfat by product type;
- (h) The source of the milk;
- (i) The person to whom the milk was sold or transferred, if appropriate;
- (j) A statement which indicates whether the milk was graded, ungraded or degraded; and
- (k) Any other information the ~~{Commission}~~ *Director* requests to substantiate usage.

2. A distributor shall submit his or her monthly usage report to the ~~{Commission's office in Reno on or before the 15th day of the month following the calendar month for which the report is submitted.}~~ *Director within 15 calendar days after receiving a request to submit his or her monthly usage report from the Director.* The report must be made on a form prescribed and furnished by the ~~{Commission}~~ *Director* or on a facsimile of the form.

Sec. 75. NAC 584.6432 is hereby amended to read as follows:

584.6432 1. For the purpose of computing usage:

- (a) Each milk plant, whether owned by one or more interests, is an individual plant pool.
- (b) Milk is deemed to have received Class I usage unless the distributor furnishes proof satisfactory to the ~~{Commission}~~ *Director* that he or she received a different usage.

2. A distributor shall furnish each producer from whom he or she receives milk a monthly report of purchases of milk. The report must state the quantity, price and usage of each purchase and all deductions and withholdings. The report must accompany either the second or final

payment of each month to the producer. The report must be made on forms furnished by the ~~{Commission,}~~ *Director*.

Sec. 76. NAC 584.6437 is hereby amended to read as follows:

584.6437 ~~{A}~~ *Upon the request of the Director, a* cooperative association of producers shall ~~{furnish}~~ *make available* a monthly report to each producer from whom the association receives milk. The report must state the quantity, price and usage of all milk received from or handled for that producer and all deductions, withholdings, handling charges and assessments related to the milk. ~~{The association shall mail a copy of the report to the Commission when the report is furnished to the producer.}~~

Sec. 77. NAC 584.6482 is hereby amended to read as follows:

584.6482 1. Except as otherwise provided in this subsection, the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area is the minimum price established for fluid milk and fluid cream for the Northern California Marketing Area. If the minimum price for fluid milk and fluid cream established for the Northern California Marketing Area is revised, the ~~{Commission,}~~ *Director* will review the revised price to determine whether it is acceptable. Unless the ~~{Commission,}~~ *Director*, within 5 days after the price for the Northern California Marketing Area is revised, determines that the revised price is unacceptable, the revised price for the Northern California Marketing Area shall be deemed the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area. The minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area may be obtained at no cost:

(a) By mail, from the State Department of Agriculture, Attn: *Animal Industry* Division , ~~off~~ Food ~~and Nutrition, State Dairy Commission,~~ *Safety Program*, 405 South 21st Street, Sparks, Nevada 89431;

(b) By telephone, at ~~(775) 353-3758;~~ *(775) 353-3601;*

(c) By electronic mail, at ~~fnd@agri.nv.gov;~~ animalindustry@agri.nv.gov; or

(d) On the Internet, at ~~http://dairy.nv.gov;~~ <https://agri.nv.gov/>.

2. Except as otherwise provided in this subsection, the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Southern Nevada Marketing Area is the advanced pricing factors or the component prices set each month by the United States Department of Agriculture, as applicable, plus the class differential set by the ~~Commission.~~ *Director*. The minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Southern Nevada Marketing Area may be obtained at no cost:

(a) By mail, from the State Department of Agriculture, Attn: *Animal Industry* Division , ~~off~~ Food ~~and Nutrition, State Dairy Commission, 2300 East St. Louis Avenue, Las Vegas,~~ *Safety Program, 405 South 21st Street, Sparks*, Nevada ~~89104;~~ *89431;*

(b) By telephone, at ~~(702) 668-4585;~~ *(775) 353-3601;*

(c) By electronic mail, at ~~fnd@agri.nv.gov;~~ animalindustry@agri.nv.gov; or

(d) On the Internet, at ~~http://dairy.nv.gov;~~ <https://agri.nv.gov/>.

Sec. 78. NAC 584.6507 is hereby amended to read as follows:

584.6507 1. A retailer may apply to butter a minimum markup of 6 percent of the purchase price and may apply to milk and fresh dairy by-products a minimum markup of 10 percent of the purchase price. Retailers shall file statements of costs for butter and fresh dairy by-

products in accordance with NRS 584.583, unless they are using a markup equal to or greater than the minimum markup permitted by this subsection.

2. A retailer may reduce its price to the extent necessary to meet a lawful competitive price and is not subject to penalty if it submits information to the ~~{Commission}~~ *Director* in the manner set forth for distributors in NRS 584.584.

3. As used in this section, “purchase price” includes the cost of the product and the cost to transport the product to the retailer.

Sec. 79. NAC 584.6712 is hereby amended to read as follows:

584.6712 Before imposing a penalty pursuant to subsection 3 of NRS 584.670, the ~~{Commission}~~ *Director* will consider:

1. The severity of the violation and its impact on competition within the dairy industry of this State;

2. Whether the violation was intentional, willful or negligent;

3. Whether the violation was an unfair trade practice;

4. Whether the person who committed the violation has previously violated any applicable provisions of chapter 584 of NRS or NAC 584.5551 to 584.9391, inclusive, or the statutes or regulations which govern the dairy industry of any other state; and

5. Any other factor the ~~{Commission}~~ *Director* deems appropriate to determine whether to impose the penalty.

Sec. 80. NAC 584.9011 is hereby amended to read as follows:

584.9011 1. NAC 584.9011 to 584.9391, inclusive, govern practice before the ~~{Commission}~~ *Director*.

2. The ~~{Commission}~~ *Director* will construe those provisions liberally to secure just, speedy and economical determination of all issues presented to it.

Sec. 81. NAC 584.9101 is hereby amended to read as follows:

584.9101 1. A complaint which alleges a violation of this chapter or chapter 584 of NRS may be made by ~~{a member of}~~ *an* employee of the ~~{Commission}~~ *Department* or any aggrieved person.

2. The complaint must be made in writing and filed with the ~~{Executive}~~ Director.

Sec. 82. NAC 584.9112 is hereby amended to read as follows:

584.9112 If the ~~{Commission}~~ *Director* determines that a complaint warrants administrative action, the ~~{Commission}~~ *Director* shall forward a copy to the party or parties against whom the complaint is made. A party may respond to the complaint by filing an answer within 20 days after receipt of the complaint. If a party fails to answer within the time prescribed, the party shall be deemed to have denied generally the allegations of the complaint.

Sec. 83. NAC 584.9121 is hereby amended to read as follows:

584.9121 A party to a hearing conducted by the ~~{Commission}~~ *Director* may be represented by an attorney if the attorney is an attorney at law, admitted to practice and in good standing before the highest court of any state. If the attorney is not admitted and entitled to practice before the Supreme Court of Nevada, he or she must associate with an attorney who is admitted and entitled to practice before the Supreme Court of Nevada.

Sec. 84. NAC 584.9142 is hereby amended to read as follows:

584.9142 1. Before a hearing before the ~~{Commission,}~~ *Director*, and during a hearing upon reasonable cause shown, the ~~{Commission}~~ *Director* will issue subpoenas and subpoenas duces tecum at the request of a party. A party must prepare and present its subpoenas to the

~~{Secretary of the Commission}~~ *Director* for issue, serve them and bear all costs in connection with them.

2. A witness appearing pursuant to a subpoena, other than a party, officer or employee of the State of Nevada or any political subdivision thereof, is entitled to fees and mileage in the same amounts and under the same circumstances as provided by law for witnesses in civil actions in the district courts, upon making a request in writing to the ~~{Commission}~~ *Director* within 7 days after entering an appearance.

3. A witness who is entitled to fees or mileage and attends hearings at points so far from the witness's residence as to preclude his or her return from day to day is entitled, in addition to witnesses' fees and in lieu of mileage, to the subsistence allowances and travel expenses authorized by NRS 281.160 for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearings.

4. Fees, subsistence and transportation expenses must be paid by the party at whose request the witness is subpoenaed.

Sec. 85. NAC 584.9312 is hereby amended to read as follows:

584.9312 An order issued pursuant to NRS 584.643 to show cause why a distributor's license should not be suspended or revoked will contain:

1. The specific violation for which the ~~{Commission}~~ *Director* proposes to suspend or revoke the distributor's license; and
2. Any other information the ~~{Commission}~~ *Director* determines is necessary to enable the distributor to prepare for the hearing to determine whether his or her license should be suspended or revoked.

Sec. 86. NAC 584.9331 is hereby amended to read as follows:

584.9331 1. If a party fails to appear at a hearing scheduled by the ~~{Commission}~~ *Director* for which the ~~{Commission}~~ *Director* has not granted a continuance, the ~~{Commission}~~ *Director* may hear the testimony of witnesses who have appeared and proceed to consider the matter and dispose of it based on the evidence before it.

2. If, because of accident, sickness or other reasonable cause, a person fails to request a continuance of a hearing, the person may, within 15 days after the hearing is conducted, apply to the ~~{Secretary of the Commission}~~ *Director* to reopen the proceedings.

3. Upon finding the applicant's reason for not requesting a continuance to be sufficient and reasonable, the ~~{Commission}~~ *Director* will immediately fix a time and place for hearing and give the applicant notice thereof. Witnesses who have previously testified may not be required to appear at the second hearing unless directed to appear by the ~~{Commission}~~ *Director*.

Sec. 87. NAC 584.9371 is hereby amended to read as follows:

584.9371 The member of the ~~{Commission}~~ *Director* who will preside at a hearing conducted by the ~~{Commission}~~ *Director* may consolidate two or more proceedings for hearing whenever it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by a consolidation.

Sec. 88. NAC 584.9391 is hereby amended to read as follows:

584.9391 The ~~{Commission}~~ *Director* may order briefs to be filed at any time. A brief filed with the ~~{Commission}~~ *Director* must be accompanied by proof that the brief was served upon the opposing party.

Sec. 89. NAC 584.0055, 584.0075, 584.5941, 584.6161, 584.6177, 584.9041 and 584.9322 are hereby repealed .

TEXT OF REPEALED SECTIONS

584.0055 “Commission” defined. “Commission” means the State Dairy Commission created pursuant to NRS 584.031.

584.0075 “Executive Director” defined. “Executive Director” means the Executive Director of the Commission.

584.5941 Prohibition on sales by distributors to certain wholesale customers. 1. If a distributor fails to pay within the time prescribed by subsection 2 of NAC 584.5911:

(a) The distributor to whom the payment is owed shall notify the Commission of the failure to pay; and

(b) The Commission may issue an order prohibiting all distributors from selling milk or dairy products to that distributor unless the sale is for cash upon delivery.

2. The Commission will provide written notice to all distributors of any order issued pursuant to subsection 1. Any order issued pursuant to subsection 1 will remain in effect until rescinded by the Commission.

584.6161 Distributor’s License: Consideration at public meeting; appearance by applicant. Each application for the original issuance of a distributor’s license will be considered at a public meeting of the Commission. An applicant is not required to appear at the

meeting unless requested by the Executive Director or a member of the Commission but may appear to provide additional information relevant to the application.

584.6177 Distributor's license: Issuance of temporary permit by Executive Director; notice of cancellation of permit. The Executive Director or his or her designee may issue a temporary permit to an applicant to distribute dairy products in the marketing area in which the applicant wishes to distribute dairy products. The temporary permit is subject to cancellation without recourse upon notifying the holder in writing of the cancellation not less than 72 hours before the permit is cancelled. For the purposes of this section, notice of the cancellation shall be deemed to have been given on the date and time, if any, of the postmark appearing on the envelope containing the notice of cancellation.

584.9041 Chair. The Chair of the Commission or a member of the Commission designated by the Chair shall preside at meetings of the Commission and at all hearings conducted by the Commission.

584.9322 Stipulations. Upon the approval of the presiding member of the Commission, the parties may stipulate to any fact at issue by a written stipulation introduced in evidence as an exhibit or by an oral statement shown upon the record. A stipulation is binding upon all parties to the stipulation, and it may be treated as evidence at the hearing. The presiding member of the Commission may require proof of the facts stipulated, notwithstanding the stipulation.