

Final Rule

LSA Document #08-125(F)

DIGEST

Amends [345 IAC 8-3-1](#) to incorporate the 2007 edition of the Pasteurized Milk Ordinance establishing standards for the production of milk and milk products. Effective 30 days after filing with the Publisher.

[345 IAC 8-3-1](#)

SECTION 1. [345 IAC 8-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[345 IAC 8-3-1](#) Incorporation by reference; standards

Authority: [IC 15-17-3-19](#); [IC 15-17-3-21](#); [IC 15-18-1-14](#)

Affected: [IC 15-17-2](#); [IC 15-18-1](#)

Sec. 1. (a) The Grade A Pasteurized Milk Ordinance, United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, Publication No. 229 (~~2005~~ **2007** revision), referred to as the PMO, including all footnoted language regarding cottage cheese and the appendixes, is hereby incorporated by reference as a rule of the board for regulation of the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all Grade A milk and milk products in the state provided, however, the following parts of the PMO are not incorporated:

- (1) Section 16 on penalties.
- (2) Section 17 on repeal and date of effect.
- (3) Appendix K.
- (4) Appendix P.

(b) References in the PMO to the regulatory agency shall mean and refer to the board.

(c) The board adopts by reference the general provisions relating to food standards set forth by the United States Food and Drug Administration in 21 CFR 130.8, 21 CFR 130.9, 21 CFR 130.10, and 21 CFR 130.11, in effect on April 1, 2007.

(d) The board adopts by reference the definitions and standards of identity for milk and milk products set forth by the United States Food and Drug Administration in 21 CFR 131.3 et seq., titled "Part 131—Milk and Cream", in effect on April 1, 2007. Milk and milk products must conform to these standards.

(e) The board adopts by reference the definitions and standards of identity for cheeses and related cheese products set forth by the United States Food and Drug Administration in 21 CFR 133.3 et seq., titled "Part 133—Cheeses and Related Cheese Products", in effect on April 1, 2007. Cheese and cheese products must conform to these standards.

(f) The board adopts by reference the definitions and standards of identity for frozen desserts set forth by the United States Food and Drug Administration in 21 CFR 135.3 et seq., titled "Part 135—Frozen Desserts", in effect on April 1, 2007. Frozen desserts must conform to these standards.

(g) The board adopts by reference the current good manufacturing practices for manufacturing, packing, or holding human food set forth by the United States Food and Drug Administration in 21 CFR 110 and 21 CFR 113, in effect on April 1, 2007. The criteria and definitions in 21 CFR 110, 21 CFR 113, and this rule shall apply in determining whether a food is adulterated under [IC 15-2.1-23](#) [*IC 15-2.1 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-18-1.*] in that the food has been manufactured under such conditions that it is unfit for human food or the food has been prepared, packed, or held under unsanitary conditions under which the product may:

- (1) become contaminated with filth; or

(2) have been made injurious to health.

(h) The board adopts by reference as a rule of the board the food labeling requirements set forth by the United States Food and Drug Administration in 21 CFR 101, but not including Subpart C, in effect on June 1, 2007.

(i) The board incorporates by reference into this rule the definitions set forth in [IC 15-2.1-2](#) [[IC 15-2.1](#) was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See [IC 15-17-2](#).] and the matters set forth in [IC 15-2.1-23](#) [[IC 15-2.1](#) was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See [IC 15-18-1](#).].

(j) Where the matters incorporated by reference in this section conflict with provisions of this article, [IC 15-2.1-2](#) [[IC 15-2.1](#) was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See [IC 15-17-2](#).], or [IC 15-2.1-23](#) [[IC 15-2.1](#) was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See [IC 15-18-1](#).], the express provisions of this article and the Indiana Code shall control.

(k) Incorporated documents are available for public inspection at the board.

(Indiana State Board of Animal Health; [345 IAC 8-3-1](#); emergency rule filed Jan 27, 1994, 5:00 p.m.: 17 IR 1223, eff Feb 1, 1994; filed Apr 17, 1998, 9:00 a.m.: 21 IR 3354; errata filed Aug 13, 1998, 1:16 p.m.: 22 IR 126; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 27, 2002, 2:40 p.m.: 26 IR 340; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3564; readopted filed May 9, 2007, 3:16 p.m.: [20070516-IR-345070037RFA](#); filed Dec 18, 2007, 3:45 p.m.: [20080116-IR-345070296FRA](#); filed Aug 11, 2008, 3:37 p.m.: [20080910-IR-345080125FRA](#)) NOTE: Transferred from the Indiana State Department of Health ([410 IAC 8-14-8.1](#)) to the Indiana State Board of Animal Health ([345 IAC 8-3-1](#)) by P.L.138-1996, SECTION 76, effective July 1, 1996.

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Notice of Intent: [20080312-IR-345080125NIA](#)

Proposed Rule: [20080423-IR-345080125PRA](#)

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Documents Incorporated by Reference: Grade A Pasteurized Milk Ordinance, 2007 Revision, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration; Food and Drug Administration Standards in 21 CFR

Small Business Regulatory Coordinator: Gary L. Haynes, Director of Legal Affairs, Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50, Indianapolis, IN 46224, (317) 227-0300, ghaynes@boah.state.in.us

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