

ARTICLE 12:81

~~SALE OF BOTTLED RAW MILK FOR HUMAN CONSUMPTION~~

Chapter

~~12:81:01 — Definitions.~~

~~12:81:02 — Permits for the Sale of Bottled Raw Milk for Human Consumption.~~

~~12:81:03 — Standards for the Sale of Bottled Raw Milk for Human Consumption.~~

~~12:81:04 — Enforcement for the Sale of Bottled Raw Milk for Human Consumption.~~

~~CHAPTER 12:81:01~~

~~DEFINITIONS~~

Section

~~12:81:01:01 — Definitions.~~

~~12:81:01:01 Definitions.~~ Terms defined in SDCL 39-6-1 and SDCL 40-32-2 and in the Grade "A" Pasteurized Milk Ordinance have the same meanings when used in this article. In addition, terms used in this article mean:

~~(1) "Accredited Laboratory," a laboratory using the approved methods found in the Association of Official Agricultural Chemist (AOAC) and United States Food & Drug Administration Bacteriological Analytical Manual (FDA-BAM) for pathogen testing in milk, and successfully participates in a food pathogen testing proficiency program;~~

~~—— (2) "Adulterated milk and milk products," any milk or milk product which bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; bears or contains any added poisonous or deleterious substances for which no safe tolerance has been established by state or federal regulation or in excess of any tolerance established; consists in whole or in part of any substance unfit for human consumption; has been produced, processed, prepared, packed, or held under unsanitary conditions; has a container composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or has any substance added to it or mixed or packed with it to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is;~~

~~—— (3) "Bottled raw milk for human consumption," milk that has not been pasteurized and is packaged for human consumption. The term, milk, includes cow's, goat's, sheep's, and other hoofed mammal's milk;~~

~~—— (4) "Misbranded milk and milk products," products whose containers bear or accompany any false or misleading written, printed, or graphic matter; products which do not conform to their definitions as contained in this article;~~

~~—— (5) "Officially Designated Laboratory," a commercial laboratory authorized to do official work by the department, or an official laboratory which is under the direct supervision of the department, or a milk industry laboratory officially designated by the department for the examination of producer samples of raw milk and commingled milk tank truck samples of raw milk for somatic cell limits, drug residues, and bacterial limits;~~

~~—— (6) "Official sample," milk or water sample collected by a sampler that is licensed by the department using the universal sampling system as defined in Appendix B or the PMO;~~

~~—— (7) "Pesticide," a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; or a substance or mixture of substances intended to be used as a spray adjuvant;~~

~~—— (8) "PMO," "Grade "A" Pasteurized Milk Ordinance," the Grade "A" Pasteurized Milk Ordinance (PMO) and Appendices, 2011, except sections 16 and 17, United States Public Health Service.~~

~~—— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~—— **General Authority:** SDCL 39-6-9, 40-32-18.~~

~~—— **Law Implemented:** SDCL 39-6-3, 39-6-9, 40-32-18.~~

~~—— **References:** "Grade A Pasteurized Milk Ordinance," 2011, published by Public Health Service/Food and Drug Administration, U.S. Department of Health and Human Services, Washington, D.C. 20740-3835. Copies may be obtained from the Milk Safety Branch HFS-626, Division of Cooperative Programs, Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740-3835; no charge. This request must include a self-return label.~~

~~—— "The Official Methods of Analysis of the AOAC International," 19th edition, 2012, Dr. George Latimer, Jr., Editor, AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD 20877 USA.~~

~~—"United States Food and Drug Administration Bacteriological Analytical Manual (BAM)," 8th Edition, 1998, Thomas Hammack, Peter Feng, Karen Jinneman, Patrick M. Regan, Julie Kase, Palmer Orlandi, William Burkhardt, Editors, may be obtained on line from <http://www.fda.gov/Food/FoodScienceResearch/LaboratoryMethods/ucm2006949.htm>.~~

~~CHAPTER 12:81:02~~

~~PERMITS FOR THE SALE OF BOTTLED RAW MILK FOR HUMAN CONSUMPTION~~

~~Section~~

~~12:81:02:01 Sale of bottled raw milk for human consumption Permits required.~~

~~12:81:02:02 Sale of bottled raw milk for human consumption Minimum permit requirements.~~

~~**12:81:02:01. Sale of bottled raw milk for human consumption Permits required.** No person may sell bottled raw milk for human consumption unless the raw milk has been produced and packaged by a producer holding a permit issued by the secretary under SDCL 40-32-10.1 or SDCL 39-6-9, and the milk meets the standards in §§ 12:81:03:01 to 12:81:03:05, inclusive.~~

~~No milk producer may sell bottled raw milk for human consumption on the farm premises unless the producer holds a producer's permit issued by the secretary and the milk meets the standards in §§ 12:81:03:01 to 12:81:03:05, inclusive.~~

~~—— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~—— **General Authority:** SDCL 39-6-9(1) to 39-6-9(11), inclusive, 40-32-18(2) to 40-32-18(7), inclusive, 40-32-18(9).~~

~~—— **Law Implemented:** SDCL 39-6-3, 40-32-1, 40-32-4, 40-32-10.1, 40-32-10.3.~~

~~—— **12:81:02:02. Sale of bottled raw milk for human consumption -- Minimum permit requirements.** Before any bottled raw milk may be sold for human consumption, the producer shall submit or cause an official raw milk sample to be submitted to an officially designated laboratory for testing at the producer's expense for somatic cell count, drug residue, and bacteria. This sample shall be taken from the commingled raw milk supply such as the dairy farm bulk tank if the farm is using a bulk tank to store the farm's milk supply prior to packaging. The results shall be provided to the department. All such preliminary samples must be taken using the milk sampling procedures in Appendix B of the PMO as adopted by § 12:05:14:01. Testing the raw milk for somatic cell count, drug residue, and bacteria shall be conducted monthly at the producer's expense, and the results shall be provided to the department.~~

~~—— Before any bottled raw milk may be sold for human consumption, the department shall collect an official bottled raw milk sample in the consumer container which will be submitted to an accredited laboratory approved by the department for testing for bacteria, coliform bacteria, pathogenic bacteria (Salmonella, Listeria Monocytogenes, Campylobacter spp., and E. Coli 0157:H7), and antibiotic residue. The department shall pay for this testing and the results shall be provided to the department. All such preliminary samples must be taken using the milk sampling procedures in Appendix B of the PMO as adopted by § 12:05:14:01. The testing of the bottled raw~~

~~milk for bacteria, coliform bacteria, pathogenic bacteria, and antibiotic residue shall be conducted monthly at the department's expense, and the results shall be provided to the department.~~

~~— Before any bottled raw milk may be sold for human consumption, a producer with a private water supply used in the milking operation shall submit or cause an official water sample to be submitted to an officially designated or EPA certified laboratory for testing at the producer's expense for coliform bacteria. The results shall be provided to the department. All such preliminary samples must be taken using the water sampling methods adopted in Appendix G of the PMO as adopted by § 12:05:14:01 and test negative for coliform bacteria. The private water supply must be tested at a minimum of once every three years or immediately after any repairs have been made to the private water supply. The testing must be conducted at the producer's expense and the test results must be provided to the department.~~

~~— No bottled milk may be sold for human consumption if laboratory test results for bottled raw milk samples exceed the standards for milk in § 12:81:03:03.~~

~~— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~— **General Authority:** SDCL 39-6-9(5)(11)(12), 40-32-18(2)(5)(6).~~

~~— **Law Implemented:** SDCL 39-6-3, 40-32-1, 40-32-13, 40-32-22, 40-32-23.~~

CHAPTER 12:81:03

STANDARDS FOR THE SALE OF BOTTLED RAW MILK FOR HUMAN CONSUMPTION

Section

~~12:81:03:01 — Sale of bottled raw milk for human consumption — Packaging raw milk.~~

~~12:81:03:02 — Sale of bottled raw milk for human consumption — Sample collection.~~

~~12:81:03:03 — Sale of bottled raw milk for human consumption — Standards.~~

~~12:81:03:04 — Sale of bottled raw milk for human consumption — Contamination.~~

~~12:81:03:05 — Sale of bottled raw milk for human consumption — Labeling.~~

~~—— **12:81:03:01. Sale of bottled raw milk for human consumption — Packaging raw milk.**~~

~~Bottled raw milk for human consumption must be packaged on the farm where it is produced.~~

~~There may not be any direct openings between the milk packaging area and milking operations.~~

~~Packaging must be done in a sanitary manner with sanitary equipment.~~

~~—— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~—— **General Authority:** SDCL 39-6-9, 40-32-18(4)(5)(6)(7).~~

~~—— **Law Implemented:** SDCL 39-6-3, 40-32-1.~~

~~—— **12:81:03:02. Sale of bottled raw milk for human consumption — Sample collection.**~~

~~Bottled raw milk must, at a minimum, be tested monthly for bacteria, coliform bacteria, drug~~

~~residue, and pathogenic bacteria (Salmonella, Listeria Monocytogenes, Campylobacter spp., and E.~~

~~Coli 0157:H7) at an accredited laboratory approved by the department.~~

~~—— Additionally, bottled raw milk may be tested for pesticides, added water and other adulterants, as deemed necessary by the department.~~

~~— The tests must be undertaken using the sampling methods in § 12:81:02:02 and must meet the standards in § 12:81:03:03. Any such sample must be collected from the consumer container.~~

~~— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~— **General Authority:** SDCL 39-6-9(1)(5), 40-32-18(2).~~

~~— **Law Implemented:** SDCL 40-32-1, 40-32-23.~~

~~— **12:81:03:03. Sale of bottled raw milk for human consumption -- Standards.** Bottled raw milk must be produced and handled to conform to the following chemical, bacteriological, and temperature standards:~~

~~— (1) **Temperature:** Maintained at 45 degrees Fahrenheit (7 degrees Celsius) or less;~~

~~— (2) **Antibiotics:** No positive results on drug residue detection methods that are currently validated by United States Food & Drug Administration Center for Veterinarian Medicine (FDA-CVM) or any other drug detection methods, as deemed necessary by the department;~~

~~— (3) **Bacteria Limits:** Not to exceed 30,000 per ml;~~

~~— (4) **Coliform:** Not to exceed 10 per ml;~~

~~— (5) **Pathogen:** No pathogenic bacteria present.~~

~~— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~— **General Authority:** SDCL 39-6-9(1)(5), 40-32-18(2).~~

~~— **Law Implemented:** SDCL 40-32-1.~~

~~— **12:81:03:04. Sale of bottled raw milk for human consumption -- Contamination.** If official laboratory test results indicate that a sample of bottled raw milk for human consumption contains pathogenic bacteria, the milk producer must be notified immediately; the bottled raw milk must immediately be removed from supplies intended for human consumption; and the milk producer's permit is suspended immediately to prohibit the provision of bottled raw milk to the consumer. The department shall reinstate the milk producer's permit to allow the milk producer to only market raw milk to a licensed milk buyer. The department shall notify the public. An official sample of bottled raw milk must be collected within two working days by the department upon the faxed, emailed, or written request of the milk producer. This sample must be tested, at the producer's expense, at an accredited laboratory approved by the department, for the contamination that caused the permit suspension.~~

~~— The department shall reinstate the milk producer's permit if the sample meets the standards outlined in §§ 12:81:02:02 and 12:81:03:03 and the milking facility successfully passes an inspection.~~

~~— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~— **General Authority:** SDCL 39-6-9(1)(2)(5), 40-32-18(2).~~

~~— **Law Implemented:** SDCL 39-6-15, 40-32-1, 40-32-10.4, 40-32-26, 40-32-33.~~

~~12:81:03:05. Sale of bottled raw milk for human consumption -- Labeling. All bottles, containers, and packages containing bottled raw milk for human consumption must be labeled in accordance with the requirements provided in this section.~~

~~The warning label type size must be consistent with the type size of other required labeling, but not less than one sixteenth inch in height. The warning label must be conspicuous and in contrasting color from other labeling. The warning label must be prominently displayed on the container's principal display panel. The warning label must be clearly readable.~~

~~All bottles, containers, and packages containing bottled raw milk for human consumption must be conspicuously marked with:~~

- ~~(1) The identity of the farm where the raw milk is produced and packaged;~~
- ~~(2) The words "RAW MILK";~~
- ~~(3) The date of bottling.~~

~~The raw milk container must also bear the following labeling:~~

~~"WARNING: This product has not been pasteurized and may contain harmful bacteria."~~

~~Source: 40 SDR 109, effective December 11, 2013.~~

~~General Authority: SDCL 39-6-9(3), 40-32-18(7).~~

~~Law Implemented: SDCL 39-6-3, 40-32-1.~~

~~**ENFORCEMENT FOR THE SALE OF BOTTLED RAW MILK FOR HUMAN
CONSUMPTION**~~

Section

~~12:81:04:01 — Enforcement.~~

~~12:81:04:02 — Notice of suspension if quality standards are exceeded.~~

~~12:81:04:03 — Notice of suspension for drug or pesticide residues.~~

~~12:81:04:04 — Reinstatement of permit suspension due to quality standards.~~

~~12:81:04:05 — Reinstatement of permit suspended for drug or pesticide residues.~~

~~—— **12:81:04:01. Enforcement.** Dairy farms that are issued a Manufacturing Grade farm permit shall comply with ARSD 12:17:02:03, 12:17:02:05 to 12:17:02:09, inclusive, 12:17:02:11, 12:17:02:13, 12:17:02:14, 12:17:02:16, 12:17:02:17, 12:17:03:09, 12:17:03:11, 12:17:03:16, 12:17:03:21, 12:17:03:22, 12:17:03:22.02, 12:17:03:24, 12:17:04:01, 12:17:04:04 to 12:17:04:14, inclusive, 12:17:04:16 to 12:17:04:19, inclusive~~

~~—— Dairy farms that are issued a Grade A farm permit shall comply with ARSD 12:05:03:02 to 12:05:03:04, inclusive, 12:05:07:04, and 12:05:14:01.~~

~~—— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~—— **General Authority:** SDCL 39-6-9(1) to 39-6-9(11), inclusive, 40-32-18(2) to 40-32-18(7), inclusive.~~

~~—— **Law Implemented:** SDCL 39-6-3, 39-6-15, 40-32-1, 40-32-4, 40-32-10.1, 40-32-10.3, 40-32-10.4, 40-32-22, 40-32-23.~~

~~—— **12:81:04:02. Notice of suspension if quality standards are exceeded.** If two of the last four consecutive bacterial and coliform counts or cooling temperatures exceed the limit of the standard for bottled raw milk, the secretary shall send a written notice to the permit holder. The notice remains effective as long as two of the last four consecutive samples exceed the limit of the standard. The secretary shall suspend the producer's permit immediately if the standard is violated by three of the last five bacterial counts, coliform counts, or cooling temperatures.~~

~~—— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~—— **General Authority:** SDCL 39-6-9(2)(5), 40-32-18(2).~~

~~—— **Law Implemented:** SDCL 39-6-15, 40-32-1, 40-32-10.4.~~

~~—— **12:81:04:03. Notice of suspension for drug or pesticide residues.** If a drug or pesticide residue test is positive, milk must be disposed of in a manner that removes it from the human food chain. The secretary shall immediately suspend the producer's permit. For a third violation of drug residue in 12 months, the secretary shall hold a hearing pursuant to SDCL 1-26 to revoke the producer's permit.~~

~~—— **Source:** 40 SDR 109, effective December 11, 2013.~~

~~—— **General Authority:** SDCL 39-6-9(2)(5), 40-32-18(2).~~

~~—— **Law Implemented:** SDCL 39-6-15, 39-6-16, 40-32-1, 40-32-10.4, 40-32-10.5.~~

~~12:81:04:04. Reinstatement of permit suspension due to quality standards.~~ If the permit suspension is due to a violation of bacterial counts, coliform counts, or cooling temperature, the secretary shall within one week after the receipt of notification for reinstatement and receipt of acceptable results of an official resampling of the producer's milk supply, issue a three week temporary permit after determining by an inspection of the facilities and operating methods that the conditions responsible for the violation have been corrected. An official sample must be taken, and analyzed at an officially designated laboratory, at the producer's expense at a rate of at least one per week for three weeks. If any sample is not in compliance during the three week temporary permit period, the producer's permit is immediately suspended. The secretary shall reinstate the permit upon compliance with the applicable standards set in chapter 12:81:03.

~~Source: 40 SDR 109, effective December 11, 2013.~~

~~General Authority: SDCL 39-6-9(2)(4)(5), 40-32-18(2).~~

~~Law Implemented: SDCL 39-6-15, 40-32-1, 40-32-10.4, 40-32-23, 40-32-26.~~

~~12:81:04:05. Reinstatement of permit suspended for drug or pesticide residues.~~ The secretary shall reinstate the producer's permit after an official sample taken from the producer's milk supply is no longer positive for drug or pesticide residues.

~~Source: 40 SDR 109, effective December 11, 2013.~~

~~General Authority: SDCL 39-6-9(2)(5), 40-32-18(2).~~

~~Law Implemented: SDCL 40-32-1, 40-32-10.4, 40-32-23.~~

SALE OF RAW MILK FOR HUMAN CONSUMPTION

Chapter

12:81:01 Definitions.

12:81:02 Permit for the Sale of Raw Milk for Human Consumption.

12:81:03 Standards for the Sale of Raw Milk for Human Consumption.

12:81:04 Farm Requirements for the Sale of Raw Milk for Human Consumption

12:81:05 Enforcement for the Sale of Raw Milk for Human Consumption.

CHAPTER 12:81:01

DEFINITIONS

Section

12:81:01:01 Definitions.

12:81:01:01 Definitions. Terms defined in SDCL 39-6-1 and SDCL 40-32-2 and in the Grade "A" Pasteurized Milk Ordinance have the same meanings when used in this article. In addition, terms used in this article mean:

(1) "Accredited Laboratory," a laboratory for the examination of producer sample of raw milk and commingled milk tank samples of raw milk for somatic cell limits, drug residues, and bacterial limits using the approved methods found in the Association of Official Agricultural Chemist (AOAC) and United States Food & Drug Administration Bacteriological Analytical Manual (FDA-BAM) for pathogen testing in milk, and successfully participates in a food pathogen testing proficiency program;

(2) "Adulterated raw milk for human consumption," any raw milk for human consumption which bears or contains any poisonous or deleterious substance in a quantity which may render it

injurious to health; bears or contains any added poisonous or deleterious substances for which no safe tolerance has been established by state or federal regulation or in excess of any tolerance established; consists in whole or in part of any substance unfit for human consumption; has been produced, processed, prepared, packed, or held under unsanitary conditions; has a container composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or has any substance added to it or mixed or packed with it to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is;

(3) "Misbranded milk and milk products," products whose containers bear or accompany any false or misleading written, printed, or graphic matter; products which do not conform to their definitions as contained in this article;

(4) "Official sample," milk or water sample collected by a sampler that is licensed by the department using the universal sampling system as defined in Appendix B or the PMO;

(5) "Pathogenic Bacteria," bacteria that have been shown to be virulent in humans.

(6) "Pesticide," a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; or a substance or mixture of substances intended to be used as a spray adjuvant;

7) "PMO," "Grade "A" Pasteurized Milk Ordinance," the Grade "A" Pasteurized Milk Ordinance (PMO) and Appendices, 2013, except sections 16 and 17, United States Public Health Service;

(8) "3-A sanitary standards," 3-A Sanitary Standards and Accepted Practices, 3-A Sanitary Standards Committee (1999).

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9, 40-32-18.

Law Implemented: SDCL 39-6-1, 40-32-2.

References: "Grade A Pasteurized Milk Ordinance," 2013, published by Public Health Service/Food and Drug Administration, U.S. Department of Health and Human Services, Washington, D.C. 20740-3835. Copies may be obtained from the Milk Safety Branch HFS-626, Division of Cooperative Programs, Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740-3835; no charge. This request must include a self-return label.

"The Official Methods of Analysis of the AOAC International," 19th edition, 2012, Dr. George Latimer, Jr., Editor, AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD 20877 USA.

"United States Food and Drug Administration Bacteriological Analytical Manual (BAM)," 8th Edition, 1998, Thomas Hammack, Peter Feng, Karen Jinneman, Patrick M. Regan, Julie Kase, Palmer Orlandi, William Burkhardt, Editors, may be obtained on line from <http://www.fda.gov/Food/FoodScienceResearch/LaboratoryMethods/ucm2006949.htm>.

“3-A Sanitary Standards and Accepted Practices,” November 21, 1999, formulated by the Dairy Industry Committee, International Association of Milk, Food and Environmental Sanitarians, U.S. Public Health Service, U.S. Department of Agriculture, Dairy and Food Industries Supply Association, and Poultry and Egg Institute of America. Published by the Journal of Food Protection. Copies may be obtained from the International Association of Milk, Food and Environmental Sanitarians, Box 701, Ames, Iowa 50010.

CHAPTER 12:81:02

PERMIT FOR THE SALE OF RAW MILK FOR HUMAN CONSUMPTION

Section

12:81:02:01. Sale of raw milk for human consumption -- Permit required.

12:81:02:02. Sale of raw milk for human consumption -- Minimum permit requirements.

12:81:02:01. Sale of raw milk for human consumption -- Permit required. No person may sell raw milk for human consumption unless the raw milk has been produced and packaged by a producer holding a permit issued by the secretary under SDCL 40-32-10.1 or SDCL 39-6-9, and the milk meets the standards in §§ 12:81:03:01 to 12:81:03:08, inclusive.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(2), 40-32-18.

Law Implemented: SDCL 39-6-3.1, 40-32-1, 40-32-4, 40-32-10.1, 40-32-10.3.

12:81:02:02. Sale of raw milk for human consumption -- Minimum permit requirements.

Before any raw milk may be sold for human consumption, the producer shall complete an educational course and successfully pass an examination prescribed by the secretary.

Before any raw milk may be sold for human consumption, the producer shall submit or cause an official raw milk sample to be submitted to an accredited laboratory for testing at the producer's expense for somatic cell count, drug residue, and bacteria. This sample shall be taken from the commingled raw milk supply such as the dairy farm bulk tank, if the farm is using a bulk tank to store the farm's milk supply prior to packaging. The results shall be provided to the department. All such preliminary samples must be taken using the milk sampling procedures in Appendix B of the PMO. Testing the raw milk for somatic cell count, drug residue, and bacteria shall be conducted monthly at the producer's expense, and the results shall be provided to the department.

Before any raw milk may be sold for human consumption, the department shall collect an official raw milk sample in the consumer container which will be submitted to an accredited laboratory approved by the department for testing for bacteria, coliform bacteria, pathogenic bacteria (Salmonella, Listeria Monocytogenes, Campylobacter spp., and shigatoxin producing, E. Coli), and antibiotic residue. All such preliminary samples must be taken using the milk sampling procedures in Appendix B of the PMO. The testing of the raw milk for bacteria, coliform bacteria, pathogenic bacteria, and antibiotic residue shall be conducted monthly at the department's expense, and the results shall be provided to the department and the producer.

Before any raw milk may be sold for human consumption, a producer with a private water supply used in the milking operation shall submit or cause an official water sample to be submitted to an accredited or EPA certified laboratory approved by the department for testing at the

producer's expense for coliform bacteria. The results shall be provided to the department. All such preliminary samples must be taken using the water sampling methods adopted in Appendix G of the PMO. and test negative for coliform bacteria. The private water supply must be tested at a minimum of once every three years or immediately after any repairs have been made to the private water supply. The testing must be conducted at the producer's expense and the test results must be provided to the department.

No milk may be sold for human consumption if laboratory test results for raw milk samples exceed the standards for milk in § 12:81:03:02.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(5), 39-6-9(11), 39-6-9(12), 40-32-18(2), 40-32-18(3), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9, 40-32-1, 40-32-22, 40-32-23.

CHAPTER 12:81:03

STANDARDS FOR THE SALE OF RAW MILK FOR HUMAN CONSUMPTION

Section

12:81:03:01. Sale of raw milk for human consumption -- Sample collection.

12:81:03:02. Sale of raw milk for human consumption -- Standards.

12:81:03:03. Sale of raw milk for human consumption-Test for pesticides.

12:81:03:04. Sale of raw milk for human consumption- Disposition of abnormal milk.

12:81:03:05. Sale of raw milk for human consumption -- Contamination.

12:81:03:06. Sale of raw milk for human consumption -- Labeling.

12:81:03:07. Adulterated or misbranded milk or milk products.

12:81:03:08. Sale of raw milk for human consumption- Customer List.

12:81:03:01. Sale of raw milk for human consumption -- Sample collection. Raw milk for human consumption must, at a minimum, be tested monthly for bacteria, coliform bacteria, somatic cell counts, drug residue, and pathogenic bacteria (Salmonella, Listeria Monocytogenes, Campylobacter spp., and shigatoxin producing E. Coli) at an accredited laboratory approved by the department.

Additionally, raw milk may be tested for pesticides, added water and other adulterants, as deemed necessary by the department.

The tests must be undertaken using the sampling methods in § 12:81:02:01 and must meet the standards in § 12:81:03:02. Any such sample must be collected from the consumer container.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(1) to 39-6-9(14), inclusive, 40-32-18(2), 40-32-18(3), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 40-32-1, 40-32-23, 40-32-31.

12:81:03:02. Sale of raw milk for human consumption -- Standards. Raw milk for human consumption must be produced and handled to conform to the following standards:

(1) Temperature: Maintained at 45 degrees Fahrenheit (7 degrees Celsius) or less;

(2) Antibiotics: No positive results on drug residue detection methods that are currently validated by United States Food & Drug Administration-Center for Veterinarian Medicine (FDA-CVM) or any other drug detection methods, as deemed necessary by the department;

(3) Bacteria Limits: Not to exceed 30,000 per ml;

(4) Pathogen: No pathogenic bacteria present.

(5) Somatic Cell Count: Not to exceed 750,000 per ml in cow milk. Not to exceed 1,500,000 per ml in goat milk.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(1), 39-6-9(3), 39-6-9(5) 39-6-9(7), 39-6-9(11), 39-6-9(12), 40-32-18(2), 40-32-18(3), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 40-32-1.

12:81:03:03. Sale of raw milk for human consumption-Test for pesticides. Raw milk for human consumption samples may be tested for pesticides by the secretary at least once a year or at a frequency which the secretary determines to be adequate to protect the consumer. The samples may not exceed established environmental protection agency tolerances in Title 40 C.F.R. Part 180, pages 162 to 291, inclusive (July 1, 1990).

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(1), 39-6-9(3), 39-6-9(5), 39-6-9(7), 39-6-9(11), 39-6-9(12), 40-32-18(2), 40-32-18(3), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 40-32-1.

12:81:03:04. Sale of raw milk for human consumption- Disposition of abnormal milk. Cows, goats, sheep or other hooved mammals which show evidence of the secretion of abnormal milk in one or more quarters, based upon bacteriological, chemical, or physical examination, shall be milked last or with separate equipment and the milk shall be discarded. Cows, goats, sheep or other hooved mammals treated with or which have consumed chemical, medicinal, or radioactive agents which are capable of being secreted in the milk and which, in the judgment of the department, may be deleterious to human health, shall be milked last or with separate equipment and the milk disposed of as the department directs.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(1), 39-6-9(4) 39-6-9(5), 39-6-9(6), 39-6-9(11), 39-6-9(12), 40-32-18(2), 40-32-18(3), 40-32-18(4), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 40-32-1, 40-32-33.

12:81:03:05. Sale of raw milk for human consumption -- Contamination. If official laboratory test results indicate that a sample of raw milk for human consumption contains presumptively pathogenic bacteria, the milk producer must be notified immediately. The milk producer shall immediately notify consumers and the raw milk must be removed from supplies intended for human consumption. The milk producer may only market the raw milk to a licensed milk buyer for further processing, pending the official laboratory results indicating the presence or absence of pathogenic bacteria. An official sample must immediately be collected and tested, at the producer's expense, for the contamination that led to the stop sale and recall of raw milk for human consumption. If the official laboratory results confirm that the raw milk for human

consumption contains pathogenic bacteria, the producer's permit to sell raw milk for human consumption is suspended.

The department shall reinstate the milk producer's permit if the sample meets the standards outlined in §§ 12:81:02:02 and 12:81:03:03 and the milking facility successfully passes an inspection.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(1), 39-6-9(2), 39-6-9(4), 39-6-9(5), 40-32-18(2), 40-32-23.

Law Implemented: SDCL 39-6-15, 40-32-1, 40-32-10.4, 40-32-33.

12:81:03:06. Sale of raw milk for human consumption -- Labeling. All final consumer containers containing raw milk for human consumption must be labeled in accordance with the requirements provided in this section.

All final consumer bottles, containers, and packages containing raw milk for human consumption must be conspicuously marked with:

(1) The identity of the farm where the raw milk is produced and packaged;

(2) The words "RAW MILK" or "RAW CREAM";

(3) The date of bottling.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(3), 40-32-18(7).

Law Implemented: SDCL 40-32-1.

12:81:03:07. Adulterated or misbranded milk or milk products. A person may not, within the state, produce, provide, sell, offer, or expose for sale or have in possession with the intent to sell any milk or milk product which is adulterated or misbranded.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(1).

Law Implemented: SDCL 40-32-33, 40-32-34, 40-32-35.

12:81:03:08. Sale of raw milk for human consumption- Customer List. Producers engaged in the selling of raw milk for human consumption shall maintain records of the consumers who purchase raw milk for human consumption. The records shall contain the consumer name, phone number, and date of sale. Records shall be maintained for a period of 90 days.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(15).

Law Implemented: SDCL 40-32-1.

CHAPTER 12:81:04

FARM REQUIREMENTS FOR THE SALE OF RAW MILK FOR HUMAN

CONSUMPTION

Section

12:81:04:01. Sale of raw milk for human consumption -- Packaging raw milk.

12:81:04:02. Yard or loafing area -- Size -- Drainage --Cleanliness.

12:81:04:03. Cleanliness of milker.

12:81:04:04. Preparation of cows, goats, sheep or other hooved mammals before milking.

12:81:04:05. Milking facility and housing.

12:81:04:06. Protection when straining and transferring milk.

12:81:04:07. Storage of milking equipment -- Prohibited actions during milking.

12:81:04:08. Milkroom to be provided.

12:81:04:09. Milkroom partitions, floors, drainage, and door openings.

12:81:04:10. Equipment required in milkroom.

12:81:04:11. Milk storage location and clearance.

12:81:04:12. Location of cooling tank -- Visual inspection.

12:81:04:13. Cooling and storing of milk.

12:81:04:14. Utensils and equipment.

12:81:04:15. Water supply.

12:81:04:16. Sewage disposal.

12:81:04:17. Storage and labeling of medicinals and drugs.

12:81:04:18. General Herd Health.

12:81:04:19. Future dairy farms.

12:81:04:01. Sale of raw milk for human consumption -- Packaging raw milk. Raw milk for human consumption must be packaged on the farm where it is produced. Packaging must be done in a sanitary manner with sanitary equipment.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(3), 39-6-9(7), 39-6-9(11), 39-6-9(12), 40-32-18(4), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9,40-32-1.

12:81:04:02. Yard or loafing area -- Size -- Drainage --Cleanliness. The yard or loafing area shall be of ample size to prevent overcrowding, shall be drained to prevent forming of standing water pools, and shall be kept clean.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 40-32-18(5).

Law Implemented: SDCL 39-6-9(9), 40-32-18(5).

12:81:04:03. Cleanliness of milker. The milker's outer clothing shall be clean and his hands clean and dry. No person with an infected cut or open sores on his hands or arms shall milk cows, goats, sheep or other hooved mammals or handle milk, milk containers, utensils, or equipment.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(10), 39-6-9(12), 40-32-18(5).

Law Implemented: SDCL 39-6-9(10), 39-6-9(12), 40-32-18(5).

12:81:04:04. Preparation of cows, goats, sheep or other hooved mammals before milking. The udders and flanks of all milking cows, goats, sheep or other hooved mammals must be kept clean. The teats must be sanitized and wiped dry immediately before milking.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(11), 39-6-9(12), 40-32-18(5).

Law Implemented: SDCL 39-6-9(11), 39-6-9(12), 40-32-18(5).

12:81:04:05. Milking facility and housing. A milking facility which permits sanitary milking operations must be provided. It must be well lighted and ventilated, and the floors and gutter in the milking area must be constructed of concrete or other impervious material, sloped to drain, and in good repair. The facility must be kept clean. The waste must be removed daily and stored to prevent access of cows, goats, sheep or other hooved mammals to the stored waste. Animals other than the milking herd are not permitted in any part of the milking facility. All pens in the milking facility must be kept clean.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5).

Law Implemented: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5).

12:81:04:06. Protection when straining and transferring milk. If milk is exposed during straining or transferring in the milking areas, it must be protected from falling particles from areas above the milk handling area. All milk must be filtered using an approved single service article before being transferred to the bulk tank or storage containers for cooling.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5), 40-32-18(6).

12:81:04:07. Storage of milking equipment -- Prohibited actions during milking. Milk stools, surcingles, and antikickers must be kept clean and stored above the floor in a clean place. Dusty operations or feeding of strong-flavored feeds may not be conducted immediately before or during milking.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5), 40-32-18(6).

12:81:04:08. Milkroom to be provided. A milkroom that is conveniently located, has one or more outside walls, is well lighted, is ventilated, and is heated to above freezing shall be provided. The milkroom shall be used for the handling and cooling of milk and for the washing, handling, and storing of utensils and equipment. Equipment and supplies not directly related to the milking operation may not be stored in the milkroom. Animals are not permitted in any part of the milkroom.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5).

Law Implemented: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5).

12:81:04:09. Milkroom partitions, floors, drainage, and door openings. If the milkroom is part of a barn or an adjoining building, it must be separated by a solid partition that includes tight-fitting and self-closing solid doors hinged to open into the barn or parlor. The milkroom must be sealed and walled with smooth and easily cleaned material. The floor must be of concrete or other impervious material, graded to provide drainage. The milkroom must have a trapped floor drain,

and the waste collected in the floor drain must be piped away from the building to avoid pooling and creating other unsanitary conditions. All openings must be screened to prevent the entrance of flies and rodents. All outside doors and windows must be closed during dusty weather. All outside doors must open outward and be solid and self-closing unless they are provided with tight-fitting screen doors that open outward and are self-closing.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5).

Law Implemented: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5).

12:81:04:10. Equipment required in milkroom. Milkrooms must be equipped with a two-compartment vat for washing and rinsing, a utensil rack, and milk cooling facilities. The milkroom must have water under pressure to a thermostatically controlled hot water storage tank capable of maintaining a sufficient quantity of water at the temperatures needed for the cleaning of milk handling equipment.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

12:81:04:11. Milk storage location and clearance. The milk storage tank or container shall be located in the milkhouse to provide the following clearance:

(1) The working side shall be 36 inches from the wall or other equipment;

(2) The outlet valve end shall be 36 inches from the wall or other equipment;

(3) The side opposite the outlet valve end shall be 24 inches from the wall or other equipment; and

(4) The rear side shall be 24 inches from the wall or other equipment.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 40-32-18(5).

Law Implemented: SDCL 39-6-9(9), 40-32-18(5).

12:81:04:12. Location of cooling tank -- Visual inspection. The location of a farm bulk tank, if the farm is using a bulk tank to store the farm's milk supply, must permit access to all areas in the milkroom for cleaning and servicing. It may not be located over a floor drain or under a ventilator or light fixture. Each farm bulk tank must be emptied for visual inspection at least once every 72 hours.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

12:81:04:13. Cooling and storing of milk. Milk must be cooled to forty-five degrees Fahrenheit or lower within two hours after milking. The blend temperature after the first milking and subsequent milkings may not exceed 50 degrees Fahrenheit. Each bulk tank, if the farm is using a

bulk tank to store the farm's milk supply, must be equipped with a thermometer that is in good working condition.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5), 40-32-18(6).

12:81:04:14. Utensils and equipment. Utensils and equipment used in the handling of milk must meet 3A construction standards and be maintained as follows:

(1) Utensils, milking machines, pipeline systems, farm bulk tanks, and other equipment used in the handling of milk must be maintained in good condition; free from rust, open seams, milkstone, or any unsanitary conditions; washed, rinsed, sanitized, and drained after each milking; stored in suitable facilities; and sanitized immediately before use with at least 50 parts per million chlorine solution or its equivalent.

(2) Single-service articles, such as strainer pads, parchment papers, gaskets, and similar items, must be stored in a cabinet or sealed container and protected against contamination. Single-service articles may not be reused.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

12:81:04:15. Water supply. The dairy farm water supply must be safe, clean, and ample for the cleaning of dairy utensils and equipment. The water supply must meet the bacteriological

standards established by the department of environment and natural resources and the standards for potable water supply systems of the state plumbing code.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5).

Law Implemented: SDCL 39-6-9(9), 39-6-9(11), 39-6-9(12), 40-32-18(5).

12:81:04:16. Sewage disposal. Milkroom and toilet wastes shall be disposed of in a manner that does not pollute the soil surface or contaminate any water supply and is not exposed to insects. The disposal systems must comply with ARSD 74:53.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

12:81:04:17. Storage and labeling of medicinals and drugs. Drugs and medicinals must be stored in a manner that prevents contamination of the milk or the portions of the equipment, containers, or utensils that come in contact with milk. Such products must be labeled to include the following:

(1) The name and address of the manufacturer or distributor, for over-the-counter medicinals or drugs, or the veterinary practitioner dispensing the product for prescription and extra-label-use medicinals or drugs;

(2) Directions for use;

(3) The prescribed withholding times;

(4) Cautionary statements, if needed; and

(5) The active ingredient of the product must be identified on the package or on the label.

Unapproved or improperly labeled medicinals or drugs may not be used to treat dairy animals and may not be stored in the milkhouse, milking barn, stable, or parlor. Medicinals or drugs intended for treatment of nonlactating dairy animals must be segregated from those medicinals or drugs used for lactating animals. Separate shelves in cabinets, refrigerators, or other storage facilities satisfies this requirement.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

Law Implemented: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(6).

12:81:04:18. General Herd Health. All animals in each herd subject to this article shall be maintained in a healthy condition.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(6), 39-6-9(12), 40-32-18(4).

Law Implemented: SDCL 39-6-9(6), 39-6-9(12), 40-32-18(4).

12:81:04:19. Future dairy farm plans. Plans for the construction of all milkhouses, milking barns, stables, and parlors regulated under this article which are to be constructed, reconstructed, or extensively altered shall be submitted to the department before construction begins.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(9).

Law Implemented: SDCL 39-6-9(9), 39-6-9(12), 40-32-18(5), 40-32-18(9).

CHAPTER 12:81:05

ENFORCEMENT FOR THE SALE OF RAW MILK FOR HUMAN CONSUMPTION

Section

12:81:05:01. Enforcement.

12:81:05:02. Farm inspection reports -- Posting and distribution.

12:81:05:03. Inspection service fee.

12:81:05:04. Frequency of farm inspections.

12:81:05:05. Violation of rules relating to facilities --Cause for suspension of farm permit.

12:81:05:06. Violation of rules relating to methods -- Cause for suspension of farm permit.

12:81:05:07. Reinstatement of farm permit suspended for other than quality standards.

12:81:05:08. Reinstatement of permit -- Suspension due to quality standards.

12:81:05:09. Notice of suspension if quality standards are exceeded.

12:81:05:10. Notice of suspension for drug or pesticide residues.

12:81:05:11. Reinstatement of permit suspended for drug or pesticide residues.

12:81:05:01. Enforcement. Dairy farms that are issued a raw milk for human consumption permit shall comply with provisions of this chapter.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(2), 39-6-9(4)

Law Implemented: SDCL 39-6-9(9), 39-6-9(12), 39-6-2, 39-6-3.1, 40-32-10.2.

12:81:05:02. Farm inspection reports -- Posting and distribution. Compliance with dairy farm requirements shall be determined by inspection of the premises, methods, and facilities of all producers of raw milk for human consumption by the secretary. The results of the inspection shall be recorded on a dairy farm inspection report provided by the secretary. A copy shall be posted in a conspicuous place on an inside wall of the milkroom.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(4), 40-32-18(5).

Law Implemented: SDCL 39-6-9(4), 40-32-18(5).

12:81:05:03. Inspection service fee. A dairy farm that produces and markets raw milk for human consumption shall pay an inspection service fee. The inspection fee shall be fifty dollars paid annually by July first.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(4); 40-32-5(8).

Law Implemented: SDCL 39-6-9(4); 40-32-5(8).

12:81:05:04. Frequency of farm inspections. At least once each 12 months the premises, methods, and facilities of each producer who produces raw milk for human consumption must be inspected by the secretary for compliance with rules adopted under this article.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(4)

Law Implemented: SDCL 39-6-9(4)

12:81:05:05. Violation of rules relating to facilities --Cause for suspension of farm permit. A
violation of any rule relating to a producer's facilities must be corrected within a reasonable time prescribed by the secretary. If reinspection by the secretary reveals the violation has not been corrected, the secretary shall suspend the producer's permit.

An extension of time may not be granted beyond the prescribed time limits unless the extension is needed due to conditions beyond the producer's control and it is approved by the secretary.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(4), 39-6-9(9), 39-6-9(11), 39-6-9(12); 40-32-18(5).

Law Implemented: SDCL 40-32-10.4

12:81:05:06. Violation of rules relating to methods -- Cause for suspension of farm permit.
Significant violations of rules relating to a producer's production methods on any one inspection or

consecutive violations on two successive inspections require a reinspection. If the reinspection reveals that the rules violated on the preceding inspection have not been corrected, the secretary shall suspend the producer's permit.

An extension of time may not be granted unless the extension is needed due to conditions beyond the producer's control and it is approved by the secretary.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(4), 39-6-9(9), 39-6-9(11), 39-6-9(12); 40-32-18(5).

Law Implemented: SDCL 40-32-10.4

12:81:05:07. Reinstatement of farm permit suspended for other than standards. A producer whose permit has been suspended for a reason other than standards must submit a written request for the reinstatement of the permit to the secretary. Within five working days after receipt of the request, an inspector or a licensed dairy fieldman shall inspect the dairy farm facilities and operating methods to determine whether the conditions responsible for the suspension have been corrected. If the findings justify it and the secretary approves, the permit shall be reinstated. The producer's bulk milk tank, if the farm is using a bulk tank to store the farm's milk supply, must be empty and clean at the time of the final inspection.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(4)

Law Implemented: SDCL 40-32-10.4, 40-32-10.8

12:81:05:08. Reinstatement of permit -- Suspension due to standards. If a permit suspension is due to a violation of the somatic cell standard, the secretary shall issue a three-week temporary permit if a resampling of the herd's milk supply indicates the milk supply to be within acceptable limits. Official somatic cell samples shall be taken and analyzed at an accredited laboratory approved by the department at a rate of at least two per week on separate days within the three-week period. Any sample not in compliance within the three-week period shall result in an automatic suspension of the producer's permit. The secretary shall reinstate the permit upon compliance with the applicable quality standard set in chapter 12:81:03.

If a permit suspension is due to a violation of any of the standards, except for the somatic cell standard or pathogenic bacteria, the secretary shall, within one week after the receipt of notification for reinstatement and receipt of acceptable results of a resampling of the herd's milk supply, issue a three-week temporary permit after determining by an inspection of the facilities and operating methods that the conditions responsible for the violation have been corrected. Official samples shall be taken at the producer's expense, and analyzed at an accredited laboratory approved by the department, at a rate of one per week for three weeks. Any sample not in compliance within the three-week temporary permit shall result in an automatic suspension of the producer's permit. The secretary shall reinstate the permit upon compliance with the applicable quality standards set in chapter 12:81:03.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(1) to 39-6-9(11), inclusive, 40-32-18(2) to 40-32-18(7), inclusive.

Law Implemented: SDCL 39-6-3, 39-6-15, 40-32-1, 40-32-10.1, 40-32-10.3, 40-32-10.4, 40-32-22, 40-32-23.

12:81:05:09. Notice of suspension if standards are exceeded. If two of the last four consecutive monthly bacterial, somatic cell counts in a particular species, or cooling temperatures exceed the limit of the standard for raw milk for human consumption, the secretary shall send a written notice to the permit holder. The notice remains effective as long as two of the last four consecutive monthly samples exceed the limit of the standard. The secretary shall suspend the producer's permit immediately if the standard is violated by three of the last five consecutive monthly bacterial counts, somatic cell counts in a particular species, or cooling temperatures.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(2), 39-6-9(5), 39-6-9(12), 40-32-18(2).

Law Implemented: SDCL 39-6-15, 39-6-16, 40-32-1, 40-32-10.4, 40-32-10.5

12:81:05:10. Notice of suspension for drug or pesticide residues. If a drug or pesticide residue test is positive, milk must be disposed of in a manner that removes it from the human food chain. The milk producer shall immediately notify consumers and the raw milk must be removed from supplies intended for human consumption. The secretary shall immediately suspend the producer's permit. For a third violation of drug residue in 12 months, the secretary shall hold a hearing pursuant to SDCL 1-26 to revoke the producer's permit.

If a drug or pesticide residue test is positive, an investigation shall be made to determine the cause and the cause shall be corrected. An additional sample shall be taken and tested for drug or pesticide residues and the milk may not be offered for sale until it is shown by a subsequent sample to be free of drug or pesticide residues or below the tolerances for pesticides established in 40 C.F.R. Part 185 (July 1, 1990).

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(2), 39-6-9(5), 39-6-9(12), 40-32-18(2).

Law Implemented: SDCL 39-6-15, 39-6-16, 40-32-1, 40-32-10.4, 40-32-10.5, 40-32-23.

12:81:05:11. Reinstatement of permit suspended for drug or pesticide residues. The secretary shall reinstate the producer's permit after an official sample taken from the producer's milk supply is no longer positive for drug or pesticide residues.

Source: 40 SDR 109, effective December 11, 2013.

General Authority: SDCL 39-6-9(2), 39-6-9(5), 40-32-18(2).

Law Implemented: SDCL 40-32-1, 40-32-10.4, 40-32-23.