

**ADOPTED REGULATION OF THE
STATE DAIRY COMMISSION**

LCB File No. R151-01

Effective January 1, 2002

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

AUTHORITY: §§1-7, 9-13, 19-28, 30-66 and 68-78, NRS 584.067; §§8 and 15, NRS 584.067, 584.103 and 584.135; §14, NRS 584.067 and 584.103; §§16, 17, 18, 29 and 67, NRS 584.067 and 584.210.

Section 1. Chapter 584 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *“Commission” means the state dairy commission created pursuant to NRS 584.031.*

Sec. 3. *“Dairy foods manufacturing plant” means any place or establishment where dairy products are received or handled for processing or manufacturing, or are prepared for distribution.*

Sec. 4. *“Dairy products” includes any product manufactured from milk or any derivative or product of milk.*

Sec. 5. *“Executive director” means the executive director of the commission.*

Sec. 6. *“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.*

Sec. 7. 1. *The commission hereby adopts by reference the following sections of Milk for Manufacturing Purposes and Its Production and Processing, November 1996, published by*

the United States Department of Agriculture, as they exist on the effective date of this regulation, 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. E3. Supplemental requirements for plants manufacturing, processing and packaging butter and related products.

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

(4) Sec. E6. Supplemental requirements for plants manufacturing, processing and packaging pasteurized process cheese and related 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, DC 20090-6456, or on the Internet at <<http://www.ams.usda.gov/dairy/stand.htm>>.

Sec. 8. 1. *The commission hereby adopts by reference the following publications as they exist on the effective date of this regulation and any subsequent revision of these publications that have been approved by the executive director for use in this state. Each revision of these publications 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 publications are hereby adopted:*

(a) "Standards of Identity for Frozen Desserts and Frozen Novelties," set forth in Title 21 of the Code of Federal Regulations, Parts 100 to 199, inclusive.

(b) "Standards of Identity for Butter and Related Products," set forth in Title 21 of the Code of Federal Regulations, Parts 100 to 199, inclusive.

(c) "Standards of Identity for Cheese," set forth in Title 21 of the Code of Federal Regulations, Parts 100 to 199, inclusive.

2. *A copy of the publications which contain these parts may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the following prices:*

(a) For Parts 100-169, \$44; and

(b) For Parts 170-199, \$45.

Sec. 9. *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 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 section 7 of this regulation.

Sec. 10. 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 ~~[584.006,]~~ 584.007 and ~~[584.008]~~ *sections 2 to 5, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 11. NAC 584.0111 is hereby amended to read as follows:

584.0111 As used in NAC 584.0111 to 584.0551, inclusive, *and sections 6 to 9, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 584.0121 to ~~[584.0231,]~~ *584.0151*, inclusive, *and section 6 of this regulation* have the meanings ascribed to them in those sections.

Sec. 12. NAC 584.0121 is hereby amended to read as follows:

584.0121 “Adulterated or misbranded ” ~~[frozen desserts or mix”]~~ means any ~~[frozen dessert or mix which]~~ *milk or milk product that* contains any unwholesome substance ~~[, or]~~ which does not conform with its definition ~~[, or which carried]~~ *or which carries* a grade label unless the grade label has been awarded by the ~~[health division and not revoked.]~~ *commission.*

Sec. 13. NAC 584.0141 is hereby amended to read as follows:

584.0141 “Dairy farm” means any place where one or more *milking* cows , *sheep or goats* are kept ~~[,]~~ and where a part or all of the milk ~~[or milk products]~~ *produced* from those *milking* cows , *sheep or goats* ~~[are]~~ *is delivered*, sold or offered for sale ~~[,]~~ *to a dairy foods manufacturing plant.*

Sec. 14. NAC 584.0151 is hereby amended to read as follows:

584.0151 “Frozen dessert” means those products ~~listed in subsection 1 of NRS 584.013.~~
~~The term includes imitation ice cream and ice milk that have a complete substitution of vegetable fat for butterfat. These products may not have part vegetable and part butterfat.]~~ *that conform to the provisions set forth in “Definitions and Standards of Identity for Frozen Desserts,” 21 C.F.R. 135.*

Sec. 15. NAC 584.0361 is hereby amended to read as follows:

584.0361 1. All ~~beans, packages and other containers enclosing mix or frozen desserts or their ingredients derived from milk except those filled from labeled bulk containers in retail dispensing,]~~ *bottles, containers and packages enclosing dairy products* must be labeled or marked in accordance with the *standards of identity adopted by reference in section 8 of this regulation in addition to the* requirements of the ~~[Food and Drug Administration, the Bureau of Weights and Measures, the Federal Trade Commission or state and local regulations in the absence of any other standards.]~~ *Federal Food, Drug and Cosmetic Act, and any subsequent regulation developed thereunder that have been approved by the executive director for use in this state. Any subsequent regulation shall be deemed approved by the executive director unless, after review and consultation with the commission, the executive director files an objection to the regulation with the office of the secretary of state within 60 days after the date of adoption of the regulation by the federal government.*

2. *All proposed labels must be submitted to the commission and approved before being printed or used.*

Sec. 16. NAC 584.0371 is hereby amended to read as follows:

584.0371 1. ~~[No person may deliver directly or indirectly into or]~~ *A dairy foods manufacturing plant may not* receive for sale, ~~[or to]~~ produce, sell, ~~[or]~~ offer for sale ~~[, or to]~~ *or*

have in storage ~~[where mix or frozen desserts are sold or served, any mix or frozen dessert, if he]~~ *any manufactured dairy product if the plant* does not possess a permit from the ~~[health division.]~~ *commission*. Only a ~~[person who]~~ *dairy foods manufacturing plant that* complies with the requirements of NAC 584.0111 to 584.0551, inclusive, *and sections 7, 8 and 9 of this regulation*, may receive and retain a permit.

2. Permits are not transferable.

Sec. 17. NAC 584.0381 is hereby amended to read as follows:

584.0381 1. A permit may be summarily suspended by the ~~[health division]~~ *executive director* when a condition is found which constitutes an imminent health hazard and prompt action is necessary to protect the public health.

2. A permit may be revoked by the ~~[health division]~~ *commission* for serious or repeated violations of chapter 584 of NRS or NAC 584.0111 to 584.0551, inclusive ~~[]~~, *and sections 7, 8 and 9 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 ~~[health division shall]~~ *commission will* take further samples . ~~[at the rate of not more than two samples per week. The health division shall]~~ *The commission will* reissue the permit whenever the average of the last four sample results indicate the necessary compliance.

4. If the suspension of a permit is because of a violation of any ~~[item or items of the specifications prescribed in NAC 584.0431 to 584.0511, inclusive,]~~ *of the requirements of sanitation and control of quality adopted by reference in section 7 of this regulation*, 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 ~~[health division shall]~~ *commission 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 ~~[health division shall]~~ *commission will* reissue the permit.

Sec. 18. 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 ~~[health division]~~ *commission* pursuant to NAC 584.0111 to 584.0551, inclusive, *and sections 7, 8 and 9 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 ~~[immediate supervisor of the employee.]~~ *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 ~~[bureau for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the bureau, except that the informal conference must be held no later than 60 days after the date on which the bureau received the written request.~~

~~—3.— Except as otherwise provided in subsection 4, the determination of the bureau resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.~~

~~—4.]~~ *commission 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 sections 7, 8 and 9 of this regulation* who is aggrieved by an action of the ~~[health division]~~ *commission* 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 ~~[NAC 439.300 to 439.395, inclusive,]~~ *the provisions of NRS 584.210* after exhausting the informal procedures set forth in this section . ~~[, except that the bureau may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.]~~

Sec. 19. NAC 584.0421 is hereby amended to read as follows:

584.0421 1. ~~[No]~~ A person may *not* manufacture, freeze, sell, offer or expose for sale, or have in possession with intent to sell, any ~~[mix or frozen dessert]~~ *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 ~~[mix or frozen dessert]~~ *manufactured dairy product* may be impounded by the ~~[health officer]~~ *commission* and disposed of in accordance with state law.

Sec. 20. NAC 584.0541 is hereby amended to read as follows:

584.0541 ~~[Mix and frozen desserts]~~ *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 ~~[The health division]~~, *and sections 7, 8 and 9 of this regulation. The commission* may require assurances that the ~~[health officer]~~ *agency* having jurisdiction over the manufacturer of such products is properly enforcing those provisions.

Sec. 21. NAC 584.0551 is hereby amended to read as follows:

584.0551 If any of the provisions of NAC 584.0111 to 584.0551, inclusive, *and sections 7, 8 and 9 of this regulation* or any application thereof to any person, thing or circumstance is held

invalid, it is intended that such invalidity not affect the remaining provisions ~~[, or their application, that]~~ *or application thereof if the provisions or application* can be given effect without the invalid provision or application.

Sec. 22. NAC 584.1811 is hereby amended to read as follows:

584.1811 “Misbranded” means any raw milk or product made from it ~~[which]~~ *that* fails to:

1. Conform in any respect with any statement on its label; or
2. Declare an ingredient on its label as required in NAC ~~[584.4311 to 584.4321, inclusive.]~~

584.2621.

Sec. 23. NAC 584.1821 is hereby amended to read as follows:

584.1821 “Official laboratory” means a biological, chemical or physical laboratory ~~[which is operated]~~ *that has been designated* by the ~~[health division.]~~ *commission.*

Sec. 24. NAC 584.1881 is hereby amended to read as follows:

584.1881 Certified raw table cream, raw light cream or raw coffee cream must contain not less than 18 percent *milk solids* and less than 30 percent milk fat.

Sec. 25. NAC 584.2021 is hereby amended to read as follows:

584.2021 1. ~~[No]~~ *A* person within ~~[Nevada]~~ *this state* may *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 ~~[health division]~~ *state dairy commission* may require such chemical and physical tests to detect the adulteration of raw milk or products made from it as the ~~[health division]~~ *state dairy commission* deems necessary.

Sec. 26. 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 ~~[health division]~~ *state dairy commission* will inspect the facility. If the facility fully complies with this section, the ~~[health division]~~ *state dairy commission* will issue a permit to operate the facility.

2. The ~~[health division]~~ *state dairy commission* 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. 27. NAC 584.2041 is hereby amended to read as follows:

584.2041 1. A person who desires to weigh, measure ~~[-, sample and haul milk shall]~~ *and sample milk must* apply to the ~~[health division]~~ *commission* for a permit. The ~~[health division]~~ *commission* will examine each applicant and issue him a permit if ~~[he]~~ :

(a) *He* is qualified to weigh, measure and sample milk ; and

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

2. A person ~~[may not]~~ *who desires to* haul milk ~~[without a valid permit from the health division.]~~ *must apply to the commission for a permit. The commission will examine each applicant and issue him a permit if:*

(a) *He is qualified to haul milk; and*

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

Sec. 28. NAC 584.2051 is hereby amended to read as follows:

584.2051 ~~[The health division]~~ *Before issuing a permit, the commission* will inspect each certified dairy farm, milk hauler and bottling or packaging plant whose certified milk or products made from it are intended for consumption in ~~[Nevada before it issues a permit.]~~ *this state*. After issuing the permit, the ~~[health division]~~ *commission* 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. 29. NAC 584.2061 is hereby amended to read as follows:

584.2061 If the ~~[health division]~~ *commission* finds a violation of any of the requirements of NAC 584.1611 to 584.2881, inclusive, during an inspection, the ~~[health division]~~ *commission* 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 ~~[health division]~~ *commission* will determine whether the condition ~~[which]~~ *that* was in violation has been remedied. If the ~~[health division finds any]~~ *commission finds a* violation of *any of* the same ~~[requirement]~~ *requirements* during its second inspection, ~~[it]~~ *the commission* may suspend *or revoke* a permit. ~~[in accordance with NAC 584.2031 and 584.2041, or pursuant to court action.]~~

Sec. 30. 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 ~~[health division]~~ *commission* upon request. The inspector shall file with the ~~[health division]~~ *commission* a copy of the report identical to the one posted.

Sec. 31. 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 ~~health division,~~ *commission*, permit access of persons designated by the ~~health division~~ *commission* to all parts of his establishment or facilities to determine compliance with the provisions of ~~this regulation,~~ *NAC 584.1611 to 584.2881, inclusive.*

2. The operator of a bottling plant shall furnish the ~~health division,~~ *commission*, 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. 32. NAC 584.2091 is hereby amended to read as follows:

584.2091 1. The ~~health division,~~ *commission* may obtain samples of certified raw milk and products made from it for examination as often as ~~the~~ *the commission* deems necessary ~~and~~ *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. All sampling procedures and laboratory examinations must substantially comply with the requirements set forth in:

(a) Standard Methods for Examination of Dairy Products published by the American Public Health Association at ~~1015 18th Street Northwest, Washington, D.C. 20036,~~ *880 I Street N.W., Washington, DC 20001-3710*, available for a price of ~~\$25;~~ *\$45*; and

(b) Official Methods of Analysis *of AOAC INTERNATIONAL* published by the Association of Official Analytical Chemists at ~~P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044,~~ *481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877-2417*, available for a price of ~~\$60;~~ *\$499*.

Sec. 33. 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 ~~[health-division]~~ *commission* may require.

Sec. 34. NAC 584.2151 is hereby amended to read as follows:

584.2151 1. Samples of certified milk must be tested at least twice each year for residues of pesticides.

2. Bioassays of certified milk and products made from it to determine the content of vitamins D and A must be made ~~[semiannually in a laboratory approved by the state health officer]~~ *annually in an official laboratory* at the expense of the bottling plant.

Sec. 35. 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 ~~[which]~~ *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 ~~[health-division]~~ *commission* 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 ~~[health-division]~~ *commission* but will be approved if they substantially meet the requirements for sanitation in NAC 584.1611 to 584.2881, inclusive.

Sec. 36. NAC 584.2171 is hereby amended to read as follows:

584.2171 Every dairy farm must 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 cows are milked must be 7 feet. Ventilation by means of forced air may be permitted upon approval by the ~~health division.~~ *commission.* 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 . ~~[; and]~~

7. Have ~~[provision]~~ *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. 37. 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 ~~[health division]~~ *commission* 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. 38. 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 ~~[health division.]~~ *commission*.

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 ~~[screen.]~~ *screens*.

Sec. 39. NAC 584.2291 is hereby amended to read as follows:

584.2291 1. The floors, walls, ceilings, windows, tables, shelves, cabinets, vats for washing and any other surfaces ~~[which]~~ *that* come in contact with ~~[the]~~ milk or products made from it, including , *without limitation*, containers, utensils and equipment, must be clean. Only articles directly related to the milkhouse activities may be kept in that room.

2. ~~[No animals other than those to be milked may be in the milking barn.]~~

~~—3.]~~ No medicines or pesticides may be stored in the milkhouse.

~~[4.]~~ 3. Liquid waste must be disposed of in an approved, sanitary manner as provided in subsection 7 of NAC 584.2171. All floor drains from the milkhouse must be accessible and contain traps.

~~[5.]~~ 4. The milkhouse must not be used for any other purpose than *the* activities connected with milking.

Sec. 40. 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 has evaluated and approved the particular method.*

2. The flanks, bellies and tails of all milking cows 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 ~~must~~ shall clean and rinse his hands with a bactericidal solution and dry them before each milking. A milker may 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. 41. NAC 584.2351 is hereby amended to read as follows:

584.2351 After milk is obtained from a cow, ~~it~~ 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 ~~so~~ constructed so that it is self-closing and easily cleaned. The area under the port on the outside wall must be ~~an~~ a surface that is easily cleaned ~~surface which~~ and is sufficiently large to protect the milk hose from contamination. All this equipment is subject to the approval of the ~~health division.~~ commission.

Sec. 42. 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. ~~It~~ 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 ~~health division.~~ commission.

3. The bulb or other device for sensing the temperature must be ~~so~~ 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. 43. 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 ~~[in each 24 or 48 hours;]~~ *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 ~~[which]~~ *that* governs the movement of the chart may be either manually wound or electrically operated. The time ~~[which]~~ *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 ~~[dairy inspector]~~ *commission* during that time unless otherwise provided.

Sec. 44. 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 ~~[of]~~ *in the* temperature of the market milk in the farm tank, the anticipated buyer of that milk and the ~~[health division]~~ *commission* 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 ~~[health division.]~~ *commission.*

Sec. 45. NAC 584.2411 is hereby amended to read as follows:

584.2411 Each bulk milk tank must have a capability of refrigeration ~~[which]~~ *that* is sufficient to:

1. Reduce the temperature of the milk to ~~[45°F. (70°C.) or below,]~~ *50°F. (10°C.) or less, no more than 4 hours after the commencement of the first milking, and to 45°F. (7°C.) or less, within 2 hours after the completion of milking, provided that the blend temperature does not exceed 50°F. (10°C.) after the first milking and the subsequent milkings,* as indicated by a recording thermometer ; ~~[- within 1 hour after completion of the first milking, or within 5 hours after the beginning of milking, whichever occurs first,]~~ and

2. Maintain the temperature at that level until delivery of the milk.

Sec. 46. 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 ~~be~~ well ventilated and lighted. Sewage and other liquid wastes from these rooms must be disposed of in a manner approved by the ~~health division.~~ *commission.*

Sec. 47. 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 ~~health division.~~ *commission.* 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, ~~or~~ used for such purposes as cooling or condensing, ~~or~~ unless the source of water is protected by an airgap or an effective method of preventing backflow.

2. Any new, individual system for the supply of water and any system ~~which~~ *that* has been repaired or has become contaminated must be disinfected before being placed in use. ~~The~~ *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. ~~by flushing with water disposed of as waste before any samples for bacteriological testing are collected.~~

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 ~~which~~ *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 ~~[which]~~ *that* are used in cooling systems must be nontoxic.

Sec. 48. 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 ~~[only that equipment which]~~ *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 ~~[health division]~~ *commission* 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. 49. NAC 584.2481 is hereby amended to read as follows:

584.2481 1. All sanitary piping, fittings and connections ~~[which]~~ *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 ~~health division.~~ *commission.*

Sec. 50. NAC 584.2491 is hereby amended to read as follows:

584.2491 1. All containers ~~which~~ *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 ~~which~~ *that* is equally resistant to corrosion and is nontoxic and nonabsorbent may be used, except plastic, rubber or rubber-like materials approved by the ~~health division~~ *commission* for use as gaskets and flexible piping, where necessary.

Flexible tubing may not be used to replace solid piping unless it is necessary ~~is~~ *and approved by the commission.*

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 ~~which~~ *that* are designed or intended to be used only once must not be reused.

Sec. 51. NAC 584.2511 is hereby amended to read as follows:

584.2511 1. The surfaces of all containers, equipment and utensils ~~which~~ *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 ~~[which]~~ *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 ~~[so]~~ 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 ~~[health division]~~ *commission* based on the specifications for beverage bottles of the National Soft Drink Association. The containers ~~[so]~~ 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 ~~[health division]~~ *commission* if its effectiveness in cleaning is equivalent to that achieved by a caustic solution.

Sec. 52. NAC 584.2541 is hereby amended to read as follows:

584.2541 All cleaning systems ~~[which]~~ *that* are mechanical must be equipped with a device for recording temperature which is approved by the ~~[health division.]~~ *commission*. 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 , ~~and~~ dated and retained for 3 months.

Sec. 53. 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 ~~health division.~~ *commission.*

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

Sec. 54. 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 ~~which~~ *that* is approved by the ~~health division~~ *commission* 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. 55. 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 ~~health division.~~ *commission.*

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. 56. 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 in NAC 584.1841 to 584.1991, inclusive, which accurately describes the content of the bottle or

~~[packages;]~~ *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 ~~[percentages]~~ *percentage* of the daily allowance, *as recommended by the United States Government*, of the ~~[vitamin, as recommended by the United States Government, which]~~ *vitamins that* the product contains;

(d) The copyright seal of the American Association of Medical Milk Commissions; and

(e) A statement of quantity.

2. Proposed labels for certified milk and products made from it must be submitted to and approved by the ~~[health-division]~~ *commission* before being printed or used.

Sec. 57. NAC 584.2661 is hereby amended to read as follows:

584.2661 Nothing in NAC 584.2621 to 584.2671, inclusive, precludes the ~~[health-division]~~ *commission* 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. 58. 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 ~~health division.]~~ *commission*.

Sec. 59. NAC 584.2681 is hereby amended to read as follows:

584.2681 1. Any person who is to be employed in any capacity at a dairy ~~which]~~ *that* produces certified raw milk must have a medical examination before beginning work and every 3 months thereafter, and must be free of all communicable diseases.

2. The owner or operator of the dairy must post , in a conspicuous location , the health cards for all employees along with ~~his]~~ *the* permit issued by the ~~health division]~~ *commission* to operate the dairy.

Sec. 60. NAC 584.2691 is hereby amended to read as follows:

584.2691 1. ~~No]~~ *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 ~~which]~~ *that* produces certified raw milk.

2. If any person employed at or residing on a farm ~~which]~~ *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 him from the farm or isolate him under the direction of the county milk commission and its physician; and

(b) Notify the ~~appropriate health authorities.]~~ *state dairy commission*.

Sec. 61. NAC 584.2721 is hereby amended to read as follows:

584.2721 The employment and health records of employees must be available at a dairy for inspection by the ~~health authority.]~~ *commission*. These records must contain the name and

address of each employee, the date of his employment, his medical history and the results of any physical examination by a physician and any laboratory tests.

Sec. 62. NAC 584.2731 is hereby amended to read as follows:

584.2731 1. Every milk cow or goat in a certified herd must be eartagged or tattooed with a number ~~[which]~~ *that* permanently identifies her.

2. Every milk cow or goat must be registered in a written record of the herd ~~[which]~~ *that* includes :

(a) *The* dates of entrance into , and departure from , the herd and of service and freshening ~~[the]~~ ;

(b) *The* results of tuberculin and brucellosis testing and veterinary and bacteriological examinations ~~[, any]~~ ;

(c) *Any* detection of abnormal milk, ~~[any]~~ illness or injury ; and ~~[any]~~

(d) *Any* other information *which may be* of importance to the health authority ~~[,]~~ *of the department.*

3. The records must be retained for 1 year after the cow or goat departs from the herd.

Sec. 63. 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 ~~[of her]~~ milk *from the animal* is sold . ~~[, and she]~~ *Each animal* must be retested at least once every 12 months. The ~~[tests]~~ *test* must be performed by a licensed veterinarian who is certified to administer the ~~[tests]~~ *test* by the division of animal industry of the department.

2. ~~[The tests must be performed and any infected]~~ *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 ~~health division~~ *commission* 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. ~~and a~~ A summary of ~~it~~ *the test* must be filed with the ~~health division~~ *commission*.

4. All cows ~~which~~ *that* react 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 ~~them~~ *these cows* must be cleaned and disinfected in a manner approved by the division of animal industry of the department.

Sec. 64. NAC 584.2821 is hereby amended to read as follows:

584.2821 The ~~health division~~ *commission* may at any time require any test or examination it deems necessary after consultation with the division of animal industry of the department. If the division ~~does require~~ *requires* additional tests and an animal reacts to a test, the diseased animal ~~or animals~~ must be disposed of as the division of animal industry of the department may require.

Sec. 65. NAC 584.2831 is hereby amended to read as follows:

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

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

Sec. 66. NAC 584.2861 is hereby amended to read as follows:

584.2861 The ~~[health division]~~ *commission* will enforce all the provisions of NAC 584.1611 to 584.2881, inclusive.

Sec. 67. 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 ~~[health division]~~ *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 ~~[immediate supervisor of the employee.]~~ *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 ~~[bureau for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the bureau, except that the informal conference must be held no later than 60 days after the date on which the bureau received the written request.~~

~~—3.— Except as otherwise provided in subsection 4, the determination of the bureau resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.~~

~~—4.] *commission 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 ~~[health division]~~ *commission* taken pursuant to NRS 584.210 may appeal that action ~~[in accordance with NAC 439.300 to 439.395, inclusive.]~~ after exhausting the informal procedures set forth in this section . ~~[, except that the bureau may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.]~~

Sec. 68. NAC 584.3001 is hereby amended to read as follows:

584.3001 1. The ~~[board]~~ *commission* hereby adopts by reference the following ~~[parts of the Grade “A” Pasteurized Milk Ordinance, 1993 Revision:~~

- ~~— (a) Part I, with the following changes: —————~~
- ~~— (1) The fourth paragraph of Section 3 is deleted.~~
- ~~— (2) The second sentence of the ninth paragraph of Section 6 is amended to read as follows:
— All sampling procedures and required laboratory examinations shall be in substantial compliance with Standard Methods for the Examination of Dairy Products, 16th Edition, 1992, published by the American Public Health Association, and Official Methods of Analysis of the Association of Official Analytical Chemists, 15th Edition, 1990.~~
- ~~— (3) The third sentence of the ninth paragraph of Section 6 is amended to read as follows:
— Such procedures, including the certification of sample collectors, and examinations shall be evaluated in accordance with the Evaluation of Milk Laboratories, United States Public Health Service/Food and Drug Administration, 1985 Revision.~~
- ~~— (4) The fourth sentence of the ninth paragraph of Section 6 is amended to read as follows:
— Aseptically processed milk and milk products packaged in hermetically sealed containers shall be tested in accordance with Chapter 23 of the FDA’s Bacteriological Analytical Manual, Seventh Edition, 1992.~~
- ~~— (5) The following is added to Section 6:
— A copy of Standard Methods for the Examination of Dairy Products, 16th Edition, 1992, is available, at a cost of \$55, from the American Public Health Association, Department 5037, Washington, D.C. 20061-5037.~~

~~— A copy of Official Methods of Analysis of the Association of Official Analytical Chemists, 15th Edition, 1990, is available, at a cost of \$200, from the Association of Official Analytical Chemists, 2200 Wilson Boulevard, Suite 400, Arlington, Virginia 22201.~~

~~— A copy of Evaluation of Milk Laboratories, United States Public Health Service/Food and Drug Administration, 1985 Revision, is available, at no cost, from the Food and Drug Administration, Milk Safety Branch, HFS-626, 200 “C” Street, S.W., Washington, D.C. 20204.~~

~~— A copy of Bacteriological Analytical Manual, Seventh Edition, 1992, is available, at a cost of \$119, from the Association of Official Analytical Chemists, 2200 Wilson Boulevard, Suite 400, Arlington, Virginia 22201.~~

~~— (6) In the second category, “GRADE A PASTEURIZED MILK AND MILK PRODUCTS AND BULK SHIPPED HEAT-TREATED PRODUCTS,” of the second column of Table 1, page 14, “Coliform^{**,**}” is amended to read “Coliform^{**,**},” and “Drugs” is amended to read “Drugs^{**}.”~~

~~— (7) Section 15 of Part I is deleted.~~

~~— (8) Section 16 of Part I is deleted.~~

~~— (9) Section 17 of Part I is deleted.~~

~~— (b) Subpart II of Appendix B.~~

~~— (c) Appendix G.~~

~~— (d) Appendix H, except that the reference to “MILK~~0xO~~-MILK” in the title of the category “HTST PASTEURIZERS EMPLOYING MILK~~0xO~~-MILK REGENERATORS WITH BOTH SIDES CLOSED TO THE ATMOSPHERE,” of subpart I, page 204, is amended to read “MILK-TO-MILK,” the reference to “generator” in the sixth paragraph of the category “HTST PASTEURIZERS EMPLOYING MILK~~0xO~~-MILK REGENERATORS WITH BOTH SIDES~~

~~CLOSED TO THE ATMOSPHERE,” of subpart I, page 206, is amended to read “regenerator,” and the reference to “(5 degrees F)” in the subcategory “Scale” of the category “INDICATING THERMOMETERS LOCATED ON PASTEURIZATION PIPELINES,” of subpart IV, page 217, is amended to read “(0.5 degrees F).”~~

~~—(e) Appendix I, with the following changes:~~

~~—(1) The reference to “instruct0xns” in subparagraph (4) of paragraph “b” of the category “Procedure” of subsection 1 of Test 9, page 234, is amended to read “instructions.”~~

~~—(2) The reference to “wir0x” in the first sentence of the category “Criteria” of subsection 5 of Test 9, page 237, is amended to “wired.”~~

~~—(f) Appendix J. A copy of Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers, a quarterly publication, is available, at no cost, from the Food and Drug Administration, Milk Safety Branch, HFS-626, 200 “C” Street, S.W., Washington, D.C. 20204.~~

~~—(g) Appendix L.~~

~~—(h) Appendix N, except that the fifth paragraph of subpart III, page 315, is deleted.~~

~~—(i) Appendix O.~~

~~—2. Any reference in any part of the Grade “A” Pasteurized Milk Ordinance, 1993 Revision, which has been adopted by reference pursuant to subsection 1, to the “regulatory agency” or “regulatory agency of the state” shall be deemed to mean the health division of the department of human resources.~~

~~—3. A copy of the Grade “A” Pasteurized Milk Ordinance, 1993 Revision, is available upon request, at no cost, from the Center for Food Safety and Applied Nutrition, Director, Office of Constituent Operations, Industry Activities Staff, HFS-565, 200 “C” Street, S.W., Washington, D.C. 20204, by enclosing with the request a self-addressed label.] **publications:**~~

(a) Grade “A” Pasteurized Milk Ordinance, 1999 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 items are deleted from the Ordinance:

(1) The fourth paragraph of section 3.

(2) Section 15.

(3) Section 16.

(4) Section 17.

(5) Appendix P.

(b) Grade “A” Condensed and Dry Milk Products and Condensed and Dry Whey -- Supplement I to the Grade “A” Pasteurized Milk Ordinance, 1995 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 items are deleted from the Ordinance:

(1) The fifth paragraph of section 3.

(2) Section 12.

(3) Section 13.

(4) Section 14.

(c) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 1999 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) Methods of Making Sanitation Ratings of Interstate Milk Shippers, 1999 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.

2. Copies of these publications are available, free of charge, from the Food and Drug Administration, Milk Safety Branch, 200 "C" Street, S.W., Washington, D.C. 20204.

Sec. 69. NAC 584.4071 is hereby amended to read as follows:

584.4071 1. The ~~[health division shall]~~ *commission 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 milk tank truck 65

For a hauler of milk 20

2. The ~~health division shall~~ *commission 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 ~~[\$30]~~ *\$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 ~~[\$30]~~ *50*

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

Sec. 70. 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, ~~[defined in NAC 584.3521 to 584.4051, inclusive,]~~ 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) Tetrahedral:
- (1) Informational panel;
 - (2) Sealed ends; and
 - (3) Embossed, imprinted or overlaid in fine, clearly visible lettering.
- (f) 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 ~~[health division]~~ *commission* of any or all of the products from sale ~~[prior to]~~ *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 ~~[only]~~ with written permission ~~[of the health division.]~~ *from the commission.*

Sec. 71. NAC 584.4551 is hereby amended to read as follows:

584.4551 1. All milk for pasteurization must be from herds ~~[which]~~ *that* are free from communicable disease as determined in a method set down by the ~~[health division.]~~ *commission.*

2. Any dairy ~~[animals, which,]~~ *animal that*, upon sufficient laboratory ~~[findings,]~~ *finding* or upon inspection by a licensed veterinarian, ~~[are]~~ *is* found to be carrying any type of

communicable disease, must be disposed of in a method directed by the ~~[health officer.]~~ *commission*. The milk from these animals must *be* immediately ~~[be]~~ withdrawn from sale in ~~[Nevada.]~~ *this state* and disposed of in a method established by the ~~[health division.]~~ *commission*.

3. Any inspection or individual laboratory testing ~~[, which the health division]~~ *that the commission* deems necessary ~~[,]~~ must be done in an approved laboratory or by a veterinarian who is licensed in ~~[Nevada.]~~ *this state*. The expense of such inspection or laboratory determination is the responsibility of the owner of the particular animals inspected or tested.

Sec. 72. NAC 584.4561 is hereby amended to read as follows:

584.4561 1. All animals in a herd, and any additions to the herd, must be free from brucellosis before any milk *from the herd* may be sold.

2. ~~[This]~~ *Freedom from brucellosis* is evidenced by a satisfactory blood serum test for agglutinins against brucella abortus, or by three successive satisfactory ring tests at intervals not less than 3 months nor more than 6 months, or by other tests approved by the *United States* Department of Agriculture ~~[, the department]~~ or the division of animal industry ~~[,]~~ *of the department*. The tests must be made and any reactors found must be removed from the milking herds and disposed of by approved methods of the agencies.

3. Herds that use blood agglutination tests must be tested at least once every 12 months. If the herd is to be tested by the ring test, this must be accomplished at intervals of not more than 6 months. Negative ring tests of the milk supply are considered as satisfactory compliance with this section.

4. A positive ring test of the milk supply requires a blood test of the entire herd, and a negative blood test of that herd must eventually be accomplished. After a reactor has been found

in a herd, that herd must be retested by blood agglutinins until a negative test of the complete herd indicates complete freedom from brucella infection.

5. Dairy cattle, *sheep* or goats, officially vaccinated as calves, *lambs* or kids, which react to the blood agglutination test, must be referred to the veterinarian supervising that herd for his written recommendation regarding such tests.

6. This testing is not required in brucellosis free counties ~~[which use]~~ *that used* the brucellosis free system ~~[which has been]~~ approved by the *United States* Department of Agriculture ~~[, Bureau of Animal Industry.]~~ *or the division of animal industry of the department.*

Sec. 73. 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 ~~[made]~~ *given* and any reactors disposed of in accordance with the requirements approved by ~~[that official.]~~ *the division of animal industry of the department.*

3. A certificate signed by the veterinarian or attested to by the ~~[health division]~~ *commission* is evidence of the tests. In tuberculosis free counties ~~[which]~~ *that* used the tuberculosis free system ~~[,]~~ approved by the ~~[Bureau of Animal Industries,]~~ *United States Department of Agriculture or the division of animal industry of the department,* this annual testing is not required.

Sec. 74. NAC 584.4581 is hereby amended to read as follows:

584.4581 1. Cows, *sheep* or goats ~~[which]~~ *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. Cows, *sheep* or goats 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 ~~health division~~ *commission* may require any test or examination it deems necessary after consultation with the division of animal industry of the department. In the event the ~~health division~~ *commission* 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. 75. NAC 584.6177 is hereby amended to read as follows:

584.6177 If a majority of the members of the commission deem it appropriate, the executive director ~~of the commission~~ may issue to an applicant a temporary permit to distribute dairy products in this state which expires not later than the date of the next scheduled meeting of the commission. The temporary permit is subject to cancellation without recourse upon notifying the holder in writing of the cancellation not less than 24 hours before the permit is canceled.

Sec. 76. NAC 584.9101 is hereby amended to read as follows:

584.9101 1. A complaint which alleges a violation of chapter 584 of NRS or this chapter may be made by a member or employee of the commission or any aggrieved person.

2. The complaint must be made in writing and filed with the executive director. ~~of the commission.~~

Sec. 77. NAC 584.006, 584.008, 584.0131, 584.0161, 584.0171, 584.0181, 584.0191, 584.0211, 584.0221, 584.0231, 584.0241, 584.0251, 584.0261, 584.0271, 584.0281, 584.0291,

584.0311, 584.0321, 584.0331, 584.0341, 584.0351, 584.0391, 584.0411, 584.0431, 584.0441, 584.0451, 584.0461, 584.0471, 584.0481, 584.0491, 584.0511, 584.0521, 584.0531, 584.1011, 584.1021, 584.1031 and 584.1041 are hereby repealed.

Sec. 78. This regulation becomes effective on January 1, 2002.

TEXT OF REPEALED SECTIONS

584.006 “Bureau” defined. “Bureau” means the bureau of health protection services of the health division of the department of human resources or its successor.

584.008 “Health division” defined. “Health division” means the health division of the department of human resources.

584.0131 “Average” defined. “Average” with respect to:

1. Bacterial plate count and microscopic count means the logarithmic average; and
2. Reduction time and cooling temperature means the arithmetic average, of the respective test results of the last four consecutive samples, taken upon separate days, irrespective of the 6-month period. Coliform count may not exceed 20 in 3 out of 4 samples tested.

584.0161 “Frozen dessert manufacturer” defined. “Frozen dessert manufacturer” means any person who manufactures, processes, or freezes any mix or frozen desserts for distribution or sale.

584.0171 “Frozen desserts plant” defined. “Frozen desserts plant” means any place where frozen desserts or mix are manufactured, processed or frozen for distribution or sale.

584.0181 “Health officer” defined. “Health officer” means the state health officer or his authorized representative.

584.0191 “Milk products plant” defined. “Milk products plant” means any place where milk or milk products are skimmed, condensed, evaporated, powdered, manufactured into butter or otherwise processed for the manufacture of mix or frozen desserts.

584.0211 “Mix” defined. “Mix” has the meaning ascribed to it in NRS 584.013.

584.0221 “Pasteurization” defined. “Pasteurization” means the process of heating, in approved and properly operated equipment, every particle of a mix to the temperatures listed in NAC 584.0241, and holding to that temperature for the specified time.

584.0231 “Receiving station” defined. “Receiving station” means any place or premises where milk or milk products are received for subsequent delivery to milk products plants or frozen desserts plants.

584.0241 Pasteurization.

1. During pasteurization, every particle of mix must be heated to any one of the following temperatures and held to that temperature for the specified time:

155°F. and holding at such temperature for at least 30 minutes.

160°F. and holding at such temperature for at least 15 minutes.

165°F. and holding at such temperature for at least 10 minutes.

170°F. and holding at such temperature for at least 5 minutes.

175°F. and holding at such temperature for at least 25 seconds.

194°F. using the Vacreator process.

200°F. and holding at such temperature for at least 3 seconds.

210°F. or higher with no holding time required.

2. Nothing contained in this section bars any other method or process, or combination of times and temperatures demonstrated to be equally efficient and which are approved by the health officer.

584.0251 Construction, reconstruction, alteration of plants. All frozen desserts plants from which mix or frozen desserts are supplied, which are constructed, reconstructed or extensively altered after May 12, 1961, must conform in their construction to the requirements of NAC 584.0111 to 584.0551, inclusive. Properly prepared plans for all frozen desserts plants which are constructed, reconstructed or extensively altered after May 12, 1961, must be

submitted for approval before work is begun. Signed approval must be obtained from the health officer.

584.0261 Contents of milk and milk products used in mix or frozen desserts. Milk and milk products used in mix or frozen desserts must include milk, cream, frozen cream, plastic cream, fluid skim milk, butter, sweetened and unsweetened evaporated milk, sweetened and unsweetened evaporated skim milk, sweetened and unsweetened condensed milk, sweetened and unsweetened condensed skim milk, powdered whole milk, nonfat dry milk, sweet cream buttermilk, sweet cream condensed buttermilk, and sweet cream powdered buttermilk, concentrated whey, dry whey or any of these products from which lactose has been wholly or partially removed. Complete substitution of vegetable fat is included in the processing of imitation ice cream and ice milk.

584.0271 Identity of products: Frozen custard, french ice cream, french custard ice cream. Frozen custard, french ice cream and french custard ice cream are subject to the requirements for a label statement of optional ingredients, prescribed for ice cream, except that one or more of the optional egg ingredients permitted by paragraph (a) of subsection 5 of NAC 584.0281 are used in such quantity that the total weight of egg yolk solids is not less than 1.4 percent of the weight of the finished frozen custard. When the ingredients named in paragraphs (c) to (h), inclusive, of subsection 1 of NAC 584.0311, are used, the content of egg yolk solids may be reduced in proportion to the bulky ingredients added, under the conditions prescribed by subsection 1 of NAC 584.0281, for reduction in milk fat and total milk solids. In no case may the content of egg yolk solids be less than 1.12 percent.

584.0281 Identity of products: Fruit sherbets.

1. Fruit sherbets are prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in subsection 2 and one or more of the optional dairy ingredients specified in subsection 3, sweetened with one or more of the optional sweetening ingredients specified in subsection 4. One or more of the optional ingredients specified in subsection 5 may also be used, subject to the conditions in this section. The mix of combined dairy ingredients, with or without other ingredients, is pasteurized. The titratable acidity of the finished fruit sherbet, calculated as lactic acid, is not less than 0.35 percent.

Coloring may be added. The mix with or without added water may be seasoned with salt and may be homogenized. The optional dairy ingredients used and the content of milk fat and nonfat milk solids must be not less than 1 percent and not more than 2 percent milk fat, and the weight of total milk solids must be not less than 2 percent and not more than 5 percent of the weight of the finished fruit sherbet. The optional caseinates specified in paragraph (e) of subsection 5 are not milk solids. The finished fruit sherbet weighs not less than 5 1/2 pounds to the gallon.

2. The optional fruit characterizing ingredients in fruit sherbets are any mature fruit or the juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or other of the optional ingredients named in paragraph (b) of subsection 5, subject to the restriction on the total quantity of such substances in fruit sherbets prescribed in that paragraph. The fruit is prepared by the removal of pits, seeds, skins and cores, where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed or otherwise comminuted. It may be acidulated with citric or ascorbic acid. In the case of concentrated fruit or

fruit juices, from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added in an amount not exceeding that which would have been obtained if the whole fruit had been used.

3. The optional dairy ingredients in fruit sherbets are: Cream, dried cream, plastic cream also known as concentrated milk fat, butter, butter oil, milk, concentrated milk, evaporated milk, superheated condensed milk, sweetened condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweetened cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed after crystallization, cheese whey, concentrated cheese whey and dried cheese whey. Water may be added. The sweet cream buttermilk, concentrated sweet cream buttermilk or dried sweet cream buttermilk, adjusted with water to a total solids content of 8.5 percent in each case, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term “milk” as used in this section means cow’s milk.

4. The optional sweetening ingredients in fruit sherbets are: Sugar or sucrose, dextrose, invert sugar either paste or syrup, glucose syrup, dried glucose syrup, corn syrup, dried corn syrup, malt syrup, malt extract, dried malt syrup, dried malt extract, maltose syrup and dried maltose syrup.

5. Other optional ingredients in fruit sherbets may be:

(a) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen yolks, dried yolks. The weight of egg yolk solids must be less than one-half of 1 percent of the weight of the finished fruit sherbet.

(b) Agar-agar, algin which is sodium alginate, calcium sulfate, egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, Irish moss, extract of Irish moss, lecithin, pectin, psyllium seed husk and sodium carboxymethylcellulose. The total weight of the solids of any ingredient used singly or of any combination of two or more of ingredients used, including any ingredient added separately to the fruit ingredient, must be not more than 0.5 percent of the weight of the finished fruit sherbet. Such ingredients may be added in admixture with dextrin.

(c) Monoglycerides or diglycerides, or both, from the glycerolysis of edible fats. The total weight of this ingredient must be not more than 0.2 percent of the weight of the finished fruit sherbet.

(d) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid or any combination of two or more of these in such quantity as will flavor the finished food.

(e) Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate and sodium caseinate.

(f) Any natural food flavoring.

(g) Any artificial flavoring.

6. The name of each fruit sherbet must be “..... sherbet,” the blank being filled in with the common name of the fruit or fruits from which the fruit ingredients that are used are obtained. When the names of two or more fruits are included, the names must be arranged in order of predominance, if any, by weight of the respective fruit ingredients used.

7. When the optional ingredients of artificial coloring, artificial flavoring or natural flavoring are used in fruit sherbet, they must be designated on the labels as follows:

(a) Artificial coloring by the statement “artificially colored,” “artificial coloring added,” “with added artificial coloring,” or “..... an artificial color added,” the blank being filled in with the name of the artificial coloring used.

(b) Artificial flavoring by the statement “artificially flavored,” “artificial flavoring added,” “with added artificial flavoring,” or “..... an artificial flavor added,” the blank being filled in with the name of the artificial flavoring used.

8. Where one or more of the optional ingredients of artificial coloring, artificial flavoring or natural flavoring are used and the label describes the fruit or fruits in the sherbet, the description must be immediately and conspicuously accompanied by appropriate label statements as prescribed in subsection 7, showing the optional ingredients used. Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in subsection 7, showing the optional ingredients used, must immediately precede or follow the name without intervening written, printed or graphic matter.

584.0291 Identity of products: Ice cream. Ice cream is the food prepared by freezing, while stirring, a pasteurized mix composed of one or more of the optional dairy ingredients specified in subsection 2 of NAC 584.0311, sweetened with one or more of the optional sweetening ingredients specified in subsection 3 of NAC 584.0311. One or more of the optional characterizing ingredients specified in subsection 1 of NAC 584.0311, may be used to characterize the ice cream. One or more of the optional caseinates specified in subsection 4 of NAC 584.0311, and one or more of the optional ingredients specified in subsection 5 of NAC

584.0311 may be used, subject to the conditions in those subsections. Coloring may be added. The mix may be homogenized and may be seasoned with salt. The kind and quantity of optional dairy ingredients used and the content of milk fat and nonfat milk solids must be such that the weights of milk fat and total milk solids are not less than 14 percent and 20 percent, respectively, of the weight of the finished ice cream. The content of milk solids not fat may not be less than 6 percent, except when one or more of the optional ingredients specified in paragraphs (c) to (h), inclusive, of subsection 1 of NAC 584.0311 are used, then the weight of the milk fat and total milk solids may not be less than 14 percent and 20 percent, respectively, except for a reduction in milk fat and in total milk solids due to the addition of one or more of the optional flavoring ingredients specified in paragraphs (c) to (h), inclusive, of subsection 1 of NAC 584.0311. Ice cream may not contain less than 12 percent of milk fat nor less than 16 percent of total milk solids. The finished ice cream may not contain less than 1.6 pounds of total solids to the gallon and weigh not less than 4.5 pounds to the gallon. Any artificial flavoring in any chocolate, cocoa, confectionery or other ingredient used is an optional ingredient of the finished ice cream.

584.0311 Identity of products: Optional ingredients for ice cream.

1. The optional characterizing ingredients for ice cream are:
 - (a) Ground spice, ground vanilla beans, infusion of coffee or tea, or any natural food flavoring.
 - (b) Any artificial food flavoring.
 - (c) Chocolate or cocoa, which may be added as such or as a suspension in syrup, and which may contain disodium phosphate or sodium citrate in such a quantity that the finished ice cream contains not more than 0.2 percent by weight of disodium phosphate or sodium citrate. For the

purposes of this section, the term “cocoa” means one or any combination of two or more of the following: Cocoa, breakfast cocoa, low-fat cocoa and the unpulverized residual material prepared by removing part of the fat from ground cacao nibs.

(d) Mature fruit or the juice of mature fruit which may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be whole, shredded or comminuted. The fruit may be sweetened, thickened with pectin or with one or more of the ingredients named in paragraph (b) of subsection 5, subject to the restriction on the total quantity of such substances in ice cream prescribed in that paragraph, and it may be acidulated with citric or ascorbic acid. The fruit is prepared by the removal of pits, seeds, skins and cores, where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. In the case of fruit or fruit juice from which part of the water is removed, the substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of the citrus fruits the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juice, cold-pressed citrus oil may be added in an amount not exceeding that which would have been obtained if the peel from the whole fruit had been used. For the purposes of this section, the flesh of the coconut is considered a fruit.

(e) Nut meats, which may be roasted, cooked in an edible fat or oil, or preserved in syrup, and which may be salted.

(f) Malted milk.

(g) Confectionery. For the purposes of this section, the term “confectionery” means candy, cakes, cookies and glaced fruits.

(h) Properly prepared and cooked cereal.

(i) Any distilled alcoholic beverage, including liqueurs or any wine, or mixtures of two or more of these.

2. The optional dairy ingredients for ice cream are: Cream, dried cream, plastic cream also known as concentrated milk fat, butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, concentrated whey, dry whey, and skim milk that has been concentrated and from which part of the lactose has been removed by crystallization. Water may be added or evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term “milk” as used in this section means cow’s milk.

3. The optional sweetening ingredients for ice cream are:

- (a) Sugar (sucrose) or sugar syrup;
- (b) Dextrose;
- (c) Invert sugar in paste or syrup form;
- (d) Corn syrup, dried corn syrup, glucose syrup and dried glucose syrup;
- (e) Maple syrup and maple sugar;
- (f) Honey;
- (g) Brown sugar;
- (h) Malt syrup, maltose syrup and malt extract;

- (i) Dried malt syrup, dried maltose syrup and dried malt extract;
- (j) Refiner's syrup;
- (k) Molasses, other than blackstrap; and
- (l) Lactose.

4. The optional caseinates which may be added to ice cream mix containing not less than 20 percent total milk solids are: Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate and sodium caseinate. Caseinates may be added in liquid or dry form, but must be free of excess alkali.

5. Other optional ingredients for ice cream are:

- (a) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen egg yolks and dried egg yolks.

Any egg ingredient must be added to the mix before it is pasteurized. The total weight of egg yolk solids in the finished ice cream from one or a combination of two or more ingredients is less than the minimum of 1.4 percent prescribed for frozen custard.

- (b) Agar-agar, algin (sodium alginate), calcium sulfate, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, Irish moss, extract of Irish moss, lecithin, psyllium seed husk and sodium carboxymethylcellulose. The total weight of the solids of any ingredient used singly or of any combination of two or more ingredients used, including any ingredient and pectin added separately to the fruit ingredient, is not more than 0.5 percent of the weight of the finished ice cream. Ingredients may be added in admixture with dextrin.

- (c) Monoglycerides or diglycerides, or both, from the glycerolysis of edible fats. The total weight of this ingredient may be not more than 0.2 percent of the weight of the finished ice cream.

584.0321 Identity of products: Ice milk. Ice milk is prepared from the same ingredients and in the same manner prescribed for ice cream and complies with all the provisions of NAC 584.0291, including the requirements for the label statement of optional ingredients, except that:

1. Its content of milk fat is more than 2 percent but not more than 7 percent.
2. Its content of total milk solids is not less than 11 percent.
3. Caseinates may be added when the content of total milk solids is not less than 11 percent.
4. The provision for reduction in milk fat and total milk solids from the addition of bulky ingredients in NAC 584.0291 does not apply.
5. The quantity of food solids per gallon is not less than 1.3 pounds.
6. When any artificial coloring is used in ice milk, directly or as a component of any other ingredient, the label must bear the statement “artificially colored,” “artificial coloring added,” “with added artificial color” or “....., an artificial color added,” the blank being filled in with the common or usual name of the artificial color, or in case the artificial color is a component of another ingredient, “..... artificially colored.” If both artificial color and artificial flavorings are used, the label statements may be combined.

584.0331 Identity of products: Quiescently frozen confections.

1. Quiescently frozen confections is a clean and wholesome frozen, sweetened, flavored product in the manufacture of which freezing has not been accompanied by stirring or agitation, generally known as quiescent freezing. This confection may be acidulated with harmless organic acid, may contain milk solids, may be made with or without added harmless pure or imitation flavoring and with or without added harmless coloring. The finished product may contain not

more than 1/2 percent by weight of stabilizer composed of wholesome edible material. The finished product must contain not less than 17 percent by weight of total food solids.

2. This confection must be manufactured in the form of servings, individually packaged, bagged or otherwise wrapped, properly labeled and distributed to the consumer in its original factory-filled package.

3. In the production of quiescently frozen confections, no processing or mixing prior to quiescent freezing may be used that develops in the finished confection mix any physical expansion in excess of 10 percent.

584.0341 Identity of products: Quiescently frozen dairy confections.

1. A quiescently frozen dairy confection is a clean and wholesome frozen product made from water, milk products and sugar, with added harmless, pure or imitation flavoring, with or without added harmless coloring, with or without added stabilizer, and with or without added emulsifier. In the manufacture of this product, freezing has not been accompanied by stirring or agitation, generally known as quiescent freezing. It contains not less than 13 percent by weight of total milk solids, not less than 33 percent by weight of total food solids, not more than 1/2 percent by weight of stabilizer, and not more than 1/5 percent by weight of emulsifier. Stabilizer and emulsifier must be composed of wholesome, edible material.

2. This confection must be manufactured in the form of servings, individually packaged, bagged or otherwise wrapped, properly labeled and distributed to the consumer in its original factory-filled package.

584.0351 Identity of products: Water ices.

1. Water ices are foods prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in subsection 2, sweetened with one or more of the optional sweetening ingredients specified in subsection 3. One or more of the optional ingredients specified in subsection 4 may be used, subject to the conditions in this section. The titratable acidity of the finished water ice, calculated as lactic acid, may be not less than 0.35 percent. Coloring may be added. The mix, with or without added water, may be seasoned with salt and may be homogenized. The finished water ice may weigh not less than 6 pounds to the gallon.

2. The optional fruit ingredients are any mature fruit or the juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or any of the optional ingredients named in subsection 4 subject to the restriction on the total quantity of such substances in water ices prescribed in that subsection. The fruit is prepared by the removal of pits, seeds, skins and cores, where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed or otherwise comminuted. It may be acidulated with citric or ascorbic acid. In the case of fruit or fruit juices from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel, but excluding the seeds may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added in an amount not exceeding that which would have been obtained if the whole fruit had been used. The quantity of fruit ingredients used must be in relation to the weight of the finished water ice, the weight of fruit or fruit juice as the case may be, including the water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture

content, is not less than 2 percent in the case of citrus ices, 6 percent in the case of berry ices and 10 percent in the case of ices prepared with other fruits.

3. The optional sweetening ingredients for water ices are: Sugar (sucrose), dextrose, invert sugar, either paste or syrup, glucose syrup, dried glucose syrup, corn syrup, dried corn syrup, malt syrup, malt extract, dried malt syrup, dried malt extract, maltose syrup and dried maltose syrup.

4. Other optional ingredients for water ices are:

(a) Agar-agar, algin (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, Irish moss, extract of Irish moss, pectin, psyllium seed husk and sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly, or of any combination of two or more ingredients used, including any ingredient added separately to the fruit ingredient, must be not more than 0.5 percent of the weight of the finished water ice. These ingredients may be added in admixture with dextrin.

(b) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, or any combination of two or more of these in such quantity as seasons the finished food.

(c) Any natural flavoring.

(d) Any artificial flavoring.

5. The name of each water ice is “..... ice,” the blank being filled in with the common name of the fruit or fruits from which the fruit ingredient used is obtained. When the names of two or more fruits are included, the names must appear in the order of predominance, if any, by weight of the respective fruit ingredients used.

6. When the optional ingredients of artificial coloring, artificial flavoring or natural flavoring are used in water ices they must be named on the labels as follows:

(a) The label must designate artificial coloring by the statement “artificially colored,” “artificial coloring added,” “with added artificial coloring,” or “..... an artificial color added” the blank filled in with the name of the artificial coloring used.

(b) The label must designate artificial flavoring by the statement “artificially flavored,” “artificial flavoring added,” “with added artificial flavoring,” or “..... an artificial flavor added,” the blank being filled in with the name of the artificial flavoring used.

7. Where one or more of the optional ingredients, artificial coloring, artificial flavoring or natural flavoring are used and there appears on the labeling any representation as to the fruit or fruits in the ice, such representation must be conspicuously accompanied by the appropriate label statements in subsection 6 listing the optional ingredients used.

8. Wherever the name of the food appears on the label so conspicuously that it is easily seen under customary conditions of purchase, the statements set out in this section, showing the optional ingredients used, must immediately and conspicuously precede or follow the name, without intervening written, printed or graphic matter.

584.0391 Inspections of plants.

1. The health division shall inspect as often as it deems necessary all frozen desserts plants producing products intended for consumption. If the health division discovers the violation of any item of sanitation, it shall make a second inspection after a lapse of such time as it deems necessary for the defect to be remedied. The second inspection must be used in determining compliance with the requirements of this regulation. Generally, not until the second inspection has revealed a failure to correct the violation, is the frozen desserts manufacturer subject to suspension of his permit or court action.

2. One copy of the inspection report must be delivered to the owner of the premises inspected, or his agent, and be readily available at any time for a period of 12 months. Another copy of the inspection report must be filed with the records of the health division.

584.0411 Examination of frozen desserts and their ingredients.

1. Samples of pasteurized mix or frozen desserts may be taken from any frozen desserts plant by the health division at any time before final delivery. Samples of ingredients may be tested as often as the health division may require. Samples of frozen desserts from stores, cafes, soda fountains, restaurants and other places where frozen desserts are sold may be tested as often as the health division may require.

2. Bacterial plate counts and direct microscopic counts must be made in conformity with the current standard methods recommended by the American Public Health Association. Examinations may include any chemical and physical determinations as the health division may deem necessary for the detection of adulteration. These examinations must be made in conformity with the current standard methods of the American Public Health Association and the Association of Official Agricultural Chemists.

3. All proprietors of plants, stores, cafes, restaurants, soda fountains and other similar places must furnish the health division, upon its request, with the names of all persons from whom their mix or frozen desserts are obtained.

4. Whenever the average bacterial count, the average reduction time or the average cooling temperature falls beyond the limit, the health division shall send written notice to the plant concerned. The health division shall take an additional sample, but not before the lapse of 3 days, for determining a new average in accordance with NAC 584.0131. A violation of the

requirements by the new average or by any subsequent average during the remainder of the current grading period requires the immediate suspension of the permit, unless the last result is within the limit.

5. Frozen desserts and mix and the milk, cream and milk products in fluid form used therein must be within the following standards where applicable:

(a) For unpasteurized milk or milk products in fluid form:

(1) Plate count or direct microscopic clump count per milliliter must not exceed 500,000;

(2) Thermaduric count per milliliter must not exceed 20,000;

(3) Methylene blue reduction time must not be less than 4 1/2 hours; and

(4) Resazurin Reduction time to Munsell Color Standard SP 7/4 must not be less than 2 1/2 hours.

(b) For unpasteurized cream, the plate count or direct microscopic clump count per milliliter must not exceed 800,000.

(c) For pasteurized milk, milk products in fluid form, frozen desserts and mix, the plate count per milliliter must not exceed 50,000.

(d) For pasteurized cream, the plate count per milliliter must not exceed 100,000.

(e) For frozen desserts and mix, there must be not more than one of the last four coliform counts per milliliter exceeding 20.

584.0431 Sanitation requirements for floors, walls, ceilings, doors, windows, lighting, ventilation.

1. The floors of all rooms in which mix, frozen desserts or their ingredients are manufactured, frozen or stored, or in which containers and utensils are washed, must be

constructed of concrete or other equally impervious and easily cleaned material, and must be smooth, properly drained, provided with trapped drains and kept clean. Cold storage rooms need not have drains. These construction requirements may be waived, in frozen desserts plants which freeze and sell only at retail on the premises, if the portion of the room in which the freezer is installed and the room in which containers or utensils are washed have impervious floors or solid floors covered with tight linoleum or other approved, washable material.

2. Walls and ceilings of rooms in which mix, frozen desserts or their ingredients are manufactured or frozen, or in which containers or utensils are washed, must have a smooth, washable, impervious light-colored surface and must be kept clean. In new construction, the base of the walls must be coved with a radius. Window sills are considered part of the wall and they must be sloped inward toward the plant floor.

3. Unless other effective means are provided to prevent the access of flies, all openings to the outer air must be effectively screened and doors must be self-closing.

4. All rooms must be well lighted and ventilated.

584.0441 Sanitation requirements for toilet facilities, water supply, handwashing facilities, sanitary piping, disposal of wastes.

1. Toilet facilities must be provided which are kept clean, well ventilated and in good repair. Toilet rooms must not open directly into any room in which frozen desserts, their ingredients, equipment or containers are handled or stored. The doors of all toilet rooms must be self-closing. A placard directing employees to wash their hands before returning to work must be posted in all toilet rooms.

2. The water supply must be easily accessible, adequate and of a safe, sanitary quality.

3. Convenient handwashing facilities must be provided, including warm running water, soap and approved sanitary towels. The use of a common towel is prohibited. Handwashing facilities must be kept clean. No employee may resume work after using the toilet room without first washing his hands.

4. All piping used to conduct ingredients, mix or frozen desserts must be sanitary milk piping of a type which can be easily cleaned with a brush.

5. All wastes must be properly disposed of. All plumbing and equipment must be so designed and installed to prevent contamination of equipment by backflow.

584.0451 Sanitation requirements for containers.

1. All multiuse containers and equipment with which mix, frozen desserts or their ingredients come in contact must be constructed in a manner to be easily cleaned and must be kept in good repair.

2. All multiservice containers and equipment for mix, frozen desserts or their ingredients must be thoroughly cleaned after each usage. All containers must be subjected to an approved bactericidal process after each cleaning and all equipment immediately before each usage. When empty and before being returned by a frozen desserts plant, each milk and milk products container must be effectively cleaned and subjected to bactericidal treatment.

3. After bactericidal treatment all multiuse containers for mix, frozen desserts and their ingredients must be stored in a manner to protect from contamination.

4. Between bactericidal treatment and usage, and during usage, containers and equipment must not be handled or operated in a manner permitting the contamination of the frozen desserts, mix or their ingredients.

5. Caps, parchment papers, wrappers, can liners and single-service sticks, spoons and containers for frozen dessert mix or their ingredients must be purchased only in sanitary containers, be kept in a clean dry place and be handled in a sanitary manner.

584.0461 Sanitation requirements for handling of mix.

1. All mix must be pasteurized as described in NAC 584.0241.
2. All milk and fluid milk products received at the frozen desserts plant for use in frozen desserts or mix must immediately be cooled in approved equipment to 50°F. or less and maintained at that temperature until pasteurized. All pasteurized mix must immediately be cooled in approved equipment to an average temperature of 50°F. or less, as defined in NAC 584.0131, and maintained until frozen. All mix which is not frozen at the plant at which it was pasteurized must be transported to the place of manufacturing or freezing in sealed containers, and the mix handled in a sanitary manner. Dipping from containers of pasteurized mix is prohibited.
3. Packaging, cutting, molding, dipping and other preparation of mix or frozen desserts or their ingredients must be done in an approved manner. Containers must be completely covered immediately after filling. Caps or covers must be handled in a manner preventing contamination of the package contents.
4. Product drip, or overflow or spilled mix or frozen desserts or their ingredients, must not be sold for human consumption.
5. Mix or frozen desserts in broken and open containers after delivery must be returned to the plant for inspection, but must not be used for making mix or frozen desserts.

584.0471 Miscellaneous sanitation requirements.

1. All vehicles used for the transportation of mix or frozen desserts or their ingredients must be constructed and operated to protect their contents from the sun and from contamination. The vehicles must be kept clean, and no substance capable of contaminating mix or frozen desserts or their ingredients may be transported in a manner to permit contamination. All vehicles used for the distribution of mix or frozen desserts must have the name of the distributor prominently displayed.

2. The immediate surroundings of all frozen desserts plants must be kept in a neat, clean condition.

584.0481 Prevention of contamination.

1. The various plant operations must be located and conducted to prevent any contamination of the mix, frozen desserts or their ingredients, cleaned equipment or containers. All means necessary for the elimination of flies must be used.

2. Separate rooms must be provided for:

(a) The pasteurizing, processing, cooling, freezing and packaging operations; and

(b) The washing and bactericidal treatment of containers. Paragraph (a) is satisfied, in frozen desserts plants which freeze and sell only at retail on the premises, if all mixing, freezing and packaging processes, but not necessarily the hardening and storage compartments, are enclosed in a tight glass or any other sanitary enclosure which is open only on the side furthest from the public, which has a dust-tight top extending over the entire freezer, and which is protected by a fan so installed and of such power as to prevent the entrance of flies.

3. Containers of frozen desserts ingredients must not be unloaded directly into the room or rooms used for pasteurization or subsequent processes. Pasteurized mix or frozen desserts are not permitted to come in contact with equipment in which unpasteurized mix, frozen desserts, milk or milk products have been in contact, or in which mix or frozen desserts from a lower grade plant have been in contact, unless the equipment has first been thoroughly cleaned and subjected to bactericidal treatment. None of the operations connected with a frozen desserts plant may be conducted in a room used for domestic purposes. In plants processing and packaging both ice cream and imitation ice cream, a separate room and equipment for the processing of imitation products are recommended. Permission for processing and packaging both products in the same plant and using the same equipment will be granted if frozen desserts made of milk and milk fat are processed and packaged in one operation. Frozen desserts made of vegetable fat must be processed and packaged after all the equipment has been cleaned and sanitized in the second operation. The procedure must be approved by the health division.

584.0491 Bacterial count of pasteurized mix or frozen desserts. The average bacterial plate count of the pasteurized mix or the frozen desserts may, at no time prior to delivery exceed 50,000 per gram, as determined under NAC 584.0131 and 584.0411.

584.0511 Standards for ingredients of mix and frozen desserts.

1. All mix and frozen desserts ingredients must be clean, have a fresh wholesome flavor and odor and a normal appearance, be of satisfactory quality and be handled or processed in an approved manner. Ingredients must conform to the Standards of Identity and Definition of the Pure Food and Drug Act.

2. Milk and milk products used as ingredients in the raw state must have an average bacterial plate count not exceeding 500,000 per milliliter or per gram, or an average direct microscopic count not exceeding 500,000 per milliliter, or an average reduction time of not less than 4 1/2 hours, as determined under NAC 584.0131 and 584.0411. Milk and milk products used as ingredients in the pasteurized, condensed, evaporated or dried state must have an average bacterial plate count not exceeding 50,000 per milliliter or per gram but the limit for pasteurized cream is 100,000 per milliliter or per gram.

584.0521 Health and cleanliness of personnel.

1. The health officer or a physician authorized by him shall examine and take a careful morbidity history of every person connected with a frozen desserts plant, or about to be employed, whose work brings him in contact with the production, handling or storage of mix or frozen desserts, containers or equipment. If the examination suggests that the person may be a carrier of, or infected with, the organisms of typhoid or paratyphoid fever or any other communicable diseases likely to be transmitted through frozen desserts, he shall secure appropriate specimens of body discharges and have them examined in a laboratory approved by him or by the state health authorities for the examinations. If the results justify the action, the person shall be barred from employment.

2. Persons barred from employment shall furnish the information, submit to physical examinations, and submit laboratory specimens as the health officer may require for the purpose of determining freedom from infection.

3. All persons coming in contact with mix, frozen desserts, their ingredients, containers or equipment shall wear clean outer garments and keep their hands clean at all times.

4. Notice must be sent to the health officer immediately by any frozen desserts manufacturer or distributor among whose employees any infectious, contagious or communicable disease occurs.

5. When suspicion arises regarding the possibility of transmission of infection from any person concerned with the handling of mix, frozen desserts or their ingredients, the health officer is authorized to require any or all of the following measures:

- (a) The immediate exclusion of that person from handling mix, frozen desserts or their ingredients;
- (b) The immediate exclusion of the supply concerned from distribution and use; and
- (c) Adequate medical and bacteriological examination of the person, his associates, and of his and their body discharges.

584.0531 Transferring, dispensing frozen desserts. No person may transfer frozen desserts from one container to another or package them on the street or in any vehicle or in any place except a sanitary room under approved conditions.

584.1011 Definitions. As used in NAC 584.1011 to 584.1041, inclusive, unless the context otherwise requires:

1. "Butter" is the product made by gathering the fat of fresh or ripened milk or cream into a mass and containing a small portion of other milk constituents, with or without salt, or a harmless coloring agent.

2. "Package" includes cartons, wrappers or other containers for the sale of butter to the retail trade.

3. “Renovated butter” is the product made from impure or rancid butter reduced for the purpose of cleansing and renovating to a liquid state by melting and draining off the liquid milk fat and afterwards churning or otherwise manipulating it in connection with milk or any milk product.

584.1021 Labels: Manufacturers, distributors, retailers.

1. Butter sold to the retail trade must be labeled with the name and address of the manufacturer, the wholesale distributor or the retailer. The words “manufactured by” must appear above the name, when the name of the manufacturer is given. The words “distributed by” must appear above the name when the name of the wholesale distributor is given. The words “put up for” or “put up by,” as the case may be, must appear above the name when the name of the retailer is given.

2. Butter when received in Nevada by brokers, jobbers and other receivers of butter in cubes, tubs, firkins or other bulk packages must be labeled with the name and address of the manufacturer, the date on which the butter was manufactured and the original lot or churn number. These markings must remain on the package until the butter contained in the package is cut and wrapped for retail trade.

584.1031 Labels: Imported butter. Every person who sells, offers for sale, has in his possession for sale, or consigns, ships or presents to any other person, any butter that has been shipped or imported into Nevada from any place outside of the United States shall, before doing so, cause to be stamped, marked or printed upon the wrapper or other container in blackface letters not less than one-eighth of an inch in height, the word “Imported.” This person shall

display in a conspicuous place in his public salesroom, a sign which must be not less than 1 foot in height and 2 feet in length, bearing the words "Imported Butter Sold Here," in blackface letters not less than 3 inches in height and one-half of an inch in width upon a white background.

584.1041 Quality, grading of butter.

1. Butter must be clean, not rancid and must contain not less than 80 percent of milk fat.
2. All butter sold or distributed in package form must be classified into grades indicating its quality and must be labeled and advertised by the use of one of the designations as follows:
 - (a) First quality; or
 - (b) Second quality.
3. When numerals appear following words relating to scoring, the numerals represent the score of the butter. A score of 100 is perfect.
4. First quality butter is butter scoring not less than 92. The minimum requirements are that:
 - (a) It is fresh, sweet and clean in flavor if of fresh make or sweet and clean if stored;
 - (b) The body is firm;
 - (c) The salt is either light or medium and free from grittiness;
 - (d) The color is either light or medium and uniform except that it may show small curd specks or light waviness;
 - (e) The package is clean, uniform and sound; and over one point.
5. Second quality butter is butter scoring below 92, but not less than 90. The minimum requirements for second quality butter are that:
 - (a) It is fresh and fairly sweet and clean in flavor if of fresh make or fairly sweet and clean if storage;

- (b) It is also flat or lacking in flavor;
- (c) The body is fairly firm, but may show slight defects in grain and texture;
- (d) The color is either light or medium and fairly uniform, but may be wavy;
- (e) The salt is either light, medium or high, and fairly uniform, but may be slightly gritty; and
- (f) The package is clean, uniform and sound.

6. Butter scoring less than 90 must not be sold or served to consumers. This butter when sold must be in bulk packages containing not less than 30 pounds and must be labeled “for cooking and baking purposes only.”

7. All scoring of butter must be made in the manner specified in this section.

8. Quality designations must be affixed on the package in the manner and fashion prescribed in NAC 584.1011 to 584.1041, inclusive.

November 28, 2001

**Legislative Review of Adopted Regulations as Required
By Administrative Procedures Act, NRS 233B.066**

**INFORMATIONAL STATEMENT REGARDING AMENDMENTS TO
NEVADA ADMINISTRATIVE CODE 584.005 – 584.4581
LCB FILE R151-01**

The following statement is submitted for adopted amendments to *Nevada Administrative Code* (NAC) 584. 005 – 584-4581. These amendments to the *Nevada Administrative Code* appeared as an action item on the November 28, 2001 Dairy Commission special meeting agenda in Reno. The amendments were adopted on November 28, 2001 by the Dairy Commission with one minor change to the LCB File R151-01 final draft. These changes are explained in the “Public Attendance and Testimony” section of this statement, and are noted in red on the R151-01 draft.

The Commission held public workshops regarding the adoption of this regulation on September 18, 2001 in Fallon and September 20, 2001 in Las Vegas, videoconferenced to a second location in Carson City. The Commission held a final public hearing on Thursday, October 18, 2001 in Carson City videoconferenced to Las Vegas.

Public Notice and Invitation for Comment: Notices of the meetings were included on the monthly Dairy Commission agenda, posted on the Commission web site, posted in both agency office locations, posted in the Western Nevada Marketing Area and the Southern Nevada Marketing Area, and included in the agency newsletter. A copy of the public workshop and public hearing notices were placed on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. The Dairy Commission mailed workshop and hearing notices to all known Nevada dairy producers, all Dairy Commission licensees, and all known Nevada dairy foods manufacturers and fluid milk processors. All persons who are, by request, on the Dairy Commission mailing list also received copies of the notice.

Additional copies of the notices were available at:

Nevada State Dairy Commission
4600 Kietzke Lane, Suite A107
Reno, NV 89502

Nevada State Dairy Commission
1840 East Sahara Avenue, Suite 111
Las Vegas, NV 89104

Washoe County Library
301 S. Center St.
Reno, NV 89502

Washoe County Library
1125-12th St. (Sparks Branch)
Sparks, NV 89431

Washoe County Library
4001 S. Virginia St Sierra View Branch
Reno, NV 89502

Las Vegas Library
833 N. Las Vegas Blvd.
Las Vegas, NV 89102

Attorney General's Office
555 E. Washington
Las Vegas, NV 89101

Bradley Building
2501 East Sahara Ave.
Las Vegas, NV 89104

Churchill County Library
5553 S. Maine St.
Fallon, NV 89406

Tonopah Public Library
171 Central Street
Tonopah, NV 89049

Pershing County Library
1125 Central Ave.
Lovelock, NV 89419

Elko County Library
720 Court St.
Elko, NV 89801

Storey County Library
95 South R St.
Virginia City, NV 89440

Esmeralda County Library
P.O. Box 430, Fourth & Crook Sts.
Goldfield, NV 89013

Eureka Branch Library
P.O. Box 293
Eureka, NV 89316

White Pine County Library
950 Campton St.
Ely, NV 89301

Humboldt County Library
85 East 5th St.
Winnemucca, NV 89445

Battle Mountain Branch Library
Lander County
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
93 Main St.
Pioche, NV 89043

Carson City Library
900 N. Roop St.
Carson City, NV 89701

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Douglas County Library
P.O. Box 337
Minden, NV 89423

Mineral County Library
P.O. Box 1390, First & A Street
Hawthorne, NV 89415

Goldfield Public Library
P.O. Box 430
Goldfield, NV 89013

Public Attendance and Testimony: Senate Bill 505 (Chapter 507) of the 2001 Nevada Legislature transferred responsibility for the dairy inspection program from the State Health Division to the Nevada State Dairy Commission effective January 1, 2002. Workshops held by the Commission resulted in regulation revisions reflecting this regulatory authority transfer, as well as updating the *Nevada Administrative Code* to reflect the most current version of the *Pasteurized Milk Ordinance*. A number of sections of the NAC were deleted and references to federal standards were incorporated, allowing for Dairy Commission review and approval of any future changes in the standards without additional amendments to the NAC. The regulations

provide the Dairy Commission may object to provisions in federal guidelines, and thus negate their implementation within Nevada. Since the dairy inspection program is a combined federal/state cooperative program, copies of the proposed regulation were also provided to the United States Food & Drug Administration Regional Milk Specialists, who fully supported the adoption of the regulations.

Eight persons attended the public workshop held September 18, 2001 in Fallon. The attendees represented a northern Nevada milk processor; a cooperative association for dairy farmers; the Bureau of Health Protection Services of the Nevada State Health Division; and members of the Dairy Commission staff. All attendees provided testimony in support of the proposed regulation amendments. Ten persons attended the public workshop held September 20, 2001 in Las Vegas videoconferenced to Carson City. The attendees represented a southern Nevada milk and dairy foods processor; a cooperative association for dairy farmers; two members of the Dairy Commission; and Dairy Commission staff. All attendees provided testimony in support of the proposed regulation amendments. No written comments were received either before or after either workshop.

Thirteen persons attended the final public hearing held October 18, 2001 in Carson City videoconferenced to Las Vegas. The attendees represented a California milk and dairy foods processor; a southern Nevada milk and dairy foods processor; a southern Nevada ice cream and novelty manufacturer; a cooperative association for dairy farmers; two members of the Dairy Commission; and Dairy Commission staff. One person representing the southern Nevada milk and dairy foods processor testified in support of the proposed amendments. No written comments were received as part of the final public hearing process.

After Commission approval on October 18, 2001, the regulations were presented to the State Board of Health for review and comment on November 16, 2001 as per Senate Bill 505. The Board of Health had no recommendations for changes to the regulation.

Testimony at the November 28, 2001 special meeting supported adoption of the regulation with one minor change to LCB File No. R151-01. This change is noted in red on the draft:

On page 1, between sections 4 and 5, adding a definition for “Dairy products” applicable only for new sections 5, 6, and 7, sections 8 – 19 of the proposed regulation, and other relevant existing NAC provisions relating to milk for manufacturing purposes (formerly regulations under the regulation subheads Frozen Desserts and Butter). This definition should read: “Dairy product,” as used in this section, means frozen desserts, frozen novelties, cheese, cheese product, butter, butter product, and such products for human consumption as may be otherwise designated by the Commission. The reason for this change is that the document, “Milk for Manufacturing Purposes” has a broader definition of dairy products which includes condensed and dry milks and whey. The Commission intends to regulate these types of products under Section 66 of the regulation, in the item adopted by reference in paragraph 1(a), “Grade A Condensed and Dry Milk Products and Condensed and Dry Whey – Supplement I to the Grade ‘A’ Pasteurized Milk Ordinance,” 1995 Revision. Therefore the new definition of dairy product will be more restrictive than the federal definition for the sections of the

regulation which pertain only to milk used for manufacturing purposes. For all other purposes in the chapter, a “dairy product” is consistent with the statutory definition found in NRS 584.340.

All testimony received throughout the hearing process supported the proposed revisions to the *Nevada Administrative Code*. No testimony in opposition was received in either written or oral format. Since the Commission received broad-based support for the revisions, they were adopted with only minor revisions, as noted above.

Minutes of the public hearing and the special meeting where the regulations were adopted were taken by a certified court reporter. Transcripts of comments are available for review and copying in the Reno and Las Vegas offices of the Dairy Commission.

Economic Impact of the Regulation: The adoption of the regulation is expected to have minimal additional financial impacts upon the regulated industry. Under the regulation, several fees on the regulated industry are established:

1. Annual permit fees for dairy foods manufacturing plants set on a sliding scale based on the size of the manufacturing facility, ranging from small facilities of less than 1,000 square feet paying \$150 per year, up to large facilities of more than 5,000 square feet paying \$280 per year. This is not a new fee; these facilities are presently paying the same amount, only the fee is set in a part of the NAC regulating food processing facilities which remains under the jurisdiction of the State Health Division. This fee should not adversely impact such manufacturing facilities, as they presently pay this fee. There is one plant impacted by this fee which qualifies as a small business under Nevada law. The business was mailed all meeting notices, and the proposed regulations, copies of the referenced federal standards, and the small business impacts were hand-delivered for their review. The business did not submit written comments regarding the regulation, and did not attend public hearings. Commission staff contacted the business by telephone on at least three occasions during the public workshop and public hearing process to solicit comments from the small business. Despite this, no written or oral comments were received and the small business owner did not attend the hearings.
2. Annual permit fees for single service plants of \$115 per year. Single service plants are those plants which manufacture packaging for Grade A dairy products (e.g. milk, cottage cheese, yogurt), and must be inspected and approved by the state rating officer in order for Grade A dairy products to be placed in the containers and sold via interstate commerce under the Interstate Milk Shippers program. No inspection fee is currently assessed. There are four (4) such plants presently operating in Nevada. The proposed fee is not expected to impose a financial burden on single service plants. None of these plants qualify as a small business under Nevada law.
3. Annual permit fees for milk tank trucks of \$65 per year. The U.S. Food & Drug Administration (FDA) revisions to the *Pasteurized Milk Ordinance* adopted in 1999 require states to establish programs to inspect the health and sanitation conditions in milk tank trucks. The tanker inspections include interior inspections of tank surfaces for cleanliness and other health hazards such as cracks or leaks, as well as exterior inspections of hoses, connections, and seals. Other states are establishing similar

programs, and the proposed fee is mid-range by comparison. The fee is not expected to impose a financial burden on drivers or owners of milk tank trucks. All tankers hauling milk in southern Nevada are owned by Utah-based or California-based trucking companies, and are inspected by their respective state health authorities. All tankers hauling milk in northern Nevada are part of a California and Nevada based company, for which all trucks are California apportioned and inspected. Few Nevada-based tanker permits are expected to be issued since reciprocity is granted under the federal standards. None of the tanker truck companies qualify as small businesses under Nevada law.

4. An increase in plan review fees for new dairy foods manufacturing facilities or modifications to such facilities. Existing fees for new facilities are set at \$30 plus an amount equal to the annual permitting fee for the facility. Existing fees for modifications are set at \$30 plus an amount equal to half the annual permitting fee for the facility. The regulation proposes increasing the new facility fee to \$200 plus an amount equal to the annual permitting fee for the facility, and increasing the fee for modifications to \$50 plus an amount equal to half the annual permitting fee for the facility. Plan reviews are labor intensive for staff, including time spent reviewing facility plans as well as on-site visits during construction and testing of all equipment prior to commencement of operations. Due to the labor hours involved, a modest fee increase is proposed. The fee is not expected to impose a financial burden on facilities requiring a plan review, due to the low occurrence of construction or modification which requires a plan review and the amount of the proposed fee compared to the actual cost of new construction or modifications. The last milk plant modification project cost in excess of \$2 million, and the last new dairy barn construction cost more than \$1 million. Plan review fees of \$500 or less would constitute a fee of less than 0.0003 percent or 0.0005 percent respectively. Of the four (4) known dairy foods manufacturing facilities within Nevada, only one (1) facility qualifies as a small business. Attempts to contact this small business were detailed in #1 above. All of Nevada's dairy farms are considered small businesses. However, the frequency with which the dairies would be likely to have to pay the fee is expected to be very low. Dairy farms were provided with numerous direct mail solicitations for comments and public notices, as well as personal contacts by Commission staff, but no farmers attended the public workshops or public hearings.

In addition to the new fees outlined above, section 584.4071 contains permit fees which were previously charged by the State Health Division, including dairy farm permits set on a sliding scale based on production, milk plant permits based on facility size, and milk hauler permits (\$20). The Commission would also collect permit fees for milk testers, set at \$10 annually under NRS 584.225. All these fees are currently collected by the State Health Division, and thus are not new financial impacts to the regulated industry.

Though there is minimal additional direct economic impact by the revised regulations, there is a large beneficial economic impact to the industry, from the dairy farm to the plant. By maintaining compliance with the new regulations, plants and farms will be able to ship milk interstate under the federal Interstate Milk Shippers program. Were this program not to be enforced under the Dairy Commission, or if the farms or plants did not maintain compliance with the federal standards set forth in the regulation, they would not be allowed to participate in interstate commerce. Since approximately half of the raw milk produced by Nevada dairy farms

is exported, and a considerable portion of milk, and especially frozen dairy products, are exported outside of Nevada, the adverse cost of noncompliance could be very great. The market for raw milk produced in Nevada would be severely restricted, and no dairy products manufactured in Nevada could be exported outside our borders. In both the immediate and long term, this could have drastic repercussions in lost jobs, lost industry, and lost revenues.

The alternatives considered to establishing the fees proposed in the regulation were to charge lower fees, or to eliminate fees entirely. Neither of these alternatives were deemed acceptable, since the fees included in the regulation were judged reasonable and not unduly burdensome on the regulated dairy industry. The Dairy Commission received no testimony in opposition to either the existing or the proposed fees.

There is no adverse financial impact to consumers as a result of the adoption of these regulations. The costs of enforcing the regulations are borne by the regulated industry. The consumer is expected to benefit from a milk supply that is ensured to be healthful, and by a milk industry that is kept competitive by the presence of interstate commerce and competition in the marketplace.

There is minimal additional economic impact on the Dairy Commission. The agency will spend around \$245,000 from the Dairy Commission Fund each year to enforce the provisions of SB 505. The cost of enforcing these regulations is included in the \$245,000 figure. Approximately 98 percent of the program revenues are generated by the assessment on fluid milk and fluid cream authorized by SB 505. The fees proposed in the regulation, and included in the fiscal note for SB 505, are anticipated to fund the cost of employee man-hours only, and as such should result in zero net revenue to the agency. The fees proposed and existing in the regulation are estimated at \$5,000 annually, and will fund approximately 2 percent of program operations.

The regulations do not duplicate other regulations of the Dairy Commission or any other agency at any level of government. Rather, these regulations reference existing provisions of the federal-state cooperative milk program under the U.S. Food and Drug Administration and the Interstate Milk Shippers program which Nevada is required to enforce to participate in interstate dairy commerce. Where appropriate, additional Nevada requirements were added, making some sections more stringent than federal code.

DATED: November 28, 2001

Stacy M. Jennings, Executive Director

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