

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE  
SECRETARY OF STATE

CHERYL MYERS  
DEPUTY SECRETARY OF STATE  
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK  
DIRECTOR

800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 603  
DEPARTMENT OF AGRICULTURE

**FILED**

09/11/2024 9:13 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Update federal code revisions for Milk PMO and Shellfish Sanitation from 2019 to 2023 Revisions

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/25/2024 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

CONTACT: Karel Smit  
541-602-4006  
rulemaking@oda.oregon.gov

635 Capitol St NE  
Salem, OR 97301

Filed By:  
Sunny Summers  
Rules Coordinator

**NEED FOR THE RULE(S)**

The Pasteurized Milk Ordinance (PMO) is a national set of standards for Grade A dairy production and processing. In order for Oregon industry to participate in interstate commerce for Grade A dairy products, the state must adopt the PMO as a baseline regulatory framework. This rule will help ensure that Oregon industry can continue to produce safe products that can be moved across state lines.

The administrative rules must be amended to keep Oregon Administrative Rules consistent with current federal/state programs and safety standards to ensure uniform and safe regulation of shellfish.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE**

Grade "A" Pasteurized Milk Ordinance, 2023 Revision, available from the Department of Agriculture, Food Safety Program upon request.

National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, 2023 Revision. Available at: <https://issc.org/nssp/2023-nssp-guide-control-molluscan-shellfish-0>

**STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE**

The proposed adoption of the 2023 PMO and related documents and the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, 2023 Revision is not expected to significantly impact racial and ethnic communities historically marginalized or oppressed. While there may be minimal impact to the industries, any potential harm to individuals within these communities due to added compliance requirements and associated costs is expected to also be minimal.

**FISCAL AND ECONOMIC IMPACT:**

The fiscal and economic impact is expected to be minimal as these industries are already subject to these requirements.

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**COST OF COMPLIANCE:**

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s):

We expect minimal impact to state agencies, units of local government, and members of the public because the industry is already following the 2019 revision of the PMO, and there are no substantially burdensome requirements within the new 2023 revision.

We expect minimal impact to state agencies, units of local government, and members of the public because the industry is already following the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, 2023 Revision, and there are no substantially burdensome requirements within the new 2023 revision.

(2) Effect on small businesses: (a) estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(a)  
Around 1,157 Dairy licenses which includes small business, that are subjected to the adoption of the 2023 PMO.

Around 137 Shellfish licenses which includes small business, that are subjected to the adoption of the NSSP Guide, 2023 Revision.

(b)  
Costs of reporting, recordkeeping and administrative activities to comply with the rule should be also minimal because the industry is already following the 2019 revision of the PMO, and there are no substantially burdensome requirements within the new 2023 revision.

Costs of reporting, recordkeeping and administrative activities to comply with the rule should be also minimal because the industry is already following the NSSP Guide for the Control of Molluscan Shellfish, 2023 Revision, and there are no substantially burdensome requirements within the new 2023 revision.

(c)  
Cost of professional services, equipment supplies, and labor should remain the same because there are no substantially burdensome requirements within the new 2023 PMO revision. No increased administration is required to comply with the new rule because industry is already following the 2019 revision of the PMO, and there are no substantially burdensome requirements within the new 2023 revision.

Cost of professional services, equipment supplies, and labor should remain the same because there are no substantially burdensome requirements within the new National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, 2023 Revision. No increased administration is required to comply with the new rule because industry is already following the 2019 revision of the NSSP, and there are no substantially burdensome requirements within the new 2023 revision.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses are allowed and requested to participate in the development of the PMO. The Oregon Dairy Farmers Association provided input on behalf of its members as well.

Small businesses are involved and allowed to participate in the development of the National Shellfish Sanitation Program (NSSP) during the biennial Interstate Shellfish Sanitation Conference (ISSC).

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

No. The PMO is a mandatory requirement that Oregon must adopt for the state industry to participate in interstate commerce. A formal advisory committee was not formed, but the proposed changes were discussed with Oregon industry.

No. There are no substantial changes to ODA regulations. The proposed amendment reflects federal standards and practices that are not dissimilar to regulations that are currently enforced in Oregon. A public hearing will be held before the federal program guide is adopted to hear, consider, and address concerns by any affected or concerned parties in Oregon.

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RULES PROPOSED:

603-024-0211, 603-100-0010

AMEND: 603-024-0211

RULE SUMMARY: Updates Milk PMO to 2023 Revision.

CHANGES TO RULE:

603-024-0211

Adoption of the Grade A Pasteurized Milk Ordinance (PMO) and Related Documents ¶¶

On all dairy farms, plants, and transport tankers, the standards for building construction, equipment construction, sanitation, sampling, pasteurization, transportation and handling of milk and dairy products shall be those given in the Grade "A" Pasteurized Milk Ordinance (PMO), 2019~~23~~<sup>23</sup> Revision. This adoption shall also include the following related documents:-¶¶

(1) 2019~~23~~<sup>23</sup> Revision of the Methods of Making Sanitation Ratings (MMSR);-¶¶

(2) 2019~~23~~<sup>23</sup> Revision of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the Conference on Interstate Milk Shipments; and-¶¶

(3) The 2019~~23~~<sup>23</sup> Revision of the Evaluation of Milk Laboratories (EML).¶¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 561, 621

Statutes/Other Implemented: ORS 621.058

AMEND: 603-100-0010

RULE SUMMARY: Updates rules to 2023 Revision

CHANGES TO RULE:

603-100-0010

Sanitation of Shellfish Growing Areas and Harvesting, Processing and Distribution of Shellfish ¶

As provided in ORS 622.180, the National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish, 2019~~23~~23 Revision, is hereby adopted as the rules governing this subject matter in Oregon. The material covered is that governing growing area survey and classification, controlled relaying, patrol of harvest areas, control of harvesting, aquaculture, laboratory and administrative procedures. In addition the rules cover the harvesting, handling and shipping of shellfish; wet storage; shucking and packing shellfish; shellfish shipping, heat shock, depuration and application of Hazardous Analysis Critical Control Point (HACCP). These rules are recommended by the Interstate Shellfish Sanitation Conference and the Food and Drug Administration of Health and Human Services.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190, 622.180

Statutes/Other Implemented: ORS 622.180