

**CHAPTER 7-03.2-04
LICENSING PROCEDURES FOR DAIRY FARMS**

Section

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7-03.2-04-01. General requirements for licensing dairy farms.

1. All dairy farms wishing to sell milk must apply for a farm license. No farm may sell milk without a license.
2. Application for a license must be filed with the commissioner. Soon after receiving the application the commissioner shall inspect the farm and its facilities and premises.
3. A set of plans containing information on the dairy farm, milking facility, and milking equipment must be submitted to the commissioner for new dairy farms and prior to major changes in existing facilities. The plans must be provided by the dairy producer and approved by the commissioner prior to licensure and prior to starting any construction.
4. A facility inspection must be conducted and a water sample taken as a licensing requirement. Satisfactory results from both these items will result in the posting of an inspection sheet, which certifies that the facility can sell milk in North Dakota.
5. The inspection sheet must be prominently posted in the milkhouse and is part of the record in all administrative proceedings involving compliance with North Dakota Century Code chapter 4-30 and rules enacted under it.
6. The commissioner will license dairy farms either as:
 - a. Grade A, which is a farm that is licensed to meet production practices required by North Dakota Century Code section 4-30-36; or
 - b. Manufacturing grade, which is a farm that is licensed to meet production requirements required by North Dakota Century Code section 4-30-27.
7. Licensure continues unless suspended or revoked and is not transferable.
8. A dairy farm temporarily not in use during a normally scheduled inspection is required to be relicensed prior to starting raw milk production.
9. All licensed farms will be assigned a producer number by the commissioner. This number must be used by the producer, bulk hauler, and plant when communicating with the dairy commissioner.

History: Effective October 1, 2009.

General Authority: NDCC 4-30-55.1

Law Implemented: NDCC 4-30-27, 4-30-28, 4-30-36

7-03.2-04-02. Special requirements for licensing dairy farms.

1. **Grade A milk farm.** To be licensed as a grade A milk farm, the farm must satisfy the following:
 - a. The farm, including its water supply and all facilities, must meet all pasteurized milk ordinance requirements.

- b. The water supply must meet the requirements of the North Dakota board of water well contractors and state department of health, or the water supply must be approved for municipal or rural water use by the state department of health.
- c. Properly constructed wells must be located at least fifty feet [15.24 meters] from privy pits, cesspools, septic tanks, control pits, absorption fields, sewers, barnyards, and feedlots, and from the high water marks of lakes, streams, sloughs, ponds, etc. Fifty feet [15.24 meters] is the distance requirement with favorable soil conditions. The commissioner may require more than fifty feet [15.24 meters] when soil conditions are unknown or unfavorable, and when required by the presence of contaminants or toxic chemical wastes in the area.
- d. Wells must be at least ten feet [3.01 meters] from basements.
- e. Wells must be at least one hundred fifty feet [45.72 meters] from underground manure storage, chemical or fertilizer storage, or chemical preparation area.
- f. Wells must be at least ten feet [3.01 meters] from hydrants.
- g. Well sites may not be subject to flooding and should be graded to facilitate the rapid drainage of surface water away from the well. The area must be filled, if necessary, graded, and maintained to prevent the accumulation or retention of surface water within fifty feet [15.24 meters] of the well.
- h. For a well on a hillside, intercepting ditches must be constructed on the uphill side of the well to keep runoff at least fifty feet [15.24 meters] away from the well.
- i. The casing or pitless unit for all ground water sources must project not less than twelve inches [30.48 centimeters] above the final ground elevation, the well cover slab, or pumphouse floor.
- j. Pit wells, buried well seals, and sand point wells are unacceptable. If, however, a pit well is presently being used on an existing permitted farm, it may continue to be used until there is a need and intention to repair or upgrade it, and, if so, then the pit well must be eliminated from the dairy operation.
- k. The farm bulk tank must be empty at the time of licensing.
- l. The hoseport must be installed in an exterior milkhouse wall.
- m. The hoseport slab must be at least a six-foot by six-foot [1.83-meter by 1.83-meter] cement slab centered under the hoseport.
- n. The milkhouse must have a direct door to the outdoors. Haulers must not have to go into milking area or animal housing area to access the milkhouse.
- o. All bulk tanks must have an accurate working thermometer.
- p. Neither light fixtures nor vents may be placed over bulk tanks.
- q. Handwashing facilities must be in the milkhouse. Hand sinks must be of lavatory fixture style and at least twenty-four inches [60.96 centimeters] away from wash vats or have a splash board of sufficient size to prevent contaminating the wash vat. Wash vats must be stainless steel and have two compartments.
- r. Light must be provided to properly inspect the interior of bulk tanks.
- s. Livestock or fowl may not have access to truck approach (driveway) or loading area.

- t. Hot water heater capacity must be adequate to properly clean equipment.
 - u. There must be adequate backflow preventors upstream from tube, plate coolers and heat exchangers to protect the milkhouse and water supply. Backflow preventors are also required downstream of tubeplate coolers, and heat exchangers unless there is a physical break downstream. The physical break must be at least two times the diameter of the discharge line.
 - v. Properly mounted and installed 36A and N36 vacuum relief valves are required on power washers and booster pumps.
 - w. All equipment must meet 3A standards and practices.
 - x. All milk to be offered for sale must be maintained at forty-five degrees Fahrenheit [7.22 Celsius] or less.
2. **Manufacturing grade milk farm.** Manufacturing grade milk farms must meet all rules of the United States department of agriculture.

History: Effective October 1, 2009.

General Authority: NDCC 4-30-55.1

Law Implemented: NDCC 4-30-28, 4-30-29

7-03.2-04-03. Denial of license and appeal.

- 1. Should the inspection determine that deficiencies exist that prevent licensing, the farm may not be licensed.
- 2. The producer shall correct all deficiencies before requesting a reinspection.
- 3. A producer denied a license may appeal that decision to the commissioner within thirty days of the denial, by requesting, in writing, a hearing. The commissioner shall convene a hearing as soon as possible.

History: Effective October 1, 2009.

General Authority: NDCC 4-29-03, 4-29-04, 4-30-55.1

Law Implemented: NDCC 4-30-28

7-03.2-04-04. Temporary facilities' license for selling raw milk.

- 1. Application must be made to the commissioner to license temporary facilities for dairy shows, fairs, etc.
- 2. Temporary facilities must comply with all construction requirements in article 7-03.2 and in North Dakota Century Code chapter 4-30 for farm facilities offering raw milk for sale. Lactating dairy animals must never be housed with fowl, swine, or other potential carriers of milk-borne illnesses.
- 3. An onsite facility inspection must be conducted by the commissioner prior to milk sales. If a temporary permit is issued, the permit will be the commissioner's inspection sheet, which the licensee must post in a place at the licensed facility to be readily viewed by the public. The permit duration will be set by the commissioner.
- 4. All milk offered for sale from facilities with temporary permits must be screened by the licensee for inhibitory substances by use of the Delvo P or other tests accepted by the commissioner. The person administering the test must be a licensed tester.

History: Effective October 1, 2009.

General Authority: NDCC 4-30-55.1

Law Implemented: NDCC 4-30-27, 4-30-36

7-03.2-04-05. Grade A farms – Loss of status – Inspection - Access.

1. If a grade A farm has three repeat violations that concern the same inspection item, or if the farm scores seventy-five or below in an inspection, it will be downgraded to manufacturing grade status. The commissioner shall notify the milk plant, the milk hauler, and the producer of the status change.
2. A grade A farm in violation of equipment cleaning , drugs, temperature, and other requirements established to protect the public from serious health risks will be reinspected not before three days but before twenty-one days.
3. If access to a grade A farm is denied to persons seeking to undertake an inspection, federal check rating, an interstate milk survey, or any state inspection, then the farm will be immediately downgraded to manufacturing grade status and will lose its grade A status.

History: Effective October 1, 2009.

General Authority: NDCC 4-30-55.1

Law Implemented: NDCC 4-30-27, 4-30-28, 4-30-36