TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 34 DAIRY AND EGG PRODUCERS
PART 4 ANIMAL DRUG RESIDUE ENFORCEMENT PROCEDURES

21.34.4.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[7/1/97; 21.34.4.1 NMAC - Rn & A, 21 NMAC 34.4.1, 05/29/09]
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21.34.4.2 SCOPE: Part 4 shall apply to any person producing raw milk.
[7/1/97; 21.34.4.2 NMAC - Rn, 21 NMAC 34.4.2, 05/29/09]

21.34.4.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the New Mexico Dairy Product Act, Chapter 25, Article 7A, Sections 1 through 19, New Mexico Statutes Annotated 1978 Compilation.
[7/1/97; 21.34.4.3 NMAC - Rn, 21 NMAC 34.4.3, 05/29/09]

21.34.4.4 DURATION: Permanent.
[7/1/97; 21.34.4.4 NMAC - Rn, 21 NMAC 34.4.4, 05/29/09]

21.34.4.5 EFFECTIVE DATE: July 1, 1997
[7/1/97; 21.34.4.5 NMAC - Rn, 21 NMAC 34.4.5, 05/29/09]

21.34.4.6 OBJECTIVE: The objective of Part 4 of Chapter 34 is to establish the procedure for assessing penalties for any dairy farm that has violative drug residue in their raw milk when the penalty assessed against the dairy farm by any marketing cooperative does not meet the requirements of Appendix N of 21.34.2 NMAC, the pasteurized milk ordinance.
[7/1/97; 21.34.4.6 NMAC - Rn, 21 NMAC 34.4.6, 05/29/09]

21.34.4.7 DEFINITIONS:

A. "Department" means the New Mexico department of agriculture.

B. "Dairy farm" means any place or premises where one or more cows or goats are kept, and from which a part or all of the raw milk or raw milk product(s) is sold or offered for sale.

C. "Dairy producer" means any person offering for sale raw milk or raw milk products.

D. "Director" means the director of the New Mexico department of agriculture or his designated representative.

E. "PMO" means the grade A pasteurized milk ordinance, U. S. department of health and human services, public health service, food and drug administration publication No. 229 as adopted by 21.34.3 NMAC.
[7/1/97; 21.34.4.7 NMAC - Rn, 21 NMAC 34.4.7, 05/29/09]

21.34.4.8 DETECTION OF DRUG RESIDUES:

A. When a bulk milk pickup tanker is found to be positive for drug residues, the department shall be immediately notified. The ultimate disposition of the raw milk must be approved by the department. The disposition of the contaminated milk must preclude entry into the animal or human food chain.

B. The producer samples from the bulk milk pickup tanker found to be positive for drug residues shall be individually tested to determine the farm of origin. The samples shall be tested as directed by the department. Further pickups of the violative individual producer shall be immediately discontinued until tests are no longer positive for drug residues.
[7/1/97; 21.34.4.8 NMAC - Rn, 21 NMAC 34.4.8, 05/29/09]

21.34.4.9 PENALTIES:

A. When the dairy producer responsible for a violative drug residue in a sample from a bulk milk pickup tanker is determined, the department shall immediately suspend the grade A permit of the dairy producer for a minimum of two days and assess a penalty to be determined as set forth in Subsection A of 21.34.4.9 NMAC, provided the department shall accept the penalty assessment imposed by any marketing cooperative unless the penalty assessed does not meet the minimum requirements of Appendix N of the PMO, 21.34.3 NMAC. The

department may grant a temporary grade A permit following a negative milk sample. The temporary grade A permit shall remain in effect until the equivalent penalty is assessed and the "milk and fairy beef tesidue prevention protocol" has been implemented under the supervision of a licensed veterinarian. After the assessment and payment of the equivalent penalty and the completion of the "milk and dairy beef residue prevention protocol", the grade A permit shall be reinstated, provided the violation was not the third violation in a twelve month period.

(1) Determine the difference between the blend price and the class III price of milk at the time of the violation.

(2) Determine if this is the first, second, or third time the dairy producer has offered for sale milk containing a violative drug residue in the past twelve months.

(3) Assess a penalty of the volume of two days production for the first violation, or four days production for a second violation, as stated in Appendix N, regulatory responsibilities, part B, enforcement, of the pasteurized milk ordinance. The penalty shall be calculated according to the formula: volume in hundredweight (cwt) times penalty days times difference in price between dairy producer blend price and class III price for milk in the month the residue occurred, less any penalty already assessed by a marketing cooperative for this particular violation.

(4) The responsible dairy producer and a licensed veterinarian shall complete and sign a quality assurance certificate, for display in the milkhouse, which state that the "milk and dairy beef residue prevention protocol", is in place and being implemented for the dairy herd(s) from which the adulterated milk containing the violative drugs residue was shipped. This must be completed within 30 days of the drug residue violation. If this program is not completed within 30 days of the drug residue violation, the dairy producers grade A permit shall be suspended by the department.

B. All moneys collected under 21.34.4 NMAC shall be deposited in an account the expenditures of which shall be determined by a board appointed by the director. All expenditures shall be for education or research having a direct affiliation with the dairy industry. The board shall consist of the director or his designee, three dairy producers and one public member.

[7/1/97; 21.34.4.9 NMAC - Rn, 21 NMAC 34.4.9, 05/29/09]

HISTORY OF 21.34.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule 93-12, Animal Drug Residue Enforcement Procedures, filed 5/28/93.

History Of Repealed Material: [RESERVED]