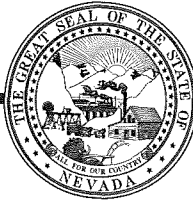


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September 9, 2016

Anna Vickrey
Operations Manager-Food Safety
Food and Nutrition Division
Nevada Department of Agriculture
403 South 21st Street
Sparks, Nevada 89431

Re: LCB File No. R023-16

Dear Ms. Vickrey:

Regulation R023-16 adopted by the State Dairy Commission has been filed today with the Secretary of State pursuant to NRS 233B.067 or 233B.0675, as appropriate. As provided in NRS 233B.070, this regulation becomes effective upon filing, unless otherwise indicated.

Enclosed are two copies of the regulation bearing the stamp of the Secretary of State which indicates that it has been filed. One copy is for your records and the other is for delivery to the State Library and Archives Administrator pursuant to subsection 6 of NRS 233B.070.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel P. Reich", with a long, sweeping horizontal line extending to the right.

Daniel P. Reich
Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

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Enclosure

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R023-16

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Effective date _____

Expiration date _____

Governor's signature

Classification: PROPOSED ADOPTED BY AGENCY EMERGENCY

Brief description of action: Relating to Dairy Products and Substitutes and providing other matters properly relating thereto.

Authority citation other than 233B: NRS 233B.063; NAC 584

Notice date: 04/19/2016

Date of Adoption by Agency: 06/16/2016

Hearing date: 05/19/2016

**ADOPTED REGULATION OF THE
STATE DAIRY COMMISSION**

LCB File No. R023-16

Effective September 9, 2016

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

AUTHORITY: §1, NRS 584.067, 584.103 and 584.135; §2 and 5, NRS 584.067, 584.103 and 584.210; §3, NRS 584.067 and 584.103; §§4 and 24, NRS 584.067; §§6, 12, 14 and 19-23, NRS 584.067 and 584.547; §§7-11 and 13, NRS 584.067, 584.547 and 584.585; §§15-18, NRS 584.067, 584.547 and 584.583.

A REGULATION relating to dairy products; revising provisions relating to the production, sale and delivery of dairy products; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Dairy Commission is authorized to adopt regulations to carry out the provisions of chapter 584 of NRS governing dairy products and substitutes. (NRS 584.067) Existing regulations adopt by reference certain federal standards of identity and any subsequent amendments to those standards. (NAC 584.0103) Existing regulations require all bottles, containers and packages enclosing dairy products to be labeled or marked in accordance with: (1) those federal standards of identity adopted by reference in addition to the requirements of the Federal Food, Drug and Cosmetic Act (21 U.S.C §§ 301 et seq.); and (2) any subsequent federal regulations that have been approved by the Executive Director of the Commission for use in this State. (NAC 584.0361) **Section 1** of this regulation deletes duplicative language that refers to approval of subsequent federal regulations regarding standards of identity.

Under existing law, the Commission may, under certain circumstances, refuse to grant a permit to sell fresh fluid milk or cream in the State of Nevada or suspend or revoke any or all such permits previously issued, after providing notice and opportunity for a hearing. (NRS 584.210) Existing regulations set forth the conditions under which the Executive Director or the Commission is authorized to suspend or revoke a permit, and the requirements for the reissuance of a permit that has been suspended. Under these existing regulations, when a permit is suspended because of an unsatisfactory bacterial condition or cooling temperature, the Commission will take further samples and reissue a such a permit when the average of the last four samples indicates the necessary compliance. (NAC 584.0381) **Section 2** of this regulation

deletes the requirement that the average of the last four samples must indicate the necessary compliance and instead authorizes the Commission to reissue the permit when the results of only one sample indicates the necessary compliance.

Existing regulations prohibit a person from manufacturing, freezing, selling, offering or exposing for sale or possessing with the intent to sell, any manufactured dairy product which is adulterated or misbranded. (NAC 584.0421) **Section 3** of this regulation removes the duplicative references in the prohibition to “freezing,” which is part of the manufacturing process, and “exposing for sale.”

Under existing regulations, the Commission charges and collects fees for annual permits according to a schedule. (NAC 584.4071) **Section 4** of this regulation deletes from the schedule the annual permit fee for milk tank trucks.

Existing regulations require a distributor to submit to the Commission a monthly remittance report showing the distributor’s monthly distribution of fluid milk, fluid cream, butter and fresh dairy by-products. (NAC 584.5792) Existing law requires the Commission to assess distributors based on their distribution of these products. (NRS 584.647-584.649) **Section 6** of this regulation clarifies that the monthly reports are to include only products for which the distributor is subject to assessment.

Existing law requires a distributor dealing in fluid milk, fluid cream or other dairy products to obtain a license. Applications are required to be submitted to the Commission for an initial license and any amendment to a license. (NRS 584.595) Under existing regulations, an application for the original issuance of a distributor’s license or for an amendment to an existing distributor’s license must be considered at a public meeting of the Commission. (NAC 584.6161) **Section 14** of this regulation removes the requirement that an amendment to an existing distributor’s license be considered at a public meeting of the Commission.

Existing law requires a distributor to provide a statement of costs to the Commission. (NRS 584.583) Existing regulations require each processing distributor to file the statement of costs annually. (NAC 584.6261) **Section 15** of this regulation requires such a statement of costs to be filed upon request by the Commission and makes the requirement apply to all distributors instead of only processing distributors.

Existing regulations require a distributor to furnish to each producer from whom he or she receives milk a monthly report of purchases of milk. In addition, if the distributor receives milk of a particular breed and markets it as milk of a particular breed, the distributor is required to furnish the producer with a monthly report of purchases of that milk. (NAC 584.6432) **Section 22** of this regulation deletes the requirement to furnish the monthly report relating to milk of a particular breed.

Existing law authorizes the Commission to prescribe and modify marketing areas for different regulation of the milk industry in this State. (NRS 584.547-584.580) Existing regulations set the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area as the minimum price set each month by the State of California Department of Food and Agriculture for the Northern California Marketing Area. (NAC 584.6482) **Section 23** of this regulation revises the procedure for setting the minimum price for fluid milk and fluid cream in the Northern Nevada Marketing Area to the minimum price set for the Northern California Marketing Area.

Existing regulations separate distributors of fluid milk, fluid cream or other dairy products into separate classes, including “peddler-distributor”, “processing distributor”, “retail distributor” and “wholesale customer.” (NAC 584.5551-584.5941 and 584.5976-584.6712) **Sections 7-9, 11-13 and 15-21** of this regulation delete references to these different classes of distributor so the regulations apply to all distributors. **Section 24** of this regulation repeals the definitions for these different classes of distributor and certain regulations relating to them.

Under existing regulations, a distributor is prohibited from making a loan to a wholesale customer except under certain circumstances. (NAC 584.5971) **Section 10** of this regulation adds a revised definition for the term “wholesale customer” as it is used in that section.

Section 1. NAC 584.0361 is hereby amended to read as follows:

584.0361 1. All bottles, containers and packages enclosing dairy products must be labeled or marked in accordance with the standards of identity adopted by reference in NAC 584.0103 in addition to the requirements of the 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. 2. NAC 584.0381 is hereby amended to read as follows:

584.0381 1. A permit may be summarily suspended by the 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 Commission for serious or repeated violations of chapter 584 of NRS or NAC 584.0111 to 584.0551, inclusive.

3. Upon receipt of a satisfactory application after suspension of a permit because of an unsatisfactory bacterial condition or cooling temperature, the Commission will take further samples. The Commission will reissue the permit ~~{whenever the average of the last four}~~ **when the results of one such** sample ~~{results indicates}~~ **indicate** the necessary compliance.

4. If the suspension of a permit is because of a violation of any of the requirements of sanitation and control of quality adopted by reference in NAC 584.02415, 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 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 Commission will reissue the permit.

Sec. 3. NAC 584.0421 is hereby amended to read as follows:

584.0421 1. A person shall not manufacture, ~~{freeze,}~~ sell, offer ~~{or expose}~~ for sale, or have in possession with intent to sell, any 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 manufactured dairy product may be impounded by the Commission and disposed of in accordance with state law.

4. As used in this section, "adulterated" means any dairy product for which one or more of the conditions prescribed in 21 U.S.C. § 342 exist.

Sec. 4. NAC 584.4071 is hereby amended to read as follows:

584.4071 1. The 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 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.....	\$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.....	50
Plus an amount equal to one-half of the fee for an annual permit to operate the facility after the remodeling.	

Sec. 5. NAC 584.5551 is hereby amended to read as follows:

584.5551 As used in NAC 584.5551 to 584.6712, inclusive, unless the context otherwise requires, the words and terms defined in chapter 584 of NRS and in NAC 584.5554 to ~~584.5751,~~ **584.5741**, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NAC 584.5792 is hereby amended to read as follows:

584.5792 1. Each distributor shall submit to the Commission, on a form prescribed and furnished by the Commission, or on a facsimile of the form, a monthly remittance report

showing the distributor's monthly distribution ~~{of fluid milk, fluid cream, butter and fresh dairy by products.}~~ *dairy products that are subject to assessment by the Commission pursuant to NRS 584.647 or 584.648.*

2. The monthly remittance report must be submitted to the Commission at its office in ~~{Reno}~~ *Sparks, Nevada*, on or before the 20th day of the month following the month during which the ~~{fluid milk, fluid cream, butter and fresh dairy by products}~~ *dairy products that are subject to assessment by the Commission pursuant to NRS 584.647 or 584.648* were distributed.

Sec. 7. NAC 584.5911 is hereby amended to read as follows:

584.5911 1. A sale by a distributor for which payment is not made before or at delivery is an extension of credit by the distributor.

2. Except for a sale to the Federal Government, no sale of milk or dairy products from a distributor to ~~{a wholesale customer or to}~~ another distributor may be made on terms of credit under which the final payment for the milk or dairy products is due more than 60 days after the date of delivery.

3. Any violation of subsection 2 is an unfair practice by the seller and the purchaser.

4. For the purpose of this section:

(a) The period for which credit is extended is the period between the day when the milk or dairy products are delivered and the day when the payment is received by the distributor; and

(b) The giving of a promissory note, postdated check or other evidence of indebtedness is not payment of a debt unless it is immediately payable.

Sec. 8. NAC 584.5922 is hereby amended to read as follows:

584.5922 Except as otherwise provided in NRS ~~{584.584,}~~ **584.583**, a ~~{processing}~~ distributor shall not sell, offer to sell, advertise or bid for the sale of any dairy product at a price less than his or her costs as shown by his or her latest statement of costs on file with the Commission.

Sec. 9. NAC 584.5941 is hereby amended to read as follows:

584.5941 1. If a ~~{wholesale customer}~~ **distributor** fails to pay within the time prescribed by subsection 2 of NAC 584.5911:

(a) The distributor to whom the payment is owed shall notify the Commission of the failure to pay; and

(b) The Commission may issue an order prohibiting all distributors from selling milk or dairy products to that ~~{wholesale customer}~~ **distributor** unless the sale is for cash upon delivery.

2. The Commission will provide written notice to all distributors of any order issued pursuant to subsection 1. Any order issued pursuant to subsection 1 will remain in effect until rescinded by the Commission.

Sec. 10. NAC 584.5971 is hereby amended to read as follows:

584.5971 1. Except as otherwise provided in subsection 2, a distributor shall not make or renew a loan of money to a current or prospective wholesale customer or in any way assist such a customer to obtain a loan of money.

2. A distributor may make or renew a loan of money to a prospective wholesale customer or a member of a cooperative grocery which is a current wholesale customer if:

(a) The distributor advises the Commission that he or she wishes to make or renew the loan;

(b) The loan is appropriately secured and requires payment of the prevailing market rate of interest;

(c) The loan is not contingent upon the purchase of dairy products; and

(d) The Commission approves the loan

3. *As used in this section, "wholesale customer" means any customer of a distributor other than a retail customer.*

Sec. 11. NAC 584.5981 is hereby amended to read as follows:

584.5981 A distributor shall not make any payment on behalf of any ~~wholesale customer or~~ other distributor.

Sec. 12. NAC 584.6011 is hereby amended to read as follows:

584.6011 A ~~peddler-distributor~~ **distributor** who discontinues purchasing dairy products from ~~a~~ **another** distributor shall pay any amount he or she owes to ~~the~~ **that** distributor before distributing the products of ~~another~~ **any other** distributor.

Sec. 13. NAC 584.6092 is hereby amended to read as follows:

584.6092 1. No distributor, ~~peddler-distributor, retail store or~~ representative of a distributor ~~peddler-distributor~~ or retail store may engage in the unfair practice of extending to certain customers special prices, equipment or services not made available to all customers who purchase dairy products ~~for substitute dairy products~~ of like quantity under like terms and conditions.

2. Except as otherwise provided in NRS 584.582 and 584.583, a distributor or retail store may give discounts on the purchase or sale of dairy products.

Sec. 14. NAC 584.6161 is hereby amended to read as follows:

584.6161 Each application for the original issuance of a distributor's license ~~for for the amendment of a distributor's license~~ will be considered at a public meeting of the Commission. An applicant is not required to appear at the meeting unless requested by the Executive Director or a member of the Commission but may appear to provide additional information relevant to the application.

Sec. 15. NAC 584.6261 is hereby amended to read as follows:

584.6261 1. Each ~~processing~~ distributor shall , *upon request of the Commission*, file with the Commission the statement of costs required by subsection ~~{5}~~ 2 of NRS 584.583. ~~{The statement must be filed with the Commission at its office in Reno no later than December 31 of each year. The statement must cover the entire calendar year or the fraction of the calendar year during which the processing distributor was in operation, as shown by his or her monthly reports to the Commission for the purposes of assessment.~~

~~—2.— A statement of costs must be filed for each licensed processing plant.}~~ The statement *of costs* must separately show the cost for each container size of each product distributed, regardless of whether the product was processed, manufactured or purchased for resale.

~~{3.}~~ 2. The statement *of costs* must separately show the dock cost, wholesale delivered cost and retail delivered cost.

~~{4.— Any significant change in costs during a calendar year must be reported when the change occurs if the change substantially affects the unit cost of any fluid milk product or by product. The statement of costs must be amended from time to time by additional filings in order to correct any errors or make the filings current. Each amendment must clearly state the period and product or products covered.}~~

Sec. 16. NAC 584.6281 is hereby amended to read as follows:

584.6281 For enforcement of ~~[this]~~ **a plan** ~~[,]~~ **authorized by NRS 584.547**, the Commission will consider ~~[the]~~ **a** filed statement of costs ~~[of a processing distributor]~~ to be prima facie evidence of ~~[his or her]~~ **the distributor's** costs for the period reported on the statement.

Sec. 17. NAC 584.6311 is hereby amended to read as follows:

584.6311 Before commencing the sale of **new** dairy products, a ~~[processing]~~ distributor must file a statement of costs covering each item which he or she ~~[processes.]~~ **distributes**. Where new products are being manufactured or new operations are begun and the distributor is unable to submit sufficient cost data as required by NAC 584.6261 to 584.6362, inclusive, the distributor must file projected cost data which is acceptable to the Commission.

Sec. 18. NAC 584.6362 is hereby amended to read as follows:

584.6362 To determine costs pursuant to NRS 584.583, a ~~[processing]~~ distributor shall use generally accepted principles of accounting. ~~[and reduce all figures to the fourth decimal place.]~~

Sec. 19. NAC 584.6392 is hereby amended to read as follows:

584.6392 Before selling or offering or agreeing to sell any dairy product, each distributor who processes or manufactures fluid milk, fluid cream, butter or fresh dairy by-products ~~[and each peddler distributor]~~ shall file with the Commission separate price lists for retail prices and distributor's or dock prices for each marketing area in which such products are distributed. A separate price must be filed for each size of each product distributed. The price of like products distributed under different brand names or trademarks must be separately filed. No price may be filed for any product at less than the cost of the product.

Sec. 20. NAC 584.6397 is hereby amended to read as follows:

584.6397 1. A price list filed by a distributor must:

- (a) Clearly state the marketing area in which the prices apply;
- (b) Include all terms and conditions of service which are applicable in determining the net price ultimately available to ~~{wholesale customers;}~~ **other distributors;** and
- (c) Designate its effective date.

2. A price list filed by a distributor is confidential and not open for public inspection.

Information contained in the price list will not be made available to any person, other than members of the Commission and authorized members of its staff, except when the information is to be used in judicial proceedings or administrative proceedings held pursuant to the provisions of chapter 584 of NRS.

Sec. 21. NAC 584.6417 is hereby amended to read as follows:

584.6417 1. A ~~{processing}~~ distributor located in this State who receives, sells or transfers milk shall keep a monthly usage report which includes:

- (a) The quantity of milk received, sold or transferred;
- (b) The class of usage of the milk;
- (c) The price;
- (d) The total gallons of milk processed by product type during the month;
- (e) The total weight of milk processed by product type;
- (f) The results of a butterfat test for the various product types;
- (g) The total butterfat by product type;
- (h) The source of the milk;
- (i) The person to whom the milk was sold or transferred, if appropriate;

(j) A statement which indicates whether the milk was graded, ungraded or degraded; and

(k) Any other information the Commission requests to substantiate usage.

2. A ~~{processing}~~ distributor shall submit his or her monthly usage report to the Commission's office in ~~{Reno}~~ *Sparks, Nevada*, on or before the 15th day of the month following the calendar month for which the report is submitted. The report must be made on a form prescribed and furnished by the Commission or on a facsimile of the form.

Sec. 22. NAC 584.6432 is hereby amended to read as follows:

584.6432 1. For the purpose of computing usage:

(a) Each milk plant, whether owned by one or more interests, is an individual plant pool.

(b) Milk is deemed to have received Class I usage unless the distributor furnishes proof satisfactory to the Commission that ~~{it}~~ *he or she* received a different usage.

2. A distributor shall furnish each producer from whom he or she receives milk a monthly report of purchases of milk. The report must state the quantity, price and usage of each purchase and all deductions and withholdings. The report must accompany either the second or final payment of each month to the producer. The report must be made on forms furnished by the Commission.

~~{3. In addition to the monthly report required by subsection 2, a distributor who receives milk of a particular breed and markets it as milk of a particular breed shall furnish each producer from whom he or she receives the milk a separate monthly report of purchases of that milk, providing the same information required by subsection 1. The report must accompany either the second or final payment of each month to the producer. The report must be made on forms furnished by the Commission.}~~

Sec. 23. NAC 584.6482 is hereby amended to read as follows:

584.6482 1. Except as otherwise provided in this subsection, the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area is the minimum price established for fluid milk and fluid cream ~~{set each month by the State of California Department of Food and Agriculture}~~ for the Northern California Marketing Area. If the minimum price for fluid milk and fluid cream established for the Northern California Marketing Area is revised, the Commission will review the revised price to determine whether it is acceptable. Unless the Commission, within 5 days after the price for the Northern California Marketing Area is revised, determines that the revised price is unacceptable, the revised price for the Northern California Marketing Area shall be deemed the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area. The minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area may be obtained at no cost:

(a) By mail, from the State Department of Agriculture, Attn: Division of Food and Nutrition, State Dairy Commission, 405 South 21st Street, Sparks, Nevada 89431;

(b) By telephone, at (775) 353-3758;

(c) By electronic mail, at fnd@agri.nv.gov; or

(d) On the Internet, at <http://dairy.nv.gov>.

2. Except as otherwise provided in this subsection, the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Southern Nevada Marketing Area is the advanced pricing factors or the component prices set each month by the United States

Department of Agriculture, as applicable, plus the class differential set by the Commission. The minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Southern Nevada Marketing Area may be obtained at no cost:

- (a) By mail, from the State Department of Agriculture, Attn: Division of Food and Nutrition, State Dairy Commission, 2300 ~~McLeod,~~ *East St. Louis Avenue*, Las Vegas, Nevada 89104;
- (b) By telephone, at (702) 668-4585;
- (c) By electronic mail, at fnd@agri.nv.gov; or
- (d) On the Internet, at <http://dairy.nv.gov>.

Sec. 24. NAC 584.5561, 584.5641, 584.5671, 584.5691, 584.5751, 584.5976, 584.5986, 584.5991, 584.6061, 584.6071, 584.6082, 584.6181, 584.6331, 584.6452 and 584.6457 are hereby repealed.

TEXT OF REPEALED SECTIONS

584.5561 “**Bona fide charity**” defined. (NRS 584.067, 584.547) “Bona fide charity” means any entity which is organized and operated primarily for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, and from which no part of the net earnings inures to the benefit of any private shareholder or natural person.

584.5641 “Peddler-distributor” defined. (NRS 584.067, 584.547) “Peddler-distributor” means a distributor, other than a retail distributor, who purchases dairy products for resale.

584.5671 “Processing distributor” defined. (NRS 584.067, 584.547) “Processing distributor” means a peddler-distributor who processes fluid milk, fluid cream or other dairy products.

584.5691 “Retail distributor” defined. (NRS 584.067, 584.547) “Retail distributor” means any retail store which purchases or receives for resale, milk or dairy products from sources outside this State which do not have a valid license issued under chapter 584 of NRS

584.5751 “Wholesale customer” defined. (NRS 584.067, 584.547) “Wholesale customer” means any customer of a processing distributor or a peddler-distributor. The term does not include a retail customer.

584.5976 Satisfaction of debt of wholesale customer. (NRS 584.067, 584.547, 584.585) If a wholesale customer satisfies a debt incurred for the purchase of fresh dairy by-products by providing evidence of indebtedness which is immediately payable to the distributor to whom the debt is owed, the amount of the evidence of indebtedness must not exceed the amount owed to the distributor.

584.5986 Prohibition against requiring wholesale customer to purchase dairy products customer is unable to sell at retail. (NRS 584.067, 584.547, 584.585) A distributor shall not enter into an agreement with a wholesale customer which requires the wholesale customer to purchase the distributor’s dairy products if the wholesale customer is unable to sell those products at retail. Including such a requirement in an agreement with a wholesale customer is an unfair trade practice.

584.5991 Wholesale customer required to pay amount owed to distributor upon discontinuing purchase of dairy products. (NRS 584.067, 584.547) A wholesale customer who discontinues purchasing dairy products from a distributor shall pay any amount the customer owes to the distributor upon providing notice to the distributor that he or she is discontinuing the purchase of dairy products from that distributor.

584.6061 Sales of merchandise other than dairy products to wholesale customers by distributors. (NRS 584.067, 584.547, 584.585) A distributor shall not:

1. Extend credit to a wholesale customer on merchandise other than dairy products on more favorable terms and conditions than the terms and conditions extended by comparable sellers of that merchandise to comparable buyers of that merchandise in the same area.
2. Sell merchandise other than dairy products to a wholesale customer at a price which is less than the price offered by comparable sellers of that merchandise to comparable buyers of that merchandise in the same area.

584.6071 Contract for sale or lease of property between distributor and wholesale customer. (NRS 584.067, 584.547, 584.585)

1. A contract for the sale or lease of any personal or real property between a distributor and a wholesale customer must be in writing.
2. The sale price or lease payment prescribed in such a contract must be an amount comparable to the fair market value or fair market rental, respectively, of the property at the time of the sale or lease.

3. A distributor shall file with the Commission a copy of each such contract within 10 days after its execution, and shall retain the contract for not less than 3 years after the expiration of the lease or the payment of the purchase price.

584.6082 Participation by wholesale customer in profits or losses of distributor. (NRS 584.067, 584.547) If a wholesale customer purchases milk or other dairy products from a distributor and participates in any profits or losses of the distributor, or an entity which owns the distributor, the distributor or entity shall file the following information with the Commission within 30 days after the distribution of any profits or losses:

1. The qualifications required of wholesale customers for participation in profits and losses;
2. The name and address of each wholesale customer who has participated in such a distribution;
3. The amount of profit or loss expressed in monetary terms distributed to each such wholesale customer;
4. The basis for the distribution of profits and losses to wholesale customers; and
5. Any other information which the Commission may find to be necessary for full understanding of all the transactions between the distributor and wholesale customer.

584.6181 Distributor's license: Amendment to include new brand or label. (NRS 584.067, 584.547, 584.595) A distributor who intends to distribute, manufacture, process, sell or offer for sale under a new brand name or label any fluid milk product which he or she has not previously distributed, manufactured, processed, sold or offered for sale in the marketing area must submit a written request to the Commission to amend the distributor's license to reflect the

addition of the new brand or label to his or her line of dairy products. The request must include the cost and price of the product.

584.6331 Peddler-distributors and retail distributors required to file statement. (NRS 584.067, 584.547, 584.583) Each peddler-distributor or retail distributor shall file with the Commission an annual statement of costs in a manner to be prescribed by the Commission.

584.6452 Distributor's contract: Optional provisions. (NRS 584.067, 584.547)

Nothing in this plan restricts a distributor from:

1. Entering into a contract to purchase milk from any producer, regardless of whether a contract already exists between the distributor and producer, except that the contract must expire on December 31 after the date on which it was made.
2. Renewing or refusing to renew any contract with a producer or from putting any provision pertaining to renewal in a contract.
3. Increasing or decreasing the production of the distributor's own herd.

584.6457 Written contract required for certain purchases by distributor. (NRS 584.067, 584.547)

1. A distributor shall not purchase any fluid milk in excess of 200 gallons monthly from a producer or association of producers unless a written contract has been entered into with the producer or association of producers.
2. A distributor who enters into a contract pursuant to subsection 1 shall, within 15 days after entering into the contract, file a copy of the contract with the Commission.
3. Every written contract by a distributor to purchase milk must contain the following statement:

The law of the State of Nevada and the regulations of the State Dairy Commission supersede any conflicting provision of this contract.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R-023-16

1. Rules are outdated and/or no longer needed.

2. Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of Proposed Regulation changes, as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada Department of Agriculture (NDA) www.agri.nv.gov, mailed to all county libraries in Nevada and posted at the following locations:

Nevada Department of Agriculture
405 South 21st Street
Sparks, NV 89431-5566

Nevada Department of Agriculture
2150 Frazer Avenue
Sparks, NV 89431

Nevada Department of Agriculture
2300 McLeod Street
Las Vegas, NV 89104-4314

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89801-4672

Interested persons may obtain a copy of the summary by contacting:
Nevada Department of Agriculture
Attn: Anna Vickrey
405 South 21st Street
Sparks, NV 89431

3. **The number of persons who:**
 - (a) **Attended each hearing: 0**
 - (b) **Testified at each hearing: 0**
 - (c) **Submitted written comments: 0**

Workshop date: 02/03/2016
Number in attendance: 3
Number testifying: 0
Written statements submitted: 0

Hearing date: 05/19/2016
Number in attendance: 0
Number testifying: 0
Written statements submitted: 0

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

- (a) Name; 0
- (b) Telephone number; 0
- (c) Business address; 0
- (d) Business telephone number; 0
- (e) Electronic mail address; and 0
- (f) Name of entity or organization represented. 0

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected business by a direct mail-out to all licensees and permitted clients of the Nevada Dairy Commission and by the posting of required notices for the above meetings as well as posting to our website.

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was adopted without change because we had no testimony or written statements requesting any change to the proposed language.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.**
- (a) **Estimated economic effect on the businesses which they are to regulate.**
 - (b) **Estimated economic effect on the public which they are to regulate.**

There is expected to be no adverse economic effect or impact on any dairy business or the public.

8. **The estimated cost to the agency for enforcement of the proposed regulation:**

None

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

None

- 10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

None

- 11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

None

I certify that to the best of my knowledge or belief a concerted effort was made to determine the impact of this proposed regulation on small businesses and that the information contained in this statement is accurate.



Jim Barbee

Director

Nevada Department of Agriculture