



TO: Milk Specialists and Dairy Industry Stakeholders

FROM: Monica Metz, Chief, Milk and Milk Products Branch, FDA-CFSAN

DATE: September 28, 2020

SUBJECT: Clarification about processes as a result of changes in legal ownership at an IMS-listed milk plant, receiving station and/or transfer station (M-I-15-3, Question #9)

The question below about a change of milk plant ownership was asked in 2013 and was answered as a formal Q&A in M-I-15-3 (Question #9). It has been brought to our attention that, as written, this Q&A may result in a gap between the time the Rating Agency requests the removal of a milk plant from the IMS List and the time that a new rating is conducted and the plant becomes re-listed.

With this memo, FDA is rescinding this specific Q&A, and is clarifying that when a change in ownership has occurred, the request to remove the previous name of the milk plant from the IMS list should occur at the same time that the FORM FDA 2359i is submitted requesting the new name of the milk plant appear on the IMS list. This process should be seamless without the milk plant suffering the loss of the ability to ship Grade "A" milk and milk products in interstate commerce.

"Section 3 - Permits" of the *Pasteurized Milk Ordinance* (PMO) does not specifically require the Rating Agency to conduct a new rating because of a change in milk plant ownership. Ratings may be conducted by the Rating Agency, at their discretion, at any time, including when a milk plant changes ownership.

If you have any questions, please do not hesitate to contact me.

RESCINDED M-I-15-3 (Question #9)

When a milk plant, receiving station and/or transfer station changes legal ownership (not just a cosmetic name change), is the existing IMS listing for the previous ownership still valid, or is a new rating required to be conducted?

A new rating would be required. Section 3-Permits of the PMO states: "Permits shall not be transferable with respect to persons and/or locations." The new ownership would be required to submit an application for a permit to their Regulatory Agency. The Regulatory Agency shall notify the Rating Agency that such a change of ownership has occurred, and the Rating Agency would request the removal of the milk plant from the IMS List. The Regulatory Agency would conduct an inspection of the milk plant, receiving station or transfer station, respectively; and if determined to be in compliance with the PMO, they would issue a new permit. At this time, the new ownership may submit a request to their Rating Agency for a rating if they wish to be on the IMS List.