



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON 25305

GUS R. DOUGLASS
COMMISSIONER

March 22, 1973

Honorable Edgar F. Heiskell III
West Virginia Secretary of State
State Capitol Building
Charleston, West Virginia 25305

Dear Secretary Heiskell:

Enclosed please find two (2) copies of amended administrative regulations promulgated by me and pertaining to the West Virginia Milk and Milk Products Law and amending Regulation 21 of Chapter 19, Article 2, Series VIIa.

I certify that the enclosed amended regulation is a true and accurate copy of the regulation adopted by me March 22, 1973.

With best regards, I am

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Gus R. Douglass".

Gus R. Douglass
Agriculture Commissioner

D/A/s

Enclosures

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE MAR 27 1973

FILED IN THE OFFICE
EDGAR F. WEISKELL III
SECRETARY OF STATE
THIS DATE 3/21/73

Adm. Reg. 19-2
Series VIIa

Sec. 21 *W*

By amending Section 21 by adding thereto another section designated 21a, Testing of Milk for Butterfat by Light Transmission (Milko-Tester Method).

21.01 Definitions. The term "Milko-Tester Method" shall mean the automated light scattering method for determining the fat content of raw unhomogenized milk as described in the Journal of the Association of Official Analytical Chemists. The word "tester" shall mean any person who operates the Milko-Tester for determining the percentage of butterfat in milk or cream.

21.02 Licensing Requirements. No person shall operate a Milko-Tester to determine the butterfat of milk for a basis of payment unless licensed by the Commissioner of Agriculture to perform both this test and the Babcock test. Buyers who want to use the Milko-Tester for producer payment must notify the Commissioner no less than thirty (30) days prior to its use.

21.03 Reference Method. The Babcock test shall be used as the reference method to maintain the calibration of the Milko-Tester. Other methods may be used as a reference upon approval by the Commissioner. Written notification of the reference method shall be sent to the Commissioner prior to the installation and first use of a Milko-Tester. A subsequent change in the reference method used shall be made only with the specific approval of the Commissioner.

21.04 Calibration of Milko-Tester. At the beginning of each testing day, the following items must be completed and recorded:

(1) Check the machine for zero setting as prescribed in the Milko-Tester Operators Manual.

(2) At least ten (10) tests must be run by the Babcock method and the same tests compared with the Milko-Tester. The Milko-Tester shall be calibrated so that the average variation between the Babcock and the Milko-Tester does not exceed 0.02 per cent.

(3) During the daily use of the Milko-Tester a standard sample shall be tested by both Babcock and Milko-Tester methods. Following each forty (40) samples tested by the Milko-Tester and/or every hour the tester is in use, a check test shall be made and compared with the standard sample. If any check test shall vary more than 0.02 from the standard, the Milko-Tester must be rinsed thoroughly with versene solution and the machine checked for zero setting in order to get agreement on the test standard. At least three (3) standard checks must then be run and if variation is noted the Milko-Tester must be recalibrated.

(4) If at any time the Milko-Tester is recalibrated, the procedure must be repeated as outlined in steps (1) and (2).

21.05 Preparation of Samples. All milk samples to be tested are to be tempered to within 95° to 100°F and adequately mixed by pouring from one container into another four (4) times. Each sample must be tested immediately after mixing.

If the sample bottle is not over two-thirds full, the sample may be mixed by shaking horizontally back and forth six (6) round trips through a distance of about six (6) inches within a period of three (3) seconds.

21.06 Records. Permanent records shall be made and held on file for one (1) year. Printout tapes shall be held for a period of not less than sixty (60) days. These records must show the following:

- (1) All calibration results and check tests for initial and subsequent calibrations.
- (2) All tests for checking accuracy of calibrations.
- (3) Daily and accumulative total of tests run.
- (4) All testing records shall bear the signature of the person performing such test.

23.02 Every operator should always carefully check his reading twice to be sure he is correct. When finished tests are placed on the work table and allowed to cool, considerable difficulty is experienced in subsequent cleaning.

Section 24 -HIGH TESTING CREAM.

24.01 Cream test bottles are accurate only between the 0 and 50% graduation on the bottle neck.

24.02 Fat columns above or below the 0 and 50% graduation cannot be read accurately.

24.03 Therefore, tests higher than 50% shall be run in two bottles.

24.04 The procedure for running a test in two bottles has previously been discussed in this bulletin.

Section 25 -INSPECTION FOR LICENSE.

25.01 No new cream station will be licensed until the location, equipment, and facilities have been inspected and approved by a representative of the Department of Agriculture.

Section 26 -EXTENSION OF TEMPORARY PERMITS.

26.01 Any person who has taken a testers examination as provided in Chapter 19, Article 11, Paragraph 8, and who has failed, will not be granted any renewal or extension of a temporary testers permit and will not be permitted to operate the Babcock test for milk and cream.

Section 27 -SECOND EXAMINATION PERMITTED.

27.01 Any person who has failed the first examination will be advised of and given an opportunity to take a second examination next following

upon payment of the regular examination fee of three (\$3.00) dollars.

Section 28 -TOLERANCE ALLOWED.

28.01 The maximum tolerance permitted in cream check test work of all testers licensed by the Department of Agriculture will be 1% or 1 point, either above or below the actual test.

Section 29 -PAYMENT BASIS.

29.01 The basis for payment resulting from all tests shall be as follows: Less than $\frac{1}{2}$ point shall not be considered; over $\frac{1}{2}$ point shall be calculated in payment. Example:

- (a) Test over 40% but not $40\frac{1}{2}\%$; payment shall be calculated at 40%.
- (b) Test over $40\frac{1}{2}\%$ but not 41%; payment shall be calculated at $40\frac{1}{2}\%$.

Section 30 -CREAM SUBJECT TO SEIZURE AND CONDEMNATION.

30.01 All cream for butter making not conforming to the legal standards or definition as contained in Article 11, Section 3, Sub-division (K), Chapter 19, Code of West Virginia, Shall be subject to seizure and condemnation.

30.02 The Commissioner of Agriculture hereby reserves the right to at any time amend, rescind, or suspend any or all of the foregoing regulations.

30.03 Done at the State House, in the offices of the Commissioner of Agriculture, Charleston, West Virginia, this the 23rd day of May, nineteen hundred thirty-nine.

Section 31 -SUPPLEMENT TO AND A PART OF THE GENERAL REGULATIONS.

31.01 In conformity with the provisions of Article 11, Chapter 19, Code of West Virginia, and as amended by Acts of the Legislature, 1939, the following regulations. Nos. 31.02 and 31.03, pertaining to the production, purchase, and sale of cream for butter making and the operation and maintenance of cream buying stations and butter plants, are hereby declared to be a supplement to and a part of the general regulations adopted by the Commissioner of Agriculture, June 1, 1939.

31.02 Floor Requirements--New Stations. Any room intended for, occupied, and used for the handling and assembling of cream to be used in the manufacture of butter and established in the State of West Virginia on and after May 1, 1941, shall be fitted with a concrete floor or other type of approved non porous sanitary floor construction and shall be provided with adequate drainage facilities.

31.03 Floor Requirements--Old Stations. Any room occupied and used for the handling and assembling of cream to be used in the manufacture of butter and which was established in the State of West Virginia prior to May 1, 1941, shall be fitted with a concrete floor or other type of approved non porous sanitary floor construction and shall be provided with adequate drainage facilities on or before April 1, 1942.

31.04 Done at the State House, in the offices of the Commissioner of Agriculture, Charleston, West Virginia, this the 1st day of May, nineteen hundred forty-one.