

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

Do not mark in this box
Filing Date

Oct 26 2 40 PM '99

OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: WV Dept. of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: WV Code 19-11D

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

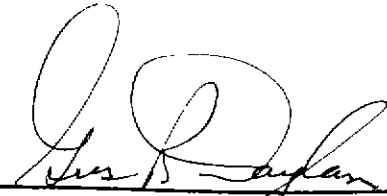
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 4

TITLE OF RULE BEING FILED AS AN EMERGENCY: Traditional Cheese Production

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:


Signature

Use additional sheets if necessary

\$6.70

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Department of Agriculture

EMERGENCY RULE TITLE: Traditional Cheese Production

1. Date of Filing _____

2. Statutory authority for promulgating emergency rule:

19-11-D

3. Date of filing of proposed legislative rule: _____

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

This is a new rule.

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

The inspection of facilities that manufacture cheese using the traditional methods was moved from the local boards of health and place under the jurisdiction of the Department of Agriculture. Therefore, the Department must monitor these facilities in the interest of public health. Also, the law that passed in March of 1999 authorizes emergency rules.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Since the law became effective in March of 1999 the enforcement of this law was moved from local boards of health to the Department of Agriculture. It is essential that we have an emergency rule to perform inspections at these facilities to protect the public health of the citizens of West Virginia.



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

David E. Miller
Deputy Commissioner

Janet L. Fisher
Assistant Commissioner

WEST VIRGINIA DEPARTMENT OF AGRICULTURE

FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY FOR THIS RULE

The inspection of facilities that manufacture cheese using traditional methods was moved from the local boards of health and placed under the jurisdiction of the Department of Agriculture. Therefore, the Department must monitor these facilities in the interest of the public health.

Also the law (§19-11D) that passed in March of 1999 authorizes emergency rules.



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

David E. Miller
Deputy Commissioner

Janet L. Fisher
Assistant Commissioner

SUMMARY OF PROPOSAL

TRADITIONAL CHEESE PRODUCTION

The inspection of facilities that manufacture cheese using traditional methods was moved from the Division of Health and placed under the jurisdiction of the Department of Agriculture. Therefore, the Department must monitor these facilities in the interest of the public health.

Local production and sale of locally manufactured cheese products is a culturally significant tradition and the preservation of historic methods of cheese production is of public interest. The local cheese production is an important part of the economic livelihood of many families and small businesses in this state.

In order to quality to produce cheese using the traditional methods the following criteria must apply: The cheese must be manufactured at a home or farm based site using either raw milk from West Virginia cows, production of which is regulated by the Department of Agriculture, or commercially pasteurized cow's milk; the cheese products must be aged at least sixty days and the cheese products must be sold directly to the consumer at the production site or marketed in local restaurants or local small businesses not engaged in interstate commerce.

These legislative rules establish operating rules and procedures for the production of the traditional method. Minimum quality standards, minimum testing requirements, cleanliness and sanitation from milking to production are addressed in these rules, as well as other criteria to protect the citizens of West Virginia.



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

David E. Miller
Deputy Commissioner

Janet L. Fisher
Assistant Commissioner

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THIS RULE

TRADITIONAL CHEESE PRODUCTION

==

Traditional Cheese Production Law (§19-11D) passed on March 12, 1999. Section 19-11D-3 of this law authorizes the Commissioner of Agriculture to promulgate rules. Emergency rules were also authorized.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Traditional Cheese Production

Type of Rule: X Legislative Interpretive Procedural

Agency WV Department of Agriculture

Address 1900 Kanawha Blvd., East

Charleston, WV 25305-0170

558-2227

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ N/A	\$	\$	\$	\$
PERSONAL SERVICES	N/A				
CURRENT EXPENSE	N/A				
REPAIRS & ALTERNATIONS	N/A				
EQUIPMENT	N/A				
OTHER	N/A				

2. Explanation of above estimates:

The WV Department of Agriculture currently has field investigators that perform other food related inspections. No additional personnel would be needed to complete these inspections.

3. Objectives of these rules:

Local production and sale of locally manufactured cheese products is a culturally significant tradition. The preservation of historic methods of cheese production is in the public interest and an important part of the economic livelihood of many small businesses in this state.

Rule Title: Traditional Cheese Production

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

Economic livelihood of many families and small businesses depend on this process to manufacture cheese to support their families and stay in business

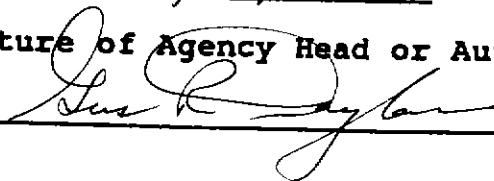
C. Economic Impact on Citizens/Public at Large.

By continuing traditional cheese production for the citizens of West Virginia it allows them the opportunity to preserve their historic methods and the ability to supplement their income.

Date:

12/25/99

Signature of Agency Head or Authorized Representative



TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE

SERIES 4
TRADITIONAL CHEESE PRODUCTION

6/21/99
OFFICE OF THE ATTORNEY GENERAL

§61-4-1. General.

1.1. Scope – These legislative regulations establish operating rule and procedures for traditional cheese production.

1.2. Authority. --

1.3. Filing Date. –

1.4. Effective Date. –

§61-4-2. DEFINITIONS.

2.1. “Commissioner” means the Commissioner of Agriculture of the State of West Virginia or his or her duly authorized agent.

2.2. “Acceptable Milk” means milk, or cream therefrom, which meets the requirements as to sight and odor, sediments, bacterial content, inhibitory substances, and which has been produced in compliance with the provisions set forth in this Rule.

2.3. “Dairy farm” or “farm” means a place or premise where one or more milking animals are kept, a part or all of the milk produced thereon being used in the production of cheese by the incorporation of traditional methods.

2.4. “Inspection” means the inspection of the dairy farm premises, buildings, animals, equipment, utensils, water supply, and facilities and procedures used in the production of milk and/or cream for cheese production purposes.

2.5. “Inspector” means a qualified, trained person employed by the West Virginia Department of Agriculture or any person designated by the Commissioner to perform dairy farm inspections and cheese production by traditional methods.

2.6. “Inhibitory Substances” include antibiotics and pesticides not registered for use on lactating dairy animals, and other substances as determined by the Commissioner.

2.7. "Milk" means the normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows.

2.8. "Person" means any individual, firm, co-partnership, corporation, cooperative association, cooperative corporation or unincorporated association.

2.9. "Producer" means the person or persons who acarus control over the production of cow's milk on a West Virginia dairy farm, which milk or the cream therefrom is used to manufacture cheese through the use of traditional methods.

2.10. "Traditional Method" means cheese production techniques which have been handed down to the producer's family and/or community through several generations of cheese makers. The production of this cheese is, in part, for the preservation of the heritage of the producer's family and/or community.

§61-4-3. Minimum Quality Standards.

3.1. Acceptable milk for the manufacture of cheese by traditional methods shall meet the following methods:

3.1.1. Sight and odor. The milk shall be free from visible foreign matter. It shall not be curdled, ropy, bloody, or mastitic as indicated by sight or odor. It shall be free from feed or other objectional odors.

3.1.2. Temperature. Milk shall be cooled to 45 degrees Fahrenheit or lower within two hours after milking and shall be maintained at 45 degrees Fahrenheit or lower until used to manufacture cheese by traditional methods.

3.1.3. Bacterial limits. Milk from an individual producer shall not exceed 1,000,000 bacterial count per milliliter as determined by standard plate count.

3.1.4. Inhibitory substances. No inhibitory substances shall be permitted in milk.

3.1.5. Sediment. Milk should not have more than 1.5 mg of sediment as determined by the Standard Methods for the Examination of Dairy Products.

61-4-4. Minimum Testing Requirements.

4.1. Frequency of testing. At least once each month at irregular intervals samples shall be taken by the producer. Such samples shall be tested for compliance with the standards set forth in this Rule and shall be subject to the abnormal milk provisions of this Rule. Additional samples may also be collected by the inspector.

4.2. Samples shall be analyzed at an approved official or officially designated laboratory. All sampling procedures and required laboratory examinations shall be in substantial compliance with the current edition of "Standard Methods for the Examination of Dairy Products" and/or the current edition of "Official Methods of Analysis of the Association of Official Analytical Chemists".

4.3. The inspector should arrange to visit each producer who continually does not meet the requirements for acceptable milk, for the purpose of inspecting equipment, utensils, and facilities at the farm and to offer constructive assistance for improvement in the quality of the milk.

4.4. Notification to the Commissioner. Concurrent with all test results made to a producer regarding bacteria counts, sediment, or inhibited substances, a copy of such results shall be sent to the designated representative of the Commissioner.

§61-4-5. Inhibitory Substances.

5.1. If the milk from a dairy farm contains an inhibitory substance, no more milk produced by such farm for the following two days shall be used by the producer to manufacture cheese. No more milk shall be used by the producer until the production from such farm has been found to be free of inhibitory substances. The two day exclusionary provisions cited above shall be increased to three days for a repeat violation within six months, and shall be increased to four days for subsequent violations within such period.

§61-4-6. Abnormal Milk.

6.1. Milk which is found to be abnormal by sight or odor shall not be used for manufacturing purposes. Milk, from animals which show evidence of the secretion of abnormal milk in one or more quarters, based on bacteriological, chemical, or physical examination, and milk which has been treated with or from animals which have consumed chemical, medicinal, or radioactive agents which may be capable of being secreted in the milk and may be deleterious to health in the Commissioner's opinion, shall be milked last or with separate equipment and such milk shall not be used for manufacturing purposes. Equipment, containers, and utensils used to handle abnormal milk shall be cleaned and sanitized before being used for milk to be used to manufacture cheese. Such equipment shall meet the construction requirements set forth in the Rule. Milk from animals treated with or exposed to pesticides not approved for use on dairy animals by the U. S. Environmental Protection Agency shall not be used for manufacturing purpose until such milk has been tested and found acceptable by the Commissioner.

6.2. When a confirmatory test on a routine sample indicates a somatic cell count above 1,000,000 cells per milliliter, a written notification of such a unsatisfactory cell count shall be sent to the producer.

6.3. When two out of the last four routine samples have a somatic cell count above 1,000,000 cells per milliliter, a written notice of the counts shall be sent to the producer and a representative of the Commissioner shall contact the producer to endeavor to determine and eliminate the source of the violative cell count.

§61-4-7. Adulteration.

7.1. Milk for cheese manufacture by traditional methods is considered to be adulterated if it contains any poisonous or deleterious substances, does not meet the quality standards set forth in this Rule, has been produced, processed, or held under unsanitary conditions, contains added water, milk from species other than cows, or bacteria in excess of those standards set forth in this Rule.

§61-4-8. Milkhouse or Milkroom - Construction and Facilities.

8.1. If present, the milkhouse or milkroom shall meet the following construction requirements:

8.1.1. A milkhouse or milkroom conveniently located and properly constructed, lighted, and ventilated may be provided for handling and cooling milk and for washing, handling, and storing the equipment and utensils. Other products which would be likely to contaminate milk, or otherwise create a public health hazard shall not be handled in the milkroom.

8.1.2. The milkhouse or milkroom shall be equipped with wash and rinse vats, a utensil rack, and have an adequate supply of hot and cold water available for cleaning milking equipment. If a part of the barn or other building, it shall be partitioned, screened, and sealed to prevent the entrance of dust, flies, or other contamination. A milking parlor used strictly as a milking facility in combination with a milkhouse or milkroom, when properly equipped, arranged and maintained, need not be partitioned. Concentrates and feed, if stored in the building, shall be kept in a tightly covered box or bin. The floor of the building shall be of concrete or other impervious material and be graded to provide proper drainage. The walls and ceiling shall be constructed of a smooth easily cleaned material. All outside doors shall open outward and be self closing, unless they are equipped with tight fitting screen doors that open outward or unless other effective means are provided to prevent the entrance of flies.

8.1.3. The floor slopes shall drain so that there are no pools of standing water. The joints between the floor and the walls shall be water tight.

8.1.4. The liquid wastes shall be disposed of in a sanitary manner. All floor drains shall be accessible and shall be trapped if connected to a sanitary sewer.

8.1.5. Walls and ceilings shall be constructed of smooth dressed lumber or similar material, be well painted with a light colored washable paint, and be in good repair. Surfaces and joints shall be tight and smooth. Sheet metal, tiles, cement block, brick, concrete, cement plaster, or similar materials of light color may be used as long as the surfaces and joints are smooth.

8.1.6. Windows and solid doors shall be closed during dusty weather, otherwise, windows and doors shall be properly screened.

8.1.7. The milkhouse or milkroom shall be adequately ventilated to minimize odors and condensation on floors, walls, ceilings, and clean utensils.

8.1.8. Vents and light fixtures shall be installed in a manner to preclude the contamination of milk and clean utensils.

8.1.9. There shall be no direct opening into any barn, stable, or room used for domestic purposes; except that an opening between the milkhouse and milking barn, stable, or parlor is permitted when a tight fitting self-closing solid door, hinged to be single or double acting, is provided.

8.1.10. The milkhouse shall be equipped with a wash and rinse vat having at least two compartments. Each compartment shall be of sufficient size to accommodate the largest utensil or container used.

§61-4-9. Milkhouse or Milkroom - Cleanliness.

9.1. If present, the milkhouse or milkroom shall meet the following cleanliness requirements:

9.1.1. The milkroom structure, equipment, and other milkroom facilities used in its operation shall be kept clean at all times.

9.1.2. Every dairy farm shall be provided with one or more toilets, conveniently located and properly constructed, operated, and maintained in a sanitary manner. The waste shall be inaccessible to flies and shall not pollute the soil surface or contaminate any water supply.

9.1.3. The milkhouse or milkroom and appurtenances shall be kept clean and free of trash, animals, and fowl. Pesticides or unapproved antibiotics shall not be stored in this room and when they are used they shall be used in accordance with label instruction so as to prevent contamination of the milk.

9.1.4. Animals and fowl shall be kept out of the milkroom.

§61-4-10. Milking Barn, Stable, or Parlor Construction and Maintenance.

10.1. A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean, the manure removed daily and stored to prevent access of animals to the accumulation thereof; and no swine or fowl shall be permitted in any part of the milking area.

10.2 If milk is exposed during straining or transferring in the milking areas it shall be protected from falling particles from areas above the milking facility.

10.3. The yard or loafing area shall be of ample size to prevent overcrowding; shall be drained to prevent forming of standing water pools insofar as possible; and shall be kept clean.

§61-4-11. Milking Barn, Stable, or Parlor Cleanliness.

11.1. The interior of the milking barn, stable, or parlor shall meet the following standards of cleanliness.

11.1.1. The interior of such facilities shall be kept clean.

11.1.2. Leftover feed in feed mangers shall be fresh and shall not be wet or soggy.

11.1.3. The bedding material, if used, shall not contain more manure than that which has accumulated since the previous milking.

11.1.4. The gutter shall be kept reasonably clean with manure removed on a daily basis.

11.1.5. All pens and stalls, if not separated from the milking barn, stable or parlor, shall be kept clean.

§61-4-12. Barnyard.

12.1. Barnyards shall meet the following requirements.

12.1.1. The barnyard, which is the enclosed or unenclosed area adjacent to the milking barn and may include housing areas and feedlots, in which the animals may congregate, shall be graded and drained. Depressions and soggy areas shall be filled and lanes shall be reasonably dry.

12.1.2. Approaches to the barn door and the surroundings of stock watering and feeding stations shall be solid to the footing of the animals.

12.1.3. Wastes from the barn or milkhouse shall not be allowed to pool in the barnyard. Barnyards which are muddy due to recent rains should not be considered as violating this Section.

12.1.4. Manure, soiled bedding, and waste feed shall not be stored or permitted to accumulate in the barnyard in such a manner as to permit the soiling of udders and flanks. Housing areas (stables without stanchions, such as loose-housing stables, pen stables, resting barns, holding barns, loafing sheds, wandering sheds, free-stall housing) shall be considered a part of the barnyard. Manure packs shall be solid to the footing of the animal.

12.1.5. Barnyards shall be kept reasonably free of droppings. Droppings shall not be allowed to accumulate in piles that are accessible to the animals.

§61-4-13. Water Supply.

13.1. The dairy farm water supply shall be properly located, protected, and operated. It shall be easily accessible, ample, and of safe sanitary quality for the cleaning of dairy utensils and equipment. The water supply shall come from a source that is approved by the State Health Department; or from a spring, dug well, driven well, bored well, or drilled well, the water from which complies with the standards of the State Health Department.

§61-4-14. Milking Utensils and Equipment - Construction, Cleaning, Storage, and Handling.

14.1. Construction of utensils and equipment shall meet the following requirements:

14.1.1. All milking utensils, equipment, and containers which are exposed to milk, cheese, or other milk products, or from which liquids may drip, drain, or be drawn into milk or milk products, shall be made of smooth impervious, nonabsorbent, safe materials of the following types:

14.1.1.a. Stainless steel of the AISI (American Iron and Steel Institute) 300 series; or

14.1.1.b. Equally corrosion resistant nontoxic metal; or

14.1.1.c. Heat resistant glass; or

14.1.1.d. Plastic or rubber and rubberlike materials which are relatively inert, resistant to scratching, scoring, decomposition crazing, chipping, and distortion under normal use conditions; and are nontoxic, fat resistant, relatively nonabsorbent, relatively insoluble, do not release component chemicals or impart flavor or odor to the product, and which maintain their original properties under repeated use conditions.

14.1.2. Single-service articles shall be manufactured, packaged, transported, and handled in a sanitary manner.

14.1.3. Articles intended for single-service use shall not be reused.

14.1.4. All containers, equipment, and utensils shall be free of breaks and corrosion.

14.1.5. All joints in such containers, equipment, and utensils shall be smooth and free from pits, cracks, and inclusions.

14.1.6. Strainers shall be of perforated metal design, or so constructed as to utilize single-service strainer media.

14.1.7. All milking machines, including heads, milk claws, milk tubing, and other milk contact surfaces shall be easily cleaned and inspected.

14.2. Utensils and equipment shall meet the following cleaning requirements.

14.2.1. The contact surfaces of all multi use containers, equipment, and utensils used in the handling, storage, or transportation of milk, cheese, or other milk products shall be cleaned after each use.

14.2.2. The contact surfaces of all multituse containers, equipment, and utensils shall be sanitized immediately prior to use for the handling, storage, or transportation of milk, cheese, or other milk products.

14.3. Utensils and equipment shall meet the following storage requirements:

14.3.1. All milk containers, utensils, and equipment, including milking machine vacuum hoses, shall be stored in a sanitizing solution or on racks until used.

14.3.2. Factors to be considered in determining protection of milk containers, utensils, and equipment during storage include proper location of the equipment, proper drainage of the equipment, and adequately and properly located lighting and ventilation.

14.3.3. Means shall be provided to effect complete drainage of equipment when such equipment cannot be stored to drain freely.

14.3.4. Strainer pads, gaskets, and similar single-service articles shall be stored in a suitable container or cabinet and protected against contamination.

14.4. Utensils and equipment handling shall meet the following requirements:

14.4.1. After sanitation, all containers, utensils and equipment shall be handled in such a manner as to prevent contamination of any product contact surface.

14.4.2. Sanitized product contact surfaces shall be protected against contact with unsanitized equipment and utensils, hands, clothing, splash, condensation, and other sources of contamination.

14.4.3. Any sanitized product contact surface, which has been otherwise exposed to contamination, shall be cleaned and sanitized again prior to being used.

§61-4-15. Milking - Flanks, Udders, and Teats.

15.1. Milking practices shall meet the following requirements:

15.1.1. Milking shall be done in a milking barn, stable, or parlor.

15.1.2. Flanks, bellies, tails, and udders, shall be clipped as often as necessary to facilitate cleaning of these areas and shall be free from dirt. The hair on the udders shall be of such length that it is not incorporated with the teat in the inflation during milking.

15.1.3. Udders and teats of all milking animals shall be cleaned and treated with a sanitizing solution and shall be relatively dry just prior to milking.

15.1.4. Wet hand milking shall be prohibited.

§61-4-16. Milking - Surcingles, Milk Stools, and Antikickers.

16.1. Surcingles, milk stools, and anti-kickers shall be kept clean and shall be stored above the floor in a clean place in the milking barn, stable, parlor, or milkhouse when not in use.

§61-4-17. Protection From Contamination.

17.1. Protection from contamination requires compliance with the following:

17.1.1. Equipment and operations shall be so located within the milking barn and milkhouse as to prevent overcrowding and contamination of cleaned and sanitized containers, equipment, and utensils by splash, condensation, or manual contact.

17.1.2. All milk which has overflowed, leaked, been spilled, or improperly handled shall be discarded.

17.1.3. All product contact surfaces of containers, equipment, and utensils shall be covered or otherwise protected to prevent the access of insects, dust, condensation, and other contamination.

17.1.4. When milk is poured or strained in the milking barn, the receiving receptacle shall be raised above the floor (as on a dolly or cart), or placed at a distance from the animals to protect it from manure or splash. The receptacle shall have a tight fitting cover which shall be closed except when milk is being poured.

17.1.5. Each pail or container of milk shall be transferred immediately from the milking barn to the refrigerated storage facility.

17.1.6. Pails, cans, and other equipment containing milk shall be properly covered during transfer and storage.

17.1.7. Antibiotics and medicines shall be stored in such a manner that they cannot contaminate the milk or milk product contact surfaces of the equipment, containers, or utensils.

§61-4-18. Personnel - Hand Washing Facilities.

18.1. The following hand washing facilities are required:

18.1.1. Hand washing facilities shall be located convenient to the milking barn, stable, parlor, or flush toilet.

18.1.2. Hand washing facilities include soap or detergent, water, and towels.

18.1.3. Such facilities shall be kept in good repair, clean, and shall not be used for storage.

§61-4-19. Personnel - Cleanliness.

19.1. All persons shall comply with the following:

19.1.1. Hands shall be washed clean and dried with a sanitary towel immediately before milking, before performing any milkhous function, and immediately after the interruption of any of these activities.

19.1.2. Milkers shall wear clean outer garments while milking or handling milk, milk containers, equipment or utensils.

§61-4-20. Personnel - Health

20.1. No person affected with any disease in a communicable form, or while a carrier of such disease, shall work at any dairy farm or cheese making facility in any capacity which brings him into contact with the production, handling, storage, or transportation of milk, milk products, cheese, containers, equipment, or utensils. No dairy farm operator or cheese maker shall employ and in any capacity any such person, or any person suspected of having a disease in a communicable form, or being a carrier of such disease. Any producer, of milk or milk products, or any cheese maker upon whose dairy farm or in whose cheese production facility any communicable disease occurs, or who suspects that any employee or family member has contracted any disease in a communicable form, or has become a carrier of such disease, shall notify the Commissioner immediately.

20.2. When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of milk, milk products, or cheese, the Commissioner is authorized to require any or all of the following measures:

20.2.1. The immediate exclusion of that person from milk or cheese handling.

20.2.2. The immediate exclusion of the milk or cheese supply concerned from distribution and use.

20.2.3. Adequate medical and bacteriological examination of the person, of his associates, and of his and their body discharges.

§61-4-21. Animal Health.

21.1. All cows milk for processing cheese through traditional methods shall be from herds under a brucellosis eradication program which meets one of the following conditions:

21.1.1. The herd is located in a Certified Brucellosis-Free Area as defined by the United States Department of Agriculture and enrolled in the testing program for such areas; or

21.1.2. The herd is located in a Modified Certified Brucellosis Area as defined by the United States Department of Agriculture and enrolled in the testing program for such areas;
or

21.1.3. The herd meets United States Department of Agriculture requirements for an individually certified herd; or

21.1.4. The herd is participating in a milk ring testing program which is conducted on continuing basis at intervals of not less than every three (3) months or more than every (6) months with individual blood tests on all animals in herds showing suspicious reactions to the milk ring test; or

21.1.5. The herd has an individual blood agglutination test annually with an allowable maximum grace period not exceeding two (2) months.

21.2. All cows milk for manufacturing or processing cheese shall be from herds which are located in a Modified Accredited Tuberculosis Area as determined by the United States Department of Agriculture. A Modified Accredited tuberculosis Area shall be interpreted as requiring all dairy herds to be tested every six years with an allowable maximum grace period of two (2) months. Provided that herds located in an area that fails to maintain such accredited status shall have been accredited by said department as tuberculosis free, or shall have passed an annual tuberculosis test.

21.3. For diseases other than brucellosis and tuberculosis the Commissioner may require such physical, bacteriological, or chemical tests as he/she deems necessary. The diagnosis of other diseases in dairy animals shall be based upon the findings of a licensed veterinarian or a veterinarian in the employ of the Commissioner. Any diseased animal disclosed by such test(s) shall be disposed of as the Commissioner directs.

§61-4-22. Insect and Rodent Control.

22.1. Effective measures shall be taken to prevent the contamination of milk, cheese, containers, equipment, and utensils by insects, rodents, and by chemicals used to control such vermin.

22.1.1 Manure packs in loafing areas, stables without stanchions, pen stables, resting barns, wandering sheds and free stall housing shall be properly bedded and managed to prevent fly breeding.

22.1.2. Milkrooms and cheese rooms shall be kept free of insects and rodents.

22.1.3. Milkrooms and cheese rooms shall be effectively screened or otherwise protected against the entrance of vermin.

22.1.4. Insecticides not approved for use in a milkhouse or cheese room shall not be stored in those facilities.

22.1.5. Only insecticides and rodenticide approved for use by the Commissioner and registered with the United States Environmental Protection Agency shall be used for insect and rodent control.

22.1.6. Insecticides and rodenticide shall be used only in accordance with the manufacturer's label directions so as to prevent the contamination of milk, cheese, containers, equipment, utensils, feed and water.

§61-4-23. Farm Inspection.

23.1. Each dairy farm and cheese manufacturing facility shall be inspected for the purpose of ascertaining compliance with the provisions of this Rule.

23.2. Each farm and cheese manufacturing facility shall be inspected at least two (2) times during each twelve (12) month interval with approximately six (6) months between such routine inspections. Inspections shall be conducted more frequently if necessary to achieve compliance with the provisions of this Rule.

§61-4-24. Cheese Kitchen - Construction and Facilities.

24.1. The cheese kitchen shall meet the following construction and facility requirements:

24.1.1. A cheese kitchen conveniently located and properly constructed, lighted, and ventilated shall provide for the handling and cooling of milk, processing, aging, and packaging of cheese, and for washing, handling, and storing utensils and equipment. Products which would be likely to contaminate milk or cheese or otherwise create a health hazard shall not be handled in the cheese kitchen.

24.1.2. The cheese kitchen shall be equipped to provide for washing and sanitizing of equipment and utensils with an adequate supply of hot and cold water.

24.1.3. The liquid wastes shall be disposed of in a sanitary manner. All drains shall be trapped if connected to a sanitary sewer.

24.1.4. The cheese kitchen shall be constructed in a manner which will provide for adequate cleaning of ceilings, walls, and floors.

24.1.5. The cheese kitchen shall have doors and windows which will provide adequate protection from dust, insects, and rodents.

24.1.6. Cheese cupboards shall be screened to prevent the entrance of flies.

24.1.7. Cheese aging areas shall be clean and sanitary. They shall be free of insects and rodents. Access to these areas by fowl or other animals shall not be permitted. Doors from these areas to the outside must be kept closed at all times.

§61-4-25. Cheese Kitchen - Utensils and Equipment.

25.1. All multi use containers, equipment, and utensils which are exposed to milk or cheese, or from which liquids drip, drain, or may be drawn into milk or cheese shall be made of smooth nonabsorbent, safe materials.

25.2. Single service articles shall be stored and handled in a safe and sanitary manner. Articles intended for single service use shall not be reused.

25.3. All containers, equipment, and utensils shall be free of breaks and corrosion. They shall have joints that are smooth and free from pits, cracks, or inclusions.

25.4. The product contact surfaces of all multi use containers, equipment, and utensils used in the handling, storage, or transportation of cheese shall be cleaned after each usage. Cheese presses and cheese cupboards shall be kept clean and sanitary.

25.5. All containers, equipment, and utensils shall be stored in manner which will protect it from contamination.

§61-4-26 Farm Exclusion.

26.1. No firm shall process cheese using raw milk from a dairy farm unless the farm is in compliance with the provisions of this Rule.

26.2. In the event of noncompliance with this Rule or in the event of a refusal by a producer to allow an inspection of the dairy farm by an inspector of the West Virginia Department of Agriculture, the milk from such dairy farm shall not be used to process cheese until such time as the farm is found to be in compliance and/or access to inspect the dairy farm is permitted.

§61-4-27 Permit To Operate.

27.1. It shall be unlawful for any person who does not possess a permit from the Department of Agriculture to operate a dairy farm which produces and offers for sale cheese which is processed using traditional methods as covered under the provisions of this Rule. Application for such permit shall be made to the Commissioner using forms prescribed and furnished by the State Department of Agriculture.