

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #6

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

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 NEW RULE BEING PROPOSED: Series 4 a

TITLE OF RULE BEING PROPOSED: Production of milk and cream for  
manufacturing purposes.

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 243

SECTION Article 9.1, PASSED ON March 10, 1990

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: April 10, 1990



Cleve Benedict  
Agriculture Commissioner

TITLE 61  
LEGISLATIVE RULE  
DEPARTMENT OF AGRICULTURE

SERIES 4A  
PRODUCTION OF MILK AND CREAM FOR MANUFACTURING PURPOSES

**§61-4a-1. General.**

1.1. Scope - These legislative regulations establish general operating rules and procedures for the production of milk and cream for manufacturing purposes.

1.2. Authority. -- W. Va. Code §19-11.

1.3. Filing Date. -- April 10, 1990.

1.4. Effective Date. -- April 10, 1990.

**§61-4a-2. Definitions.**

2.1. For the purposes of the Rule, the following terms have the following meanings:

2.1.1. "Commissioner" means the Commissioner of Agriculture of the State of West Virginia.

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

2.1.3. "Producer" means the person or persons who exercise control over the production of milk on a dairy farm, which milk or the cream therefrom is offered for sale at a plant for manufacture into milk products. This term includes all producers located within West Virginia and selling milk and/or cream for manufacture in or outside of West Virginia and all producers located outside of West Virginia selling milk and/or cream in West Virginia for manufacture.

2.1.4. -- "Plant" means any building, place, premises, rooms or other establishment where milk, cream, or dairy products are

received for eventual use in dairy products. This shall include plants located outside of West Virginia receiving milk and/or cream from West Virginia sources and plants located in West Virginia receiving milk and/or cream from sources outside of West Virginia.

2.1.5. "Dairy products" means butter, cheese of all kinds, dry whole milk, non-fat dry milk, dried buttermilk, dried whey, evaporated or condensed whole or skimmed milk (plain or sweetened), frozen desserts or other products made principally from milk or its ingredients, and which are for human consumption.

2.1.6. "New producer" means a producer who has not heretofore produced milk or cream for manufacture into dairy products.

2.1.7. "Transfer producer" means a producer who has delivered milk and/or cream to a plant and who changes his delivery to another plant.

2.1.8. "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 provision set forth in this Rule.

2.1.9. "Rejectable milk" means milk or cream therefrom, which does not meet the definitions of acceptable milk set forth in Section 2.1.8 of this rule.

2.1.10. "Excluded milk" means milk or cream therefrom which has been rejected by the operator of a plant because it does not meet the standards for acceptable milk, and milk produced on a farm which has been excluded from delivery to a plant.

2.1.11. "Inspection" means the inspection of the dairy farm premises, buildings, animal, equipment, utensils, water supply and facilities and procedures used in the production of milk and/or cream for manufacturing purposes.

2.1.12. "Score sheet" means the form, provided pursuant to this Rule, for evaluating the farm and its facilities at the time of inspection.

2.1.13. "Source" means producers and plants from which milk and/or cream are received.

2.1.14. "Fieldman" means a person qualified and trained in the sanitary methods of production and handling of milk as set forth herein, and generally employed by a processing or manufacturing plant for the purpose of making dairy farm surveys and doing quality control work.

2.1.15. "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 raw milk grading.

2.1.16. "Dairy farm" or "farm" means a place or premise where one or more milking animals are kept, a part of all of the milk produced thereon being delivered, sold, or offered for sale to a plant for manufacturing purposes.

2.1.17. "Milk" means the normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy animals which shall include but not be limited to cows and goats. The word "milk" used herein includes only milk for manufacturing purposes.

2.1.17.1. Goat milk is the lacteal secretion practically free from colostrum obtained by the complete milking of one or more healthy goats. Goat milk shall only be used to manufacture dairy products that are recognized

as non-standardized traditional products normally manufactured from goats milk.

2.1.17.2. For milk from animals other than cows and goats, the Commissioner may develop special criteria under this definition.

2.1.18. "Milk for manufacturing purposes" means milk produced for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements.

2.1.19. "Inhibitory substances" include antibiotics and pesticides not registered for use on lactating dairy animals and other substances so classified by the Commissioner.

### §61-4a-3. Minimum Quality Standards.

3.1. Acceptable milk for manufacturing purposes shall meet the following requirements:

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 objectionable odors.

3.1.2. Temperature. Milk in farm tanks 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 transferred to the bulk tank truck.

3.1.3. Bacterial Limits. Commingled milk shall not exceed 3,000,000 bacterial count per ml at the time of delivery. Individual producer milk shall not exceed 1,000,000 bacterial count per ml at the time of delivery.

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 (sediment) as determined by the Standard Methods for the Examination of Dairy Products.

3.1.6. Water. The milk from each producer shall be tested for the presence of extraneous water as often as the plant or commissioner determines necessary using the Cryoscopic test according to the current edition of the "Standards Methods for Examination of Dairy Products" or other tests accepted by the commissioner. Evidence of adulteration by water shall constitute cause for exclusion of the producer until the plant is satisfied the condition has been corrected.

**§61-4a-4. Minimum Testing Requirements.**

4.1. Frequency of testing. At least once each month at irregular intervals samples shall be taken by the plant operator from each dairy farm source. Such samples shall be tested for compliance with the standards set forth in Section 3 of this Rule and shall be subject to the abnormal milk provisions of Section 7 of this Rule. Additional samples may also be taken by an 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. All samples taken pursuant to this Section, as a result of follow up procedure on milk with excessive bacteria count, shall be by a plant operator.

4.3.1. The fieldman should arrange to promptly visit each producer shipping milk which does not meet the requirements for acceptable milk, for the purpose of inspecting the equipment, utensils, and facilities at the farm and to offer constructive assistance for improvement in the quality of the milk. The fieldman should visit each producer as often as practicable to assist in and encourage the production of high quality milk.

4.4. Notification to the Commissioner. Concurrent with all notices made to a producer regarding excessive bacteria counts, a copy of such notification shall be sent to the designated representative of the commissioner.

4.5. Commingled milk. It shall be the responsibility for each receiving and/or manufacturing plant to arrange for samples of routinely received commingled milk to be analyzed monthly. All occasional receipts of milk shall be analyzed for compliance with standards set forth in this Rule. Results of such analyses shall be recorded in a manner acceptable to the Commissioner.

**§61-4a-5. Inhibitory Substances.**

5.1. The plant operator who receives milk found to contain inhibitory substances shall:

5.1.1. Test all milk from individual producers which was a part of a commingled load of milk found to contain inhibitory substances.

5.1.2. Investigate each dairy farm from which milk containing an inhibitory substance was received and cause corrective action to be taken.

5.1.3. Take an additional sample and test it and receive no more milk from that producer until the results meet the standards.

5.1.4. 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 received by any plant operator and no more milk shall be received until the production of milk 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 violation within such period.

**§61-4a-6. Sediment.**

6.1. The follow up procedure for sediment shall be in accordance with the provisions in Section 4 of this Rule.

#### §61-4a-7. Abnormal Milk.

7.1. Milk which is found to be abnormal by sight or odor shall not be offered for sale or sold for manufacturing purposes. Milk, from animals, which shows 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 offered for sale or sold for manufacturing purposes. Equipment, utensils and containers used to handle abnormal milk shall be cleaned and sanitized before being used for milk to be sold. 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 offered for sale until such milk has been tested and found acceptable by the Commissioner.

7.2. Acceptable Detection Tests. The Wisconsin Mastitis Test (WMT) or the California Mastitis Test (CMT) may be used as a screening test. A WMT of 19 mm or higher or a CMT or weak positive (1+) indicates abnormal milk and requires confirmation. Confirmation shall be made by the Direct Microscopic Somatic Cell Count method or an electronic counting method approved by the Commissioner. The commissioner may periodically approve additional testing methods or make changes in screening test results requiring confirmation based upon further research.

7.3. Compliance requirements. The plant operator and each producer shall follow the procedures below as applicable:

7.3.1. The plant operator shall cause the milk shipped by each producer to be tested for abnormalities on a monthly basis and the results of such examination shall be sent to each producer and posted by the producer in his milkhouse. The samples shall be examined by an acceptable screening test and when required, re-examined by an acceptable confirmatory test. A screening test may be omitted if a producer's milk samples are routinely examined by an acceptable confirmatory method.

7.3.2. When a confirmatory test on a routine sample indicates a somatic cell count above 1,000,000 cells per ml, a written notice shall be sent to the producer of such unsatisfactory cell count and a recheck sample shall be collected within 21 days but not prior to 5 days after said notice has been sent. The recheck samples shall be examined by an acceptable confirmatory method.

7.3.3. When two out of the last four routine samples have a somatic cell count above 1,000,000 per ml, written notification shall be sent to the producer and the producer shall be notified that another sample with a somatic cell count above 1,000,000 per ml shall require exclusion until an acceptable somatic cell count is obtained. The follow up procedure shall be in accordance with the provisions in Section 4 of this Rule, Minimum Testing Requirements.

7.3.4. When two out of the last four routine samples have a somatic cell count above 1,000,000 per ml, an additional sample shall be taken within 21 days, but not before five days after the notice described in Section 7.3.2 of this Rule above has been sent to the producer. If the somatic cell count of this sample exceeds 1,000,000 per ml the producer shall be excluded until a subsequent sample indicates the somatic cell count has been reduced to below 1,000,000 per ml. The producer record must show a loss of the production of at least one milking during this period before reinstatement.

7.3.5. During the 21 days following reinstatement, a total of four samples shall be examined for somatic cell count at a rate not to exceed two samples per week. The first such

sample shall be collected within one week after reinstatement. If the somatic cell count of these samples is 1,000,000 or less, the producer shall be returned to routine sample collection frequency. After reinstatement, the producer begins a new quality control record for abnormal milk. If any of the four samples collected during the 21 day period exceeds 1,000,000 cells per ml, follow up action shall be repeated, as described in Section 7.3.2 of this Rule and subsequent steps of this Rule.

**§61-4a-8. Milking Barn, Stable, or Parlor - Construction and Maintenance.**

8.1. 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 accumulation thereof; and no swine or fowl shall be permitted in any part of the milking area.

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

8.3. 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 practicable, and shall be kept clean.

**§61-4a-9. Milking Barn, Stable, or Parlor - Cleanliness.**

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

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

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

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

9.1.4. Outside surfaces of pipeline systems located in the milking barn, stable, or parlor shall be kept reasonably clean.

9.1.5. Gutter shall be kept reasonably clean with manure removed on a daily basis.

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

**§61-4a-10. Barnyard.**

10.1. Barnyards shall meet the following requirements:

10.1.1. The barnyard, which is the enclosed or unenclosed area adjacent to the milking barn, in which the animals may congregate, including housing areas and feed lots, shall be graded and drained; depressions and soggy areas shall be filled; lanes be reasonably dry.

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

10.1.3. 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.

10.1.4. Manure, soiled bedding, and waste feed shall not be store 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.

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

**§61-4a-11. Milkhouse or Milkroom - Construction and Facilities.**

11.1. The milkhouse or milkroom shall meet the following construction requirements:

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

11.1.2. The milkhouse or milkroom shall be equipped with wash and rinse vat, utensil rack, bulk milk tank 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 grade to provide proper drainage. The walls and ceiling shall be constructed a smooth easily cleaned material. All outside doors shall open outward and be self-closing, unless they are provided with tight-fitting screen doors that open outward or unless other effective means are provided to prevent the entrance of flies.

11.1.3. The farm bulk tank shall be properly located in the milkhouse or milkroom for access to all area for cleaning and servicing. It shall not be located over a floor drain or under a ventilator.

11.1.4. A small platform or slab constructed of concrete or other impervious material shall be provided outside the milkhouse, properly centered under a suitable port opening in the wall for milkhouse connections. The opening shall be fitted with a tight, self-closing door. The truck approach to the milkhouse or milkroom shall be properly graded and surfaced to prevent mud or pooling of water at point of loading.

11.1.5. 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.

11.1.6. 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.

11.1.7. Walls and ceilings shall be constructed of smooth dressed lumber or similar material, well painted with a light-colored washable paint, and 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; the surfaces and joints shall be smooth.

11.1.8. Windows and solid doors shall be closed during dusty weather.

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

11.1.10. Vents, if installed, and light fixtures shall be installed in a manner to preclude the contamination of bulk milk tanks or clean utensil storage areas.

11.1.11. 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(s) hinged to be single or double acting is provided.

11.1.12. 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. The cleaning-in-place vat for milk pipelines and milk machines may be accepted as one part of the two-compartment vat: Provided, that the cleaning-in-place station rack is not on the vat and the milking machines inflations and appurtenances are completely removed from the vat during the washing, rinsing, and/or sanitizing of other utensils and equipment.

**§61-4a-12. Milkhouse or Room - Cleanliness.**

12.1. The milkhouse or room shall meet the following cleanliness requirements:

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

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

12.1.3. Incidental articles such as desks, refrigerators, and storage cabinets may be in the milkroom provided they are kept clean and ample space is available to conduct the normal operations in the milkroom and will not cause contamination of the milk.

12.1.4. 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 used shall be used in accordance with label instruction so as to prevent contamination on the milk.

12.1.5. Vestibules, if provided, shall be kept clean.

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

**§61-4a-13. Water Supply.**

13.1. The dairy farm water supply shall be properly located, protected, and operated, and 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 which 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.

**§61-4a-14. Utensils and Equipment - Construction.**

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

14.1.1. All multiuse containers, equipments, and utensils which are exposed to milk or 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:

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

14.1.1.2. Equally corrosion-resistant, nontoxic metal; or

14.1.1.3. Heat-resistant glass; or

14.1.1.4. 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, or inclusions.

14.1.6. Cleaned-in-place milk pipelines and return-solution lines shall be self-draining. If gaskets are used, they shall be self-positioning and of material meeting specifications described in Section 14.1.1.4 of this Rule, and shall be of such design, finish, and application as to form a smooth, flush interior surface. If gaskets are not used, all fittings shall have self-positioning faces designed to form a smooth flush interior surface. All interior surfaces of welded joints in pipelines shall be smooth and free of pits, cracks, and inclusions. *PROTRUSIONS*

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

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

14.1.9. No milk cans shall be used to store milk for resale.

#### **§61-4a-15. Utensils and Equipment - Cleaning.**

15.1. Utensils and equipment shall meet the following cleaning requirements:

15.1.1. The product-contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be cleaned after each usage.

15.1.2. Bulk tanks shall be cleaned when emptied and shall be emptied at least once every 72 hours.

#### **§61-4a-16. Utensils and Equipment - Storage.**

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

16.1.1. All milk containers, utensils, and equipment, including milking machine vacuum hoses, shall be stored in the milkhouse in a sanitizing solution, or on racks, until used. Milk pipelines and pipeline milking equipment such as milker claws, inflations, weigh jars, meters, milk hoses, milk receivers and milk pumps which are designed for mechanical cleaning may be mechanically cleaned, sanitized and stored in the milking barn or parlor provided this equipment is designed, installed and operated to protect the product-and-solution-contact surface from contamination at all times. Factors to be considered in determining protection include proper location of equipment, proper drainage of equipment and adequate and properly located lighting and ventilation. The milking barn or parlor must be used only for milking.

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

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

#### **§61-4a-17. Utensils and Equipment - Handling.**

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

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

17.1.1. Sanitized product-contact surfaces, including farm cooling tank openings and outlets, shall be protected against contact

with unsanitized equipment and utensils, hands, clothing, splash, condensation, and other sources of contamination.

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

**§61-4a-18. Milking - Flanks, Udders and Teats.**

18.1. Milking practices shall meet the following requirements:

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

18.1.2. 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.

18.1.3. 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.

18.1.4. Wet hand milking shall be prohibited.

**§61-4a-19. Milking - Surcingles, Milk Stools, and Antikickers.**

19.1. Milk stools, surcingles, and antikickers 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.

**§61-4a-20. Protection From Contamination.**

20.1. Protection from contamination requires compliance with the following:

20.1.1. 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.

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

20.1.3. 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. All openings, including valves and piping attached to milk storage and transport tanks, pumps, or vats, shall be capped or otherwise properly protected.

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

20.1.5. Each pail or container of milk shall be transferred immediately from the milking barn, stable or parlor to the milkhouse.

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

20.1.7. 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.

**§61-4a-21. Personnel - Hand Washing Facilities.**

21.1. The following hand-washing facilities are required:

21.1.1. Handwashing facilities shall be located in the milkhouse or convenient to the milking barn, stable, parlor, or flush toilet.

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

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

**§61-4a-22. Personnel - Cleanliness.**

22.1. All persons shall comply with the following requirements:

22.1.1. Hands shall be washed clean and dried with an individual sanitary towel immediately before milking, before performing any milkhouse function, and immediately after the interruption of any of these activities.

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

**§61-4a-23. Insect and Rodent Control.**

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

23.1.1. 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.

23.1.2. Milkrooms shall be kept free of insects and rodents.

23.1.3. Milkrooms shall be effectively screened or otherwise protected against the entrance of vermin.

23.1.4. Outer milkhouse doors shall be kept tight and self-closing.

23.1.5. Insecticides and rodenticide not approved for use in the milkhouse shall not be stored in the milkhouse.

23.1.6. Only insecticides and rodenticide approved for use by the Commissioner and registered with the U.S.

Environmental Protection Agency shall be used for insect and rodent control.

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

**§61-4a-24. Farm Inspection.**

24.1. Each new dairy farm and each transfer farm from which milk or cream is received shall be inspected and found to be in compliance by an inspector prior to such receipt. The Commissioner shall be notified by the plant operator at least 96 hours prior to the anticipated receipt of milk from each new and each transfer farm. At the discretion of the Commissioner, a fieldman may conduct both routine inspections and reinspection, as well as excessive bacteria count investigations. Inspections shall be for the purpose of ascertaining compliance with the provisions of this Rule.

24.2. Frequency of inspection - Each farm shall be inspected at least 2 times during each 12-month interval with approximately 6 months between such routine inspections. Inspections shall be conducted more frequently if necessary to achieve compliance with the provisions of this Rule. A copy of the score sheet shall be posted in the milkhouse or milk room.

**§61-4a-25. Farm Exclusion.**

25.1. No plant shall receive raw milk from a dairy farm unless the farm is in compliance with the provisions of this Rule.

25.2. 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 or fieldman, such representative shall have the authority to exclude the producer's dairy farm. The milk from such dairy farm shall remain excluded until such time when it is found to be in compliance and/or access to an inspection of the dairy farm is permitted.

**§61-4a-26. Rejected and Excluded Milk.**

26.1. Containers of all rejected milk and/or cream shall bear a tag stating the reason for rejection.

26.2. Disposal of Rejected Milk - Milk and/or cream which has been rejected pursuant to this Rule shall not be sold or used as food or an ingredient in a food product for human consumption except that it may be used by the producer of such milk at the farm on which it was produced.

**§61-4a-27. Animal Health.**

27.1. All cows milk for manufacturing or processing shall be from herds under a brucellosis eradication program which meets one of the following conditions:

27.1.1. 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

27.1.2. 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

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

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

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

27.2. All cows milk for manufacturing or processing 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.

27.3. For diseases other than brucellosis and tuberculosis, the commissioner may require such physical, chemical, or bacteriological tests as he 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.

**§61-4a-28. Personnel Health.**

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

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

28.2.1. The immediate exclusion of that person from milk handling;

28.2.2. The immediate exclusion of the milk supply concerned from distribution and use; and

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

**§61-4a-29. Permit To Operate.**

29.1. 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 milk covered under the provisions of this Rule. Application(s) for such permit(s) shall be made to the Commissioner on a form prescribed and furnished by the State Department of Agriculture.



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(Plus all the volunteer  
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K  
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Charleston, WV 25305-0770

TO: Barbara Smith

AGENCY: Agriculture

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 6, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 4A TITLE: 61 Agriculture

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Barbara J. Smith

TITLE OF PERSON SIGNING: Director of Compliance

DATE: 7-28-92

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.