

SM-104

WEST VIRGINIA

GRADE "A"

PASTEURIZED

MILK

REGULATION



ADOPTED BY THE WEST VIRGINIA STATE BOARD OF HEALTH

EFFECTIVE SEPTEMBER 1, 1968



WEST VIRGINIA MILK REGULATIONS

Adopted in accordance with Chapter 16,

Article 7, Section 5, of the

Code of West Virginia.

As amended March, 1959

Milk Regulations

A regulation defining "milk" and certain "milk products," "milk producer," "pasteurization," etc., prohibiting the sale of adulterated and misbranded milk and milk products, requiring permits for the sale of milk and milk products, regulating the inspection of dairy farms and milk plants, the examination, labeling, pasteurization, distribution, and sale of milk and milk products, providing for the construction of future dairies and milk plants, the enforcement of this regulation and the fixing of penalties.

Be it ordained by the State Board of Health of the State of West Virginia in regular session on June 19, 1968, that these rules and regulations are unan-
imously adopted and take effect the first day of September, 1968.

ARTICLE 1

SECTIONS

1. Definitions.
2. The Sale of Adulterated, Misbranded, or Ungraded Milk or Milk Products Prohibited.
3. Permits.
4. Labeling.
5. Inspection of Dairy Farms and Milk Plants.
6. The Examination of Milk and Milk Products.
7. Standards for Milk and Milk Products.
Sanitation Requirements for Grade A Raw Milk for Pasteurization,
"x" Items.
Sanitation Requirements for Grade A Pasteurized Milk and Milk Products,
"p" Items.
8. Animal Health.



9. Milk and Milk Products Which May Be Sold.
10. Transferring; Delivery Containers; Cooling.
11. Milk and Milk Products from Points Beyond the Limits of Routine Inspection.
12. Future Dairies and Milk Plants.
13. Personnel Health.
14. Procedure When Infection Is Suspected.
15. Enforcement Interpretation.
16. Imitation Milk and Imitation Milk Products.
17. Provisions for Contractual Agreements.
18. Penalty.
19. Date of Effect.
20. Unconstitutionality Clause.

SECTION 1. DEFINITIONS: Milk and milk products defined in the State Agriculture Laws and/or regulations adopted by the West Virginia Department of Agriculture shall apply in the interpretation and the enforcement of this regulation. The following definitions shall, also, apply in a like manner: (In the absence of a definition established by the State Agriculture Department and/or the State Board of Health definitions for all such products regulated by this regulation shall be identical to that contained in the 1965 Edition of the U. S. Public Health Service Recommended Pasteurized Milk Code.)

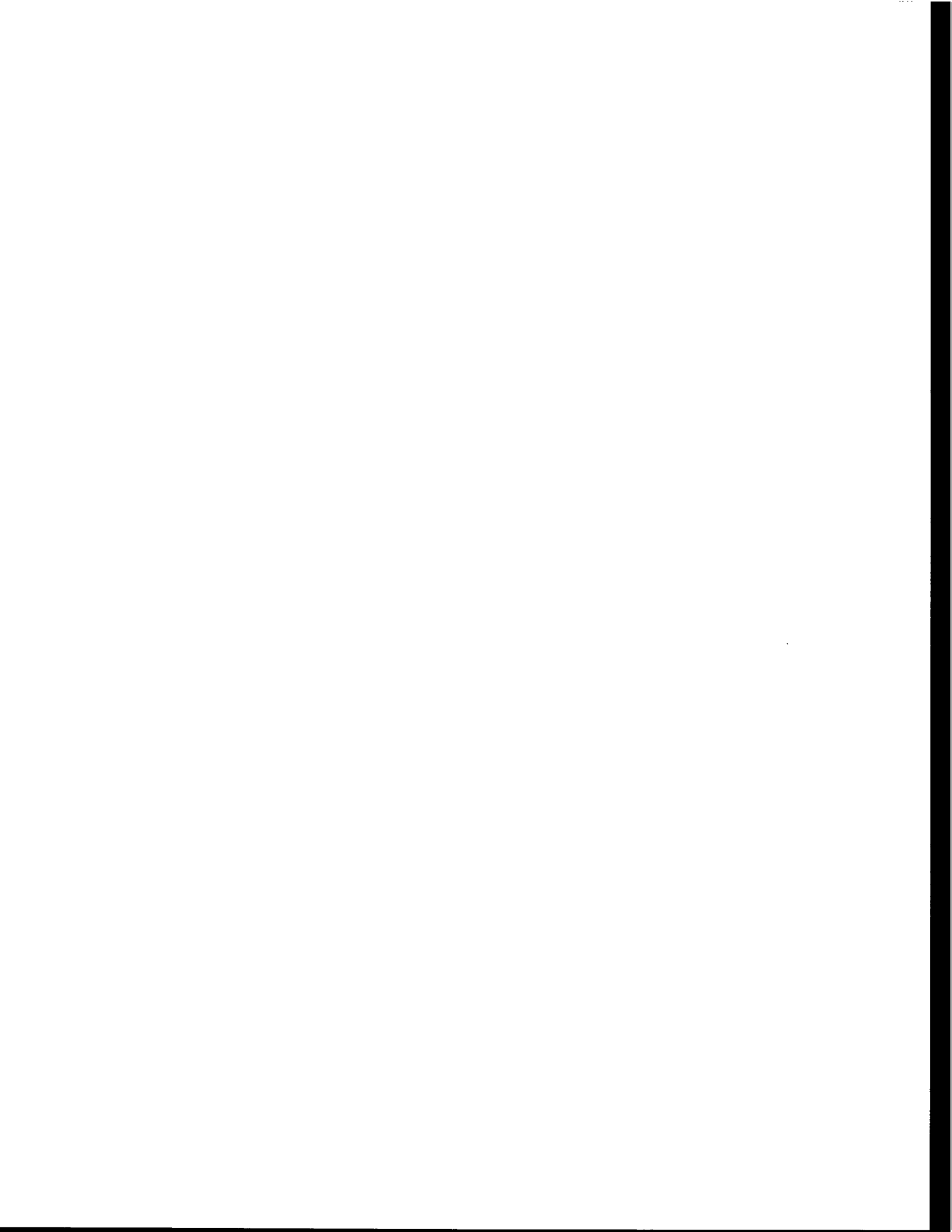
A. Milk Products: Milk products include cream, light cream, coffee cream, table cream, whipping cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, whipped coffee cream, whipped table cream, sour cream, cultured sour cream, half and half, sour half and half, cultured half and half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, frozen milk concentrate, skim milk, skimmed milk, lowfat milk, modified milk, vitamin D milk and milk products, fortified milk and milk products, homogenized milk, flavored milk or milk products, buttermilk, cultured buttermilk, cultured milk, cultured whole milk buttermilk, and acidified milk and milk products, eggnog flavored milk, eggnog,

cottage cheese, creamed cottage cheese, and such other products as may be designated as a milk product by the State Board of Health and/or the Commissioner of Agriculture.

B. Grade A Dry Milk Products: Grade A dry milk products are milk products which have been produced for use in Grade A pasteurized milk products and which have been manufactured under the provisions of Grade A Dry Milk Products - Recommended Sanitation Ordinance and Code for Dry Milk Products Used in Grade A Pasteurized Milk Products.

C. Optional Ingredients: Optional ingredients shall mean and include Grade A dry milk products, concentrated milk, concentrated milk products, flavors, sweeteners, stabilizers, emulsifiers, acidifiers, vitamins, minerals, and similar ingredients. The following listed milk and milk products may contain optional ingredients: half and half, sour half and half or cultured half and half, whipped cream, whipped light cream, coffee cream or table cream, concentrated milk, concentrated milk products, skim or skimmed milk, lowfat milk, modified milk, flavored milk or milk products, buttermilk, cultured buttermilk, cultured milk or cultured whole milk buttermilk, acidified milk and milk products, eggnog flavored milk, eggnog, vitamin D milk and milk products, fortified milk and milk products, reconstituted or recombined milk or milk products, and homogenized milk.

D. Adulterated Milk and Milk Products: Any milk or milk product shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; (2) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by State or Federal regulations, or in excess of such tolerance if one has been established; (3) if it consists, in whole or in part, of any substance unfit for human consumption; (4) if it has been produced, processed, prepared, packed, or held under insanitary conditions; (5) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (6) if



any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

E. Misbranded Milk and Milk Products: Milk and milk products are misbranded (1) when their container(s) bear or accompany any false or misleading written, printed or graphic matter; (2) when such milk and milk products do not conform to their definitions as contained in this Ordinance; and (3) when such products are not labeled in accordance with Section 4 of this Ordinance.

F. Pasteurization: The terms "pasteurization," "pasteurized," and similar terms shall mean the process of heating every particle of milk or milk product to at least 145°F., and holding it continuously at or above this temperature for at least 30 minutes, or to at least 161°F., and holding it continuously at or above this temperature for at least 15 seconds, in equipment which is properly operated and approved by the health officer: PROVIDED, that milk products which have a higher milkfat content than milk and/or contain added sweeteners shall be heated to at least 150°F., and held continuously at or above this temperature for at least 30 minutes, or to at least 166°F., and held continuously at or above this temperature for at least 15 seconds, PROVIDED further, that nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the United States Public Health Service to be equally efficient and which is approved by the State Health Officer and the Commissioner of Agriculture.

G. Sanitization: Sanitization is the application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the milk or milk product or the health of consumers, and shall be acceptable to the health officer.

H. Milk Producer: A milk producer is any person who operates a dairy farm and provides, sells, or offers milk for sale to a milk plant, receiving station, or transfer station.

I. Dairy Farm: A dairy farm is any place or premises where one or more cows or goats are kept, and from which a part or all of the milk is provided, sold, or offered for sale to a milk plant, transfer station or receiving station.

J. Milk Hauler: A milk hauler is any person who transports raw milk and/or raw milk products to or from a milk plant receiving or transfer station.

K. Milk Plant and/or Receiving Station: A milk plant and/or receiving station is any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution.

L. Transfer Station: A transfer station is any place, premises, or establishment where milk or milk products are transferred directly from one transport tank to another.

M. Milk Distributor: A milk distributor is any person who offers for sale or sells to another any milk or milk products.

N. Health Officer: The term "health officer" shall mean the State Health Director, or his duly appointed representatives, including all full and part-time representatives of district, county or city health departments.

O. Official Laboratory: An official laboratory is a biological, chemical, or physical laboratory which is under the direct supervision of the state or a local health officer.

P. Officially Designated Laboratory: An officially designated laboratory is a commercial laboratory contracted to do official work by the supervising agency, or a milk industry laboratory officially designated by the supervising agency for the examination of producer samples of Grade A raw milk for pasteurization.

Q. Person: The word "person" shall mean any individual, plant operator, partnership, corporation, company, firm, trustee, or association.

R. And/or: Where the term "and/or" is used, "and" shall apply where appropriate, otherwise "or" shall apply.



SECTION 2. THE SALE OR ADULTERATED, MISBRANDED, OR UNGRADED MILK OR MILK

PRODUCTS PROHIBITED: No person shall within the State of West Virginia, or its police jurisdiction, produce, sell, offer, or expose for sale, or have in possession with intent to sell, any milk or milk product which is adulterated, misbranded, or ungraded. It shall be unlawful for any person, elsewhere than in a private home, to have in possession any adulterated, misbranded, or ungraded milk or milk product: Provided, That in an emergency the sale of ungraded pasteurized milk or pasteurized milk products may be authorized by the health officer, upon the approval of the State health authority, in which case they shall be labeled "ungraded".

Any adulterated, misbranded, and/or improperly labeled milk or milk products may be impounded by the health officer and disposed of in accordance with State law.

~~SECTION 3. PERMITS: It shall be unlawful for any person who does not possess a permit from the health officer of any county within the state of West Virginia to bring into, send into, or receive into such county or its police jurisdiction, for sale, or to sell, or offer for sale therein, or to have in storage any milk or milk products defined in this Ordinance: Provided, That, grocery stores, restaurants, soda fountains, vending machines, and similar establishments where milk or milk products are served or sold at retail, but not processed, may be exempt from the requirements of this section.~~

~~Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a permit. Permits shall not be transferable with respect to persons and/or locations. Permits for milk plants, receiving stations, transfer stations, distribution stations and/or facilities and distributors shall expire June 30th following the date of issuance.~~

~~The health officer shall suspend such permit, whenever he has reason to believe that a public health hazard exists; or whenever the permit holder has violated any of the requirements of this Ordinance; or whenever the permit holder has interfered with the health officer in the performance of his duties:~~

Section 3. Deleted 5/29/73

~~Provided, That the health officer shall, in all cases except where the milk or milk product involved creates, or appears to create, an imminent hazard to the public health; or in any case of a willful refusal to permit authorized inspection, serve upon the holder a written notice of intent to suspend permit, which notice shall specify with particularity the violation(s) in question and afford the holder such reasonable opportunity to correct such violation(s) as may be agreed to by the parties, or in the absence of agreement, fixed by the health officer, before making any order of suspension effective. A suspension of permit shall remain in effect until the violation has been corrected to the satisfaction of the health officer.~~

~~Upon written application of any person whose permit has been suspended, or upon application within 48 hours of any person who has been served with a notice of intention to suspend, and in the latter case before suspension, the health officer shall within 72 hours proceed to a hearing to ascertain the facts of such violation or interference and upon evidence presented at such hearing shall affirm, modify, or rescind the suspension or intention to suspend.~~

~~Upon repeated violation(s), the health officer may revoke such permit following reasonable notice to the permit holder and an opportunity for a hearing. This section is not intended to preclude the institution of court action as provided in Sections 5 and 6.~~

SECTION 4. LABELING: All proposed labeling for milk and milk products shall be submitted to and approved by the Commissioner of Agriculture prior to such products being offered for sale within the state of West Virginia.

All vehicles and transport tanks containing milk or milk products shall be legibly marked with the name and address of the milk plant or hauler in possession of the contents.

Tanks transporting raw milk and milk products to a milk plant from sources of supply not under the routine supervision of the health officer are required



to be marked with the name and address of the milk plant or hauler and shall be sealed; in addition, for each such shipment, a shipping statement shall be prepared containing at least the following information:

- (1) Shipper's name, address, and permit number.
- (2) Permit number of hauler, if not employee of shipper.
- (3) Point of origin of shipment.
- (4) Tanker identity number.
- (5) Name of product.
- (6) Weight of product.
- (7) Grade of product.
- (8) Temperature of product.
- (9) Date of shipment.
- (10) Name of supervising health officer at the point of origin.
- (11) Whether the contents are raw, pasteurized, or otherwise heat treated.

Such statement shall be prepared in triplicate and shall be kept on file by the shipper, the consignee, and the carrier for a period of 6 months for the information of the health officer.

SECTION 5. INSPECTION OF DAIRY FARMS AND MILK PLANTS: Each dairy farm,

milk plant, distribution station and/or facilities, receiving station, and transfer station whose milk or milk products are intended for consumption within the state of West Virginia or its police jurisdiction shall be inspected by the health officer prior to the issuance of a permit. Following the issuance of a permit, each dairy farm, milk plant, receiving station, transfer station, and distribution station shall be inspected at least once every three months. Should the violation of any requirement set forth in Section 7 be found to exist on an inspection, a second inspection shall be required after the time deemed necessary to remedy the violation, but not before 3 days; this second inspection shall be used to determine compliance with the requirements of Section 7. Any violation of the same requirement of Section 7 on such second inspection shall call for permit suspension in accordance with Section 3 and/or

court action.

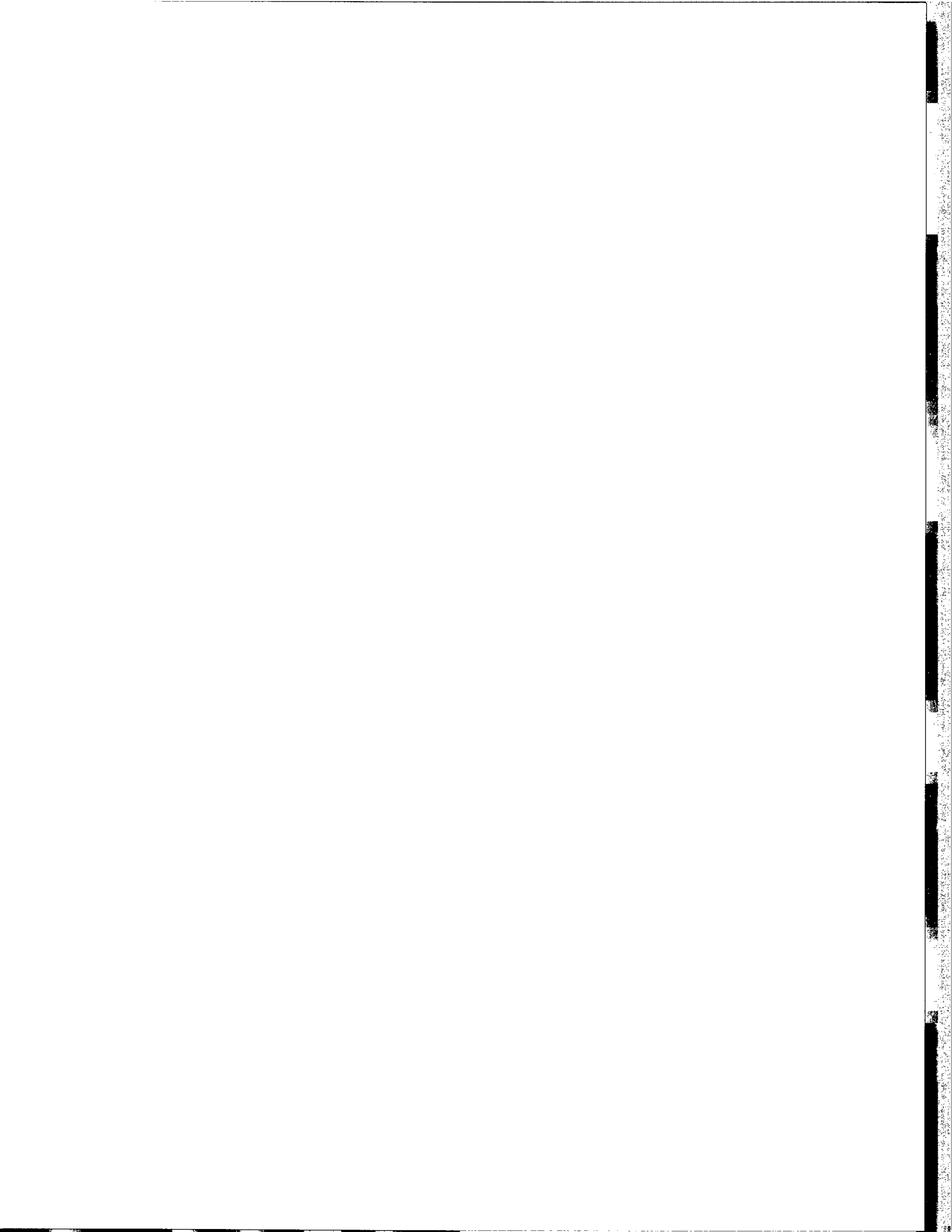
One copy of the inspection report shall be handed to the operator, or other responsible person, or be posted in a conspicuous place on an inside wall of the establishment. Said inspection report shall not be defaced and shall be made available to the health officer upon request. An identical copy of the inspection report shall be filed with the records of the health officer.

Every milk producer, hauler, distributor, bobtaller, or plant operator shall, upon request of the health officer, permit access of officially designated persons to all parts of his establishment or facilities to determine compliance with the provisions of this Ordinance. A distributor or plant operator shall furnish the health officer, upon request, for official use only, a true statement of the actual quantities of milk and milk products of each grade purchased and sold, and a list of all sources of such milk and milk products, records of inspections, chemical and bacteriological tests, and pasteurization time and temperature records.

It shall be unlawful for any person who in an official capacity obtains any information under the provisions of this Ordinance which is entitled to protection as a trade secret (including information as to quantity, quality, source or disposition of milk or milk products, or results of inspections or tests thereof) to use such information to his own advantage or to reveal it to any unauthorized person.

The health officer upon the approval of the state health authority may certify industry personnel to carry out cooperatively the provisions of these regulations with respect to the supervision of dairy farms. Reports of all inspections conducted by industry personnel to determine compliance with the provisions of these regulations shall be forwarded to the health officer. All punitive actions and all inspections for the issuance or reinstatement of permits shall be performed by the health officer.

SECTION 5. THE EXAMINATION OF MILK AND MILK PRODUCTS: During any consecutive six months, at least four samples of raw milk for pasteurization shall be



taken from each producer and four samples of raw milk for pasteurization shall be taken from each milk plant after receipt of the milk by the milk plant and prior to pasteurization. In addition, during any consecutive six months, at least four samples of pasteurized milk and at least four samples of each milk product defined in this Ordinance shall be taken from every milk plant. Samples of milk and milk products shall be taken while in possession of the producer or distributor at any time prior to final delivery. Samples of milk and milk products from dairy retail stores, food service establishments, grocery stores, and other places where milk and milk products are sold shall be examined periodically as determined by the health officer; and the results of such examination shall be used to determine compliance with Sections 2, 4, 10: Provided, that samples taken from milk distributor owned and operated grocery and dairy retail stores may, also, be used for chemical and bacteriological examinations. Proprietors of such establishments shall furnish the health officer, upon his request, with the names of all distributors from whom milk or milk products are obtained.

Required bacterial counts and cooling temperature checks shall be performed on raw milk for pasteurization. In addition, antibiotic and abnormal (leucocyte count) tests on each producer's milk at least four times during any consecutive six months. Required bacterial counts, coliform determinations, phosphatase, and cooling temperature checks shall be performed on pasteurized milk and milk products.

Whenever two of the last four consecutive bacteria counts, coliform determinations, or cooling temperatures, taken on separate days, exceed the limit of the standard for the milk and/or milk product, the health officer shall send a written notice thereof to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard. An additional sample shall be taken within 14 days of the sending of such notice, but not before the lapse of 3 days. Immediate suspension of permit

In accordance with Section 3 and/or court action shall be instituted whenever the standard is violated by three of the last five bacteria counts, coliform determinations, or cooling temperatures.

Whenever a phosphatase test is positive, the cause shall be determined. Where the cause is improper pasteurization, it shall be corrected; and any milk or milk product involved shall not be offered for sale.

The direct microscopic method is hereby declared official for determining the bacterial content of raw mobile tanker loads of milk. Should the direct microscopic count exceed 300,000 bacteria per ml the health officer may reject such tankers of milk. (Platform rejection.)

Samples shall be analyzed at an official or appropriate officially designated laboratory. At least one-fourth of all producer samples of Grade A raw milk for pasteurization during any consecutive six months must be collected by the regulatory agency and analyzed by the official or contracted certified commercial 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 of the American Public Health Association, and the current Edition of Official Methods of Analyses of the Association of Official Agricultural Chemists. Such procedures and examinations shall be evaluated in accordance with the methods of evaluating milk laboratories recommended by the United States Public Health Service. Examinations and tests shall be conducted to detect adulterants, including pesticides, as the health officer shall require. Assays of vitamin D milk or milk products and/or fortified milk and milk products shall be made at least annually in a laboratory acceptable to the health officer.

SECTION 7. STANDARDS FOR MILK AND MILK PRODUCTS: All Grade A raw milk for pasteurization and all Grade A pasteurized milk and milk products shall be produced, processed, and pasteurized to conform with the following chemical, bacteriological, and temperature standards, and the sanitation requirements of this section.



No process or manipulation other than pasteurization, processing methods integral therewith, and appropriate refrigeration shall be applied to milk and milk products for the purpose of removing or deactivating microorganisms.

Chemical, Bacteriological, and Temperature Standards for Grade A Milk and Milk Products

(1) Grade A raw milk for pasteurization. Temperature-----Cooled to 50°F., or less and maintained thereafter until processed.

Bacterial limits-----Individual producer milk not to exceed 100,000 per ml. prior to commingling with other producer milk. Not exceeding 300,000 per ml. as commingled milk prior to pasteurization. Antibiotics-----No detectable zone with B Subtilis equivalent.

(2) Grade A pasteurized milk and milk products (except cultured products). Temperature-----Cooled to 45°F., or less and maintained thereafter in storage.

Bacterial limits-----Maintained at 50°F., or less on delivery vehicles. Milk and milk products - 20,000 per ml. Coliform limit-----Not exceeding 10 per ml. Phosphatase-----Less than 1 ug per ml. by Schärer Rapid Method (or equivalent by other means). Phosphatase-----Less than 1 ug per ml. by Schärer Rapid Method (or equivalent by other means). Bacterial limits-----Exempt.

(3) Grade A pasteurized cultured products. Temperature-----Same as (2) above. Coliform limit-----Not exceeding 10 per ml. or gram. Phosphatase-----Less than 1 ug per ml. by Schärer Rapid Method (or equivalent by other means). Bacterial limits-----Exempt.

Sanitation Requirements for Grade A Raw Milk for Pasteurization

Item 1r. Abnormal Milk: Cows which show evidence of the secretion of abnormal milk in one or more quarters, based upon bacteriological, chemical, or physical examination, shall be milked last or with separate equipment; and the milk shall be discarded. Cows treated with, or cows which have consumed chemical, medicinal or radioactive agents which are capable of being secreted in the milk and which, in the judgment of the health officer, may be deleterious to human health, shall be milked last or with separate equipment, and the milk

disposed of as the health officer may direct.

Item 2r. Milking Barn, Stable, or Parlor - Construction: A milking barn, stable, or parlor shall be provided on all dairy farms in which the milking herd shall be housed during milking time operations. The areas used for milking purposes shall (1) have floors constructed of concrete or equally impervious material; (2) have walls and ceilings which are smooth, painted or finished in an approved manner, in good repair, ceiling dusttight; (3) have separate stalls or pens for horses, calves, and bulls; (4) be provided with natural and/or artificial light, well distributed for day and/or night milking; (5) provide sufficient air space and air circulation to prevent condensation and excessive odors; (6) not be overcrowded; and (7) have dusttight covered boxes or bins, or separate storage facilities for ground, chopped, or concentrated feed.

Item 3r. Milking Barn, Stable, or Parlor - Cleanliness: The interior shall be kept clean. Floors, walls, windows, pipelines, and equipment shall be free of filth and/or litter, and shall be clean. Swine and fowl shall be kept out of the milking barn.

Item 4r. Cowyard: The cowyard shall be graded and drained and shall have no standing pools of water or accumulations of organic wastes. Provided, That in loafing or cattle-housing areas, cow droppings and soiled bedding shall be removed, or clean bedding added, at sufficiently frequent intervals to prevent the soiling of the cow's udder and flanks. Waste feed shall not be allowed to accumulate. Manure packs shall be properly drained and shall provide a reasonably firm footing. Swine shall be kept out of the cowyard.

Item 5r. Milkhouse or Room - Construction and Facilities: A milkhouse or room of sufficient size shall be provided, in which the cooling, handling, and storing of milk and the washing, sanitizing, and storing of milk containers and utensils shall be conducted.

The milkhouse shall be provided with a smooth floor constructed of concrete or equally impervious material graded to drain and maintained in good repair. Liquid waste shall be disposed of in a sanitary manner; all floor drains shall



be accessible and shall be trapped if connected to a sanitary sewer system.

The walls and ceilings shall be constructed of smooth material, in good repair, well painted, or finished in an equally suitable manner.

The milkhouse shall have adequate natural and/or artificial light and be well ventilated.

The milkhouse shall be used for no other purpose than milkhouse operations;

there shall be no direct opening into any barn, stable, or into a room used for domestic purposes: Provided, That a direct 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.

Water under pressure shall be piped into the milkhouse.

The milkhouse shall be equipped with a two-compartment wash vat and adequate hot water heating facilities.

When a transportation tank is used for the cooling and storage of milk on the dairy farm, such tank shall be provided with a suitable shelter for the receipt of milk. Such shelter shall be adjacent to, but not a part of, the milking room and shall comply with the requirements of the milkhroom with respect to construction, light, drainage, insect and rodent control, and general maintenance.

Item 6r. Milkhhouse or Room - Cleanliness: The floors, walls, ceilings, windows, tables, shelves, cabinets, wash vats, non-product contact surfaces of milk containers, utensils, and equipment, and other milkhroom equipment shall be clean. Only articles directly related to milkhroom activities shall be permitted in the milkhroom. The milkhroom shall be free of trash, animals, and fowl.

Item 7r. Toilet: 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.

Item 8r. Water Supply: Water for milkhhouse and milking operations shall be from a supply properly located, protected, and operated, and shall be easily

accessible, adequate, and of a safe, sanitary quality.

Item 9r. Utensils and Equipment - Construction: All multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be made of smooth, non-absorbent, corrosion-resistant, nontoxic materials, and shall be so constructed as to be easily cleaned. All containers, utensils, and equipment shall be in good repair. All milk pails used for hand milking and stripping shall be seamless and of the hooded type. Multiple-use woven material shall not be used for straining milk. All single-service articles shall have been manufactured, packaged, transported, stored, and handled in a sanitary manner and shall comply with the applicable requirements of Item 11p. of this section. Articles intended for single-service use shall not be reused.

Farm holding/cooling tanks, welded sanitary piping, and transportation tanks shall comply with the applicable requirements of Items 10p. and 11p. of this section.

Item 10r. Utensils and Equipment - Cleaning: 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.

Item 11r. Utensils and Equipment - Sanitization: The product-contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be sanitized before each usage.

Item 12r. Utensils and Equipment - Storage: All containers, utensils, and equipment used in the handling, storage, or transportation of milk, unless stored in sanitizing solutions, shall be stored to assure complete drainage, and shall be protected from contamination prior to use.

Item 13r. Utensils and Equipment - Handling: After sanitization, all containers, utensils, and equipment shall be handled in such manner as to prevent contamination of any product-contact surface.



Item 14r. Milking - Flanks, Udders, and Teats: Milking shall be done in the milking barn, stable, or parlor. The flanks, udders, bellies, and tails of all milking cows shall be free from visible dirt. All brushing shall be completed prior to milking. The udders and teats of all milking cows shall be cleaned and treated with a sanitizing solution just prior to the time of milking, and shall be relatively dry before milking. Wet hand milking is prohibited.

Item 15r. Milking - Surcingles, Milk Stools, and Antikickers: Surcingles, milk stools, and antikickers shall be kept clean and stored above the floor.

Item 16r. Milking - Transfer and Protection of Milk: Each pail or container of milk shall be transferred immediately from the milking barn, stable, or parlor to the milkhouse. No milk shall be poured, transferred, or stored unless it is properly protected from contamination.

Item 17r. Personnel - Hand-Washing Facilities: There shall be provided adequate hand-washing facilities, including hot and cold running water, soap or detergent, and individual sanitary towels, in the milkhouse and in or convenient to the milking barn, stable, or parlor.

Item 18r. Personnel - Cleanliness: 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. Milkers and milk haulers shall wear clean outer garments while milking or handling milk, milk containers, utensils, or equipment.

Item 19r. Cooling: Raw milk for pasteurization shall be cooled to 50°F, or less within 2 hours after milking and shall be maintained at that temperature until delivered.

Item 20r. Vehicles: Vehicles used to transport milk in cans from the dairy farm to the milk plant or receiving station shall be constructed and operated to protect their contents from sun, freezing, and contamination. Such vehicles shall be kept clean, inside and out; and no substance capable of

contaminating milk shall be transported with milk.

Item 21r. Insect and Rodent Control: Effective measures shall be taken to prevent the contamination of milk, containers, equipment, and utensils by insects and rodents, and by chemicals used to control such vermin. Milkrooms shall be free of insects and rodents. Surroundings shall be kept neat, clean, and free of conditions which might harbor or be conducive to the breeding of insects and rodents.

Sanitation Requirements for Grade A Pasteurized Milk and Milk Products

A receiving station shall comply with items 1p to 15p, inclusive, and 17p, 20p, and 22p, except that the partitioning requirement of item 5p shall not apply.

A transfer station shall comply with items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p; and as climatic and operating conditions require, the applicable provisions of items 2p and 3p: Provided, That in every case, overhead protection shall be provided. Facilities for the cleaning and sanitizing of bulk transport tanks shall comply with items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p; and as climatic and operating conditions require, the applicable provisions of items 2p and 3p: Provided, That in every case, overhead protection shall be provided.

Item 1p. Floors - Construction: The floors of all rooms in which milk or milk products are processed, handled, or stored, or in which milk containers, equipment, and utensils are washed, shall be constructed of concrete or other equally impervious and easily cleaned material; and shall be smooth, properly sloped, provided with trapped drains, kept in good repair: Provided, That cold-storage rooms used for storing milk and milk products need not be provided with floor drains when the floors are sloped to drain to one or more exits: Provided further, That storage rooms for storing dry ingredients and/or packing materials need not be provided with drains; and the floors may be constructed of tightly joined wood.

Item 2p. Walls and Ceilings - Construction: Walls and ceilings of rooms



in which milk or milk products are handled, processed, or stored, or in which milk containers, utensils, and equipment are washed, shall have a smooth, washable, light-colored surface, in good repair.

Item 3p. Doors and Windows: Effective means shall be provided to prevent the access of flies and rodents. All openings to the outside shall have solid doors or glazed windows which shall be closed during dusty weather.

Item 4p. Lighting and Ventilation: All rooms in which milk and milk products are handled, processed, or stored and/or in which milk containers, equipment, and utensils are washed shall be well lighted and well ventilated.

Item 5p. Separate Rooms: There shall be separate rooms for (1) pasteurizing, processing, cooling, and packaging; (2) cleaning of milk cans and bottles; (3) dry storage. In addition, plants receiving milk in bulk transport tanks shall provide for cleaning and sanitizing facilities.

Unless all milk and milk products are received in bulk transport tanks, a receiving room, separate from rooms (1), (2), and (3) above, shall be required. Rooms in which milk or milk products are handled, processed, or stored, or in which milk containers, utensils, and equipment are washed or stored, shall not open directly into any stable or any room used for domestic purposes.

Item 6p. Toilet-Sewage Disposal Facilities: Every milk plant shall be provided with toilet facilities conforming with the National Plumbing Code. Toilet rooms shall not open directly into any room in which milk and/or milk products are processed. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors. Dressing rooms, toilet rooms, and fixtures shall be kept in a clean condition, in good repair, and shall be well ventilated and well lighted. Sewage and other liquid wastes shall be disposed of in a sanitary manner.

Item 7p. Water Supply: Water for milk plant purposes shall be from a supply properly located, protected, and operated, and shall be easily accessible, adequate, and of a safe, sanitary quality.

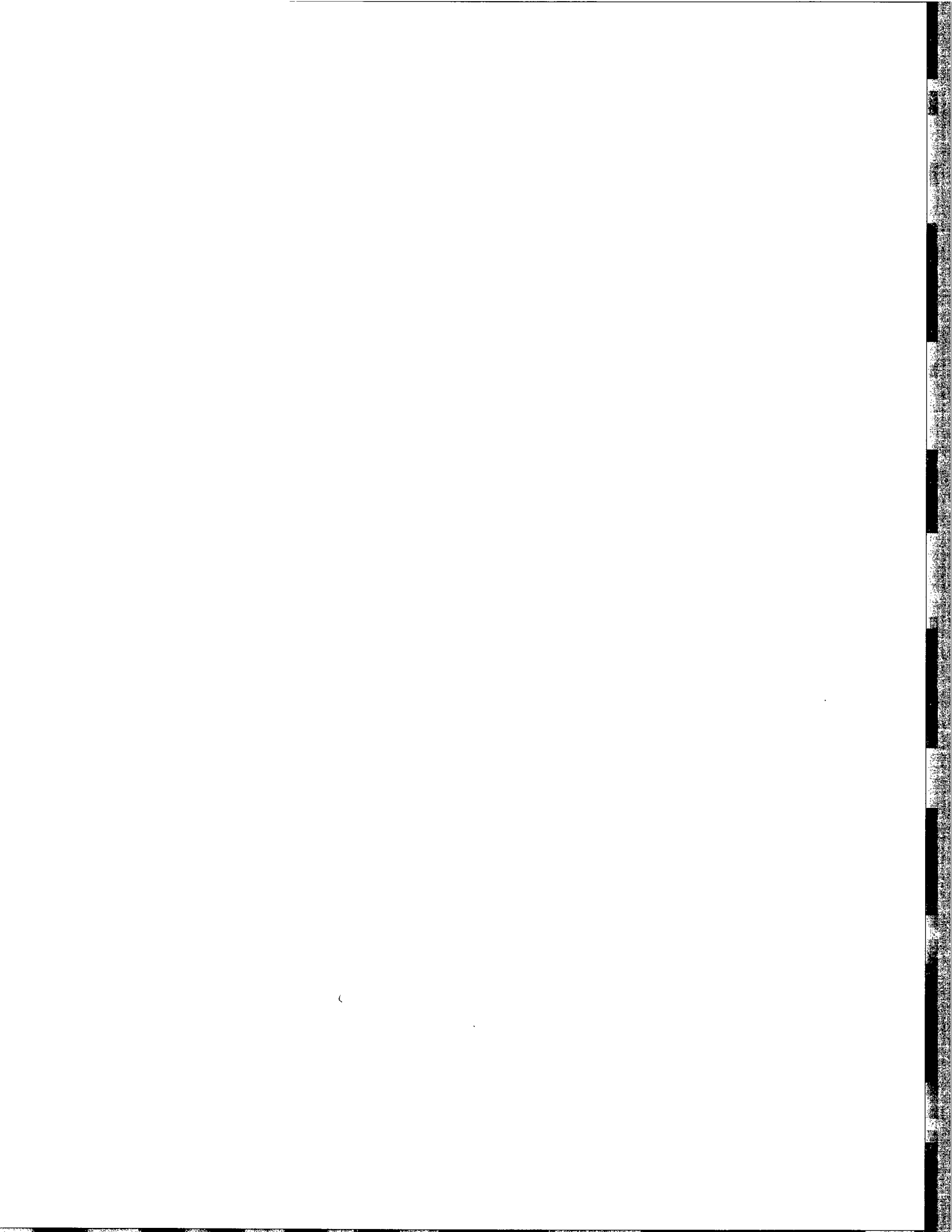
Item 8p. Hand-Washing Facilities: Convenient hand-washing facilities shall be provided, including hot and cold and/or warm running water, soap, and individual sanitary towels or other approved hand-drying devices. Hand-washing facilities shall be kept in a clean condition and in good repair.

Item 9p. Milk Plant Cleanliness: All rooms in which milk and milk products are handled, processed, or stored, and/or in which containers, utensils, or equipment are washed or stored, shall be kept clean, neat, and free of evidence of insects and rodents. Pesticides shall be safely used. Only equipment directly related to processing operations or to the handling of containers, utensils, and equipment, shall be permitted in the pasteurizing, processing, cooling, packaging, and bulk milk storage rooms.

Item 10p. Sanitary Piping: All sanitary piping, fittings, and connections which are exposed to milk and milk products, or from which liquids may drip, drain, or be drawn into milk or milk products, shall consist of smooth, impervious, corrosion-resistant, nontoxic, easily cleanable material. All piping shall be in good repair. Pasteurized milk and milk products shall be conducted from one piece of equipment to another only through sanitary piping: Provided, That cottage cheese, cheese dressings, or cheese ingredients may be transported by other methods which protect the product from contamination.

Item 11p. Construction and Repair of Containers and Equipment: All multi-use containers and equipment with which milk or milk products come into contact shall be of smooth, impervious, corrosion-resistant, nontoxic material; shall be constructed for ease of cleaning; and shall be kept in good repair. All single-service containers, closures, gaskets, and other articles with which milk or milk products come in contact shall be nontoxic, and shall have been manufactured, packaged, transported, and handled in a sanitary manner. Articles intended for single-service use shall not be reused.

Item 12p. Cleaning and Sanitizing of Containers and Equipment: The product-contact surfaces of all multiuse containers, utensils, and equipment used in the transportation, processing, handling, and storage of milk and milk



products shall be effectively cleaned and shall be sanitized before each use. Farm bulk tank truck pickup hose and pumps are not required to be washed and sanitized before each use: Provided, no more than two hours have lapsed between use in pickup and/or unloading operations.

Item 13p. Storage of Cleaned Containers and Equipment: After cleaning, all multiuse milk or milk product containers, utensils, and equipment shall be transported and stored to assure complete drainage, and shall be protected from contamination before use.

Item 14p. Storage of Single-Service Containers, Utensils, and Materials: Single-service caps, cap stock, parchment paper, containers, gaskets, and other single-service articles for use in contact with milk and milk products shall be purchased and stored in sanitary tubes, wrappings, or cartons; shall be kept therein in a clean, dry place until used; and shall be handled in a sanitary manner.

Item 15p. Protection From Contamination: Milk plant operations, equipment, and facilities shall be located and conducted to prevent any contamination of milk or milk products, ingredients, equipment, containers, and utensils. All milk or milk products or ingredients which have been spilled, overflowed, or leaked shall be discarded. The processing or handling of products other than milk and milk products in the pasteurization plant shall be performed to preclude the contamination of such milk and milk products.

Item 16p. Pasteurization: Pasteurization shall be performed as defined in Section 1, Definition (F), of this regulation.

Item 17p. Cooling of Milk: All raw milk and milk products shall be maintained at 50°F or less until processed. All pasteurized milk and milk products, except those to be cultured, shall be cooled immediately prior to filling or packaging in approved equipment to a temperature of 45°F or less. All pasteurized milk and milk products shall be stored at a temperature of 45°F or less. On delivery vehicles the temperature of milk and milk products shall not exceed

50°F. Every room or tank in which milk or milk products are stored shall be equipped with an accurate thermometer.

Item 18p. Bottling and Packaging: Bottling and packaging of milk and milk products shall be done at the place of pasteurization in approved mechanical equipment: Provided, That cottage cheese and creamed cottage cheese may be transported in sealed containers in a protected, sanitary manner from one plant to another for creaming and/or packaging.

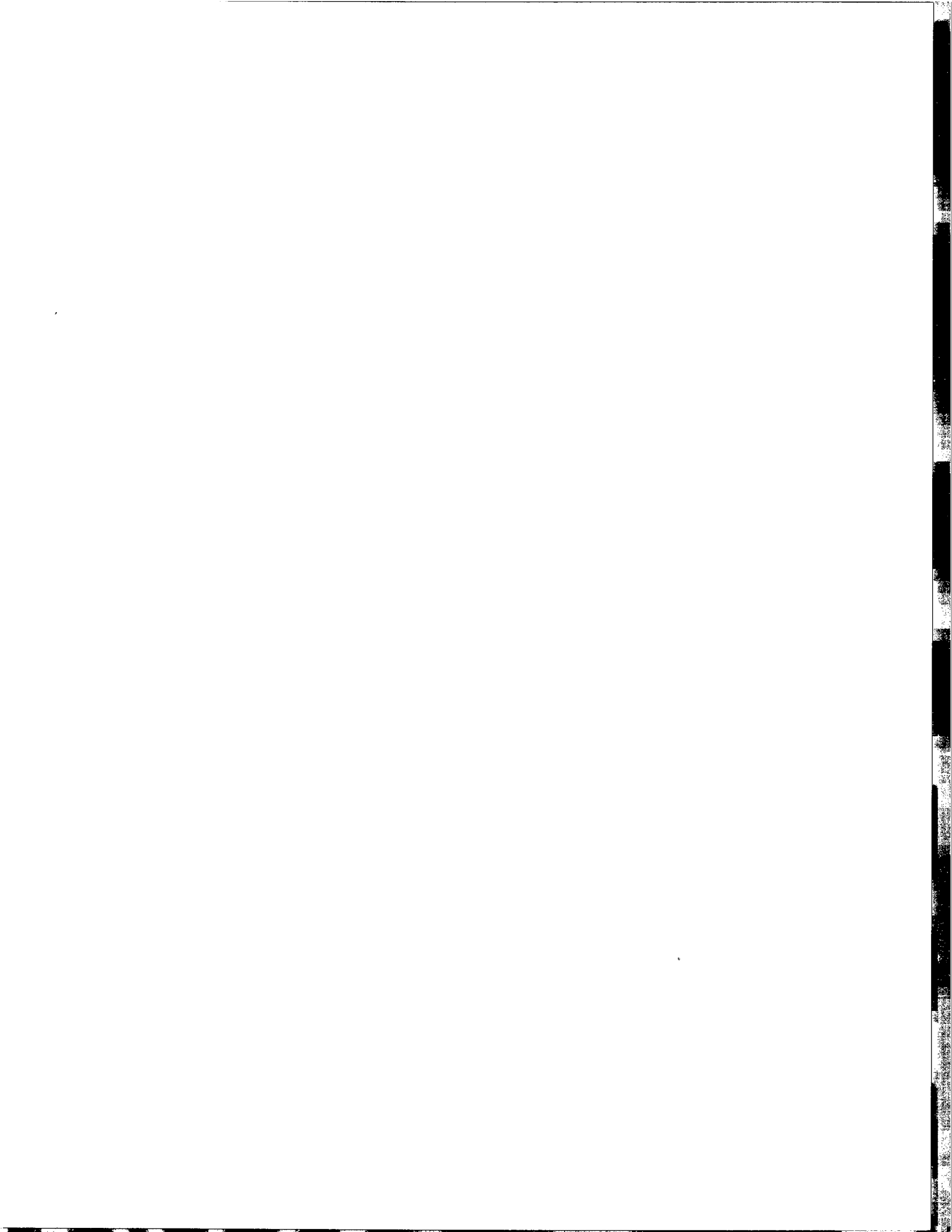
Item 19p. Capping: Capping or closing of milk and milk product containers shall be done in a sanitary manner by approved mechanical capping and/or closing equipment. The cap or closure shall protect the pouring lip to at least its largest diameter.

Item 20p. Personnel - Cleanliness: Hands shall be thoroughly washed before commencing plant functions and as often as may be required to remove soil and contamination. No employee shall resume work after visiting the toilet room without thoroughly washing his hands. All persons engaged in the processing, pasteurization, handling, storage, or transportation of milk, milk products, containers, equipment, and utensils shall wear clean outer garments. The use of tobacco by any person while engaged in the processing of milk or milk products is prohibited.

Item 21p. Vehicles: All vehicles used for transportation of pasteurized milk and milk products shall be constructed and operated so that the milk and milk products are maintained at 50°F. or less, and are protected from sun, from freezing, and from contamination.

Item 22p. Surroundings: Milk plant surroundings shall be kept neat, clean, and free from conditions which might attract or harbor flies, other insects, and rodents, or which otherwise constitute a nuisance.

SECTION 9. ANIMAL HEALTH: All milk for pasteurization shall be from herds which are located in a Modified Accredited Tuberculosis Area as determined by the U. S. Department of Agriculture. Modified Accredited Tuberculosis Area shall be interpreted as requiring all dairy herds to be tested every three years with



an allowable maximum grace period of two 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.

All milk for pasteurization shall be from herds under a brucellosis eradication program which meets one of the following conditions:

1. Located in a Certified Brucellosis-Free Area as defined by the U. S. Department of Agriculture and enrolled in the testing program for such areas; or
2. Located in a Modified Certified Brucellosis Area as defined by the U. S. Department of Agriculture and enrolled in the testing program for such areas; or
3. Meet U. S. Department of Agriculture requirements for an individually certified herd; or
4. Participating in a milk ring testing program which is conducted on a continuing basis at intervals of not less than every 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
5. Have an individual blood agglutination test annually with an allowable maximum grace period not exceeding 2 months.

For diseases other than brucellosis and tuberculosis, the health officer shall require such physical, chemical, or bacteriological tests as he deems necessary. The diagnosis of other diseases in dairy cattle shall be based upon the findings of a licensed veterinarian or a veterinarian in the employ of an official agency. Any diseased animal disclosed by such test(s) shall be disposed of as the State Veterinarian directs.

SECTION 9. MILK AND MILK PRODUCTS WHICH MAY BE SOLD: From and after September 1, 1968, the date on which these regulations become effective, only Grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments: Provided, That in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized

by the health officer during a temporary period not exceeding 30 days or such longer periods as he may deem necessary; in which case, such milk and milk products shall be labeled "ungraded."

Note.--Certified pasteurized milk is derived from certified raw milk which meets the latest requirements of the American Association of Medical Milk Commissions, Inc., 405 Lexington Avenue, New York, N. Y., 10017.

SECTION 10. TRANSPORTING; DELIVERY CONTAINERS; COOLING: Except as permitted in this section, no milk producer or distributor shall transfer milk or milk products from one container or tank truck to another on the street, in any vehicle, store, or in any place except a milk plant, receiving station, transfer station, or milkhouse especially used for that purpose. The dipping or lading of milk or fluid milk products is prohibited.

It shall be unlawful to sell or serve any milk or fluid milk product except in the individual, original container received from the distributor, or from an approved bulk dispenser: Provided, That this requirement shall not apply to milk for mixed drinks requiring less than one-half pint of milk, or to cream, whipped cream, or half-and-half which is consumed on the premises and which may be served from the original container of not more than one-half gallon capacity, or from a bulk dispenser approved for such service by the health officer.

It shall be unlawful to store, sell, or serve any pasteurized milk or milk product which has not been maintained at a temperature of 45°F. or less. If containers of pasteurized milk or milk products are stored in ice, the storage container shall be properly drained.

SECTION 11. MILK AND MILK PRODUCTS FROM POINTS BEYOND THE LIMITS OF ROUTINE INSPECTION: Milk and milk products from points beyond the limits of routine inspection of the State of West Virginia may not be sold in the State of West Virginia or its police jurisdiction, unless produced and/or pasteurized under provisions which are substantially equivalent to the requirements of this regulation, and which are enforced with equal effectiveness, as determined by a



milk-sanitation rating: Provided, That the health officer may satisfy himself that conditions shown by the milk sanitation survey continually remain substantially the same.

Reciprocity should prevail when the requirements of this regulation are satisfied as determined by the dairy having been awarded an official milk sanitation compliance and enforcement rating of 90 per cent or better provided the responsible governmental agency or agencies extend the same rights and privileges to milk plants located in West Virginia.

SECTION 12. FUTURE DAIRY FARMS AND MILK PLANTS: Properly prepared plans for all milkhouses, milking barns, stables, parlors, transfer stations, receiving stations, distribution stations and/or facilities, and milk plants regulated under these regulations which are hereafter constructed, reconstructed, or extensively altered, shall be submitted to the health officer for written approval before work is begun.

SECTION 13. PERSONNEL HEALTH: 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 employee has contracted any disease in a communicable form, or has become a carrier of such disease, shall notify the health officer immediately.

SECTION 14. PROCEDURE WHEN INFECTION IS SUSPECTED: 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 health officer is authorized to require any or all of the following measures: (1) the immediate exclusion of that person from milk handling; (2) the immediate exclusion of the

milk supply concerned from distribution and use; and (3) adequate medical and bacteriological examination of the person, of his associates, and of his and their body discharges.

SECTION 15. ENFORCEMENT: This regulation shall be enforced by the health officer in accordance with the Grade A Pasteurized Milk Ordinance with Administrative Procedures - 1965 Recommendations of the United States Public Health Service, a certified copy of which is on file with the Secretary of State's office and each county clerk's office. Where the mandatory compliance with the provisions of the appendixes is specified, such provisions shall be deemed a requirement of the Ordinance.

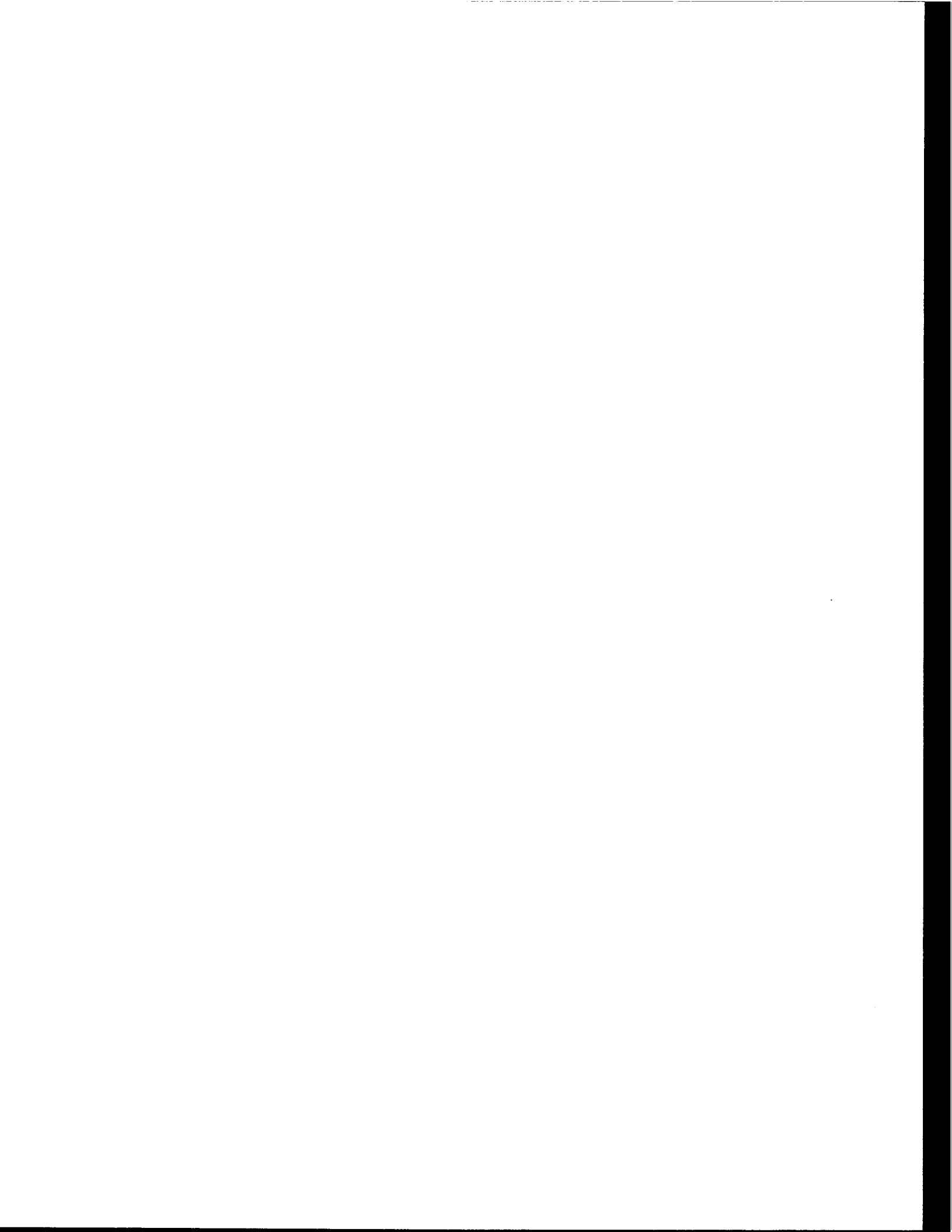
SECTION 16. IMITATION MILK AND IMITATION MILK PRODUCTS: All plants processing imitation milk and/or imitation milk products must comply with Section 7, Items 1p through 22p of this regulation.

All products and ingredients used in the manufacture of same shall be clean and wholesome. Finished product(s) must meet the bacteriological standards established herein for pasteurized milk and milk products.

Imitation milk and/or imitation milk products must be processed after the completion of the day's processing and bottling or packaging of all Grade A milk or milk products. Should operational practices require that such products be processed during other periods all equipment, piping, etc. common to such products must be disassembled, washed, and sanitized or cleaned and sanitized by an approved C.I.P. system before processing or allowing Grade A milk or milk products to come in contact with such equipment.

SECTION 17. PROVISIONS FOR CONTRACTUAL AGREEMENTS: Chapter 16, Article 2, Section 5 (West Virginia Public Health Laws) authorizes the local boards of health to negotiate agreements for providing health services and facilities.

If in the opinion of the local Board of Health a contractual agreement with the State Board of Health or another local Board of Health is necessary to the proper administration of this regulation, a contractual agreement may be negotiated. The State Board of Health shall establish a definite policy, criteria,



PRODUCER DAIRY INSPECTION FORM

and approve all such contracts.

All contractual agreements shall be reviewed annually and may be terminated by either party by providing the other or others with a 90-day written notice of its intent to terminate the agreement.

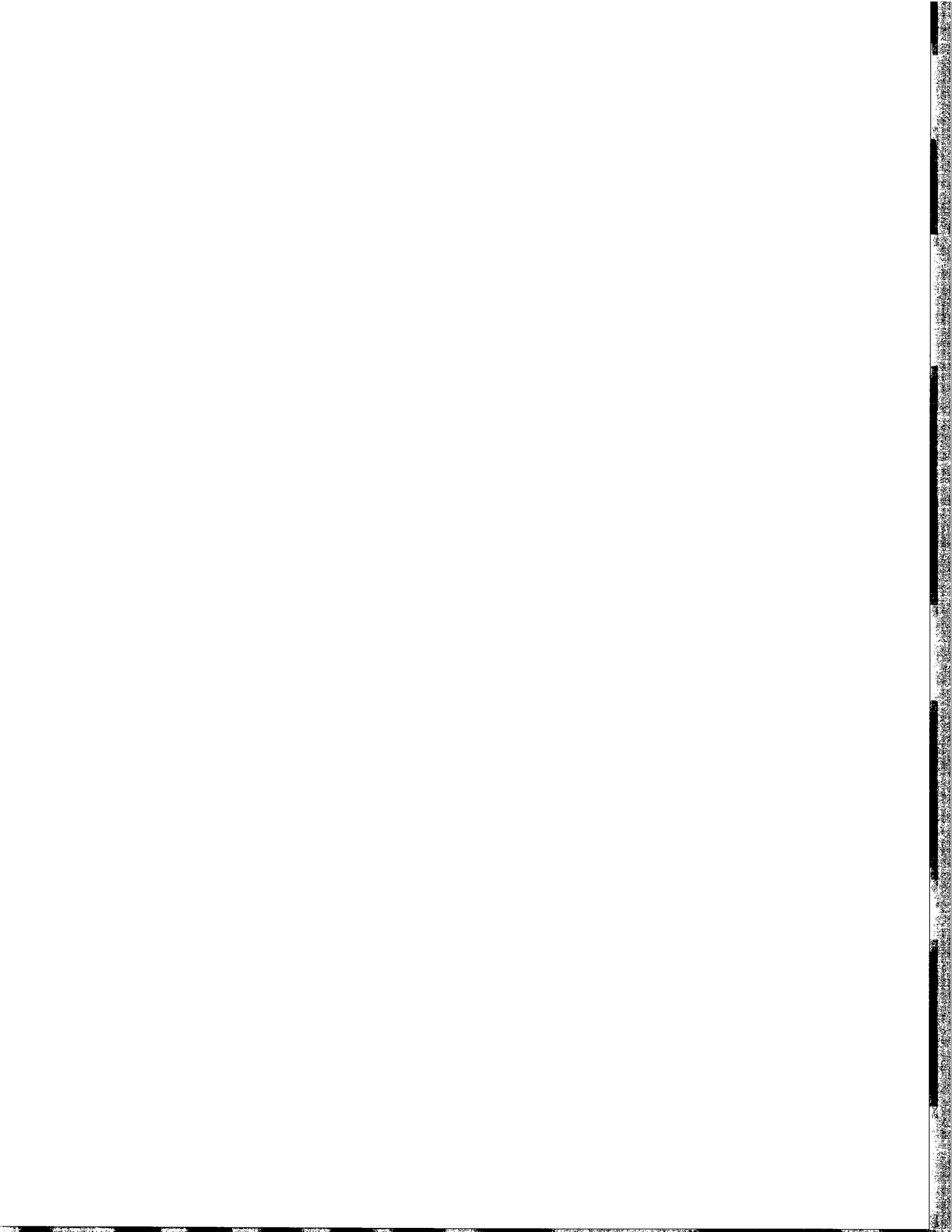
SECTION 18. PENALTY: A violation of these regulations, or any part thereof, shall be a misdemeanor and punishable under the provisions of Chapter 101, Article 1, Section 20, Acts of West Virginia Legislature, 1949. (Section 20, Article 1, Chapter 16, West Virginia Code, 1949.)

SECTION 19. DATE OF EFFECT: This regulation shall be in full force and effect on September 1, 1968; and all regulations and parts of regulations in conflict with this regulation are hereby repealed.

SECTION 20. UNCONSTITUTIONALITY CLAUSE: Should any section, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of said regulation shall not be affected thereby.

The following information is respectfully submitted concerning the weight or point value assigned by the U. S. Public Health Service to each item appearing on the inspection sheet, Form SM-121:

Point Value	Item No.
15	1. (a), (b), or (c)
2	2. (a)
1	(b)
1	(c)
1	(d)
1	(e)
2	(f)
2	3. (a) or (b)
1	4. (a), (b), (c), or (d)
1	5. Floors - (a), (b), or (c)
2	Walls and Ceilings - (a) or (b)
2	Lighting and Ventilation - (a), (b), (c), or (d)
2	Miscellaneous Requirements - (a), (b), or (c)
2	Cleaning Facilities - (a), (b), or (c)
3	6. (a), (b), or (c)
5	7. (a), (b), (c), or (d)
5	8. (a), (b), or (c)
3	9. (a), (b), (c), (d), or (e)
5	10. (a)
5	11. (a)
3	12. (a), (b), or (c)
2	13. (a)
3	14. (a), (b), (c), (d), or (e)
3	15. (a) or (b)
1	16. (a) or (b)
2	17. (a) or (b)
3	18. (a) or (b)
2	19. (a)
5	20. (a), (b), or (c)
1	(a) or (b)
3	(c) or (d)
2	(e) or (f)
2	(g)
1	(h)



PASTEURIZATION PLANT INSPECTION FORM

The following information is respectfully submitted concerning the weight or point value assigned by the U. S. Public Health Service to each item appearing on the inspection sheet, Form SM-123:

<u>Point Value</u>	<u>Item No.</u>
1	1. (a)
1	2. (a)
2	3. (a) or (b)
1	4. (a)
1	(b)
3	5. (a), (b), or (c)
3	6. (a), (b), (c), or (d)
4	7. (a), (b), (c), or (d)
2	8. (a)
2	9. (a) or (b)
3	10. (a), (b), or (c)
3	11. (a), (b), or (c)
5	12. (a) or (b)
5	(c) or (d)
3	13. (a)
2	14. (a)
3	15. (a), (b), or (c)
4	16a. (1) (a), (2) (a), (b), (c), (d), (e), (f), (g), or (h)
10	16b. (1) (a), (2) (a), (b), (c), or (d)
3	(3) (e)
5	16c. (a) or (b)
4	16d. (a) or (b)
5	17. (a), (b), (c), or (d)
3	18. (a) or (b)
3	19. (a), (b), or (c)
1	20. (a), (b), or (c)
1	21. (a) or (b)
2	22. (a), (b), or (c)



SM-104

WEST VIRGINIA
GRADE "A"
PASTEURIZED
MILK
REGULATION



ADOPTED BY THE WEST VIRGINIA STATE BOARD OF HEALTH

EFFECTIVE SEPTEMBER 1, 1968

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 7/29/68



WEST VIRGINIA MILK REGULATIONS

Adopted in accordance with Chapter 16,

Article 7, Section 5, of the

Code of West Virginia.

As amended March, 1959

Milk Regulations

A regulation defining "milk" and certain "milk products," "milk producer," "pasteurization," etc., prohibiting the sale of adulterated and misbranded milk and milk products, requiring permits for the sale of milk and milk products, regulating the inspection of dairy farms and milk plants, the examination, labeling, pasteurization, distribution, and sale of milk and milk products, providing for the construction of future dairies and milk plants, the enforcement of this regulation and the fixing of penalties.

Be it ordained by the State Board of Health of the State of West Virginia in regular session on June 19, 1968, that these rules and regulations are unan-
imously adopted and take effect the first day of September, 1968.

ARTICLE 1

SECTIONS

1. Definitions.
2. The Sale of Adulterated, Misbranded, or Ungraded Milk or Milk Products Prohibited.
3. Permits.
4. Labeling.
5. Inspection of Dairy Farms and Milk Plants.
6. The Examination of Milk and Milk Products.
7. Standards for Milk and Milk Products.

Sanitation Requirements for Grade A Raw Milk for Pasteurization,

"r" Items.

Sanitation Requirements for Grade A Pasteurized Milk and Milk Products,

"p" Items.

8. Animal Health.

9. Milk and Milk Products Which May Be Sold.
10. Transferring; Delivery Containers; Cooling.
11. Milk and Milk Products from Points Beyond the Limits of Routine Inspection.
12. Future Dairies and Milk Plants.
13. Personnel Health.
14. Procedure When Infection Is Suspected.
15. Enforcement Interpretation.
16. Imitation Milk and Imitation Milk Products.
17. Provisions for Contractual Agreements.
18. Penalty.
19. Date of Effect.
20. Unconstitutionality Clause.

SECTION 1. DEFINITIONS: Milk and milk products defined in the State Agriculture Laws and/or regulations adopted by the West Virginia Department of Agriculture shall apply in the interpretation and the enforcement of this regulation. The following definitions shall, also, apply in a like manner: (In the absence of a definition established by the State Agriculture Department and/or the State Board of Health definitions for all such products regulated by this regulation shall be identical to that contained in the 1965 Edition of the U. S. Public Health Service Recommended Pasteurized Milk Code.)

A. Milk Products: Milk products include cream, light cream, coffee cream, table cream, whipping cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, whipped coffee cream, whipped table cream, sour cream, cultured sour cream, half and half, sour half and half, cultured half and half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, frozen milk concentrate, skim milk, skimmed milk, lowfat milk, modified milk, vitamin D milk and milk products, fortified milk and milk products, homogenized milk, flavored milk or milk products, buttermilk, cultured buttermilk, cultured milk, cultured whole milk buttermilk, and acidified milk and milk products, eggnog flavored milk, eggnog,

cottage cheese, creamed cottage cheese, and such other products as may be designated as a milk product by the State Board of Health and/or the Commissioner of Agriculture.

B. Grade A Dry Milk Products: Grade A dry milk products are milk products which have been produced for use in Grade A pasteurized milk products and which have been manufactured under the provisions of Grade A Dry Milk Products - Recommended Sanitation Ordinance and Code for Dry Milk Products Used in Grade A Pasteurized Milk Products.

C. Optional Ingredients: Optional ingredients shall mean and include Grade A dry milk products, concentrated milk, concentrated milk products, flavors, sweeteners, stabilizers, emulsifiers, acidifiers, vitamins, minerals, and similar ingredients. The following listed milk and milk products may contain optional ingredients: half and half, sour half and half or cultured half and half, whipped cream, whipped light cream, coffee cream or table cream, concentrated milk, concentrated milk products, skim or skimmed milk, lowfat milk, modified milk, flavored milk or milk products, buttermilk, cultured buttermilk, cultured milk or cultured whole milk buttermilk, acidified milk and milk products, eggnog flavored milk, eggnog, vitamin D milk and milk products, fortified milk and milk products, reconstituted or recombined milk or milk products, and homogenized milk.

D. Adulterated Milk and Milk Products: Any milk or milk product shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; (2) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by State or Federal regulations, or in excess of such tolerance if one has been established; (3) if it consists, in whole or in part, of any substance unfit for human consumption; (4) if it has been produced, processed, prepared, packed, or held under insanitary conditions; (5) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (6) if



any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

E. Misbranded Milk and Milk Products: Milk and milk products are misbranded (1) when their container(s) bear or accompany any false or misleading written, printed or graphic matter; (2) when such milk and milk products do not conform to their definitions as contained in this Ordinance; and (3) when such products are not labeled in accordance with Section 4 of this Ordinance.

F. Pasteurization: The terms "pasteurization," "pasteurized," and similar terms shall mean the process of heating every particle of milk or milk product to at least 145°F., and holding it continuously at or above this temperature for at least 30 minutes, or to at least 161°F., and holding it continuously at or above this temperature for at least 15 seconds, in equipment which is properly operated and approved by the health officer: PROVIDED, that milk products which have a higher milkfat content than milk and/or contain added sweeteners shall be heated to at least 150°F., and held continuously at or above this temperature for at least 30 minutes, or to at least 166°F., and held continuously at or above this temperature for at least 15 seconds, PROVIDED further, that nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the United States Public Health Service to be equally efficient and which is approved by the State Health Officer and the Commissioner of Agriculture.

G. Sanitization: Sanitization is the application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the milk or milk product or the health of consumers, and shall be acceptable to the health officer.

H. Milk Producer: A milk producer is any person who operates a dairy farm and provides, sells, or offers milk for sale to a milk plant, receiving station, or transfer station.

I. Dairy Farm: A dairy farm is any place or premises where one or more cows or goats are kept, and from which a part or all of the milk is provided, sold, or offered for sale to a milk plant, transfer station or receiving station.

J. Milk Hauler: A milk hauler is any person who transports raw milk and/or raw milk products to or from a milk plant receiving or transfer station.

K. Milk Plant and/or Receiving Station: A milk plant and/or receiving station is any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution.

L. Transfer Station: A transfer station is any place, premises, or establishment where milk or milk products are transferred directly from one transport tank to another.

M. Milk Distributor: A milk distributor is any person who offers for sale or sells to another any milk or milk products.

N. Health Officer: The term "health officer" shall mean the State Health Director, or his duly appointed representatives, including all full and part-time representatives of district, county or city health departments.

O. Official Laboratory: An official laboratory is a biological, chemical, or physical laboratory which is under the direct supervision of the state or a local health officer.

P. Officially Designated Laboratory: An officially designated laboratory is a commercial laboratory contracted to do official work by the supervising agency, or a milk industry laboratory officially designated by the supervising agency for the examination of producer samples of Grade A raw milk for pasteurization.

Q. Person: The word "person" shall mean any individual, plant operator, partnership, corporation, company, firm, trustee, or association.

R. And/or: Where the term "and/or" is used, "and" shall apply where appropriate, otherwise "or" shall apply.



SECTION 2. THE SALE OF ADULTERATED, MISBRANDED, OR UNGRADED MILK OR MILK PRODUCTS PROHIBITED: No person shall within the State of West Virginia, or its police jurisdiction, produce, sell, offer, or expose for sale, or have in possession with intent to sell, any milk or milk product which is adulterated, misbranded, or ungraded. It shall be unlawful for any person, elsewhere than in a private home, to have in possession any adulterated, misbranded, or ungraded milk or milk product: Provided, That in an emergency the sale of ungraded pasteurized milk or pasteurized milk products may be authorized by the health officer, upon the approval of the State health authority, in which case they shall be labeled "ungraded".

Any adulterated, misbranded, and/or improperly labeled milk or milk products may be impounded by the health officer and disposed of in accordance with State law.

SECTION 3. PERMITS: It shall be unlawful for any person who does not possess a permit from the health officer of any county within the state of West Virginia to bring into, send into, or receive into such county or its police jurisdiction, for sale, or to sell, or offer for sale therein, or to have in storage any milk or milk products defined in this Ordinance: Provided, That, grocery stores, restaurants, soda fountains, vending machines, and similar establishments where milk or milk products are served or sold at retail, but not processed, may be exempt from the requirements of this section.

Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a permit. Permits shall not be transferable with respect to persons and/or locations. Permits for milk plants, receiving stations, transfer stations, distribution stations and/or facilities and distributors shall expire June 30th following the date of issuance.

The health officer shall suspend such permit, whenever he has reason to believe that a public health hazard exists; or whenever the permit holder has violated any of the requirements of this Ordinance; or whenever the permit holder has interfered with the health officer in the performance of his duties:

Provided, That the health officer shall, in all cases except where the milk or milk product involved creates, or appears to create, an imminent hazard to the public health; or in any case of a willful refusal to permit authorized inspection, serve upon the holder a written notice of intent to suspend permit, which notice shall specify with particularity the violation(s) in question and afford the holder such reasonable opportunity to correct such violation(s) as may be agreed to by the parties, or in the absence of agreement, fixed by the health officer, before making any order of suspension effective. A suspension of permit shall remain in effect until the violation has been corrected to the satisfaction of the health officer.

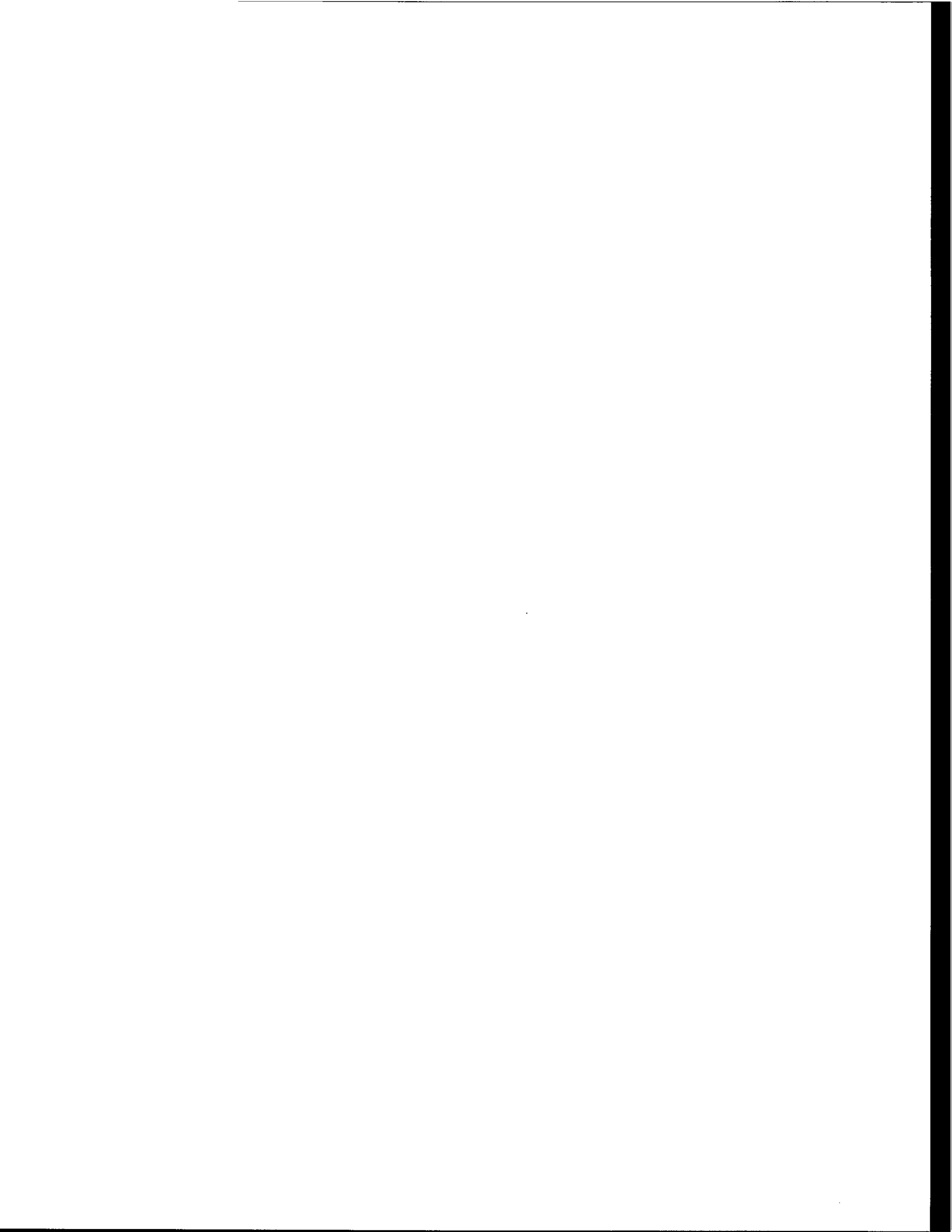
Upon written application of any person whose permit has been suspended, or upon application within 48 hours of any person who has been served with a notice of intention to suspend, and in the latter case before suspension, the health officer shall within 72 hours proceed to a hearing to ascertain the facts of such violation or interference and upon evidence presented at such hearing shall affirm, modify, or rescind the suspension or intention to suspend.

Upon repeated violation(s), the health officer may revoke such permit following reasonable notice to the permit holder and an opportunity for a hearing. This section is not intended to preclude the institution of court action as provided in Sections 5 and 6.

SECTION 4. LABELING: All proposed labeling for milk and milk products shall be submitted to and approved by the Commissioner of Agriculture prior to such products being offered for sale within the state of West Virginia.

All vehicles and transport tanks containing milk or milk products shall be legibly marked with the name and address of the milk plant or hauler in possession of the contents.

Tanks transporting raw milk and milk products to a milk plant from sources of supply not under the routine supervision of the health officer are required



to be marked with the name and address of the milk plant or hauler and shall be sealed; in addition, for each such shipment, a shipping statement shall be prepared containing at least the following information:

- (1) Shipper's name, address, and permit number.
- (2) Permit number of hauler, if not employee of shipper.
- (3) Point of origin of shipment.
- (4) Tanker identity number.
- (5) Name of product.
- (6) Weight of product.
- (7) Grade of product.
- (8) Temperature of product.
- (9) Date of shipment.
- (10) Name of supervising health officer at the point of origin.
- (11) Whether the contents are raw, pasteurized, or otherwise heat treated.

Such statement shall be prepared in triplicate and shall be kept on file by the shipper, the consignee, and the carrier for a period of 6 months for the information of the health officer.

SECTION 5. INSPECTION OF DAIRY FARMS AND MILK PLANTS: Each dairy farm, milk plant, distribution station and/or facilities, receiving station, and transfer station whose milk or milk products are intended for consumption within the state of West Virginia or its police jurisdiction shall be inspected by the health officer prior to the issuance of a permit. Following the issuance of a permit, each dairy farm, milk plant, receiving station, transfer station, and distribution station shall be inspected at least once every three months. Should the violation of any requirement set forth in Section 7 be found to exist on an inspection, a second inspection shall be required after the time deemed necessary to remedy the violation, but not before 3 days; this second inspection shall be used to determine compliance with the requirements of Section 7. Any violation of the same requirement of Section 7 on such second inspection shall call for permit suspension in accordance with Section 3 and/or

court action.

One copy of the inspection report shall be handed to the operator, or other responsible person, or be posted in a conspicuous place on an inside wall of the establishment. Said inspection report shall not be defaced and shall be made available to the health officer upon request. An identical copy of the inspection report shall be filed with the records of the health officer.

Every milk producer, hauler, distributor, bottler, or plant operator shall, upon request of the health officer, permit access of officially designated persons to all parts of his establishment or facilities to determine compliance with the provisions of this Ordinance. A distributor or plant operator shall furnish the health officer, upon request, for official use only, a true statement of the actual quantities of milk and milk products of each grade purchased and sold, and a list of all sources of such milk and milk products, records of inspections, chemical and bacteriological tests, and pasteurization time and temperature records.

It shall be unlawful for any person who in an official capacity obtains any information under the provisions of this Ordinance which is entitled to protection as a trade secret (including information as to quantity, quality, source or disposition of milk or milk products, or results of inspections or tests thereof) to use such information to his own advantage or to reveal it to any unauthorized person.

The health officer upon the approval of the state health authority may certify industry personnel to carry out cooperatively the provisions of these regulations with respect to the supervision of dairy farms. Reports of all inspections conducted by industry personnel to determine compliance with the provisions of these regulations shall be forwarded to the health officer. All punitive actions and all inspections for the issuance or reinstatement of permits shall be performed by the health officer.

SECTION 6. THE EXAMINATION OF MILK AND MILK PRODUCTS: During any consecutive six months, at least four samples of raw milk for pasteurization shall be



taken from each producer and four samples of raw milk for pasteurization shall be taken from each milk plant after receipt of the milk by the milk plant and prior to pasteurization. In addition, during any consecutive six months, at least four samples of pasteurized milk and at least four samples of each milk product defined in this Ordinance shall be taken from every milk plant. Samples of milk and milk products shall be taken while in possession of the producer or distributor at any time prior to final delivery. Samples of milk and milk products from dairy retail stores, food service establishments, grocery stores, and other places where milk and milk products are sold shall be examined periodically as determined by the health officer; and the results of such examination shall be used to determine compliance with Sections 2, 4, 10: Provided, That samples taken from milk distributor owned and operated grocery and dairy retail stores may, also, be used for chemical and bacteriological examinations. Proprietors of such establishments shall furnish the health officer, upon his request, with the names of all distributors from whom milk or milk products are obtained.

Required bacterial counts and cooling temperature checks shall be performed on raw milk for pasteurization. In addition, antibiotic and abnormal (leucocyte count) tests on each producer's milk at least four times during any consecutive six months. Required bacterial counts, coliform determinations, phosphatase, and cooling temperature checks shall be performed on pasteurized milk and milk products.

Whenever two of the last four consecutive bacteria counts, coliform determinations, or cooling temperatures, taken on separate days, exceed the limit of the standard for the milk and/or milk product, the health officer shall send a written notice thereof to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard. An additional sample shall be taken within 14 days of the sending of such notice, but not before the lapse of 3 days. Immediate suspension of permit

in accordance with Section 3 and/or court action shall be instituted whenever the standard is violated by three of the last five bacteria counts, coliform determinations, or cooling temperatures.

Whenever a phosphatase test is positive, the cause shall be determined. Where the cause is improper pasteurization, it shall be corrected; and any milk or milk product involved shall not be offered for sale.

The direct microscopic method is hereby declared official for determining the bacterial content of raw mobile tanker loads of milk. Should the direct microscopic count exceed 300,000 bacteria per ml the health officer may reject such tankers of milk. (Platform rejection.)

Samples shall be analyzed at an official or appropriate officially designated laboratory. At least one-fourth of all producer samples of Grade A raw milk for pasteurization during any consecutive six months must be collected by the regulatory agency and analyzed by the official or contracted certified commercial 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 of the American Public Health Association, and the current Edition of Official Methods of Analyses of the Association of Official Agricultural Chemists. Such procedures and examinations shall be evaluated in accordance with the methods of evaluating milk laboratories recommended by the United States Public Health Service. Examinations and tests shall be conducted to detect adulterants, including pesticides, as the health officer shall require. Assays of vitamin D milk or milk products and/or fortified milk and milk products shall be made at least annually in a laboratory acceptable to the health officer.

SECTION 7. STANDARDS FOR MILK AND MILK PRODUCTS: All Grade A raw milk for pasteurization and all Grade A pasteurized milk and milk products shall be produced, processed, and pasteurized to conform with the following chemical, bacteriological, and temperature standards, and the sanitation requirements of this section.



No process or manipulation other than pasteurization, processing methods integral therewith, and appropriate refrigeration shall be applied to milk and milk products for the purpose of removing or deactivating microorganisms.

Chemical, Bacteriological, and Temperature Standards for Grade A Milk and Milk Products

- (1) Grade A raw milk for pasteurization.
 - Temperature-----Cooled to 50°F., or less and maintained thereafter until processed.
 - Bacterial limits-----Individual producer milk not to exceed 100,000 per ml. prior to commingling with other producer milk. Not exceeding 300,000 per ml. as commingled milk prior to pasteurization.
 - Antibiotics-----No detectable zone with B Subtilis equivalent.
- (2) Grade A pasteurized milk and milk products (except cultured products).
 - Temperature-----Cooled to 45°F., or less and maintained thereafter in storage.
 - Bacterial limits-----Maintained at 50°F., or less on delivery vehicles.
 - Coliform limit-----Milk and milk products - 20,000 per ml.
 - Phosphatase-----Not exceeding 10 per ml. by Scherer Rapid Method (or equivalent by other means).
- (3) Grade A pasteurized cultured products.
 - Temperature-----Same as (2) above.
 - Coliform limit-----Not exceeding 10 per ml. or gram.
 - Phosphatase-----Less than 1 ug per ml. by Scherer Rapid Method (or equivalent by other means).
 - Bacterial limits-----Exempt.

Sanitation Requirements for Grade A Raw Milk for Pasteurization

Item 1r. Abnormal Milk: Cows which show evidence of the secretion of abnormal milk in one or more quarters, based upon bacteriological, chemical, or physical examination, shall be milked last or with separate equipment; and the milk shall be discarded. Cows treated with, or cows which have consumed chemical, medicinal or radioactive agents which are capable of being secreted in the milk and which, in the judgment of the health officer, may be deleterious to human health, shall be milked last or with separate equipment, and the milk

disposed of as the health officer may direct.

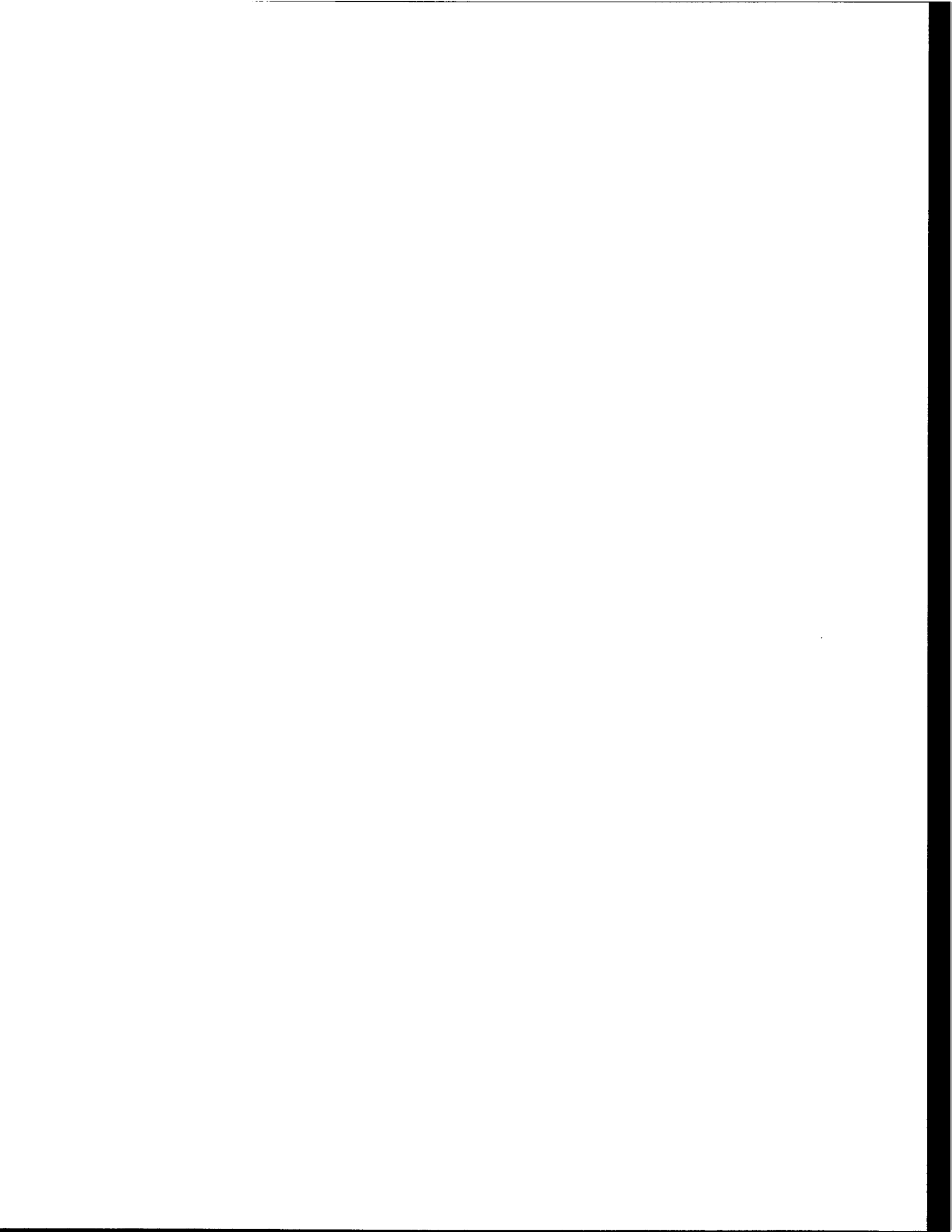
Item 2r. Milking Barn, Stable, or Parlor - Construction: A milking barn, stable, or parlor shall be provided on all dairy farms in which the milking herd shall be housed during milking time operations. The areas used for milking purposes shall (1) have floors constructed of concrete or equally impervious material; (2) have walls and ceilings which are smooth, painted or finished in an approved manner, in good repair, ceiling dusttight; (3) have separate stalls or pens for horses, calves, and bulls; (4) be provided with natural and/or artificial light, well distributed for day and/or night milking; (5) provide sufficient air space and air circulation to prevent condensation and excessive odors; (6) not be overcrowded; and (7) have dusttight covered boxes or bins, or separate storage facilities for ground, chopped, or concentrated feed.

Item 3r. Milking Barn, Stable, or Parlor - Cleanliness: The interior shall be kept clean. Floors, walls, windows, pipelines, and equipment shall be free of filth and/or litter, and shall be clean. Swine and fowl shall be kept out of the milking barn.

Item 4r. Cowyard: The cowyard shall be graded and drained and shall have no standing pools of water or accumulations of organic wastes: Provided, That in loafing or cattle-housing areas, cow droppings and soiled bedding shall be removed, or clean bedding added, at sufficiently frequent intervals to prevent the soiling of the cow's udder and flanks. Waste feed shall not be allowed to accumulate. Manure packs shall be properly drained and shall provide a reasonably firm footing. Swine shall be kept out of the cowyard.

Item 5r. Milkhouse or Room - Construction and Facilities: A milkhouse or room of sufficient size shall be provided, in which the cooling, handling, and storing of milk and the washing, sanitizing, and storing of milk containers and utensils shall be conducted.

The milkhouse shall be provided with a smooth floor constructed of concrete or equally impervious material graded to drain and maintained in good repair. Liquid waste shall be disposed of in a sanitary manner; all floor drains shall



be accessible and shall be trapped if connected to a sanitary sewer system.

The walls and ceilings shall be constructed of smooth material, in good repair, well painted, or finished in an equally suitable manner.

The milkhouse shall have adequate natural and/or artificial light and be well ventilated.

The milkhouse shall be used for no other purpose than milkhouse operations; there shall be no direct opening into any barn, stable, or into a room used for domestic purposes: Provided, That a direct 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.

Water under pressure shall be piped into the milkhouse.

The milkhouse shall be equipped with a two-compartment wash vat and adequate hot water heating facilities.

When a transportation tank is used for the cooling and storage of milk on the dairy farm, such tank shall be provided with a suitable shelter for the receipt of milk. Such shelter shall be adjacent to, but not a part of, the milkroom and shall comply with the requirements of the milkroom with respect to construction, light, drainage, insect and rodent control, and general maintenance.

Item 6r. Milkhouse or Room - Cleanliness: The floors, walls, ceilings, windows, tables, shelves, cabinets, wash vats, non-product contact surfaces of milk containers, utensils, and equipment, and other milkroom equipment shall be clean. Only articles directly related to milkroom activities shall be permitted in the milkroom. The milkroom shall be free of trash, animals, and fowl.

Item 7r. Toilet: 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.

Item 8r. Water Supply: Water for milkhouse and milking operations shall be from a supply properly located, protected, and operated, and shall be easily

accessible, adequate, and of a safe, sanitary quality.

Item 9r. Utensils and Equipment - Construction: All multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be made of smooth, non-absorbent, corrosion-resistant, nontoxic materials, and shall be so constructed as to be easily cleaned. All containers, utensils, and equipment shall be in good repair. All milk pails used for hand milking and stripping shall be seamless and of the hooded type. Multiple-use woven material shall not be used for straining milk. All single-service articles shall have been manufactured, packaged, transported, stored, and handled in a sanitary manner and shall comply with the applicable requirements of item 11p. of this section. Articles intended for single-service use shall not be reused.

Farm holding/cooling tanks, welded sanitary piping, and transportation tanks shall comply with the applicable requirements of items 10p. and 11p. of this section.

Item 10r. Utensils and Equipment - Cleaning: 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.

Item 11r. Utensils and Equipment - Sanitization: The product-contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be sanitized before each usage.

Item 12r. Utensils and Equipment - Storage: All containers, utensils, and equipment used in the handling, storage, or transportation of milk, unless stored in sanitizing solutions, shall be stored to assure complete drainage, and shall be protected from contamination prior to use.

Item 13r. Utensils and Equipment - Handling: After sanitization, all containers, utensils, and equipment shall be handled in such manner as to prevent contamination of any product-contact surface.



Item 14z. Milking - Flanks, Udders, and Teats: Milking shall be done in the milking barn, stable, or parlor. The flanks, udders, bellies, and tails of all milking cows shall be free from visible dirt. All brushing shall be completed prior to milking. The udders and teats of all milking cows shall be cleaned and treated with a sanitizing solution just prior to the time of milking, and shall be relatively dry before milking. Wet hand milking is prohibited.

Item 15z. Milking - Surchingles, Milk Stools, and Antikickers: Surchingles, milk stools, and antikickers shall be kept clean and stored above the floor.

Item 16z. Milking - Transfer and Protection of Milk: Each pail or container of milk shall be transferred immediately from the milking barn, stable, or parlor to the milkhouse. No milk shall be poured, transferred, or stored unless it is properly protected from contamination.

Item 17z. Personnel - Hand-Washing Facilities: There shall be provided adequate hand-washing facilities, including hot and cold running water, soap or detergent, and individual sanitary towels, in the milkhouse and in or convenient to the milking barn, stable, or parlor.

Item 18z. Personnel - Cleanliness: 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. Milkers and milk haulers shall wear clean outer garments while milking or handling milk, milk containers, utensils, or equipment.

Item 19z. Cooling: Raw milk for pasteurization shall be cooled to 50°F. or less within 2 hours after milking and shall be maintained at that temperature until delivered.

Item 20z. Vehicles: Vehicles used to transport milk in cans from the dairy farm to the milk plant or receiving station shall be constructed and operated to protect their contents from sun, freezing, and contamination. Such vehicles shall be kept clean, inside and out; and no substance capable of

contaminating milk shall be transported with milk.

Item 21z. Insect and Rodent Control: Effective measures shall be taken to prevent the contamination of milk, containers, equipment, and utensils by insects and rodents, and by chemicals used to control such vermin. Milkrooms shall be free of insects and rodents. Surroundings shall be kept neat, clean, and free of conditions which might harbor or be conducive to the breeding of insects and rodents.

Sanitation Requirements for Grade A Pasteurized Milk and Milk Products

A receiving station shall comply with items 1p to 15p, inclusive, and 17p, 20p, and 22p, except that the partitioning requirement of item 5p shall not apply.

A transfer station shall comply with items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p; and as climatic and operating conditions require, the applicable provisions of items 2p and 3p: Provided, That in every case, overhead protection shall be provided. Facilities for the cleaning and sanitizing of bulk transport tanks shall comply with items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p; and as climatic and operating conditions require, the applicable provisions of items 2p and 3p: Provided, That in every case, overhead protection shall be provided.

Item 1p. Floors - Construction: The floors of all rooms in which milk or milk products are processed, handled, or stored, or in which milk containers, equipment, and utensils are washed, shall be constructed of concrete or other equally impervious and easily cleaned material; and shall be smooth, properly sloped, provided with trapped drains, kept in good repair: Provided, That cold-storage rooms used for storing milk and milk products need not be provided with floor drains when the floors are sloped to drain to one or more exits: Provided further, That storage rooms for storing dry ingredients and/or packaging materials need not be provided with drains; and the floors may be constructed of tightly joined wood.

Item 2p. Walls and Ceilings - Construction: Walls and ceilings of rooms



in which milk or milk products are handled, processed, or stored, or in which milk containers, utensils, and equipment are washed, shall have a smooth, washable, light-colored surface, in good repair.

Item 3p. Doors and Windows: Effective means shall be provided to prevent the access of flies and rodents. All openings to the outside shall have solid doors or glazed windows which shall be closed during dusty weather.

Item 4p. Lighting and Ventilation: All rooms in which milk and milk products are handled, processed, or stored and/or in which milk containers, equipment, and utensils are washed shall be well lighted and well ventilated.

Item 5p. Separate Rooms: There shall be separate rooms for (1) pasteurizing, processing, cooling, and packaging; (2) cleaning of milk cans and bottles; (3) dry storage. In addition, plants receiving milk in bulk transport tanks shall provide for cleaning and sanitizing facilities.

Unless all milk and milk products are received in bulk transport tanks, a receiving room, separate from rooms (1), (2), and (3) above, shall be required. Rooms in which milk or milk products are handled, processed, or stored, or in which milk containers, utensils, and equipment are washed or stored, shall not open directly into any stable or any room used for domestic purposes.

Item 6p. Toilet-Sewage Disposal Facilities: Every milk plant shall be provided with toilet facilities conforming with the National Plumbing Code. Toilet rooms shall not open directly into any room in which milk and/or milk products are processed. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors. Dressing rooms, toilet rooms, and fixtures shall be kept in a clean condition, in good repair, and shall be well ventilated and well lighted. Sewage and other liquid wastes shall be disposed of in a sanitary manner.

Item 7p. Water Supply: Water for milk plant purposes shall be from a supply properly located, protected, and operated, and shall be easily accessible, adequate, and of a safe, sanitary quality.

Item 8p. Hand-Washing Facilities: Convenient hand-washing facilities shall be provided, including hot and cold and/or warm running water, soap, and individual sanitary towels or other approved hand-drying devices. Hand-washing facilities shall be kept in a clean condition and in good repair.

Item 9p. Milk Plant Cleanliness: All rooms in which milk and milk products are handled, processed, or stored, and/or in which containers, utensils, or equipment are washed or stored, shall be kept clean, neat, and free of evidence of insects and rodents. Pesticides shall be safely used. Only equipment directly related to processing operations or to the handling of containers, utensils, and equipment, shall be permitted in the pasteurizing, processing, cooling, packaging, and bulk milk storage rooms.

Item 10p. Sanitary Piping: All sanitary piping, fittings, and connections which are exposed to milk and milk products, or from which liquids may drip, drain, or be drawn into milk or milk products, shall consist of smooth, impervious, corrosion-resistant, nontoxic, easily cleanable material. All piping shall be in good repair. Pasteurized milk and milk products shall be conducted from one piece of equipment to another only through sanitary piping: Provided, That cottage cheese, cheese dressings, or cheese ingredients may be transported by other methods which protect the product from contamination.

Item 11p. Construction and Repair of Containers and Equipment: All multi-use containers and equipment with which milk or milk products come into contact shall be of smooth, impervious, corrosion-resistant, nontoxic material; shall be constructed for ease of cleaning; and shall be kept in good repair. All single-service containers, closures, gaskets, and other articles with which milk or milk products come in contact shall be nontoxic, and shall have been manufactured, packaged, transported, and handled in a sanitary manner. Articles intended for single-service use shall not be reused.

Item 12p. Cleaning and Sanitizing of Containers and Equipment: The product-contact surfaces of all multiuse containers, utensils, and equipment used in the transportation, processing, handling, and storage of milk and milk



products shall be effectively cleaned and shall be sanitized before each use. Farm bulk tank truck pickup hose and pumps are not required to be washed and sanitized before each use: Provided, no more than two hours have lapsed between use in pickup and/or unloading operations.

Item 13p. Storage of Cleaned Containers and Equipment: After cleaning, all multiuse milk or milk product containers, utensils, and equipment shall be transported and stored to assure complete drainage, and shall be protected from contamination before use.

Item 14p. Storage of Single-Service Containers, Utensils, and Materials: Single-service caps, cap stock, parchment paper, containers, gaskets, and other single-service articles for use in contact with milk and milk products shall be purchased and stored in sanitary tubes, wrappings, or cartons; shall be kept therein in a clean, dry place until used; and shall be handled in a sanitary manner.

Item 15p. Protection From Contamination: Milk plant operations, equipment, and facilities shall be located and conducted to prevent any contamination of milk or milk products, ingredients, equipment, containers, and utensils. All milk or milk products or ingredients which have been spilled, overflowed, or leaked shall be discarded. The processing or handling of products other than milk and milk products in the pasteurization plant shall be performed to preclude the contamination of such milk and milk products.

Item 16p. Pasteurization: Pasteurization shall be performed as defined in Section 1, Definition (F), of this regulation.

Item 17p. Cooling of Milk: All raw milk and milk products shall be maintained at 50°F or less until processed. All pasteurized milk and milk products, except those to be cultured, shall be cooled immediately prior to filling or packaging in approved equipment to a temperature of 45°F or less. All pasteurized milk and milk products shall be stored at a temperature of 45°F or less. On delivery vehicles the temperature of milk and milk products shall not exceed

50°F. Every room or tank in which milk or milk products are stored shall be equipped with an accurate thermometer.

Item 18p. Bottling and Packaging: Bottling and packaging of milk and milk products shall be done at the place of pasteurization in approved mechanical equipment: Provided, That cottage cheese and creamed cottage cheese may be transported in sealed containers in a protected, sanitary manner from one plant to another for creaming and/or packaging.

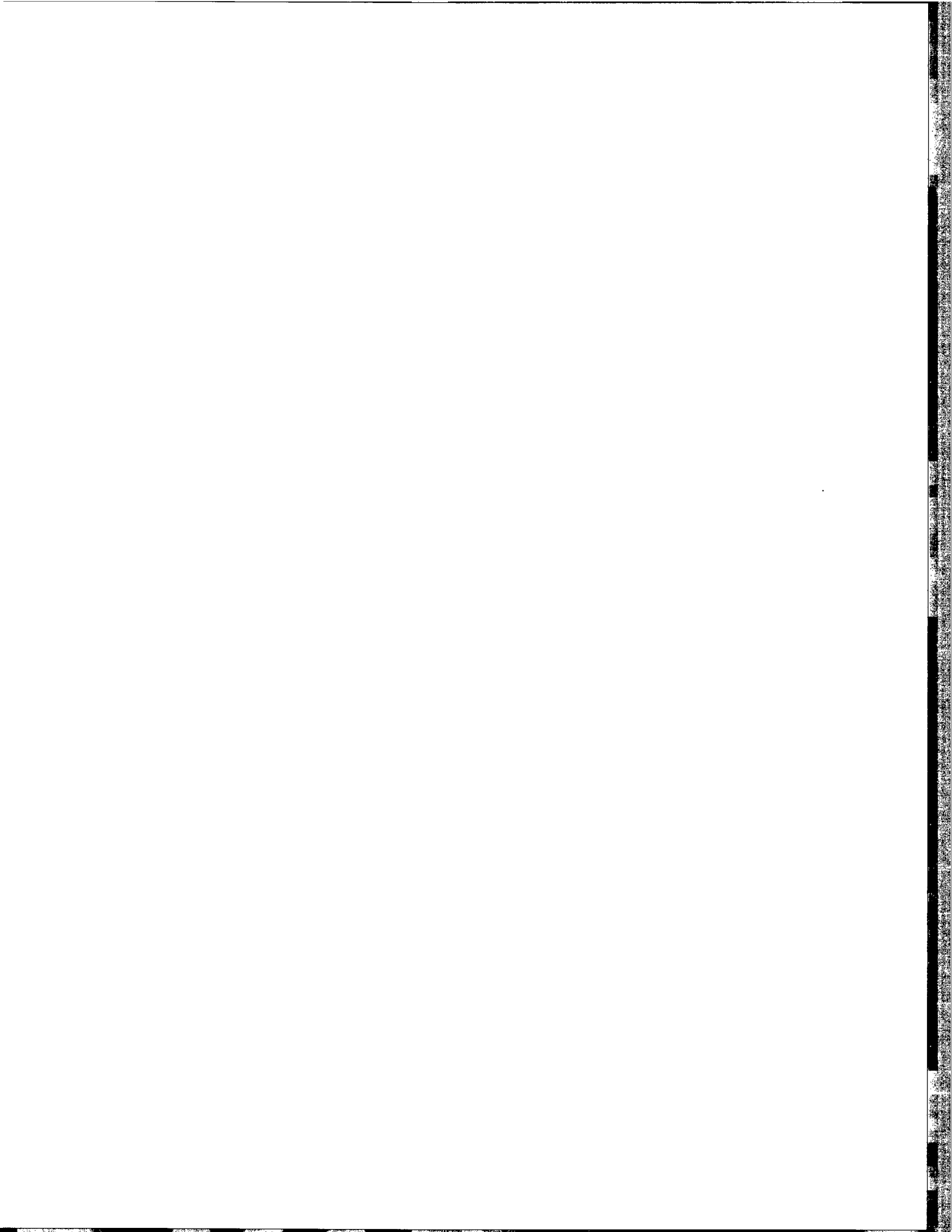
Item 19p. Capping: Capping or closing of milk and milk product containers shall be done in a sanitary manner by approved mechanical capping and/or closing equipment. The cap or closure shall protect the pouring lip to at least its largest diameter.

Item 20p. Personnel - Cleanliness: Hands shall be thoroughly washed before commencing plant functions and as often as may be required to remove soil and contamination. No employee shall resume work after visiting the toilet room without thoroughly washing his hands. All persons engaged in the processing, pasteurization, handling, storage, or transportation of milk, milk products, containers, equipment, and utensils shall wear clean outer garments. The use of tobacco by any person while engaged in the processing of milk or milk products is prohibited.

Item 21p. Vehicles: All vehicles used for transportation of pasteurized milk and milk products shall be constructed and operated so that the milk and milk products are maintained at 50°F. or less, and are protected from sun, from freezing, and from contamination.

Item 22p. Surroundings: Milk plant surroundings shall be kept neat, clean, and free from conditions which might attract or harbor flies, other insects, and rodents, or which otherwise constitute a nuisance.

SECTION 8. ANIMAL HEALTH: All milk for pasteurization shall be from herds which are located in a Modified Accredited Tuberculosis Area as determined by the U. S. Department of Agriculture. Modified Accredited Tuberculosis Area shall be interpreted as requiring all dairy herds to be tested every three years with



an allowable maximum grace period of two 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.

All milk for pasteurization shall be from herds under a brucellosis eradication program which meets one of the following conditions:

1. Located in a Certified Brucellosis-Free Area as defined by the U. S. Department of Agriculture and enrolled in the testing program for such areas; or
2. Located in a Modified Certified Brucellosis Area as defined by the U. S. Department of Agriculture and enrolled in the testing program for such areas; or
3. Meet U. S. Department of Agriculture requirements for an individually certified herd; or
4. Participating in a milk ring testing program which is conducted on a continuing basis at intervals of not less than every 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
5. Have an individual blood agglutination test annually with an allowable maximum grace period not exceeding 2 months.

For diseases other than brucellosis and tuberculosis, the health officer shall require such physical, chemical, or bacteriological tests as he deems necessary. The diagnosis of other diseases in dairy cattle shall be based upon the findings of a licensed veterinarian or a veterinarian in the employ of an official agency. Any diseased animal disclosed by such test(s) shall be disposed of as the State Veterinarian directs.

SECTION 9. MILK AND MILK PRODUCTS WHICH MAY BE SOLD: From and after September 1, 1968, the date on which these regulations become effective, only Grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments: Provided, That in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized

by the health officer during a temporary period not exceeding 30 days or such longer periods as he may deem necessary; in which case, such milk and milk products shall be labeled "ungraded."

Note.--Certified pasteurized milk is derived from certified raw milk which meets the latest requirements of the American Association of Medical Milk Commissions, Inc., 405 Lexington Avenue, New York, N. Y., 10017.

SECTION 10. TRANSFERRING: DELIVERY CONTAINERS: COOLING: Except as permitted in this section, no milk producer or distributor shall transfer milk or milk products from one container or tank truck to another on the street, in any vehicle, store, or in any place except a milk plant, receiving station, transfer station, or milkhouse especially used for that purpose. The dipping or lading of milk or fluid milk products is prohibited.

It shall be unlawful to sell or serve any milk or fluid milk product except in the individual, original container received from the distributor, or from an approved bulk dispenser: Provided, That this requirement shall not apply to milk for mixed drinks requiring less than one-half pint of milk, or to cream, whipped cream, or half-and-half which is consumed on the premises and which may be served from the original container of not more than one-half gallon capacity, or from a bulk dispenser approved for such service by the health officer.

It shall be unlawful to store, sell, or serve any pasteurized milk or milk product which has not been maintained at a temperature of 45°F. or less. If containers of pasteurized milk or milk products are stored in ice, the storage container shall be properly drained.

SECTION 11. MILK AND MILK PRODUCTS FROM POINTS BEYOND THE LIMITS OF ROUTINE INSPECTION: Milk and milk products from points beyond the limits of routine inspection of the State of West Virginia may not be sold in the State of West Virginia or its police jurisdiction, unless produced and/or pasteurized under provisions which are substantially equivalent to the requirements of this regulation, and which are enforced with equal effectiveness, as determined by a



milk-sanitation rating: Provided, That the health officer may satisfy himself that conditions shown by the milk sanitation survey continually remain substantially the same.

Reciprocity should prevail when the requirements of this regulation are satisfied as determined by the dairy having been awarded an official milk sanitation compliance and enforcement rating of 90 per cent or better provided the responsible governmental agency or agencies extend the same rights and privileges to milk plants located in West Virginia.

SECTION 12. FUTURE DAIRY FARMS AND MILK PLANTS: Properly prepared plans for all milkhouses, milking barns, stables, parlors, transfer stations, receiving stations, distribution stations and/or facilities, and milk plants regulated under these regulations which are hereafter constructed, reconstructed, or extensively altered, shall be submitted to the health officer for written approval before work is begun.

SECTION 13. PERSONNEL HEALTH: 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 employee has contracted any disease in a communicable form, or has become a carrier of such disease, shall notify the health officer immediately.

SECTION 14. PROCEDURE WHEN INFECTION IS SUSPECTED: 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 health officer is authorized to require any or all of the following measures: (1) the immediate exclusion of that person from milk handling; (2) the immediate exclusion of the

milk supply concerned from distribution and use; and (3) adequate medical and bacteriological examination of the person, of his associates, and of his and their body discharges.

SECTION 15. ENFORCEMENT: This regulation shall be enforced by the health officer in accordance with the Grade A Pasteurized Milk Ordinance with Administrative Procedures - 1965 Recommendations of the United States Public Health Service, a certified copy of which is on file with the Secretary of State's office and each county clerk's office. Where the mandatory compliance with the provisions of the appendixes is specified, such provisions shall be deemed a requirement of the Ordinance.

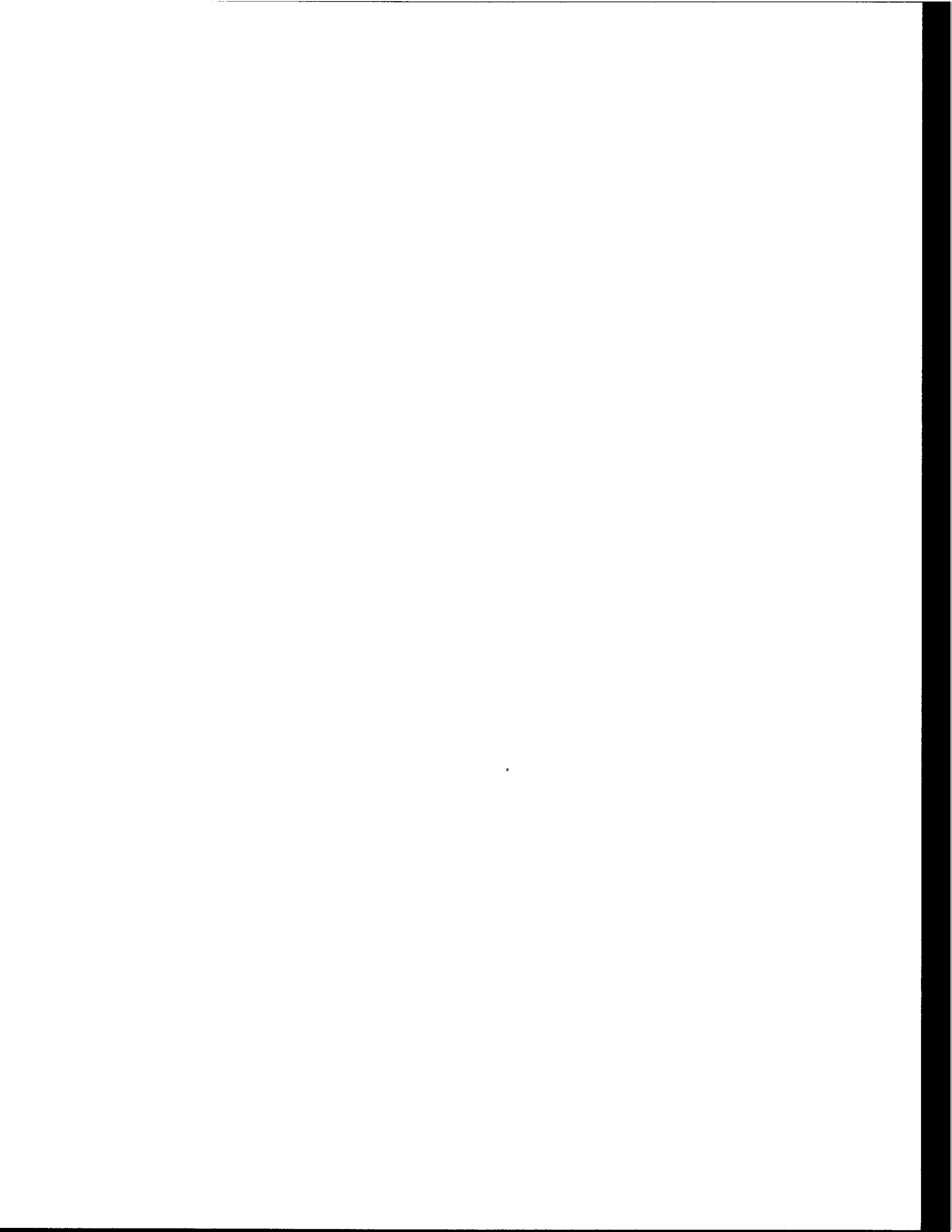
SECTION 16. IMITATION MILK AND IMITATION MILK PRODUCTS: All plants processing imitation milk and/or imitation milk products must comply with Section 7, Items 1p through 22p of this regulation.

All products and ingredients used in the manufacture of same shall be clean and wholesome. Finished product(s) must meet the bacteriological standards established herein for pasteurized milk and milk products.

Imitation milk and/or imitation milk products must be processed after the completion of the day's processing and bottling or packaging of all Grade A milk or milk products. Should operational practices require that such products be processed during other periods all equipment, piping, etc. common to such products must be disassembled, washed, and sanitized or cleaned and sanitized by an approved C.I.P. system before processing or allowing Grade A milk or milk products to come in contact with such equipment.

SECTION 17. PROVISIONS FOR CONTRACTUAL AGREEMENTS: Chapter 16, Article 2, Section 5 (West Virginia Public Health Laws) authorizes the local boards of health to negotiate agreements for providing health services and facilities.

If in the opinion of the local Board of Health a contractual agreement with the State Board of Health or another local Board of Health is necessary to the proper administration of this regulation, a contractual agreement may be negotiated. The State Board of Health shall establish a definite policy, criteria,



PRODUCER DAIRY INSPECTION FORM

The following information is respectfully submitted concerning the weight or point value assigned by the U. S. Public Health Service to each item appearing on the inspection sheet, Form SM-121:

Point Value	Item No.
15	1. (a), (b), or (c)
2	2. (a)
1	(b)
1	(c)
1	(d)
1	(e)
2	(f)
2	3. (a) or (b)
2	4. (a), (b), (c), or (d)
1	5. Floors - (a), (b), or (c)
1	Walls and Ceilings - (a) or (b)
2	Lighting and Ventilation - (a), (b), (c), or (d)
2	Miscellaneous Requirements - (a), (b), or (c)
2	Cleaning Facilities - (a), (b), or (c)
3	6. (a), (b), or (c)
2	7. (a), (b), (c), or (d)
5	8. (a), (b), or (c)
3	9. (a), (b), (c), (d), or (e)
5	10. (a)
5	11. (a)
3	12. (a), (b), or (c)
2	13. (a)
3	14. (a), (b), (c), (d), or (e)
1	15. (a) or (b)
2	16. (a) or (b)
3	17. (a) or (b)
2	18. (a) or (b)
5	19. (a)
1	20. (a), (b), or (c)
3	(a) or (b)
2	(c) or (d)
2	(e) or (f)
1	(g)

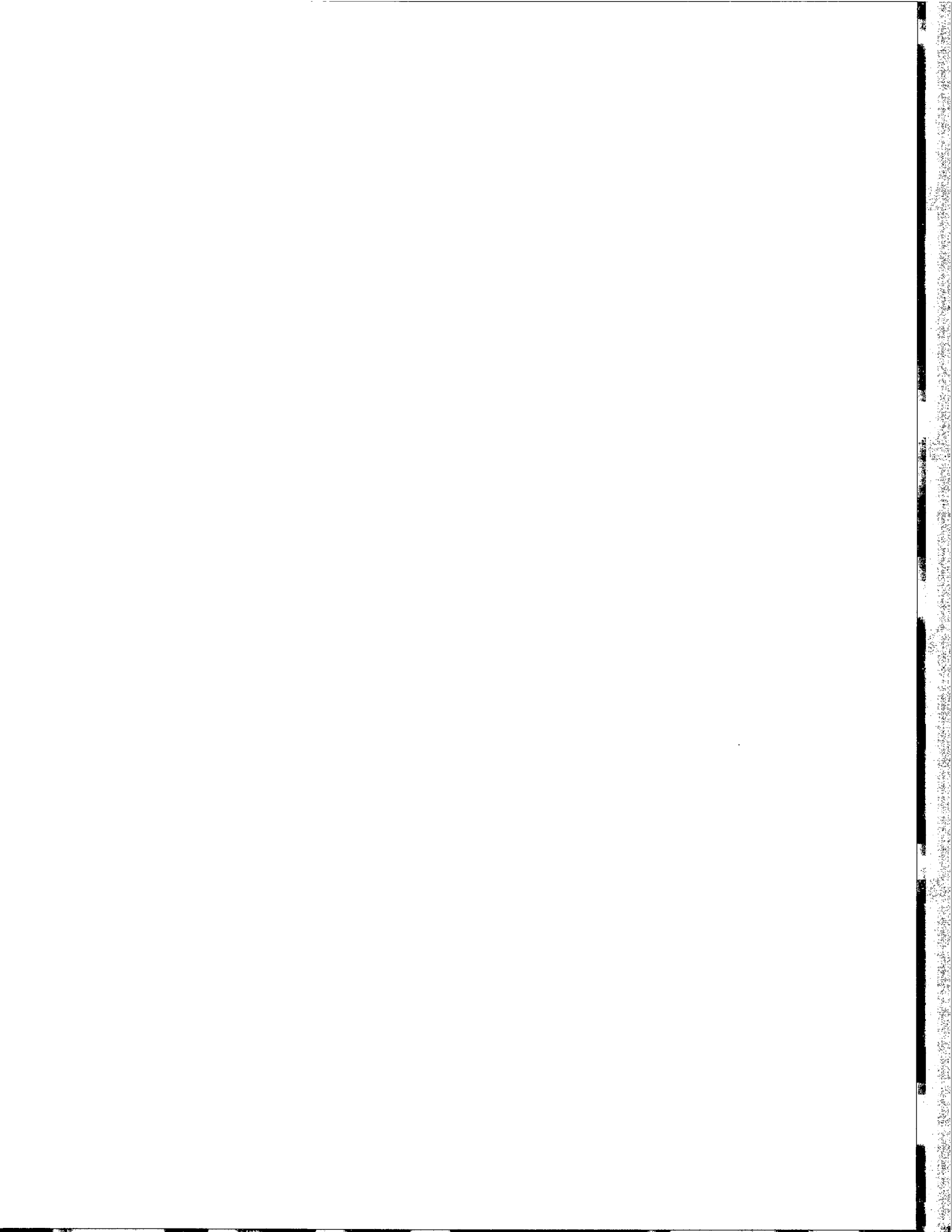
and approve all such contracts.

All contractual agreements shall be reviewed annually and may be terminated by either party by providing the other or others with a 90-day written notice of its intent to terminate the agreement.

SECTION 18. PENALTY: A violation of these regulations, or any part thereof, shall be a misdemeanor and punishable under the provisions of Chapter 101, Article 1, Section 20, Acts of West Virginia Legislature, 1949. (Section 20, Article 1, Chapter 16, West Virginia Code, 1949.)

SECTION 19. DATE OF EFFECT: This regulation shall be in full force and effect on September 1, 1968; and all regulations and parts of regulations in conflict with this regulation are hereby repealed.

SECTION 20. UNCONSTITUTIONALITY CLAUSE: Should any section, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of said regulation shall not be affected thereby.



PASTEURIZATION PLANT INSPECTION FORM

The following information is respectfully submitted concerning the weight or point value assigned by the U. S. Public Health Service to each item appearing on the inspection sheet, Form SM-123:

Point Value	Item No.
1	1. (a)
1	2. (a)
2	3. (a) or (b)
1	4. (a)
1	5. (a), (b), or (c)
3	6. (a), (b), (c), or (d)
4	7. (a), (b), (c), or (d)
2	8. (a)
2	9. (a) or (b)
3	10. (a), (b), or (c)
3	11. (a), (b), or (c)
5	12. (a) or (b)
5	12. (c) or (d)
3	13. (a)
2	14. (a)
3	15. (a), (b), or (c)
4	16a. (1) (a), (2) (a), (b), (c), (d), (e), (f), (g), or (h)
10	16b. (1) (a), (2) (a), (b), (c), or (d)
3	16b. (3) (e)
5	16c. (a) or (b)
4	16d. (a) or (b)
5	17. (a), (b), (c), or (d)
3	18. (a) or (b)
3	19. (a), (b), or (c)
1	20. (a), (b), or (c)
1	21. (a) or (b)
2	22. (a), (b), or (c)



N. H. DYER, M.D., M.P.H.
STATE DIRECTOR OF HEALTH



State of West Virginia

DEPARTMENT OF HEALTH

CHARLESTON 25305

July 22, 1968

Honorable Robert D. Bailey
Secretary of State
Ground Floor, Main Unit, Capitol
Charleston, West Virginia 25305

Dear Mr. Bailey:

In accordance with legislative requirements we are filing copies of the Grade A Pasteurized Milk Regulation adopted by the West Virginia State Board of Health under date of June 19, 1968 to become effective on September 1, 1968 with your office.

You will, also, find enclosed herewith two copies of the Grade "A" Pasteurized Milk Ordinance - 1965 Recommendations of the United States Public Health Service - Public Health Service Publication No. 229. This instrument is the basis and guideline for the establishment of administrative procedures which are designed to unify the interpretation of our State Milk Regulation and particularly in the case of the sanitation requirements contained therein, provides details as to the methods or what constitutes satisfactory compliance with the various requirements.

Sincerely yours,

N. H. Dyer, M. D., M. P. H.
State Director of Health

NHD:ALL:jaj

Enclosures

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 7/24/68

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

JUL 24 10 04 AM '68

RECEIVED

N. H. DYER, M.D., M.P.H.
STATE DIRECTOR OF HEALTH



State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 5/29/73

May 29, 1973

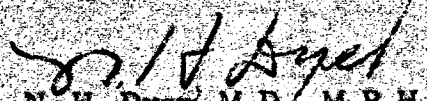
The Honorable Edgar F. Heiskell, III
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Sir:

Enclosed are two copies of an amendment to Section 3 of "Grade 'A' Pasteurized Milk Ordinance", designated Series II, of Chapter 16-1 of the West Virginia Administrative Regulations. This amendment cancels and supersedes Section 3 of those regulations previously filed with your office as item number 4 of the odd size file.

I hereby certify that the attached regulations are true and accurate copies of official regulations adopted by the West Virginia State Board of Health on May 16, 1973.

Very truly yours,


N. H. Dyer, M.D., M.P.H.
State Director of Health

NHD:jd

Enclosure

SECTION 3. PERMITS: On and after June 29, 1973, it shall be unlawful for any person who does not possess a permit from the State Department of Health to send, bring, receive, have for sale, sell, offer for sale, or to have in storage in the State of West Virginia any milk or milk products as defined in this Ordinance. Application(s) for such permit(s) shall be made to the State Department of Health, on a form prescribed by that agency, at least fourteen (14) days prior to the time the applicant desires to begin processing, distributing, or storing such milk or milk products.

All other parts of Chapter 1, Article 1, Section 3 of the West Virginia Grade "A" Pasteurized Milk Regulations remain unchanged and unaffected by the amended portion of said regulation.

Provided, That, grocery stores, restaurants, soda fountains, vending machines, and similar establishments where milk or milk products are served or sold at retail, but not processed, may be exempt from the requirements of this section.

Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a permit. Permits shall not be transferable with respect to persons and/or locations. Permits for milk plants, receiving stations, transfer stations, distribution stations and/or facilities and distributors shall expire June 30th following the date of issuance.

The health officer shall suspend such permit, whenever he has reason to believe that a public health hazard exists; or whenever the permit holder has violated any of the requirements of this Ordinance; or whenever the permit holder has interfered with the health officer in the performance of his duties:

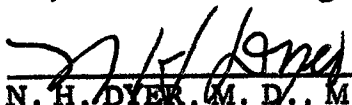


Provided, That the health officer shall, in all cases except where the milk or milk product involved creates, or appears to create, an imminent hazard to the public health; or in any case of a willful refusal to permit authorized inspection, serve upon the holder a written notice of intent to suspend permit, which notice shall specify with particularity the violation(s) in question and afford the holder such reasonable opportunity to correct such violation(s) as may be agreed to by the parties, or in the absence of agreement, fixed by the health officer, before making any order of suspension effective. A suspension of permit shall remain in effect until the violation has been corrected to the satisfaction of the health officer.

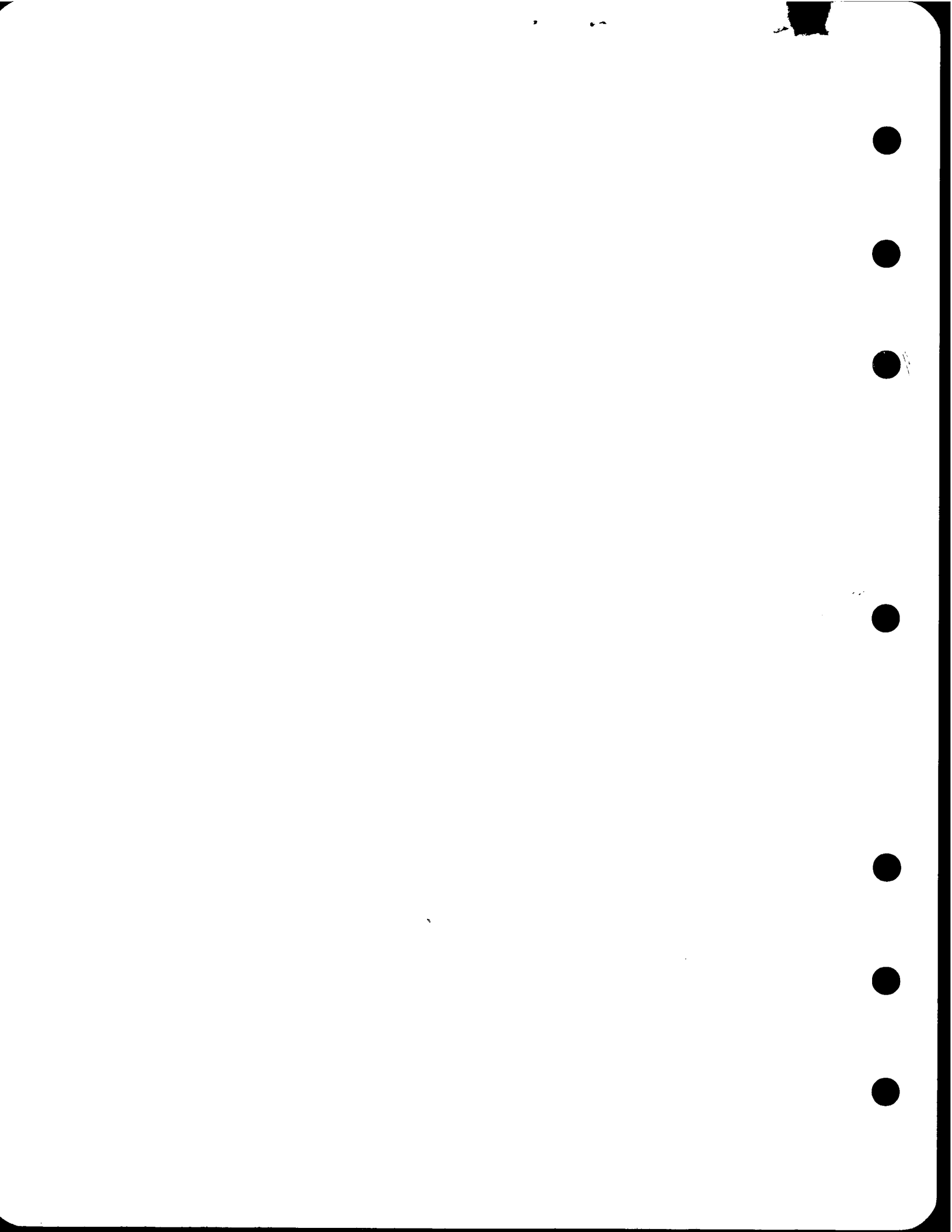
Upon written application of any person whose permit has been suspended, or upon application within 48 hours of any person who has been served with a notice of intention to suspend, and in the latter case before suspension, the health officer shall within 72 hours proceed to a hearing to ascertain the facts of such violation or interference and upon evidence presented at such hearing shall affirm, modify, or rescind the suspension or intention to suspend.

Upon repeated violation(s), the health officer may revoke such permit following reasonable notice to the permit holder and an opportunity for a hearing. This section is not intended to preclude the institution of court action as provided in Sections 5 and 6.

I hereby certify that the foregoing regulations constitute the official regulations adopted by the State Board of Health on May 16, 1973, and filed pursuant to law in the office of Secretary of State, State of West Virginia.


N. H. DYER, M. D., M. P. H.
STATE DIRECTOR OF HEALTH

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 5/29/73



N. H. DYER, M.D., M.P.H.
STATE DIRECTOR OF HEALTH



State of West Virginia

DEPARTMENT OF HEALTH

CHARLESTON 25305

February 16, 1968

Honorable Robert D. Bailey
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Mr. Bailey:

Enclosed are two copies of a Reference Page and two copies of Index Pages for Grade A Pasteurized Milk Ordinance. This Ordinance is filed in the Odd Size File as item number 4.

Sincerely yours,

N. H. Dyer, M. D., M. P. H.
State Director of Health

FILED IN THE OFFICE
SECRET & COPIED
SECRETARY OF STATE
THIS DATE 2/19/68



N. H. DYER, M.D., M.P.H.
STATE DIRECTOR OF HEALTH



State of West Virginia
DEPARTMENT OF HEALTH
CHARLESTON 25305

See Oversize File

July 19, 1973

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

Dear Sir:

Enclosed are two copies of an amendment to Section 3 of "Grade 'A' Pasteurized Milk Ordinance", designated Series II, of Chapter 16-1 of the West Virginia Administrative Regulations. These regulations appear in your odd size file as item number 4.

This amendment cancels and supersedes those regulations sent to your office on May 29, 1973.

I hereby certify that the attached regulations are true and accurate copies of official regulations adopted by the West Virginia State Board of Health on July 18, 1973.

Very truly yours,


N. H. Dyer, M.D., M.P.H.
State Director of Health

NHD:jd

Enclosures (2)

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 7-19-73



WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Department of Health

Chapter 16-1
Series II
(1968)

Subject: Grade A Pasteurized Milk Ordinance

1. This regulation is filed in the odd size file as item
number 4.
2. This regulation is certified authentic by certification
number 17.



FILING OF ADMINISTRATIVE REGULATIONS

References are to Sections in W. Va. Administrative Regulations -
Article I, Chapter I of Odd Size Item No. 3

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INDEX

PART I - GRADE A PASTEURIZED MILK ORDINANCE	PAGE
Section 1. Definitions	24
Section 2. Adulterated or Misbranded Milk or Milk Products	29
Section 3. Permits	30
Section 4. Labeling	32
Section 5. Inspection of Dairy Farms and Milk Plants	35
Section 6. The Examination of Milk and Milk Products	37
Section 7. Standards for Milk and Milk Products	39
Chemical, Bacteriological, and Temperature Standards for Grade A Milk and Milk Products	40
Sanitation Requirements for Grade A Raw Milk for Pasteur- ization	40
1r. Abnormal Milk	40
2r. Milking Barn, Stable, or Parlor--Construction	41
3r. Milking Barn, Stable, or Parlor--Cleanliness	42
4r. Cowyard	42
5r. Milkhouse or Room--Construction and Facilities	43
6r. Milkhouse or Room--Cleanliness	45
7r. Toilet	46
8r. Water Supply	46
9r. Utensils and Equipment--Construction	48
10r. Utensils and Equipment--Cleaning	49
11r. Utensils and Equipment--Sanitization	49
12r. Utensils and Equipment--Storage	50
13r. Utensils and Equipment--Handling	51
14r. Milking--Flanks, Udders, and Teats	51
15r. Milking--Surcingles, Milkstools, and Antikickers	51
16r. Milking--Transfer and Protection of Milk	52
17r. Personnel--Hand-washing Facilities	52
18r. Personnel--Cleanliness	52
19r. Cooling	53
20r. Vehicles	53
21r. Insect and Rodent Control	53
Sanitation Requirements for Grade A Pasteurized Milk and Milk Products	54
1p. Floors--Construction	55
2p. Walls and Ceilings--Construction	55
3p. Doors and Windows	56
4p. Lighting and Ventilation	56
5p. Separate Rooms	57



PART II - GRADE A PASTEURIZED MILK ORDINANCE WITH ADMINISTRATIVE PROCEDURES

Section 7. Standards for Milk and Milk Products--Continued Sanitation Requirements for Grade A Pasteurized Milk and Milk Products--Continued	PAGE
6p. Toilet-Sewage Disposal Facilities	58
7p. Water Supply	58
8p. Hand-washing Facilities	60
9p. Milk Plant Cleanliness	60
10p. Sanitary Piping	61
11p. Construction and Repair of Containers and Equipment	62
12p. Cleaning and Sanitizing of Containers and Equipment	64
13p. Storage of Cleaned Containers and Equipment	65
14p. Storage of Single-Service Containers, Utensils, and Materials	66
15p. Protection from Contamination	66
16p. Pasteurization	68
16p. (A). Batch Pasteurization	68
16p. (B). High-Temperature, Short-Time Continuous-Flow Pasteurization	73
16p. (C). Pasteurizers Employing Milk-to-Milk Regenerative Heating	77
16p. (D). Temperature Recording Charts, Equipment Tests, and Examinations	79
17p. Cooling of Milk	80
18p. Bottling and Packaging	82
19p. Capping	83
20p. Personnel--Cleanliness	84
21p. Vehicles	85
22p. Surroundings	85
Section 8. Animal Health	85
Section 9. Milk and Milk Products Which May Be Sold	87
Section 10. Transferring: Delivery Containers: Cooling	87
Section 11. Milk and Milk Products From Points Beyond the Limits of Routine Inspection	89
Section 12. Future Dairy Farms and Milk Plants	89
Section 13. Personnel Health	90
Section 14. Procedure When Infection is Suspected	90
Section 15. Enforcement	90
Section 16. Penalty	90
Section 17. Repeal and Date of Effect	91
Section 18. Unconstitutionality Clause	91
Appendixes to Pasteurized Milk Ordinance	92
A. Animal Disease Control	93
B. Milk Production, Hauling, Industry Inspection	94
I--Diary--Construction and Operation	94
II--Farm Bulk Milk Hauling	98
III--Certification of Industry Dairy Farm Inspectors	99
C. Construction Standards for Toilet and Sewage Disposal Facilities	101
D. Standards for Water Sources	106
I--Location of Water Sources	106
II--Construction	107
III--Disinfection of Water Sources	116
IV--Continuous Water Disinfection	120
E. Examples of 3-out-of-5 Compliance Enforcement Procedures	125



F. Sanitization	126
I--Methods of Sanitization	126
II--Sanitization of Assembled Equipment	130
III--Sanitizer Strength and Water Hardness Tests	131
G. Chemical and Bacteriological Tests	133
H. Pasteurization Equipment and Procedures	136
I--HTST Pasteurization	136
II--Air Under Pressure--Milk and Milk Product Contact Surfaces	141
III--Culinary Steam--Milk and Milk Products	143
IV--Thermometer Specifications	146
I. Pastuerization Equipment and Controls--Tests	152
I--Testing Apparatus Specifications	152
II--Test Procedures	153
J. Sanitation Guidelines for the Manufacture of Single-Service Containers for Milk and Milk Products	164
K. Adoption-by-Reference Form of the Grade A Pasteurized Milk Ordinance--1965 Recommendations of the United States Public Health Service	165
L. Reports and Records	167
Index to Pasteurized Milk Ordinance and Appendixes	169

