

LEGISLATIVE BILL 198

Approved by the Governor February 13, 2001

Introduced by Dierks, 40

AN ACT relating to agriculture; to amend sections 2-3901, 2-3902, 2-3906, 2-3907, 2-3908, 2-3910, 2-3914, 2-3915, 2-3917, 2-3917.01, 2-3924, 2-3928, 2-3929, 2-3930, and 2-3938, Reissue Revised Statutes of Nebraska; to change provisions in the Nebraska Pasteurized Milk Law adopted by reference and to provide for appeals and fees; to change provisions in the Nebraska Manufacturing Milk Act relating to standards, classifications, and due process; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-3901, Reissue Revised Statutes of Nebraska, is amended to read:

2-3901. (1) Sections 2-3901 to 2-3911, and the publications adopted by reference in subsection (2) subsections (2) and (3) of this section, and Part II of the Grade A Pasteurized Milk Ordinance as adopted by reference in subsection (3) of this section shall be known and may be cited as the Nebraska Pasteurized Milk Law.

(2) The Legislature adopts by reference the following official documents of the National Conference on Interstate Milk Shipments as published by the United States Department of Health and Human Services, Food and Drug Administration:

(a) Grade A Pasteurized Milk Ordinance, 1999 Revision, as delineated in subsection (3) of this section;

(b) Grade A Condensed and Dry Milk Products and Condensed and Dry Whey, 1995 Revision;

(c) Methods of Making Sanitation Ratings of Milk Supplies, 1999 Revision;

(d) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 1999 Revision; and

(e) Evaluation of Milk Laboratories, 1995 Revision. the publications titled Standards for the Fabrication of Single Service Containers and Closures for Milk and Milk Products, 1995 Revision, and Grade A Condensed and Dry Milk Products and Condensed and Dry Whey, Supplement I to the Grade A Pasteurized Milk Ordinance, 1995 Revision.

(3) The Legislature adopts by reference Part II All provisions of the Grade A Pasteurized Milk Ordinance, including footnotes relating to requirements for cottage cheese, and the appendixes with which the ordinance requires mandatory compliance are adopted with the following exceptions: --1978 Recommendations of the United States Public Health Service/Food and Drug Administration, 1995 Revision, the Ordinance, as follows:

(a) Provisions of the Ordinance Appendixes with which the Ordinance requires mandatory compliance are adopted as a requirement of the Ordinance;

(b) (a) Section 9 of the Ordinance ordinance is replaced by section 2-3903;

(c) (b) Section 15 of the Ordinance ordinance is replaced by sections 2-3904 and 2-3905;

(d) (c) Section 16 of the Ordinance ordinance is replaced by section 2-3909;

(e) (d) Section 17 of the Ordinance ordinance is not adopted;

(f) Footnotes 3 and 4 of Part II of the Ordinance and all provisions relating to the regulation of cottage cheese, dry curd cottage cheese, and lowfat cottage cheese are adopted; and

(g) (e) Section 3 of the Ordinance ordinance, Administrative Procedures, Issuance of Permits, is adopted with the following modifications:

(i) All references to issuing permits to bulk milk pickup tankers are not adopted as a part of the Nebraska Pasteurized Milk Law; and

(ii) In addition to the administrative procedures provided in Section 3 of the Ordinance, the The Department of Agriculture may suspend a permit for a definite period of time or place the holder of a permit on probation upon evidence of violation by the holder of any of the provisions of the Nebraska Pasteurized Milk Law; and

(ii) Decisions of the department may be appealed and such appeals shall be in accordance with the Administrative Procedure Act.

(4) Copies of the Ordinance, the Appendixes, and the publications,

adopted by reference, shall be filed in the offices of the Secretary of State, Clerk of the Legislature, and Department of Agriculture.

Sec. 2. Section 2-3902, Reissue Revised Statutes of Nebraska, is amended to read:

2-3902. The Nebraska Pasteurized Milk Law shall be used for the regulation of: (1) The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products, other than milk and milk products regulated under the Nebraska Manufacturing Milk Act; ~~7 sold for ultimate consumption within the State of Nebraska;~~ (2) the inspection of dairy herds, dairy farms, milk plants, plants fabricating single-service articles, transfer stations, receiving stations, milk haulers, and milk distributors; and (3) the issuance, suspension, and revocation of permits.

Sec. 3. Section 2-3906, Reissue Revised Statutes of Nebraska, is amended to read:

2-3906. (1) As a condition precedent to the issuance of a permit issued pursuant to the Nebraska Pasteurized Milk Law, and on or before August 1 of each year thereafter, the following described permit fees shall be paid to the department:

Milk Plant	\$100.00
Receiving Station	100.00
Plant Fabricating Single-Service Articles	100.00
Milk Distributor	75.00
Transfer Station	50.00
<u>Milk Tank Truck Cleaning Facility</u>	<u>50.00</u>
<u>Milk Transportation Company</u>	<u>25.00</u>
Milk Hauler	25.00
Milk Producer	No Fee
<u>Milk Tank Truck</u>	<u>No Fee</u>

(2) If the applicant is an individual, the application for a permit shall include the applicant's social security number.

(3) All raw milk produced on farms or pasteurized in plants holding permits issued under the Nebraska Pasteurized Milk Law shall be subject to the payment of inspection fees as prescribed in subsections (4) through (7) of this section. All fees shall be paid on or before the fifteenth of the month for milk produced or processed during the preceding month. Inspection fees for milk pasteurized outside of Nebraska shall be paid by the person shipping such raw milk outside the state. Inspection fees for milk pasteurized within Nebraska shall be paid by the plant pasteurizing such raw milk.

(4) The inspection fee on raw milk produced on a Grade A farm holding a permit issued under the Nebraska Pasteurized Milk Law and pasteurized at a Grade A plant holding a permit issued under such law shall be three cents per hundredweight of raw milk pasteurized.

(5) The inspection fee on raw milk produced on a Grade A farm holding a permit issued under the Nebraska Pasteurized Milk Law and pasteurized at a manufacturing milk plant shall be two and one-half cents per hundredweight of raw milk pasteurized in Nebraska, or per hundredweight of raw milk shipped from Nebraska, as appropriate.

(6) The inspection fee on raw milk produced on a Grade A farm holding a permit issued under the Nebraska Pasteurized Milk Law and pasteurized at a plant located outside of Nebraska shall be two and one-half cents per hundredweight of raw milk shipped from Nebraska.

(7) The inspection fee on raw milk produced on a Grade A farm not holding a permit issued under the Nebraska Pasteurized Milk Law and pasteurized at a Grade A plant holding a permit issued under such law shall be three-fourths of one cent per hundredweight of raw milk pasteurized.

(8) If any person required to have a permit pursuant to the Nebraska Pasteurized Milk Law has been operating prior to applying for a permit, an additional fee of one hundred dollars shall be paid upon application.

Sec. 4. Section 2-3907, Reissue Revised Statutes of Nebraska, is amended to read:

2-3907. Whenever a regulatory agency ~~shall find~~ finds milk or milk products being manufactured, processed, transported, distributed, offered for sale, or sold, in violation of the adulteration or misbranding provisions of the ~~ordinance Nebraska Pasteurized Milk Law~~, it shall have the authority to issue and enforce a written or printed stop-sale, stop-use, or removal order to the person in charge of such milk or milk product only if, ~~and only if~~, the issuance of such an order is necessary for the protection of the public health, safety, or welfare. Such an order shall specifically describe the nature of the violation found and the precise action necessary to bring the milk or milk products into compliance with the applicable provisions of the ~~ordinance Nebraska Pasteurized Milk Law~~. Such an order shall clearly advise

the person in charge of the milk or milk products that he or she may request an immediate hearing before the Director of Agriculture or his or her ~~designate~~ designee on the matter. The issuance of orders under this section shall be limited to instances in which no alternative course of action would sufficiently protect the public health, safety, or welfare.

Sec. 5. Section 2-3908, Reissue Revised Statutes of Nebraska, is amended to read:

2-3908. The Department of Agriculture may adopt and promulgate reasonable rules and regulations to ~~aid in the administration and enforcement of~~ carry out the Nebraska Pasteurized Milk Law.

Sec. 6. Section 2-3910, Reissue Revised Statutes of Nebraska, is amended to read:

2-3910. The Director of Agriculture shall make and publish the results of periodic surveys of milksheds to determine the degree of compliance with the sanitary requirements for the production, processing, handling, distribution, sampling, and hauling of milk and milk products as provided in the Nebraska Pasteurized Milk Law. The Director of Agriculture shall have the power to adopt and promulgate reasonable rules and regulations in accordance with the procedure defined in the Administrative Procedure Act for the interpretation and enforcement of this section. Such a survey or rating of a milkshed shall follow the procedures prescribed by the United States Department of Health and Human Services in its documents entitled Methods of Making Sanitation Ratings of Milk Supplies, 1999 Revision, and Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers, 1999 Revision. ~~As such documents existed on January 1, 1997, copies of which shall be kept on file in the offices of the Secretary of State, the Clerk of the Legislature, and the Director of Agriculture.~~

Sec. 7. Section 2-3914, Reissue Revised Statutes of Nebraska, is amended to read:

2-3914. For purposes of the Nebraska Manufacturing Milk Act, unless the context otherwise requires:

(1) 3-A sanitary standards ~~shall mean~~ means the standards for dairy equipment formulated by the 3-A sanitary standards committees representing the International Association of Milk, ~~and Food and Environmental~~ Sanitarians, the United States Department of Health and Human Services, and the Dairy Industry Committee and published by the International Association of Milk, ~~and Food and Environmental~~ Sanitarians in effect on July 1, 2001;

(2) Acceptable milk ~~shall mean~~ means milk that qualifies under sections 2-3915 to 2-3917.01 as to sight and odor and that is classified acceptable for somatic cells, bacterial ~~count~~ content, drug residues, and sediment content;

(3) Adulterated milk and dairy products ~~shall mean~~ means any milk or dairy products in which one or more of the conditions described in section 402 of the Federal Food, Drug, and Cosmetic Act, as it exists on ~~January 1, 1993~~ July 1, 2001, exist;

(4) C-I-P or cleaned-in-place ~~shall mean~~ means the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation;

(5) Dairy farm or farm ~~shall mean~~ means a place or premises where one or more milking cows, goats, or sheep are kept and milk is produced and offered for sale to a plant for manufacturing purposes;

(6) Dairy plant, plant, or receiving station ~~shall mean~~ means any place, premises, or establishment where milk or dairy products are received or handled for processing or manufacturing or prepared for distribution. When plant is used in connection with the production, transportation, grading, or use of milk, it ~~shall mean~~ means any plant that handles or purchases milk for manufacturing purposes, and when used in connection with minimum specifications for plants or issuing of permits to plants, it ~~shall mean~~ means only those plants that manufacture dairy products;

(7) Dairy products ~~shall mean~~ means products allowed to be made from milk for manufacturing purposes and not required to be of Grade A quality;

(8) Department ~~shall mean~~ means the Department of Agriculture;

(9) Director ~~shall mean~~ means the Director of Agriculture or his or her duly authorized agent or designee;

(10) Fieldman ~~shall mean~~ means an individual qualified and trained in the sanitary methods of production and handling of milk as set forth in the Nebraska Manufacturing Milk Act and generally employed by a processing or manufacturing plant for the purpose of quality control work;

(11) Hauler-sampler ~~shall mean~~ means an individual who collects and samples milk from a dairy farm for delivery to a dairy plant, receiving station, or transfer station;

(12) Inspector ~~shall mean~~ means an employee of the department who is qualified and trained to perform inspections under the act;

(13) Laboratory procedures ~~shall mean~~ means procedures found in: (a) Standard Methods for the Examination of Dairy Products, sixteenth edition, a publication of the American Public Health Association; (b) Official Methods of Analysis, fifteenth edition, a publication of the AOAC International; (c) Pesticide Analytical Manual, second edition, a publication of the federal Environmental Protection Agency; (d) Bacteriological Analytical Manual, seventh edition, a publication of the federal Food and Drug Administration; and (e) other methods that have shown to be equally accurate, precise, and practical and which have been approved by the director;

(14) Milk ~~shall mean~~ means the normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, goats, or sheep. Milk ~~shall include~~ includes only milk for manufacturing purposes. Cow milk, goat milk, sheep milk, or a combination thereof may be used to manufacture dairy products that are legally provided for in 21 C.F.R., as it exists on ~~January 17, 1993~~ July 1, 2001, or for nonstandardized products when properly labeled;

(15) Milk for manufacturing purposes ~~shall mean~~ means milk produced for processing and manufacturing into products not required by law to be of Grade A quality;

(16) Milking facility ~~shall mean~~ means a milking barn, milking area, or milking parlor in which the milking of dairy animals is performed;

(17) Permit ~~shall mean~~ means a permit issued under the act by the director;

(18) Person ~~shall mean~~ means an individual, plant operator, partnership, limited liability company, corporation, company, firm, trustee, or association;

(19) Probational milk ~~shall mean~~ means milk classified undergrade for somatic cells, bacterial ~~count content~~, or sediment content that may be accepted by plants for specific time periods;

(20) Producer ~~shall mean~~ means the person or persons who exercise control over the production of the milk delivered to a processing plant or receiving station for manufacturing purposes;

(21) Reject milk ~~shall mean~~ means milk that does not qualify under sections 2-3915 to 2-3917.01;

(22) State-certified laboratory ~~shall mean~~ means a dairy industry laboratory or commercial laboratory certified under the Grade A Interstate Milk Shippers Program or that has been certified by the department to perform official work for examination of milk for manufacturing purposes as required in the Nebraska Manufacturing Milk Act; and

(23) Transfer station ~~shall mean~~ means any place, premises, or establishment where milk for manufacturing purposes or manufactured milk products are transferred directly from one transport tank to another.

Sec. 8. Section 2-3915, Reissue Revised Statutes of Nebraska, is amended to read:

2-3915. The classification of raw milk for manufacturing purposes shall be based on sight and odor and quality control tests for somatic cells, bacterial ~~count content~~, sediment content, and drug residues. Classification shall be either acceptable, probational, or reject.

Sec. 9. Section 2-3917, Reissue Revised Statutes of Nebraska, is amended to read:

2-3917. All dairy plants shall run the quality tests set out in this section in a state-certified laboratory and, ~~except as provided in subdivision (8) of this section,~~ report the results to the department upon request. The test methods shall be those stated in laboratory procedures.

(1) Milk shall be classified for bacterial ~~counts as follows content~~ by the standard plate count or plate loop count. Bacterial count limits of individual producer milk shall not exceed five hundred thousand per milliliter.

(2) Bacterial counts shall be run at least four times in six consecutive months at irregular intervals at times designated by the director on representative samples of each producer's milk. Whenever any two out of four consecutive bacterial counts exceed five hundred thousand per milliliter, the producer shall be sent a written notice by the department. Such notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard set out in subdivision (1) of this section. A producer sample shall be taken between three and twenty-one days after the second excessive count. If that sample indicates an excessive bacterial count, the producer's milk shall be rejected until subsequent testing indicates a bacterial count of five hundred thousand per milliliter or less.

(3) All dairy plants shall smell all raw milk received. Milk

failing to meet the odor standards of section 2-3916 shall be rejected.

(4) Laboratory examinations for somatic cells shall be conducted at least four times in six consecutive months at irregular intervals at times designated by the director on representative samples of each producer's milk. Such examinations may begin with a screening test to determine whether the sample exceeds a Wisconsin Mastitis Test result of ten millimeters or higher.

(5) If a sample exceeds the screening test results set out in subdivision (4) of this section or if no screening test is run, either of the following tests shall be used to obtain an official result:

- (a) Direct microscopic somatic cell count or equivalent; or
- (b) Electronic somatic cell-counting procedure.

Whenever an official result indicates a somatic cell count of more than seven hundred fifty thousand somatic cells per milliliter for cow milk or sheep milk or one million per milliliter for goat milk, the procedure set out under subdivision (6) of this section shall be applied.

~~(6) Somatic cell counts of individual producer milk for cow milk and sheep milk shall not exceed seven hundred fifty thousand per milliliter and for goat milk shall not exceed one million per milliliter. The following somatic cell standards shall apply to individual manufacturing milk producers: Cow and sheep milk shall not exceed seven hundred fifty thousand somatic cells per milliliter, and goat milk shall not exceed one million somatic cells per milliliter.~~ Whenever any two out of four consecutive somatic cell counts exceed the limit standard, the producer shall be sent a written notice by the department. Such notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard set out in this subdivision. A producer sample shall be taken between three and twenty-one days after the second excessive count. Whenever three out of five consecutive samples are in excess of the limit standard, the producer's milk shall be rejected until subsequent testing indicates a somatic cell count equal to or less than the applicable limit of somatic cells per milliliter standard. For three weeks after the acceptable count is obtained, the producer's milk shall be tested at least once a week but no more than twice a week. Testing at this frequency shall continue until three consecutive acceptable counts are obtained, after which testing may return to the routine frequency prescribed in subdivision (4) of this section.

(7) Milk from cows, goats, or sheep infected with mastitis, milk containing drug residues, or milk containing pesticides or other chemical residues in excess of the established limits shall not be sold or offered for sale for human food. Cows, goats, or sheep that secrete abnormal milk shall be milked last or with separate equipment. This milk shall be excluded from the supply. Milk from cows, goats, or sheep treated with drugs shall be excluded for such period of time as is necessary to have the milk free from drug residues.

(8) Each producer's milk shall be tested by the plant at least four times each six months at irregular intervals at times designated by the director for drug residues. Load samples may be tested in lieu of individual producer samples if all the producer samples are available to identify the responsible producer in case of positive results. Milk found to contain drug residues shall be handled as prescribed in subdivision (7) of this section. State-certified laboratories shall immediately notify the department of drug residues. ~~When a producer's milk shows positive results, such producer shall immediately be cut off from all markets. The producer shall not be reinstated until subsequent testing shows the producer's milk to be free of drug residues. Dairy plants shall not use any milk or dairy products known to contain unacceptable levels of drug residues for the manufacture of milk or dairy products for human consumption.~~

(9)(a) The industry shall test all bulk milk pickup tankers for beta lactam drug residues. Additionally, other drug residues ~~shall~~ may be screened for by employing a random sampling program on bulk milk pickup tankers. ~~The random sampling program shall represent and include, in any consecutive six months, at least four samples collected in at least four separate months.~~ Samples collected under the random sampling program shall be analyzed as specified by the federal Food and Drug Administration. All loads of milk testing positive for drug residue shall be immediately reported to the department. Bulk loads of milk shall be sampled prior to commingling and tested prior to processing of the milk. Whenever a load of milk shows a positive test, individual producer samples shall be individually tested to determine the farm of origin. The samples shall be tested as directed by the department. Accurate records of the results of the milk quality and drug residue test for each producer shall be kept on file at the plant for a period of not less than twelve months. The records shall be available for examination by the department.

(b) When a producer's milk sample is found to be positive for drug residue, the department shall immediately suspend the permit of the producer. The producer's permit may be reinstated when a sample taken from the producer's milk is no longer positive for drug residue. All tests for suspension and reinstatement shall be done in a certified laboratory using certified methods and certified analysts. For a third occurrence of a positive drug residue in a twelve-month period, the director shall initiate administrative procedures to revoke the producer's permit. When a load of milk is positive for drug residue, the department shall immediately suspend the permit of the responsible producer for a minimum of two days or the equivalent penalty as determined by the director. On the second occurrence of violative drug residue in a twelve-month period, the producer's permit shall be suspended for a minimum of four days or equivalent penalties as determined by the director. For a third occurrence of violative drug residue in a twelve-month period, the suspension of the permit shall be the same as the second occurrence and the director shall initiate administrative procedures pursuant to revocation of the producer's permit.

(c) Whenever a load of milk is positive for drug residue, it shall be deemed adulterated and shall not be used for human consumption. The responsible producer shall be liable for the value of the adulterated milk plus any cost associated with its disposal. The department may accept certification from the milk purchaser as verification that the producer was assessed the penalty. When a load of milk is negative and there is a producer whose milk is positive on the load, the director shall be advised and the producer's permit suspended until such time as subsequent testing reveals an acceptable result. The director may waive the two-day or four-day penalty when the load of milk is negative, but it shall count on the producer record as either a first, second, or third occurrence, and the reinstatement procedure shall be as described in subdivision (d) of this subdivision.

(d) The permit may be restored to a temporary permit status after the penalty when a sample is taken from the producer's milk and the farm bulk tank is no longer positive for drug residues. In no event shall the permit of the violative producer be reinstated by the director until the responsible producer and a licensed veterinarian have signed a quality assurance certificate for display in the milkhouse or milkroom which states that the Milk and Dairy Beef Residue Prevention Protocol is in place and is being implemented for the dairy herd from which the adulterated milk containing the violative drug residue was shipped.

~~(e)~~ The department shall monitor industry surveillance activities by making unannounced onsite inspections to collect samples from bulk milk pickup tankers and to review industry records of the random sampling program.

~~(f)~~ (e) The department shall perform routine sampling and testing for drug residues.

(10) Each producer's milk shall be tested by the department at least once a year for residues of pesticides or other harmful chemicals. Milk found to contain excessive residues of such substances shall be handled as prescribed in subdivision (7) of this section.

Sec. 10. Section 2-3917.01, Reissue Revised Statutes of Nebraska, is amended to read:

2-3917.01. (1) Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination described in section 2-3916, according to sediment standards as follows:

(a) No. 1: Acceptable, not to exceed fifty-hundredths milligrams or its equivalent;

(b) No. 2: Acceptable, not to exceed one and fifty-hundredths milligrams or its equivalent;

(c) No. 3: Probational, not over ten days, not to exceed two and fifty-hundredths milligrams or its equivalent; and

(d) No. 4: Reject, over two and fifty-hundredths milligrams or its equivalent.

(2) Methods for determining the sediment content of the milk of individual producers shall be the methods described in the laboratory procedures. Sediment content shall be based on comparison with applicable charts of subpart T, sections 58.2728 to 58.2732 of the United States Sediment Standards for Milk and Milk Products, 7 C.F.R. 58, as such standards exist on July 1, ~~1993~~ 2001.

(3) Sediment testing shall be performed at least four times every six months at irregular intervals as designated by the director.

(4) If the sediment disc is classified as No. 1, No. 2, or No. 3, the producer's milk may be accepted. If the sediment disc is classified as No. 4, the milk shall be rejected. A producer's milk that is classified as No. 3 may be accepted for a period not to exceed ten calendar days. If at the

end of ten days the producer's milk does not meet acceptable sediment classification No. 1 or No. 2, it shall be rejected from the market. If the sediment disc is classified as No. 4, the milk shall be rejected and no further shipments accepted unless the milk meets the requirements of No. 3 or better.

Sec. 11. Section 2-3924, Reissue Revised Statutes of Nebraska, is amended to read:

2-3924. Utensils, milk cans, milking machines, including pipeline systems, and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any unsanitary condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use. New or replacement can lids shall be umbrella type. All new utensils, new farm bulk tanks, and equipment shall meet 3-A sanitary standards ~~in effect on July 17, 1993,~~ and comply with applicable rules and regulations of the department.

Sec. 12. Section 2-3928, Reissue Revised Statutes of Nebraska, is amended to read:

2-3928. (1) At the dairy plant and the receiving station, there shall be an ample supply of both hot and cold water of safe and sanitary quality with adequate facilities for its proper distribution throughout the plant and protected against contamination. Water from other facilities, when officially approved, may be used for boiler feed water and condenser water so long as such water lines are completely separated from the water lines carrying the sanitary water supply and the equipment is so constructed and controlled as to preclude contamination of product contact surfaces. There shall be no cross-connection between potable water lines and nonpotable water lines or between public and private water supplies. Bacteriological examinations shall be made of the plant's sanitary water supply which shall include water extracted from milk and cooling water taken at the plant at least twice each year. The results of all water tests shall be kept on file at the plant for which the test was performed.

(2) The location, construction, and operation of any well shall comply with rules and regulations of the Department of Health and Human Services Regulation and Licensure.

(3) Drinking water facilities of a sanitary type shall be provided in the plant and should be conveniently located.

(4) Convenient ~~hand-washing~~ handwashing facilities shall be provided, including hot and cold running water, soap or other detergents, and sanitary single-service towels or air driers. Such accommodations shall be located in or adjacent to toilet and dressing rooms and also at such other places in the plant as may be essential to the cleanliness of all personnel handling products. Vats for washing equipment or utensils shall not be used as ~~hand-washing~~ handwashing facilities. Containers shall be provided for used towels and other wastes. The containers may be metal or plastic, may be disposable or reusable, and shall have self-closing covers.

(5) Steam shall be supplied in sufficient volume and pressure for satisfactory operation of each applicable piece of equipment. Culinary steam used in direct contact with milk or dairy products shall be free from harmful substances or extraneous material and only those boiler water additives approved by the department shall be used, or a secondary steam generator shall be used, in which soft water is converted to steam and no boiler compounds are used. Steam traps, strainers, and condensate traps shall be used wherever applicable to insure a satisfactory and safe steam supply. Culinary steam shall comply with the ~~recommended practices for Producing Culinary Steam for Processing Milk and Milk Products as published by the National Association of Food and Dairy Equipment Manufacturers on July 17, 1993~~ 3-A Accepted Practices for a Method of Producing Steam of Culinary Quality.

(6) The method for supplying air under pressure which comes in contact with milk or dairy products or any product contact surfaces shall comply with the ~~3-A Accepted Practices for Supplying Air Under Pressure. in effect July 17, 1993.~~

(7) Dairy wastes shall be properly disposed of from the plant and premises. The sewer system shall have sufficient slope and capacity to readily remove all waste from the various processing operations. Where a public sewer is not available, all wastes shall be properly disposed of so as not to contaminate milk equipment or to create a nuisance or public health hazard. Containers used for the collection and holding of wastes shall be constructed of metal, plastic, or other equally impervious material and kept covered with tight-fitting lids. Waste shall be stored in an area or room in a manner to protect it from flies and vermin. Solid wastes shall be disposed of regularly and the containers cleaned before reuse. Accumulation of dry

wastepaper and cardboard shall be kept to a minimum and disposed of in a manner that is environmentally acceptable.

Sec. 13. Section 2-3929, Reissue Revised Statutes of Nebraska, is amended to read:

2-3929. (1) Dairy plant equipment and utensils used for the processing of milk and manufacture of dairy products shall be constructed to be readily demountable when necessary for cleaning and sanitizing. The product contact surfaces of all utensils and equipment such as holding tanks, pasteurizers, coolers, vats, agitators, pumps, sanitary piping and fittings, or any specialized equipment shall be constructed of stainless steel, or other materials which under conditions of intended use are as equally corrosion resistant. Nonmetallic parts other than glass having product contact surfaces shall comply with 3-A Sanitary Standards for Plastic or Rubber and Rubber-Like Materials, ~~in effect July 17, 1993.~~ Equipment and utensils used for cleaning shall be in an acceptable condition, such as not rusty, pitted, or corroded. All equipment and piping shall be designed and installed so as to be easily accessible for cleaning and shall be kept in good repair, free from cracks and corroded surfaces. New or rearranged equipment shall be set away from any wall or spaced in such a manner as to facilitate proper cleaning and to maintain good housekeeping. All parts or interior surfaces of equipment, pipes, except certain piping cleaned-in-place, or fittings, including valves and connections, shall be accessible for inspection. Milk and dairy product pumps shall be of a sanitary type and easily dismantled for cleaning or shall be of specially approved construction to allow effective cleaning in place. All C-I-P systems shall comply with the 3-A Accepted Practices for Permanently Installed Sanitary Product, Pipelines, and Cleaning Systems, ~~in effect July 17, 1993.~~

(2) Storage tanks or vats shall be fully enclosed or tightly covered and well insulated. The entire interior surface, agitator, and all appurtenances shall be accessible for thorough cleaning and inspection. Any opening at the top of the tank or vat including the entrance of the shaft shall be suitably protected against the entrance of dust, moisture, insects, oil, or grease. The sight glasses, if used, shall be sound, clear, and in good repair. Vats which have hinged covers shall be easily cleaned and shall be so designed that moisture or dust on the surface cannot enter the vat when the covers are raised. If the storage tanks or vats are equipped with air agitation, the system shall be of an approved type and properly installed in accordance with the 3-A Accepted Practices for Supplying Air Under Pressure, ~~in effect July 17, 1993.~~ Storage tanks or vats intended to hold product for longer than approximately eight hours shall be equipped with adequate insulation. New or replacement storage tanks or vats shall comply with the appropriate 3-A Sanitary Standards for Storage Tanks for Milk and Milk Products ~~in effect July 17, 1993,~~ and shall be equipped with thermometers in good operating order.

(3) All product contact surfaces of separators shall be free from rust and pits and insofar as practicable shall be of stainless steel or other equally noncorrosive metals.

(4) Coil and dome type batch pasteurizers shall be stainless steel lined, and if the coil is not stainless steel or other equally noncorrosive metal, it shall be properly tinned over the entire surface. Sanitary seal assemblies at the shaft end of coil vats shall be of the removable type, except that existing equipment not provided with this type gland will be acceptable if the packing glands are maintained and operated without adverse effects. New or replacement units shall be provided with removable packing glands. Dome type pasteurizer agitators shall be stainless steel, except that any nonmetallic parts shall comply with 3-A Sanitary Standards for Plastic or Rubber and Rubber-Like Materials, ~~in effect July 17, 1993,~~ as applicable. Each pasteurizer used for heating product at a temperature of five degrees Fahrenheit or more above the minimum pasteurization temperature need not have the airspace heater. It shall be equipped with an airspace thermometer to insure a temperature at least five degrees Fahrenheit above that required for pasteurization of the product. There shall be adequate means of controlling the temperature of the heating medium. Batch pasteurizers shall have temperature indicating and recording devices.

(5) When pasteurization is intended or required, the entire pasteurization system shall comply with the 3-A Accepted Practices for the Sanitary Construction, Installation, Testing, and Operation of High Temperature Short Time Pasteurizers, ~~in effect July 17, 1993.~~ After the unit has been tested according to the 3-A accepted practices, ~~in effect July 17, 1993,~~ the timing pump or device and the recorder controller shall be sealed at the correct setting to assure pasteurization. The system shall be rechecked semiannually to assure continued compliance with the 3-A accepted practices.

~~in effect July 1, 1993.~~ Sealing and rechecking of the unit shall be performed by the department. When direct steam pasteurizers are used, the steam, prior to entering the product, shall be conducted through a steam strainer and a steam purifier equipped with a steam trap and only steam meeting the requirements for culinary steam shall be used.

(6) Recorder charts shall be marked to show date and plant identification, reading of the indicating thermometer at a particular referenced reading point on the recording chart, amount and name of product, product temperature at which the cut in and cut out function, record of the period in which flow diversion valve is in forward-flow position, signature or initials of operators, and number of the chart for the day.

(7) Pumps used for milk and dairy products shall be of the sanitary type and constructed to comply with 3-A Sanitary Standards for Pumps for Milk and Milk Products. ~~in effect July 1, 1993.~~ Unless pumps are specifically designed for effective cleaning-in-place they shall be disassembled and thoroughly cleaned after use.

(8) New equipment and replacements, including all plastic parts and rubber and rubber-like material for parts and gaskets having product contact surfaces, shall comply with 3-A sanitary standards. ~~in effect July 1, 1993.~~ If 3-A sanitary standards are not available, such equipment and replacements shall meet the general requirements of this section. Only material that is sanitary, readily cleanable, and nontoxic shall be used for product contact surfaces, parts, and gaskets.

Sec. 14. Section 2-3930, Reissue Revised Statutes of Nebraska, is amended to read:

2-3930. (1) It shall be unlawful for any person to engage in business as a milk producer, hauler-sampler, dairy plant, ~~cream station,~~ or transfer station unless such person fully complies with the permit requirements set forth in subsections (2) through (5) of this section.

(2) Except as provided in subsection (5) of this section, all persons engaged in a business listed under subsection (1) of this section must obtain an annual permit from the department, which permit shall expire on July 31 of the year following issuance. Permits shall be issued only following an inspection revealing that the applicant is in compliance with the Nebraska Manufacturing Milk Act. Applicants for a permit shall submit a written application to the department on forms prescribed by the department and shall pay the annual permit fees set forth in subsection (3) of this section.

- (3) The department shall charge the following permit fees:
- (a) Dairy Plant \$100.00
- (b) Transfer station 50.00
- (c) Hauler-sampler 25.00
- ~~(d) Cream station 25.00~~
- ~~(e) Producer 35.00.~~
- (d) Producer 35.00.

(4) All permit fees paid to the department in accordance with the Nebraska Manufacturing Milk Act shall be paid to the state treasury and shall be credited by the State Treasurer to the Manufacturing Milk Cash Fund, which fund is hereby created. All fees credited to the fund shall be appropriated to the uses of the department to aid in defraying the expenses of administering such act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) A person with a milk hauler permit issued under the Nebraska Pasteurized Milk Law shall not be required to have a permit or to pay fees as a hauler-sampler under this section. However, such person shall meet all requirements set forth in the Nebraska Pasteurized Milk Law for the hauling and sampling of milk for manufacturing purposes, and his or her permit issued under the Nebraska Pasteurized Milk Law shall be deemed valid as a manufacturing milk hauler-sampler permit. All procedures relating to suspending or revoking such permit shall be conducted pursuant to the Nebraska Pasteurized Milk Law. A person who is pursuing the normal duties of a hauler-sampler ~~after July 1, 1993,~~ without applying for a permit shall be assessed an additional one-hundred-dollar fee for the permit.

(6) The thirty-five-dollar fee for producer permits shall be paid for by the dairy plant purchasing the producer's milk. The fee shall be paid prior to the issuance of new permits and before milk may be accepted by the dairy plant. The dairy plant shall pay the renewal fee of thirty-five dollars as provided in this section.

(7) The department may impose a penalty in addition to the permit fees due for any such fees that are more than one month delinquent. Such penalty may not exceed ten percent of the total fee for each month or portion of a month of delinquency.

Sec. 15. Section 2-3938, Reissue Revised Statutes of Nebraska, is amended to read:

2-3938. The director may suspend a permit for a definite period of time or place on probation the holder of a permit upon evidence of violation by the holder of any of the terms of the Nebraska Manufacturing Milk Act or for interference with the director in the performance of his or her duties. The imposition of a suspension or probation shall require corrective action by the holder to the satisfaction of the department in order to have such suspension or probation removed.

The director may revoke a permit for serious, multiple, or repeated violations including interference with the director in the performance of his or her duties.

~~The director shall, before~~ Before suspending a permit, placing the holder of a permit on probation, or revoking a permit or placing the holder of such permit on probation for violation of the terms of the Nebraska Manufacturing Milk Act, the director shall give the permitholder at least ten days' notice in writing containing written notice that a hearing will be held on such matter. The notice shall contain a statement of the alleged violation and the time and place of such hearing. The notice may be served by delivery of a copy personally to the permitholder or by mailing a copy to the last-known business address of the permitholder. The hearing shall be conducted by the director or by a qualified employee of the department designated by the director as hearing officer. The parties may appear in person or by counsel. The permitholder shall be afforded a full hearing on the charges contained in the notice of hearing. All testimony shall be upon oath or affirmation, subject to cross-examination, and shall be reported verbatim and made a part of the record. The common-law rules of evidence shall not apply, but evidence which is immaterial, irrelevant, or unduly repetitious or which is not of a sort upon which persons are accustomed to rely shall be excluded. The director within a reasonable time after the hearing shall, upon the basis of the record made at the hearing, issue findings of fact, conclusions, and an order.

A decision of the director ~~revoking a permit~~ under this section may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 16. Original sections 2-3901, 2-3902, 2-3906, 2-3907, 2-3908, 2-3910, 2-3914, 2-3915, 2-3917, 2-3917.01, 2-3924, 2-3928, 2-3929, 2-3930, and 2-3938, Reissue Revised Statutes of Nebraska, are repealed.