

Introductory Notes:

Article 111 dealing with milk and milk products and certain dairy products, and the related articles in this field, Article 113, Frozen Desserts, and Article 115, Formula Milk for Infants, constitute a revision of approximately one-fifth of the former Sanitary Code.

Article 111 is derived from S.C. §§2(31) through (50), 151 151a, 151c, 152, 153, 154, 155, 155a and Regulations, 155b, 155c and Regulations, 155d, 155e, 156 and Regulations, 157a, 158, 159, 159a, 159b and Regulations, 159c and 179.

The problem of milk control for New York City is one of tremendous magnitude. Every day New Yorkers consume about 3,200,000 quarts of fluid milk and, as noted in the Department's 1955-56 Annual Report, "The City's milk comes from 1,000,000 cows on 47,000 dairy farms scattered over New York, New Jersey, Vermont and parts of Pennsylvania. It flows through 380 country milk stations and 35 bottling-pasteurizing plants within the City."

The New York City Board of Health has long played a pioneering role in protecting the public from bad milk and in assuring a continued supply of safe and wholesome fluid milk and milk products. The prevalence of milk-borne diseases, particularly infant diarrhea, was largely responsible for the inauguration of farm inspections in 1912. The success of the milk control program for New York City is demonstrated by the changed epidemiological picture; there have been no milk-borne diseases in New York City for more than a quarter of a century. As a result of this improvement of conditions, however, the regulations contained in this article of the revised Code are more restrictive than is realistically required by current needs. New technological advances, such as the almost universal use of mechanical refrigeration in retail stores and in the home, the development of effective means of in-place cleaning of equipment, and the more recent use of bulk holding tanks on dairy farms, and its concomitant effects on marketing practices and inspection of the raw milk supply, make appropriate further revision, along the lines outlined in a preliminary draft of this article. (Second Draft of Article 101 of the revision of New York City Sanitary Code, Milk and Milk Products, dated April, 1958). It is the goal of the Board of Health to assure a continued supply of safe and wholesome milk and milk products, produced under modern standards of sanitary science, without, at the same time, imposing restrictions on the farmer, the milk processor, and the distributor of milk and milk products, which may inhibit the further technological development of dairy science. This was emphasized in an official statement of the Board of Health of February 23, 1959 which reads in part:

"The Board has agreed that they will give further study to a number of Code requirements, which in the light of current knowledge and the best modern public health practices, may no longer be necessary. Elimination of such provisions now, the Board agreed, may substantially affect economic, trade and labor practices in the milk industry. For that reason, the Board was not willing to eliminate them without further study and consideration. Therefore, after adoption of the revised Code, the Board plans to review again, in detail, within the next year, those regulations of the milk and ice cream sections that do not appear to be necessary for public health protection."

Article 111 is concerned with virtually every health aspect of milk control, from the dairy cow on the farm through wholesale distribution of the finished product. In addition, there are specific requirements on containers and methods of dispensing milk and milk products to the consumer. The materials have been arranged so as to facilitate their use by Department personnel and the general public, including the dairy industry. The article is divided into three components: (1) general and administrative control, (2) standards for the product, and (3) control of the process of milk production.

Article 111 was substantially revised by resolutions of the Board of Health adopted on January 16, 1969 to provide greater uniformity with the United States Public Health Service Grade A Pasteurized Milk Ordinance of 1965 and with Part 3 of the New York State Sanitary Code (as revised concurrently with this resolution). Such revision will also facilitate reciprocity agreements between States and between the City and State of New York to reduce duplication of inspection, remove trade barriers and permit freer flow of
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milk and milk products which meet the uniformly high standards prescribed by this Code, the State Sanitary Code and the 1965 Public Health Service Grade A Pasteurized Milk Ordinance. These resolutions, therefore, go far in implementing the intent of the Board as hereinabove expressed.

Applicable sections of Article 111 were amended by resolution adopted on January 16, 1975 to provide standards for and permit the sale of ultra-pasteurized milk and milk products in conformance with the recently promulgated Federal standards of identity and quality therefore (21 CFR Part 18, revised September 18, 1973).

§111.01 Scope.

(a) In addition to the provisions of this article, Articles 81, 131, 135, 143 and 151 of this Code apply to places in which milk or milk products are produced, handled, kept or stored, including but not limited to a dairy farm, transfer station, receiving station or milk processing plant, and Articles 71 and 73 of this Code apply to milk, milk products and food used in the production of milk products.

(b) Except as otherwise provided in §111.21, this article does not apply to the processing of (1) milk, cream, half and half, condensed milk, condensed skimmed milk, flavored milk drink or ice cream mix which has been sterilized and packed in hermetically-sealed containers of (2) sweetened condensed milk or sweetened condensed skimmed milk to be used for manufacturing purposes only, other than for manufacture of ice cream mix, frozen desserts or milk products, which is kept in containers of not less than ten gallons and which during manufacture is heated to at least 200°F for at least 15 seconds or its equivalent.

Notes:

Subsection (a) is new. The sanitary conditions of places in which milk and milk products are sold, offered for sale, served or stored are governed also by the general food establishment provisions of this article (Article 81). Thus, S.C. §156 Regs. 140, 141, 142, 143, 145(last sentence) and 149 are here omitted but are covered in the cited articles. See for comparison, on the question of State control of milk sanitation, Public Health Law §1400. The subsection was amended by resolution adopted on January 16, 1969 to additionally apply its provisions to transfer stations.

Subsection (b) was derived without substantive change from S.C. §155(2) and §156 Reg. 5(3). Some detail regarding the type and color of containers of the named products for manufacturing purposes is omitted. The subsection was amended by resolution adopted on October 18, 1966 by adding milk, cream and half and half to the list of products to which Article 111 is not applicable. The subsection was further amended by resolution adopted on January 16, 1969 to amend the list of products to which Article 111 is not applicable by changing “flavored drink” to “flavored milk drink” in such list.

In *People ex rel Cox v. Justices of the Court of Special Sessions*, 7 Hun. 214 (Sup. Ct. General Term 1876), a conviction under the Sanitary Code for selling adulterated milk was upheld against constitutional objections. The court held that the Legislature had validly delegated to the Board of Health the power to enact such ordinances. Then in *Polinsky v. People*, 11 Hun. 390 (Sup. Ct. General Term 1877) aff'd., 73 N.Y. 65 (1878) the ordinances were upheld notwithstanding the existence of a State statute covering the same offenses but prescribing a lesser penalty.

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§111.03 Definitions.

When used in this title:

- (a) Dairy farm means any place or premises where one or more cows or goats are kept and from which a part or all of the milk or milk products is provided, offered for sale or sold to a transfer station, receiving station or milk processing plant.
- (b) Milk means the lacteal secretion of a cow or goat. Milk is not considered fit for human consumption unless (1) it is whole, fresh and clean, (2) is obtained by the complete milking of healthy cows which have been properly fed and kept as required by this Code or other applicable law or regulation, (3) is practically colostrum free and has not been obtained 15 days before and five days after calving, and (4) meets all other requirements of this Code.
- (c) Prepasteurized milk means milk to be pasteurized or sterilized before sale to consumers.
- (d) Milk product means cream, sour cream, cultured milk, cultured milk products, sterilized milk, sterilized milk products, enzyme milk, flavored milk drink, half and half, low sodium milk, modified milk, skimmed milk, modified skimmed milk, low fat milk or modified low fat milk. The term includes such products (1) whether sold or distributed as Approved, Certified or Certified Raw pursuant to this article or (2) whether manufactured as condensed, evaporated or concentrated or as sweetened condensed, sweetened evaporated or sweetened concentrated, but does not include any product to which this article does not apply as specified in §11.01 (b).
- (e) Receiving station means any place, premises or establishment, other than a bulk processing plant, to which prepasteurized milk is brought from one or more dairy farms for the purpose of collecting the same for transportation to a transfer station, milk processing plant or frozen desserts plant.
- (f) Transfer station means any place, premises or establishment, other than a receiving station, where milk or a milk product is transferred directly from one transport tank to another.

(g) Milk processing plant or processing plant means any place, premises or establishment, other than a frozen desserts plant, in which milk or a milk product is pasteurized, sterilized or otherwise processed.

(h) Pasteurization means the process of heating every particle of milk or a milk product continuously for the time and at the temperature specified in §111.25 and cooling as required by such section; and pasteurized means, when applied to milk or a milk product, that the same has been subjected to this process.

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(i) Ultra-pasteurization means the process of heating every particle of milk or milk product continuously for the time and at the temperature specified in §111.25 and cooling as required by this section; and ultrapasteurization means, when applied to milk or a milk product, that the same has been subjected to this process.

(j) Sterilization means the process of heating milk or a milk product sufficiently to destroy the microorganisms present and packaging in a hermetically sealed container; and sterilized means, when applied to milk or a milk product, that the same has been subjected to this process.

(k) Hermetically-sealed means sealed air-tight by a process of fusion, wedging or crimping, or by any other method approved by the Department.

(l) Sanitization means the process of applying any effective method or substance acceptable to the Department to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable, provided such treatment does not adversely affect the milk or milk product, the health of the consumer, or the equipment, utensil or container to which it is applied.

(m) Misbranded milk and milk products means milk and milk products (1) the labeling of which is false or misleading in any particular; or (2) which do not conform to their definitions as contained in this Code; or (3) which are not labeled in accordance with §111.61 of this article; or (4) which do not comply with §73.05 of this Code.

(n) Milk producer means any person who operates a dairy farm and supplies, offers for sale or sells milk or a milk product to a transfer station, receiving station or milk processing plant.

(o) Milk distributor means any person holding a permit to sell milk or a milk product to consumers, storekeepers or other distributors.

(p) Official laboratory means a laboratory operated by a governmental agency which performs biological, chemical or physical examinations of milk or milk products.

(p) Officially designated laboratory means a commercial laboratory, or milk industry laboratory authorized by the supervising state agency to perform examinations on samples of milk or milk products submitted by or for such agency.

(q) Person means any individual, partnership, corporation, company, firm, trustee or association.

(r) Qualified inspector means a person who holds a certificate issued by the State Commission or his duly designated representative qualifying such person to perform inspections of dairy farms for operators of transfer stations, receiving stations or milk processing plants.

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Notes:

This section was revised and renumbered by resolution adopted January 16, 1969 to provide greater uniformity with related definitions of the State Sanitary Code and the 1965 U.S. Public Health Service Grade A Pasteurized Milk Ordinance.

Subsection (a), dairy farm, was amended by the resolution adopted January 16, 1969.

Subsection (b), milk is derived without substantive change from S.C. §2(31) and S.C. §156(2).

Subsection (c), prepasteurized milk, is new and has been substituted for the former term, raw milk, in this Article.

Subsection (d), milk products, is derived from S.C. §2(44). Homogenized milk is milk, not a milk product; the same is true of Vitamin D milk. Both terms are omitted. The term "Vitamin D milk products" is omitted. Formula milk is here omitted but is covered by Article 115. Definitions of dried milk (S.C. §2(36)) and dried skimmed milk (S.C. §2(37)) are omitted. Dried milk products are not regulated by this article but are subject to the general food provisions of this title. S.C. §2(34) and (35), definitions of condensed milk and condensed skimmed milk are covered by the instant definition and are omitted as separate definitions. Cultured milk, sterilized milk products, low fat milk and modified low fat milk were added and flavored drink was amended to flavored milk drink by the resolution adopted January 16, 1969.

Subsection (e), receiving station, was amended by the resolution adopted January 16, 1969.

Subsection (f), transfer station, is new.

Subsection (g), milk processing plant or processing plant, was derived from former subsection (c) and amended by the resolution adopted January 16, 1969.

Subsection (h), pasteurization, is new.

Subsection (i), sterilization, is new.

A new subsection (i) was added and former subsections (i) through (r) were relettered to be subsections (j) through (s) by resolution adopted on January 16, 1975 to provide standards for and permit the sale of ultra-pasteurized milk or milk products in conformance with the recently promulgated Federal standards of identity and quality therefor (21 CFR Part 18, revised September 28, 1973).

Subsection (j), hermetically-sealed, was added as subsection (f) by resolution adopted on October 18, 1966 and renumbered by resolution adopted January 16, 1969.

Subsection (k), sanitization, is new.

Subsection (l), misbranded milk, is new.

Subsection (m), milk producer, is new.

Subsection (n), milk distributor, is new.

Subsection (o), official laboratory, is new.

Subsection (p), officially designated laboratory, is new.

Subsection (q), person, is new.

Subsection (r), qualified inspector, is new.

§111.05 Transfer stations, receiving stations and milk processing plants; Class A permits.

(a) No person shall operate a transfer station, receiving station or milk processing plant without a permit issued by the Commissioner, and no person shall ship milk or a milk product into the City unless the transfer station, receiving station or milk processing plant

from which the milk or milk product was obtained operates pursuant to such a permit issued by the Commissioner. Permits issued pursuant to this section
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shall be known as Class A permits. A Class A permit shall not entitle the holder thereof to sell, transport or distribute milk or milk products, other than prepasteurized milk or prepasteurized milk products, in the City of New York, unless he shall hold in addition, a Class B permit issued under §111.07.

(b) No Class A permit shall be issued until the Department is satisfied, after inspection, that the transfer station, receiving station or milk processing plant will be operated in accordance with the requirements of this code or unless the New York State Department of Health has certified that such stations or plants are and will continue to be operated in accordance with the requirements equivalent to those prescribed in this code and that the milk or milk products are obtained from dairy farms approved as a source of supply pursuant to §111.13.

(c) Upon receipt of laboratory or inspection report or other findings that milk or milk products shipped into the City fail to meet the standards of this code, or where milk or milk products are shipped into the City during any emergency situation which may affect the sanitary quality of such milk or milk products, the Commissioner may authorize such inspections of the transfer station, receiving station or milk processing plant involved as, in his opinion, are necessary. The permittee shall bear the costs of such inspections as specified in §5.07 of this code.

Notes:

This section is derived from S.C. §155(1) through (3)(part) and S.C. §156 Regs. 1, 2(c)(part) and 166(part). It sets forth Class A permit requirements for receiving stations and milk processing plants.

Agriculture and Market Laws Article 21 requires all “milk dealers” to obtain a State license. The quoted term is defined in Agriculture and Markets Law §253. On other required State licenses for persons in charge of receiving stations, milk plants and testing operations, see Agriculture and Markets Law §§57 and 57-a. The Public Health Law §1420 requires a permit to import milk and cream into New York State.

In *People v. Borden's Condensed Milk Co.*, 165 App. Div. 711, 151 N.Y.S. 547 (2d Dept. 1915), *aff'd* 216 N.Y. 658, 110 N.E. 1046 (1915), it was held that a permit issued by the Department of Health to operate a pasteurizing plant did not make lawful the public nuisances created by noisy processes.

Penalties for failure to obtain a license to operate a milk gathering station as required by the Agriculture and Markets Law were imposed in: *People v. Perretta*, 253 N.Y. 305, 171 N.E. 72, 84 A.L.R. 636 (1930); *People v. Beakes Dairy Co.*, 222 N.Y. 416, 119 N.E. 115, 3 A.L.R. 1260 (1918); *People v. Shoemaker*, 228 App. Div. 314, 239 N.Y.S. 71 (4th Dept. 1930), *aff'd*, without opinion 254 N.Y. 567, 173 N.E. 869 (1930); also see *Baldwin v. Burdick*, 243 App. Div. 250, 276 N.Y.S. 675 (3rd Dept. 1935).

For cases dealing with the power of the Commissioner of Agriculture to issue, deny the issuance of, or revoke a license to operate a receiving station see: *Application of Dairymen's League Co-Operative Assn. Inc.*, 282 App. Div. 69, 121 N.Y.S. 2d 857 (3d Dept. 1953), appeal dismissed, 306 N.Y. 595, 115 N.E. 2d 825 (1953); *Friendship Dairies, Inc. v. DuMond*, 284 App. Div. 147, 131 N.Y.S. 2d 51 (3rd Dept. 1954).

Subsection (a) was amended by resolution adopted on October 19, 1967, which added the last sentence.

Subsection (a) was further oriented by resolution adopted January 16, 1969 to additionally apply its provisions to transfer stations and to change the term raw milk to pasteurized milk.

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Subsection (b) was amended by resolution adopted January 16, 1969 to authorize the Commissioner to accept certification from the State Health Department that an applicant for a Class A permit complies with equivalent requirements in lieu of Department inspection for compliance with this code. This will enable the Department to phase out its country milk inspection program. Such amendment additionally applied the provisions of this subsection to transfer stations. It was further amended by resolution adopted on October 22, 1970, which deleted the phrase "Except as provided in subsection (c) of this section."

Subsection (c) was amended by resolution adopted on October 22, 1970, which eliminated the provisions relating to acceptance of certification by local health authorities of milk processing plants located outside the City shipping milk or milk products into the City for manufacturing purposes. The resolution also added the present provisions relating to inspections of transfer stations, receiving stations and milk processing plants located outside the City.

§111.07 Distribution of milk and milk products; Class B permit.

(a) No person shall possess, offer for sale, sell, give away, transport, whether for himself or others, deliver or distribute milk or a milk product without a Class V permit issued by the Commissioner pursuant to subsection (b) of this section. No such permit is required, however, for the sale or distribution of milk or a milk product directly to the consumer at a retail establishment.

(b) The Commissioner may issue a Class B permit to a person meeting the following requirements and under the following conditions and limitations:

(1) The Department is satisfied that the operations for which the permit is to be issued will be carried out in the manner required by this Code;

(2) The permittee will maintain or operate a depot which meets the requirements of §111.09, or use the facilities of a milk processing plant or depot under a Class A or Class B permit, respectively, issued pursuant to this article as evidenced by a written authorization, which shall accompany his application, to use such facilities;

(3) He shall transfer milk or milk products only at the milk processing plant or depot concerned; and,

(4) He shall keep separate daily records of the type, quantity and source of all products purchased, stored or returned to the milk processing plant or depot concerned.

(c) A Class A or Class B permittee shall immediately notify the Department when a Class B permittee no longer uses facilities of the milk processing plant or depot operated by such Class A or B permittee. A Class A or Class B permittee who has authorized a Class B permittee to use his facilities and the person so authorized shall be jointly and severally responsible for all violations of this Code occurring at such facilities.

Notes:

This section is derived without substantive change from S.C. §155 (1) through (3)(part) and S.C. §156 Reg. 3(part). Some unnecessary detail is eliminated. This section and the preceding and following sections continue the Class A, B and C permit structure and depot requirement of the former code.

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The right of the Board of Health to require a permit for the sale of milk was upheld in *People ex rel Lieberman v. Vandecarr*, 199 U.S. 552, 26 Sup. Ct. 144, 50 L. Ed. 305 (1905), affirming 175 N.Y. 440, 67 N.E. 913 (1903). On the right of the Commissioner or Board to revoke a permit issued under this section see: *Stracquadanio v. Dept. of Health*, 285 N.Y. 93, 32 N.E. 2d 806 (1941) (also holding constitutional the limitation on the number of Class C permittees); *People, ex rel Lodes v Dept. of Health*, 189 N.Y. 187, 82 N.E. 187 (1907); *Metropolitan Milk and Cream Co. v. City of New York, et al.*, 113 App. Div. 377, 98 N.Y.S. 894 (1st Dept. 1906), aff'd without opinion 186 N.Y. 533, 78 N.E. 1107 (1906); *Silverman v. Dept. of Health*, 252 App. Div. 678, 300 N.Y.S. 979 (1st Dept. 1937); *Henry Morris Inc. v. Dept. of Health*, 234 App. Div. 99, 254 N.Y.S. 99 (1st Dept. 1931), appeal dismissed 260 N.Y. 660, 184 N.E. 135 (1931); *People ex rel Agins and Klugerman, Inc. v. Board of Health Of New York City*, 197 App. Div. 562, 189 N.Y.S. 507 (1st Dept. 1921); *In re Morris*, 128 Misc. 280, 219 N.Y.S. 143 (Sup. Ct. N.Y. Co. 1926), aff'd without opinion 219 App. Div. 810, 220 N.Y.S. 890 (1st Dept. 1927).

For cases dealing with the power of the Commissioner of Agriculture and Markets to revoke a license to sell milk issued under the Agriculture and Markets law or to deny an application for such license see: *Elite Dairy Products Inc. v. Ten Eyck*, 271 N.Y. 488, 3 N.E. 2d 606 (1936); *Application of Eckelman*, 283 App. Div. 276, 127 N.Y.S. 2d 287 (3d Dept. 1954); *Application of Williams*, 282 App. Div. 76, 121 N.Y.S. 2d 830 (3d Dept. 1953); *Application of Kraft Cheese Co., Inc.*, 263 App. Div. 761, 30 N.Y.S. 2d 920 (3d Dept. 1941); *Application of Linden Farms Milk and Cream Co. Inc.*, 257 App. Div. 737, 15 N.Y.S. 2d 658 (3d Dept. 1939); *People ex rel Levy Dairy Co. v. Wilson*, 179 App. Div. 416, 166 N.Y.S. 211 (3d Dept. 1917); *Dellwood Dairy Co., Inc. v. Brown*, 106 N.Y.S. 2d 749 (Sup. Ct. Nassau Co. 1951).

For cases dealing with license requirements governing milk dealers imposed by other cities and towns in the state of New York see: *Langs Creamery, Inc. v. City of Niagara Falls*, 251 N.Y. 343, 167 N.E. 464 (1929); *People ex rel Larrabee v. Mulholland*, 82 N.Y. 324, 37 A.R. 568 (1880); *People ex rel Schulz v. Hamilton*, 188 App. Div. 783, 177 N.Y.S. 222 (4th Dept. 1919); *Village of Herkimer v. Potter*, 124 Misc. 57, 207 N.Y.S. 35 (Sup. Ct. Herkimer Co. 1924); *People ex rel Shelter v. Dwen et al.*, 66 Misc. 24, 116 N.Y.S. 502 (Sup. Ct. Monroe Co. 1909); *People ex rel Staub v. Gilman*, 103 N.Y.S. 954 (Sup. Ct. Monroe Co. 1907).

Subsection (a) was amended by resolution adopted on October 19, 1967 which added the word "possess" and the phrase "transport deliver." The resolution also eliminated the reference to Class A and Class C permits.

Subsection (b) was amended by resolution adopted on February 26, 1962 to make it optional for a Class B permittee to use his own depot or the facilities of a Class A permittee or another Class B permittee. The resolution also added paragraphs 3 and 4. Milk permit holders are required to comply with federal, state and other city laws. An

executive order of the Commissioner makes it mandatory for an applicant for a milk permit to submit with the application proof that he has obtained a license from the State Department of Agriculture and Markets.

Subsection (c) was repealed by resolution adopted on October 19, 1967.

Subsection (d) was amended by said resolution to require a Class A or Class B permittee to notify the Department when a Class B permittee no longer uses the facilities of such Class A or Class B permittee. It also added the provision that joint occupants of a milk processing plant or depot shall be jointly and severally responsible for violations occurring at such facilities.

Subsection (d) was relettered subsection (c) and as so relettered was amended by resolution adopted on October 19, 1967 which eliminated reference to Class C permits.

§111.09 Distribution of milk and milk products; depots.

A depot, whether or not part of a milk processing plant, shall have a properly constructed refrigerating room with a floor area and height sufficient to store products in a sanitary manner satisfactory to the Department. A refrigerating room

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constructed after August 1, 1939, shall be of such larger floor area as will permit all milk or milk products stored in the depot to be placed in the room as to allow for at least a two foot passageway between each four rows of stacked cases or cans but in no event shall the room have less than 100 square feet of floor space. If milk or milk products are handled in bulk, the depot shall have a washroom and, if splitting of milk, or splitting, standardization or bottling of milk products, or dumping of such products from bottles is performed, it shall have a milk handling room. A depot shall meet all additional applicable requirements of this Code. Class A and Class B permittees shall store all milk and milk products, except when transported for sale or distribution, at such depot under proper refrigeration and at no other place.

Notes:

This section is derived without substantive change from S.C. §156 Reg. 3(2), (3) and (4)(a) and (b). Some of the detail has been eliminated. See also §111.07 concerning Class B and C permits.

This section was amended by resolution adopted on February 26, 1962 by adding the requirement that all milk and milk products, except when transported, shall be stored only at depots under proper refrigeration. The resolution also eliminated the restriction against joint occupancy.

This section was further amended by resolution adopted on October 19, 1967 which eliminated the reference to Class C permittees.

§111.11 Distribution of milk and milk products; vehicles; vehicle identification.

(a) 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, freezing, and contamination.

(b) No vehicle, other than a tank truck, shall be used in the transportation or delivery of milk or a milk product unless an identifying plate has been issued by the Department. The plate shall be securely attached to the right side of the vehicle and shall be visible at all times. Plates shall be issued only for vehicles operated by permittees under this article.

The issuance of identifying plates pursuant to this section shall be subject to applicable provisions of Article 5 of this Code relating to permits.

(c) No milk producer or milk distributor shall transfer, dip or ladle 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 processing plant, receiving station, transfer station or milk-house especially used for that purpose.

Notes:

Subsection (a) is new.

Subsection (b) is derived without substantive change from S.C. §155(4) and §156 Reg. 7(2). Details relating to expiration and revocation are here omitted but are covered by Article 5.

Subsection (c) is new.

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§111.13 General requirements; approval and supervision of dairy farms.

(a) No Class A permittee shall receive prepasteurized milk directly from a dairy farm unless the Department has approved the dairy farm as a source of supply. No such approval shall be given unless the Department is satisfied that such dairy farm meets the standards of §161.25, if located within the City, or §§111.63 through 111.73, if located outside the City or unless the New York State Department of Health has certified that such dairy farm is and will continue to be operated in accordance with requirements equivalent to those prescribed in this Code.

(b) A Class A permittee shall reinspect a dairy farm which has been approved as a source of supply by the Department and which ships prepasteurized milk directly to the plant or station concerned. Reinspections shall be made by a qualified inspector designated or employed by such plant or station at least once every six months. The qualified inspector shall file with the Class A permittee concerned an inspection report containing such information on the operation and sanitary condition of the dairy farm as the Department may require.

(c) When a Class A permittee receives an inspection report from one of its qualified inspectors, which reveals that the milk from a dairy farm does not meet the standards of this Code, or that the dairy farm is operating in violation of the Code, the permittee shall immediately cease to accept milk from such dairy farm until further inspection by a qualified inspector designated by the permittee and receipt of an inspection report reveals that the milk meets the standards of this Code or that the dairy farm is again operating in accordance with the Code. Inspection reports, a record of every dairy farm from which milk is obtained and a record of rejection of milk shall be maintained by the milk processing plant, receiving station or transfer station concerned for at least two years.

(d) When, in the opinion of the Department, a dairy farm fails to meet applicable requirements of this Code, the Department may withdraw its approval of the dairy farm as a source of supply. No Class A permittee shall thereafter receive milk from such dairy farm until the Department again approves it as a source of supply.

Notes:

This section is derived from S.C. §156 Regs. 2, 5(1) and 8. Dairy farms are to be reinspected at least twice a year. The former code required industry inspection of dairy farms on an annual basis only. The usual “deck inspection” of milk from each dairy farm

is not practicable under the newer bulk holding tank and pick-up arrangements, so that the extra reinspections are necessary to insure a good supply of milk. If, as a result of a reinspection, it is ascertained that the dairy farm is not meeting the standards of this Code, acceptance of milk therefrom must cease until such time as further reinspection shows effective compliance with Code standards.

The right of a Department inspector to order a receiving station or processing plant not to accept milk from an unapproved farm was upheld in *Bellows v. Raynor*, 207 N.Y. 389, N.E. 181 (1913).

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This section was amended by resolution adopted on January 16, 1969 to delete former subdivision (d) thereof and to conform its provisions to other amendments of this article adopted on the same date and designed to provide greater uniformity with the State Department of Health requirements and those of the 1965 U.S. Public Health Grade A Pasteurized Milk Ordinance and to authorize the Department to approve a dairy farm on the basis of certification by the State Health Department that such farm complies with requirements equivalent to those prescribed in this Code.

§11-115 General requirements; exclusion of unfit milk and milk products or milk or milk products obtained from unapproved sources.

(a) No person shall possess, offer for sale, sell, give away or distribute milk or a milk product if it is obtained from a transfer station, receiving station or milk processing plant or other source for which no permit has been issued pursuant to §§111.05 or 111.07 or if it is excluded from sale or distribution pursuant to this article.

(b) The Department may order that milk or a milk product be excluded from sale or distribution in the City if:

(1) Investigation, bacteriological or other sampling by the Department or by a local public health department or other government agency, reveals that milk or a milk product, whether raw or pasteurized, or a food ingredient used in the production of a milk product fails to meet the standards imposed by this title or that the sale or distribution of such milk or milk product may otherwise adversely affect the public health; or,

(2) Inspection or investigation by the Department or by a local public health department or other governmental agency reveals that the requirements of this title relating to physical facilities and layout, equipment or sanitary condition of a dairy farm, transfer station, receiving station, milk processing plant or vehicle or carrier used to transport milk or a milk product are not being complied with.

Notes:

Subsection (a) is derived in part from S.C. §151 and §156 Reg. 5(2). It is a broad prohibition against the sale or distribution of unfit milk or milk products or the sale or distribution of milk or milk products obtained from unapproved sources. On State prohibitions of delivery of certain milk and milk products to milk plants and manufacturing establishments, see Agriculture and Markets Law §54.

Subsection (b) is derived from S.C. §156 Regs. 4, 5(4) and 6. The Department is given broad authority to order that milk or milk products be excluded when the standards of this article are not being met. In addition to the authority here granted, the Department, by virtue of Title 1, has broad power to seize and condemn, suspend or revoke a permit and

to inspect. S.C. §153 relating to seizure and condemnation of adulterated milk or milk products is here omitted; it is covered by section 3.03.

This section is intended as a further means of protecting the public from unfit milk or milk products and is in addition to the provisions of Articles 71 and 73. It thus replaces part of S.C. §152 and §154 without creating a substantive change.

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For early cases upholding the Departmental inspectors' methods of testing milk for adulteration, see: *People v. Butler*, 140 App. Div. 705, 125 N.Y.S. 556 (4th Dept. 1910); *People v. Bailey*, 136 App. Div. 130, 120 N.Y.S. 618 (3d Dept. 1909). In *People v. Kehoe*, 246 N.Y. 592, 159 N.E. 664 (1927), the defendants were convicted under the Penal Law of conspiring to bring into the City of New York cream from unapproved sources and the provisions of S.C. §156 Reg. 5 were held constitutional.

This section was amended by resolution adopted on January 16, 1969 to additionally apply its provisions to transfer stations and to milk or milk products found in the possession of a person.

§111.17 Standards generally; milk and milk products to meet requirements of Code.

(a) No person shall possess, offer for sale, give away or distribute milk if any substance has been added thereto except Vitamin D when added pursuant to §111.31.

(b) No person shall possess, offer for sale, sell, give away or distribute a milk product unless it meets applicable standards imposed for such milk product by this article.

(c) No ingredient shall be added to a milk product unless it is expressly authorized by this article or is acceptable to the Department.

Notes:

This section is derived from S.C. §155(1) (part). It is designed primarily to differentiate between milk and milk products. Milk is the lacteal secretion of a cow or goat. Nothing may be added to it except Vitamin D. It must be pasteurized except when sold as raw certified milk pursuant to §111.57. It may be homogenized. Note that §111.19 prohibits the sale of various types of milk, e.g., Grade A or Grade B milk. S.C. §152 contained certain provisions governing adulteration of milk; these provisions are incorporated in specific requirements of this article as well as provisions of Articles 71 and 73.

Subsection (b) relates to milk products. The term is defined in §111.03 and there are specific standards or definitions in this Code for each authorized milk product.

S.C. §156 Reg. 57 which contained cross-references to certain regulations of the former code is omitted as no longer necessary in view of the format of the revised Code. This section replaces and covers the substance of S.C. §179, prohibition on the manufacture of imitation milk, cream or half and half. Agriculture and Markets Law §50 prohibits imitation or adulterated milk, cream or milk and cream.

For cases dealing with adulteration of milk, either by the addition of water or by the skimming of cream, under former sections of the Sanitary Code or State law see: *People v. Abramson*, 208 N.Y. 138, 101 N.E. 849 (1913); *People v. West*, 106 N.Y. 293, 12 N.E. 610 (1887); *People v. Kibler*, 106 N.Y. 321, 12 N.E. 795 (1887); *Verona Central Cheese Co. v. Murtagh*, 50 N. Y. 314 (1872); *People v. Timmerman*, 79 App. Div. 565, 80 N.Y.S. 285 (1st Dept. 1903), *aff'd*, 179 N.Y. 550, 71 N.E. 1136 (1904); *People v. Koster*, 121 App. Div. 852, 106 N.Y.S. 793 (1st Dept. 1907).

The Court of Appeals held constitutional a State statute similar to S.C. §§151 and 152 in a case involving the offer for sale of three cans of milk containing a foreign substance, formaldehyde. Although it was neither alleged nor proved by the State that formaldehyde is unwholesome or that it renders the milk less wholesome, or that fraud was involved, the court upheld the judgment for the plaintiff holding that the Legislature has the power to prevent the sale of impure milk. *People v. Bowen*, 182 N.Y. 1, 74 N.E. 489 (1905). In *People v. Hart*, 110 Misc. 714, 181 N.Y.S. 796 (Sup. Ct. 1920), it was held that the defendant violated the Agriculture and Markets Law by selling watered milk to a cheese factory even though the water was added accidentally and its was represented as “milk with an excess of water.” not milk.

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Subsections (a) and (b) were amended by resolution adopted on January 16, 1969 to additionally apply their provisions to milk or a milk product found in the possession of a person.

Subsection (c) was added by resolution adopted on January 16, 1969 to effect the intent of the Board to maintain the identity of a milk product for the benefit of the consumer by limiting the ingredients which may be added thereto.

§111.19 Standards generally; designation of milk and milk products as Grade A, Certified or Certified Raw; other designations or grades prohibited.

No person shall possess, offer for sale, sell, give away or distribute milk or a milk product except under the designation of Grade A or, if the milk or milk product is produced in accordance with and meets the requirements of §111.57, under the designation of Certified or Certified Raw. No other designations or grades shall be used.

Notes:

This section is derived from S.C. §156(1). It has been reworded as a general requirement that all milk or milk products sold or distributed in this City be designated Approved or Certified or Certified Raw. On labeling of containers, see §111.61. Adulterated milk cannot be called by a different name or represented as something else so as to avoid prosecution. *People v. Hart*, 110 Misc. 714, 181 N.Y.S. 796 (Sup. Ct. 1920). Also see: *Defiance Milk Products Co. v. DuMond*, 309 N.Y. 537, 132 N.E. 2d 829 (1956).

This section was amended by resolution adopted on January 16, 1969 to additionally apply its provision to milk or a milk product found in the possession of a person.

Section 111.19 was amended by resolution adopted on June 27, 1985 to allow the words “Grade A” to appear on milk and milk product labels. The U.S. Public Health Service requires milk plants selling interstate or supplying interstate carriers to use this designation.

The Schedule of Section Headings of Article 111 was further amended by resolution adopted on June 27, 1985 to amend the heading for §111.19.

§111.20 Standards generally; sediment testing.

Transfer stations, receiving stations and milk processing plants shall test the milk received thereat from producers at least once each month with a sediment tester and a testing procedure, approved by the Department. The results of such tests shall be posted in a conspicuous place at such establishment and, in the case of unsatisfactory results, the

producer involved shall be notified of such results immediately. Prepasteurized milk shall not contain sediment in excess of the tolerances established by the Department.

Notes:

This section is new. It was added by resolution adopted on January 16, 1969 to require sediment testing of repasteurized milk by transfer and receiving stations and processing plants.

§111.21 Standards generally; bacteria standards; sampling.

(a) Prepasteurized milk shall not contain more than 100,000 bacteria per cubic centimeter; however, prepasteurized milk which is shipped from a receiving station to a milk processing plant may contain not more than 300,000 bacteria per cubic centimeter after shipment and until pasteurized. Prepasteurized skimmed milk shall contain not more than 300,000 bacteria per cubic centimeter until pasteurized.

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(b) Prepasteurized cream shall not contain more than 300,000 bacteria per cubic centimeter.

(c) Milk, skimmed milk, modified skimmed milk, flavored milk, flavored milk drink, low sodium milk, low fat milk, modified low fat milk, half and half and enzyme milk shall not contain more than 20,000 bacteria per cubic centimeter or more than 10 coliform organisms per cubic centimeter at any time after pasteurization and until delivered to the consumer.

(d) Cream shall not contain more than 50,000 bacteria per cubic centimeter or more than 10 coliform organisms per cubic centimeter at any time after pasteurization and until it reaches the consumer.

(e) Ultra-pasteurized milk, skimmed milk, modified skimmed milk, flavored milk, flavored milk drink, low sodium milk, low fat milk, modified low fat milk, half & half, enzyme milk, light cream, medium cream, and heavy cream shall not contain more than 1,000 bacteria per cubic centimeter, or more than (1) coliform organism per cubic centimeter at any time after ultra-pasteurization and until delivery to the consumer.

(f) Cultured milk and milk products shall not contain more than 10 coliform organisms per cubic centimeter at any time after pasteurization and before they reach the consumer.

(g) Sterilized milk and milk products shall be free of all micro-organisms when stored at room temperature (70-100°F) for a period of 60 days.

(h) Milk or a milk product which does not meet the bacterial standards of subsections (a) through (f), of this section shall not be possessed, sold or distributed. A permittee shall make bacteria counts of samples of milk or milk products for the purpose of determining whether the applicable bacteria standards have been met. Such bacteria counts shall be made in accordance with the latest edition of the publication, Standard Methods For the Examination of Dairy Products, issued by the American Public Health Association.

Notes:

This section is derived without substantive change from S.C. §156 Reg. 50 although some clarifying changes have been made in the bacteria standards to conform to current practice.

This section was amended by resolution adopted on January 16, 1969 to provide bacteria standards of greater uniformity with the requirements of the State Health Department and the 1965 Public Health Service Grade A Pasteurized Milk Ordinance.

A new subsection (e) was added and former subsections (e) through (g) were relettered to be subsections (f) through (h) by resolution adopted on January 16, 1975 to provide bacterial standards for ultra-pasteurized milk and milk products for which Federal standards of identity and quality were recently promulgated (21 CFR Part 18, revised September 28, 1973).

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§111.23 Standards generally; temperature of prepasteurized, pasteur-ized and ultra-pasteurized milk and milk products.

Except as otherwise provided in §111.71, prepasteurized milk and milk products shall be maintained at 50 degrees Fahrenheit or less until processed. All pasteurized and ultra-pasteurized milk and milk products, except those to be cultured, shall be cooled immediately after pasteurization in approved equipment and shall be kept at a temperature of 45 degrees Fahrenheit or less. Every room in which milk or milk products are stored shall be equipped with an accurate thermometer. On delivery vehicles the temperature of milk and milk products shall not exceed 50 degrees Fahrenheit.

Notes:

This section is derived without substantive change from S.C. §156 Reg. 216(part) and replaces S.C. §156 Reg. 127 and 70(part). Section 111.71 contains a requirement for cooling of milk at the dairy farm and provides that certain morning's and evening's milk need not be so cooled if delivered to a receiving station or milk processing plant within specified number of hours after milking. Section 111.25 contains the pasteurization requirement, and provides that the immediate cooling of the products, after holding at the required temperature, does not apply to sour cream or cultured milk products. The section replaces S.C. §156 Reg. 145 (first sentence) which required that "vessels in which milk or milk products are held for sale . . . be kept in a tub, properly iced, or in an ice box or refrigerator . . ." It also replaces S.C. §152 (9th para.).

This section was amended by resolution adopted on January 16, 1969 to provide improved refrigeration temperature standards currently practicable by virtue of available mechanical refrigeration facilities and to provide greater uniformity with such standards as required by the State Health Department and the 1965 U.S. Public Health Service Grade A Pasteurized Milk Ordinance.

This section was further amended on January 16, 1975 to additionally apply its refrigeration temperature requirements to ultrapasteurized milk and milk products for which Federal standards of identity and quality were recently promulgated (21 CFR Part 18, revised September 18, 1973).

§111.25 Standards generally; pasteurization or ultra-pasteurization of milk and milk products required.

(a) No milk or milk product shall be possessed, offered for sale, sold, given away, distributed or used in the manufacture of food unless (1) the milk or milk product has been pasteurized or ultra-pasteurized pursuant to this section or (2) it meets the requirements for certified raw milk or a certified raw milk product pursuant to §111.57. No person shall ship prepasteurized milk or a prepasteurized milk product into the City unless it is to be pasteurized at a milk processing plant operating pursuant to §111.05 or a frozen desserts plant operating under a permit issued pursuant to Article 113, or unless it is certified raw milk or a certified raw milk product to be sold or distributed as such.

(b) Except as otherwise provided in subsection (c) or (d) of this section, milk or a milk product shall be pasteurized by one of the following methods or by some other equally effective method approved by the Department:

(1) Every particle is heated to a temperature of at least 145 degrees Fahrenheit and held at such temperature for at least 30 minutes; or

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(2) Every particle is heated to a temperature of at least 161 degrees Fahrenheit and held at such temperature for at least 15 seconds.

(c) Milk products which have a higher milk fat content than milk and/or contain added sweeteners shall be pasteurized by one of the following methods or by some other equally effective method approved by the Department:

(1) Every particle is heated to a temperature of at least 150 degrees Fahrenheit and held continuously at or above such temperature for at least 30 minutes; or,

(2) Every particle is heated to a temperature of at least 166 degrees Fahrenheit and held continuously at or above such temperature for at least 15 seconds.

(d) Milk or a milk product designated and labeled as ultra-pasteurized shall be so processed that every particle thereof is heated to a temperature of at least 280 degrees Fahrenheit and held at such temperature for at least two (2) seconds either before or after packaging.

(e) Immediately after the required holding period, the milk or milk product, other than sour cream or a cultured milk product, shall be cooled to a temperature no higher than 45 degrees Fahrenheit as required pursuant to §111.23.

(f) Immediately after pasteurization, milk or a milk product shall be subjected to a phosphatase test in accordance with the latest edition of the publication, Standard Methods for the Examination of Dairy Products, issued by the American Public Health Association. Milk or a milk product which does not show a negative phosphatase shall be excluded from sale or distribution in the city.

(g) Ingredients other than lactic acid culture or flavoring shall be added to a cultured milk product prior to pasteurization.

(h) If milk or a milk product is to be homogenized, such processing shall take place prior to pasteurization and by a method acceptable to the Department.

Notes:

Subsection (a) is new in part although it is included by implication in the prior regulations. As to skimmed milk, it is derived without substantive change from S.C. §§156 Reg. 72(a) and (b)(part). It replaces S.C. §155c Reg. 3 which prohibited the sale of raw low sodium milk; raw low sodium milk is also prohibited even as a certified raw milk product (see §111.57). A requirement for pasteurization was held a valid exercise of the police power to protect public health, *People ex rel Ogden v. McGowan*, 118 Misc. 828, 195 N.Y.S. 286 (Sup. Ct. 1921), *aff'd no opinion*, 200 App. Div. 836, 191 N.Y.S. 946 (2d Dept. 1921).

Subsection (a) was amended by resolution adopted on January 16, 1969 to change the term raw milk to prepasteurized milk and to additionally apply its provisions to milk or a milk product found in the possession of a person.

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Subsection (b) is derived from S.C. §156 Reg. 54(1). The requirement is stated as a substantive provision rather than as a definition. The temperature requirement during pasteurization is raised from 143°F to 145°F when held for 30 minutes and from 160°F to 161°F when held for 15 seconds, as a means of destroying Q fever organisms. This subsection was amended by resolution adopted on January 16, 1969 to except from its provisions those milk products covered by the new subsection (c) added by resolution on the same date.

Subsection (c) is new. It was added by resolution adopted on January 16, 1969.

Subsection (d) is also derived from §156 Reg. 54(1). It was formerly subsection (c) renumbered by resolution adopted on January 16, 1969.

Subsection (e) was formerly subsection (d) and was renumbered by resolution adopted on January 16, 1969.

Subsection (f) is derived without substantive change from S.C. §155d(5). It was formerly subsection (c) and was renumbered by resolution adopted on January 16, 1969.

Subsection (g) is derived without substantive change from S.C. §155b(1) but is broadened to include all milk products which may be homogenized. It was formerly subsection (f) and was renumbered by resolution adopted on January 16, 1969.

Subsections (a) and (b) were amended, a new subsection (d) was added and former subsections (d) through (g) were relettered to be subsections (c) through (h) by resolution adopted on January 16, 1975 to provide a pasteurization standard for ultra-pasteurized milk or milk products in conformance with recently promulgated Federal standards of identity and quality therefor (21 CFR Part 18, revised September 28, 1973).

§111.27 Standards generally; definition of homogenization.

Homogenized milk is milk which has been subjected to a treatment so that after 48 hours of quiescent storage, the percent of butter fat in the upper one tenth portion of a container will not exceed by more than ten percent the percentage of butter fat in the remaining portion of the container.

Notes:

This section is derived without substantive change from S.C. §2(42).

§111.29 Standards generally; reuse of milk and milk products for manufacturing purposes.

No milk or milk product shall be dumped for reprocessing from bottles or single service containers unless it is wholesome. After dumping, such milk or milk product shall not be offered for sale, sold, given away or distributed as milk or as sweet cream but may be reprocessed for manufacturing purposes, as follows:

(1) Milk may be reprocessed for flavored milk or flavored milk drink if such product is repasteurized after manufacture in the manner established pursuant to §11.25. Containers holding milk to be used for such purchase shall bear a label containing the words "MILK DUMPED AT" followed by the name and address of the place where dumping took place, and the words, "FOR MANUFACTURE OF FLAVORED MILK OR FLAVORED MILK DRINK"; or,

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(2) Milk or a milk product may be repasteurized for reprocessing into sour cream, cultured milk products, frozen desserts, ice cream mix or for manufacturing purposes.

Containers holding such milk or milk product shall bear a label containing the word, "MILK" or the name of the milk product followed by, "DUMPED AT," the name and address of the place where dumping took place and the word, "FOR MANUFACTURING PURPOSES ONLY."

Notes:

This section is derived without substantive change from S.C. §156 Reg. 153. The reference to time of distribution in Reg. 153(3)(b) is omitted. The provisions of Reg. 153(1) relating to sanitary dumping operations are here omitted as a specific requirement; sanitary operations are required in all food establishments under Article 81 of this Code.

Subparagraph (1) of this section was amended by resolution adopted on January 16, 1969 to change the term flavored drink to flavored milk drink.

§111.31 Standards generally; addition of Vitamin D to milk and milk products.

(a) No person shall produce, possess, offer for sale, sell, give away or distribute milk or a milk product as Vitamin D milk, as a Vitamin D milk product or as possessing anti-rachitic quality or potency unless concentrate of Vitamin D has been added to the milk or milk product so that the Vitamin D content or potency is increased to at least 400 units for each quart. Vitamin D shall not, however, be added to skimmed milk. Except as to raw certified milk products, concentrate shall be added at the place of and prior to pasteurization.

(b) The Department may require that samples of Vitamin D milk or a Vitamin D milk product be tested or assayed for Vitamin D potency at the expense of the permittee at such times as the Department may require.

(c) As used in this section, unit means the International Unit of Vitamin D as set forth in the latest edition of the official United States Pharmacopoeia or supplement thereto.

Notes:

This section is derived from S.C. §155a and Regulations. The section omits the Vitamin D processing permit and the Vitamin D transportation permit requirement. S.C. §155a (1) specified three means of increasing Vitamin D content: Feeding irradiated yeast to cows; direct irradiation of milk or a milk product with ultra-violet light or carbon arc lamp rays; and addition of concentrate of Vitamin D to milk or a milk product. The first two means are no longer practiced and, therefore, have been omitted. The requirement that samples be taken and tested, contained in Reg. 5, is retained but is restated in more general terms. Regs. 1, 6 and 7 are omitted. This section also replaces S.C. §152(16th para.). The labeling requirements of S.C. §155a Regs. 4(2) and (3) are included in §111.61. Note the prohibition on addition of Vitamin D to skimmed milk (see, also, §111.55).

Subsection (a) was amended by resolution adopted on January 16, 1969 to additionally apply its provisions to milk or a milk product found in the possession of a person as Vitamin D milk or milk product.

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§111.33 Standards generally; time of delivery. No person shall possess, store, offer for sale, sell, give away or distribute milk, low sodium milk, low fat milk, skimmed milk, modified skimmed milk, cream or half and half after the expiration date indicated on the label required pursuant to §111.61. No person shall possess, store, offer for sale, sell, give away or distribute any such product the label of which bears an expiration date beyond the period specified in this section. The expiration date shall not be more than nine (9)

calendar days following the date of pasteurization. However, in the case of such milk and milk products which have been ultra-pasteurized pursuant to subsection (d) of §111.25, the expiration date shall not be more than forty-five calendar days following the date of ultra-pasteurization. This section does not apply to cans of milk or cream to be used for manufacturing purposes or to milk or milk products which are not to be sold in the City of New York.

Notes:

This section was originally derived from S.C. §156 Regs. 51 and 155(4). The new Health Code which became effective on October 1, 1959 contained a §111.33 which read the same as it did prior to the amendment hereafter referred to which was adopted on June 14, 1966. That section was repealed by resolution adopted on May 20, 1960 after §1400 of the Public Health Law was amended by the State Legislature so as to prohibit local boards of health from adopting and enforcing milk dating regulations. When that section was again amended by the State Legislature during the 1962 session by removing such prohibition this section was reenacted by resolution adopted on March 6, 1962.

The section was amended by resolution adopted on June 14, 1966 which changed the dating requirement in relation to the period beyond which milk and other milk products may not be possessed or sold. Formerly such period was 54 hours after the day of distribution in the case of milk and 72 hours after distribution in the case of cream and half and half. Under the section as amended such period is 66 hours from the day of pasteurization and the former distinction in this respect between milk, cream and half and half was eliminated. In addition, the dating requirement was made inapplicable to the products enzyme milk, flavored milk and flavored drink.

This section was further amended by resolution adopted on January 16, 1969 to additionally apply its milk dating requirements to low fat milk and modified low fat milk.

This section was further amended by resolution adopted on January 16, 1975 to add a dating requirement for ultra-pasteurized milk and milk products for which Federal standards of identity and quality were recently promulgated (21 CFR Part 18, revised September 28, 1973).

This section was further amended by resolution adopted on November 16, 1978 to extend the period from 66 hours to 96 hours from the day of pasteurization in which milk and milk products may be possessed or sold.

Section 111.33 was amended by resolution adopted on June 18, 1987 to extend the time in which milk and milk products may be sold in the City due to improved sanitation and processing standards.

This section was further amended on June 29, 1999 to extend the period that ultra-pasteurized milk and ultra-pasteurized milk products may be possessed or sold from thirty to forty-five days after the date of ultra-pasteurization.

§111.35 Milk.

(a) No person shall possess, offer for sale, sell, give away or distribute pasteurized milk if it contains (1) more than 88 and three tenths percent of water or fluids or (2) less than 11 and seven tenths percent by weight of milk solids or (3) less than three and four tenths percent by weight of butter fat.

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(b) Milk packaged for sale outside the State may contain the minimum milk fat and milk solids which meets the standards of the State into which it is to be sold, provided that no label shall be used thereon unless approved in advance by the Department.

(c) Fresh cream or fresh skimmed milk may be added to or subtracted from fresh milk which meets the standards for milk prescribed by this Code, for purposes of standardization. Such standardization shall be performed at the place of pasteurization only.

Notes:

This section is derived without substantive change from S.C. §152 (1st, 2nd and 4th paragraphs). Paragraphs 3, 8, 10 and the first and third unnumbered subsections of S.C. §152 are omitted as covered by specific prohibitions in this article or by the general pure food provisions of Articles 71 and 73. Note that Agriculture and Markets Law §46 defines the term "adulterated milk" as, inter alia, "Milk containing less than three per centum of fats." The issue of possible conflict between the State 3% butterfat standard and the City Sanitary Code's 3.3% butterfat standard has not been raised in the courts, although from the holding of the Appellate Division in *Kansas Packing Co., Inc. v. City of New York*, 284 App. Div. 398, 131 N.Y.S. 2d 351 (1st Dept. 1954) aff'd 309 N.Y. 696, 128 N.E. 2d 411 (1955) in respect of former S.C. §140(a), such a question does exist.

This section was amended by resolution adopted on October 18, 1966, which revised the standards relating to fluids, milk solids and butter fat from 88.5%, 11.5% and 3.3%, respectively to 88.3%, 11.7% and 3.4%, respectively. The resolution also added subsections (b) and (c). These amendments were enacted to conform the New York City Health Code with §46 of the Agriculture and Markets Law as amended by Chapter 876 of the Laws of 1966.

§111.37 Butter.

No person shall offer for sale, sell, give away or distribute butter if it contains less than 80 percent by weight of butter fat.

Notes:

This section is derived without substantive change from S.C. §152 (11th para.). The definition of butter in the second unnumbered subsection of S.C. §152 is omitted as unnecessary as the provisions of Articles 71 and 73 cover the question of adulteration generally.

§111.39 Cream and sour cream.

(a) No person shall possess, offer for sale, sell, give away or distribute cream or sour cream which contains less than 18 percent by weight of butter fat.

(b) No person shall possess, offer for sale, sell, give away or distribute sour cream which contains an acidity of less than two tenths of one per cent expressed as lactic acid after processing.

(c) Cream or sour cream shall be sold, respectively, either as light cream or light sour cream if it contains at least 18 percent by weight of butter fat, as medium cream or medium sour cream if it contains at least 25 percent by weight of butter at, or as heavy cream or heavy sour cream if it contains at least 36 percent by weight of butter fat.

(d) Cream is that portion of milk, rich in milk fat, which rises to the surface of milk on standing or is separated from it by centrifugal force and to which no substance has been added other than milk or skimmed milk for purposes of standardization.

(e) Sour cream is cream which has been fermented by means of a lactic acid or other harmless milk culture.

Notes:

Subsection (a) is derived without substantive change from S.C. §152 (5th para.) except that it includes sour cream.

Subsection (a) was amended by resolution adopted on January 16, 1969 to additionally apply its provisions to cream or sour cream found in the possession of a person.

Subsection (b) is derived without substantive change from S.C. §§2(46) (part) and 152(14th para.).

Subsection (b) was amended by resolution adopted on January 16, 1969 to additionally apply its provisions to cream or sour cream found in the possession of a person.

Subsection (c) is derived without substantive change from S.C. §156 Reg. 52.

Subsection (d) is derived without substantive change from S.C. §2(33). The language “clean, pure, wholesome and unadulterated” which modified “milk” is here omitted but is covered in the definition of that term in §111.03 and in the general standards for milk and for all foods set forth in this title.

Subsection (e) is derived without substantive change from S.C. §2(46). The language “pure, clean, wholesome and unadulterated” modifying “cream” is here omitted as covered by the general pure food standards of Articles 71 and 73.

§111.41 Cultured milk and milk products.

No person shall possess, offer for sale, sell, give away or distribute a cultured milk or milk product unless it is sold or distributed:

(1) As fat free cultured buttermilk if it contains not more than three tenths of one percent of butter fat. Ingredients which may be added are condensed skimmed milk, skimmed milk, skimmed milk powder, harmless lactic culture, water, sugar, fruit flavoring or certified colors; or

(2) As cultured buttermilk if it contains between two fifths of one and two and nine tenths percent of butter fat. Ingredients which may be added are condensed skimmed milk, skimmed milk, skimmed milk powder, harmless lactic culture, water, sugar, fruit flavoring, milk, cream, condensed milk, milk powder, butter oil or certified colors; or,

(3) As fat partially removed cultured milk if it contains between two fifths of one and two and nine tenths percent of butter fat. Ingredients which may be added are condensed skimmed milk, skimmed milk, skimmed milk powder, harmless lactic culture, water, sugar, fruit flavoring, milk, cream, condensed milk, milk powder, butter oil or certified colors; or,

(4) As cultured milk if it contains not less than three percent of butter fat. Ingredients which may be added are condensed milk, condensed skimmed milk, milk powder, skimmed milk, skimmed milk powder, butter oil, harmless lactic culture, water, sugar, fruit flavoring or certified colors.

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Notes:

This section is derived from S.C. §155d (1), (2), (3) and (4). The name “cultured buttermilk-fat added” is modified to read simply, “cultured buttermilk.” There has been

some modification of the permitted ingredients for fat free cultured buttermilk. The labeling requirements are included in §111.61. Section 73.05(2) contains a provision on foods sold for dietary purposes, so that the listing of calories on the label formerly in S.C. §152 (15th para.) is here omitted.

The first paragraph of this section was amended by resolution adopted on January 16, 1969 to additionally apply its provisions to cultured milk and to cultured milk or milk products found in the possession of a person.

§111.43 Enzyme milk.

No person shall possess, offer for sale, sell, give away or distribute enzyme milk unless, prior to pasteurization, harmless enzyme have been added thereto so that the curd tension of the milk is reduced to less than 20 grams. A permittee shall test each milk product for curd tension on a regular basis and keep records of such tests on file for at least six months.

Notes:

This section is derived without substantive change from S.C. §155e(1) and (3). S.C. §155e(2) and (4) are here omitted but are covered in other sections applicable to all milk products. Note that “modified” has been omitted from the name of the milk product.

This section was amended by resolution adopted January 16, 1969 to additionally apply its provisions to enzyme milk found in the possession of a person.

§111.45 Flavored milk and flavored milk drink.

(a) Flavored milk is the product obtained by the addition to milk of wholesome flavoring material and which product by its color is distinguishable from and is not an imitation or semblance of milk or cream. It shall contain not less than three per cent butter fat.

(b) Flavored milk drink is the product obtained by the addition to skimmed milk, to water and powdered milk or powdered skimmed milk, or to water and condensed milk or condensed skimmed milk, of wholesome flavoring material, which product by its color is distinguishable from and is not an imitation or semblance of milk or cream.

Notes:

This section is derived without substantive change from S.C. §2(39) and (40).

This section was amended by resolution adopted on January 16, 1969 to change the term flavored drink to flavored milk drink and to broaden the standard by permitting the use of any wholesome flavoring material.

§111.47 Half and half.

(a) No person shall possess, offer for sale, sell, give away or distribute half and half which contains less than ten percent by weight of butter fat.

(b) Half and half is a mixture of sweet cream and milk or skimmed milk and includes the product resulting from centrifugal separation of milk. It may also contain added non fat milk solids derived from concentrated skimmed milk or from skimmed milk powder or both.

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Notes:

This section is derived without substantive change from S.C. §2(47) and §152 (13th para.).

Subsection (a) was amended by resolution adopted on January 16, 1969 to additionally apply its provisions to half and half found in the possession of a person.

§111.49 Low sodium milk.

No person shall possess, offer for sale, sell, give away or distribute low sodium milk unless, immediately prior to pasteurization, the milk is treated in a manner acceptable to the Department so that its sodium content is reduced to less than 50 milligrams of sodium for each quart. The Department may require the permittee producing the low sodium milk to submit samples to a laboratory approved by the Department for the purpose of determining the sodium content thereof.

Notes:

This section is derived without substantive change from S.C. §2 (41), §152 (12 para.), §155c and Regs. 1 and 2. Specific reference to “certified” low sodium milk is omitted but is included within §111.57 governing certified milk and milk products. S.C. §155c Reg. 3, prohibiting the sale of raw low sodium milk is here omitted, but is covered by §111.57 which prohibits the sale of any raw milk product other than raw certified cream, skimmed milk or modified skimmed milk. S.C. §155c Reg. 4 is omitted; it required that certified low sodium milk be sold only on a physician's prescription.

This section was amended by resolution adopted January 16, 1969 to additionally apply its provisions to low sodium milk found in the possession of a person.

§111.51 Malted milk.

Malted milk is a product made by combining milk with the liquid separated from a mash of ground barley, malt and wheat flour, with or without the addition of sodium chloride, sodium bicarbonate and potassium bicarbonate, in such manner as to secure the full enzymic action of the malt extract and by removing water.

Notes:

This section is derived without substantive change from the definition of malted milk in S.C. §2(43). The language “clean, pure, wholesome and unadulterated” before “milk” is here omitted as covered in other parts of the article dealing with milk as well as the provisions of Articles 71 and 73.

§111.53 Modified milk.

Modified milk is milk which has been changed by the addition of water, milk sugar, or other substance intended to render the milk suitable for infant feeding.

Notes:

This section is derived without substantive change from S.C. §2(38). The words, “clean, pure, wholesome and unadulterated” modifying “milk” is here omitted but is covered in the definition of that term in §111.03 and the standards generally for milk and for foods in this title.

§111.55 Skimmed milk and modified skimmed milk.

(a) No person shall possess, offer for sale, sell, give away or distribute skimmed milk which contains more than three tenths of one per cent of butter fat.

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(b) A food, other than a milk product or frozen dessert which is manufactured with skimmed milk obtained from milk which has been pasteurized, shall be repasteurized during the manufacturing process or shall be heated in a manner which affords protection at least equivalent to that afforded by pasteurization.

(c) No skimmed milk shall have Vitamin A or Vitamin D added thereto. No modified skimmed milk shall be offered for sale, sold, given away or distributed as being fortified with Vitamin A or Vitamin D unless:

(1) The requirements of §111.31 are met; and,

(2) At least 2,000 International Units of Vitamin A as set forth in the latest edition of the official United States Pharmacopoeia or supplement thereto are added to each quart of the modified skimmed milk.

(d) Modified skimmed milk shall not be sold or distributed if the fortification with Vitamin A or Vitamin D causes a change of color of the product.

(e) Modified skimmed milk is the product made by adding milk solids not fat to skimmed milk. It shall contain not less than ten percent of milk solids not fat and not more than one half of one percent of milk fat.

Notes:

This section contains the particular requirements governing skimmed milk and modified skimmed milk. S.C. §156 Regs. 70 (part), 71, 72(c)(part) and (e), 75(d) and S.C. §158 are here omitted but are covered in other parts of this article governing milk products generally.

Subsection (a) is derived from S.C. §156 Reg. 73 and §2(32) (definitions of skimmed milk). The reference to State law is here unnecessary. That portion of S.C. §158 Reg. 72(b) which required skimmed milk to be maintained at 50°F until delivery to the consumer is omitted here, but is covered by the general temperature requirement of §111.23.

Subsection (a) was amended by resolution adopted on January 16, 1969 to additionally apply its provisions to skimmed milk found in the possession of a person.

Subsection (b) is derived without substantive change from S.C. §156 Reg. 72(d). Reg. 72(a) and (b)(part) are here omitted but are covered by §111.25.

Subsection (c) is derived from S.C. §152(17th para.), §156 Reg. 75(c) and §2(50)(part) (definition). The Vitamin D requirements are included by a reference to §111.31.

Subsection (d) is derived without substantive change from S.C. §2(50) (part).

Subsection (e) is derived without substantive change from S.C. §2(50)(part).
§111.56 Low fat milk and modified low fat milk.

(a) No person shall possess, offer for sale, sell, give away or distribute low fat milk which contains less than five tenths of one percent of weight of butter fat or more than two percent by weight of butter fat. No low fat milk shall have Vitamin A or Vitamin D added thereto.

(b) Modified low fat milk is the product made by adding milk solids not fat to low fat milk. It shall contain not less than ten percent by weight of milk solids and shall conform to the butter fat standard for low fat milk as provided in subsection (a) of this section.

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(c) No modified low fat milk shall be possessed, offered for sale, sold, given away or distributed as being fortified with Vitamin A or Vitamin D unless:

(1) The requirements of §111.31 are met; and,

(2) At least 2,000 International Units of Vitamin A, as set forth in the latest edition of the official United States Pharmacopoeia or supplement thereto, are added to each quart of modified low fat milk.

(d) Modified low fat milk shall not be possessed, sold or distributed if the fortification with Vitamin A or Vitamin D causes a change of color of the product.

Notes:

This section was added by resolution adopted on January 16, 1969 to authorize the sale of low fat milk and milk products, in current demand among many consumers who desire to limit fat intake or reduce obesity by ingesting foods of lower calorie value.

§111.57 Certified milk and Certified milk products.

(a) No person shall possess, offer for sale, sell, give away or distribute milk as certified milk or as certified raw milk, or a milk product as a certified milk product or as a certified raw milk product unless the milk or milk product is approved by a milk commission which is recognized by the Board pursuant to subsection (b) of this section. Such milk commission shall not approve the milk or milk product concerned unless it meets the standards of, and is produced, manufactured, handled, transported, sold or distributed in accordance with this Code and with additional regulations of the milk commission filed with the Department pursuant to subsections (b)(3) and (c) of this section.

(b) The Board may extend recognition to a milk commission which meets the following requirements:

(1) It is appointed by a medical society chartered by the State Medical Society;

(2) It submits to the Department a written statement signed by an official of the milk commission signifying the intention of such commission to enforce the provisions of this Code and its own regulations governing the standards, source, production or manufacture, handling, transportation, sale and distribution of milk and milk products to be offered for sale, sold, given away or distributed as certified or as certified raw by such milk commission; and,

(3) It files with the Department a copy of the regulations adopted by such commission governing standards for good production or manufacture, handling, transportation and distribution of certified milk, certified raw milk, certified milk products and certified raw milk products.

(c) A milk commission which is recognized by the Board shall file with the Department a copy of any amendment to the regulations filed pursuant to subsection (b)(3) of this section. Such amendment shall not take effect until approved by the Board.

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(d) Recognition of a milk commission shall be automatically suspended and may be withdrawn by the Board if:

(1) The milk commission fails to enforce applicable provisions of this Code or its own regulations as signified by such commission pursuant to subsection (b)(2) of this section; or,

(2) The medical society which appointed the milk commission revokes or suspends such appointment.

(e) A milk commission may by regulation or other control of the milk and milk products it supervises set standards which exceed the standards of the Code.

(f) The requirements governing labeling of containers set forth in §111.61 shall apply to certified milk, certified raw milk, certified milk products and certified raw milk products with the following modifications:

(1) Immediately preceding the word "MILK" or the name of the milk product, the word or words "CERTIFIED" or "CERTIFIED RAW" shall be appropriately included; and,
(2) The name and insignia or seal of the milk commission certifying the milk or milk products shall be included.

(g) No person shall possess, store, offer for sale, sell, give away, or distribute certified raw milk after the expiration date indicated on the label required pursuant to §111.61. No person shall possess, store, offer for sale, sell, give away or distribute any such product the label of which bears an expiration date beyond the period specified in this section. The expiration date shall not be more than 94 hours after six a.m. following packaging.

Notes:

Subsection (a) is derived from S.C. §156 Reg. 10(part). Compliance with the Code is made a condition of approval by the milk commission. That portion of subdivision (c) of Reg. 10 concerning appointment of the milk commission is included in subsection (b). The last paragraph of Reg. 10 is contained in subsection (e). Moreover, the filing and approval of regulations (part of subdivision (c)) is restated as a positive condition of recognition by the Board of a milk commission in subsection (b). Throughout this section the various types of certified milk and milk products are referred to generally, ie., the section would permit sale of any certified milk product. Agriculture and Markets Law §50a in effect requires a milk commission to follow standards of the American Association of Medical Milk Commissions.

Subsection (a) was amended by resolution adopted on January 16, 1969 to additionally apply its provisions to certified or certified raw milk and milk products found in the possession of a person.

Subsection (b) is derived without substantive change from S.C. §156 Reg. 10(part) and Reg. 11.

Subsection (c) restates the requirement of filing and approval of amendments to the regulations of the milk commission presently contained in Reg. 11 (last sentence).

Subsection (d) is new.

Subsection (e) is derived without substantive change from S.C. §156 Reg. 10 (last para.) but is stated in more affirmative language. S.C. §156 Reg. 12 is omitted.

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Subsection (f) is derived from S.C. §156 Reg. 13. The labeling requirements of §111.61 are made applicable with stated changes. The reference to section 111.61 eliminates the necessity for specific inclusion of subdivisions (a), (b), (c), (f), (g), (h) and the final paragraph of S.C. §156 Reg. 13.

Subsection (g) is derived from S.C. §156 Reg. 15. The last sentence of the regulation is here omitted but is covered in Article 3. S.C. §156 Reg. 14 is here omitted but is covered in §111.91, governing use of containers generally.

Subsection (g) was repealed and reenacted by resolution adopted on September 17, 1981 to remove the requirement for obtaining and retaining a physician's prescription before selling or distributing raw certified milk. Enacted in its place are provisions regulating the dating, storage, sale or distribution of raw certified milk. The substitution is considered to be a more effective and practical method of protecting the public. References to raw

certified cream, raw certified skimmed milk, and raw certified modified skimmed milk have been deleted since these products are not, and have never been produced.

§111.59 Cheddar, processed and soft cheese.

(a) No person shall produce, manufacture, offer for sale, sell, give away or distribute cheddar, processed or soft cheese unless:

(1) The milk or milk product from which the cheese is manufactured has been pasteurized pursuant to §111.25; or,

(2) The cheese, during the manufacturing process, is subjected to a heat treatment which, in the opinion of the Department, is equivalent to pasteurization; or,

(3) The cheese, after manufacturing, is subjected to an aging process by keeping it at a temperature of not lower than 35°F for at least 60 days.

(b) Each package of cheddar, processed or soft cheese shall bear a label, printed legibly in English, with the following information:

(1) The name and address of the manufacturer, wholesale dealer, or distributor, retail seller or packager of the cheese or, in lieu of such name and address, an identifying trademark, trade name or other identifying designation;

(2) The common name of the cheese concerned;

(3) If the cheese has been subjected to a heat treatment equivalent to pasteurization pursuant to §111.25 or if it is manufactured from milk or a milk product which has been pasteurized pursuant to §111.25, the word, "PASTEURIZED"; and,

(4) If the cheese has been aged pursuant to subsection (a)(3) of this section, a statement that the cheese has been aged for at least 60 days.

(c) When a trademark, trade name or other identifying designation is used pursuant to subsection (b)(1) of this section, the manufacturer, wholesaler or other person labeling the package of cheese shall file with the Department a statement which contains the trademark or other identifying designation used and the actual name and address of the manufacturer or wholesaler.

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Notes:

This section is derived from S.C. §151a. The definitions of cheddar cheese, processed cheese, soft cheese in that section and cheese in S.C. §2(48) have been omitted as unnecessary in that these terms have a generally accepted meaning, both to the general public as well as the trade.

Subsection (b) of this section was amended by resolution of June 15, 1959, filed with the City Clerk, June 22, 1959, as follows: In subdivision (4), the requirement that the labeling of cheese processed by aging bear a statement that it was aged at least 60 days, was substituted for the date of manufacture; subdivision (5) (as well as the former S.C. §151a), which dealt separately with blended cheese of the cheddar type, was eliminated as unnecessary.

§111.61 Labeling of containers.

(a) No milk or milk product shall be possessed, stored, offered for sale, sold, given away or distributed unless its container or bottle bears a label which meets the requirements of this section. Proof prints or drawings of each label shall be submitted to the Department prior to use and no label shall be used until approved by the Department as being in compliance with this Code.

(b) The label shall be located on the container or the outer cap of a bottle and shall be in the form of a circle, rectangle or other design. The label shall not, however, be located on the bottom of the container and shall be printed in clear and legible type which shall be in contrast to other printed or pictorial matter thereon by topography, layout or color. The label for cans used to hold milk and milk products for sale or distribution to food establishments, institutions or persons other than consumers as authorized pursuant to §111.91 may be printed on a tag which is securely attached to the can. Labels shall contain only the following information:

- (1) The words "Grade A";
- (2) The word "MILK" or the appropriate name of the milk product;
- (3) The word "PASTEURIZED" or "ULTRA-PASTEURIZED" as the case may be except in the case of certified raw milk or a certified raw milk product;
- (4) If the milk or milk product is homogenized, the word "HOMOGENIZED";
- (5) The actual name of the Class A permittee processing the milk or milk product or, in lieu of such name, the name and address of the Class A or Class B permittee distributing the milk or milk product. The additional use of any trademark, trade name or other identifying designation is not precluded.

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(6) The address of the milk processing plant where the milk or milk product is pasteurized or ultrapasteurized. If a Class A permittee operates more than one plant, a symbol, known and satisfactory to the Department, indicating the address or location where pasteurization or ultra-pasteurization takes place may be used instead of the actual address. Such symbol may appear on the outer cap or on the top or other equally prominent place on the container provided it is clearly, legibly and conspicuously debossed and inked, branded or printed. However, if the Department finds such symbol unsatisfactory, then the address of the processing plant shall be printed on the label of the container;

- (7) If Vitamin D has been added pursuant to §111.31, the words, "VITAMIN D ADDED";
- (8) If Vitamin A has been added to modified skimmed milk pursuant to §111.55, the words, "VITAMIN A ADDED";
- (9) If the milk or milk product is intended for manufacturing purposes, the words, "FOR MANUFACTURING PURPOSES ONLY-TO BE REPASTEURIZED OR ADEQUATELY HEAT TREATED";
- (10) Such additional information as is required pursuant to subsections (c) through (1) of this section;
- (11) In the case of milk, low sodium milk, skimmed milk, modified skimmed milk, low fat milk, modified low fat milk, certified raw milk, cream or half and half, the words "MAY BE SOLD UNTIL MIDNIGHT OF" shall be printed on the outer cap of glass or plastic bottles followed by expiration date which shall be placed in a space expressly reserved therefor on the label, or on the rim of the outer cap, provided the location thereof is satisfactory to the Department. In the case of containers other than glass or plastic bottles, the words, "MAY BE SOLD UNTIL MIDNIGHT OF THE DATE INDICATED ON TOP" shall be printed on the label and the expiration date shall be placed in a space expressly reserve therefor on the top of the container. The expiration date shall be as

specified pursuant to §§111.33 or 111.37 and shall be expressed by the first three letters of the month followed by the numeral or numerals constituting the appropriate calendar date. Such date shall be clearly, legibly and conspicuously debossed and inked, branded or, where the date is placed on the rim of an outer cap, stamped in indelible ink, in a manner satisfactory to the Department, except that it may be deeply embossed without inking on aluminum outer cap of glass or plastic bottles. This subdivision does not apply to milk or milk products which are not to be sold in the City of New York.

(c) The label for a container holding goats' milk or a milk product produced from goats' milk shall be appropriately marked, "GOAT'S MILK" or "MADE FROM GOAT'S MILK" or with similar wording.

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(d) The label for a container holding skimmed milk obtained from pasteurized milk shall contain the words, "FOR MANUFACTURING PURPOSES ONLY."

(e) In complying with subsection (b) (2) of this section, a term descriptive of flavored milk, such as "CHOCOLATE MILK" may be used instead of the term, "FLAVORED MILK."

(f) In complying with subsection (b) (2) of this section, a term descriptive of flavored milk drink such as "CHOCOLATE MILK DRINK" may be used instead of the term "FLAVORED MILK DRINK."

(g) The label required for a container holding low sodium milk shall contain the words, "CONTAINS LESS THAN 50 MILLIGRAMS OF SODIUM PER QUART."

(h) In the event of an emergency which destroys or makes unavailable a supply of containers or labels, the Department, in its discretion, may authorize the temporary use of other containers or labels which do not reflect, in all particulars, the information required by this section.

(i) No information shall be placed on the label required to appear on containers of milk or milk products pursuant to this section which is false or misleading in any particular. No information indicating grading of milk or milk products, other than as specified in this article, shall appear on the label or on any part of the container.

(j) If artificial color is added to a cultured milk product, the label shall contain the words, "CONTAINS ARTIFICIAL COLOR."

(k) If non-nutritive and/or artificial sweeteners are added to a milk product, the label shall contain the words "ARTIFICIALLY SWEETENED."

(l) If stabilizers, distillates, and similar ingredients are added to a milk product, the label shall contain their common or usual names.

Notes:

This section is derived from and replaces the detailed labeling requirements in S.C. §155a Reg. 4 155b (2) and §156 Regs. 154, 155 (1), (2), (3), (6), (7) and (8), 156 and 158 S.C. §156 Reg. 55, concerning labels for milk containing high butterfat, is omitted. Reg. 160, requiring tags to be saved, is omitted. See Agriculture and Markets Law §71 on registering a designating mark with the State Commissioner of Agriculture and Markets. S.C. §156 Reg.(5) and (6), relating to standardization outside of milk processing plants and to splitting of cans of milk or cream or half and half outside of such plants, are omitted. These practices are no longer employed.

Subsection (a) was amended by resolution adopted June 14, 1966 which prohibited the possession and storage of improperly labeled milk in a plant, depot or milk vehicle and added the requirement for submission of label proof prints or drawings for approval prior to their use.

The first paragraph of subsection (b) was amended by resolution adopted on September 28, 1960 to permit required labeling information to be included in rectangles and other designs, in addition to circles. This paragraph was further amended by resolution adopted June 14, 1966 which added in the second sentence the clause “and shall be printed * * * thereon”.

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The first paragraph of subsection (b) was further amended by resolution adopted on January 16, 1969 to delete the minimum dimension requirement for labels on containers and bottle caps.

Subdivision (1) of subsection (b) was amended by resolution adopted on June 14, 1966 by deleting “N.Y.C. Dept. of Health Approved” as a permissible phrase on labels. Subdivisions (5) and (6) of the subsection were also amended to clearly provide for the name of the processor or the name and address of the distributor and the address or location of the processing plant. The resolution also amended subdivision (9) by including the requirement that the label of milk or milk products intended for manufacturing purposes bear the words “TO BE REPASTEURIZED OR ADEQUATELY HEAT TREATED”.

Subdivision (1) of subsection (b) of §111.61 was amended by resolution adopted on June 27, 1985 to allow the words “Grade A” to appear on milk and milk product labels. The U.S. Public Health Service requires milk plants selling interstate or supplying interstate carriers to use this designation.

Subdivision (3) of subsection (b) was amended by resolution adopted on January 16, 1975 to include a labeling designation for ultrapasteurized milk and milk products for which Federal standards of identity and quality were recently promulgated (21 CFR Part 18, revised September 28, 1973).

Subdivision (6) of subsection (b) was further amended by resolution adopted on January 16, 1975 to additionally apply its labeling provisions to ultra-pasteurized milk and milk products for which Federal standards of identity and quality were recently promulgated (21 CFR Part 18, revised September 28, 1973).

Subdivision (10) of subsection (b) was amended by resolution adopted on January 16, 1969 to additionally apply the new subsection (k)(l) added by the same resolution.

Subdivision (11) of subsection (b) was added by resolution adopted on the 6th day of March, 1962 after the State Legislature restored the right of the City of New York to enact and enforce milk dating regulations. The provisions of subdivision (11) were contained in former subdivision (9) prior to its repeal on May 20, 1960, after the State Legislature had prohibited local boards of health from adopting and enforcing milk dating regulations. It was amended by resolution adopted on June 14, 1966 to clarify the dating requirements by substituting an expiration date based on the day of pasteurization in lieu of the former more complex method of dating based on the day of distribution. Milk and skimmed milk in smaller than one quart containers sold or distributed to restaurants and

eating places were excepted from the dating requirement since patrons are served milk in a glass and do not see the container or the bulk dispenser used. The individual containers distributed to schools were also excepted since this milk is consumed on the same day it is delivered. The resolution also excepted milk and milk products to be sold outside the City of New York from the dating requirements.

The first sentence of subdivision (11) of subsection (b) was amended by resolution adopted on January 16, 1969 to additionally apply its dating provision to the labels on low fat milk and modified low fat milk containers and bottles.

Subdivision (11) of subsection (b) was amended by resolution adopted on May 17, 1979 to delete the exception of dating of containers less than quart size.

Subdivision (11) of subsection (b) was amended by resolution adopted on September 17, 1981, to add certified raw milk, and §111.57, which regulates the sale or distribution thereof.

Former subsection (c) was repealed by resolution adopted June 14, 1966 since the practice of mixing fresh cream and cold storage cream no longer prevails.

Former subsection (d) was relettered subsection (c) by resolution adopted on June 14, 1966 and is derived without substantive change from S.C. §156(2).

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Subsection (e) was repealed by resolution adopted on January 16, 1969, since skimmed milk and modified skimmed milk have received wide acceptability and recognition and the distinctive color requirement of their container is no longer felt necessary for their identification by the consumer.

Former subsection (e) was relettered subsection (d) by resolution adopted June 14, 1966, and is derived from S.C. §156 Regs. 72 (c) (part). All that is required here is that skimmed milk obtained from pasteurized milk be labeled for manufacturing purposes. See also, in this connection, §111.55. The requirement that cans used for transportation or storage be of 20 or 40 quart capacity is omitted (S.C. §156 Reg. 75 (part)).

Former subsections (f) and (g) were relettered (e) and (f) respectively by resolution adopted on January 16, 1969 and are derived from S.C. §156 Reg. 156 with omission of some detail.

Subsection (f) was amended by resolution adopted on January 16, 1969 to conform its label provision to the change of the term flavored drink to flavored milk drink adopted by resolution on the same date.

Former subsection (h) was relettered subsection (g) by resolution adopted on January 16, 1969, and is derived without substantive change from S.C. §156 Reg. 155 (l), (f) and (g).

Former subsection (i), adopted by resolution on June 14, 1966, was relettered subsection (h) by resolution adopted on January 16, 1969.

Former subsection (j), added by resolution June 14, 1966, was relettered subsection (i) by resolution adopted on January 16, 1969. It replaces and broadens the requirements of S.C. §156 Reg. 54 (2) which prohibited labeling a container of milk or a milk product as pasteurized unless it is in fact pasteurized.

Former subsection (k) was relettered subsection (j) by resolution adopted on January 16, 1969 and is derived without substantive change from Column C (part) of S.C. §155d (4). Other labeling requirements are incorporated in the general requirements of this section.

Subsections (k) and (l) were added by resolution adopted on January 16, 1969 to provide informative labeling for the consumer on harmless ingredients which have been approved for inclusion in some milk products.

§111.63 Dairy farms; physical facilities and equipment.

(a) A milking barn, stable, or parlor shall be provided on a dairy farm in which the milking herd shall be housed during milking operations. The areas therein used for milking purposes shall (1) have floors constructed of concrete or equally impervious material; (2) have walls and ceilings which are dust-tight, smooth, painted or finished and in good repair; (3) have separate stalls or pens for cows, calves, and bulls; (4) be provided with natural and/or artificial light, well distributed for day and/or night milking; (5) be provided with sufficient air space and air circulation to prevent condensation and excessive odors; (6) not be overcrowded; and (7) have dust-tight covered boxes or bins, or separate storage facilities for ground, chopped or concentrated feed.

(b) A separate milkhouse shall be provided on a dairy farm which shall be used for no other purpose than milkhouse operations. There shall be no direct opening from the milkhouse into any barn, stable or any room used for domestic purposes, except that a direct opening between the milkhouse and the milking bar, stable or parlor is permitted when a tight-fitting, self-closing, solid door or doors, hinged to be single or double acting is provided for such opening. The milkhouse shall (1) be provided with a smooth floor constructed of concrete or equally impervious material, graded to drain, and maintained

in good repair; (2) have facilities for the disposal of liquid waste in a sanitary manner; (3) have accessible floor drains which shall be trapped if connected to a sanitary sewer system; (4) have walls and ceilings which shall be constructed of smooth material, painted or finished and in good repair; (5) be provided with adequate natural and/or artificial light; (6) be well ventilated; (7) be provided with water under pressure which shall be piped into the milkhouse; and (8) be equipped with a two-compartment wash-vat and adequate hot water heating facilities.

(c) A transportation tank, when used for the cooling or storage of milk on a dairy farm, shall be provided with a suitable shelter for the receipt of milk. Such shelter shall be adjacent to, but not a part of, the milkhouse and shall comply with the requirements for a milkhouse with respect to construction, drainage, light, ventilation and general maintenance.

(d) One or more toilets shall be provided on a dairy farm, conveniently located and constructed, operated and maintained in a sanitary manner. The toilet waste shall be inaccessible to flies and shall not pollute the soil surface or contaminate any water supply.

(e) Adequate hand-washing facilities shall be provided in the milkhouse and in or convenient to the milking barn, stable or parlor of the dairy farm and such facilities shall include running water, soap or detergent, and individual sanitary towels.

(f) An adequate quantity of water of a safe, sanitary quality shall be provided for milkhous and milking operations from a supply which is easily accessible and properly located, protected and operated.

(g) Multi-use containers, utensils, and equipment used in the handling, storage, or transportation of milk or a milk product shall be made of smooth, non-absorbent, corrosion-resistant, non-toxic materials and shall be so designed and constructed as to be easily cleaned. All such containers, utensils and equipment shall be kept in good repair. Milk pails used for hand milking and stripping shall be seamless. No multi-use woven material shall be used for straining milk.

(h) Single-service articles shall be safe for their intended use, transported, stored and handled in a sanitary manner, and shall not be reused.

(i) No milking barn, stable or parlor, milkhous or transportation tank shelter shall be constructed, reconstructed or structurally altered unless plans drawn to scale and specifications have been submitted to and approved by the Department.

Notes:

This section is new. It was enacted by resolution adopted on January 16, 1969 to provide dairy farm standards of greater uniformity with those of the State Department of Health and the 1965 U. S. Public Health Service Grade A Pasteurized Milk Ordinance.

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§111.65 Dairy farms; operations; sanitary requirements and conditions.

(a) The interior of a milking barn, stable or parlor, including its floors, walls, ceilings, windows, pipelines and equipment shall be maintained in a clean and sanitary manner, in good repair and free from any condition which may result in the contamination of the milk or the spread of disease among the animals. Swine, pigeons and fowl shall be kept out of the milking barns, stable or parlor. Cow drippings shall be removed at sufficiently frequent intervals and not less than once daily to prevent the soiling of the cows' udders and flanks. Soiled bedding shall be removed and clean bedding added as required. Manure packs shall be properly drained and shall provide a reasonably firm footing, and waste feed shall not be allowed to accumulate therein.

(b) Outdoor areas used for cows and goats and other areas surrounding the premises where dairy farm operations are conducted shall be graded and drained as to be free from standing water or other accumulations. Such areas shall be kept clean and free of conditions which might harbor or be conducive to the breeding of insects and rodents. Waste feed shall not be allowed to accumulate and swine shall be kept out of such areas.

(c) The interior of a milkhous, including its floors, walls, ceilings, windows, tables, shelves, cabinets, wash vats, non-product contact surfaces of milk containers, utensils and equipment, and other milkhous appurtenances shall be maintained in a clean and sanitary manner, in good repair and free from any condition which may result in the contamination of the milk. Only articles directly related to milkhous activities shall be permitted in the milkhous. The milkhous shall be kept free of trash, animals, fowl or other birds, and vermin.

(d) Effective measures shall be taken on a dairy farm to prevent the contamination of milk, containers, utensils and equipment by insects and rodents and by chemicals used to control such vermin.

(e) The product-contact surfaces of all multi-use containers, utensils, and equipment used in the handling, storage, or transportation of milk shall be cleaned immediately after each use and sanitized before each reuse thereof in such a manner that it is free from dirt, bacterial or milk residue and presents no hazard to the milk supply.

(f) All containers, utensils, and equipment used in the handling, storage, or transportation of milk shall be (1) stored to assure complete drainage, unless stored in sanitizing solutions; (2) protected from contamination prior to use; and (3) handled in such manner after sanitization as to prevent the contamination of any product contact surfaces.

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(g) Milking shall be done in the milk barn, stable or parlor. All brushing of milking cows shall be completed prior to milking. The flanks, udders, bellies and tails of all milking cows shall be free of visible dirt prior to milking. The udders and teats of milking cows shall be cleaned and treated with a sanitizing solution immediately prior to the time of milking, and shall be relatively dry before milking. Wet milking is prohibited. Surcingles, milk stools, and anti-kickers shall be kept clean and stored above the floor.

(h) Each pail or container of milk shall be transferred immediately from the milking barn, stable, or parlor to the milkhouse. No milk shall be strained, poured, transferred or stored unless it is properly protected from contamination.

(i) Hands of milkers, milkhandlers and milk haulers shall be washed clean and dried with an individual sanitary towel immediately following the use of the toilet, before milking, before performing any milkhouse or milkhandling functions, and immediately before resuming after the interruption of any milkhouse or milkhandling activity. Milkers, milkhandlers and milk haulers shall wear clean, washable outer garments while milking or handling milk, milk containers, utensils or equipment.

(j) Vehicles used to transport milk in cans from the dairy farm to the receiving station or milk processing plant shall be so constructed and operated as to protect their contents from sun, freezing and contamination. The interior and exterior of such vehicles shall be kept clean and no substance capable of contaminating milk shall be transported with milk.

Notes:

This section was enacted by resolution adopted January 16, 1969 to provide dairy farm standards of greater uniformity with those of the State Department of Health and the 1965 U. S. Public Health Service Grade A Milk Ordinance.

§111.67 Dairy farms; operations; control of brucellosis, tuberculosis and mastitis in cows.

(a) No milk at a dairy farm shall be shipped to a transfer station, receiving station or to a milk processing plant or shall in any way be used in or as a food for human consumption unless:

(1) The cow from which the milk is obtained shall be from a herd which is located in a Modified Accredited Tuberculosis area as determined by the United States Department of Agriculture and the New York State Department of Agriculture and Markets; or, if the herd be located in an area which fails to maintain such accredited status, from a herd which has been accredited by the said Departments as tuberculosis free;

(2) The cow from which the milk is obtained shall be from a herd under a brucellosis eradication program which meets one of the following conditions: (aa) located in a

Certified Brucellosis-Free Area as defined by the United States Department of Agriculture and enrolled in a testing program for such areas, or (bb) located in a Modified Certified Brucellosis-Free Area

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as defined by the United States Department of Agriculture and enrolled in the testing program for such areas, or (cc) meeting United States Department of Agriculture and the New York State Department of Agriculture and Markets requirements for an individually certified herd, or (dd) participating in a milk ring testing program which is conducted on a continuing basis at intervals of not less than every three months or more than every six months, with individual blood tests performed on all animals in the herd showing suspicious reactions to the milk ring test, or (ee) having individual blood agglutination tests performed annually with an allowable maximum grace period not exceeding two months;

(3) The cow from which the milk is obtained has been given a physical examination, conducted by a veterinarian acceptable to the Department, when required under subsection (b) of this section; and,

(4) The cow from which the milk is obtained has been subjected to such physical, chemical or bacteriological tests and examination by a veterinarian acceptable to the Department as deemed necessary by the Department for the detection of any suspected disease in the cow or herd. Any diseased animal disclosed by such tests and diagnosis by such veterinarian shall be disposed of as the Department directs.

(b) No milk shipped by a dairy farm to a transfer station, receiving stations or to a milk processing plant shall in any way be used in or as food for human consumption unless an unfit milk screening test acceptable to the Department, such as the Whiteside Test, is made on such milk in accordance with the following requirements:

(1) The operator of the transfer station, receiving station or milk processing plant shall make such tests at intervals of not more than one month on the milk received by him from each dairy farm. The results of such tests shall be recorded, when made, in a manner acceptable to the Department and kept on file for a period of not less than one year.

(2) Where such screening tests shows evidence of abnormal milk, the operator shall immediately notify the dairy farm concerned to withhold all abnormal milk from delivery.

(3) A retest of all the milk from herds showing abnormal milk shall be made by the operator of the transfer station, receiving station or milk processing plant within seven days. When the retest shows that there is still evidence of abnormal milk, the operator may continue to receive milk from the dairy farm from which such abnormal milk originated but shall require such dairy farm to have a physical examination of its herd made by a veterinarian acceptable to the Department. Such physical examination shall be made within seven days after the retest. If not made within such period, the milk from such dairy farm shall not thereafter be accepted until such physical examination is made. Animals found on such examination to be producing abnormal milk shall be segregated. Results of such physical examination shall be recorded in a manner acceptable to the Department and filed with the operator within twenty-four hours after the examination.

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(4) Notwithstanding that a physical examination of a herd has been made in accordance with subdivision (3) of this subsection, when more than two consecutive routine monthly screening tests of milk from a dairy farm show evidence of abnormal milk, the operator shall not accept milk from such farm unless the farm places its herd under an official New York State mastitis control program, or an equivalent program acceptable to the Department. The processor shall not accept milk from such farm longer than sixty days even if such farm's herd is under the supervision of an official New York State mastitis control program when unsatisfactory screening test results persist and an unsatisfactory test result at the end of sixty days shall have been confirmed by a direct microscopic count.

(5) Milk from dairy farms having a record of satisfactory monthly screening tests for a period of three consecutive months may be tested quarterly by the operator of the transfer station, receiving station or milk processing plant. When a quarterly test discloses evidence of abnormal milk the milk from such dairy farm shall again be tested on a monthly basis.

Notes:

Subdivision (1) of subsection (a) is derived from S.C. §156 regulation 56. The former reference to S.C. section 13 and regulations is changed to a reference to state tuberculin test requirements.

Subdivision (2) of subsection (a) is derived without substantive change from S.C. §156 regulation 56a.

Subdivision (3) of subsection (a) originally derived from S.C. §156 regulation 202 was amended by resolution adopted September 22, 1965 which deleted the requirement for annual physical examination of cows and substituted the requirement that such examination be performed when necessary or required by subsection (b).

Subsection (b) was added by resolution adopted on September 22, 1965. The test procedure prescribed by such subsection is deemed a sounder program of mastitis and unfit milk control than annual herd examinations.

People v. Teuscher, 248 N.Y. 454, 162 N.E. 484 (1928), held constitutional a quarantine order imposed upon milk from cows which were not tuberculin tested. An ordinance of Milwaukee requiring milk coming into the city to be from tuberculin tested and TB free cows was held constitutional in Adams v. City of Milwaukee, 228 U.S. 572 (1913).

This section was amended by resolution adopted on January 16, 1969 to provide requirements for the control of disease in dairy cattle of greater uniformity with the requirements of the State Department of Health and the 1965 U.S. Public Health Service Grade A Pasteurized Milk Ordinance and to additionally apply its provisions to transfer stations.

§111.68 Dairy farms, operations; exclusion of unfit milk.

No milk at a dairy farm shall be shipped to a transfer station, receiving station or to a milk processing plant or shall in any way be used in or as food for human consumption if:

- (1) The milk is unclean; or,
- (2) The milk contains blood, pus, manure, contamination from vermin or any other foreign or extraneous matter or substance; or,

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- (3) The animal from which the milk is obtained is not in a healthy condition; or,

- (4) The milk is obtained from an animal 15 days or less before or up to and including five days after pasteurization or is otherwise not colostrum free; or,
- (5) The teats or udder of the animal from which the milk is obtained is inflamed, diseased, or is in any way abnormal; or,
- (6) Upon testing the milk by milking the first streams from each test through a fine metal mesh, dark colored cloth or on a dark plate, abnormal foremilk is discovered. All such foremilk, whether or not abnormal, shall be discarded; or,
- (7) Abnormal foremilk is detected in any quarter of the udder. All of the milk from such animal shall be excluded; or,
- (8) The milk contains penicillin or other antibiotics; or,
- (9) The milk is in any other way abnormal or unfit for human consumption.

Notes:

This section requires that certain specified milk at a dairy be excluded. S.C. §152 (7th paragraph) is omitted.

Subdivision (1) is derived without substantive change from S.C. §2 (31) (part) and S.C. §156 Reg. 203 (part).

Subdivision (2) is derived without substantive change from S.C. §156 Reg. 203 (first sentence) (part).

Subdivision (3) is derived without substantive change from S.C. §156 Reg. 203 (first sentence) (part).

Subdivision (4) is derived without substantive change from S.C. §2(31) (part), S.C. §152 (6th paragraph) and S.C. §156 Reg. 203 (first sentence) (part).

Subdivision (5) is derived without substantive change from S.C. §156 Reg. 206(1).

Subdivisions (6) and (7) are derived without substantive change from S.C. §156 Reg. 206(2).

Subdivision (8) is new.

Subdivision (9) is new. It is a general clause to insure exclusion of any abnormal milk.

This section was amended by resolution adopted on January 16, 1969 to delete the word "raw" therefrom, to additionally apply its provisions to transfer stations and thereby provide greater uniformity with related requirements of the State Department of Health and the 1965 U.S. Public Health Service Grade A Pasteurized Milk Ordinance.

§111.71 Dairy farms; operations; Cooling of milk.

Milk at a dairy farm shall be cooled immediately after milking to a temperature of 50°F required pursuant to §111.23 except that (1) morning's milk may be delivered without cooling to a receiving station or milk processing plant prior to ten o'clock before noon and (2) night's milk may be delivered without cooling to a receiving station or milk processing plant within four hours after milking.

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Notes:

This section is derived from S.C. §156 Reg. 216. The requirement for temperature control is included in §111.23, so that the instant section is concerned with the exception for raw milk which need not be cooled to 60°F if delivered within specified time to a receiving station or milk processing plant.

This section was amended by resolution adopted on January 16, 1969 to delete the word "raw" and to require milk at a farm to be cooled to 50°F, in lieu of the former

temperature control of 60°F, thereby providing greater uniformity with related requirements of the State Department of Health and the 1965 U.S. Public Health Service Grade A Pasteurized Milk Ordinance.

§111.73 Dairy farms; operations, sanitary requirements and conditions—Repealed.

Notes:

This section was repealed by resolution adopted on January 16, 1969 since the substance of its provisions was combined with and incorporated in §111.65 of this article as amended by resolution adopted on the same date to provide greater uniformity with the requirements of the State Department of Health and the 1965 U.S. Public Health Service Grade A Pasteurized Milk Ordinance.

§111.75 Transportation of milk and milk products.

(a) The outside of a vehicle or carrier used to transport milk or milk products shall be appropriately and clearly marked “MILK,” “MILK AND MILK PRODUCTS” or “MILK PRODUCTS.” This subsection does not apply to the transportation of prepasteurized milk in cans from a dairy farm to a receiving station or processing plant.

(b) The tank holding prepasteurized milk or prepasteurized milk products delivered from a dairy farm, transfer station or receiving station to a milk processing plant shall have attached thereto a pink colored tag containing the following information:

(1) The words “PREPASTEURIZED MILK” or the word “PREPASTEURIZED” followed by the appropriate name of the milk product;

(2) The number of quarts or gallons in the tank;

(3) The name and address of the milk processing plant to which the tank is being delivered; and,

(4) The name and address of the person shipping the tank and the name and address of the transfer station or receiving station where the tank was filled.

(c) A person shipping prepasteurized milk or a prepasteurized milk product shall prepare in triplicate a manifest, bill of lading or bill of sale which states (1) an identifying number of the lot or shipment, (2) the number of quarts or gallons in each container, (3) the name and address of the shipper and consignee, and (4) the date. The shipper shall retain one copy, and two copies shall accompany the shipment. One copy shall be kept by the carrier, and the other by the consignee. Each copy shall be kept on file for at least six months.

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(d) After a tank has been filled with pasteurized milk or a prepasteurized milk product at a transfer station or receiving station, and prior to transportation to a milk processing plant, it shall be effectively sealed so as to prevent any access to the contents without first breaking the seal. All seals of openings of tanks attached to trucks shall be outside the dust proof housing. If a tank is to be filled at more than one station so as to receive its full capacity, the seal may be broken and immediately resealed after further filling operations.

Notes:

Subsection (a) is derived from S.C. §156 Reg. 7(1) and (3) but is limited to the requirement that the outside of the vehicle be appropriately marked. The last sentence is new. S.C. §156 Reg. 144 which prohibited transferring milk or milk products from one container to another on a public highway or ferryboat, Reg. 151 which prohibited dippers or similar utensils, unfilled single service containers and detached tags or labels from

being kept on a vehicle used to transfer milk or milk products, and Reg. 152 which prohibited water, preservatives or adulterants from being kept on such a vehicle are omitted. Article 81 contains a general sanitary standard for vehicles used to transport food.

Subsection (b) is derived from S.C. §156 Regs. 75(a) and 159(1). The subsection contains the labeling requirements for raw milk and raw milk products shipped to milk plants for pasteurization and other processing. Specific labeling requirements for milk brought into the City for manufacturing purposes, S.C. §156 Reg. 166(1) and (2) (c), are omitted; see, however, the general requirements for labeling in §111.61.

Subsection (c) is derived from S.C. §156 Reg. 76. It is made applicable to all raw milk or raw milk products; some detail has been omitted.

Subsection (d) is derived from S.C. §56 Reg. 159 (2) with elimination of some detail.

This section was amended by resolution adopted on January 16, 1969 to substitute the word “prepasteurized” for the word “raw” and to add the term “transfer station” to provide terminology of greater uniformity and related requirements of the State Health Department and the 1965 U.S. Public Health Service Grade A Pasteurized Milk Ordinance.

§111.77 Transfer stations, receiving stations and milk processing plants; physical facilities and equipment; general requirements.

A transfer station, receiving station and milk processing plant shall comply with the following requirements:

- (a) 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 and kept in good repair. Storage rooms for storing dry ingredients and/packaging material need not be provided with drains and the floors may be constructed of tightly joined wood and kept in good repair.
- (b) 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 smooth, washable, lightcolored surfaces and shall be in good repair.
- (c) Effective means shall be provided to prevent the access of insects and rodents. All openings to the outer air shall have solid doors or glazed windows which shall be closed during dusty weather.

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(d) 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.

(e) In all processing plants, a separate room shall be provided for (1) pasteurizing, processing, cooling and packaging; and for (2) cleaning of milk cans and bottles, except where the general room shall be of such size, the equipment so located and the sequence of operations so arranged as to segregate the receiving, pasteurizing and bottling from the bottle washing and can washing operations in such manner as to effectively prevent contamination of the milk.

(f) In all establishments receiving or shipping milk in bulk transport tanks, a separate tank truck room for cleaning and sanitizing such tanks shall be provided in the plant or in a location acceptable to the Department.

(g) All transfer stations, receiving stations and milk processing plants shall be provided with toilet facilities which comply with the requirements of the New York State Department of Health or of this 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. Toilet rooms, dressing rooms and their fixtures shall be kept clean and in good repair and such rooms shall be well lighted and ventilated.

(h) Water for drinking and sanitary needs of the occupants and for the operation of such establishments shall be of potable quality and shall be supplied under adequate pressure and in sufficient quantities.

(1) Water supply for milk processing plants located in the City of New York shall be from public supply system, except that a well water supply may be used as a secondary source if such well water conforms to the applicable provisions of Article 141 of this Code.

(2) For transfer stations, receiving stations and milk processing plants located outside of the City of New York the water supply shall conform to the requirements of the New York State Department of Health.

(3) Non-potable water shall be used for permitted limited purposes only, such as condensers and evaporators in refrigeration and air conditioning systems not connected with the potable water supply. All non-potable water lines shall be clearly identified and shall not be cross-connected with the potable water supply.

(i) Convenient hand-washing facilities readily accessible to the workrooms and toilet rooms shall be provided in such establishments, including hot and cold running water, soap, and individual sanitary towels or other approved hand drying devices. Handwashing facilities shall be kept in a clean condition and in good repair.

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(j) All plumbing in such establishments shall conform to the applicable requirements of this Code or the requirements of the New York State Department of Health. Sewage and other liquid wastes shall be disposed of in a sanitary manner and shall be prevented from contaminating the water supply and water-supplied fixtures.

(k) 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 insects and rodents. Pesticides shall be safely used and in accordance with the label directions. Only equipment directly related to processing operations or to handling of containers, utensils, and equipment shall be permitted in the pasteurizing, processing, cooling, packaging, and bulk milk storage rooms.

(l) 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, non-toxic, 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.

(m) All multi-use containers, utensils and equipment with which milk or milk products come into contact shall be of smooth, impervious, corrosion-resistant, non-toxic material; shall be constructed and designed for ease of cleaning; and shall be kept clean and in good repair. After cleaning, all such multi-use containers, utensils and equipment shall be stored in such manner as to assure complete drainage, and shall be protected from contamination before reuse.

(n) All single-service containers, closures, caps, cap stock, parchment paper, gaskets and other single service articles with which milk or milk products come into contact shall be non-toxic; purchased and kept in sanitary tubes, wrappings or cartons; stored in a clean, dry place until used; and handled in a sanitary manner.

(o) No transfer station, receiving station or milk processing plant shall be constructed, reconstructed or structurally altered unless plans drawn to scale and specifications have been submitted to and approved by the Department.

(p) No new equipment used in the handling, storing, processing, pasteurizing, cooling, filling or conveying of milk or milk products and in the mechanical washing of bottles and cans shall be installed unless plans drawn to scale including the layout for such equipment and specifications have been submitted to and approved by the Department. No changes shall thereafter be made in or of new equipment installed without prior approval of the Department.

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(q) All transfer station, receiving station and milk processing plant operations shall be so conducted and their equipment and facilities shall be so located as to prevent any contamination of milk or milk products, ingredients, equipment, containers and utensils. All milk or milk products or their ingredients which have been spilled, overflowed or leaked shall be discarded. Any processing or handling of products other than milk and milk products shall be performed in such manner as to preclude the contamination of the milk and milk products.

(r) Areas surrounding the premises where milk and milk products are handled, processed or stored shall be kept clean, properly graded and drained and free from conditions which may attract, harbor or be conducive to the breeding of insects and rodents, or which may otherwise constitute a nuisance.

Notes:

This section is new. It was enacted by resolution adopted on January 16, 1969 to replace the former §111.77 repealed on the same date and to provide milk plant requirements of greater uniformity with those of the State Department of Health and the 1965 U. S. Public Health Service Grade A Pasteurized Milk Ordinance.

§111.79 Milk processing plants; physical facilities and equipment; pas-teurization equipment.

A milk processing plant shall have all necessary equipment for the effective pasteurization of milk or milk products as required pursuant to §111.25. Pasteurizing equipment shall include thermometers and automatic temperature recording devices. No pasteurizing equipment shall be installed or placed in operation until the Department approves the design, construction and location of such equipment. Approval of equipment by the Department may be conditional or temporary, and the Department may

order that unsatisfactory equipment be repaired or replaced within a specified period of time.

Notes:

This section is derived without substantive change from S.C. §156 Reg. 129(a) but the method of approval by the Department is made more specific. S.C. §156 Reg. 129(b) and (c) (part) is omitted.

§111.80 Transfer stations; receiving stations and milk processing plants; operations; personnel cleanliness.

Any person employed or engaged in the processing, pasteurization, sterilization, handling, storage or transportation of milk and milk products or in the handling, storage or transportation of milk containers, utensils or equipment which come into contact with milk and milk products shall thoroughly wash his hands before commencing such work and as often as may be required to remove soil and contamination. Such person shall not resume work after visiting the toilet without thoroughly washing his hands. Such person shall wear clean, washable outer garments at all times while engaged in such work. The use of tobacco or spitting by any person while engaged in such work is prohibited.

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Notes:

This section is new. It was added by resolution adopted on January 16, 1969 to provide personnel cleanliness requirements of greater uniformity with those required by the State Department of Health and the 1965 U.S. Public Health Service Grade A Pasteurized Milk Ordinance.

§111.81 Transfer stations, receiving stations and milk processing plants; operations; emergency situations and reports of illness.

(a) When flooding, power failure, equipment breakdown or other emergency occurs which affects the operations of a milk processing plant, transfer station, or receiving station, the permittee shall immediately notify the Department.

(b) When a milk processing plant is notified of any illness of a person diagnosed by a physician which allegedly resulted from consuming milk or a milk product produced at such plant, the permittee shall immediately notify the Department. The Department may require the permittee, within 24 hours of the original report, to submit a written report giving such additional information concerning the illness as the Department may require. Reports shall not be subject to subpoena or inspection by persons other than the Commissioner or authorized personnel of the Department and shall not be used as the basis for prosecution.

Notes:

This section is new.

S.C. §156 Reg. 121 dealing with protection of surface coolers, Reg. 123 dealing with oil cup pans for use under bearings for shafting, have been omitted, and Regs. 135, 136, 137, 138 and 139, dealing with dirt testers, are omitted. Requirements governing general cleanliness, sanitary maintenance and regulation of employees are omitted from this article but are included in Article 81. Specifically, S.C. §146(b), §156 Regs. 53, 58, 122, 125, 126(part), 126(a)(part) and 150 are omitted.

The section heading and subsection (a) were amended by resolution adopted on January 16, 1969 to additionally apply their provisions to transfer stations.

§111.83 Transfer station, receiving stations, and milk processing plants; operations; inspection of pre-pasteurized milk and cans holding prepasteurized milk.

(a) When prepasteurized milk is received directly from one or more dairy farms either at a transfer station, receiving station or at a milk processing plant, a check shall be made of the can, tank or other container holding the prepasteurized milk for rust, corrosion or other similar conditions. An examination shall be made of each quantity of prepasteurized milk from each dairy farm, or if the prepasteurized milk is delivered in bulk from more than one dairy farm, of each quantity of such commingled prepasteurized milk. Examination shall consist of a check for abnormalities including odor, flavor, appearance, physical condition, bacterial flora and temperature. Examination for bacterial flora shall be made as required pursuant to §111.21. Results of examination shall be recorded on forms satisfactory to the Department and shall be kept on file for at least two years.

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(b) When examination reveals that prepasteurized milk is contaminated, abnormal, or does not meet the bacterial standards of §111.21, it shall be rejected and shall not be sold or distributed in the City. The transfer station, receiving station or milk processing plant permittee shall notify the owner or person in charge of a dairy farm whose milk is found to be or is suspected of being abnormal. If such person does not take immediate action to prevent future abnormalities of his milk supply, the permittee shall refuse to accept milk from such dairy farm until further inspection of the dairy farm is made by the Department pursuant to §111.13(c).

(c) When a can, tank, or other container is found to be rusted, corroded or otherwise unfit for use, it shall not again be used to hold milk or milk product, whether prepasteurized or pasteurized, until it has been repaired or retinned.

Notes:

This section is new. It contains the requirements for “deck inspection” of raw milk at the receiving station or milk processing plant and is designed to insure that the milk is fit for eventual consumption. Agriculture and Markets Law §48 and §49 have detailed regulations on insanitary cans and receptacles.

This section was amended by resolution adopted on January 16, 1969 to change the term raw milk to prepasteurized milk and to additionally apply the provisions of this section to transfer stations for the purpose of achieving greater uniformity with related requirements of the State Department of Health and the 1965 U. S. Public Health Service Grade A Pasteurized Milk Ordinance.

§111.85 Transfer stations, receiving stations and milk processing plants; cleansing and sanitization; use of containers; solutions.

(a) Weigh cans, storage vats, mixing vats, coolers, filters, separators, pumps, pipes or other apparatus or equipment used in handling, storing, transporting or processing of milk or milk products shall be thoroughly cleaned immediately after use pursuant to subsection (b) of this section and shall be sanitized immediately prior to reuse pursuant to subsection (c) of this section.

(b) Cleansing shall be performed as follows:

(1) After use, each item shall be rinsed with water until all visible milk or milk products are removed;

(2) After rinsing, each item shall be washed in water at a temperature of not less than 110°F. A washing compound in concentration sufficient for removal of all dirt and grease detectable by sight or touch shall be used by scrubbing with a brush or by spraying under effective pressure. Steel wool or similar materials shall not be used; and,

(3) After washing, each item shall be rinsed with warm water until all traces of the washing compound are removed and the item is clean.

(c) Sanitization shall be performed as follows:

(1) The item shall be exposed to live steam, under pressure, for at least two minutes; or,
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(2) The item shall be exposed to water at a temperature of at least 180°F for a period of at least two minutes; or,

(3) The item shall have applied to it a sanitizing agent of such strength and in such manner as will effectively sanitize such item. The type, strength and manner of application of the sanitizing agent and the preparation and reuse of solutions of sanitizing agent shall be approved by the Department.

(d) No bottle shall be used to hold milk or milk product until it is cleansed and sanitized as follows:

(1) It shall be cleansed by use of the soaker type of washer. Each bottle shall be submerged for at least five minutes in a solution of caustic alkali (sodium hydroxide of not less than three per cent concentration) or detergent and sanitizing agent acceptable as to type and strength by the Department. The solution shall be kept at a temperature of not less than 150°F during which time the bottle shall be brushed, sprayed or subjected to air water pressure spray in a manner acceptable to the Department. Each bottle shall then be rinsed with clean water and sanitized in the manner set forth in subsection (c) of this section or as otherwise acceptable to the Department; or,

(2) It shall be cleansed by hand or by some device other than soaker type of washer. Each bottle shall be soaked in or sprayed with water containing an alkali or other detergent acceptable to the Department at a temperature of at least 120°F, during which time the bottle shall be brushed, sprayed or subjected to air water pressure spray in a manner acceptable to the Department. Each bottle shall then be rinsed with clean water and sanitized in the manner set forth in subsection (c) of this section.

(e) If heat sanitization is used for the sanitization of bottles other than by steam jets projected into bottles, sanitizing apparatus shall be equipped with an automatic temperature recording device which will indicate and record the temperature at which the bottles are sanitized. Temperature records shall be kept on file for at least 60 days.

(f) Strengths of solutions and time of exposure required for chemical sanitization shall be as follows:

(1) For tanks, including those mounted on railroad and automobile trucks, where chlorine sanitization solution is applied by spraying, 250 parts of available chlorine by weight per million parts of water after application for not less than five minutes.

(2) For containers, apparatus and utensils other than tanks and bottles, where chlorine sanitization solution is pumped or allowed to flow over surfaces to be sanitized, and the contact therewith is continuous, at least 100 parts per million in solution after application for not less than two minutes; and,

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(3) For bottles, if washed by hand or in “pressure type” washers, at least 50 parts per million for not less than 15 seconds. If previously cleansed and sanitized in a “soaker type” washer, at least 10 parts per million in solution, after application for not less than ten seconds.

(4) Where iodofor solutions are used as bactericides or sanitizers instead of chlorine solutions, the concentration of iodine shall not be less than 12.5 parts per gallon, after application for not less than two minutes, except that for bottles cleansed and sanitized in a “soaker type” washer, the concentration of iodine shall not be less than one part per million, after application for not less than 10 seconds. The concentration of iodine shall be determined by titration with sodium thiosulfate.

(g) Vessels or containers used for preparation or storage of chlorine solutions shall not be constructed of wood, metal or other substances readily affected by such solution. Chlorine solutions shall be prepared by dissolving in water sufficient liquid chlorine, calcium or sodium hypochlorite or similar chlorine compound to give at all times the content of available chlorine here prescribed as indicated by the orthotolidine test or starchiodine titration. Equipment and materials for the performance of the orthotolidine test or starchiodine titration shall be constantly available and used regularly. A chlorine solution shall not be used more than once in the sanitization of containers, apparatus or utensils used in the handling, storage or transportation of milk or milk products, except where the strength of available chlorine is maintained, as outlined above, but used or spent chlorine solution may be employed for treating floors, walls or other structural parts.

(h) Glass bottles or other containers used to hold milk and milk products, the cover caps for containers, plug caps, parchment paper used on cans and stock used in the manufacture of paper containers and cover caps shall be protected from contamination at all times. Before commencement of filling operations, the first plug cap or combined closure and plug cap from a package of such caps and the first sheet of parchment paper from a package of such paper shall be discarded. Containers shall be of such sanitary design and construction so as to prevent leakage, contamination or any other condition which may adversely affect the purity of the milk or milk products. A container shall be constructed so that it will withstand ordinary handling during its lifetime. If a waxed paper container is used, coating procedures shall be accomplished in such manner that excessive wax will not become detached from the inner surface of the container.

(i) Glass bottles and other containers used to hold milk and milk products shall be provided with a cover cap or closure which shall (1) protect the product from contamination, (2) cover the pouring lip of the containers and (3) be of such type that its removal and replacement can readily be detected. The requirements of clauses (2) and (3) shall not apply to a cap or closure on containers of sour cream and cultured milk products, provided such cap or closure covers the lip of such containers to at least the widest outside diameter thereof.

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Notes:

This section is derived without substantive change from S.C.§156 Regs. 120, 124(1), 126(part), 126(a)(part), 126(b), 126(c), 126(d)(part), 146, 148 and 154a. Subsection (2) of

Reg. 124 is omitted. Reg. 147 is omitted. The portion of Reg. 148 requiring that unfit containers be marked and condemned is omitted.

Subsection (c)(3) was amended by resolution of September 18, 1959, filed with the City Clerk September 22, 1959, to permit the use of any sterilizing agent approved by the Department, rather than a chlorine solution only. The amendment obviates the need for Board action whenever a new, acceptable sanitizing agent is developed.

Subsection (h) of this section was amended and subsection (i) was added by resolution of June 15, 1959, filed with the City Clerk June 23, 1959, so as to restore the exception for sour cream and cultured milk products which originally appeared in S.C. §156 Reg. 154a.

The specific requirement in subsection (d)(1) of this section for a 2% caustic alkali solution was upheld in *Kemiko Mfg. Co. v. Dept. of Health*, N.Y.L.J. p. 1 (Sup. Ct. May 3, 1937).

This section was amended by resolution adopted on January 16, 1969 to provide requirements and terminology therein of greater uniformity with those of the State Department of Health and the 1965 U. S. Public Health Service Grade A Pasteurized Milk Ordinance.

§111.87 Milk processing plants; operations; pasteurization operations; filling of containers.

(a) A milk plant permittee shall notify the Department in writing of the normal daily period of pasteurization stating hours when pasteurization commences and the hours when pasteurization ends each day. Any change of pasteurization period shall be reported to the Department.

(b) Prior to daily commencement of pasteurization operation, a chart which bears the name and address of the milk processing plant, the date and an effective means of identifying the particular pasteurizing unit concerned shall be attached to the automatic temperature recording device for each pasteurizing unit in such a manner as will properly record temperature and time of processing. The following information shall be included on the chart:

- (1) The word "MILK" or the appropriate name of the milk product;
- (2) The quantity of milk or milk product pasteurized;
- (3) The temperature as shown by a correct indicating thermometer at some designated time during the holding period of one pasteurization operation in the case of the holding method of pasteurization pursuant to §111.25 or during the forward flow in the case of the high-temperature, short-time method pursuant to such section;
- (4) Explanation of any unusual occurrences;
- (5) Signature of the person in charge of pasteurization operation; and,
- (6) On at least one of the charts during a weekly period, a statement of the time accuracy of the recording device.

(c) Charts shall be kept on file at the plant for at least 60 days.

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(d) Except as otherwise provided in this article, no milk or milk product shall be pasteurized a second time. This requirement does not apply, however, to cold storage cream or to milk or a milk product during the manufacture of a food other than another milk product.

(e) Immediately after pasteurization, milk or a milk product shall be placed by mechanical means in sterile containers which meet the requirements of §111.85. Containers shall be closed immediately after filling, and filling operations shall be conducted so as to prevent contamination of the milk or milk product. Containers of light sour cream may be repacked at the depot of a Class B permittee if proper facilities are provided.

Notes:

This section is derived from S.C. §156 Reg. 54(3) and Reg. 129(c)(part), (d), (e), (f), (g) and (h). The exception for cultured milk products to be filled at a depot is omitted but is retained for light sour cream.

§111.89 Transfer stations, receiving stations and milk processing plants; operations; records.

(a) A Class A permittee operating a transfer station or receiving station shall keep records for at least six months showing the receipt and disposition of all quantities of prepasteurized milk or milk products at the station concerned.

(b) A Class A permittee operating a milk processing plant shall keep records for at least six months showing the receipt of quantities of prepasteurized milk, prepasteurized milk products and food ingredients used in the processing of milk products and the quantities of milk or milk products processed at the plant.

(c) A Class A permittee operating a milk processing plant and a Class B Permittee shall keep daily records showing the quantities delivered and establishments to whom delivered. Such records shall be retained for at least two months.

Notes:

This section is derived from S.C. §156 Regs. 77 (as to skimmed milk) and 161. The purpose of the requirement as here included is to facilitate a check on the source of milk, milk products and raw ingredients, to ascertain the freshness of such substances.

The section heading and subsections (a) and (b) of this section were amended by resolution adopted on January 16, 1969 to additionally apply their provisions to transfer stations and to change the term raw milk to prepasteurized milk to provide greater uniformity with the requirements of the State Department of Health and the 1965 U. S. Public Health Service Grade A Pasteurized Milk Ordinance.

Subsection (c) was amended by resolution adopted on October 19, 1967 which eliminated the references to a Class C permittee.

§111.91 Sales and distribution.

(a) Except as provided in subsection (b), (c) and (d) of this section no milk or milk product shall be possessed, offered for sale, sold, given away or distributed unless it is in an individual container intended for consumer use which is filled in the manner prescribed pursuant to §111.87 at the milk processing plant where the milk or milk product is pasteurized. Such container shall not be opened until it comes into the
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control of the consumer or, if the milk or milk product is sold or distributed for consumption on the premises of a restaurant, until the milk or milk product is ready to be served to the consumer.

(b) Milk or milk products may be possessed, offered for sale, sold, given away or distributed in cans if it is to be used (1) by a wholesale milk dealer, (2) for manufacturing

purposes at a food establishment, (3) for cooking purposes at a restaurant, or hospital or other institution giving care to persons or (4) at a hospital or other institution which is authorized to dispense loose milk pursuant to subsection (c) of this section.

(c) The Department may authorize a hospital or other institution giving care to persons to dispense milk or milk products from cans to glasses or other individual containers for consumption on the premises of such hospital or institution. No such authorization shall be given until the Department is satisfied that sanitary standards, equivalent to the standards set forth in applicable provisions of Article 81 of this Code are being met.

(d) A restaurant, hospital or other institution may dispense milk lowfat milk, modified lowfat milk, skimmed milk or modified skimmed milk from a special mechanical device, satisfactory to the Department, into glasses or other containers for consumer use on the premises of such establishment or institution. The special device shall be designed and constructed in such a manner that a container of the milk or milk product, which is filled and sealed at the milk processing plant where the milk or milk product is pasteurized, can be placed directly into the device and becomes part of the device so that the milk or milk product may be dispensed without necessity of pouring the milk or milk product into any other container. The device shall be so designed and constructed that milk or a milk product which is not homogenized will be kept mixed so as to insure that each portion of the fluid dispensed contains a proper proportion of the contents of the container. A multi-use container used as part of the special device shall be rinsed immediately after emptying and before its return to the milk processing plant. A single-service container used as part of the special device shall be discarded immediately after use and shall not be reused. The container shall be so designed that it cannot be opened or otherwise tampered with without breaking the seal affixed at the milk processing plant. The special device in addition to the requirements prescribed by this section, shall meet the requirements of §81.47.

Notes:

This section is derived from S.C. §§159-b and 159-c. It has been reworded to avoid detailed standards and to relate to other relevant portions of the revised Code, particularly the cited section of Article 81. S.C. §§157a, emergency distribution of milk, 159, consumer use of certain containers, 158, on distribution and use of skimmed milk and modified skimmed milk (see also section 111.55), and 159a, on general limitations on insanitary use of containers, are omitted. Agriculture and Markets Law §70 prohibits the use of milk cans and other containers without the consent of the owner thereof.

An order of the Department of health of Albany prohibiting the sale of loose or dipped milk was upheld in *Mannix v. Frost*, 100 Misc. 36, 164 N.Y.S. 1050 (Sup. Ct. Albany Co. 1917) *aff'd* without opinion, 181 App. Div, 961, 168 N.Y.S. 1118 (3d Dept. 1917).
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Note that sanitary control of vending machines generally is covered by §81.47. See in this connection *Peoples Dairy v. City of Lackawanna*, 1 Misc, 2d 700, 149 N.Y.S. 2d 392 (Sup. Ct. Erie Co. 1956).

Subsections (a), (b) and (d) of this section were amended by resolution adopted on January 16, 1969 to additionally apply the provisions of subsections (a) and (b) to milk or milk products found in the possession of a person and to additionally apply the provisions

of subsection (d) to lowfat milk or modified lowfat milk for the purpose of providing greater uniformity with the requirements of the State Department of Health and the 1965 U. S. Public Health Service Grade A Pasteurized Milk Ordinance.