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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 01-125

AN ORDER to repeal ATCP 60.01 (28), 60.05 (2), 60.19 (1) (b), 60.22 (1) (b) Note and (c) and 60.25 (2) (c) and (d); to renumber ATCP 60.19 (10) (c) Note and (d) and 60.27 (6) (b); to renumber and amend ATCP 60.19 (10) (c); to amend ATCP 60.01 (1), (4), (7), (9b), (10), (15) (b) 8., (19) to (22), (24) and (29) (b), 60.02 (5), 60.03 (4), 60.04 (3), 60.06 (2), (3), (5) and (9) (a) 1., 60.07 (1) and (2) (d) and (f), 60.08 (5), 60.09 (1) and (4), 60.10 (1) Note, 60.11 (title), (1) (title), (2) (title), (c) and (e) Note and (3) (title), 60.12 (1), (2) and (6), 60.13 (1) and (2), 60.14 (2) to (4), 60.15 (2) and (4), 60.19 (7), (8) (b) and (10) (a), 60.22 (2) and (2) Note, 60.24 (3), 60.25 (1) and (2) (title), (intro.) and (a) Note, 60.26, 60.27 (1), (4), (4) Note and (6) (a), 60.275 (1) (a) (intro.) and (b) to (d), (2) (a) and (b) 1. and (3), 60.28 (1), (2) and (3) Note, 60.29 (intro.) and (3), 60.30 (1) and (2) and 60.31 (1) (title) and (intro.) and (2) to (4); to repeal and recreate ATCP 60.02 (6), 60.03 (5), 60.14 (6), 60.17, 60.18 and Notes, 60.19 (1) (b) and (5), 60.20 and Notes, 60.22 (1), 60.24 (2) and 60.29 (1); and to create ATCP 60.01 (1g), 60.02 (7), (7) Note, (8) and (8) Note, 60.03 (6) and (6) Note, 60.08 (6) to (8), 60.11 (4), 60.12 (7), 60.19 (1) Note, (11), (12) and (12) Note, 60.245 and 60.27 (6) (b), relating to dairy farms.

Submitted by **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

10-30-01 RECEIVED BY LEGISLATIVE COUNCIL.

11-27-01 REPORT SENT TO AGENCY.

RS:MCP:jal;ksm

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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### CLEARINGHOUSE RULE 01-125

#### Comments

**[NOTE:** All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

#### 2. Form, Style and Placement in Administrative Code

a. SECTION 17 creates s. ATCP 60.08 (6) to (8), but the new code provision only contains s. ATCP 60.08 (6).

b. In s. ATCP 60.29 (3), the word “safety,” which is both stricken through and underscored on line 4, is not in the current text of the rule and should be deleted.

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. On page 4 of the analysis, in the fourth full paragraph, the first occurrence of the word “inspects” should be deleted.

b. In ss. ATCP 60.02 (7) and 60.03 (6), should the second occurrence of the number “3” be followed by the word “business”?

c. In s. ATCP 60.08 (5), the notation “ch.” should precede the reference to “ATCP 77.”

d. Hyphens are not necessary in “recirculating” or “retesting” in s. ATCP 60.08 (6). Also, in sub. (6) (a) 2., the word “bacteriologically” is misspelled.

e. “Licensed” should be substituted for “licenses” in s. ATCP 60.11 (4) (k).

f. In s. ATCP 60.19 (5) (e) 4., the word "the" should be inserted before the word "operator." Also, the second occurrence of par. (h) should be renumbered as par. (j). Finally, in the text of the newly renumbered par. (j), the notation for "par." should be inserted before the reference to "(h)."

g. In s. ATCP 60.245 (1), are the accounts listed in pars. (a) and (b) in terms of "per ml"? In sub. (3), the word "subsections" should be replaced by the notation "subs." Finally, in sub. (4), the second occurrence of par. (a) should be renumbered as par. (b).

**PROPOSED ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION  
ADOPTING, AMENDING AND REPEALING RULES**

1 The state of Wisconsin department of agriculture, trade and consumer protection proposes the  
2 following order to repeal ATCP 60.01(28), 60.05(2), 60.19(1)(b), 60.22(1)(b)(note) and (c), and  
3 60.25(2)(c) and (d); to renumber ATCP 60.19(10)(c)(note) and (d), and 60.27(6)(b); to renumber  
4 and amend ATCP 60.19(10)(c); to amend ATCP 60.01(1), (4), (7), (9b), (10), (15)(b)8., (19) to  
5 (22), (24) and (29)(b), 60.02(5), 60.03(4), 60.04(3), 60.06(2), (3), (5) and (9)(a)1., 60.07(1) and  
6 (2)(d) and (f), 60.08(5), 60.09(1) and (4), 60.10(1)(note), 60.11(title), (1)(title), (2)(title), (c) and  
7 (e)(note) and (3)(title), 60.12(1), (2) and (6), 60.13(1) and (2), 60.14(2) to (4), 60.15(2) and (4),  
8 60.19(7), (8)(b) and (10)(a), 60.22(2) and (2)(note), 60.24(3), 60.25(1) and (2)(title), (intro.) and  
9 (a)(note), 60.26, 60.27(1), (4), (4)(note) and (6)(a), 60.275(1)(a)(intro.), (b) to (d), (2)(a), (b)1.  
10 and (3), 60.28(1), (2) and (3)(note), 60.29(intro.) and (3), 60.30(1) and (2), and 60.31(1)(title)  
11 and (intro.), and (2) to (4); to repeal and recreate ATCP 60.02(6), 60.03(5), 60.14(6), 60.17,  
12 60.18 and (notes), 60.19(1)(b) and (5), 60.20 and (notes), 60.22(1), 60.24(2) and 60.29(1); and to  
13 create ATCP 60.01(1g), 60.02(7), (7)(note), (8) and (8)(note), 60.03(6) and (6)(note), 60.08(6) to  
14 (8), 60.11(4), 60.12(7), 60.19(1)(note), (11), (12) and (12)(note), 60.245, and 60.27(6)(b);  
15 relating to dairy farms.

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**Analysis Prepared by the Department of Agriculture,  
Trade and Consumer Protection**

Statutory authority: ss. 93.07(1), 97.09(4), 97.20(4), 97.22(8), 97.24(3) and 97.52,  
Wis. Stats.

Statutes interpreted: ss. 93.06(7) and (8), 97.02, 97.03, 97.12, 97.20, 97.22 to 97.24,  
97.50 and 97.52, Wis. Stats.

## Overview

The Wisconsin Department of Agriculture, Trade and Consumer Protection ("DATCP") regulates dairy farms to protect consumers and facilitate interstate shipment of Wisconsin dairy products. This rule updates current dairy farm rules under ch. ATCP 60, Wis. Adm. Code. Among other things, this rule:

- Requires out-of-state dairy plant operators to test milk procured in this state from Wisconsin producers, and report test results.
- Authorizes milk producers to ship milk to 2 or more dairy plant operators. *Each operator* must comply with testing, reporting and other requirements related to milk shipped to that operator. *One of the operators* must take responsibility for producer licensing functions. That operator must pay the producer's license, grade A permit and re-inspection fees, and must perform initial dairy farm inspections and biennial water supply tests required for licensing purposes. Operators must report producer transfers.
- Authorizes milk producers (such as grazers) to discontinue milk shipments temporarily, without jeopardizing their license or permit status.
- Extends current rules to cover farms producing milk from sheep (current rules apply to cows and goats).
- Modifies current hot water capacity requirements for dairy farms.
- Authorizes the use of re-circulated water in plate coolers, subject to conditions specified in this rule.
- Authorizes milk producers to milk directly to bulk transport containers, subject to standards specified in this rule.
- Clarifies milk testing and reporting requirements.
- Requires dairy plant operators to respond immediately if the bacteria count in a producer's milk is more than 750,000 bacteria per ml. (the current "immediate response" level is 1,000,000 per ml.).
- Authorizes electronic reporting of milk test records. Dairy plant operators are encouraged, but not required, to implement electronic reporting by July 1, 2002.
- Requires a dairy plant operator to recover, from producers who contaminate milk with drug residues, the full amount of the operator's loss related to that milk. Under current rules, an operator must test bulk loads of milk, reject contaminated loads, and recover at least *part* of the loss from offending producers. This rule requires the operator to recover the full value of each rejected load (not just part), plus disposal costs.

- Tightens the current test standard for beta lactam drug residues in milk, and modifies current standards for Neomycin, Chlortetracycline and Oxytetracycline, per federal standards.
- Requires milk laboratories and laboratory analysts to be certified by DATCP, not the Department of Health and Family Services (DHFS). The Legislature recently transferred dairy, food and water lab certification responsibilities from DHFS to DATCP.
- Codifies DATCP's current program of performance-based dairy farm inspection. Under this program, DATCP inspects different farms with different frequency, depending on their performance.
- Updates current sanitation requirements for dairy farms.
- Updates current DATCP administrative procedures.
- Make drafting and organizational changes to clarify and modernize current rules.

### Background

DATCP currently licenses and inspects dairy farms under ss. 97.22 to 97.24, Stats., and ch. ATCP 60, Wis. Adm. Code. All dairy farms must be licensed. Grade A dairy farms must also hold a grade A permit. Only grade A milk may be sold as fluid milk. Grade B milk (and grade A milk) may be used to produce cheese and other non-fluid milk products. Grade A milk typically commands a higher price.

All milk must be produced under sanitary conditions. Grade A milk production must also comply with the Interstate Pasteurized Milk Ordinance (PMO). Failure to comply with PMO requirements may jeopardize Wisconsin interstate milk shipments. Current DATCP rules establish standards for grade A and grade B dairy farms. DATCP rules incorporate PMO standards.

A milk producer typically ships milk to a single dairy plant operator, although this industry custom is changing. DATCP licenses dairy plants located in this state. DATCP does not license out-of-state dairy plants, although it does have authority to regulate out-of-state dairy plants that procure milk in this state from Wisconsin producers. DATCP currently regulates dairy plants under ch. ATCP 80, Wis. Adm. Code. ATCP 60 also spells out dairy plant responsibilities related to milk procurement from dairy farms.

Under current law, a dairy plant operator must submit milk producer license applications, license fees, and grade A permit applications on behalf of the milk producers who ship milk to that operator. A dairy plant operator must also test producer milk shipments for drug residues, bacteria, somatic cells and other adulterants, and must report test results to DATCP. A dairy plant operator must reject milk that fails to meet critical minimum standards.

Bulk milk haulers collect milk shipments from dairy farms, and transport those shipments to dairy plants. Each bulk tanker load typically includes milk shipments from several producers, although some large producer shipments may fill an entire tanker. The milk hauler weighs and measures the milk at the farm (for payment purposes), and collects a sample of each producer's milk before that milk is commingled with milk from other producers.

The milk hauler transmits producer milk samples to the dairy plant operator's laboratory for testing. The operator tests samples for drug residues, bacteria and somatic cells, and reports test results to DATCP. DATCP regulates milk haulers under ch. ATCP 82, Wis. Adm. Code, and certifies milk testing laboratories under ch. ATCP 77, Wis. Adm. Code.

Under current rules, a dairy plant operator must also screen each bulk load of milk before the operator commingles that load with any other loads. If a bulk load tests positive for drug residues, the dairy plant operator must reject it and test the individual producer samples for that bulk load. If a producer sample tests positive for drug residues, the dairy plant operator may charge that producer for the cost of the bulk load.

DATCP inspects currently inspects dairy farms, and monitors milk quality test reports. DATCP inspects grade A dairy farms at a specified frequency, based on dairy farm performance. DATCP inspects grade B farms less frequently. DATCP may suspend or revoke a producer's license or grade A permit for cause, including violations of farm sanitation or milk quality standards. Current rules spell out compliance procedures, including notice and appeal procedures.

## Rule Contents

### **Out-of-State Dairy Plants**

Current rules require licensed dairy plants to file license and permit applications for milk producers, pay producer license and reinspection fees, test producer milk shipments, and report test results to DATCP. Current rules do not apply to out-of-state dairy plants, which are not licensed by DATCP, although most out-of-state plants perform these functions voluntarily when procuring milk from Wisconsin producers. This rule requires out-of-state dairy plants to perform these functions when they procure milk in this state from Wisconsin producers. But this rule does not require out-of-state dairy plants to be licensed in this state.

### **Producer Shipping to 2 or More Dairy Plants**

A milk producer typically ships milk to a single dairy plant operator, although this industry custom is changing. Some large producers concurrently ship milk to 2 or more dairy plant operators. This rule allows a producer to ship to 2 or more dairy plant operators if all the following apply:

- Each operator tests milk shipments shipped to that operator, and reports test results. The operator must also comply with other requirements related to those shipments.



- One of the operators files license and permit applications for the milk producer, and pays producer license and reinspection fees. Under this rule, as under current rules, the operator must charge producer reinspection fees back to the producer.

### **Producer Transferring Between Dairy Plants**

A dairy plant operator must notify DATCP if a producer transfers to that operator, or if the operator assumes license and fee payment responsibilities for that producer.

### **Milk Shipments Discontinued**

This rule authorizes a producer (such as a grazer) to discontinue milk shipments for up to 180 days without jeopardizing the producer's license status, and for up to 60 days without jeopardizing the producer's grade A permit status. A dairy plant operator must report to DATCP when the producer stops and resumes shipments.

If a dairy plant operator terminates a milk producer, the operator must report the termination to DATCP. DATCP will revoke the producer's license 30 days after the termination unless the producer is shipping milk to another operator.

### **Dairy Sheep**

Current dairy farm rules apply to cattle and goats. This rule extends current rules to include sheep.

### **Lighting in Barns, Milking Parlors and Milkhouses**

This rule increases the minimum lighting standard in barns, milking parlors and milkhouses. This rule requires at least 30 foot-candles of illumination in milking parlors and milkhouses (current rules require 20 foot-candles).

### **Water Supply**

Under current rules, a dairy plant operator must biennially sample a milk producer's water supply. The water sample must be tested at a certified laboratory. The Legislature recently transferred water lab certification responsibilities from the Department of Health and Family Services (DHFS) to DATCP. DATCP has adopted laboratory certification rules under ch. ATCP 77, Wis. Adm. Code. This rule updates current dairy farm rules to require lab certification by DATCP, not DHFS.

## **Hot Water**

This rule modifies current capacity requirements for hot water supply systems. This rule eliminates a number of specific capacity requirements, but requires adequate hot water for all milkhous operations (with a minimum of 10 gallons to clean equipment and utensils). DATCP may approve alternative systems, including heat recovery and continuous flow systems that provide adequate hot water.

## **Re-Circulated Cooling Water**

Current rules prohibit the use of re-circulated water to cool milk. This rule permits the use of re-circulated water in plate coolers if all the following apply:

- The re-circulated water originates from a safe source that complies with DNR rules.
- The re-circulated water is bacteriologically safe, and is protected from contamination. The milk producer must test for bacteria at least twice a year. Test results must meet minimum standards specified in this rule.
- The re-circulating system uses non-toxic coolants.

If a re-circulating water system becomes contaminated, the milk producer must stop using the system until the producer does all the following:

- Eliminates the contamination source and treats the re-circulated water.
- Re-tests the re-circulated water, and determines that the water meets the bacteriological test standards under this rule.

## **Toilet Facilities**

This rule re-states, but does not substantially alter, current standards for toilets on dairy farms. Toilets must comply with applicable DNR and Department of Commerce rules.

## **Milking Directly to Bulk Transport Containers**

Most farmers milk to a permanent bulk tank in the milkhous, where milk is cooled and stored for shipment. A milk hauler then collects the milk from the bulk tank, and transports it in a bulk milk tanker to a dairy plant. However, some large farmers propose to cut costs by milking directly to the bulk transport container (tanker) in which the farmer then transports the milk to the dairy plant. This rule authorizes producers to milk directly to a bulk transport container if all the following apply:

- The producer controls the operation and maintenance of the bulk transport container. The producer may not collect milk from other producers unless the producer operates as a licensed as a milk hauler under ch. ATCP 82.
- The bulk transport container is constructed and maintained according to bulk milk tanker standards under ch. ATCP 82.

- The bulk transport container has an access port that can be sealed.
- The bulk transport container, while parked at the dairy farm, is kept on a pad of concrete <sup>or</sup> other impervious material. The pad must be located next to the milkhouse, to minimize the length of the transport hose between the milkhouse and the bulk transport container.
- All permanent pipelines connecting the bulk transport container to the milk handling system terminate in the milkhouse.
- The milk producer cools all milk to a temperature of 45° F. (7° C.) or lower before the milk enters the bulk transport container. The producer may use a plate cooler, tube cooler or bulk tank to cool the milk. The producer must measure and record milk temperatures.
- The bulk transport container outlet valve is close-coupled and protected with an effective dust cover.
- The producer keeps the bulk milk cooling device, transport hose and bulk transport container outlet valve in clean and sanitary condition.
- The dairy plant operator collects a milk sample, screens for drug residues, and records the temperature and quantity of milk before unloading the bulk transport container.
- The dairy plant operator cleans and sanitizes the bulk transport container after each milk shipment, just as the operator would clean and sanitize a bulk milk tanker under ch. ATCP 82.

### **Milk Testing and Reporting**

Under current rules, dairy plant operators must test milk from dairy farms and report test results to DATCP. This rule clarifies current reporting requirements and authorizes electronic reporting. Dairy plant operators are encouraged, but not required, to implement electronic reporting by July 1, 2002.

Under this rule, as under the current rule, milk tests must be performed at certified laboratories. Under this rule, milk laboratories and analysts must be certified by DATCP, not the Department of Health and Family Services (DHFS). The Legislature recently transferred dairy, food and water lab certification responsibilities from DHFS to DATCP.

This rule updates current milk test methods. Milk test methods must be those prescribed in "Standard Methods for the Examination of Dairy Products," 16<sup>th</sup> edition (1992), or in the "Official Methods of Analysis of the Association of Analytical Chemists (AOAC) International, 17<sup>th</sup> edition (2000). DATCP will ask the Attorney General and the Revisor of Statutes for permission to incorporate these updated technical standards by reference in this rule. DATCP may approve other test methods.

## **Bacteriological Testing; "Immediate Response" Levels**

Under current rules, dairy plant operators must take immediate steps if a producer's milk is found to contain more than 1,000, 000 bacteria per ml. This rule lowers the "immediate" response level to 750,000 bacteria per ml.

## **Drug Residue Testing**

Under current rules, a dairy plant operator must screen each bulk load of milk for drug residues, before the operator commingles that load with any other loads. If a bulk load tests positive for drug residues, the dairy plant operator must reject it and test the individual producer samples for that bulk load. If a producer sample tests positive for drug residues, the dairy plant operator may charge that producer for the cost of the bulk load. Under current rules, the operator must recover at least *part* of the operator's loss from the offending producer.

Under this rule, the dairy plant operator must recover the *full value* of each rejected load (not just part) from the offending producer. The operator must also recover any additional transportation, testing and disposal costs caused by the contamination. If there are 2 or more offending producers, the operator must recover *pro rata* from those producers based on the relative size of their milk shipments in the contaminated bulk load.

This rule tightens current test standards for beta lactam drug residues in milk, and modifies current standards for Neomycin, Chlortetracycline and Oxytetracycline, per federal standards.

## **Performance-Based Dairy Farm Inspection**

This rule codifies DATCP's current program of performance-based dairy farm inspection. Under this program, DATCP inspects different grade A dairy farms with different frequency, depending on their performance. The terms of the performance-based inspection are consistent with the requirements of the Interstate Pasteurized Milk Ordinance (PMO).

Under this rule, DATCP must evaluate each grade A dairy farm every 3 months, based on inspection reports, milk quality tests and department compliance actions during the preceding 12 months. Based on this evaluation, DATCP must place the dairy farm in one of the following categories:

- **Twelve-Month Inspection Category.** DATCP must inspect a grade A dairy farm in this category at least once every 12 months. DATCP must place a dairy farm in this category if all the following apply, based on dairy farm inspection reports, milk quality tests and DATCP compliance actions during the preceding 12 months:
  - All of the producer's standard plate counts (SPC) are less than 25,000, except one SPC may exceed 25,000 if it is not more than 100,000.
  - All of the producer's somatic cell counts (SCC) are less than 500,000.
  - DATCP has not issued any warning for drug residue violations or "key" farm inspection violations.

- No dairy farm inspection report shows more than 5 violations.
  - DATCP has not suspended the producer's grade A dairy farm permit or milk producer license.
  - The producer's latest water supply test complies with this rule.
- ***Six-Month Inspection Category.*** DATCP must inspect a grade A dairy farm in this category at least once every 6 months. DATCP must place a dairy farm in this category if all the following apply, based on dairy farm inspection reports, milk quality tests and DATCP compliance actions during the preceding 12 months:
    - The dairy farm fails to qualify for the 12-month inspection category.
    - DATCP has not issued more than one warning for violations of bacteria or somatic cell test standards.
    - DATCP has not issued any warning for drug residue violations or "key" farm inspection violations.
    - No dairy farm inspection report shows more than 5 violations.
    - DATCP has not suspended the producer's grade A dairy farm permit or milk producer license.
    - The producer's latest water supply test complies with this rule.
- ***Four-Month Inspection Category.*** DATCP must inspect a grade A dairy farm in this category at least once every 4 months. DATCP must place a dairy farm in this category if the dairy farm does not belong in the 12-month, 6-month or 3-month inspection category, based on dairy farm inspection reports, milk quality tests and DATCP compliance actions during the preceding 12 months.
- ***Three-Month Inspection Category.*** DATCP must inspect a grade A dairy farm in this category at least once every 3 months. DATCP must place a dairy farm in this category if all the following apply, based on dairy farm inspection reports, milk quality tests and DATCP compliance actions during the preceding 12 months:
    - The dairy farm does not qualify for the 12-month or 6-month inspection category.
    - DATCP has done any of the following:
      - \* Issued more than one warning for violations of bacteria or somatic cell test standards.
      - \* Issued more than one warning for drug residue violations.
      - \* Issued more than one warning for "key" farm inspection violations.
      - \* Conducted more than one re-inspection of the dairy farm.
      - \* Suspended the producer's dairy farm license or grade A permit.

## Compliance Procedures

This rule clarifies DATCP compliance procedures related to dairy farms. This rule does not make significant changes in current procedures, except that it extends the deadline for holding an informal hearing on a contested drug residue finding. Under current rules, DATCP must hold the informal hearing within 3 business days after the producer requests the hearing, unless the producer requests a later hearing date. Under this rule, DATCP must hold the informal hearing within 10 business days after the producer requests the hearing, unless the producer requests a later hearing date. This new deadline is consistent with the current deadline for holding informal hearings on other contested dairy farm violations.

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1           **SECTION 1.** ATCP 60.01(1) is amended to read:

2           ATCP 60.01(1) "Bulk tank" means a permanent or semi-permanent tank or container  
3 used to receive, cool or store bulk quantities of milk on a dairy farm. "Bulk tank" does not  
4 include milk cans or a bulk transport container.

5           **SECTION 2.** ATCP 60.01(1g) is created to read:

6           ATCP 60.01(1g) "Bulk transport container" means a vehicle or container that a milk  
7 producer uses to ship bulk milk from a dairy farm to a dairy plant.

8           **SECTION 3.** ATCP 60.01(4), (7), (9b), (10), (15)(b)8., (19) to (22) and (24) are  
9 amended to read:

10           (4) "Cowyard" means an enclosed or unenclosed area, approximately adjacent to a  
11 milking barn or parlor, in which cows, ~~or~~ goats or sheep congregate. "Cowyard" includes ~~cow~~  
12 milking animal walkways, feeding areas, watering areas, washing areas and housing areas  
13 located outside but adjacent to a milking barn or parlor.

14           (7) "Dairy plant operator" means a person ~~required to hold a license for the operation of~~  
15 who operates a dairy plant ~~under s. 97.20, Stats.~~ "Dairy plant operator" includes an employe ~~or~~  
16 agent of the dairy plant operator the operator of a dairy plant located outside this state if the

1 operator procures milk from producers located in this state. "Dairy plant operator" does not  
2 include a person identified under s. 97.20(2)(e), Stats.

3 (9)(b) Is used to draw milk from cows, ~~or~~ goats or sheep or to transport, hold, handle,  
4 cool or store milk on a dairy farm.

5 (10) "Food safety division" means the department's division of food safety.

6 (15)(b)8. Lack of an approved sanitizer in the milkhouse or adjacent storage areas to  
7 meet the sanitizing requirements under s. ATCP ~~60.09(4)~~ 60.09(5).

8 (19) "Milking and milk handling system" means an automated system, and all  
9 components of that system, used to draw milk from cows, ~~or~~ goats or sheep, or to transport milk  
10 to a bulk tank or other container on a dairy farm. "Milking and milk handling system" includes  
11 C-I-P milking equipment and C-I-P milk pipelines.

12 (20) "Milking barn" means a roofed and enclosed facility, other than a milking parlor, in  
13 which cows, ~~or~~ goats or sheep, are milked on a dairy farm.

14 (21) "Milking parlor" means a roofed and enclosed facility which is designed and used  
15 exclusively for the milking of cows, ~~or~~ goats or sheep, and which is not designed or used to house  
16 cows, ~~or~~ goats, sheep or other animals.

17 (22) "Milk producer" or "producer" means a milk producer as defined in s. 97.22(1)(f),  
18 Stats.

19 (24) "Reinspection" means ~~either~~ any of the following:

20 (a) A dairy farm inspection, other than a regularly scheduled inspection under s. ATCP  
21 60.24(2) or ~~(3)~~ 60.245, which ~~is made by the department~~ makes ~~because the department or a~~  
22 ~~special dairy farm inspector finds in response to a key violation of this chapter.~~

1 (b) A dairy farm inspection, other than a regularly scheduled inspection under s. ATCP  
2 60.24(2) or ~~(3)~~ 60.245, for which a fee is chargeable under s. ATCP ~~60.18(5)~~ 60.18(6), 60.19(9),  
3 ~~60.20(5)~~, 60.25(4), 60.26, 60.27(6)(b)1., or 60.28(2) or (3).

4 **SECTION 4.** ATCP 60.01(28) is repealed.

5 **SECTION 5.** ATCP 60.01(29)(b) is amended to read:

6 (29)(b) Is used to draw milk from cows, ~~or~~ goats or sheep or to transport, hold, strain,  
7 handle or store milk on a dairy farm.

8 **SECTION 6.** ATCP 60.02(5) is amended to read:

9 ATCP 60.02(5) DENIAL OF LICENSE APPLICATION. If the food safety division denies a  
10 milk producer's application for a license under this section, the ~~food~~ division shall issue the  
11 denial in writing and shall state the reasons for the denial. The denial notice shall include a notice  
12 of the applicant's right to hearing under s. ATCP 60.31. If a ~~food~~ division inspector inspects the  
13 applicant's dairy farm, the inspector may deny the application by noting the denial on the  
14 inspection report given to the producer, provided that the inspection report includes the required  
15 information under this subsection.

16 **SECTION 7.** ATCP 60.02(6) is repealed and recreated to read:

17 ATCP 60.02(6) TRANSFER BETWEEN DAIRY PLANT OPERATORS. (a) A dairy plant  
18 operator shall notify the department in writing within 3 days after any of the following occurs:

19 1. The operator begins receiving milk shipments from a licensed producer who has  
20 previously shipped milk to another operator. No new license is required.

21 2. A licensed producer is re-assigned, for licensing purposes under this section, to that  
22 dairy plant operator.



1 (b) A milk producer may concurrently ship milk to more than one dairy plant operator if  
2 all the following apply:

3 1. The producer is assigned, for licensing purposes under this section, to one of the  
4 operators. That operator shall pay the producer's license fees under this section and the  
5 producer's reinspection fees, if any, under s. ATCP 60.04.

6 2. Each operator complies with milk sampling, testing, reporting and other requirements  
7 under this chapter, as those requirements apply to that operator's receipt of milk shipments from  
8 the producer.

9 **SECTION 8.** ATCP 60.02(7), (7)(note), (8) and (8)(note) are created to read:

10 ATCP 60.02(7) TEMPORARY DISCONTINUATION OF MILK SHIPMENTS. (a) A dairy plant  
11 operator shall notify the department if a milk producer temporarily discontinues milk shipments  
12 to the operator's dairy plant without transferring shipments to another dairy plant. The dairy  
13 plant operator shall notify the department in writing within 3 business days after the producer  
14 discontinues shipments, and within 3<sup>business</sup> days after the producer resumes milk shipments.

15 (b) A milk producer's license remains in effect if the producer resumes milk shipments  
16 under par. (a) within 180 days. If the milk producer does not resume milk shipments within 180  
17 days, the department shall summarily revoke the milk producer's license. The department shall  
18 give the producer a written revocation notice at least 5 business days prior to the effective date  
19 of the notice.

20 **NOTE:** See s. ATCP 60.25.

21 (8) DAIRY PLANT TERMINATION OF MILK PRODUCER. If a dairy plant operator stops  
22 collecting milk from a milk producer for any reason, other than a reason identified in sub. (6),  
23 sub. (7), or s. ATCP 60.18(5), 60.19(6), 60.20(6) or ATCP 80.20(8), the dairy plant operator

1 shall notify the department in writing within 3 business days after receiving the last shipment of  
2 milk from that producer. The department shall summarily revoke the milk producer's license 30  
3 days after that last milk shipment date unless, by the scheduled revocation date, the milk  
4 producer is shipping milk to another dairy plant operator to whom the producer is assigned for  
5 licensing purposes under this section. The department shall give the producer a written  
6 revocation notice at least 5 business days prior to the effective date of the notice.

7 **NOTE:** See s. ATCP 60.25.

8 **SECTION 9.** ATCP 60.03(4) is amended to read:

9 ATCP 60.03(4) DENIAL OF PERMIT APPLICATION. If the food safety division denies a  
10 milk producer's application for a grade A permit under this section, the ~~food~~ division shall issue  
11 the denial in writing and shall state the reasons for the denial. The denial notice shall include a  
12 notice of the applicant's right to hearing under s. ATCP 60.31. A ~~food~~ division inspector, after  
13 inspecting the applicant's dairy farm, may deny a grade A permit application by noting the denial  
14 on the inspection report given to the producer, provided that the inspection report includes the  
15 required information under this subsection.

16 **SECTION 10.** ATCP 60.03(5) is repealed and recreated to read:

17 ATCP 60.03(5) TRANSFER BETWEEN DAIRY PLANT OPERATORS. (a) A dairy plant  
18 operator shall notify the department in writing within 3 days after any of the following occurs:

19 1. The operator begins receiving milk shipments from a grade A producer who has  
20 previously shipped milk to another operator. No new grade A permit is required.

21 2. A grade A producer is re-assigned, for permit purposes under this section, to that dairy  
22 plant operator.

1 (b) A grade A producer may concurrently ship milk to more than one dairy plant  
2 operator if all the following apply:

3 1. The producer is assigned to one of the operators for licensing purposes under s. ATCP  
4 60.02 and for grade A permit purposes under this section. That operator shall pay the producer's  
5 license fees under s. ATCP 60.02 and the producer's reinspection fees, if any, under s. ATCP  
6 60.04.

7 2. Each operator complies with milk sampling, testing, reporting and other requirements  
8 under this chapter, as those requirements apply to that operator's receipt of milk shipments from  
9 the producer.

10 **SECTION 11.** ATCP 60.03(6) and (6)(note) are created to read:

11 ATCP 60.03(6) TEMPORARY DISCONTINUATION OF MILK SHIPMENTS. (a) A dairy plant  
12 operator shall notify the department if a grade A milk producer temporarily discontinues milk  
13 shipments to the operator's dairy plant without transferring milk shipments to another dairy  
14 plant. The dairy plant operator shall notify the department in writing within 3 business days  
15 after the producer discontinues shipments, and within 3 <sup>business</sup> days after the producer resumes milk  
16 shipments.

17 (b) A milk producer's grade A permit remains in effect if the producer resumes milk  
18 shipments under par. (a) within 60 days. If the milk producer does not resume milk shipments  
19 within 60 days, the department shall summarily revoke the milk producer's grade A permit. The  
20 department shall give the producer a written revocation notice at least 5 business days prior to  
21 the effective date of the notice.

22 **NOTE:** See s. ATCP 60.25.

23 **SECTION 12.** ATCP 60.04(3) is amended to read:

1           ATCP 60.04(3) DAIRY PLANT TO PAY REINSPECTION FEE FOR MILK PRODUCER. A dairy  
2 plant operator shall pay the dairy farm reinspection fee under this section for a milk producer if  
3 ~~the dairy plant was receiving milk from the reinspected dairy farm when the reinspection was~~  
4 ~~made, at the time of the reinspection, the producer was assigned to that operator for licensing~~  
5 purposes under s. ATCP 60.02. The department may issue a statement of reinspection fees  
6 payable by a dairy plant operator, and may demand payment from the dairy plant operator when  
7 it issues an application form for the renewal of the dairy plant operator's license under s. 97.20,  
8 Stats. A dairy plant operator who pays a dairy farm reinspection fee shall charge that fee back to  
9 the milk producer. ~~A dairy plant operator shall notify each producer in writing that reinspection~~  
10 ~~fees paid on behalf of the producer will be charged back to the producer.~~

11           **SECTION 13.** ATCP 60.05(2) is repealed.

12           **SECTION 14.** ATCP 60.06(2), (3), (5) and (9)(a)1. are amended to read:

13           ATCP 60.06(2) WALLS AND CEILINGS; CONSTRUCTION. Walls and ceilings in milking  
14 barns and parlors shall be constructed and maintained so that they can be kept clean. Walls and  
15 ceilings shall be painted, whitewashed or otherwise finished so that they are light colored and  
16 easy to clean. The ceiling shall be constructed and maintained to prevent dust and chaff from  
17 entering the milking barn or parlor from above. The wall finish and wall cleaning requirements  
18 under this subsection do not apply to seasonal milking parlors constructed without walls.

19           (3) LIGHTING. Natural or artificial lighting, or both, shall be provided in milking barns  
20 and parlors to ensure adequate illumination for daytime and nighttime milking operations.  
21 Except where additional lighting is required for milking parlors under sub. (9), there shall be at  
22 least 10 ~~foot-candles~~ foot-candles of illumination in all working areas where milking operations  
23 are being performed.

1 (5) ANIMALS EXCLUDED. No swine or fowl may be housed in, or allowed to enter a  
2 milking barn or parlor. Nonmilking livestock shall be confined in stalls, stanchions or pens.  
3 Areas where cows, ~~or goats~~ or sheep are being milked shall be kept free of excrement from  
4 nonmilking livestock.

5 (9)(a)1. There are at least ~~20 foot-candles~~ 30 foot-candles of illumination in all areas of  
6 the milking parlor where C-I-P milking equipment is cleaned, sanitized or stored.

7 **SECTION 15.** ATCP 60.07(1), (2)(d) and (2)(f) are amended to read:

8 ATCP 60.07(1) REQUIREMENT. Every dairy farm shall have a milkhouse ~~which shall be~~  
9 ~~used for cooling and storing milk.~~ Except as provided in s. ATCP 60.11(4), a milk producer  
10 shall cool and store milk in the milkhouse. A milkhouse shall be separate from a milking barn or  
11 parlor, but may share common walls with a milking barn or parlor. All equipment and utensils  
12 shall be cleaned, sanitized and stored in the milkhouse. This does not apply to C-I-P milk  
13 pipelines which are mechanically cleaned in place in a milking barn or parlor, or to C-I-P  
14 milking equipment which is mechanically cleaned and stored in a milking parlor under s. ATCP  
15 60.06(9)(a).

16 (2)(d) *Lighting.* Natural or artificial lighting, or both, shall be provided in a milkhouse to  
17 ensure adequate illumination for daytime and nighttime operations. There shall be at least ~~20 foot~~  
18 ~~candles~~ 30 foot-candles of illumination in all working areas of the milkhouse. Artificial lights  
19 located over a bulk tank shall be ~~of the shatter-proof type~~ shatterproof, or effectively shielded to  
20 protect milk from contamination from broken glass.

21 (2)(f) WATER HEATING CAPACITY. Hot water capacity shall be adequate for all  
22 milkhouse operations. Hot water heaters or hot water supply systems shall have a capacity of at  
23 least 10 gallons for washing equipment and utensils ~~if milk is stored or cooled in cans,~~ 30 gallons

1 ~~for manual washing of bulk tanks, 50 gallons for mechanical washing of bulk tanks, and 75~~  
2 ~~gallons for cleaning C-I-P equipment. Alternative~~ The department may authorize alternative  
3 systems, including heat recovery and continuous flow systems, ~~may be authorized by the~~  
4 ~~department in writing if they~~ that provide adequate hot water for all milkhouse operations.  
5 Authorization shall be in writing.

6 SECTION 16. ATCP 60.08(5) is amended to read:

7 ATCP 60.08(5) WATER QUALITY TESTING BY DAIRY PLANT. A dairy plant operator shall  
8 biennially sample the water supply of each milk producer whose milk is sold or delivered to the  
9 dairy plant. The dairy plant operator shall have each sample analyzed at a laboratory certified by  
10 ~~the department of health and social services~~ that the department has certified under <sup>ch.</sup> ATCP 77 to  
11 perform water quality analyses. Water samples shall be analyzed for compliance with the health-  
12 related drinking water standards under s. NR 809.30. The dairy plant operator shall submit each  
13 water quality test result to the department within 30 days after the ~~test result is received by the~~  
14 dairy plant receives the laboratory report. If the analysis of any water sample indicates that the  
15 water supply of a dairy farm may be unsafe, the dairy plant shall report the test results to the  
16 department within 3 business days, and shall ~~have the water supply promptly resampled~~ resample  
17 and analyze the water supply.

18 SECTION 17. ATCP 60.08(6) to (8) are created to read:

19 ATCP 60.08(6) RE-CIRCULATING WATER SYSTEM. (a) A milk producer may use re-  
20 circulated water in a plate cooler used to cool milk on a dairy farm if all of the following apply:

- 21 1. The re-circulated water originates from a safe source that complies with ch. NR 811 or  
22 NR 812.
- 23 2. The re-circulated water is bacteriologically safe at all times.

1 3. The re-circulated water is protected from contamination.

2 4. Freezing point depressants used in the re-circulating water system are nontoxic.

3 5. The milk producer tests the re-circulated water for bacterial contamination at least  
4 semi-annually.

5 (b) If a re-circulating water system under par. (a) becomes contaminated, the milk  
6 producer shall stop using the system until all the following conditions are met:

7 1. The producer eliminates the contamination source and treats the re-circulated water.

8 2. The producer re-tests the re-circulated water to determine whether the contamination  
9 is eliminated.

10 3. Re-testing shows that the re-circulated water complies with the bacteriological  
11 standards under paragraph (c).

12 (c) Re-circulated water shall meet all the following bacteriological test standards:

13 1. The most probable number (MPN) of coliform organisms shall be less than 1.1 per  
14 100 ml.

15 2. Bacteriological testing using the membrane filter technique shall show not more than  
16 200 total bacteriological colonies per 100 ml.

17 3. Bacteriological testing using a heterotrophic plate count shall show not more than 500  
18 colonies per ml.

19 **SECTION 18.** ATCP 60.09(1) and (4) are amended to read:

20 ATCP 60.09(1) CONSTRUCTION; GENERAL. Equipment and utensils shall be constructed  
21 of smooth, non-absorbent, corrosion-resistant and non-toxic materials. Equipment and utensils  
22 shall be designed and constructed for easy cleaning and durability under repeated conditions of  
23 use. Surfaces shall be free of breaks and corrosion. Joints and seams shall be smooth and flush.

1 Milk pails used for hand milking and stripping shall be seamless ~~and of a hooded type~~. Multiple-  
2 use woven material shall not be used for straining milk. Milking and milk handling systems  
3 shall comply with s. ATCP 60.10.

4 (4) CLEANING. Equipment and utensils shall be kept clean. Utensils and milk contact  
5 surfaces of equipment shall be rinsed immediately after each use, and then washed with an  
6 effective detergent and rinsed clean. C-I-P equipment shall be pre-washed with warm water  
7 before being cleaned with a detergent solution, according to manufacturer's instructions. ~~The~~  
8 ~~temperature of pre-wash water shall be from 90° F. to 100° F. For C-I-P equipment, the~~  
9 ~~minimum return temperature of detergent solutions shall be 120° F., unless effective cleaning~~  
10 ~~can be achieved at a lower temperature according to manufacturer's recommendations for the~~  
11 ~~detergent used.~~

12 **SECTION 19.** ATCP 60.10(1)(note) is amended to read:

13 **NOTE:** Guidelines for the sanitary design and construction of milking and milk  
14 handling systems are set forth in the "3-A Accepted Practices for the Design,  
15 Fabrication and Installation of Milking and Milk Handling Equipment," published  
16 jointly by the International Association of Milk, Food and Environmental  
17 Sanitarians for Food Protection, Inc., and the Food and Drug Administration,  
18 Public Health Service, U.S. Department of Health and Human Services. Milking  
19 and milk handling systems manufactured in compliance with the "3-A Accepted  
20 Practices" meet the sanitary design and construction requirements of this  
21 subsection. Copies of the "3-A Accepted Practices," as amended effective ~~June~~  
22 ~~14, 1977, November 23, 1996,~~ are on file with the department, the secretary of  
23 state and the revisor of statutes. Copies may be obtained from the International  
24 Association of Milk, Food and Environmental Sanitarians for Food Protection,  
25 Inc., P.O. Box 701, Ames, Iowa 50010 6200 Aurora Avenue, Suite 200W, Des  
26 Moines, IA, 50322-2863; Telephone 1-800-369-2863.  
27

28 **SECTION 20.** ATCP 60.11(title) is amended to read:

29 **ATCP 60.11(title) Bulk tanks and bulk transport containers.**

30 **SECTION 21.** ATCP 60.11(1)(title) is amended to read:



1 ATCP 60.11(1)(title) BULK TANK LOCATION.

2 **SECTION 22.** ATCP 60.11(2)(title) is amended to read:

3 ATCP 60.11(1)(title) BULK TANK CONSTRUCTION.

4 **SECTION 23.** ATCP 60.11(2)(c) is amended to read:

5 ATCP 60.11(2)(c) A bulk tank shall be equipped with an accurate thermometer which  
6 indicates milk temperatures. The thermometer shall have a minimum range of 32° F. (0° C.) to  
7 80° F. (27° C.). Bulk tanks manufactured after January 1, 2000, shall be equipped with a  
8 recording thermometer. A milk producer shall retain milk temperature records for at least 90  
9 days, and shall make the records available to the department for inspection and copying upon  
10 request.

11 **SECTION 24.** ATCP 60.11(2)(e)(note) is amended to read:

12 **NOTE:** Bulk tanks manufactured in compliance with the "3-A Sanitary Standards for  
13 Farm Milk Cooling and Holding Tanks" meet the sanitary design and construction  
14 requirements of this subsection. The "3-A Standards" are published jointly by the  
15 International Association of Milk, Food and Environmental Sanitarians for Food  
16 Protection, Inc., and the Food and Drug Administration, Public Health Service,  
17 U.S. Department of Health and Human Services. Copies of the "3-A Standards"  
18 as amended effective ~~May 19, 1981~~ November 20, 1993, are on file with the  
19 department, the secretary of state and the reviser of statutes. Copies may be  
20 obtained from the International Association of Milk, Food and Environmental  
21 Sanitarians for Food Protection, Inc., P.O. Box 701, Ames, Iowa 50010 6200  
22 Aurora Avenue, Suite 200W, Des Moines, IA, 50322-2863; Telephone 1-800-  
23 369-2863.  
24  
25

26 **SECTION 25.** ATCP 60.11(3)(title) is amended to read:

27 ATCP 60.11(3)(title) BULK TANK COOLING CAPACITY.

28 **SECTION 26.** ATCP 60.11(4) is created to read:

29 ATCP 60.11(4) MILKING DIRECTLY TO BULK TRANSPORT CONTAINER. A milk producer  
30 may milk directly to a bulk transport container if all the following apply:

31 (a) The producer controls the operation and maintenance of the bulk transport container.

1           **NOTE:** A milk producer may not collect milk from another producer, or commingle that  
2           milk with the producer's milk, unless the producer operates as a milk hauler under  
3           ch. ATCP 82. A producer operating as a milk hauler must hold a bulk milk tanker  
4           license, a grade A bulk tanker permit (if applicable), and a bulk milk weigher and  
5           sampler license. The producer must also collect and sample milk according to ch.  
6           ATCP 82.

7  
8           (b) The bulk transport container is constructed and maintained according to bulk milk  
9           tanker standards under s. ATCP 82.06.

10           (c) The bulk transport container has an access port that can be sealed.

11           (d) The bulk transport container, while parked at the dairy farm, is kept on pad of  
12           concrete or equally impervious material. The pad shall be sloped for proper drainage, and shall  
13           be kept in a clean condition.

14           (e) All permanent pipelines connecting the bulk transport container to the milk handling  
15           system terminate in the milkhouse.

16           (f) The bulk transport container is parked next to the milkhouse, to minimize the length  
17           of the transport hose between the milkhouse and the bulk transport container.

18           (g) The milk producer cools all milk to a temperature of 45° F. (7° C.) or lower before  
19           the milk enters the bulk transport container. The producer may use a plate cooler, tube cooler or  
20           bulk tank to cool the milk. Coolant used in cooling devices shall be food grade coolant approved  
21           by federal food and drug administration. A dairy plant operator shall test the coolant semi-  
22           annually and report the test results to the producer.

23           (h) A thermometer records milk temperatures downstream from the cooling device under  
24           par. (g). The thermometer shall be kept in a clean and sanitary condition, and shall have a range  
25           of at least 32° F. (0° C.) to 89° F. (27° C.). The thermometer probe shall be mounted in a well in  
26           the milk pipeline except that, if the producer cools the milk in a bulk tank, the thermometer  
27           probe may be mounted in the bulk tank.

1 (i) The bulk transport container outlet valve is close-coupled and protected with an  
2 effective dust cover.

3 (j) The producer keeps the bulk milk cooling device, transport hose and bulk transport  
4 container outlet valve in clean and sanitary condition. The producer shall clean and sanitize the  
5 outlet valve before attaching it to the transport hose. The producer shall clean and sanitize the  
6 bulk milk cooling device and transport hose between milkings, or at least once every 48 hours if  
7 the producer milks continuously.

8 (k) A person licenses under s. 97.17 or 98.146, Stats. does all the following before the  
9 dairy plant operator unloads the milk from the bulk transport container, or commingles it with  
10 milk from another producer:

11 1. Collects a sample of milk from the bulk transport container, according to s. ATCP  
12 60.17. Before collecting the sample, the sampler shall agitate the milk to ensure that it is  
13 homogeneous.

14 2. Measures and records the temperature and quantity of milk in the bulk transport  
15 container. The person shall give the producer a duplicate copy of the recorded information.

16 (L) The dairy plant operator tests each bulk shipment for drug residues, according to s.  
17 ATCP 60.19.

18 (m) The dairy plant operator cleans and sanitizes the bulk transport container after each  
19 milk shipment, just as the operator would clean and sanitize a bulk milk tanker under s. ATCP  
20 82.08.

21 **SECTION 27.** ATCP 60.12(1), (2) and (6) are amended to read:

22 ATCP 60.12(1) PREPARING COWS ~~OR~~, GOATS OR SHEEP FOR MILKING. The flanks, udders,  
23 bellies and tails of milking cows, ~~and~~ goats and sheep shall be clipped as often as necessary to

1 facilitate cleaning. Tails, bellies and flanks shall be reasonably free of visible dirt at the time of  
2 milking. If flanks and udders are brushed, brushing shall be completed before milking begins.  
3 Hair on udders shall be kept short enough so that it is not incorporated with the teat in the  
4 milking machine inflation during milking. Udders of milking cows, ~~and goats~~ and sheep shall be  
5 clean at the time of milking. Teats shall be cleaned, sanitized and dried immediately before  
6 milking. Wet hand milking is prohibited.

7 (2) TRANSFER AND PROTECTION OF MILK. Milk shall be protected from contamination at  
8 all times. Upon being drawn from cows, ~~or goats~~ or sheep, milk shall immediately be transferred  
9 from the milking barn or parlor to the milkhouse. Containers of milk shall not be stored in the  
10 milking barn or parlor. If milk is transferred to the milkhouse in containers, rather than through  
11 a pipeline or other vacuum transfer system, the milk producer shall transfer each container of  
12 milk to the milkhouse as soon as it is filled. Milk contact surfaces of equipment and utensils  
13 used to collect or transfer milk shall be protected from contamination before and during use.  
14 Milk containers shall be covered to protect milk and milk contact surfaces from contamination,  
15 except when milk is being poured into or out of the container. Milk that overflows, leaks or  
16 spills from its proper container or transfer vessel shall be discarded.

17 (6) COMMINGLING OF COW, ~~AND GOAT~~ OR SHEEP MILK PROHIBITED. ~~Cow milk shall not~~  
18 ~~be commingled with goat milk on a dairy farm.~~ A milk producer may not commingle milk from  
19 cows, goats or sheep with milk from either of the other species.

20 SECTION 28. ATCP 60.12(7) is created to read:

21 ATCP 60.12(7) MILK COOLING AND STORAGE. Milk cooled or stored on a dairy farm  
22 shall be cooled and stored in facilities that comply with this chapter.

23 SECTION 29. ATCP 60.13(1) and (2) are amended to read:

1 ATCP 60.13(1) Cows, ~~or~~ goats or sheep which appear to be secreting abnormal milk in  
2 one or more quarters shall be milked last or with separate equipment, and their milk shall be  
3 discarded.

4 (2) If cows, ~~or~~ goats or sheep consume or are treated with chemical, medicinal or  
5 radioactive agents which may be secreted in milk, and which may be deleterious to human  
6 health, the cows, ~~or~~ goats or sheep shall be milked last or with separate equipment, and the milk  
7 shall be discarded.

8 **SECTION 30.** ATCP 60.14(2) to (4) are amended to read:

9 ATCP 60.14(2) MANURE STORAGE AND DISPOSAL. Manure shall be removed and stored  
10 in a manner that inhibits the breeding of flies. No milking cow, ~~or~~ goat or sheep may have  
11 access to a manure storage area. This does not prohibit a cold weather manure pack in a cowyard  
12 if the manure pack is properly maintained to prevent excessive accumulations of manure on the  
13 udders and flanks of cows, ~~or~~ goats or sheep.

14 (3) COWYARD. A cowyard shall be graded for proper drainage, and shall be kept free of  
15 standing pools of water and accumulations of manure or feed waste. In loafing pens, manure  
16 shall be removed or clean bedding added with sufficient frequency to prevent excessive  
17 accumulation of manure on the udders and flanks of cows, ~~and~~ goats and sheep. Accumulations  
18 of waste feed shall be promptly removed. Manure packs shall be properly drained and shall  
19 provide a reasonably firm footing. Swine shall be kept out of the cowyard.

20 (4) STATIONARY FEEDERS IN COWYARD. Stationary feeders in a cowyard shall be fully  
21 surrounded by a paved surface on which cows, goats or sheep stand while feeding. The paved  
22 surface shall extend at least 12 feet in all directions from the feeder, except that a paved surface  
23 installed before January 1, 1979, shall extend at least 8 feet in all directions from the feeder. If

1 the distance between a feeder and another building or permanent structure is less than the paved  
2 surface width prescribed under this subsection, the paved surface shall extend to the building or  
3 other permanent structure.

4 **SECTION 31.** ATCP 60.14(6) is repealed and recreated to read:

5 **ATCP 60.14(6) TOILETS.** (a) Every dairy farm shall have one or more sanitary toilets,  
6 conveniently accessible by persons engaged in milking operations. A conveniently accessible  
7 toilet may include a toilet in a farm residence or other farm building.

8 (b) Toilets under par. (a) shall comply with ss. Comm 52.50 to 52.64, Comm 54.12 and  
9 NR 112. Toilets shall be kept in clean and sanitary condition.

10 **SECTION 32.** ATCP 60.15(2) and (4) are amended to read:

11 **ATCP 60.15(2) BACTERIAL COUNT.** The bacterial count of grade A milk, as determined  
12 by a standard bacterial count or plate loop count under this subchapter, shall not exceed 100,000  
13 per ml. The bacterial count of grade B milk shall not exceed 300,000 per ml. Except as  
14 provided under s. ~~ATCP 60.18(4)~~ 60.18(5) and 80.20(8), a dairy plant is not required to reject  
15 milk shipments in response to a violation of this subsection unless the department suspends or  
16 revokes the milk producer's license or grade A permit, or issues a holding order or disposal order  
17 under s. ATCP 60.30.

18 (4) **SOMATIC CELL COUNT.** The somatic cell count of ~~cows~~ cow milk, as determined by a  
19 direct microscopic somatic cell count (DMSCC), ~~or~~ an electronic somatic cell count (ESCC) or  
20 an optical somatic cell count (OSCC) under this subchapter, shall not exceed 750,000 cells per  
21 ml. The somatic cell count of goat milk, as determined by the Pyronin Y Methyl green stain test,  
22 shall not exceed 1,000,000 cells per ml. Except as provided under s. ATCP 60.20(4) and s.  
23 ATCP 80.20(8), a dairy plant is not required to reject milk shipments in response to a violation

1 of this subsection unless the department suspends or revokes the milk producer's license or grade  
2 A permit, or issues an order affecting the milk shipments under s. ATCP 10.20(2) or 60.30.

3 **SECTION 33.** ATCP 60.17 is repealed and recreated to read:

4 **ATCP 60.17 Collecting milk samples.** (1) **SAMPLE REQUIRED.** A dairy plant operator  
5 who receives a milk shipment from a milk producer shall collect a representative milk sample  
6 from that shipment. A person licensed under s. 97.17 or 98.146, Stats. shall collect the sample  
7 before the dairy plant operator commingles the milk with milk from any other producer or  
8 shipment.

9 (2) **SAMPLE COLLECTED BY MILK HAULER.** A milk hauler who collects a bulk milk  
10 shipment from a dairy farm shall collect the milk sample under sub. (1) for the dairy plant  
11 operator. The milk hauler shall collect the sample at the dairy farm, according to ch. ATCP 82.  
12 The milk hauler shall promptly deliver the sample to the dairy plant operator, or to a milk testing  
13 laboratory designated by the dairy plant operator.

14 (3) **INCREASED SAMPLING FREQUENCY.** If milk from any dairy farm violates a standard  
15 under s. ATCP 60.15 on any single test, the dairy plant operator shall do one of the following:

16 (a) Collect and test a milk sample from that farm at least once every 2 days until a  
17 subsequent test shows that the violation has been corrected.

18 (b) Reject milk shipments from the producer, if the operator is required to reject those  
19 milk shipments under s. ATCP 60.16, 60.18(5), 60.19(6) or 60.20(4).

20 **SECTION 34.** ATCP 60.18 and (notes) are repealed and recreated to read:

21 **ATCP 60.18 Bacteriological testing.** (1) **MONTHLY TESTING REQUIRED.** During every  
22 month in which a dairy plant operator receives milk from a milk producer, the dairy plant  
23 operator shall perform at least one standard bacterial plate count (SPC) or plate loop count (PLC)

1 on a milk sample obtained from the producer under s. ATCP 60.17. If the operator tests more  
2 than one milk sample each month, the operator shall collect the samples at regular intervals  
3 throughout the month. A dairy plant operator shall perform tests under this subsection and s.  
4 ATCP 80.26(2) on the same milk samples.

5 (2) NEW MILK PRODUCER; INITIAL TESTING. A dairy plant operator shall perform a  
6 standard plate count (SPC) or plate loop count (PLC) on a milk sample collected from a milk  
7 producer's first milk shipment to that operator. The operator shall report the test result to the  
8 department and the milk producer within 14 days after the operator obtains the test result.

9 (3) MONTHLY REPORTING. For each month in which a dairy plant operator receives milk  
10 shipments from a milk producer, the operator shall report one of the following to the department  
11 and the milk producer:

12 (a) At least one representative test result under sub. (1) for a milk shipment received in  
13 that month. The operator shall report the test result within 14 days after the operator obtains the  
14 test result.

15 (b) The average of all representative test results obtained under sub. (1) for milk  
16 shipments received in that month. The operator shall report the average within 14 days after the  
17 operator receives the last of the test results used to compute that average.

18 (4) REPRESENTATIVE TEST RESULTS. A test result is not representative, for reporting  
19 purposes under sub. (3), unless all the following apply:

20 (a) The dairy plant operator collects the test sample according to a uniform sampling  
21 schedule that the operator applies to all milk producers who ship milk to the operator's dairy  
22 plant.



1 (b) The operator reports the test result according to standard reporting criteria that the  
2 operator applies to all milk producers who ship milk to the operator's dairy plant.

3 (5) IMMEDIATE RESPONSE LEVEL; REPORTING AND FOLLOW-UP. If a bacterial count under  
4 this section or s. ATCP 80.26(2) exceeds 750,000 per ml., the dairy plant operator shall do all the  
5 following:

6 (a) Report the test result to the department and the milk producer within 3 business days  
7 after the operator obtains the test result.

8 (b) Perform a confirmatory bacteriological test on at least one more sample of milk  
9 collected from the milk producer's dairy farm. The operator shall collect the confirmatory  
10 sample within 14 days after the date on which the operator collected the original sample. The  
11 operator shall report the confirmatory test result to the department and the milk producer within  
12 3 business days after the operator obtains the test result.

13 (c) Reject milk shipments from the dairy farm if the confirmatory test under par. (b)  
14 shows a bacterial count still in excess of 750,000 per ml. The milk producer may not ship milk  
15 from the dairy farm to any dairy plant until a dairy plant operator conducts another test and finds  
16 that milk from the farm no longer has a bacterial count in excess of 750,000 per ml.

17 (6) DEPARTMENT INSPECTION; REINSPECTION FEE. The department may inspect a dairy  
18 farm in response to any bacterial count reported to the department under this section. If the  
19 department inspects a dairy farm in response to a confirmatory bacterial count of more than  
20 750,000 per ml. under sub. (5), the department shall charge a reinspection fee under s. ATCP  
21 60.04. The department may not charge a reinspection fee if the confirmatory bacterial count  
22 does not exceed 750,000 per ml., or if the department inspects more than 3 weeks after the  
23 department receives the confirmatory bacterial count.

1       **NOTE:** Under s. ATCP 60.27, the food safety division will suspend a producer's grade  
2       A farm permit if 3 of the last 5 bacterial counts reported to the department under  
3       this section exceed the grade A standard of 100,000 per ml. under  
4       s. ATCP 60.15(2). The division will suspend the producer's grade A permit  
5       regardless of whether any bacterial count exceeds the immediate response level of  
6       750,000 per ml. under this section.

7       Under s. ATCP 60.25, the department may suspend a milk producer's license if  
8       bacterial counts continue to exceed the grade B standard of 300,000 per ml. under  
9       s. ATCP 60.15(2). The department may suspend the producer's license regardless  
10      of whether any bacterial count exceeds the immediate response level of 750,000  
11      per ml. under this section. If 2 of the last 4 bacterial counts reported to the  
12      department under this section exceed the grade B standard of 300,000 per ml., the  
13      department will, at a minimum, send a warning notice to the producer.

14  
15      (6) **LABORATORY REPORTING.** A laboratory that performs tests under this section for a  
16      dairy plant operator may report the test results for the dairy plant operator.

17      (7) **ELECTRONIC REPORTING.** A dairy plant operator or laboratory may, with department  
18      approval, report test results in electronic form.

19      **NOTE:** The department strongly encourages all dairy plant operators and laboratories to  
20      report test results in electronic form, beginning not later than July 1, 2002.  
21      Electronic reports must be in a form that the department can accept. For more  
22      information, contact the department's food safety division.

23      **SECTION 35.** ATCP 60.19(1)(b) and (5) are repealed and recreated to read:

24      ATCP 60.19(1)(b) *New milk producer; initial testing.* A dairy plant operator shall  
25      perform a drug residue test on a milk sample collected from a milk producer's first milk  
26      shipment to that dairy plant operator. The drug residue test shall be sensitive, at a minimum, to  
27      beta lactam drug residues and other drug residues for which testing is required under sub. (2)(b).  
28      If the sample tests positive for any drug residue, the operator shall report the result to the  
29      department and the producer within the time prescribed in sub. (8).

30      (5) **REJECTED BULK LOAD; DAIRY PLANT RECOVERY FROM PRODUCER.** (a) *Dairy plant to*  
31      *recover loss.* If a dairy plant operator properly rejects a bulk load of milk under sub. (4), the  
32      operator shall recover the value of that bulk load from producers whose milk samples,

1 representing milk shipments contained in that bulk load, test positive for drug residue under sub.  
2 (3). The operator shall recover what would have been the value of the bulk load, had the load  
3 not tested positive for drug residue. The operator shall also recover any additional disposal,  
4 transportation and testing costs that the operator incurs because the bulk load tests positive for  
5 drug residues.

work

(3) test positive  
(4) rejected bulk load

6 (b) *Pro rata recovery.* The dairy plant operator shall recover, from each offending  
7 producer under par. (a), a pro rata share of the total recovery amount under par. (a). The pro rata  
8 recovery from each offending producer shall be based on the size of that producer's shipment  
9 compared to those of other offending producers in the same bulk load. If there is only one  
10 offending producer, the operator shall recover the entire amount from that producer.

(4) ?

not  
Hendin

11 (c) *Recovery deadline.* The operator shall recover the full amount owed by each  
12 offending producer under par. (b) within 90 days after that producer's milk sample tests positive  
13 for drug residue under sub. (3). If the operator fails to recover the full amount within that time  
14 period, the operator shall give the department a written explanation.

(or) ?

15 (d) *Payroll deduction.* A dairy plant operator may deduct the amount owed by an  
16 offending producer under par. (b) from the operator's payroll obligation to that offending  
17 producer.

(or) ?

18 (e) *Notice of deduction.* A dairy plant operator shall give a producer at least 30 days  
19 prior written notice of any deduction under par. (d), unless the producer transfers to another dairy  
20 plant operator. The notice shall state all the following:

- 21 1. The basis for the deduction.
- 22 2. The total amount of the deduction.
- 23 3. The date on which the operator will make each deduction.

X 1 4. That <sup>the</sup> operator will meet with the producer to discuss the deduction, at the producer's  
2 request.

3 (f) *Meeting to discuss recovery.* A dairy plant operator shall meet with a producer, at the  
4 producer's request, to discuss the operator's recovery from that producer under this subsection.  
5 The operator shall meet with the producer within 10 days after the producer requests the meeting,  
6 unless the producer requests a later meeting date. If the producer contests the validity of the  
7 recovery, and the matter is not resolved, the operator shall notify the producer that the producer  
8 may request a hearing before the department under par. (g).

9 (g) *Hearing request.* If a producer contests the validity of a dairy plant operator's  
10 recovery under this subsection, and if the parties do not resolve the matter after meeting under  
11 par. (f), the producer may request a hearing before the department. A request for hearing does  
12 not automatically stay a recovery under this subsection.

13 (h) *Informal hearing.* If a producer requests a hearing under par. (g), the food safety  
14 division shall hold an informal hearing by telephone or at the division's nearest regional office.  
15 The division shall hold the informal hearing within 10 business days after the division receives  
16 the hearing request, unless the producer agrees to a later hearing date. The division shall include  
17 the producer and the dairy plant operator in the informal hearing.

18 (i) *Formal hearing.* If an informal hearing under par. (h) does not resolve the matter, a  
19 producer may request a contested case hearing before the department under ch. ATCP 1 and ch.  
20 227, Stats. A request for hearing does not automatically stay a recovery under this subsection. If  
21 the department grants a producer's request for hearing, the department shall include the producer  
22 and the dairy plant operator as parties to the hearing.

1 (h) *Invalid recovery.* If the department finds that a dairy plant operator's recovery under (j)  
2 this subsection is invalid, the department may prohibit the recovery or order the dairy plant  
3 operator to repay the producer. The food safety division may issue an order under this paragraph  
4 after the division holds an informal hearing under <sup>PS</sup>(h). If the division issues an order under this  
5 paragraph, the dairy plant operator may request a contested case hearing under ch. ATCP 1 and  
6 ch. 227, Stats., to contest the division's order. A request for hearing does not automatically stay  
7 the division's order.

8 **SECTION 36.** ATCP 60.19(7), (8)(b) and (10)(a) are amended to read:

9 ATCP 60.19(7) REPORTING DRUG RESIDUE FINDINGS; BULK LOADS. ~~If any~~ Within 2  
10 hours after a bulk load of milk tests positive for a drug residue under sub. (2), the dairy plant  
11 operator shall immediately report the drug test result to the food safety division by telephone.  
12 The dairy plant operator shall confirm the report in writing, in a form approved by the  
13 department, within 3 business days after the drug residue test is completed. The report shall  
14 indicate the result of the drug residue test, the volume of milk contained in the bulk load, and the  
15 dairy plant's disposition of that milk.

16 (8)(b) *Form of report.* Whenever a dairy plant operator is required to report a drug  
17 residue test result under par. (a), the dairy plant operator shall ~~immediately~~  
18 the food safety division by telephone. The dairy plant operator shall make the telephone report  
19 within 2 hours after the drug residue test is completed. The ~~dairy plant~~ operator shall confirm the  
20 report in writing within 3 business days after the drug residue test is completed.

21 (10)(a) *Positive test result; general.* For purposes of this section and  
22 s. ATCP 60.275, a drug residue test is considered positive if the detected amount of drug residue  
23 exceeds the action level specified for that drug under par. (b) ~~or (c)~~. The action levels under

1 ~~pars. par. (b) and (c)~~ do not establish legal tolerances for drug residues in milk, nor do they  
2 preclude the department from taking enforcement action where drug residues are present at  
3 levels below these action levels.

4 **SECTION 37.** ATCP 60.19(10)(b) is repealed.

5 **SECTION 38.** ATCP 60.19(10)(c) is renumbered (10)(b) and amended to read:

6 ATCP 60.19(10)(b)(title) *Other Specified drug tests; positive test result.* In a test for any  
7 of the following drugs, the action level is exceeded whenever the drug residue level found in the  
8 test exceeds the level specified below:

9	<b>Drug</b>	<b>Action Level (ppb)</b>
10		
11	Ampicillin	10
12		
13	Amoxicillin	10
14		
15	Cephapirin	20
16		
17	Cloxacillin	10
18		
19	<del>Neomycin</del> <u>Neomycin</u>	<del>50</del> <u>150</u>
20		
21	Novobiocin	100
22		
23	Sulfadimethoxine	10
24		
25	Tylosin	50
26		
27	Chlortetracycline*	<del>30</del> <u>300</u>
28		
29	Oxytetracycline*	<del>30</del> <u>300</u>
30		
31	Erythromycin*	50
32		
33	Gentamicin*	30
34		
35	Dihydrostreptomycin*	125
36		
37	Sulfachloropyridazine*	10
38		

1	Sulfadiazine*	10
2		
3	Sulfamerazine*	10
4		
5	Sulfamethazine*	10
6		
7	Sulfamethizole*	10
8		
9	Sulfanilamide*	10
10		
11	Sulfapyridine*	10
12		
13	Sulfaquinoxaline*	10
14		
15	Sulfathiazole*	10
16		
17	Tetracycline*	80

18 **SECTION 39.** ATCP 60.19(10)(c)(note) and (d) are renumbered (b)(note) and (c).

19 **SECTION 40.** ATCP 60.19(11) and (12) are created to read:

20 ATCP 60.19(11) LABORATORY REPORTING. A laboratory that performs tests under this  
 21 section for a dairy plant operator may report the test results for the dairy plant operator.

22 (12) ELECTRONIC REPORTING. A dairy plant operator or laboratory may, with department  
 23 approval, report written test results under this section in electronic form.

24 **NOTE:** The department strongly encourages all dairy plant operators and laboratories to  
 25 report written test results in electronic form, beginning not later than July 1, 2002.  
 26 Electronic reports must be in a form that the department can accept. For more  
 27 information, contact the department's food safety division.

28 **SECTION 41.** ATCP 60.20 and (notes) are repealed and recreated to read:

29 **ATCP 60.20 Testing for somatic cells.** (1) MONTHLY TESTING REQUIRED. During  
 30 every month in which a dairy plant operator receives milk from a milk producer, the dairy plant  
 31 operator shall perform at least one somatic cell count on a milk sample obtained from the  
 32 producer under s. ATCP 60.17. If the operator tests more than one milk sample each month, the  
 33

1 operator shall collect the samples at regular intervals throughout the month. A dairy plant  
2 operator shall perform tests under this section and s. ATCP 80.26(2) on the same milk samples.

3 (2) NEW MILK PRODUCER; INITIAL TESTING. A dairy plant operator shall perform a  
4 somatic cell count on a milk sample collected from a milk producer's first milk shipment to that  
5 operator. The operator shall report the test result to the department and the producer within 14  
6 days after the operator obtains the test result.

7 (3) TEST METHODS. A somatic cell count under this section shall be a direct microscopic  
8 somatic cell count (DMSCC), an electronic somatic cell count (ESCC) or an optical somatic cell  
9 count (OSCC). If the somatic cell count on sheep or goat milk exceeds 1,000,000, the somatic  
10 cell count shall be confirmed using the Pyronin Y-Methyl green stain test, unless that test was  
11 used to obtain the initial count.

12 (4) MONTHLY REPORTING. For each month in which a dairy plant operator receives milk  
13 shipments from a milk producer, the operator shall report one of the following to the department  
14 and the producer:

15 (a) At least one representative somatic cell count under sub. (1) for a milk shipment  
16 received in that month. The operator shall report the somatic cell count within 14 days after the  
17 operator obtains the count.

18 (b) The average of all representative somatic cell counts obtained under sub. (1) for milk  
19 shipments received in that month. The operator shall report the average within 14 days after the  
20 operator obtains the last of the somatic cell counts used to compute that average.

21 (5) REPRESENTATIVE SOMATIC CELL COUNTS. A somatic cell count is not representative,  
22 for reporting purposes under sub. (4), unless all the following apply:



1 (a) The dairy plant operator collects the test sample according to a uniform sampling  
2 schedule that the operator applies to all milk producer's who ship milk to the same dairy plant.

3 (b) The operator reports the somatic cell count according to standard reporting criteria  
4 that the operator applies to all milk producers who ship milk to the same dairy plant.

5 (6) IMMEDIATE RESPONSE LEVEL; REPORTING AND FOLLOW-UP. If a somatic cell count  
6 under this section or s. ATCP 80.26(2) exceeds 1,000,000 somatic cells per ml. for cow milk, or  
7 1,500,000 for sheep or goat milk, the dairy plant operator shall do all the following:

8 (a) Report the somatic cell count to the department and the milk producer within 3  
9 business days after the operator obtains the somatic cell count.

10 (b) Perform a confirmatory somatic cell count on at least one more sample of milk  
11 collected from the milk producer's dairy farm. The operator shall collect the confirmatory  
12 sample within 14 days after the date on which the operator collected the original sample. The  
13 operator shall report the confirmatory somatic cell count to the department and the milk producer  
14 within 3 business days after the operator obtains the confirmatory count. A dairy plant operator  
15 shall use the Pyronin Y-Methyl green stain test when performing a confirmatory somatic cell  
16 count on sheep or goat milk.

17 (c) Reject milk shipments from the dairy farm if the confirmatory somatic cell count  
18 under par. (b) still exceeds 1,000,000 somatic cells per ml. for cow milk, or 1,500,000 for sheep  
19 or goat milk. The milk producer may not ship milk from the dairy farm to any dairy plant until a  
20 dairy plant operator conducts another somatic cell count and finds that the count no longer  
21 exceeds this number.

22 **NOTE:** The food safety division will suspend a grade A farm permit if 3 of the last 5  
23 reported somatic cell counts exceed the standard under s. ATCP 60.15(4),  
24 regardless of whether any somatic cell count exceeds the immediate response  
25 level under this subsection. See s. ATCP 60.27.

1  
2 Under s. ATCP 60.25, The department may suspend a milk producer license if  
3 somatic cell counts continue to exceed the standard under s. ATCP 60.15(4),  
4 regardless of whether any somatic cell count exceeds the immediate response  
5 level under this subsection. If 2 of the last 4 reported somatic cell counts exceed  
6 the standard under s. ATCP 60.15 (4), the department will at least send a warning  
7 notice to the producer. See s. ATCP 60.27.  
8

9 (7) LABORATORY REPORTING. A laboratory that performs somatic cell counts under this  
10 section for a dairy plant operator may report the somatic cell counts for the dairy plant operator.

11 (8) ELECTRONIC REPORTING. A dairy plant operator or laboratory may, with department  
12 approval, report somatic cell counts in electronic form.

13 **NOTE:** The department strongly encourages all dairy plant operators and laboratories to  
14 report somatic cell counts in electronic form, beginning not later than July 1,  
15 2002. Electronic reports must be in a form that the department can accept. For  
16 more information, contact the department's food safety division.  
17

18 **SECTION 42.** ATCP 60.22(1) is repealed and recreated to read:

19 ATCP 60.22(1) CERTIFIED TESTERS. (a) *Certified laboratory.* No laboratory may  
20 perform a milk test under ss. ATCP 60.18 to 60.20 unless the laboratory operator is currently  
21 certified by the department under s. ATCP 77.03 to perform that test at that laboratory.

22 (b) *Certified analyst.* No individual may perform a milk test under ss. ATCP 60.18 to  
23 60.20 unless the department that individual is currently certified by the department under s.  
24 ATCP 77.22 to perform that test. Milk tests shall be performed at a laboratory certified under  
25 par. (a), except that a certified individual may perform a drug residue screening test at another  
26 location. Confirmatory drug residue tests shall be performed at a certified laboratory.

27 **SECTION 43.** ATCP 60.22(1)(b)(note) and (c) are repealed.

28 **SECTION 44.** ATCP 60.22(2) and (note) are amended to read:

29 ATCP 60.22(2) TEST METHODS. Milk testing under ss. ATCP 60.18 to 60.20 shall be  
30 conducted using test methods prescribed in "Standard Methods for the Examination of Dairy

1 Products," ~~15th 16th Edition (1985) (1992)~~, or in "Official Methods of Analysis of the  
2 Association of Analytical Chemists (AOAC) International," ~~14th 17th Edition (1984) (2000)~~.  
3 Other tests shall be approved by the department.

4 **NOTE:** The "Standard Methods for the Examination of Dairy Products," ~~15th 16th~~  
5 Edition ~~(1985) (1992)~~, published by the American Public Health Association,  
6 Inc., is on file in the offices of the department, the secretary of state and the  
7 revisor of statutes. A copy may be purchased from the American Public Health  
8 Association, Inc., 1015 Fifteenth Street, N.W. Washington, D.C. 20005.

9  
10 The "Official Methods of Analysis of the Association of Analytical Chemists  
11 AOAC International," ~~14th 17th Edition (1984) (2000)~~, is on file in the offices of  
12 the department, the secretary of state and the revisor of statutes. A copy may be  
13 purchased from the Association of Official Analytical Chemists, Inc., 1111 North  
14 Nineteenth Street, Suite 210, Arlington, VA 22209.

15 **SECTION 45.** ATCP 60.24(2) is repealed and recreated to read:

16 ATCP 60.24(2) INSPECTION BY THE DEPARTMENT. The department shall inspect dairy  
17 farms for compliance with applicable standards under this chapter. Except as provided in s.  
18 ATCP 60.245, the department shall inspect a grade A dairy farm at least once every 6 months  
19 and a grade B dairy farm at least once every 2 years. For the purpose of conducting a lawful  
20 inspection under this chapter, the department may exercise its authority under ss. 93.08, 93.15(2)  
21 and 97.12(1), Stats.

22 **SECTION 46.** ATCP 60.24(3) is amended to read:

23 ATCP 60.24(3) VARIANCES. The department may issue a written waiver granting a  
24 variance from a dairy farm standard under subch. III if the department determines that the  
25 variance is reasonable and necessary under the circumstances, and will not compromise the  
26 purpose served by the standard. A. The food safety division administrator, or the administrator's  
27 designee, may issue a waiver under this subsection ~~may be issued by the food division~~  
28 ~~administrator or the administrator's designee.~~

29 **SECTION 47.** ATCP 60.245 is created to read:

1           **ATCP 60.245 Performance-based grade A dairy farm inspections.** The department  
2 shall use the performance standards in this section to determine grade A dairy farm inspection  
3 frequency. The department shall evaluate each grade A dairy farm every 3 months, based on  
4 inspection reports, milk quality tests and department compliance actions during the preceding 12  
5 months. Based on the evaluation, the department shall place each dairy farm in one of the  
6 following categories:

7           (1) **TWELVE-MONTH INSPECTION INTERVAL.** The department shall inspect a grade A dairy  
8 farm in this category at least once every 12 months. The department shall place a dairy farm in  
9 this category if all the following apply, based on dairy farm inspection reports, milk quality tests  
10 and department compliance actions during the preceding 12 months:

11           (a) All of the producer's standard plate counts (SPC) are less than 25,000, except one  
12 SPC may exceed 25,000 if it is not more than 100,000.

13           (b) All of the producer's somatic cell counts (SCC) are less than 500,000.

14           (c) The department has not issued any warning to the milk producer under s. ATCP  
15 60.275(1) or 60.28(1).

16           (d) No dairy farm inspection report shows more than 5 violations.

17           (e) The department has not suspended the producer's grade A dairy farm permit or milk  
18 producer license.

19           (f) The producer's latest water supply test does not show any violation of s. ATCP 60.08.

20           (2) **SIX-MONTH INSPECTION INTERVAL.** The department shall inspect a grade A dairy  
21 farm in this category at least once every 6 months. The department shall place a dairy farm in  
22 this category if all the following apply, based on dairy farm inspection reports, milk quality tests  
23 and department compliance actions during the preceding 12 months:

per ml. ?

1 (a) The dairy farm fails to qualify under sub. (1).

2 (b) The department has issued no more than one warning to the milk producer under s.  
3 ATCP 60.27(1).

4 (c) The department has not issued any warning to the milk producer under s. ATCP  
5 60.275(1) or 60.28(1).

6 (e) No dairy farm inspection report shows more than 5 violations.

7 (f) The department has not suspended the producer's grade A dairy farm permit or milk  
8 producer license.

9 (g) The producer's latest water supply test does not show any violation of s. ATCP  
10 60.08.

11 (3) FOUR-MONTH INSPECTION INTERVAL. The department shall inspect a grade A dairy  
12 farm in this category at least once every 4 months. The department shall place a dairy farm in  
13 this category if <sup>subs-</sup>subsections (1), (2) and (4) do not apply, based on dairy farm inspection reports,  
14 milk quality tests and department compliance actions during the preceding 12 months.

15 (4) THREE-MONTH INSPECTION INTERVAL. The department shall inspect a grade A dairy  
16 farm in this category at least once every 3 months. The department shall place a dairy farm in  
17 this category if all the following apply, based on dairy farm inspection reports, milk quality tests  
18 and department compliance actions during the preceding 12 months:

19 (a) The dairy farm does not qualify under sub. (1) or (2).

20 (b) (a) The department has done any of the following:

21 1. Issued more than one warning to the milk producer under s. ATCP 60.27(1).

22 2. Issued more than one warning to the milk producer under s. ATCP 60.275(1).

23 3. Issued more than one warning to the milk producer under s. ATCP 60.28(1).

1 4. Conducted more than one reinspection of the dairy farm.

2 5. Suspended the milk producer's dairy farm license or grade A dairy farm permit.

3 **SECTION 48.** ATCP 60.25(1) and (2)(title) and (intro.) are amended to read:

4 ATCP 60.25(1) **GENERAL.** ~~A~~ The department may suspend or revoke a milk producer's  
5 license ~~may be suspended or revoked~~ for cause, as provided in s. 93.06(7), Stats. The suspension  
6 or revocation of a milk producer's license also suspends or revokes any grade A farm permit held  
7 by the producer. Except as provided under sub. (2), the department may not suspend or revoke a  
8 milk producer's license ~~may not be suspended or revoked~~ except by order of the secretary or the  
9 secretary's designee, after notice and opportunity for hearing under ch. 227, Stats. The food  
10 safety division may file a written complaint with the department, seeking the suspension or  
11 revocation of a milk producer's license. Pending completion of the proceedings, the secretary or  
12 the secretary's designee may issue interim orders as necessary to protect the public health, safety  
13 and welfare.

14 (2) **SUMMARY SUSPENSION BY FOOD SAFETY DIVISION.** The food safety division may  
15 issue a written notice summarily suspending a milk producer's license if the ~~food~~ division makes  
16 a written finding in its suspension notice that any of the following circumstances ~~exists~~, exist and  
17 ~~that the circumstance warrants~~ warrant summary suspension:

18 **SECTION 49.** ATCP 60.25(2)(a)(note) is amended to read:

19 **NOTE:** The following conditions, individually or in combination, may constitute  
20 evidence of an imminent public health hazard under this paragraph:

- 21
- 22 1. An inspection of the producer's dairy farm reveals gross violations of dairy  
23 farms standards under subchapter III, or reveals violations which pose an  
24 acute health risk.
  - 25 2. Confirmed bacterial plate counts or plate loop counts on the producer's milk  
26 indicate bacterial counts of more than ~~1,000,000~~ 750,000 per ml. in the milk.  
27  
28