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Details:

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WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Agriculture (AC-Ag)

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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- Miscellaneous ... **Misc**

1 **(2) LICENSE APPLICATION.** A person shall apply for a cheesemaker license on a form
2 provided by the department. The application shall include all of the following:

3 (a) Documentation of cheesemaker qualifications under sub. (3).

4 (b) The fee required under sub. (5).

5 **(3) QUALIFICATIONS.** A cheesemaker license application under sub. (2) shall include
6 documentation approved by the department to show that the applicant meets at least one of the
7 following requirements:

8 (a) The applicant has held a cheesemaker license in this state within 10 years prior to the
9 current license application.

10 (b) The applicant has at least 18 months of work experience as a cheesemaker assistant.
11 Work experience as a cheesemaker assistant shall be under the direct supervision of a licensed
12 cheesemaker, shall be within 10 years prior to the current license application, and shall include at
13 least one month of experience in the complete process of cheesemaking.

14 (c) The applicant has at least 12 months of work experience as a cheesemaker assistant
15 under par. (b) and has one of the following educational qualifications:

16 1. The applicant has successfully completed a cheesemaking short course at the university
17 of Wisconsin, or an equivalent course from an accredited post-secondary educational institution,
18 within 10 years prior to the current license application.

19 2. The applicant has at any time obtained a 2-year or greater degree, with a food science
20 or equivalent major, from an accredited post-secondary educational institution.

21 (d) The applicant has at least 6 months of work experience as a cheesemaker assistant
22 under par. (b) and holds a 4-year or greater degree, with a food science or equivalent major, from
23 the university of Wisconsin or another accredited post-secondary educational institution.

1 (e) Within 5 years prior to the current license application, the applicant has completed at
2 least 240 hours of on-the-job training in the complete process of cheesemaking under the direct
3 supervision of a licensed cheesemaker and has completed department-approved courses in all of
4 the following subjects:

- 5 1. Cheesemaking.
- 6 2. Production of safe dairy foods.
- 7 3. Hazard analysis critical control point (HACCP) process control.
- 8 4. Principles of milk pasteurization.
- 9 5. Dairy sanitation.

10 (4) EXAMINATION. An applicant for a cheesemaker's license, other than a renewal
11 license, shall pass a written examination in order to qualify for the license. The license
12 examination shall test the applicant's knowledge of cheesemaking and related matters, and may
13 include questions related to any of the following:

- 14 (a) Laws related to cheesemaking, including standards of identity, food safety standards,
15 labeling requirements and related matters.
- 16 (b) The fundamentals of cheesemaking, including all of the following:
 - 17 1. Preparation and care of equipment.
 - 18 2. Composition control.
 - 19 3. Preparation and use of starter.
 - 20 4. Pasteurization of milk, cream, and other dairy ingredients.
 - 21 5. Problems of acidity control.
 - 22 6. Common cheese defects and methods of overcoming them.
 - 23 7. Yeast, mold and bacterial control methods.

1 (c) Relevant arithmetical problems related to dairy plant operations, cheese production,
2 plant efficiencies and dairy product values.

3 (d) Practical working knowledge related to all of the following:

4 1. Testing milk and dairy products for bacteria, sediment and acidity.

5 2. Grading milk, cream and dairy ingredients.

6 3. Analysis of cheese composition.

7 4. Judging cheese samples.

8 5. Fundamentals of pasteurization.

9 (5) LICENSE FEE. An applicant for a cheesemaker license shall pay a license fee of \$60.

10 (6) ACTION ON LICENSE APPLICATION. The department shall grant or deny a license
11 application under sub. (2) within 20 days after the applicant submits a complete application and
12 takes any examination required under sub. (4). If an examination is required under sub. (4), the
13 department shall administer the examination within 40 days after the department receives a
14 complete license application under sub. (2) unless the applicant agrees to a later examination date.

15 (7) CONDITIONAL LICENSE. The department may issue a license under s. 97.17, Stats., on
16 a conditional basis, pursuant to s. 93.06(8), Stats. If the department issues a license to an
17 applicant who qualifies under sub.(3)(e), the license shall be a conditional license for at least 2
18 years. The conditional license status shall be removed from the license if the license holder has
19 met the requirements in pars. (a) and (b) and completed the period of conditional licensure set by
20 the department. The department may summarily suspend the license if the license holder fails to
21 do any of the following:

1 (a) Successfully complete a performance evaluation conducted by qualified department
2 staff at any time during the conditional license term. The department may conduct an evaluation
3 at any time, at its discretion.

4 (b) Complete the 40 hours of department-approved continuing education related to
5 cheesemaking by the end of the conditional license period. Continuing education programs may
6 include any of the following:

7 1. Seminars on cheese safety, quality and grading provided by a trade association or other
8 continuing education provider.

9 2. Short courses on cheesemaking and grading provided by an accredited university or
10 university extension service.

11 3. Other programs approved by the department.

12 **SECTION 64.** ATCP 77.01(4m) is amended to read:

13 ATCP 77.01(4m) “Drug residue screening test” means any test under s. ATCP 77.02(1)(f)
14 to ~~(1)(s) or (1)(z), (1)(t), or (1)(dd)~~, other than a confirmatory test, that a person uses to comply
15 with drug residue testing requirements under s. ATCP 60.19.

16 **SECTION 65.** ATCP 77.02 (intro.) is amended to read:

17 ATCP 77.02 (intro.) Laboratory tests to protect public health. For purposes of s. 93.12,
18 Stats., the department declares that the following milk, ~~water or food, water, wastewater and~~
19 recreational water tests are necessary to protect public health:

20 **SECTION 66.** ATCP 77.02(1) is repealed and recreated to read:

21 ATCP 77.02(1) MILK. Any of the following tests related to milk and dairy products:

22 (a) Standard Plate Count

23 (b) Plate Loop Count (raw milk only)

- 1 (c) Spiral Plate Count (raw milk only)
- 2 (d) Petrifilm Aerobic Count
- 3 (e) BactoScan FC
- 4 (f) Charm BSDA
- 5 (g) Charm II Competitive
- 6 (h) Charm II Sequential
- 7 (i) Charm II Quantitative
- 8 (j) Charm II Cloxacillin
- 9 (k) Charm II Sulfa
- 10 (L) Charm II Chloramphenicol
- 11 (m) Charm II Tetracycline
- 12 (n) Charm SL (Safe Level)
- 13 (o) Charm SL6
- 14 (p) Delvotest P
- 15 (q) Delvotest P 5 Pack
- 16 (r) Penzyme Milk
- 17 (s) Penzyme III
- 18 (t) Snap BL
- 19 (u) Direct Microscopic Somatic Cell Count
- 20 (v) Electric Somatic Cell Count
- 21 (w) Petrifilm Coliform Count/High Sensitivity Coliform Count
- 22 (x) Coliform Plate Count
- 23 (y) Pasteurized Milk Containers

- 1 (z) Disintegration Test
- 2 (aa) Flat Lid or Pour Contact Tests
- 3 (bb) Phosphatase Test-Fluorophos
- 4 (cc) Phosphatase Test-Charm
- 5 (dd) Tests performed to comply with ch. ATCP 60 or 80, other than milk component tests
- 6 which are not related to public health.

7 **SECTION 67.** ATCP 77.02(3) is repealed and recreated to read:

8 ATCP 77.02(3) WATER, WASTEWATER OR RECREATIONAL WATER. Any of the following
9 tests related to water, wastewater or recreational water:

- 10 (a) LTB or P-A broth, followed by BGLB and either EC or EC-MUG
- 11 (b) A-1 broth (fecal coliform, SWTR only)
- 12 (c) Colilert or Colilert 18
- 13 (d) Colisure
- 14 (e) ReadyCult or Fluorocult LMX
- 15 (f) E*Colite
- 16 (g) Colitag
- 17 (h) M-Endo or LES Endo, followed by BGLB and either EC, EC-MUG, or NA-MUG
- 18 (i) MI Medium
- 19 (j) Coliscan
- 20 (k) m-ColiBlue24
- 21 (L) Chromocult
- 22 (m) mFC agar (fecal coliform, SWTR only)
- 23 (n) PCA

- 1 (o) SimPlate
- 2 (p) m-TEC (fecal coliform)
- 3 (q) Other tests under ch. NR 809 or 812 to detect microbiological contamination in
- 4 drinking water.

5 **SECTION 68.** ATCP 77.03(1) is repealed and recreated to read:

6 ATCP 77.03(1) ANNUAL CERTIFICATION REQUIRED. (a) Except as provided in par. (b), no
7 person may perform any laboratory test listed under s. ATCP 77.02 to determine whether milk,
8 food or water complies with public health standards required under federal or state law unless the
9 department annually certifies the laboratory operator to perform that test at the laboratory where
10 the test is performed. An annual certificate expires on December 31 of each year.

11 (b) An operator may perform a drug residue test as a screening test under s. ATCP 77.23
12 at the operator's laboratory, even though the operator is not certified under par. (a) to perform that
13 drug residue test as a confirmatory test, if the department annually approves the operator to
14 perform that drug residue screening test at that laboratory. An annual certificate of approval
15 expires on December 31 of each year.

16 **SECTION 68.5** ATCP 77.03 (1)(a)(note): is created to read:

17 *NOTE:* A laboratory operator certified under sub. (1)(a) to perform a specified drug
18 residue test may perform both the confirmatory drug residue test for which that
19 operator is certified, as well as the corresponding drug residue screening test.
20

21 **SECTION 69.** ATCP 77.03(2)(c) is repealed and recreated to read:

22 ATCP 77.03(2)(c) An operator approved under sub. (1)(b) to perform a drug residue test
23 as a screening test may not perform that test as a confirmatory test unless the operator is certified
24 to do so under sub. (1)(a).

25 **SECTION 70.** ATCP 77.03(2)(c)(note) is created to read:

1 **NOTE:** The department may approve a laboratory operator, under s. ATCP 77.23, to
2 perform a drug residue screening test on milk even though the department has not
3 certified that laboratory operator under this section to perform that test as a
4 confirmatory test. See also s. ATCP 60.22(1).
5

6 **SECTION 71.** ATCP 77.20(2)(b)2. and (c)2. and 3. are amended to read:

7 ATCP 77.20(2)(b)2. The “Standard Methods for the Examination of Dairy Products,” 16th
8 17th edition, published by the American Public Health Association, ~~Inc.~~

9 (c) 2. The “Compendium of Methods for the Microbiological Examination of Foods,” 3rd
10 4th edition, published by the American Public Health Association.

11 3. The FDA “Bacteriological ~~Annual~~ Analytical Manual,” 8th edition, Revision A, if the
12 operator performs a microbiological test on food.

13 **SECTION 72.** ATCP 77.20 (note) is amended to read:

14 **NOTE:** ~~Copies of reference manuals cited under sub. (2) “Standard Methods for the~~
15 Examination of Dairy Products” and “Compendium of Methods for the
16 Microbiological Examination of Foods” are on file with the department, the
17 secretary of state and the revisor of statutes and may be obtained from the “APHA
18 Bookstore” at <http://www.apha.org/media/science.htm>.
19

20 Copies of the “Bacteriological Analytical Manual” are on file with the department,
21 the secretary of state and the revisor of statutes and may be viewed online at
22 <http://www.cfsan.fda.gov/~ebam/bam-toc.html>.

23 ~~To find out how to order these manuals from the publishers, you may contact the~~
24 ~~department at the following address:~~

25 ~~Wisconsin Department of Agriculture, Trade and Consumer Protection~~

26 ~~Division of Food Safety, Bureau of Food Safety and Inspection~~

27 ~~Laboratory Certification Program~~

28 ~~P.O. Box 8911~~

29 ~~Madison, WI 53708-8911~~

30 ~~(608) 224-4712~~
31

32 **SECTION 73.** ATCP 77.23(1) is repealed and recreated to read:

33 ATCP 77.23(1) LABORATORY APPROVED. (a) The department may approve a laboratory
34 to perform a drug residue test as a screening test, even though the laboratory is not certified under

1 s. ATCP 77.03 to perform the test as a confirmatory test. An approval expires on December 31 of
2 each year. An approved laboratory shall comply with s. ATCP 60.22(1)(b).

3 (b) The department may not approve a laboratory under par. (a) unless all of the following
4 apply:

5 1. The department has approved at least one individual under sub. (2) to perform the drug
6 residue screening test at the approved laboratory.

7 2. The laboratory has written agreements with one or more certified laboratories to
8 provide the confirmatory testing required under s. ATCP 60.22(1)(b)3.

9 (c) The department shall inspect a laboratory under par. (a) before approving the
10 laboratory to perform a visual read drug residue screening test, and before approving any
11 individual under sub. (2) to perform a visual read drug residue screening test at that laboratory.

12 **SECTION 74.** ATCP 77.23(3)(d) and (f) are amended to read:

13 ATCP 77.23(3)(d) A fee of \$25 for each individual, in excess of 3 individuals, that the
14 department evaluates under sub. (4) at the time of the initial laboratory inspection under sub.
15 ~~(1)(e)~~ (1)(c).

16 (3)(f) A fee of \$150 for each laboratory visit, other than the initial inspection under sub.
17 ~~(1)(e)~~ (1)(c), that the department makes for the purpose of evaluating individuals under sub. (4).
18 This single fee of \$150 covers all of the individual evaluations performed during the department's
19 visit, regardless of the number of individuals evaluated.

20 **SECTION 75.** ATCP 77.24(2), (5)(e) is amended to read:

21 ATCP 77.24(2) FORM OF EVALUATION. In a proficiency evaluation under sub. (1), an
22 analyst shall examine samples prepared by an approved evaluator under sub. (3). The contents of
23 the samples shall be known only to the evaluator. The evaluator shall rate the analyst's

1 proficiency by comparing the analyst's results to the known contents of the samples, and shall
2 report those results and ratings to the department. The reported results and ratings are rebuttably
3 presumed to be valid for purposes of s. ATCP 77.22 and this section.

4 (5)(e) In a proficiency evaluation for a coliform test, a sample result is unacceptable if the
5 analyst fails to ~~detect coliform in a sample that contains at least five coliform organisms per~~
6 ~~milliliter or per gram of product~~ report the correct result.

7 **SECTION 76.** ATCP 77.30(2)(b) and (2)(c) are amended to read:

8 ATCP 77.30(2)(b) The U.S. environmental protection agency "Manual for the
9 Certification of Laboratories Analyzing Drinking Water," 4th 5th edition.

10 (2)(c) "~~Standards~~ Standard Methods for the Examination of Water and Wastewater," 18th,
11 ~~or~~ 19th, 20th, or 21st edition, published by the American Public Health Association, the American
12 Water Works Association and the Water Environment Federation.

13 **SECTION 77.** ATCP 77.30 (2)(c)(note) is created to read:

14 **NOTE:** Copies of "Standard Methods for the Examination of Water and Waste Water"
15 are on file with the department and the revisor of statutes and may be obtained from
16 the "APHA Bookstore" at <http://www.apha.org/media/science.htm>.
17

18 **SECTION 78.** ATCP 77.32(2) is amended to read:

19 ATCP 77.32(2) DEPARTMENT TO AUDIT COMPETENCY. Whenever the department
20 performs a mandatory inspection of a water laboratory under s. ATCP 77.14(1), the department
21 shall observe and evaluate the competency of at least one analyst who performs tests under s.
22 ATCP 77.02 (3) for which the department is certifying the water laboratory. The department shall
23 use the United States environmental protection agency "Manual for the Certification of
24 Laboratories Analyzing Drinking Water," 4th 5th edition, to evaluate the analyst's competency.

25 **SECTION 79.** ATCP 77.32(note) is created to read:

1 **NOTE:** Copies of the “Manual for the Certification of Laboratories Analyzing Drinking
2 Water” are on file with the department and the revisor of statutes and may be
3 obtained from the U.S. Environmental Protection Agency at
4 <http://yosemite.epa.gov/ncepihom/nsCatalog.nsf/SearchPubs?OpenForm> or viewed
5 online at http://www.epa.gov/safewater/labcert/pdfs/manual_labcert_2005.pdf.
6

7 **SECTION 80.** ATCP 77.34(2) is amended to read:

8 ATCP 77.34(2) FORM OF EVALUATION. In a laboratory proficiency evaluation under sub.
9 (1), an operator shall assign an analyst to examine samples prepared by an approved evaluator
10 under sub. (3). The contents of the samples shall be known only to the evaluator. The analyst
11 who examines the samples shall be an analyst who normally performs that test at the certified
12 laboratory. The evaluator shall rate the operator’s proficiency by comparing the analyst’s results
13 to the known contents of the samples, and shall report those results and ratings to the department.
14 The reported results and ratings are rebuttably presumed to be valid for purposes of this section.

15 **SECTION 81.** ATCP 80.01(19) is amended to read:

16 ATCP 80.01(19) “Milk” means the lacteal secretion of ~~cows, sheep or goats~~ milking
17 animals, and includes skim milk and cream.

18 **SECTION 82.** ATCP 80.01(21m) is created to read:

19 ATCP 80.01(21m) “Milk hauler” means any person who collects milk at a dairy farm.

20 **SECTION 83.** ATCP 80.01(23m) is created to read:

21 ATCP 80.01(23m) “Milking animals” means all of the following:

22 (a) Cows, sheep and goats.

23 (b) Other hooved animals whose milk is collected and distributed for human
24 consumption.

25 **SECTION 84.** ATCP 80.01(26) is amended to read:

1 ATCP 80.01(26) “Pasteurize” means to thermally process ~~a dairy product, according to~~
2 every particle of a dairy product in properly designed and operated equipment according to subch.
3 V, in order to destroy pathogenic microbes in that dairy product. “Pasteurize” includes batch
4 pasteurization, high-temperature short-time (HTST) pasteurization, ultrapasteurization, and other
5 equally effective pasteurization processes that are approved by the department in writing.

6 **SECTION 85.** ATCP 80.01(27m) is created to read:

7 ATCP 80.01(27m) “PMO” means the grade A pasteurized milk ordinance, 2005 revision,
8 published by the United States department of health and human services, public health service,
9 food and drug administration.

10 **SECTION 86.** ATCP 80.01(33g) and (33j) are created to read:

11 ATCP 80.01(33g) “Recombined dairy product” means a dairy product created by
12 recombining separated dairy product components.

13 (33j) “Reconstituted dairy product” means a dairy product created by restoring water to
14 dehydrated dairy product ingredients.

15 **SECTION 87.** ATCP 80.04(2)(a) is amended to read:

16 ATCP 80.04(2)(a) MILK PROCUREMENT FEE; MONTHLY PAYMENT. (a) *Monthly fee*
17 *required.* On or before the ~~18~~ 25th day of each month, a dairy plant operator shall pay a milk
18 procurement fee in the amount specified under par. (b). The monthly fee shall be based on the
19 amount of milk that was delivered to the dairy plant from milk producers in the month preceding
20 the month when the fee payment is due, regardless of who operated that dairy plant during that
21 preceding month.

22 **SECTION 88.** ATCP 80.08(4)(a) is amended to read:

1 ATCP 80.08(4)(a) Doors, conveyor openings, and other openings to the outside
2 environment shall be kept closed when not in use, and shall at all times be protected against the
3 entry of insects, rodents and excessive dust. Doors to the outside, other than overhead doors and
4 electronic sliding doors in delivery areas, shall be self- closing. External screen doors, if any,
5 shall open outward.

6 **SECTION 89.** ATCP 80.08(8)(b), (d)(intro.) and 4. are amended to read:

7 ATCP 80.08(8)(b) If ~~water is obtained~~ a dairy plant uses water from a privately owned
8 water system, the dairy plant operator or, in the case of a grade A dairy plant, the department shall
9 at least once every 6 months; collect and analyze a sample of the water for compliance with the
10 microbiological standards under s. NR 809.30. Microbiological analyses shall be conducted in a
11 laboratory certified under ch. ATCP 77.

12 (d)(intro.) The following requirements apply whenever ~~Recirculated~~ recirculated water
13 used in a cooler or heat exchanger ~~shall be all of the following~~ may come in contact with any
14 dairy product:

15 4. Tested by the dairy plant operator at least semiannually or, in the case of a grade A
16 dairy plant, by the department at least semiannually.

17 **SECTION 90.** ATCP 80.08(8)(g)(intro.) is created to read:

18 ATCP 80.08(8)(g)(intro.) The following requirements apply whenever water is transported
19 to a dairy plant in a container or tank, for use in dairy plant operations:

- 20 1. The water shall be potable.
- 21 2. The container or tank shall be thoroughly cleaned and sanitized before being filled.
- 22 3. The container or tank shall be sealed, and the water shall be protected from
23 contamination during transit.

1 4. A suitable pump, hose and fittings shall be used to transfer water from the container or
2 tank to a storage tank at the dairy plant, so that the water is not contaminated during transfer.

3 **SECTION 91.** ATCP 80.08(8m) (a) (intro.) and 1. and (b) 4. and 8. are amended to read:

4 ATCP 80.08(8m)(a)(intro.) A dairy plant operator may use water reclaimed from heat
5 exchanger processes or from the condensation of milk or dairy products if all the following apply:

6 1. The water is reclaimed from a heat exchanger process or by means of evaporation,
7 reverse osmosis or ultrafiltration.

8 (b) 4. The organic content of the ~~reclaimed~~ water is less than 12 mg. per liter as measured
9 by the chemical oxygen demand or permanganate-consumed test, or has a standard turbidity of
10 less than 5 units. The dairy plant operator shall use an automatic fail-safe monitoring device to
11 identify, and automatically divert to a waste water system, any ~~reclaimed~~ water that reclaimed
12 from the condensation of dairy products if that water fails to meet this standard.

13 8. The dairy plant operator or, in the case of a grade A dairy plant, the department tests
14 the reclaimed water for bacteriological and organic content at least semi-annually. The operator
15 shall test the reclaimed water for ~~10~~ 14 working days after the department approves the
16 reclamation system under subd. 1., and for at least ~~5~~ 7 working days after any repairs or
17 alterations to the system.

18 **SECTION 92.** ATCP 80.12(1)(a)(note), is amended to read:

19 **NOTE:** The “3-A Sanitary Standards” and “3-A Accepted Practices” listed in
20 APPENDIX A are published ~~jointly by the International Association for Food~~
21 ~~Protection, Inc., and the Food and Drug Administration, Public Health Service,~~
22 ~~United States Department of Health and Human Services by~~ 3-A Sanitary
23 Standards, Inc., 1451 Dolley Madison Boulevard, Suite 210, McLean, VA 22101-
24 3850, telephone (703) 790-0295, website www.3-a.org. Copies are on file with the
25 department, ~~the secretary of state and the reviser of statutes. Copies may be~~
26 ~~purchased from the International Association for Food Protection, Inc., 6200~~
27 ~~Aurora Avenue, Suite 200 W., Des Moines, IA 50322, Telephone 1 800 369 2863.~~

1 and may be obtained from the “3-A Sanitary Standards, Inc. Online Store” at
2 <http://www.techstreet.com>.
3

4 **SECTION 93.** ATCP 80.12(7) is repealed and recreated to read:

5 ATCP 80.12(7) CLEANING AND SANITIZING EQUIPMENT AND UTENSILS. (a) A dairy plant
6 operator shall clean and sanitize product contact surfaces of equipment and utensils to keep them
7 at all times in sanitary condition. Sanitizing methods shall comply with s. ATCP 80.18.

8 (b) Except as provided in pars. (c) to (f), a dairy plant operator shall at a minimum clean
9 all product contact surfaces of equipment and utensils after each day’s use, sanitize those surfaces
10 before each day’s use, and clean and sanitize those surfaces before any change in use that may
11 cross-contaminate dairy products.

12 (c) A dairy plant operator shall clean and sanitize tanks used to store liquid dairy products
13 whenever the dairy plant operator empties those tanks. Tanks used to store raw milk or grade A
14 dairy products shall be emptied at least once every 72 hours.

15 (d) A dairy plant operator shall clean ~~and sanitize~~ evaporators at the end of a continuous
16 operation, not to exceed 44 hours.

17 (e) Paragraph (b) does not apply to the following equipment, provided that the dairy plant
18 operator cleans and sanitizes the equipment according to manufacturer specifications and
19 complies with par. (a):

- 20 1. Drying equipment.
- 21 2. Cloth-collector systems.
- 22 3. Dry product packaging equipment and storage containers.
- 23 4. Equipment used in brining, aging, curing, and dry product blending processes.

24 (f) The department may authorize an alternative cleaning and sanitizing schedule for
25 continuously-operated equipment, in lieu of the schedule under par. (b), based on a proposal

1 under par. (g). A dairy plant operator shall adhere to the practices described in an approve
2 proposal. A dairy plant operator may not materially alter practices described in an approved
3 proposal without department approval.

4 (g) A dairy plant operator's proposal under par. (f) shall include all of the following:

5 1. A complete description of the continuously-operated equipment covered by the
6 proposal, including relevant design and sanitation features.

7 2. A complete description of the processing, handling or storage operations for which the
8 continuously-operated equipment is used. The description shall identify the types of dairy
9 products involved, the types of continuous operations conducted, and the duration of the
10 continuous operations.

11 3. A complete description of the cleaning and sanitizing procedure proposed by the dairy
12 plant operator. The description shall include cleaning and sanitizing frequency, cleaning and
13 sanitizing methods and materials, and other relevant process parameters such as time and
14 temperature. The description shall include relevant process diagrams and specifications.

15 4. A certification, by the dairy plant operator, that the proposed cleaning and sanitizing
16 procedure complies with par. (a). The certification shall be based on a thorough hazard analysis
17 and safety assessment by qualified personnel.

18 (h) A dairy plant operator shall keep records to document, on an ongoing basis, the
19 operator's compliance with this subsection.

20 **SECTION 94.** ATCP 80.14(2)(b) is amended to read:

21 ATCP 80.14(2)(b) A dairy plant operator shall keep records on the cleaning and
22 sanitizing of all C-I-P systems. The records shall identify every C-I-P system that has been
23 cleaned or sanitized, the date and time when each C-I-P system was cleaned and sanitized, the

1 temperature of the cleaning and sanitizing solution, and the length of time for which the C-I-P
2 system was exposed to the cleaning and sanitizing solution. Records shall be signed or initialed
3 by a responsible person at the dairy plant. The department shall review the records as part of
4 every routine inspection of the dairy plant.

5 **SECTION 95.** ATCP 80.16(2)(i) is amended to read:

6 ATCP 80.16(2)(i) Single-service packages used to contain grade A milk or dairy products
7 shall be manufactured by a manufacturer listed in the ~~current quarterly~~ “Interstate Listing of
8 Single-Service Containers” “Certified Manufacturers of Single-Service Containers and Related
9 Products” published online by the Food and Drug Administration, Public Health Service, United
10 States Department of Health and Human Services.

11 **SECTION 96.** ATCP 80.16(2)(i)(note) is repealed and recreated to read:

12 **NOTE:** Copies of “Certified Manufacturers of Single-Service Containers and Related
13 Products” are available online at <http://www.cfsan.fda.gov> or from the Milk Safety
14 Team, HFS-626, Food and Drug Administration, Public Health Service, United
15 States Department of Health and Human Services, 5100 Paint Branch Parkway,
16 College Park, MD 20740-3835.

17
18 **SECTION 97.** ATCP 80.16(3) is renumbered (3)(a) and amended to read:

19 ATCP 80.16(3)(a) Returnable glass bottles cleaned in an automatic bottle washer shall be
20 sanitized while in the washer. Bottles cleaned in an automatic bottle washer may be sanitized by
21 being soaked in a caustic solution. The causticity of the sanitizing solution shall be monitored
22 and maintained at an appropriate level in relation to solution temperature and soaking time. The
23 ~~following table~~ Table 1 shows minimum causticity levels required for sanitizing solutions
24 (expressed in terms of percent concentration of sodium hydroxide, NaOH, in the sanitizing
25 solution), based on applicable soaking times and temperatures:

26 **SECTION 98.** ATCP 80.16(3)(b) is created to read:

1 ATCP 80.16(3)(b) After being soaked in caustic solution under par. (a), bottles shall be
2 rinsed with water that has been treated with heat or chemicals to eliminate viable pathogenic or
3 other harmful microorganisms from the rinse water.

4 **SECTION 99.** ATCP 80.20(3)(c) is created to read:

5 ATCP 80.20(3)(c) Before a dairy plant operator unloads milk from a bulk milk tanker, or
6 commingles it with milk from another milk producer, the dairy plant operator shall test the bulk
7 shipment for drug residues according to s. ATCP 60.19(2).

8 **SECTION 100.** ATCP 80.20(7)(c) is amended to read:

9 ATCP 80.20(7)(c) Keep a record of each cleaning and sanitizing operation for each bulk
10 milk tanker, as required under s. ~~ATCP 82.08 (5)~~ ATCP 82.08(4).

11 **SECTION 101.** ATCP 80.22(7)(title), (a) and (b) are amended to read:

12 ATCP 80.22(7) ~~RECONSTITUTED OR COMMINGLED~~ RECOMBINED DAIRY PRODUCTS;
13 PASTEURIZATION. (a) A dairy plant operator shall pasteurize reconstituted or recombined dairy
14 products after those dairy products are reconstituted or recombined, except where the resulting
15 product is exempt from pasteurization under s. ~~ATCP 80.40(2)~~ ATCP 80.41(2).

16 (b) A dairy plant operator may not commingle pasteurized dairy products with
17 unpasteurized milk or dairy products unless the dairy plant operator pasteurizes the resulting
18 product or the resulting product is exempt from pasteurization under s. ~~ATCP 80.40(2)~~ ATCP
19 80.41(2).

20 **SECTION 102.** ATCP 80.22(8)(note) is amended to read:

21 **NOTE:** The “3-A Sanitary Standards” and “3-A Accepted Practices” listed in
22 APPENDIX A are published jointly by the International Association for Food
23 Protection, Inc., and the Food and Drug Administration, Public Health Service,
24 United States Department of Health and Human Services. by 3-A Sanitary
25 Standards, Inc., 1451 Dolley Madison Boulevard, Suite 210, McLean, VA 22101-
26 3850, telephone (703)790-0295, website www.3-a.org. Copies are on file with the

1 department, ~~the secretary of state~~ and the revisor of statutes. Copies may be
2 purchased from ~~the International Association for Food Protection, Inc., 6200~~
3 ~~Aurora Avenue, Suite 200 W., Des Moines, IA 50322, telephone 1-800-369-2863~~
4 ~~the "3-A Sanitary Standards, Inc. Online Store" at <http://www.techstreet.com>.~~

5
6 **SECTION 103.** ATCP 80.24(3) is repealed and recreated to read:

7 ATCP 80.24(3) PASTEURIZED GRADE A DAIRY PRODUCTS. (a) Bacterial counts in
8 pasteurized grade A dairy products other than cultured dairy products may not exceed the
9 following levels:

10 1. 20,000 per ml., except as provided in subd. 2.

11 2. 30,000 per ml. for condensed milk, whey, whey products, dried whey and nonfat dry
12 milk.

13 (b) Coliform counts in pasteurized grade A dairy products other than cultured grade A
14 dairy products may not exceed 10 per ml. or per gram, except that coliform counts in bulk milk
15 tanker shipments of pasteurized grade A dairy products may not exceed 100 per ml.

16 (c) In pasteurized grade A milk or dairy products, there shall be fewer than 350 milliunits
17 of phosphatase per liter as determined by the Fluorophos ALP method, the Charm Paslite
18 Alkaline Phosphatase method, or another test method approved by the department.

19 (d) The yeast and mold count of pasteurized cottage cheese may not exceed 10 per gram.

20 **SECTION 104.** ATCP 80.24(3m) and (note) are created to read:

21 ATCP 80.24(3m) PASTEURIZED GRADE B DAIRY PRODUCTS. (a) Bacterial counts in
22 pasteurized grade B dairy products, other than cultured dairy products or frozen desserts
23 containing nuts or other bulky flavors, may not exceed the following levels:

24 1. 20,000 per ml., except as provided in subd. 2 or 3.

25 2. 30,000 per ml. for condensed milk, whey, whey products, dried whey and nonfat dry
26 milk.

1 3. 50,000 per gram for frozen desserts, except that the bacterial count for frozen dessert
2 mixes may not exceed 20,000 per gram.

3 (b) Coliform counts in pasteurized grade B dairy products other than cultured grade B
4 dairy products may not exceed 10 per ml. or per gram, except that coliform counts in bulk milk
5 tanker shipments may not exceed 100 per ml.

6 **NOTE:** Cultured grade B dairy products are dairy products, including all natural cheeses,
7 that are produced using natural or added cultures to achieve desired flavor, body
8 and texture requirements.

9
10 **SECTION 105.** ATCP 80.24(4) is amended to read:

11 ATCP 80.24(4) FORTIFIED DAIRY PRODUCTS. Whenever milk or a fluid milk product is
12 fortified with vitamin A or D, the fortification shall comply with PMO Appendix O to the “Grade
13 ~~A Pasteurized Milk Ordinance—1999 Recommendations of the United States Public Health~~
14 ~~Service/Food and Drug Administration,”~~ published by the U.S. Department of Health and Human
15 ~~Service, Public Health Service, Food and Drug Administration.~~

16 **SECTION 106.** ATCP 80.24(5)(note) is amended to read:

17 **NOTE:** Copies of PMO Appendix O to the “Grade A Pasteurized Milk Ordinance—1999
18 ~~Recommendations of the United States Public Health Service/Food and Drug~~
19 ~~Administration”~~ are on file with the department, the secretary of state and the
20 revisor of statutes. Copies may be obtained from the department at cost or online at
21 <http://www.cfsan.fda.gov>.

22
23 **SECTION 107.** ATCP 80.26(1)(a)(note) is amended to read:

24 **NOTE:** Under subch. IV of ch. ATCP 60, a dairy plant operator must perform milk quality
25 tests including bacteria counts, drug residue tests and somatic cell tests. ~~A dairy~~
26 ~~plant operator or milk hauler must also screen milk for coarse sediments.~~ A dairy
27 plant operator must report test results and reject milk shipments as required.

28
29 **SECTION 108.** ATCP 80.26(1)(b) is amended to read:

30 ATCP 80.26(1)(b) A dairy plant operator shall test milk and dairy products held or
31 processed at a dairy plant for compliance with standards specified under s. ATCP 80.24(2) and (3)

1 to (4). The dairy plant operator shall test the milk and dairy products as often as necessary to
2 provide reasonable statistical assurance of compliance.

3 SECTION 109. ATCP 80.32(1)(a) and (b) are amended to read:

4 ATCP 80.32(1)(a) A method described in the American Public Health Association, ~~Inc.~~,
5 “Standard Methods for the Examination of Dairy Products,” 16th 17th edition (2004).

6 (b) A method described in the “Official Methods of Analysis of ~~the Association of~~
7 ~~Official Analytical Chemists (AOAC) AOAC International,~~” 17th 18th edition (2000)-(2005).

8 SECTION 110. ATCP 80.32(1)(note) is repealed and recreated to read:

9 NOTE: A laboratory performing milk quality tests must be certified under ch. ATCP 77.

10
11 The American Public Health Association’s “Standard Methods for the
12 Examination of Dairy Products,” 17th edition (2004), is on file with the department
13 and the revisor of statutes. Copies may be obtained from the American Public
14 Health Association, Inc., 800 I Street, NW, Washington, D.C. 20001, telephone
15 202-777-2742, website www.apha.org.

16
17 The “Official Methods of Analysis of AOAC International,” 18th Edition (2005), is
18 on file with the department and the revisor of statutes. Copies may be obtained
19 from AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD
20 20877-2417, telephone 800-379-2622. website www.aoac.org.

21
22 SECTION 111. ATCP 80.32(5) is amended to read:

23 ATCP 80.32(5) SOMATIC CELLS. Somatic cell counts required under s. ATCP 60.20 and
24 somatic cell counts that may affect the amount paid to a milk producer shall be obtained by means
25 of a direct microscopic somatic cell count (~~DMSCC~~) or an ~~optical somatic cell count (OSCC)~~
26 electronic somatic cell count. The Pyronin Y-Methyl green stain test may be used in place of a
27 ~~DMSCC direct microscopic somatic cell count~~ or ~~OSCC electronic somatic cell count~~ for goat or
28 ~~sheep~~ milk, and shall be used to confirm a ~~DMSCC direct microscopic somatic cell count~~ or
29 ~~OSCC electronic somatic cell count~~ on goat or ~~sheep~~ milk that exceeds 1,000,000.

30 SECTION 112. ATCP 80.34(2)(c)3. and (note) are amended to read:

1 ATCP 80.34(2)(c)3. The standard deviation of test results, calculated for the set of
2 calibration samples according to the formula set forth in the “Official Methods of Analysis of the
3 ~~Association of Official Analytical Chemists (AOAC) AOAC International,~~ 17th 18th edition
4 ~~(2000) (2005)~~, section 969.16, shall not exceed 0.044 percent for milkfat or protein, or 0.084
5 percent for total solids or solids-not-fat.

6 **NOTE:** The “Official Methods of Analysis of the ~~Association of Official Analytical~~
7 ~~Chemists(AOAC) AOAC International,~~ 17th 18th edition ~~(2000) (2005)~~, is on file
8 with the department and the revisor of statutes, and may be obtained from the
9 ~~Association of Official Analytical Chemists AOAC International, 1970 Chain~~
10 ~~Bridge Road, Dept. 0742, McLean, VA 22109-0742~~ 481 N. Frederick Avenue,
11 ~~Suite 500, Gaithersburg, MD, 20877-2417, website <http://www.aoac.org>.~~
12

13 **SECTION 113.** ATCP 80.34(2)(d) and (3)(d) are repealed and recreated to read:

14 ATCP 80.34(2)(d) *Calibration samples.* A set of calibration samples shall be obtained
15 from a sample provider approved by the department. A set of calibration samples shall consist of
16 at least 12 individual samples, each of which complies with all of the following requirements:

- 17 1. Each sample shall be not more than 21 days old.
- 18 2. Each sample shall be a fresh milk sample preserved with bronopol (2-bromo-2-nitro-
19 1,3-propanediol) or another approved preservative. Preservative methods, formulations and
20 concentrations shall be approved by the department.
- 21 3. Each sample shall have a known percentage content of each relevant milk component,
22 determined by the sample provider under subs. (5) to (8).

23 (3)(d) *Daily performance check samples.* A set of daily performance check samples shall
24 be obtained from a sample provider approved by the department. A set shall consist of at least 5
25 individual samples, each of which complies with all of the following requirements:

- 26 1. Each sample shall be not more than 21 days old.

1 2. Each sample shall be a fresh milk sample preserved with bronopol (2-bromo-2-nitro-
2 1,3-propanediol) or another approved preservative. Preservative methods, formulations and
3 concentrations shall be approved by the department.

4 3. Each sample shall have a known percentage content of each relevant milk component,
5 determined by the sample provider under subs. (5) to (8).

6 **SECTION 114.** ATCP 80.34(4)(b)2., (5)(d) and (note), (6)(c) and (note), (7)(c) and (note),
7 and (8) and (note) are amended to read:

8 ATCP 80.34(4)(b)2. To perform a daily reference check, a tester shall perform 10 tests on
9 a reference sample. The reference sample may be a homogenized milk sample prepared by the
10 dairy plant operator, or it may be a daily performance check sample obtained from a sample
11 provider approved by the department or another approved source under sub. (3)(d). The 10 test
12 results shall be averaged, and the average result shall be used as a comparison value for the hourly
13 reference checks under par. (c).

14 (5)(d) To determine the milkfat content of a calibration sample or daily performance
15 check sample, the sample provider shall use either a manual or robotic version of the Modified
16 Mojonnier method as described in the “Official Methods of Analysis of ~~the Association of~~
17 ~~Official Analytical Chemists (AOAC) AOAC International,~~” 17th 18th edition (2000) (2005),
18 section 989.05.

19 **NOTE:** The “Official Methods of Analysis of ~~the Association of Official Analytical~~
20 ~~Chemists(AOAC) AOAC International,~~” 17th 18th edition (2000) (2005), is on file
21 with the department, ~~the secretary of state,~~ and the revisor of statutes, and may be
22 obtained from ~~the Association of Official Analytical Chemists AOAC~~
23 ~~International, 1970 Chain Bridge Road, Dept. 0742, McLean, VA 22109-0742 481~~
24 ~~N. Frederick Avenue, Suite 500, Gaithersburg, MD, 20877-2417, website~~
25 <http://www.aoac.org>.
26

1 (6)(c) To determine the protein content of a calibration sample or daily performance
2 check sample, the sample provider shall use the traditional or block digester/steam distillation
3 Kjeldahl method as described in the “Official Methods of Analysis of the Association of Official
4 Analytical Chemists (AOAC) AOAC International,” 17th 18th edition (2000) (2005), section
5 991.20.

6 **NOTE:** The “Official Methods of Analysis of the Association of Official Analytical
7 Chemists(AOAC) AOAC International,” 17th 18th edition (2000) (2005), is on file
8 with the department, the secretary of state, and the revisor of statutes, and may be
9 obtained from the Association of Official Analytical Chemists AOAC
10 International, 1970 Chain Bridge Road, Dept. 0742, McLean, VA 22109-0742 481
11 N. Frederick Avenue, Suite 500, Gaithersburg, MD, 20877-2417, website
12 <http://www.aoac.org>.
13

14 (7)(c) To determine the total solids content of a calibration sample or daily performance
15 check sample, the sample provider shall use the direct forced air oven drying method as described
16 in the “Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC)
17 AOAC International,” 17th 18th edition (2000) (2005), section 990.20.

18 **NOTE:** The “Official Methods of Analysis of the Association of Official Analytical
19 Chemists(AOAC) AOAC International,” 17th 18th edition (2000) (2005), is on file
20 with the department, the secretary of state, and the revisor of statutes, and may be
21 obtained from the Association of Official Analytical Chemists AOAC
22 International, 1970 Chain Bridge Road, Dept. 0742, McLean, VA 22109-0742 481
23 N. Frederick Avenue, Suite 500, Gaithersburg, MD, 20877-2417,
24 <http://www.aoac.org>.
25

26 (8) CALIBRATION AND DAILY PERFORMANCE CHECK SAMPLES; SOLIDS-NOT-FAT. The
27 provider of a calibration sample under sub. (2) or a daily performance check sample under sub.
28 (3) shall calculate the known percentage content of solids-not-fat in that sample by subtracting the
29 percent fat as determined under sub. (5) from the total solids for that sample as determined under
30 sub. (7). The calculation method shall be that described in the “Official Methods of Analysis of

1 ~~the Association of Official Analytical Chemists (AOAC) AOAC International,~~ 17th 18th edition
2 ~~(2000) (2005),~~ section 990.21.

3 *NOTE:* The “Official Methods of Analysis of ~~the Association of Official Analytical~~
4 ~~Chemists(AOAC) AOAC International,~~ 17th 18th edition ~~(2000) (2005),~~ is on file
5 with the department, ~~the secretary of state,~~ and the revisor of statutes, and may be
6 obtained from ~~the Association of Official Analytical Chemists AOAC~~
7 International, 1970 Chain Bridge Road, Dept. 0742, McLean, VA 22109-0742 481
8 N. Frederick Avenue, Suite 500, Gaithersburg, MD, 20877-2417, website
9 <http://www.aoac.org>.

10
11 SECTION 115. ATCP 80.40(1) and (2) are amended to read:

12 ATCP 80.40(1) “HHST” means “higher heat shorter time” pasteurization of dairy
13 products ~~at temperatures of 191°F. (89°C.) and above with holding times of 1 second or less~~
14 according to s. ATCP 80.44(2m).

15 (2) “HTST” means “high temperature short time” pasteurization of milk, milk products or
16 dairy products ~~for 15 seconds at temperatures between 161 degrees F. (72 degrees C.) and 180~~
17 ~~degrees F. (83 degrees C.)~~ according to s. ATCP 80.44(2).

18 SECTION 116. ATCP 80.41(2)(g) to (i) are created to read:

19 ATCP 80.41(2)(g) Dried condensed whey produced by drying condensed whey
20 pasteurized at another dairy plant, provided that all of the following apply:

21 1. The pasteurized condensed whey received for drying contained at least 40% total
22 solids, and was partially crystallized by cooling at the dairy plant where it was pasteurized.

23 2. The partially crystallized condensed whey was kept at a temperature of 45° F. (7° C.) or
24 less prior to drying.

25 3. The bulk milk tanker used to transport the partially crystallized condensed whey was
26 washed and sanitized immediately prior to filling, was sealed immediately after filling, and
27 remained sealed until it was unloaded at the receiving dairy plant.

1 4. The receiving dairy plant unloaded the partially crystallized condensed whey using
2 unloading pumps and pipelines that are used only for that purpose, and cleaned and sanitized the
3 pumps and pipelines as a separate cleaning circuit.

4 (h) Grade B dairy products produced by adding previously pasteurized dry dairy products
5 with a low water activity to previously pasteurized grade B dairy products, if approved by the
6 department.

7 (i) Grade B dairy products produced by adding previously pasteurized packaged dairy
8 products to previously pasteurized grade B dairy products, if approved by the department.

9 **SECTION 117.** ATCP 80.41(3)(intro.) is amended to read:

10 ATCP 80.41(3) A dairy product ~~pasteurized after January 1, 1997~~ that is required to be
11 pasteurized under sub. (1) shall be pasteurized by, or under the direct supervision of, a pasteurizer
12 operator who has successfully completed at least one of the following:

13 **SECTION 118.** ATCP 80.41(4) to (9) are created to read:

14 ATCP 80.41(4) If a dairy product standard of identity requires that any ingredient of that
15 product be pasteurized, the ingredient shall be pasteurized according to s. ATCP 80.44.

16 (5) Except as provided in subs. (6) to (8), a dairy product that is required to be pasteurized
17 under sub. (1) or (4) shall be pasteurized before it is introduced into any membrane or condensing
18 processing system.

19 (6) Subsection (5) does not apply to grade B whey or whey product if at least one of the
20 following applies:

21 (a) The whey or whey product is derived from milk pasteurized in the same dairy plant.

22 (b) The whey is acid whey, which has a pH less than 4.7 when drawn from the curd.

1 (c) The whey or whey product is processed in a membrane processing system that
2 complies with sub. (9) and is designed and maintained to keep the whey or whey product at a
3 temperature of 65° F. (18.3° C.) or below during processing. If the whey or whey product
4 temperature exceeds 65° F. (18.3° C.) for more than 15 minutes during processing, or exceeds 70°
5 F. (21.1° C.) at any time during processing, the whey or whey product shall be immediately
6 diverted from moving beyond the membrane processing system by means of automatic controls.
7 The diverted product shall be treated in one of the following ways:

8 1. Recycled through the membrane processing system and subjected to cooling. The
9 diverted product may proceed beyond the membrane processing system when the product
10 temperature falls to 65° F. (18.3 ° C.) or below.

11 2. Cooled in a system other than the membrane processing system until the temperature
12 falls to 45° F. (7 ° C.) or below, and may then be reintroduced into the membrane processing
13 system.

14 3. Pasteurized in a pasteurization system, and may then be reintroduced into the
15 membrane processing system.

16 4. Discarded.

17 (7) Subsection (5) does not apply to grade A whey or whey product that is pasteurized in
18 a membrane processing system that complies with sub. (9) if at least one of the following apply:

19 (a) The whey is acid whey, which has a pH less than 4.7 when drawn from the curd.

20 (b) The membrane processing system is designed and maintained to keep the whey or
21 whey product at a temperature of 45° F. (7° C.) or below during processing.

22 (8) Subsection (5) does not apply to raw milk that is processed, prior to pasteurization, in
23 a membrane processing system that complies with sub. (9) and is designed and maintained to

1 keep the milk at a temperature of 65° F. (18.3° C.) or below during processing. If the milk
2 temperature exceeds 65 ° F. (18.3° C.) for more than 15 minutes during processing, or exceeds 70°
3 F. (21.1° C.) at any time during processing, the milk shall be immediately diverted from moving
4 beyond the membrane processing system by means of automatic controls. The diverted milk shall
5 be treated in one of the following ways:

6 (a) Recycled through the membrane processing system and subjected to cooling. The
7 diverted product may proceed beyond the membrane processing system when the product
8 temperature falls to 65° F. (18.3 ° C.) or below.

9 (b) Cooled in a system other than the membrane processing system until the temperature
10 falls to 45° F. (7 ° C.) or below, and may then be reintroduced into the membrane processing
11 system.

12 (c) Pasteurized in a pasteurization system, and may then be reintroduced into the
13 membrane processing system.

14 (d) Discarded.

15 (9) A membrane processing system under sub. (6)(c), (7) or (8) shall be equipped with
16 temperature monitoring and recording devices that comply with PMO APPENDIX H, Subsection
17 IV. At a minimum, the system shall monitor and record product temperature at each of the
18 following points during processing:

19 (a) The point at which the dairy product enters the system.

20 (b) A point immediately preceding each intermediate cooling.

21 (c) A point immediately preceding final cooling.

22 (d) The point at which the product exits the system.

23 **SECTION 118.5.** ATCP 80.41(9)(note) is created to read:

1 **NOTE:** PMO Appendix H, Subsection IV is on file with the department and the revisor of
2 statutes. Copies may be obtained from the department at cost or online at
3 <http://www.cfsan.fda.gov>.

4
5 **SECTION 119.** ATCP 80.42(note) is created to read:

6 **NOTE:** See dairy product labeling requirements in subch. VIII.

7 **SECTION 120.** ATCP 80.44(2) Table 2 is amended to read:

**TABLE 2
PASTEURIZATION REQUIREMENTS FOR
SELECTED DAIRY PRODUCTS**

Product Group	Batch Pasteurization	HTST Pasteurization
(a) Milk, skim milk, or buttermilk	145°F. (63°C.) for 30 minutes	161°F. (72°C.) for 15 seconds
(b) Cream and fluid dairy products having more than 10% milkfat	150°F. (66°C.) for 30 minutes	166° F. (75°C.) for 15 seconds
(c) Cream for butter	165°F. (74°C.) for 30 minutes	185°F. (85°C.) for 15 seconds
(d) Condensed dairy products including condensed products in group (a) and blends of those products	150°F. (66°C.) for 30 minutes	166°F. (75°C.) for 15 seconds
(e) High total solids products (> 46% 18%)	150° F. (66° C.) for 30 minutes	166°F. (75°C.) for 15 seconds
(f) Frozen dessert mixes	155°F. (69°C.) for 30 minutes	175°F. (80°C.) for 25 seconds or 180°F. (83°C.) for 15 seconds
(g) Egg nog	155° F. (69°C.) for 30 minutes	175°F. (80°C.) for 25 seconds or 180°F. (83°C.) for 15 seconds
(h) Process cheese	150°F. (66°C.) for 30 seconds	—

8
9 **SECTION 121.** ATCP 80.44(2m)(intro.) is amended to read:

10 ATCP 80.44(2m)(intro.) A dairy plant operator may use an HHST ~~pasteurizing system~~
11 pasteurizer as an alternative to an HTST pasteurizer. An HHST pasteurizer shall operate at
12 temperatures of 191°F. (89°C.) and above with holding times of 1 second or less, and shall have a
13 flow diversion device downstream from the cooler and regenerator. An HHST pasteurizer shall
14 heat and hold a dairy product at one of the following temperatures for the corresponding length of
15 time:

16 **SECTION 122.** ATCP 80.44(4) and (5) are repealed.

1 **SECTION 123.** ATCP 80.46 is amended to read:

2 **ATCP 80.46 Batch pasteurization.** Batch pasteurization equipment shall be of the non-
3 coil type. Batch pasteurization equipment shall be constructed and operated so that pasteurization
4 complies with ~~s. ATCP 80.44. Batch pasteurization equipment shall be equipped with a leak~~
5 ~~detector valve, a recording thermometer, a mercury column product thermometer or calibrated~~
6 ~~digital probe thermometer, and a thermometer to record the temperature of the air space above the~~
7 ~~product in the pasteurizer.~~ item 16p(A) of the PMO and with applicable “3-A Sanitary Standards”
8 and “3-A Accepted Practices” listed in APPENDIX A to this chapter. Thermometers shall be
9 constructed and operated in compliance with PMO APPENDIX H, item IV. The temperature of the
10 air space above the pasteurized product shall be at least 5° F. (3° C.) higher than the minimum
11 pasteurization temperature of the pasteurized product.

12 **SECTION 124.** ATCP 80.46(note) is created to read:

13 **NOTE:** The “3-A Sanitary Standards” and “3-A Accepted Practices” listed in APPENDIX A
14 are published by 3-A Sanitary Standards, Inc., 1451 Dolley Madison Boulevard,
15 Suite 210, McLean, VA 22101-3850, telephone (703) 790-0295, website [www.3-](http://www.3-a.org)
16 [a.org](http://www.3-a.org). Copies are on file with the department and the reviser of statutes. Copies
17 may be purchased from the “3-A Sanitary Standards, Inc. Online Store” at
18 <http://www.techstreet.com>. Copies of the PMO are on file with the department and
19 the revisor of statutes. Copies may be obtained from the department at cost or are
20 available online at <http://www.cfsan.fda.gov>.

21
22 **SECTION 125.** ATCP 80.48 and (note) are amended to read:

23 **ATCP 80.48 HTST and HHST pasteurization.** Pasteurization by means of HTST or
24 ~~higher heat, shorter time~~ HHST pasteurization shall comply with the standards set forth in “3-A
25 Accepted Practices for the Sanitary Construction, Installation, Testing and Operation of High-
26 Temperature Short-Time and Higher Heat Shorter Time Pasteurizer Systems,” standard 3A 603-
27 07 (November, 2000 2005), published jointly by the International Association of Food Industry
28 Suppliers (IAFIS), International Association for Food Protection, Inc., (IAFP), the Food and Drug

1 ~~Administration, Public Health Service, United States Department of Health and Human Services~~
2 ~~(USPHS), and the Dairy Industry Committee (DIC)~~ 3-A Sanitary Standards, Inc.

3 *NOTE:* Copies of the “3-A Accepted Practices for the Sanitary Construction, Installation,
4 Testing, and Operation of High-Temperature Short-Time and Higher Heat Shorter
5 Time Pasteurizer Systems,” standard 3A 603-07 (November, 2000 2005) are on
6 file with the department and the revisor of statutes. Copies may be obtained from
7 the ~~International Association for Food Protection, Inc., 6200 Aurora Ave., Suite~~
8 ~~200 W., Des Moines, IA 50010.~~ Copies are on file with the department, the
9 secretary of state and the revisor of statutes “3-A Sanitary Standards, Inc. Online
10 Store” at <http://www.techstreet.com>.
11

12 **SECTION 126.** ATCP 80.49(2) is repealed and recreated to read:

13 ATCP 80.49(2) REQUIREMENTS. (a) Grade A aseptic processing and packaging systems
14 shall comply with standards specified in PMO items 16p(C), (D) and (E) and with standards
15 specified by the food and drug administration, United States department of health and family
16 services, under 21 CFR 113 and 21 CFR 114.

17 (b) Grade B aseptic processing and packaging systems shall comply with standards
18 specified by the food and drug administration, United States department of health and family
19 services, under 21 CFR 113 and 21 CFR 114.

20 **SECTION 127.** ATCP 80.49(2)(b)(note) is amended to read:

21 *NOTE:* The ~~“Grade A Pasteurized Milk Ordinance (PMO)—1999 Recommendations of~~
22 ~~the United States Public Health Service/Food and Drug Administration,”~~ PMO is on
23 file with the department, the secretary of state and the revisor of statutes. Copies
24 may be obtained from the department at cost or online at <http://www.cfsan.fda.gov>.
25

26 **SECTION 128.** ATCP 80.50(1), (2)(b) to (e) and (g) are amended to read:

27 **ATCP 80.50 Pasteurization records.** (1) GENERAL. A dairy plant operator shall keep
28 pasteurization records for all dairy products processed by the operator. Records shall cover all
29 pasteurization operations, including conventional batch operations, HTST operations, and HHST

1 operations. Records shall comply with this section. The department shall review pasteurization
2 records as part of each routine inspection of a dairy plant.

3 (2)(b) The identification number or location of each pasteurization time and temperature
4 ~~recorder~~ recording chart, if more than one is used.

5 (c) A continuous ~~recorder~~ temperature recording chart temperature record for each batch
6 of pasteurized product.

7 (d) The pasteurization holding time, as shown on the ~~recorder~~ temperature recording
8 chart, for each batch of pasteurized product. Records shall include filling and emptying times, if
9 applicable.

10 (e) The temperature reading on the airspace thermometer at the start and end of the
11 pasteurization holding period, at specific times identified as points on the ~~recorder~~ temperature
12 recording chart.

13 (g) The name and quantity of pasteurized dairy product included in each batch
14 pasteurization shown on the ~~recorder~~ temperature recording chart.

15 **SECTION 129.** ATCP 80.50(3)(b), (c), and (e) to (h) are amended to read:

16 (3)(b) The identification number or location of each pasteurization time and temperature
17 ~~recorder~~ recording chart, if more than one is used.

18 (c) A continuous ~~controller~~ temperature recording chart temperature record for each
19 pasteurization run.

20 (e) Documentation, on the ~~controller~~ temperature recording chart, of every time period
21 during which the flow-diversion device on the pasteurizer is in the forward-flow position.

1 (f) The cut-in and cut-out product temperatures at the beginning of each HTST
2 pasteurization run. The pasteurizer operator shall record these temperatures daily on the
3 ~~controller~~ temperature recording chart.

4 (g) The temperature reading on the indicating thermometer whenever the ~~controller~~
5 temperature recording chart for the pasteurization system is changed.

6 (h) The name and quantity of pasteurized dairy product included in each pasteurization
7 run shown on the ~~controller~~ temperature recording chart.

8 **SECTION 130.** ATCP 80.50(4) is created to read:

9 ATCP 80.50(4) FLOW RECORDS FOR HTST AND HHST PASTEURIZERS WITH METER BASED
10 TIMING SYSTEMS. In addition to requirements in sub. (3), pasteurization records for HTST and
11 HHST pasteurization operations with meter based timing systems shall include all of the
12 following:

13 (a) Each date on which dairy products are pasteurized.

14 (b) The identification number or location of each pasteurization time and flow-rate
15 recording chart, if more than one is used.

16 (c) A continuous flow-rate recording chart record of the flow rate.

17 (d) A continuous flow-rate recording chart record of the status of the high and low
18 flow/loss of signal alarms.

19 (e) The name and quantity of pasteurized dairy product included in each pasteurization
20 run shown on the flow-rate recording chart.

21 (f) A record of any unusual circumstances that occurred during each pasteurization run.

22 (g) The name of the dairy plant.

1 (h) The signature or initials of the dairy plant operator, or a responsible employee or agent
2 of the operator.

3 **SECTION 131.** ATCP 80.52(2) and (note) is amended to read:

4 ATCP 80.52(2) TEST PROCEDURE. The department shall test grade A and grade B
5 pasteurization systems according to the procedure specified in PMO Appendix I of the “Grade A
6 Pasteurized Milk Ordinance—1999 Recommendations of the United States Public Health
7 Service/Food and Drug Administration.”.

8 **NOTE:** PMO Appendix I of the “Grade A Pasteurized Milk Ordinance—1999
9 Recommendations of the United States Public Health Service/Food and Drug
10 Administration” is on file with the department, the secretary of state and the
11 revisor of statutes. Copies may be obtained from the department at cost or online
12 at <http://www.cfsan.fda.gov>.
13

14 **SECTION 132.** ATCP 80.52(6) (a) is amended to read:

15 ATCP 80.52(6) BROKEN SEAL. (a) A dairy plant operator shall ~~immediately~~ notify the
16 department by telephone, electronic mail, or facsimile (FAX) transmission ~~whenever the~~ within 2
17 hours after the dairy plant operator breaks a seal applied by the department under sub. (5), ~~or~~
18 ~~whenever~~ and within 2 hours after a pasteurizing system malfunctions to the possible detriment of
19 public health or safety. The dairy plant operator shall also notify the department in writing, on a
20 form provided by the department, within 5 business days after the seal is broken or the system
21 malfunctions.

22 **SECTION 133.** ATCP 80.52(6)(b)3. is repealed and recreated to read:

23 ATCP 80.52(6)(b)3. The dairy plant operator conducts phosphatase tests under par. (d) if
24 the pasteurizer is used to pasteurize white milk. Phosphatase testing shall confirm that
25 pasteurized white milk contains less than 350 milli-units of detectable alkaline phosphatase per
26 liter.

1 **SECTION 134.** ATCP 80.52(6)(d) is created to read:

2 ATCP 80.52(6)(d) Phosphatase testing under par. (b)3. shall comply with all of the
3 following requirements:

4 1. The dairy plant operator shall collect a test sample, directly from the pasteurizer
5 system, at least once during every 4 hours of pasteurizer operations.

6 2. The dairy plant operator shall store each test sample at a temperature below 45° F. (7°
7 C.) until it is tested, and shall test each sample within 48 hours after it is collected.

8 3. The dairy plant operator shall test each sample using the Fluorophos ALP method, the
9 Charm Paslite Alkaline Phosphatase method, or another test method approved by the department.

10 4. Tests shall be performed by an individual who is trained to conduct phosphatase tests
11 on milk. If the dairy plant is a grade A dairy plant, tests shall be performed by a laboratory that
12 the department has certified under ch. ATCP 77 or the PMO.

13 **SECTION 135.** ATCP 80.54(1)(j) is amended to read:

14 ATCP 80.54(1)(j) Cleaning and sanitizing records for bulk milk tankers, as required
15 under s. ~~ATCP 82.08 (5)~~ ATCP 82.08(4). Records under this paragraph shall be retained for at
16 least ~~90~~ 15 days

17 **SECTION 136.** ATCP 80.54(1)(n) and (o) are created to read:

18 ATCP 80.54(1)(n) Cleaning and sanitizing records required under s. ATCP 80.12(7)(g).
19 The dairy plant operator shall retain the records for at least 6 months.

20 (o) Bills of lading or other shipping documents relating to the bulk shipment of dairy
21 products from the dairy plant to another dairy plant, or to the dairy plant from another dairy plant.
22 The dairy plant operator shall retain each shipping document for at least 3 years. Each shipping
23 document shall include all of the following information:

1 1. The name, address and license number of the dairy plant from which the shipment
2 originates. If the dairy product is a grade A dairy product, the shipping document shall also
3 include the dairy plant shipper identification number assigned under the PMO.

4 2. The bulk milk tanker identification number assigned under ch. ATCP 82 or the PMO.

5 3. The name of the dairy product shipped.

6 4. The weight of the dairy product shipped.

7 5. The temperature of the dairy product when loaded for shipment.

8 6. The date of shipment.

9 7. The name of the dairy regulatory agency at the shipment point of origin.

10 8. Whether the dairy product is raw, pasteurized or heat-treated.

11 9. The grade of product.

12 10. The seal number on the bulk milk tanker inlet, outlet, wash connections and vents.

13 **SECTION 137.** ATCP 80.54(2) is amended to read:

14 ATCP 80.54(2) Records under sub. (1) shall be kept at the dairy plant, and shall be made
15 available to the department for inspection and copying upon request. Records may be kept in
16 electronic form, with or without hard copy printouts, if the electronic records are readily
17 accessible by a department inspector and the dairy plant operator maintains secure electronic
18 backup.

19 **SECTION 138.** ATCP 80.62(1)(b) is amended to read:

20 ATCP 80.62(1)(b) *Survey method.* A survey under par. (a) shall include an inspection of
21 the grade A dairy plant, an inspection of a randomly selected statistical sample of dairy farms
22 shipping grade A milk to that dairy plant, and an evaluation of enforcement methods. A survey
23 shall be conducted in compliance with “Methods of Making Sanitation Ratings of Milk Supplies,”

1 1999 2005 revision, published by the Food and Drug Administration, Public Health Service,
2 United States Department of Health and Human Services.

3 **SECTION 139.** ATCP 80.62(1)(c)(note) is amended to read:

4 **NOTE:** The “Methods of Making Sanitation Ratings of Milk Supplies” is on file with the
5 department, ~~the secretary of state,~~ and the revisor of statutes. Copies may be
6 purchased from the Milk Safety ~~Branch HFF-346~~ Team, HFS-626, Food and Drug
7 Administration, Public Health Service, United States Department of Health and
8 Human Services, ~~200 “C” Street S. W., Washington, D.C. 20204~~ 5100 Paint Branch
9 Parkway, College Park, MD 20740-3835.

10 **SECTION 140.** ATCP 80.62(1)(d) and (note) are amended to read:

11
12 ATCP 80.62(1)(d) *Unsatisfactory survey rating; grade A permit suspension.* The
13 department may suspend or revoke a dairy plant’s grade A permit if the sanitation compliance
14 rating for that dairy plant under par. (c) falls below ~~90%~~ 80%. This subsection does not prohibit
15 the department from suspending or revoking a grade A dairy plant permit for any other reason.

16 **NOTE:** Procedures related to the suspension or revocation of a grade A dairy plant permit
17 are set forth in ch. ATCP 1. If a compliance rating falls below ~~90%~~ 80%, the
18 ~~United States food and drug administration~~ department may also decertify the
19 dairy plant as an interstate milk shipper. ~~The effect~~ Decertification may ~~be prevent~~
20 the dairy plant operator from shipping grade A dairy products in interstate
21 commerce.

22
23 **SECTION 141.** ATCP 80.62(2) is repealed and recreated to read:

24 ATCP 80.62(2) INSPECTION FREQUENCY. (a) Except as provided in par. (b), the
25 department shall inspect every grade A processing plant at least once every 3 months, every grade
26 A receiving station at least once every 3 months, and every grade A transfer station at least once
27 every 6 months.

28 (b) Paragraph (a) does not apply to a grade A processing plant, receiving station, or
29 transfer station that the United States food and drug administration lists as being enrolled in the
30 program described in PMO Appendix K.

1 **SECTION 142.** ATCP 80.62(2)(note) is created to read:

2 **NOTE:** PMO Appendix K describes a voluntary “hazard analysis-critical control point
3 (HACCP)” program for dairy plants. The HACCP program serves as a partial
4 alternative to traditional inspection. If a dairy plant is currently enrolled in the
5 HACCP program, as indicated by the Interstate Milk Shippers List published by
6 the United States food and drug administration, the department is not required to
7 inspect the dairy plant with the normal frequency required under sub. (2)(a). If an
8 enrolled dairy plant fails to comply with HACCP program standards in PMO
9 Appendix H, the food and drug administration may “de-list” the dairy plant from
10 the HACCP program and the department must then inspect the dairy plant at the
11 normal frequency required by sub. (2)(a). PMO Appendix K is on file with the
12 department and the revisor of statutes. Copies may be obtained from the
13 department at cost or online at <http://www.cfsan.fda.gov>.

14
15 **SECTION 143.** ATCP 80.62(3)(a) and (b) are amended to read:

16 ATCP 80.62(3) DAIRY PRODUCT SAMPLING; FREQUENCY. (a) *Pasteurized milk and dairy*
17 *products; sample testing.* ~~During any~~ Except as provided in par. (c), the department in every
18 consecutive 6 month period, ~~the department shall collect from each every~~ grade A dairy plant at
19 least 4 samples of each pasteurized grade A dairy product produced by that dairy plant. ~~Each~~
20 ~~sample shall be collected~~ The department shall collect each sample in a separate month, except
21 that the department may collect 2 of the samples in the same month if it collects those 2 samples
22 at least 20 days apart and collects the other two samples in two other months. Dairy plants
23 producing pasteurized grade A dairy products on an intermittent basis shall notify the department
24 of intended production schedules to facilitate sample collection under this paragraph. The
25 department shall measure and record the temperature of each pasteurized grade A dairy product
26 from which the samples are collected, and shall test the samples for bacteria counts, coliform
27 counts and beta lactam drug residues. The department may collect additional samples and
28 perform additional tests that the department considers necessary.

29 (b) *Raw milk held at dairy plant; sample testing.* ~~During any every~~ consecutive 6-month
30 period, the department shall collect, at least 4 samples of commingled raw milk from each grade

1 A dairy plant, ~~at least 4 samples of raw commingled milk held at the dairy plant that receives raw~~
2 milk. The department shall collect each sample in a separate month, except that the department
3 may collect 2 of the samples in the same month if it collects those 2 samples at least 20 days apart
4 and collects the other two samples in two other months. The department shall measure and record
5 the temperature of the raw commingled milk from which the ~~samples are collected~~ the department
6 collects each sample, and shall test ~~the samples~~ each sample for bacterial counts and beta lactam
7 drug residues. The department may collect additional samples and perform additional tests which
8 the department considers necessary.

9 SECTION 144. ATCP 80.62(3)(c) is created to read:

10 ATCP 80.62(3)(c) Paragraph (a) does not apply to a grade A condensed or dry milk
11 product that is not produced on a continuous monthly basis, provided that the department collects
12 at least 5 samples within each continuous production period.

13 SECTION 145. Subchapter VIII of ch. ATCP 80 is created to read:

14 **Subchapter VIII**
15 **Dairy Product Labeling**

16
17 **ATCP 80.70 Dairy product labeling.** (1) GENERAL. Dairy product labeling shall
18 comply with applicable requirements in ch. 97, Stats., this chapter, and chs. ATCP 81, 83, 85 and
19 90.

20 (2) PRODUCTS NOT FOR HUMAN CONSUMPTION. No dairy plant operator may distribute
21 any dairy product manufactured by that dairy plant operator unless one of the following applies:

22 (a) The dairy product complies with, and has been produced according to, this chapter and
23 chs. ATCP 60 and 82.

24 (b) The dairy product is prominently labeled as animal feed, according to ch. ATCP 42.

1 (c) The dairy product is prominently labeled as “NOT FOR HUMAN FOOD OR
2 ANIMAL FEED,” and is sold only for non-food and non-feed purposes. The label shall include
3 the manufacturer’s name and address, and the address where the product was manufactured. The
4 label may not include any dairy plant license or identification number issued by the department.

5 **SECTION 146.** ATCP 82.01(1m) is created to read:

6 ATCP 82.01(1m) “Bulk milk tanker cleaning facility” means a facility where a bulk milk
7 tanker or its appurtenances are cleaned and sanitized.

8 **SECTION 147.** ATCP 82.01(3) is amended to read:

9 ATCP 82.01(3) “Dairy farm” means any place where one or more ~~eows, sheep or goats~~
10 milking animals are kept for the production of milk.

11 **SECTION 148.** ATCP 82.01(5) is amended to read:

12 ATCP 82.01(5) “Milk” means the lacteal secretion of ~~eows, sheep or goats~~ milking
13 animals, and includes skim milk and cream.

14 **SECTION 149.** ATCP 82.01(7m) is created to read:

15 ATCP 82.01(7m) “Milking animals” means all of the following:

16 (a) Cows, sheep and goats.

17 (b) Other hooved animals whose milk is collected and distributed for human
18 consumption.

19 **SECTION 150.** ATCP 82.02(1)(b), (2)(intro.) and (2)(c) are amended to read:

20 ATCP 82.02(1) (b) Paragraph (a) does not apply to a person who ~~operates~~ drives a bulk
21 milk tanker vehicle solely as an employee of a person who holds a license under par. (a) for that
22 bulk milk tanker.

1 (2)(intro.) LICENSE APPLICATION. An application for a license under sub. (1) shall be
2 made on a form provided by the department ~~and shall include all applicable fees and surcharges~~
3 ~~that are due and payable under this section.~~ The application shall include all of the following:

4 (2)(c) The city, village or town, and state in which the bulk milk tanker is customarily
5 kept.

6 SECTION 151. ATCP 82.02(2)(e) is created to read:

7 ATCP 82.02(2)(e) All applicable fees and surcharges required under subs. (4) to (6).

8 SECTION 152. ATCP 82.02(7) is amended to read:

9 ATCP 82.02(7) GRADE A PERMIT. (a) Except as provided under par. (c), no person may
10 operate a bulk milk tanker to transport milk or milk products for sale or use as grade A milk or
11 grade A fluid milk products unless that person holds a valid grade A permit issued annually for
12 that bulk milk tanker by the department ~~for that bulk milk tanker~~ or an equivalent regulatory
13 agency in another state where that bulk milk tanker is normally based. A grade A permit is not
14 transferable between persons or bulk milk tankers. A grade A permit may be issued in the form
15 of an endorsement on a bulk milk tanker license under sub. (1).

16 SECTION 153. ATCP 82.02(7)(d), (note) and (e) are created to read:

17 ATCP 82.02(7)(d) The holder of a grade A permit under par. (a) shall display all of the
18 following information, in the manner required under par. (e), on both sides of the bulk milk tanker
19 to which the permit applies:

20 1. The grade A permit identification number.

21 2. Identification of the state that issued the grade A permit. The state identification may
22 be expressed as the full state name, the official two letter postal code abbreviation for the state, or
23 the national uniform code issued for that state by the National Institute of Standards and

1 Technology, U.S. Department of Commerce, Bureau of the Census, and available online at
2 <http://www.itl.nist.gov/fipspubs/>.

3 **NOTE:** For example, permits issued by the department may display the full state name,
4 "Wisconsin," the two letter postal code state abbreviation "WI," or the national
5 uniform code "55."
6

7 (e) The information display under par. (d) shall be permanently attached to the bulk milk
8 tanker. The color of the letters and numbers shall be in sharp contrast to the background on which
9 the letters and numbers are displayed. Each letter and number comprising the information shall
10 be at least 2 inches in height and readily legible during daylight hours while the bulk milk tanker
11 is stationary. The permit holder shall maintain the display so that it remains fully legible at all
12 times.

13 **SECTION 154.** ATCP 82.04(1)(a) and (1)(b) is amended to read:

14 ATCP 82.04(1)(a) Weigh or measure milk, for payment purposes ~~at a dairy farm before~~
15 ~~that milk is transported in bulk to a dairy plant.~~

16 (1)(b) Collect test samples of milk ~~at a dairy farm if the test results may affect the amount~~
17 ~~paid to the milk producer~~ required under s. ATCP 60.17.

18 **SECTION 155.** ATCP 82.06(1) and (note) are amended to read:

19 ATCP 82.06(1) SANITARY CONSTRUCTION. Bulk milk tankers, including equipment and
20 accessories, shall be of sanitary design and construction, and shall comply with "3-A Sanitary
21 Standards for Stainless Steel Automotive ~~Milk and Milk Products~~ Transportation Tanks for Bulk
22 Delivery and/or Farm Pick-Up Service," No. ~~05-14 November 1, 1989~~ published jointly by the
23 ~~International Association of Milk, Food and Environmental Sanitarians, Inc. and the Food and~~
24 ~~Drug Administration, Public Health Service, United States Department of Health and Human~~
25 ~~Services.~~ 3A 05-15 (November 24, 2002).

1 **NOTE:** Copies of the “3-A Standards” are on file with the department and the revisor of
2 statutes. ~~Copies may be purchased from the International Association of Food~~
3 ~~Protection, 6200 Aurora Avenue, Suite 200 W. Des Moines, IA 50322.~~ Copies
4 may be obtained from “3-A Sanitary Standards, Inc. Online Store” at
5 <http://www.techstreet.com>.
6

7 **SECTION 156.** ATCP 82.08 is repealed and recreated to read:

8 **ATCP 82.08 Cleaning and sanitizing bulk milk tankers. (1) CLEANING AND**

9 SANITIZING REQUIRED. (a) No person may operate a bulk milk tanker unless a bulk milk tanker
10 operator cleans the bulk milk tanker immediately after each day’s use and sanitizes the bulk milk
11 tanker prior to the next day’s use. A bulk milk tanker operator shall clean and sanitize a bulk
12 milk tanker, including all attached dairy product pumps and hoses, according to this section. A
13 bulk milk tanker operator shall re-sanitize a bulk milk tanker if the tanker has not been used for
14 more than 96 hours after last being sanitized.

15 (b) Except as provided in par. (c), a bulk milk tanker operator is not required to clean or
16 sanitize a bulk milk tanker between loads during a 24 hour period, provided that a bulk milk
17 tanker operator cleans the bulk milk tanker after that day’s use and sanitizes the bulk milk tanker
18 prior to the next day’s use.

19 (c) A bulk milk tanker operator shall clean and sanitize dairy product pumps and hoses
20 attached to the bulk milk tanker whenever those pumps or hoses remain unused for more than 4
21 hours.

22 (d) No person may operate a bulk milk tanker unless the tanker bears a tag under sub. (4)
23 showing that it has been cleaned and sanitized according to this section.

24 (2) **BULK MILK TANKER CLEANING FACILITY.** (a) A bulk milk tanker shall be cleaned
25 and sanitized in a fully enclosed and heated facility. The facility shall have an impervious drained
26 floor. The facility shall be equipped with adequate hot and cold water under pressure, a wash vat,

1 pressure sanitizing facilities and equipment storage racks. Bulk milk tankers may be cleaned and
2 sanitized in the same room where milk is received from those bulk milk tankers.

3 (b) A facility used to clean and sanitize grade A bulk milk tankers shall be covered by a
4 grade A permit under sub. (6).

5 (3) CLEANING AND SANITIZING PROCEDURE. Whenever a bulk milk tanker operator cleans
6 and sanitizes a bulk milk tanker, the bulk milk tanker operator shall do all of the following:

7 (a) Clean and sanitize every dairy product contact surface on the bulk milk tanker,
8 including product contact surfaces of equipment and accessories used on the tanker. If a bulk
9 milk tanker operator is only required to clean tanker pumps and hoses under sub. (1)(c), the
10 operator shall clean every dairy product contact surface on those pumps and hoses.

11 (b) Sanitize dairy product contact surfaces according to s. ATCP 80.18.

12 (c) Thoroughly clean all of the external surfaces of the bulk milk tanker.

13 (4) CLEANING TAG. (a) Whenever a bulk milk tanker operator cleans and sanitizes a bulk
14 milk tanker according to sub. (1), the bulk milk tanker operator shall attach to the tanker a tag that
15 includes all of the following information:

16 1. The identification number of the bulk milk tanker, including grade A permit number if
17 any.

18 2. The date and time of day when the bulk milk tanker operator cleaned and sanitized the
19 bulk milk tanker.

20 3. The name and location of the facility where the bulk milk tanker operator cleaned and
21 sanitized the bulk milk tanker, and the facility's grade A permit number under sub. (6) if any.

22 4. The signature or initials of the person who cleaned and sanitized the tanker.

1 (b) The bulk milk tanker operator shall attach the tag under par. (a) to the outlet valve or
2 inside the pump cabinet of the tanker. No person may remove the tag, except as provided in par.

3 (c).

4 (c) Whenever a bulk milk tanker operator cleans and sanitizes a bulk milk tanker, the bulk
5 milk tanker operator shall remove the last tag attached to the bulk milk tanker under this
6 subsection before attaching a new tag. The operator shall retain the removed tag for at least 15
7 days, at the location where the bulk milk tanker operator cleaned and sanitized the bulk milk
8 tanker.

9 (6) GRADE A BULK MILK TANKER CLEANING FACILITY; PERMIT. (a) No person may operate
10 a bulk milk tanker cleaning facility to clean grade A bulk milk tankers unless that person holds a
11 valid grade A permit from the department for that facility. A permit is not transferable between
12 persons or facilities.

13 (b) A person shall apply for a grade A permit under par. (a) on a form provided by the
14 department. The application shall include all of the following:

15 1. The applicant's name, address and telephone number.

16 2. The complete address of the bulk milk tanker cleaning facility, including street address,
17 post office, and county.

18 3. Other information that the department reasonably requires, for purposes of issuing the
19 grade A permit.

20 (c) The department shall grant or deny a grade A permit application under par. (a) within
21 40 days after the department receives a complete application.

22 **SECTION 157.** ATCP 82.10(2)(intro.), (c), (d), (f) and (6)(c) are amended to read:

1 ATCP 82.10(2)(intro.) SUPPLIES REQUIRED FOR MILK COLLECTION AND SAMPLING. A milk
2 hauler who collects milk in bulk ~~from a dairy farm~~ shall have the following supplies available ~~on~~
3 ~~the bulk milk tanker~~:

4 (c) A sanitizing solution of not less than 100 ppm nor more than 200 ppm chlorine or its
5 equivalent. The milk hauler shall carry a sanitizing solution test kit to test the strength of the
6 sanitizing solution.

7 (d) ~~An~~ If a milk hauler collects milk from a bulk tank at a dairy farm, an insulated
8 carrying case with a rack to hold samples collected under s. ATCP 82.12. The carrying case shall
9 comply with s. ~~ATCP 82.12 (6)~~ ATCP 82.12(7)(a).

10 (f) A marking device to identify samples collected under s. ATCP 82.12. Samples shall
11 be identified according to s. ~~ATCP 82.12 (5)~~ ATCP 82.12(6).

12 (6)(c) Before a milk hauler uses ~~the milk hauler's~~ a dial or digital thermometer to measure
13 the temperature of milk in a dairy farm bulk tank, the hauler shall sanitize the stem of the
14 thermometer in a sanitizing solution of not less than 100 ppm nor more than 200 ppm chlorine or
15 its equivalent. The milk hauler shall use the sanitizing solution according to label directions.

16 **SECTION 158.** ATCP 82.12(1) is repealed and recreated to read:

17 ATCP 82.12(1) SAMPLE REQUIRED. (a) A milk hauler or other individual shall collect a
18 sample of a producer's milk before that milk is commingled with milk from any other producer.
19 The milk hauler or other individual who collects the sample shall be licensed under s. 98.146 or
20 97.17, Stats.

21 (b) A milk hauler who collects milk from a dairy farm bulk tank shall collect the milk
22 sample under par. (a). The milk hauler shall collect the milk sample from the bulk tank before the
23 milk hauler transfers the bulk tank contents to a bulk milk tanker. The milk hauler shall collect

1 the sample according to sub. (2). The milk sample may not be commingled with a milk sample
2 from any other bulk tank.

3 (c) If a milk producer milks directly to a bulk milk tanker, an individual licensed under s.
4 98.146 or 97.17, Stats., shall collect a milk sample under par. (a) from the bulk milk tanker before
5 the tanker contents are commingled with milk from any other milk producer. The individual shall
6 collect the sample according to sub. (3). The milk sample may not be commingled with a milk
7 sample from any other bulk milk tanker or dairy farm bulk tank.

8 **SECTION 159.** ATCP 82.12(2)(title), (intro.) and (b) are amended to read:

9 ATCP 82.12(2)(title) ~~SAMPLING PROCEDURE; MILK HAULERS~~ DAIRY FARM BULK TANKS.

10 A milk hauler shall comply with the following procedures when collecting a milk sample from a
11 farm bulk tank under sub. ~~(4)~~ (1)(b):

12 (2)(b) The milk hauler shall collect the sample using a sample dipper that is of sanitary
13 design and construction, ~~and that~~ is clean, and in good repair. The dipper shall be cleaned,
14 ~~sanitized in a 100 ppm chlorine solution or equivalent sanitizing solution,~~ and then dipped at least
15 twice in the bulk tank milk before it is used to collect a sample. The milk hauler shall sanitize the
16 dipper in a sanitizing solution that is not less than 100 ppm nor more than 200 ppm chlorine or an
17 equivalent sanitizing solution and shall comply with the label directions of the sanitizing solution.

18 **SECTION 160.** ATCP 82.12(2m) is created to read:

19 ATCP 82.12(2m) ~~SAMPLING PROCEDURE; BULK MILK TANKER.~~ An individual shall
20 comply with the following procedures when collecting a milk sample from a bulk milk tanker
21 under sub. (1)(c), unless the department specifies a different procedure in its authorization under
22 s. ATCP 60.11(4):

1 (a) The individual shall collect the sample at the dairy plant where the bulk milk shipment
2 is first received, in a receiving facility that complies with s. ATCP 80.20(6).

3 (b) Before the individual collects the milk sample, the individual shall verify all of the
4 following:

5 1. That the bulk milk tanker access port is properly sealed. A dairy plant operator may
6 not accept the bulk milk shipment if the bulk milk tanker is not properly sealed when it arrives at
7 the dairy plant.

8 2. That the contents of the bulk milk tanker have been thoroughly mixed, immediately
9 prior to sampling, to ensure that the entire contents are homogeneous at the time of sampling.
10 The contents shall be mixed in a manner that is known to ensure homogeneity.

11 (c) The individual shall follow the same procedures that apply, under sub. (2)(b) to (d)
12 and subs. (4) to (6), to samples collected from dairy farm bulk tanks.

13 **SECTION 161.** ATCP 82.14(3) is amended to read:

14 ATCP 82.14(3) Milk shall be unloaded in a receiving facility that complies with s. ATCP
15 ~~80.20(5)~~ ATCP 80.20(6).

16 **EFFECTIVE DATE AND INITIAL APPLICABILITY:** (1) Except as provided in subs. (2) and
17 (3), this rule takes effect on the first day of the month following publication in the Wisconsin
18 administrative register, as provided under s. 227.22(2) (intro.), Stats.

19 (2) Pursuant to s. 227.22(2)(e), Stats., and except as provided in sub. (3), this rule first
20 applies to small businesses as defined in s. 227.114 (1), Stats., on the first day of the third month
21 commencing after the date of publication in the Wisconsin administrative register.

Dated this _____ day of _____, 2007

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Rodney J. Nilsestuen
Secretary

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis¹

Rule Subject: Dairy Rules Update
Adm. Code Reference: ss. ATCP 60, 69, 77, 80, and 82
Rules Clearinghouse #: 07-006
DATCP Docket #: 05-R-04

This rule addresses issues raised by the United States Food and Drug Administration ("FDA"), which is responsible for ensuring that Wisconsin's dairy regulatory program meets dairy safety standards identified in the "Grade 'A' Pasteurized Milk Ordinance" ("PMO"). Wisconsin is one of 50 member states that has agreed to make its dairy regulations "substantially equivalent" to the sanitary quality and safety standards identified in the PMO. Pursuant to this agreement, the Division of Food Safety ("division") of the Department of Agriculture, Trade and Consumer Protection ("DATCP") offers this rule to meet the standards set by the 2005 (most recent) edition of the PMO.

Additionally, this rule makes minor changes to accommodate dairy industry modernization and technical advances. The rule also clarifies the responsibilities of dairy producers, dairy plant operators, milk haulers, the department and others.

Effects on Business

Businesses affected include dairy farms, dairy plants, cheesemakers, buttermakers, milk equipment installers, and laboratories that test milk, food and water. In most cases, the rules do not significantly change existing requirements for these businesses. There are no new professional skills or assistance required by the proposed rules.

It is essential to Wisconsin dairy producers and dairy plants that Wisconsin meet PMO standards. Approximately 96 percent of the milk produced in Wisconsin is grade A. Approximately 85 percent of Wisconsin milk is shipped out of state. This rule will have a generally positive impact on business because it will allow for the unimpeded shipment of milk and milk products to leave Wisconsin. Failure to comply with the PMO could jeopardize Wisconsin's ability to routinely ship grade A milk and milk products in interstate commerce. In general, this rule will have few, if any, negative impacts on business.

The reporting and recordkeeping requirements in the proposed rule include the following:

- Elimination of the dairy plant requirement to keep records of coarse sediment test results.

¹ This analysis includes, but is not limited to, a small business analysis ("regulatory flexibility analysis") under s. 227.114, Stats.

- The period of time that bulk milk tanker cleaning and sanitizing records will be retained is 15 days, instead of 90 days.
- If a person who normally collects milk rejects the milk due to sight and smell and the milk producer disputes the rejection, then the dairy plant operator will test the milk prior to accepting or rejecting the milk and report the test results to the department within 7 business days.
- Instead of 14 days, a dairy plant operator has 7 days to report monthly or new producer bacteriological testing results. The proposed shorter time period is due to the ability of dairy plants to report test results electronically within a few days (to meet previously mandated electronic test reporting requirements).
- Instead of 14 days, a dairy plant operator has 7 days to report monthly or new producer somatic cell counts. The reason for the shorter time period is the same (see above).
- After the division has issued a warning notice to a producer for a drug residue violation, the rule provides that the dairy plant operator may be required to perform an investigation of a dairy farm or farms as the division's agent and report its findings in writing within 30 days.
- Increase the retention period of dairy farm milk temperature records from 90 days to 6 months.
- A dairy plant will keep records on an ongoing basis to determine compliance with the cleaning and sanitizing procedure proposed for the cleaning and sanitizing of continuously operated equipment.
- C-I-P ("clean in place") system records will be reviewed by the department during routine inspections.
- Certain cleaning and sanitizing records will be retained by the dairy plant operator for at least 6 months.
- Certain bills of lading and other shipping documents will be kept by the dairy plant operator for at least 3 years.

Effects on Small Business

Some of the businesses affected by this rule are "small businesses," as defined in s. 227.114(1), Stats. For the most part, this rule will help small businesses by modernizing current regulations to accommodate industry practices. This rule merely implements changes in the interstate PMO and redrafts existing requirement for businesses so that they will be easier to read and understand. It also provides additional options to meet training and experience requirements for individuals who wish to become licensed cheesemakers or buttermakers.

Steps to Assist Small Business

For interested dairy plants, DATCP will provide training on this rule to dairy plant operators, field representatives, and milk haulers. The training will cover implementation of rule requirements as they relate to dairy farms (that ship milk to dairy plants), milk haulers, and dairy plant requirements. For interested parties who cannot attend training, DATCP will send summaries of rule changes and information about how to obtain copies of the new rules.

Conclusion


This rule will benefit Wisconsin's dairy industry by allowing for the uninterrupted flow of milk and milk products across Wisconsin borders and into interstate commerce.

This rule will generally benefit affected businesses, including "small businesses." Negative effects, if any, will be few and limited. This rule will not have a significant adverse effect on "small businesses". The small businesses affected will be subject to the delayed "small business" effective date provided in s. 227.22(2)(e), Stats.

Under 2003 Wis. Act 145, DATCP and other agencies must adopt rules spelling out their rule enforcement policy for small businesses. DATCP has not incorporated a small business enforcement policy in this rule, but will propose a separate rule on that subject. DATCP will, to the maximum extent feasible, seek voluntary compliance with this rule.

Dated this 25th day of July, 2007

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Steven B. Steinhoff
Administrator
Division of Food Safety

FISCAL ESTIMATE

DOA-2048 (R 10/94)

 ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

 LRB or Bill No. / Adm. Rule No.
 ATCP 60, 69, 77, 80 & 82
 Amendment No. (If Applicable)
Subject:

Proposed rules related to dairy farms, dairy plants, bulk milk weighers and samplers, bulk milk tankers, laboratories, laboratory analysts, and butter and cheese makers

Fiscal Effect
 State: No State Fiscal Effect

Check below only if rule makes a direct appropriation or affects a sum sufficient appropriation.

 Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation
 Increase Costs -
 May be possible to absorb within agency's budget? Yes No
 Decrease Costs**Local:** No local government costs
 1. Increase Costs
 Permissive Mandatory

 2. Decrease Costs
 Permissive Mandatory

 3. Increase Revenues
 Permissive Mandatory

 4. Decrease Revenues
 Permissive Mandatory
5. Types of Local Gov. Unit Affected: Towns Villages Counties Cities Other: School Districts WTCS Districts**Fund Source Affected:**
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations:

Assumptions Used in Arriving at Fiscal Estimate

The department currently regulates dairy farms, dairy plants, bulk milk weighers and samplers, bulk milk tankers, laboratories, laboratory analysts, and butter and cheese makers to protect consumers and facilitate the interstate shipment of Wisconsin grade A milk and dairy products

The proposed changes to current rules will have little fiscal impact on state government as all of these entities are currently regulated and inspected under existing rules. The proposed changes update and modernize the current regulations, but do not make major changes that will increase state government costs.

The proposed rules do not change license fees, inspection frequencies, sampling procedures, recordkeeping requirements or administrative costs.

Long - Range Fiscal Implications**Agency/prepared by: (Name & Phone No.)**
 DATCP
 C. T. Leitzke, 608/24-4711
Authorized Signature/Telephone No.
Barbara Knapp
 Barbara Knapp, ph. 608-224-4746
Date

10/9/06