

Clearinghouse Rule 07-006

DATCP Docket No. 05-R-04
Rules Clearinghouse No. _____

Proposed Hearing Draft
November 28, 2006

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

1 The state of Wisconsin department of agriculture, trade and consumer protection proposes the
2 following order to repeal ATCP 60.07(4)(a)(note), 60.11(4)(L), 60.21 and (note), 80.44(4) and
3 (5), to renumber ATCP 60.245(2)(e) to (g), to renumber and amend ATCP 80.16(3), to amend
4 60.01(4), (9)(b), (15)(b)3., (15)(b)9., (19), (20), (21) and (29)(b), 60.02(7)(c), (7)(d)4. and 8.,
5 60.06(5) and (9)(c), 60.07(4)(a) and (4)(c), 60.08(6)(a)5. and (b)2., 60.10(1), (1)(note), (4), (6)(a)
6 and (7), 60.11(2)(e)(note), (4)(g) and (4)(j), 60.12(1), (2) and (6), 60.13(1), (2) and (6), 60.14(2),
7 (3) and (4), 60.15(4), 60.16, 60.17(3)(b), 60.18(1), (3), (5) and (5)(b), 60.19(6)(b), (6)(d) and
8 (10)(b) and (note), 60.20(1), (2), (3), (4), (6), (6)(b) and (6)(c), 60.245(3), 60.27(1)(b) and (4)(b),
9 60.275(1)(note), 60.31(4), 77.01(4m), 77.02(intro.), 77.20(2)(b)2., (2)(c)2., (2)(c)3. and (note),
10 77.23(3)(d) and (f), 77.24(2), (5)(e), 77.30(2)(b) and (2)(c), 77.32(2), 77.34(2), 80.01(19) and
11 (26), 80.04(2)(a), 80.08(4)(a), (8)(b), (d)(intro.), (d)4., (8m)(a)(intro.), (a)1., (b)4. , and (b)8.,
12 80.12(1)(a)(note), 80.14(2)(b), 80.16(2)(i), 80.70(7)(c), 80.22(7)(title), (a) and (b) and (8)(note),
13 80.24(4), 80.24(5)(note), 80.26(1)(a)(note) and (1)(b), 80.32(1)(a) and (b), (5), 80.34(2)(c)3. and
14 (note), (4)(b)2., (5)(d) and (note), (6)(c) and (note), (7)(c) and (note), and (8) and (note), 80.40(1)
15 and (2), 80.41(3)(intro.), 80.44(2) Table 2, and (2m)(intro.), 80.46, 80.48 and (note),
16 80.49(2)(b)(note), 80.50(1), (2)(b) to (e) and (g), (3)(b), (c) and (e) to (h), 80.52(2), (2)(note) and
17 (6), 80.54(1)(j) and (2), 80.62(1)(b), (1)(c)(note), (1)(d) and (1)(d)(note), 80.62(3)(a) and (b),

1 82.01(3), 82.02(1)(b), (2)(intro.), (2)(c) and (7), 82.04(1)(a) and (1)(b), 82.06(1) and (1)(note),
2 82.10(2)(intro.), (a), (c), (d) and (f) and (6)(c), 82.12(2)(title), (intro.) and (b), 82.14(3) to repeal
3 and recreate ATCP 60.01(16), 60.06(1), (8)(note), 60.08(5) and (6)(a)4., 60.11(2)(c)2., (4)(h) and
4 (4)(k), 60.22 and (note), 60.245(4), 69.01, 69.02, 77.02(1) and (3), 77.03(1) and (2)(c), 77.23(1),
5 80.12(7), 80.16(2)(i)(note), 80.24(3), 80.32(1)(note), 80.34(2)(d) and (3)(d), 80.49(2),
6 80.52(6)(b)3., 80.62(2), 82.01(5), 82.08, 82.12(1) and to create ATCP 60.01(17m) and (19m),
7 (23m) and (23r), 60.06(1m) and (note), 60.08(7) and (notes), 60.11(2m) and (4)(hm),
8 60.12(6)(note), 60.17(2m), 60.19(12), 60.235, 60.245(1)(g) and (2)(g), 60.27(1)(c) and (4)(c),
9 60.275(1)(a)4. and (4), 69.01(note), 77.03(2)(c)(note), 77.30(2)(c)(note), 77.32(note),
10 80.01(21m), (23m), (27m), (33g) and (33j), 80.08(8)(g), 80.16(3)(b), 80.20(3)(c), 80.24(3m),
11 80.41(2)(g) to (i), 80.41(4) and (5), 80.42(note), 80.46(note), 80.50(4), 80.52(6)(d), 80.54(1)(n)
12 and (o), 80.62(2)(note) and (3)(c), Subchapter VII of ch. ATCP 80, 82.01(1m) and (7m),
13 82.02(2)(e), (7)(d), (d)(note) and (e), 82.12(2m) relating to safe production, processing,
14 distribution and sale of milk and dairy products.

15

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

This rule updates current rules related to safe production, processing, distribution and sale of milk and dairy products. This rule affects dairy farms, dairy plants, milk haulers, milk testing laboratories, buttermakers, cheesemakers and others. Among other things, this rule:

- Brings Wisconsin rules into conformity with the Interstate Pasteurized Milk Ordinance (“PMO”). Milk and fluid milk products must be produced in compliance with the PMO, in order for Wisconsin to be able to ship those products in interstate commerce.
- Updates current rules to accommodate new dairy industry technology and practices.
- Clarifies current statutory prohibitions against the sale of raw milk to consumers, consistent with administrative law judge decisions.

- Clarifies some rule provisions, so they will be easier to read and understand.

Statutory Authority

Statutory authority: ss. 93.07(1) and (2), 93.09(1), 93.12(3) and (5), 97.09(1) and (4), 97.20(4), 97.21(6), 97.22(8), 97.24(3), and 97.52.

Statutes interpreted: ss. 93.09, 93.12, 97.02, 97.03, 97.09, 97.12, 97.17, 97.175, 97.20, 97.21, 97.22, 97.24, 97.50, 97.52, 98.145 and 98.146.

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) is responsible for administering Wisconsin food safety and labeling laws, including laws related to the safety of milk and dairy products. DATCP licenses and regulates dairy farms, dairy plants, milk haulers, milk testing laboratories and analysts, bulk milk weighers and samplers, and others. DATCP has broad authority to regulate these entities, to ensure safe and wholesome dairy products and fair business practices.

Milk and fluid milk products must be produced and distributed in compliance with “Grade A” standards under the Interstate Pasteurized Milk Ordinance (“PMO”). If Wisconsin fails to comply with the PMO, Wisconsin may be precluded from shipping milk and fluid milk products in interstate commerce. Under s. 97.24, Stats., DATCP must adopt “Grade A” rules that are in substantial accord with the PMO.

DATCP has broad authority, under s. 93.07(1), Stats., to adopt rules needed to interpret and implement laws under its jurisdiction. In addition, DATCP has the following rulemaking authority:

- Under s. 93.07(2), Stats., to prescribe forms used in connection with DATCP programs.
- Under s. 93.09(1), Stats., to adopt grading, packaging and labeling standards for food.
- Under ss. 93.12(3) and (5), Stats., to adopt rules for laboratories testing milk and dairy products.
- Under s. 97.09(1), Stats., to adopt food standards of identity, composition and quality.
- Under s. 97.09(4), Stats., to regulate the production, processing packaging, labeling, transportation, storage, handling, display, sale, and distribution of food to protect the public from adulterated or misbranded foods.
- Under s. 97.20(4), 97.21(6) and 97.22(8), Stats., to regulate dairy plants, bulk milk tankers and dairy farms.

- Under s. 97.24(3), to adopt rules for the production, processing, pasteurization, distribution and testing of milk and dairy products. Rules for milk and fluid milk products must be in substantial accord with “Grade A” standards under the PMO.
- Under s. 97.52, Stats., to establish sanitary standards for the production, handling and transportation, inspection and testing of milk and dairy products.

Background

The United States Food and Drug Administration (“FDA”) recently completed an audit of Wisconsin’s dairy regulatory program. FDA requested a number of changes in current DATCP rules, to make the rules more fully consistent with the current (2005) version of the PMO. This rule makes changes requested by FDA. This rule also makes other changes to update and clarify current rules, and to accommodate changing dairy industry technology, organization and practices. The changes in this rule are, for the most part, technical in nature. However, some rule changes may require significant changes by some dairy businesses (see *Business Impact Analysis* below).

DATCP and others have proposed major reforms to modernize and streamline the PMO. However, those reforms will require action at the national level and by other states. In the meantime, Wisconsin must comply with existing PMO requirements.

Rule Content

Dairy Farms

This rule updates and modifies current rules related to dairy farms. Among other things, this rule does all of the following:

- Incorporates PMO requirements related to gravity flow manure handling systems and liquid manure storage.
- Clarifies milk hauler responsibilities relating to mixing, sampling, and testing milk shipments.
- Spells out standards and procedures related to Wisconsin’s performance-based dairy farm inspection system.
- Updates drug residue action levels and safe levels, consistent with the PMO.
- Clarifies dairy plant and DATCP responsibilities relating to testing milk from dairy farms, and reporting test results.
- Spells out new requirements related to the safety of water used in milking and processing operations.

- Clarifies milk temperature monitoring and recording requirements, and requires dairy farms to keep milk temperature records for at least 6 months (extended from 90 days under current rules).
- Clarifies drug residue testing procedures, including requirements confirmation of positive screening tests and rejection of milk shipments pending follow-up testing to show that drug contamination has been eliminated.
- Clarifies producer and installer responsibilities for obtaining DATCP review of dairy farm remodeling plans.
- Expands rule coverage to include all “milking animals,” not just cows, sheep and goats.
- Expands current requirements related to dairy farm and dairy plant cooling systems.
- Clarifies the current statutory prohibition related to the sale of unpasteurized “raw milk” to consumers, consistent with administrative law judge decisions. Raw milk sales have been implicated in a number of serious food-borne disease outbreaks in Wisconsin and elsewhere.
- Eliminates current requirement related to dairy plant testing for coarse sediment in milk.

Dairy Plants

This rule updates and modifies current rules related to dairy plants. Among other things, this rule does all of the following:

- Strengthens water safety requirements and clarifies that DATCP, rather than the dairy plant operator, must perform certain water safety tests.
- Clarifies cleaning and sanitizing requirements.
- Clarifies milk testing requirements, including drug residue testing requirements. Among other things, this rule clarifies testing requirements for farms that milk directly to bulk milk tankers. This rule eliminates coarse sediment testing requirements.
- Updates and clarifies pasteurization standards, procedures and testing requirements.
- Requires regular DATCP review of pasteurization records and “cleaned-in-place” equipment cleaning records.
- Updates requirements related to calibration of automated milk component testing devices.

- Updates dairy plant recordkeeping requirements. Dairy plants must retain certain cleaning and sanitizing records for at least 6 months. Dairy plants must keep for at least 3 years certain documents related to bulk milk shipments.

Milk Testing Laboratories

DATCP currently certifies laboratories that test milk, food or water for compliance with public health standards. This rule updates and clarifies current rules related to the certification of laboratories and lab analysts. Among other things, this rule:

- Updates the list of tests for which certification is required.
- Clarifies current certification and testing requirements related to drug residue testing in milk, including requirements for timely confirmation of positive screening test results.
- Clarifies that test results reported by a certified laboratory are presumptively valid.

Milk Haulers and Bulk Milk Tankers

This rule updates and modifies current requirements related to milk haulers and bulk milk tankers. Among other things, this rule does all of the following:

- Establishes standards for bulk milk tanker cleaning facilities at dairy plants.
- Requires dairy plants to keep bulk milk tanker cleaning and sanitizing records for 15 days, rather than 90 days. When a dairy plant operator cleans a bulk milk tanker, the operator must remove the cleaning tag from the last cleaning and keep the removed tag for at least 15 days.
- Clarifies that out-of-state bulk milk tankers with grade A permits from other jurisdictions are not required to hold Wisconsin grade A permits.
- Requires grade A permit numbers to be clearly displayed on bulk milk tankers.
- Clarifies the responsibilities of milk haulers (bulk milk weighers and samplers) related to weighing, measuring, and sampling milk shipments.

Buttermakers and Cheesemakers

This rule clarifies current professional licensing requirements for individuals engaged as buttermakers and cheesemakers. This rule gives license applicants more options for meeting training and experience qualifications.

Standards Incorporated by Reference

Pursuant to s. 227.21, Stats., DATCP will request permission from the attorney general and revisor of statutes to incorporate the following standards by reference in this rule without

reproducing the publications in full. This rule updates titles, publication dates, and supporting information for the following publications:

- “Grade A Pasteurized Milk Ordinance,” published by the Food and Drug Administration, Public Health Service, U.S. Department of Health and Human Services (2005 Revision).
- “3-A Accepted Practices for the Design, Fabrication and Installation of Milking and Milk Handling Equipment,” document #3A606-05, published by “3-A Sanitary Standards, Inc. (November 2002).
- “3-A Sanitary Standards for Farm Milk Cooling and Holding Tanks,” document #3A13-10, published by 3-A Sanitary Standards, Inc. (November 2003).
- “3-A Accepted Practices for the Sanitary Construction, Installation, Testing, and Operation of High-Temperature Short-Time and Higher-Heat Shorter-Time Pasteurizer Systems,” document #3A603-07, published by 3-A Sanitary Standards, Inc. (November 2005).
- “3-A Sanitary Standards for Stainless Steel Automotive Transportation Tanks for Bulk Delivery and Farm Pick-Up Service,” document #3A05-15, published by 3-A Sanitary Standards, Inc. (November 2002).
- “Official Methods of Analysis of AOAC International,” published by AOAC International (18th Edition, 2005).
- “Milk and Dairy Beef Residue Prevention Protocol, 2005 Producer Manual of Best Management Practices,” published by Agri-Education, Inc.
- “Standard Methods for the Examination of Dairy Products, published by the American Public Health Association (17th Edition, 2004).
- “Compendium of Methods for the Microbiological Examination of Foods, published by the American Public Health Association (4th Edition, 2001).
- “Bacteriological Analytical Manual,” published by the Food and Drug Administration, Public Health Service, United States Department of Health and Human Services (8th Edition, Revision A, 1998).
- “Manual for the Certification of Laboratories Analyzing Drinking Water,” published by the U. S. Environmental Protection Agency (5th Edition, 2005).
- “Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation (20th Edition, 1998).

- “Methods of Making Sanitation Ratings of Milk Supplies,” published by the Food and Drug Administration, Public Health Service, United States Department of Health and Human Services (2005 Revision).
- FDA 2400 Series Laboratory Evaluation Forms, published by the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration (forms that are effective as of the effective date of this rule).

Copies of these publications will be on file with DATCP and the revisor of statutes. Rule *notes* explain how readers may obtain copies.

Fiscal Estimate

DATCP currently regulates dairy farms, dairy plants, bulk milk weighers and samplers, bulk milk tankers, milk testing laboratories, laboratory analysts, buttermakers and cheesemakers to protect consumers and facilitate the interstate shipment of Wisconsin grade A milk and dairy products.

This rule will not have a significant fiscal impact on state government. This rule updates current rules, but does not make major changes that will increase state government costs. This rule does not change current license fees, and does not have any impact on current state revenues. A fiscal estimate is attached.

Business Impact

DATCP currently regulates dairy farms, dairy plants, bulk milk weighers and samplers, bulk milk tankers, milk testing laboratories, laboratory analysts, buttermakers and cheesemakers to protect consumers and facilitate the interstate shipment of Wisconsin grade A milk and dairy products. Current regulations have an important impact on dairy industry operations, including small business operations. Most dairy farms, and some dairy processing operations, qualify as “small businesses” under s. 227.114, Stats.

This rule makes a large number of technical changes to existing regulations. For the most part, however, this rule will not have a significant impact on affected businesses. A complete *Business Impact Analysis* is attached.

Some rule changes may have a significant impact on some affected businesses. For example, this rule mandates certain pasteurization and cooling requirements that may require some dairy plants to install new or remodeled equipment. DATCP estimates that no more than 5 dairy plants will be affected by this particular requirement. The actual impact will depend on variable factors related to processing operations, current equipment and plant size. This rule delays the effective date of the requirement by one year, so that affected dairy plants will have time to make the necessary changes.

This rule changes current recordkeeping requirements, but the changes should not impose a significant burden on affected businesses. This rule will not require affected businesses to obtain any new professional skills or services.

Federal Regulations

FDA administers the PMO in cooperation with the National Conference on Interstate Milk Shipments (NCIMS). NCIMS, a cooperative organization of states, develops and adopts PMO provisions subject to approval by FDA. FDA audits state compliance, and may “de-list” individual milk shippers or entire states that fail to comply. Other states may refuse to accept milk shipments from “de-listed” states or shippers.

Wisconsin rules must be consistent with the PMO, in order for Wisconsin to ship milk and fluid milk products in interstate commerce. FDA has requested changes in the Wisconsin rules, to make them consistent with the current version of the PMO. This rule updates Wisconsin rules, so they will be consistent with the PMO.

The United States Department of Agriculture (USDA) recommends standards for non-fluid dairy products (such as cheese), and for “Grade B” milk used in the manufacture of those products. USDA evaluates state programs for consistency with its recommended standards. Unlike PMO standards for “Grade A” milk and fluid milk products, the USDA “Grade B” standards are not mandatory. However, Wisconsin and surrounding state rules are consistent with those standards.

USDA and the United States Environmental Protection Agency administer other programs (such as milk marketing orders, pesticide registration and water pollution regulations) that affect the operation of dairy businesses, but the PMO is the primary federal or interstate regulation relevant to this rule. Federal regulations in 21 CFR 1240 mandate pasteurization of milk and prohibit interstate sale of unpasteurized milk and fluid milk products.

Surrounding State Programs

Illinois, Iowa, Michigan and Minnesota are all members of the NCIMS. All 4 states have dairy regulations that are in substantial compliance with the PMO. They also have regulations for “Grade B” milk and non-fluid dairy products (such as cheese) that are substantially equivalent to USDA recommended standards.

Agency Contact for Submitting Comments

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SECTION 1. ATCP 60.01(4), (9)(b), (15)(b)3. and (15)(b)9. are amended to read:

1 ATCP 60.01(4) “Cowyard” means an enclosed or unenclosed area, approximately adjacent
2 to a milking barn or parlor, in which ~~ewes, goats or sheep~~ milking animals congregate.

3 “Cowyard” includes milking animal walkways, feeding areas, watering areas, washing areas and
4 housing areas located outside but adjacent to a milking barn or parlor.

5 (9)(b) Is used to draw milk from ~~ewes, goats or sheep~~ milking animals or to transport,
6 hold, handle, cool or store milk on a dairy farm.

7 (15)(b)3. Filthy conditions in a cowyard, resulting in very dirty ~~ewes~~ milking animals.

8 (15)(b)9. Visibly dirty udders and teats on ~~ewes~~ milking animals being milked.

9 **SECTION 2.** ATCP 60.01(16) is repealed and recreated to read:

10 ATCP 60.01(16) “Milk” means the lacteal secretion of milking animals, and includes skim
11 milk and cream.

12 **SECTION 3.** ATCP 60.01(17m) is created to read:

13 ATCP 60.01(17m) “Milk hauler” means any person who collects milk at a dairy farm.

14 **SECTION 4.** ATCP 60.01(19) is amended to read:

15 ATCP 60.01(19) “Milking and milk handling system” means an automated system, and
16 all components of that system, used to draw milk from ~~ewes, goats or sheep~~ milking animals, or
17 to transport milk to a bulk tank or other container on a dairy farm. “Milking and milk handling
18 system” includes C-I-P milking equipment and C-I-P milk pipelines.

19 **SECTION 5.** ATCP 60.01(19m) is created to read:

20 ATCP 60.01(19m) “Milking animals” means all of the following:

21 (a) Cows, sheep and goats.

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

1 **SECTION 6.** ATCP 60.01(20) and (21) are amended to read:

2 ATCP 60.01(20) “Milking barn” means a roofed and enclosed facility, other than a
3 milking parlor, in which ~~eows, goats or sheep~~milking animals are milked on a dairy farm.

4 (21) “Milking parlor” means a roofed and enclosed facility which is designed and used
5 exclusively for the milking of ~~eows, goats or sheep~~milking animals, and which is not designed or
6 used to house ~~eows, goats, sheep or other~~ any animals.

7 **SECTION 7.** ATCP 60.01(23m) and (23r) are created to read:

8 ATCP 60.01(23m) “PMO” means the grade A pasteurized milk ordinance, 2005 revision,
9 published by the United States department of health and human services, public health service,
10 food and drug administration.

11 (23r) “Procure milk” means to buy milk or acquire the right to market milk.

12 **SECTION 8.** ATCP 60.01(29)(b) is amended to read:

13 ATCP 60.01(29)(b) Is used to draw milk from ~~eows, goats or sheep~~milking animals or to
14 transport, hold, strain, handle or store milk on a dairy farm.

15 **SECTION 9.** ATCP 60.02(7)(c), (7)(d)4. and 8. are amended to read:

16 ATCP 60.02(7)(c) Each operator complies with milk sampling, testing, reporting, and test
17 follow-up requirements under this chapter, as those requirements apply to that operator’s receipt
18 of milk shipments from the producer. A dairy plant operator who custom processes a producer’s
19 milk according to par. (d) is not required to test that producer’s milk under s. ATCP 60.18 to
20 ~~60.21~~60.20, except that the operator shall screen each bulk load of milk for drug residues under s.
21 ATCP 60.19(2) and shall reject contaminated loads according to s. ATCP 60.19(4).

22 (7)(d)4. The operator does not commingle producer-owned milk ~~or dairy products~~ with
23 other milk ~~or dairy products~~.

1 (d)8. The producer or the producer's agent, shall notify the department of the custom
2 processing agreement before shipping milk to the operator for custom processing under this
3 paragraph, ~~notifies the department of the custom processing agreement~~ and annually thereafter.

4 The producer or producer agent shall simultaneously notify the dairy plant operator to whom the
5 producer is assigned for licensing purposes under par. (a) if that operator is not the one providing
6 the custom processing services.

7 **SECTION 10.** ATCP 60.06(1) is repealed and recreated to read:

8 ATCP 60.06(1) FLOORS AND GUTTERS; CONSTRUCTION. (a) Except as authorized by the
9 department in writing, floors, gutters and gutter covers in milking barns and parlors shall comply
10 with all of the following requirements:

11 (a) They shall be constructed of concrete or other materials that are equally impervious
12 and easy to clean.

13 (b) They shall be constructed and maintained so they can be kept clean.

14 (c) They shall be sloped to drain properly, and shall be free of excessive breaks or worn
15 areas which may allow pooling of liquid wastes. Floors and gutters constructed after July 1,
16 1989, shall have a slope of at least one inch per 10 feet.

17 **SECTION 11.** ATCP 60.06(1m) and (note) are created to read:

18 ATCP 60.06(1m) MANURE HANDLING SYSTEMS. Gravity flow manure handling systems
19 and liquid manure storage under milking barns shall comply with applicable standards contained
20 in PMO Appendix C, "Dairy Farm Construction Standards and Milk Production."

21 **NOTE:** Copies of the PMO, including Appendix C, are on file with the department and
22 the revisor of statutes. Copies are available online at <http://www.cfsan.fda.gov>.

23
24 **SECTION 12.** ATCP 60.06(5) is amended to read:

1 ATCP 60.06(5) ANIMALS EXCLUDED. No swine or fowl may be housed in, or allowed to
2 enter a milking barn or parlor. Nonmilking livestock shall be confined in stalls, stanchions or
3 pens. ~~Areas where cows, goats or sheep are being milked~~ Milking areas shall be kept free of
4 excrement from nonmilking livestock.

5 **SECTION 13.** ATCP 60.06(8)(note) is repealed and recreated to read:

6 **NOTE:** Evidence of overcrowded conditions may include inadequate ventilation,
7 excessive odors, livestock in walks or feed alleys, or nonmilking livestock tied
8 between milking animals in a milking line.

9
10 **SECTION 14.** ATCP 60.06(9)(c) is amended to read:

11 ATCP 60.06(9)(c) *Prep stalls; hot water supply.* If ~~cows or goats~~ milking animals are
12 hosed clean in a milking parlor prep stall prior to milking, rather than being manually cleaned at
13 the milking stanchions, hot water under pressure shall be supplied to the prep stall and used for
14 cleaning purposes. There shall be an adequate supply of hot water so that all ~~cows or goats~~
15 milking animals processed through the prep stall can be fully cleaned without impairing the
16 availability of hot water for other milking parlor or milkhouse operations.

17 **SECTION 15.** ATCP 60.07(4)(a) is amended to read:

18 ATCP 60.07(4) STORAGE. (a) *General.* No equipment, supplies or other articles may be
19 stored in a milkhouse, unless the articles are used in milkhouse operations. Articles stored in a
20 milkhouse shall be stored above the floor, on racks or in a cabinet. Articles shall be stored in a
21 manner which prevents contamination of milk, and equipment and utensils coming in contact with
22 milk.

23 **SECTION 16.** ATCP 60.07(4)(a)(note) is repealed.

24 **SECTION 17.** ATCP 60.07(4)(c) is amended to read:

1 ATCP 60.07(4)(c) *Pesticides*. No ~~pesticide~~ pesticides, except for sanitizers, germicides,
2 disinfectants and other pesticides labeled and used for routine milkhouse sanitation purposes, may
3 be stored in a milkhouse. If pesticides are kept in a milkhouse, they shall be stored in ~~an enclosed~~
4 ~~cabinet, separate from all other articles stored in the milkhouse~~ a manner that precludes
5 contamination of milk and milk handling equipment.

6 **SECTION 18.** ATCP 60.08(5) is repealed and recreated to read:

7 ATCP 60.08(5) WATER QUALITY TESTING BY DAIRY PLANT. (a) A dairy plant operator
8 shall do all of the following for each milk producer from whom the dairy plant operator procures
9 milk:

- 10 1. Biennially sample the producer's water supply.
- 11 2. Sample the producer's water supply whenever the producer installs, alters or repairs the
12 water supply system.
- 13 3. Sample any transported water supply used by the milk producer, prior to first use and
14 monthly thereafter.
- 15 4. Have each water sample under this paragraph analyzed at a laboratory that is certified
16 under ch. ATCP 77 to perform water quality analyses. The laboratory shall analyze the water
17 samples for compliance with the health-related drinking water standards under s. NR 809.30. The
18 dairy plant operator shall submit each water quality test result to the department within 30 days
19 after the dairy plant receives the laboratory report. If the analysis of any water sample indicates
20 that the water supply of a dairy farm may be unsafe, the dairy plant operator shall report the test
21 result to the department within 3 business days, and shall promptly resample and test the water
22 supply.

23 **SECTION 19.** ATCP 60.08(6)(a)4. is repealed and recreated to read:

1 ATCP 60.08(6)(a)4. The coolant used in the water recirculation system is food or
2 pharmaceutical grade, is non-toxic, and meets the specifications in 21 CFR 184.1666. The dairy
3 plant operator shall test the coolant semi-annually for coliform.

4 **SECTION 20.** ATCP 60.08(6)(a)5. and (b)2. are amended to read:

5 ATCP 60.08(6)(a)5. The ~~milk producer~~ dairy plant operator who procures milk from the
6 milk producer tests the recirculated water for bacterial contamination at least semi-annually.

7 (b)2. The ~~producer~~ dairy plant operator who procures milk from the milk producer retests
8 the recirculated water to determine whether the contamination is eliminated.

9 **SECTION 21.** ATCP 60.08(7) and (notes) are created to read:

10 ATCP 60.08(7) WATER RECLAIMED FROM HEAT EXCHANGER. (a) A milk producer may re-
11 use, for milking operations, potable heat exchange water previously used in a heat exchanger or
12 compressor if all of the following conditions are met:

13 1. The water is stored in a vessel that is constructed of non-contaminating material, and is
14 designed to protect the water supply from contamination. The storage vessel shall have a drain
15 and access point that allow for cleaning.

16 2. There is no cross-connection between the potable re-used water and any potential
17 contamination source or potentially unsafe water supply.

18 3. There are no submerged inlets through which the potable re-used water may be
19 contaminated.

20 4. The water is of satisfactory organoleptic quality and has no off-flavors or odors.

21 5. The water complies with the health-related drinking water standards in NR 809.30.

22 6. The dairy plant operator who procures milk from the milk producer collects and
23 analyzes samples of the re-used water supply. The dairy plant operator shall collect and analyze

1 samples before the milk producer first uses the water for milking operations, and at least semi-
2 annually thereafter.

3 7. Chemicals used to suppress bacterial growth, off-tastes and odors shall be registered or
4 permitted for that use under the federal insecticide, fungicide and rodenticide act, as amended (7
5 USC 136 et seq.). Chemicals may not contaminate milk. A milk producer who uses any
6 chemical to suppress bacterial growth, off-tastes or odors shall comply with label instructions, and
7 shall routinely monitor chemical concentrations in treated water.

8 8. Sanitizers used to sanitize equipment, utensils, backflush systems, or teats of milking
9 animals shall be chemical sanitizers that are approved by the Wisconsin department of health and
10 family services, under s. HFS 196, App. 7-204.11, for use on food contact surfaces. An approved
11 sanitizer may be added by an automatic proportioning device that is located downstream from the
12 storage vessel but upstream from the end-use application of the sanitizer.

13 **NOTE:** A current list of approved sanitizers may be obtained by calling (608) 266-4700.

14 (b) Water obtained directly from the discharge of a raw milk heat exchanger after a
15 milking may be used once to pre-rinse dairy equipment including milk lines, milking claw
16 assemblies and milk receivers if all of the following apply:

- 17 1. The water is collected directly from the plate heat exchanger into the wash vat or
18 utensil sink.
- 19 2. The water piping system complies with s. ATCP 60.08(2).
- 20 3. Following pre-rinse use, the water is discharged to waste.

21 **NOTE:** Paragraph (b) does not limit the use of heat exchanger discharge water for
22 nonpotable uses involving no contact with potable water, milk, milk contact
23 surfaces or potable water contact surfaces. Before using or discharging heat
24 exchanger discharge water, contact the Division of Water, Bureau of Drinking
25 Water and Ground Water, at the Department of Natural Resources, P.O. Box 7921,

1 Madison, WI 53707, telephone 608-266-0821 or TTY access via relay - 711 or
2 <http://www.dnr.state.wi.us/environmentprotect/water.html>.

3
4 **SECTION 22.** ATCP 60.10(1) and (note) is amended to read:

5 ATCP 60.10(1) SANITARY REQUIREMENTS; GENERAL. Milking and milk handling systems
6 shall be of sanitary design and construction, and shall be installed and maintained for sanitary
7 operation. Pressurized air that contacts a milk or milk contact surface shall be clean, safe and free
8 of contaminants. The system used to generate and supply pressurized air shall comply with “3-A
9 Accepted Practices for the Design, Fabrication and Installation of Milking and Milk Handling
10 Equipment,” 606-05. Milk contact surfaces shall be accessible for inspection. If it is necessary to
11 disassemble any portion of a milking or milk handling system in order to inspect a milk contact
12 surface, all tools needed for the disassembly shall be readily available in the milkhouse.

13 **NOTE:** Guidelines for the sanitary design and construction of milking and milk handling
14 systems are set forth in the “3-A Accepted Practices for the Design, Fabrication and
15 Installation of Milking and Milk Handling Equipment,” 606-05, as amended
16 effective November 2002, published jointly by the International Association for
17 Food Protection, Inc., and the Food and Drug Administration, Public Health
18 Service, U.S. Department of Health and Human Services. 3-A Sanitary Standards,
19 Inc., 1451 Dolley Madison Boulevard, Suite 210, McLean, VA 22101-3850,
20 telephone (703) 790-0295, website www.3-a.org. Milking and milk handling
21 systems manufactured in compliance with the “3-A Accepted Practices” meet the
22 sanitary design and construction requirements of this subsection. Copies of the “3-
23 A Accepted Practices” as amended effective November 23, 1996, are on file with
24 the department, the secretary of state and the revisor of statutes. Copies may be
25 obtained from ~~the International Association for Food Protection, Inc., 6200 Aurora~~
26 ~~Avenue, Suite 200W, Des Moines, IA, 50322 2863; Telephone 1-800-369-2863~~ 3-
27 A Sanitary Standards, Inc. Online Store,” at <http://www.techstreet.com>.
28

29 **SECTION 23.** ATCP 60.10(4), (6)(a) and (7) are amended to read:

30 ATCP 60.10(4) NON-PIPELINE SYSTEMS. If milk from ~~eows or goats~~ milking animals is
31 initially collected in a portable transfer receptacle and pumped to the milkhouse through a flexible
32 tube, rather than being pumped directly to the milkhouse through a permanently mounted
33 pipeline, the transfer receptacle and tube system shall comply with the following requirements:

1 (6) REVIEW OF PLANS. (a) Before installing, reconstructing or extensively altering a bulk
2 tank, ~~or a milking system, or milk handling system, milk house, milking parlor or dairy farm~~
3 water supply system, the installer on behalf of the milk producer shall submit plans to the
4 department for review. The department may charge a fee under s. 93.06 (1w), Stats., to cover its
5 cost for providing the review service. The department shall return the plans, together with any
6 comments or objections, within 14 days after the plans are received by the department. No review
7 is required for a portable transfer receptacle or its appurtenances.

8 (7) CERTIFICATION OF COMPLIANCE BY INSTALLER. A person who installs, reconstructs or
9 extensively alters a milking ~~or system, milk handling system, milkhouse, milking parlor or dairy~~
10 farm water supply system shall certify to the owner of the system that the system has been
11 installed or modified in compliance with this section, and in compliance with the plans filed with
12 the department under sub. (6)(a). ~~A~~ The installer, immediately after installing or modifying the
13 system, shall provide to the milk producer and the department a signed written statement
14 certifying compliance ~~shall be provided to the owner immediately after the system is installed or~~
15 ~~modified.~~ The milk producer shall post a copy of the certificate in the milkhouse for at least 12
16 months.

17 **SECTION 24.** ATCP 60.11(2)(c)2. is repealed and recreated to read:

18 ATCP 60.11(2)(c)2. A temperature recording device approved by the department, if the
19 bulk tank is manufactured after January 1, 2000. The temperature recording device shall comply
20 with sub. (2m).

21 **SECTION 25.** ATCP 60.11(2)(e)(note), is amended to read:

22 **NOTE:** Bulk tanks manufactured in compliance with the “3-A Sanitary Standards for
23 Farm Milk Cooling and Holding Tanks” meet the sanitary design and construction
24 requirements of this subsection. The “3-A Standards” are published ~~jointly by the~~
25 ~~International Association for Food Protection, Inc., and the Food and Drug~~

1 ~~Administration, Public Health Service, U.S. Department of Health and Human~~
2 ~~Services. by “3-A Sanitary Standards, Inc., 1451 Dolley Madison Boulevard, Suite~~
3 ~~210, McLean, VA 22101-3850, telephone (703) 790-0295, website www.3-a.org.~~
4 ~~Copies of the “3-A Standards” as amended effective November 20, 1993~~
5 ~~November 16, 2003, are on file with the department, the secretary of state and the~~
6 ~~revisor of statutes. Copies may be obtained from the International Association for~~
7 ~~Food Protection, Inc., 6200 Aurora Avenue, Suite 200W, Des Moines, IA, 50322-~~
8 ~~2863; Telephone 1-800-369-2863; “3-A Sanitary Standards, Inc., Online Store,” at~~
9 ~~<http://www.techstreet.com>.~~

10
11 **SECTION 26.** ATPC 60.11(2m) is created to read:

12 ATPC 60.11(2m) BULK TANK TEMPERATURE RECORDING DEVICE. All of the following
13 requirements apply to a temperature recording device under sub. (2)(c)2:

14 (a) The temperature recording device shall have a range of at least 50° F. (28° C.). The
15 range shall include normal storage temperature, plus or minus 5° F. (3° C.).

16 (b) The temperature recording device shall be capable of recording temperatures up to
17 180° F. (83° C.).

18 (c) A temperature recording chart on which the temperature recording device records milk
19 temperatures shall have graduations of not more than 2° F. (1° C.) at temperatures below 100° F.
20 (38° C.), and shall have at least one time span division per hour. The circular chart shall make 1
21 revolution in not more than 7 days and shall be graduated for a maximum record of 7 days.

22 (d) The milk producer shall retain milk temperature records for at least 6 months after the
23 temperature recording device makes those records. Milk temperature records shall identify the
24 milk producer, the date or dates to which the records pertain, the bulk tank to which the records
25 pertain if there is more than one bulk tank on the dairy farm, the signature of the person who
26 removed the temperature records from the temperature recording device, and any unusual
27 occurrences related to milk temperature.

1 (e) The dairy plant operator who procures milk from the milk producer shall calibrate the
2 temperature recording device every 6 months and shall keep complete and accurate records of the
3 calibration. The milk producer shall make the records available to the department for inspection
4 and copying upon request.

5 **SECTION 27.** ATCP 60.11(4)(g) is amended to read:

6 ATCP 60.11(4)(g) The milk producer cools all milk to a temperature of 45° F. (7° C.) or
7 lower before the milk enters the bulk transport container. The producer may use a plate cooler,
8 tube cooler or bulk tank to cool the milk. Coolant used in cooling devices shall be food grade
9 coolant approved by the federal food and drug administration. ~~The milk producer~~ dairy plant
10 operator who procures milk from the milk producer shall test the coolant semi-annually for
11 coliform.

12 **SECTION 28.** ATCP 60.11(4)(h) is repealed and recreated to read:

13 ATCP 60.11(4)(h) A temperature recording device that records milk temperatures
14 downstream from the cooling device under par. (g). The probe of the temperature recording
15 device shall be mounted in a well in the milk pipeline except that, if the producer cools the milk
16 in a bulk tank, the probe may be mounted in the bulk tank. The temperature recording device
17 shall comply with all of the requirements that apply to bulk tank temperature recording devices
18 under sub. (2m).

19 **SECTION 29.** ATCP 60.11(4)(hm) is created to read:

20 ATCP 60.11(4)(hm) An indicating thermometer is installed as close as possible to the
21 temperature recording device under par. (h), to verify recorded temperatures.

22 **SECTION 30.** ATCP 60.11(4)(j) is amended to read:

1 ATCP 60.11(4)(j) The milk producer keeps the bulk milk cooling device, transport hose
2 and bulk transport container outlet valve in clean and sanitary condition. The milk producer shall
3 clean and sanitize the outlet valve before attaching it to the transport hose. The milk producer
4 shall clean and sanitize the bulk milk cooling device and transport hose between milkings, or at
5 least once every ~~48~~ 24 hours if the producer milks continuously.

6 **SECTION 31.** ATCP 60.11(4)(k) is repealed and recreated to read:

7 ATCP 60.11(4)(k) The dairy plant operator who receives the bulk milk shipment does all
8 of the following before unloading any milk from the bulk transport container or commingling it
9 with milk from another producer:

- 10 1. Tests the bulk shipment for drug residues according to s. ATCP 60.19(2).
- 11 2. Ensures that a person licensed under s. 97.17 or 98.146, Stats., has collected a sample
12 from the bulk shipment according to s. ATCP 82.12.

13 **SECTION 32.** ATCP 60.11(4)(L) is repealed.

14 **SECTION 33.** ATCP 60.12(1), (2) and (6) are amended to read:

15 ATCP 60.12(1) ~~PREPARING COWS, GOATS OR SHEEP~~ MILKING ANIMALS FOR MILKING. ~~The~~
16 A milk producer shall clip the flanks, udders, bellies and tails of milking ~~eows, goats and sheep~~
17 animals shall be clipped as often as necessary to facilitate cleaning. Tails, bellies and flanks shall
18 be reasonably free of visible dirt at the time of milking. If flanks and udders are brushed,
19 brushing shall be completed before milking begins. Hair on udders shall be kept short enough so
20 that it is not incorporated with the teat in the milking machine inflation during milking. Udders of
21 milking ~~eows, goats and sheep~~ animals shall be clean at the time of milking. Teats shall be
22 cleaned, sanitized and dried immediately before milking. Wet hand milking is prohibited.

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

11 (6) COMMINGLING OF ~~COW, GOAT OR SHEEP~~ MILK FROM DIFFERENT MILKING SPECIES
12 PROHIBITED. A milk producer may not commingle milk from ~~cows, goats or sheep with milk~~
13 ~~from either of the other species~~ one species of milking animal with the milk of another species of
14 milking animal.

15 **SECTION 34..** ATCP 60.12(6)(note) is created to read:

16 **NOTE:** Cows are the same species, even if they are of different breeds, so their milk may
17 be commingled. However, cows and goats are different species and their milk may
18 not be commingled.
19

20 **SECTION 35.** ATCP 60.13(1), (2) and (6) are amended to read:

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

24 (2) If ~~cows, goats or sheep~~ milking animals consume or are treated with chemical,
25 medicinal or radioactive agents which may be secreted in milk, and which may be deleterious to

1 human health, the ~~eows, goats or sheep~~ milking animals shall be milked last or with separate
2 equipment, and the milk shall be discarded.

3 (6) Drugs prescribed by a veterinarian for use on ~~eows or goats~~ milking animals shall be
4 clearly labeled with the name of the drug, the active ingredient or ingredients, directions for use,
5 the length of time for which milk must be withheld following the cessation of drug therapy, any
6 applicable warnings or precautions to be observed by the milk producer, and the name and
7 address of the prescribing veterinarian. No drug or medicinal item may be used in a manner
8 inconsistent with label directions, or in a negligent manner.

9 **SECTION 36.** ATCP 60.14(2), (3) and (4) are amended to read:

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

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

21 (4) STATIONARY FEEDERS IN COWYARD. Stationary feeders in a cowyard shall be fully
22 surrounded by a paved surface on which ~~eows, goats or sheep~~ milking animals stand while
23 feeding. The paved surface shall extend at least 12 feet in all directions from the feeder, except

1 that a paved surface installed before January 1, 1979, shall extend at least 8 feet in all directions
2 from the feeder. If the distance between a feeder and another building or permanent structure is
3 less than the paved surface width prescribed under this subsection, the paved surface shall extend
4 to the building or other permanent structure.

5 **SECTION 37.** ATCP 60.15(4) is amended to read:

6 ATCP 60.15(4) SOMATIC CELL COUNT. The somatic cell count of cow or sheep milk, as
7 determined by a direct microscopic somatic cell count (DMSCC), an electronic somatic cell count
8 (ESCC) or an optical somatic cell count (OSCC) under this subchapter, shall not exceed 750,000
9 cells per ml. The somatic cell count of goat milk, as determined by the Pyronin Y Methyl green
10 stain test, shall not exceed 1,000,000 cells per ml. Except as provided under s. ~~ATCP 60.20(4)~~
11 ATCP 60.20(6), a dairy plant is not required to reject milk shipments in response to a violation of
12 this subsection unless the department suspends or revokes the milk producer's license or grade A
13 permit, or issues an order affecting the milk shipments under s. ATCP 60.30.

14 **SECTION 38.** ATCP 60.16 is amended to read:

15 **ATCP 60.16 Examining milk by sight and smell.** A person who receives or collects
16 milk from a milk producer shall examine the milk by sight and smell, and shall reject all milk
17 which has an objectionable odor, which is abnormal in appearance or consistency, or which is
18 visibly adulterated. Rejected milk ~~shall~~ may not be received or commingled with milk from
19 another milk producer. If a milk producer disputes the rejection of milk ~~is disputed~~, the person
20 who initially rejects the milk shall contact the ~~operator of the dairy plant to which the milk would~~
21 ~~ordinarily be delivered~~ the dairy plant operator procuring the milk, and the dairy plant operator
22 shall ~~accept or reject the milk.~~ examine or test the milk prior to accepting or rejecting the milk.

1 The dairy plant operator shall report the examination or test results to the department within 3
2 business days.

3 **SECTION 39.** ATCP 60.17(2m) is created to read:

4 ATCP 60.17(2m) SAMPLE COLLECTED FROM BULK TRANSPORT CONTAINER. A person who
5 receives a bulk transport container at a dairy plant shall collect the milk sample under sub. (1) for
6 the dairy plant operator. The person shall collect the sample according to s. ATCP 82.12 and
7 shall promptly deliver the sample to the dairy plant operator, or to a milk testing laboratory
8 designated by the dairy plant operator.

9 **SECTION 40.** ATCP 60.17(3)(b) is amended to read:

10 ATCP 60.17(3)(b) Reject milk shipments from the producer, if the operator is required to
11 reject those milk shipments under s. ATCP 60.16, 60.18 (5), 60.19 (6) or ~~60.20 (4)~~ 60.20(6)(c).

12 **SECTION 41.** ATCP 60.18(1), (3), (5) and (5)(b) are amended to read:

13 ATCP 60.18(1) MONTHLY TESTING REQUIRED. During every month in which a dairy
14 plant operator receives milk from a milk producer, the dairy plant operator shall perform at least
15 one standard plate count (SPC) or plate loop count (PLC) on a milk sample obtained from the
16 producer under s. ATCP 60.17. A dairy plant operator shall perform tests under this subsection
17 and s. ~~ATCP 80.26 (2)~~ ATCP 80.26 on the same milk samples.

18 (3) MONTHLY REPORTING. For each month in which a dairy plant operator ~~receives milk~~
19 ~~shipments~~ procures milk from a milk producer, the operator shall report to the department and the
20 milk producer at least one representative test result under sub. (1) for a milk shipment ~~received~~
21 procured in that month. The operator shall report the test result within ~~44~~ 7 days after the
22 operator obtains the test result.

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

4 (5)(b) Perform a confirmatory bacteriological test on at least one more sample of milk
5 collected from the milk producer's dairy farm. The operator shall collect the confirmatory sample
6 within ~~14~~ 7 days after the date on which the operator collected the original sample. The operator
7 shall report the confirmatory test result to the department and the milk producer within 3 business
8 days after the operator obtains the test result.

9 **SECTION 42.** ATCP 60.19(6)(b), (6)(d), (10)(b) and (note) are amended to read:

10 ATCP 60.19(6)(b) *Producer milk rejected.* If a dairy plant operator is required to reject
11 producer milk shipments under par. (a), the dairy plant operator shall reject all milk produced on
12 that dairy farm until a sample of that milk tests negative ~~for that same drug residue which caused~~
13 ~~the dairy plant to reject the producer's milk~~ for drug residues on the same or an equivalent test, at
14 a laboratory that is certified under s. ATCP 77.03(2)(c) to perform confirmatory tests.

15 (6)(d) *Transfer between dairy plants.* If a dairy plant operator rejects a producer's milk
16 under par. (b), the milk producer may not ship milk to another dairy plant until a dairy plant
17 operator tests that producer's milk and the milk tests negative ~~for that same drug residue which~~
18 ~~caused the producer's milk to be rejected~~ for drug residues on the same or an equivalent test, at a
19 laboratory that is certified under s. ATCP 77.03(2)(c) to perform confirmatory tests.

20 (10)(b) *Specified drug tests; positive test result.* In a test for any of the following drugs,
21 the action level is exceeded whenever the drug residue level found in the test exceeds the level
22 specified below:

23 **Drug** **Action Level (ppb)**

1	Ampicillin	10
2	Amoxicillin	10
3	Cephapirin	20
4	Cloxacillin	10
5	Neomycin	150
6	Novobiocin	100
7	Sulfadimethoxine	10
8	Tylosin	50
9	Chlortetracycline*	300
10	Oxytetracycline*	300
11	Erythromycin*	50
12	Gentamicin*	30
13	Dihydrostreptomycin*	125
14	Sulfachloropyridazine*	10
15	Sulfadiazine*	10
16	Sulfamerazine*	10
17	Sulfamethazine*	10
18	Sulfamethizole*	10
19	Sulfanilamide*	10
20	Sulfapyridine*	10
21	Sulfaquinoxaline*	10
22	Sulfathiazole*	10
23	Tetracyclines*	80 <u>300</u>

1 **NOTE:** Action levels specified under this paragraph are based on tolerances or “safe
2 levels” specified by the United States food and drug administration, and identified
3 in a memorandum from FDA’s Milk Safety Branch, ~~FFF-346, dated July 21, 1991~~
4 M-I-05-5, September 27, 2005. A copy of the memorandum is on file with the
5 department, and is available upon request.

6
7 For drugs identified with an asterisk (*), the levels in this paragraph are based on
8 “safe levels” specified by FDA. “Safe levels” are merely enforcement guides and
9 do not constitute legal tolerances. They do not legalize residues found in milk that
10 are below the “safe level.” “Safe levels” are not binding on the courts or the
11 department. They do not limit the department’s discretion in any way, and they do
12 not protect milk producers or milk itself from enforcement action. “Safe levels” do
13 not constitute animal drug tolerances under section 512 (b) of the federal food, drug
14 and cosmetic act.

15
16 **SECTION 43.** ATCP 60.19(12) is created to read:

17 ATCP 60.19(12) **TIMELY TESTING.** Drug residue tests required under this section shall be
18 completed within 72 hours after the tested milk, or any portion of the tested milk, was first
19 collected from a dairy farm.

20 **NOTE:** If a drug residue test is performed on a bulk load of milk collected from several
21 dairy farms, the test must be completed within 72 hours after the milk hauler
22 collects milk from the first farm. Confirmation of positive drug residue screening
23 tests, if required under s. ATCP 60.22(1)(b)3., must be completed within the same
24 72-hour period.

25
26 **SECTION 44.** ATCP 60.20(1), (2), (3), (4), (6), (6)(b) and (6)(c) are amended to read:

27 ATCP 60.20 (1) **MONTHLY TESTING REQUIRED.** During every month in which a dairy
28 plant operator ~~receives~~ procures milk from a milk producer, the dairy plant operator shall perform
29 at least one somatic cell count on a milk sample obtained from the producer under s. ATCP 60.17.
30 If the operator tests more than one milk sample each month, the operator shall collect the samples
31 at regular intervals throughout the month. A dairy plant operator shall perform tests under this
32 section and s. ~~ATCP 80.26 (2)~~ ATCP 80.26 on the same milk samples

33 (2) **NEW MILK PRODUCER; INITIAL TESTING.** A dairy plant operator shall perform a
34 somatic cell count on a milk sample collected from a milk producer’s first milk shipment to that

1 operator. The operator shall report the test result to the department and the producer within 14 7
2 days after the operator obtains the test result.

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

8 (4) MONTHLY REPORTING. For each month in which a dairy plant operator ~~receives~~
9 procures milk shipments from a milk producer, the operator shall report to the department and the
10 producer at least one representative somatic cell count under sub. (1) for a milk shipment ~~received~~
11 procured in that month. The operator shall report the somatic cell count within 14 7 days after the
12 operator obtains the count.

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

17 (6)(b) Perform a confirmatory somatic cell count on at least one more sample of milk
18 collected from the milk producer's dairy farm. The operator shall collect the confirmatory sample
19 within 14 7 days after the date on which the operator collected the original sample. The operator
20 shall report the confirmatory somatic cell count to the department and the milk producer within 3
21 business days after the operator obtains the confirmatory count. A dairy plant operator shall use
22 the Pyronin Y-Methyl green stain test when performing a confirmatory somatic cell count on
23 ~~sheep or~~ goat milk.

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

6 **SECTION 45.** ATCP 60.21 and (note) are repealed.

7 **SECTION 46.** ATCP 60.22 and (note) are repealed and recreated to read:

8 **ATCP 60.22 Certified testers; test methods; reporting.** (1) CERTIFIED LABORATORIES.

9 (a) Except as provided in par. (b), no laboratory may perform a milk test under s. ATCP 60.18 to
10 60.20 unless the laboratory operator is currently certified by the department under s. ATCP 77.03
11 to perform that test at that laboratory.

12 (b) A laboratory may perform a drug residue test under s. ATCP 60.19 as a screening test,
13 even though the laboratory is not certified under s. ATCP 77.03 to perform that test as a
14 confirmatory test, if all of the following apply:

15 1. The department has approved that laboratory to perform that screening test under s.
16 ATCP 77.23.

17 2. The department has approved the individual who performs the screening test under s.
18 ATCP 77.23(2).

19 3. A different laboratory performs a confirmatory test if the screening test result is
20 positive for drug residue. The laboratory performing the confirmatory test shall be certified to do
21 so under s. ATCP 77.03. The laboratory shall perform the confirmatory test on the same test
22 sample using the same or an equivalent test method, and shall complete the confirmatory test
23 within the time period specified in s. ATCP 60.19(12).

1 (2) CERTIFIED ANALYSTS. (a) Except as provided in par. (b), no individual may perform a
2 milk test under ss. ATCP 60.18 to 60.22 unless the department has certified that individual under
3 s. ATCP 77.22 to perform that test.

4 (b) Pursuant to s. ATCP 77.23(2), the department may approve an individual to perform a
5 drug residue test under s. ATCP 60.19 as a screening test, even though the individual is not
6 certified under s. ATCP 77.22 to perform that test as a confirmatory test.

7 (3) TEST METHODS. Milk testing under ss. ATCP 60.18 to 60.20 shall use test methods
8 prescribed in the applicable FDA 2400 series laboratory evaluation forms, published by the
9 United States department of health and human services, public health service, food and drug
10 administration, which are in effect on *[revisor inserts effective date of this rule]*. If no FDA form
11 applies, testing shall be conducted according to methods prescribed in the “Standard Methods for
12 the Examination of Dairy Products,” 17th Edition (2004), or in “Official Methods of Analysis of
13 AOAC International,” 18th Edition (2005).

14 **NOTE:** Copies of the FDA 2400 series laboratory evaluation forms in effect on *[revisor*
15 *inserts effective date of this rule]* are on file with the department and the revisor of
16 statutes. To find out how to obtain a copy of these forms, you may contact the
17 department at the following address:

18
19 Wisconsin Department of Agriculture, Trade and Consumer Protection
20 Division of Food Safety
21 Laboratory Certification Program
22 P.O. Box 8911, Madison, WI 53708-8911
23 Telephone: (608) 224-4712
24

25 The American Public Health Association’s “Standard Methods for the
26 Examination of Dairy Products,” 17th Edition (2004), is on file with the department
27 and the revisor of statutes and may be obtained from the American Public Health
28 Association, Inc., 800 I Street, NW, Washington, D.C. 20001, telephone 202-777-
29 2742, website *www.apha.org*.

30
31 The “Official Methods of Analysis of AOAC International,” 18th Edition (2005), is
32 on file with the department and the revisor of statutes and may be obtained from

1 AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD
2 20877-2417, telephone 800-379-2622. website *www.aoac.org*.

3
4 **SECTION 47.** ATCP 60.235 is created to read:

5 **ATCP 60.235 Raw milk sales prohibited; exemptions.** No person may sell or
6 distribute unpasteurized milk or fluid milk products to consumers, or to any person for resale or
7 redistribution in unpasteurized form to consumers. This section does not prohibit any of the
8 following:

9 (a) The sale or distribution of milk or fluid milk products that are heat sterilized in
10 hermetically sealed containers.

11 (b) The distribution of unpasteurized milk, produced on a dairy farm, to owners of that
12 dairy farm who are covered by the dairy farm license under s. ATCP 60.02.

13 (c) The sale or distribution of unpasteurized milk, produced on a dairy farm, to the
14 employees of that dairy farm.

15 (d) The incidental sale of unpasteurized milk to a consumer, for delivery to the consumer
16 at the dairy farm where the milk is produced, for consumption by the consumer, the consumer's
17 family, or the consumer's nonpaying guests. A sale is not incidental if it is made in the regular
18 course of business, or is preceded by any advertising, offer or solicitation made to the general
19 public through any communications media.

20 **SECTION 48.** ATCP 60.245(1)(g) is created to read:

21 ATCP 60.245(1)(g) The milk producer has not violated any milk temperature or cooling
22 standards under this chapter.

23 **SECTION 49.** ATCP 60.245(2)(e) to (g) are renumbered (d) to (f).

24 **SECTION 50.** ATCP 60.245(2)(g) is created to read:

1 ATCP 60.245(2)(g) The milk producer has not violated any milk temperature or cooling
2 standards under this chapter.

3 **SECTION 51.** ATCP 60.245(3) is amended to read:

4 ATCP 60.245(3) FOUR-MONTH INSPECTION INTERVAL. The department shall inspect a
5 grade A dairy farm in this category at least once every 4 months. The department shall place a
6 dairy farm in this category if subs. (1), (2) and (4) do not apply, based on dairy farm inspection
7 reports, milk quality tests and department compliance actions during the preceding 12 months.
8 Once the department places a dairy farm in this category, the department may not reassign the
9 dairy farm to any inspection category under sub. (1) or (2) until a date that is at least 12 months
10 after the department's next 3-month evaluation of the dairy farm under this section.

11 **SECTION 52.** ATCP 60.245(4) is repealed and recreated to read:

12 ATCP 60.245(4) THREE-MONTH INSPECTION INTERVAL. (a) The department shall inspect
13 a grade A dairy farm in this category at least once every 3 months. The department shall place a
14 dairy farm in this category if subsections (1) and (2) do not apply and if any of the following
15 apply based on dairy farm inspection reports, milk quality tests or department compliance actions
16 during the preceding 12 months:

17 1. The department issued more than one warning to the milk producer under s. ATCP
18 60.27(1).

19 2. The department issued more than one warning to the milk producer under s. ATCP
20 60.275(1).

21 3. The department issued more than one warning to the milk producer under s. ATCP
22 60.28(1).

23 4. The department conducted more than one reinspection of the dairy farm.

1 5. The department suspended the milk producer’s dairy farm license or grade A dairy
2 farm permit.

3 (b) Once the department places a dairy farm in the 3-month inspection category under par.
4 (a), the department may not reassign the dairy farm to any inspection category under subs. (1) to
5 (3) until a date that is at least 12 months after the department’s next 3-month evaluation of the
6 dairy farm under this section.

7 **SECTION 53.** ATCP 60.27(1)(b) is amended to read:

8 ATCP 60.27(1)(b) Two of the last 4 somatic cell counts reported to the department under
9 s. ATCP 60.20(4) exceed 750,000 somatic cells per ml. for cow or sheep milk, or 1,000,000 per
10 ml. for goat milk, in violation of the standard under s. ATCP 60.15 (4).

11 **SECTION 54.** ATCP 60.27(1)(c) is created to read:

12 ATCP 60.27(1)(c) Two of the last 4 milk temperature readings violate standards for grade
13 A milk under s. ATCP 60.15(5).

14 **SECTION 55.** ATCP 60.27(4)(b) is amended to read:

15 ATCP 60.27(4)(b) Three of the last 5 somatic cell counts reported to the department
16 under s. ATCP 60.20 (4) and sub. (3) exceed 750,000 somatic cells per ml. for cow or sheep milk,
17 or 1,000,000 per ml. for goat milk.

18 **SECTION 56.** ATCP 60.27(4)(c) is created to read:

19 ATCP 60.27(4)(c) Three of the last 5 milk temperature readings violate standards for
20 Grade A milk under s. ATCP 60.15(5).

21 **SECTION 57.** ATCP 60.275(1)(a)4. is created to read:

22 ATCP 60.275(1)(a)4. Notice that the division or its agent will conduct an investigation
23 under sub. (4).

1 **SECTION 58.** ATCP 60.275(1)(note) is amended to read:

2 **NOTE:** The drug residue prevention program under this section should conform
3 to the ~~“Milk and Dairy Beef Residue Prevention Protocol, 2005 Producer~~
4 ~~Manual of Best Management Practices,”~~ “Milk and Dairy Beef Quality
5 Assurance Program” published by Agri-Education, Inc. A copy of that
6 ~~program which is endorsed by the federal food and drug administration,~~
7 manual is on file in the offices of with the department, the secretary of
8 state, and the revisor of statutes. A copy may be purchased from Agri-
9 Education, Inc., P.O. Box 497, Stratford, IA 50249, and may be obtained
10 from the Milk & Dairy Beef Quality Assurance Center, 801 Shakespeare
11 Avenue, Stratford, Iowa, 50249, telephone 800-553-2479, website
12 www.dqacenter.org/catalog.htm.
13

14 **SECTION 59.** ATCP 60.275(4) is created to read:

15 ATCP 60.275(4) INVESTIGATION. Within 30 days after the department issues a warning
16 notice under sub. (1), the division or its agent shall conduct an investigation to determine the
17 cause of the drug residue violation, and to identify milk producer actions that may be needed to
18 prevent future violations. The division may direct the dairy plant operator who procures milk
19 from the producer to conduct the investigation as the division’s agent and report its findings to the
20 division, in writing, within the 30-day time period.

21 **SECTION 60.** ATCP 60.31(4) is amended to read:

22 ATCP 60.31(4) FULL EVIDENTIARY HEARING. If a person adversely affected by a food
23 safety division action files a timely written request for hearing under subs. (1) and (2), and if the
24 matter is not resolved by an informal hearing under sub. (3), the person may request a full
25 evidentiary hearing before the department, pursuant to ch. 227, Stats., and ch. ATCP 1. The
26 person shall make the hearing request within 10 days after the officer presiding at the informal
27 hearing issues the written memorandum under sub. (3)(b) summarizing that informal hearing. A
28 full evidentiary hearing, if any, shall be held before an administrative law judge appointed by the
29 secretary. A request for a full evidentiary hearing does not stay any action under this chapter.

1 **SECTION 61.** ATCP 69.01 is repealed and recreated to read:

2 **ATCP 69.01 Buttermaker license.** (1) LICENSE REQUIRED. No person may operate as
3 a buttermaker, as defined in s. 97.17(1), Stats., without a buttermaker license from the
4 department. A license expires on January 1 of the second calendar year beginning after the
5 license is issued.

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

8 (a) Documentation of buttermaker qualifications under sub. (3).

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

10 (3) QUALIFICATIONS. A buttermaker license application under sub. (2) shall include
11 documentation approved by the department to show that the applicant meets at least one of the
12 following requirements:

13 (a) The applicant has held a buttermaker license in this state within 10 years prior to the
14 current license application.

15 (b) Within 10 years prior to the current license application, the applicant has worked
16 directly in buttermaking operations for at least 24 months under the direct personal supervision of
17 either a buttermaker licensed in Wisconsin or a buttermaker with similar credentials outside of
18 Wisconsin.

19 (c) The applicant has done all of the following within 10 years prior to the current license
20 application:

21 1. Worked in buttermaking operations for at least 18 months under the direct personal
22 supervision of a licensed buttermaker.

1 2. Successfully completed a 3-month course in buttermaking at an accredited post-
2 secondary educational institution.

3 (d) The applicant has done all of the following:

4 1. Obtained a 4-year or greater degree, with a food science or equivalent major, from an
5 accredited post-secondary educational institution.

6 2. Worked in buttermaking operations for at least 12 months, under the direct personal
7 supervision of a licensed buttermaker, within 10 years prior to the current license application.

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

12 (a) Laws related to buttermaking, including standards of identity, composition standards,
13 food safety standards, labeling requirements and related matters.

14 (b) The fundamentals of buttermaking, including all of the following:

15 1. Preparation and care of equipment.

16 2. Composition control.

17 3. Preparation and use of starter.

18 4. Pasteurization of milk and cream.

19 5. Problems of acidity control.

20 6. Common butter defects and methods of overcoming them.

21 7. Yeast, mold and bacterial control methods.

22 (c) Relevant arithmetical problems related to dairy plant operations, butter production,
23 plant efficiencies, and dairy product values.

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

- 2 1. Testing milk and cream for bacteria, sediment and acidity.
- 3 2. Grading milk and cream.
- 4 3. Analysis of butter composition.
- 5 4. Judging butter samples.
- 6 5. Fundamentals of pasteurization.

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

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

13 **SECTION 62.** ATCP 69.01(note) is created to read:

14 *NOTE:* The department may issue a license under s. ATCP 69.01 on a conditional basis,
15 pursuant to s. 93.06(8), Stats.
16

17 **SECTION 63.** ATCP 69.02 is repealed and recreated to read:

18 **ATCP 69.02 Cheesemaker license. (1) LICENSE REQUIRED.** No person may operate as
19 a cheesemaker, as defined in s. 97.17(1), Stats., without a cheesemaker license from the
20 department. A license expires on January 1 of the second calendar year beginning after the
21 license is issued.

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

- 24 (a) Documentation of cheesemaker qualifications under sub. (3).
- 25 (b) The fee required under sub. (5).

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

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

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

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

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

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

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

20 (e) Within 10 years prior to the current license application, the applicant has completed at
21 least 240 hours of on-the-job training in the complete process of cheesemaking under the direct
22 supervision of a licensed cheesemaker and has completed department-approved courses in all of
23 the following subjects:

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

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

10 (a) Laws related to cheesemaking, including standards of identity, food safety standards,
11 labeling requirements and related matters.

12 (b) The fundamentals of cheesemaking, including all of the following:

- 13 1. Preparation and care of equipment.
- 14 2. Composition control.
- 15 3. Preparation and use of starter.
- 16 4. Pasteurization of milk, cream, and other dairy ingredients.
- 17 5. Problems of acidity control.
- 18 6. Common cheese defects and methods of overcoming them.
- 19 7. Yeast, mold and bacterial control methods.

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

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

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

1 2. Grading milk, cream and dairy ingredients.

2 3. Analysis of cheese composition.

3 4. Judging cheese samples.

4 5. Fundamentals of pasteurization.

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

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

11 (7) CONDITIONAL LICENSE. The department may issue a license under s. 97.17, Stats., on
12 a conditional basis, pursuant to s. 93.06(8), Stats. If the department issues a license to an
13 applicant who qualifies under sub.(3)(e), the license shall be a conditional license for at least 2
14 years. The department may summarily suspend the license at any time during the conditional
15 license term if the license holder fails to do any of the following:

16 (a) Successfully complete a performance evaluation conducted by qualified department
17 staff. The department may conduct an evaluation at any time, at its discretion.

18 (b) Complete 40 hours of department-approved continuing education related to
19 cheesemaking. Continuing education programs may include any of the following:

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

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

1 3. Other programs approved by the department.

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

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

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

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

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

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

- 12 (a) Standard Plate Count
- 13 (b) Plate Loop Count (raw milk only)
- 14 (c) Spiral Plate Count (raw milk only)
- 15 (d) Petrifilm Aerobic Count
- 16 (e) BactoScan FC
- 17 (f) Charm BSDA
- 18 (g) Charm II Competitive
- 19 (h) Charm II Sequential
- 20 (i) Charm II Quantitative
- 21 (j) Charm II Cloxacillin
- 22 (k) Charm II Sulfa
- 23 (L) Charm II Chloramphenicol

- 1 (m) Charm II Tetracycline
- 2 (n) Charm SL (Safe Level)
- 3 (o) Charm SL6
- 4 (p) Delvotest P
- 5 (q) Delvotest P 5 Pack
- 6 (r) Penzyme Milk
- 7 (s) Penzyme III
- 8 (t) Snap BL
- 9 (u) Direct Somatic Cell Count
- 10 (v) Electric Somatic Cell Count
- 11 (w) Petrifilm Coliform Count/High Sensitivity Coliform Count
- 12 (x) Coliform Plate Count
- 13 (y) Pasteurized Milk Containers
- 14 (z) Disintegration Test
- 15 (aa) Flat Lid or Pour Contact Tests
- 16 (bb) Phosphatase Test-Fluorophos
- 17 (cc) Phosphatase Test-Charm
- 18 (dd) Tests performed to comply with ch. ATCP 60 or 80, other than milk component tests
- 19 which are not related to public health.

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

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

- 23 (a) LTB or P-A broth, followed by BGLB and either EC or EC-MUG

- 1 (b) A-1 broth (fecal coliform, SWTR only)
- 2 (c) Colilert or Colilert 18
- 3 (d) Colisure
- 4 (e) ReadyCult or Fluorocult LMX
- 5 (f) E*Colite
- 6 (g) Colitag
- 7 (h) M-Endo or LES Endo, followed by BGLB and either EC, EC-MUG, or NA-MUG
- 8 (i) MI Medium
- 9 (j) Coliscan
- 10 (k) m-ColiBlue24
- 11 (L) Chromocult
- 12 (m) mFC agar (fecal coliform, SWTR only)
- 13 (n) PCA
- 14 (o) SimPlate
- 15 (p) m-TEC (fecal coliform)
- 16 (q) Other tests under ch. NR 809 or 812 to detect microbiological contamination in
- 17 drinking water.

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

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

1 (b) The department may approve a laboratory to perform a drug residue test as a screening
2 test, as provided in s. ATCP 77.23, even though the laboratory is not certified to perform that test
3 as a confirmatory test.

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

5 ATCP 77.03(2)(c) The department may not certify a laboratory to perform a drug residue
6 test on milk unless it certifies that laboratory to perform that test as a confirmatory test.

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

8 **NOTE:** The department may approve a laboratory, under s. ATCP 77.23, to perform a
9 drug residue screening test on milk even though the department has not certified
10 that laboratory under this section to perform that test as a confirmatory test. See
11 also s. ATCP 60.22(1).
12

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

14 ATCP 77.20(2)(b)2. The “Standard Methods for the Examination of Dairy Products,” ~~16th~~
15 17th edition, published by the American Public Health Association, ~~Inc.~~

16 (2)(c)2. The “Compendium of Methods for the Microbiological Examination of Foods,”
17 ~~3rd~~ 4th edition, published by the American Public Health Association.

18 (2)(c)3. The FDA “Bacteriological ~~Annual~~ Analytical Manual,” 8th edition, Revision A,
19 if the operator performs a microbiological test on food.

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

21 **NOTE:** Copies of ~~reference manuals cited under sub. (2)~~ “Standard Methods for the
22 Examination of Dairy Products” and “Compendium of Methods for the
23 Microbiological Examination of Foods” are on file with the department, ~~the~~
24 ~~secretary of state~~ and the revisor of statutes and may be obtained from the “APHA
25 Bookstore” at <http://www.apha.org/media/science.htm>.
26

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

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

1 ~~Wisconsin Department of Agriculture, Trade and Consumer Protection~~
2 ~~Division of Food Safety, Bureau of Food Safety and Inspection~~
3 ~~Laboratory Certification Program~~
4 ~~P.O. Box 8911~~
5 ~~Madison, WI 53708-8911~~
6 ~~(608) 224-4712~~
7

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

9 ATCP 77.23(1) LABORATORY APPROVED. (a) The department may approve a laboratory
10 to perform a drug residue test as a screening test, even though the laboratory is not certified under
11 s. ATCP 77.03 to perform the test as a confirmatory test. An approval expires on December 31 of
12 each year. An approved laboratory shall comply with s. ATCP 60.22(1)(b).

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

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

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

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

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

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

26 (3)(f) A fee of \$150 for each laboratory visit, other than the initial inspection under sub.
27 ~~(1)(e)1~~. (1)(c), that the department makes for the purpose of evaluating individuals under sub. (4).

1 This single fee of \$150 covers all of the individual evaluations performed during the department's
2 visit, regardless of the number of individuals evaluated.

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

4 ATCP 77.24(2) FORM OF EVALUATION. In a proficiency evaluation under sub. (1), an
5 analyst shall examine samples prepared by an approved evaluator under sub. (3). The contents of
6 the samples shall be known only to the evaluator. The evaluator shall rate the analyst's
7 proficiency by comparing the analyst's results to the known contents of the samples, and shall
8 report those results and ratings to the department. The reported results and ratings are rebuttably
9 presumed to be valid for purposes of s. ATCP 77.22 and this section.

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

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

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

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

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

20 **NOTE:** Copies of "Standard Methods for the Examination of Water and Waste Water"
21 are on file with the department and the revisor of statutes and may be obtained from
22 the "APHA Bookstore" at <http://www.apha.org/media/science.htm>.
23

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

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

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

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

13
14 **SECTION 80.** ATCP 77.34(2) is amended to read:

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

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

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

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

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

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

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

3 (a) Cows, sheep and goats.

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

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

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

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

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

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

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

19 (33j) “Reconstituted dairy product” means a dairy product created by restoring water to
20 dehydrated dairy product ingredients.

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

22 ATCP 80.04(2)(a) MILK PROCUREMENT FEE; MONTHLY PAYMENT. (a) *Monthly fee*
23 *required.* On or before the ~~18~~ 25th day of each month, a dairy plant operator shall pay a milk

1 procurement fee in the amount specified under par. (b). The monthly fee shall be based on the
2 amount of milk that was delivered to the dairy plant from milk producers in the month preceding
3 the month when the fee payment is due, regardless of who operated that dairy plant during that
4 preceding month.

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

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

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

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

17 (8)(d)(intro.) Recirculated water used in a cooler or heat exchanger shall be all of the
18 following if that recirculated water may come in contact with any dairy product:

19 (8)(d)4. Tested by the dairy plant operator at least semiannually or, in the case of a grade
20 A dairy plant, by the department at least semiannually.

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

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

- 1 1. The water shall be potable.
- 2 2. The container or tank shall be thoroughly cleaned and sanitized before being filled.
- 3 3. The container or tank shall be sealed, and the water shall be protected from
- 4 contamination during transit.
- 5 4. A suitable pump, hose and fittings shall be used to transfer water from the container or
- 6 tank to a storage tank at the dairy plant, so that the water is not contaminated during transfer.

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

8 ATCP 80.08(8m)(a)(intro.) A dairy plant operator may use water reclaimed from heat

9 exchanger processes or from the condensation of milk or dairy products if all the following apply:

10 (a)1. The water is reclaimed from a heat exchanger process or by means of evaporation,

11 reverse osmosis or ultrafiltration.

12 (b)4. The organic content of the ~~reclaimed~~ water is less than 12 mg. per liter as measured

13 by the chemical oxygen demand or permanganate-consumed test, or has a standard turbidity of

14 less than 5 units. The dairy plant operator shall use an automatic fail-safe monitoring device to

15 identify, and automatically divert to a waste water system, any ~~reclaimed~~ water that reclaimed

16 from the condensation of dairy products if that water fails to meet this standard.

17 (b)8. The dairy plant operator or, in the case of a grade A dairy plant, the department tests

18 the reclaimed water for bacteriological and organic content at least semi-annually. The operator

19 shall test the reclaimed water for ~~10~~ 14 working days after the department approves the

20 reclamation system under subd. 1., and for at least ~~5~~ 7 working days after any repairs or

21 alterations to the system.

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

23 **NOTE:** The “3-A Sanitary Standards” and “3-A Accepted Practices” listed in

1 APPENDIX A are published ~~jointly by the International Association for Food~~
2 ~~Protection, Inc., and the Food and Drug Administration, Public Health Service,~~
3 ~~United States Department of Health and Human Services~~ by 3-A Sanitary
4 Standards, Inc., 1451 Dolley Madison Boulevard, Suite 210, McLean, VA 22101-
5 3850, telephone (703) 790-0295, website www.3-a.org. Copies are on file with the
6 department, ~~the secretary of state and the reviser of statutes.~~ Copies may be
7 ~~purchased from the International Association for Food Protection, Inc., 6200~~
8 ~~Aurora Avenue, Suite 200 W., Des Moines, IA 50322, Telephone 1 800 369 2863.~~
9 and may be obtained from the “3-A Sanitary Standards, Inc. Online Store” at
10 <http://www.techstreet.com>.
11

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

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

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

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

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

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

28 1. Drying equipment.

29 2. Cloth-collector systems.

1 3. Dry product packaging equipment and storage containers.

2 4. Equipment used in brining, aging, curing, and dry product blending processes.

3 (f) The department may authorize an alternative cleaning and sanitizing schedule for
4 continuously-operated equipment, in lieu of the schedule under par. (b), based on a proposal
5 under par. (g). A dairy plant operator shall adhere to the practices described in an approved
6 proposal. A dairy plant operator may not materially alter practices described in an approved
7 proposal without department approval.

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

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

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

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

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

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

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

2 ATCP 80.14(2)(b) A dairy plant operator shall keep records on the cleaning and
3 sanitizing of all C-I-P systems. The records shall identify every C-I-P system that has been
4 cleaned or sanitized, the date and time when each C-I-P system was cleaned and sanitized, the
5 temperature of the cleaning and sanitizing solution, and the length of time for which the C-I-P
6 system was exposed to the cleaning and sanitizing solution. Records shall be signed or initialed
7 by a responsible person at the dairy plant. The department shall review the records as part of
8 every routine inspection of the dairy plant.

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

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

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

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

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

22 ATCP 80.16(3)(a) Returnable glass bottles cleaned in an automatic bottle washer shall be
23 sanitized while in the washer. Bottles cleaned in an automatic bottle washer may be sanitized by
24 being soaked in a caustic solution. The causticity of the sanitizing solution shall be monitored
25 and maintained at an appropriate level in relation to solution temperature and soaking time. ~~The~~

1 ~~following table~~ Table I shows minimum causticity levels required for sanitizing solutions
2 (expressed in terms of percent concentration of sodium hydroxide, NaOH, in the sanitizing
3 solution), based on applicable soaking times and temperatures.

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

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

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

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

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

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

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

16 ATCP 80.22(7) ~~RECONSTITUTED OR COMMINGLED~~ RECOMBINED DAIRY PRODUCTS;

17 PASTEURIZATION. (a) A dairy plant operator shall pasteurize reconstituted or recombined dairy
18 products after those dairy products are reconstituted or recombined, except where the resulting
19 product is exempt from pasteurization under s. ~~ATCP 80.40(2)~~ ATCP 80.41(2).

20 (b) A dairy plant operator may not commingle pasteurized dairy products with
21 unpasteurized milk or dairy products unless the dairy plant operator pasteurizes the resulting
22 product or the resulting product is exempt from pasteurization under s. ~~ATCP 80.40(2)~~ ATCP
23 80.41(2).

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

2 **NOTE:** The “3-A Sanitary Standards” and “3-A Accepted Practices” listed in
3 APPENDIX A are published ~~jointly by the International Association for Food~~
4 ~~Protection, Inc., and the Food and Drug Administration, Public Health Service,~~
5 ~~United States Department of Health and Human Services.~~ by 3-A Sanitary
6 Standards, Inc., 1451 Dolley Madison Boulevard, Suite 210, McLean, VA 22101-
7 3850, telephone (703)790-0295, website www.3-a.org. Copies are on file with the
8 ~~department, the secretary of state and the revisor of statutes.~~ Copies may be
9 purchased from ~~the International Association for Food Protection, Inc., 6200~~
10 ~~Aurora Avenue, Suite 200 W., Des Moines, IA 50322, telephone 1-800-369-2863~~
11 the “3-A Sanitary Standards, Inc. Online Store” at <http://www.techstreet.com>.

12
13 **SECTION 103.** ATCP 80.24(3) is repealed and recreated to read:

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

17 1. 20,000 per ml., except as provided in subd. 2.

18 2. 30,000 per ml. for condensed milk, whey, whey products, dried whey and nonfat dry
19 milk.

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

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

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

27 **SECTION 104.** ATCP 80.24(3m) is created to read:

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

4 1. 20,000 per ml., except as provided in subd. 2 or 3.

5 2. 30,000 per ml. for condensed milk, whey, whey products, dried whey and nonfat dry
6 milk.

7 3. 50,000 per gram for frozen desserts, except that the bacterial count for frozen dessert
8 mixes may not exceed 20,000 per gram.

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

12 (c) In a pasteurized grade B dairy product, there shall be fewer than 350 milliunits of
13 phosphatase per liter as determined by the Fluorophos ALP method, the Charm Paslite Alkaline
14 Phosphatase method, or another test method approved by the department.

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

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

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

22 **NOTE:** Copies of PMO Appendix O to the “Grade A Pasteurized Milk Ordinance—1999
23 Recommendations of the United States Public Health Service/Food and Drug
24 Administration” are on file with the department, the secretary of state and the

1 revisor of statutes. Copies may be obtained from the department at cost or online at
2 <http://www.cfsan.fda.gov>.

3
4 **SECTION 107.** ATCP 80.26(1)(a)(note) is amended to read:

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

9
10 **SECTION 108.** ATCP 80.26(1)(b) is amended to read:

11 ATCP 80.26(1)(b) A dairy plant operator shall test milk and dairy products held or
12 processed at a dairy plant for compliance with standards specified under s. ATCP 80.24(2) ~~and (3)~~
13 to (4). The dairy plant operator shall test the milk and dairy products as often as necessary to
14 provide reasonable statistical assurance of compliance.

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

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

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

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

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

22
23 The American Public Health Association’s “Standard Methods for the
24 Examination of Dairy Products,” 17th edition (2004), is on file with the department
25 and the revisor of statutes. Copies may be obtained from the American Public
26 Health Association, Inc., 800 I Street, NW, Washington, D.C. 20001, telephone
27 202-777-2742, website www.apha.org.

28
29 The “Official Methods of Analysis of AOAC International,” 18th Edition (2005), is
30 on file with the department and the revisor of statutes. Copies may be obtained
31 from AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD
32 20877-2417, telephone 800-379-2622. website www.aoac.org.

33
34 **SECTION 111.** ATCP 80.32(5) is amended to read:

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

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

8 ATCP 80.34(2)(c)3. The standard deviation of test results, calculated for the set of
9 calibration samples according to the formula set forth in the “Official Methods of Analysis of ~~the~~
10 ~~Association of Official Analytical Chemists (AOAC) International,~~” ~~17th~~ 18th edition ~~(2000)~~
11 (2005), section 969.16, shall not exceed 0.044 percent for milkfat or protein, or 0.084 percent for
12 total solids or solids-not-fat.

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

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

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

- 24 1. Each sample shall be not more than 21 days old.
- 25 2. Each sample shall be a fresh milk sample preserved with bronopol (2-bromo-2-nitro-
26 1,3-propanediol) or another approved preservative. Preservative methods, formulations and
27 concentrations shall be approved by the department.

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

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

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

7 2. Each sample shall be a fresh milk sample preserved with bronopol (2-bromo-2-nitro-
8 1,3-propanediol) or another approved preservative. Preservative methods, formulations and
9 concentrations shall be approved by the department.

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

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

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

20 (5)(d) To determine the milkfat content of a calibration sample or daily performance
21 check sample, the sample provider shall use either a manual or robotic version of the Modified
22 Mojonnier method as described in the “Official Methods of Analysis of the Association of

1 ~~Official Analytical Chemists (AOAC) International,~~ 17th 18th edition (2000) (2005), section
2 989.05.

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

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

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

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

25 *NOTE:* The “Official Methods of Analysis of the Association of Official Analytical
26 Chemists AOAC International,” 17th 18th edition (2000) (2005), is on file with the
27 department, ~~the secretary of state,~~ and the revisor of statutes, and may be obtained
28 from ~~the Association of Official Analytical Chemists~~ AOAC International, 1970
29 Chain Bridge Road, Dept. 0742, McLean, VA 22109-0742 481 N. Frederick
30 Avenue, Suite 500, Gaithersburg, MD, 20877-2417, <http://www.aoac.org>.
31

32 (8) CALIBRATION AND DAILY PERFORMANCE CHECK SAMPLES; SOLIDS-NOT-FAT. The
33 provider of a calibration sample under sub. (2) or a daily performance check sample under sub.
34 (3) shall calculate the known percentage content of solids-not-fat in that sample by subtracting the

1 percent fat as determined under sub. (5) from the total solids for that sample as determined under
2 sub. (7). The calculation method shall be that described in the “Official Methods of Analysis of
3 ~~the Association of Official Analytical Chemists (AOAC) International,~~ 17th 18th edition ~~(2000)~~
4 (2005), section 990.21.

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

12 **SECTION 115.** ATCP 80.40(1) and (2) are amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

16 **SECTION 118.** ATCP 80.41(4) and (5) are created to read:

17 ATCP 80.41(4) If a dairy product standard of identity requires that any ingredient of that
18 product be pasteurized, the ingredient shall be pasteurized in compliance with s. ATCP 80.44.

19 (5) A dairy product shall be pasteurized before it enters any membrane fractionating
20 system, membrane condensing system, evaporator, or other condensing equipment unless one of
21 the following applies:

22 (a) The condensing equipment processes the dairy product at a temperature below 45° F.
23 (7° C.).

(b) The dairy product is acid whey with a pH less than 4.7.

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

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

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 (> 16% 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	—

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

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

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

SECTION 123. ATCP 80.46 is amended to read:

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

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

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

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

22 **ATCP 80.48 HTST and HHST pasteurization.** Pasteurization by means of HTST or
23 ~~higher heat, shorter time~~ HHST pasteurization shall comply with the standards set forth in “3-A
24 Accepted Practices for the Sanitary Construction, Installation, Testing and Operation of High-
25 Temperature Short-Time and Higher Heat Shorter Time Pasteurizer Systems,” standard 3A 603-
26 07 (November, 2000 2005), published jointly by the International Association of Food Industry
27 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 21CFR 113 and 21CFR 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 ~~reorder~~ recording chart, if more than one is used.

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

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

10 (2)(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 ~~reorder~~ temperature
12 recording chart.

13 (2)(g) The name and quantity of pasteurized dairy product included in each batch
14 pasteurization shown on the ~~reorder~~ 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 ~~reorder~~ recording chart, if more than one is used.

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

20 (3)(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 (3)(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 (3)(g) The temperature reading on the indicating thermometer whenever the ~~controller~~
5 temperature recording chart for the pasteurization system is changed.

6 (3)(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) 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 dairy
17 plant operator breaks a seal applied by the department under sub. (5), or whenever a pasteurizing
18 system malfunctions to the possible detriment of public health or safety. The dairy plant operator
19 shall notify the department in writing, on a form provided by the department, within 3 business
20 days after the seal is broken.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 1. The name, address and license number of the dairy plant from which 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. Whether the dairy product is a grade A or grade B dairy 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

1 Supplies,” ~~1999~~ 2005 revision, published by the Food and Drug Administration, Public Health
2 Service, 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
11 **SECTION 140.** ATCP 80.62(1)(d) and (note) are amended to read:

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. Dairy plants producing pasteurized grade A dairy products on an
23 intermittent basis shall notify the department of intended production schedules to facilitate sample
24 collection under this paragraph. The department shall measure and record the temperature of each
25 pasteurized grade A dairy product from which the samples are collected, and shall test the
26 samples for bacteria counts, coliform counts and beta lactam drug residues. The department may
27 collect additional samples and perform additional tests that the department considers necessary.

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

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

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

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

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

12 **Subchapter VIII**
13 **Dairy Product Labeling**

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

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

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

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

23 (c) The dairy product is prominently labeled as “NOT FOR HUMAN FOOD OR
24 ANIMAL FEED,” and is sold only for non-food and non-feed purposes. The label shall include

1 the manufacturer's name and address, and the address where the product was manufactured. The
2 label may not include any dairy plant license or identification number issued by the department.

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

4 ATCP 82.01(1m) "Bulk milk tanker cleaning facility" means a facility where a bulk milk
5 tanker or its appurtenances are cleaned and sanitized.

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

7 ATCP 82.01(3) "Dairy farm" means any place where one or more ~~cows, sheep or goats~~
8 milking animals are kept for the production of milk.

9 **SECTION 148.** ATCP 82.01(5) is repealed and recreated to read:

10 ATCP 82.01(5) "Milk" means the lacteal secretion of ~~cows, sheep or goats~~ milking
11 animals, and includes skim milk and cream.

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

13 ATCP 82.01(7m) "Milking animals" means all of the following:

14 (a) Cows, sheep and goats.

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

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

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

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

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

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

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

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

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

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

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

17 1. The grade A permit identification number.

18 2. Identification of the state that issued the grade A permit. The state identification may
19 be expressed as the full state name, the official two letter postal code abbreviation for the state, or
20 the national uniform code issued for that state by the National Institute of Standards and
21 Technology, U.S. Department of Commerce, Bureau of the Census, and available online at
22 <http://www.itl.nist.gov/fipspubs/>.

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

5 (e) The information display under par. (d) shall be permanently attached to the bulk milk
6 tanker. The color of the letters and numbers shall be in sharp contrast to the background on which
7 the letters and numbers are displayed. All of the information shall be readily legible, during
8 daylight hours, from a distance of 50 feet (15.24 meters) while the bulk milk tanker is stationary.
9 The permit holder shall maintain the display so that it remains fully legible at all times.

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

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

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

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

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

23 **NOTE:** Copies of the “3-A Standards” are on file with the department and the revisor of
24 statutes ~~Copies may be purchased from the International Association of Food~~
25 ~~Protection, 6200 Aurora Avenue, Suite 200 W. Des Moines, IA 50322. Copies~~
26 ~~may be obtained from “3-A Sanitary Standards, Inc. Online Store” at~~
27 <http://www.techstreet.com>.
28

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

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

3 **SANITIZING REQUIRED.** (a) No person may operate a bulk milk tanker unless a dairy plant

4 operator cleans and sanitizes the bulk milk tanker immediately after each day's use and sanitizes

5 the bulk milk tanker prior to the next day's use. A dairy plant operator shall clean and sanitize a

6 bulk milk tanker, including all attached dairy product pumps and hoses, according to this section.

7 A dairy plant operator shall re-sanitize a bulk milk tanker if the tanker has not been used for more

8 than 72 hours after last being sanitized.

9 (b) Except as provided in par. (c), a dairy plant operator is not required to clean or sanitize

10 a bulk milk tanker between loads during a 24 hour period, provided that a dairy plant operator

11 cleans and sanitizes the bulk milk tanker after that day's use and before the next day's use.

12 (c) A dairy plant operator shall clean and sanitize dairy product pumps and hoses attached

13 to the bulk milk tanker whenever those pumps or hoses remain unused for more than 4 hours.

14 (d) No person may operate a bulk milk tanker unless the tanker bears a tag under sub. (4)

15 showing that it has been cleaned and sanitized according to this section.

16 (2) **BULK MILK TANKER CLEANING FACILITY.** (a) A bulk milk tanker shall be cleaned and

17 sanitized in fully enclosed and heated facility. The facility shall have an impervious drained

18 floor. The facility shall be equipped with adequate hot and cold water under pressure, a wash vat,

19 pressure sanitizing facilities and equipment storage racks. Bulk milk tankers may be cleaned and

20 sanitized in the same room where milk is received from those bulk milk tankers.

21 (b) A facility used to clean and sanitize grade A bulk milk tankers shall be covered by a

22 grade A permit under sub. (6).

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

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

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

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

9 (4) CLEANING TAG. (a) Whenever a dairy plant operator cleans and sanitizes a bulk milk
10 tanker according to sub. (1), the dairy plant operator shall attach to the tanker a tag that includes
11 all of the following information:

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

14 2. The date and time of day when the dairy plant operator cleaned and sanitized the bulk
15 milk tanker.

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

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

19 (b) The dairy plant operator shall attach the tag under par. (a) to the outlet valve or inside
20 the pump cabinet of the tanker. No person may remove the tag, except as provided in par. (c).

21 (c) Whenever a dairy plant operator cleans and sanitizes a bulk milk tanker, the dairy
22 plant operator shall remove the last tag attached to the bulk milk tanker under this subsection

1 before attaching a new tag. The dairy plant operator shall retain the removed tag for at least 15
2 days, at the location where the dairy plant operator cleaned and sanitized the bulk milk tanker.

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

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

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

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

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

14 (c) The department shall grant or deny a grade A permit application under par. (a) within
15 40 days after the department receives a complete application.

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

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

20 (2)(a) An adequate supply of sample containers to collect samples under s. ATCP 82.12.

21 The sample containers shall comply with s. ATCP 82.12(4).

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

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

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

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

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

14 ATCP 82.12(1) SAMPLE REQUIRED. (a) A milk hauler or other individual shall collect a
15 sample of a producer's milk before that milk is commingled with milk from any other producer.
16 The milk hauler or other individual who collects the sample shall be licensed under s. 98.146 or
17 97.17, Stats. The milk hauler or other individual who collects the sample may not be the milk
18 producer, or an employee of the milk producer.

19 (b) A milk hauler who collects milk from a dairy farm bulk tank shall collect the milk
20 sample under par. (a). The milk hauler shall collect the milk sample from the bulk tank before the
21 milk hauler transfers the bulk tank contents to a bulk milk tanker. The milk hauler shall collect
22 the sample according to sub. (2). The milk sample may not be commingled with a milk sample
23 from any other bulk tank.

1 (c) If a milk producer milks directly to a bulk milk tanker, an individual licensed under s.
2 98.146 or 97.17 shall collect a milk sample under par. (a) from the bulk milk tanker before the
3 tanker contents are commingled with milk from any other milk producer. The individual shall
4 collect the sample according to sub. (3). The milk sample may not be commingled with a milk
5 sample from any other bulk milk tanker or dairy farm bulk tank.

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

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

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

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

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

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

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

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

1 1. That the bulk milk tanker is properly sealed. A dairy plant operator may not accept the
2 bulk milk shipment if the bulk milk tanker is not properly sealed when it arrives at the dairy plant.

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

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

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

9 ATCP 82.14(3) Milk shall be unloaded in a receiving facility that complies with s. ~~ATCP~~
10 ~~80.20(5)~~ ATCP 80.20(6).

11

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

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

7 (3) Sections ATCP 80.41(4) and (5) first apply to any person who is required to be
8 licensed under s. ATCP 80.02 on the first day of the thirteenth month following publication in the
9 Wisconsin administrative register, as provided under s. 227.22(2)(b), Stats.

Dated this _____ day of _____, 2006

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Rodney J. Nilsestuen,
Secretary