

Chapter Ag 80

GRADE A MILK AND MILK PRODUCTS

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History: Chapter Ag 80 as it existed on August 31, 1967 was repealed, and a new chapter Ag 80 was created effective September 1, 1967.

**Ag 80.01 Definitions.** As used in this chapter, unless the context requires otherwise:

- (1) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.
- (2) "Bulk milk hauler" means any person who transports bulk milk from a dairy farm to a dairy plant or other processing or distribution locations.
- (3) "Bulk milk tank truck" means a vehicle used by a milk hauler to transport bulk raw milk from a dairy farm to a dairy plant, and includes the truck, tank, and those appurtenances necessary for the tank's use.
- (4) "Certifying agency" means the state of Wisconsin department of health and social services.
- (5) "Cleaned-in-place or C-I-P circuit" means food handling and processing equipment in which pipelines and other product contact surfaces are so designed, constructed and permanently installed as to be cleaned-in-place.
- (6) "Dairy farm" means any place or premises where one or more cows or goats are kept for the production of milk for sale.
- (7) "Dairy plant" or "grade A dairy plant" means a grade A dairy plant as defined in s. 97.20 (1) (d), Stats.
- (8) "Distributor" means a milk distributor as defined in s. 97.22, Stats.
- (9) "Milk" or "grade A milk" means milk as defined in s. 97.24(1)(a), Stats., and includes goats' milk.
- (10) "Person" means an individual, partnership, firm, association, corporation or any other business unit or entity.
- (11) "Producer" means milk producer as defined under s. 97.24(1)(c), Stats., and includes any person who owns, controls, operates or is otherwise responsible for the operation of a dairy farm and sells milk produced on the farm from cows or goats.

(12) "Products", "milk products", or "grade A milk products" means grade A milk products as defined in s. 97.24 (1) (b), Stats., and includes any commodity which has milk or a derivative of milk as a principal constituent or ingredient and which is sold or represented as a grade A milk product.

(13) "Sanitize" means to destroy pathogens or other organisms, insofar as practicable, by the application of a sanitizing substance or process to product contact surfaces of dairy equipment or utensils which are otherwise clean. The sanitizing treatment or process shall not adversely affect the equipment or utensils, or the quality of the milk or milk product coming in contact with the equipment or utensils, and shall be acceptable to the department.

(14) "Ungraded milk" and "ungraded milk products" means milk and milk products other than grade A milk and grade A milk products.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; renum. (13) to be (13) (a); cr. (13) (b) and (c); renum. (22) and (23) to be (24) and (25); cr. (22) and (23), Register, May, 1970, No. 173, eff. 6-1-70; am. (6), (7), (9), (15); r. and recr. (24), Register, December, 1971, No. 192, eff. 1-1-72; am. intro. par., (1) and (2), Register, July, 1973, No. 211, eff. 8-1-73; r. (5) to (23), Register, July, 1975, No. 235, eff. 8-1-75; r. and recr. (intro.), r. (3), (4), (24), (25), am. (1), renum. (2) to be (4) and am., cr. (2), (3) and (5) to (14), Register, November, 1980, No. 299, eff. 12-1-80.

Ag 80.02 Certification. (1) Surveys for the certification of compliance ratings shall be made by the certifying agency at least every 2 years, and on notice or request of the department under sub.(2). Compliance ratings shall be made in accordance with "Methods of Making Sanitation Ratings of Milk Supplies", 1978 edition, published by the U.S. department of health and human services, U.S. public health service, food and drug administration, copies of which are on file at the offices of the department, the secretary of state and the revisor of statutes. Copies may be obtained from the superintendent of documents, U.S. government printing office, Washington, D.C. 20402.

(2) A 90% compliance rating for each dairy plant, its producer dairy farms and other producers of raw milk for pasteurization, and a 90% enforcement rating is required to comply with grade A standards under this chapter. Before issuance of a grade A dairy plant license or farm permit, the department shall determine whether the applicant meets licensing or permit standards or requirements under this chapter. The department shall promptly notify the certifying agency of the issuance of original dairy plant licenses and permits for a group of farms constituting a separate milk supply unit, and request that a survey be made. The department may further request that resurveys be made in connection with enforcement actions taken by the department. Field surveys shall be completed by the certifying agency within 20 working days after receipt of written notice or request from the department.

(3) If a licensee or permit holder rates below 90%, but not below 85% on a compliance survey, the department may continue the license or permit on a probationary basis, subject to notice and right of hearing if requested. If a survey rating is below 85%, the license or permit may be suspended, revoked or placed on probation after hearing under s. 93.18 and ch. 227, Stats.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; am. Register, November, 1980, No. 299, eff. 12-1-80.

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**Ag 80.04 Inspection.** (1) Before the department issues a grade A dairy plant under s. 97.20 (3), Stats., for a new dairy plant, the department shall inspect the dairy plant for compliance with this chapter. The department shall grant or deny a grade A dairy plant permit within 40 business days after the permit application is filed with the department, provided that the application is complete. After a grade A dairy plant permit is issued, the department shall inspect a grade A processing plant and a grade A receiving station at least once every 3 months. The department shall inspect a grade A transfer station at least once every 6 months.

(2) The department shall inspect a grade A bulk milk tanker at least once annually.

(3) Every milk producer, hauler, distributor or dairy plant operator shall, upon the request of the department, permit access to all parts of any establishment or facilities used in the production or distribution of milk and dairy products. Refusal to permit access for inspection and sampling during reasonable hours shall constitute grounds for the summary suspension of the license or permit. Dairy plant operators and distributors shall furnish, upon request, for official use only, true and accurate statements of the actual quantities of milk and milk products purchased and sold, lists of sources of milk and milk products, records of inspections, test results, and recording thermometer charts.

*History:* Cr. Register, August, 1967, No. 140, eff. 9-1-67; am. (1), renum. (2) to be (3) and am., cr. (2), Register, November, 1980, No. 299, eff. 12-1-80; am. (1), Register, December, 1985, No. 360, eff. 1-1-86; r. and recr. (1) and (2), Register, July, 1989, No. 403, eff. 8-1-89.

**Ag 80.05 Examination of milk and milk products.** (2) During any consecutive 6 month period at least 4 samples of pasteurized milk, 4 samples of raw commingled milk, and 4 samples of each milk product shall be taken by the department from each dairy plant. Samples of pasteurized milk and milk products shall be taken while the pasteurized milk and milk products are in the possession of the dairy plant or distributor, and before final sale or delivery. Samples of pasteurized milk and pasteurized milk products shall be tested for standard plate counts, coliform determinations, phosphatase tests, and antibiotics. Samples of commingled raw milk shall be tested for bacterial counts and antibiotics. Temperature determinations of commingled raw milk, pasteurized milk, and milk products shall be made at the time samples are taken. Other tests may be made as considered necessary by the department.

(3) Samples of milk and milk products from stores, restaurants and other places where milk and milk products are sold shall be examined as often as the department considers necessary. Operators of these business establishments shall furnish to the department, on request, the names of all dairy plants or distributors from whom milk and milk products are obtained.

(4) Bacterial plate counts, coliform determinations, phosphatase tests, antibiotic tests, abnormal milk screening tests, and other laboratory tests shall conform to the procedures in "Standard Methods for the Examination of Dairy Products," 14th Edition (1978), and in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Edition (1975), copies of which are on file at the offices of the department, the secretary of state and revisor of statutes. Copies of "Standard Methods for the Examination of Dairy Products" may be obtained from the American Public Health Association, Inc., 1790 Broadway, New

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York, N.Y. 10019. Copies of "Official Methods of Analysis" may be obtained from the Association of Official Analytical Chemists, Inc., Box 540, Benjamin Franklin Station, Washington, D.C. 20044. Examinations may include such other chemical and physical determinations as the department may consider necessary for the detection of adulteration.

(5) If 2 of the last 4 consecutive bacteria counts, coliform determinations, cooling temperatures, DMSCC's and ESCC's taken on separate days exceed the limit of the standard for the milk or milk products prescribed in this chapter, the department shall send written notice of this fact to the licensee or permittee. This notice shall continue in effect as long as 2 of the last 4 consecutive samples exceed the limit of the standard. An additional sample shall be taken within 21 but not before 3 days after sending of the notice. Violation of the standard by 3 of the last 5 bacteria counts, coliform determinations, cooling temperatures, DMSCC's or ESCC's, shall constitute grounds for the immediate suspension of the license or permit.

(6) In case of violation of the pasteurization requirements as evidenced by the phosphatase test, the cause of underpasteurization shall be determined and corrected before milk or milk products from the dairy plant can again be sold as pasteurized milk or milk products.

(8) Butterfat, water and milk quality tests shall be conducted only in laboratories approved by the department. All laboratories certified by the state of Wisconsin department of health and social services under s. 143.15, Stats., to conduct milk quality tests shall be approved by the department. Laboratories engaged in butterfat testing shall be approved only if equipped and staffed to conduct accurate butterfat tests as prescribed under ch. Ag 107. Laboratories with equipment in compliance with ch. Ag 107 meet the requirements of this section. After notice and opportunity for hearing the department may withdraw approval of any laboratory, whether or not certified under s. 143.15, Stats., if tests are not conducted in accordance with prescribed laboratory test procedures, or test reports or results are false or inaccurate.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; am. (2) Register, December, 1971, No. 192, eff. 1-1-72; r. and recr. (1), renum. (2) to (4) to be (4) to (6) and am. (4) and (5), cr. (2), (3), (7) and (8), Register, November, 1980, No. 299, eff. 12-1-80; r. (1) and (7), Register, July, 1989, No. 403, eff. 8-1-89.

**Ag 80.06 Milk standards.** (1) Grade A milk shall be produced on dairy farms which comply with grade A requirements under ch. Ag 60. At the time of receipt by the dairy plant, milk shall comply with grade A standards under s. Ag 60.15. At no time prior to pasteurization may the bacterial count of grade A milk exceed 300,000 per ml.

(2) Grade A pasteurized milk and milk products shall be pasteurized, cooled and placed in final containers in a dairy plant complying with the standards in s. Ag 80.08. Efficient pasteurization shall be evidenced by satisfactory phosphatase tests. After pasteurization, the bacterial plate count, except for cultured milk products, shall not exceed 20,000 per milliliter. The coliform count of milk and milk products shall not exceed 10 per milliliter. No antibiotic or inhibitory substance shall be present in pasteurized milk and milk products. Grade A pasteurized milk and milk products shall be cooled to 45° F. (7° C.) or less and maintained below 45° F. after pasteurization.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; am. (1) and (2), Register, November, 1980, No. 299, eff. 12-1-80; r. and recr. (1), Register, July, 1989, No. 403, eff. 8-1-89. Register, July, 1989, No. 403

Ag 80.07 Farm standards. Cr. Register, August, 1967, No. 140, eff. 9-1-67; cr. (8) (d); renum. (17) through (21) to be (18) through (22); cr. (17). Register, December, 1972, No. 204, eff. 1-1-73; am. (8) (d), (9) (a) and (e); renum. (17) to be (22), renum. (18) to (22) to be (17) to (21), Register, July, 1973, No. 211, eff. 8-1-73; am. (1) (b) and (e), (2) (a), (3) (a) and (b), (4) (a) to (d), (5) (c) 1, (5) (d) 1 and 2, (5) (e) 1 and 2, (5) (f) 1 and 3, (6) (b) and (c), (9) (a) and (e), (14) (a) and (b), (15) (b), (17), (20) (c), (22) (a) intro. and 1, r. (5) (b) 2 and 3, r. and recr. (1) (d), (5) (c) 2, (5) (f) 2, (8) (d), (19) and (21) (e) and (f), renum. (2) (b) to (f) to be (c) to (g), (5) (b) 1 to be (5) (b), cr. (2) (b) and (h), (3) (c) and (d), (4) (e) and (f), (5) (e) 4 and 5, (7) (c), (8) (e) and (f), (12) (c), (16) (c) to (f), (22) (c) and (23) to (25), Register, November, 1980, No. 299, eff. 12-1-80; r. Register, July, 1989, No. 403, eff. 8-1-89.

Note: See ch. Ag 60 for rules relating to dairy farms.

**Ag 80.08 Plant standards. (1) FLOORS.** The floors of all rooms in which milk or milk products are processed, handled, or stored, or in which milk containers, equipment, and utensils are washed, shall be constructed of concrete or other equally impervious and easily cleaned material and shall be smooth, sufficiently sloped for adequate drainage, provided with trapped drains and kept clean and in good repair, except that:

(a) Cold-storage rooms used for storing milk and milk products need not be provided with floor drains when the floors are sloped to drain to one or more exits, and

(b) Storage rooms for storing dry ingredients or packaging materials, or both, need not be provided with drains and the floors may be constructed of tightly joined wood.

**(2) WALLS AND CEILINGS.** Walls and ceilings of rooms in which milk or milk products are handled, processed, or stored, or in which milk containers, utensils, and equipment are washed, shall have a smooth, washable, light-colored surface and shall be kept clean and in good repair.

**(3) DOORS AND WINDOWS.** (a) Unless other effective means are provided to prevent the access of flies, openings to the outer air shall be effectively screened.

(b) All openings to the outside shall have solid doors or glazed windows. The doors shall be self-closing. All doors and windows shall be kept closed during dusty weather. Screen doors, if used, shall open outward and be self-closing. All outer openings shall be rodent-proofed as necessary to prevent entry of rodents.

**(4) LIGHTING AND VENTILATION.** (a) All rooms in which milk and milk products are handled, processed or stored, or in which milk containers, equipment and utensils are washed, shall be well lighted with at least 30 foot-candles of light intensity on all working surfaces. Dry storage and cold storage rooms shall be provided with at least 5 foot-candles of light measured at the floor.

(b) All rooms shall be well ventilated to preclude odors and excessive condensation on equipment, walls and ceilings.

(c) Light bulbs, fluorescent tubes, fixtures, skylights, or other glass suspended over products shall be shielded or protected to prevent contamination of products from broken glass.

**(5) SEPARATE ROOMS.** (a) There shall be a separate room for the pasteurizing, processing, cooling, and packaging of milk and milk products, and a separate room for the cleaning of milk cans, bottles and cases. Rooms shall be of adequate size for their intended purposes. Cans of raw milk shall not be unloaded directly into a pasteurizing room.

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(b) Rooms in which milk, milk products, cleaned utensils or containers are handled or stored shall not open directly into any stable or living quarters.

(c) All bulk milk storage tanks shall be vented into a room used for pasteurization, processing, cooling or packaging operations, or into a storage tank gallery room. Tanks may not be vented elsewhere, unless adequately equipped with air filters to preclude the contamination of milk.

(d) Facilities for the cleaning and sanitizing of milk tank trucks shall be equipped for manual or mechanical operation, or both. The facilities shall comply with subs. (1) to (4), (6) to (12), (14), (15), (20) and (22).

(e) Grade A dairy plants and receiving stations shall maintain a bulk unloading room in which milk shall be unloaded. The bulk milk unloading room shall be separate from milk storage facilities in all plants constructed or reconstructed after July 1, 1980.

(6) TOILET FACILITIES. (a) Every dairy plant shall be equipped with sanitary toilet facilities conforming to the rules of the department of health and social services. The toilet room shall be conveniently located and equipped with handwashing facilities with hot and cold running water, soap, and single service towels or air drying equipment.

(b) Toilet rooms shall not open directly into any room in which milk or milk products are processed. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors. A placard containing the language of s. Ag 80.13, and a sign directing employes to wash their hands before returning to work shall be posted in all toilet rooms used by employes.

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(2) No grade A dairy plant shall process ungraded milk or milk products other than ice cream mixes or ice milk mixes received for processing as frozen desserts without written permission from the department. Where permission is granted for the processing of ungraded milk or milk products, the following separate facilities and equipment shall be maintained and identified as required under sub. (4):

(a) A separate pump and unloading line in the bulk unloading room to receive ungraded milk or milk products.

(b) A separate line between the bulk unloading room and storage tank used for the storage of ungraded milk or milk products prior to processing.

(3) Holding tanks and storage facilities in which ungraded milk and milk products are held before processing shall be separately tagged to show the name and grade of the product and the date it was received.

(4) All bulk unloading rooms having 2 or more unloading pumps and pipelines used for the receipt of both grade A and ungraded milk and milk products shall have the unloading pumps and pipelines clearly labeled in a permanent fashion to show which are separately to be used for grade A or ungraded products.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; r. and recr. (1) and (2); cr. (4), Register, December, 1971, No. 192, eff. 1-1-72; am. (2) (intro.), (3) and (4), Register, November, 1980, No. 299, eff. 12-1-80.

**Ag 80.11 Transferring or dipping milk; delivery containers.** (1) The sale of dipped milk is prohibited. No milk shall be transferred from a bulk container to a consumer container except at a Grade A dairy plant licensed for that purpose.

(2) Milk and milk products returned to a dairy plant from retail outlets or wholesale distributors may not be resold or reprocessed for sale as grade A milk and milk products. Upon arrival at a plant and prior to final disposition, returned products shall be segregated from all other products and be held only in separately designated areas clearly labeled and identified as returned product holding areas. Returned products may be salvaged for use in the manufacture of manufacturing grade products only if the products have been maintained at a temperature below 45° F. and are otherwise determined to be unadulterated and of a safe sanitary quality.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; am. (1), Register, December, 1971, No. 192, eff. 1-1-72; r. and recr. (2), Register, November, 1980, No. 299, eff. 12-1-80.

**Ag 80.12 Future dairy plants and dairy farms.** Plans for dairy plants and dairy farm and plant facilities to be constructed, reconstructed or extensively altered shall be submitted to the department and its approval obtained before work is begun. Plans shall be reviewed by the department and returned to the dairy plant operator or producer within 14 days after their receipt, together with comments or objections.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; renum. to be (1) and am. and cr. (2), Register, November, 1980, No. 299, eff. 12-1-80; r. (2), Register, July, 1989, No. 403, eff. 8-1-89.

**Ag 80.13 Personnel; health.** No person who is affected with any disease in a communicable form, or who is a carrier of the disease shall work for any milk producer or dairy plant operator in any capacity which brings

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the person in contact with the production, handling, storage or transportation of milk, milk products, containers or equipment; and no milk producer or dairy plant operator shall employ any person in this capacity who is affected with or a carrier of, or is suspected of being affected with or a carrier of any disease in a communicable form. Any producer or plant operator upon whose farm or in whose plant any communicable disease occurs, or who suspects that any employe has contracted any disease in a communicable form or has become a carrier of the disease, shall notify the local health officer and the department immediately.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; am. Register, November, 1980, No. 299, eff. 12-1-80.

**Ag 80.14 Procedure when infection suspected.** When suspicion arises as to the possibility of transmission of infection from any person concerned with the handling of milk or milk products, the department may require any or all of the following measures:

- (1) The immediate exclusion of that person from milk handling.
- (2) The immediate exclusion of the milk supply concerned from distribution and use.
- (3) Adequate medical and bacteriological examination of the person, the person's associates, and of their body discharges.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; am. (3), Register, November, 1980, No. 299, eff. 12-1-80.

**Ag 80.15 Single-service containers.** All paper, plastics, foil and other components of containers used in the packaging of grade A dairy products shall be periodically inspected by the department. The inspection shall include bacteriological testing as considered necessary to determine the sanitary quality of the single-service articles. No grade A dairy plants shall purchase or use single-service articles unless manufactured by a plant listed in the current quarterly "Interstate Listing of Single-Service Containers" published by the U.S. public health service, food and drug administration.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; am. Register, November, 1980, No. 299, eff. 12-1-80.

**Ag 80.16 Retail sale of milk.** (1) All vehicles, coolers, cabinets, storage areas and other facilities used in the retail sale of Grade A milk and milk products shall at all times be maintained in a state of good repair and in a clean and sanitary condition free of objectionable odors, dirt, litter and product residue.

(2) Grade A milk and milk products shall be held at temperatures of 45° F. or less in retail storage areas and display cases. A thermometer, accurate within  $\pm 2^\circ$  F., shall be located in the warmest zone of all units.

(3) Grade A milk and milk products shall be packaged in containers which are not damaged or leaking. All damaged containers or leakers shall be removed from inventory held for sale. All inventory held for sale in storage areas or retail display cases shall be placed on a first-in first-out rotational basis to assure freshness and wholesomeness of product. All dirty or soiled cases or containers shall be removed from retail display cases.

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(4) All retail establishments, other than restaurants licensed and inspected under subch. III of ch. 50, Stats., shall be subject to department inspection to ensure compliance with this section.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73; renum. from Ag 80.18 and am. (3) and (4), Register, November, 1980, No. 299, eff. 12-1-80.

**Ag 80.17 Applicability; enforcement.** (1) This chapter shall apply only to persons who are subject to the grade A milk law, s. 97.24, Stats. It shall be enforced on a uniform basis in accordance with enforcement standards and procedures meeting the requirements of the Grade "A" Pasteurized Milk Ordinance, 1978 Recommendations of the U.S. public health service, food and drug administration, U.S. department of health and human services.

(2) Grade A milk and milk products produced and processed under the inspection of another governmental unit and entitled to reciprocal recognition as provided in s. 97.24 (6) (b), Stats., may be sold in this state without further inspection by the department of the dairy farms or plants where they are produced or processed, but all milk and milk products entering or sold in this state in the course of trade or commerce shall be subject to inspection and sampling by the department for compliance with bacteriological, chemical and temperature standards under this chapter, and other standards and requirements relating to the composition, labeling, and sale of grade A milk and milk products.

(3) The Grade A license or permit issued by the department may be temporarily suspended whenever an imminent health hazard exists or upon violation by the holder of any of the provisions of this chapter, or for interference with the department in the performance of its duties. Upon repeated or serious violation, the department may revoke a permit following reasonable notice to the permit holder and an opportunity for hearing under s. 93.18 and ch. 227, Stats.

(4) Any licensee or permittee whose license or permit has been suspended may at any time make application for its reinstatement.

(7) The exemption in s. 97.24 (2) (c), Stats., for "incidental sales" of ungraded milk and cream to consumers at farms and dairy plants shall not apply to sales which are regularly made in the course of business or are preceded by any advertising, offer to or solicitation of members of the public, but shall include any sales to employes or persons shipping milk to the dairy plant.

Note: Equipment which conforms to the "3-A Sanitary Standards" published by the International Association of Milk, Food and Environmental Sanitarians, Inc., in the Journal of Milk and Food Technology will meet the requirements of this regulation.

History: Cr. Register, August, 1967, No. 140, eff. 9-1-67; renum. from Ag 80.16 to be Ag 80.17, Register, May, 1970, No. 173, eff. 6-1-70; am. (1), (2) and (7), Register, July, 1973, No. 211, eff. 8-1-73; am. (1) to (3) and (5) to (7), Register, November, 1980, No. 299, eff. 12-1-80; r. (5) and (6), Register, July, 1989, No. 403, eff. 8-1-89.