

## Chapter ATCP 80

### DAIRY PLANTS

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#### Subchapter I — Definitions

**ATCP 80.01 Definitions.** In this chapter:

(1) “Bulk milk tanker” has the meaning specified under s. ATCP 82.01 (1).

(1g) “Bulk transport container” means a vehicle or container that a milk producer uses to ship bulk milk from a dairy farm to a dairy plant.

(3) “C-I-P system” means equipment that is designed, constructed, and installed to be cleaned in place by the internal circulation of cleaning and sanitizing solutions onto product contact surfaces.

(4) “Composite sample” means a sample of milk which is collected from 2 or more milk shipments from the same milk producer, and which is compiled and preserved according to s. ATCP 80.30 (4).

(5) “Dairy plant” means any place where a dairy product is manufactured or processed for sale or distribution as human food, and includes a receiving station or transfer station.

(6) “Dairy plant operator” means a person who operates a dairy plant and who is required to be licensed under s. ATCP 80.02 (1).

(7) “Dairy product” means all of the following:

(a) Raw or processed milk.

(b) A milk product or by-product, including all dairy and non-dairy ingredients incorporated into that milk product or by-product.

(c) A commodity in which milk or any milk product or by-product is a principal ingredient, except prepared foods made in a licensed food processing plant for which the federal food and drug administration has not prescribed a standard of identity under title 21 of the code of federal regulations and which contain dairy products manufactured at a dairy plant from ingredients that are pasteurized or are produced under other processes that eliminate or reduce to an acceptable level the food safety hazards associated with the dairy products, including aseptically processed foods,

high acid foods, heat treated foods, aged foods, cold pack foods, and similarly processed foods.

(8) “Department” means the state of Wisconsin department of agriculture, trade and consumer protection.

(9) “Equipment” means an implement, vessel, pipeline, machine, or apparatus, other than a utensil, that has one or more product contact surfaces and is used in moving, handling, storing, or processing dairy products at a dairy plant. “Equipment” includes C-I-P systems.

(10) “Fluid milk product” means cream, sour cream, acidified sour cream, half-and-half, sour half-and-half, whipped cream, concentrated milk, concentrated milk products, reduced fat milk, low fat milk, nonfat milk, flavored milk, buttermilk, cultured buttermilk, cultured milk, yogurt, low fat yogurt, nonfat yogurt, egg-nog, holiday nog, nog-flavored milk, vitamin and mineral fortified milk or milk products, and any other fluid milk product made by adding any substance to milk or any of these products.

(11) “Frozen dessert” means ice cream, French ice cream, artificially sweetened ice cream, frozen custard, frozen yogurt, frozen concentrates, ice milk, sherbet, water ice, quiescently frozen confection, quiescently frozen dairy confection, manufactured frozen dessert mix, and frozen whipped cream confections. “Frozen dessert” includes frozen dessert mix.

(12) “Frozen dessert mix” means a mixture of frozen dessert ingredients that has not yet been processed and frozen to create a frozen dessert. “Frozen dessert mix” includes a mix of previously pasteurized dry dairy ingredients that is combined with potable water to create a liquid mix.

(13) “Grade A dairy plant” means a dairy plant required to hold a permit under s. ATCP 80.06.

(14) “Grade A dairy product” means a fluid milk product that is produced from grade A milk and processed and distributed in compliance with grade A standards under this chapter.

(15) “Grade A milk” means milk produced, processed, and distributed in compliance with grade A requirements under this chapter and ch. ATCP 60.

(16) “Grade B dairy plant” means a dairy plant other than a grade A dairy plant.

(17) “Grade B dairy product” means a dairy product other than a grade A dairy product.

(18) “Grade B milk” means milk other than grade A milk.

(19) “Milk” means the lacteal secretion of milking animals, and includes skim milk and cream.

(20) “Milk component test” means a test that determines the amount of milkfat, protein, total solids, solids–not–fat, or other components in milk, and that may affect the price which a dairy plant operator pays a milk producer for milk.

(21) “Milk component testing device” means an automated testing device used to perform milk component tests.

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

(22) “Milk producer” means any person who owns or operates a dairy farm, and sells or distributes milk produced on that farm.

(23) “Milk quality test” means a bacteria count, somatic cell count, drug residue test, milk component test, or other analytical test which is used to determine compliance with milk quality standards under s. ATCP 60.15 or 80.24, or which may affect the price that a dairy plant operator pays a milk producer for milk.

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

(a) Cows, sheep, and goats.

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

(24) “Multi–use package” means a returnable bottle or other package that is designed for repeated use.

(25) “Package” means a container or wrapping, having one or more product contact surfaces, that is designed or used to enclose a dairy product sold or shipped from a dairy plant. “Package” includes package covers and other package components. “Package” includes all of the following:

(a) A returnable bottle or other multi–use package.

(b) A single–service package.

(c) A bulk or shipping container, other than a bulk milk tanker, that has one or more product contact surfaces and is used for the sale or shipment of a dairy product from a dairy plant.

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

(27) “Person” means an individual, corporation, partnership, cooperative, association, or any other business organization or entity. “Person” includes the state of Wisconsin, and any subunit or agency of the state, to the extent that the state or its subunit or agency is engaged in operating a dairy plant.

(27m) “PMO” means the Grade A Pasteurized Milk Ordinance, 2011 revision, published by the United States department of health and human services, public health service, food and drug administration.

(28) “Potable water” means water that is bacteriologically and chemically safe to drink, and that is free from harmful parasites.

(29) “Potentially hazardous food” means any food that consists wholly or in part of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, and that is capable of supporting rapid and progressive growth of pathogenic or toxigenic microorganisms. “Potentially hazardous food” does not include foods having a Ph level of 4.6 or below, foods having a water activity value of 0.85 or less under standard conditions, or foods that are processed to prevent spoilage and packaged in hermetically sealed containers.

(30) “Processing” means pasteurizing, manufacturing, blending, or packaging dairy products, or cooling processed dairy products.

(31) “Processing plant” means a dairy plant at which dairy products are processed.

(32) “Product contact surface” means a surface of equipment, or a surface of a utensil or package, with which a dairy product normally comes in direct contact, or from which materials may drain, drip, or be drawn into a dairy product.

(33) “Receiving station” means a facility which is designed for the receipt and bulk storage of milk, and which is used to receive or store milk in bulk. “Receiving station” does not include a processing plant or a facility used to distribute pasteurized milk in bottled or packaged form to consumers.

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

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

(34) “Safe temperatures” as applied to potentially hazardous refrigerated foods means temperatures of 45° F. (7° C.) or below. As applied to potentially hazardous heated foods, “safe temperatures” means temperatures of 140° F. (60° C.) or above. As applied to frozen foods, “safe temperatures” means temperatures of 0° F. (–17° C.) or below.

(35) “Sanitize” means to destroy pathogens and other microorganisms by applying, to a clean product contact surface, a sanitizing procedure that complies with s. ATCP 80.18.

(36) “Shipping container” means a box, carton, or similar container in which packaged dairy products are shipped in bulk from a dairy plant.

(37) “Single–service utensil” means a utensil that is designed to be used only once prior to disposal.

(38) “Single–service package” means a package that is designed to be used only once prior to disposal.

(39) “Standard of identity” means a dairy product standard of identity adopted or incorporated by reference under s. 97.09, Stats.

(40) “Transfer station” means a facility that is designed and used solely to transfer milk from one bulk milk tanker to another without intervening storage.

(41) “Ultrapasteurize” means to thermally process a dairy product according to s. ATCP 80.44 (3).

(42) “Utensil” means a hand–held or similarly portable container or device, such as a knife, spatula, strainer, or scoop, that has one or more dairy product contact surfaces and is used in processing or handling milk or dairy products at a dairy plant.

**History:** Cr. Register, November, 1994, No. 467, eff. 12–1–94; CR 01–124: cr. (1g), am. (10), (11) and (34) Register December 2002 No. 564, eff. 1–1–03; CR 04–005: r. (2) Register October 2004 No. 586, eff. 11–1–04; CR 07–006: am. (19) and (26), cr. (21m), (23m), (27m), (33g) and (33j), Register January 2008 No. 625, eff. 2–1–08; CR 13–063: am. (7) (c), (27m) Register April 2014 No. 700, eff. 5–1–14.

## Subchapter II — Dairy Plant License and Fees

**ATCP 80.02 Dairy plant license. (1) LICENSE REQUIRED.** Except as provided under sub. (2), no person may operate a dairy plant without a valid license issued by the department for that dairy plant. A dairy plant license expires on April 30 annually and is not transferable between persons or locations.

**Note:** See s. 97.20, Stats.

**(2) LICENSE EXEMPTIONS.** A dairy plant license is not required under sub. (1) for any of the following:

(a) A farm manufacturing or processing dairy products solely for consumption by the owner or operator of the farm, members of the farm household, or nonpaying farm guests or employees.

(b) The retail preparation or processing of meals for sale directly to consumers or through vending machines, if the preparation and processing is covered under a restaurant permit or other permit issued under s. 254.64, Stats.

(c) A retail food establishment licensed under s. 97.30, Stats., if the establishment processes dairy products solely for retail sale at the establishment.

(d) A milk receiving station or transfer station operated at the same location, and by the same person, as a processing plant licensed under sub. (1).

(e) A milk transfer station operated at the same location, and by the same person, as a milk receiving station licensed under sub. (1).

**(3) LICENSE APPLICATION.** An application for a dairy plant license shall be made on a form provided by the department and shall be accompanied by each applicable fee required under s. ATCP 80.04. The application shall include the following information, and any other information reasonably required by the department for licensing purposes:

(a) The correct legal name of the dairy plant operator and any trade name used by the operator.

(b) The address and telephone number of the dairy plant to which the license application pertains, and the name of a responsible person who may be contacted at that address.

(c) A statement indicating whether the dairy plant is a processing plant, receiving station, or transfer station.

(d) A description of the processing operations, if any, conducted at the dairy plant.

**(4) ACTION ON LICENSE APPLICATION; DEADLINE.** The department shall grant or deny a license application under sub. (3) within 40 days after the department receives a complete application, or before the expiration date of any temporary license issued under sub. (6), whichever occurs later.

**(5) PREREQUISITES FOR LICENSING.** The department may not issue or renew a dairy plant license, or issue a temporary license under sub. (6), unless all of the following conditions are met:

(a) The license applicant has paid all fees and surcharges, set forth in a statement from the department, that are due and payable by the applicant under s. ATCP 80.04. The department shall refund a fee or surcharge paid under protest if the department determines that the fee or surcharge is not due and payable under s. ATCP 80.04.

(b) The license applicant has filed all financial information and security which the department requires of that applicant under ch. ATCP 100. If an applicant has not filed required financial information or security, the department may issue a conditional license that prohibits the licensed operator from buying milk or fluid milk products from producers or their agents, but allows the operator to buy milk or fluid milk products from other sources.

(c) The department has inspected the dairy plant under sub. (7) (b) if the dairy plant is not currently licensed.

**(6) TEMPORARY LICENSE.** (a) Except as provided under par. (c), the department may issue a temporary dairy plant license to an applicant under sub. (3) pending the department's final action on that person's license application. A temporary license may be issued for a period of not more than 40 days. If the department denies a license application before the applicant's temporary license expires, the temporary license is automatically terminated when the applicant receives written notice of the denial.

(b) The holder of a temporary license under par. (a) acquires no rights beyond those conferred by the temporary license. The holder of a temporary license may not purchase milk or fluid milk products from milk producers or their agents, but may purchase milk or fluid milk products from other sources.

(c) The department may not issue a temporary license under par. (a) in response to a license renewal application by the holder of an existing license.

**(7) PRE-LICENSE INSPECTION.** (a) The department may inspect a dairy plant, as the department deems necessary, before issuing a license for that dairy plant.

(b) The department may not issue a dairy plant license under sub. (1) or a temporary license under sub. (6) for a dairy plant that is not currently licensed until the department inspects that dairy plant for compliance with this chapter.

**Note:** The department is not required to inspect a currently licensed dairy plant before renewing the license of the current operator, or before issuing a license to a new operator of that dairy plant.

**(8) ADDED OPERATIONS.** No dairy plant operator may add a new category of operations at a licensed dairy plant during the time period for which the license was issued unless the operator notifies the department and obtains written authorization for the new category of operations. In this subsection, "new category of operations" includes the manufacture or processing of any of the following which was not identified in the operator's most recent license application under sub. (3):

(a) Fluid milk products.

(b) Cheese and cheese products.

(c) Ice cream or frozen desserts.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 06-028: r. (3) (e) Register November 2006 No. 611, eff. 12-1-06.

**ATCP 80.04 Dairy plant fees. (1) DAIRY PLANT LICENSE FEE.** (a) *Annual license fee.* 1. An applicant for a dairy plant license shall pay an annual license fee. Except as provided under subd. 2., license fees are based on the dairy plant's milk receipts or production during the previous calendar year, regardless of who operated that dairy plant in the previous calendar year.

2. If a dairy plant had no milk receipts or production during the previous calendar year, license fees shall be based on projected milk receipts or production during the license year for which application is made. At the end of that license year, the license holder shall report the actual milk receipts or production during the license year, and the department shall determine the appropriate fee under par. (b) based on actual receipts or production. If the fee based on actual receipts or production differs from the fee based on projected receipts or production, the license holder shall pay the balance due or receive a credit from the department on the next year's license fee.

(b) *License fee amounts.* The license fee under par. (a) is \$120 plus the following:

1. For a grade A processing plant, a supplementary license fee of \$955 if the plant received more than 2,000,000 pounds of milk from milk producers, or a supplementary license fee of \$735 if the plant received 2,000,000 pounds or less of milk from producers.

2. For a grade B processing plant that manufactured or processed more than 1,000,000 pounds of dairy products or more than 200,000 gallons of frozen dairy products, a supplementary license fee of \$400.

3. For a grade A receiving station, a supplementary license fee of \$370.

(c) *Surcharge and past fees for operating without license.* 1. An applicant for a dairy plant license shall pay a license fee surcharge if the department determines that, within 365 days prior to submitting the license application, the applicant operated the dairy plant without a license in violation of s. ATCP 80.02 (1). The amount of the surcharge is \$100, or \$500 if the dairy plant operator procured milk or fluid milk products from milk producers or their agents.

2. In addition to paying the license fee surcharge under subd. 1., an applicant who violated s. ATCP 80.02 (1) shall pay all fees, set forth in a statement from the department, that are due for the license year in which the applicant violated s. ATCP 80.02 (1).

3. Payment of the license fee surcharge and past fees under subds. 1. and 2. does not relieve the applicant of any other civil or criminal liability that results from the unlicensed operation of a

dairy plant, but does not constitute evidence of any violation of law.

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

(b) *Fee amounts.* Milk procurement fees required under par. (a) are as follows:

1. For each 100 pounds of grade A milk received from milk producers, 1.048 cent.

2. For each 100 pounds of grade B milk received from milk producers, 0.2 cent.

(c) *Out-of-state milk shipments.* A milk producer who ships milk to an out-of-state dairy plant shall pay a monthly milk procurement fee under par. (a) on that milk, in the amount specified under par. (b), unless the operator of that out-of-state dairy plant voluntarily pays that fee for the milk producer.

**(3) REINSPECTION FEE.** (a) *Fee required.* If the department reinspects a dairy plant because the department has found a violation of this chapter, the department shall charge the dairy plant operator the reinspection fee specified under par. (b). A reinspection fee is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application form to the dairy plant operator, or at any other time after the fee payment becomes payable.

(b) *Fee amounts.* The reinspection fee required under par. (a) includes, for each reinspection, a basic reinspection fee of \$60 plus a supplementary reinspection fee as follows:

1. For a grade A processing plant, a supplementary reinspection fee of \$240 if the plant received more than 2,000,000 pounds of milk from milk producers during the previous calendar year, or a supplementary reinspection fee of \$190 if the plant received 2,000,000 pounds or less of milk from milk producers during the previous calendar year.

2. For a grade B processing plant, a supplementary reinspection fee of \$210.

3. For a grade A receiving station, a supplementary reinspection fee of \$90.

**(4) MILK PRODUCER FEES.** A dairy plant operator shall pay milk producer license and reinspection fees on behalf of milk producers, as required by ss. ATCP 60.02 (4) and 60.04 (3). A milk producer reinspection fee is payable by a dairy plant operator when a dairy farm reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application to the dairy plant operator, or at any other time after the reinspection fee becomes payable.

**Note:** Under s. ATCP 60.02 (4), a dairy plant operator who pays milk producer license fees may charge those fees back to those producers in a nondiscriminatory fashion after giving prior notice to the producers, but may not deduct the license fees from the producers' milk checks. Under s. ATCP 60.04 (3), a dairy plant operator who pays milk producer reinspection fees must charge those reinspection fees back to milk producers.

**(5) DAIRY PRODUCT GRADING FEE.** (a) A person applying for a license to produce gradable butter or cheese at a grade B dairy plant shall pay an annual grading fee.

(b) The grading fee under par. (a) is 1.35 cents per 100 pounds of gradable butter and cheese produced at the dairy plant by any operator during the previous calendar year. If the dairy plant was not in operation during the previous calendar year, the license applicant shall pay a grading fee based on estimated production for the calendar year in which the application is made. At the end of the license year, the license holder shall report the actual calen-

dar year production, and the department shall re-calculate the grading fee based on that actual production. If the grading fee based on actual production differs from the fee based on estimated production, the license holder shall pay the balance due or receive a credit from the department on the next year's grading fee.

(c) For purposes of this subsection, ungraded barrel cheese is not gradable cheese.

**(7) DAIRY TRADE PRACTICES FEE; MONTHLY PAYMENTS.** A dairy plant operator shall pay a monthly dairy trade practice fee if required under s. 100.201 (6), Stats.

**Note:** A dairy plant operator is required to pay a monthly dairy trade practice fee under s. 100.201 (6), Stats., if the operator sells milk, fluid milk products, ice cream, or other frozen desserts at wholesale or retail, in consumer package form, to persons in this state.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; am. (2) (b) 1., Register, January, 1998, No. 505, eff. 2-1-98; CR 04-005: am. (6) Register October 2004 No. 586, eff. 11-1-04; CR 05-044: am. (1) (a), (b), (2) (b) 1. and (3) (b), r. and recr. (5), r. (6) Register December 2005 No. 600, eff. 1-1-06; CR 07-006: am. (2) (a), Register January 2008 No. 625, eff. 2-1-08; CR 07-037: am. (1) (b), (2) (b) 1., (3) (b), and (5) (b) Register April 2008 No. 628, eff. 5-1-08.

**ATCP 80.06 Grade A dairy plant; permit.** **(1) GRADE A PERMIT REQUIRED.** (a) Except as provided under sub. (2), no person operating a dairy plant at which milk or fluid milk products are received, transferred, or processed may sell or distribute that milk or those fluid milk products as grade A milk or grade A milk products unless that person holds a valid grade A dairy plant permit issued by the department for that dairy plant. If a grade A receiving station or transfer station is operated at the same location as a grade B processing plant, a grade A permit is required for that receiving station or transfer station.

(b) A grade A dairy plant permit expires on April 30 annually and is not transferable between persons or locations. A grade A dairy plant permit may be issued in the form of an endorsement on a dairy plant license under s. ATCP 80.02 (1).

**(2) PERMIT EXEMPTIONS.** A grade A permit is not required under sub. (1) for any of the following:

(a) A grade A receiving station or transfer station operated at the same location, and by the same person, as a grade A processing plant covered by a permit under sub. (1).

(b) A grade A transfer station operated at the same location, and by the same person, as a grade A receiving station covered by a permit under sub. (1).

**(3) PERMIT APPLICATION.** An application for a grade A dairy plant permit shall be made on a form provided by the department. A grade A permit application may be made in conjunction with a dairy plant license application under s. ATCP 80.02 (3).

**(4) SURCHARGE FOR OPERATING WITHOUT A PERMIT.** An applicant for a grade A dairy plant permit shall pay a permit surcharge of \$100 if the department determines that, within 365 days prior to submitting the permit application, the applicant operated the dairy plant as a grade A dairy plant without a grade A permit in violation of sub. (1). Payment of the surcharge does not relieve the applicant of any other civil or criminal liability that results from the operation of a grade A dairy plant without a grade A permit, but does not constitute evidence of any violation of law.

**(5) ACTION ON PERMIT APPLICATION; DEADLINE.** The department shall grant or deny a permit application under sub. (3) within 40 days after the department receives a complete application, or before the expiration of any temporary permit issued under sub. (6), whichever occurs later.

**(6) TEMPORARY PERMIT.** The department may issue a temporary grade A permit to an applicant under sub. (3) pending final action on that person's permit application. A temporary permit may be issued for a period of not more than 40 days, and may not exceed the term of the dairy plant license or temporary license. If the department denies a permit application before the term of the temporary permit expires, the temporary permit is automatically terminated when the applicant receives notice of the denial. The

department may not issue a temporary permit in response to a permit renewal application by the holder of an existing permit.

**(7) PREREQUISITES FOR PERMIT.** The department may not issue or renew a grade A dairy plant permit, or issue a temporary permit under sub. (6), unless all of the following conditions are met:

(a) The permit applicant holds a dairy plant license under s. ATCP 80.02, or the department issues the permit and license simultaneously. The department may issue a temporary grade A permit under sub. (6) to an applicant holding a temporary dairy plant license under s. ATCP 80.02 (6), or may issue the temporary permit and temporary license simultaneously.

(b) The department inspects the dairy plant if the dairy plant is not currently covered by a grade A dairy plant permit.

(c) The applicant pays any surcharge, set forth in a statement from the department, that is due and payable by the applicant under sub. (4). The department shall refund a surcharge paid under protest if the department determines that the surcharge was not due and payable under sub. (4).

**(8) GRADE A STANDARDS.** A grade A dairy plant shall comply with standards applicable to the receipt, testing, transfer, processing, and distribution of grade A milk and grade A milk products under this chapter and ch. ATCP 60. A grade A dairy plant may not receive, transfer, or process grade B milk unless the receipt, transfer, or processing is authorized by the department in writing.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94.

### Subchapter III — Dairy Plant Facilities and Operations; General

#### ATCP 80.08 Construction and maintenance.

**(1) GENERAL.** (a) Buildings, facilities, and equipment used in the operation of a dairy plant shall be soundly constructed, and shall be capable of being maintained in a clean and sanitary condition. The interior and exterior portions of a dairy plant, and the premises on which a dairy plant is located, shall be kept free of unhealthful and unsanitary conditions, and shall be maintained in compliance with this chapter.

(b) The department may issue a written waiver granting a variance from a construction standard under this subchapter if the department finds that the variance is reasonable and necessary under the circumstances, and will not compromise the purpose served by the construction standard. A waiver under this paragraph may be issued by the administrator of the division of food safety, or the administrator's designee.

**(2) FLOORS.** The floors of all rooms in which dairy products are processed, handled, or stored, or in which dairy product containers, equipment, or utensils are washed, shall be all of the following:

(a) Kept clean and in good repair.

(b) Smooth enough to be easily cleanable.

(c) Constructed of concrete or equally impervious and easily cleanable materials. This paragraph does not prohibit tightly joined wooden floors in storage rooms used solely for the storage of dry ingredients or packaging materials, or both.

(d) Sloped to provide adequate drainage. This paragraph does not apply to floors in storage rooms used solely for the storage of dry ingredients or packaging materials, or both.

(e) Equipped with an adequate number of trapped floor drains, so that any liquids draining onto the floors are promptly removed. Floors in refrigerated storage rooms need not have floor drains if the floors are sloped to drain to one or more exits to prevent pooling of liquids.

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

panels are prohibited in any room where powdered dairy products are packaged or processed if that room is constructed or substantially altered after December 1, 1994.

**Note:** Walls and ceilings may consist, for example of smooth finished concrete construction panels or cement plaster.

(b) If condensation may accumulate on overhead pipes, ducts, or other fixtures, those fixtures shall be arranged or shielded so that condensation does not drop into dairy products or onto product contact surfaces.

(c) In rooms constructed or substantially altered after the effective date of this chapter, the junctions of walls and floors in processing areas shall be coved to facilitate cleaning.

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

**Note:** Air curtains, strip curtains, and similar devices may be used to prevent insects and excessive dust from entering through doors and other openings while those openings are in use. Emergency exit doors need not be self-closing unless they are routinely used by dairy plant personnel.

(b) Windows, if not permanently closed, shall be screened against flying insects, rodents, and birds. In dairy plants constructed or substantially altered after the effective date of this chapter, window ledges shall be sloped to an angle of at least 45° to facilitate cleaning.

(c) Outside openings of dairy product pipelines shall be tightly capped when not in use. When a pipeline is in use, the pipeline cap shall be tethered or placed on a sanitary hanger or rack to protect it from contamination. Pipeline openings through walls shall be completely cemented or fitted with tight metal collars.

(d) At each doorway leading from a nonprocessing area to a processing area in which exposed dairy products are processed, a dairy plant operator shall provide a sanitizing footbath, disposable footwear, dedicated footwear, or other facilities to ensure that footwear worn in the processing area is clean and sanitary.

**(5) LIGHTING.** (a) Lighting in every area of a dairy plant shall be fully adequate for the purpose for which the area is used. Except as provided under par. (b) or (c), there shall be at least 5 foot candles (54 lux) of illumination, measured at 30 inches above the floor, in every part of a dairy plant.

(b) Except as provided under par. (c), there shall be at least 30 foot candles (323 lux) of illumination at every place where dairy products are processed, and at every place where equipment or utensils are washed.

(c) There shall be at least 50 foot-candles (538 lux) of illumination on every surface where dairy products are graded or examined for condition and quality, and on every surface where multi-use packages are inspected before being reused.

(d) Light bulbs, fluorescent tubes, skylights, and other overhead glass fixtures shall be shielded to prevent broken glass from falling into dairy products or onto dairy product contact surfaces.

**(6) VENTILATION.** (a) Every room in a dairy plant shall be adequately ventilated, and adequately controlled for temperature and humidity, to keep the room reasonably free of fumes, odors, mildew, and excessive condensation.

(b) Ventilation systems, including exhaust fans, intake fans, and ventilation ducts shall be kept clean and in good repair, and shall be screened or louvered to prevent contamination of dairy products by dust, insects, or other contaminants. Intake fans shall be equipped with filters that are readily removable for cleaning and replacement. Air intake filters shall be capable of removing at least 85% of particulate matter which is 5 microns or larger in size.

(c) Ventilation systems in a dairy plant shall be positioned so that exhaust air does not contaminate exposed dairy products, clean dairy product packages, or clean equipment or utensils.

**(7) ROOMS.** (a) Dairy plant rooms shall be large enough so that activities conducted in those rooms can be conducted in a safe and sanitary manner.

(b) Within a dairy plant, the following areas shall be located in separate rooms:

1. Raw milk unloading areas.
2. Areas used to clean and sanitize bulk milk tankers or bulk transport containers. Bulk milk tankers and bulk transport containers may be cleaned and sanitized in the same room where they are unloaded.
3. Processing areas.
4. Areas used to clean or sanitize dairy product packages or containers.
5. Areas used to store or fabricate dairy product packages. Packaging materials required for each day's processing operations may be kept in a processing area on that day.
6. Areas used to store dairy product ingredients, other than raw milk. Ingredients required for each day's processing operations may be kept in the processing area on that day.
7. Areas used to receive, handle, or store returned packaged dairy products.
8. Areas used for boiler, heating plant, utility, or maintenance equipment.
9. Employee toilet areas.
10. Employee locker areas, dressing areas, break areas, and lunch areas.
11. Areas, if any, used as living quarters.

(c) In dairy plants constructed after December 1, 1994, raw milk shall be unloaded in a fully enclosed intake room.

(d) Notwithstanding par. (b), a dairy plant operator may store, cool, separate, and clarify raw milk in an area that the operator uses to unload bulk milk shipments if all the following apply:

1. The area is within a fully enclosed room.
2. Containers used to store, cool, separate, and clarify the raw milk are filtered or vented to a separate room to protect the milk from airborne contamination in the unloading area. If containers are vented to a separate room, that room shall comply with processing area sanitation standards under this chapter.

(e) Notwithstanding par. (d), a dairy plant operator may not store, cool, separate, or clarify raw milk in a room used to unload bulk milk shipments if any of the following apply:

1. The dairy plant was constructed after December 1, 1994.
2. The dairy plant is a grade A dairy plant constructed after July 1, 1980.
3. The storage, cooling, separating, or clarifying operations were initiated after December 1, 1994.

(f) Rooms are considered separate, for purposes of this subsection, if they are fully separated by permanent floor-to-ceiling partitions and if doorways between the rooms are equipped with solid, tight-fitting, self-closing doors.

**(8) WATER SUPPLY.** (a) Water used in dairy plant operations, or as an ingredient in dairy products, shall be obtained from a source that complies with ch. NR 811 or 812, administered by the Wisconsin department of natural resources. All water obtained for use in a dairy plant shall comply with the health related drinking water standards in ch. NR 809. Water shall be available in consistently adequate quantity for all dairy plant operations, including processing, cleaning, handwashing, and drinking.

(b) If a dairy plant uses water from a privately owned water system, the dairy plant operator or, in the case of a grade A dairy plant, the department shall, at least once every 6 months, collect and analyze a sample of the water for compliance with the micro-

biological standards under s. NR 809.30. Microbiological analyses shall be conducted in a laboratory certified under ch. ATCP 77.

(c) At the department's request, a dairy plant operator who receives water from a municipal source shall provide the department with documentation showing that the water complies with the microbiological standards under s. NR 809.30.

(d) The following requirements apply whenever recirculated water used in a cooler or heat exchanger may come in contact with any dairy product:

1. Obtained from a safe source that complies with par. (a).
2. Bacteriologically safe.
3. Protected from contamination.
4. Tested by the dairy plant operator at least semiannually or, in the case of a grade A dairy plant, by the department at least semiannually.

(e) If a recirculating water system under par. (d) becomes contaminated, that system may not be used until it is properly treated and retested to ensure that the contamination has been eliminated. Freezing point depressants used in recirculating water systems under par. (d) shall be nontoxic.

(f) A dairy plant operator may use only potable water, or reclaimed water in compliance with sub. (8m) (c), to produce culinary steam. In boilers used to produce culinary steam, boiler water additives shall comply with 21 C.F.R. 173.310.

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

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

**(8m) RECLAIMED WATER.** (a) A dairy plant operator may use water reclaimed from heat exchanger processes or from the condensation of milk or dairy products if all the following apply:

1. The water is reclaimed from a heat exchanger process or by means of evaporation, reverse osmosis, or ultrafiltration.
2. The water meets applicable use conditions under this section.

(b) Reclaimed water may not be used for any purpose requiring potable water unless all the following apply:

1. The department pre-inspects and pre-approves the reclamation system.
2. The reclaimed water has less than 1 coliform bacterium per 100 ml. of water.
3. The standard plate count of the reclaimed water does not exceed 500 per ml. and meets the bacteriological standards under s. NR 809.30.

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

5. The reclaimed water is of satisfactory organoleptic quality and has no off-odors, off-flavors, or slime formations. The dairy plant operator shall sample and organoleptically test reclaimed water at weekly intervals.

6. The department pre-approves any chemicals used to suppress bacterial growth, tastes, or odors in the reclaimed water. An automatic proportioning device shall add the chemicals to the water before the water enters the storage tank. The dairy plant

operator shall test reclaimed water at least daily for each added chemical. An added chemical may not contain any substance that may contaminate dairy products or limit the use of reclaimed water.

7. The reclaimed water is stored in a properly constructed tank. The tank shall be constructed of a material that will not contaminate the water and can be easily cleaned.

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

9. There are no cross-connections between reclaimed water lines and any public or private water system.

(c) Reclaimed water may be used for the limited purposes of producing culinary steam, pre-rinsing food contact surfaces of equipment or utensils, or preparing cleaning solutions if all the following apply:

1. The reclaimed water meets all conditions under par. (b) 1., 2., 4. to 7. and 9.

2. The reclaimed water is used only on the day that it is reclaimed, except that reclaimed water may be stored for later use if it is automatically maintained at a temperature of not less than 145° F. (63° C.), or is chemically treated to suppress bacterial propagation. Chemical treatments shall comply with par. (b) 6.

3. Distribution lines and hose stations used to distribute the reclaimed water are clearly identified as **“limited-use reclaimed water.”**

4. The dairy plant operator posts clear instructions for the use of the reclaimed water. The operator shall post the instructions so that they will be seen and understood by persons using the reclaimed water. The instructions shall disclose the limited purposes for which the reclaimed water may be used.

5. Water lines distributing the reclaimed water are not permanently connected to dairy product vessels. If a water line is temporarily connected to a dairy product vessel, there shall be an atmospheric break and automatic controls to prevent the reclaimed water from contacting dairy products.

(d) Reclaimed water that does not qualify for use under par. (b) or (c) may only be used as boiler feedwater.

**(9) PLUMBING SYSTEM; DISPOSAL OF SEWAGE AND LIQUID WASTE.** (a) All dairy plant plumbing, plumbing fixtures, and equipment shall comply with state and local plumbing codes, and shall be designed, installed, and maintained to prevent backflow, backsiphonage, and cross-connections.

(b) Sewage and liquid waste from a dairy plant shall be removed in a sanitary manner, in compliance with applicable state and local regulations.

**Note:** Plumbing and plumbing fixtures must comply with applicable rules of the Wisconsin department of safety and professional services under chs. SPS 382 to 386.

**(10) CLEANING FACILITIES.** (a) If equipment or utensils in a dairy plant are cleaned or sanitized manually, the dairy plant shall be equipped with wash and rinse sinks that are suitable for all manual cleaning and sanitizing operations. Sinks shall be conveniently located and adequate in number, and shall comply with all of the following requirements:

1. Every sink shall be constructed of stainless steel or other materials approved by the department.

2. Every sink shall have at least 2 compartments. If a dairy plant is also engaged in food processing as defined under s. 97.29 (2) (b), Stats., every sink installed in a food processing area after December 1, 1994 shall have at least 3 compartments for washing, rinsing, and sanitizing equipment and utensils unless the dairy plant operator uses an alternative method for sanitizing equipment and utensils.

3. Every sink compartment shall be large enough so that the largest item cleaned or sanitized in the sink can be halfway immersed in the sink. Every sink compartment shall be served by hot and cold running water, and shall be cleaned prior to each use.

(b) Sinks used to clean and sanitize equipment and utensils may not be used as handwashing sinks.

(c) Brushes and other cleaning tools used to clean equipment and utensils shall be cleaned after each use and sanitized prior to their next use. Single-service disposable towels, if used to clean equipment or utensils, shall be discarded after a single use.

(d) If a mechanical system is used to clean or sanitize equipment or utensils, the mechanical system shall be designed, installed, and maintained so that it is fully effective for the purpose used.

(e) A dairy plant shall be equipped with conveniently located hose connections to facilitate cleaning operations in the dairy plant. When hoses are not in use, they shall be neatly stored off the floor on racks or reels.

**(11) TOILET FACILITIES.** (a) Every dairy plant shall have toilet facilities that comply with chs. SPS 361 to 365, administered by the Wisconsin department of safety and professional services.

(b) Toilet rooms shall be conveniently located, but shall not open directly into any room where milk or dairy products are processed. Every toilet room shall be completely enclosed and shall have a tight-fitting, solid, self-closing door. The door shall be kept closed except when the toilet room is being cleaned or repaired.

(c) Toilet rooms and fixtures shall be kept clean, sanitary, and in good repair. A supply of toilet tissue shall be provided at each toilet at all times.

(d) Every toilet room shall be equipped with hand-washing facilities with hot and cold running water, soap, and single service towels or air drying equipment. Common towels are prohibited. Easily cleanable, covered receptacles shall be provided for waste materials.

(e) One or more conspicuous signs, directing personnel to wash their hands before returning to work, shall be prominently posted in every toilet and dressing room. Signs shall be clearly printed in a language or languages that can be understood by all dairy plant personnel.

**(12) LOCKER AND LINEN FACILITIES.** (a) Clothing and personal items of dairy plant personnel, when not being worn or carried, shall be neatly stored in lockers or comparable facilities provided for that purpose. Clothing and personal items may not be stored in areas where milk, dairy products, or ingredients are received, processed, handled, or stored, or in areas where dairy product containers, equipment, or utensils are cleaned or stored.

(b) Work clothing, when not being worn by dairy plant personnel, shall be stored in an orderly and sanitary manner. Soiled linen and clothing shall be kept in nonabsorbent containers or laundry bags until removed for laundering or disposal. Soiled linen and clothing shall be removed as often as necessary to prevent unsanitary conditions.

**(13) HANDWASHING SINKS IN PROCESSING AREAS.** (a) Handwashing sinks with available hot and cold running water shall be provided for use by all dairy plant personnel working in processing areas. The sinks shall be conveniently accessible, and shall be kept in a clean and sanitary condition.

(b) A supply of soap or detergent, and a sanitary single-service means for drying hands, shall be provided at each handwashing sink at all times. Common towels are prohibited. If disposable towels are used, a clean covered waste receptacle shall be provided for their disposal.

(c) A handwashing sink may not be used to clean or sanitize equipment or utensils.

(d) A handwashing sink installed to serve a processing area after December 1, 1994, shall be located in that processing area. The sink shall be served by potable tempered water, or by potable hot and cold water delivered through a mixing valve or combination faucet. The sink shall not be hand operated. If a self-closing, slow-closing, or metered faucet is used, the faucet shall provide an uninterrupted flow of water for at least 15 seconds before it becomes necessary to reactivate the faucet.

(e) An automatic handwashing device may be substituted for a handwashing sink under this subsection if the automatic handwashing device provides a safe and effective means for washing hands.

**(14) INTERIOR PREMISES; CLEANLINESS.** Every room of a dairy plant shall be kept in a clean and orderly condition.

**(15) EXTERIOR PREMISES; CLEANLINESS.** (a) The premises surrounding a dairy plant shall be well drained and shall be kept in an orderly condition. The premises shall be kept free of accumulated trash, garbage, and other sanitation hazards. Driveways and parking lots shall be surfaced or maintained to minimize airborne dust and dirt.

(b) Every outdoor storage tank used for liquid food ingredients shall be located on a drained impermeable surface. All loading and unloading of liquid food ingredients from that storage tank shall be conducted over a drained impermeable surface.

**(16) GARBAGE AND SOLID WASTE DISPOSAL.** (a) Garbage and solid waste shall be removed from the dairy plant premises as often as necessary to keep the premises in a clean and sanitary condition.

(b) Garbage and solid waste storage areas shall be constructed and maintained so that they do not attract or harbor insects, rodents, or other animals.

(c) Garbage and solid waste shall be held in durable, leakproof, easily cleanable, and pest-resistant containers. Containers shall be covered with tight-fitting lids, and shall be cleaned when necessary to prevent unsanitary conditions. Waste containers receiving solid waste from packaging and bottle washing operations may be uncovered, if necessary, when those operations are in progress.

(d) No garbage or solid waste may be burned on the dairy plant premises, except in compliance with state and local regulations. No garbage or solid waste may be burned on the premises if the burning may contaminate dairy products.

**(17) PEST CONTROL.** A dairy plant shall be free of any evidence of insect, rodent, or other pest infestation. A dairy plant operator shall take effective measures to prevent and, if necessary, control pest infestations. No pesticide may be stored, handled, or used in a manner inconsistent with label directions, in a negligent manner, or in a manner that may contaminate dairy products.

**Note:** Pesticides must be handled, stored, and used in compliance with ss. 94.67 to 94.71, Stats., and ch. ATCP 29.

**(18) CONSTRUCTION PLANS; NOTIFICATION; REVIEW.** Before constructing, substantially reconstructing, or extensively altering a dairy plant, a dairy plant operator shall provide the department with complete plans and specifications for the construction, reconstruction, or alteration. Within 30 days after a dairy plant operator files plans with the department under this subsection, the department shall return its comments or objections, if any, in writing.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; corrections in (11) made under s. 13.93 (2m) (b) 6. and 7. Stats., Register, January, 1998, No. 505; correction in (8) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, February, 2001, No. 542; correction in (11) (a) made under s. 13.93 (2m) (b) 7., Stats., Register August 2002 No. 560; CR 01-124: r. and recr. (7) and (8) (f), am. (8) (d) 4., cr. (8m) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: am. (4) (a), (8) (b), (d) (intro.), and 4., (8m) (a) (intro.) and 1. and (b) 4. and 8., cr. (8) (g), Register, January 2008 No. 625, eff. 2-1-08; correction in (11) (a) made under s. 13.92 (4) (b) 6., 7., Stats., Register January 2012 No. 673.

### ATCP 80.10 Personnel; sanitation standards.

**(1) CLEANLINESS AND SANITATION; GENERAL.** (a) Within a dairy

plant, access to processing areas shall be restricted to dairy plant employees and other authorized personnel.

(b) Persons who handle or process dairy products shall maintain a high degree of personal cleanliness, and shall observe good hygienic practices during all working periods.

(c) Persons who handle or process dairy products shall thoroughly wash their hands before beginning work and before returning to work after using toilet facilities, eating, smoking, or engaging in other activities that may contaminate their hands.

(d) A person with a discharging or infected lesion on a hand or arm may not handle or process unpackaged dairy products without appropriate sanitary protection. Appropriate sanitary protection shall include all the following:

1. An impermeable bandage on the lesion.
2. Single-use sanitary gloves or, if the lesion is on the arm, a full sleeved garment with tight fitting cuffs.

(e) Persons who handle or process dairy products shall keep their fingernails clean and neatly trimmed. They shall not wear fingernail polish unless they wear sanitary gloves at all times when working.

(f) No person infected with a disease communicable by food handling may work in a dairy plant in any capacity that may contaminate dairy products.

**(2) CLOTHING AND JEWELRY.** (a) Whenever any person is in a processing area, or is engaged in handling unpackaged milk or dairy products, that person shall wear clean, washable outer garments and an effective hair restraint, including an effective hair restraint for any beard longer than 1/2 inch. Hair restraints may include hair nets, caps, and snoods, but do not include hairsprays, visors, or headbands.

(b) No person may wear any jewelry while working in a processing area or handling unpackaged dairy products. This paragraph does not apply to plain band wedding rings.

**(3) CONSUMPTION OF FOOD, BEVERAGES, AND TOBACCO.** No person may consume food, beverages, or tobacco in any processing area, or in any area where food processing equipment or utensils are cleaned or stored. Employees may not consume food, beverages, or tobacco except in designated areas that are separated from food processing areas. This subsection does not prohibit a sanitary water fountain in a processing area, nor does it prohibit on-line quality control sampling according to written quality control procedures established by the dairy plant operator.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: r. and recr. (1) (d) Register December 2002 No. 564, eff. 1-1-03.

**ATCP 80.12 Equipment and utensils. (1) CONSTRUCTION AND MAINTENANCE.** (a) Equipment and utensils, including C-I-P systems, shall be of sanitary design and construction. Equipment and utensils, including C-I-P systems installed after the effective date of this chapter, shall comply with applicable "3-A Sanitary Standards" and "3-A Accepted Practices" listed in APPENDIX A to this chapter.

**Note:** The "3-A Sanitary Standards" and "3-A Accepted Practices" listed in APPENDIX A are published by 3-A Sanitary Standards, Inc., 1451 Dolley Madison Boulevard, Suite 210, McLean, VA 22101-3850, telephone (703) 790-0295, website [www.3-a.org](http://www.3-a.org). Copies are on file with the department and the legislative reference bureau and may be obtained from the "3-A Sanitary Standards, Inc. Online Store" at <http://www.techstreet.com>.

(b) Equipment and utensils shall be readily accessible for cleaning and inspection, and shall be designed and constructed so that they can be easily cleaned. Equipment and utensils shall be kept clean and in good repair.

(c) Tanks, vats, separators, and other containers used to store or process dairy products shall be designed or equipped with appropriate devices to prevent surface condensation and drainage from entering the container.

(d) Pipeline systems used to convey dairy products shall contain no dead ends in which dairy products may collect. Pipelines and other equipment shall be designed and constructed to pre-



clude cross-contamination between pasteurized dairy products, unpasteurized dairy products, and cleaning and sanitizing solutions.

(e) If it is necessary to disassemble any equipment or utensil to inspect a product contact surface, all tools needed for the disassembly shall be readily available at the dairy plant.

(f) Water hoses used to wash dairy products or add ingredient water to dairy products shall be constructed of approved food grade materials and shall be used and stored in a sanitary manner.

(g) A dairy plant operator may use sanitary flexible pipelines to transfer partially processed products in the intermediate stages of cheese production, or to load and unload bulk loads of milk from transport vehicles, if all the following apply:

1. The use of rigid pipelines for that purpose is impractical.
2. The dairy plant operator properly cleans and sanitizes the flexible pipeline after completing the transfer of product, or at least once every 24 hours.
3. The operator uses only a length of flexible pipeline necessary to conduct the transfer operation.

**(2) PRODUCT CONTACT SURFACES.** (a) Product contact surfaces of equipment and utensils shall be made of materials that are smooth, impervious, nontoxic, noncorrosive, nonabsorbent, and durable under foreseeable use conditions. A product contact surface shall be constructed of one or more of the following materials unless another material is specifically authorized by the department in writing:

1. Stainless steel of the American Iron and Steel Institute 300 series, or an equally corrosion resistant metal.
2. Heat resistant glass.
3. Plastic, rubber, or rubber-like materials that are fat resistant and insoluble; that are resistant to scratching, scoring, decomposition, crazing, chipping, and distortion under normal use conditions; that do not impart chemicals, flavor, or odor to milk; and that maintain their original properties under repeated use conditions.

(b) Product contact surfaces shall be easily cleanable, and shall be free of breaks, open seams, cracks, or similar defects. Product contact surfaces shall not impart any odor, color, taste, or adulterating substance to food. Product contact surfaces, other than product contact surfaces of approved C–I–P systems, shall be readily accessible for manual cleaning. Joints and fittings shall be of sanitary design and construction.

**(3) LOCATION AND INSTALLATION OF EQUIPMENT.** (a) Equipment shall be located and installed to prevent overcrowding and to prevent contamination of dairy products or product contact surfaces by splash, condensation, or manual contact.

(b) Equipment that cannot be easily moved shall be installed in a manner that prevents liquid or debris from accumulating under or around the equipment.

(c) Equipment shall be installed so that there is adequate clearance on all sides for cleaning and maintenance. This does not apply to that portion of a tank or container that is designed to protrude into or through the wall or ceiling of a dairy plant.

**(4) BULK STORAGE TANKS; VENTING.** A tank used for the bulk storage of milk, whey, or liquid food products shall be equipped with an air filter to prevent contamination of tank contents, or shall be vented only to one of the following:

- (a) A processing area.
- (b) A tank gallery room that complies with processing area sanitation standards under this chapter.

**(5) MEASURING DEVICES AND CONTROLS.** (a) Every storage tank, freezer, and cold storage compartment used to hold milk or dairy products shall be equipped with a thermometer or other device that accurately indicates the temperature in the storage tank, freezer, or compartment.

(b) Each of the following bulk storage tanks shall be equipped with a 7–day temperature recording device that shows the temperature of dairy products stored in that bulk storage tank over the immediately preceding period of at least 7 days:

1. Every bulk storage tank used to store grade A milk or grade A dairy products for longer than 24 hours.
2. A silo tank installed after December 1, 1994.

(c) Instruments and controls used for measuring, regulating, and recording temperatures, pH, acidity, water activity, or other conditions that control or prevent the growth of undesirable microorganisms in milk or dairy products shall be accurate, fully functional, and adequate for their intended use.

**(6) LUBRICATION.** Equipment shall be designed and constructed so that gear and bearing lubricants do not come in contact with milk or dairy products, or with product contact surfaces. Food grade lubricants shall be used if there is any chance that lubricants may come in contact with milk or dairy products, or with product contact surfaces.

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

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

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

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

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

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

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

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

1. A complete description of the continuously–operated equipment covered by the proposal, including relevant design and sanitation features.
2. A complete description of the processing, handling, or storage operations for which the continuously–operated equipment is used. The description shall identify the types of dairy products involved, the types of continuous operations conducted, and the duration of the continuous operations.
3. A complete description of the cleaning and sanitizing procedure proposed by the dairy plant operator. The description shall include cleaning and sanitizing frequency, cleaning and sanitizing methods and materials, and other relevant process parameters such as time and temperature. The description shall include relevant process diagrams and specifications.

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

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

**(8) STORING CLEAN EQUIPMENT AND UTENSILS.** Clean equipment and utensils, unless stored in an approved sanitizing solution, shall be stored so that they drain dry. Utensils and equipment components disassembled for cleaning shall be stored above the floor in metal racks or other suitable storage facilities. Clean equipment and utensils shall be protected from contamination prior to use.

**(9) SINGLE-SERVICE UTENSILS.** Single-service utensils shall be stored in the original containers in which they were received, or in other closed containers that will protect them from contamination until they are used. Single-service utensils shall not be reused.

**(10) CLEANING COMPOUNDS, DETERGENTS, AND SANITIZERS; STORAGE AND LABELING.** Cleaning compounds, detergents, and sanitizers used in a dairy plant shall be clearly labeled. When they are not being used, they shall be stored in designated areas and in an appropriate manner so that they do not contaminate dairy products, ingredients, equipment, or utensils.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: cr. (1) (g), am. (7) (b) (intro.) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: r. and recr. (7), Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.14 C-I-P systems. (1) CONSTRUCTION AND MAINTENANCE; GENERAL.** (a) C-I-P systems shall be designed, constructed, installed, and maintained in compliance with s. ATCP 80.12.

**(2) CLEANING AND SANITIZING C-I-P SYSTEMS.** (a) A dairy plant operator shall clean and sanitize all C-I-P systems in compliance with s. ATCP 80.12 (7). Surfaces that cannot be cleaned and sanitized by C-I-P procedures shall be cleaned and sanitized manually.

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

**(3) CONSTRUCTION PLANS.** (a) Before installing or modifying any C-I-P system, the dairy plant operator shall submit to the department a plan for the installation or modification. The plan shall clearly describe each C-I-P circuit in the installed or modified system, including the size and length of piping, fittings, pitch, drain points, access points, relative elevations, locations and specifications of circulating units, and other features of the system.

(b) Plans for a C-I-P system under par. (a) shall include the manufacturer's specifications for the system, including the manufacturer's specifications for operating, maintaining, cleaning, and sanitizing the system.

(c) Within 20 business days after any person files plans with the department under this subsection, the department shall return its comments or objections, if any, in writing.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: am. (3) (a) and (c) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: am. (2) (b), Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.16 Dairy product packages. (1) GENERAL.** (a) Dairy product packages shall be of sanitary design and construction. Packages shall be designed and constructed to protect packaged dairy products from reasonably foreseeable risks of contamination.

(b) Product contact surfaces of dairy product packages shall be smooth, nontoxic, noncorrosive, nonabsorbent, and durable under foreseeable use conditions. Product contact surfaces shall not impart any odor, color, taste, or adulterating substance to packaged dairy products.

(c) Dairy product packages shall be clean, sanitary, and free of any extraneous or deleterious substance. Dairy products shall not be sold or distributed in packages that are damaged to the extent that package contents may be adulterated as a result of the damage. A sealed package is excessively damaged if the seal is broken.

(d) Single-service packages shall be made of clean and sanitary materials, shall be protected from contamination prior to use, shall be handled in a sanitary manner, and shall be clean and sanitary at the time of use. Single service packages shall not be re-used.

**(2) GRADE A DAIRY PRODUCT PACKAGES.** (a) The residual bacteria count on product contact surfaces of grade A dairy product packages shall not exceed one per milliliter of capacity when the rinse test is used, or 50 colonies per 8 square inches (one per square centimeter) when the swab test is used, in 3 out of 4 samples taken at random on a given day. Product contact surfaces shall be free of coliform organisms.

(b) A grade A dairy product package shall be designed so that the product, the package pouring lip if any, and the package opening rim and area are protected from contamination during handling, storage, and initial opening. A grade A dairy product package shall be designed so that it cannot be opened without breaking the cap or closure seal, or leaving other readily apparent evidence that the package has been opened.

(c) Product contact surfaces of multi-use packages used for grade A milk or dairy products shall be constructed of one or more of the following materials unless another material is specifically authorized by the department in writing:

1. Stainless steel of the Iron and Steel Institute 300 series or an equally corrosion resistant metal.

2. Heat resistant glass.

3. Plastic materials that maintain their original properties under repeated use conditions; that are fat resistant and insoluble; and that are resistant to scratching, scoring, decomposition, crazing, chipping, and distortion under normal use conditions.

(d) Product contact surfaces of multi-use packages used to contain grade A milk or dairy products shall have rounded corners, and shall be easily cleanable.

(e) Multi-use packages used to contain grade A milk or dairy products shall be effectively cleaned and sanitized before being reused. Cleaning and sanitizing procedures shall remove all extraneous matter and potential adulterants from each package. Sanitizing procedures shall comply with s. ATCP 80.18. If returnable glass bottles are sanitized in an automatic bottle washer by soaking those bottles in a caustic solution, the sanitizing procedure shall comply with sub. (3).

(f) Multi-use packages used to contain grade A milk or dairy products shall be inspected before they are reused. Inspection shall be adequate to detect extraneous materials, adulterants, and damage to product contact surfaces. Inspection shall be performed on surfaces lighted in compliance with s. ATCP 80.08 (5) (c).

(g) No multi-use plastic package may be reused for grade A milk or dairy products unless that package is tested for the presence of volatile organic compounds before the package is filled. An automatic testing device, capable of detecting volatile organic compounds at levels of public health significance, shall be used to test each package. The testing device shall be installed in conjunction with the dairy product packaging apparatus so that no packages can be filled unless the testing device is operating properly, and so that packages containing unsatisfactory levels of volatile organic compounds are automatically made unusable. The

dairy plant operator shall test the system daily with a test solution consisting of 0.5 ppm petroleum distillate or another test solution approved by the department.

(h) No plastic multi-use package may be used to contain grade A milk or dairy products unless all of the following requirements are met:

1. The package is identified to show the plant at which the package was manufactured, the date of manufacture, and the type and class of plastic material used. This information may be coded if the code is provided to the department.
2. The phrase "Use only for food" appears on the package.
3. The department has approved a prototype of the package.

(i) Single-service packages used to contain grade A milk or dairy products shall be manufactured by a manufacturer listed in the "Certified Manufacturers of Single-Service Containers and Related Products" published online by the Food and Drug Administration, Public Health Service, United States Department of Health and Human Services.

**Note:** Copies of "Certified Manufacturers of Single-Service Containers and

Related Products" are available online at <http://www.fda.gov/food/guidanceregulation/federalstatefoodprograms/ucm2007965.htm> or from the Milk Safety Team, HFS-626, Food and Drug Administration, Public Health Service, United States Department of Health and Human Services, 5100 Paint Branch Parkway, College Park, MD 20740-3835.

(j) Packaged grade A milk and dairy products shall be conspicuously labeled as grade A milk or dairy products.

**(3) AUTOMATIC BOTTLE WASHING.** (a) Returnable glass bottles cleaned in an automatic bottle washer shall be sanitized while in the washer. Bottles cleaned in an automatic bottle washer may be sanitized by being soaked in a caustic solution. The causticity of the sanitizing solution shall be monitored and maintained at an appropriate level in relation to solution temperature and soaking time. *Table 1* shows minimum causticity levels required for sanitizing solutions (expressed in terms of percent concentration of sodium hydroxide, NaOH, in the sanitizing solution), based on applicable soaking times and temperatures.

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

**TABLE 1  
MINIMUM CAUSTICITY LEVELS REQUIRED FOR SANITIZING SOLUTIONS (% CONCENTRATION OF NaOH), BASED ON SOAKING TIME AND TEMPERATURE**

Time in Minutes	Temperature (Degrees)						
	F 170 C 77	160 71	150 66	140 60	130 54	120 49	110 43
3	0.57	0.86	1.28	1.91	2.86	4.27	6.39
5	0.43	0.64	0.96	1.43	2.16	3.22	4.80
7	0.36	0.53	0.80	1.19	1.78	2.66	3.98

**(4) PACKAGING GRADE A DAIRY PRODUCTS.** (a) Grade A dairy products shall be packaged in a sanitary manner at the dairy plant where they are pasteurized.

(b) Grade A dairy products shall be mechanically packaged with equipment approved by the department. Hand capping is prohibited.

(c) A drip deflector, designed and adjusted to deflect condensation away from open packages, shall be installed on each filler valve.

(d) Conveyors that feed packages to packaging machines shall have overhead shields to protect open packages from contamination.

(e) If a filled package is imperfectly sealed, the contents of that package shall be emptied into a sanitary container. The contents shall be discarded, or shall be repasteurized before being repackaged.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 04-005: am. (2) (g) Register October 2004 No. 586, eff. 11-1-04; CR 07-006: am. (2) (i), renum. (3) to be (3) (a) and am., cr. (3) (b), Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.18 Sanitizers and sanitizing methods.**

**(1) SANITIZING METHODS.** Product contact surfaces may be sanitized by any of the following methods:

(a) Complete and continuous exposure to clean water at a temperature of at least 170° F. (70° C.) for at least 5 minutes.

(b) Complete and continuous exposure to steam at a temperature of at least 170° F. (70° C.) for at least 15 minutes, or at a temperature of at least 200° F. (93° C.) for at least 5 minutes.

(c) Complete and continuous exposure for at least 2 minutes to a sanitizing solution containing at least 50 ppm of available chlorine, and having a pH not higher than 8.3, at a temperature not less than 75° F. (24° C.) nor more than 110° F. (44° C.)

(d) Complete and continuous exposure for at least one minute to a sanitizing solution containing at least 12.5 ppm of available

iodine, and having an acid pH not higher than 5.0, at a temperature of not less than 75° F. (24° C.) nor more than 110° F. (44° C.).

(e) Complete and continuous exposure to a caustic sanitizing solution according to s. ATCP 80.16 (4).

(f) Application, according to manufacturer's instructions, of a chemical sanitizer or sanitizing method that has been shown to be as effective as the methods specified under pars. (a) to (d), and that has been approved by the department under sub. (3).

**(2) SANITIZERS; MAXIMUM CONCENTRATIONS.** The use of a sanitizer shall leave no toxic residue on a product contact surface. Sanitizing solutions shall not exceed the maximum concentrations specified by the food and drug administration, United States department of health and human services, under 21 CFR 178.1010. A test kit or other device that measures the concentration of sanitizing solutions in parts per million shall be used as necessary to ensure compliance with this subsection at all times.

**(3) SANITIZERS; DEPARTMENT APPROVAL.** The department shall approve sanitizers and sanitizing methods which the department finds to be safe and effective for sanitizing equipment, utensils, and multi-use dairy product packages. The department may deny or withdraw approval of any sanitizer or sanitizing method, whether or not approved by any other state or federal agency, if the department determines that the sanitizer or sanitizing method is not safe or effective for the purposes or under the conditions used, or that it adversely affects the sanitary characteristics of equipment, utensils, or dairy product packages.

**Note:** Sanitizers approved under s. 4-501.114, ch. ATCP 75 Appendix (Wisconsin Food Code), are approved by the department.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: am. (1) (c) Register December 2002 No. 564, eff. 1-1-03.

**ATCP 80.20 Receiving milk and dairy products.**

**(1) MILK FROM DAIRY FARMS.** (a) No dairy plant operator may collect or receive milk from a dairy farm located in this state

unless the milk producer holds a current license for that dairy farm under s. 97.22 (2), Stats., and s. ATCP 60.03.

(b) No dairy plant operator may collect or receive a milk shipment from a dairy farm in this state unless a person licensed under s. 97.17 or 98.146, Stats., does all the following before that milk shipment is commingled with milk from any other dairy farm:

1. Collects a sample of milk from the shipment, according to s. ATCP 60.17.
2. Accurately measures and records the temperature and quantity of milk in the shipment. The person shall give the producer a duplicate copy of the recorded information.

**Note:** A dairy plant operator shall comply with applicable requirements under subch. IV of ch. ATCP 60, which requires dairy plant operators to sample and test producer milk and report test results. Operators must reject milk shipments and take follow-up action in some cases.

**(2) GRADE A MILK FROM DAIRY FARMS.** No dairy plant operator may collect or receive, as grade A milk, any of the following:

(a) Milk from a dairy farm in this state unless the milk producer holds a current grade A permit for that dairy farm under s. 97.22 (3), Stats., and s. ATCP 60.03.

(b) Milk from a dairy farm in any other state unless the milk producer holds a current grade A permit for that dairy farm from the responsible regulatory authority in that state.

**(3) BULK MILK TANKER DELIVERIES.** (a) No dairy plant operator may receive any fluid milk or dairy products transported in a bulk milk tanker unless the bulk milk tanker operator holds a current license for that bulk milk tanker under s. 97.21 (2) (a), Stats., and s. ATCP 82.02 (1).

(b) No dairy plant operator may receive any grade A milk or grade A fluid milk products transported in a bulk milk tanker unless the bulk milk tanker operator holds, in addition to the license under par. (a), a current grade A permit for that bulk milk tanker under s. 97.21 (2) (b), Stats., and s. ATCP 82.02 (7).

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

**(4) GRADE A DAIRY PLANT MAY NOT RECEIVE GRADE B MILK.** A grade A dairy plant operator may not process grade B milk at a grade A dairy plant unless the department authorizes that processing in writing. A grade A dairy plant operator may not receive, transfer, or process grade A milk or dairy products through the same equipment used to receive, transfer, or process grade B milk or dairy products unless the dairy plant operator first cleans and sanitizes the equipment and makes a record of the cleaning and sanitization.

**(5) MANUFACTURED DAIRY INGREDIENTS; APPROVED SOURCES.** Manufactured dairy ingredients used in the manufacture or processing of dairy products shall originate from dairy plants licensed under s. 97.20, Stats., and this chapter, or licensed or inspected under equivalent laws of other states or nations.

**(6) RECEIVING FACILITIES.** A dairy plant's facilities for receiving milk shipments shall be constructed in compliance with s. ATCP 80.08, and shall be separated from other areas of the dairy plant as required by s. ATCP 80.08 (7).

**(7) CLEANING AND SANITIZING BULK MILK TANKERS.** A dairy plant operator shall do all of the following:

(a) Clean and sanitize bulk milk tankers after each day's use, as required by s. ATCP 82.08. A dairy plant operator shall clean and sanitize bulk milk tankers in a fully enclosed cleaning and sanitizing facility that complies with s. ATCP 82.08 (2).

(b) Attach a tag to a bulk milk tanker each time the tanker is cleaned and sanitized, as required under s. ATCP 82.08 (4).

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

**(8) CLEANING AND SANITIZING MILK CANS.** If a dairy plant operator receives raw milk in cans, the dairy plant operator shall clean, sanitize, and thoroughly dry those cans before the cans are

removed from the dairy plant for reuse. Can washing equipment shall be kept clean and in good repair.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: r. and recr. (1) and (3) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: cr. (3) (c), am. (7) (c), Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.22 Storing and handling milk and dairy products. (1) GENERAL.** Dairy products shall be protected from contamination and decomposition while being received, processed, handled, conveyed, or held at a dairy plant. Dairy products shall be received, processed, handled, conveyed, and held in a manner that keeps the products in a safe, wholesome, and unadulterated condition.

**(2) STORAGE TEMPERATURES.** (a) Raw grade A milk and grade A dairy products received for processing at a dairy plant shall be kept at a temperature of 45° F. (7° C.) or less until pasteurized or, if pasteurization is not required, until processed. This paragraph does not apply to raw grade A milk received at a dairy plant within 2 hours after milking, provided that the raw milk is held in compliance with par. (d).

(b) Except as provided under par. (a), raw milk and other dairy products received for processing at a dairy plant shall be kept at a temperature of 50° F. (10° C.) or less until pasteurized or, if pasteurization is not required, until processed. This paragraph does not apply to raw milk received at a dairy plant within 2 hours after milking, provided that the raw milk is held in compliance with par. (d).

(c) Pasteurized grade A dairy products, after being pasteurized, shall be cooled to a temperature of 45° F. (7° C.) or less, and shall then be kept at that temperature at all times. This paragraph does not apply to a grade A cultured dairy product while being cultured, to a dried milk product, or to a grade A dairy product that is sterilized and packaged in a hermetically sealed package.

(d) No milk or dairy product may be held at a dairy plant for more than 4 hours at a temperature that is between 45° F. (7° C.) and 140° F. (60° C.). This paragraph does not apply to any of the following:

1. Grade A cultured dairy products while being cultured.
2. Dried dairy products.
3. Butter micro-fixing.
4. Cheese while being cured, ripened, or tempered for further processing.
5. Pasteurized cream while being ripened for churning into butter.
6. Whey and whey products during the process of crystallation.
7. Dairy products that are sterilized and packaged in hermetically sealed packages.
8. Other dairy products for which the department authorizes different holding temperatures in writing.

**(3) PASTEURIZATION.** Dairy products shall be pasteurized in compliance with subch. V.

**(4) STORING DAIRY PRODUCTS AND INGREDIENTS.** (a) Areas used to store dairy products and ingredients shall be kept in a clean, sanitary, and orderly condition, free from conditions that may adulterate dairy products or dairy product ingredients.

(b) Dairy products shall be stored at temperatures specified under sub. (2). Other potentially hazardous foods, including potentially hazardous ingredients used in dairy products, shall be stored at safe temperatures.

(c) Dairy products and ingredients shall be stored in an orderly manner, so that storage areas can be easily inspected and cleaned. Dairy products and ingredients may not be stored under conditions that may cause adulteration. Storage areas shall be constructed and maintained so that waste liquids do not accumulate in those areas.

(d) Dairy products and ingredients may not be stored in a manner which may attract or harbor pests. No pesticides or other toxic

materials may be stored in a manner that may contaminate dairy products, dairy product ingredients, or packaging materials.

**(5) REPROCESSING AND DISPOSAL OF DAIRY PRODUCTS.** (a) A dairy plant operator may not reprocess, for use in any dairy product, packaged grade A dairy products that have left the custody of the dairy plant or that have originated from another dairy plant. This does not prohibit any of the following:

1. The use, as ingredients, of packaged dairy products that are specifically manufactured and packaged for use as ingredients in other dairy products.

2. Reprocessing dry milk and dry milk products returned to the dairy plant, provided that the products' inner packaging is intact.

3. Reprocessing dairy products collected from a packaging defoamer system or drained from processing equipment at the end of a run, if those dairy products are collected and handled in a sanitary manner, held at a temperature of 45° F. (7° C.) or less, and re-pasteurized.

4. Reprocessing specifically authorized in writing by the department, under conditions specified by the department.

(b) A dairy plant operator shall discard any packaged grade A dairy products that are returned to a dairy plant by a wholesaler or retailer. Pending disposal, returned grade A dairy products shall be kept in an area which is clearly designated as a holding area for returned products. The holding area shall be separate from other areas used for the receipt, storage, or processing of dairy products.

(c) A dairy plant operator shall discard all milk and dairy products that have spilled, overflowed, or leaked from equipment, utensils, or packages. This paragraph does not apply to milk and dairy products caught and collected in a sanitary manner, in equipment specifically designed for that purpose.

**(6) DAIRY PRODUCTS INTENDED FOR NON-FOOD USE.** Milk and dairy products not intended for human consumption shall be clearly and conspicuously labeled as being not for use as human food. No person may repack or sell, for use as human food, any milk or dairy products labeled or intended for non-food use.

**Note:** The manufacture and sale of animal feed is subject to separate licensing and regulation under s. 94.72, Stats.

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

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

(c) A dairy plant operator shall take effective measures to prevent cross contamination between pasteurized and unpasteurized dairy products.

**(8) PRESSURIZED AIR AND STEAM; CONTACT WITH DAIRY PRODUCTS.** Pressurized air and steam coming in contact with a dairy product or product contact surface shall be clean, safe, and free of contaminants. The system used to generate and supply pressurized air and steam shall comply with applicable "3-A Sanitary Standards" and "3-A Accepted Practices" listed in APPENDIX A to this chapter.

**Note:** The "3-A Sanitary Standards" and "3-A Accepted Practices" listed in APPENDIX A are published by 3-A Sanitary Standards, Inc., 1451 Dolley Madison Boulevard, Suite 210, McLean, VA 22101-3850, telephone (703)790-0295, website [www.3-a.org](http://www.3-a.org). Copies are on file with the department and the legislative reference bureau. Copies may be purchased from the "3-A Sanitary Standards, Inc. Online Store" at <http://www.techstreet.com>.

**(9) FIRE, FLOOD, OR CASUALTY DAMAGE.** If a dairy product or ingredient is subjected to possible contamination in a fire, flood, or other casualty, no person may sell or reprocess that product or ingredient for human consumption unless the department first inspects the product or ingredient and authorizes its sale or repro-

cessing for human consumption. A dairy plant operator shall notify the department whenever dairy products or ingredients in the operator's possession have been subjected to possible damage or contamination because of fire, flood, or other casualty.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: r. and recr. (2) (d) and (5) (a), r. (5) (d) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: am. (7) (title), (a) and (b), Register January 2008 No. 625, eff. 2-1-08.

## Subchapter IV — Milk Quality; Testing

**ATCP 80.24 Milk and dairy products; quality standards.** (1) **RAW MILK FROM DAIRY FARMS.** Raw milk from dairy farms shall comply with the milk quality standards specified under s. ATCP 60.15.

(2) **MILK HELD AT DAIRY PLANT; BACTERIAL COUNT.** The bacterial count of grade A milk held at a dairy plant prior to pasteurization may not exceed 300,000 per ml. The bacterial count of grade B milk held at a dairy plant prior to pasteurization or processing may not exceed 750,000 per ml.

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

1. 20,000 per ml., except as provided in subd. 2.
2. 30,000 per ml. for condensed milk, whey, and whey products.
3. 10,000 per gram for nonfat dry milk, dried whey, and dry milk products.

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

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

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

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

1. 20,000 per ml., except as provided in subd. 2. or 3.
2. 30,000 per ml. for condensed milk, whey, whey products, dried whey, and nonfat dry milk.
3. 50,000 per gram for frozen desserts, except that the bacterial count for frozen dessert mixes may not exceed 20,000 per gram.

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

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

(4) **FORTIFIED DAIRY PRODUCTS.** Whenever milk or a fluid milk product is fortified with vitamin A or D, the fortification shall comply with PMO Appendix O.

(5) **PATHOGEN CONFIRMED IN READY-TO-EAT DAIRY PRODUCT; SALE PROHIBITED.** A dairy plant operator may not sell or distribute any ready-to-eat dairy product in which a microbiological test or laboratory analysis has confirmed the presence of a pathogenic organism or toxin.

**Note:** Copies of PMO Appendix O are on file with the department and the legislative reference bureau. Copies may be obtained from the department at cost or online at <http://www.cfsan.fda.gov>.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-058: cr. (5), Register August 2002 No. 560, eff. 9-1-02; CR 01-124: r. and recr. (3) (a) and (b), cr. (3) (d), am. (4) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: r. and recr. (3), cr. (3m), am. (4), Register January 2008 No. 625, eff. 2-1-08; CR

13-063; am. (3) (a) 2., cr. (3) (a) 3., am. (3) (b) Register April 2014 No. 700, eff. 5-1-14.

**ATCP 80.26 Milk quality testing. (1) REQUIRED TESTING.** (a) A dairy plant operator shall test raw milk from dairy farms as required under subch. IV of ch. ATCP 60.

**Note:** Under subch. IV of ch. ATCP 60, a dairy plant operator must perform milk quality tests including bacteria counts, drug residue tests, and somatic cell tests. A dairy plant operator must report test results and reject milk shipments as required.

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

**(2) PAYMENT BASED ON MILK COMPONENT TESTS.** No dairy plant operator may adjust the price paid to any milk producer based on the results of any milk component test or somatic cell test unless the dairy plant operator does both of the following:

(a) Bases the price adjustment on either the arithmetic or weighted average of all test results obtained for that producer during the pay period to which the price adjustment applies. The dairy plant operator shall use the same method for computing average test results for all producers shipping milk to the dairy plant.

(b) Tests at least 3 milk shipments from that producer at regular intervals throughout the pay period to which the price adjustment applies, or tests composite samples representing all milk shipments from that producer during that pay period.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: am. (2) (a) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: am. (1) (b), Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.28 Persons authorized to perform milk quality tests. (1) GENERAL.** (a) Except as provided under par. (b), milk quality tests shall be performed in a laboratory that is both of the following:

1. Approved by the department to conduct milk quality tests.
2. Certified by the department under ch. ATCP 77, or by an equivalent certifying agency in another state, to conduct milk quality tests.

**Note:** A "milk quality test," as defined under s. ATCP 80.01 (23), means a bacteria count, somatic cell count, drug residue test, milk component test, or other analytical test which is used to determine compliance with milk quality standards under s. ATCP 80.24, or which may affect the price that a dairy plant operator pays a milk producer for milk. Laboratory evaluation forms used in certifying laboratories under ch. ATCP 77, may be obtained from the department.

(b) Bulk load tests for drug residues under s. ATCP 60.19 (2) shall be conducted at the receiving dairy plant by either of the following:

1. An individual approved by the department to conduct drug residue tests.
2. An individual who performs drug residue tests only under the direct supervision of an individual approved and certified under subd. 1.

(c) The department may withdraw its approval under par. (a) or (b) for cause. Cause may include false or inaccurate test results or reports, or failure to conduct tests according to required procedures.

**(2) MILK COMPONENT TESTING; LICENSED TESTER.** (a) No person may perform any milk component test unless that person is licensed to perform milk component tests, either as a buttermaker or cheesemaker under s. 97.17, Stats., or as a milk and cream tester under s. 98.145, Stats.

(b) No person may use an automated testing device to perform any milk component test unless that person is trained and qualified to use automated testing devices, and that fact is stated on his or her license under s. 97.17 or 98.145, Stats.

**Note:** A "milk component test," as defined under s. ATCP 80.01 (20), means a test which determines the amount of milkfat, protein, total solids, solids-not-fat, or other

valuable components in milk, and which may affect the price that a dairy plant operator pays a milk producer for milk.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; corrections made under s. 13.93 (2m) (b) 6., Stats., Register, January, 1998, No. 505; corrections in (1) (a) 2. made under s. 13.93 (2m) (b) 7., Stats., Register, February, 2001, No. 542; CR 01-124: am. (1) (c) Register December 2002 No. 564, eff. 1-1-03; CR 04-005: am. (1) (b) 1. Register October 2004 No. 586, eff. 11-1-04.

**ATCP 80.30 Test samples. (1) GENERAL.** (a) Whenever a dairy plant operator performs a milk quality test on a bulk milk shipment from a milk producer, the dairy plant operator shall perform that milk quality test on a test sample collected under s. ATCP 82.12.

(b) Whenever a dairy plant operator performs a milk quality test on a can milk shipment from a milk producer, the dairy plant operator shall perform that milk quality test on a test sample collected under sub. (3).

(c) Notwithstanding pars. (a) and (b), a dairy plant operator may use a composite sample under sub. (4) to perform a Babcock test for milkfat, or to perform another milk quality test approved by the department under sub. (4). A composite sample shall be compiled from fresh milk samples collected under par. (a) or (b).

(d) This subsection does not apply to a bulk load test for drug residues under s. ATCP 60.19 (2).

**(2) TEST SAMPLES REFRIGERATED.** At all times prior to testing, a test sample under sub. (1) shall be kept refrigerated at a temperature of 32 to 40° F. (0 to 4° C.). Test samples kept at a dairy plant or testing laboratory shall be kept in a refrigerated storage facility used only for storing test samples and laboratory supplies.

**(3) COLLECTING TEST SAMPLES FROM CAN MILK SHIPMENTS.** (a) If a producer ships milk to a dairy plant in cans, rather than in bulk, the dairy plant operator shall collect a test sample from each milk shipment immediately after that milk shipment is transferred to the weigh tank at the dairy plant, and before it is commingled with any other milk shipment. The weigh tank shall be constructed so that milk poured into the weigh tank is completely mixed.

(b) If a weigh tank is not large enough to accommodate a producer's entire milk shipment, so that multiple weighings are needed, the dairy plant operator shall divide the shipment as evenly as possible between weighings and collect a sample from each weighing. The samples, which shall be of equal volume, shall be combined to form a single sample representing the entire shipment from the producer. The dairy plant operator may not split the contents of any single can of milk between weighings, but shall include all of the contents of that can in the same weighing.

**(4) COMPOSITE SAMPLES.** (a) A dairy plant operator may use a composite sample to perform a Babcock test for milkfat, but may not perform any other milk quality test on a composite sample except with the department's written authorization. A composite sample shall be compiled according to this subsection.

(b) A composite sample shall include a representative sample of milk from each of 2 or more milk shipments represented by the composite sample. No composite sample may include milk from more than 16 milk shipments. Each component sample included in the composite sample shall have the same volume, and shall include at least 10 ml. of milk. A composite sample shall include at least 150 ml. of milk.

(c) A composite sample container shall have a capacity of at least 240 ml. The composite sample container shall include an effective permanent closure that is attached to the container. The composite sample container shall be marked to identify the producer and the milk shipments represented in the composite sample.

(d) A composite sample representing a producer's bulk milk shipments shall be compiled from fresh milk samples collected from those shipments under s. ATCP 82.12. On the same day that a producer's bulk milk shipment is received by the dairy plant operator, or by 12:00 noon of the following day, the dairy plant operator shall transfer, to the composite sample, at least 10 ml. of

milk from the sample collected from that milk shipment under s. ATCP 82.12.

(e) A composite sample representing a producer's can milk shipments shall be compiled from milk samples collected from those shipments according to sub. (3).

(f) A dairy plant operator shall preserve a composite sample by adding potassium dichromate, or another preservative approved by the department, to the composite sample. Not less than 100 mg., nor more than 190 mg. of potassium dichromate may be used in each composite sample to obtain a concentration of 20 mg. per 30 ml. of milk in the completed sample.

**Note:** Potassium dichromate is available in tablets containing 40 mg. of active ingredient per tablet. The use of these tablets at the rate of one tablet per 2 fl. oz. of milk in a completed composite sample is equivalent to the concentration specified under par. (f). Labeling requirements and limitations on the disposal of milk samples preserved with potassium dichromate are contained in s. ATCP 30.15 (2) (b).

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94.

**ATCP 80.32 Test methods.** (1) **GENERAL.** Milk quality tests shall be performed using one of the following methods, subject to additional requirements under subs. (2) to (6):

(a) A method described in the American Public Health Association, "Standard Methods for the Examination of Dairy Products," 17th edition (2004).

(b) A method described in the "Official Methods of Analysis of AOAC International," 18th edition (2005).

(c) A method approved in writing by the department.

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

The American Public Health Association's "Standard Methods for the Examination of Dairy Products," 17th edition (2004), is on file with the department and the legislative reference bureau. Copies may be obtained from the American Public Health Association, 800 I Street, NW, Washington, D.C. 20001, telephone 202-777-2742, website [www.apha.org](http://www.apha.org).

The "Official Methods of Analysis of AOAC International," 18th Edition (2005), is on file with the department and the legislative reference bureau. Copies may be obtained from AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD 20877-2417, telephone 800-379-2622, website [www.aoac.org](http://www.aoac.org). On August 1, 2014, the address of AOAC International changes to: 2275 Research Blvd., Rockville, MD 20850.

(2) **MILKFAT TEST METHODS.** (a) Milkfat tests shall be performed using the Babcock method, the ether extraction method, or another test method approved by the department. Babcock and ether extraction tests shall be conducted according to the "Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC) International," 17th edition (2000), except as provided under par. (b).

(b) Each milk sample tested by the Babcock method shall be agitated for at least 3 minutes by the use of a mechanical agitator after pipetting the sample and adding sulfuric acid according to the procedure prescribed under par. (a). A reader, such as a needlepoint divider or other mechanical divider, which accurately determines milkfat level in a test bottle shall be used in reading all Babcock tests. All Babcock test readings shall be made against a light-colored surface with adequate natural or artificial light. The Babcock test shall be read to the nearest 0.05% by weight.

(3) **BACTERIA COUNTS.** Bacteria counts required under s. ATCP 60.18 and bacteria counts that may affect the amount paid to a milk producer shall be obtained by means of a standard plate count (SPC), plate loop count (PLC), or petri film aerobic count method.

(4) **DRUG RESIDUES.** Drug residue tests required under s. ATCP 60.19 shall be performed according to s. ATCP 60.19.

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

(6) **TESTING DEADLINES.** A milk quality test shall be conducted within the time period specified by the test method.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: am. (1) (b), (2) (a) and (6) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: am. (1) (a) and (b) and (5), Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.34 Milk component testing devices.**

(1) **GENERAL.** If an automated testing device is used to perform a milk component test for any milk component, that device shall be calibrated and regularly checked to ensure that it accurately tests for that milk component.

**Note:** As defined under s. ATCP 80.01 (20), "milk component test" means a test which determines the amount of milkfat, protein, total solids, solids-not-fat, or other valuable components in milk, and which may affect the price that a dairy plant operator pays a milk producer for milk.

(2) **CALIBRATION.** (a) **Requirement.** If an automated testing device is used to test for milkfat, protein, total solids, or solids-not-fat in milk, and if the test results may affect the price paid to a milk producer, the testing device shall be calibrated according to this subsection. The testing device shall be calibrated, for each relevant milk component, by a tester who is licensed under s. 97.17 or 98.145, Stats., to operate that device.

**Note:** See s. ATCP 80.28 (2).

(b) **Calibration frequency.** A milk component testing device under par. (a) shall be calibrated at all of the following times:

1. Upon installation.
2. At regular 3 month intervals after installation.
3. Immediately after every significant repair or alteration to the testing device.

4. Whenever the mean difference on a daily performance check under sub. (3) exceeds plus or minus 0.044% for milkfat or protein, or 0.084% for total solids or solids-not-fat.

(c) **Calibration procedure.** To calibrate a milk component testing device under par. (a), a tester shall use the device to test a set of calibration samples under par. (d). The milk component testing device shall be adjusted, as necessary, to satisfy all of the following requirements:

1. The performance error on each calibration sample shall be as near as practicable to zero. The performance error is the difference between the known percentage content of each milk component in the calibration sample, as determined by the sample provider, and the percentage content as measured by the testing device.

2. The mean difference for the entire set of calibration samples shall be as near as practicable to zero, and shall not exceed plus or minus 0.044% for milkfat or protein, or 0.084% for total solids or solids-not-fat. The mean difference is the sum of the performance errors for the individual calibration samples, divided by the number of samples in the set.

3. The standard deviation of test results, calculated for the set of calibration samples according to the formula set forth in the "Official Methods of Analysis of AOAC International," 18th edition (2005), section 969.16, shall not exceed 0.044 percent for milkfat or protein, or 0.084 percent for total solids or solids-not-fat.

**Note:** The "Official Methods of Analysis of AOAC International," 18th edition (2005), is on file with the department and the legislative reference bureau, and may be obtained from AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD, 20877-2417, website <http://www.aoac.org>. On August 1, 2014, the address of AOAC International changes to: 2275 Research Blvd., Rockville, MD 20850.

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

1. Each sample shall be not more than 21 days old.
2. Each sample shall be a fresh milk sample preserved with bronopol (2-bromo-2-nitro-1,3-propanediol) or another

approved preservative. Preservative methods, formulations, and concentrations shall be approved by the department.

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

**(3) DAILY PERFORMANCE CHECK.** (a) *Requirement.* If an automated testing device is used to test for milkfat, protein, total solids, or solids-not-fat in milk, and if the test results may affect the price paid to a milk producer, the device shall be subjected to a daily performance check before each day's testing. The daily performance check shall be conducted, for each relevant milk component, by a tester who is licensed under s. 97.17 or 98.145, Stats., to operate the testing device.

(b) *Procedure.* To conduct a daily performance check under par. (a), a tester shall test a set of daily performance check samples under par. (d). Based on the daily performance check, the tester shall do both of the following:

1. Determine the performance error of the testing device with respect to each daily performance check sample. The performance error is the difference between the known percentage content of each milk component in that sample, as determined by the sample provider, and the percentage content as measured by the testing device.

2. Based on the performance errors for the individual samples under subd. 1., calculate the mean difference for the set of daily performance check samples. The mean difference is the sum of the performance errors for the individual samples, divided by the number of samples in the set.

(c) *Calibration based on daily performance check.* If, on a daily performance check under par. (a), the mean difference calculated under par. (b) 2. exceeds plus or minus 0.044% for milkfat or protein, or 0.084% for total solids or solids-not-fat, the testing device shall not be used until it is recalibrated under sub. (2).

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

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

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

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

**(4) REFERENCE CHECKS.** (a) *Requirement.* If an automated testing device is used to test for milkfat, protein, total solids, or solids-not-fat in milk, and if the test results may affect the price paid to a milk producer, that device shall be subjected to a daily reference check under par. (b) and hourly reference checks under par. (c).

(b) *Daily reference check.* 1. A daily reference check shall be conducted before each day's testing, at the same time that the dairy plant operator conducts the daily performance check under sub. (3). The daily reference check shall be conducted, for each relevant milk component, by a tester who is licensed under s. 97.17 or 98.145, Stats., to operate the testing device.

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

(c) *Hourly reference checks.* 1. An hourly reference check shall be conducted, for each milk component, before each hour's testing for that component. To conduct an hourly reference check, a tester shall test the same reference sample used for the daily reference check under par. (b).

2. For each relevant milk component, the hourly reference check result shall be compared to the average result obtained on the daily reference check under par. (b). If an hourly reference check result differs from the average result on the daily reference check by more than 0.034% for milkfat or protein, or 0.064% for total solids or solids-not-fat, the testing device shall not be used until the condition causing the difference is found and corrected. Test results obtained before the device is corrected, and subsequent to the last previous conforming reference check, shall not be used in determining the amount paid to milk producers.

**(5) CALIBRATION AND DAILY PERFORMANCE CHECK SAMPLES; MILKFAT CONTENTS.** (a) The provider of a calibration sample under sub. (2) or a daily performance check sample under sub. (3) shall determine the known percentage content of milkfat in that sample by averaging the results of 3 milkfat tests using a method specified under par. (d). The results from those 3 milkfat tests shall not vary by more than 0.034%.

(b) The known milkfat content of a calibration sample, expressed as a percentage of the sample weight, shall be at least 2.5%. Within a set of calibration samples, the difference in known milkfat content between the lowest milkfat sample and the highest milkfat sample, expressed as a percentage of average sample weight, shall be at least 2.5%.

(c) The known milkfat content of a daily performance check sample, expressed as a percentage of the sample weight, shall be at least 2.8%. Within a set of daily performance check samples, the difference in known milkfat content between the lowest milkfat sample and the highest milkfat sample, expressed as a percentage of average sample weight, shall be at least 1.5%.

(d) To determine the milkfat content of a calibration sample or daily performance check sample, the sample provider shall use either a manual or robotic version of the Modified Majonnier method as described in the "Official Methods of Analysis of AOAC International," 18th edition (2005), section 989.05.

**Note:** The "Official Methods of Analysis of AOAC International," 18th edition (2005), is on file with the department and the legislative reference bureau, and may be obtained from AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD, 20877-2417, website <http://www.aoc.org>. On August 1, 2014, the address of AOAC International changes to: 2275 Research Blvd., Rockville, MD 20850.

**(6) CALIBRATION AND DAILY PERFORMANCE CHECK SAMPLES; PROTEIN CONTENTS.** (a) The provider of a calibration sample under sub. (2) or a daily performance check sample under sub. (3) shall determine the known percentage content of protein in that sample by averaging the results of 3 protein tests using the method specified under par. (c). The results from those 3 protein tests shall not vary by more than 0.034%.

(b) The known protein content of a calibration or daily performance check sample, expressed as a percentage of sample weight, shall be at least 2.7%. Within a set of calibration samples, the difference in known protein content between the lowest protein sample and the highest protein sample, expressed as a percentage of average sample weight, shall be at least 0.7%. Within a set of daily performance check samples, the difference in known protein content between the lowest protein sample and the highest protein sample, expressed as a percentage of average sample weight, shall be at least 0.5%.

(c) To determine the protein content of a calibration sample or daily performance check sample, the sample provider shall use the traditional or block digester/steam distillation Kjeldahl method as described in the "Official Methods of Analysis of AOAC International," 18th edition (2005), section 991.20.

**Note:** The "Official Methods of Analysis of AOAC International," 18th edition (2005), is on file with the department and the legislative reference bureau, and may



be obtained from AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD, 20877–2417, website <http://www.aoac.org>. On August 1, 2014, the address of AOAC International changes to: 2275 Research Blvd., Rockville, MD 20850.

**(7) CALIBRATION AND DAILY PERFORMANCE CHECK SAMPLES; TOTAL SOLIDS.** (a) The provider of a calibration sample under sub. (2) or a daily performance check sample under sub. (3) shall determine the known percentage content of total solids in that sample by averaging the results of 3 total solids tests using the method specified under par. (c). The results from those 3 total solids tests shall not vary by more than 0.054%.

(b) The known total solids content of a calibration or daily performance check sample, expressed as a percentage of sample weight, shall be at least 11%. Within a set of calibration samples, the difference in known total solids content between the lowest total solids sample and the highest total solids sample, expressed as a percentage of average sample weight, shall be at least 2.00%. Within a set of daily performance check samples, the difference in known total solids content between the lowest total solids sample and the highest total solids sample, expressed as a percentage of average sample weight, shall be at least 1.5%.

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

**Note:** The “Official Methods of Analysis of AOAC International,” 18th edition (2005), is on file with the department and the legislative reference bureau, and may be obtained from AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD, 20877–2417, website <http://www.aoac.org>. On August 1, 2014, the address of AOAC International changes to: 2275 Research Blvd., Rockville, MD 20850.

**(8) CALIBRATION AND DAILY PERFORMANCE CHECK SAMPLES; SOLIDS–NOT–FAT.** The provider of a calibration sample under sub. (2) or a daily performance check sample under sub. (3) shall calculate the known percentage content of solids–not–fat in that sample by subtracting the percent fat as determined under sub. (5) from the total solids for that sample as determined under sub. (7). The calculation method shall be that described in the “Official Methods of Analysis of AOAC International,” 18th edition (2005), section 990.21.

**Note:** The “Official Methods of Analysis of AOAC International,” 18th edition (2005), is on file with the department and the legislative reference bureau, and may be obtained from AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD, 20877–2417, website <http://www.aoac.org>. On August 1, 2014, the address of AOAC International changes to: 2275 Research Blvd., Rockville, MD 20850.

**(9) TESTING DEVICES; CONSTANT VOLTAGE.** A constant voltage regulator shall be connected to, or form a part of, every milk component testing device that is in line with a single phase 115 or 220 volt power supply.

**(10) RECORDS RELATED TO CALIBRATIONS, DAILY PERFORMANCE CHECKS, AND REFERENCE CHECKS.** (a) A dairy plant operator shall keep a record of every calibration, performance check, or reference check conducted on a milk component testing device under this section.

(b) Every record required under par. (a) shall be signed by the licensed tester who made the record. Calibration records shall be kept separate from performance check and reference check records.

**(11) ACCURACY OF DEVICES; DEPARTMENT AUDIT.** The department may audit the accuracy of milk component testing devices using test samples prepared by the department under subs. (5) to (8).

**History:** Cr. Register, November, 1994, No. 467, eff. 12–1–94; CR 01–124: am. (2) (c) 3., (5) (d), (6) (c), (7) (c) and (8) Register December 2002 No. 564, eff. 1–1–03; CR 07–006: am. (2) (c) 3., (4) (b) 2., (5) (d), (6) (c), (7) (c) and (8), r. and recr. (2) (d) and (3) (d), Register January 2008 No. 625, eff. 2–1–08.

### **ATCP 80.36 Milk quality test records and reports.**

**(1) TEST RECORDS; GENERAL.** (a) A person performing a milk quality test shall immediately record the test result and sign the

test record. The test record shall specify the date of the test, the identification number of the milk producer, and the milk shipment from which the milk sample was collected.

(b) No test record may be altered except that errors, if any, may be corrected by striking through the original entry and inserting the correct entry immediately adjacent to the original. A corrected entry shall be initialed by the person who made the corrected entry.

(c) The department may authorize a dairy plant to keep test records in electronic form if the department finds that all of the following requirements are met:

1. The records are effectively secured against loss or tampering.

2. The records can be readily retrieved for inspection by the dairy plant operator and the department.

3. The person who performs the test identifies himself or herself on the test record, by an electronic method that is equivalent to a personal signature.

4. If an erroneous test record is corrected, the correction is identified so that the reader can easily compare the corrected record to the original record.

**(2) REQUIRED TESTS; REPORTS.** A dairy plant operator shall report the results of milk quality tests required under subch. IV of ch. ATCP 60, as required under that subchapter.

**(3) RECORDS RETAINED BY DAIRY PLANT OPERATOR.** A dairy plant operator shall retain records required under this section for the time period specified under s. ATCP 80.54 (1), and shall make the records available for inspection and copying by the department upon request.

**History:** Cr. Register, November, 1994, No. 467, eff. 12–1–94; CR 01–124: am. (3) Register December 2002 No. 564, eff. 1–1–03.

### **ATCP 80.38 False samples, test results or reports.**

No person may do any of the following, or conspire with another person to do any of the following:

**(1)** Falsely identify milk samples.

**(2)** Submit a false milk sample to the department, a dairy plant operator, or a testing laboratory.

**(3)** Falsify any milk quality test or test result.

**(4)** Make any false or misleading record or report related to a milk quality test.

**(5)** Withhold any milk quality test report required under subch. IV of ch. ATCP 60.

**History:** Cr. Register, November, 1994, No. 467, eff. 12–1–94.

## **Subchapter V — Pasteurization**

**ATCP 80.40 Definitions.** As used in this subchapter:

**(1)** “HHST” means “higher heat shorter time” pasteurization of milk, milk products, or dairy products according to s. ATCP 80.44 (2m).

**(2)** “HTST” means “high temperature short time” pasteurization of milk, milk products, or dairy products according to s. ATCP 80.44 (2).

**History:** CR 01–124: cr. Register December 2002 No. 564, eff. 1–1–03; CR 07–006: am. (1) and (2), Register January 2008 No. 625, eff. 2–1–08.

**ATCP 80.41 Pasteurization required.** **(1)** Except as provided under sub. (2), every dairy product shall be pasteurized at the dairy plant where that dairy product is manufactured.

**(2)** Subsection (1) does not apply to any of the following:

(a) A dairy product shipped in bulk to another dairy plant for use in manufacturing dairy products, provided that the shipment is accompanied by a bill of lading that identifies the dairy product as unpasteurized.

(b) A dairy product made entirely from dairy products that have been pasteurized at the same dairy plant.

(c) Ice cream or frozen dessert made from pasteurized ice cream mix or pasteurized frozen dessert mix, provided that no unpasteurized dairy product is added to the pasteurized mix.

(d) A dairy product whose standard of identity provides that the dairy product and its ingredients need not be pasteurized.

(e) A dairy product that is sterilized and packaged in a hermetically sealed package.

(f) Heat-treated cream, skim milk, or lowfat milk shipped in bulk to another dairy plant for use in manufacturing dairy products, provided that the bulk shipment is accompanied by a bill of lading that identifies the contents of the bulk shipment as being unpasteurized and heat-treated. The heat-treated cream, skim milk, or lowfat milk may be heated not more than once for separation purposes, to a temperature that is not less than 125° F. (52° C.) nor more than 161° F. (72° C.). Heat-treated cream may be heated further, up to a temperature of 166° F. (75° C.) in a continuing heating process, if further heating is necessary to deactivate enzymes for functional reasons. Heat-treated cream, skim milk, and lowfat milk, after being heated, shall immediately be cooled to a temperature of 45° F. (7° C.) or less.

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

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

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

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

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

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

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

**(3)** A dairy product that is required to be pasteurized under sub. (1) shall be pasteurized by, or under the direct supervision of, a pasteurizer operator who has successfully completed at least one of the following:

(a) A pasteurization training course of at least 8 hours duration provided by the university of Wisconsin, or an equivalent course approved by the department.

(b) A competency examination approved by the department.

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

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

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

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

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

(c) The whey or whey product is processed in a membrane processing system that complies with sub. (9) and is designed and

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

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

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

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

4. Discarded.

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

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

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

**(8)** Subsection (5) does not apply to raw milk that is processed, prior to pasteurization, in a membrane processing system that complies with sub. (9) and is designed and maintained to keep the milk at a temperature of 65° F. (18.3° C.) or below during processing. If the milk temperature exceeds 65° F. (18.3° C.) for more than 15 minutes during processing, or exceeds 70° F. (21.1° C.) at any time during processing, the milk shall be immediately diverted from moving beyond the membrane processing system by means of automatic controls. The diverted milk shall be treated in one of the following ways:

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

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

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

(d) Discarded.

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

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

(b) A point immediately preceding each intermediate cooling.

(c) A point immediately preceding final cooling.

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

**Note:** PMO Appendix H, Subsection IV is on file with the department and the legislative reference bureau. Copies may be obtained from the department at cost or online at <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk>.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: renum. from ATCP 80.40 and am. (2) (a) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: cr. (2) (g) to (i) and (4) to (9), am. (3) (intro.), Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.42 Labeling pasteurized and unpasteurized products.** **(1)** If a dairy product is pasteurized or made exclusively from pasteurized ingredients, the label on every shipping container of that dairy product shall clearly and conspicuously state that the product is pasteurized. If a grade A dairy prod-

uct is pasteurized or made exclusively from pasteurized ingredients, the label on every shipping container and consumer package of that grade A dairy product shall clearly and conspicuously state that the grade A dairy product is “pasteurized” or “ultrapasteurized.” Every label under this subsection shall also include the name and address, or the unique identification number, of the dairy plant where the dairy product was pasteurized.

(2) Except as provided under sub. (3) or (4), if a dairy product is not pasteurized or made exclusively from pasteurized ingredients, the label on every shipping container and consumer package of that dairy product shall state that the product is unpasteurized.

(3) Subsection (2) does not apply to cheese that meets all of the following requirements:

(a) The standard of identity for the cheese provides that the cheese may be made from unpasteurized dairy products.

(b) The cheese is held for at least 61 days before being distributed for retail sale, or for further processing without pasteurization.

(c) The label on every shipping container and consumer package of cheese states that the cheese is “aged over 60 days.”

(4) Subsection (2) does not apply to a dairy product that is sterilized and sealed in a hermetically sealed container.

**Note:** See dairy product labeling requirements in subch. VIII.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94.

**ATCP 80.44 Pasteurization time and temperature.**

(1) If a dairy product is required to be pasteurized under s. ATCP 80.41, the dairy product shall be pasteurized according to this section unless the department authorizes a different but equally effective pasteurization method in writing. Every particle of the dairy product shall be heated to the required temperature and continuously held at or above the required temperature for the required period of time. Pasteurization equipment shall be equipped with accurate measuring, recording, and control devices, as required by ss. ATCP 80.46 and 80.48, to ensure that the time and temperature requirements under this section are met.

(2) Dairy products identified in table 2, unless ultrapasteurized under sub. (3), shall be pasteurized in a batch pasteurizer or HTST pasteurizer at or above the temperature specified in the table for at least the length of time specified in the table.

**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 (>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	—

(2m) A dairy plant operator may use an HHST 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:

(a) 191° F. (89° C.) for 1.0 sec.

(b) 194° F. (90° C.) for 0.5 sec.

(c) 201° F. (94° C.) for 0.1 sec.

(d) 204° F. (96° C.) for 0.05 sec.

(e) 212° F. (100° C.) for 0.01 sec.

(3) An ultrapasteurized dairy product shall be thermally processed at or above a temperature of 280° F. (138° C.) for at least 2 seconds in order to destroy microbes in the dairy product.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: am. (1) and (2) Table, cr. (2m) Register December 2002 No. 564, eff. 1-1-03; CR 06-028: am. (2) Table 2 Register November 2006 No. 611, eff. 12-1-06; CR 07-006: am. (2) Table 2 and (2m) (intro.), r. (4) and (5), Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.46 Batch pasteurization.** Batch pasteurization equipment shall be of the non-coil type. Batch pasteurization equipment shall be constructed and operated so that pasteurization complies with item 16p (A) of the PMO and with applicable “3-A Sanitary Standards” and “3-A Accepted Practices” listed in Appendix A to this chapter. Thermometers shall be constructed and operated in compliance with PMO Appendix H, item IV. The temperature of the air space above the pasteurized product shall be at least 5° F. (3° C.) higher than the minimum pasteurization temperature of the pasteurized product.

**Note:** The “3-A Sanitary Standards” and “3-A Accepted Practices” listed in Appendix A are published by 3-A Sanitary Standards, Inc., 1451 Dolley Madison Boulevard, Suite 210, McLean, VA 22101-3850, telephone (703) 790-0295, website www.3-a.org. Copies are on file with the department and the legislative reference bureau. Copies may be purchased from the “3-A Sanitary Standards, Inc. Online Store” at <http://www.techstreet.com>. Copies of the PMO are on file with the department and the legislative reference bureau. Copies may be obtained from the department at cost or are available online at <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk>.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: am. Register December 2002 No. 564, eff. 1-1-03; CR 07-006: am. Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.48 HTST and HHST pasteurization.** Pasteurization by means of HTST or HHST pasteurization shall comply with the standards set forth in “3-A Accepted Practices for the Sanitary Construction, Installation, Testing and Operation of High-Temperature Short-Time and Higher Heat Shorter Time Pasteurizer Systems,” standard 3A 603-07 (November, 2005), published by 3-A Sanitary Standards, Inc.

**Note:** Copies of the “3-A Accepted Practices for the Sanitary Construction, Installation, Testing, and Operation of High-Temperature Short-Time and Higher Heat Shorter Time Pasteurizer Systems,” standard 3A 603-07 (November, 2005) are on file with the department and the legislative reference bureau. Copies may be obtained from the “3-A Sanitary Standards, Inc. Online Store” at <http://www.techstreet.com>.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: am. Register December 2002 No. 564, eff. 1-1-03; CR 07-006: am. Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.49 Aseptic processing and packaging.**

**(1) DEFINITION.** In this section, “aseptic processing and packaging system” means a system that is intended to fill commercially sterilized cooled milk or milk products into pre-sterilized containers, and then hermetically seal each container with a pre-sterilized closure, in an atmosphere free of microorganisms.

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

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

**Note:** The PMO is on file with the department and the legislative reference bureau. Copies may be obtained from the department at cost or online at <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk>.

**History:** CR 01-124: cr. Register December 2002 No. 564, eff. 1-1-03; CR 07-006: r. and recr. (2), Register January 2008 No. 625, eff. 2-1-08; **corrections in (2) (a), (b) made under s. 13.92 (4) (b) 6., Stats., Register April 2014 No. 700.**

**ATCP 80.50 Pasteurization records. (1) GENERAL.** A dairy plant operator shall keep pasteurization records for all dairy products processed by the operator. Records shall cover all pasteurization operations, including conventional batch operations, HTST operations, and HHST operations. Records shall comply with this section. The department shall review pasteurization records as part of each routine inspection of a dairy plant.

**(2) BATCH PASTEURIZATION RECORDS.** Except as provided in sub. (3), pasteurization records shall include all the following:

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

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

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

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

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

(f) The temperature reading on the indicating thermometer at the start of the pasteurization holding period, and at a specific time identified as a point on the temperature recording chart.

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

(h) A record of any unusual circumstances that occurred during each batch pasteurization.

(i) The name of the dairy plant.

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

**(3) HTST AND HHST PASTEURIZATION RECORDS.** Pasteurization records for HTST and HHST pasteurization operations shall include all the following:

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

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

(c) A continuous temperature recording chart temperature record for each pasteurization run.

(d) The temperature reading on the indicating thermometer at the start of each pasteurization run, and at a specific time identified as a point on the temperature recording chart.

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

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

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

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

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

(j) The name of the dairy plant.

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

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

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

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

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

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

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

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

(g) The name of the dairy plant.

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

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: r. and recr. Register December 2002 No. 564, eff. 1-1-03; CR 04-005: am. (2) (e) and (f) and (3) (d) Register October 2004 No. 586, eff. 11-1-04; CR 06-028: am. (2) (f) and (3) (d) Register November 2006 No. 611, eff. 12-1-06; CR 07-006: am. (1), (2) (b) to (e) and (g), (3) (b), (c) and (e) to (h), cr. (4), Register January 2008 No. 625, eff. 2-1-08.

**ATCP 80.52 Pasteurizer testing. (1) GENERAL.** The department shall test and seal pasteurization systems according to this section. Except as provided under sub. (6), no person may use any pasteurization system to pasteurize grade A or grade B dairy products unless that system bears the unbroken seals applied by the department under sub. (5).

**(2) TEST PROCEDURE.** The department shall test grade A and grade B pasteurization systems according to the procedure specified in PMO Appendix I.

**Note:** PMO Appendix I is on file with the department and the legislative reference bureau. Copies may be obtained from the department at cost or online at <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk>.

**(3) TEST FREQUENCY; GRADE A PASTEURIZERS.** The department shall test each grade A pasteurization system at the following times:

(a) Before the pasteurization system is first put into operation.

(b) At least once every 3 months, except that a holding time test may be conducted at least once every 6 months.

(c) Whenever a seal under sub. (5) is broken.

**(4) TEST FREQUENCY; GRADE B PASTEURIZERS.** The department shall test a grade B pasteurization system at the following times:

(a) Before the pasteurization system is first put into operation.

(b) At least once every 12 months.

(c) Whenever a seal under sub. (5) is broken.

**(5) DEPARTMENT SEALS.** When the department's test confirms that a pasteurization system is operating correctly, the department shall apply seals that prevent any alteration of the system that would allow any unpasteurized milk or dairy product to flow through the system.

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

(b) A dairy plant operator may not operate a pasteurizer after breaking a seal applied by the department under sub. (5) unless all of the following conditions are met:

1. The dairy plant operator notifies the department under par.

(a).

2. The dairy plant operator determines and documents that pasteurization time and temperature requirements under s. ATCP 80.44 are met, and that the pasteurization system is repaired and functioning properly. Time and temperature records required by s. ATCP 80.50 shall be retained for at least 6 months.

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

4. A pasteurizer operator qualified under s. ATCP 80.41 (3) is present to operate the pasteurizer, or to supervise its operation.

(c) A dairy plant operator may not operate a pasteurizer for more than 10 calendar days after breaking a seal applied by the department under sub. (5) unless one of the following occurs:

1. The department tests the pasteurizer and replaces the broken seal.

2. A dairy plant operator or employee certified under sub. (7) tests the pasteurizer and replaces the broken seal on an interim basis, pending retesting and resealing by the department.

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

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

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

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

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

**(7) EMERGENCY TESTING AND SEALING.** (a) The department may certify a dairy plant operator or employee to test and seal a pasteurization system in that dairy plant on an emergency basis under par. (b). To be certified under this paragraph, a dairy plant operator or employee shall successfully complete a training course approved by the department. The department may suspend or revoke certification for cause.

(b) A dairy plant operator or employee certified under par. (a) may test and seal a pasteurization system in that dairy plant on an emergency basis, pending retesting and resealing by the department under par. (c), if emergency testing and sealing is necessary

to continue pasteurizing operations after the department's seal is broken in an emergency. Testing under this paragraph shall comply with the procedure specified under sub. (2).

(c) The department shall promptly retest and reseal a pasteurization system after the department receives notice under sub. (6) (a) that its seal applied to that system has been broken. The department shall retest and reseal a pasteurization system under this paragraph, regardless of whether the pasteurization system has been tested and sealed under par. (b). The department need not retest or reseal a pasteurization system that is withdrawn from service.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: am. (2), (6) (a), (b) 2. to 4. and (c) (intro.) Register December 2002 No. 564, eff. 1-1-03; CR 07-006: am. (2) and (6) (a), r. and recr. (6) (b) 3., cr. (6) (d), Register January 2008 No. 625, eff. 2-1-08.

## Subchapter VI — Dairy Plant Records and Reports

**ATCP 80.54 Dairy plant records.** (1) A dairy plant operator shall keep all of the following records, and shall retain those records for the period of time specified under this subsection:

(a) Records related to milk receipts and producer payrolls, as required by s. ATCP 100.32 (1). Records under this paragraph shall include milk collection records received from milk haulers under s. ATCP 82.10 (10). Records under this paragraph shall be retained for at least 3 years.

(b) Records of all dairy product ingredients received at the dairy plant, including the sources from whom the ingredients were received. Records under this paragraph shall be retained for at least one year.

(c) Daily records of all finished products produced at the dairy plant. Records under this paragraph shall be retained for at least one year.

(d) Records of all milk quality tests and sediment tests conducted on milk shipments received by the dairy plant operator, including but not limited to tests required under subch. IV of ch. ATCP 60. Records under this paragraph shall be retained for at least 2 years.

(e) Records of all in-plant tests, performed by a dairy plant operator on milk and dairy products held or processed by the dairy plant operator, to determine bacterial counts or identify possible adulteration of that milk or those dairy products. Records under this paragraph shall be retained for at least one year.

(f) Records of private water supply tests, if any, conducted under s. ATCP 80.08 (8). Records under this paragraph shall be retained for at least one year.

(g) Cleaning and sanitizing records for all C-I-P systems, as required under s. ATCP 80.14 (2) (b). Records under this paragraph shall be retained for at least 90 days. Records may be stored in electronic form, with or without hard copy printouts, if the electronic records are readily accessible by a department inspector.

(h) A record of every calibration, daily performance check, daily reference check, and hourly reference check performed on a milkfat or protein testing device, as required by s. ATCP 80.34 (10). Records under this paragraph shall be retained for at least one year.

(i) Pasteurization records required under s. ATCP 80.50. Records under this paragraph shall be retained for at least 6 months.

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

(k) Temperature records made by the dairy plant operator, including records of dairy product temperatures, storage temperatures, and processing temperatures. Except where a longer retention period is required for specific temperature records under this chapter, records under this paragraph shall be retained for at least 30 days.

(L) Inventory control records for vitamin fortification of fluid milk products, including vitamins used and the quantity of fluid milk products produced. Records under this paragraph shall be retained for at least 2 years.

(m) Vitamin assay test results conducted on fortified dairy products under s. ATCP 80.24 (4). Records under this paragraph shall be retained for at least 2 years.

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

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

1. The name, address, and license number of the dairy plant from which the shipment originates. If the dairy product is a grade A dairy product, the shipping document shall also include the dairy plant shipper identification number assigned under the PMO.
2. The bulk milk tanker identification number assigned under ch. ATCP 82 or the PMO.
3. The name of the dairy product shipped.
4. The weight of the dairy product shipped.
5. The temperature of the dairy product when loaded for shipment.
6. The date of shipment.
7. The name of the dairy regulatory agency at the shipment point of origin.
8. Whether the dairy product is raw, pasteurized, or heat-treated.
9. The grade of product.
10. The seal number on the bulk milk tanker inlet, outlet, wash connections, and vents.

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

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: am. (1) (g), cr. (1) (L) and (m) Register December 2002 No. 564, eff. 1-1-03; CR 06-028: am. (1) (a) Register November 2006 No. 611, eff. 12-1-06; CR 07-006: am. (1) (j), cr. (1) (n) and (o), am. (2), Register January 2008 No. 625, eff. 2-1-08.

#### ATCP 80.56 Dairy plant reports to department.

(1) A dairy plant operator shall submit all of the following reports to the department:

- (a) Reports required for the issuance or renewal of a dairy plant license or grade A permit under s. ATCP 80.02.
- (b) Financial statements and reports required under ch. ATCP 100, if any.
- (c) Milk quality test reports required under subch. IV of ch. ATCP 60, and dairy farm inspection reports required under s. ATCP 60.24.

(2) (a) Except as provided in par. (b), a dairy plant operator shall report to the department the result of any microbiological test or laboratory analysis that confirms the presence of a pathogenic organism or toxin in a ready-to-eat dairy product produced by the operator. The operator shall report to the department within 24 hours after the operator obtains the test result. The operator may report orally, electronically, or in writing.

(b) A dairy plant operator is not required to report a test result under par. (a) if all the following apply:

1. The ready-to-eat dairy product is identified by a product code or production lot number and remains under the control or custody of the dairy plant operator.

2. The operator does not sell or distribute any ready-to-eat dairy product that bears the product code or production lot number under subd. 1.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-058: renum. (intro) and (1) to (3) to be (1) (intro.) and (a) to (c), cr. (2), r. (4), Register August 2002 No. 560, eff. 9-1-02.

**ATCP 80.58 Confidential information.** (1) The following information, received by the department from a dairy plant operator, is closed to public inspection under s. 19.35, Stats.:

(a) Financial information protected from disclosure under s. 126.84 (1) (a), Stats.

(b) Information qualifying as a trade secret as defined in s. 134.90 (1) (c), Stats.

(2) The following information, received by the department from a dairy plant operator, is closed to public inspection under s. 19.35, Stats., unless the department determines that inspection is necessary to protect the public health, safety, or welfare:

(a) Information that identifies individual milk producers who deliver milk to the dairy plant operator if the information is in the form of a composite list identifying those producers with that dairy plant operator, except as provided under s. 126.70 (6), Stats.

**Note:** See s. 97.20 (3m), Stats.

(b) Information pertaining to individual milk producer production and milk quality records if that information identifies the producer.

**Note:** See s. 97.22 (10), Stats.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94; corrections in (1) (a) and (2) (a) made under s. 13.93 (2m) (b) 7., Stats., Register December 2002 No. 564.

### Subchapter VII — Inspection and Enforcement

#### ATCP 80.60 License suspension or revocation.

(1) The department may suspend or revoke a dairy plant license or grade A permit for cause, as provided under s. 93.06 (7), Stats. Cause may include, but is not limited to:

- (a) A violation of this chapter, ch. ATCP 60 or 100.
- (b) Interference with lawful inspection or sampling by the department or certifying agency, or refusal to permit lawful inspection or sampling by the department or certifying agency.
- (c) Refusal to permit the lawful inspection or copying of documents under s. ATCP 80.54 (2).
- (d) Failure to pay fees required under s. ATCP 80.04.

**Note:** The procedure for suspending or revoking a dairy plant license or grade A permit is specified in ch. ATCP 1.

(2) The suspension or revocation of a dairy plant license automatically suspends or revokes any grade A permit which the dairy plant operator holds for that dairy plant.

**Note:** Violations of this chapter may also result in court prosecution under s. 97.72 or 97.73, Stats.

**History:** Cr. Register, November, 1994, No. 467, eff. 12-1-94.

#### ATCP 80.62 Grade A dairy plants; compliance monitoring.

(1) **AUDIT SURVEYS BY CERTIFYING AGENCY.** (a) *Requirement.* The department shall perform audit surveys of grade A dairy plants, and the dairy farms shipping milk to those dairy plants, to establish a grade A sanitation compliance rating under this chapter. The department shall survey a grade A dairy plant, and the farms shipping milk to that dairy plant, at all of the following times:

1. Within 20 business days after the department first issues a grade A dairy plant permit to the dairy plant under s. ATCP 80.06.
2. At least once every 2 years after the initial survey under subd. 1.
3. Within 20 business days after the department asks the certifying agency to perform a survey.

(b) *Survey method.* A survey under par. (a) shall include an inspection of the grade A dairy plant, an inspection of a randomly selected statistical sample of dairy farms shipping grade A milk to that dairy plant, and an evaluation of enforcement methods. A survey shall be conducted in compliance with “Methods of Making Sanitation Ratings of Milk Supplies,” 2005 revision, published by the Food and Drug Administration, Public Health Service, United States Department of Health and Human Services.

(c) *Survey rating.* Based on a survey under par. (a), the department shall assign an overall grade A sanitation compliance rating to the dairy plant and the dairy farms that ship milk to that dairy plant.

**Note:** The “Methods of Making Sanitation Ratings of Milk Supplies” is on file with the department and the legislative reference bureau. Copies may be purchased from the Milk Safety Team, HFS–626, Food and Drug Administration, Public Health Service, United States Department of Health and Human Services, 5100 Paint Branch Parkway, College Park, MD 20740–3835. Also available online at <http://www.fda.gov/food/guidanceregulation/federalstatefoodprograms/ucm2007965.htm>.

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

**Note:** Procedures related to the suspension or revocation of a grade A dairy plant permit are set forth in ch. ATCP 1. If a compliance rating falls below 80%, the department may also decertify the dairy plant as an interstate milk shipper. Decertification may prevent the dairy plant operator from shipping grade A dairy products in interstate commerce.

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

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

**Note:** PMO Appendix K describes a voluntary “hazard analysis–critical control point (HACCP)” program for dairy plants. The HACCP program serves as a partial alternative to traditional inspection. If a dairy plant is currently enrolled in the HACCP program, as indicated by the Interstate Milk Shippers List published by the United States food and drug administration, the department is not required to inspect the dairy plant with the normal frequency required under sub. (2)(a). If an enrolled dairy plant fails to comply with HACCP program standards in PMO Appendix H, the food and drug administration may “de-list” the dairy plant from the HACCP program and the department must then inspect the dairy plant at the normal frequency required by sub. (2)(a). PMO Appendix K is on file with the department and the legislative reference bureau. Copies may be obtained from the department at cost or online at <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk>.

(3) **DAIRY PRODUCT SAMPLING; FREQUENCY.** (a) *Pasteurized milk and dairy products; sample testing.* Except as provided in par. (c), the department in every consecutive 6 month period shall collect from every grade A dairy plant at least 4 samples of each pasteurized grade A dairy product produced by that dairy plant. The department shall collect each sample in a separate month,

except that the department may collect 2 of the samples in the same month if it collects those 2 samples at least 20 days apart and collects the other two samples in two other months. Dairy plants producing pasteurized grade A dairy products on an intermittent basis shall notify the department of intended production schedules to facilitate sample collection under this paragraph. The department shall measure and record the temperature of each pasteurized grade A dairy product from which the samples are collected, and shall test the samples for bacteria counts, coliform counts, and beta lactam drug residues. The department may collect additional samples and perform additional tests which the department considers necessary.

(b) *Raw milk held at dairy plant; sample testing.* During every consecutive 6–month period, the department shall collect at least 4 samples of commingled raw milk from each grade A dairy plant that receives raw milk. The department shall collect each sample in a separate month, except that the department may collect 2 of the samples in the same month if it collects those 2 samples at least 20 days apart and collects the other two samples in two other months. The department shall measure and record the temperature of the raw commingled milk from which the department collects each sample, and shall test each sample for bacterial counts and beta lactam drug residues. The department may collect additional samples and perform additional tests which the department considers necessary.

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

**History:** Cr. Register, November, 1994, No. 467, eff. 12–1–94; CR 01–124: am. (1) (b) Register December 2002 No. 564, eff. 1–1–03; CR 04–005: am. (1) (a) (intro.) and (c) Register October 2004 No. 586, eff. 11–1–04; CR 07–006: am. (1) (b) and (d), (3) (a) and (b), r. and recr. (2), cr. (3) (c), Register January 2008 No. 625, eff. 2–1–08.

## Subchapter VIII – Dairy Product Labeling

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

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

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

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

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

**History:** CR 07–006: cr. Register January 2008 No. 625, eff. 2–1–08.