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1 5. The operator provides the custom processing services pursuant to a written agreement
2 with the producer or the producer's agent. The agreement shall clearly state that the producer
3 retains title to all of the custom processed milk and dairy products, and that the producer's milk
4 shipments under the custom processing agreement are not secured under ch. 126, Stats.

5 6. The producer ships, for custom processing under this paragraph, not more than 50
6 percent of the producer's milk production in any month.

7 7. The operator custom processes not more than 5 million pounds of milk under this
8 paragraph in any month.

9 8. The producer or the producer's agent, before shipping milk to the operator for custom
10 processing under this paragraph, notifies the department of the custom processing agreement.

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

14 9. The producer or the producer's agent files a monthly report with the department, on or
15 before the 15th day of the month, reporting the volume of milk delivered to the custom processor
16 during the preceding month. The producer or producer agent shall file a copy of the report with
17 the dairy plant operator to whom the producer is assigned for licensing purposes under par. (a) if
18 that operator is not the one providing the custom processing services.

19 10. The producer or the producer's agent pays to the department the dairy plant milk
20 procurement fees under s. ATCP 80.04(2) that apply to the producer's custom processed milk
21 shipments.

1 11. The producer or the producer's agent pays milk marketing order assessments and
2 other state or federally mandated assessments that apply to the producer's custom processed milk
3 shipments, in the manner prescribed by state or federal law.

4 (8) TEMPORARY DISCONTINUATION OF MILK SHIPMENTS. (a) A dairy plant operator shall
5 notify the department if a milk producer temporarily discontinues milk shipments to the
6 operator's dairy plant without transferring shipments to another dairy plant. The dairy plant
7 operator shall notify the department in writing within 3 business days after the producer
8 discontinues shipments, and within 3 business days after the producer resumes milk shipments.

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

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

15 (9) DAIRY PLANT TERMINATION OF MILK PRODUCER. If a dairy plant operator stops
16 collecting milk from a milk producer for any reason, other than a reason identified in sub. (6),
17 sub. (8), or s. ATCP 60.18(5), 60.19(6), 60.20(6) or 80.20, the dairy plant operator shall notify
18 the department in writing within 3 business days after receiving the last shipment of milk from
19 that producer. The department shall summarily revoke the milk producer's license 30 days after
20 that last milk shipment date unless, by the scheduled revocation date, the milk producer is
21 shipping milk to another dairy plant operator to whom the producer is assigned for licensing
22 purposes under this section. The department shall give the producer a written revocation notice
23 at least 5 business days prior to the effective date of the notice.

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

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

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

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

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

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

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

18 (b) A grade A producer may concurrently ship milk to more than one dairy plant
19 operator if the producer and dairy plant operators comply with s. ATCP 60.02(7).

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

21 ATCP 60.03(6) TEMPORARY DISCONTINUATION OF MILK SHIPMENTS. (a) A dairy plant
22 operator shall notify the department if a grade A milk producer temporarily discontinues milk
23 shipments to the operator's dairy plant without transferring milk shipments to another dairy

1 plant. The dairy plant operator shall notify the department in writing within 3 business days
2 after the producer discontinues shipments, and within 3 business days after the producer
3 resumes milk shipments.

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

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

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

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

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

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

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

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

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

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

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

19 ATCP 60.07(1) REQUIREMENT. Every dairy farm shall have a milkhouse ~~which shall be~~
20 ~~used for cooling and storing milk.~~ Except as provided in s. ATCP 60.11(4), a milk producer
21 shall cool and store milk in the milkhouse. A milkhouse shall be separate from a milking barn or
22 parlor, but may share common walls with a milking barn or parlor. All equipment and utensils
23 shall be cleaned, sanitized and stored in the milkhouse. This does not apply to C-I-P milk

1 pipelines which are mechanically cleaned in place in a milking barn or parlor, or to C-I-P
2 milking equipment which is mechanically cleaned and stored in a milking parlor under s. ATCP
3 60.06(9)(a).

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

9 (2)(f) *WATER HEATING CAPACITY.* Hot water capacity shall be adequate for all
10 milkhous operations. Hot water heaters or hot water supply systems shall have a capacity of at
11 least 10 gallons for washing equipment and utensils ~~if milk is stored or cooled in cans, 30 gallons~~
12 ~~for manual washing of bulk tanks, 50 gallons for mechanical washing of bulk tanks, and 75~~
13 ~~gallons for cleaning C-I-P equipment.~~ Alternative The department may authorize alternative
14 systems, including heat recovery and continuous flow systems, may be authorized by the
15 department in writing if they that provide adequate hot water for all milkhous operations.
16 Authorization shall be in writing.

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

18 ATCP 60.08(5) *WATER QUALITY TESTING BY DAIRY PLANT.* A dairy plant operator shall
19 biennially sample the water supply of each milk producer whose milk is sold or delivered to the
20 dairy plant. The dairy plant operator shall have each sample analyzed at a laboratory ~~certified by~~
21 ~~the department of health and social services~~ that the department has certified under ch. ATCP 77
22 to perform water quality analyses. Water samples shall be analyzed for compliance with the
23 health-related drinking water standards under s. NR 809.30. The dairy plant operator shall submit

1 each water quality test result to the department within 30 days after the test result is received by
2 the dairy plant receives the laboratory report. If the analysis of any water sample indicates that
3 the water supply of a dairy farm may be unsafe, the dairy plant shall report the test results to the
4 department within 3 business days, and shall ~~have the water supply promptly resampled~~ resample
5 ~~and analyzed~~ analyze the water supply.

6 **SECTION 17.** ATCP 60.08(6) is created to read:

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

- 9 1. The recirculated water originates from a safe source that complies with ch. NR 811 or
10 NR 812.
- 11 2. The recirculated water is bacteriologically safe at all times.
- 12 3. The recirculated water is protected from contamination.
- 13 4. Freezing point depressants used in the recirculating water system are nontoxic.
- 14 5. The milk producer tests the recirculated water for bacterial contamination at least
15 semi-annually.

16 (b) If a recirculating water system under par. (a) becomes contaminated, the milk
17 producer shall stop using the system until all the following conditions are met:

- 18 1. The producer eliminates the contamination source and treats the recirculated water.
- 19 2. The producer retests the recirculated water to determine whether the contamination is
20 eliminated.
- 21 3. Retesting shows that the recirculated water complies with the bacteriological
22 standards under paragraph (c).

23 (c) Recirculated water shall meet all the following bacteriological test standards:

1 1. The most probable number (MPN) of coliform organisms shall be less than 1.1 per
2 100 ml. using the multiple tube fermentation technique, or less than 1 per 100 ml. using the
3 membrane filter technique.

4 2. Bacteriological testing using the membrane filter technique shall show not more than
5 200 total bacteriological colonies per 100 ml.

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

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

9 ATCP 60.09(1) CONSTRUCTION; GENERAL. Equipment and utensils shall be constructed
10 of smooth, non-absorbent, corrosion-resistant and non-toxic materials. Equipment and utensils
11 shall be designed and constructed for easy cleaning and durability under repeated conditions of
12 use. Surfaces shall be free of breaks and corrosion. Joints and seams shall be smooth and flush.
13 Milk pails used for hand milking and stripping shall be seamless and of a hooded type. Multiple-
14 use woven material shall not be used for straining milk. Milking and milk handling systems
15 shall comply with s. ATCP 60.10.

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

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

2 **NOTE:** Guidelines for the sanitary design and construction of milking and milk
3 handling systems are set forth in the "3-A Accepted Practices for the Design,
4 Fabrication and Installation of Milking and Milk Handling Equipment," published
5 jointly by the International Association of Milk, Food and Environmental
6 Sanitarians for Food Protection, Inc., and the Food and Drug Administration,
7 Public Health Service, U.S. Department of Health and Human Services. Milking
8 and milk handling systems manufactured in compliance with the "3-A Accepted
9 Practices" meet the sanitary design and construction requirements of this
10 subsection. Copies of the "3-A Accepted Practices," as amended effective June
11 14, 1977, November 23, 1996, are on file with the department, the secretary of
12 state and the revisor of statutes. Copies may be obtained from the International
13 Association of Milk, Food and Environmental Sanitarians for Food Protection,
14 Inc., P.O. Box 701, Ames, Iowa 50010 6200 Aurora Avenue, Suite 200W, Des
15 Moines, IA, 50322-2863; Telephone 1-800-369-2863.
16

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

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

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

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

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

22 **ATCP 60.11(1)(title) BULK TANK CONSTRUCTION.**

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

24 ATCP 60.11(2)(c) A bulk tank shall be equipped with an accurate thermometer which
25 indicates milk temperatures. The thermometer shall have a minimum range of 32° F. (0° C.) to
26 80° F. (27° C.). Bulk tanks manufactured after January 1, 2000, shall be equipped with a
27 recording thermometer. A milk producer shall retain milk temperature records for at least 90
28 days, and shall make the records available to the department for inspection and copying upon
29 request.

30 **SECTION 24.** ATCP 60.11(2)(e)(note) is amended to read:
31

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

13
14 **SECTION 25.** ATCP 60.11(3)(title) is amended to read:

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

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

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

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

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

26
27 (b) The bulk transport container is constructed and maintained according to bulk milk
28 tanker standards under s. ATCP 82.06.

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

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

1 (e) All permanent pipelines connecting the bulk transport container to the milk handling
2 system terminate in the milkhous.

3 (f) The bulk transport container is parked next to the milkhous, to minimize the length
4 of the transport hose between the milkhous and the bulk transport container.

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

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

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

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

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

4 1. Collects a sample of milk from the bulk transport container, according to s. ATCP
5 60.17. Before collecting the sample, the sampler shall agitate the milk to ensure that it is
6 homogeneous.

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

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

11 (m) The dairy plant operator cleans and sanitizes the bulk transport container after each
12 milk shipment, just as the operator would clean and sanitize a bulk milk tanker under s. ATCP
13 82.08. The dairy plant operator shall seal the access port after cleaning and sanitizing the bulk
14 transport container.

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

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

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

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

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

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

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

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

21 (2) If cows, or goats or sheep consume or are treated with chemical, medicinal or
22 radioactive agents which may be secreted in milk, and which may be deleterious to human

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

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

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

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

15 (4) STATIONARY FEEDERS IN COWYARD. Stationary feeders in a cowyard shall be fully
16 surrounded by a paved surface on which cows, goats or sheep stand while feeding. The paved
17 surface shall extend at least 12 feet in all directions from the feeder, except that a paved surface
18 installed before January 1, 1979, shall extend at least 8 feet in all directions from the feeder. If
19 the distance between a feeder and another building or permanent structure is less than the paved
20 surface width prescribed under this subsection, the paved surface shall extend to the building or
21 other permanent structure.

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

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

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

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

7 ATCP 60.15(2) BACTERIAL COUNT. The bacterial count of grade A milk, as determined
8 by a standard baeterial plate count or plate loop count under this subchapter, shall not exceed
9 100,000 per ml. The bacterial count of grade B milk shall not exceed 300,000 per ml. Except as
10 provided under s. ATCP ~~60.18(4)~~ 60.18(5), a dairy plant is not required to reject milk shipments
11 in response to a violation of this subsection unless the department suspends or revokes the milk
12 producer's license or grade A permit, or issues a holding order or disposal order under s. ATCP
13 60.30.

14 (4) SOMATIC CELL COUNT. The somatic cell count of ~~eows~~ cow milk, as determined by a
15 direct microscopic somatic cell count (DMSCC), ~~or~~ an electronic somatic cell count (ESCC) or
16 an optical somatic cell count (OSCC) under this subchapter, shall not exceed 750,000 cells per
17 ml. The somatic cell count of goat milk, as determined by the Pyronin Y Methyl green stain test,
18 shall not exceed 1,000,000 cells per ml. Except as provided under s. ATCP 60.20(4), a dairy
19 plant is not required to reject milk shipments in response to a violation of this subsection unless
20 the department suspends or revokes the milk producer's license or grade A permit, or issues an
21 order affecting the milk shipments under s. ATCP 10.20(2) or 60.30.

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

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

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

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

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

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

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

18 **ATCP 60.18 Bacteriological testing.** (1) **MONTHLY TESTING REQUIRED.** During every
19 month in which a dairy plant operator receives milk from a milk producer, the dairy plant
20 operator shall perform at least one standard plate count (SPC) or plate loop count (PLC) on a
21 milk sample obtained from the producer under s. ATCP 60.17. A dairy plant operator shall
22 perform tests under this subsection and s. ATCP 80.26(2) on the same milk samples.

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

5 (3) **MONTHLY REPORTING.** For each month in which a dairy plant operator receives milk
6 shipments from a milk producer, the operator shall report to the department and the milk
7 producer at least one representative test result under sub. (1) for a milk shipment received in that
8 month. The operator shall report the test result within 14 days after the operator obtains the test
9 result.

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

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

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

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

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

22 (b) Perform a confirmatory bacteriological test on at least one more sample of milk
23 collected from the milk producer's dairy farm. The operator shall collect the confirmatory

1 sample within 14 days after the date on which the operator collected the original sample. The
2 operator shall report the confirmatory test result to the department and the milk producer within
3 3 business days after the operator obtains the test result.

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

8 (6) DEPARTMENT INSPECTION; REINSPECTION FEE. The department may inspect a dairy
9 farm in response to any bacterial count reported to the department under this section. If the
10 department inspects a dairy farm in response to a confirmatory bacterial count of more than
11 750,000 per ml. under sub. (5), the department shall charge a reinspection fee under s. ATCP
12 60.04. The department may not charge a reinspection fee if the confirmatory bacterial count
13 does not exceed 750,000 per ml., or if the department inspects more than 3 weeks after the
14 department receives the confirmatory bacterial count.

15 **NOTE:** Under s. ATCP 60.27, the food safety division will suspend a producer's grade
16 A farm permit if 3 of the last 5 bacterial counts reported to the department under
17 this section exceed the grade A standard of 100,000 per ml. under
18 s. ATCP 60.15(2). The division will suspend the producer's grade A permit
19 regardless of whether any bacterial count exceeds the immediate response level of
20 750,000 per ml. under this section.

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

28
29 (6) LABORATORY REPORTING. A laboratory that performs tests under this section for a
30 dairy plant operator may report the test results for the dairy plant operator.

1 (7) ELECTRONIC REPORTING. Beginning not later than *[revisor inserts date that is one*
2 *year after the effective date of this recreated section]*, a dairy plant operator or laboratory shall
3 report test results under this section in an electronic form approved by the department.

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

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

11 (5) REJECTED BULK LOAD; DAIRY PLANT RECOVERY FROM PRODUCER. (a) *Dairy plant to*
12 *recover loss.* If a dairy plant operator properly rejects a bulk load of milk under sub. (4), the
13 operator shall recover the value of that bulk load from producers whose milk samples,
14 representing milk shipments contained in that bulk load, test positive for drug residue under sub.
15 (3). The operator shall recover what would have been the value of the bulk load, had the load
16 not tested positive for drug residue. The operator shall also recover any additional bulk load
17 disposal, transportation and testing costs that the operator incurs because the bulk load tests
18 positive for drug residues.

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

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

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

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

11 1. The basis for the deduction.

12 2. The total amount of the deduction.

13 3. The date on which the operator will make each deduction.

14 4. That the operator will meet with the producer to discuss the deduction, at the
15 producer's request.

16 (f) *Meeting to discuss recovery.* A dairy plant operator shall meet with a producer, at the
17 producer's request, to discuss the operator's recovery from that producer under this subsection.

18 The operator shall meet with the producer within 10 days after the producer requests the meeting,
19 unless the producer requests a later meeting date. If the producer contests the validity of the
20 recovery, and the matter is not resolved, the operator shall notify the producer that the producer
21 may request a hearing before the department under par. (g).

22 (g) *Hearing request.* If a producer contests the validity of a dairy plant operator's
23 recovery under this subsection, and if the parties do not resolve the matter after meeting under

1 par. (f), the producer may request a hearing before the department. A request for hearing does
2 not automatically stay a recovery under this subsection.

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

8 (i) *Formal hearing.* If an informal hearing under par. (h) does not resolve the matter, a
9 producer may request a contested case hearing before the department under ch. ATCP 1 and ch.
10 227, Stats. A request for hearing does not automatically stay a recovery under this subsection. If
11 the department grants a producer's request for hearing, the department shall include the producer
12 and the dairy plant operator as parties to the hearing.

13 (j) *Invalid recovery.* If the department finds that a dairy plant operator's recovery under
14 this subsection is invalid, the department may prohibit the recovery or order the dairy plant
15 operator to repay the producer. The food safety division may issue an order under this paragraph
16 after the division holds an informal hearing under par. (h). If the division issues an order under
17 this paragraph, the dairy plant operator may request a contested case hearing under ch. ATCP 1
18 and ch. 227, Stats., to contest the division's order. A request for hearing does not automatically
19 stay the division's order.

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

21 ATCP 60.19(7) REPORTING DRUG RESIDUE FINDINGS; BULK LOADS. If any Within 2
22 hours after a bulk load of milk tests positive for a drug residue under sub. (2), the dairy plant
23 operator shall immediately report the drug test result to the food safety division by telephone or
24 facsimile (FAX) transmission. The dairy plant operator shall confirm the report in writing, in a

1 form approved by the department, within 3 business days after the drug residue test is completed.

2 The report shall indicate the result of the drug residue test, the volume of milk contained in the
3 bulk load, and the dairy plant's disposition of that milk.

4 (8)(b) *Form of report.* Whenever a dairy plant operator is required to report a drug
5 residue test result under par. (a), the dairy plant operator shall immediately report that result to
6 the food safety division by telephone or facsimile (FAX) transmission. The dairy plant operator
7 shall make the report within 2 hours after the drug residue test is completed. The dairy plant
8 operator shall confirm the report in writing, in a form approved by the department, within 3
9 business days after the drug residue test is completed.

10 (10)(a) *Positive test result; general.* For purposes of this section and
11 s. ATCP 60.275, a drug residue test is considered positive if the detected amount of drug residue
12 exceeds the action level specified for that drug under par. (b) or (c). The action levels under
13 ~~par. (b) and (c)~~ do not establish legal tolerances for drug residues in milk, nor do they
14 preclude the department from taking enforcement action where drug residues are present at
15 levels below these action levels.

16 SECTION 37. ATCP 60.19(10)(b) is repealed.

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

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

21	Drug	Action Level (ppb)
22		
23	Ampicillin	10
24		
25	Amoxicillin	10
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Cephapirin	20
Cloxacillin	10
Neomycin+ Neomycin	50 150
Novobiocin	100
Sulfadimethoxine	10
Tylosin	50
Chlortetracycline*	30 300
Oxytetracycline*	30 300
Erythromycin*	50
Gentamicin*	30
Dihydrostreptomycin*	125
Sulfachloropyridazine*	10
Sulfadiazine*	10
Sulfamerazine*	10
Sulfamethazine*	10
Sulfamethizole*	10
Sulfanilamide*	10
Sulfapyridine*	10
Sulfaquinoxaline*	10
Sulfathiazole*	10
Tetracycline*	80

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

43 SECTION 40. ATCP 60.19(11) is created to read:

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

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

4 **ATCP 60.20 Testing for somatic cells.** (1) MONTHLY TESTING REQUIRED. During
5 every month in which a dairy plant operator receives milk from a milk producer, the dairy plant
6 operator shall perform at least one somatic cell count on a milk sample obtained from the
7 producer under s. ATCP 60.17. If the operator tests more than one milk sample each month, the
8 operator shall collect the samples at regular intervals throughout the month. A dairy plant
9 operator shall perform tests under this section and s. ATCP 80.26(2) on the same milk samples.

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

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

19 (4) MONTHLY REPORTING. For each month in which a dairy plant operator receives milk
20 shipments from a milk producer, the operator shall report to the department and the producer at
21 least one representative somatic cell count under sub. (1) for a milk shipment received in that
22 month. The operator shall report the somatic cell count within 14 days after the operator obtains
23 the count.

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

3 (a) The dairy plant operator collects the test sample according to a uniform sampling
4 schedule that the operator applies to all milk producers who ship milk to the same dairy plant.

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

7 (6) IMMEDIATE RESPONSE LEVEL; REPORTING AND FOLLOW-UP. If a somatic cell count
8 under this section or s. ATCP 80.26(2) exceeds 1,000,000 somatic cells per ml. for cow milk, or
9 1,500,000 for sheep or goat milk, the dairy plant operator shall do all the following:

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

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

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

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

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

12
13 (7) LABORATORY REPORTING. A laboratory that performs somatic cell counts under this
14 section for a dairy plant operator may report the somatic cell counts for the dairy plant operator.

15 (8) ELECTRONIC REPORTING. Beginning not later than *[revisor inserts date that is one*
16 *year after the effective date of this recreated section]*, a dairy plant operator or laboratory shall
17 report test results under this section in an electronic form approved by the department.

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

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

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

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

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

1 ATCP 60.22(2) TEST METHODS. Milk testing under ss. ATCP 60.18 to 60.20 shall be
2 conducted using test methods prescribed in "Standard Methods for the Examination of Dairy
3 Products," ~~15th~~ 16th Edition (~~1985~~) (1992), or in "Official Methods of Analysis of the
4 Association of Analytical Chemists (AOAC) International," ~~14th~~ 17th Edition (~~1984~~) (2000).
5 Other tests shall be approved by the department.

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

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

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

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

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

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

1 designee, may issue a waiver under this subsection may be issued by the food division
2 administrator or the administrator's designee.

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

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

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

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

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

17 (c) The department has not issued any warning to the milk producer under s. ATCP
18 60.275(1) or 60.28(1).

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

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

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

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

- 5 (a) The dairy farm fails to qualify under sub. (1).
- 6 (b) The department has issued no more than one warning to the milk producer under s.
7 ATCP 60.27(1).
- 8 (c) The department has not issued any warning to the milk producer under s. ATCP
9 60.275(1) or 60.28(1).
- 10 (e) No dairy farm inspection report shows more than 5 violations.
- 11 (f) The department has not suspended the producer's grade A dairy farm permit or milk
12 producer license.
- 13 (g) The producer's latest water supply test does not show any violation of s. ATCP
14 60.08.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1
- 2 1. An inspection of the producer's dairy farm reveals gross violations of dairy
- 3 farms standards under subchapter III, or reveals violations which pose an
- 4 acute health risk.
- 5 2. Confirmed bacterial standard plate counts or plate loop counts on the
- 6 producer's milk indicate bacterial counts of more than ~~1,000,000~~ 750,000 per
- 7 ml. in the milk.
- 8
- 9 3. Drug tests on the producer's milk indicate that drug residues are present in the
- 10 milk.
- 11
- 12 4. Milk from the producer's dairy farm is reliably believed to contain pesticides
- 13 or toxic substances that may be harmful to humans.
- 14
- 15 5. An infectious disease, transmissible to humans through milk, is reliably
- 16 diagnosed in the producer's herd.

17 **SECTION 50.** ATCP 60.25(2)(c) and (d) are repealed.

18 **SECTION 51.** ATCP 60.26 is amended to read:

19 **ATCP 60.26 Suspension or revocation of grade A farm permit; general.** A The
20 department may suspend or revoke a milk producer's grade A permit may be suspended or
21 revoked for cause, as provided in s. 93.06 (7), Stats. Except as provided under s. ATCP 60.25,
22 60.27, 60.275 or 60.28, the department may not suspend or revoke a grade A permit may not be
23 suspended or revoked except by order of the secretary or the secretary's designee, after notice
24 and opportunity for hearing under ch. 227, Stats. The food safety division may file a written
25 complaint with the department, seeking the suspension or revocation of a grade A permit.
26 Pending completion of the proceedings, the secretary or the secretary's designee may issue
27 interim orders as necessary to protect the public health, safety and welfare. If an inspection is
28 required for the reinstatement of a grade A permit ~~which~~ that is suspended or revoked under this
29 section, the department shall charge a reinspection fee under s. ATCP 60.04 for the inspection.

30 **SECTION 52.** ATCP 60.27(1) and (4) are amended to read:

1 ATCP 60.27(1) WARNING NOTICE. The food safety division shall mail a written warning
2 notice to a grade A milk producer whenever any of the following occurs:

3 (a) Two of the last 4 bacterial counts reported to the department under s. ATCP 60.18(2)
4 60.18(3) exceed 100,000 per ml., in violation of the standard for grade A milk under s. ATCP
5 60.15(2).

6 (b) Two of the last 4 somatic cell counts reported to the department under s. ATCP
7 ~~60.20(2)~~ 60.20(4) exceed 750,000 somatic cells per ml. for eew's cow milk, or 1,000,000 per ml.
8 for goat milk, in violation of the standard under s. ATCP 60.15(4).

9 (4) SUSPENSION NOTICE. The food safety division shall mail a written notice to a milk
10 producer, suspending the milk producer's grade A permit, if any of the following occurs while a
11 warning notice under subs. (1) and (2) remains in effect:

12 (a) Three of the last 5 bacterial counts reported to the department under s. ATCP
13 ~~60.18(2)~~ 60.18(3) and sub. (3) exceed 100,000 per ml.

14 (b) Three of the last 5 somatic cell counts reported to the department under s. ATCP
15 ~~60.20(2)~~ 60.20(4) and sub. (3) exceed 750,000 somatic cells per ml. for eew's cow milk, or
16 1,000,000 per ml. for goat milk.

17 **SECTION 53:** ATCP 60.27(4)(note) is amended to read:

18 **NOTE:** This subsection does not prohibit the food safety division from summarily
19 suspending a milk producer's license and grade A permit under s. ATCP 60.25,
20 without prior warning, if the ~~feed~~-division determines that any of the
21 circumstances identified under s. ATCP 60.25 (2) exists.

22
23 **SECTION 54.** ATCP 60.27(6)(a) is amended to read:

24 ~~ATCP 60.27(6)(a) A milk producer whose grade A farm permit is suspended under this~~
25 ~~section for violation of a milk quality standard may file with the department a written request for~~
26 ~~reinstatement of the permit~~ may ask the department to reinstate a grade A farm permit suspended

1 ~~under sub. (4). The producer shall make the reinstatement request shall be made in writing, on a~~
2 ~~form provided by the department under s. ATCP 60.29(4). The reinstatement request shall be~~
3 ~~accompanied by request shall include the result of a milk quality test, performed by the dairy~~
4 ~~plant operator on a milk sample collected after the effective date of the suspension, showing that~~
5 ~~the milk producer is no longer violating the relevant milk quality standard is no longer being~~
6 ~~violated. Within 7 days after the department receives a complete reinstatement request, the~~
7 ~~department shall inspect the dairy farm. The department shall charge a reinspection fee for the~~
8 ~~inspection, pursuant to s. ATCP 60.04. If, upon inspection, it appears that all conditions~~
9 ~~potentially responsible for the milk quality standard violation have been corrected, the inspector~~
10 ~~shall reinstate the producer's grade A farm permit, and shall notify the dairy plant of the~~
11 ~~reinstatement.~~

12 **SECTION 55.** ATCP 60.27(6)(b) is renumbered (c).

13 **SECTION 56.** ATCP 60.27(6)(b) is created to read:

14 ATCP 60.27(6)(b) Within 7 days after the department receives a complete reinstatement
15 request that complies with par. (a), the department shall do one of the following:

16 1. If the producer seeks reinstatement of a grade A permit suspended under sub. (4)(a),
17 the department shall inspect the dairy farm and charge a reinspection fee under s. ATCP 60.04.

18 The inspector shall reinstate the grade A permit if the inspector finds that the producer has
19 corrected all the conditions potentially responsible for the violations cited in the suspension
20 notice. The inspector shall notify the dairy plant operator of the reinstatement.

21 2. If the producer seeks reinstatement of a grade A permit suspended under sub. (4)(b),
22 the department shall reinstate the grade A permit. The department shall notify the producer and
23 the dairy plant operator of the reinstatement.

1 **SECTION 57.** ATCP 60.275(1)(a)(intro.), (1)(b) to (d), (2)(a), (2)(b)1. and (3) are
2 amended to read:

3 ATCP 60.275(1)(a)(intro.) *Requirement.* Whenever the food safety division receives
4 notice under s. ATCP 60.19(8) that a producer milk sample has tested positive for a drug residue,
5 the food division shall mail a warning notice to that producer. The warning notice takes effect 3
6 days after it is mailed. The warning notice shall include all of the following:

7 (1)(b) *Grade A permit suspension; 21-day notice.* The warning notice under par. (a)
8 shall state that, 21 days after the effective date of the warning notice, the food safety division
9 will suspend the producer's grade A dairy farm permit unless, prior to that date, the producer
10 certifies to the food division that the producer has implemented a drug residue prevention
11 program on the producer's dairy farm in consultation with a licensed veterinarian.

12 (1)(c) *Dairy farm license suspension; 45-day notice.* The warning notice under par. (a)
13 shall state that, 45 days after the effective date of the warning notice, the food safety division
14 will initiate action to suspend the producer's dairy farm license unless, prior to that date, the
15 producer certifies to the food division that the producer has implemented a drug residue
16 prevention program on the producer's dairy farm in consultation with a licensed veterinarian.

17 (1)(d) *Right to informal hearing.* If a producer receiving a warning notice under par. (a)
18 disputes the drug residue findings on which the notice is based, the producer may request an
19 informal hearing to discuss the drug residue findings. A request for hearing does not
20 automatically stay the warning notice. If the producer requests an informal hearing, the food
21 safety division shall hold an informal hearing at the division's nearest regional office or by
22 telephone. The food division shall hold the informal hearing within ~~3~~ 10 business days after the

1 division receives the request for hearing, unless the producer agrees to a later hearing date. The
2 food division may withdraw a warning notice if it appears that the notice was not justified.

3 (2)(a) *Notice suspending permit.* If the food safety division does not receive a producer
4 certification from a producer within the 21-day period specified under sub. (1)(b) within 21 days
5 after the effective date of the warning notice under sub. (1)(a), the food division shall mail a
6 notice to the producer suspending the producer's grade A dairy farm permit. The suspension
7 notice shall comply with s. ATCP 60.29. The suspension notice takes effect 3 days after it is
8 mailed. The food division shall notify the dairy plant operator of the suspension, and shall
9 provide the operator with a copy of the suspension notice.

10 (2)(b)1. If the department suspends a milk producer's grade A dairy farm permit is
11 suspended under par. (a), the producer may file with ask the food safety division a written
12 request for reinstatement of to reinstate the permit. The reinstatement producer shall file the
13 reinstatement request shall be made in writing, on a form provided by the department under s.
14 ATCP 60.29(4). The reinstatement request shall be accompanied by the producer's certification
15 stating request shall certify that the producer has implemented a drug residue prevention program
16 on the producer's dairy farm in consultation with a licensed veterinarian.

17 (3)(a) *License suspension; failure to implement drug residue prevention program.* If the
18 food safety division does not receive a producer certification from a producer within the 45-day
19 period specified under sub. (1)(c) within 45 days after the effective date of the warning notice
20 under sub. (1)(a), the food division shall file a complaint with the department, asking the
21 department to suspend the producer's dairy farm license until the producer implements a drug
22 residue prevention program is implemented.

1 (3)(b) *License suspension; 3 violations within 12 months.* If, within any 12 month
2 period, the food safety division receives 3 notices under s. ATCP 60.19(8) that milk samples
3 from the same producer have tested positive for drug residues, the food division shall file a
4 complaint with the department asking the department to suspend the producer's dairy farm
5 license for at least 30 days.

6 **SECTION 58.** ATCP 60.28(1) and (2) are amended to read:

7 ATCP 60.28(1) WARNING NOTICE. ~~If, upon inspection of a grade A dairy farm, a food~~
8 safety division inspector finds a key violation as defined in s. ATCP 60.01(15) on a grade A
9 dairy farm, the inspector may issue a warning notice to the producer. ~~stating that, if the~~
10 ~~violation is not corrected~~ The warning notice shall state that the department will suspend the
11 producer's grade a permit if the producer does not correct the violation by a deadline date
12 specified in the notice, the producer's grade A permit will be suspended. The inspector shall
13 specify a correction deadline shall be established by the inspector based on the seriousness of the
14 key violation and the time reasonably required to correct the key violation. The correction
15 deadline shall be not less than 3 days nor more than 60 days after a warning notice is issued
16 ~~under this paragraph~~ the inspector issues the warning notice. The inspector shall serve the
17 ~~warning notice shall be served in person or by mail, or shall be prominently posted prominently~~
18 post the notice in the milkhouse. A The inspector shall mail or deliver a copy of the warning
19 ~~notice shall be mailed or delivered to the dairy plant operator.~~ The warning notice shall include a
20 notice of the producer's right to hearing under s. ATCP 60.31.

21 (2) REINSPECTION; SUSPENSION NOTICE. Within 7 days after the correction deadline date
22 specified in the a warning notice under sub. (1), a food safety division inspector shall reinspect
23 the dairy farm to determine whether the producer has corrected each key violation cited in the

1 warning notice ~~has been corrected~~. The department shall charge a reinspection fee for the
2 inspection, pursuant to s. ATCP 60.04. ~~If, upon reinspection,~~ the inspector finds that the
3 producer has not corrected a key violation cited in the warning notice ~~has not been corrected~~, the
4 inspector shall issue a written notice suspending the producer's grade A permit. The suspension
5 ~~becomes effective immediately upon service of the suspension notice under~~ takes effect when the
6 inspector serves the notice on the producer, according to s. ATCP 60.29(6). The inspector shall
7 promptly notify the dairy plant ~~of the suspension operator~~, and may tag the bulk tank to notify
8 the milk hauler of the suspension. ~~A~~ The inspector shall mail or deliver a copy of the suspension
9 ~~notice shall be mailed or delivered to the dairy plant operator~~. A person adversely affected by
10 the suspension notice may request a hearing on the notice as provided under s. ATCP 60.31.

11 **SECTION 59.** ATCP 60.28(3)(note) is amended to read:

12 **NOTE:** ~~This subsection~~ Subsection (3) does not prohibit the food safety division from
13 summarily suspending a milk producer's license and grade A permit under s.
14 ATCP 60.25 without prior warning if the division of food safety determines that
15 any of the circumstances identified under s. ATCP 60.25(2) ~~exists~~ exist.

16
17 **SECTION 60.** ATCP 60.29(intro.) is amended to read:

18
19 ATCP 60.29(intro.) **Suspension notice; requirements.** Whenever the food safety
20 division suspends a milk producer license under s. ATCP 60.25(2), or a grade A farm permit
21 under s. ATCP 60.27 or 60.28, the suspension notice shall comply with the following
22 requirements:

23 **SECTION 61.** ATCP 60.29(1) is repealed and recreated to read:

24 ATCP 60.29(1) **ISSUED BY AUTHORIZED PERSON.** A suspension notice shall be issued by
25 one of the following:

26 (a) The food safety division administrator.

1 (b) A person that the food safety division administrator designates in writing, by name or
2 position.

3 (c) A food safety division inspector if the suspension notice is issued under s. ATCP
4 60.28(2).

5 **SECTION 62.** ATCP 60.29(3) is amended to read:

6 ATCP 60.29(3) TERM OF SUSPENSION; REINSTATEMENT REQUIREMENTS FOR
7 REINSTATEMENT OF LICENSE OR PERMIT. A suspension notice shall indicate the term of the
8 suspension or, if the suspension is for an indefinite term, the conditions ~~which must be met in~~
9 ~~order for the affected milk that the producer must meet in order to obtain reinstatement of the~~
10 ~~milk producer's license or grade A permit. Conditions for reinstatement shall be reasonably~~
11 ~~related to the reasons for which the license or permit is suspended. If the food division~~
12 ~~summarily suspends a milk producer license~~ A summary license suspension notice under s.
13 ATCP 60.25(2), ~~the suspension notice may authorize a dairy plant operator to receive milk from~~
14 ~~the suspended producer on a conditional basis, upon completion of specified inspection or testing~~
15 ~~by the dairy plant, pending full reinstatement by the department~~ pending full reinstatement of the
16 producer's license, provided that the operator performs specified inspections or tests.

17 **SECTION 63.** ATCP 60.30(1) and (2) are amended to read:

18 ATCP 60.30(1) HOLDING ORDER. Whenever a ~~department~~ food safety division inspector
19 has reasonable cause to believe that milk or a milk product examined by the inspector is
20 adulterated or misbranded, and is hazardous to health or misleading to the potential damage or
21 injury of a purchaser or consumer, the inspector may issue a temporary holding order to allow
22 for further testing or examination of the milk or milk product, pursuant to s. 97.12 (2), Stats. A
23 holding order shall be ~~issued~~ in writing, and shall identify the milk ~~which~~ or milk product that is

1 subject to the holding order. ~~A~~ The food safety division may extend or terminate a holding order
2 ~~may be extended or terminated~~ by written notice, as provided in s. 97.12 (2), Stats. Notice A
3 notice extending a holding order may be issued shall be signed by the food division
4 ~~administrator, or a person authorized in writing by the food division administrator.~~ A holding
5 order and every notice extending a holding order shall include a notice of the recipient's right to
6 hearing under s. ATCP 60.31.

7 (2) DISPOSAL ORDER. If analysis or examination shows that milk or a milk product is
8 adulterated or misbranded, and is hazardous to health or misleading to the potential damage or
9 injury of a purchaser or consumer, the food safety division may issue a summary disposal order
10 under s. 97.12(2)(c), Stats., requiring the disposal or other disposition of the milk or milk
11 product. A disposal order may be issued by the inspector who examines the milk, ~~or~~ by the food
12 safety division administrator, or by a person authorized in writing by whom the administrator
13 designates in writing. Where appropriate, an order may require relabeling of misbranded milk in
14 lieu of disposal. A holding order under sub. (1) is not a prerequisite to a disposal order under
15 this subsection. A disposal order shall be issued in writing, and shall include a notice of the
16 recipient's right to hearing under s. ATCP 60.31.

17 **SECTION 64.** ATCP 60.31(1)(title), (1)(intro.) and (2) to (4) are amended to read:

18 ATCP 60.31(1)(title) and (intro.) ~~HEARING REQUEST; PERSONS ADVERSELY AFFECTED BY~~
19 ~~DIVISION OF FOOD SAFETY ACTION.~~ A person adversely affected by any of the following food
20 safety division actions may request ask the department to hold a hearing on the that action:

21 (2) FORM AND TIMING OF REQUEST; EFFECT PENDING HEARINGS. A ~~request for hearing on~~
22 ~~a food safety division action~~ person requesting a hearing under sub. (1) shall be made make that
23 request, in writing, and shall be filed with the department within 10 days after the milk producer

Fiscal Estimate — 2001 Session

<input checked="" type="checkbox"/> Original <input type="checkbox"/> Corrected	<input type="checkbox"/> Updated <input type="checkbox"/> Supplemental	LRB Number Bill Number	Amendment Number if Applicable Administrative Rule Number ch. ATCP 60
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Subject
 Dairy Farms

Fiscal Effect
 State: No State Fiscal Effect

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

<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs — May be possible to absorb within agency's budget. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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Local: No Local Government Costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed rule to amend current dairy farm rules under ch. ATCP 60, Wis. Adm. Code, will not have a major fiscal effect on DATCP or local government. This rule updates existing food safety requirements, and accommodates recent changes in dairy farm operations. It also clarifies the responsibility of dairy plant operators with respect to dairy farms.

DATCP currently licenses and inspects dairy farms under ss. 97.22 to 97.24, Stats., and ch. ATCP 60. This requirement would not change. All milk must be produced under sanitary conditions.

Under current law, a dairy plant operator must submit milk producer license applications, annual license fees, and grade A permit applications on behalf of the milk producer. The dairy plant operator must also test producer milk shipments for drug residues, bacteria, somatic cells and other adulterants, and requires reporting test results to DATCP. This requirement will not change.

Current rules spell out compliance procedures, including notice and appeal procedures. This rule clarifies DATCP compliance procedures related to dairy farms. This rule does not make significant changes in current procedures.

Long-Range Fiscal Implications

None

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Authorized Signature <i>Barbara Knapp</i>	Telephone No. 224-4740	Date (mm/dd/ccyy) 3/22/02

Fiscal Estimate Worksheet — 2001 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number Ch. ATCP 60

Subject
 This rule accommodates recent changes in dairy farm operations.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 None

Annualized Costs:	Annualized Fiscal Impact on State Funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations — Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations — Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
Total State Costs by Category	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
State Revenues	Increased Revenue	Decreased Revenue
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
Total State Revenues	\$	\$ -

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ _____	\$ _____
Net Change in Revenues	\$ _____	\$ _____

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	608/224-4746	32/12/002

Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: Dairy Farms
Adm. Code Reference: ATCP 60
Rules Clearinghouse #: 01-125
DATCP Docket #: 98-R-2

Rule Description

This rule updates food safety requirements, and accommodates recent changes in dairy farm operations. It also clarifies the responsibilities of dairy plant operators with respect to dairy farms. This rule applies to grade A and grade B dairy farms. Grade A dairy farm rules must be consistent with federal requirements under the interstate Pasteurized Milk Ordinance (PMO). This rule:

- Requires out-of-state dairy plant operators to test milk procured in this state from Wisconsin producers, and report test results. Most out-of-state dairy plant operators already do this voluntarily.
- Authorizes milk producers to ship milk to 2 or more dairy plant operators. *Each operator* must comply with testing, reporting and other requirements related to milk shipped to that operator. *One of the operators* must take responsibility for producer licensing functions. That operator must pay the producer's license, grade A permit and re-inspection fees, and must perform initial dairy farm inspections and biennial water supply tests required for licensing purposes. Operators must report producer transfers. An operator who merely "custom processes" dairy products for producers, without marketing or taking title to those dairy products, is exempt from certain requirements.
- Authorizes milk producers (such as grazers) to discontinue milk shipments temporarily, without jeopardizing their license or permit status.
- Extends current rules to cover farms producing milk from sheep (current rules apply to cows and goats).
- Modifies current hot water capacity requirements for dairy farms.
- Authorizes the use of re-circulated water in plate coolers, subject to conditions specified in this rule.
- Authorizes milk producers to milk directly to bulk transport containers, subject to standards specified in this rule.

- Clarifies milk testing and reporting requirements.
- Requires dairy plant operators to respond immediately if a bacteria test on a producer's milk shows more than 750,000 bacteria per ml. (the current "immediate response" level is 1,000,000 per ml.).
- Requires dairy plant operators to report milk quality test reports in electronic form, beginning one year after the effective date of this rule. Many operators currently submit hard copy written reports. The electronic reporting requirement does not apply to drug residue test reports.
- Requires a dairy plant operator to recover, from producers who contaminate milk with drug residues, the full amount of the operator's loss related to that milk. Under current rules, an operator must test bulk loads of milk, reject contaminated loads, and recover at least part of the loss from offending producers. This rule requires the operator to recover the full value of each rejected load (not just part), plus any additional transportation, testing and disposal costs incurred because of the contamination.
- Tightens the current test standard for beta lactam drug residues in milk, and modifies current standards for neomycin, chlortetracycline and oxytetracycline, per federal standards.
- Requires milk laboratories and laboratory analysts to be certified by DATCP, not the Department of Health and Family Services (DHFS). The Legislature recently transferred dairy, food and water lab certification responsibilities from DHFS to DATCP.
- Codifies DATCP's current program of performance-based dairy farm inspection. Under this program, DATCP inspects different farms with different frequency, depending on their performance.
- Updates current sanitation requirements for dairy farms.
- Updates current DATCP administrative procedures.
- Make drafting and organizational changes to clarify and modernize current rules.

Small Businesses Affected by this Rule

This rule affects milk producers or dairy farms, which are businesses that produce raw milk for processing into dairy products. This includes approximately 18,000 dairy farms in this state that are licensed and inspected by the department. Many of these businesses are "small businesses" as defined in s. 227.114(1)(a), Stats.

Effects on Small Business

This rule will not, by itself, have a major impact on small business. This rule merely implements changes in the interstate Pasteurized Milk Ordinance and redrafts existing requirements for dairy farms so they will be easier to read and understand.

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

- Each operator tests milk shipments shipped to that operator, and reports test results. The operator must also comply with other requirements related to those shipments.
- One of the operators files license and permit applications for the milk producer, and pays producer license and reinspection fees. Under this rule, as under current rules, the operator must charge producer reinspection fees back to the producer.

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

This rule authorizes producers to milk directly to a bulk transport container under certain conditions, but does not add any significant new requirements. A dairy farmer or milk producer need not hire additional professional services to comply with this rule. Dairy farms can implement this rule with existing personnel.

Steps to Assist Small Business

The department will provide training to Wisconsin dairy plant field representatives to help them implement the requirements contained in this rule on the dairy farms that ship milk to their dairy plant. This rule primarily clarifies current requirements, so they will be easier to read and understand.

Conclusion

This rule will not, by itself, have a major impact on small business. For the most part, this rule merely implements changes in the interstate Pasteurized Milk Ordinance. A milk producer will not need additional professional services to comply with this rule.

Dated this 22nd day of March, 2002.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Steven B. Steinhoff
Steven B. Steinhoff, Administrator,
Division of Food Safety