

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0306/P2dn  
RCT:wlj:md

December 10, 2010

Jim Emerson:

This is a redraft of the draft relating to the sale of unpasteurized dairy products.

**Permits, licenses, and standards**

In our discussion on November 11, you and Jolene indicated that the draft should not require a grade A permit because under DATCP rules, to get a grade A permit, a farmer must have a contract with a milk processor (the statutes use the term "dairy plant"). A review of DATCP's rules, ch. ATCP 60, Wisconsin Administrative Code, shows that a farmer must also have a contract with a dairy plant to get a milk producer license. I assume that is why, in our December 12 conversation, you indicated that the draft should allow a farmer milking fewer than 20 cows to sell raw milk products without a grade A permit or a milk producer license. I did not change the requirement that a milk producer milking 20 or more cows have a grade A permit.

In our December 20 conversation, you also indicated that a farmer milking fewer than 20 cows should meet the grade A standards other than having a contract with a dairy plant. I am unsure exactly what the draft should provide in this respect, especially because of the central role that dairy plants play in testing a farmer's milk and the water supply.

This version of the draft requires a farmer to comply with the dairy farm standards in subch. III of ch. ATCP 60, Wis. Adm. Code. This subchapter includes requirements related to the barn, milking parlor, milkhouse, equipment and utensils, and milking procedure. Section ATCP 60.08, Wis. Adm. Code, sets forth requirements for a dairy farm's water supply. It requires the dairy plant operator with whom the farmer has a contract to have the water supply tested. For farmers who are not required to have a contract with a dairy plant, the draft should either require the farmer to have the water tested or state that the water testing requirement does not apply. Please let me know which option to include.

Subchapter IV of ch. ATCP 60, Wis. Adm. Code, contains the milk quality standards and the requirements for testing of milk. All the testing is required to be done by the dairy plant operator with whom the farmer has a contract. Should the draft require a farmer who does not have a milk producer license to have the milk tested? If so, should it require all of the tests required in DATCP's rules?

Subchapter V of ch. ATCP 60, Wis. Adm. Code concerns inspection and enforcement. It allows DATCP to suspend or revoke milk producer licenses and grade A permits under certain circumstances. Of course, under current law, if a milk producer license is suspended or revoked, the farmer may not operate as a milk producer. Should this draft address DATCP's authority to inspect a dairy farm that is not required to have a license or to stop the farmer from selling milk products under certain circumstances?

Please let me know if you need a copy of DATCP's rules relating to dairy farms.

### **Milk products**

As requested, the redraft expands the kinds of raw products that may be sold. Also as requested, this draft lists kefir in the definition of "milk products," although I do not see that term used in DATCP's rules. It might be preferable to use the term "cultured milk," which does appear in the rules, if that term covers kefir. Note that under current law, at least some kinds of cheese may be made from raw milk if they are aged for at least 60 days.

I added to the draft an exception from the requirement to have a dairy plant license in order to process or manufacture milk or dairy products for farmers who are authorized to sell unpasteurized milk products. See proposed s. 97.20 (2) (e) 1m., which is modeled on current s. 97.20 (2) (e) 1. Please let me know if you do not want such an exception.

Please contact me with any questions or redraft instructions.

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