

Clearinghouse Rule 24-086

DATCP Docket No. 21-R-13
Rules Clearinghouse No. XX-XXX

Preliminary Rule Draft
October 8, 2024

THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S
PROPOSED ORDER TO ADOPT PERMANENT RULES

PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following rule **to repeal** ss. ATCP 82.04 (9), (9) (a), (9) (b), (10), and (11), 82.08 (3) (c), and 82.10 (2) (c); **to renumber** ss. ATCP 82.10 (8) (b), 82.12 (2) (a), (2) (b), (2) (c), and (2) (d), 82.16 (1), (2), (3), and (4); **to renumber and amend** ss. ATCP 82.10 (8) (c), 82.16 (title); **to amend** ss. ATCP 82.01 (1), (1s), (3), (4), (5), (7), (7m) (b), (8), (9), and (10), 82.02 (5) (b) and (6) (a), 82.04 (1), (2), (6) (a), and (6) (b), 82.06 (1), 82.08 (1) (d), (2) (a), (4) (a), (4) (b), (4) (c), and (6) (b), 82.10 (2) (b), (2) (h), (4) (a), (6) (a), (6) (b), (6) (c), (8) (title), (8) (a), (9) (a), (9) (b), (9) (b) 1., (10), (10) (c), (10) (d), (10) (e), (11) (a), (11) (am) (1), and (11) (am) (4), 82.12 (1) (b) and (1) (c), and (5) (a), 82.14 (title), (1), and (2); **and to create** ss. ATCP 82.01 (4) (a), (4) (b), (4) (c), (4) (d), (9e), (9m), and (9s), 82.08 (1) (e) and (4) (a) 5., 82.10 (2) (b) 1., (2) (b) 2., (2) (b) 3., (2) (b) 4., (8) (b), (8) (b) 1., (8) (b) 2., (8) (b) 2. a., (8) (b) 2. b., (8) (b) 2. c., (8) (b) 2. d., (8) (c), and (9) (c), 82.12 (1) (bm), (2) (a), (2) (b), (2) (b) 1., (2) (c), (2) (c) 1., (2) (c) 2., (2) (c) 2. a., (2) (c) 2. b., (2) (c) 2. c., and (2) (c) 2. d., 82.16 (title), (1), (1) (a), and (1) (b); **relating to** Bulk Milk Collection, Sampling, and Transportation, and affecting small businesses.

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

Statute Interpreted: s. 97.21, Stats. (Milk haulers and milk distributors) and s. 98.146, Stats. (Licensing milk weighers and samplers).

Statutory Authority: ss. 93.07 (1), 97.09 (4), 97.21 (6), and 98.146 (4) Stats.

Explanation of Statutory Authority

The Department has broad general authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. The Department also has general authority under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. The Department

has specific authority to promulgate rules related to milk haulers in s. 97.21 (6), Stats., which allows the Department to establish rules related to the following: fees and regulations for bulk milk tanker operators and milk distributors; standards for the construction, maintenance and sanitary operation of bulk milk tankers, milk distribution vehicles and milk distribution facilities; the design, installation, cleaning and maintenance of equipment and utensils; personnel sanitation; storage and handling of milk and fluid milk products; identification of bulk milk tankers and milk distribution vehicles; and record keeping. The Department has authority under s. 98.146, Stats. to license bulk milk weigher and samplers, and to establish a fee for licensing inspection and reinspections.

Related Statutes and Rules

Wisconsin's milk haulers are governed by ch. 97, Stats. (Food, Lodging, and Recreation). Milk haulers and milk distributors are regulated under s. 97.21, Stats. (Milk haulers and milk distributors). Bulk milk weigher and samplers are governed by ch. 98, Stats. (Weights and Measures). Chapter 65, Wis. Adm. Code (Milk and Milk Products), interprets ch. 97, Stats., as it related to milk and milk products. Chapter 82, Wis. Adm. Code (Bulk Milk Collection, Sampling, and Transportation), interprets ch. 97 and ch. 98, Stats., as it relates to bulk milk collection, sampling, and transportation.

Plain Language Analysis

As of July 2024, Wisconsin has 5,085 licensed grade A milk producers and 785 grade B milk producers. The milk from each of these farms is shipped to one of 50 grade "A" dairy plants and 404 grade B dairy plants. The Department licenses approximately 2,485 bulk milk weigher and samplers (BMWS), 3,265 bulk milk tankers (BMT), and 80 bulk milk tanker cleaning facilities (BMTCF) throughout the state. A BMWS collects official milk samples and may transport raw milk or fluid milk products. A BMT is a mobile bulk container used to transport milk, milk products, whey, or whey cream in bulk. A BMTCF is a facility where a bulk milk tanker or its appurtenances are cleaned and sanitized. All of these groups need to conform, or ensure conformity, to certain requirements including construction, maintenance, cleaning, and sanitation in order to meet applicable food safety requirements.

The Department is proposing to modernize Wis. Admin. Code ch. ATCP 82 with an overhaul of the definitions section, modernization of licensing and documentation requirements, updating of the licensing and fee structure, and enhancement of provisions ensuring proper food safety. Rule revisions also support technological innovations including electronic record keeping devices, in-line sampling systems, and the expanded use of silos while keeping language flexible to account for future enhancements.

This rule aligns Wisconsin's regulations with the U.S. Department of Health and Human Services Public Health Service and Food and Drug Administration *Grade "A" Pasteurized Milk Ordinance* (PMO), 2019 Revision, and neighboring states for licensing and permitting of grade A tankers and bulk milk weigher and samplers. By maintaining consistency with the PMO, Wisconsin's rule is consistent with requirements in Illinois, Iowa, Michigan, and Minnesota.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

The PMO establishes minimum standards for regulation of grade A milk and milk products. States must set regulatory standards equivalent to, or more stringent than, those in the PMO to be allowed to ship grade A milk and milk products in interstate commerce.

Summary of Actions Related to Preliminary Comment Period and Public Hearing on Statement of Scope

The Joint Committee for Review of Administrative Rules did not require a preliminary public hearing and comment period within 10 days after the Statement of Scope (SS 011-23) publication in the Wisconsin Administrative Register on January 30, 2023.

Comparison with Rules in Adjacent States

Illinois

Illinois regulates licensing and permitting of grade A tankers and bulk milk weigher and samplers under the Illinois Compiled Statutes, Grade A Pasteurized Milk and Milk Products Act, (410 ILCS 635/). Illinois completes inspections, and issues a grade A permit after inspection. Illinois charges fees associated with these grade A inspections. Section 5.1 of the Grade A Pasteurized Milk and Milk Products Act states the Illinois Department of Public Health shall charge a fee of \$100 for each permit issued to a milk plant, \$50 for each permit issued to a receiving station, \$25 for each permit issued for a milk tank truck, and \$100 for each certified pasteurizer sealer. In addition to such fees, the Illinois Department of Public Health shall assess a late fee if an application for renewal is received after the expiration date of the existing permit. The late fee shall be \$50 for a permit issued to a milk plant, \$25 for a permit issued to a receiving station, transfer station, or cleaning and sanitizing facility, and \$15 for a permit issued to a milk hauler-sampler. Illinois adopts the PMO as part of their dairy regulations under Illinois Administrative Code Title 77, Chapter I, Part 775.20. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Iowa

Iowa adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weigher and samplers under the Iowa Grade 'A' Milk Inspection Law (91 Acts, ch. 74, § 11). Iowa completes inspections, and issues a grade A permit after inspection. Iowa charges fees associated with these grade A inspections. The Iowa Grade 'A' Milk Inspection Law states the Department shall charge a fee no greater than \$2,000 for each permit issued to a milk plant, no greater than \$400 for a receiving station, no greater than \$20 for a milk hauler, and no greater than \$50 for bulk milk tankers. A reinspection fee exists for all permits required that shall not be greater than \$40. A person who renews a permit and submits any accompanying renewal fee more than 30 days after the date that the renewal period expires shall pay a late fee equal to 10% of the of the permit renewal fee - however, in no instance shall the fee be less than \$25. Iowa adopts the PMO as part of their dairy regulations under Section 192.102 of the Iowa Grade 'A' Milk Inspection Law. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Michigan

Michigan adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weighers and samplers under the Michigan Compiled Laws (MCL), Grade A Milk Law of 2001 (Act 266 of 2001). Michigan completes inspections, and issues a grade A permit after inspection. Michigan charges fees associated with these grade A inspections. Sections 288.501 and 288.503 of the Grade A Milk Law of 2001 state the Michigan Department of Agriculture shall charge a license or renewal fee annually for dairy plants. The fee varies by the amount of production at the plant, but the fee shall not exceed \$1,600 per year. A \$10 late fee may be imposed each business day the application is late; however, the fee shall not exceed \$100. Each receiving station or transfer station must be licensed or permitted at a rate of \$250 per year. Each milk tank truck cleaning facility that cleans milk contact surfaces of milk tank trucks that is not a part of a dairy plant will be licensed or permitted at a rate of \$250 per year - facilities that are a part of a dairy plant do not have to pay a separate licensing fee. Each milk transportation company must be licensed at a rate of \$50 per year. Each milk tank truck must be licensed or permitted at a rate of \$20 each year. A hauler/sampler license shall be issued to anyone picking up and sampling grade A milk, and this license shall incur a fee of \$50 every two years, with an allowance for the initial license fee to be paid in two \$25 installments. The Michigan Department of Agriculture may assess a \$300 fee on any licensee or permittee requiring the

performance of two or more consecutive reinspections or for compliance of items found in violation. Michigan adopts the PMO as part of their dairy regulations under Section 288.490 of the Grade A Milk Law of 2001. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Minnesota

Minnesota adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weighers and samplers under the Minnesota Statutes, Dairy Law (chapter 32D). Minnesota completes inspections, and issues a grade A permit after inspection. Minnesota charges fees associated with these grade A inspections. The Dairy Law states a person collecting milk from a dairy farm and transporting the milk by bulk pickup from farm to plant must obtain a bulk milk hauler and sampler license, which shall include an initial and annual renewal fee of \$60. A \$30 late fee shall be imposed if a late renewal occurs. All farm bulk milk pickup tankers, milk transports, and tankers used to transport milk products must obtain a permit every twelve months at a fee of \$25 per tanker. A pasteurization plant requesting grade A inspection must pay an annual inspection fee of no more than \$500. A manufacturing plant that pasteurized milk or milk by-products must pay an annual fee based on the number of pasteurization units, but the fee must not exceed \$140 per unit. A dairy plant operator must pay a monthly fee of 1.1 cents per hundredweight of milk purchased the previous month. Michigan adopts the PMO as part of their dairy regulations under Section 32D.02(8)(b) of the Dairy Law. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Summary of Factual Data and Analytical Methodologies

The rule changes were developed in response to recent technological advancements, changes to industry best practices, and updates to expectations surrounding food safety. Department staff met with industry representatives including members of the Wisconsin Association of Dairy Plant Field Representatives, the Wisconsin Milk Haulers Association, the Wisconsin Cheese Makers Association, and private industry representatives. Between October 24, 2023 and May 13, 2024, this group met nine times.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

The PMO makes no distinction between large and small businesses in establishing requirements for collection, sampling and transport of grade A milk and milk products.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

The Department believes the changes proposed will have minimal effect on small businesses, as the proposed rule aligns with industry standards. The expanded use of trained industry operators in place of BMWS will reduce the financial burden of obtaining and maintaining a license. The proposed rule includes a modest increase in the licensing and reinspection fee for BMWS (from \$60 to \$75) along with the reinspection fee (\$60 to \$75) and fee for operating without a permit for BMT (\$100 to \$125). In the past 24 months, only seven BMT Reinspections have been conducted. All grade A dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the PMO in order to collect, sample, and transport grade A milk and milk products, and no special accommodation may be made for small businesses.

The Department's Regulatory Review Coordinator may be contacted by:
Email at Bradford.Steine1@wisconsin.gov
Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

Department Contact Person

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Place Where Comments are to Be Submitted and Deadline for Submission:

Comments must be received on or before October 2, 2024 to be included in the record of rule-making proceedings. Submit comments:

By mail to:

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1 SECTION 1. ATCP 82.01 (1), (1s), (3), and (4) are amended to read:

2 **ATCP 82.01 (1)** "Bulk milk tanker" means a mobile bulk container used to transport milk, fluid,
3 milk products, whey, or whey cream in bulk from a dairy farm, or to, or from, a dairy plant in this state.

4 "Bulk milk tanker" includes a ~~mobile bulk~~ container ~~which~~ that is permanently mounted on a motor
5 vehicle or ~~which~~ that is designed to be towed by a motor vehicle, and includes all equipment and

6 accessories related to the ~~mobile bulk~~ container. "Bulk milk tanker" does not include a mobile bulk
7 container ~~which~~ that is used by a milk producer solely to transport that producer's own milk to that milk
8 producer's bulk tank or to a licensed dairy plant operated by that milk producer.

9 **(1s)** "Bulk milk weigher and sampler" means any person who ~~collects official milk samples and~~
10 ~~may transport raw milk from a farm, or raw milk or fluid milk products to, or from, a dairy plant,~~

11 ~~receiving station, or transfer station~~ measures milk for payment purposes, collects official milk samples,
12 or both and is licensed under this chapter.

13 (3) "Dairy farm" means ~~any place where one or more milking animals are kept for the production~~
14 ~~of milk~~ a dairy farm as defined in s. 97.22(1)(a), Stats., operated by a milk producer and includes a
15 milkhouse.

16 (4) "Dairy plant" means any ~~place where a dairy product is manufactured or processed for sale or~~
17 ~~distribution as human food, and includes a receiving station or transfer station~~ of the following:

18 SECTION 2. ATPC 82.01 (4) (a), (b), (c), and (d) are created to read:

19 **ATCP 82.01 (4) (a)** A place where a dairy product is manufactured or processed for sale or
20 distribution as human food.

21 (b) A receiving station.

22 (c) A transfer station.

23 (d) For the purposes of assigning milk producer license application responsibilities, a milk
24 contractor, or any business under par. (a) or (b) of this section, that submits a milk producers license
25 application on behalf of a milk producer and thereby certifies that the milk producer's dairy farm and
26 milking operations comply with applicable requirements of ch. ATPC 65.

27 SECTION 3. ATPC 82.01 (5), (7), (7m) (b), (8), and (9) are amended to read:

28 **ATCP 82.01 (5)** "Milk" means ~~the lacteal secretion of milking animals and includes skim milk~~
29 ~~and cream~~ normal lacteal secretion that is not visibly changed in color, odor, and/or texture, practically
30 free of colostrum, obtained by the complete milking of one or more healthy milking animals, and includes
31 skim milk and cream.

32 (7) "Milk producer" means ~~any person who owns or operates a dairy farm, and sells or~~
33 ~~distributes milk produced on that farm~~ a milk producer as defined in s. 97.22(1)(f), Stats.

34 (7m) (b) Other hooved ~~animals~~ or camelid mammals whose milk is collected and distributed for
35 human consumption.

36 (8) "Processing plant" means a dairy plant ~~engaged in pasteurizing, processing, or manufacturing~~
37 ~~milk or dairy products~~ where dairy products as defined in s. 97.20(1)(h), Stats. are processed.

38 (9) "Receiving station" means a facility ~~which that~~ is designed for the receipt and bulk storage of
39 milk, ~~and which~~ and is used to receive or store milk in bulk. "Receiving station" does not include a
40 processing plant or a facility used to distribute pasteurized milk in bottled or packaged form to
41 consumers.

42 SECTION 4. ATCP 82.01 (9e), (9m), and (9s) are created to read:

43 **ATCP 82.01 (9e)** "Single-farm pick-up" means the one-time transfer of properly cooled milk
44 originating from a single licensed milk producer's milking animals and stored in a bulk milk tank, to a
45 bulk milk tanker owned or operated by the same licensed milk producer, or owned or operated by the
46 producer's dairy plant or milk contractor, and the immediate transportation of that milk to the receiving
47 plant.

48 (9m) "Temperature measuring device" means a device that is designed to measure and display the
49 temperature without the ability to record the temperature of the contents of a vessel.

50 (9s) "Temperature recording device" means a device that is capable of measuring and recording
51 the temperature of the contents of a vessel.

52 SECTION 5. ATCP 82.01 (10) is amended to read:

53 **ATCP 82.01 (10)** "Transfer station" means a facility designed and used solely to transfer milk
54 from one bulk milk tanker or transport container to another without intervening storage.

55 SECTION 6. ATCP 82.02 (5) (b) and (6) (a) are amended to read:

56 **ATCP 82.02 (5) (b)** The reinspection fee under par. (a) is ~~\$60~~75.

57 (6) (a) An applicant for a bulk milk tanker permit shall pay a permit surcharge of ~~\$400~~125 if the
58 department determines that, within 365 days prior to submitting the permit application, the applicant
59 operated a bulk milk tanker without a grade A permit in violation of sub. (1m) or (7).

60 SECTION 7. ATCP 82.04 (1), (2), (6) (a), and (6) (b), are amended to read:

61 **ATCP 82.04 (1)** License required. Except as provided under sub. (2), no person may do either
62 of the following unless that person holds a valid bulk milk weigher and sampler license issued by the
63 department under s. 98.146, Stats., and this section, or issued by an equivalent regulatory agency in
64 another state:

65 **(2)** Buttermaker or cheesemaker; exemption. Subsection (1) does not apply to a person who
66 holds a valid buttermaker or cheesemaker license issued by the department under s. 97.17, Stats. and has
67 passed a field inspection administered by the department or another regulatory agency that grants bulk
68 milk weigher and sampler licenses, within the previous 24 months

69 **(6) (a)** *License fee.* An applicant for a bulk milk weigher and sampler license shall pay a biennial
70 license fee of ~~\$60~~75.

71 **(6) (b)** *Reinspection fee required.* If the department reinspects a bulk milk weigher and sampler
72 because the department finds a violation of ch. 97, Stats., or this chapter, the department shall charge the
73 bulk milk weigher and sampler a reinspection fee of ~~\$60~~75. The reinspection fee is payable when the
74 reinspection is completed, and is due upon written demand from the department. The department may
75 issue a demand for payment when it issues a license renewal application to the bulk milk weigher and
76 sampler.

77 SECTION 8. ATCP 82.04 (9), (9) (a), (9) (b), (10), and (11) are repealed.

78 SECTION 9. ATCP 82.06 (1) is amended to read:

79 **ATCP 82.06 (1)** Sanitary construction. Bulk milk tankers, including equipment and accessories,
80 shall be of sanitary design and construction, and shall comply with *3-A Sanitary Standards for Stainless*
81 *Steel Automotive Transportation Tanks for Bulk Delivery and Farm Pick-Up Service*, No. ~~3A-05-15~~
82 ~~(November 24, 2002)~~ 05-16 (October 31, 2016). This standard is incorporated by reference.

83 SECTION 10. ATCP 82.08 (1) (d) is amended to read:

84 (d) No person may operate a bulk milk tanker ~~unless the tanker bears a tag~~ there is
85 documentation as required under sub. (4) showing that it has been cleaned and sanitized according to this
86 section.

87 SECTION 11. ATCP 82.08 (1) (e) is created to read:

88 **ATCP 82.08 (1) (e)** No person may operate a bulk milk tanker to collect grade A milk unless the
89 tanker has been cleaned and sanitized per this section in a facility that is covered by a grade A permit
90 under sub. (6).

91 SECTION 12. ATCP 82.08 (2) (a) is amended to read:

92 **ATCP 82.08 (2) (a)** A bulk milk tanker, including its pumps and hoses, shall be cleaned and
93 sanitized in a fully enclosed and heated facility. The facility shall have an impervious drained floor. The
94 facility shall have a water supply that meets the requirements of s. ATCP 65.24(8) and (9). The facility
95 shall be equipped with adequate hot and cold water under pressure, a wash vat, pressure sanitizing
96 facilities, and equipment storage racks. Bulk milk tankers may be cleaned and sanitized in the same room
97 where milk is received from those bulk milk tankers.

98 SECTION 13. ATCP 82.08 (3) (c) is repealed.

99 SECTION 14. ATCP 82.08 (4) (a) is amended to read:

100 **ATCP 82.08 (4) (a)** No person may operate a bulk milk tanker ~~unless a cleaning tag is attached~~
101 there is a cleaning tag or other evidence of cleaning that includes all of the following information:

102 SECTION 15. ATCP 82.08 (4) (a) 5. is created to read:

103 **ATCP 82.08 (4) (a) 5.** The identity of the seals or other devices used to secure all access points
104 to the vessel.

105 SECTION 16. ATCP 82.08 (4) (b), (4) (c), and (6) (b) are amended to read:

106 **ATCP 82.08 (4) (b)** ~~The~~ If a cleaning tag is used, the bulk milk tanker shall have ~~a~~ the cleaning
107 tag attached as required under par. (a) to the outlet valve or inside the pump cabinet of the tanker. No

108 person may remove the tag, except as provided in par. (c). Other forms of evidence must be readily
109 accessible and must be retained as provided in par. (c).

110 (4) (c) Whenever a bulk milk tanker operator or bulk milk tanker cleaning facility employee
111 cleans and sanitizes a bulk milk tanker, the last cleaning tag attached to the bulk milk tanker under this
112 subsection shall be removed before attaching a new tag. The removed tag or other form of evidence shall
113 be retained for at least 15 days, at the location where the ~~bulk milk tanker was cleaned and sanitized~~ tag
114 was removed and replaced.

115 (6) (b) A person shall apply for a grade A permit under par. (a) ~~on a form~~ an application
116 provided by the department. The application shall include all of the following:

117 SECTION 17. ATCP 82.10 (2) (b) is amended to read:

118 **ATCP 82.10 (2) (b)** A sample ~~dipper~~ device to collect samples under s. ATCP 82.12. ~~The~~
119 ~~sample dipper shall be kept in a sample dipper well designed for that purpose.~~

120 SECTION 18. ATCP 82.10 (2) (c) is repealed.

121 SECTION 19. ATCP 82.10 (2) (b) 1., (2) (b) 2., (2) (b) 3., and (2) (b) 4. are created to read:

122 **ATCP 82.10 (2) (b) 1.** If using a sample dipper, it shall be kept in a sample dipper well designed
123 for that purpose.

124 **(2) (b) 2.** The sample dipper well shall contain a sanitizing solution of not less than 100 ppm nor
125 more than 200 ppm chlorine or its equivalent. The bulk milk weigher and sampler shall carry a sanitizing
126 solution test kit to test the strength of the sanitizing solution.

127 **(2) (b) 3.** If using a sampling straw, it shall be single use pre-sterilized.

128 **(2) (b) 4.** If using an automatic sampling device, the operator taking the official sample shall have
129 the supplies needed as directed by the manufacturer's instructions.

130 SECTION 20. ATCP 82.10 (2) (h), (4) (a), (6) (a), (6) (b), (6) (c), (8) (title), and (8) (a) are
131 amended to read:

132 **ATCP 82.10 (2) (h)** ~~An adequate supply of forms and a writing device method~~ to prepare milk
133 collection records under sub. (10).

134 **(4) (a)** Before any person receives or collects milk from a dairy farm, where possible, that person
135 shall examine the milk by sight and smell, and shall reject all milk that has an objectionable odor, that is
136 abnormal in appearance and consistency, or that is visibly adulterated.

137 **(6) (a)** ~~Before a bulk milk weigher and sampler collects milk at a dairy farm~~ accepts milk, the
138 bulk milk weigher and sampler shall ~~record~~ ensure the temperature of the milk to be collected, ~~as shown~~
139 ~~on the dairy farm bulk tank indicating thermometer~~ accepted and recorded. If the milk is collected more
140 than 2 hours after the last milking, the bulk milk weigher and sampler shall reject the milk if the milk
141 temperature exceeds ~~45° F. (7° C.)~~ 45 °F. (7 °C.). If milk from 2 or more milkings is collected within 2
142 hours of the last milking, the bulk milk weigher and sampler shall reject the milk if the milk temperature
143 exceeds ~~50° F. (10° C.)~~ 50 °F. (10 °C.). Milk ~~which that~~ does not meet these temperature requirements
144 may be collected if, within 4 hours after collection, the milk has begun to be processed exclusively into
145 milk or dairy products not designated as a grade A dairy product under s. ATCP 65.01 (26) and (27).

146 **(6) (b)** At least once each month, and more often if necessary, a bulk milk weigher and sampler,
147 or a person designated by the dairy plant as defined under this chapter, shall check the accuracy of each
148 dairy farm bulk tank indicating thermometer or other temperature measuring device by measuring the
149 temperature of milk in the bulk tank with ~~the bulk milk weigher and sampler's dial or digital thermometer~~
150 a temperature measuring device that meets the standards of this chapter. The bulk milk weigher and
151 sampler or designated person shall keep a written record comparing the temperatures ~~recorded~~ indicated
152 by the ~~bulk milk weigher and sampler's calibrated~~ thermometer with those ~~recorded~~ indicated by the ~~bulk~~
153 ~~tank thermometer~~ temperature measuring device. ~~The written record shall be kept in the dairy farm~~
154 ~~milkhouse~~ must be readily accessible for at least one year. In the case of a temperature recording device,
155 the accuracy shall be checked every 6 months and verified to be within $\pm 1^{\circ}\text{C}$ (2°F) of the calibrated
156 thermometer.

157 (6) (c) Before a bulk milk weigher and sampler or designated person uses a dial or digital
158 thermometer to measure the temperature of milk ~~in a dairy farm bulk tank at the dairy farm~~, the weigher
159 and sampler or designated person shall sanitize the stem of the thermometer in a sanitizing solution of not
160 less than 100 ppm nor more than 200 ppm chlorine or its equivalent. The bulk milk weigher and sampler
161 shall use the sanitizing solution according to label directions.

162 (8) (title) MEASURING MILK ~~IN THE BULK TANK~~.

163 (8) (a) ~~Before~~ When measuring milk from a bulk tank at the farm, before milk is transferred from
164 a dairy farm bulk tank to a bulk milk tanker, the bulk milk weigher and sampler shall accurately measure
165 the amount of milk in the bulk tank. The bulk milk weigher and sampler shall measure the milk using a
166 gauge rod or other measuring device that is specifically designed and calibrated to measure milk in the
167 bulk tank. Immediately before using a gauge rod, the bulk milk weigher and sampler shall wipe it dry
168 with a clean single-service disposable towel.

169 SECTION 21. ATCP 82.10 (8) (b) and ATCP 82.10 (8) (c) are renumbered to ATCP 82.10 (8) (a)
170 1. and ATCP 82.10 (8) (a) 2., and ATCP 82.10 (8) (a) 2., as renumbered, is amended to read:

171 **ATCP 82.10 (8) (a) 2.** After measuring the milk with a gauge rod or other device, the bulk milk
172 weigher and sampler shall use that measurement to calculate the weight or volume of milk in the bulk
173 tank using the bulk tank manufacturer's conversion chart. The bulk milk weigher and sampler shall have
174 a method to record that weight or volume ~~on a written collection record~~ under sub. (10).

175 SECTION 22. ATCP 82.10 (8) (b), (8) (b) 1., (8) (b) 2., (8) (b) 2. a., (8) (b) 2. b., (8) (b) 2. c., (8)
176 (b) 2. d., and (8) (c) are created to read:

177 **ATCP 82.10 (8) (b)** When measuring at the farm or receiving facility using a department
178 approved in-line measuring device, the bulk milk weigher and sampler shall follow all manufacturer's
179 requirements for the use of that device.

180 (8) (b) 1. The bulk milk weigher and sampler shall ensure the weight or volume is recorded.

181 **(8) (b) 2.** On-farm in-line measuring : The Department may approve a farm to use an on-farm in-
182 line measuring device to obtain the volume of milk from the dairy farm. The department may not approve
183 the dairy farm to use an in-line measuring device unless all of the following apply:

184 **(8) (b) 2. a.** At least one individual at the farm is a licensed bulk milk weigher and sampler under
185 this chapter.

186 **(8) (b) 2. b.** The in-line measuring device in use has been approved by the department to produce
187 a representative sample.

188 **(8) (b) 2. c.** The licensed bulk milk weigher and sampler(s) shall train all personnel who work
189 with any part of the in-line measuring device and maintain records of the training.

190 **(8) (b) 2. d.** All dairy farm personnel working with the in-line measuring device shall follow all
191 manufacturer's instructions for the device in use.

192 **(8) (c)** When measuring the milk by weight at a receiving facility, the facility shall use a certified
193 scale. The tanker shall be weighed when full and again after it has been emptied. Care must be taken to
194 assure that the configuration of the tanker is taken into account for both weighings.

195 SECTION 23. ATCP 82.10 (9) (a), (9) (b), and (9) (b) 1. are amended to read:

196 **ATCP 82.10 (9) (a)** ~~Before milk is transferred from a dairy farm bulk tank to a bulk milk tanker~~
197 Using an approved sampling method, a bulk milk weigher and sampler shall collect a representative
198 sample of ~~that~~ milk from the bulk tank or bulk milk tanker for testing. The bulk milk weigher and
199 sampler shall collect the test sample according to s. ATCP 82.12.

200 **(9) (b)** ~~No~~ If sampling takes place directly from the bulk tank, no additional milk may be added
201 to the bulk tank until after all of the following:

202 **(9) (b) 1.** Sampling ~~and measuring~~ has occurred.

203 SECTION 24. ATCP 82.10 (9) (b) (1) (m) is created to read:

204 **(9) (b) 1. m.** If the tank is going to be measured, the measuring has occurred

205 SECTION 25. ATCP 82.10 (9) (c) is created to read:

206 **ATCP 82.10 (9) (c)** If sampling and measuring takes place downstream from the bulk tank by
207 approved in line sampling and measuring devices, pre-cooled milk may be added to the bulk tank during
208 the loading of the milk.

209 SECTION 26. ATCP 82.10 (10), (10) (c), (10) (d), (10) (e), (11) (a), (11) (am) 1., and (11) (am) 4.
210 are amended to read:

211 **ATCP 82.10 (10) MILK COLLECTION RECORD.** ~~Whenever a bulk milk weigher and sampler~~
212 ~~collects a milk shipment from a dairy farm, the bulk milk weigher and sampler shall make a written or~~
213 ~~electronic collection record for that shipment. One duplicate or electronically printed copy of the~~
214 ~~collection record shall be posted in the dairy farm milkhouse, and an identical copy shall be provided to~~
215 ~~the dairy plant operator when the milk is delivered to a dairy plant. Before a bulk milk weigher and~~
216 ~~sampler accepts milk, the bulk milk weigher and sampler shall ensure the following information regarding~~
217 ~~the milk to be accepted is recorded. The information shall be readily available at the dairy farm and~~
218 ~~provided to the dairy plant operator before or at the time the milk is delivered to the dairy plant. The~~
219 ~~collection record shall be legibly signed or initialed by~~ include the legible unique identifier of the bulk
220 milk weigher and sampler and shall include all of the following:

221 **(10) (c)** The date and time when the milk was sampled and ~~collected~~ accepted.

222 **(10) (d)** The temperature of the milk when ~~collected~~ accepted, as determined by the bulk milk
223 weigher and sampler under sub. (6).

224 **(10) (e)** The weight or volume of milk ~~collected~~ accepted, as determined by the bulk milk
225 weigher and sampler under sub. (8).

226 **(11) (a)** ~~After~~ When collecting milk from a farm bulk tank, after a bulk milk weigher and
227 sampler has sampled milk from a dairy farm bulk tank under sub. (9) and prepared a complete collection
228 record under sub. (10), the bulk milk weigher and sampler may transfer milk from that bulk tank to the
229 bulk milk tanker. A bulk milk weigher and sampler may not collect milk from any container on a dairy
230 farm other than from a bulk tank. Except as provided in par. (am), partial removal of milk from the bulk

231 tank shall only be permitted if the bulk tank is completely emptied, cleaned, and sanitized prior to the
232 addition of more milk to the bulk tank.

233 (11) (am) 1. The bulk tank is equipped with a 7 day recording device approved by the department
234 as specified in s. ATCP 65.14-(6)-16(3).

235 (11) (am) 4. The bulk milk weigher and sampler indicates the time and date on the ~~recorder~~
236 recording chart or electronic record when a partial pickup is made and when the bulk tank is emptied.

237 Section 27. ATCP 82.12 (1) (b) is amended to read:

238 **ATCP 82.12 (1) (b)** A bulk milk weigher and sampler who collects milk from a dairy farm bulk
239 tank using a dipper shall collect the milk sample under par. (a). The bulk milk weigher and sampler shall
240 collect the milk sample from the bulk tank before the bulk milk weigher and sampler transfers the bulk
241 tank contents to a bulk milk tanker. The bulk milk weigher and sampler shall collect the sample
242 according to sub. (2). The milk sample may not be commingled with a milk sample from any other bulk
243 tank.

244 Section 28. ATCP 82.12 (1) (bm) is created to read:

245 **ATCP 82.12 (1) (bm)** A bulk milk weigher and sampler who collects milk using an in-line
246 sampling device shall collect the milk sample under par. (a). The bulk milk weigher and sampler shall
247 collect the milk sample from a department approved in-line sampling device following the procedures set
248 forth by the department for that type of sample. The milk sample may not be commingled with a milk
249 sample from any other bulk tank.

250 Section 29. ATCP 82.12 (1) (c) is amended to read:

251 **ATCP 82.12 (1) (c)** If a milk producer milks directly to a bulk milk tanker, an individual licensed
252 under s. 98.146 or 97.17, Stats., shall collect a milk sample under par. (a) from the bulk milk tanker
253 before the tanker contents are commingled with milk from any other milk producer. The individual shall
254 collect the sample according to sub. (32). The milk sample may not be commingled with a milk sample
255 from any other bulk milk tanker or dairy farm bulk tank.

256 Section 30. ATCP 82.12 (2) (a) is created to read:

257 **ATCP 82.12 (2) (a)** Sampling procedure, dipper

258 Section 31. ATCP 82.12 (2) (a), ATCP 82.12 (2) (b), ATCP 82.12 (2) (c), ATCP 82.12 (2) (d) are
259 renumbered to ATCP 82.12 (2) (a) 1., ATCP 82.12 (2) (a) 2., ATCP 82.12 (2) (a) 3., and ATCP 82.12 (2)
260 (a) 4.

261 Section 32. ATCP 82.12 (2) (b), (2) (b) 1., (2) (c), (2) (c) 1., (2) (c) 2., (2) (c) 2. a., (2) (c) 2. b.,
262 (2) (c) 2. c., and (2) (c) 2. d. are created to read:

263 **ATCP 82.12 (2) (b)** Sampling procedure, silo

264 **(2) (b) 1.** The bulk milk hauler and sampler shall collect the sample from the dairy farm silo after
265 the silo contents have been thoroughly mixed to ensure that the sample is representative. If the silo
266 manufacturer has agitation recommendations that have been accepted by the department, the silo shall be
267 agitated in the bulk milk weigher and sampler's presence for the length of time specified by the
268 manufacturer. If the silo manufacturer has not specified an agitation time, or the agitation time
269 recommended by the manufacturer has not been found to be acceptable, there shall be an alternative
270 sampling means that accurately represents the milk on the load.

271 **(2) (c)** Sampling procedure, in-line sampler

272 **(2) (c) .1.** Truck mounted in-line sampling: The bulk milk weigher and sampler shall collect a
273 sample from each dairy farm following the manufacturer's instructions for the proper operation for the
274 sampling device in use. The in-line sampling device must be approved by the department to produce a
275 representative sample for each dairy farm while preventing carry-over from one farm sample to another
276 on multiple farm loads.

277 **(2) (c) 2.** On-farm in-line sampling: The department may approve a farm to use an on-farm in-line
278 sampling device to obtain the sample from the dairy farm. The department may not approve the dairy
279 farm to use an in-line sampling device unless all of the following apply:

280 (2) (c) 2. a. The department has licensed at least one individual at the farm as a bulk milk weigher
281 and sampler.

282 (2) (c) 2. b. The in-line sampling device in use has been approved by the department to produce a
283 representative sample.

284 (2) (c) 2. c. The licensed bulk milk weigher and sampler(s) shall train all personnel who work
285 with any part of the in-line sampling device and maintain records of the training.

286 (2) (c) 2. d. All dairy farm personnel working with the in-line sampling device shall follow all
287 manufacturer's instructions for the device in use.

288 Section 33. ATCP 82.12 (5) (a) is amended to read:

289 **ATCP 82.12 (5) (a)** A producer identification number, assigned by the dairy plant operator, ~~that~~
290 which uniquely identifies the milk producer.

291 Section 34. ATCP 82.14 (title), (1) and (2) are amended to read:

292 **ATCP 82.14 (title) Delivering milk or milk products to dairy plant.**

293 (1) Except in the event of a traffic accident, vehicle breakdown, or similar emergency, no milk or
294 milk products from a bulk milk tanker may be unloaded from a bulk milk tanker or transferred to another
295 bulk milk tanker at any place other than a dairy plant licensed under s. 97.20, Stats., and s. ATCP 65.04,
296 or a dairy plant licensed under equivalent laws of another state. If milk is unloaded or transferred at any
297 location other than a licensed dairy plant, the person having custody of the milk shall notify the
298 department of that unloading or transfer before that milk is processed or shipped to any other location.

299 (2) Milk or milk products shall be unloaded or transferred from a bulk milk tanker in a manner
300 that avoids contamination of milk or milk contact surfaces. Air entering a bulk milk tanker when the
301 tanker is unloaded shall be filtered to prevent contamination of milk and milk contact surfaces.

302 Section 35. ATCP 82.16 (title), (1), (1) (a), and (1) (b) are created to read:

303 **ATCP 82.16 (title) Records.**

304 (1) An operator shall keep all records for the time frames required under this chapter and shall
305 make them available to the department for inspection or copying upon request.

306 (1) (a) An operator may keep records in hard copy or electronic format, or both, provided that the
307 department can obtain ready access to the records.

308 (1) (b) An operator shall take reasonable security measures to prevent record loss, damage, or
309 tampering.

310 Section 36. ATCP 82.16 (title), ATCP 82.16 (1), ATCP 82.16 (2), ATCP 82.16 (3), and ATCP
311 82.16 (4) are renumbered to ATCP 82.16 (2), ATCP 82.16 (2) (a), ATCP 82.16 (2) (b), ATCP 82.16 (2)
312 (c), and ATCP 82.16 (2) (d), and ATCP 82.16 (2), as renumbered, has been amended to read:

313 **ATCP 82.16 (2) ~~False-Falsifying~~ samples or records.** No person may do any of the following,
314 or conspire with another person to do any of the following:

315 SECTION 37. EFFECTIVE DATE. This rule adopted in this order shall take effect on the first day
316 of the month following publication in the Wisconsin Administrative Register, pursuant to s.
317 227.22(2)(intro.), Stats.

(END OF RULE TEXT)

Dated this _____ day of _____, 2024.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Randy Romanski, Secretary