

CR 84-99

STATE OF WISCONSIN)
) SS.
DEPARTMENT OF AGRICULTURE,)
TRADE & CONSUMER PROTECTION)

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Donald J. Soberg, Administrator, Trade and Consumer Protection Division, State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order amending rules relating to dairy plant trusteeships, Chapter Ag 7, and relating to dairy plant security, Chapter Ag 8, Wis. Adm. Code, was duly approved and adopted by the Department on June 17, 1986.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 17th day of June, 1986.



Donald J. Soberg, Administrator
Trade and Consumer Protection Division

RECEIVED

ORDER OF THE STATE OF

JUN 17 1986

WISCONSIN DEPARTMENT OF AGRICULTURE,

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TRADE AND CONSUMER PROTECTION

ADOPTING, AMENDING OR REPEALING RULES

To amend ss. Ag 7.02(7) and Ag 8.01(14), (15), (18) and (19),
and to create ss. Ag 7.01 (Note) and Ag 8 (Prefatory Note),
relating to the definition of "producer" for purposes of the dairy
plant security program under s. 100.06, Stats.

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

Under the state's dairy plant security law, s. 100.06, Stats., dairy plants are required to meet certain standards for financial condition, so as to provide reasonable assurance of timely payment to producers for milk and cream purchased by the plant. Under s. 97.20, Stats., "dairy plants" include plants engaged in processing goat milk. However, the financial protections of s. 100.06 extend only to "producers" of milk and cream sold to the plant. While s. 100.06 appears to contemplate coverage of goat milk plants, the term "producer" is not explicitly defined in the statute. Current rules issued under s. 100.06, including Chs. Ag 7 and Ag 8, Wis. Adm. Code, refer only to cow milk producers, and fail to include goat milk producers under their coverage. The rule amendments amend the Ag 7 and Ag 8 definitions of "producer" to include goat milk producers. As a consequence of these amendments, goat milk plants would be subject to the same specific security and trusteeship requirements which are now applicable to cow milk plants under Chs. Ag 7 and Ag 8.

The amendments modify the Ag 7 and Ag 8 definitions of "producer" to make them consistent. Under the Ag 8 amendment (as under current Ag 7), "producer" includes a producer who sells milk and cream to a dairy plant through a marketing agent under a written agency contract.

The rule amendments also correct a statutory reference to the definition in Ag 8 of "dairy plant," which should refer to s. 97.20(1), Stats. rather than 97.04, Stats., and statutory references in the definitions in Ag 8 of "certified financial statement" and "accountant's statements" which should refer to ch. 442, Stats., rather than ch. 135, Stats. The amendments create notes in both rules setting forth the authority for the rules and the penalties for violating the rules.

1 Pursuant to authority vested in the state of Wisconsin
2 department of agriculture, trade and consumer protection by
3 ss. 93.07(1) and 227.014(2)(a), Stats., the state of Wisconsin
4 department of agriculture, trade and consumer protection hereby
5 amends and adopts rules interpreting s. 100.06, Stats., as
6 follows:

7 SECTION 1: Ag 7.01 (Note) is created to read:

NOTE: This chapter is adopted by the department under authority of ss. 93.07(1) and 227.014(2)(a), Stats., to interpret s. 100.06, Stats. Violations of this chapter are subject to the penalties prescribed in s. 100.26(5), Stats.

8 SECTION 2: Ag 7.02(7) is amended to read:

9 (7) "Producer" means any person who produces and sells milk
10 or cream, directly or through a marketing agent acting under a
11 written agency contract, to a dairy plant from one or more cows
12 or goats under ~~such~~ the person's ownership or control.

13 SECTION 3: Ag 8 (Prefatory Note) is created to read:

PREFATORY NOTE: This chapter is adopted by the department under authority of ss. 93.07(1) and 227.014(2)(a), Stats., to interpret s. 100.06, Stats. Violations of this chapter are subject to the penalties prescribed in s. 100.26(5), Stats.

14 SECTION 4: Ag 8.01(14), (15), (18) and (19) are amended to
15 read:

16 Ag 8.01 DEFINITIONS. (14) "Certified financial statement"
17 ~~is~~ means a financial statement prepared by an independent certi-
18 fied public accountant or a public accountant holding a certifi-
19 cate of authority under ch. ~~135~~ 442, Stats., and certified by ~~him~~
20 the accountant as fairly and accurately representing business
21 operations and financial condition of the dairy plant business for

1 which the statement is rendered.

2 (15) "Accountant's statement" ~~is~~ means a financial statement
3 signed and prepared by an independent accountant, other than an
4 accountant licensed under ch. ~~135~~ 442, Stats., and verified by the
5 dairy plant operator employing ~~him~~ the accountant as a truthful
6 and accurate representation of the business operations and finan-
7 cial condition of the dairy plant business for which the statement
8 is rendered.

9 (18) "Dairy plant" ~~is~~ means a dairy plant as defined in
10 s. ~~97.04~~ 97.20(1)(a), Stats.

11 (19) "Producer" ~~is~~ means any person who produces and sells
12 milk or cream, directly or through a marketing agent under a
13 written agency contract, to a dairy plant from one or more cows
14 or goats under ~~his~~ the person's ownership or control.

15 SECTION 5: The rules contained in this order shall take
16 effect on the first day of the month following their publication
17 in the Wisconsin administrative register, as provided in
18 section 227.026(1)(intro), Stats.

19 Dated June 17, 1986.

20 STATE OF WISCONSIN
21 DEPARTMENT OF AGRICULTURE,
22 TRADE AND CONSUMER PROTECTION

23 
24 Donald J. Soberg, Administrator
25 TRADE AND CONSUMER PROTECTION DIVISION

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