

CR 88-102

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

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CERTIFICATION

I, William D. Mathias, Administrator of the Food Division, State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of the Food Division, do hereby certify that the attached rulemaking order creating Ch. Ag 60, Wisconsin Administrative Code, relating to sanitary and quality standards for milk and the production of milk on dairy farms, was duly approved and adopted by the Department of Agriculture, Trade and Consumer Protection on June 7, 1989.

I further certify that the attached copy of the rulemaking order has been compared by me with the original rulemaking order on file in the department, and that the attached copy is a true copy of the entire original order.

Signed this 7 day of June, 1989, at Madison, Wisconsin.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By: William D. Mathias  
William D. Mathias  
Administrator  
Food Division

JM/002/T6

8-1-89



ORDER  
OF THE STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION  
ADOPTING RULES

The Wisconsin department of agriculture, trade and consumer protection hereby adopts the following order to repeal Ag 30 (title), Ag 30.01 to Ag 30.13, Ag 30.15, Ag 30.16, Ag 80.05(1) and (7), Ag 80.07, Ag 80.12(2) and Ag 80.17(5) and (6); to renumber Ag 30.14; to repeal and recreate Ag 80.04(1) and (2), and Ag 80.06(1); and to create ch. Ag 60; relating to sanitary and quality standards for milk and the production of milk on dairy farms.

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

Statutory authority: ss. 93.07(1), 97.09(4), 97.20(4), 97.22(2)(b), (7) and (8); 97.24(3); and 97.52  
Statutory interpreted: ss. 93.06(7) and (8), 97.02, 97.03, 97.12, 97.20, 97.22, 97.24, 97.32, and 97.50.

This rule consolidates current rules for grade A and grade B dairy farms into a single chapter. The rule implements 1987 Wis. Act 399, which established new license, permit and reinspection fee requirements for dairy farms. The rule changes current standards and procedures for milk quality testing, and establishes new inspection and enforcement procedures for grade A and grade B dairy farms. The rule also establishes a procedure by which the department may certify dairy plant employes to inspect dairy farms on behalf of the department.

BACKGROUND

Under current law, milk produced on Wisconsin dairy farms is classified as either grade A or grade B (manufacturing grade) milk. Only grade A milk may be sold for use as fluid milk, or to produce fluid milk products. Grade B milk may be used to produce cheese or other nonfluid milk products. Both grade A and grade B milk must be produced under sanitary conditions, and must meet basic standards of sanitary quality and wholesomeness. However, grade A milk production must also comply with the interstate Pasteurized Milk Ordinance (PMO). Failure to comply with the PMO may result in the decertification of Wisconsin grade A milk shippers, and in a refusal by other states to permit the sale of

Wisconsin grade A fluid milk on interstate markets.

Currently, under the PMO and state law, grade A milk must be produced on farms holding a grade A permit from the department of agriculture, trade and consumer protection (DATCP). Currently, there are nearly 24,000 grade A farms in Wisconsin. Grade A farms must be inspected twice annually by DATCP. DATCP may suspend a grade A farm permit for cause, including violations of dairy farm or milk quality standards. Ordinarily, if a grade A farm permit is suspended, the producer may still produce and ship milk as grade B milk.

Currently, there are approximately 14,000 grade B farms in Wisconsin. Until recently, grade B milk producers were not required to hold any license or permit from DATCP, and were inspected infrequently. However, under 1987 Wis. Act 399, all milk producers are now required to hold a license from DATCP, and DATCP must inspect grade B dairy farms at least once annually. A milk producer's license may be suspended for cause, including violations of grade B dairy farm and milk quality standards. Unlike the suspension of a grade A farm permit, the suspension of a milk producer's license prohibits all sale or shipment of milk from a dairy farm, whether for the grade A or grade B market.

Recent legislation made other significant changes in Wisconsin's dairy farm inspection program. Inspection activities, which were previously funded by general program revenue (GPR), are now funded in significant part by license and inspection fees. The legislature established a license fee of \$22 for every milk producer, and an additional fee of \$13 for every grade A milk producer. The legislature also directed DATCP to charge a "reinspection fee" if DATCP must reinspect a grade A or grade B dairy farm because of law violations. The legislature established a reinspection fee of \$20 for grade A farms and \$22 for grade B farms.

Under 1987 Wis. Act 399, a dairy plant is required to pay all milk producer license fees, grade A permit fees (if any) and reinspection fees (if any) on behalf of the dairy plant's producer patrons. A dairy plant may charge license and permit fees back to producers on a nondiscriminatory basis, upon prior notice to producers. A dairy plant must charge reinspection fees back to producers. DATCP may certify a dairy plant employe to inspect dairy farms on DATCP's behalf, under procedures prescribed by DATCP, and may charge reduced producer license fees to compensate the dairy plant for this service.

#### RULE ANALYSIS

##### License, Permit and Fee Requirements:

This rule codifies current license, permit and fee requirements established under 1987 Wis. Act 399. Every milk producer is required to hold an annual license from DATCP, for which there is an annual fee of \$22. Every grade A milk producer is also required to hold a grade A farm permit from DATCP, for which there is an annual fee of \$13. Milk producer licenses and grade A farm permits, like dairy plant licenses, expire on

April 30 of each year. Whenever DATCP performs a dairy farm "reinspection," as that term is defined in the rule, DATCP must also charge a reinspection fee. The reinspection fee is \$20 for a grade A dairy farm and \$22 for a grade B dairy farm. A reinspection fee is payable when the reinspection is completed, and is due upon written demand from DATCP.

A dairy plant licensed under s. 97.20, Stats., is required to pay milk producer license fees, grade A farm permit fees (if any), and reinspection fees (if any) on behalf of its producer patrons. DATCP may not issue or renew a dairy plant license until the dairy plant has paid all due and payable fees. A dairy plant may charge license and permit fees back to milk producers on a nondiscriminatory basis, upon prior notice to producers. A dairy plant must charge reinspection fees back to producers.

If a dairy plant is not subject to licensing under s. 97.20, Stats. (e.g., because it is located outside of this state), it may voluntarily agree to pay required fees on behalf of its Wisconsin producer patrons. If no dairy plant pays the required fees on behalf of a milk producer, the department may require the producer to pay the fees.

#### Dairy Farm Standards:

Standards for grade A and Grade B dairy farms are currently contained in chs. Ag 80, and Ag 30, Wis. Adm. Code. With a few exceptions, current facility standards for grade A dairy farms are essentially identical to the current facility standards for grade B dairy farms. The most significant difference between current grade A and grade B facility standards pertains to the construction and location of farm wells providing water for milk production.

This rule establishes minimum facility and sanitation standards for grade A and grade B farms, based on current standards under ch. Ag 80 and Ag 30. The rule repeals the current standards, and consolidates them into a single rule. Whenever grade A standards differ from grade B standards, the difference is stated in the consolidated rule. Otherwise, grade B farm standards are the same as grade A farm standards.

The consolidated dairy farm standards are designed to ensure that milk is produced under sanitary conditions. The consolidated standards closely resemble current standards under chs. Ag 80 and Ag 30, Wis. Adm. Code. They include standards for milking barns and parlors, milkhouses, water supplies, equipment and utensils, milking and milk handling systems, bulk tanks, farm premises, milking procedure, milking diseased animals and disposal of abnormal milk. In recognition of the fact that milking parlors have come into widespread use on Wisconsin dairy farms, the rule updates current dairy farm standards to include a more appropriate and explicit treatment of milking parlor facilities and sanitation.

Examination of Milk from Dairy Farms:

Under this rule, as under current rules, a dairy plant must obtain raw milk samples from dairy farms for quality testing purposes. A dairy plant must obtain a test sample from every raw milk shipment which the dairy plant receives from a dairy farm. If milk is collected at the dairy farm, and transported in bulk to the dairy plant, the sample must be collected at the dairy farm by a licensed milk weigher and sampler (or licensed cheesemaker or buttermaker) before the milk is commingled with the milk of others. The person collecting the milk must examine the milk by sight and smell, and must reject any milk which is abnormal or visibly adulterated. If a milk shipment is accepted, the test sample taken from that shipment must be delivered to the dairy plant or its designated laboratory for possible testing.

Every month, a dairy plant must test at least one sample of milk from each dairy farm for bacteria count, somatic cell count and inhibitory substances (antibiotics). In lieu of monthly antibiotic testing of individual producer samples, a dairy plant may conduct an antibiotic test on each commingled bulk shipment of milk received at the plant; if the commingled bulk shipment tests positive for antibiotics, the dairy plant must then test every individual producer sample comprising the bulk shipment. Milk quality testing must be performed in a laboratory which is certified by the department of health and social services under s. 143.15, Stats., and approved by DATCP. A milk quality test must be performed within 36 hours after the sample is collected. Tests must be performed using specified test methods. Somatic cell counts must be performed using a direct microscopic somatic cell count (DMSCC) or an electronic somatic cell count (ESCC). The Wisconsin mastitis test (WMT), which is currently allowed as a screening test for somatic cell count, will no longer be allowed for use in determining somatic cell counts under this rule.

Under this rule, the dairy plant must report monthly test results to DATCP and the producer. (Inhibitory substance test results must be reported if they are positive.) For the first time, a dairy plant must report monthly test results for grade B producers as well as grade A producers. (Under current rules, only grade A test results are reported to DATCP on a monthly basis.) If, for any given quality indicator, the dairy plant tests more than one sample per producer per month, the dairy plant must report a representative test result to DATCP. Test results must normally be reported to the producer and DATCP within 10 days after the test is completed. If a test result exceeds a specified "immediate response level," the result must be reported to the producer and DATCP within 3 business days after testing is completed. A dairy plant must keep records of all test results for at least 2 years, and must make the results available for inspection and copying by DATCP upon request.

Milk Quality Standards:

This rule establishes more stringent standards of milk quality for both grade A and grade B milk, as measured by several quality indicators. The new standards for grade A and grade B cow's milk are as follows:

	<u>Milk Quality Standards</u>	
	<u>Grade A</u>	<u>Grade B</u>
Bacterial count:	100,000/ml. (same as currently)	300,000/ml. (1,000,000/ml. currently)
Inhibitory substances:	Negative (same as currently)	Negative (same as currently)
Somatic cell count:	750,000 (1,000,000 currently)	750,000 (1,000,000 currently)

Under this rule, the person collecting milk for a dairy plant must regularly test individual producer milk shipments for coarse sediment content, using an appropriate screening test such as Sani-Guide. Test results must be kept on file at the dairy plant, but need not be reported to DATCP. The rule eliminates current official standards and reporting requirements for sediment content, which are based on obsolete test methods.

If a grade A milk producer violates a grade A milk quality standard on 3 out of the last 5 monthly tests, the producer's grade A permit will be suspended. If a grade B milk producer violates grade B standards, the violations may constitute grounds for suspension of the milk producer's license.

Immediate Response Levels:

In addition to the milk quality standards set forth above, the rule sets forth the following "immediate response levels" for cow's milk which, if attained or exceeded on any milk quality test, require immediate action by the dairy plant and DATCP:

	<u>Immediate Response Levels</u>	
	<u>Grade A</u>	<u>Grade B</u>
Bacterial count:	1,000,000	Same
Inhibitory substances:	Detected	Same
Somatic cell count:	1,000,000	Same

If a milk quality test result attains or exceeds any of the above levels, the dairy plant must report the test result to the producer and DATCP within 3 business days after the test is completed. If a producer sample tests positive for inhibitory substances, the dairy plant must immediately reject all further milk shipments from that producer until a subsequent sample tests negative. If either a bacterial count or a somatic cell count exceeds 1,000,000 per ml., the dairy plant must perform a confirmatory test on another sample taken within a week of the first sample. If the confirmatory count again exceeds 1,000,000, the dairy plant must reject all further milk shipments from the producer until the count on a subsequent test is not more than 1,000,000.

DATCP may, in its discretion, inspect a dairy farm in response to any milk quality test result reported to DATCP. If DATCP inspects a dairy farm in response to a positive inhibitory substance test on a confirmatory sample, DATCP may charge a reinspection fee for the inspection. Likewise, if DATCP inspects a dairy farm in response to a confirmatory bacterial count or somatic cell count of more than 1,000,000, DATCP may charge a reinspection fee for the inspection.

#### Inspection of Dairy Farms; General

Under the PMO and this rule, DATCP is required to inspect every grade A dairy farm at least once every 6 months. Under 1987 Wis. Act 399 and this rule, DATCP is also required to inspect every grade B dairy farm at least once annually. DATCP may certify a dairy plant employe as a "special dairy farm inspector" to make inspections on behalf of DATCP. An inspection by a "special dairy farm inspector" may serve in lieu of one DATCP inspection per year per dairy farm. If a certified dairy plant employe inspects a dairy farm on behalf of DATCP, the annual license fee for that dairy farm is reduced by \$15 (from \$22 to \$7).

#### Suspension or Revocation of Milk Producer License

Under this rule, a milk producer's license may be suspended or revoked for cause, including serious or continued violations of grade B farm standards or grade B milk quality standards. Suspension or revocation of a milk producer's license prohibits all sale or shipment of milk from a dairy farm, whether for the grade A or grade B market. Except as otherwise provided in the rule, a milk producer's license may not be suspended or revoked except by order of the DATCP Secretary, after a full evidentiary hearing under ch. 227, Stats. The Secretary's suspension or revocation order is subject to judicial review.

Under this rule, the DATCP food division may summarily suspend a milk producer's license without prior hearing if the food division finds that any of the following circumstances exists: (1) there is an imminent health hazard which is likely to continue if the license is not summarily

suspended; (2) the producer has willfully refused to permit inspection or sampling authorized by law; (3) the producer has physically assaulted an inspector; or (4) despite a reasonable notice and demand for payment, the producer has not paid license or reinspection fees for which the producer is liable (e.g., because they were not paid by the producer's out-of-state dairy plant), if the fees were due and payable prior to the current license year.

A producer adversely affected by a summary license suspension is entitled to a prompt informal hearing upon request. If necessary, the producer is also entitled to a formal hearing under ch. 227, Stats.; however, a request for hearing does not postpone the effective date of a suspension notice.

#### Suspension of Grade A Farm Permit for Repeat Violations of Milk Quality Standards:

The procedure by which the food division suspends a grade A farm permit for repeat violations of grade A milk quality standards is essentially the same under this rule as under current rules. If a grade A milk quality standard for bacteria or somatic cells is violated on 2 of the last 4 monthly test results reported to DATCP, the food division must mail a warning letter to the producer. If a grade A milk quality standard is then violated on 3 of the last 5 test results, the food division must issue a written notice suspending the producer's grade A farm permit. A copy of the suspension notice must be sent to the dairy plant. The suspension becomes effective 3 days after it is issued. The producer is entitled to a prompt informal hearing upon request. If necessary, the producer is also entitled to a formal hearing under ch. 227, Stats.; however, a request for hearing does not postpone the effective date of a suspension notice.

#### Suspension of Grade A Farm Permit for Repeat Violations of Grade A Farm Standards:

This rule codifies DATCP's new procedure for suspending grade A farm permits, where the suspension is based on repeat violations of grade A farm standards. Under the rule, if a food division inspector finds a "key violation" of a grade A farm standard, the inspector will issue a warning notice stating that the producer's grade A farm permit will be suspended unless the violation is corrected by a specified deadline date. A "key violation" is a repeat violation of any grade A farm standard (as determined on 2 consecutive regular inspections), or an initial violation which creates a substantial risk of milk adulteration (whether or not it creates an imminent health hazard).

The deadline for correcting a "key violation" will be not less than 3 days nor more than 60 days after the warning notice is issued. The deadline date will be set by the inspector based on the nature and seriousness of the violation. The warning notice will include a notice of the producer's right to hearing

on the warning notice. The producer is entitled to a prompt informal hearing upon request. If necessary, the producer is also entitled to a formal hearing under ch. 227, Stats.; however, a request for hearing does not postpone any subsequent enforcement action.

Within 7 days after the deadline date specified in the warning notice, the inspector must reinspect the dairy farm. (A reinspection fee will be charged to the dairy plant.) If a cited violation has not been corrected, the inspector will immediately suspend the producer's grade A farm permit. The suspension notice will include a notice of the producer's right to hearing. The producer is entitled to a prompt informal hearing upon request. If necessary, the producer is also entitled to a formal hearing under ch. 227, Stats.; however, a request for hearing does not postpone the effective date of a suspension notice.

#### Reinstatement of Grade A Farm Permit:

A producer may request reinstatement of a grade A farm permit by submitting a written reinstatement request to DATCP. If the grade A permit was suspended for violation of a grade A milk quality standard, the reinstatement request must be accompanied by a dairy plant test result showing that the milk quality standard is no longer being violated. Within 7 days after DATCP receives a reinstatement request, DATCP must inspect the dairy farm. (A reinspection fee will be charged to the dairy plant.) If, upon reinspection, it appears that the producer has corrected the violations (or causative conditions), the producer's permit will be reinstated by the inspector.

#### Other Enforcement Procedures:

This rule codifies certain other enforcement procedures, including holding order procedures and procedures for the identification and disposal of adulterated milk. All enforcement procedures include a right of hearing for the affected producer.

#### Special Dairy Farm Inspectors:

Under 1987 Wis. Act 399, DATCP may certify dairy plant employes to perform dairy farm inspections on behalf of DATCP. This rule establishes certification criteria for these "special dairy farm inspectors," and spells out the scope of their authority. The rule also spells out inspection procedures, training requirements, and performance review requirements to ensure that special dairy farm inspectors perform their duties faithfully and competently. Special dairy farm inspectors are not authorized to take enforcement actions on behalf of DATCP.

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SECTION 1. Ag 30 (title) and Ag 30.01 to Ag 30.13 are repealed.

SECTION 2. Ag 30.14 is renumbered Ag 31.095.

SECTION 3. Ag 30.15 and Ag 30.16 are repealed.

SECTION 4. Ch. Ag 60 is created to read:

CHAPTER AG 60

DAIRY FARMS

Subchapter I  
Definitions

Ag 60.01 Definitions

Subchapter II  
License and Permit Requirements; Fees

Ag 60.02 Milk Producer License; Fees

Ag 60.03 Grade A Permit; Fees

Ag 60.04 Reinspection Fees

Ag 60.05 Fee Payment Obligations; Enforcement

Subchapter III  
Dairy Farm Standards

Ag 60.06 Milking Barn or Parlor

Ag 60.07 Milkhouse

Ag 60.08 Water Supply

Ag 60.09 Equipment and Utensils

Ag 60.10 Milking and Milk Handling Systems

Ag 60.11 Bulk Tanks

Ag 60.12 Milking Procedure

Ag 60.13 Abnormal Milk; Milking Diseased Animals

Ag 60.14 Farm Premises

Subchapter IV  
Milk Quality Standards;  
Examination of Milk From Dairy Farms

Ag 60.15 Milk Quality Standards

Ag 60.16 Examining Milk by Sight and Smell

Ag 60.17 Collecting Milk Samples

Ag 60.18 Bacteriological Testing

- Ag 60.19      Testing for Inhibitory Substances
- Ag 60.20      Testing for Somatic Cells
- Ag 60.21      Sediment Testing
- Ag 60.22      Testing by Certified and Approved Laboratories; Test  
Methods; Reporting
- Ag 60.23      Dairy Plant to Furnish Producer Milk Samples to  
Department Upon Request

Subchapter V  
Inspection and Enforcement

- Ag 60.24      Inspection of Dairy Farms; General
- Ag 60.25      Suspension or Revocation of Milk Producer License
- Ag 60.26      Suspension or Revocation of Grade A Farm Permit;  
General
- Ag 60.27      Violation of Grade A Milk Quality Standards;  
Suspension of Grade A Farm Permit by Food Division
- Ag 60.28      Violation of Grade A Farm Standards; Suspension of  
Grade A Farm Permit by Food Division
- Ag 60.29      Suspension Notice; Requirements
- Ag 60.30      Holding Orders; Identification and Disposal of  
Adulterated Milk
- Ag 60.31      Right to Hearing

Subchapter VI  
Special Dairy Farm Inspectors

- Ag 60.32      Special Dairy Farm Inspectors

SUBCHAPTER I

DEFINITIONS

Ag 60.01 DEFINITIONS. As used in this chapter:

(1) "Bulk tank" means a permanent or semi-permanent tank or container used to receive, cool or store bulk quantities of milk on a dairy farm. "Bulk tank" does not include milk cans.

(1m) "C-I-P equipment" means any form of equipment which is designed to be cleaned in place by the mechanical circulation of cleaning and sanitizing solutions onto interior milk contact surfaces. "C-I-P equipment" includes C-I-P milking equipment, C-I-P pipelines and C-I-P bulk tanks.

(2) "C-I-P milking equipment" means equipment items including milker claws, inflations, weigh jars, meters, milk hoses, milk receivers, takeoff units and milk pumps, which are designed to be cleaned in place by the mechanical circulation of cleaning and sanitizing solutions onto interior milk contact surfaces.

(3) "C-I-P milk pipelines" means permanently mounted milk pipelines and their appurtenances which are designed to be cleaned in place by the mechanical circulation of cleaning and sanitizing solutions onto interior milk contact surfaces.

(4) "Cowyard" means an enclosed or unenclosed area, approximately adjacent to a milking barn or parlor, in which cows or goats congregate. "Cowyard" includes cow walkways, feeding areas, watering areas, washing areas and housing areas located outside but adjacent to a milking barn or parlor.

(5) "Dairy farm" means a dairy farm as defined in s.

97.22(1)(a), Stats., operated by a milk producer.

(6) "Dairy plant" means a dairy plant as defined in s.

97.20(1)(a), Stats.

(7) "Dairy plant operator" means a person required to hold a license for the operation of a dairy plant under s. 97.20, Stats. "Dairy plant operator" includes an employe or agent of the dairy plant operator.

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

(9) "Equipment" means an implement, vessel, machine or apparatus, other than a utensil, which:

(a) Has one or more milk contact surfaces; and

(b) Is used to draw milk from cows or goats, or to transport, hold, handle, cool or store milk on a dairy farm.

(10) "Food division" means the food division of the department.

(11) "Grade A farm" means a dairy farm for which a grade A permit is required under s. Ag 60.03 and s. 97.22(3), Stats.

(12) "Grade A milk" means grade A milk as defined in s. 97.24(1)(b), Stats.

(13) "Grade B farm" means a dairy farm other than a grade A farm.

(14) "Grade B milk" means milk other than grade A milk.

(15) "Key violation" means any of the following:

(a) A repeat violation of any dairy farm standard under subch. III, as determined on 2 consecutive regular inspections of a dairy farm.

(b) An initial violation of any dairy farm standard under subch. III if the violation creates a substantial risk of milk adulteration, whether or not the violation constitutes an imminent health hazard. The following conditions are considered key violations under this paragraph unless the inspector determines, under all of the surrounding circumstances, that they do not create a substantial risk of milk adulteration:

1. Unclean milk contact surfaces of equipment or utensils.
2. Filthy conditions in a milking barn or parlor, such as several days' accumulation of manure in gutters or other areas.
3. Filthy conditions in a cowyard, resulting in very dirty cows.
4. Filthy conditions in a milkhouse.
5. Water supply, water pressure, or water heating facilities fail to comply with this chapter.
6. No access to a toilet facility on the farm premises, or to a handwashing facility in the milkhouse.
7. Violation of standards under this chapter related to well construction or potability of water supply, including any cross connection between potable and non-potable water sources.
8. Lack of an approved sanitizer in the milkhouse or adjacent storage areas to meet the sanitizing requirements under s. Ag 60.09(4).
9. Visibly dirty udders and teats on cows being milked.
10. Milk not cooled in compliance with s. Ag 60.12(4).
11. Rodent activity in the milkhouse.
12. Dead animals in the milking barn or cowyard.

13. Violations of standards related to the design, construction or installation of equipment or utensils, if the violation creates a substantial risk of adulteration.

(c) Two or more initial violations of dairy farm standards under subch. III which combine to create a substantial risk of milk adulteration, whether or not the violations individually create a substantial risk of adulteration.

(16) "Milk" means milk as defined in s. 97.22(1)(e), Stats.

(17) "Milk contact surfaces" means all surfaces of equipment or utensils which may come in contact with milk, or from which liquids may drain, splash or be drawn into milk.

(18) "Milkhouse" means an enclosed facility, separate from the milking barn or parlor, in which milk is cooled or stored, and in which equipment and utensils are cleaned, sanitized and stored. "Milkhouse" includes a milkhouse sharing one or more walls with a milking barn or parlor.

(19) "Milking and milk handling system" means an automated system, and all components of that system, used to draw milk from cows or goats, or to transport milk to a bulk tank or other container on a dairy farm. "Milking and milk handling system" includes C-I-P milking equipment and C-I-P milk pipelines.

(20) "Milking barn" means a roofed and enclosed facility, other than a milking parlor, in which cows or goats are milked on a dairy farm.

(21) "Milking parlor" means a roofed and enclosed facility which is designed and used exclusively for the milking of cows or goats, and which is not designed or used to house cows, goats or

other animals.

(22) "Milk producer" means a milk producer as defined in s. 97.22(1)(f), Stats.

(23) "Person" means an individual, partnership, firm, association, corporation or any other business unit or entity.

(24) "Reinspection" means either of the following:

(a) A dairy farm inspection, other than a regularly scheduled inspection under s. Ag 60.24(2) or (3), which is made by the department because the department or a special dairy farm inspector finds a key violation of this chapter.

(b) A dairy farm inspection, other than a regularly scheduled inspection under s. Ag 60.24(2) or (3), for which a fee is chargeable under s. Ag 60.18(5), Ag 60.19(5), Ag 60.20(5), Ag 60.25(4), Ag 60.26, Ag 60.27(6), or Ag 60.28(2) or (3).

(25) "Sanitize" means to destroy pathogens and other microorganisms, to the maximum extent practicable, by applying a sanitizer or sanitizing method approved by the department to an otherwise clean surface.

(26) "Secretary" means the secretary of the department.

(27) "Single-service articles" means utensils, including containers, filters and other articles, which are designed to be used only once prior to disposal.

(28) "Special dairy farm inspector" means an employe or agent of a dairy plant operator who is appointed by the department as an inspector under s. Ag 60.32 to inspect dairy farms as the department's agent.

(29) "Utensil" means any hand-held or similarly portable

container, device, article or implement which:

- (a) Has one or more milk contact surfaces; and
- (b) Is used to draw milk from cows or goats or to transport, hold, strain, handle or store milk on a dairy farm.

SUBCHAPTER II

LICENSE AND PERMIT REQUIREMENTS; FEES

Ag 60.02 MILK PRODUCER LICENSE; FEES. (1) LICENSE REQUIREMENT. No person may operate as a milk producer without an annual license from the department, as provided under s. 97.22(2), Stats. A license expires on April 30 of each year. A separate license is required for each dairy farm at which milk is produced. A license is not transferable between persons or dairy farms. As a condition to licensing, a milk producer shall comply with applicable provisions of this chapter.

(2) LICENSE APPLICATION; RENEWAL. (a) General. A license application, signed by the milk producer, shall be made on a form provided by the department. A dairy plant operator shall submit the application on behalf of the milk producer, and shall certify that the dairy farm facilities comply with applicable requirements under this chapter. An annual license may be renewed each year upon payment of the required fees under sub. (4), without further application by the milk producer.

(b) Action on license application. Within 15 days after the department receives a complete license application under par. (a), the department shall do one of the following:

1. Grant the application.
2. Deny the application.
3. Issue a temporary license under par. (c).

(c) Temporary license. The department may issue a temporary license, for a period not to exceed 40 business days, pending final action on a producer's application for an annual

dairy farm license. The department shall grant or deny the annual license application before the temporary license expires. If the department denies the annual license application before the temporary license expires, the temporary license is automatically terminated when the producer receives written notice of the denial. The holder of a temporary license acquires no rights beyond those conferred by the temporary license under this paragraph.

(3) PRE-LICENSE INSPECTION. The department may inspect a dairy farm, as it deems necessary, before issuing a license to a milk producer. If the dairy farm does not meet the minimum standards required for licensing, the department shall deny the license application.

(4) LICENSE FEE. (a) General. Except as provided under par. (b), the annual fee for a milk producer license under this section is \$22. A dairy plant operator shall pay the annual milk producer license fee for every dairy farm from which the dairy plant receives milk at the time the fee payment is due. An applicant for an annual dairy plant license under s. 97.20, Stats., shall submit required producer license fees with the applicant's dairy plant license application. A dairy plant operator who pays a milk producer license fee may charge that fee back to the milk producer, provided that the operator notifies the producer in writing of the operator's intent to charge the fee to the producer. A dairy plant operator shall not discriminate between producers with respect to fee charges under this paragraph, but may charge back license fees to those

producers who stop shipping milk to the dairy plant during the license year.

(b) Farms inspected by special dairy farm inspectors. If a dairy farm is inspected at least once annually by a special dairy farm inspector appointed under s. Ag 60.32, the annual license fee under this subsection is \$7.

(5) DENIAL OF LICENSE APPLICATION. If the food division denies a milk producer's application for a license under this section, the food division shall issue the denial in writing and shall state the reasons for the denial. The denial notice shall include a notice of the applicant's right to hearing under s. Ag 60.31. If a food division inspector inspects the applicant's dairy farm, the inspector may deny the application by noting the denial on the inspection report given to the producer, provided that the inspection report includes the required information under this subsection.

(6) TRANSFER BETWEEN DAIRY PLANTS. If a milk producer transfers from one dairy plant to another, the dairy plant which acquires the producer as a patron shall notify the department in writing within 3 business days after receiving any milk from the producer. No new license is required.

Ag 60.03 GRADE A PERMIT; FEES. (1) PERMIT REQUIREMENT. No milk producer may sell or distribute milk as grade A milk without an annual grade A permit from the department, as provided under s. 97.22(3), Stats. A grade A permit is not valid unless the producer also holds a valid milk producer license under s. Ag 60.02. A grade A permit expires on April 30 of each year. A

separate grade A permit is required for each dairy farm at which milk is produced for distribution or sale as grade A milk. A grade A permit is not transferable between persons or dairy farms. A grade A permit may be issued by a department inspector in the form of an endorsement on an inspection report given to the milk producer. As a condition to holding a grade A permit, a milk producer shall comply with applicable provisions of this chapter.

(2) PERMIT APPLICATION; RENEWAL. (a) General. A grade A permit application, signed by the milk producer, shall be made on a form provided by the department. A dairy plant operator shall submit the application on behalf of the milk producer, and shall certify that the dairy farm facilities comply with applicable grade A requirements under this chapter. An annual grade A permit may be renewed each year upon payment of the required fees under sub. (4), without further application by the milk producer.

(b) Action on permit application. Within 15 days after the department receives a complete grade A permit application under par. (a), the department shall do one of the following:

1. Grant the application after inspecting the dairy farm.
2. Deny the application.

(3) PRE-PERMIT INSPECTION. The department shall inspect a dairy farm before issuing a grade A permit for that dairy farm. If the dairy farm does not meet the minimum standards required for issuance of a grade A permit, the department shall deny the grade A permit application.

(4) PERMIT FEE. The annual fee for a grade A farm permit under this section is \$13. A dairy plant operator shall pay the annual grade A farm permit fee for every dairy farm from which the dairy plant receives milk at the time the fee payment is due. An applicant for an annual dairy plant license under s. 97.20, Stats., shall submit required grade A farm permit fees with the applicant's dairy plant license application. A dairy plant operator who pays a grade A farm permit fee may charge that fee back to the milk producer, provided that the operator notifies the producer in writing of the operator's intent to charge the fee to the producer. A dairy plant operator shall not discriminate between producers with respect to fee charges under this paragraph, but may charge fees back to those producers who stop shipping milk to the dairy plant during the year for which the fees were paid.

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

(6) TRANSFER BETWEEN DAIRY PLANTS. If a milk producer transfers from one dairy plant to another, the dairy plant which

acquires the producer as a patron shall notify the department in writing within 3 business days after receiving any milk from the producer. No new grade A permit is required.

Ag 60.04 REINSPECTION FEES. (1) FEE REQUIREMENT. If the department conducts a reinspection as defined in s. Ag 60.01(24), the department shall charge a reinspection fee for the reinspection, pursuant to s. 97.22(4), Stats. A reinspection fee is payable when the reinspection is completed, and is due upon written demand from the department.

(2) FEE AMOUNT. The reinspection fee under this section is as follows:

(a) \$20 for a grade A farm, including a dairy farm for which the grade A permit is temporarily suspended but not revoked.

(b) \$22 for a grade B farm, including a dairy farm whose operator has applied for, but not yet received, a grade A farm permit.

(3) DAIRY PLANT TO PAY REINSPECTION FEE FOR MILK PRODUCER. A dairy plant operator shall pay the dairy farm reinspection fee under this section for a milk producer if the dairy plant was receiving milk from the reinspected dairy farm when the reinspection was made. The department may issue a statement of reinspection fees payable by a dairy plant operator, and may demand payment from the dairy plant operator when it issues an application form for the renewal of the dairy plant operator's license under s. 97.20, Stats. A dairy plant operator who pays a dairy farm reinspection fee shall charge that fee back to the

milk producer. A dairy plant operator shall notify each producer in writing that reinspection fees paid on behalf of the producer will be charged back to the producer.

Ag 60.05 FEE PAYMENT OBLIGATIONS; ENFORCEMENT. (1) LICENSED DAIRY PLANT. The department shall not issue or renew a dairy plant license under s. 97.20, Stats., unless the license applicant pays all fees which are due and payable under this subchapter, as set forth in a written statement from the department. The department shall refund a fee paid under protest if the department determines that the fee was not due and payable as a condition to licensing.

(2) UNLICENSED DAIRY PLANT. If a milk producer ships milk to a dairy plant which is not subject to licensing under s. 97.20, Stats., the unlicensed dairy plant may voluntarily submit applications and pay fees required under this subchapter on behalf of a milk producer, provided that the dairy plant is authorized by the milk producer to submit the applications and pay the fees.

(3) MILK PRODUCER. If no dairy plant pays the fees required under this subchapter on behalf of a milk producer, the department may demand payment from the milk producer. If, after reasonable notice and demand for payment, a milk producer fails to pay a fee which was due and payable prior to the current license year, the department may suspend the milk producer's license or grade A farm permit.

SUBCHAPTER III

DAIRY FARM STANDARDS

Ag 60.06 MILKING BARN OR PARLOR. All milking operations on a dairy farm shall be conducted in a milking barn or parlor, which shall be constructed and maintained in compliance with the following requirements:

(1) FLOORS AND GUTTERS; CONSTRUCTION. Except as authorized by the department in writing, floors, gutters and gutter covers in milking barns and parlors shall be constructed of concrete or other materials which are equally impervious and easy to clean. Floors and gutters shall be constructed and maintained so that they can be kept clean. Floors and gutters shall be sloped to drain properly, and shall be free of excessive breaks or worn areas which may allow pooling of liquid wastes. Except as authorized by the department in writing, floors and gutters constructed after July 1, 1989, shall have a slope of at least one inch per 10 feet to assure proper drainage.

(2) WALLS AND CEILINGS; CONSTRUCTION. Walls and ceilings in milking barns and parlors shall be constructed and maintained so that they can be kept clean. Walls and ceilings shall be painted, whitewashed or otherwise finished so that they are light colored and easy to clean. The ceiling shall be constructed and maintained to prevent dust and chaff from entering the milking barn or parlor from above.

(3) LIGHTING. Natural or artificial lighting, or both, shall be provided in milking barns and parlors to ensure adequate illumination for daytime and nighttime milking operations.

Except where additional lighting is required for milking parlors under sub. (9), there shall be at least 10 foot candles of illumination in all working areas where milking operations are being performed.

(4) VENTILATION. Ventilation in milking barns and parlors shall be adequate to prevent visible condensation on walls and ceilings, and to prevent excessive odors.

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

(6) MAINTENANCE AND CLEANLINESS; GENERAL. The interior of every milking barn or parlor, and all areas used in connection with milking operations, shall be kept clean and in a good state of repair. Floors, gutters, walls, ceilings, animal confinement facilities, pipelines and equipment shall be kept free of accumulated litter and filth. Bedding material shall be clean and dry. Milk stools, surcingles and anti-kickers shall be kept clean, and shall be stored above the floor when not in use.

NOTE: To comply with this subsection, producers should remove manure from milking barns daily, and from milking parlors after every milking.

(7) FEED STORAGE AND HANDLING. Dust-tight covered containers or separate storage facilities are required for ground, chopped or concentrated feed. Feed may be stored in the milking portion of the barn only in a manner that does not increase the dust content of the air, attract flies or interfere

with the cleaning of the floor. Open feed dollies or carts may be used for distributing feed, but not for storing feed in the milking barn.

(8) OVERCROWDING PROHIBITED. Areas used for milking operations may not be overcrowded.

NOTE: Inadequate ventilation, excessive odors, livestock in walks or feed alleys, or calves tied between cows in a milking line indicate overcrowded conditions.

(9) MILKING PARLOR; ADDITIONAL REQUIREMENTS. (a)

Cleaning and storage of C-I-P milking equipment. C-I-P milking equipment may be cleaned, sanitized and stored in a milking parlor if all of the following conditions are met:

1. There are at least 20 foot candles of illumination in all areas of the milking parlor where C-I-P milking equipment is cleaned, sanitized or stored.

2. Doorways to and from the milking parlor are provided with tight-fitting solid doors which are kept closed when the doorways are not in use.

3. Openings to the milking parlor are protected against entry by insects, rodents and other pests.

4. No animals are housed in the milking parlor at any time.

5. Liquid wastes from milking parlor operations are drained and removed in a sanitary manner, so that there are no liquid waste accumulations in the milking parlor.

6. C-I-P milking equipment, if cleaned, sanitized or stored in the milking parlor, is designed, installed, handled and stored so that milk contact surfaces are protected from contamination at all times. Cleaning, handling and storage shall comply with

applicable requirements under s. Ag 60.09.

(b) Manual cleaning of milk contact surfaces prohibited in milking parlor. If manual cleaning of milk contact surfaces is necessary, the milk contact surfaces shall be manually cleaned in the milkhouse. Milk contact surfaces may not be manually cleaned in a milking parlor.

(c) Prep stalls; hot water supply. If cows or goats are hosed clean in a milking parlor prep stall prior to milking, rather than being manually cleaned at the milking stanchions, hot water under pressure shall be supplied to the prep stall and used for cleaning purposes. There shall be an adequate supply of hot water so that all cows or goats processed through the prep stall can be fully cleaned without impairing the availability of hot water for other milking parlor or milkhouse operations.

Ag 60.07 MILKHOUSE. (1) REQUIREMENT. Every dairy farm shall have a milkhouse which shall be used for cooling and storing milk. A milkhouse shall be separate from a milking barn or parlor, but may share common walls with a milking barn or parlor. All equipment and utensils shall be cleaned, sanitized and stored in the milkhouse. This does not apply to C-I-P milk pipelines which are mechanically cleaned in place in a milking barn or parlor, or to C-I-P milking equipment which is mechanically cleaned and stored in a milking parlor under s. Ag 60.06(9)(a).

(2) CONSTRUCTION. (a) Floors. A milkhouse floor shall be constructed of concrete or other impervious materials, and shall be easily cleanable. This does not prohibit anti-slip floor

surfaces which are easily cleanable. The floor shall be sloped for proper drainage to a floor drain. Floor drains shall be readily accessible. A floor drain shall be trapped if the floor drain is connected to a sanitary sewer system.

(b) Walls and ceilings. Milkhouse walls and ceilings shall be constructed and finished so that they are impervious to water, and are light colored and easily cleanable.

(c) Doors and windows. A milkhouse shall not open directly into a barn, stable or milking parlor, or into a room used for domestic purposes unless the opening is equipped with a tight-fitting, self-closing and solid door. All milkhouse openings to the outdoors shall be screened or otherwise protected against entry by insects, rodents or other pests. Doors and windows to the outdoors shall be tight-fitting, and shall be kept closed during dusty weather. External doors shall be self-closing. Swinging screen doors, if any, shall open outward.

(d) Lighting. Natural or artificial lighting, or both, shall be provided in a milkhouse to ensure adequate illumination for daytime and nighttime operations. There shall be at least 20 foot candles of illumination in all working areas of the milkhouse. Artificial lights located over a bulk tank shall be shielded to protect milk from contamination from broken glass.

(e) Ventilation. Ventilation in a milkhouse shall be adequate to prevent excessive odors, and adequate to prevent visible condensation on floors, walls, ceilings, or clean equipment or utensils. Vents shall be screened, and shall be located and maintained to prevent contamination of bulk tanks or

clean equipment and utensils.

(f) Water heating capacity. Hot water capacity shall be adequate for all milkhouse operations. Hot water heaters or hot water supply systems shall have a capacity of at least 30 gallons for manual washing of bulk tanks, 50 gallons for mechanical washing of bulk tanks, and 75 gallons for cleaning C-I-P equipment. Alternative systems, including heat recovery and continuous flow systems, may be authorized by the department in writing if they provide adequate hot water for all milkhouse operations.

(g) Wash and rinse vat. A milkhouse shall be equipped with a two-compartment wash and rinse vat for cleaning equipment and utensils. The vat shall be served by potable hot and cold running water from a faucet or faucets located directly over the vat. Water shall enter and leave the vat by means which preclude splash. A vat designed for mechanical cleaning of C-I-P milking equipment may serve as one compartment of a two-compartment wash and rinse vat under this paragraph, provided that the cleaning-in-place inflation rack and all C-I-P milking equipment are completely removed from the vat while other equipment and utensils are being washed, rinsed and sanitized in the vat.

(h) Handwashing facility. A milkhouse shall be equipped with a fixed handwashing facility which is separate from the wash and rinse vat under par. (g). The handwashing facility shall be served by potable hot and cold running water from a faucet or faucets located directly over the facility. Water shall enter and leave the handwashing facility by means which preclude

splash. Single service sanitary towels and soap shall be available at all times for use at the handwashing facility. A handwashing facility may be located in a room immediately adjacent to the milkhouse, provided that it is readily accessible from the milkhouse. This paragraph does not apply to grade B dairy farms on which there was no bulk tank prior to January 1, 1979, or on which milk is stored and cooled only in cans.

NOTE: A removable basin held by a support ring at least 30 inches above the floor, and installed beneath a water faucet, is minimally adequate to comply with this paragraph.

(i) Bulk tank hose port. If a bulk tank is used to receive and hold milk in a milkhouse, the milkhouse shall have a hose port opening in the outside wall to permit the removal of milk from the bulk tank. The hose port opening shall be at least 6 inches above the floor of the milkhouse, and shall be equipped with a tight-fitting door which shall be kept closed except when the hose port is in use. A paved surface of concrete or other readily cleanable material shall be installed adjacent to the outside wall of the milkhouse, immediately under the bulk tank hose port. The surface shall cover sufficient ground area to protect the milk hose from ground contamination.

NOTE: The paved surface under this paragraph should cover an area of at least 4 ft. by 4 ft.

(3) MAINTENANCE AND SANITATION. The floors, walls, ceilings, windows, hose port assembly, and all equipment of a milkhouse shall be kept clean and in a good state of repair. Liquid wastes from milkhouse operations shall be drained and

removed in a sanitary manner. Equipment and utensils shall be cleaned and maintained in compliance with s. Ag 60.09. A milkhouse shall be kept free of insects, rodents and other pests. Animals shall be kept out of the milkhouse at all times. Potential sources of milk contamination, including materials which may attract or harbor pests, shall be excluded from the milkhouse.

(4) STORAGE. (a) General. Articles stored in a milkhouse shall be stored above the floor, on racks or in a cabinet. Articles shall be stored in a manner which prevents contamination of milk, and equipment and utensils coming in contact with milk.

NOTE: Extraneous articles which are not used in the milkhouse should not be stored in the milkhouse.

(b) Antibiotics and animal drugs. No antibiotic, animal drug or other medicinal item may be kept in a milkhouse unless it is designed or prescribed for use on dairy animals. If antibiotics, animal drugs or other medicinal items are kept in a milkhouse, they shall be stored in an enclosed cabinet, separate from all other articles stored in the milkhouse. Antibiotics, animal drugs and other medicinal items shall be clearly labeled to indicate their identity and intended use, and prescription medications shall be labeled as provided under s. Ag 60.13(6). Antibiotics, animal drugs and other medicinal items intended solely for non-lactating animals shall be kept separate from those used on lactating animals.

(c) Pesticides. No pesticide, except for sanitizers, germicides, disinfectants and other pesticides labeled and used for routine milkhouse sanitation purposes, may be stored in a

milkhouse. If pesticides are kept in a milkhouse, they shall be stored in an enclosed cabinet, separate from all other articles stored in the milkhouse.

Ag 60.08 WATER SUPPLY. (1) GENERAL. An adequate supply of potable water shall be supplied under pressure for milkhouse and milking operations. Water used for milkhouse and milking operations, including water used to cool milk in a plate or tubular cooler, shall be potable. Potable water shall comply with the health-related drinking water standards under NR 109.30.

NOTE: A properly designed and installed water supply tank which utilizes static head pressure to provide running water to the milkhouse is minimally adequate to comply with this paragraph.

(2) BACKFLOW PROTECTION; CROSS-CONNECTIONS. A potable water supply system on a dairy farm shall be designed, constructed, installed and maintained to prevent contamination of potable water supplies through backflow, backsiphonage, cross-connections or any other connection to the potable water supply system. An air gap shall be maintained between every potable water outlet and the flood rim of the fixture which it supplies, and between the potable water outlet and every other source of potential contamination, unless alternative protection is approved under IHLR 82.41(1)(j).

NOTE: ILHR 82 is a rule administered by the department of industry, labor and human relations.

(3) WELL CONSTRUCTION. Wells used to supply water for milkhouse and milking operations on grade A farms shall comply with ch. NR 112, or ch. NR 111 in the case of a community water system.

NOTE: Wells on grade A and grade B farms are currently subject to well construction requirements under NR 111 and NR 112, which are rules administered by the Wisconsin department of natural resources.

(2) WATER TRANSPORTED TO DAIRY FARM. If water in containers or tanks is transported to a dairy farm for milkhous or milking operations, the containers and tanks shall be sealed and protected from contamination. The containers and tanks shall be thoroughly cleaned and sanitized before being filled with potable water for use at the dairy farm. A suitable pump, hose and fittings shall be used to transfer water from transport containers and tanks to storage tanks at the dairy farm, so that the water is not contaminated during transfer.

(3) WATER QUALITY TESTING BY DAIRY PLANT. A dairy plant operator shall biennially sample the water supply of each milk producer whose milk is sold or delivered to the dairy plant. The dairy plant operator shall have each sample analyzed at a laboratory certified by the department of health and social services to perform water quality analyses. Water samples shall be analyzed for compliance with the health-related drinking water standards under s. NR 109.30. The dairy plant operator shall submit each water quality test result to the department within 30 days after the test result is received by the dairy plant. If the analysis of any water sample indicates that the water supply of a dairy farm may be unsafe, the dairy plant shall report the test results to the department within 3 business days, and shall have the water supply promptly resampled and analyzed.

Ag 60.09 EQUIPMENT AND UTENSILS. (1) CONSTRUCTION. Equipment and utensils shall be constructed of smooth, non-

absorbent, corrosion-resistant and non-toxic materials.

Equipment and utensils shall be designed and constructed so that they can be easily cleaned and shall be durable under repeated conditions of use. Surfaces shall be free of breaks and corrosion. Joints and seams shall be smooth and flush. Milk pails used for hand milking and stripping shall be seamless and of a hooded type. Multiple-use woven material shall not be used for straining milk. Milking and milk handling systems shall comply with s. Ag 60.10.

(2) MAINTENANCE. Equipment and utensils shall be kept in good repair, and shall be readily accessible for inspection by the department upon request.

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

(4) SANITIZING. (a) After being cleaned and rinsed, utensils and milk contact surfaces of equipment shall be sanitized before being used.

NOTE: A list of currently approved sanitizers and sanitizing methods is available from the department upon request.

(5) STORAGE. Equipment and utensils, unless stored in sanitizing solutions, shall be handled and stored in a manner which will ensure complete drainage and protection from contamination prior to use.

(6) SINGLE SERVICE ARTICLES. Single-service articles shall be clean and sanitary, and shall be packaged, handled and stored in a sanitary manner. Single-service articles shall be stored in their original containers inside a dispensing cabinet. Single service articles may not be reused.

Ag 60.10 MILKING AND MILK HANDLING SYSTEMS. (1) SANITARY REQUIREMENTS; GENERAL. Milking and milk handling systems shall be of sanitary design and construction, and shall be installed and maintained for sanitary operation. Milk contact surfaces shall be accessible for inspection. If it is necessary to disassemble any portion of a milking or milk handling system in order to inspect a milk contact surface, all tools needed for the disassembly shall be readily available in the milkhouse.

NOTE: Guidelines for the sanitary design and construction of milking and milk handling systems are set forth in the "3-A Accepted Practices for the Design, Fabrication and Installation of Milking and Milk Handling Equipment," published jointly by the International Association of Milk, Food and Environmental Sanitarians, Inc., and the Food and Drug Administration, Public Health Service, U.S. Department of Health and Human Services. Milking and milk handling systems manufactured in compliance with the "3-A Accepted Practices" meet the sanitary design and construction requirements of this subsection. Copies of the "3-A Accepted Practices," as amended effective June 14, 1977, are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from the International Association of Milk,

Food and Environmental Sanitarians, Inc., P.O. Box  
701, Ames, Iowa 50010.

(2) MILK CONTACT SURFACES; CONSTRUCTION. Milk contact surfaces of milking and milk handling systems shall be constructed of smooth, nontoxic and nonabsorbent materials. Materials shall be of the following types, unless another material is specifically authorized by the department in writing:

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

(3) MILK PIPELINES. (a) Milk contact surfaces of permanently mounted milk pipelines shall be constructed of stainless steel or an equally corrosion resistant metal, or of heat resistant glass. Plastic or rubber-like materials may be used for pipeline gaskets, connections and sealing applications, but not for other purposes. Paper gaskets are prohibited.

(b) All joints of permanently mounted milk pipelines, including joints in solution lines, shall be welded or equipped with fittings designed for cleaning in place. Welded joints shall be smooth and free of pits, cracks or other defects. Removable fittings shall be designed to form substantially flush

interior joints. Ferrules shall be properly faced and reamed.

(c) Permanently mounted pipelines shall be supported at intervals of not more than 10 feet so that they remain in constant alignment and position. Permanently mounted pipelines shall be self-draining, and shall have a minimum slope of one inch per 10 feet. The support system shall be designed to prevent electrolytic action between supports and pipelines. Pipeline supports shall be mounted on the floor, except as authorized by the department in writing.

(d) Milk pipeline systems shall be designed and constructed so that cleaning, rinsing and sanitizing solutions cannot enter the pipeline while milk is being transferred through the pipeline.

(4) NON-PIPELINE SYSTEMS. If milk from cows or goats is initially collected in a portable transfer receptacle and pumped to the milkhouse through a flexible tube, rather than being pumped directly to the milkhouse through a permanently mounted pipeline, the transfer receptacle and tube system shall comply with the following requirements:

(a) The portable transfer receptacle shall be constructed of stainless steel or an equally corrosion resistant metal, and shall have an overlapping self-closing cover. The receptacle shall be supported off the floor on a cart or mobile structure which can be easily cleaned.

(b) The tube used to transfer milk from the portable transfer receptacle to the milkhouse shall consist of a single length of transparent tubing material. The milk transfer tube

shall be supported off the floor at all times. The interior milk contact surface of the transfer tube shall be mechanically cleaned, sanitized and dried after each use. The opening through which the milk transfer tube enters the milkhouse shall be kept closed when the tube is not in use. A milk transfer tube shall not be left suspended in a milking barn or parlor between uses, but shall be stored in the milkhouse.

(5) MILKING EQUIPMENT. (a) Surfaces of milking equipment, including surfaces of milker claws, inflations, weigh jars, meters, milk hoses, milk receivers, and milk pumps, shall be smooth and readily susceptible to cleaning by mechanical or manual cleaning methods. If thorough cleaning requires the removal of any part, that part shall be easily removable. Milking equipment shall be designed and constructed so that cleaning and sanitizing solutions will drain completely from the equipment.

(b) Milking equipment which deposits milk into a bucket or container, rather than into a permanently mounted pipeline, shall be equipped with a check valve or other device which prevents moisture and contaminants from entering the milk through the vacuum system. The moveable portion of the check valve shall consist of a single piece, or pieces which are permanently bonded to each other.

(6) REVIEW OF PLANS. (a) Plans for the installation, reconstruction or extensive alteration of a milking and milk handling system shall be submitted to the department for review before work on the system begins. The department shall return

the plans, together with any comments or objections, within 14 days after the plans are received by the department. No review is required for a portable transfer receptacle or its appurtenances.

(b) No manufacturer or distributor of milking or milk handling systems may sell, or distribute for sale in this state, any portion of a milking or milk handling system unless specifications or prototype equipment are first reviewed by the department. Within 30 days after specifications or prototype equipment are received by the department, the department shall return them with any comments or objections. The department may require field testing of the equipment prior to sale if the department finds that field testing is necessary to determine whether the requirements of this section are met. Field testing shall be conducted under conditions prescribed by the department.

(c) Plans and specifications submitted under this subsection shall be sufficiently detailed to permit reasonable review by the department within the time periods specified under this subsection.

(7) CERTIFICATION OF COMPLIANCE BY INSTALLER. A person who installs, reconstructs or extensively alters a milking or milk handling system shall certify to the owner of the system that the system has been installed or modified in compliance with this section, and in compliance with the plans filed with the department under sub. (6)(a). A signed written statement certifying compliance shall be provided to the owner immediately after the system is installed or modified.

Ag 60.11 BULK TANKS. (1) LOCATION. If a bulk tank is used to receive, cool or store milk on a dairy farm, the bulk tank shall be installed in the milkhouse. A bulk tank may be installed so that a portion of the bulk tank protrudes through the wall of a milkhouse, provided that all bulk tank openings are located inside the milkhouse. Agitator seals, other than weatherproof agitator seals approved in writing by the department, shall be located inside the milkhouse. Adequate clearance shall be maintained on the top and all sides of a bulk tank to permit effective cleaning, sanitizing and maintenance of the bulk tank. No bulk tank opening may be located directly under a ventilator. No bulk tank may be located directly over a floor drain.

NOTE: Clearances of at least 24 inches on the top and the milk outlet side of the bulk tank, and 18 inches on all other sides of the bulk tank, are adequate to comply with this subsection. No clearance is required for that portion of a bulk tank which protrudes through the wall of a milkhouse.

(2) CONSTRUCTION. (a) The lining and milk contact surfaces of a bulk tank shall be constructed of stainless steel or other materials which are equally smooth, nontoxic, stable, non-absorbent, corrosion resistant, and capable of withstanding cleaning and sanitizing treatment. Milk contact surfaces shall be readily accessible for inspection.

(b) A bulk tank shall be self-draining. Openings shall be equipped with self-draining covers. Openings and covers shall be constructed and installed to prevent drainage into milk, or onto milk contact surfaces.

(c) A bulk tank shall be equipped with an accurate thermometer which indicates milk temperatures. The thermometer shall have a minimum range of 32° F. (0° C.) to 80° F. (27° C.).

(d) A bulk tank with a capacity of less than 1,500 gallons shall be equipped with a mechanical agitator which will ensure homogeneity of all milk contained in the bulk tank within 5 minutes after the agitator begins operating. A bulk tank with a capacity of 1,500 gallons or more shall be equipped with an agitator which will ensure homogeneity of all milk contained in the bulk tank within 10 minutes after the agitator begins operating.

(e) A bulk tank which is designed to be cleaned in place by the mechanical circulation of cleaning, rinsing and sanitizing solutions onto interior milk contact surfaces shall be designed and constructed so that cleaning, rinsing and sanitizing solutions cannot enter the bulk tank while it contains milk.

NOTE: Bulk tanks manufactured in compliance with the "3-A Sanitary Standards for Farm Milk Cooling and Holding Tanks" meet the sanitary design and construction requirements of this subsection. The "3-A Standards" are published jointly by the International Association of Milk, Food and Environmental Sanitarians, Inc., and the Food and Drug Administration, Public Health Service, U.S. Department of Health and Human Services. Copies of the "3-A Standards" as amended effective May 19, 1981, are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from the International Association of Milk, Food and Environmental Sanitarians, Inc., P.O. Box 701, Ames, Iowa.

(3) COOLING CAPACITY. A bulk milk tank shall be capable of cooling all milk placed in the tank to a temperature of 50° F. (7° C.) within one hour after the milk is placed in the tank. If uncooled milk from subsequent milkings is added to cooled milk in

the bulk tank, the bulk tank shall be capable of maintaining the blend temperature at or below 50° F. (10° C.), and reducing the blend temperature to 45° F. (7° C.) within one hour.

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

(2) TRANSFER AND PROTECTION OF MILK. Milk shall be protected from contamination at all times. Upon being drawn from cows or goats, milk shall immediately be transferred from the milking barn or parlor to the milkhouse. Containers of milk shall not be stored in the milking barn or parlor. If milk is transferred to the milkhouse in containers, rather than through a pipeline or other vacuum transfer system, the milk producer shall transfer each container of milk to the milkhouse as soon as it is filled. Milk contact surfaces of equipment and utensils used to collect or transfer milk shall be protected from contamination before and during use. Milk containers shall be covered to protect milk from contamination. Milk which overflows, leaks or

spills from its proper container or transfer vessel shall be discarded.

(3) PERSONNEL; CLEANLINESS. Milkers and milk handlers shall wash and dry their hands before engaging in milking or milk handling operations, and before resuming operations after engaging in other activities. Outer garments worn by milkers and milk handlers shall not be soiled to the extent that they might contaminate milk, milk contact surfaces, or the hands of a milker or milk handler. No person may engage in milking or milk handling operations if that person is infected with a communicable disease which is transmissible to others as a result of the milking or milking handling operations.

(4) COOLING MILK. (a) Except as provided under par. (b), milk shall be cooled to 45° F. (7° C.) or less within 2 hours after milking. If uncooled milk from subsequent milkings is added to cooled milk, the blend temperature shall not exceed 50° F. (10° C.) at any time, and the blend temperature shall be reduced to not more than 45°F. (7° C.) within two hours after the uncooled milk is added.

(b) Grade B can milk shall be cooled to 50° F. (10° C.) or less within 2 hours after milking, and shall be kept at or below 50° F. (10° C.) until it is delivered to the dairy plant. If milk is stored or cooled in cans, milk from a morning milking may not be commingled with milk from an evening milking.

(5) STRAINING MILK. Milk shall be strained before it is deposited in a bulk tank or shipping container. Only clean single-service filters may be used to strain milk. Filters shall

not be reused.

(6) COMMINGLING OF COW AND GOAT MILK PROHIBITED. Cow milk shall not be commingled with goat milk on a dairy farm.

Ag 60.13 ABNORMAL MILK; MILKING DISEASED ANIMALS. (1) Cows or goats which appear to be secreting abnormal milk in one or more quarters shall be milked last or with separate equipment, and their milk shall be discarded.

(2) If cows or goats consume or are treated with chemical, medicinal or radioactive agents which may be secreted in milk, and which may be deleterious to human health, the cows or goats shall be milked last or with separate equipment, and the milk shall be discarded.

(3) Milk that is bloody, stringy, off-colored, abnormal to sight or odor, or abnormal in any other respect shall be discarded.

(4) Milk from a herd that is infected with mastitis and which is adulterated under s. Ag 10.35(3) shall be discarded.

(5) Equipment and utensils used to handle abnormal milk shall not be used to handle milk produced for human consumption unless the equipment and utensils are first thoroughly cleaned and sanitized.

(6) Antibiotics and other animal drugs prescribed by a veterinarian shall be clearly labeled with the name of the drug, the prescribed use of the drug, directions for use, any applicable warnings or precautions to be observed by the milk producer, and the name and address of the prescribing veterinarian. No antibiotic, animal drug or other medicinal item

may be used in a manner inconsistent with label directions, or in a negligent manner.

Ag 60.14 FARM PREMISES. (1) GENERAL. Farm premises adjacent to a milking barn, milking parlor, or milkhouse shall be kept free of conditions which may result in the contamination of milk.

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

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

(4) STATIONARY FEEDERS IN COWYARD. Stationary feeders in a cowyard shall be fully surrounded by a paved surface on which cows stand while feeding. The paved surface shall extend at least 12 feet in all directions from the feeder, except that a paved surface installed before January 1, 1979, shall extend at

least 8 feet in all directions from the feeder. If the distance between a feeder and another building or permanent structure is less than the paved surface width prescribed under this subsection, the paved surface shall extend to the building or other permanent structure.

(5) STOCK WATERING DEVICES AND PORTABLE FEEDERS IN COWYARD. Stock watering devices and portable feeders shall be located in an area which is well drained and provides reasonably firm footing for animals using the facilities.

(6) TOILETS. Every dairy farm shall have one or more sanitary toilets conveniently located. Toilets shall be constructed and maintained so that waste is inaccessible to flies and does not pollute the ground surface or contaminate any water supply. Toilets in the residence, other farm buildings or otherwise conveniently located meet the requirements of this subsection.

(7) PEST CONTROL. Insects, rodents and other pests shall be controlled, as necessary, to prevent the contamination of milk and milk contact surfaces of equipment and utensils. Pesticides shall not be stored, handled or used in a manner which might contaminate milk, milk contact surfaces, feed or water.

NOTE: Pesticide storage and use must comply with ss. 94.67 to 94.71, Stats., and ch. Ag 29, Wis. Adm. Code. Pesticides must be registered for use by the U.S. Environmental Protection Agency or by the department. Pesticides shall not be stored, handled or used in a manner inconsistent with label directions, or in a negligent manner.

SUBCHAPTER IV

MILK QUALITY STANDARDS;  
EXAMINATION OF MILK FROM DAIRY FARMS

Ag 60.15 MILK QUALITY STANDARDS. Milk received or collected from a dairy farm shall comply with all of the following standards at the time of receipt or collection:

(1) VISIBLE ADULTERATION AND ODORS. The milk shall not be visibly adulterated, or have any objectionable odor, or be abnormal in appearance or consistency.

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

(3) INHIBITORY SUBSTANCES. The milk shall not contain any antibiotic or inhibitory substance.

(4) SOMATIC CELL COUNT. The somatic cell count of cows milk, as determined by a direct microscopic somatic cell count (DMSCC) or an electronic somatic cell count (ESCC) under this subchapter, shall not exceed 750,000 cells per ml. The somatic cell count of goat milk, as determined by the Pyronin Y Methyl green stain test, shall not exceed 1,000,000 cells per ml. Except as provided under s. Ag 60.13(4) or Ag 60.20(4), a dairy plant is not required to reject milk shipments in response to a

violation of this subsection unless the department suspends or revokes the milk producer's license or grade A permit, or issues a holding order or disposal order under s. Ag 60.30.

(5) TEMPERATURE. If milk is received or collected from a dairy farm more than 2 hours after the most recent milking, the temperature of the milk shall not exceed 45<sup>o</sup> F. (7<sup>o</sup> C), or 50<sup>o</sup> F. (10<sup>o</sup> C.) in the case of grade B can milk. If the milk consists of a blend of milk from 2 or more milkings, and the milk is received or collected less than 2 hours after the most recent milking, the blend temperature shall not exceed 50<sup>o</sup> F.(10<sup>o</sup> C.).

(6) PESTICIDES AND TOXIC SUBSTANCES. The milk shall be free of pesticides and toxic substances.

(7) OTHER ADULTERATION. The milk shall not be adulterated within the meaning of s. 97.02, Stats., or insanitary within the meaning of s. 97.50, Stats.

Ag 60.16 EXAMINING MILK BY SIGHT AND SMELL. A person who receives or collects milk from a milk producer shall examine the milk by sight and smell, and shall reject all milk which has an objectionable odor, which is abnormal in appearance or consistency, or which is visibly adulterated. Rejected milk shall not be received or commingled with milk from another producer. If the rejection of milk is disputed, the person who initially rejects the milk shall contact the operator of the dairy plant to which the milk would ordinarily be delivered, and the dairy plant operator shall accept or reject the milk.

Ag 60.17 COLLECTING MILK SAMPLES. Whenever milk is received or collected from a milk producer, the person receiving or

collecting the milk shall obtain a representative sample of the milk for quality testing purposes. If milk is collected from a producer at a dairy farm, and transported in bulk to a dairy plant, the required milk sample shall be obtained at the dairy farm by a milk weigher and sampler licensed under s. 98.146, Stats., or a cheesemaker or buttermaker licensed under s. 97.17, Stats. Milk received or collected from a producer shall not be commingled with milk from another producer until a representative milk sample has been obtained under this section. Milk samples shall be obtained, identified and preserved in compliance with ch. Ag 107. A person who obtains a sample of producer milk under this section shall promptly deliver the sample to the dairy plant which receives the milk from the producer, or to a certified milk testing laboratory designated by the dairy plant operator.

Ag 60.18 BACTERIOLOGICAL TESTING. (1) MONTHLY TESTING REQUIRED. During every month in which a dairy plant receives milk from a milk producer, the dairy plant operator shall perform a standard bacterial plate count (SPC) or plate loop count (PLC) on a milk sample obtained from the producer under s. Ag 60.17. The bacteriological test shall be performed on a milk sample which is collected from the producer not more than 36 hours before the test is performed.

(2) REPORTING TEST RESULTS. Within 10 days after a bacteriological test under this section is completed, the dairy plant operator shall report the bacterial count to the producer and the department. If a dairy plant operator performs bacteriological tests on 2 or more samples of milk collected from

the same producer during the same month, the dairy plant operator shall report a representative test result to the department. A test is not representative unless it is obtained according to a sampling and testing schedule which is consistently applied to all producers shipping milk to the dairy plant, and unless it is chosen according to standard criteria applied to all producers. If any bacterial count exceeds the immediate response level of 1,000,000 per ml., the dairy plant operator shall report the bacterial count to the producer and the department within 3 business days after the bacteriological test is completed.

(3) IMMEDIATE RESPONSE LEVEL; CONFIRMATORY TEST. If a bacterial count under this section exceeds the immediate response level of 1,000,000 per ml., the dairy plant operator shall perform a confirmatory bacteriological test on at least one more sample of milk collected from the producer's dairy farm. The confirmatory sample shall be collected from the producer within one week after the original sample was collected. A confirmatory bacteriological test shall be performed within 36 hours after the confirmatory sample is collected from the producer, and the test result shall be reported to the producer and the department within the time period specified under sub. (2).

(4) REJECTION OF MILK SHIPMENTS. If the bacterial count on any confirmatory sample under sub. (3) exceeds 1,000,000 per ml., the dairy plant operator shall reject all further milk shipments from the producer's dairy farm until a sample of milk from that dairy farm is tested and found to have a bacterial count of not

more than 1,000,000 per ml. Rejected milk shall not be collected or commingled with milk from any other producer. If milk from a dairy farm is rejected by a dairy plant operator under this subsection, the producer shall not ship milk to any other dairy plant until milk from that dairy farm is tested and found to have a bacterial count of not more than 1,000,000 per ml.

(5) INSPECTION BY DEPARTMENT; REINSPECTION FEE. The department may, in its discretion, inspect a dairy farm in response to any bacterial count reported to the department under this section. If the department inspects a dairy farm in response to a confirmatory bacterial count of more than 1,000,000 per ml. under sub. (3), the department shall charge a reinspection fee for the inspection under s. Ag 60.04. The department shall not charge a reinspection fee if the confirmatory bacterial count does not exceed 1,000,000 per ml., or if the inspection is made more than 2 weeks after the department receives the confirmatory bacterial count under sub. (3).

NOTE: Under s. Ag 60.27, the food division will suspend a producer's grade A farm permit if 3 of the last 5 bacterial counts reported to the department under this section exceed the grade A standard of 100,000 per ml. under s. Ag 60.15(2), whether or not any of the bacterial counts exceeds the immediate response level of 1,000,000 per ml. under this section.

Under s. Ag 60.25, the department may, after notice and opportunity for public hearing under ch. 227, Stats., suspend the license of a milk producer if bacterial counts on the producer's milk continue to exceed the grade B standard of 300,000 per ml. under s. Ag 60.15(2), whether or not any of the bacterial counts exceeds the immediate response level of 1,000,000 per ml. under this section. If 2 of the last 4 bacterial counts reported to the department under this section exceed the grade B standard of 300,000 per ml., the department will, at a minimum, send a warning notice to the producer.

Ag 60.19 TESTING FOR INHIBITORY SUBSTANCES. (1) MONTHLY TESTING REQUIRED. During every month in which a dairy plant receives milk from a milk producer, the dairy plant operator shall perform an inhibitory substance test on a milk sample obtained from the producer under s. Ag 60.17. This requirement does not apply if the dairy plant operator maintains a program of daily load testing under sub. (2). Inhibitory substance tests on individual producer samples shall be performed using the Bacillus Stearothermophilus disc assay method or another test method approved in writing by the department. The inhibitory substance test shall be performed on a milk sample which is collected from the producer not more than 36 hours before the test is performed.

(2) DAILY LOAD TESTING. Instead of performing monthly tests on individual producer samples under sub. (1), a dairy plant operator may perform an inhibitory substance test on every bulk delivery of commingled raw milk which is received by the dairy plant. The dairy plant operator shall collect a sample of milk from every bulk delivery at the time of delivery, and shall perform an inhibitory substance test on the sample within 36 hours after the delivery. An inhibitory substance test on the bulk delivery sample shall be performed using the Bacillus Stearothermophilus disc assay method or another test method approved in writing by the department. If the sample from a bulk milk delivery tests positive for an inhibitory substance, the dairy plant operator shall, within 36 hours, perform an inhibitory substance test on each of the individual producer

samples collected under s. Ag 60.17 from the producer milk shipments comprising that bulk delivery. Individual producer samples shall be tested using a method under sub. (1).

(3) REJECTION OF MILK BASED ON TEST RESULT. If any individual producer sample under sub. (1) or sub. (2) tests positive for an inhibitory substance, the dairy plant operator shall immediately notify the producer and reject all further shipments of milk from that producer until a sample of the producer's milk tests negative for inhibitory substances. Rejected milk shall not be collected or commingled with milk from any other producer. If milk from a dairy farm is rejected by a dairy plant operator under this subsection, the producer shall not ship milk to another dairy plant until milk from that dairy farm is tested and found to be free of inhibitory substances.

(4) REPORTING TEST RESULTS. If any individual producer sample under sub. (1) or sub. (2) tests positive for an inhibitory substance, the dairy plant operator shall report that test result to the department within 3 business days after the test is completed. The dairy plant operator shall also report the result of each follow-up test under sub. (3) within 3 business days after the follow-up test is completed.

(5) INSPECTION BY DEPARTMENT; REINSPECTION FEE. The department may, in its discretion, inspect a dairy farm in response to any positive test result under this section. The department shall charge a reinspection fee for the inspection under s. Ag 60.04. The department shall not charge a reinspection fee if the inspection is made more than 2 weeks

after the test result is reported to the department.

Ag 60.20 TESTING FOR SOMATIC CELLS. (1) MONTHLY TESTING REQUIRED. During every month in which a dairy plant receives milk from a milk producer, the dairy plant operator shall perform a somatic cell count on a milk sample obtained from the producer under s. Ag 60.17. The somatic cell count shall be made using a direct microscopic somatic cell count (DMSCC) or an electronic somatic cell count (ESCC). The somatic cell count shall be performed within 36 hours after the milk sample is initially obtained from the producer under s. Ag 60.17. If the somatic cell count on goat milk exceeds 1,000,000 the somatic cell count shall be confirmed using the Pyronin Y Methyl green stain test, unless that test was used to obtain the initial count.

(2) REPORTING TEST RESULTS. Within 10 days after a somatic cell count under this section is completed, the dairy plant operator shall report the somatic cell count to the producer and the department. If a dairy plant operator performs a somatic cell count on more than one sample of milk collected from the same producer during the same month, the dairy plant operator shall report a representative somatic cell count to the department. A test result is not representative unless it is obtained according to sampling and testing schedule which is consistently applied to all producers shipping milk to the dairy plant, and unless it is chosen according to the same criteria applied to all producers. If any somatic cell count under this section exceeds an immediate response level under sub. (2m), the dairy plant operator shall report the somatic cell count to the

producer and the department within 3 business days after the somatic cell count is completed.

(2m) IMMEDIATE RESPONSE LEVEL. The immediate response level under this section is 1,000,000 somatic cells per ml. for cow's milk, and 1,500,000 for goat milk.

(3) IMMEDIATE RESPONSE LEVEL; CONFIRMATORY TEST. If a somatic cell count under sub. (1) exceeds an immediate response level under sub. (2m), the dairy plant operator shall make a confirmatory somatic cell count on at least one more sample of milk collected from the producer's dairy farm. The confirmatory sample shall be collected from the producer within one week after the original sample was collected. A confirmatory somatic cell count shall be made within 36 hours after the confirmatory sample is obtained from the producer, and shall be reported to the producer and the department within the time period specified under sub. (2). The confirmatory somatic cell count on goat milk shall be made using the Pyronin Y-Methyl green stain test.

(4) REJECTION OF MILK SHIPMENTS. If the somatic cell count on any confirmatory sample under sub. (3) exceeds the immediate response level under sub. (2m), the dairy plant operator shall reject all further milk shipments from the producer's dairy farm until a sample of milk produced on that dairy farm is tested and found to have a somatic cell count which does not exceed the immediate response level under sub. (2m). Rejected milk shall not be collected or commingled with milk from any other producer. If milk from a dairy farm is rejected by a dairy plant operator under this subsection, the producer shall not ship milk to any

other dairy plant until milk from that dairy farm is tested and found to have a somatic cell count which does not exceed the immediate response level under sub. (2m).

(5) INSPECTION BY DEPARTMENT; REINSPECTION FEE. The department may, in its discretion, inspect a dairy farm in response to any somatic cell count reported to the department under this section. If the department inspects a dairy farm in response to a confirmatory somatic cell count under sub. (3) which exceeds the immediate response level under sub. (2m), the department shall charge a reinspection fee for the inspection under s. Ag 60.04. The department shall not charge a reinspection fee if the confirmatory somatic cell count does not exceed the immediate response level, or if the inspection is made more than 2 weeks after the department receives the confirmatory somatic cell count under sub. (3).

NOTE: Under s. Ag 60.27, the food division will suspend a producer's grade A farm permit if 3 of the last 5 somatic cell counts reported to the department under this section exceed the standard under s. Ag 60.15(4), whether or not any of the somatic cell counts exceeds the immediate response level under sub. (2m).

Under s. Ag 60.25, the department may, after notice and opportunity for public hearing under ch. 227, Stats, suspend the license of a milk producer if somatic cell counts on the producer's milk continue to exceed the standard under s. Ag 60.15(4), whether or not any of the somatic cell counts exceeds the immediate response level under sub. (2m). If 2 of the last 4 somatic cell counts reported to the department under this section exceed the standard under s. Ag 60.15(4), the department will, at a minimum, send a warning notice to the producer.

Ag 60.21 SEDIMENT TESTING. A dairy plant operator, or a person collecting milk on behalf of a dairy plant operator, shall

regularly test individual producer milk shipments for coarse sediment content, using an appropriate screening test. Sediment test results for each milk producer shall be kept on file at the dairy plant. Sediment test results need not be reported to the department, but shall be made available for inspection and copying by the department upon request.

NOTE: The Sani-Guide coarse sediment test is an appropriate screening test under this section; however, other suitable screening tests may also comply with this section if approved in writing by the department.

Dairy plants under grading supervision by the United States department of agriculture are subject to sediment standards adopted by the United States department of agriculture under 7 CFR 58.2732. Copies of 7 CFR 58.2732 may be obtained from the department at cost.

Ag 60.22 TESTING BY CERTIFIED AND APPROVED LABORATORIES; TEST METHODS; REPORTING. (1) CERTIFIED AND APPROVED LABORATORIES. Milk testing under ss. Ag 60.18 to Ag 60.20 shall be performed in a laboratory which is approved by the department, and certified by the state of Wisconsin department of health and social services under s. 143.15, Stats., to conduct milk quality tests. The department may withdraw its approval of any laboratory for cause, whether or not the laboratory is certified by the department of health and social services under s. 143.15, Stats. Cause may include false or inaccurate test results or test reports, or failure to conduct tests in compliance with required procedures.

NOTE: A dairy plant operator may contract with a certified and approved testing laboratory to perform required milk quality tests and report test results on behalf of the dairy plant operator.

(2) TEST METHODS. Milk testing under ss. Ag 60.18 to Ag 60.20 shall be conducted using test methods prescribed in "Standard Methods for the Examination of Dairy Products," 15th Edition (1985), or in "Official Methods of Analysis of the Association of Analytical Chemists," 14th Edition (1984). Other tests shall be approved by the department.

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

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

(3) METHOD FOR REPORTING TEST RESULTS TO DEPARTMENT.

Whenever a dairy plant operator is required to report milk quality test results to the department under this subchapter, the test results shall be reported to the department in writing or by means of electronic data transfer. If a dairy plant operator is required to report a test result within 3 business days after a milk quality test is completed, the test result may be reported orally if the report is promptly confirmed in writing or by means of electronic data transfer. The department may prescribe the format in which test results are to be reported to the department.

(4) TEST RESULTS KEPT ON FILE BY DAIRY PLANT. Results of

all milk quality tests performed by a dairy plant operator, including but not limited to milk quality tests under this chapter, shall be kept on file at the dairy plant for a period of 2 years, and shall be made available for inspection and copying by the department upon request. No dairy plant operator, nor any agent of a dairy plant operator, may falsify the result of any milk quality test.

Ag 60.23 DAIRY PLANT OPERATOR TO FURNISH PRODUCER MILK SAMPLES TO DEPARTMENT UPON REQUEST. Upon reasonable notice from the department, a dairy plant operator shall provide the department with samples of producer milk collected under s. Ag 60.17. The department may request samples once every 4 months, or more often as the department considers necessary for animal health and milk quality testing. Every sample shall be marked with the identification number of the individual producer from whom the sample was collected, and shall also indicate the date on which the sample was collected. A sample shall be kept at a temperature of 40<sup>o</sup> F or below until it is transferred to the custody of the department.

SUBCHAPTER V

INSPECTION AND ENFORCEMENT

Ag 60.24 INSPECTION OF DAIRY FARMS; GENERAL.

(1) INSPECTION BY DAIRY PLANT. If a dairy plant operator submits a milk producer license application under s. Ag 60.02 or a grade A permit application under s. Ag 60.03 on behalf of a milk producer, the dairy plant operator shall inspect the dairy farm, as necessary, in order to certify that the dairy farm facilities comply with applicable dairy farm standards under this chapter. The department may require a dairy plant operator to inspect a dairy farm as necessary.

(2) INSPECTION BY THE DEPARTMENT. The department shall inspect dairy farms for compliance with applicable dairy farm standards under this chapter. The department shall inspect a grade A farm at least once every 6 months, and a grade B farm at least once annually. For the purpose of conducting a lawful inspection under this chapter, the department may exercise its authority under ss. 93.08, 93.15(2) and 97.12(1), Stats.

(3) SPECIAL DAIRY FARM INSPECTORS. The department may appoint a special dairy farm inspector under s. Ag 60.32 to perform dairy farm inspections under sub. (2) as the department's agent, provided that at least one annual inspection of a grade A dairy farm is made by an inspector employed by the department. A special dairy farm inspector shall comply with s. Ag 60.32.

Ag 60.25 SUSPENSION OR REVOCATION OF MILK PRODUCER LICENSE.

(1) GENERAL. A milk producer's license may be suspended or revoked for cause, as provided in s. 93.06(7), Stats. The

suspension or revocation of a milk producer's license also suspends or revokes any grade A farm permit held by the producer. Except as provided under sub. (2), a milk producer's license may not be suspended or revoked except by order of the secretary or the secretary's designee, after notice and opportunity for hearing under ch. 227, Stats. The food division may file a written complaint with the department, seeking the suspension or revocation of a milk producer's license. Pending completion of the proceedings, the secretary or the secretary's designee may issue interim orders as necessary to protect the public health, safety and welfare.

NOTE: Cause for which a milk producer's license may be suspended or revoked may include violations of dairy farm standards under subchapter III; violations of milk quality standards under s. Ag 60.15; willful interference with, or refusal to permit a lawful dairy farm inspection; or failure to pay a required fee under s. Ag 60.05.

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

(a) The sale or shipment of milk from the producer's dairy farm poses an imminent hazard to public health, and there is a reasonable likelihood that the hazard may continue if the producer's license is not summarily suspended.

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

1. An inspection of the producer's dairy farm reveals gross violations of dairy farms standards under subchapter III, or reveals violations which pose an acute health risk.

2. Confirmed bacterial plate counts or plate loop counts on the producer's milk indicate bacterial counts of more than 1,000,000 per ml. in the milk.

3. Confirmed inhibitory substance tests on the producer's milk indicate that an inhibitory substance is present in the milk.

4. Confirmed somatic cell counts on the producer's milk, indicate somatic cell counts of more than 1,000,000 per ml. in the milk (more than 1,500,000 per ml. for goat milk).

5. Milk from the producer's dairy farm is reliably believed to contain pesticides or toxic substances which may be harmful to humans.

6. An infectious disease, transmissible to humans through milk, is reliably diagnosed in the producer's dairy herd.

(b) The producer has refused to permit inspection or sampling authorized by law.

(c) The producer has physically assaulted an inspector.

(d) Despite reasonable notice and demand for payment, a producer has failed or refused to pay license or reinspection fees for which the producer is liable under s. Ag 60.05(3), and which were due and payable prior to the current license year.

(3) SUMMARY SUSPENSION NOTICE; RIGHT OF HEARING. A summary suspension notice under sub. (2) becomes effective when served on the producer. A summary suspension notice shall comply with s. Ag 60.26. A person adversely affected by a summary suspension notice may request a hearing on the summary suspension notice, as provided in s. Ag 60.31.

(4) INSPECTION PRIOR TO REINSTATEMENT; REINSPECTION FEE.

If an inspection is required for reinstatement of a license which is suspended or revoked under this section, the department shall charge a reinspection fee under s. Ag 60.04 for the inspection.

Ag 60.26 SUSPENSION OR REVOCATION OF GRADE A FARM PERMIT;  
GENERAL. A milk producer's grade A permit may be suspended or revoked for cause, as provided in s. 93.06(7), Stats. Except as provided under s. Ag 60.25, Ag 60.27 or Ag 60.28, a grade A permit may not be suspended or revoked except by order of the secretary or the secretary's designee, after notice and opportunity for hearing under ch. 227, Stats. The food division may file a written complaint with the department, seeking the suspension or revocation of a grade A permit. Pending completion of the proceedings, the secretary or the secretary's designee may issue interim orders as necessary to protect the public health, safety and welfare. If an inspection is required for the reinstatement of a grade A permit which is suspended or revoked under this section, the department shall charge a reinspection fee under s. Ag 60.04 for the inspection.

NOTE: Cause for which a producer's grade A permit may be suspended or revoked may include violation of a dairy farm standard under subchapter III; violation of a milk quality standard under s. Ag 60.15; willful interference with, or refusal to permit, a lawful dairy farm inspection; or failure to pay fees for which the producer is liable under s. Ag 60.05(3).

Ag 60.27 VIOLATION OF GRADE A MILK QUALITY STANDARDS;  
SUSPENSION OF GRADE A FARM PERMIT BY FOOD DIVISION. (1) WARNING NOTICE. The food division shall mail a written warning notice to a grade A milk producer whenever any of the following occurs:

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

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

(2) CONTENTS OF WARNING NOTICE; EFFECTIVE PERIOD. A warning notice under sub. (1) shall warn the producer that the producer's grade A permit will be suspended if milk quality testing indicates a continued violation of the standard under s. Ag 60.15 to which the warning notice pertains. A copy of the notice shall be mailed to the dairy plant operator. A warning notice becomes effective 3 days after it is mailed, and remains in effect as long as the standard cited in the warning notice is violated on 2 of the last 4 reported tests.

(3) TESTING SUBSEQUENT TO WARNING NOTICE. Not less than 3 days nor more than 21 days after a warning notice under subs. (1) and (2) becomes effective, the department shall obtain and test a sample of the producer's milk for compliance with the milk quality standard cited under sub. (1). A milk sample collected under s. Ag 60.17 and tested by a dairy plant operator under subchapter IV satisfies this requirement, provided that the sample is collected and the test result is reported to the department within the time period specified under this paragraph.

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

(a) Three out of the last 5 bacterial counts received by the department under s. Ag 60.18(2) and sub. (3) exceed 100,000 per ml.

(b) Three out of the last 5 somatic cell counts received by the department under s. Ag 60.20(2) and sub. (3) exceed 750,000 per ml. for cow's milk, or 1,000,000 per ml. for goat milk.

NOTE: This subsection does not prohibit the food division from summarily suspending a milk producer's license and grade A permit under s. Ag 60.25, without prior warning, if the food division determines that any of the circumstances identified under s. Ag 60.25(2) exists.

(5) EFFECTIVE DATE OF SUSPENSION; CONTENTS OF SUSPENSION NOTICE. The suspension of a milk producer's grade A farm permit becomes effective 3 days after a suspension notice under sub. (4) is mailed. The department shall give prior oral or written notice of the suspension to the dairy plant operator, and shall mail or deliver a copy of the suspension notice to the dairy plant operator. The suspension notice shall comply with s. Ag 60.29.

(6) REINSTATEMENT OF PERMIT. (a) A milk producer whose grade A farm permit is suspended under this section for violation of a milk quality standard may file with the department a written request for reinstatement of the permit. The reinstatement request shall be made on a form provided by the department under s. Ag 60.29(4). The reinstatement request shall be accompanied

by the result of a milk quality test performed by the dairy plant operator, showing that the relevant milk quality standard is no longer being violated. Within 7 days after the department receives a complete reinstatement request, the department shall inspect the dairy farm. The department shall charge a reinspection fee for the inspection, pursuant to s. Ag 60.04. If, upon inspection, it appears that all conditions potentially responsible for the milk quality standard violation have been corrected, the inspector shall reinstate the producer's grade A farm permit, and shall notify the dairy plant of the reinstatement.

(b) If a milk producer does not request reinstatement under par. (a) within 6 months after the producer's grade A permit is suspended under this section, the permit is automatically revoked at the end of the 6 month period. Once revoked, the permit may not be reinstated except upon the filing of a new application under s. Ag 60.03. Written notice to this effect shall be provided to the producer at the time of revocation. This paragraph does not apply if the suspension of the producer's grade A permit has been contested, and the contested case proceedings are still pending.

Ag 60.28 VIOLATION OF GRADE A FARM STANDARDS; SUSPENSION OF GRADE A FARM PERMIT BY FOOD DIVISION. (1) WARNING NOTICE. If, upon inspection of a grade A dairy farm, a food division inspector finds a key violation as defined in s. Ag 60.01(15), the inspector may issue a warning notice to the producer stating that, if the violation is not corrected by a deadline date

specified in the notice, the producer's grade A permit will be suspended. The correction deadline shall be established by the inspector based on the seriousness of the key violation and the time reasonably required to correct the key violation. The correction deadline shall be not less than 3 days nor more than 60 days after a warning notice is issued under this paragraph. The warning notice shall be served in person or by mail, or shall be prominently posted in the milkhouse. A copy of the warning notice shall be mailed or delivered to the dairy plant. The warning notice shall include a notice of the producer's right to hearing under s. Ag 60.31.

(2) REINSPECTION; SUSPENSION NOTICE. Within 7 days after the correction deadline date specified in the warning notice under sub. (1), a food division inspector shall reinspect the dairy farm to determine whether each key violation cited in the warning notice has been corrected. The department shall charge a reinspection fee for the inspection, pursuant to s. Ag 60.04. If, upon reinspection, the inspector finds that a key violation cited in the warning notice has not been corrected, the inspector shall issue a written notice suspending the producer's grade A permit. The suspension becomes effective immediately upon service of the suspension notice under s. Ag 60.29(6). The inspector shall promptly notify the dairy plant of the suspension, and may tag the bulk tank to notify the milk hauler of the suspension. A copy of the suspension notice shall be mailed or delivered to the dairy plant. A person adversely affected by the suspension notice may request a hearing on the

notice as provided under s. Ag 60.31.

(3) REINSTATEMENT OF PERMIT. (a) A milk producer whose grade A farm permit is suspended under sub. (2) may file a written request for reinstatement with the department. The reinstatement request shall be made on a form provided by the department under s. Ag 60.29(4). Within 7 days after the department receives the reinstatement request, the department shall inspect the producer's dairy farm in response to the reinstatement request. The department shall charge a reinspection fee for the inspection, pursuant to s. Ag 60.04. If, upon inspection, it appears that all violations cited in the suspension notice have been corrected, the inspector shall reinstate the producer's grade A farm permit, and shall notify the dairy plant of the reinstatement.

(b) If a milk producer does not request reinstatement under par. (a) within 6 months after a producer's grade A permit is suspended under sub. (2), the grade A permit is automatically revoked at the end of the 6 month period. Once revoked, the permit may not be reinstated except upon the filing of a new application under s. Ag 60.03. Written notice to this effect shall be provided to the producer at the time of revocation. This paragraph does not apply if the suspension of the producer's grade A permit has been contested, and the contested case proceedings are still pending.

NOTE: This subsection does not prohibit the food division from summarily suspending a milk producer's license and grade A permit under s. Ag 60.25 without prior warning if the food division determines that any of the circumstances identified under s. Ag 60.25(2) exists.

Ag 60.29 SUSPENSION NOTICE; REQUIREMENTS. Whenever the food division suspends a milk producer license under s. Ag 60.25(2), or a grade A farm permit under s. Ag 60.27 or Ag 60.28, the suspension notice shall comply with the following requirements:

(1) ISSUED BY AUTHORIZED PERSON. A suspension notice shall be signed by the food division administrator, or a person designated in writing by the food division administrator. Persons authorized to issue suspension notices may be designated individually, or by position. A notice suspending a grade A farm permit under s. Ag 60.28(2) may be issued by the food division inspector who makes the inspection under that subsection. No suspension notice may be issued by a special dairy farm inspector appointed under s. Ag 60.32.

(2) REASON FOR SUSPENSION. A suspension notice shall specify the reasons for which the suspension notice is issued.

(3) TERM OF SUSPENSION; REQUIREMENTS FOR REINSTATEMENT OF LICENSE OR PERMIT. A suspension notice shall indicate the term of the suspension or, if the suspension is for an indefinite term, the conditions which must be met in order for the affected milk producer to obtain reinstatement of the milk producer's license or grade A permit. Conditions for reinstatement shall be reasonably related to the reasons for which the license or permit is suspended. If the food division summarily suspends a milk producer license under s. Ag 60.25(2), the suspension notice may authorize a dairy plant to receive milk from the producer on a conditional basis, upon completion of specified inspection or testing by the dairy plant, pending full

reinstatement by the department.

(4) REINSTATEMENT APPLICATION FORM. A notice suspending a grade A permit under s. Ag 60.27 or Ag 60.28 shall be accompanied by a reinstatement application form which may be used by the affected milk producer to apply for reinstatement of the milk producer's grade A permit. The form shall include a statement, to be signed by the affected milk producer, that all requirements for the reinstatement of the grade A permit have been met to the best of the milk producer's knowledge. If a milk producer requests a hearing on a suspension under s. Ag 60.31, a request for reinstatement under this subsection does not constitute an admission or waiver by the milk producer with respect to any fact, issue or cause of action.

(5) NOTICE OF RIGHT TO HEARING. A suspension notice shall include a notice that the producer may request a hearing on the suspension, as provided under s. Ag 60.31.

(6) SERVICE ON MILK PRODUCER. A suspension notice shall be served on the affected milk producer by one of the following methods:

(a) By delivering the notice in person to the milk producer, or to a competent member of the milk producer's family who is 14 years of age or older.

(b) By mailing the notice to the milk producer. Service may be proved by an affidavit of mailing, or by a return receipt signed by the milk producer. Absent proof of later delivery, a notice served by mail is considered served 3 days after the date of mailing.

(c) For a notice suspending a grade A permit under s. Ag 60.28, by posting the suspension notice in a prominent location in the producer's milkhouse. A notice posted in the milkhouse under this paragraph is considered served at the time of posting.

(7) COPY PROVIDED TO DAIRY PLANT OPERATOR. A copy of every suspension notice shall be mailed or delivered to the dairy plant operator who normally receives milk from the milk producer. Failure to mail or deliver a copy to the dairy plant operator does not invalidate a suspension notice.

Ag 60.30 HOLDING ORDERS; IDENTIFICATION AND DISPOSAL OF ADULTERATED MILK. (1) HOLDING ORDER. Whenever a department inspector has reasonable cause to believe that milk examined by the inspector is adulterated or misbranded, and is hazardous to health or misleading to the potential damage or injury of a purchaser or consumer, the inspector may issue a temporary holding order to allow for further testing or examination of the milk or milk product, pursuant to s. 97.12(2), Stats. A holding order shall be issued in writing, and shall identify the milk which is subject to the holding order. A holding order may be extended or terminated by written notice, as provided in s. 97.12(2), Stats. Notice extending a holding order may be issued by the food division administrator, or a person authorized in writing by the food division administrator. A holding order and every notice extending a holding order shall include a notice of the recipient's right to hearing under s. Ag 60.31.

(2) DISPOSAL ORDER. If analysis or examination shows that milk is adulterated or misbranded, and is hazardous to health or

misleading to the potential damage or injury of a purchaser or consumer, the food division may issue a summary disposal order under s. 97.12(2)(c), Stats., requiring the disposal or other disposition of the milk or milk product. A disposal order may be issued by the inspector who examines the milk, or by the food division administrator or a person authorized in writing by the administrator. Where appropriate, an order may require relabeling of misbranded milk in lieu of disposal. A holding order under sub. (1) is not a prerequisite to a disposal order under this subsection. A disposal order shall be issued in writing, and shall include a notice of the recipient's right to hearing under s. Ag 60.31.

(3) IDENTIFICATION OF ADULTERATED MILK. If milk is found to be adulterated and hazardous to health, a department inspector may identify the milk for disposal or disposition in compliance with a notice under sub. (2). To identify the adulterated milk, the inspector may tag the milk container, and may add a harmless food grade color to the milk to prevent its sale or use for human food purposes.

Ag 60.31 RIGHT OF HEARING. (1) HEARING REQUEST; PERSONS ADVERSELY AFFECTED BY FOOD DIVISION ACTION. A person adversely affected any of the following food division actions may request a hearing on the action:

(a) The denial of a milk producer license application under s. Ag 60.02, or grade A permit application under s. Ag 60.03.

(b) The summary suspension of a milk producer license under s. Ag 60.25(2).

(c) The issuance of a warning notice under s. Ag 60.27(1) or Ag 60.28(1).

(d) The suspension of a grade A permit under s. Ag 60.27(4) or Ag 60.28(2).

(e) The denial of a reinstatement application under s. Ag 60.27(6) or Ag 60.28(3).

(f) A holding order, disposal order, or other summary action under s. Ag 60.30.

(2) FORM AND TIMING OF REQUEST; EFFECT PENDING HEARINGS. A request for hearing on a food division action under sub. (1) shall be made in writing, and shall be filed with the department within 10 days after the producer receives notice of the food division action. A request for hearing does not stay the effect of any action under this chapter. The filing deadline under this subsection is waived if the department fails to give the milk producer timely written notice of the filing deadline.

(3) INFORMAL HEARING. (a) If the department receives a written request under this section for a hearing on a food division action, the department shall conduct a prompt informal hearing before a department employe or official who was not personally involved in the investigation or decision to take the action, and who has authority to withdraw or correct the action as necessary. The informal hearing shall be conducted by the food division unless the action was taken by the food division administrator. The informal hearing shall be held within 3 business days after a request for hearing is received by the department, unless the person requesting the hearing agrees to a

later date. The informal hearing shall be held by telephone or at the regional office of the department.

(b) At an informal hearing under par. (a), the issue shall be limited to whether there were adequate grounds for the food division action under this chapter. Within 2 business days after the conclusion of the informal hearing, the presiding officer shall issue a brief written memorandum which summarizes the informal hearing, and any decision or action resulting from the informal hearing. A copy of the memorandum shall be provided to the party requesting the hearing. The memorandum shall include notice of a person's right to request a full evidentiary hearing under sub. (4).

(4) FULL EVIDENTIARY HEARING. If a person adversely affected by a food division action files a timely written request for hearing under subs. (1) and (2), and if the matter is not resolved by an informal hearing under sub. (3), the person adversely affected may request a full evidentiary hearing before the department, pursuant to ch. 227, Stats. and ch. Ag 1. A full evidentiary hearing, if held, shall be held before a hearing examiner appointed by the secretary. A request for a full evidentiary hearing does not stay any action under this chapter.

SUBCHAPTER VI  
SPECIAL DAIRY FARM INSPECTORS

Ag 60.32 SPECIAL DAIRY FARM INSPECTORS. (1) APPOINTMENT.

The department may appoint a special dairy farm inspector under s. 97.22(7), Stats., to act as the department's agent for the inspection of dairy farms under this chapter. A special dairy farm inspector shall be appointed in writing by the food division administrator as a Class I or Class II inspector, for a period of time not to exceed 3 years. An appointment is not transferable.

(2) INDIVIDUAL QUALIFICATIONS. A special dairy farm inspector shall have appropriate experience in the field of milk sanitation, including at least 2 years of dairy plant field work experience. A special dairy farm inspector shall be an employee or agent of a qualified dairy plant operator under sub. (3). A special dairy farm inspector shall comply with applicable training and qualification requirements under this section.

(3) DAIRY PLANT OPERATOR QUALIFICATIONS. (a) For purposes of this section, a grade A dairy plant operator is qualified if the dairy plant's farm survey rating under s. Ag 80.02 is not less than 90 percent on the 2 most recent surveys under that section.

(b) For purposes of this section, a grade B dairy plant operator is qualified if not more than 10 percent of the producers shipping milk to the dairy plant have done any of the following during the preceding calendar year, based on dairy plant test data:

1. Violated the standard for inhibitory substances under s. Ag 60.15(3).

2. Violated the bacterial count standard for grade B milk under s. Ag 60.15(2) more than twice during any consecutive 4-month period.

3. Violated the somatic cell count standard under s. Ag 60.15(4) more than twice during any consecutive 4-month period.

(4) AUTHORITY. A special dairy inspector may exercise the authority of a department inspector under ss. 93.08, 93.15(2) and 97.12(1), Stats., for the purpose of conducting a lawful dairy farm inspection as the department's agent. A special dairy farm inspector shall not take enforcement action on behalf of the department, or issue a warning notice under s. Ag 60.28(1). A special dairy farm inspector shall not enter dairy farm premises, perform an inspection or collect samples over the objection of the milk producer, but shall immediately report to the department the milk producer's refusal to permit inspection or sampling. The food division administrator may impose restrictions on a special dairy farm inspector's authority, as the administrator deems necessary.

(5) SPECIAL DAIRY FARM INSPECTOR CLASSIFICATION.

(a) Class I inspector. The department may appoint a Class I special dairy farm inspector to act as the department's agent for the inspection of grade A or grade B farms shipping milk to the dairy plant with which the Class I inspector is affiliated.

(b) Class II inspector. The department may appoint a Class II special dairy farm inspector to act as the department's

agent for the inspection of grade B farms shipping milk to the dairy plant with which the Class II inspector is affiliated.

(6) APPLICATION. A person applying for appointment as a special dairy farm inspector shall submit a written application on a form provided by the department. The application shall be signed by the applicant, and by the operator of the dairy plant with which the applicant is affiliated. The application shall describe the applicant's qualifications to become a special dairy farm inspector, including academic training, work experience in the area of milk sanitation, and other relevant qualifications. Upon receipt of a written application, and within 20 days after all training and evaluation under this section are completed, the food division administrator shall grant or deny the application in writing. A person adversely affected by the denial of an application may request a hearing before the department on the denial, as provided in ch. 227, Stats.

(7) TRAINING PRIOR TO APPOINTMENT. A person applying for appointment as a special dairy farm inspector shall attend a training program sponsored or approved by the department prior to appointment. Training shall be completed prior to the evaluation under sub. (8).

(8) EVALUATION PRIOR TO APPOINTMENT.

(a) Class I inspector. Before an applicant may be appointed as a Class I special dairy farm inspector, the applicant shall pass a written examination which measures the applicant's knowledge and ability to perform dairy farm inspections as an agent of the

department. In addition, the applicant shall pass a field evaluation, in which the applicant and a department inspector prepare independent inspection reports on each of 25 randomly selected dairy farms inspected simultaneously. Inspection reports shall be prepared on standard department checklist forms, and may not be used for compliance purposes. In order for the applicant to pass the field evaluation, at least 80 percent of the applicant's checklist determinations, aggregated over all 25 inspection reports, shall conform to the checklist determinations independently made by the department inspector.

(b) Class II inspector. Before an applicant may be appointed as a Class II special dairy farm inspector, the applicant shall pass a written examination which measures the applicant's knowledge and ability to perform dairy farm inspections as an agent of the department.

(9) INSPECTION PROCEDURE. A special dairy farm inspector shall inspect dairy farms according to inspection procedures established by the department. Inspections shall be assigned by the department to meet the requirements under s. Ag 60.24(2) and (3). A special dairy farm inspector shall prepare a written inspection report for each inspection, on a form provided by the department, and shall mail or deliver a copy of the inspection report to the department within 5 days after the inspection is completed. If the special dairy farm inspector finds any condition which may constitute an imminent health hazard, the special dairy farm inspector shall immediately inform the department and the dairy plant of the imminent health hazard.

The department may require a special dairy farm inspector to prepare and file additional reports as necessary.

(10) KEY VIOLATIONS. If an inspection report prepared by a special dairy farm inspector indicates any key violation as defined in s. 60.01(15), the department shall issue a warning notice and schedule a reinspection by a department inspector as provided under s. Ag 60.28(1).

(11) PERFORMANCE REVIEW. The department shall review the performance of a special dairy farm inspector, to determine whether the special dairy farm inspector is faithfully and competently performing his or her duties under this chapter. A performance review shall be completed before an appointment is renewed under sub. (15). Review procedures shall be reasonably designed to ensure an objective performance evaluation. Different review procedures may be used for Class I and Class II inspectors. Based on its review, the food division shall prepare a written performance evaluation for each special dairy farm inspector. An unsatisfactory performance evaluation constitutes grounds for the suspension or revocation of a special dairy farm inspector appointment under sub. (13).

(12) IN-SERVICE TRAINING. Each year, a special dairy farm inspector may be required to attend one or more inspection training meetings sponsored or approved by the department.

(13) SUSPENSION OR REVOCATION OF APPOINTMENT. The food division administrator may summarily suspend or revoke the appointment of a special dairy farm inspector for cause. Notice suspending or revoking an appointment shall be issued in writing,

and shall specify the reason for the suspension or revocation. The food division administrator shall summarily revoke the appointment of a special dairy farm inspector, notwithstanding a satisfactory individual performance evaluation under sub. (11), if the dairy plant operator is not a qualified dairy plant operator under sub. (3). A person adversely affected by a suspension or revocation under this subsection may request a hearing on the suspension or revocation under ch. 227, Stats. Notice of right to hearing shall be included in the suspension or revocation notice.

(14) TRANSFER BETWEEN DAIRY PLANTS; NEW APPOINTMENT REQUIRED. The appointment of a special dairy farm inspector is not transferable between dairy plants. If a special dairy farm inspector transfers from one dairy plant to another, he or she must apply and be appointed as a special dairy farm inspector for the new dairy plant. No training or evaluation is required under subs. (7) and (8) prior to the new appointment, provided that the person's performance as a special dairy farm inspector at the former dairy plant was satisfactory.

(15) APPOINTMENT RENEWAL. To renew an appointment under this section, a Class I special dairy farm inspector must reapply and be evaluated according to the procedure required for an original appointment except that inspection reports prepared as a result of a field evaluation under sub. (8) may be used for compliance purposes. A Class II special dairy farm inspector's appointment may be renewed upon filing a renewal application form. The department may grant or deny the renewal application

of a Class II inspector based upon results of the performance reviews of the applicant under sub. (11).

(16) LIABILITY. The department assumes no liability for the job safety or welfare of a special dairy farm inspector, or for the actions or omissions of a special dairy farm inspector, except as otherwise provided by law.

SECTION 5. Ag 80.04(1) and (2) are repealed and recreated to read:

Ag 80.04(1) Before the department issues a grade A dairy plant permit under s. 97.20(3), Stats., for a new dairy plant, the department shall inspect the dairy plant for compliance with this chapter. The department shall grant or deny a grade A dairy plant permit within 40 business days after the permit application is filed with the department, provided that the application is complete. After a grade A dairy plant permit is issued, the department shall inspect a grade A processing plant and a grade A receiving station at least once every 3 months. The department shall inspect a grade A transfer station at least once every 6 months.

(2) The department shall inspect a grade A bulk milk tanker at least once annually.

SECTION 6. Ag 80.05(1) and (7) are repealed.

SECTION 7. Ag 80.06(1) is repealed and recreated to read:

Ag 80.06(1) Grade A milk shall be produced on dairy farms which comply with grade A requirements under ch. Ag 60. At the time of receipt by the dairy plant, milk shall comply with grade A standards under s. Ag 60.15. At no time prior to

pasteurization may the bacterial count of grade A milk exceed 300,000 per ml.

SECTION 8. Ag 80.07 is repealed.

SECTION 9. Ag 80.12(2) is repealed.

SECTION 10. Ag 80.17(5) and (6) are repealed.

SECTION 11. EFFECTIVE DATE. The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22(2)(intro.), Stats.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By William D. Mathias  
William D. Mathias, Administrator  
Food Division

JKM/Ag30/T5  
5/30/89

