

Chapter ATCP 78

**GRADE A MILK AND MILK PRODUCTS:  
STANDARDS OF IDENTITY AND LABELING**

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History: Chapter Ag 71 as it existed on July 31, 1975 was repealed and a new chapter Ag 71 was created effective August 1, 1975; Chapter Ag 71 was renumbered ch. ATCP 78 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

**ATCP 78.01 Definitions.** In addition to definitions under ss. 97.01 and 97.24, Stats., the following shall apply in the interpretation and enforcement of this chapter:

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

(2) "Federal act" means the federal food, drug, and cosmetic act of 1938, as amended (21 USC 301 et. seq.) and includes definitions and standards of identity for milk and cream adopted thereunder (21 CFR, Part 131).

(3) "Milk and milk products" are grade A milk and milk products as defined under s. 97.24, Stats., and includes cream, light whipping cream, heavy whipping cream, sour cream, cultured sour cream, half-and-half, sour half-and-half, cultured half-and-half, concentrated milk, concentrated milk products, skim milk, nonfat milk, lowfat milk, milk and milk products with vitamins and minerals added, homogenized milk, flavored milk or milk products, cultured buttermilk, cultured milk and milk products, yogurt or lowfat, skim or nonfat yogurt, egg nog, nog dairy drinks, and acidified milk and milk products. The term does not apply to such products as sterilized milk or milk products hermetically sealed in a container and so processed, either before or after sealing, as to prevent microbial spoilage, or evaporated milk, condensed milk, ice cream and other frozen desserts, butter, dry milk products (except as defined under s. ATCP 78.03 (8)), or cheese, except when such products are used in the manufacturing and processing of any pasteurized milk or milk products.

(4) "Homogenized milk" is milk which has been treated to insure breakup of the fat globules to such an extent that, after 48 hours of quiescent storage at 45° F., no visible cream separation occurs on the milk, and the fat percentage of the top 100 milliliters of milk in a quart, or of proportionate volumes in containers of other sizes, does not differ by more than 10% from the fat percentage of the remaining milk as determined after thorough mixing. The word "milk" shall be interpreted to include homogenized milk.

(5) "Pasteurized" means subjected to pasteurization as provided in ch. ATCP 62.

(6) "Ultra-pasteurized" means subjected to ultrapasteurization as provided in ch. ATCP 62.

History: Cr. Register, July, 1975, No. 235, eff. 8-1-75; am. (1), (2) and (3), Register, July, 1979, No. 283, eff. 8-1-79; am. (5) and (6), Register, January, 1987, No. 373, eff. 10-1-89.

**ATCP 78.02 Vitamin and mineral supplements; permits.**  
(1) No person shall in the processing of milk or milk products for sale or distribution in this state, add vitamins or minerals thereto without a permit from the department. As a condition of the permit, each permit holder shall furnish to the department at his or her own expense a complete analysis and biological assay for each product to which vitamins and minerals are added. A complete analysis, including biological assay shall be submitted to the department at least once every 6 months for milk or milk products represented as containing added vitamins or minerals. Each analysis and assay shall be completed by a laboratory approved by the department on basis of samples collected by the department and furnished to the laboratory for purposes of analysis or assay.

(2) Where an analysis or assay indicates that the products do not contain the vitamins or minerals represented as being present, the department may require that additional samples be tested to determine whether the deficiency has been corrected.

(3) Vitamins and minerals may be added only within limits prescribed under applicable definitions and standards of identity for milk and milk products concerned, or applicable provisions of ch. ATCP 87 with respect to dietary products.

(4) No milk or milk products shall be represented as "fortified" by virtue of the addition of vitamins or minerals. The term "fortified" may be used only in connection with protein fortification.

History: Cr. Register, July, 1975, No. 235, eff. 8-1-75; correction in (1) made under s. 13.93 (2m) (b) 5, Stats., Register, April, 1993, No. 448.

**ATCP 78.03 Product definitions; standards of identity.** In addition to definitions and standards of identity for milk and milk products under s. 97.01, Stats., or the federal act, the following shall be definitions and standards of identity for products listed below:

(1) "Cultured buttermilk" is a product obtained by ripening pasteurized milk, skim milk or lowfat milk by means of lactic acid producing cultures, and contains not less than 8.25% of milk solids not fat. Butter granules from grade A milk sources, sodium citrate, salt, nonfat dry milk, lactose, and harmless stabilizers and emulsifiers may

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be added. All optional ingredients shall be declared on the label.

(2) "Cultured milk" is a fluid or semifluid product resulting from the souring or treatment by a lactic acid or other bacterial culture of pasteurized milk, and contains not less than 8.25% milk solids not fat and not less than 3.3% milkfat. Lactose, harmless stabilizers, emulsifiers, sodium citrates, salt, and nonfat dry milk may be added.

(3) (a) "Yogurt" or "yoghurt" is a semi-solid or plastic product prepared by the souring of pasteurized milk with lactic acid producing bacteria or other culture and contains not less than 8.25% milk solids not fat. Flavoring, harmless stabilizers and emulsifiers, sugar, corn sweeteners, lactose and nonfat dry milk may be added. Potassium sorbate, up to 0.2% by weight, may be added to inhibit yeast and mold. If made with added fruit or flavoring, the product shall be labeled "\_\_\_\_\_ Yogurt" with the blank space being filled in with the name of the fruit or predominate flavoring added. If the product is artificially flavored, that fact shall be clearly indicated in connection with the name of the product in letters at least half the size of the name of the food. Coliform standards of s. ATCP 63.06 shall only apply at the point of production prior to the addition of fruit or flavoring. The common or usual name of each ingredient used in the food shall be clearly disclosed in the ingredient declaration of the product label in descending order of prominence.

(b) "Lowfat yogurt" is a product as defined under par. (a) and subject to the same standards and labeling requirements as specified for yogurt under par. (a) except that it is prepared from lowfat milk containing not less than 0.5% nor more than 2% milkfat. The name of the product consists of the words "lowfat yogurt" followed by "\_\_\_\_\_ % milkfat", the blank space being filled in with the percentage of milkfat it contains. The phrase "\_\_\_\_\_ % milkfat" shall be declared in letters at least one half the size of the name of the food.

(c) "Skim milk yogurt" or "nonfat yogurt" is a product as defined under par. (a) and subject to the same standards and labeling requirements as specified for yogurt under par. (a), except that it is prepared from skim milk or nonfat milk containing at least 8.5% milk solids not fat and less than 0.5% milkfat by weight. The name of the product consists of the words "skim milk yogurt" or "nonfat yogurt".

(d) Yogurt, lowfat yogurt, or skim milk or nonfat yogurt shall be sold by weight.

(4) "Acidified milk and milk products" are milk and milk products obtained by the addition of food grade acid to pasteurized cream, half-and-half, or skim milk resulting in a product where the acidity is not less than 0.20% expressed as lactic acid. Acidified milk and milk products shall conform to the definitions and standards of identity for milk and milk products prescribed in this chapter except that the name of the product shall be immediately preceded by the word "acidified".

(5) "Egg nog" is a milk product containing a minimum of 6% milkfat and at least 1% total egg yolk solids. It may be sweetened and may also contain flavorings, spices, salt, nonfat dry milk, and a harmless stabilizer and emulsifier.

(6) "Nog dairy drink" is a product made with milk, lowfat milk or skim milk, and contains at least .5% total egg yolk solids. It may be sweetened and may also contain flavorings, spices, nonfat dry milk, and harmless stabilizers. All ingredients shall be included in the ingredient statement. The word "nog" may not be used to identify the product unless the minimum of .5% egg solids is contained therein.

(7) "Concentrated milk products" are homogenized concentrated milk, fortified milk, concentrated skim milk, concentrated flavored milk, concentrated flavored drink, and similar concentrated products made from concentrated milk or concentrated skim milk. When recombined with water in accordance with instructions printed on the container, such products shall conform to definitions and standards of identity for corresponding milk products.

(8) "Grade A dry and condensed milk products" are milk products which have been processed for use in grade A pasteurized milk products under ch. ATCP 64.

Note: Definitions and standards of identity of lowfat milk, skim milk or nonfat milk, half-and-half, light cream or coffee or table cream, light whipping cream or whipping cream, heavy cream or heavy whipping cream, concentrated milk or condensed milk, sour cream or cultured sour cream, acidified sour cream, sour half-and-half or cultured sour half-and-half, acidified sour half-and-half, sour cream dressing, and sour half-and-half dressing are as set forth under federal definitions and standards of identity for milk and cream (21 CFR, Part 131).

History: Cr. Register, July, 1975, No. 235, eff. 8-1-75; renum. (3) to be (3) (a) and am., cr. (3) (b) to (d), Register, July, 1979, No. 283, eff. 8-1-79.

**ATCP 78.04 Labeling.** Milk and milk products for which definitions and standards of identity have been established shall be labeled with the name of the food as specified in such definitions and standards of identity, and in addition thereto shall conform to the following labeling requirements:

(1) Optional ingredients, as permitted in the definitions and standards of identity shall, when added, be set forth in the ingredient declaration of the label.

(2) The addition of vitamins or minerals shall be set forth on the label as prescribed in definitions and standards of identity for milk and cream under the federal act (21 CFR, Part 131), and for dietary products as prescribed under ch. ATCP 87.

(3) Where the products have been pasteurized or ultra-pasteurized, the words "pasteurized" or "ultra-pasteurized" shall be declared on the labels. Where the products have been homogenized, the word "homogenized" may be declared on the label.

(4) Where the principal ingredient of a product is lowfat milk, the milk fat percentage shall be declared immediately preceding the words "lowfat milk" in the ingredient declaration on the label.

(5) Where stabilizers, emulsifiers and nutritive sweeteners are added as optional ingredients under a definition or standard of identity, they shall be set forth in the ingredient declaration by their common or usual name.

(6) The term "Grade A" shall appear on the label of the product.

History: Cr. Register, July, 1975, No. 235, eff. 8-1-75.

**ATCP 78.05 Authority; enforcement.** This chapter is adopted under authority of ss. 93.07 (1), 97.09 (1), and 97.24 (4), Stats., and may be enforced in accordance with enforcement provisions and remedies as provided under ss. 97.10, 97.12, 97.72, and 97.73, Stats.

**History:** Cr. Register, July, 1979, No. 283, eff. 8-1-79.