

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

PROPOSED ORDER

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

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

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

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

Explanation of Statutory Authority

The Wisconsin Department of Agriculture, Trade and Consumer Protection (department) has broad general authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. The department also has general authority under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. The department has specific authority to promulgate rules related to milk haulers in s. 97.21 (6), Stats., which allows the department to establish rules related to the following: fees and regulations for bulk milk tanker operators and milk distributors; standards for the construction, maintenance and sanitary operation of bulk milk tankers, milk distribution vehicles and milk distribution facilities; the design, installation, cleaning and maintenance of equipment and utensils; personnel sanitation; storage and handling of milk and fluid milk products; identification of

bulk milk tankers and milk distribution vehicles; and record keeping. The department has authority under s. 98.146, Stats. to license bulk milk weigher and samplers, and to establish a fee for licensing inspection and reinspections.

Related Statutes and Rules

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

Plain Language Analysis

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

The department is proposing to modernize Wis. Admin. Code ch. ATCP 82 with an overhaul of the definitions section, modernization of licensing and documentation requirements, updating of the licensing and fee structure, and enhancement of provisions ensuring proper food safety. Rule revisions also support technological innovations including electronic record keeping devices, in-line sampling systems, and the expanded use of silos while keeping language flexible to account for future enhancements. The department also received consent of the Attorney General to incorporate the *3-A Sanitary Standards for Stainless Steel Automotive Transportation Tanks for Bulk Delivery and Farm Pick-Up Service* by reference.

After receiving public comment, the definition of "Bulk Milk Tanker" in s. ATCP 82.01 (1) was updated to remove the comma after "fluid", several sections were updated to remove unnecessary uses of the words "that" or "which", the word "complete" was removed from s. ATCP 82.01 (5), the word "immediate" was removed from the proposed definition of "single farm pick-up" in s. ATCP 82.01, the period of time the department has to grant or deny an application for a bulk milk tanker grade A permit was increased to 40 days in s. ATCP 82.02 (3), "another regulatory agency" was added to the allowable inspectors under s. ATCP 82.02 (7) (a), the word "renewal" was added to the proposed language for s. ATCP 82.02 (8) to differentiate it from previous sections, the proposed language for s. ATCP 82.08 (1) (d) was changed to keep the phrase "tanker unless", the proposal to repeal ch. 82.08 (3) (c) was removed, the proposed addition of ch. 82.08 (4) (a) (5) was removed, s. ATCP 82.10 (1) (a) was updated to say "once" instead of "one", the formatting of temperature requirements listed in ch. 82.10 (6) (a) were updated for consistency with the remainder of the chapter, the addition of "designated person" in s. ATCP 82.10 (6) (c) was adjusted to for clarification and the wording of the sanitizing requirements in the same section were modified, the phrase "or unclean" was added to s. ATCP 82.10 (7), the phrasing of s. ATCP 82.10 (8) (a) was updated for clarity, the requirement to include the BMWS license expiration date on the collection record was removed from s. ATCP 82.10 (10) (b), s. ATCP 82.10 (11) (a) was updated for clarity, verbiage eliminating the need for a BMWS to indicate a partial pick up if the recording device shows the volume of milk in the storage vessel was added to s. ATCP 82.10 (11) (am) (4), and additional language was included in s. ATCP 82.12 (1) (b)

to clarify which sections apply to which type of sampling equipment along with which parties any abnormalities should be reported to, if they are found,

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

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

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

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

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

Comparison with Rules in Adjacent States

Illinois

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

Iowa

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

the PMO as part of their dairy regulations under Section 192.102 of the Iowa Grade ‘A’ Milk Inspection Law. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Michigan

Michigan adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weighers and samplers under the Michigan Compiled Laws (MCL), Grade A Milk Law of 2001 (Act 266 of 2001). Michigan completes inspections and issues a grade A permit after inspection. Michigan charges fees associated with these grade A inspections. Sections 288.501 and 288.503 of the Grade A Milk Law of 2001 state the Michigan Department of Agriculture shall charge a license or renewal fee annually for dairy plants. The fee varies by the amount of production at the plant, but the fee shall not exceed \$1,600 per year. A \$10 late fee may be imposed each business day the application is late; however, the fee shall not exceed \$100. Each receiving station or transfer station must be licensed or permitted at a rate of \$250 per year. Each milk tank truck cleaning facility that cleans milk contract surfaces of milk tank trucks that is not a part of a dairy plant will be licensed or permitted at a rate of \$250 per year - facilities that are a part of a dairy plant do not have to pay a separate licensing fee. Each milk transportation company must be licensed at a rate of \$50 per year. Each milk tank truck must be licensed or permitted at a rate of \$20 each year. A hauler/sampler license shall be issued to anyone picking up and sampling grade A milk, and this license shall incur a fee of \$50 every two years, with an allowance for the initial license fee to be paid in two \$25 installments. The Michigan Department of Agriculture may assess a \$300 fee on any licensee or permittee requiring the performance of two or more consecutive reinspections or for compliance of items found in violation. Michigan adopts the PMO as part of their dairy regulations under Section 288.490 of the Grade A Milk Law of 2001. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Minnesota

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

Summary of Factual Data and Analytical Methodologies

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

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

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

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

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

The Department's Regulatory Review Coordinator

The Department's Regulatory Review Coordinator may be contacted by:

Email at Bradford.Steinel@wisconsin.gov

Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

Department Contact Person

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Where Comments May Be Submitted:

Questions and comments related to this rule may be directed to:

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RULE TEXT

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

ATPC 82.01 (1) "Bulk milk tanker" means a mobile bulk container used to transport milk, fluid, milk products, whey, or whey cream in bulk from a dairy farm, or to, or from, a dairy plant in this state. "Bulk milk tanker" includes a ~~mobile bulk container which is~~ permanently mounted on a motor vehicle or ~~which is~~ designed to be towed by a motor vehicle, and includes all equipment and accessories related to the ~~mobile bulk~~ container. "Bulk milk tanker" does not include a mobile bulk container ~~which is~~ used by a milk producer solely to transport ~~that the~~ producer's own milk to the milk producer's bulk tank or to a licensed dairy plant operated by the milk producer.

(1s) "Bulk milk weigher and sampler" means any person who ~~collects official milk samples and may transport raw milk from a farm, or raw milk or fluid milk products to, or from, a dairy plant, receiving station, or transfer station~~ measures milk for payment purposes or collects official milk samples, or both, and is licensed under this chapter.

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

SECTION 2. ATPC 82.01 (4) is renumbered to ATPC 82.01 (4) (intro.) and, as renumbered, is amended to read:

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

SECTION 3. ATPC 82.01 (4) (a), (b), (c), and (d) are created to read:

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

(b) A receiving station.

(c) A transfer station.

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

SECTION 4. ATPC 82.01 (5), (7), (7m) (b), (8), and (9) are amended to read:

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

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

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

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

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

SECTION 5. ATPC 82.01 (9e), (9m), and (9s) are created to read:

ATPC 82.01 (9e) "Single-farm pick-up" means the one-time transfer of properly cooled milk, as outlined in s. ATPC 82.10 (6), originating from a single licensed milk producer's milking animals and stored in a bulk milk tank, to a bulk milk tanker owned or operated by the same licensed milk producer, or

owned or operated by the producer's dairy plant or milk contractor, and the transportation of that milk to the receiving plant.

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

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

SECTION 6. ATCP 82.01 (10) is amended to read:

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

SECTION 7. ATCP 82.02 (3) (a), (5) (a), (b), (6) (a), and 7 (a) are amended to read:

ATCP 82.02 (3) (a) The department shall grant or deny a permit application under sub. (2) within ~~30-40~~ days after the department receives a completed application.

ATCP 82.02 (5) (a) If the department reinspects a bulk milk tanker because the department finds a violation of ch. 97, Stats., or this chapter, the department shall charge the bulk milk tanker operator a reinspection fee. The fee under par. (b) is effective any date on or after the effective date of this chapter. The reinspection fee is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a permit renewal application to the bulk milk tanker operator, or at any other time after the fee becomes effective.

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

(6) (a) An applicant for a bulk milk tanker permit shall pay a permit surcharge of ~~\$100~~\$125 if the department determines that, within 365 days prior to submitting the permit application, the applicant operated a bulk milk tanker without a grade A permit in violation of sub. (1m) or (7). This fee is effective any date on or after the effective date of this chapter.

ATCP 82.02 (7) (a) An application for a grade A permit shall include proof that the bulk milk tanker has passed an inspection by the department, by an equivalent regulatory agency in another state, or

by a certified industry inspector under s. ATP 82.02 (8) within the 24 months before the last day of the month in which the application was made.

SECTION 8. ATP 82.04 (1) (intro.), (2), (6) (a), (6) (b), and (8) are amended to read:

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

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

(6) (a) License fee. An applicant for a bulk milk weigher and sampler license shall pay a biennial license fee of ~~\$60~~\$75. This fee is effective any date on or after the effective date of this chapter.

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

(8) ACTION ON APPLICATION TO RENEW A BULK MILK WEIGHER AND SAMPLER LICENSE. The department shall grant or deny a license application under sub. (7) within ~~40~~30 days after the department receives a complete renewal application.

SECTION 9. ATP 82.04 (9), (10), and (11) are repealed.

SECTION 10. ATP 82.06 (1) is amended to read:

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

SECTION 11. ATCP 82.08 (1) (d) is amended to read:

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

SECTION 12. ATCP 82.08 (1) (e) is created to read:

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

SECTION 13. ATCP 82.08 (2) (a) is amended to read:

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

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

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

SECTION 15. ATCP 82.08 (4) (b), (c), (6) (b) (intro.), and (6) (d) are amended to read:

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

person may remove the tag, except as provided in par. (c). If using other forms of evidence besides cleaning tags, that evidence must be readily accessible and must be retained as provided in par. (c).

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

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

Note: To obtain a copy of the license application form, or to determine which agent to contact for an application form, send an email to datcpdfslicensing@wi.gov or go to https://datcp.wi.gov/Pages/Licenses_Permits/FoodLicenses.aspx.

(6) (d) In order for a bulk milk tanker cleaning facility to hold a valid grade A permit, the bulk milk tanker cleaning facility must meet the requirements of ss. 65.24 and 65.28 (1) (a), Stats. and pass a semi-annual inspection by the department.

SECTION 16. ATCP 82.10 (1) (a) is amended to read:

ATCP 82.10 (1) (a) If milk from a grade A or grade B dairy farm violates a standard under s. ATCP 65.70 on any single test, milk from that farm shall be collected at least ~~one~~ once every 2 days until a subsequent test shows that the milk from that dairy farm complies with that standard. This paragraph does not require a bulk milk weigher and sampler to collect milk if collection would violate ch. ATCP 65.

SECTION 17. ATCP 82.10 (2) (b) is renumbered as ATCP 82.10 (2) (b) (intro.) and, as renumbered, is amended to read:

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

SECTION 18. ATCP 82.10 (2) (b) (1), (2), (3), and (4) are created to read:

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

(2) (b) (2) The sample dipper well shall contain a sanitizing solution of not less than 100 ppm nor more than 200 ppm chlorine or another acceptable sanitizing solution at the appropriate concentration per the manufacturer's requirements. The bulk milk weigher and sampler shall carry a sanitizing solution test kit(s) that will allow them to assure the strength of the sanitizing solution should they need to refill the dipper well.

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

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

SECTION 19. ATCP 82.10 (2) (c) is repealed.

SECTION 20. ATCP 82.10 (2) (h), (4) (a), (6) (a), (b), (c), (7), and (8) (title) are amended to read:

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

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

(6) (a) Before a bulk milk weigher and sampler ~~collects milk at a dairy farm~~ accepts milk, the bulk milk weigher and sampler shall ~~record~~ ensure the temperature of the milk to be ~~collected, as shown on the dairy farm bulk tank indicating thermometer~~ accepted meets requirements listed below and is recorded. If the milk is collected more than 2 hours after the last milking, the bulk milk weigher and sampler shall reject the milk if the milk temperature exceeds ~~45° F. (7° C.)~~ 45°F (7°C). If milk from 2 or more milkings is collected within 2 hours of the last milking, the bulk milk weigher and sampler shall reject the milk if the milk temperature exceeds ~~50° F. (10° C.)~~ 50°F (10°C). Milk ~~which that~~ does not meet these temperature requirements may be collected if, within 4 hours after collection, the milk has

174 begun to be processed exclusively into milk or dairy products not designated as a grade A dairy product
175 under s. ATCP 65.01 (26) and (27).

176 **(6) (b)** At least once each month, and more often if necessary, a bulk milk weigher and sampler,
177 or a person designated by the dairy plant, shall check the accuracy of each dairy farm bulk tank indicating
178 thermometer or other temperature measuring device by measuring the temperature of milk in the bulk
179 tank with ~~the bulk milk weigher and sampler's dial or digital thermometer~~ a temperature measuring
180 device that meets the standards of this chapter. The bulk milk weigher and sampler or designated person
181 shall keep a written record comparing the temperatures ~~recorded~~ indicated by the ~~bulk milk weigher and~~
182 ~~sampler's calibrated~~ thermometer with those ~~recorded~~ indicated by the ~~bulk tank thermometer~~
183 temperature measuring device. The ~~written record shall be kept in the dairy farm milkhouse~~ must be
184 readily accessible for at least one year. In the case of a temperature recording device, the accuracy shall
185 be checked every 6 months and verified to be within $\pm 2^{\circ}\text{F}$ (1°C) of the calibrated thermometer.

186 **(6) (c)** Before a bulk milk weigher and sampler or designated person uses a dial or digital
187 thermometer to measure the temperature of milk ~~in a dairy farm bulk tank~~ at the dairy farm, the weigher
188 and sampler or designated person shall sanitize the stem of the thermometer in an acceptable sanitizing
189 solution at the appropriate concentration according to the label directions. The bulk milk weigher and
190 sampler or designated person shall use the sanitizing solution according to label directions.

191 **(7) CONNECTING MILK HOSE.** Before a bulk milk weigher and sampler connects a bulk milk
192 tanker hose to a dairy farm bulk tank, the bulk milk weigher and sampler shall examine the fittings of the
193 bulk milk tanker hose and the dairy farm bulk tank outlet to ensure that both are clean. Before connecting
194 the hose, the bulk milk weigher and sampler shall clean and sanitize the bulk tank outlet if the outlet valve
195 is leaking or unclean. The bulk milk weigher and sampler shall attach the milk hose to the bulk tank outlet
196 in a manner that does not contaminate the hose or hose cap. The hose shall be connected through the hose
197 port in the milkhouse, and not through the milkhouse door.

198 **(8) (title) MEASURING MILK IN THE BULK TANK.**

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

ATCP 82 (8) (a) (intro.) ~~Before~~ When measuring milk from a dairy farm bulk tank, before milk is transferred from a ~~dairy~~-farm bulk tank to a bulk milk tanker, the bulk milk weigher and sampler shall accurately measure the amount of milk in the bulk tank. The bulk milk weigher and sampler shall measure the milk using a gauge rod or other measuring device that is specifically designed and calibrated to measure milk in the bulk tank. Immediately before using a gauge rod, the bulk milk weigher and sampler shall wipe it dry with a clean single-service disposable towel.

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

SECTION 22. ATCP 82.10 (8) (bg) and (cr) are created to read:

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

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

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

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

(8) (bg) (2) (b) If the in-line measuring device in use is also being used to obtain the official sample, the sampling device has been approved by the department to produce a representative sample.

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

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

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

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

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

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

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

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

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

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

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

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

ATCP 82.10 (10) (intro.) MILK COLLECTION RECORD. ~~Whenever a bulk milk weigher and sampler collects a milk shipment from a dairy farm, the bulk milk weigher and sampler shall make a~~

~~written or electronic collection record for that shipment. One duplicate or electronically printed copy of~~
~~the collection record shall be posted in the dairy farm milkhouse, and an identical copy shall be provided~~
~~to the dairy plant operator when the milk is delivered to a dairy plant. Before a bulk milk weigher and~~
~~sampler accepts milk, the bulk milk weigher and sampler shall ensure the following information regarding~~
~~the milk to be accepted is recorded. The information shall be readily available at the dairy farm and~~
~~provided to the dairy plant operator before or at the time the milk is delivered to the dairy plant. The~~
~~collection record shall be legibly signed or initialed by~~ include the legible unique identifier of the bulk
milk weigher and sampler and shall include all of the following:

(10) (b) The bulk milk weigher and sampler's license number ~~and expiration date.~~

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

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

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

(11) (a) ~~After~~ When collecting milk from a dairy farm bulk tank, after a bulk milk weigher and
sampler has sampled milk from a dairy farm bulk tank under sub. (9) and prepared a complete collection
record under sub. (10), the bulk milk weigher and sampler may transfer milk from that bulk tank to the
bulk milk tanker. A bulk milk weigher and sampler may not collect milk from any container on a dairy
farm other than from a bulk tank. Except as provided in par. (am), partial removal of milk from the bulk
tank shall only be permitted if the bulk tank is completely emptied, cleaned, and sanitized prior to the
addition of more milk to the bulk tank.

(11) (am) (1) The bulk tank is equipped with a 7 day recording device approved by the
department as specified in s. ~~ATCP 65.14 (6).~~ ATCP 65.16 (3).

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

274 **(11) (b)** After a bulk milk weigher and sampler has collected all of the milk from a bulk tank, the
275 bulk milk weigher and sampler shall disconnect the milk hose from the bulk tank, cap the hose, and return
276 the hose to its cabinet in the bulk milk tanker. The bulk milk weigher and sampler shall inspect the bulk
277 tank for abnormal sediments, and shall report any abnormal sediments to the dairy plant operator and milk
278 producer present.

279 SECTION 27. ATCP 82.12 (1) (b) is amended to read:

280 **ATCP 82.12 (1) (b)** A bulk milk weigher and sampler who collects milk from a dairy farm bulk
281 tank using a dipper or sampling straw shall collect the milk sample under par. (a). The bulk milk weigher
282 and sampler shall collect the milk sample from the bulk tank before the bulk milk weigher and sampler
283 transfers the bulk tank contents to a bulk milk tanker. The bulk milk weigher and sampler shall collect the
284 sample according to sub. (2). The milk sample may not be commingled with a milk sample from any
285 other bulk tank.

286 SECTION 28. ATCP 82.12 (1) (bm) is created to read:

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

292 SECTION 29. ATCP 82.12 (1) (c) is amended to read:

293 **ATCP 82.12 (1) (c)** If a milk producer milks directly to a bulk milk tanker, an individual licensed
294 under s. 98.146 or 97.17, Stats., shall collect a milk sample under par. (a) from the bulk milk tanker
295 before the tanker contents are commingled with milk from any other milk producer. The individual shall

collect the sample according to sub. ~~(3)~~ (2). The milk sample may not be commingled with a milk sample from any other bulk milk tanker or dairy farm bulk tank.

SECTION 30. ATCP 82.12 (2) (ae) (title.) is created to read:

ATCP 82.12 (2) (ae) (title.) SAMPLING PROCEDURE, DIPPER.

SECTION 31. ATCP 82.12 (2) (a), (b), (c), and (d) are renumbered to ATCP 82.12 (2) (ae) (1), (2), (3), and (4).

SECTION 32. ATCP 82.12 (2) (bm) (title.), (1), (cs) (title.), (1), and (2) are created to read:

ATCP 82.12 (2) (bm) (title.) Sampling procedure, silo.

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

(2) (cs) (title.) SAMPLING PROCEDURE, IN-LINE SAMPLER.

(2) (cs) (1) TRUCK MOUNTED IN-LINE SAMPLING. The bulk milk weigher and sampler shall collect a sample from each dairy farm following the manufacturer's instructions for the proper operation for the sampling device in use. The in-line sampling device must be approved by the department to produce a representative sample for each dairy farm while preventing carry-over from one farm sample to another on multiple farm loads.

(2) (cs) (2) ON-FARM IN-LINE SAMPLING. The department may approve a farm to use an on-farm in-line sampling device to obtain the sample from the dairy farm. The department may not approve the dairy farm to use an in-line sampling device unless all of the following apply:

(2) (cs) (2) (a) At least one individual at the farm is a licensed bulk milk weigher and sampler under this chapter.

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

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

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

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

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

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

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

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

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

SECTION 35. ATCP 82.16 is renumbered to ATCP 82.16 (2r) (title) and, as renumbered, is amended to read:

ATCP 82.16 (2r) ~~False samples or records~~ Falsifying samples or records.

SECTION 36. ATCP 82.16 (title), (1g) (title), and (1g) (intro.) are created to read:

ATCP 82.16 (title) Records.

(1g) RECORD RETENTION. Any person licensed under this chapter shall keep all records for the timeframes required under this chapter and shall make them available to the department for inspection or copying upon request. The person responsible for the records must:

(1g) (a) Keep records in hard copy or electronic format, or both, provided that the department can obtain ready access to the records.

(1g) (b) Take reasonable security measures to prevent record loss, damage, or tampering.

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

(END OF RULE TEXT)

Dated this _____ day of _____, 2025.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Randy Romanski, Secretary