

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to section 227.112 of the Wisconsin Statutes, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is hereby accepting comments on the proposed guidance document:

Warning Notice of Reinspection for Grade A Milk Producers

LOCATION OF PROPOSED GUIDANCE

Proposed guidance document may be reviewed by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance document may be submitted by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

DEADLINE FOR SUBMISSION

The comment period will run no fewer than 21 days after the publication of this document in the Administrative Register.

AGENCY PUBLICATION

The attached guidance document contains statements or interpretations of law under the following applicable provisions of federal law or the applicable state statutory or administrative code provisions: Wis. Stat. ch. 97, Wis. Admin. Code, ch. 65.

CERTIFICATION

Pursuant to the authority delegated to me by the Secretary, I have reviewed the attached guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.



01 July 2020

Steve Ingham
Administrator
Division of Food and Recreational Safety



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GUIDANCE DOCUMENT

Guidance Document Title: Warning Notice of Reinspection for Grade A Milk Producers

This guidance document is based on Wis. Stat. ch. 97 and chapter(s) ATCP 65 Wis. Admin. Code. This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed.

64 (DFRS)

Steve Ingham

July 1, 2020

Steven Ingham, Ph.D. - Administrator, Division of Food and Recreational Safety

DATE

Contributors:

Updated Notice of Reinspection Procedure - Plain Language Explanation:

In the past, a notice of reinspection was issued if an inspection report noted double debits or found 6 or more non-key violations. The agency's data show that most of the reinspections stemming from the findings of 6 or more violations did not reflect a significant risk to the milk. It is well known that milk producers experience increased stress with the reinspection process. Under the new criteria, non-key violations will not trigger a notice of reinspection unless one or more of the violations are a repeat violation from a previous inspection, i.e. becomes a "double debit", or a combination of violations that create a **substantial risk** of milk adulteration (ATCP 65.01 (35) (c)). This combination of violations is known to be a less frequent trigger for a notice of reinspection. In most situations, the new criteria will give producers more time (3 to 12 months) to correct non-key violations.

Warning Notice of Reinspection for Grade A Milk Producers

Documents Required:

1. Milk Producer Farm Inspection (F-fd-011)
2. Notice of Reinspection (F-fd-077)

Background Information:

This document is used to provide a Grade A milk producer with the legally required pre-notification that farm conditions are not in substantial compliance with ATCP 65, Subchapter II, Wisconsin Administrative Code.

A Warning Notice of Reinspection shall be issued whenever any of the following occurs, ATCP 65.920(5)4):

- A repeat violation (double debit) of any farm standard as determined on 2 consecutive routine inspections of a dairy farm.
- Any key violation as defined in section ATCP 65.01(35) Wis. Adm. Code, if the violation or combination of key violations creates a substantial risk of milk adulteration as determined by the sanitarian.
 - a) Key violations include:
 1. Unclean milk contact surfaces of equipment or utensils **(46)**.
 2. Filthy conditions in a milking barn or parlor, such as several days' accumulation of manure in gutters or other areas **(10)**.
 3. Filthy conditions in a cowyard that could reasonably be expected to result in milking animals having very dirty flanks, udders, and teats **(12, 70)**.
 4. Filthy conditions in a milkhouse **(31, 32)**.
 5. Water supply, water pressure, or water heating facilities not in compliance with this chapter **(29, 30)**.
 6. No access to a toilet facility on the farm premises, or to a handwashing facility in the milkhouse **(34, 63)**.
 7. Violation of well construction or potability of water supply, including any cross connection between potable and non-potable water sources **(38, 39, 40)**.
 8. Lack of an approved sanitizer in the milkhouse or adjacent storage areas that could be used to meet the sanitizing requirements under s. ATCP 65.12 (5) **(47)**.
 9. Visibly dirty udders and teats on milking animals being milked **(54)**.
 10. Milk not cooled in compliance with s. ATCP 65.18 (4) **(65)**.
 11. Rodent activity in the milkhouse **(72)**.
 12. Dead animals in the milking barn or cowyard **(75)**.

13. Violations of standards related to the design, construction or installation of equipment or utensils, if the violation creates a substantial risk of adulteration (**41, 44, 45**).
14. Two or more initial violations of dairy farm standards under subch. II that combine to create a substantial risk of milk adulteration.

Administering the Warning Notice:

1. Select only the violations that caused the Notice of Reinspection.
2. The correction deadline is established based on a reasonable timeframe to correct the required violation(s).
3. The correction deadline date shall be not less than 3 days nor more than 65 days after the warning notice is issued.
 - a) Correction deadlines in excess of 30 days are contrary to Pasteurized Milk Ordinance (PMO) guidance and are subject to enforcement deductions on the subsequent milk sanitation rating.
4. Check Notice of Reinspection and indicate reinspection date in applicable boxes on the top of the Milk Producer Farm Inspection (F-fd-011).
5. Place completed Milk Producer Farm Inspection report and copy of Notice of Reinspection in inspection report bag and set in a conspicuous location in the milkhouse if producer is not present.
6. The completed Milk Producer Farm Inspection report shall be emailed to the dairy plant/field rep prior to saving the inspection form by selecting the email tab.
 - a) If situation warrants, leave farm to complete inspection form and Notice of Reinspection. Mail to farm no later than the following day and immediately notify your supervisor.
7. Reinspection shall be conducted within 7 days after the correction deadline date to determine if the violations on the Notice of Reinspection have been corrected.

Note: Reinspections should not be conducted if the producers Grade A permit is suspended due to somatic cell count (SCC) or standard plate count (SPC). The reinspection shall be conducted within 7 days of notice of reinstatement from the Eau Claire Office. If reinstatement is requested beyond the original correction deadline the reinspection will be routine.

Reinspection Procedure:

1. Find the Milk Producer Farm Inspection form under the tab “Select farm Non-Routine Inspections” and check reinspection box on top of milk producer farm inspection.
2. If violations listed on Notice of Reinspection are found corrected at time of reinspection, indicate such on milk producer inspection sheet.
 - a. The reinspection should focus only on the items which caused the Notice of Reinspection; however, if a violation that would cause an imminent danger to public health is discovered a summary suspension of the license must take place.
 - b. Carry over non-key violations from the last routine inspection (violations which did not cause the reinspection) and/or any newly noted non-key violations on the inspection. If you have any questions contact your supervisor.
3. If violations listed on Notice of Reinspection are not corrected at time of reinspection, refer to Notice of Suspension Procedures for further information.