

Clearinghouse Rule 99-078

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

Clearinghouse Rule
No. 99-78
Docket No. 98-R-17

CERTIFICATION:

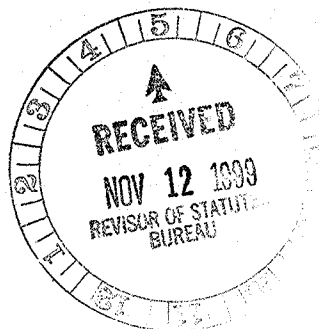
I, Ben Brancel, Secretary of the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order amending ATCP 60.19 (3) and (4), Wisconsin Administrative Code, relating to drug residues in raw milk was signed and adopted by the department on November 9, 1999.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

Signed and sealed this 9th day of November, 1999.

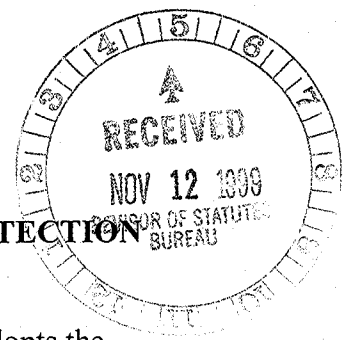
STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Ben Brancel
Ben Brancel, Secretary



1-1-00

**ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING OR REPEALING RULES**



- 1 The state of Wisconsin department of agriculture, trade and consumer protection adopts the
- 2 following order to amend ATCP 60.19(3) and (4) relating to drug residues in raw milk.

**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(8) and 97.23, Stats.

Statutes interpreted: ss. 97.20, 97.22 and 97.23, Stats.

This rule modifies current rules under ch. ATCP 60, Wis. Adm. Code, related to follow-up testing of producer milk samples when a bulk tanker load of milk tests positive for a drug residue. This rule also clarifies how a dairy plant must dispose of milk that tests positive for a drug residue.

Follow-up Testing of Producer Milk Samples

Under current rules, a milk hauler must collect a sample of milk from every dairy farm milk shipment before loading that shipment onto a bulk milk tanker. The dairy plant operator receiving the bulk milk tanker load must perform a drug residue screening test on that tanker load. If the tanker load tests positive for any drug residue, the dairy plant operator must perform a drug residue test on each of the milk samples drawn from the producer milk shipments comprising the tanker load. If a producer sample tests positive for drug residue, the dairy plant operator may hold that producer financially responsible for contaminating the bulk load. Current rules do not require confirmatory tests on producer samples that test positive for drug residues.

This rule requires a dairy plant operator to perform a confirmatory test in duplicate on each producer milk sample that tests positive for any drug residue. Under this rule, the dairy plant operator must perform a confirmatory test using the same test method and producer sample. The operator must perform the confirmatory test in duplicate, with single positive and negative controls. If one or both confirmatory test results are positive for a drug residue, the milk producer's sample is considered positive for that drug residue.

Disposing of Contaminated Milk

This rule also clarifies how a dairy plant must dispose of milk that tests positive for a drug residue. Current rules require a dairy plant operator to reject a bulk tanker load of milk that tests positive for drug residue. A rejected bulk load may not be used for human food. This rule

clarifies that a dairy plant operator must denature or take responsibility for disposing of the rejected bulk load in a manner that precludes its use for human food.

1 **SECTION 1.** ATCP 60.19(3) and (4) are amended to read:

2 ATCP 60.19(3) DRUG RESIDUE FOUND IN BULK LOAD; FOLLOW-UP TESTING. If a bulk load
3 of milk tests positive for a drug residue under sub. (2), the dairy plant operator shall perform a
4 drug residue test on each of the individual milk producer samples collected for that bulk load
5 under s. ATCP 60.17. The dairy plant operator shall test each producer sample before collecting
6 any further milk from that producer. The drug residue test performed on each producer sample
7 shall be sensitive to the same drug residue that was detected in the bulk load. If a producer
8 sample tests positive for any drug residue, the dairy plant operator shall perform a confirmatory
9 test using the same test method and sample. The dairy plant operator shall perform the
10 confirmatory test in duplicate, with single positive and negative controls. If either confirmatory
11 test result is positive for a drug residue, the milk producer's sample is considered positive for that
12 drug residue.

13 (4) DRUG RESIDUE FOUND IN BULK LOAD; LOAD REJECTED. If a bulk load of milk from
14 one or more producers tests positive for a drug residue under sub. (2), the dairy plant operator
15 shall reject the entire bulk load. Milk from a rejected bulk load ~~shall~~ may not be used for human
16 food, ~~and shall not be shipped to any other dairy plant or recipient for use as human food.~~ The
17 dairy plant operator shall denature or take responsibility for disposing of the rejected bulk load in a
18 manner that precludes its use for human food.

19 **EFFECTIVE DATE.** The rules contained in this order shall take effect on the first day
20 of the months following publication in the Wisconsin administrative register, as provided under
21 s. 227.22(2)(intro.), Stats.

Dated this 12 of November, 1999.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE, AND CONSUMER PROTECTION

By Ben Brancel
Ben Brancel, Secretary



State of Wisconsin
Tommy G. Thompson, Governor

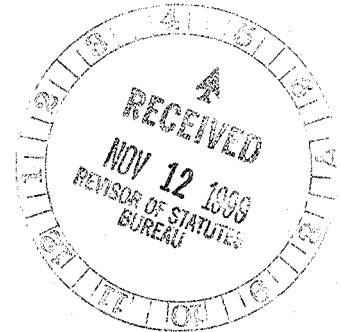
Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: November 9, 1999

TO: Gary Poulson - Revisor of Statutes Office
131 West Wilson Street, Suite 800

FROM: Ben Brancel, Secretary *Ben Brancel*

SUBJECT: **Clearinghouse Rule No. 99-78, Chapter ATCP 60, Relating to Drug Residues in Raw Milk**



The Department of Agriculture, Trade and Consumer Protection hereby submits the following information for filing the above rule.

Final Regulatory Flexibility Analysis

The modifications to ch. ATCP 60, Wis. Adm. Code, Dairy Farms, will not have a fiscal impact on small businesses as defined in s. 227.114(1)(a), Stats. There are approximately 110 dairy plants currently licensed and inspected by the department that meet the definition of a small business.

The testing of every bulk load of raw milk for a drug residue received by a dairy plant operator is required under the dairy farm rule. A dairy plant operator is also required to test each of the producer milk samples collected for a bulk load that tests positive for a drug residue in order to identify the violative producer or producers.

A dairy plant operator is required to reject a bulk load of raw milk that tests positive for a drug residue. The rejected bulk load cannot be shipped to another dairy plant or used for human food.

The proposed changes to ch. ATCP 60, Wis. Adm. Code, are:

1. Clarify and standardize the testing procedures for the producer milk samples collected for a bulk load of raw milk that tested positive for a drug residue.
2. Clarify who is responsible for insuring that a bulk load of raw milk that tested positive for a drug residue is not used for human food.

The impact of the proposed rule changes on small business is negligible. It would not be necessary for licensed dairy plants to provide additional laboratory facilities or staff, or retain additional testing services to comply with these changes.

Comments from Legislative Committees

On September 28, 1999, the department transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform on September 30, 1999, and the Assembly Committee on Agriculture on October 5, 1999. No action was taken during the review period by either committee.