

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
Food Division

Policy Guideline - 4500
June, 1985

Re: Incidental Sales of Milk and Cream

An exception to section 97.24 is as follows:

97.24(2)(c) - This section shall not apply to incidental sales of milk directly to consumers at the farm where such milk is produced or to incidental sales of pasteurized milk and cream at any dairy plant licensed under s. 97.20.

The enforcement interpretation is spelled out in Ag 80.17(3) as follows: "Incidental sales" of ungraded milk and cream to consumers at farms and dairy plants shall not include any sales which are regularly made in the course of business or are preceded by any advertising thereof, or offered to or for solicitation of members of the public, but shall include any sales to employees or to persons shipping milk to the dairy plant.

1. On the farm:

- (a) Must be confined to milk.
- (b) Can be regular sales to employees on farm.
- (c) Can be an "incidental sale" to a member of the public but repeat or regular sales will not qualify as "incidental."
- (d) Sale must be directly to consumer. It does not provide for resale or sale for consumption at picnics or dinners.
- (e) Can be in containers furnished by consumer.

2. At a dairy plant licensed under s. 97.20:

- (a) Sales to employees, haulers, milk patrons provided for--only incidental to public.
- (b) Provides for sale of both ungraded milk and cream.
- (c) Pasteurization is required.
- (d) Can be bottled or dispensed in container provided by consumer.
- (e) Deliveries to consumer are prohibited.
- (f) Purchases must be for consumer's own use. Sales for resale are not permitted.
- (g) Source of product is irrelevant.
- (h) No provisions of the Grade A law apply.
- (i) Provisions of general food law apply. If a dairy plant places a product in a bottle and prepackages, then it must be labeled in compliance with s. 97.03.
- (j) General sanitary sections of Chapter 97 apply.
- (k) An "incidental sale" to a member of the public can be made, but regular sales to the general public are not permitted as per Ag 80.17(3).

4/FPG3
6/10/85