



F RULING-MAKING ORDER
(RCW 34.05.360)

Order # 5096

CR-103 (4/25/96)

Agency: Agriculture	<input type="checkbox"/> Permanent Rule <input checked="" type="checkbox"/> Emergency Rule <input type="checkbox"/> Expedited Repeal
(1) Date of adoption: May 2, 1996	

(2) Purpose: The department will place into rule the criteria used for determining dairy producer degrade periods as provided for in RCW 15.35.111.

(3) Citation of existing rules affected by this order:
 Repealed: n/a
 Amended: n/a
 Suspended: n/a

(4) Statutory authority for adoption: RCW 15.36.021
Other authority: RCW 15.36.111

PERMANENT RULE ONLY
 Adopted under notice filed as WSR _____ on _____ (date).
 Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY
 Under RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
 Reasons for this finding: HB 2134 as passed in the 1996 session amended RCW 15.36.111 and eliminated the requirement that a dairy degrade be effective immediately when a farm has any repeats to violations on a consecutive inspection. The bill contained an emergency clause. The department intends to provide an opportunity for hearing under 34.05 RCW the Administrative Procedures Act prior to taking a degrade action. This emergency will place into rule a criteria for determining the degrade period, until rules can be proposed and adopted on a permanent basis.

EXPEDITED REPEAL ONLY
 Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If Yes, explain:

(6) Effective date of rule:	Emergency Rules
Permanent Rules or Expedited Repeal	
<input type="checkbox"/> 31 days after filing	<input checked="" type="checkbox"/> Immediately
<input type="checkbox"/> Other (specify) _____*	<input type="checkbox"/> Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAY 02 1996

TIME: 8:23
WSR 96-11-001

NAME (TYPE OR PRINT)	James M. Jesernig
SIGNATURE	<i>James M. Jesernig</i>
TITLE	Director
DATE	May 2, 1996

Note: If any category is left blank, it will be calculated as zero.

No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note.

A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New _____	Amended _____	Repealed _____
Federal rules or standards:	New _____	Amended _____	Repealed _____
Recently enacted state statutes:	New _____	Amended _____	Repealed _____

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended _____ Repealed _____

The number of sections adopted on the agency's own initiative:

New _____ Amended _____ Repealed _____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended _____ Repealed _____

The number of sections adopted using:

Negotiated rule making:	New _____	Amended _____	Repealed _____
Pilot rule making:	New _____	Amended _____	Repealed _____
Other alternative rule making:	New _____	Amended _____	Repealed _____

CHAPTER 16-138 DAIRY AND FOOD PENALTY ASSIGNMENT SCHEDULES

NEW SECTION

WAC 16-138-010 UNDER WHAT CIRCUMSTANCES WILL THE DIRECTOR DEGRADE A DAIRY FARM OPERATION? The director shall call for a degrade of a dairy farm operation of a producer for one or more repeat violations of Chapter 15.36 RCW, or rules adopted thereunder, which are noted on consecutive inspections as provided in RCW 15.36.111.

NEW SECTION

WAC 16-138-020 HOW IS THE LENGTH OF A DEGRADE OF A PRODUCER DETERMINED? The length of a degrade of a producer shall be based on the total number of debit points awarded for repeat violations as provided in WAC 16-138-030 or until the director determines the violations that caused the degrade are corrected, which ever is longer. The schedule for determining a degrade period is as follows.

<u>TOTAL DEBIT POINTS</u>	<u>DEGRADE PERIOD</u>
1-4	2 Days
5-10	4 Days
11-20	6 Days
21-20	10 Days
31-40	16 Days
41-50	22 Days
51 or more	28 Days

NEW SECTION

WAC 16-138-030 HOW IS THE DEBIT POINT VALUE OF EACH VIOLATION DETERMINED? The debit point for each violation, as shown in the table below, is the same as the debit points awarded to farms during state surveys and federal check ratings as determined in the current "Methods of Making Sanitation Ratings of Milk Supplies" published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration.

DAIRY FARM SANITATION VIOLATIONS DEBIT POINT VALUES

ITEM NO	DESCRIPTION	DEBIT POINT VALUE
1a	Cows secreting abnormal milk milked last or in SEPARATE equipment	10
1b	Abnormal milk properly handled and disposed of	5
1c	Proper care of abnormal milk handling equipment	5
MILKING PARLOR		
2a	Floors, gutters and feed troughs of concrete or of equally impervious materials; in good repair	2
2b	Walls and ceilings smooth, painted or finished adequately; in good repair; ceiling dust tight	1
2c	Separate stalls or pens for horses, calves and bulls	1
2d	Adequate natural and/or artificial light; well distributed	1
2e	Proper feed storage facilities	1
2f	Properly ventilated; no overcrowding	2
3a	Clean and free of litter	2
3b	No swine or fowl	2
4a	Cowyard graded to drain; no pooled water or wastes	2
4b	Cowyard clean; cattle housing areas properly maintained	2
4c	No swine in cowyard	2
4d	Manure stored inaccessible to cows	2
MILKHOUSE		
Floors		
5a	Smooth; concrete or other impervious material; in good repair	1
5b	Graded to drain	1
5c	Drains trapped if connected to sanitary system	1
Walls and Ceilings		
5a	Approved material and finish	1
5b	Good repair	1
Lighting and Ventilation		
5a	Adequate natural and/or artificial light; properly distributed	2
5b	Adequate ventilation	2
5c	Doors and windows closed during dusty weather	2
5d	Vents and lighting fixtures properly installed	2
Miscellaneous Requirements		
5a	Used for milkhouse operations only; sufficient size	2
5b	No direct opening into living quarters or barn; except as permitted by Ordinance	2
5c	Liquid wastes properly disposed of	2
5d	Proper hoseport where required	2

5e	Acceptable surface under hoseport	2
5f	Suitable shelter for transport truck as required by this Ordinance	2
	Cleaning Facilities	
5a	Two-compartment wash and rinse vat of adequate size	2
5b	Suitable water heating facilities	2
5c	Water under pressure piped to milkhouse	2
6a	Floors, walls, windows, tables and similar non-product surfaces clean	3
6b	No trash, unnecessary articles, animals or fowl	3
	Toilet	
7a	Provided; conveniently located	5
7b	Constructed and operated according to Ordinance	5
7c	No evidence of human wastes about premises	5
7d	Toilet room in compliance with Ordinance	5
	Water Supply	
8a	Constructed and operated according to Ordinance	5
8b	Complies with bacteriological standards	5
8c	No connection between safe and unsafe supplies; no improper submerged inlets	5
	UTENSILS AND EQUIPMENT	
9a	Smooth, impervious, nonabsorbent, safe materials; easily cleanable;	3
9b	In good repair; accessible for inspection;	3
9c	Approved single service articles; not re-used	3
9d	Of proper design	3
9e	Approved CIP milk line system	3
10a	Clean	5
11a	All multi-use containers and equipment subjected to approved sanitization process	5
12a	All multi-use containers and equipment properly stored	2
12b	Stored to assure complete drainage where applicable	2
12c	Single-service articles properly stored	2
13a	Sanitized milk surfaces not exposed to contamination	2
	MILKING	
14a	Done in barn, stable or parlor	3
14b	Brushing completed before milking begun	3
14c	Flanks, bellies, udders, and tails of cows clean at time of milking; clipped when required	3
14d	Teats treated with sanitizing solution and dried just prior to milking	3
14e	No wet hand milking	3
	Surcingles, milk stools and anti-kickers	
15a	Clean and stored above floor in clean place	1
15b	Stools, easily cleanable construction and not padded	1

TRANSFER AND PROTECTION OF MILK		
Protection from Contamination:		
16a	No overcrowding	2
16b	Product and CIP circuits separated	2
16c	Improperly handled milk discarded	2
16d	Immediate removal of milk	2
16e	Milk and equipment properly protected	2
16f	Air under pressure of proper quality	2
16g	Cleaners and sanitizers properly identified	2
16h	Drug administration equipment properly handled and stored	2 or 7*
16i	Antibiotics and medicinals properly used and stored	2 or 7*
PERSONNEL		
Hand-washing Facilities:		
17a	Proper hand-washing facilities convenient to milking operations	3
17b	Wash and rinse vats not used as hand-washing facilities	3
Personnel Cleanliness:		
18a	Hands washed clean and dried before milking, or performing milkhouse functions; rewashed when contaminated	2
18b	Clean outer garments worn	2
COOLING		
19a	Milk cooled to 40 F or less within 2 hours after milking	5
19b	Recirculated cooling water from safe source and properly protected; complies with bacteriological standards	5
19c	Temperature recorder with 7 day chart	5
VEHICLES		
20a	Vehicles clean	1
20b	Constructed so as to protect milk	1
20c	No contaminating substances transported	1
INSECTS AND RODENTS		
21a	Fly breeding minimized by approved manure disposal methods	3
21b	Manure packs properly maintained	3
21c	All milkhouse openings effectively screened or otherwise protected; doors tight and self-closing	2
21d	Milkhouse free of insects and rodents	2
21e	Approved pesticides; used properly	2
21f	Equipment and utensils not exposed to pesticide contamination	2
21g	Surrounding neat and clean; free of harborage and breeding areas	1

* Selection of debit point value of item 16h or 16i is determined in accordance with the current "Methods of Making Sanitation Ratings of Milk Supplies".

NEW SECTION

WAC 16-138-035 WHERE CAN A COPY OF THE STANDARDS BY WHICH THE DIRECTOR DETERMINES THE DEBIT POINT VALUE OF EACH VIOLATION BE OBTAINED? A copy of the current "Methods of Making Sanitation Ratings of Milk Supplies" may be obtained by request from the Washington State Department of Agriculture, Food Safety Program, P.O. Box 42560, Olympia, Washington 98504-2560, or phone (360) 902-1875.

NEW SECTION

WAC 16-138-040 HOW CAN A DEGRADED DAIRY FARM OPERATION BE REGRADED? A producer subject to degrade may apply to have his or her dairy farm regraded. The application, provided by the department, must be in writing, be signed by the producer, and must state that all violations have been corrected. Within one week after receiving a satisfactory application for regrade, the department will reinspect the producer's dairy farm and if the department determines that all violations have been corrected, the department will regrade the producer's dairy farm.