



Legislative Fiscal Bureau

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May 18, 2011

Joint Committee on Finance

Paper #137

Meat Safety Inspections (Agriculture, Trade and Consumer Protection)

[LFB 2011-13 Budget Summary: Page 55, #8]

CURRENT LAW

The Department of Agriculture, Trade and Consumer Protection (DATCP) meat safety program conducts inspection of animal and poultry slaughtering and processing in establishments not otherwise inspected by the U.S. Department of Agriculture Food Safety and Inspection Service (FSIS). State-inspected facilities are typically smaller operations that do not slaughter and process on a daily basis and have sales limited to in-state purchasers. DATCP currently licenses 285 state-inspected establishments, as well as 56 custom-exempt establishments. (Custom-exempt establishments process meat as a customer service, do not engage in resale, and are generally not subject to inspection.) The state-funded portion of the inspection program is supported by GPR, including a \$200 annual license fee charged to official slaughtering and processing establishments that is deposited to the general fund. USDA also provides matching FED. For 2010-11, the meat inspection program is budgeted the following: (a) \$3,224,300 GPR with 43.12 positions; (b) \$4,240,100 FED with 43.37 positions; and (c) \$47,400 PR. These totals exclude \$375,300 PR with 3.5 positions and \$245,300 FED with 3.5 positions that were authorized under 2009 Act 28.

GOVERNOR

Provide the following for the meat inspection program: (a) \$254,700 GPR in 2011-12 and \$513,300 GPR in 2012-13, with 3.0 positions beginning in 2012-13; and (b) \$396,300 FED with 2.0 positions in 2011-12 and \$646,200 FED in 2012-13 with 5.0 positions.

DISCUSSION POINTS

1. The table below shows the changes the bill would make to funding and positions throughout the Department as a means of accommodating the additional meat inspector positions.

Vacant GPR positions in two general operations appropriations would be deleted to offset the increase in GPR positions authorized for meat and poultry inspection.

Bill Changes Related to Meat Inspection

<u>Appropriation</u>	<u>Source</u>	<u>2011-12</u>		<u>2012-13</u>	
		<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
Meat and poultry inspection	GPR	\$387,600	2.00	\$646,200	5.00
Meat safety inspection	FED	396,300	2.00	646,200	5.00
Agricultural development operations	GPR	-68,000	-1.00	-68,000	-1.00
Central administrative operations	GPR	<u>-64,900</u>	<u>-1.00</u>	<u>-64,900</u>	<u>-1.00</u>
	Total	\$651,000	2.00	\$1,159,500	8.00

2. The additional inspectors are recommended for two primary purposes. First, the annual FSIS audits of DATCP's meat inspection program have occasionally shown the Department's staffing levels to be insufficient to conduct required inspections of processing activities on days when an establishment is processing meat products that will bear the state mark of inspection. Second, additional meat inspectors are also recommended to allow DATCP to participate in a voluntary federal-state cooperative meat and poultry inspection program created in the 2008 Farm Bill.

3. FSIS uses both annual self-assessments by state meat inspection programs and an on-site inspection of each state's inspection program at least once every three years to make annual determinations of whether the state program is "at least equal to" federal standards. A program's structure need not be identical to federal laws and processes, but must at least ensure consistent application of standards for such activities as ante- and post-mortem inspection of slaughtered animals, processing, facility sanitation, storage and distribution. In both 2007 and 2010 audits, FSIS determined DATCP did not have sufficient procedures in place to verify daily inspection coverage at establishments producing products required to be inspected. DATCP responded to each FSIS concern by updating processing schedules of inspected establishments as well as shifting scheduling of meat and poultry inspectors to be present at slaughtering and processing facilities when any such activities were taking place. The Department also reported it scheduled certain technical and supervisory staff when necessary at times when inspectors were not available. DATCP contends these actions, particularly reassigning supervisory staff, are only feasible for short periods, as removing non-inspection staff from their typical duties to cover inspections diverts their efforts from other required tasks.

4. If DATCP were not provided additional inspectors, and it could not adequately cover necessary inspections in the future, the Department may risk losing its status as "at least equal to" federal standards. However, federal guidelines indicate there are multiple steps taken prior to most programs losing "at least equal to" status, a determination that would eliminate the state's federal matching funding. Specifically, federal guidelines provide that if a program is found after an annual audit to require corrective action to ensure proper inspection coverage, and the state is willing but unable to immediately allocate resources to correct deficiencies, the program can be under a "deferred" status. This deferral delays a finding of "at least equal to" while FSIS establishes an oversight system and follow-up reviews to ensure corrective action is implemented. However, if a program is determined to be unable or unwilling to make corrective action, it can be found "not at

least equal to," after which they are to be designated by USDA for federal inspection. Federal inspection of operations is typically more costly, and DATCP reports federal inspection services would be difficult for most small meat processors to accommodate.

5. Under the federal-state cooperative inspection program, meat and poultry products from state-inspected facilities could bear the federal mark of inspection and be shipped in interstate commerce. Currently, establishments wishing to ship products across state lines generally must be under the FSIS inspection program. Federal administrative rules for this program were published in April, and will take effect in July. Eligible establishments are those meeting all applicable federal and state standards for handling and processing and having 25 employees or fewer. DATCP reports its non-inspector personnel have spent considerable time researching and providing input to FSIS on this rule for interstate meat shipment, as Wisconsin has the most state-inspected establishments of any state and having workable rules for state processors is necessary for the cooperative program to grant the greatest benefit possible to Wisconsin businesses.

6. DATCP reports no estimates are currently available for the staffing requirements for the state-federal cooperative inspection program. Staffing needs will vary based on the number of establishments that choose to increase state-inspected processing to participate in the program, and the Department is not able to estimate that number until state processors are more aware of the costs and benefits in using the authorizations of the cooperative program. However, DATCP's 2011-13 budget request indicated the Department would likely request an additional 6.0 inspectors for the 2013-15 biennium to accommodate expected workload under current inspection responsibilities and any additions under the cooperative program.

7. 2009 Act 28 requires that DATCP promulgate an administrative rule creating a fee to support meat and poultry inspection activities. The fee was not to be collected prior to July 1, 2010, and is to be established in consultation with any industries that would be affected by such a fee. This requirement modified the Governor's recommendation under 2009 AB 75, which would have instituted a fee for each animal slaughtered in any establishment in the state. The fee would have been: (a) 14¢ for swine; (b) 14¢ for cattle; (c) 10¢ for calves; and (d) 1¢ for poultry. Instead, the statutes currently specify DATCP may not promulgate a rule that would require any slaughtering or processing facility to pay a fee based on the number of animals slaughtered at the facility.

8. DATCP reports that federal law appears not to allow FSIS to match revenues collected by state inspection programs that are generated by a fee such as that currently required in the statutes. Although DATCP collects an annual license fee, which is deposited to the general fund, the Department indicates such a fee is distinct enough from a per-animal fee to be allowable for matching federal funds by FSIS. Specifically, a license fee is intended in part to defray administrative costs of the program; it is insufficient at its current level of \$200 to support all inspection activities of the program, and it is a uniform amount for all regulated facilities independent of the volume of processing or economic activity at an inspected establishment. However, the revenues from a per-animal fee that was proposed in 2009 AB 75, and the rule authority that is currently in the statutes, would be dictated by the level of activity taking place at a regulated establishment. This could lead to a state program generating fees, in combination with the federal match, in excess of actual program costs at a particular facility. As a result, the only state funding likely to be eligible for a federal match may be GPR.

9. Although the fee required under Act 28 may not be eligible for a federal match, the bill would not affect the requirement that DATCP promulgate the fee by administrative rule. DATCP would also retain authority for \$274,000 PR with 3.5 positions and \$274,000 FED with 3.5 positions associated with the fee, although the positions have never been filled. However, DATCP has not taken any significant steps to begin creating a fee structure, due to the ineligibility for federal matching funds, and due to the difficulty in establishing a fee that could support additional inspector positions but also minimize economic impacts to any affected industry.

10. The Committee could consider adopting the Governor's recommendation [Alternative 1]. This would provide the Department with additional personnel to maintain Wisconsin's meat and poultry program with the status of being "at least equal to" federal standards. Alternatively, the Committee could consider deleting the Governor's recommendation [Alternative 2]. This would provide the Department with its current level of staffing and funding. If the recommendation were deleted, it is uncertain whether DATCP would be able to maintain its current certification in the long term and it is unlikely DATCP would be able to expand the inspection program to accommodate the interstate shipments under the revised USDA rule.

11. In addition to either alternative, the Committee could consider deleting the following: (a) the statutory provision requiring DATCP to establish a fee for the meat and poultry inspection program; (b) \$274,000 PR annually with 3.5 positions; and (c) matching funds of \$274,000 FED with 3.5 positions [Alternative 3].

ALTERNATIVES

1. Adopt the Governor's recommendation.
2. Delete the Governor's recommendation.

ALT 2	Change to Bill	
	Funding	Positions
GPR	- \$768,000	- 3.00
FED	<u>- 1,042,500</u>	<u>- 5.00</u>
Total	- \$1,810,500	- 8.00

3. In addition to Alternatives 1 or 2, repeal the statutory provision requiring DATCP to promulgate an administrative rule establishing a fee for the meat and poultry inspection program. Delete the following: (a) \$274,000 PR annually with 3.5 positions; and (b) \$274,000 FED annually with 3.5 positions.

ALT 3	Change to Bill	
	Funding	Positions
PR	- \$548,000	- 3.50
FED	<u>- 548,000</u>	<u>- 3.50</u>
Total	- \$1,096,000	- 7.00

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