

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

ATCP 82, Milk Haulers

3. Subject

Bulk milk collection, sampling and transportation

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.115(1)(gb)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The dairy industry is an important part of Wisconsin's economy. Wisconsin ranks second nationally in milk production and has 10,900 licensed dairy farms. Milk is shipped from each of these farms in a licensed bulk milk tanker (approximately 4,000 in Wisconsin) to one of more than 400 licensed dairy plants in the state or to a licensed dairy plant in another state. Safe and sanitary handling of milk throughout the collection and transportation process is critical for protecting the quality of milk produced in this state. Accurate measurement of collected milk and proper sampling of milk for analysis help ensure fair payment and milk safety, respectively. The proposed rule changes are needed to maintain Wisconsin's reputation for its world class dairy products by aligning inspection practices with the Food and Drug Administration's (FDA's) Grade "A" Pasteurized Milk Ordinance (PMO). The PMO establishes minimum standards for Grade "A" dairy products. States must set and enforce standards substantially equivalent to, or more stringent than, those in the PMO to be allowed to ship Grade "A" milk and milk products in interstate commerce. The PMO standards are revised every two years, requiring DATCP to make periodic changes to dairy-related rules to ensure that Wisconsin maintains substantial compliance with the PMO and can continue to ship Grade "A" milk and milk products to other states.

The proposed rule updates terminology related to bulk milk weighers and samplers, adopts procedures for allowing partial collections of milk from bulk milk tanks, establishes procedures for ensuring state-to-state reciprocity for inspecting and issuing Grade "A" permits for bulk milk tankers and also establishes a certified industry inspection program for issuing Grade "A" permits for bulk milk tankers. The proposed rule adds a requirement that a bulk milk weigher and sampler who seeks to hold a Grade "A" permit necessary for collection of Grade "A" samples be inspected every two years, as required under the PMO. The rule allows more flexibility in who may clean and sanitize a bulk milk tanker, clarifies where the cleaning tag must be retained, and removes an unnecessary reporting requirement for broken seals on tanker access ports.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The rule impacts milk hauling companies, dairy plants and dairy producers. Division of Food Safety administrators met with the Board of Directors for the Wisconsin Milk Haulers Association and the Board of Directors of the Wisconsin

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

Cheesemakers Association. The Division also contacted the following organizations requesting comments on the potential economic impact of the rule: Dairy Business Association, Professional Dairy Producers of Wisconsin, Cooperative Network, Wisconsin Milk Haulers Association, Wisconsin Association of Dairy Plant Field Representatives, Midwest Food Processors Association, Wisconsin Cheesemakers Association, and the Wisconsin Dairy Products Association.

11. Identify the local governmental units that participated in the development of this EIA.

Grade "A" standards for bulk milk collection, sampling, and transportation are regulated by the State of Wisconsin's Department of Agriculture, Trade and Consumer Protection. Local governmental units are not impacted by this rule and did not participate in development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The rule will impact the dairy industry as a whole, dairy plants, milk hauling companies, and dairy producers.

Overall, the rule changes are expected to have a positive economic impact on the dairy industry. Allowing partial collections of milk from bulk milk tanks may have a positive financial impact on trucking firms as it will allow them to more efficiently plan daily pickup routes, saving fuel and time costs. These cost savings may be significant for some dairy plants and trucking firms. Adopting this rule change will bring Wisconsin's dairy regulations in alignment with the PMO and with regulations adopted by neighboring states, providing a level playing field for Wisconsin businesses. As a voluntary option, this rule change will allow dairy plants and bulk milk tanker operators to decide whether to make partial collections of milk from bulk milk tanks based on business needs.

Under the proposed rule, partial collections of milk from bulk tanks will be allowed if a bulk milk tank is equipped with a seven day temperature recording device. Bulk tanks that were manufactured and installed prior to 2001 may not be equipped with this device; installation would be required if partial collections of milk are made from the tank. The cost for installing a recording device on an existing tank is expected to be approximately \$1,500. However, an unknown number of bulk tanks, especially bulk tanks on larger farms where partial collections of bulk milk may be most likely to occur, may already be equipped with the necessary recording devices. Some of the cost for installing a temperature recording device may be offset over time from savings in reduced water and chemical usage for bulk tank cleaning and time saved in conducting milking operations.

Rule changes regarding Grade "A" permits for bulk milk tankers will also provide a positive economic benefit to companies that operate milk tankers by ensuring they receive a Grade "A" inspection and permit in a timely manner. Bulk milk tanker operators must be able to show proof of a current Grade "A" permit and passed inspection to deliver Grade "A" milk and milk products. If a Wisconsin tanker tries to deliver Grade "A" milk or milk products outside Wisconsin without proof of a current inspection, the tanker load may be turned away or a regulatory agency from the receiving state may conduct the required inspection and charge the tanker operator an inspection fee in addition to the licensing fees they have already paid. To ensure that all Wisconsin-based bulk milk tankers receive an annual inspection in a timely manner, the proposed rule establishes procedures which clarify and strengthen reciprocity requirements for bulk milk tankers based in other states, allowing Wisconsin to focus inspection resources on tankers based primarily in Wisconsin. The rule also establishes a certified industry inspection program which is an additional method allowed under the PMO that may be used to conduct required annual bulk milk tanker inspections.

This rule will have no impact on local governmental units or public utility rate payers.

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

Comments Received and Response

The Division received one comment from an industry representative regarding the potential economic impact of the rule. The comment indicated support of the provision that would allow partial collections of milk from bulk tanks, indicating that it will help their business in the logistical planning of milk pick ups, and allow them to cut some of their trucking costs.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Allowing the partial collection of milk from bulk tanks may allow dairy producers to produce larger quantities of milk without investment in new bulk tanks and may allow trucking firms more flexibility in planning milk pick up logistics. It will provide dairy plants and other companies that operate bulk milk tankers to more efficiently plan pick-up routes, saving fuel and time costs. It will also bring Wisconsin's regulations into alignment with regulations in neighboring states, allowing dairy-related companies in Wisconsin to continue to compete fairly with the dairy industry in other states. By recognizing Grade "A" permit inspections issued in other states to out-of-state tankers that operate in Wisconsin, Wisconsin will more clearly be in compliance with reciprocity requirements in the PMO. Establishing reciprocity procedures will also allow Wisconsin to focus inspection resources on tankers based primarily in Wisconsin and ensuring that they receive Grade "A" inspections and permits in a timely and efficient manner. The voluntary certified industry inspection program for bulk milk tankers, as authorized by the PMO, will provide another tool for ensuring all Wisconsin bulk milk tankers receive an annual inspection in a timely manner. Other rule changes provide businesses with more flexibility by deleting the requirement that a bulk milk tanker operator must be the person who cleans and sanitizes the tanker and removing an unnecessary reporting requirement for broken tanker seals.

Currently, Wisconsin's dairy regulations are substantially in compliance with the PMO. The PMO is updated every two years and it important that Wisconsin periodically revise its dairy regulations to maintain equivalency with the PMO. The alternative of not adopting these rule changes will not immediately impact Wisconsin's ability to ship Grade "A" milk and milk products in interstate commerce, but eventually could lead to Wisconsin failing an FDA audit of compliance with the PMO. However, these rule changes will ensure Wisconsin's regulations related to the collection, sampling, and transportation of Grade "A" milk and milk products are better aligned with the PMO. Without these rule changes, some Wisconsin dairy businesses may find themselves at a disadvantage to dairy businesses in other states that have adopted regulations allowing partial collections of milk from milk tanks. These rule changes also will allow Wisconsin to more effectively manage required annual Grade "A" inspections for the 4,000 bulk milk tankers that operate in the state.

14. Long Range Implications of Implementing the Rule

Implementing this rule will ensure that Wisconsin continues to maintain substantial compliance with the PMO and can continue to ship Grade "A" milk and milk products in interstate commerce. It will ensure that Wisconsin's dairy-related businesses continue to fairly compete against dairy businesses in other states that have adopted the PMO.

15. Compare With Approaches Being Used by Federal Government

The Food and Drug Administration's (FDA's) Grade "A" Pasteurized Milk Ordinance (PMO) establishes minimum regulatory standards for Grade "A" dairy products. States must enact standards substantially equivalent to, or more stringent than, those in the PMO to be allowed to ship Grade "A" milk in interstate commerce. The proposed rule changes are consistent with approaches in the PMO.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Michigan, Minnesota, Iowa and Illinois adopt the PMO as part of their dairy regulations and therefore already allow partial collections of milk from bulk milk tanks. The proposed rule will also align Wisconsin's regulations with the PMO and neighboring states for licensing and permitting of Grade "A" tankers and Bulk Milk Weighers and Samplers. Each of these states licenses milk tankers, and issues a Grade "A" permit after inspection. Some states charge an inspection

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

fee associated with these inspections.

17. Contact Name

Pete Haase, Director-Bureau of Food Safety and Inspection

18. Contact Phone Number

(608) 224-4711

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

This rule is expected to have a positive impact and will not have an adverse effect on small business. It does not substantially alter requirements small dairy-related businesses already meet and does not increase license or permit fees. Allowing partial collection of milk from bulk tanks will be voluntary and will allow businesses of all sizes, including small businesses, to manage milk collection and transportation efficiently. Since partial collection of milk will be voluntary, each business will determine whether to use this option based on their own business needs. Other provisions, such as clarifying reciprocity procedures and adopting a certified industry inspection program for bulk milk tankers will also benefit small businesses that operate bulk milk tankers by ensuring the timely inspection of tankers for Grade "A" permits. A valid Grade "A" permit is required to transport and deliver Grade "A" dairy products. Provisions allowing more flexibility for who cleans and sanitizes bulk milk tankers and removing an unnecessary reporting requirement for broken seals on tankers will also benefit businesses of all sizes.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The agency requested comment on the potential economic impact of the rule from the following organizations: Dairy Business Association, Professional Dairy Producers of Wisconsin, Cooperative Network, Wisconsin Milk Haulers Association, Wisconsin Association of Dairy Plant Field Representatives, Midwest Food Processors Association, Wisconsin Cheesemakers Association, and the Wisconsin Dairy Products Association.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

While the agency considered methods for reducing the impact of the rule on small businesses, all Grade "A" dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the Food and Drug Administration's Pasteurized Milk Ordinance in order to collect, sample, and transport Grade "A" dairy products. No special accommodation may be made for small businesses. The provision in the rule allowing partial collection of milk from bulk tanks is optional and while it is expected to primarily benefit larger businesses, it could also provide small businesses with more management flexibility. Other provisions in the rule will not substantially alter current practice.

5. Describe the Rule's Enforcement Provisions

The proposed rule does not modify existing enforcement provisions related to the collection, sampling, and transportation of milk. All food, dairy and state-inspected meat businesses are regulated under Chapter 97 of the Wisconsin Statutes. Enforcement provisions for these businesses are outlined in s. 97.72 and 97.73 and apply to both small and large businesses. ATCP 82.16 also contains specific provisions against falsifying records or reports required under ATCP 82, including records related to milk samples and records describing the amount of milk collected from a dairy farm.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-