

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or joint)

Committee on  
Agriculture and  
Insurance  
(SC-AI)

File Naming Example:

Record of Comm. Proceedings ... RCP

- > 05hr\_AC-Ed\_RCP\_pt01a
- > 05hr\_AC-Ed\_RCP\_pt01b
- > 05hr\_AC-Ed\_RCP\_pt02

*Published Documents*

> Committee Hearings ... CH (Public Hearing Announcements)

> \*\*

> Committee Reports ... CR

> \*\*

> Executive Sessions ... ES

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> Record of Comm. Proceedings ... RCP

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*Information Collected For Or  
Against Proposal*

> Appointments ... Appt

> \*\*

> Clearinghouse Rules ... CRule

**05hr\_CRule\_05-044\_SC-AI\_pt04**

> Hearing Records ... HR (bills and resolutions)

> \*\*

> Miscellaneous ... Misc

> \*\*

608-204-0280



**Wisconsin Federation of Cooperatives**

131 West Wilson Street, Suite 400 • Madison, WI 53703-3269  
Phone 608.258.4400 • Fax 608.258.4407 • www.wfcmac.coop

Date: 11/11/2005  
To: Members, Senate Committee on Agriculture and Insurance  
From: Bill Oemichen, President & CEO, Wisconsin Federation of Cooperatives *Bill Oemichen*  
RE: Support for DATCP Modification of Rules Related to Dairy and Food License Fees

I appreciate the opportunity to present the views of the Wisconsin Federation of Cooperatives on DATCP's proposed rule relating to dairy and food licenses. I would have preferred to present this testimony in person, but my staff and I are attending the Annual Meeting of the Wisconsin Federation of Cooperatives (WFC) and Minnesota Association of Cooperatives (MAC) in Bloomington, Minnesota.

The Wisconsin Federation of Cooperatives supports the fee modifications that have been made by DATCP to Clearinghouse Rule 05-044, relating to food and dairy license and reinspection fees. Dairy cooperatives handle more than 85% of the milk produced and marketed in this state and would be significant payers of the dairy fee increases being proposed by DATCP. The rule modifications were approved by the DATCP Board on November 9, 2005.

At a meeting convened by Assembly Agriculture Committee Chairman Al Ott on October 20, 2005 with stakeholders and DATCP, a "package" of adjustments were identified that met with approval from those of us representing dairy processors and dairy producers. We were especially pleased with the elimination of the rule provision that would allow annual adjustment of fees without rule-making and the phasing in of the Grade A milk procurement fee over an 18 month period. We did not oppose the modification that made decreases in the increases in license fees paid by retail food establishments. These three modifications are what have been accepted by DATCP.

You may have heard from grocers contending that their fees are used to pay for dairy inspections. The data provided by DATCP concerning their fee sources and inspection effort, presented in a Legislative Fiscal Bureau (LFB) memo to Chairman Ott, dated October 18, 2005, **does not support that conclusion.** On page 9 of the memo is the following paragraph:

"In 2003-04, information provided by DATCP indicates that of the total \$3.1 million in revenue from food and dairy inspection fees (another \$600,000 of revenue was collected from sources such as lab certification, re-inspections, agent city inspections, sanitary certificates, and cheese judging and grading), \$618,900 was from retail food establishment fees and \$76,300 was from food warehouse fees."

Page Two

The memo continues, explaining that approximately 19.9% of revenues came from fees paid by retail food establishments and 2.5% of revenues came from fees paid by food warehouses (**a combined 22.4% of revenues**). At the same time, food and dairy inspection effort at retail establishments in 2003-04 totaled 81,400 hours or 23.6% of the Department's inspection efforts, and warehouse inspections totaled 2,000 hours, or approximately 2.5% of inspection efforts (**a combined 26% of inspection effort**). As you can see, the department's reported inspection effort exceeds the revenues gained from retailers and warehouses. **So the dairy industry is paying at least its fair share of fees.**

Thank you for your interest in our position on this matter.



**OBrien, John**

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**From:** Frank Abnet [fabnet@skogensfest.com]  
**Sent:** Friday, November 11, 2005 4:02 PM  
**To:** Sen.Kapanke  
**Subject:** Rule 05-044

Senator Dan Kapanke  
PO Box 7882  
Madison, WI 53707

Dear Senator Kapanke—

Thank you for agreeing to hold a hearing on CR 05-044 relating to food and dairy fee increases. On behalf of Skogen's Festival Foods, we are adamantly opposed to the fee increases outlined in the rule and look for your support in rejecting the rule.

Skogen's Festival Foods is located in Onalaska, Holmen, Green Bay, DePere, Oshkosh, Marshfield, Eau Claire and soon in La Crosse. We employ 1594.

As a retailer, we are subject to regulation by nearly every agency in this state. In addition, we pay thousands of dollars in fees and taxes everyday to the state. We just cannot take another fee increase of this level.

Here are a few other reasons why we oppose this fee increase:

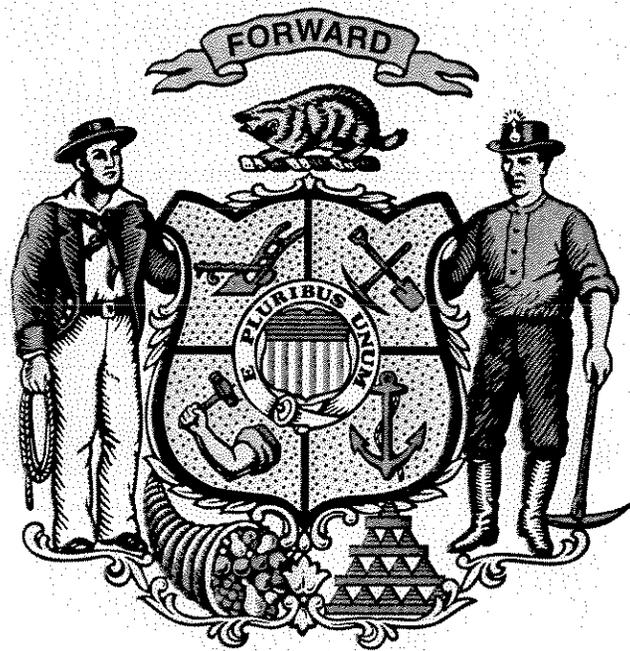
- This is simply a short term fix to a long term problem. The Department should do what most businesses do when expenses and revenues are not in line; become more efficient by understanding their customers' wants and needs.
- We will not be receiving additional inspection services for our fees. The Fiscal Bureau itself reported the fees are simply to maintain the program at its current level.
- The program is being penalized for \$1.2 million in funds that the Governor took from this program and put into the general purpose revenue for the state. If the Department was able to carry a surplus in past years, why can't they continue to operate using additional dollars that were excess in past years?
- The Ag Department uses the fees for both dairy and retail inspections. Dairy inspections are federally mandated and DATCP has admitted that inspectors are pulled off retail for dairy. Because of the focus on dairy, the department misses at least one third of the goals set to do retail inspections.
- No grocer wants their customers to get sick. Retailers already spend thousands of dollars themselves ensuring food safety. These fees are on top of these efforts.
- This fee increase is for retailers that are licensed and inspected by DATCP. As a result of these increases local governments that act as agents for the state and will need to pass this increase on to their retailers.

Once again, we thank you for your leadership on this issue and hope you are able to do the right thing and reject this rule. Please let us know if you have any questions.

Sincerely,

Frank Abnet  
Director of Store Operations  
Festival Foods  
(920) 465-3800

11/14/2005



HOMETOWN SUPERMARKET INC.  
171 WORCHESTER STREET  
SPRING GREEN, WISCONSIN 53588  
TELEPHONE (800) 8188

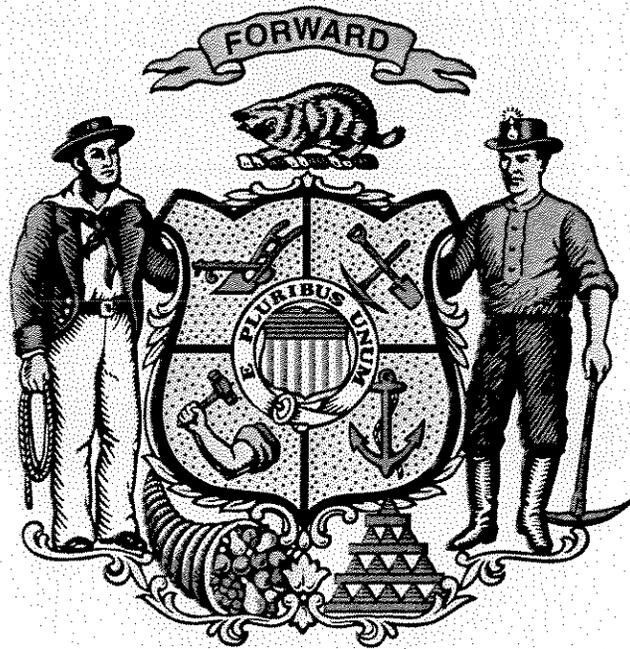
Senator Dan Kaposke:

Concerning the fee increase for  
Retailers that are licensed and  
inspected by DATCP.

We do not support this increase.  
With health insurance costs going  
up dramatically, our profits are cut.  
Fuel cost increases cause nearly every  
supplier to add a surcharge thus again  
cutting our profit.  
Increased competition from the big  
box stores - Wal Mart - is still another  
factor cutting our profits.  
We do not need the government cutting  
into our already low profit by increasing  
license fees to balance their budget.

Please reject this increase. Thank you.

Jerry + Marylou Baderbreit  
Hometown Market  
Spring Green, WI 53588



# Dan Kapanke

Wisconsin State Senator - 32nd District

DK



November 14, 2005

Members  
Senate Committee on Agriculture and Insurance

RE: CR -05-044 Rule related to Dairy and Food License Fees.

Attached find background information related to CR 05-044 which will be before the committee on Tuesday, November 15<sup>th</sup>, 2005.

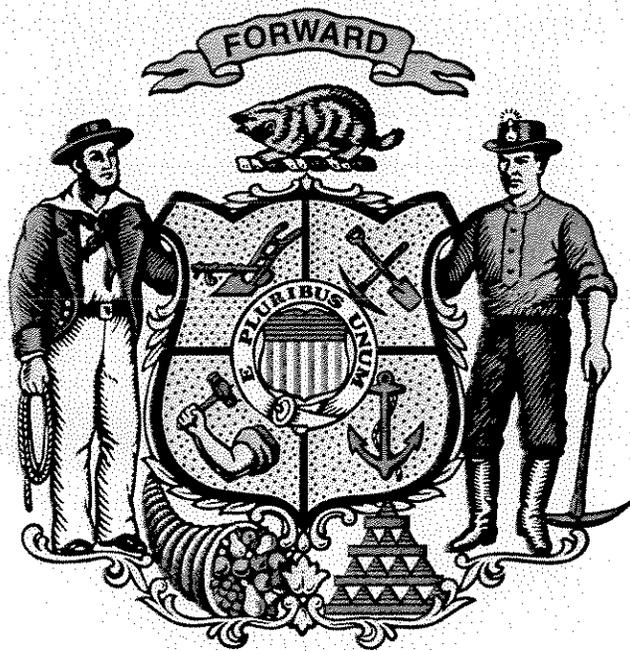
I thought you might find this information useful.

In chronological order find;

- 11/14/2005, Hometown Supermarket fax in opposition to fee increase.
- 11/11/2005, Wisconsin Federation of Cooperatives letter of support
- 11/11/2005, Frank Abnet, Festival Foods e-mail in opposition to fee increase.
- 11/09/2005, Letter from Secretary Nilsestuen which outlines modifications which have been made to the rule at the committee's request.
- 1/09/2005, Memorandum from Representative. Al Ott to Members of the Assembly Committee on Agriculture regarding modification request
- 10/21/2005, Fiscal Bureau Memorandum to Representative Ott related to effects of a specific alternative where amounts and timing of fees in the proposed rule would be modified.
- 10/18/29005, Fiscal Bureau Memorandum to Representative Ott related to effects of several alternatives where the amounts and timing of the fee increases in the proposed rule would be modified.
- 10/13/2005 Assembly Record of Committee Proceedings on CR 05-044.
- 10/13/2005, Copies of testimony provided at the 10/13/2005 Assembly Committee on Agriculture hearing on CR 05-044.
- 10/11/2005, DATCP Response with attachments Posed by the Wisconsin Grocers association.

If you have questions feel free to contact my office.

*Modifications Outline —*



**Perlich, John H.**

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**From:** Moll, Keeley A DATCP  
**Sent:** Monday, November 14, 2005 12:58 PM  
**To:** Kapanke, Dan; Sen.Brown; Sen.Kedzie; Sen.Olsen; Sen.Erpenbach; Sen.Miller; Sen.Hansen  
**Cc:** OBrien, John; Phillips, Matt; Mnuk, Katie; Perlich, John H.; Smith, Heather; Huber, Grant;  
Wagnitz, John; Knutson, Tryg  
**Subject:** Background on CR# 05-044  
**Attachments:** 2005 FS Dairy Rule - senate hearing.doc; Fees - background info for legislature111105.doc

Here's some background information on CR-05-044 for tomorrow's Senate Agriculture and Insurance meeting. If you have questions, please feel free to contact me or Steve Steinhoff (Division Administrator of Food Safety) at 224-4701.

CR #05-044...



2005 FS Dairy Rule  
- senate he...



Fees - background  
info for leg...

Keeley Moll  
DATCP Legislative Liaison  
224-5039

### **The Dairy and Food Safety Program**

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers Wisconsin's dairy and food safety program and serves as the state's primary food safety agency. The program is funded, in part, by dairy and food license fees. DATCP currently licenses businesses that produce, process or handle dairy or food products. These businesses must pay license fees and comply with food safety and labeling laws administered by DATCP. License fees pay for more than half of DATCP's food safety and labeling program.

This rule increases current license and reinspection fees for milk producers, dairy plants, food processing plants, food warehouses, milk distributors, retail food stores, dairy, food or water testing laboratories, milk haulers, buttermakers, cheesemakers and butter or cheese graders. The modification to current license fees proposed in the rule begins in 2006.

Fees are based on actual food safety costs related to each license sector. Fees are also based on business size, food product type, and type of food handling operations. Smaller businesses generally pay lower fees than large businesses, and lower-risk businesses generally pay lower fees than higher-risk businesses.

As mentioned above, Wisconsin's food safety program is funded by a combination of general tax dollars (GPR) and program revenue from license fees (PR). In 1991, license fees funded about 40% of program costs. The 1995-97 biennial budget act reduced GPR funding, so that PR accounted for about 50% of food safety funding. The budget climate in recent biennium has resulted in further GPR reductions and the current PR funding share is now approximately 60%.

Other developments have combined to deplete the food safety PR account balance. Recent state budgets have resulted in substantial amount of license fee revenue being lapsed to the state's general fund (to help remedy state budget deficits). DATCP has delayed fee increases (none since 1998), but has experienced a modest increase in operating costs. To compound the issue, DATCP also incurred a significant increase in PR costs when the milk certification program was transferred from the Department of Health and Family Services to DATCP without the attached DHFS GPR funding (2003 Act 33). The milk certification program alone accounts for \$338,000 annually of the new dollars needed to run our dairy inspection program. As it currently stands, we project a PR account deficit during this fiscal year (-\$346,700).

### **Function of the program**

Obviously the basic function of the program is to safeguard public health and ensure a safe and wholesome food supply for Wisconsin's consumers. We would be hard pressed to find a time when the public outcry for food safety has been stronger.

The underlying reality is that while food safety is the paramount charge, the program's other function is driven by economics. The interstate and international sale of our dairy products is not possible without the DATCP dairy inspection program. The Federal

Pasteurized Milk Ordinance (PMO) requires states to have a dairy inspection program that meets strict federal standards. If Wisconsin would be deemed in violation of the PMO our Grade A Milk producers (approximately 13,000) would not be able to ship their milk in interstate commerce and thus, would have no market for 90 percent of their product.

The retail food representatives have voiced concerns over the fact that they feel that they have taken a back seat to dairy in the inspection efforts of the program. The fact of the matter is DATCP is serving both dairy and retail businesses.

Due to the PMO, DATCP must maintain a very strict inspection schedule with grade A producers. What this means is that there is no wiggle room when we are short staffed. We must pull staff from other areas to cover the grade A farm inspections. On the retail side, we have set inspection goals for businesses based on type of products handled (potentially hazardous foods vs. non-hazardous) and by size of operation. For instance, a large store that processes potentially hazardous foods is scheduled to be inspected every 8 months as opposed to a small retailer that sells non-potentially hazardous foods being scheduled for inspection every 24 months. It is true that when we are faced with vacancies, retail establishments may have overdue inspections. However, these businesses are a priority and are inspected at the soonest possible moment. This means, that potentially an 8 month scheduled inspection actually happens in the 9<sup>th</sup> or 10<sup>th</sup> month. While overdue, the inspection will occur within a reasonable timeframe.

Because equity is always an issue in this program the department went to great lengths to closely analyze the fees paid by particular industries versus the amount of effort expended on their behalf. The analysis shows that the percentage of work done for the retail industry is actually more than the fees collected. Specifically on the retail (grocer) side of the equation, 23 percent of our inspection efforts were done in retail versus the 19 percent of the fees they paid for services.

We constantly strive to improve our service to both groups and that's why Secretary Nilsestuen and the dairy industry are committed to working at the federal level to change the PMO standards. If we are successful, the dairy inspection program will shift to a risk based system. A more risk based program is more desirable for everyone; dairy operators with little problems will see the department less and our efforts can be focused on decreasing significant food safety risks on the retail side. However, changing the PMO is not an easy task. DATCP has been testing the waters with other states on this issue for years. At the end of the day, we are one vote of 50. And unfortunately because most other states have only a fraction of the dairy farms we have they are not particularly interested in changing the PMO. In the meantime, Secretary Nilsestuen has committed to working more closely with the WI Grocer's Association to analyze their program needs.

#### **Efficiencies – what we can and have done**

DATCP is working to deliver effective food safety protection as efficiently as possible. DATCP's bureau of food safety and inspection currently has 88 staff -- 12.75 fewer than in 1997 and 15.5 fewer than in 1991. Dairy farm inspection frequency is based on milk

quality tests and past inspection performance (DATCP is exploring ways to expand this risk-based approach). DATCP is also working with other agencies to share resources and minimize duplication. For example:

- DATCP works with local government to license and inspect retail food establishments. Twenty-seven local entities license and inspect on behalf of DATCP, compared to 15 in 1997. Local entities now license and inspect 3,800 retail food establishments and DATCP licenses and inspects the remaining 4,700 establishments.
- DATCP coordinates dairy plant inspection with the United States Department of Agriculture, Agricultural Marketing Service, to avoid duplicate inspection.
- Since 1997, DATCP has worked with the Wisconsin Department of Health and Family Services (DHFS) to eliminate duplicate licensing and inspection of grocery stores, restaurants, and combination grocery-restaurants. DATCP and DHFS have adopted uniform rules for grocery stores and restaurants, to avoid conflicting standards. Standards are based on the federal model food code.

## Food and Dairy License Fees: Background Information

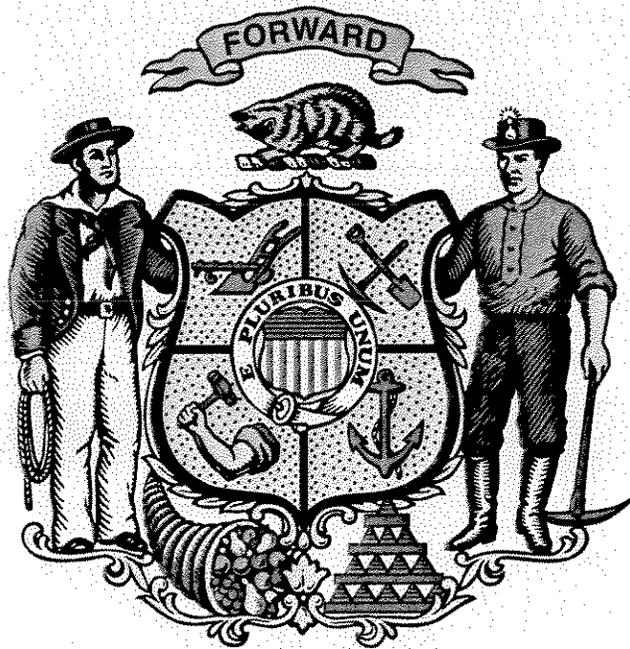
- The Division of Food Safety attempts to apportion fee revenue collected from the dairy and food sectors so that the proportion paid by each sector mirrors the proportion of effort expended by the department. The overall **revenue split** is 68.7% dairy and 31.3% food. The overall **effort split** is 65% dairy and 35% food. The bottom line is that the dairy industry currently pays slightly more than its proportional share.
- Currently, retail food businesses receive proportionally more service than they pay for. License fees paid by retail food businesses account for approximately **20% of the Division's overall revenue**, but the division expends about **23.5% of its overall effort** in regulating the retail food industry.
- Unlike dairy, there are no mandated inspection frequencies for retail food inspections. However, the division has set inspection frequency goals based on the size and potential food safety risk of each retail food business. These routine inspection frequency goals range from 8 months for large retail stores that process food that could cause illness if not handled properly to 24 months for stores that sell but do not process food.

Because dairy plant and farm inspections must be performed within mandated frequencies to avoid jeopardizing the states interstate milk market and because the department's food and dairy program has been forced to hold vacancies during these difficult budget times, some retail inspections have not been performed within the Division of Food Safety's established inspection frequency goals. These inspections are completed, they are just done late. Most recent data shows that, though 25% of retail inspections are one day overdue, the rate drops to ~8% of retail inspections being greater than 90 days overdue.

The division is in the process of hiring to fill 3 Food Safety Inspector vacancies. The capacity provided by these hires will significantly reduce the rate of overdue retail inspections.

- Proposed fee increases are needed to recover approximately 60% of costs to continue services at currently authorized levels. No new programs or staff are being added.
- The size of the inspection staff actually is gradually diminishing, primarily in response to the consolidation of the dairy industry. The division actively manages its resources in an attempt to match as closely as possible effort needed versus revenue available. There are 13 less inspectors now than at the time of the last fee increase in 1998.

- The proposed fee increase is significant because fees have not been increased for 8 years, because there has been a modest incremental increase in operating expenses over this time period, and because significant amounts of both taxpayer revenue and fee revenue were lost as the state worked through some very difficult budget times.
- Historically, the division has periodically met with a variety of customers and stakeholders to assess the efficiency, effectiveness, and value of its programs. The division will gladly continue this tradition and is willing to make the program review process more routine and systematic.



**OBrien, John**

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**From:** mcopper [mcopper@charterinternet.net]

**Sent:** Tuesday, November 15, 2005 9:25 AM

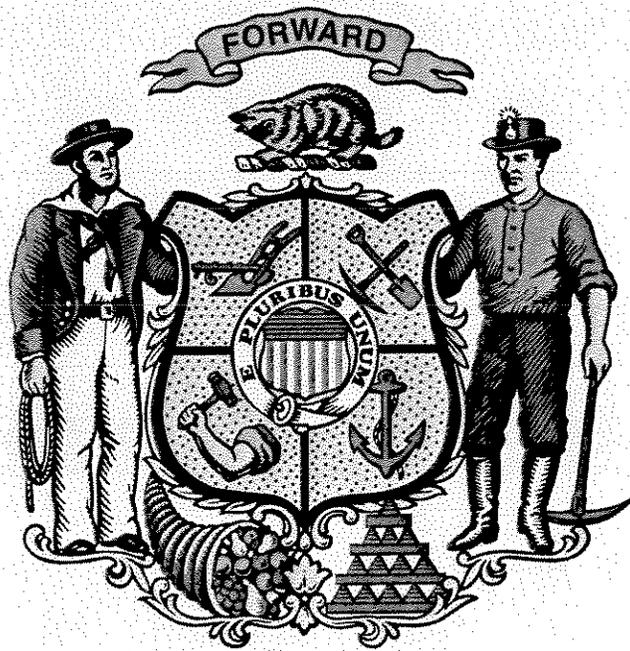
**To:** Sen.Miller; Sen.Hansen; senerpenbach@legis.state.wi.us; Sen.Olsen; Sen.Kedzie; Sen.Brown;  
Sen.Kapanke

**Subject:** datcp fees

Good morning Senators,

My name is Mike Coppersmith, I own Festival Foods in New London and am a member of the Wisconsin Grocers Board of Directors. As your preparing for the hearing on DATCP fee increase that Rep. Ott is proposing, I appreciate you reading this e-mail. We need your help on this one. We are being nickled and dimed to death with fee increases like this. It needs to stop NOW! This fund always operated with a surplus until Gov. Doyle stole \$1.2 mill. from it to use in the G.P.R. Now our fees are going up to subsidize his theft addiction. It is NOT fair and we need to send a message to this Govenor that he cannot steal from Peter to pay Paul. Please tell Chairman Ott you will not allow him to increase our fees. He is not being reasonable on this, he is not even willing to bring it to his committee for a vote. The Grocery Industry is watching this one very close, we trust you will do the right thing. Thank You for your time in reading this, I sincerely appreciate your help!

Mike Coppersmith  
President, Festival Foods



**O'Brien, John**

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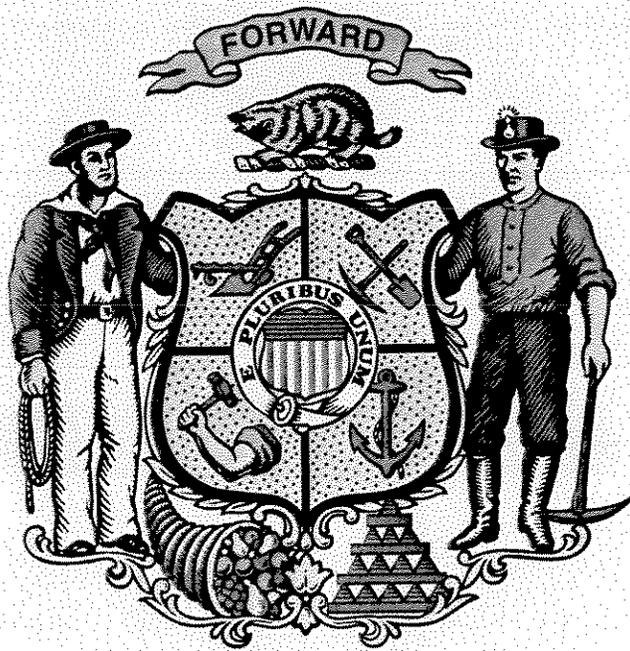
**From:** Jim Balistreri [jim@sendiks.cc]  
**Sent:** Tuesday, November 15, 2005 10:50 AM  
**To:** Sen.Kapanke; Sen.Brown; Sen.Kedzie; Sen.Olsen; Sen.Erpenbach; Sen.Hansen; Sen.Miller  
**Cc:** mkussow@charterinternet.com  
**Subject:** Senate Agriculture Committee

To the Members of the Senate Agriculture Committee;

I am writing in response to the proposed increase in the retail food establishment licensing fees. I strongly urge you to reject this rule. It is simply a short-term fix to a long-term problem. Also, we will not be receiving additional inspection services for our fees. The program is being penalized for \$1.2 million in funds that the governor took from this program and put into the general-purpose revenue for the state. If the department was able to carry a surplus in past years, why can't it continue to operate using additional dollars that were excess in the past? Lastly, no grocer wants his or her customers to get sick. As retailers we already spend thousands of dollars ensuring food safety. These fees are added on top of the already extensive costs and efforts. Thank you your consideration.

Sincerely,

James Balistreri  
*Owner*  
Sendik's Fine Foods  
18985 W. Capitol Drive  
Brookfield, WI 53045  
262.781.8200



**OBrien, John**

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**From:** 231 OM Lorbecki, Patti [plorbecki@shopthepig.com]  
**Sent:** Tuesday, November 15, 2005 11:43 AM  
**To:** Sen.Kapanke  
**Cc:** Sen.Brown; Sen.Kedzie; Sen.Olsen; Sen.Erpenbach; Sen.Hansen; Sen.Miller  
**Subject:** Clearinghouse Rule 05-044

Senator:

I am emailing you regarding the increase in my retail food establishment license fee for the 2006 licensure period. I am urging you reconsider this increase and reject this rule.

I am a small business owner in Jefferson and am constantly looking at ways to be more efficient. I know my customers and do what I can to meet their needs and wants. The "solution" you are proposing is a band-aide approach and will simply be a short term fix for a long term problem. It is unfortunate that the money was there at one time, but because the Governor took money from the program to put into the general purpose revenue, it is now coming up short. Should I then have to pay for his mistake?

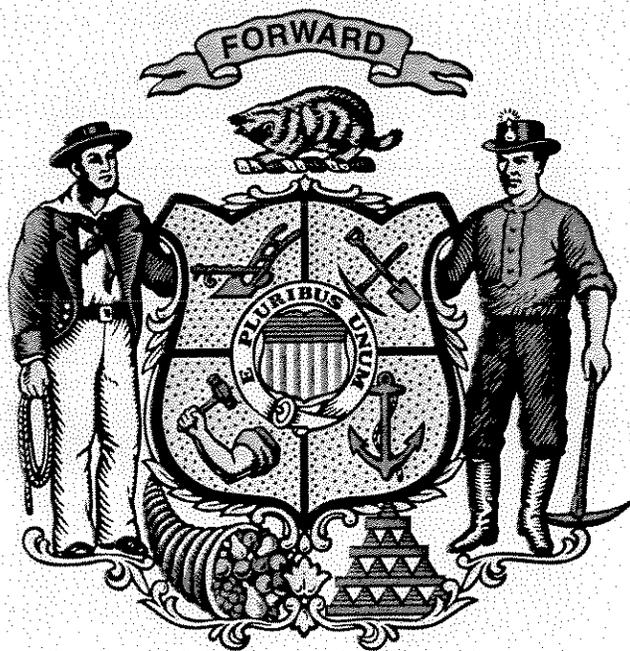
I realize the importance of inspections and do everything I can to maintain a healthy environment for my customers--these fees go over and above what I am doing already.

We are facing many increases this year due to the high cost of energy--please do not make it even more difficult for me by passing a 30% increase for my license!

Thank-you for your consideration.

Yours truly,

DAVID AND PATRICIA LORBECKI  
D/B/A DAVE'S PIGGLY WIGGLY  
JEFFERSON, WI 53549





**Al Ott**

State Representative • 3rd Assembly District

**Clearinghouse Rule 05-044  
Food and Dairy License and Inspection Fees  
Senate Committee on Agriculture and Insurance  
November 15, 2005**

Good afternoon Chairman Kapanke and members. Thank you for the opportunity to come before you regarding Clearinghouse Rule 05-044. I am here today to inform you of the efforts I have made, as Chairman of the Assembly Committee on Agriculture, to make this rule fair and equitable for all stakeholders.

Let me begin by interjecting a little background. The last time the DATCP Food Safety Division increased fees was 1997 – eight years ago. Over the course of those eight years, a number of things have transpired to bring us to this point.

First, the cost of operating has increased over time. Second, the amount of GPR used to fund this program has shifted from a 60/40 split to 40/60. This shift has forced the Department to rely more heavily on fee revenue to fund the Food Safety Program. Finally, in its effort to be a good steward of fee revenue, the Department made a conscious effort to consistently utilize GPR funds before tapping into fee money. Consequently, a considerable fee revenue balance accumulated. Due to tough budget times, this balance was subsequently lapsed.

As you know, Clearinghouse Rule 05-044 – which is a “cost to continue proposal” – was referred to our respective committees back in August. Prior to that, DATCP spent nearly a year and a half drafting this rule. The process included both public hearings held by the Department and the opportunity for comment before the DATCP Board.

The Assembly Committee on Agriculture held a public hearing on Clearinghouse Rule 05-044 on Thursday, October 13<sup>th</sup>. The Committee took action on a motion requesting modifications to the rule.

The motion outlined the committee’s request for the following changes:

- Delete the provisions that allow for an annual adjustment of the license fees in future years.
- Phase in the grade A milk procurement fee.
- Make adjustments in the proposed fee increases.

Since the adoption of this motion, I have made every effort to bring industry stakeholders together with the goal of reaching a compromise to alleviate some of the burdens of the rule as originally proposed, while ensuring the continued integrity of the DATCP food safety program.

In a series of meetings the following groups met in an effort to develop a compromise on the rule:

- Wisconsin Cheesemakers Association
- Wisconsin Dairy Products Association
- Wisconsin Farm Bureau Federation
- Wisconsin Federation of Cooperatives
- Wisconsin Grocers Association
- Wisconsin Motor Carriers Association (Milk Haulers)
- Midwest Food Processors Association
- DATCP

In these meetings we discussed, in detail, each section of the motion approved by the committee. Subsequently, the Department agreed to eliminate the annual adjustment provision. Further, it was agreed that the grade A milk procurement fee would be phased in over the course of 18 months.

The final component of the motion ("*Make adjustments in the proposed fee increases*") aimed to address the concerns brought forward by the Wisconsin Grocers Association on behalf of the state's retail food community.

After extensive discussion, and with the assistance of Legislative Council and the Fiscal Bureau, the following additional modifications were proposed:

- A **\$30,000 reduction** in retail fees from those initially proposed by DATCP. ✓
- An agreement from the Department to begin the promulgation of a new administrative rule – with a targeted effective date of July 1, 2007 – focused **solely** on retail food fees and inspection services. (*I have been adamant on this point – the Department and industry must come together to address outstanding concerns.*)

This proposal would offer some relief to both retailers (between 5 and 7 percent depending on size) and the dairy industry. Further, the proposal will facilitate much needed discussions between DATCP and the retail community to address the list of concerns presented to our committee at the public hearing.

The plan also ensures the viability of the state's food safety program by providing the Department with an estimated end balance equal to about 2 ½ weeks of operating expenses (between \$250,000 - \$300,000). This balance acts as a reserve against an unanticipated revenue decline or expenditure increase. The reserve amount is kept low in order to prevent a lapse of the funds paid by industry.

*To  
14/11/07*

The proposed compromise has been accepted by all stakeholders with the exception of the Wisconsin Grocers Association. In the absence of a viable alternative proposal by retailers, I requested the Department to move forward with plan outlined to you today.

DATCP has made these changes. The modified rule is before you for a 10 day review period.

I want to stress to you that this process has been about compromise. The Department has been willing to compromise. Their original proposal is scaled back considerably. The dairy industry has been willing to compromise. Under this plan, they take on slightly more of the funding burden of the program. The willingness of these parties, however, has not been shared by the retail community.

I brought all of these stakeholders together in good faith fully understanding the sticker shock of the original DATCP proposal. Under the original rule, there was about a 30% proposed increase for retail. In terms of actual dollars, the increase ranged from \$137 for the largest stores to \$12 for the smallest – fees vary by size.

Over the course of our numerous meetings, I repeatedly asked the Wisconsin Grocers Association to bring something better to the table within two parameters – no further impact on the dairy industry and at least two weeks of operating expenses as an end balance for the Department. No proposal to this effect has been forthcoming.

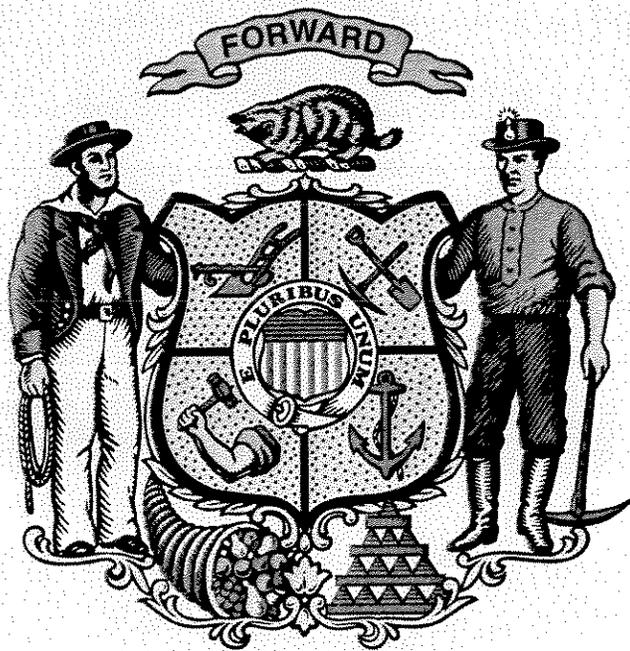
Under the modified proposal before you, the largest retailers would see a fee increase of \$112. The smallest stores would see a \$10 increase.

I recently had a meeting in my office with a store owner who has concerns with the rule. This store grossed \$18 million last year. In a follow-up conversation I had with this gentleman, he told me it cost him more in time and gas to come to Madison to meet with me than the fee increase would cost him.

I would like to make one final point as a matter of clarification. I understand some of your offices have recently been contacted by grocers in your district on this rule. One thing you may have heard is that retailers are subsidizing the cost of dairy inspections. According to the Fiscal Bureau, this is **not** the case. In 2003-04, retail paid 19.9% of the program's fee revenue and received 23.6% of the Department's inspection efforts.

In conclusion, this rule has been in the making for nearly two years, and the opportunities to initiate change have been significant. It's time to fish or cut bait. Further delay has the potential to jeopardize our state's Food Safety program. I feel we have come to a reasonable and equitable compromise on Clearinghouse Rule 05-044. **I would respectfully request this committee take no further action on this rule.**

Again, thank you for allowing me to testify today. I would be happy to answer any questions you may have.





WISCONSIN PETROLEUM MARKETERS & CONVENIENCE STORE ASSOCIATION

121 S. Pinckney St., Suite 300  
Madison, Wisconsin 53703  
Phone (608) 256-7555  
Toll-Free (888) 856-7555  
Fax (608) 256-7666  
www.wpmca.org

November 15, 2005

Senator Dan Kapanke, Chair  
Senate Committee on Agriculture and Insurance  
P.O. Box 7882  
Madison, WI 53707

**RE: Clearinghouse Rule 05-044**

Dear Senator Kapanke:

On behalf of the Wisconsin Petroleum Marketers and Convenience Store Association (WPMCA), I am writing to urge you to reject clearinghouse rule 05-044.

As you know, clearinghouse rule 05-044 increases dairy and food license fees. We are concerned the proposed fee increases will not result in additional services or benefits for retailers. It is our understanding the DATCP places a high priority on meeting federal dairy inspection mandates and, therefore falls short of its yearly retail inspection goals. We would like assurances the DATCP is providing the services to our industry that these fees fund.

We are also concerned with potential increases in local government fees. Several local governing entities perform retail food inspections. Generally, local governments already charge higher fees for their services. According to the Legislative Fiscal Bureau, local governments will be required to increase their fees and will likely pass these fee increases on to retailers.

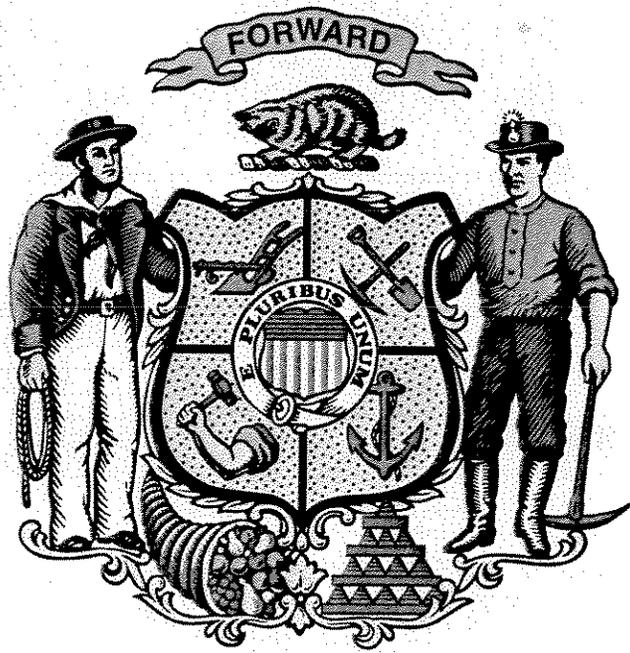
WPMCA members are committed to food safety and protecting the health of our customers. Approximately half of the retail establishments the WPMCA represent offer foodservice. As our industry's participation in foodservice continues to expand, we ask the State Legislature and the DATCP to please consider the WPMCA a partner and a resource as future decisions are made regarding Wisconsin's food safety programs.

Again, please reject clearinghouse rule 05-044. Thank you for your consideration of our request.

Sincerely,

Matthew C. Hauser  
Director of Government Affairs

cc: Members of the Senate Committee on Agriculture and Insurance





November 15, 2005

Wisconsin Senate Agriculture and Insurance Committee  
Room 411 South  
State Capitol  
Madison, WI

RE: Support for Clearinghouse Rule 05-044 as presented to the Committee

Dear Senate Agriculture and Insurance Committee Members:

The Midwest Food Processors Association, Inc. (MWFPA), represents many of the food processors subject to the Food License fees and we support the proposal as it has come back from the DATCP Board. We especially appreciate the elimination of the automatic fee increase proposal. While we do not particularly like fee increases in the food license area, we understand the needs of the department and the service provided. We are willing to work with the DATCP to keep costs under control and offer suggestions.

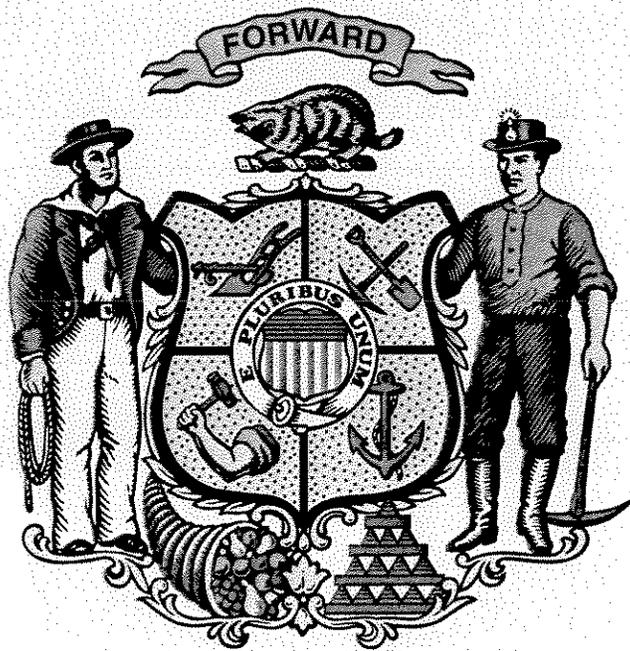
The members of the MWFPA respectfully urge you to support CR 05-044, relating to food and dairy license fees. We also support the comments of the dairy associations and the phase -in of the dairy fees over a period of years.

Thank you for the opportunity to speak before you today and I would be happy to address any of your concerns and questions.

Sincerely,

John D. Exner, CAE  
MWFPA President/Legal Counsel

EXPERTISE AND INFLUENCE TO POWER YOUR FOOD BUSINESS



**OBrien, John**

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**From:** Robert Mariano [rmariano@roundys.com]  
**Sent:** Tuesday, November 15, 2005 12:53 PM  
**To:** Sen.Brown; Sen.Erpenbach; Sen.Hansen; Sen.Kapanke; Sen.Kedzie; Sen.Miller; Sen.Olsen  
**Cc:** mkussow@charterinternet.com; Vivian King  
**Subject:** Letter to Senate Agriculture Committee

**Importance:** High

\*\* High Priority \*\*

November 15, 2005

Senate Agriculture Committee  
P.O. Box 7882  
Madison, WI 53707-7882

Dear Senators,

I am writing you after learning that the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is proposing to raise the license fees for retail food establishments. I disagree with this move and urge to you reject the proposal.

After reviewing the issue, this appears to be simply a short term fix to a long term problem. Also, retailers would not be receiving additional inspection services for the increased fees, and it is my understanding that the Fiscal Bureau has reported that the increased fees would simply serve to maintain the program at its current level.

Furthermore, the Agriculture Department uses license fees for both dairy and retail inspections. Dairy inspections are federally mandated and DATCP has admitted that inspectors routinely are pulled off retail inspections to perform dairy inspections. Because of the focus on dairy, the department misses at least a third of the goals set to do retail inspection.

Senators, no retailer wants its customers to get sick from the products sold in our stores, so we already police ourselves by spending thousands of dollars on top of our fees to ensure food safety.

I urge you to strongly consider the impact of this proposed license fee increase and vote to find another way for the Department of Agriculture to manage its revenues and expenses.

Sincerely,

Robert Mariano  
Chairman and CEO  
Roundy's Supermarkets, Inc.  
MS-2050  
PO Box 473  
Milwaukee, WI 53201  
Ph: 414-231-5822  
Fx: 414-231-6027  
rmariano@roundys.com

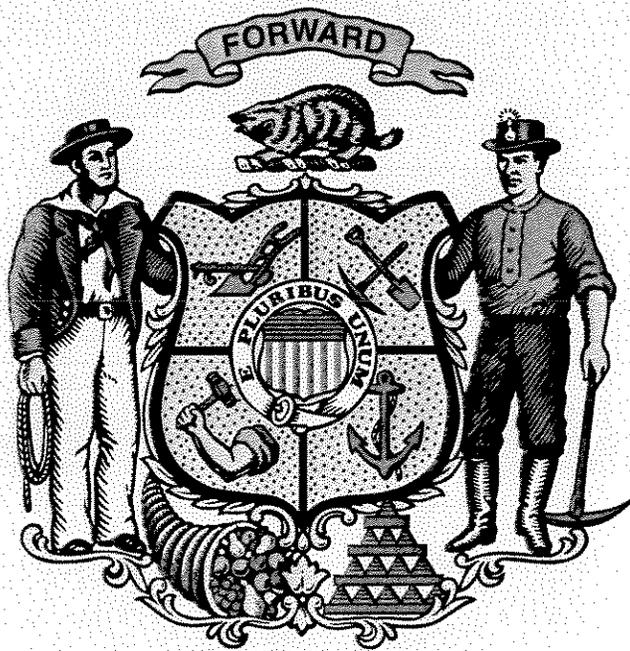
The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

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<<<<GWAVAsig>>>>



**Perlich, John H.**

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**From:** John Leemkuil [john@capcentrefoods.com]

**Sent:** Wednesday, November 16, 2005 10:26 AM

**To:** Sen.Kapanke; Sen.Brown; Sen.Kedzie; Sen.Olsen; Sen.Erpenbach; Sen.Hansen; Sen.Miller; Michelle Kussow

**Subject:** testimony that I had hoped to give at 11/15/hearing, but I had to get back to my store after waiting for 2+ hours to speak

Hello, my name is John Leemkuil and I own and operate Capitol Centre Foods here in Madison. I am also a member of the Wisconsin Grocers Assoc. Board of Directors. I would like to thank you for holding this hearing and allowing me the time to speak to you regarding the proposed DATCP fee increases.

As you may or may not know, the grocery business has a very low profit margin with our net profit being a penny or less out of every dollar. That means we have very little to work with to begin with and with each additional fee increase we have even less, so we have to raise prices.

I understand that one of my peers recently contacted a member of the Assembly Agriculture committee and was told the increase was a "miniscule percentage of my gross income". I take huge offense to that statement.

Currently I pay almost \$1000.00 for my food and drink license(which is where the DATCP fees are),\$425.00 for my beer license,\$35.00 each for 8 operators licenses to have a licensed operator on at all times,\$100.00 for my tobacco license, over \$300.00 to license my scanners and scales and on and on.

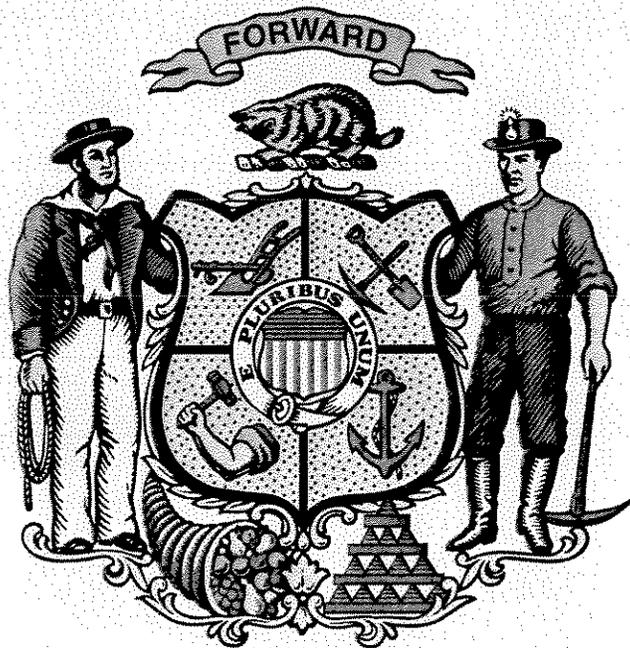
These fees are on top of overhead that is a huge percent of my profit i.e. Health care that I can no longer afford,corporate taxes, income taxes, property taxes, etc.

Where is it all going to stop?

It's one thing to have to pay a fee for a service for which we receive something or to pay more if we are going to receive more, but to pay more and receive less seems counter productive to me. How about you???

Thank you.

11/16/2005



**OBrien, John**

---

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**Sent:** Wednesday, November 16, 2005 10:26 AM

**To:** Sen.Kapanke; Sen.Brown; Sen.Kedzie; Sen.Olsen; Sen.Erpenbach; Sen.Hansen; Sen.Miller; Michelle Kussow

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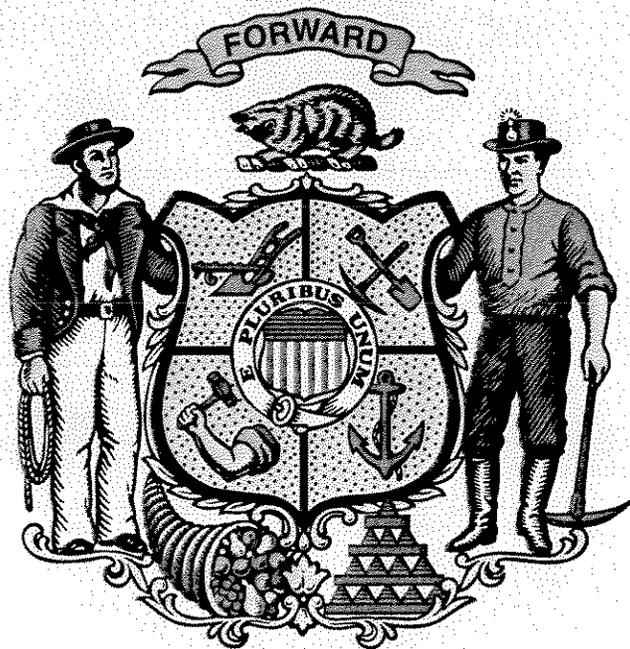
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These fees are on top of overhead that is a huge percent of my profit i.e. Health care that I can no longer afford, corporate taxes, income taxes, property taxes, etc.

Where is it all going to stop?

It's one thing to have to pay a fee for a service for which we receive something or to pay more if we are going to receive more, but to pay more and receive less seems counter productive to me. How about you???

Thank you.



# Quality Foods

2900 Rib Mountain Drive  
Wausau, WI. 54401

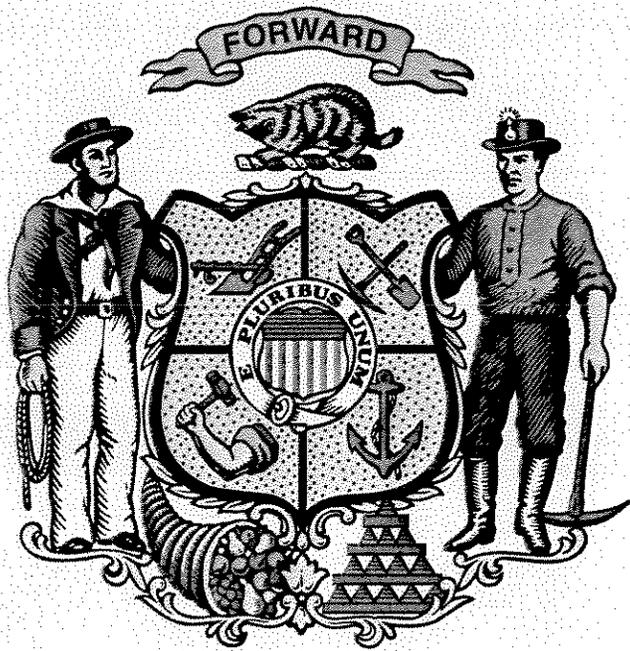
November 17, 2005

Dear Senator:

It has come to my attention that you are meeting today to discuss a possible fee increase for Food Establishments. It is also my understanding that the fee increase is only to maintain the current program and not increase our services for it. As a small business owner these fees are increasing more and more with us receiving less and less. When my costs rise, it is up to me to find ways with in my budget to continue to maintain. The last resort we take is an increase in prices. By raising these fees you are forcing businesses such as myself to absorb another hike in cost of business and for what may I ask? We have had our liquor license increased and health license increase over the past 2 years. Have I seen a benefit by having more inspectors around to create a safer food environment? The answer is no. The truth of the matter is that as a business I work very hard to create a safe area of sanitation and food handling. I spend thousands a year in equipment and training to assure that my customers purchase safe and bacteria free food. The last thing I want as a business is to see a customer become ill and we take great expense to assure that will not happen. So you see in my point of view to increase a fee and add more expense on to my business with no additional benefits is really just a way for you to create more revenue at the expense of a business that can ill afford it. As a food establishment we make around 1% of profit for every dollar taken in. If you do the math you would understand that even a small increase year to year in these fees really erodes my profitability and chances to maintain my business long term. Please consider this as you decide on your vote this afternoon and remember all the small people that this will ultimately affect.

Sincerely,

Jason J. Fritsche  
Quality Foods of Rib Mountain



**Hearing Appearance Log  
Food and Dairy Fees  
Clearinghouse No. 05-044**

**Eau Claire, June 14, 2005**

Ken Heiman, Nasonville Dairy: Opposes the amount of proposed fee increases and the adjustment of fees without public hearing. Suggests phasing in \$0.002 over 4 years.

**Appleton, June 15, 2005**

Don DeMotts, Alto Dairy Coop: Opposes the amount of proposed fee increases and the adjustment of fees without public hearing. Suggests phasing in \$0.002 over 4 years.

**Waukesha, June 16, 2005**

Brad Legreid, Wisconsin Dairy Professionals Association: Opposes the amount of the proposed fee increases and the adjustment of fees without public hearing. Suggests phasing in over 4 years.

Jerome Krings, Family Dairies, USA: Opposes the amount of the proposed fee increases and the adjustment of fees without public hearing.

**Madison, June 17, 2005 Video link to Monroe, Wausau, LaCrosse and Green Bay**

John Umhoefer, Wisconsin Cheese Makers Association: Supports the proposed rule with modifications. Opposes the amount of the proposed fee increases and the adjustment of fees without public hearing. Suggests phasing in 5% increases over 4 years.

**Madison, June 17, 2005 Video link to Monroe, Wausau, LaCrosse and Green Bay Cont.**

Bruce Workman, Edelweiss/Town Hall Dairy: Opposes the amount of the proposed fee increases and the adjustment of fees without public hearing. Suggests phasing in 5% increases over 4 years.

Mike Moran, Wisconsin Dairy State Cheese: Opposes the amount of the proposed fee increases and the adjustment of fees without public hearing. Suggests phasing in 5% increases over 4 years.

Steve Stettler, Decatur Swiss Cheese Coop: Opposes the amount of the proposed fee increases and the adjustment of fees without public hearing. Suggests phasing in 5% increases over 4 years.

Paul Beigle, Mapleleaf Cheese: Opposes the amount of the proposed fee increases and the adjustment of fees without public hearing. Suggests phasing in 5% increases over 4 years.

Michelle Kussow, Wisconsin Grocer's Association: Opposes the proposed rule.

Ken McMahon, Ellsworth Cooperative Creamery: Supports exemption of the grading fee for barrel cheese.

Dean Doornink: Opposes the amount of the proposed fee increases and the adjustment of fees without public hearing.

Angelica Hollstadt, Angelica's Garden: Opposes the \$200 canning fee surcharge for small food processors.

Jack Kaestner, Oconomowoc Country Club: Opposes the adjustment of fees without public hearing and supports creation of a sliding fee scale to address concerns of small artisan food processors. Recommends investigating ways to equitably distribute responsibility for funding between producers and consumers.

John Davis, Wayne and Carla Kostka, Anne Topham, Troy DeRosier, Willi Lehner, Michell Wiegart, Mary Falk, Ron Paris, Bob Wills, Wisconsin Dairy Artisan Network: Opposes the adjustment of fees without public hearing and supports creation of a sliding fee scale to address concerns of small artisan food processors. Recommends investigating ways to equitably distribute responsibility for funding between producers and consumers.

<b>FISCAL ESTIMATE</b>		<b>List both LRB No. and Bill/Adm. Rule No.</b> ATCP 60,69,70,71,75,77,80, 81, 82, 85 Amendment No. (If Applicable)
DOA-2048 N(R 10/98)	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED	
	<input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	
<b>Subject</b> Food and Dairy License Fees		
<b>Fiscal Effect</b> State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation  <input type="checkbox"/> Increase Existing Appropriation <input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation		<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Decrease Costs
<b>Local:</b> <input type="checkbox"/> No local government costs 1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input checked="" type="checkbox"/> Increase Revenues <input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<b>5. Types of Local Governmental Unit Affected:</b> <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input checked="" type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<b>Fund Source Affected</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		<b>Affected Ch. 20 Appropriations</b> 20.115(1)(gb)
<b>Assumptions Used in Arriving at Fiscal Estimate</b>  This rule will increase program revenues by \$1.2M. The majority of fees have not been increased since 1991.  The department proposes to increase license fees for all food and dairy license categories.  Act 39, the 1991-93 biennial budget act, created the current structure for food and dairy license fees and set the fees at the current level for most fees. (Five categories were additionally increased by rule in FY98.) The 1991 budget legislation also authorized the department to adjust license fees via the rulemaking process.  Wisconsin's food safety programs are funded by a combination of general purpose revenue (GPR) dollars and program revenue (PR) from industry license fees. In 1991 program revenue funded about 40% of program costs. Act 27, the 1995-97 biennial budget act, reduced the GPR budget, and increased the percentage of PR budget to 50%. A modest increase in operating costs, significant reductions in GPR, and an increase in PR budget (from the transfer of the grade A milk certification program to DATCP) have resulted in increased PR expenditures. Because of these shifts in funding and the lapse of a significant amount of PR cash during the previous two biennia, the department projects a cash deficit in its food safety PR appropriation in FY 2005-06.  <b>Local Government Impact</b>  The cost to local governments will increase by \$11,500.  As a result of these fee increases, local governments that license and inspect retail food establishments as agents of the department will be required to increase their reimbursement to the department for administrative services. Currently, agents must reimburse the department for 10% of the license fee the department would charge if the department was delivering inspection-related services. For FY04, agent reimbursement to the department equaled \$50,005. If the proposed fee increases are implemented, the rate of reimbursement will remain at 10%, but the total agent reimbursement to the department will increase to \$61,505. Local governments can and do pass this increase on to retail food businesses. Local governments can set license fees to recover up to 100% of their reasonable operating costs.		
<b>Long - Range Fiscal Implications</b> In FY2007, you will see the remaining a full year captured of Milk Certification fees and the first six months increase of 2 year personal license fee increases that were not captured in FY2006. That will generate additional ongoing revenues of \$197,605/year.  In FY2008, you will see the remaining increase of 2 year personal license fee increases that were not captured in FY2007. That will generate additional ongoing revenues of \$50,810/year.  The full fee increase annualized amount will be reached in FY2008.		

<b>Agency/prepared by: (Name &amp; Phone No.)</b>  Michelle Wachter (608) 224-4703	<b>Authorized Signature/Telephone No.</b>  <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	<b>Date</b>  7/25/05
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# Wisconsin Department of Agriculture, Trade and Consumer Protection

## Final Regulatory Flexibility Analysis

**Rule Subject:** Food Establishment License Fees  
**Adm. Code Reference:** ATCP 59, 60, 69, 70, 71, 75, 77, 80, 81, 82, 85, Wis. Adm. Code  
**Rules Clearinghouse #:** 05-044  
**DATCP Docket #:** 01-R-06

### Rule Description

The Department of Agriculture, Trade and Consumer Protection ("DATCP" or "department") licenses and inspects a variety of food processing and handling establishments and individuals in Wisconsin. This rule changes current license fees paid by dairy and food businesses licensed by the Department of Agriculture, Trade and Consumer Protection (DATCP). This rule:

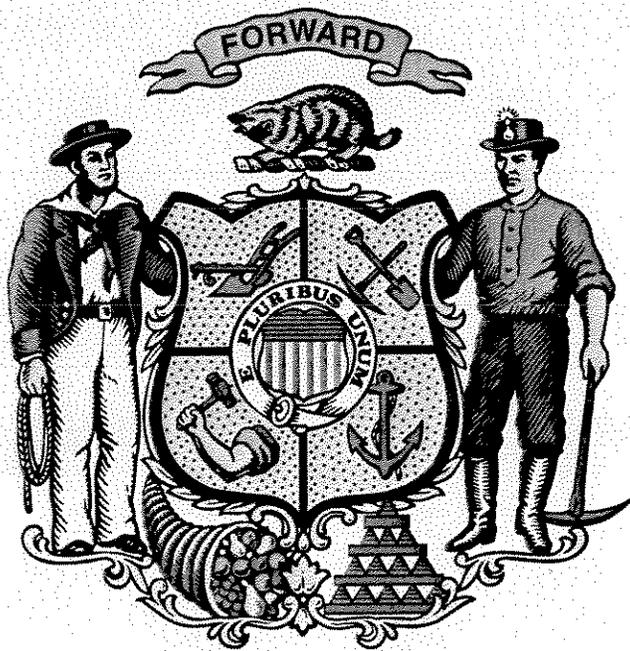
- Increases annual license fees, beginning in 2006.
- Creates a mechanism to annually adjust license fees (up or down), beginning in 2007, based on the prevailing cash balance in Wisconsin's food safety program revenue account. Any annual adjustment must be preceded by publication of the adjusted fees and any upward adjustment must also first be brought before an advisory body for consideration and approved by the DATCP Board.

This rule increases or allows for adjustment of existing license fees for milk producers, dairy plants, food processing plants, food warehouses, milk distributors, retail food stores, dairy, food or water testing laboratories, milk haulers, buttermakers, cheesemakers and butter or cheese graders.

Wisconsin's food safety programs are funded by a combination of general tax dollars (GPR) and program revenue from industry license fees (PR). In 1991, license fees funded about 40% of program costs. The 1995-97 biennial budget act reduced GPR funding, and increased the percentage of PR funding to 50%. A modest increase in operating costs, recent, significant reductions in GPR, and a significant increase in PR cost caused by the transfer of the grade A milk certification program to DATCP have caused the PR funding proportion to increase to 60%. Because of these shifts in funding and the lapse of a significant amount of PR during the previous two biennia, the department projects a deficit in its food safety budget in FY 2005-06. Fees have not been increased since 1998.

### Small Businesses Affected by This Rule

This rule affects all milk producers, dairy plants, food processing plants, food warehouses, milk distributors, retail food stores, dairy, food or water testing laboratories, milk haulers, buttermakers, cheesemakers and butter or cheese graders licensed by the department, including many businesses that would be considered a "small business" as defined in s. 227.114(1)(a),





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE **05-044**

AN ORDER to repeal ATCP 70.03 (2r) (a) (note) and 71.02 (3) (note); to renumber ATCP 85.07; to amend ATCP 60.03 (title), 70.03 (2), (2m), (2n), (2r) (a) and (b) (intro.) and (3), 71.02 (2), (3), (5) (b) (intro.) and (7) (a), 75.02 (2), (3) and (4) (b) (intro.), 77.06 (1), (4) and (5) (c), 77.23 (3) (intro.), 80.04 (1) (a) and (b), (2) (b) (intro.) and 1. and (3) (b) (intro.), chapter ATCP 81 subchapter I (title) and 82.02 (2) (intro.), (3) (b) and (4); to repeal and recreate ATCP 60.02 (4), 60.04 (2), 80.04 (5) and (6), 82.02 (5) and 82.04 (5); and to create chapter ATCP 59 and ATCP 69.01 (4) (title) and (5), 69.02 (6), 70.03 (2t), 71.01 (6m), 71.02 (5m), 71.10, 75.02 (4m), 77.06 (2) (intro.) and (2m), 77.23 (3m), 81.02, 82.02 (5m) and 85.07 (2) and (3), relating to food and dairy license and reinspection fees.

Submitted by **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

05-13-2005 RECEIVED BY LEGISLATIVE COUNCIL.

06-13-2005 REPORT SENT TO AGENCY.

RNS:MM

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]  
Comment Attached      YES       NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]  
Comment Attached      YES       NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]  
Comment Attached      YES       NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]  
Comment Attached      YES       NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]  
Comment Attached      YES       NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)].  
Comment Attached      YES       NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]  
Comment Attached      YES       NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 05-044

#### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### **2. Form, Style and Placement in Administrative Code**

a. In s. ATCP 60.02 (4) (c), "milk" should be inserted between "required" and "producer."

b. Should the title to ch. ATCP 71 be amended to reflect the fact that the rule adds regulation of milk distributors to that chapter?

c. It appears that s. ATCP 71.10 should contain provisions setting forth requirements and application procedures for milk distributor licenses. Likewise, s. ATCP 81.02 should set forth requirements and application procedures for the cheese grader license. Also, in s. ATCP 81.02, should the term "grade cheese" be defined?

d. The rule creates s. ATCP 59.02 twice. It appears that s. ATCP 59.02 titled "Fee adjustment procedure" should instead be designated s. ATCP 59.03.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

In s. ATCP 59.02 (1) and (2) (intro.) (which should be renumbered s. ATCP 59.03 (1) and (2) (intro.) [see comment above], the cross-reference should be changed to s. ATCP 59.02 (2).

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the title to ch. ATCP 59, "LICENSE" is misspelled.

b. Should s. ATCP 59.02 (2) (a) specify how many members from each of the listed entities should be appointed to the advisory council?

c. Should a definition for "storage facility," which appears in s. ATCP 71.10 (1) (a), be provided in the rule?