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☞ Details: Legislative Audit Bureau Letter Report January 2008: Food and Dairy Safety Program
Funding and Public Hearing (July 17, 2008)

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Joint

(Assembly, Senate or Joint)

Committee on Audit...

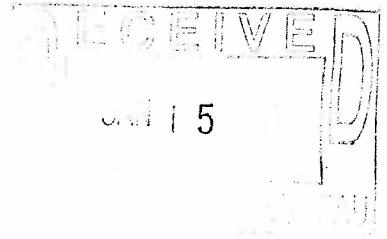
COMMITTEE NOTICES ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (October 2012)



Al Ott

State Representative • 3rd Assembly District

January 14, 2008

Janice Mueller
State Auditor – Legislative Audit Bureau
22 E. Mifflin Street, Suite 500
Madison, WI 53703
Hand-Delivered

Dear Ms. Mueller,

On behalf of the Assembly Committee on Agriculture, I respectfully request your consideration in expediting the completion of the Department of Agriculture, Trade and Consumer Protection Food and Dairy Inspection Performance Audit.

As you know, the Committee is currently reviewing Clearinghouse Rule 07-037, which calls for a significant increase in fees assessed to the various industries regulated by the Department's food safety program. According to the Department, the fee increase is necessary to ensure adequate revenue to continue program operations. Without the additional revenue, the Department estimates considerable shortfalls in the program's operating budget.

Yvonne Onsager of your staff attended the Committee's January 10th hearing on Clearinghouse Rule 07-037. The Committee appreciated her short briefing on the objective and status of the current audit. Ms. Onsager indicated in her comments that the final report is expected to be issued in March.

The Assembly Committee on Agriculture retains jurisdiction over Clearinghouse Rule 07-037 until March 3rd. While the committee is aware that the audit's primary focus is not related to the program's funding mechanism, we feel the audit's findings are timely, and may be helpful as we deliberate potential committee action on the rule package.

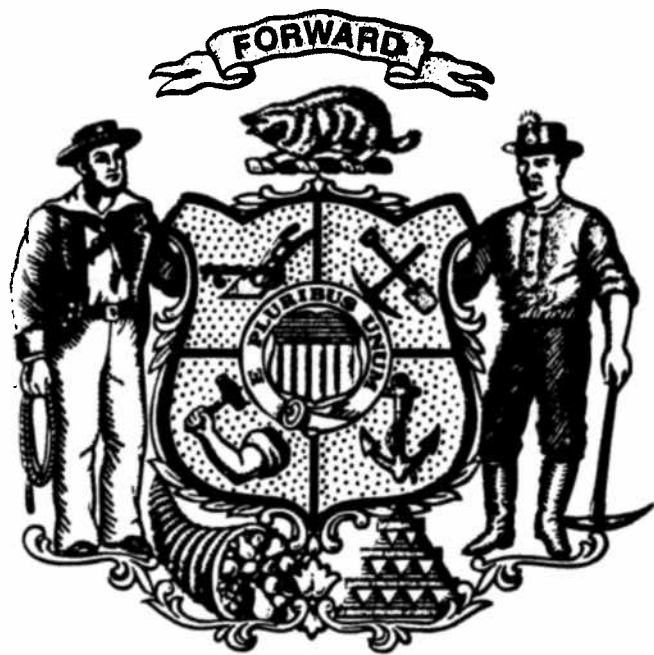
The Committee understands the substantial work that has thus far gone into the audit of the food safety program and the significant amount of work remaining to issue the final report. We are hopeful, however, that you will consider directing any additional resources necessary to complete the audit during the month of February. The Committee would greatly appreciate anything the Bureau may be able to do to expedite the completion of this audit.

Thank you for your time and your consideration of this request. Please do not hesitate to contact me to discuss this matter further. I look forward to hearing from you.

Sincerely,

Al Ott
State Representative
3rd Assembly District
Chair, Assembly Committee on Agriculture

cc: Assembly Committee on Agriculture





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Janice Mueller
State Auditor

January 15, 2008

Representative Al Ott
323 North, State Capitol
Madison, Wisconsin 53702

Dear Representative Ott:

I am writing in response to your January 14th letter, in which you request that we expedite completion of our audit of food and dairy inspection processes. I understand that your request is prompted, in part, by the March 3, 2008 expiration of jurisdiction of the Assembly Committee on Agriculture over Clearinghouse Rule 07-037, and your desire for the Committee to consider our findings in its deliberations on this rule package.

In order to assist the Committee in its deliberations, we agree to proceed expeditiously to complete the fee component of our larger audit effort on food and dairy inspection. We hope to release a letter report on our findings to the Joint Legislative Audit Committee in mid-February. We will then complete the remainder of our audit for release at a later date. We will ensure that all members of the Assembly Committee on Agriculture receive copies of both audit reports when they are issued.

I hope that you will find this information helpful in planning for the work of your Committee. Please contact me with any questions.

Sincerely,

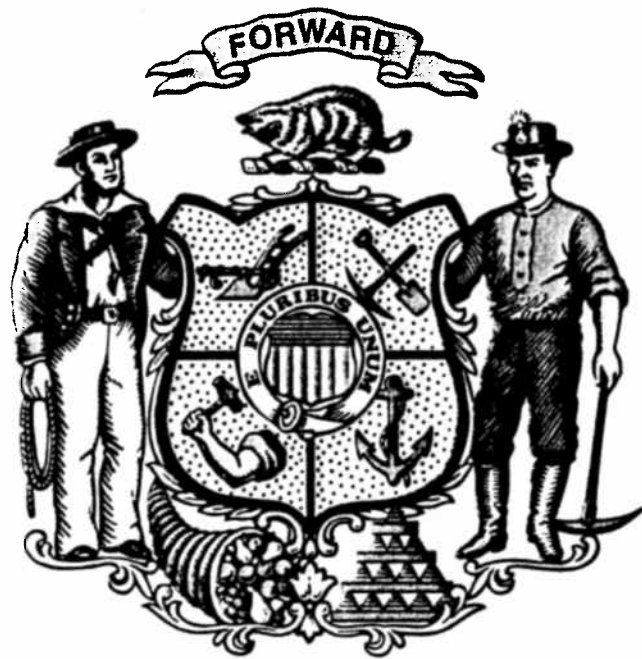
Janice Mueller
State Auditor

JM/kc

cc: Members, Assembly Committee on Agriculture

Members, Joint Legislative Audit Committee

Mr. Rod Nilsestuen, Secretary
Department of Agriculture, Trade and Consumer Protection



Letter Report

**Food and Dairy Safety
Program Funding**

January 2008



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Janice Mueller
State Auditor

January 29, 2008

Senator Jim Sullivan and
Representative Suzanne Jeskewitz, Co-Chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Sullivan and Representative Jeskewitz:

We have completed a review of food and dairy safety program funding, which is administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). The program's expenditures totaled \$8.4 million in fiscal year (FY) 2006-07 and supported 97.6 full-time equivalent positions. In FY 2006-07, 54.9 percent of the program was funded with fees charged to regulated entities, 41.6 percent with general purpose revenue, and 3.5 percent with federal revenue.

During our review period, fee revenue increased 20.8 percent, but fee-funded expenditures increased by 43.2 percent. As a result, the program's appropriation account balance has decreased each year since FY 2002-03, and in FY 2006-07 ended with a negative balance of \$51,800. To address the program's current funding shortfall, DATCP has proposed increasing food and dairy fees by approximately 30 percent beginning July 1, 2008. This proposal is currently under review by the Legislature.

We compared Wisconsin's fee structure with those of six other states and found substantial variation in funding levels, staffing levels, and inspector workloads. While Wisconsin is near the average of the states we reviewed in terms of funding and staffing, it has the highest inspector workload.

In FY 2006-07, DATCP had contracts with 34 local health departments to conduct food safety inspections at retail food establishments such as grocery stores and delicatessens within their boundaries. We compared DATCP's retail food licensing fees with fees charged by 26 local programs and found that local fees were frequently higher than those charged by DATCP.

Our comprehensive evaluation of the effectiveness of DATCP's food and dairy regulatory activities will be released later in the year. We appreciate the courtesy and cooperation extended to us by DATCP in conducting this review.

Sincerely,

Janice Mueller
State Auditor

JM/PS/bm

Enclosure

FOOD AND DAIRY SAFETY PROGRAM FUNDING

To help ensure the safety of the human food supply, the Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for regulating individuals and facilities involved in the production of food and dairy products. DATCP's responsibilities include regulating dairy farms, dairy plants, food processors (such as canning factories, breweries, and wineries), food warehouses, retail food establishments such as grocery stores and delicatessens, and dairy professionals such as cheese and butter makers. However, its responsibilities do not include restaurants, which are regulated by the Department of Health and Family Services (DHFS), primarily through contracts with local health departments.

DATCP's main regulatory and oversight activities involve:

- licensing individuals and facilities involved in the production of food and dairy products;
- regularly inspecting all food and dairy establishments;
- contracting with local governments that choose to license and inspect retail food establishments within their jurisdictions;
- collecting and analyzing samples of food and testing food preparation surface areas for the presence of bacteria and other pathogens that cause foodborne illnesses;
- testing samples of dairy products for the presence of antibiotic drug residues and elevated levels of harmful bacteria; and
- responding to and identifying the causes of food emergencies, such as the contaminated spinach outbreak in 2006, by working with local public health departments, other state and federal agencies, and the responsible food or dairy establishments.

In fiscal year (FY) 2006-07, DATCP issued 29,384 food and dairy licenses. Approximately one-half were for dairy farms, as shown in Table 1. Approximately 84.2 percent of dairy farms have Grade A permits to produce milk that can be sold as fluid milk for human consumption. The remaining farms are classified as Grade B and produce milk to be used in manufactured products such as cheese.

Table 1

**Food and Dairy Licenses Issued by DATCP
FY 2006-07**

License Type	Number Issued	Percentage of Total
Food		
Retail Food	4,625	15.7%
Food Processors	1,270	4.3
Food Warehouses	887	3.0
Subtotal Food	6,782	23.0
Dairy		
Dairy Farms ¹	14,272	48.6
Dairy Plants	368	1.3
Other Dairy	7,962	27.1
Subtotal Dairy	22,602	77.0
Total	29,384	100.0%

¹ Represents the number of active dairy farm licenses, rather than the number of licenses issued in FY 2006-07, because dairy farm licenses do not expire.

In conducting our review, we analyzed program revenues and expenditures and compared DATCP's food and dairy fees with those of other states and several local governments. We also interviewed DATCP staff, representatives of the food and dairy industries, and regulatory staff in six other states and eight local governments in Wisconsin.

Staffing and Expenditures

The food and dairy safety program had 97.6 full-time equivalent (FTE) staff positions in FY 2006-07. As shown in Table 2, approximately one-half are filled by inspectors who inspect food and dairy establishments, collect samples of food and dairy products as part of DATCP's food sampling program, and respond when needed to food emergencies. Approximately one-fifth of the staff provide support and administrative services. Staffing levels increased slightly from 94.5 FTE positions in FY 2002-03 to 97.6 FTE positions in FY 2006-07, primarily because staff responsible for evaluating and certifying Grade A dairy farms and dairy plants based on national standards were transferred from DHFS to DATCP in FY 2003-04.

Table 2

Food and Dairy Safety Staffing
FY 2006-07

Classification	FTE Positions	Percentage of Total
Program Staff		
Inspectors	48.1	49.3%
Field Supervisors	6.0	6.2
Other ¹	25.0	25.6
Subtotal	79.1	81.1
Support Staff	13.5	13.8
Administrative Staff	5.0	5.1
Total	97.6	100.0%

¹ Includes food and dairy specialists, food scientists, a regulatory compliance investigator, a laboratory evaluation officer, milk rating officers, and multiple product graders.

As shown in Table 3, FY 2006-07 program expenditures totaled \$8.4 million. Program revenue from food and dairy fees is the largest funding source and increased from 50.8 percent of total program funding in FY 2002-03 to 54.9 percent in FY 2006-07. In turn, general purpose revenue (GPR) decreased from 44.4 percent of the total in FY 2002-03 to 41.6 percent in FY 2006-07.

During the period shown, fees were increased once, in 2006. Federal funds reimburse the activities DATCP conducts under four federal contracts, which include inspecting federally regulated food processing plants; inspecting egg producers, packers, and hatcheries; and collecting food samples that are analyzed as part of an ongoing national survey on the population's exposure to pesticides, pathogens, and microorganisms in fruits and vegetables.

Table 3

Food and Dairy Safety Program Expenditures, by Funding Source

Funding Source	FY 2002-03		FY 2006-07	
	Amount	Percentage	Amount	Percentage
Program Revenue	\$3,643,800 ¹	50.8%	\$4,601,100	54.9%
GPR	3,189,800	44.4	3,484,800	41.6
Federal Revenue	341,500	4.8	293,500	3.5
Total	\$7,175,100	100.0%	\$8,379,400	100.0%

¹ Includes a lapse of \$431,400 to the General Fund.

As shown in Table 4, program expenditures increased 16.8 percent from FY 2002-03 through FY 2006-07, in part because of the transfer of staff from DHFS in FY 2003-04. Salaries and fringe benefits represented 74.4 percent of total program expenditures in FY 2006-07.

Table 4

Food and Dairy Safety Program Expenditures, by Type

Type	FY 2002-03	FY 2006-07	Percentage Change
Salaries and Fringe Benefits	\$5,137,900	\$6,237,000	21.4%
Laboratory and Professional Services	583,100	680,200	16.7
Travel and Training	465,200	601,600	29.3
Supplies and Services	392,300	705,800 ¹	79.9
Rent and Lease Payments	165,200	154,800	(6.3)
Lapse to General Fund	431,400	0	(100.0)
Total	\$7,175,100	\$8,379,400	16.8

¹ Includes \$12,000 that was transferred to the grain inspection program, as required by s. 16.56, Wis. Stats.

Supplies and services costs increased by the largest percentage over the period we reviewed, largely because of increased information technology costs, including costs associated with computer maintenance and support charged to the program by DATCP. Laboratory and professional services, the third-largest expenditure category in FY 2006-07, include mainly laboratory testing as part of the program's sampling activities. Travel and training expenditures are mostly for in-state travel by inspectors and supervisors as part of their day-to-day regulatory responsibilities. The required lapse of \$431,400 in unencumbered fee revenue to the General Fund was made to help address the State's budget deficit in FY 2002-03.

Food and Dairy Fees

DATCP has the authority to license and charge fees for the operation of food and dairy facilities and dairy professionals. These fees can be organized into four categories:

- facility fees, which include license fees for dairy farms, dairy plants, retail food establishments, food processing facilities and food warehouses, and reinspection fees for non-routine inspections at these facilities;
- procurement fees, which are based on the amount of milk received by dairy plants each month;
- professional licenses, which include license fees for butter and cheese makers and graders, milk haulers, and milk distributors; and
- Service fees, which are charged when DATCP provides certain requested services, such as grading cheese and butter or testing milk pasteurizers.

As shown in Table 5, DATCP received \$4.5 million in fee revenue in FY 2006-07. That is a 20.8 percent increase since FY 2002-03. However, program expenditures increased by 43.2 percent over the same period, and an additional \$1.2 million in fee revenue was lapsed to the General Fund from FY 2002-03 through FY 2004-05 to help address the State's budget deficits. The food and dairy fee appropriation account balance has decreased every year since FY 2002-03, and the ending balance in FY 2006-07 was negative, at -\$51,800.

Table 5

Food and Dairy Fee Appropriation Account Balance

	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07
Revenue					
Opening Balance	\$1,880,000	\$1,986,600	\$1,452,300	\$ 453,400	\$ 17,100
Fee Revenue	3,750,400	3,710,900	3,345,000	4,032,100	4,532,200
Total Available	5,630,400	5,697,500	4,797,300	4,485,500	4,549,300
Expenditures					
Program Expenditures	3,212,400	3,910,600	3,883,400	4,468,400	4,601,100
Lapse to the General Fund	431,400	334,600	460,500	0	0
Total Expenditures	3,643,800	4,245,200	4,343,900	4,468,400	4,601,100
Ending Balance	\$1,986,600	\$1,452,300	\$ 453,400	\$ 17,100	\$ (51,800)

To address the program's current shortfall, DATCP submitted proposed administrative rules to the Legislature in December 2007 that would increase 65 of the 67 food and dairy facility and professional fees by approximately 30 percent beginning July 1, 2008. The proposed rules would also increase the Grade A milk procurement fee, which is a monthly fee paid by dairy plants based on the amount of milk they receive from dairy farms, by 12.6 percent. DATCP projects these changes will yield approximately \$909,200 in additional revenue annually.

The milk procurement fee was last increased on July 1, 2007; most other current fees took effect on January 1, 2006. Table 6 shows the current and proposed amounts of selected fees. A more comprehensive listing is provided in Appendix 1.

Table 6

Selected Fee Amounts

Fee Category	Current Fee	Proposed Fee	Average Percentage Change
Dairy Farms	\$24	\$31	29.2%
Grade A Dairy Plants ¹	\$699 or \$879	\$909 or \$1,143	30.0
Grade B Dairy Plants ¹	\$96 or \$421	\$125 or \$548	30.2
Retail Food ¹	\$37 to \$562	\$48 to \$731	29.9
Food Processing Plant ¹	\$78 to \$685	\$101 to \$890	29.8
Food Warehouses ¹	\$65 to \$261	\$85 to \$339	30.0
Grade A Milk Procurement Fee	\$0.0096 per 100 lbs	\$0.01081 per 100 lbs	12.6

¹ Fees vary based on factors such as facility size and the potential food safety risk.

The fees DATCP charges are based on the type of facility, the associated level of risk of a foodborne illness that each type of facility potentially poses, and in some cases on sales volume. For example, higher license fees are paid by Grade A dairy plants, which have more stringent regulatory requirements than Grade B plants. In addition, higher fees are paid by establishments that process or sell foods that are at risk of causing a foodborne illness, which include foods that need to be heated or cooled in order to be safe to consume, such as delicatessen meats and cheeses. DATCP refers to establishments processing or selling these types of foods as “potentially hazardous.”

DATCP does not charge a fee for a routine inspection but can charge a fee for a reinspection, which is a nonroutine inspection resulting from the number or type of problems it identifies during a routine inspection. Current reinspection fees range from \$24 to \$431 and would be increased to amounts from \$31 to \$560 under DATCP’s proposed rules.

We found that the amount of revenue generated by food and dairy fees is somewhat proportional to the amount of time DATCP staff spend on dairy and food activities. Table 7 identifies the number of hours DATCP staff reported spending on food and dairy regulatory activities and the corresponding amount of revenue generated by those activities.

Table 7

Food and Dairy Regulatory Activities and Revenue¹
 FY 2006-07

Activity	Total Number of Work Hours	Percentage of Total Work Hours	Revenue	Percentage of Total Revenue
Dairy	106,295	61.3%	\$2,825,500	71.0%
Food	66,977	38.7	1,154,700	29.0
Total	173,272	100.0%	\$3,980,200	100.0%

¹ Excludes \$552,000 in revenue and 18,173 work hours related to nonregulatory activities.

Comparison with Other States

To determine how Wisconsin's program compares with those of other states, we reviewed funding levels, staffing levels, the number and type of facilities regulated, and the fees charged by similar programs in four surrounding midwestern states—Illinois, Iowa, Michigan, and Minnesota—as well as two large dairy-producing states—California and New York. As shown in Table 8, food and dairy safety program budgets ranged from \$2.2 million in Iowa to \$15.7 million in California. The average was \$8.7 million, which was the same as Wisconsin's FY 2006-07 budget.

Table 8

Food and Dairy Safety Program Budgets¹
(in millions)

	Food	Dairy	Total
California	\$ 9.2	\$6.5	\$15.7
New York	10.8	2.3	13.1
Michigan	7.6	2.8	10.4
<i>Average</i>			8.7
Wisconsin ²	-	-	8.7
Minnesota	4.0	3.1	7.1
Illinois ²	-	-	3.9
Iowa	1.2	1.0	2.2

¹ Represents the fiscal year for which data could be readily provided by each state, which was either FY 2005-06 or FY 2006-07. For Wisconsin, it represents DATCP's food and dairy safety program budget for FY 2006-07.

² Both Wisconsin and Illinois budget their food and dairy regulatory efforts as a single program.

Illinois and Wisconsin each administer food and dairy safety as a single program with a unified budget. In the other five states, food and dairy safety are budgeted separately. Moreover, the food and dairy safety programs in California and Iowa are administered by separate state agencies.

The extent to which program operations are funded through fee revenue varies substantially. As shown in Table 9, the extent to which fees cover the cost of food safety programs ranges from an estimated 13 percent in Minnesota to 89 percent in California. For dairy safety programs, the amount ranges from an estimated 3 percent in Michigan to 85 percent in California. In general, costs not funded by fees are covered through a state's general fund.

Table 9

Estimated Funding of State Food and Dairy Safety Program Budgets¹

	Food Safety		Dairy Safety	
	Percentage Funded by Fees	Percentage Funded by General Fund Revenue	Percentage Funded by Fees	Percentage Funded by General Fund Revenue
California	89%	11%	85%	15%
Illinois ²	42	58	42	58
Iowa	N.A. ³	N.A. ³	80	20
Michigan	37	63	3	97
Minnesota	13	87	68	32
New York	37	63	N.A. ³	N.A. ³
Wisconsin ²	55	42	55	42

¹ Represents the fiscal year for which data could be readily provided by each state, which was either FY 2005-06 or FY 2006-07. For Wisconsin, it represents FY 2006-07.

² Both Illinois and Wisconsin budget their food and dairy regulatory efforts in as a single program. For Wisconsin, the percentage of funding does not add to 100 percent because a small amount of federal funding is used to support its program.

³ Because fees are deposited into these states' general funds, the extent to which fees fund their programs cannot be determined.

The amounts that states budget for their food and dairy programs vary largely as a result of the number of inspectors, whose salaries and fringe benefits make up most program expenditures. As shown in Table 10, the number of food and dairy inspectors ranges from an estimated 20.0 FTE staff in Illinois to 135.0 FTE staff in New York. Three of the six states we reviewed have more staff than Wisconsin, and three have fewer.

Table 10

Estimated FTE Food and Dairy Safety Inspectors¹
August 2007

	Food Inspectors	Dairy Inspectors	Total
New York	100.0	35.0 ²	135.0
California	45.0	46.0	91.0
<i>Average</i>			58.3
Michigan	45.0	8.0	53.0
Wisconsin ³	-	-	48.1
Minnesota	23.0	15.0	38.0
Iowa	14.0	9.0	23.0
Illinois ³	-	-	20.0

¹ Does not include supervisory staff.

² New York also uses 120 certified milk inspectors, who are employed by milk cooperatives and dairy plants, to conduct routine farm inspections on behalf of the state.

³ Inspectors in Illinois and Wisconsin conduct both food and dairy inspections.

The number of staff each state employs depends on factors such as the number and type of regulated facilities that are required to be licensed and inspected; a state's specific regulatory requirements, such as inspection frequency; and the role of local units of government in the regulatory process. The number of food and dairy facilities regulated by the states we reviewed ranges from an estimated 4,000 in Illinois to 37,800 in New York. As shown in Table 11, the estimated number of facilities per inspector also ranges substantially, from 88 facilities per inspector in California to 445 facilities per inspector in Wisconsin.

Table 11

Estimated Number of Food and Dairy Facilities per Inspector¹

	Food Facilities	Dairy Facilities ²	Total Facilities	Facilities per Inspector
Wisconsin	6,800	14,600	21,400	445
Iowa	6,700	2,300	9,000	391
Michigan	17,300	2,600	19,900	375
Minnesota	7,600	5,000	12,600	332
<i>Average</i>				302
New York	31,600	6,200	37,800	280
Illinois	2,800	1,200	4,000	200
California	5,500	2,500	8,000	88

¹ Represents data from the fiscal year for which they could be readily provided by each state, which was either FY 2005-06 or FY 2006-07. For Wisconsin, FY 2006-07 data were used.

² Represents the estimated number of dairy farms and dairy plants.

While there is a strong relationship between the numbers of food facilities and food inspectors in the five states with staff specifically dedicated to inspecting food facilities, there is not a meaningful relationship between the number of dairy facilities and the number of dairy inspectors. This divergence may be based on factors such as farm size, travel distances needed to conduct inspections, and regulatory requirements that differ based on whether dairy farms and dairy plants produce Grade A or Grade B milk.

For example, while California produces more milk than any other state, it has far fewer farms than Wisconsin. In 2006, California had approximately 2,000 dairy farms with an average herd size of 908 cows, compared to Wisconsin's 14,300 dairy farms with an average herd size of 85 cows. California also has a higher percentage of Grade A dairy plants. In 2006, approximately 15.0 percent of California's dairy plants produced Grade A milk, compared to 7.3 percent in Wisconsin. As noted, the regulatory requirements and inspection frequency is substantially greater for Grade A plants than for Grade B plants.

As shown in Table 12, the fees states charge to license food and dairy facilities vary substantially. This is not surprising because, as noted, states rely on fees to widely varying degrees for support of their programs. For example, California, which funds 89 percent of its food safety program through fees, charges some of the highest fees to license retail food facilities, food processing facilities, and food warehouses. In contrast, Michigan, which funds only 3 percent of its dairy safety program with fees, charges some of the lowest fees to license dairy farms and dairy plants. Overall, Illinois charges the lowest fees for the selected licenses shown, including none to dairy

farms, food processing facilities, and food warehouses. The majority of Illinois' fee revenue is generated through the issuance of Food Service Sanitation Manager Certifications, which are required for food service managers working in restaurants and other establishments, such as delicatessens, schools, nursing homes, and convenience stores. The \$35 fee is paid every five years by approximately 300,000 individuals and generates an estimated \$2.1 million annually.

Table 12

Comparison of Selected Food and Dairy Fees

State	Dairy Farm ¹	Dairy Plant	Retail Food Establishment	Food Processing Facility	Food Warehouse
California	\$135 plus \$0.00025 per gallon	\$100 to \$300	Established by local health departments	\$348 to \$2,140	\$348 to \$695
Illinois ²	No fee	\$100	Established by local health departments	No fee	No fee
Iowa	No fee for routine inspection	Up to \$1,000 ³	\$30 to \$304	\$68 to \$338	\$68 to \$338
Michigan	\$5 or \$15	\$175	\$70 or \$175	\$70 or \$175	\$70
Minnesota	No more than: \$25 (Grade B); \$50 (Grade A)	\$525 to \$550 (Grade A); No more than \$140 per pasteurizer (Grade B)	\$15 to \$2,001	\$150 to \$2,571	\$57 to \$1,502
New York	No fee for routine inspection	No fee for routine inspection	\$75 or \$100 ³	\$100 ³	\$75 to \$150 ³
Wisconsin	\$24	\$96 to \$879	\$37 to \$562	\$78 to \$685	\$65 to \$261

¹ Although these fees are assessed on farms, they may be paid by dairy plants, which is the case in Wisconsin.

² Most of the fee revenue in Illinois is generated by a fee on certain food service managers.

³ This is a two-year license; the amounts shown represent the annualized fee amount.

As noted, in Wisconsin, license fee amounts for the food and dairy industry can be changed through an administrative rule process. Iowa also adjusts its dairy fees through an administrative rule process. Iowa's food fees and the other five states' food and dairy fees must usually be changed through direct legislative action to modify state statutes. However, California may adjust its food license fees by up to 4.0 percent without changing state statutes if the balance of its food safety fund falls below an established level.

Comparison with Local Fees

Statutes permit DATCP to enter into agreements with local health departments for the regulation of retail food establishments that it would otherwise license and inspect. As of June 2007, DATCP had established contracts with 34 local health departments to conduct these activities. We reviewed program funding levels, program staffing levels, and the number of licenses issued by 8 local health departments, as well as the fees charged by all 34 local health departments. Appendix 2 lists the local programs, which include 19 counties, 12 cities, and 3 consortiums.

While 54.9 percent of DATCP's food safety budget was supported by fee revenue in FY 2006-07, local health departments rely more heavily on fees. Of the eight local health departments we contacted:

- five support their retail food safety programs solely with fee revenue;
- two support an estimated 80 percent of program costs with fee revenue; and
- one supports an estimated 60 percent of program costs with fee revenue.

As shown in Table 13, the number of retail food licenses per inspector ranged widely, from 39 retail food licenses per inspector for the South Milwaukee/St. Francis Consortium to 305 retail food licenses per inspector for Brown County. Not surprisingly, the three local programs we reviewed with the most licenses—the City of Milwaukee, the City of Madison, and Brown County—also had the most licenses per inspector. As noted, DATCP inspectors are responsible for an average of 445 facilities per inspector.

Table 13

Estimated Number of Retail Food Licenses per FTE Inspector

Local Health Department	Retail Food Licenses	Number of FTE Retail Food Inspectors ¹	Licenses per Inspector
Brown County	229	0.75	305
City of Madison	403	1.80	224
City of Milwaukee	1,306	6.00	218
La Crosse County	108	0.50	216
<i>Average</i>			180
Douglas County	78	0.50	156
City of De Pere	29	0.20	145
Marathon County	214	1.60	134
South Milwaukee/St. Francis Consortium	49	1.25	39

¹ Represents the number of FTE inspectors who perform retail food regulatory activities. Does not include the FTE staff responsible for performing other types of activities associated with regulating facilities such as restaurants, hotels, and campgrounds, for which local health departments are also responsible under contract with DHFS.

State statutes require local governments to establish a licensing fee structure that covers the “reasonable costs” incurred in administering their programs. In addition, each local program is required to pay DATCP 10.0 percent of the license fee revenue DATCP would have otherwise received if it were responsible for licensing the retail establishments.

Programs administered by three local governments—Ashland County, Oneida County, and Trempealeau County—have adopted DATCP’s licensing fee structure in its entirety, including the same categories and fee amounts charged by DATCP. Of the remaining 31 programs, 16 have adopted the same basic fee categories but have set different fee amounts; 7 have added additional fee categories and have also established different fee amounts; and the remaining 8 use different fee structures, including 3 that base their license fees entirely on sales volume.

As a result of these differences, the license fee paid by retail food establishments can vary significantly. Overall, retail food license fees range from \$30 in Douglas County for retail food establishments that do not process food to \$1,440 for retail food establishments with annual sales of \$2.0 million or more in the City of Milwaukee. The amount each retail food establishment pays depends on where in Wisconsin it is located. For example, a grocery store that has annual sales of at least \$2.0 million and processes potentially hazardous food would pay between \$525 and \$1,440 in licensing fees annually, based on its location. Table 14 shows selected

license fees for the 26 local programs with fee structures that could be directly compared, at least in part, to DATCP's fees. We found that 108 of the 130 local fees shown in the table, or 83.1 percent, were higher than those charged by DATCP. Moreover, every fee charged by 19 of the local health departments was greater than the fees charged by DATCP for the same license types. To a certain extent, this is expected for those programs that rely heavily on fee revenue to support their regulatory activities, such as the eight local health departments we contacted. In addition, each local program is responsible for paying a 10.0 percent fee to DATCP, as noted.

During discussions on DATCP's proposed fee increase, representatives of the food industry have argued that the fee increase would be too high. However, if the fee increase were approved by the Legislature, 60.0 percent of the fees charged by local health departments shown in Table 14 would remain higher than the fees charged by DATCP for similar licenses.

Table 14

Selected Local Retail Food License Schedules Similar to DATCP
As of June 2007

	More than \$1.0 Million in Sales and Processes Potentially Hazardous Food	\$25,000 to \$1.0 Million in Sales and Processes Potentially Hazardous Food	More than \$25,000 in Sales and Does Not Process Potentially Hazardous Food	Less than \$25,000 in Sales and Processes Food	Does Not Process Food
DATCP	\$ 562	\$ 218	\$ 156	\$ 50	\$ 37
Appleton (City)	915	407 or 484	99	60	91
Ashland County	562	218	156	50	37
Brown County	1,028	441 to 676	381	346	112
De Pere (City)	875	475	325	150	96
Douglas County	550	220	150	40	30
Dunn County	590	230	165	80	60
Fond du Lac County	785	325	235	105	90
Kenosha County	670	362	294	162	129
La Crosse County	525	325	225	110	140
Lincoln County	618 to 960	240	172	55	41
Marathon County	721 to 1,077	418 or 544	177	88	45
Menasha (City)	1,086	357	257	180	125
Neenah (City)	750	370	250	150	85
North Shore Environmental Health Consortium	822	320	228	56	55
Oneida County	562	218	156	50	37
Oshkosh (City)	1,000	550	375	255	210
Outagamie County	800	600	245	85	77
Portage County	700 to 1,000	400	220	100	55
Racine (City)	750	375	260	135	105
Taylor County	618 to 960	240	172	55	41
Trempealeau County	562	218	156	50	37
Tri-County Consortium	720	280	200	64	48
Waukesha County	430 to 975	275	150	275	105 to 175
West Allis (City)	604	225	168	66	55
Winnebago County	927	427	256	145	94
Wood County	620	240	170	55	40



Appendix 1

Selected Food and Dairy License Fees

License Type	Current Fee	Proposed Fee
<u>Dairy Licenses</u>		
Milk Producers (Dairy Farms)	\$ 24	\$ 31
<u>Grade A Dairy Plant</u>		
Receives less than 2 million lbs. of milk annually	699	909
Receives at least 2 million lbs. of milk annually	879	1,143
<u>Grade B Dairy Plant</u>		
Produces 1 million lbs. or less of dairy products annually or 200,000 gallons or less of frozen dairy products annually	96	125
Produces more than 1 million lbs. of dairy products annually or more than 200,000 gallons of frozen dairy products annually	421	548
Produces 1 million lbs. or less of dairy products annually or 200,000 gallons or less of frozen dairy products annually with a Grade A receiving station	397	516
Produces more than 1 million lbs. of dairy products annually or more than 200,000 gallons of frozen dairy products annually with a Grade A receiving station	722	939
Grade A Receiving Station (stand alone)	397	516
Grade A Transfer Station	96	125
Bulk Milk Tanker	36	47
Milk Distributor	60	78
<u>Dairy Fees</u>		
Grade A Milk Procurement Fee	0.96 cents for each 100 lbs. received	1.081 cents for each 100 lbs. received
Grade B Milk Procurement Fee	0.2 cents for each 100 lbs. received	<i>No change</i>
Butter and Cheese Grading Fee	1.09 cents for each 100 lbs. gradable butter or cheese	1.5 cents for each 100 lbs. gradable butter or cheese
<u>Food Licenses</u>		
<u>Food Processing Facilities</u>		
Annual production of at least \$250,000 and engaged in processing potentially hazardous food or canning	685	890
Annual production of at least \$25,000 but less than \$250,000 and engaged in processing potentially hazardous food or canning	326	424
Annual production of at least \$250,000 and is not engaged in processing potentially hazardous food or canning	424	551
Annual production of at least \$25,000 but less than \$250,000 and is not engaged in processing potentially hazardous food or canning	131	170
Annual production of less than \$25,000	78	101
Canning operations at least \$25,000 (additional to initial license fee)	261	339

License Type	Current Fee	Proposed Fee
Food Warehouses		
Stores potentially hazardous food and has at least 50,000 sq. feet	\$261	\$339
Stores potentially hazardous food and has fewer than 50,000 sq. feet	98	127
Does not store potentially hazardous food and has at least 50,000 sq. feet	131	170
Does not store potentially hazardous food and has fewer than 50,000 sq. feet	65	85
Retail Food Establishments		
Food sales of at least \$1,000,000 and processes potentially hazardous foods	562	731
Food sales of at least \$25,000 but less than \$1,000,000 and processes potentially hazardous foods	218	283
Food sales of at least \$25,000 and is engaged in food processing, but does not process potentially hazardous foods	156	203
Food sales of less than \$25,000 and is engaged in food processing	50	65
Does not engage in food processing	37	48
<u>Professional Licenses (Biennial Fees)</u>		
Cheese and Butter Grader	60	78
Bulk Milk Weigher and Sampler	48	62
Butter Maker	60	78
Cheese Maker	60	78
Milk and Cream Tester	50	<i>No change</i>

Appendix 2

Local Health Departments that Regulate Retail Food Establishments
As of June 2007

Consortiums

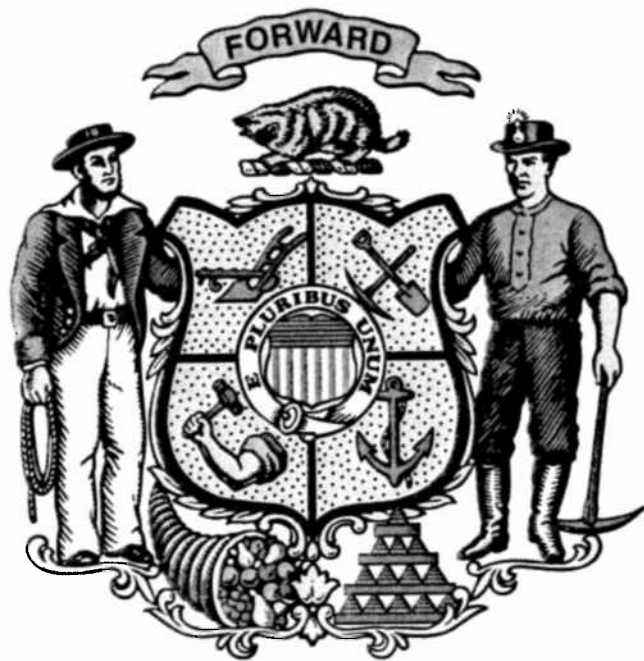
North Shore Environmental Health Consortium (cities north of Milwaukee)
South Milwaukee/St. Francis Consortium
Tri-County Consortium (Green Lake, Marquette, and Waushara counties)

Counties

Ashland	Oneida
Brown	Outagamie
Dane	Portage
Douglas	Rock
Dunn	Taylor
Fond du Lac	Trempealeau
Kenosha	Waukesha
La Crosse	Winnebago
Lincoln	Wood
Marathon	

Cities

Appleton	Milwaukee
De Pere	Neenah
Eau Claire	Oshkosh
Greenfield	Racine
Madison	Wauwatosa
Menasha	West Allis



Record of Committee Proceedings

Joint Legislative Audit Committee

Audit Letter Report (January 2008),

Food and Dairy Safety Program Funding, Department of Agriculture, Trade and Consumer Protection.

July 17, 2008

PUBLIC HEARING HELD

- Present: (9) Senators Sullivan, Lassa, Miller, A. Lasee and Cowles; Representatives Jeskewitz, Kerkman, Cullen and Parisi.
- Absent: (1) Representative Rhoades.

Appearances For

- None.

Appearances Against

- None.

Appearances for Information Only

- Paul Stuibler, Madison — Legislative Audit Bureau
- Yvonne Onsager, Madison — Legislative Audit Bureau
- Randy Romanski, Madison — Deputy Secretary, Department of Agriculture, Trade and Consumer Protection
- Tom Leitzke, Madison — Department of Agriculture, Trade and Consumer Protection
- Al Ott, Madison — Representative, Wisconsin State Assembly

Registrations For

- Kathleen Vinehout, Madison — Senator, Wisconsin State Senate

Registrations Against

- None.

Registrations for Information Only

- None.



Nicole Hudzinski

Committee Clerk