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👉 Details: Legislative Audit Bureau Report 08-6: An Evaluation: Food and Dairy Safety Program,  
Department of Agriculture, Trade and Consumer Protection

(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 ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### 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**



STATE OF WISCONSIN


Legislative Audit Bureau

22 East Mifflin Street, Suite 500  
Madison, Wisconsin 53703  
(608) 266-2818  
Fax (608) 267-0410  
leg.audit.info@legis.wisconsin.gov

Janice Mueller  
State Auditor

DATE: May 28, 2008

TO: Nicole Hudzinski and Pamela Matthews  
Committee Clerks to the Joint Legislative Audit Committee

FROM: Paul J. Stuibert   
Deputy State Auditor for Program Evaluation

SUBJECT: Report 08-6: An Evaluation of the Food and Dairy Safety Program

Enclosed is our evaluation of the Food and Dairy Safety Program administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). This report responds to concerns raised about the safety of Wisconsin's food and dairy products following recent national outbreaks of foodborne illnesses. DATCP regulates approximately 29,400 food and dairy establishments in Wisconsin. Total program expenditures for fiscal year (FY) 2006-07 were \$8.4 million, which supported 97.6 full-time equivalent positions.

Depending on the type of establishment and food safety risk, DATCP schedules inspections of food and dairy establishments every three months to every two years. Except for Grade B dairy farms, which produce milk used in dairy products, such as cheese, Wisconsin's inspection frequencies are comparable to those of most other states. However, we found that inspections of dairy establishments were much more likely to be completed on time than inspections of food establishments. The most consistent factor associated with the differences in inspection timeliness appears to be whether inspection frequency is specified in state law. We included a recommendation for DATCP to develop formal standards for inspection frequencies for all regulated establishments.

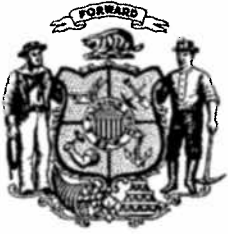
DATCP's regulatory philosophy emphasizes both voluntary compliance and progressive enforcement. This approach appears to be effective for the vast majority of regulated establishments. However, in our review of 50 cases in which additional action was needed, we identified 13 cases in which DATCP did not take timely and sufficient enforcement action to ensure "permanent and continuous" compliance with food and dairy safety regulations. DATCP's difficulty in effectively gaining compliance with establishments that do not willingly cooperate with its efforts is longstanding. We include recommendations to enhance the timeliness and effectiveness of food and dairy enforcement actions.

Finally, we identified few concerns with DATCP's sampling and testing program and its response to food emergencies. However, we include a recommendation for improved oversight of DATCP's contracts with local health departments that regulate over one-half of grocery stores, delicatessens, and other retail food establishments in Wisconsin.

The report will be released on Friday, May 30<sup>th</sup>, at 9:00 a.m. If you have any questions, please contact us.

PS/bm

Enclosures

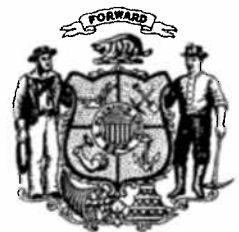


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State of Wisconsin - Legislative Reference Bureau  
1 East Main Street, Suite 200  
Madison, WI 53703



**Report 08-6  
May 2008**

An Evaluation

# **Food and Dairy Safety Program**

*Department of Agriculture,  
Trade and Consumer Protection*

## **2007-2008 Joint Legislative Audit Committee Members**

### Senate Members:

Jim Sullivan, Co-chairperson  
Julie Lassa  
Mark Miller  
Alan Lasee  
Robert Cowles

### Assembly Members:

Suzanne Jeskewitz, Co-chairperson  
Samantha Kerkman  
Kitty Rhoades  
David Cullen  
Joe Parisi

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## LEGISLATIVE AUDIT BUREAU

The Bureau is a nonpartisan legislative service agency responsible for conducting financial and program evaluation audits of state agencies. The Bureau's purpose is to provide assurance to the Legislature that financial transactions and management decisions are made effectively, efficiently, and in compliance with state law and that state agencies carry out the policies of the Legislature and the Governor. Audit Bureau reports typically contain reviews of financial transactions, analyses of agency performance or public policy issues, conclusions regarding the causes of problems found, and recommendations for improvement.

Reports are submitted to the Joint Legislative Audit Committee and made available to other committees of the Legislature and to the public. The Audit Committee may arrange public hearings on the issues identified in a report and may introduce legislation in response to the audit recommendations. However, the findings, conclusions, and recommendations in the report are those of the Legislative Audit Bureau. For more information, write the Bureau at 22 E. Mifflin Street, Suite 500, Madison, WI 53703, call (608) 266-2818, or send e-mail to [leg.audit.info@legis.wisconsin.gov](mailto:leg.audit.info@legis.wisconsin.gov). Electronic copies of current reports are available at [www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab).

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State Auditor – Janice Mueller

### **Audit Prepared by**

Paul Stuiber, *Deputy State Auditor and Contact Person*

Yvonne M. Onsager

David Harkins

Allison La Tarte

Phoebe Scheel

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Legislative Audit Bureau

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Madison, Wisconsin 53703  
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Janice Mueller  
State Auditor

May 30, 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 an evaluation of the food and dairy safety program administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). This report focuses on the effectiveness of DATCP's regulatory activities and follows our January 2008 review of the program's funding. The program's expenditures totaled \$8.4 million in fiscal year (FY) 2006-07 and supported 97.6 full-time equivalent positions.

From FY 2004-05 through FY 2006-07, DATCP completed 79,743 routine inspections of food and dairy establishments. During this period, 98.7 percent of completed dairy inspections and 68.3 percent of completed food inspections were conducted when scheduled. DATCP has not developed formal inspection frequency standards for food establishments, which partially explains why a smaller percentage of food inspections were completed as scheduled.

While its approach to compliance appears effective in most cases, we found that DATCP is at times ineffective in gaining timely and continued compliance when follow-up is required after an inspection. In a review of 50 cases that suggested significant noncompliance with food and dairy safety regulations, we identified 13 in which DATCP did not take timely and sufficient enforcement action to ensure "permanent and continuous" compliance with food and dairy safety regulations.

In addition, we identified concerns with DATCP's oversight of contracts with local health departments that regulate retail food establishments, and with its documentation of food emergencies. We include several recommendations to improve program management and enhance food and dairy safety enforcement activities.

We appreciate the cooperation extended to us by DATCP in conducting this evaluation. A response from DATCP follows the appendices.

Respectfully submitted,

Janice Mueller  
State Auditor

JM/PS/ss

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## Report Highlights ■

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***We found significant differences in the timeliness of food establishment inspections and dairy establishment inspections.***

***DATCP's compliance with food and dairy testing requirements is generally adequate.***

***DATCP did not take sufficient and timely enforcement action in some cases.***

***DATCP's oversight of local retail food regulatory activities needs improvement.***

***In responding to food emergencies, DATCP appears to have taken appropriate action.***

The Department of Agriculture, Trade and Consumer Protection (DATCP) has primary responsibility for ensuring the safety of food and dairy products produced and sold by approximately 29,400 food and dairy establishments in Wisconsin, including dairy farms, dairy plants, food processors, food warehouses, grocery stores, delicatessens, and other retail food establishments. DATCP also regulates certain professionals involved in the production of food and dairy products and oversees contracts with local health departments that regulate approximately 5,000 retail food establishments. However, its responsibilities do not include restaurants, which are regulated by the Department of Health and Family Services (DHFS).

DATCP's food and dairy program is funded primarily with license fees paid by food and dairy establishments and professionals and with general purpose revenue (GPR). In fiscal year (FY) 2006-07, its expenditures totaled \$8.4 million and funded 97.6 full-time equivalent (FTE) staff positions. To determine the program's effectiveness, we reviewed DATCP's efforts to:

- conduct timely routine food and dairy safety inspections;
- collect and test food and dairy product samples and environmental samples from food preparation areas in order to monitor compliance with food safety procedures;



- ensure permanent and continuous compliance with state food and dairy safety regulations by all regulated entities;
- oversee local health departments' regulation of retail food establishments; and
- respond to food emergencies.

### **Inspection Timeliness**

Approximately one-half of the food and dairy licenses issued by DATCP in FY 2006-07 were for dairy farms, and 84.2 percent of these farms had Grade A permits to produce milk that can be sold as fluid milk for human consumption. The remaining farms were classified as Grade B and produce milk for use in manufactured products, such as cheese.

To help ensure the safety of food and dairy products, DATCP regularly inspects food and dairy establishments to determine compliance with food and dairy safety standards. Inspection frequency is based on state law or informal DATCP guidelines and ranges from every three months to every two years, based on establishment type and the potential risk of foodborne illness.

From FY 2004-05 through FY 2006-07, DATCP completed 66,874 inspections of dairy establishments and 12,869 food inspections. As shown in Table 1, we found that 98.7 percent of the dairy inspections were conducted when scheduled, compared to 68.3 percent of food inspections. Of the 4,929 inspections completed after they were scheduled, 29.3 percent were completed within 30 days, but 8.3 percent were overdue by more than one year.

Table 1

**Timeliness of Completed Routine Food and Dairy Inspections**  
 FY 2004-05 through FY 2006-07

	Dairy		Food		Total	
	Number	Percentage	Number	Percentage	Number	Percentage
Completed by Date Scheduled	66,025	98.7%	8,789	68.3%	74,814	93.8%
Completed after Date Scheduled	849	1.3	4,080	31.7	4,929	6.2
<b>Total</b>	<b>66,874</b>	<b>100.0%</b>	<b>12,869</b>	<b>100.0%</b>	<b>79,743</b>	<b>100.0%</b>

DATCP inspections were more timely for establishments whose inspection frequency is specified in state law. For example, inspections of dairy farms and Grade A dairy plants almost always adhered to the frequencies specified in state law. State law does not specify inspection frequencies for Grade B dairy plants or retail food establishments. We found that 30.1 percent of inspections of Grade B dairy plants and 31.7 percent of food establishment inspections were not completed when scheduled.

**Sampling and Testing**

DATCP routinely collects and analyzes samples of products from all Grade A dairy plants to fulfill mandatory national and state testing requirements intended to ensure that the milk has been pasteurized and is free of drug residue and harmful bacteria.

In most instances, DATCP's sampling efforts met the requirements. Only 1.2 percent of the results of 29,454 tests conducted from FY 2002-03 through FY 2006-07 exceeded specified limits for temperature or bacteria. However, in 26 of the 54 instances in which test results showed high levels of bacteria in sampled products, DATCP responded an average of 22 days past the required time frame.

In addition, DATCP tested 12,459 samples of food and food preparation environments for the presence of pathogens that can cause foodborne illnesses. The collection and testing of these samples, which are taken from food processors, dairy plants, and retail food establishments, is not required by state law but is guided by a plan developed annually by DATCP.

We found that while the number of environmental samples collected increased 40.0 percent from FY 2002-03 through FY 2006-07, DATCP collected substantially fewer environmental samples than it had planned in each of these years. This is a concern because DATCP is performing fewer tests on food and is increasing its reliance on environmental sampling to monitor food safety.

### **Enforcement Practices**

DATCP seeks voluntary compliance from all regulated entities, and this approach appears to be effective for the vast majority of regulated establishments. In 94.4 percent of routine inspections, no need for follow-up regulatory action was identified. When additional action is needed, DATCP's policy is to use progressively more stringent enforcement action to gain "permanent and continuous" compliance with food and dairy regulations.

To evaluate the effectiveness of DATCP's compliance and enforcement efforts in instances requiring additional action, we reviewed 50 cases that suggested significant noncompliance with food and dairy safety regulations. We believe DATCP did not take timely and sufficient enforcement action in 13 of these cases.

For example, in September 2004 DATCP placed a Grade A dairy farm under a conditional license, but only after having identified 130 violations during 29 inspections over a period of more than seven years. DATCP temporarily suspended the farm's conditional license for four days in May 2006 but issued a regular license four months later, even though the farm had not achieved permanent and continuous compliance with dairy regulations.

DATCP's difficulties in effectively gaining compliance with establishments that do not willingly cooperate are longstanding and were noted in our December 1983 and November 1985 audits of its food and dairy safety program.

## Local Oversight

DATCP has entered into agreements with 34 local health departments to regulate 51.7 percent of grocery stores, delicatessens, and other retail food establishments in Wisconsin. The local health departments license and inspect retail food establishments, establish and collect fees, and annually pay DATCP 10.0 percent of the license fee revenue it would otherwise have received for licensing the retail food establishments. To ensure consistency in conducting inspections, DATCP provides regular training and support for local health departments that appears to be sufficient and relevant.

Administrative rules require DATCP to annually review and evaluate the retail food safety efforts of each participating local health department. However, since 2004 DATCP has not conducted any of the required local evaluations. Instead, for the past two years it has relied on self-reporting by local health departments. This strategy has been ineffective, largely because only 21 of the 34 local health departments submitted data to DATCP for FY 2006-07, and not all of the reports submitted contained complete information.

## Food Emergencies

DATCP is the lead state agency responsible for responding to foodborne illnesses, disease outbreaks, and other emergencies in which the food supply is threatened. It has developed response plans based on the type and scale of food emergency. DATCP identified 41 food emergencies from FY 2002-03 through FY 2006-07. Six of these involved human illnesses and affected between 1 and 61 people.

We reviewed the files for the 41 food emergencies and found that DATCP took appropriate action in responding to 40 cases. However, a lack of documentation prevented us from determining whether appropriate action had been taken in response to one case involving listeria, a foodborne pathogen, and DATCP was unable to provide additional information on this incident.

In addition, we found that staff were not following all procedures in DATCP's food emergency response manual, including keeping a log of events and contacts during a food emergency, critiquing the process, and preparing a written report after each case is closed. For example, only 1 of the 41 food emergency case files contained a final written report.

## Recommendations

We include recommendations for DATCP to report to the Joint Legislative Audit Committee by January 5, 2009, on:

- ☑ its efforts to develop formal inspection frequency standards for Grade B dairy plants and food establishments and to measure compliance of all regulated establishments with inspection frequency standards (*p. 22*);
- ☑ its efforts to increase the percentage of planned environmental samples that are collected and tested annually (*p. 31*);
- ☑ its efforts to enhance the timeliness and effectiveness of food and dairy enforcement actions, including requiring establishments with conditional licenses to achieve full regulatory compliance before a regular license is issued (*p. 40*);
- ☑ its plans to improve the review of local health departments' retail food safety activities (*p. 46*); and
- ☑ its efforts to ensure compliance with internal food emergency safety response procedures (*p. 52*).

■ ■ ■ ■



# SUE JESKEWITZ

State Representative • 24th Assembly District

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**For Immediate Release**

For More Information Contact:

Representative Suzanne Jeskewitz

**May 30, 2008**

(608) 266-3796

## **Audit Evaluates State Food and Dairy Safety Program**

(Madison) Today, the nonpartisan Legislative Audit Bureau (LAB) released its evaluation of the food and dairy safety program administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). Co-Chair Sue Jeskewitz (R-Menomonee Falls) commends the LAB for their hard work on its review that included examining DATCP's efforts to conduct routine inspections, compliance with food safety procedures, and ensuring permanent and continuous compliance with state and national regulations among others.

DATCP has primary responsibility for ensuring the safety of food and dairy products produced and sold by approximately 29,400 food and dairy establishments in Wisconsin. From FY 2004-05 through FY 2006-07, DATCP completed 66,874 inspections of dairy establishments and 12,869 food inspections. LAB found scheduled inspections were more timely for establishments whose inspection frequency is specified in state law, such as dairy farms (98.7 percent), but less timely for food establishments (68.3 percent).

"Overall, this audit confirms that DATCP is doing a very good job ensuring Wisconsin's food and dairy safety, but there is room for improvement," said Jeskewitz. "In the coming months, I intend to carefully review and discuss current law and department practices with DATCP to see if legislation is needed to promote more timely inspections in some areas rather than the informal process currently being used."

DATCP seeks voluntary compliance from all regulated entities, and LAB found that this approach appears to be effective for the majority of regulated establishments because no need for follow-up regulatory action was identified in 94.4 percent of routine inspections. However, LAB reviewed 50 cases that suggested significant noncompliance with applicable regulations and found that DATCP failed to take timely and sufficient enforcement action in 13 of these cases. DATCP's difficulties in effectively gaining compliance with establishments that do not willingly cooperate are longstanding and were noted by LAB in audits of the program in 1983 and 1985.

"Even though DATCP's record is pretty good, their follow-through on noncompliance issues is simply unacceptable," stated Jeskewitz. "I have learned as co-chair of the Joint Legislative Audit Committee that persistent and consistent follow-up is necessary to get compliance. It is too bad that some people will not make necessary changes unless they know someone is watching."

Jeskewitz intends to ask her co-chair to agree to hold an audit hearing as early as July on its findings. Copies of LAB's report may be obtained from its Web site at [www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab) or by calling (608) 266-2818. A podcast of the report highlights for report 08-6 is also available on the Web site.

###





## Record of Committee Proceedings

### Joint Legislative Audit Committee

#### Audit Report 08-6,

Food and Dairy Safety Program, 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

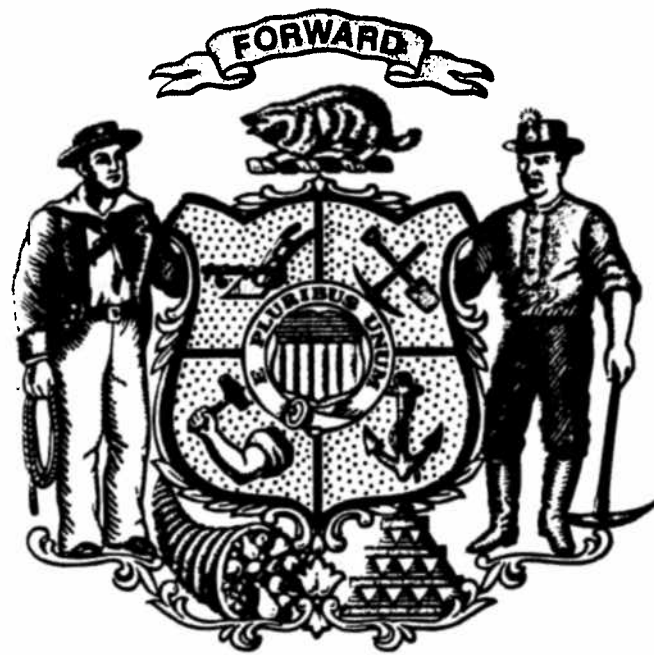
- None.

#### Registrations for Information Only

- None.

  
\_\_\_\_\_  
Nicole Hudzinski

Committee Clerk





WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:  
State Senator Jim Sullivan  
State Representative Suzanne Jeskewitz

July 8, 2008

Mr. Rod Nilsestuen, Secretary  
Department of Agriculture, Trade and Consumer Protection  
2811 Agriculture Drive  
Madison, Wisconsin 53708

Dear Mr. Nilsestuen:

As indicated on the enclosed hearing notice, the Joint Legislative Audit Committee will hold a public hearing on the Legislative Audit Bureau's evaluation of the *Food and Dairy Safety Program* (report 08-6), on Thursday, July 17, 2008, at 10:00 a.m. in Room 411 South of the State Capitol. In addition, the Committee may also discuss the Bureau's letter report on *Food and Dairy Safety Program Funding* (January 2008).

As these reports relate to the activities of the Department of Agriculture, Trade and Consumer Protection, we ask you, and the appropriate members of your staff, to be present at the hearing to offer testimony in response to the audit findings and to respond to questions from committee members. Please plan to provide each committee member with a written copy of your testimony at the hearing.

Please note that the report on the *Food and Dairy Safety Program* and the report on the *Food and Dairy Safety Program Funding* are the second and third items on the hearing notice. For scheduling purposes, we do not anticipate that the Committee would begin this discussion before 12:00 p.m.

Please contact Ms. Nicole Hudzinski in the office of Senator Jim Sullivan at 266-2512 to confirm your participation in the hearing. Thank you for your cooperation and we look forward to seeing you on July 17<sup>th</sup>.

Sincerely,

Senator Jim Sullivan, Co-chair  
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair  
Joint Legislative Audit Committee

Enclosure

cc: Ms. Janice Mueller  
State Auditor



WISCONSIN STATE LEGISLATURE  
Joint Legislative Audit Committee

Committee Co-Chairs:  
State Senator Jim Sullivan  
State Representative Suzanne Jeskewitz

July 8, 2008

Representative Alvin Ott, Chairperson  
Assembly Committee on Agriculture  
323 North, State Capitol  
Madison, Wisconsin 53702

Dear Representative Ott:

As indicated on the enclosed hearing notice, the Joint Legislative Audit Committee will hold a public hearing on the Legislative Audit Bureau's evaluation of the *Food and Dairy Safety Program* (report 08-6), on Thursday, July 17, 2008, at 10:00 a.m. in Room 411 South of the State Capitol. In addition, the Committee may also discuss the Bureau's letter report on *Food and Dairy Safety Program Funding* (January 2008).

Given the engagement of the Assembly Committee on Agriculture in this issue during this legislative session, we wish to invite you and the members of your committee to attend this public hearing, hear the testimony offered, or testify on this audit. Given the full agenda, and consistent with our practice for conducting hearings, only the members of the Joint Legislative Audit Committee will be seated on the dais and permitted to directly question those testifying. Those not able to attend can listen to the proceedings by visiting the Legislative Audit Bureau's Web site at [www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab).

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Thank you for your cooperation and we look forward to seeing you on July 17<sup>th</sup>.

Sincerely,

Senator Jim Sullivan, Co-chair  
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair  
Joint Legislative Audit Committee

Enclosure

cc: Representative Lee Nerison  
Representative Mary Williams  
Representative Jeffrey Mursau  
Representative John Murtha  
Representative Gary Tauchen

Representative Barbara Gronemus  
Representative Louis Molepske  
Representative Andy Jorgensen  
Representative Amy Sue Vruwink  
Representative Phil Garthwaite

Ms. Janice Mueller  
State Auditor

SENATOR SULLIVAN  
P.O. Box 7882 • Madison, WI 53707-7882  
(608) 266-2512 • Fax (608) 267-0367

REPRESENTATIVE JESKEWITZ  
P.O. Box 8952 • Madison, WI 53708-8952  
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WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:  
State Senator Jim Sullivan  
State Representative Suzanne Jeskewitz

July 8, 2008

Senator Kathleen Vinehout, Chairperson  
Senate Committee on Agriculture and Higher Education  
104 South, State Capitol  
Madison, Wisconsin 53702

Dear Senator Vinehout:

As indicated on the enclosed hearing notice, the Joint Legislative Audit Committee will hold a public hearing on the Legislative Audit Bureau's evaluation of the *Food and Dairy Safety Program* (report 08-6), on Thursday, July 17, 2008, at 10:00 a.m. in Room 411 South of the State Capitol. In addition, the Committee may also discuss the Bureau's letter report on *Food and Dairy Safety Program Funding* (January 2008).

Given the engagement of the Senate Committee on Agriculture and Higher Education in this issue during this legislative session, we wish to invite you and the members of your committee to attend this public hearing, hear the testimony offered, or testify on this audit. Given the full agenda, and consistent with our practice for conducting hearings, only the members of the Joint Legislative Audit Committee will be seated on the dais and permitted to directly question those testifying. Those not able to attend can listen to the proceedings by visiting the Legislative Audit Bureau's Web site at [www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab).

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Thank you for your cooperation and we look forward to seeing you on July 17<sup>th</sup>.

Sincerely,

Senator Jim Sullivan, Co-chair  
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair  
Joint Legislative Audit Committee

Enclosure

cc: Senator Julie Lassa  
Senator Jeffrey Plale  
Senator Sheila Harsdorf  
Senator Dan Kapanke

Ms. Janice Mueller  
State Auditor



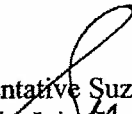


# Al Ott

State Representative • 3rd Assembly District

July 10, 2008

Senator Jim Sullivan  
Co-Chair, Joint Legislative Audit Committee  
15 South, State Capitol  
*Hand-Delivered*

  
Representative Suzanne Jeskewitz  
Co-Chair, Joint Legislative Audit Committee  
314 North, State Capitol  
*Hand-Delivered*

Dear Senator Sullivan and Representative Jeskewitz,

I would like to thank you both for the invitation to attend the public hearing on the Legislative Audit Bureau's evaluation of the *Food and Dairy Safety Program* (report 08-6) and letter report on *Food and Dairy Safety Program Funding* (January 2008).

While I do not plan on testifying before the Committee on these items, I would like to take this opportunity to provide some written comments and to share with the Joint Legislative Audit Committee a letter I submitted to the Department of Agriculture, Trade and Consumer Protection (DATCP) regarding the Food and Dairy Safety Program.

Overall, I am pleased with the Audit Bureau's findings and see value in their recommendations for program improvements. I believe DATCP agrees with my sentiment and is working toward making many of the adjustments recommended by the Audit Bureau.

Food and dairy safety is a *core* function of the Department. Over the last two legislative sessions, the Assembly Committee on Agriculture has reviewed administrative rule packages seeking increases in the fees paid by the industries the Food and Dairy Safety Program serves. In recent years, the costs of the program have increasingly been shifted to our food and dairy industry constituents despite the tangible benefits the general public receives as a result of the program.

As you will see from the enclosed letter, sent to Secretary Nilsestuen in February, I feel very strongly that DATCP must make the Food and Dairy Safety Program a priority as they begin work on the 2009-10 state budget. We cannot continue to place the burden of funding this program on our dairy plants, milk haulers, grocers, convenience stores and others. In light of the fiscal difficulties ahead, it is time to put "wants" aside, and focus on "needs".

I believe the Audit Bureau's evaluation of the program points to many improvements DATCP can make to the Food and Dairy Safety Program without additional resources. The audit, however, points to other areas in need of improvement – such as timeliness of inspections – that result, in part, from lack of staff resources.



I appreciate the Audit Bureau's comprehensive review of the Food and Dairy Safety Program. The Audit Bureau's work was very valuable as the Assembly Committee on Agriculture reviewed the most recent administrative rule package, and will continue to be useful as the Department works toward making program improvements.

Thank you for the opportunity to submit this information to the Committee. Please do not hesitate to contact me if you have any questions or would like to discuss this matter further.

Sincerely,



Al Ott  
State Representative  
3<sup>rd</sup> Assembly District  
Chair, Assembly Committee on Agriculture

Enclosure

cc: Senator Julie Lassa  
Senator Mark Miller  
Senator Alan Lasee  
Senator Robert Cowles

Representative Samantha Kerkman  
Representative Kitty Rhoades  
Representative David Cullen  
Representative Joe Parisi



# Al Ott

State Representative • 3rd Assembly District

February 13, 2008

Secretary Rod Nilsestuen  
Department of Agriculture, Trade & Consumer Protection  
2811 Agriculture Drive  
Madison, WI 53708

Dear Secretary Nilsestuen,

As you begin work at the Department level regarding the 2009-10 biennial state budget, I respectfully, yet strongly, encourage your consideration in making food safety a top priority in the coming budget cycle.

As you well know, food safety – a **core function** of the Department of Agriculture, Trade and Consumer Protection (DATCP) – was once funded in nearly equal proportion by general purpose revenue and program revenue paid by the industry regulated under the program.

Due to a series of budgetary difficulties, we have seen the food safety program funding scale tip more heavily to program revenue, thereby, placing a greater burden on industry to financially support the program.

According to the Legislative Audit Bureau, program revenue from fees is the largest program funding source and has 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 decreased from 44.4 percent of the total in FY 2002-03 to 41.6 percent in FY 2006-07.

Clearinghouse Rule 07-037, currently under review by the Assembly Committee on Agriculture, is the second time in two years that the Department has requested a fee increase to meet the cost-to-continue needs of the food safety program. This rule package would further increase the program revenue share of food safety funding.

I very clearly understand the need to provide the program with the revenue necessary to continue the critical services it provides. I am, however, equally concerned that continuing to turn to industry to fill that need is indicative of a lack of recognition by the Department of the importance of this program, and a failure to make the program a Department priority.

I do recognize that some industry support of the program is warranted and reasonable, as the industry does receive a benefit from the Department's food safety functions. The public,

however, also benefits significantly from the program. This shared benefit should result in shared program support.

It is clear that we will continue to face acute budgetary challenges in both the current and coming biennium. Despite these difficulties, I view this as a time of opportunity, a time to prioritize the basic, core functions of our government. It is a time to put "wants" aside, and focus on "needs".

For this very reason, I implore you to prioritize food safety program funding as the agency works to develop its next biennial budget proposal. While I certainly understand that the Governor may give agencies a directive for no increase in general purpose revenue in the next budget, I strongly urge you to appeal to the Governor for an exception or to shift general purpose revenue dollars from less critical Department operations.

This is not an effort I expect you to take on alone. I sincerely feel both the Department and the industry stakeholders should bear responsibility in advocating to the Governor and the Legislature for a prioritization of food safety and a restoration of balance in the program's funding mechanism.

As you know from working with me, it is not often that I challenge the Department in their efforts. It is always my goal to work in partnership with DATCP for the benefit of Wisconsin agriculture. I wish to continue that partnership, and I pledge to focus my efforts in this regard. I am hopeful you and industry will join me.

Thank you for your thoughtful consideration of this request. I welcome the opportunity to discuss this matter with you further.

Sincerely,



Al Ott  
State Representative  
3<sup>rd</sup> Assembly District  
Chair, Assembly Committee on Agriculture

cc: Department of Agriculture, Trade & Consumer Protection Board of Directors