

## Wisconsin Department of Agriculture, Trade and Consumer Protection

### Business Impact Analysis<sup>1</sup>

**Rule Subject:** Dairy Rules Update  
**Adm. Code Reference:** ss. ATCP 60, 69, 77, 80, and 82  
**Rules Clearinghouse #:** 07-006  
**DATCP Docket #:** 05-R-04

This rule addresses issues raised by the United States Food and Drug Administration (“FDA”), which is responsible for ensuring that Wisconsin's dairy regulatory program meets dairy safety standards identified in the “Grade ‘A’ Pasteurized Milk Ordinance” (“PMO”). Wisconsin is one of 50 member states that has agreed to make its dairy regulations “substantially equivalent” to the sanitary quality and safety standards identified in the PMO. Pursuant to this agreement, the Division of Food Safety (“division”) of the Department of Agriculture, Trade and Consumer Protection (“DATCP”) offers this rule to meet the standards set by the 2005 (most recent) edition of the PMO.

Additionally, this rule makes minor changes to accommodate dairy industry modernization and technical advances. The rule also clarifies the responsibilities of dairy producers, dairy plant operators, milk haulers, the department and others.

#### Effects on Business

Businesses affected include dairy farms, dairy plants, cheesemakers, buttermakers, milk equipment installers, and laboratories that test milk, food and water. In most cases, the rules do not significantly change existing requirements for these businesses. There are no new professional skills or assistance required by the proposed rules.

It is essential to Wisconsin dairy producers and dairy plants that Wisconsin meet PMO standards. Approximately 96 percent of the milk produced in Wisconsin is grade A. Approximately 85 percent of Wisconsin milk is shipped out of state. This rule will have a generally positive impact on business because it will allow for the unimpeded shipment of milk and milk products to leave Wisconsin. Failure to comply with the PMO could jeopardize Wisconsin's ability to routinely ship grade A milk and milk products in interstate commerce. In general, this rule will have few, if any, negative impacts on business.

The reporting and recordkeeping requirements in the proposed rule include the following:

- Elimination of the dairy plant requirement to keep records of coarse sediment test results.

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<sup>1</sup> This analysis includes, but is not limited to, a small business analysis (“regulatory flexibility analysis”) under s. 227.114, Stats.

- The period of time that bulk milk tanker cleaning and sanitizing records will be retained is 15 days, instead of 90 days.
- If a person who normally collects milk rejects the milk due to sight and smell and the milk producer disputes the rejection, then the dairy plant operator will test the milk prior to accepting or rejecting the milk and report the test results to the department within 7 business days.
- Instead of 14 days, a dairy plant operator has 7 days to report monthly or new producer bacteriological testing results. The proposed shorter time period is due to the ability of dairy plants to report test results electronically within a few days (to meet previously mandated electronic test reporting requirements).
- Instead of 14 days, a dairy plant operator has 7 days to report monthly or new producer somatic cell counts. The reason for the shorter time period is the same (see above).
- After the division has issued a warning notice to a producer for a drug residue violation, the rule provides that the dairy plant operator may be required to perform an investigation of a dairy farm or farms as the division's agent and report its findings in writing within 30 days.
- Increase the retention period of dairy farm milk temperature records from 90 days to 6 months.
- A dairy plant will keep records on an ongoing basis to determine compliance with the cleaning and sanitizing procedure proposed for the cleaning and sanitizing of continuously operated equipment.
- C-I-P ("clean in place") system records will be reviewed by the department during routine inspections.
- Certain cleaning and sanitizing records will be retained by the dairy plant operator for at least 6 months.
- Certain bills of lading and other shipping documents will be kept by the dairy plant operator for at least 3 years.

### **Effects on Small Business**

Some of the businesses affected by this rule are "small businesses," as defined in s. 227.114(1), Stats. For the most part, this rule will help small businesses by modernizing current regulations to accommodate industry practices. This rule merely implements changes in the interstate PMO and redrafts existing requirement for businesses so that they will be easier to read and understand. It also provides additional options to meet training and experience requirements for individuals who wish to become licensed cheesemakers or buttermakers.

**Steps to Assist Small Business**

For interested dairy plants, DATCP will provide training on this rule to dairy plant operators, field representatives, and milk haulers. The training will cover implementation of rule requirements as they relate to dairy farms (that ship milk to dairy plants), milk haulers, and dairy plant requirements. For interested parties who cannot attend training, DATCP will send summaries of rule changes and information about how to obtain copies of the new rules.

**Conclusion**

This rule will benefit Wisconsin’s dairy industry by allowing for the uninterrupted flow of milk and milk products across Wisconsin borders and into interstate commerce.

This rule will generally benefit affected businesses, including “small businesses.” Negative effects, if any, will be few and limited. This rule will not have a significant adverse effect on “small businesses”. The small businesses affected will be subject to the delayed “small business” effective date provided in s. 227.22(2)(e), Stats.

Under 2003 Wis. Act 145, DATCP and other agencies must adopt rules spelling out their rule enforcement policy for small businesses. DATCP has not incorporated a small business enforcement policy in this rule, but will propose a separate rule on that subject. DATCP will, to the maximum extent feasible, seek voluntary compliance with this rule.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
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