

Clearinghouse Rule 10-055

State of Wisconsin
Department of Agriculture, Trade, and Consumer Protection

HEARING NOTICE

Goat Milk Somatic Cell Standards

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on rules relating to goat milk somatic cell standards. DATCP adopted a temporary emergency rule effective February 5, 2010 and is also proposing a “permanent” rule. The hearing will cover the “emergency” rule as well as the proposed “permanent” rule.

DATCP will hold the public hearing at the time and location shown below. DATCP invites the public to attend the hearing and comment on the rules. Following the hearing, the hearing record will remain open until Friday, June 25, 2010 for additional written comments. Comments may be sent to the Division of Food Safety at the address below, by email to debbie.mazanec@wi.gov or online at <http://AdminRules.Wisconsin.gov/>.

You may obtain free copies of the temporary “emergency” rule and proposed “permanent” rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You may also obtain copies by calling (608) 224-4712 or e-mailing debbie.mazanec@wi.gov. Copies will also be available at the hearing. To view the proposed rule online, go to: <http://AdminRules.Wisconsin.gov/>

To provide comments or concerns relating to small business, you may also contact DATCP’s small business regulatory coordinator Keeley Moll at the address above, or by emailing to Keeley.Moll@wi.gov or by telephone at (608) 224-5039.

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by May 7, 2010, by writing to Deb Mazanec, Division of Food Safety, P.O. Box 8911, Madison, WI 53708-8911; e-mailing to debbie.mazanec@wi.gov or by phone at (608) 224-4712. Alternatively, you may contact the DATCP TDD at (608) 224-5058. Handicap access is available at the hearings.

Hearing Date and Location:

June 15, 2010

10:00 a.m. – 12:00 p.m.

WI Department of Agriculture, Trade & Consumer Protection
2811 Agriculture Drive – Conference Room 172, 1st Floor

**Analysis Prepared by the Department
of Agriculture, Trade and Consumer Protection**

This rule relaxes Wisconsin's current standard for somatic cells in goat milk to conform to a new, less stringent, national standard. The Department of Agriculture, Trade and Consumer Protection (DATCP) adopted a temporary emergency rule on February 5, 2010, and gave notice that it would adopt a "permanent" rule on the same subject. This "permanent" rule is identical to the temporary emergency rule adopted by DATCP.

Statutes Interpreted

Statutes Interpreted: ss. 97.22 and 97.24, Stats.

Statutory Authority

Statutory Authority: ss. 93.07(1), 97.22(8), 97.24(3) and 227.24, Stats.

Explanation of Statutory Authority

DATCP has broad general authority, under s. 93.07(1), Stats., to interpret laws under its jurisdiction. DATCP also has authority, under ss. 97.22(8) and 97.24(3), Stats., to adopt regulations governing the operation of dairy farms and the production of milk and fluid milk products.

This rule will maintain the competitiveness of Wisconsin goat milk producers, relative to producers in other states, by conforming Wisconsin goat milk standards to new (less stringent) national standards.

Related Statutes and Rules

Dairy plant operators are required to test goat milk received from producers, to ensure that goat milk meets somatic cell and other standards. Milk must be tested in certified laboratories, and test results must be reported to DATCP. Serious or continued violations of milk quality standards may result in state enforcement action, including the suspension of a milk producer's grade A dairy farm permit. In some serious cases, dairy plant operators must take immediate action to reject milk shipments from the affected dairy farms until violations are eliminated. However, not all violations require such an "immediate response." See, generally, chs. ATCP 60 and 80, Wis. Adm. Code.

Wisconsin rules for grade A milk and fluid milk products (including goat milk and fluid goat milk products) must be in reasonable accord with the interstate pasteurized milk ordinance (PMO). See s. 97.24, Stats. The PMO is adopted by the National Conference on Interstate Milk Shipments (NCIMS) with the approval of the United States Food and Drug Administration

(FDA), and is administered by FDA. Wisconsin rules must be at least as stringent as the PMO in order for Wisconsin to ship milk and fluid milk products in interstate commerce.

Plain Language Analysis

Recently, NCIMS and FDA relaxed the PMO standard for somatic cells in Grade A goat milk, from 1,000,000 somatic cells per ml to 1,500,000 per ml. The United States Department of Agriculture is making an equivalent change in its somatic cell standard for Grade B goat milk (Grade B milk may not be sold as fluid milk, but may be used to manufacture non-fluid dairy products such as cheese).

This permanent rule relaxes Wisconsin's standard for somatic cells in Grade A and Grade B goat milk, from 1,000,000 somatic cells per ml to 1,500,000 per ml, to conform to the new national standard. This rule also eliminates the current "immediate response" requirement, under which a dairy plant operator must immediately reject goat milk shipments from producer whenever a somatic cell count on any shipment from that producer exceeds 1,500,000 per ml.

Fiscal Impact

This rule will have no fiscal impact on the state of Wisconsin or on local units of government.

Business Impact

This rule will benefit the Wisconsin dairy goat industry, by relaxing the current somatic cell standard for dairy goat milk to conform to the newly relaxed national standard. This rule will maintain parity with other states, and will relieve goat milk producers and dairy plant operators of certain problems associated with the current somatic cell standard.

Federal and Surrounding State Programs

Federal Programs

There is no federal law that compels this rule change. However this rule is consistent with recent changes in national standards (see above).

Surrounding State Programs

All surrounding states with dairy goat herds are likely to adopt the standard contained in this rule.

Data and Analytical Methodologies

Somatic cell test methods for goat milk are currently prescribed by s. ATCP 60.22(3), Wis. Adm. Code. This rule does not change current test methods.

DATCP Contact

Questions and comments related to this rule may be directed to:

Tom Leitzke

Department of Agriculture, Trade and Consumer Protection

P.O. Box 8911

Madison, WI 53708-8911

Telephone (608) 224-4711

E-Mail: tom.leitzke@wi.gov

Dated this _____ day of May, 2010

STATE OF WISCONSIN,
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Rodney J. Nilsestuen, Secretary