

STATEMENT OF SCOPE

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION (DATCP)

Rule No.: Ch. ATCP 83, Wis. Adm. Code

Relating to: Dairy Product Advertising and Labeling related synthetic bovine growth hormone

1. Description of the objective of the rule:

The objective of the proposed rule is to eliminate the annual renewal requirement for a milk producer's affidavit indicating non-use of recombinant bovine somatotropin (rBST; also known as recombinant bovine growth hormone or rBGH). A new affidavit would only be required when the milk producer begins shipping milk to a different dairy plant, or when a milk producer discontinues use of rBST in their herd for at least 30 days and thereafter seeks to sell milk to a food business making a "Farmer-certified rBGH free" or equivalent labeling claim. This rule revision better aligns Wisconsin regulations with those in other states and removes an unnecessary regulatory burden on Wisconsin milk producers.

2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule:

Currently, dairy plants are required to have on file an annual notarized affidavit from all their milk producers if their dairy product labels make an rBST-free claim. Due to the prevalence of such labeling claims, nearly all 7,000 plus Grade A milk producers in Wisconsin are asked to sign new affidavits annually. Wisconsin is the only state that has the annual renewal requirement. States that do have rBST affidavit requirements only ask for a single affidavit. Only when milk producers change plants, or begin using rBST and then cease using it, would a new affidavit have to be signed.

Before preparing this scope statement, the Division surveyed various industry groups and dairy plants asking for their input into a proposed change removing the annual renewal requirement. The survey results indicated strong industry support for the proposed rule change.

An rBST-free affidavit would hold the same legal weight regardless of how much time had passed since it was notarized and signed. Eliminating the annual renewal removes an unnecessary regulatory burden on Wisconsin dairy plants and milk producers, thereby allowing them to focus on other issues.

3. Statutory authority for the rule (including the statutory citation and language):

Use of synthetic bovine growth hormone; labeling of dairy products is authorized by Wisconsin Statute 97.25. Administrative Rule chapter ATCP 83 details requirements for dairy product advertising and labeling of rBST-free claims.

4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule :

The Department estimates that it will use approximately .10 FTE staff to develop this rule. That calculation includes time required for investigation and analysis, drafting the rule, preparing related documents, coordinating any advisory committee meetings, holding public hearings, and communicating with affected persons and groups. The Department will use existing staff to develop this rule.

5. Description of all entities that may be impacted by the rule :

This rule will have a direct impact on all Wisconsin dairy plants making rBST-free claims and the Wisconsin milk producers supplying milk to these dairy plants.

6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule :

The Food and Drug Administration (FDA) issued a guidance statement on rBST-free label claim wording, and initially approved administration of rBST to cows producing milk for human consumption. Otherwise, FDA has not promulgated any regulation specific to rBST-free label claims.

7. Anticipated economic impact

The Department expects the proposed rule to have a positive impact on businesses because it will reduce the annual regulatory burden while maintaining the same level of protection against mislabeled dairy products. Survey comments from industry indicated the rule change would save them significant labor and mileage costs.

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