

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: Dairy Program

Adm. Code Reference: ATCP 82

Rule Summary

As of July 2024, Wisconsin has 5,085 licensed grade A milk producers and 785 grade B milk producers. The milk from each of these farms is shipped to one of 50 grade A dairy plants and 404 grade B dairy plants. The Department licenses approximately 2,485 bulk milk weigher and samplers (BMWS), 3,265 bulk milk tankers (BMT), and 80 bulk milk tanker cleaning facilities (BMTCF) throughout the state. A BMWS collects official milk samples and may transport raw milk or fluid milk products. A BMT is a mobile bulk container used to transport milk, milk products, whey, or whey cream in bulk. A BMTCF is a facility where a bulk milk tanker or its appurtenances are cleaned and sanitized. All of these groups need to conform, or ensure conformity, to certain requirements including construction, maintenance, cleaning, and sanitation in order to meet applicable food safety requirements.

The Department is proposing to modernize Wis. Admin. Code ch. ATCP 82 with an overhaul of the definitions section, modernization of licensing and documentation requirements, updating of the licensing and fee structure, and enhancement of provisions ensuring proper food safety. Rule revisions also support technological innovations including electronic record keeping devices, in-line sampling systems, and the expanded use of silos while keeping language flexible to account for future enhancements.

This rule aligns Wisconsin's regulations with the U.S. Department of Health and Human Services Public Health Service and Food and Drug Administration Grade A Pasteurized Milk Ordinance (PMO), 2019 Revision, and neighboring states for licensing and permitting of grade A tankers and bulk milk weigher and samplers. By maintaining consistency with the PMO, Wisconsin's rule is consistent with requirements in Illinois, Iowa, Michigan, and Minnesota.

Small Businesses Affected

The Department believes the changes proposed will have minimal effect on small businesses, as the proposed rule aligns with industry standards. The expanded use of trained industry operators in place of BMWS will reduce the financial burden of obtaining and maintaining a license. The proposed rule includes a modest increase in the licensing and reinspection fee for BMWS (from \$60 to \$75) along with the reinspection fee (\$60 to \$75) and fee for operating without a permit for BMT (\$100 to \$125). In the past 24 months, only seven BMT Reinspections have been conducted. All grade A dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the PMO in order to collect, sample, and transport grade A milk and milk products, and no special accommodation may be made for small businesses.

Reporting, Bookkeeping and other Procedures

The rule would not require any additional reporting, bookkeeping or other procedures.

Professional Skills Required

The proposed rule does not require any new professional skills.

Accommodation for Small Business

The PMO makes no distinction between large and small businesses in establishing requirements for collection, sampling and transport of grade A milk and milk products.

Conclusion

The Department expects the proposed rule to have a positive long range impact on all stakeholders because it will give more flexibility for businesses in complying with rule requirements that are consistent with recognized industry best practices. Furthermore, the rule revision reduces the additional time and resources involved with resolving confusion created by the existing rule not keeping pace with changes that have occurred with the dairy industry over the years.

Regulatory partners, industry stakeholders and national and state level subject matter experts have all been part of this entire rule revision process. The Department also provided rule revision status updates to various industry and regulatory association meetings over the last year. Stakeholders have all shared their eagerness for rule revision.

This rule will have little effect on “small business” and is not subject to the delayed “small business” effective date provided in s. 227.22(2)(e), Stats.

DATCP will, to the maximum extent feasible, seek voluntary compliance with this rule.

Dated this _____ day of _____, 2024.

STATE OF WISCONSIN DEPARTMENT OF
AGRICULTURE, TRADE AND CONSUMER
PROTECTION

By _____
Administrator,
Division of _____