



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #142

### **Fruit and Vegetable Inspection Program (Agriculture, Trade and Consumer Protection)**

[LFB 2005-07 Budget Summary: Page 60, #4]

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#### **CURRENT LAW**

Under a cooperative agreement with the United State Department of Agriculture (USDA), the Wisconsin Department of Agriculture, Trade and Consumer Protection has been granted responsibility for the inspection of fruits and vegetables in the state. These inspections are mandatory for the export of produce, but generally optional for, and available upon request by, growers or dealers who want to have their products graded.

#### **GOVERNOR**

Delete \$997,400 PR and 12.45 positions in 2006-07 that are used to administer the state's fruit and vegetable inspection program. In addition, transfer \$9,000 and 0.1 Trade Bureau director position to DATCP's public warehouse regulation appropriation.

#### **DISCUSSION POINTS**

1. The USDA maintains cooperative fruit and vegetable inspection agreements in 49 states and Puerto Rico. Under the federal-state agreements, federally licensed graders work throughout the country at the points of origin of the produce, often working in the field as crops are harvested. However, shippers of fresh produce can have their commodities graded at the shipping point, while receivers can use grading services to determine whether a shipment meets the terms of a contract.

2. The fruit and vegetable program is funded from fees paid by those utilizing the

inspection services. In this sense, funding and positions allocated to the program generally do not affect the resources available for other DATCP programs.

3. The USDA has developed 158 official grade standards for 85 fresh fruits, vegetables, tree nuts, peanuts, and related commodities. These standards describe the quality requirements for each grade of the commodity, thereby providing a common standard for each commodity throughout the industry. The USDA, or delegated agency, then applies these standards to the produce it is asked to grade, giving an official USDA grade for the commodity (whether provided by the USDA or a delegated agency).

4. Under federal law, most fruit and vegetable grading is voluntary, except for commodities that are regulated for quality by a marketing order or marketing agreement, subject to import or export requirements, or purchased by the United States Department of Agriculture (USDA) or certain other federal agencies. The USDA, or the designated authority, inspects commodities upon request, and grading may be conducted as the produce is being packed for shipment to market or at the destination.

5. Under a cooperative agreement with USDA, DATCP operates the state's fruit and vegetable inspection program. This authority includes mandatory shipping point inspections for potatoes and DATCP verification of the agricultural and handling processes used by certain potato producers. In addition to these duties performed by DATCP under agreement with the USDA, DATCP also provides optional shipping point inspections, and processing point inspections for agricultural growers and producers. For these responsibilities, DATCP is appropriated \$1,026,200 PR annually and 12.55 PR positions in 2004-05.

6. State inspectors provide process inspections and shipping point inspections. Fruit and vegetable inspections performed by DATCP under the state/federal cooperative agreement tend to take place in packing and seed houses, many of which are in the Stevens Point area. The state's fruit and vegetable program is centered out of Stevens Point, and also has an office in Antigo. Most fruit and vegetable inspections performed by the state are related to the potato and cranberry industries.

7. In addition to permanent staff positions, the Department also utilizes limited-term employees (LTEs) during peak workload periods and in the Antigo area. In 2004-05, expenditures on LTEs are expected to be approximately \$200,000 (and included in base funding of \$1,026,200 mentioned above).

8. Grading and inspection service participants may specify the type of inspection they desire, which most commonly involves a quality (measures the excellence of a product) and condition (measures the soundness of the product) inspection. However, inspections may also consist of only taking a count or weight of the produce.

9. Mandatory inspections consist of shipping point inspections of potatoes that are being exported or part of a federal government contract. DATCP officials estimate that 12 million

hundredweight of potatoes were inspected in 2003-04, with approximately 3.5 million hundredweight being shipping point inspections and 8.5 million hundredweight being processing point inspections. DATCP officials estimate that approximately 3% of shipping point inspections were mandatory in 2003-04, while all processing point inspections are voluntary. An additional 37% of these shipping point inspections were related to certified seed grading, which offers seed grades to verify the quality of the seed stipulated in contracts. While these inspections are not mandatory, the seed must be inspected and graded in order for it to be certified. DATCP currently operates this program in conjunction with the University of Wisconsin-Madison, under administrative rule ATCP 156. Under the program, UW-Madison performs the field and bin inspections and testing (but has no regulatory authority) in the summer, while DATCP grades the seeds and performs shipping point inspections when the seeds are shipped in the fall and winter. While the agencies have yet to discuss the matter, if DATCP ceased fruit and vegetable inspections UW-Madison staff have expressed some interest in potentially continuing to perform testing under the program. However, federal officials indicate they try to avoid certified seed grading arrangements where one agency is responsible for both the field inspections and shipping point grading. In addition, UW-Madison staff note that under current law the University would lack regulatory authority to take action in the instance where problems are found with seeds.

10. In addition to mandatory shipping point inspections, DATCP is required to inspect and verify the handling of potatoes by four companies that have contracts with the federal government as part of the USDA audit authorization program.

11. Processing point inspections are not mandatory or part of the Department's agreement with the USDA, and are performed by DATCP under contract with growers and producers. Growers and producers use DATCP inspection ratings to verify they receive the quality of product stipulated in the contracts they have with one another, and to market the quality of the product they are selling.

12. DATCP officials indicate that producers primarily utilize the optional inspections because the USDA grading or approval can be used as a marketing tool. Specifically, they indicate fruit and vegetable producers and suppliers are able to better market their products with the USDA approval that comes from DATCP inspection, and can then sell their product more easily and for higher prices, due to consumer confidence in the product resulting from the USDA approval.

13. As part of 2003 Act 33, \$359,400 PR and 11.5 PR positions were deleted from DATCP's fruit and vegetable inspection program annually. This reduction was suggested by DATCP in an attempt to bring authorized expenditures in line with anticipated revenues of the program.

14. While DATCP's fruit and vegetable inspection appropriation is authorized 12.55 positions, the bill would eliminate 12.45 positions. Further, 0.1 Trade Practices Bureau director position would be transferred to DATCP's public warehouse regulation appropriation under the bill.

15. DATCP's fruit and vegetable inspection appropriation account is expected to have a

July 1, 2005, balance of approximately \$192,700. Were the program to be continued, the appropriation account would be expected to have a July 1, 2007, balance of over \$380,000, as shown in the table. Fruit and vegetable inspection officials expect inspection volume to remain constant or increase, to reflect an increasing interest in exporting produce.

### **Fruit and Vegetable Inspection Appropriation Account Condition**

	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
Opening Balance	-\$13,100	-\$80,800	\$77,600	\$192,600	\$302,600
Revenues	993,700	1,202,800	1,150,000	1,150,000	1,150,000
Expenditures	<u>-1,061,400</u>	<u>-1,044,400</u>	<u>-1,035,000</u>	<u>-1,040,000</u>	<u>-1,066,000</u>
Closing Balance	-\$80,800	\$77,600	\$192,600	\$302,600	\$386,600

16. However, Department of Administration (DOA) and DATCP officials indicate agricultural development issues are a top priority of the Department. DATCP identified this inspection program as part of the 10% budget reduction plan required by the Governor as a program that could be eliminated, and argues that one advantage to eliminating this program is that the federal government or private companies would assume responsibility for these inspections. DOA and DATCP officials argue that the fruit and vegetable inspection program largely provides an optional service (citing the small percentage of mandatory shipping point inspections), and emphasize the desire to focus DATCP resources on economic development issues.

17. The current agreement that designates DATCP the authority to operate the fruit and vegetable inspection program allows the Department to return the program to the United States Department of Agriculture (USDA) with 60 days notice by either party. However, DOA officials indicate that the fruit and vegetable program was eliminated in the second year of the biennium (2006-07) in order to give DATCP time to examine a number of options for replacing the inspection service provided by the state before the program would be eliminated. The administration indicates that the intent was to allow DATCP to maintain some level of position authority through most of the biennium in order to administer the fruit and vegetable program if no suitable alternative to state administration of the program could be readily found.

18. The fruit and vegetable appropriation account would be expected to have a July 1, 2006, balance of over \$300,000. Under the bill, this balance would remain in DATCP's fruit and vegetable inspection appropriation account. As a result, were the Committee to adopt the Governor's recommendation to end the state program, it could consider specifying that any unencumbered balance in the fruit and vegetable inspection appropriation account as of June 30, 2007, lapse to the state's general fund (estimated at \$302,600).

19. Unlike the grain inspection program, which is currently running a deficit, DATCP's fruit and vegetable program has a projected surplus for the next biennium. Department staff

indicate that program participants and consumers are generally satisfied with the Department's inspection services.

20. Federal officials indicate that if DATCP stopped administering the state's fruit and vegetable inspection program, they would seek another government agency to administer this program. If an alternative state government agency could not be found, the federal government would assume the authority for mandatory shipping point inspections and inspections requiring an official USDA grading, as federal law specifies that only the federal or a state government may perform export inspections and provide the "USDA" stamp of inspection or approval for fresh produce (but a private agent could be used for processed inspections). As a result, state fruit and vegetable growers and producers would likely need to contract with a federal fruit and vegetable inspector out of Milwaukee. This would include both mandatory fruit and vegetable inspections, and optional inspections requested by growers for marketing purposes. Were this to occur, the services provided by the federal government would be expected to be similar to those provided by the state. However, it should be noted that prices charged by the federal government could exceed those charged by the state. For example, the federal government currently has one employee stationed in Milwaukee and charges about \$49 per hour and \$1 per mile traveled for inspections, while the state currently charges between \$28 and \$30 per hour and 32.5¢ per mile traveled. Further, DATCP inspectors indicate that, due to the larger number of state inspection employees, the state is able to offer a quicker response time (of one day or less) for requests for inspection than that currently offered by the federal government responsible for fruit and vegetable inspections. However, if the federal government were to take over the inspection program, federal staffing could be increased and response time could improve. Still, federal officials acknowledge that it is unlikely federal prices would be as low as the prices currently charged by DATCP.

21. Therefore, some would argue that since program revenues appear to be sufficient to continue to sustain the program, returning inspection authority to the federal government does not offer any clear service benefits, and federal inspection prices could be higher than those charged by the state, the Committee could consider retaining the state's fruit and vegetable inspection authority in DATCP and restoring the \$997,400 and 12.45 positions that are deleted in 2006-07 under the bill.

22. Alternatively, if the state fruit and vegetable program were to be deleted and no suitable replacement is found, DATCP could seek authority under section 16.505/515 of the statutes (14-day passive review procedure) to restore funding and positions for this program in 2006-07.

## **ALTERNATIVES**

1. Approve the Governor's recommendations to delete \$997,400 and 12.45 positions in 2006-07 that are used to administer the state's fruit and vegetable inspection program, and transfer \$9,000 and 0.1 Trade Bureau director position from this appropriation to DATCP's public warehouse regulation appropriation.

2. Adopt the Governor's recommendation. In addition, lapse any unencumbered balance in DATCP's fruit and vegetable inspection appropriation account on June 30, 2007, to the state's general fund.

<u>Alternative 2</u>	<u>GPR-REV</u>
<b>2005-07 REVENUE</b> (Change to Bill)	\$302,600

3. Maintain current law (12.55 PR positions and related funding would remain for fruit and vegetable inspection).

<u>Alternative 3</u>	<u>PR</u>
<b>2005-07 FUNDING</b> (Change to Bill)	\$997,400
<b>2006-07 POSITIONS</b> (Change to Bill)	12.45

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