

**DEPARTMENT OF AGRICULTURE, TRADE, AND CONSUMER PROTECTION  
(DATCP)  
DAIRY RULES ADVISORY COMMITTEE (DRAC)  
MEETING MINUTES**

**Date:** August 10, 2021

**Time:** 9:00 AM – 11:00 AM

**Location:** Foremost Farms in Baraboo and Virtual Teams Meeting

**Welcome and Introduction**

**Call to order:**

Katie Tuchalski called meeting to order at 9:00 AM

**Open meeting notice:**

Katie Tuchalski stated the meeting is a public meeting. The open meeting notice has been posted.

**Roll Call:**

Members in attendance: Bob Wills, Lisa Torkelson, Katie Tuchalski, Jessica Hansen, Gloria Joseph, Jeff Kirchberg, Nelson Schrock, Helen Schmude, Jacquie Papple, Dean Hines, Daniel Smith, Shelly Mayer, Adam Brock, Tim Neubauer, Megan Jensen, Joe Miller, Rebekah Sweeney (for John Umhoefer), Debi Towns, and Mick Homb

Guests in Attendance: Alex O'Brien, Scott Rankin, Laura Traas, Tim Anderson, Jim Pikka, Pete Hesprich, Steve Stoner, Kate Angeles, Amy Millard, Tyson Villarreal, Mary Rollins, Sheri Walz, Julie Schmidt, Caitlin Jeidy, Elmer Schmucker, and Dan Funke.

Members not in attendance include: Andy Johnson, Ben Shibler, Tom Crave, James Baerwolf, and Jim Schwartz.

**Approval of agenda:**

It was asked to change the order of the DATCP update and the sub-committee update. First will be the sub-committee update; followed by the DATCP update. The agenda was amended and approved. The committee members will use the raise hand icon in Teams for voting or voice if a member is joining in with audio only.

**Approve previous meeting minutes:**

No corrections to the previous meeting minutes for the DRAC May 5<sup>th</sup>, 2021 meeting. Meeting minutes were approved.

**Public comments:**

There were no public comments.

**Membership Updates:**

The committee welcomed new member Joe Miller. Joe will be the replacement for WI Dairy Products Association.

**DATCP Rule Making Process and DRAC's role by Sheri Walz, Julie Schmidt, and Caitlin Jeidy**

Sheri Walz and Cailin Jeidy presented on the DATCP rule making process (**see slides from DATCP Rule Making Procedure 8-2021 presentation**). Caitlin did an overview of the process that occurs when changing or making a rule. DATCP will need to prepare a scope statement that will then be approved by the Department of Administration (DOA) and the Governor. A

preliminary public hearing will be held for input from industry if requested by the Joint Committee for Review of Administrative Rules (JCRAR). The scope will need to be approved by the DATCP Board before rule writing can begin. DATCP can also use recommendations and feedback from the advisory committee. DATCP will need a list of committee members for the DATCP Secretary and submit the committee members to JCRAR. The committee members can hold meetings in an advisory capacity only.

The next step will be the initial drafting of the rule by DATCP. DATCP will need to prepare an Economic Impact Analysis (EIA) and a Regulatory Flexibility Analysis. The DATCP Board will need to approve these documents. There is also a 20-day Legislative Council Rules Clearinghouse review. A public hearing will also be held.

DATCP will then finalize the rule, EIA, and Regulatory Flexibility Analysis. The DATCP Board and Governor will approve the final rule documents. The agency will submit the final rule to the Legislature for review. The Legislative review can pull the rule or make modifications. The final rule submittal will be published in the Wisconsin Administrative Register. The final rule will have a 30-day JCRAR passive review.

For Rule Promulgation, the agency submits the final certified rule documents for publication in the Wisconsin Administrative Register. The final rule will be effective on the first day of the month following publication or on the date given in the rule.

This is a general timeline of the process. The scope statement takes 1-3 months. There is a 30-month deadline from when the scope statement is published in the Wisconsin Administrative Register. The draft rule and board approval, clearinghouse review, public hearing, final rule and board approval, and Governor approval must be completed within the 30-month time period. Legislative review usually takes at least 2 months. The Final promulgation takes 1-2 months. Reach out to Caitlyn or Tim with any questions about DATCP's role in this process.

Cheri Walz an attorney for DATCP went through the most recent Legislative changes to the rule making process. ATCP 82 will be open soon. This is a very intensive process, and the 30-months go by very fast. Since 2011, Legislature oversight has gone up and the process has gotten more complex. ACT 21 requires agencies need explicit authority to implement or enforce any standard, requirement, or threshold. If an agency changes the scope statement, the process will need to start over. ACT 39 requires the scope statement to have an expiration date. It is important for staff to have a checklist and to not lose the work done over the last 30 months. ACT 57 requires DOA to review the scope statement. The EIA investigates implementation and compliance costs. There is a prohibition on promulgation of high-cost rules. It also requires governor approval and notice to JCRAR. ACT 108 expedited the process for agency to repeal obsolete rules. Existing rules can go back and do an impact analysis. ACT 369 allows JCRAR to suspend a rule. Also, the agency must notify JCRAR of the membership of any committee.

This is a very compressed timeline with a lot of steps. With any committee or sub-committee, a list needs to be submitted to JCRAR with the memberships. Open meeting requests are required when meeting as a committee. The committee is not writing the rules itself but giving DATCP thoughts, comments, and ideas about the rule.

### **Subcommittee Update**

Alex O'Brien gave an update for the Raw Milk Cooling Temperature Sub-committee. Alex has been working with Kathy Glass and writing a document of the ComBase study. The conclusion was receiving temperatures of raw milk at  $\leq 50^{\circ}\text{F}$  for less than 72 hours was safe. The *S.aureus* and *B.cereus* had a  $\leq 1$  log increase at these temperatures. Once the milk is pasteurized, the other

organisms like Salmonella or Listeria would be reduced. This study is not to be used to by-pass PMO regulations. This paper can be used as a tool for the occasional temperature deviation when receiving raw milk. The plant will still need to look at other quality issues that may arise with the raw milk.

The paper will be submitted to DATCP for review. This will be a tool to use for documentation for an occasional scenario.

DATCP: If the full committee approves the study today, DATCP will try have a quick turnaround for the committee. DATCP appreciates Alex and Kathy for the hard work done with this study.

Question: Were other pathogenic organisms considered? Temperature abuse may cause higher growth of these pathogenic organisms. Organisms with high D values may be of concern. The ComBase study only considered entero-toxin producing organisms. CDR will be working on an Appendix to the paper that will include other indicators of quality to help industry. Alex will have a discussion with Kathy about other organisms of concern.

Bob Wills made a motion to accept the ComBase study and submit the recommendation to DATCP. Gloria Joseph seconds the motion. Motion passed.

Thank you to CDR and the sub-committee.

Katie gave the update for the single farm pick-up sub-committee. The sub-committee met to discuss clearing a producer who has a positive drug residue load. This issue was brought up by DATCP at the May meeting. A GovDelivery was sent out by DATCP last week clarifying how a direct ship producer needs to be cleared after a confirmed positive load. Single farm pick-ups are a little different than direct ships.

DATCP: Single farm pickups fall between the traditional way and direct ships. For single farm pick-ups, it is more advantageous for the sample to be taken at the farm if that is possible.

If the clearing sample cannot be taken at the farm, the 24-hour rule indicated in the GovDelivery would also apply to the Single Farm Pick-ups. The milk tanker would be shipped to the plant for testing within 24 hours. After 24 hours, any positive load would be considered a second violation.

Dean Hines made a motion to accept the recommendation that the single farm pick-ups can be cleared the same way a direct ship load can be cleared. Adams Brock seconded the motion. Motion passes.

### **DATCP Regulatory Update**

Tim Anderson presented a regulatory update on the DATCP dairy program (**see slides from DATCP Update 8-2021 presentation**). DATCP currently has two vacant positions in the dairy section. The vacant positions include: one Multi-product Grader position and one Dairy Environmental Health Sanitarian position. One of DATCP's previous graders retired. DATCP is looking for an individual that is a super taster but also have the registered sanitarian credential. DATCP hasn't found the right person due to the job requirements. Wisconsin is the only state that has a grader position. DATCP has hired three new advanced sanitarians. These new advanced sanitarians will have special projects once trained. They will be helping with the PC inspection process.

DATCP's 2021 inspection numbers are a little lower due to retirements. Farm inspection numbers were high in June and July due to staff going back into the field and focusing on farm inspections in 2020. To spread the farm inspections out, the staff has been instructed to inspect some farms a month early. In July 2020, DATP started doing Grade A plants so some of those inspections are being moved forward too.

Tim discussed the current COVID measures being taken by the Dairy Services Section. With the COVID delta variants increasing, the inspectors will be wearing face coverings with social distancing when possible and conducting daily self-assessments for COVID symptoms. If an inspector is alone on the farm, the inspector can remove the mask. DATCP is minimizing the number of DATCP staff during an inspection. DATCP is still encouraging virtual record and food safety plan reviews when possible. Microsoft Teams seems to be working well because DATCP doesn't obtain custody over the documents. DATCP COVID response will continue to evolve.

Tim thanked the single farm pickup and raw milk cooling temperature sub-committees for all their accomplishments. The interpretative memo is a tool to help DATCP clarify the rules. The interpretative memo is considered "short term" and should be used in the rule making process. With the rule making process, DATCP has a checklist and will look ahead to make sure the agency is making the deadlines.

DATCP sent out an interpretative memo regarding unrefrigerated bulk tanks. DATCP needs to decide on how to proceed with the existing unrefrigerated bulk tanks. DATCP will be looking at the 3A standards for the bulk tanks.

DATCP will be proceeding with revising ATCP 82. The first step is for DATCP to draft a scope statement. DATCP would like to work with the committee before starting the draft. During the initial meeting, the hauler group brought up a few issues that DATCP has noted. Tim requested that the committee bring a list of concepts or areas of concern with ATCP 82 to the November meeting.

CRM is DATCP's new licensing database system. It has taken around 2.5 years to move out of the old system. MyDATCP is the online interface that industry uses. DATCP is still working through a few issues with the new system. Farms and plant licenses are not yet on the MyDATCP website. There is no timeline yet on when that will get implemented. Due to CRM, there will be new forms being used by staff. DATCP will be giving a presentation at the Hauler and Field Rep conferences on how to fill out the new forms.

The committee discussed to form an ATCP 82 scope statement sub-committee. The group was unclear if formal approval was needed before proceeding. Tim Anderson will discuss with the Legal Department. It was suggested to send out an email to the committee if/when approval is needed for members to join the scope statement sub-committee. The sub-committee will need to meet a couple times to brainstorm ideas and comments.

## **Member Concerns**

Question: Does a silo on a farm need to have three agitators?

DATCP: A silo on a farm needs to have adequate agitation to assure that the milk in the silo can be thoroughly mixed prior to sampling. (ATCP 82.12(2)(a)). The department will not specify the number of agitators. The number of agitators will be determined by the silo/agitator manufacturer and will probably be dependent upon the size of the silo.

Question: Does the connection need to be made in the milkhouse

DATCP: 82.10(7) milk connection reference.

82.10(7) CONNECTING MILK HOSE. Before a bulk milk weigher and sampler connects a bulk milk tanker hose to a dairy farm bulk tank, the bulk milk weigher and sampler shall examine the fittings of the bulk milk tanker hose and the dairy farm bulk tank outlet to ensure that both are clean. Before connecting the hose, the bulk milk weigher and sampler shall clean and sanitize the bulk tank outlet if the outlet valve is leaking. The bulk milk weigher and sampler shall attach the milk hose to the bulk tank outlet in a manner that does not contaminate the hose or hose cap. The hose shall be connected through the hose port in the milkhouse, and not through the milkhouse door.

The committee decided that the last section of the rule is a little confusing about how the connection is made.

### **Nominations for next term**

Terms for Chair and Vice Chair will expire in January 2022. We will need members to self-nominate or other members to nominate others for these two positions. The committee will vote for the next Chair and Vice Chair at the November meeting. Please email Katie Tuchalski, Tim Anderson, and Kate Angeles with nominations. If a stakeholder's term is also expiring in 2022, the stakeholder can still be nominated for Chair and/or Vice Chair.

There are a few individual stakeholder's terms that will be expiring in January 2022. The stakeholder will be able to re-nominate for another term. If the stakeholder does not want to seek re-nomination, please let Katie know so DATCP can seek new members. Katie will send everyone a reminder email. Please reply with your status plans.

### **Summary of Action Items and Person(s) Responsible**

The next meeting will be Tuesday November 9<sup>th</sup>, 2021 from 9:00 am to 11:00 am. It was decided to wait to see how the pandemic progress before deciding on an in-person meeting or a hybrid meeting.

DATCP will see if approval is needed for ATCP 82 Scope Statement sub-committee and then ask for volunteers for this sub-committee.

The Raw Milk Cooling Temperatures Sub-committee will send the ComBase paper to DATCP for review.

Committee members will email Chair and Vice Chair nominations to Katie Tuchalski, Tim Anderson, and Kate Angeles

Stakeholders whose term is expiring in January 2022 need to notify Katie Tuchalski, Tim Anderson, and Kate Angeles if the Stakeholder would like to re-nominate or not. DATCP will seek new members if needed.

Dean Hines motioned to adjourn meeting. Tim Neubauer seconded. Motion passes.

Meeting Adjourned at 10:24 am