

THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S
PROPOSED ORDER TO ADOPT PERMANENT RULES

PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following rule *to repeal* ss. ATCP 82.04 (9), (9) (a), (9) (b), (10), and (11), 82.08 (3) (c), and 82.10 (2) (c); *to renumber* ss. ATCP 82.10 (8) (b), 82.12 (2) (a), (2) (b), (2) (c), and (2) (d), 82.16 (1), (2), (3), and (4); *to renumber and amend* ss. ATCP 82.10 (8) (c), 82.16 (title); *to amend* ss. ATCP 82.01 (1), (1s), (3), (4), (5), (7), (7m) (b), (8), (9), and (10), 82.02 (5) (b) and (6) (a), 82.04 (1), (2), (6) (a), and (6) (b), 82.06 (1), 82.08 (1) (d), (2) (a), (4) (a), (4) (b), (4) (c), and (6) (b), 82.10 (2) (b), (2) (h), (4) (a), (6) (a), (6) (b), (6) (c), (8) (title), (8) (a), (9) (a), (9) (b), (9) (b) 1., (10), (10) (c), (10) (d), (10) (e), (11) (a), (11) (am) (1), and (11) (am) (4), 82.12 (1) (b) and (1) (c), and (5) (a), 82.14 (title), (1), and (2); *and to create* ss. ATCP 82.01 (4) (a), (4) (b), (4) (c), (4) (d), (9e), (9m), and (9s), 82.08 (1) (e) and (4) (a) 5., 82.10 (2) (b) 1., (2) (b) 2., (2) (b) 3., (2) (b) 4., (8) (b), (8) (b) 1., (8) (b) 2., (8) (b) 2. a., (8) (b) 2. b., (8) (b) 2. c., (8) (b) 2. d., (8) (c), and (9) (c), 82.12 (1) (bm), (2) (a), (2) (b), (2) (b) 1., (2) (c), (2) (c) 1., (2) (c) 2., (2) (c) 2. a., (2) (c) 2. b., (2) (c) 2. c., and (2) (c) 2. d., 82.16 (title), (1), (1) (a), and (1) (b); *relating to* Bulk Milk Collection, Sampling, and Transportation, and affecting small businesses.

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

Statute Interpreted: s. 97.21, Stats. (Milk haulers and milk distributors) and s. 98.146, Stats. (Licensing milk weighers and samplers).

Statutory Authority: ss. 93.07 (1), 97.09 (4), 97.21 (6), and 98.146 (4) Stats.

Explanation of Statutory Authority

The Department has broad general authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. The Department also has general authority under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. The Department has specific authority to promulgate rules related to milk haulers in s. 97.21 (6), Stats., which allows the Department to establish rules related to the following: fees and regulations for bulk milk

tanker operators and milk distributors; standards for the construction, maintenance and sanitary operation of bulk milk tankers, milk distribution vehicles and milk distribution facilities; the design, installation, cleaning and maintenance of equipment and utensils; personnel sanitation; storage and handling of milk and fluid milk products; identification of bulk milk tankers and milk distribution vehicles; and record keeping. The Department has authority under s. 98.146, Stats. to license bulk milk weigher and samplers, and to establish a fee for licensing inspection and reinspections.

Related Statutes and Rules

Wisconsin's milk haulers are governed by ch. 97, Stats. (Food, Lodging, and Recreation). Milk haulers and milk distributors are regulated under s. 97.21, Stats. (Milk haulers and milk distributors). Bulk milk weigher and samplers are governed by ch. 98, Stats. (Weights and Measures). Chapter 65, Wis. Adm. Code (Milk and Milk Products), interprets ch. 97, Stats., as it related to milk and milk products. Chapter 82, Wis. Adm. Code (Bulk Milk Collection, Sampling, and Transportation), interprets ch. 97 and ch. 98, Stats., as it relates to bulk milk collection, sampling, and transportation.

Plain Language Analysis

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.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

The PMO establishes minimum standards for regulation of grade A milk and milk products. States must set regulatory standards equivalent to, or more stringent than, those in the PMO to be allowed to ship grade A milk and milk products in interstate commerce.

Summary of Actions Related to Preliminary Comment Period and Public Hearing on Statement of Scope

The Joint Committee for Review of Administrative Rules did not require a preliminary public hearing and comment period within 10 days after the Statement of Scope (SS 011-23) publication in the Wisconsin Administrative Register on January 30, 2023.

Comparison with Rules in Adjacent States

Illinois

Illinois regulates licensing and permitting of grade A tankers and bulk milk weigher and samplers under the Illinois Compiled Statutes, Grade A Pasteurized Milk and Milk Products Act, (410 ILCS 635/). Illinois completes inspections, and issues a grade A permit after inspection. Illinois charges fees associated with these grade A inspections. Section 5.1 of the Grade A Pasteurized Milk and Milk Products Act states the Illinois Department of Public Health shall charge a fee of \$100 for each permit issued to a milk plant, \$50 for each permit issued to a receiving station, \$25 for each permit issued for a milk tank truck, and \$100 for each certified pasteurizer sealer. In addition to such fees, the Illinois Department of Public Health shall assess a late fee if an application for renewal is received after the expiration date of the existing permit. The late fee shall be \$50 for a permit issued to a milk plant, \$25 for a permit issued to a receiving station, transfer station, or cleaning and sanitizing facility, and \$15 for a permit issued to a milk hauler-sampler. Illinois adopts the PMO as part of their dairy regulations under Illinois Administrative Code Title 77, Chapter I, Part 775.20. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Iowa

Iowa adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weigher and samplers under the Iowa Grade 'A' Milk Inspection Law (91 Acts, ch. 74, §11). Iowa completes inspections, and issues a grade A permit after inspection. Iowa charges fees associated with these grade A inspections. The Iowa Grade 'A' Milk Inspection Law states the Department shall charge a fee no greater than \$2,000 for each permit issued to a milk plant, no greater than \$400 for a receiving station, no greater than \$20 for a milk hauler, and no greater than \$50 for bulk milk tankers. A reinspection fee exists for all permits required that shall not be greater than \$40. A person who renews a permit and submits any accompanying renewal fee more than 30 days after the date that the renewal period expires shall pay a late fee equal to 10% of the of the permit renewal fee - however, in no instance shall the fee be less than \$25. Iowa adopts the PMO as part of their dairy regulations under Section 192.102 of the Iowa Grade 'A' Milk Inspection Law. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Michigan

Michigan adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weighers and samplers under the Michigan Compiled Laws (MCL), Grade A Milk Law of 2001 (Act 266 of 2001). Michigan completes inspections, and issues a grade A permit after inspection. Michigan charges fees associated with these grade A inspections. Sections 288.501 and 288.503 of the Grade A Milk Law of 2001 state the Michigan Department of Agriculture shall charge a license or renewal fee annually for dairy plants. The fee varies by the amount of production at the plant, but the fee shall not exceed \$1,600 per year. A \$10 late fee may be imposed each business day the application is late; however, the fee shall not exceed \$100. Each receiving station or transfer station must be licensed or permitted at a rate of \$250 per year. Each milk tank truck cleaning facility that cleans milk contract surfaces of milk tank trucks that is not a part of a dairy plant will be licensed or permitted at a rate of \$250 per year - facilities that are a part of a dairy plant do not have to pay a separate licensing fee. Each milk transportation company must be licensed at a rate of \$50 per year. Each milk tank truck must be licensed or permitted at a rate of \$20 each year. A hauler/sampler license shall be issued to anyone picking up and sampling grade A milk, and this license shall incur a fee of \$50 every two years, with an allowance for the initial license fee to be paid in two \$25 installments. The Michigan Department of Agriculture may assess a \$300 fee on any licensee

or permittee requiring the performance of two or more consecutive reinspections or for compliance of items found in violation. Michigan adopts the PMO as part of their dairy regulations under Section 288.490 of the Grade A Milk Law of 2001. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Minnesota

Minnesota adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weighers and samplers under the Minnesota Statutes, Dairy Law (chapter 32D). Minnesota completes inspections, and issues a grade A permit after inspection. Minnesota charges fees associated with these grade A inspections. The Dairy Law states a person collecting milk from a dairy farm and transporting the milk by bulk pickup from farm to plant must obtain a bulk milk hauler and sampler license, which shall include an initial and annual renewal fee of \$60. A \$30 late fee shall be imposed if a late renewal occurs. All farm bulk milk pickup tankers, milk transports, and tankers used to transport milk products must obtain a permit every twelve months at a fee of \$25 per tanker. A pasteurization plant requesting grade A inspection must pay an annual inspection fee of no more than \$500. A manufacturing plant that pasteurized milk or milk by-products must pay an annual fee based on the number of pasteurization units, but the fee must not exceed \$140 per unit. A dairy plant operator must pay a monthly fee of 1.1 cents per hundredweight of milk purchased the previous month. Michigan adopts the PMO as part of their dairy regulations under Section 32D.02(8)(b) of the Dairy Law. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Summary of Factual Data and Analytical Methodologies

The rule changes were developed in response to recent technological advancements, changes to industry best practices, and updates to expectations surrounding food safety. Department staff met with industry representatives including members of the Wisconsin Association of Dairy Plant Field Representatives, the Wisconsin Milk Haulers Association, the Wisconsin Cheese Makers Association, and private industry representatives. Between October 24, 2023 and May 13, 2024, this group met nine times.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

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.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

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.

The Department's Regulatory Review Coordinator may be contacted by:
Email at Bradford.Steinel@wisconsin.gov
Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

Department Contact Person

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Place Where Comments are to Be Submitted and Deadline for Submission:

Comments must be received on or before October 2, 2024 to be included in the record of rule-making proceedings. Submit comments:

By mail to:

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SECTION 1. ATPC 82.01 (1), (1s), (3), and (4) are amended to read:

ATPC 82.01 (1) "Bulk milk tanker" means a mobile bulk container used to transport milk, fluid, milk products, whey, or whey cream in bulk from a dairy farm, or to, or from, a dairy plant in this state.

"Bulk milk tanker" includes a ~~mobile bulk container which~~that is permanently mounted on a motor vehicle or ~~which~~that is designed to be towed by a motor vehicle, and includes all equipment and accessories related to the ~~mobile bulk~~ container. "Bulk milk tanker" does not include a mobile bulk container ~~which~~that is used by a milk producer solely to transport that producer's own milk to that milk producer's bulk tank or to a licensed dairy plant operated by that milk producer.

(1s) "Bulk milk weigher and sampler" means any person who ~~collects official milk samples and may transport raw milk from a farm, or raw milk or fluid milk products to, or from, a dairy plant,~~

~~receiving station, or transfer station~~ measures milk for payment purposes, collects official milk samples,
or both and is licensed under this chapter.

(3) "Dairy farm" means ~~any place where one or more milking animals are kept for the production~~
~~of milk~~ a dairy farm as defined in s. 97.22(1)(a), Stats., operated by a milk producer and includes a
milkhouse.

(4) "Dairy plant" means ~~any place where a dairy product is manufactured or processed for sale or~~
~~distribution as human food, and includes a receiving station or transfer station of the following:~~

SECTION 2. ATPC 82.01 (4) (a), (b), (c), and (d) are created to read:

ATCP 82.01 (4) (a) A place where a dairy product is manufactured or processed for sale or
distribution as human food.

(b) A receiving station.

(c) A transfer station.

(d) For the purposes of assigning milk producer license application responsibilities, a milk
contractor, or any business under par. (a) or (b) of this section, that submits a milk producers license
application on behalf of a milk producer and thereby certifies that the milk producer's dairy farm and
milking operations comply with applicable requirements of ch. ATPC 65.

SECTION 3. ATPC 82.01 (5), (7), (7m) (b), (8), and (9) are amended to read:

ATCP 82.01 (5) "Milk" means ~~the lacteal secretion of milking animals and includes skim milk~~
~~and cream~~ normal lacteal secretion that is not visibly changed in color, odor, and/or texture, practically
free of colostrum, obtained by the complete milking of one or more healthy milking animals, and includes
skim milk and cream.

(7) "Milk producer" means ~~any person who owns or operates a dairy farm, and sells or~~
~~distributes milk produced on that farm~~ a milk producer as defined in s. 97.22(1)(f), Stats.

(7m) (b) ~~Other hooved animals or camelid mammals~~ whose milk is collected and distributed for
human consumption.

(8) "Processing plant" means a dairy plant ~~engaged in pasteurizing, processing, or manufacturing milk or dairy products~~ where dairy products as defined in s. 97.20(1)(h), Stats. are processed.

(9) "Receiving station" means a facility ~~which~~ that is designed for the receipt and bulk storage of milk, ~~and which~~ and is used to receive or store milk in bulk. "Receiving station" does not include a processing plant or a facility used to distribute pasteurized milk in bottled or packaged form to consumers.

SECTION 4. ATPC 82.01 (9e), (9m), and (9s) are created to read:

ATCP 82.01 (9e) "Single-farm pick-up" means the one-time transfer of properly cooled milk originating from a single licensed milk producer's milking animals and stored in a bulk milk tank, to a bulk milk tanker owned or operated by the same licensed milk producer, or owned or operated by the producer's dairy plant or milk contractor, and the immediate transportation of that milk to the receiving plant.

(9m) "Temperature measuring device" means a device that is designed to measure and display the temperature without the ability to record the temperature of the contents of a vessel.

(9s) "Temperature recording device" means a device that is capable of measuring and recording the temperature of the contents of a vessel.

SECTION 5. ATPC 82.01 (10) is amended to read:

ATCP 82.01 (10) "Transfer station" means a facility designed and used solely to transfer milk from one bulk milk tanker or transport container to another without intervening storage.

SECTION 6. ATPC 82.02 (5) (b) and (6) (a) are amended to read:

ATCP 82.02 (5) (b) The reinspection fee under par. (a) is ~~\$60~~75.

(6) (a) An applicant for a bulk milk tanker permit shall pay a permit surcharge of ~~\$100~~125 if the department determines that, within 365 days prior to submitting the permit application, the applicant operated a bulk milk tanker without a grade A permit in violation of sub. (1m) or (7).

SECTION 7. ATPC 82.04 (1), (2), (6) (a), and (6) (b), are amended to read:

61 **ATCP 82.04 (1)** License required. Except as provided under sub. (2), no person may do either
62 of the following unless that person holds a valid bulk milk weigher and sampler license issued by the
63 department under s. 98.146, Stats., and this section, or issued by an equivalent regulatory agency in
64 another state:

65 **(2)** Buttermaker or cheesemaker; exemption. Subsection (1) does not apply to a person who
66 holds a valid buttermaker or cheesemaker license issued by the department under s. 97.17, Stats. and has
67 passed a field inspection administered by the department or another regulatory agency that grants bulk
68 milk weigher and sampler licenses, within the previous 24 months

69 **(6) (a)** *License fee.* An applicant for a bulk milk weigher and sampler license shall pay a biennial
70 license fee of ~~\$60~~75.

71 **(6) (b)** *Reinspection fee required.* If the department reinspects a bulk milk weigher and sampler
72 because the department finds a violation of ch. 97, Stats., or this chapter, the department shall charge the
73 bulk milk weigher and sampler a reinspection fee of ~~\$60~~75. The reinspection fee is payable when the
74 reinspection is completed, and is due upon written demand from the department. The department may
75 issue a demand for payment when it issues a license renewal application to the bulk milk weigher and
76 sampler.

77 SECTION 8. ATCP 82.04 (9), (9) (a), (9) (b), (10), and (11) are repealed.

78 SECTION 9. ATCP 82.06 (1) is amended to read:

79 **ATCP 82.06 (1)** Sanitary construction. Bulk milk tankers, including equipment and accessories,
80 shall be of sanitary design and construction, and shall comply with *3-A Sanitary Standards for Stainless*
81 *Steel Automotive Transportation Tanks for Bulk Delivery and Farm Pick-Up Service*, No. 3A-05-15
82 ~~(November 24, 2002)~~ 05-16 (October 31, 2016). This standard is incorporated by reference.

83 SECTION 10. ATCP 82.08 (1) (d) is amended to read:

(d) No person may operate a bulk milk tanker ~~unless the tanker bears a tag~~ there is documentation as required under sub. (4) showing that it has been cleaned and sanitized according to this section.

SECTION 11. ATCP 82.08 (1) (e) is created to read:

ATCP 82.08 (1) (e) No person may operate a bulk milk tanker to collect grade A milk unless the tanker has been cleaned and sanitized per this section in a facility that is covered by a grade A permit under sub. (6).

SECTION 12. ATCP 82.08 (2) (a) is amended to read:

ATCP 82.08 (2) (a) A bulk milk tanker, including its pumps and hoses, shall be cleaned and sanitized in a fully enclosed and heated facility. The facility shall have an impervious drained floor. The facility shall have a water supply that meets the requirements of s. ATCP 65.24(8) and (9). The facility shall be equipped with adequate hot and cold water under pressure, a wash vat, pressure sanitizing facilities, and equipment storage racks. Bulk milk tankers may be cleaned and sanitized in the same room where milk is received from those bulk milk tankers.

SECTION 13. ATCP 82.08 (3) (c) is repealed.

SECTION 14. ATCP 82.08 (4) (a) is amended to read:

ATCP 82.08 (4) (a) No person may operate a bulk milk tanker ~~unless a cleaning tag is attached~~ there is a cleaning tag or other evidence of cleaning that includes all of the following information:

SECTION 15. ATCP 82.08 (4) (a) 5. is created to read:

ATCP 82.08 (4) (a) 5. The identity of the seals or other devices used to secure all access points to the vessel.

SECTION 16. ATCP 82.08 (4) (b), (4) (c), and (6) (b) are amended to read:

ATCP 82.08 (4) (b) ~~The~~ If a cleaning tag is used, the bulk milk tanker shall have ~~a~~ the cleaning tag attached as required under par. (a) to the outlet valve or inside the pump cabinet of the tanker. No

person may remove the tag, except as provided in par. (c). Other forms of evidence must be readily accessible and must be retained as provided in par. (c).

(4) (c) Whenever a bulk milk tanker operator or bulk milk tanker cleaning facility employee cleans and sanitizes a bulk milk tanker, the last cleaning tag attached to the bulk milk tanker under this subsection shall be removed before attaching a new tag. The removed tag or other form of evidence shall be retained for at least 15 days, at the location where the ~~bulk milk tanker was cleaned and sanitized~~ tag was removed and replaced.

(6) (b) A person shall apply for a grade A permit under par. (a) ~~on a form~~ an application provided by the department. The application shall include all of the following:

SECTION 17. ATCP 82.10 (2) (b) is amended to read:

ATCP 82.10 (2) (b) A sample ~~dipper~~ device to collect samples under s. ATCP 82.12. ~~The sample dipper shall be kept in a sample dipper well designed for that purpose.~~

SECTION 18. ATCP 82.10 (2) (c) is repealed.

SECTION 19. ATCP 82.10 (2) (b) 1., (2) (b) 2., (2) (b) 3., and (2) (b) 4. are created to read:

ATCP 82.10 (2) (b) 1. If using a sample dipper, it shall be kept in a sample dipper well designed for that purpose.

(2) (b) 2. The sample dipper well shall contain a sanitizing solution of not less than 100 ppm nor more than 200 ppm chlorine or its equivalent. The bulk milk weigher and sampler shall carry a sanitizing solution test kit to test the strength of the sanitizing solution.

(2) (b) 3. If using a sampling straw, it shall be single use pre-sterilized.

(2) (b) 4. If using an automatic sampling device, the operator taking the official sample shall have the supplies needed as directed by the manufacturer's instructions.

SECTION 20. ATCP 82.10 (2) (h), (4) (a), (6) (a), (6) (b), (6) (c), (8) (title), and (8) (a) are amended to read:

ATCP 82.10 (2) (h) ~~An adequate supply of forms and a writing device method~~ to prepare milk collection records under sub. (10).

(4) (a) Before any person receives or collects milk from a dairy farm, where possible, that person shall examine the milk by sight and smell, and shall reject all milk that has an objectionable odor, that is abnormal in appearance and consistency, or that is visibly adulterated.

(6) (a) Before a bulk milk weigher and sampler ~~collects milk at a dairy farm~~ accepts milk, the bulk milk weigher and sampler shall ~~re-record~~ ensure the temperature of the milk to be collected, ~~as shown on the dairy farm bulk tank indicating thermometer~~ accepted and recorded. If the milk is collected more than 2 hours after the last milking, the bulk milk weigher and sampler shall reject the milk if the milk temperature exceeds ~~45° F. (7° C.)~~ 45 °F. (7 °C.). If milk from 2 or more milkings is collected within 2 hours of the last milking, the bulk milk weigher and sampler shall reject the milk if the milk temperature exceeds ~~50° F. (10° C.)~~ 50 °F. (10 °C.). Milk ~~which that~~ does not meet these temperature requirements may be collected if, within 4 hours after collection, the milk has begun to be processed exclusively into milk or dairy products not designated as a grade A dairy product under s. ATCP 65.01 (26) and (27).

(6) (b) At least once each month, and more often if necessary, a bulk milk weigher and sampler, or a person designated by the dairy plant as defined under this chapter, shall check the accuracy of each dairy farm bulk tank indicating thermometer or other temperature measuring device by measuring the temperature of milk in the bulk tank ~~with the bulk milk weigher and sampler's dial or digital thermometer~~ a temperature measuring device that meets the standards of this chapter. The bulk milk weigher and sampler or designated person shall keep a written record comparing the temperatures ~~re-recorded~~ indicated by the ~~bulk milk weigher and sampler's~~ calibrated thermometer with those ~~re-recorded~~ indicated by the ~~bulk tank thermometer~~ temperature measuring device. The ~~written record shall be kept in the dairy farm milkhouse~~ must be readily accessible for at least one year. In the case of a temperature recording device, the accuracy shall be checked every 6 months and verified to be within $\pm 1^{\circ}\text{C}$ (2°F) of the calibrated thermometer.

(6) (c) Before a bulk milk weigher and sampler or designated person uses a dial or digital thermometer to measure the temperature of milk ~~in a dairy farm bulk tank at the dairy farm~~, the weigher and sampler or designated person shall sanitize the stem of the thermometer in a sanitizing solution of not less than 100 ppm nor more than 200 ppm chlorine or its equivalent. The bulk milk weigher and sampler shall use the sanitizing solution according to label directions.

(8) (title) MEASURING MILK IN THE BULK TANK.

(8) (a) ~~Before~~ When measuring milk from a bulk tank at the farm, before milk is transferred from a dairy farm bulk tank to a bulk milk tanker, the bulk milk weigher and sampler shall accurately measure the amount of milk in the bulk tank. The bulk milk weigher and sampler shall measure the milk using a gauge rod or other measuring device that is specifically designed and calibrated to measure milk in the bulk tank. Immediately before using a gauge rod, the bulk milk weigher and sampler shall wipe it dry with a clean single-service disposable towel.

SECTION 21. ATPC 82.10 (8) (b) and ATPC 82.10 (8) (c) are renumbered to ATPC 82.10 (8) (a) 1. and ATPC 82.10 (8) (a) 2., and ATPC 82.10 (8) (a) 2., as renumbered, is amended to read:

ATPC 82.10 (8) (a) 2. After measuring the milk with a gauge rod or other device, the bulk milk weigher and sampler shall use that measurement to calculate the weight or volume of milk in the bulk tank using the bulk tank manufacturer's conversion chart. The bulk milk weigher and sampler shall have a method to record that weight or volume on a written collection record under sub. (10).

SECTION 22. ATPC 82.10 (8) (b), (8) (b) 1., (8) (b) 2., (8) (b) 2. a., (8) (b) 2. b., (8) (b) 2. c., (8) (b) 2. d., and (8) (c) are created to read:

ATPC 82.10 (8) (b) When measuring at the farm or receiving facility using a department approved in-line measuring device, the bulk milk weigher and sampler shall follow all manufacturer's requirements for the use of that device.

(8) (b) 1. The bulk milk weigher and sampler shall ensure the weight or volume is recorded.

181 (8) (b) 2. On-farm in-line measuring : The Department may approve a farm to use an on-farm in-
182 line measuring device to obtain the volume of milk from the dairy farm. The department may not approve
183 the dairy farm to use an in-line measuring device unless all of the following apply:

184 (8) (b) 2. a. At least one individual at the farm is a licensed bulk milk weigher and sampler under
185 this chapter.

186 (8) (b) 2. b. The in-line measuring device in use has been approved by the department to produce
187 a representative sample.

188 (8) (b) 2. c. The licensed bulk milk weigher and sampler(s) shall train all personnel who work
189 with any part of the in-line measuring device and maintain records of the training.

190 (8) (b) 2. d. All dairy farm personnel working with the in-line measuring device shall follow all
191 manufacturer's instructions for the device in use.

192 (8) (c) When measuring the milk by weight at a receiving facility, the facility shall use a certified
193 scale. The tanker shall be weighed when full and again after it has been emptied. Care must be taken to
194 assure that the configuration of the tanker is taken into account for both weighings.

195 SECTION 23. ATCP 82.10 (9) (a), (9) (b), and (9) (b) 1. are amended to read:

196 ~~ATCP 82.10 (9) (a) Before milk is transferred from a dairy farm bulk tank to a bulk milk tanker~~
197 Using an approved sampling method, a bulk milk weigher and sampler shall collect a representative
198 sample of ~~that~~ milk from the bulk tank or bulk milk tanker for testing. The bulk milk weigher and
199 sampler shall collect the test sample according to s. ATCP 82.12.

200 (9) (b) ~~No~~ If sampling takes place directly from the bulk tank, no additional milk may be added
201 to the bulk tank until after all of the following:

202 (9) (b) 1. Sampling ~~and measuring~~ has occurred.

203 SECTION 24. ATCP 82.10 (9) (b) (1) (m) is created to read:

204 (9) (b) 1. m. If the tank is going to be measured, the measuring has occurred

205 SECTION 25. ATCP 82.10 (9) (c) is created to read:

ATCP 82.10 (9) (c) If sampling and measuring takes place downstream from the bulk tank by approved in line sampling and measuring devices, pre-cooled milk may be added to the bulk tank during the loading of the milk.

SECTION 26. ATCP 82.10 (10), (10) (c), (10) (d), (10) (e), (11) (a), (11) (am) 1., and (11) (am) 4. are amended to read:

ATCP 82.10 (10) MILK COLLECTION RECORD. ~~Whenever a bulk milk weigher and sampler collects a milk shipment from a dairy farm, the bulk milk weigher and sampler shall make a written or electronic collection record for that shipment. One duplicate or electronically printed copy of the collection record shall be posted in the dairy farm milkhouse, and an identical copy shall be provided to the dairy plant operator when the milk is delivered to a dairy plant. Before a bulk milk weigher and sampler accepts milk, the bulk milk weigher and sampler shall ensure the following information regarding the milk to be accepted is recorded. The information shall be readily available at the dairy farm and provided to the dairy plant operator before or at the time the milk is delivered to the dairy plant. The collection record shall be legibly signed or initialed by~~ include the legible unique identifier of the bulk milk weigher and sampler and shall include all of the following:

(10) (c) The date and time when the milk was sampled and ~~collected~~ accepted.

(10) (d) The temperature of the milk when ~~collected~~ accepted, as determined by the bulk milk weigher and sampler under sub. (6).

(10) (e) The weight or volume of milk ~~collected~~ accepted, as determined by the bulk milk weigher and sampler under sub. (8).

(11) (a) ~~After~~ When collecting milk from a farm bulk tank, after a bulk milk weigher and sampler has sampled milk from a dairy farm bulk tank under sub. (9) and prepared a complete collection record under sub. (10), the bulk milk weigher and sampler may transfer milk from that bulk tank to the bulk milk tanker. A bulk milk weigher and sampler may not collect milk from any container on a dairy farm other than from a bulk tank. Except as provided in par. (am), partial removal of milk from the bulk

tank shall only be permitted if the bulk tank is completely emptied, cleaned, and sanitized prior to the addition of more milk to the bulk tank.

(11) (am) 1. The bulk tank is equipped with a 7 day recording device approved by the department as specified in s. ATCP 65.14 ~~(6)~~ 16(3).

(11) (am) 4. The bulk milk weigher and sampler indicates the time and date on the ~~recorder~~ recording chart or electronic record when a partial pickup is made and when the bulk tank is emptied.

Section 27. ATCP 82.12 (1) (b) is amended to read:

ATCP 82.12 (1) (b) A bulk milk weigher and sampler who collects milk from a dairy farm bulk tank using a dipper shall collect the milk sample under par. (a). The bulk milk weigher and sampler shall collect the milk sample from the bulk tank before the bulk milk weigher and sampler transfers the bulk tank contents to a bulk milk tanker. The bulk milk weigher and sampler shall collect the sample according to sub. (2). The milk sample may not be commingled with a milk sample from any other bulk tank.

Section 28. ATCP 82.12 (1) (bm) is created to read:

ATCP 82.12 (1) (bm) A bulk milk weigher and sampler who collects milk using an in-line sampling device shall collect the milk sample under par. (a). The bulk milk weigher and sampler shall collect the milk sample from a department approved in-line sampling device following the procedures set forth by the department for that type of sample. The milk sample may not be commingled with a milk sample from any other bulk tank.

Section 29. ATCP 82.12 (1) (c) is amended to read:

ATCP 82.12 (1) (c) If a milk producer milks directly to a bulk milk tanker, an individual licensed under s. 98.146 or 97.17, Stats., shall collect a milk sample under par. (a) from the bulk milk tanker before the tanker contents are commingled with milk from any other milk producer. The individual shall collect the sample according to sub. ~~(32)~~ (32). The milk sample may not be commingled with a milk sample from any other bulk milk tanker or dairy farm bulk tank.

Section 30. ATCP 82.12 (2) (a) is created to read:

ATCP 82.12 (2) (a) Sampling procedure, dipper

Section 31. ATCP 82.12 (2) (a), ATCP 82.12 (2) (b), ATCP 82.12 (2) (c), ATCP 82.12 (2) (d) are renumbered to ATCP 82.12 (2) (a) 1., ATCP 82.12 (2) (a) 2., ATCP 82.12 (2) (a) 3., and ATCP 82.12 (2) (a) 4.

Section 32. ATCP 82.12 (2) (b), (2) (b) 1., (2) (c), (2) (c) 1., (2) (c) 2., (2) (c) 2. a., (2) (c) 2. b., (2) (c) 2. c., and (2) (c) 2. d. are created to read:

ATCP 82.12 (2) (b) Sampling procedure, silo

(2) (b) 1. The bulk milk hauler and sampler shall collect the sample from the dairy farm silo after the silo contents have been thoroughly mixed to ensure that the sample is representative. If the silo manufacturer has agitation recommendations that have been accepted by the department, the silo shall be agitated in the bulk milk weigher and sampler's presence for the length of time specified by the manufacturer. If the silo manufacturer has not specified an agitation time, or the agitation time recommended by the manufacturer has not been found to be acceptable, there shall be an alternative sampling means that accurately represents the milk on the load.

(2) (c) Sampling procedure, in-line sampler

(2) (c) .1. Truck mounted in-line sampling: The bulk milk weigher and sampler shall collect a sample from each dairy farm following the manufacturer's instructions for the proper operation for the sampling device in use. The in-line sampling device must be approved by the department to produce a representative sample for each dairy farm while preventing carry-over from one farm sample to another on multiple farm loads.

(2) (c) 2. On-farm in-line sampling: The department may approve a farm to use an on-farm in-line sampling device to obtain the sample from the dairy farm. The department may not approve the dairy farm to use an in-line sampling device unless all of the following apply:

(2) (c) 2. a. The department has licensed at least one individual at the farm as a bulk milk weigher and sampler.

(2) (c) 2. b. The in-line sampling device in use has been approved by the department to produce a representative sample.

(2) (c) 2. c. The licensed bulk milk weigher and sampler(s) shall train all personnel who work with any part of the in-line sampling device and maintain records of the training.

(2) (c) 2. d. All dairy farm personnel working with the in-line sampling device shall follow all manufacturer's instructions for the device in use.

Section 33. ATCP 82.12 (5) (a) is amended to read:

ATCP 82.12 (5) (a) A producer identification number, assigned by the dairy plant operator, ~~that~~ which uniquely identifies the milk producer.

Section 34. ATCP 82.14 (title), (1) and (2) are amended to read:

ATCP 82.14 (title) Delivering milk or milk products to dairy plant.

(1) Except in the event of a traffic accident, vehicle breakdown, or similar emergency, no milk or milk products from a bulk milk tanker may be unloaded from a bulk milk tanker or transferred to another bulk milk tanker at any place other than a dairy plant licensed under s. 97.20, Stats., and s. ATCP 65.04, or a dairy plant licensed under equivalent laws of another state. If milk is unloaded or transferred at any location other than a licensed dairy plant, the person having custody of the milk shall notify the department of that unloading or transfer before that milk is processed or shipped to any other location.

(2) Milk or milk products shall be unloaded or transferred from a bulk milk tanker in a manner that avoids contamination of milk or milk contact surfaces. Air entering a bulk milk tanker when the tanker is unloaded shall be filtered to prevent contamination of milk and milk contact surfaces.

Section 35. ATCP 82.16 (title), (1), (1) (a), and (1) (b) are created to read:

ATCP 82.16 (title) Records.

(1) An operator shall keep all records for the time frames required under this chapter and shall make them available to the department for inspection or copying upon request.

(1) (a) An operator may keep records in hard copy or electronic format, or both, provided that the department can obtain ready access to the records.

(1) (b) An operator shall take reasonable security measures to prevent record loss, damage, or tampering.

Section 36. ATCP 82.16 (title), ATCP 82.16 (1), ATCP 82.16 (2), ATCP 82.16 (3), and ATCP 82.16 (4) are renumbered to ATCP 82.16 (2), ATCP 82.16 (2) (a), ATCP 82.16 (2) (b), ATCP 82.16 (2) (c), and ATCP 82.16 (2) (d), and ATCP 82.16 (2), as renumbered, has been amended to read:

ATCP 82.16 (2) ~~False~~-Falsifying samples or records. No person may do any of the following, or conspire with another person to do any of the following:

SECTION 37. EFFECTIVE DATE. This rule adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22(2)(intro.), Stats.

(END OF RULE TEXT)

Dated this 5 day of November, 2024.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Randy Romanski, Secretary

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 16th day of September, 2024.

STATE OF WISCONSIN DEPARTMENT OF
AGRICULTURE, TRADE AND CONSUMER
PROTECTION

By *Adam Brock*

Administrator, Division of Food & Recreational Safety

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 09/16/2024								
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ATCP 82 Bulk Milk Collection, Sampling, and Transportation									
4. Subject Increase in the reinspection fee and the fee for operating without a license for bulk milk tankers (BMT), increasing the licensing and resinspection fee for Bulk Milk Weigher and Samplers (BMWS), and removing the need for a BMWS license for industry staff completing certain functions on an approved automated sampling device if they are trained by a licensed BMWS.									
5. Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.115(1)(gb) and 20.115(1)(gm)								
7. Fiscal Effect of Implementing the Rule <table style="width: 100%;"><tr><td><input type="checkbox"/> No Fiscal Effect</td><td><input checked="" type="checkbox"/> Increase Existing Revenues</td><td><input type="checkbox"/> Increase Costs</td><td><input type="checkbox"/> Decrease Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td colspan="2"><input type="checkbox"/> Could Absorb Within Agency's Budget</td></tr></table>		<input type="checkbox"/> No Fiscal Effect	<input checked="" type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	<input type="checkbox"/> Decrease Costs	<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget	
<input type="checkbox"/> No Fiscal Effect	<input checked="" type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	<input type="checkbox"/> Decrease Costs						
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget							
8. The Rule Will Impact the Following (Check All That Apply) <table style="width: 100%;"><tr><td><input checked="" type="checkbox"/> State's Economy</td><td><input checked="" type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)</td></tr></table>		<input checked="" type="checkbox"/> State's Economy	<input checked="" type="checkbox"/> Specific Businesses/Sectors	<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers	<input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
<input checked="" type="checkbox"/> State's Economy	<input checked="" type="checkbox"/> Specific Businesses/Sectors								
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers								
<input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)									
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$18,900 annually									
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No									
11. Policy Problem Addressed by the Rule Since the rule was last updated, significant changes have occurred to industry standards surrounding bulk milk collection, sampling, and transportation. The proposed rule change makes allowances for the new technologies and procedures adopted by industry while maintaining flexibility in the rule to account for future innovations. The current fees for bulk milk weigher and samplers and bulk milk tankers do not cover the costs of inspections.									
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule change generally affects the dairy industry, and specifically affects businesses operating bulk milk tankers. Department staff along with industry representatives from the Wisconsin Association of Dairy Plant Field Representatives, the Wisconsin Milk Haulers Association, the Wisconsin Cheese Makers Association, and private industry representatives participated in a rules advisory committee to draft the proposed rule. No comments on the economic impact of the proposed rule were received.									
13. Identify the Local Governmental Units that Participated in the Development of this EIA. Grade A standards for bulk milk collection, sampling, and transportation are regulated by the State of Wisconsin's Department of Agriculture, Trade, and Consumer Protection. Local governmental units are not impacted by this rule and did not participate in development of this EIA.									
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) 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									

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

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.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Implementing the rule would help cover the rising costs of conducting inspections and reinspections across Wisconsin, and would reduce the costs of obtaining and maintaining BMWS licenses for operators conducting functions on an automated sampling device where there is not a significant threat to food safety. The fees associated with reinspections and licensing inspections do not cover the cost incurred in conducting these inspections. Failure to raise the fees would necessitate use of other funding streams to cover costs.

16. Long Range Implications of Implementing the Rule

Implementing this rule does not impact Wisconsin's substantial compliance with the Food and Drug Administration's (FDA's) Grade A Pasteurized Milk Ordinance (PMO) and, therefore, our ability to continue shipping Grade A milk and milk products in interstate commerce. The economic impact of the additional fees in the proposed rule will not effect Wisconsin's dairy-related businesses ability to fairly compete against dairy businesses in other states.

17. Compare With Approaches Being Used by Federal Government

The Food and Drug Administration's (FDA's) Grade A Pasteurized Milk Ordinance (PMO) establishes minimum regulatory standards for Grade A dairy products. States must enact standards substantially equivalent to, or more stringent than, those in the PMO to be allowed to ship Grade A milk in interstate commerce. The proposed rule changes are consistent with the PMO.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois

Illinois regulates licensing and permitting of grade A tankers and bulk milk weigher and samplers under the Illinois Compiled Statutes, Grade A Pasteurized Milk and Milk Products Act, (410 ILCS 635/). Illinois completes inspections, and issues a grade A permit after inspection. Illinois charges fees associated with these grade A inspections. Section 5.1 of the Grade A Pasteurized Milk and Milk Products Act states the Illinois Department of Public Health shall charge a fee of \$100 for each permit issued to a milk plant, \$50 for each permit issued to a receiving station, \$25 for each permit issued for a milk tank truck, and \$100 for each certified pasteurizer sealer. In addition to such fees, the Illinois Department of Public Health shall assess a late fee if an application for renewal is received after the expiration date of the existing permit. The late fee shall be \$50 for a permit issued to a milk plant, \$25 for a permit issued to a receiving station, transfer station, or cleaning and sanitizing facility, and \$15 for a permit issued to a milk hauler-sampler. Illinois adopts the PMO as part of their dairy regulations under Illinois Administrative Code Title 77, Chapter I, Part 775.20. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Iowa

Iowa adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weigher and samplers under the Iowa Grade 'A' Milk Inspection Law (91 Acts, ch. 74, §11). Iowa completes inspections, and issues a grade A permit after inspection. Iowa charges fees associated with these grade A inspections. The Iowa Grade 'A' Milk Inspection Law states the Department shall charge a fee no greater than \$2,000 for each permit issued to a milk plant, no greater than \$400 for a receiving station, no greater than \$20 for a milk hauler, and no greater than \$50 for bulk milk tankers. A reinspection fee exists for all permits required that shall not be greater than \$40. A person who renews a permit and submits any accompanying renewal fee more than 30 days after the date that the renewal period expires shall pay a late fee equal to 10% of the of the permit renewal fee - however, in no instance shall the fee be less than \$25. Iowa adopts the PMO as part of their dairy regulations under Section 192.102 of the Iowa Grade 'A' Milk Inspection Law. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

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Michigan

Michigan adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weighers and samplers under the Michigan Compiled Laws (MCL), Grade A Milk Law of 2001 (Act 266 of 2001). Michigan completes inspections, and issues a grade A permit after inspection. Michigan charges fees associated with these grade A inspections. Sections 288.501 and 288.503 of the Grade A Milk Law of 2001 state the Michigan Department of Agriculture shall charge a license or renewal fee annually for dairy plants. The fee varies by the amount of production at the plant, but the fee shall not exceed \$1,600 per year. A \$10 late fee may be imposed each business day the application is late; however, the fee shall not exceed \$100. Each receiving station or transfer station must be licensed or permitted at a rate of \$250 per year. Each milk tank truck cleaning facility that cleans milk contract surfaces of milk tank trucks that is not a part of a dairy plant will be licensed or permitted at a rate of \$250 per year - facilities that are a part of a dairy plant do not have to pay a separate licensing fee. Each milk transportation company must be licensed at a rate of \$50 per year. Each milk tank truck must be licensed or permitted at a rate of \$20 each year. A hauler/sampler license shall be issued to anyone picking up and sampling grade A milk, and this license shall incur a fee of \$50 every two years, with an allowance for the initial license fee to be paid in two \$25 installments. The Michigan Department of Agriculture may assess a \$300 fee on any licensee or permittee requiring the performance of two or more consecutive reinspections or for compliance of items found in violation. Michigan adopts the PMO as part of their dairy regulations under Section 288.490 of the Grade A Milk Law of 2001. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

Minnesota

Minnesota adopts the PMO and regulates licensing and permitting of grade A tankers and bulk milk weighers and samplers under the Minnesota Statutes, Dairy Law (chapter 32D). Minnesota completes inspections, and issues a grade A permit after inspection. Minnesota charges fees associated with these grade A inspections. The Dairy Law states a person collecting milk from a dairy farm and transporting the milk by bulk pickup from farm to plant must obtain a bulk milk hauler and sampler license, which shall include an initial and annual renewal fee of \$60. A \$30 late fee shall be imposed if a late renewal occurs. All farm bulk milk pickup tankers, milk transports, and tankers used to transport milk products must obtain a permit every twelve months at a fee of \$25 per tanker. A pasteurization plant requesting grade A inspection must pay an annual inspection fee of no more than \$500. A manufacturing plant that pasteurized milk or milk by-products must pay an annual fee based on the number of pasteurization units, but the fee must not exceed \$140 per unit. A dairy plant operator must pay a monthly fee of 1.1 cents per hundredweight of milk purchased the previous month. Michigan adopts the PMO as part of their dairy regulations under Section 32D.02(8)(b) of the Dairy Law. The PMO allows for regulatory agencies to impose a monetary penalty in lieu of permit suspension.

19. Contact Name

Troy Sprecker - Director, Bureau of Food and Recreational Business

20. Contact Phone Number

(608) 234-2977

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

A biennial licensing fee of \$75 (formerly \$60) is proposed for bulk milk weigher and samplers. This will be issued to each of the approximately 2,500 licenses across the state. Annually, this will cause an increased cost of approximately \$18,750 distributed across all license holders.

A reinspection fee of \$75 (formerly \$60) is proposed for bulk milk weigher and samplers and for bulk milk tankers. In the past 24 months, 20 combined reinspections have been conducted for these license types. Annually, this will cause an increased cost of approximately \$150.

An operating without a permit fee of \$125 (formerly \$100) is proposed for bulk milk tankers. The department has not issued a fee for this violation in the past 24 months, so there is no estimated cost increase related to this fee change.

An exception to licensing requirements for certain industry staff when a trained industry supervisor exists at the facility is proposed for bulk milk weigher and samplers. In addition, industry staff who are completing certain tasks on an automated sampling device will no longer need to hold a bulk milk weigher and sampler license. Since the department is unable to determine the number of industry representatives who will be impacted by these rule changes, the exceptions were not accounted for in the economic impact calculations.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The department used licensing and inspection data available in their CRM system to determine the Rule's impact on small businesses.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☒ Less Stringent Compliance or Reporting Requirements
- ☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
- ☒ Consolidation or Simplification of Reporting Requirements
- ☐ Establishment of performance standards in lieu of Design or Operational Standards
- ☐ Exemption of Small Businesses from some or all requirements
- ☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

An exception to licensing requirements for certain industry staff when a trained industry supervisor exists at the facility is proposed for bulk milk weigher and samplers. This will reduce the number of staff at a facility that need to hold and maintain a bulk milk weigher and sampler license when a trained industry supervisor exists at the facility.

Industry staff who are completing certain tasks on a automated sampling device will no longer need to hold a bulk milk weigher and sampler license under the proposed rule. This change will alleviate the licesing fee for staff who are performing basic tasks that do not have an impact on food safety or the validity of samples.

An update to the reporting requirements is proposed in all relevant sections of the rule to more clearly define the rules regarding electronic record keeping. These changes also reduce or eliminate the requirements for industry representatives to keep and maintain equipment related to paper record keeping (writing utensils, paper, physical records, etc.). This change will allow for industry representatives to maintain their current record keeping procedures if they wish, or allow

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them to pursue a wider variety of record keeping options that may be more time efficient or cost effective.

5. Describe the Rule's Enforcement Provisions

Wis. Stat. ss. 93.21 details penalties for obstructing officers, violation of order or regulation, failure to obey orders, and late filing fees.

Wis Stat. ss. 97.71 details the suspension or revocation of licenses. Wis. Stat. ss. 97.72 details criminal and civil penalties for violations of Wis. Stat. ch. 97. Wis. Stat. ss. 97.73 details injunctions.

Wis. Stat. ss. 98.26 details penalties and injunctions under Wis. Stat. ch. 98.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No
