

Assembly Hearing Slip

(Please print plainly)

Date: 11/13/97

Bill No. _____
Or, _____
Subject: CREWELL'S HOUSE RULE #97

JENNIFER BOEDAL
(Name)

121 S. Pickering St #310
(Street Address or Route Number)

Madison WI, 53703
(City & Zip Code)

Recreation Markets Assoc of WI
(Representing)

- Speaking In favor:
- Speaking against:
- Registering In favor:
- Registering against:
- Speaking for Information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: Nov. 13 97

Bill No. _____
Or, _____
Subject: Cleaninghouse Rule

TOIN CERKASZEW
(Name)

11664 Riverbend Dr
(Street Address or Route Number)

Kaukauna WI 54130
(City & Zip Code)

WGA Self-Know's Markets Inc
(Representing)

- Speaking In favor:
- Speaking against:
- Registering In favor:
- Registering against:
- Speaking for Information only:
- Neither for nor against:

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Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 11-13-97

Bill No. _____
Or, _____
Subject: DTPC Fee Increase

Timothy M. Justices
(Name)

1935 Division
(Street Address or Route Number)

Stevens Point, WI, 54481
(City & Zip Code)

The Coops Corporation
(Representing)

- Speaking In favor:
- Speaking against:
- Registering In favor:
- Registering against:
- Speaking for Information only:
- Neither for nor against:

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Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly).

Date: _____

Bill No. _____
Or _____

Subject _____

Pat Simpson
(Name)

1004 S. Division St
(Street Address or Route Number)

Deerwater WI 53597
(City & Zip Code)

COPS Corp.
(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: November 13, 1997

Bill No. Assembly Rule 97-38
Or _____

Subject Food Processing License Fees

Paul Julius
(Name)

502 E. Main
(Street Address or Route Number)

Madison WI 53703
(City & Zip Code)

Midwest Food Processors Assn
(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 11-13-97

Bill No. Clearing Lake Rule 97-38
Or _____

Subject Dairy License Fees

Ron R. Stutz
(Name)

PO Box 663
(Street Address or Route Number)

Sauk City WI 53583
(City & Zip Code)

NFD
(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

*SPEAK FIRST
(APPROX DATE) ✓

Assembly Hearing Slip

(Please print plainly)

Date: 11/13/97

Bill No. 97-

Or Subject: CLEARING HOUSE BUS

(Name) GARY R. PETERSEN

(Street Address or Route Number) 579 W 23385 MILCREEK

(City & Zip Code) WAUKESHA, WI 53186

(Representing) ROUNOY'S

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

✓

Assembly Hearing Slip

(Please print plainly)

Date: 11-13-97

Bill No. Dairy Safety Rule

Or Subject: Dairy Safety Rule

(Name) John Manske

(Street Address or Route Number) 30 W. MILLER

(City & Zip Code) Madison WI 53703

(Representing) WI Fed of Leaps

Speaking in favor: Dairy position only

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 11/13/97

Bill No. Cleaninghouse # 97-038
Or. Food & Dairy Fee Proposal
Subject Steele Steinhoff

(Name) Steele Steinhoff

(Street Address or Route Number) 2811 Agricultural Dr.

(City & Zip Code) Madison, VT 53708

(Representing) W's Dept Ag-TEP
DUI Food Safety

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, VT 53702

Assembly Hearing Slip

(Please print plainly)

Date: 11/13/97

Bill No. Dairy Fees
Or.
Subject Brad Legreid

(Name) Brad Legreid

(Street Address or Route Number) 8383 Greenway Blvd

(City & Zip Code) Middleton 53562

(Representing) W's Dairy Products Assn.

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, VT 53702

Dairy, food license fees to increase

By Janelle Thomas

Regional Editor

MADISON — Dairy and food license fees will go up by \$600,000 following action taken by Assembly Agriculture Committee chairman Al Ott, R-Forest Junction, during a hearing Nov. 13.

The state's Department of Agriculture, Trade and Consumer Protection, which enforces food safety laws, is projecting a program deficit in its food safety budget for fiscal year 1997-98.

The proposal put before the Assembly Agriculture Committee increases the monthly milk procurement fee for Grade A milk from 0.4 cents per hundredweight to 0.6 cents per hundredweight, resulting in a \$360,000 increase from dairy businesses. It increases food processing fees and retail food inspection fees by \$240,000.

The Assembly Agriculture Committee held both a briefing and a hearing to address the issue of covering the deficit. Last Thursday Rep. Ott denied a Democratic motion that would have forced a vote on the proposed \$600,000 fee increase. Instead the fee will be implemented without a vote. This is the first time he exercised his right as chairman to deny a motion, Rep. Ott told The Country Today.

"Although I do not support the increasing of fees to fund government programs, I believe that the fee increases proposed by DATCP are acceptable at this time," Rep. Ott said.

Rep. Ott listed a number of reasons it is important to move ahead with funding the pro-

gram's deficit:

- Delaying the fee increase could negatively impact the state's businesses and farmers. By failing to pass this rule, inspections would be limited to keep the department within the budget. This would increase the potential for food safety problems that other states have seen such as E.Coli outbreaks and other potentially deadly foodborne illness hazards.

- Legislatures are still free to propose a separate legislation to directly deal with the fee increase, but postponing the Assembly Agriculture Committee's action would have postponed fee implementation that might lead to the food safety problems already mentioned.

- To address concerns about possible inefficiencies, the department created an efficiency task force to review all inspection programs. Once the task force completes its review, it will be a valuable source of information in developing future budgets for administrative departments in the next legislative session.

- Any attempts to object to or delay the rule would place a serious burden on the department's task force's efforts to review the efficiency of all administrative inspection programs.

- The Senate Agriculture Committee never had a briefing or a public hearing on the issue,

debunking any possible partisan argument that Republicans are anti-farmer. This rule has nothing to do with partisan politics, he said.

- DATCP made an extensive effort to establish the fee package, including a reduction in originally proposed fees. This included a review by the DATCP citizen board and public hearings before bringing the rule before the legislature. The Assembly is the third gate the rule has passed. Partisan politics played no role in the previous gates, Rep. Ott said.

- During the last session, the state legislature passed a policy change which changed the GPR to fee ration from 60 percent GPR to 40 percent fee to the existing 50-50 ration.

State Rep. Tom Springer, D-Mosinee, criticized the proposed increase in dairy and

food license fees in a press release.

"The Assembly Republican leadership is wrong if they think they can sneak through this increase and farmers won't know it," Rep. Springer said. "I am totally opposed to this increase."

"I am outraged that the committee chairs in the Assembly and the Senate would let this fee go into effect without giving us an opportunity to vote on it. There are other ways to fund this program without digging into farmers' pockets," Rep. Springer said in a press release.

Rep. Springer said the state should fund any short-term budgetary shortages to DATCP until they complete the efficiency study.

"Once fees are in place it rare that they every do down again. A better solution would be to let the state provide the funds to run its agency. Once the efficiency study has been complete we will know how much money is needed to continue to run for safety inspection," Rep. Springer said.

"But then Republican leadership decided it would be easier stick it to the farmers be lettir DATCP write a rule to raise tl fees," he said.

Before 1987, the state funded food inspection programs. Since then a fee system has been in place requiring dairies, food processors and retail food establishments to pay licensing fee. In the 1995-96 biennial budget fees to fund tl program were increased from 4 percent to 50 percent of program costs.

"This is just another example of how the last Republican budget stole from Peter to give Paul. On the one hand they say they're going to lower property taxes, and then they raise you fees. And after this year property taxes are projected to rise again Rep. Springer said. "They need to stop sneaking through these fee increases and be honest with the taxpayers and the farmers."

"This is not a political issue. We are dealing with the quality of food that we eat. Therefore any attempt to make this a partisan issue is not warranted and should not be tolerated by the citizens of Wisconsin," Rep. O said.

"Although I do not support the increasing of fees to fund government programs, I believe that the fee increases proposed by DATCP are acceptable at this time."

— Rep. Al Ott, R-Forest Junction

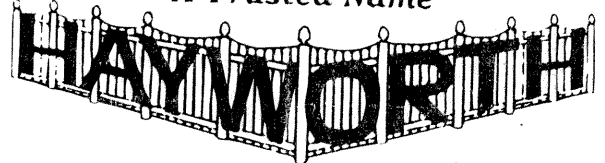
FARMING NEEDS ...

Forage Handling Systems
Feeding Handling Systems
Manure Handling Systems



Replacement Barn Cleaners, Chains and Clusters

"A Trusted Name"



Some ~~other~~ way other

Sept. If the (State) has to pay for this ~~rule~~, what I would support, ↑ GPR, Tell me where the \$\$ is going to come from.

debate. Those ~~discussions~~ will look @ issues like level of service, duplication of service, cost effectiveness, ~~budget~~ level - this to be done prior to and for developing budget proposal

6. Further delay of this rule ~~would~~ ^{could} have some ~~negative~~ ^{for next session} sudden ^{negative} impacts on maintaining ~~necessary~~ inspections necessary for out of state marketing.

- affecting exports + laying off inspectors.

7. Legislators can still institute separate legislation to deal directly with this issue. The rule ~~overrule~~ by legislative committee is only an option available to affect policy. We as a committee could've offer a recommendation or objection.

8. Most of all a committee's objection and sending the rule back, when so much effort and compromise has already taken place would only burden the effort to accomplish a very successful review by the efficiency Task Force and their anticipated recommendations.

Ad's ~~...~~

How long has this rule been in ~~...~~ the process

Keep Fee increase to ~~...~~ the

Ag Comm. - notes
CR-

Fall of
last year
came to Board
March 1997

11-13-97

ARJ

Dem. controlled

(If this is going to be a partisan issue)

(85% of products are sold
out of state)

1) The Senate Ag. Committee, never as much as had a Briefing session for Committee members, and further more never had a public hearing on this "controversial issue."

2) The DATCP has gone thru and extensive and responsible effort in establishing the fee package - including reducing fee increases originally submitted. - this includes earnest review by the DATCP Board ^{and Public.} prior to their approving the rule and it coming to the Leg.
this is third review process

3) The legislature last session passed a policy change that change the OPR support from 60% vs 40% user to a 50/50 cost split.

4) The ^{current} state budget is passed and ^{on a bi-partisan vote} signed into law by the Gov. and thereby creating a serious budget problem for DATCP on top of the policy change concerning cost recovery.
He wants the Dept. to absorb this cost until the Task Force is done. ~~possibly~~ possibly w/ inspections in the meantime

5) This is presented by DATCP as a stop gap measure, until action is take on efficiency study and the efficiency task force ^{review that will} is in place to deal with issues of concern raised during public



Al Ott

State Representative • 3rd Assembly District

Listing of points in support of Al Ott's action in the Assembly Committee on Agriculture on November 13, 1997.

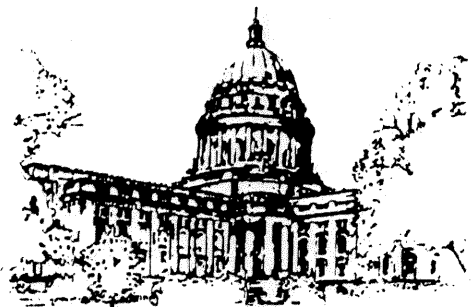
Although I do not support the increasing of fees to fund government programs, I believe that the fee increases proposed by DATCP are acceptable at this time and necessary because of the following reasons;

1. The Democrat controlled Senate Agriculture Committee, chaired by Senator Alice Clausing, never held a briefing session, much less a formal public hearing on this "controversial" issue. This debunks any possible "partisan" argument that Republicans are "anti-farmer". This rule has nothing to do with partisan politics.
2. DATCP has put forth an extensive and thorough effort to establish the fee package, including a reduction the originally proposed fees. This included an earnest review by the DATCP board and public input via public hearings throughout the state before bringing this rule before the legislature. Therefore, the Assembly is the third "gate" that this rule has passed. Throughout the prior two "gates," partisan politics played no role in the rule making process.
3. Although this rule was officially introduced in March of 1997, the rule has been known to exist and possible increases have been talked about and recommended since fall of 1996.
4. During the last legislative session, the state legislature successfully passed a policy change which changes the GPR to fee ratio from 60% GPR to 40% fee to the current 50-50 ratio.
5. Passed with overwhelming bipartisan support and signed into law by the governor, the 1997-98 state budget created serious budget restraints for all administrative agencies. Although I support increasing the amount of GPR and reducing the fees for inspection purposes, budget limitations make this option difficult. Unfortunately, in order to maintain a high level of inspections, money must be acquired through the use of fees.
6. Should this rule be postponed further, DATCP is presented with a stoppage of inspections. To address concerns about possible inefficiencies, the department has created an efficiency task force to review all inspection programs to determine if there exists the means to make the inspection process more effective. The task force is composed of members from all effected groups. Once the task force has carefully looked into this situation, concerns can then be debated and the effectiveness and the

efficiency of the fee system can be evaluated. These discussions will look at issues such as level of service, duplication of service, cost effectiveness and budgeting levels. Once the survey is completed it will be a valuable source of information in developing future budgets for administrative departments in the next legislative session.

7. Any further delay in this rule could have a serious negative impact on Wisconsin businesses and farmers. By failing to pass this rule, a reduction in the number of inspections in order to keep the department in step with their budget restrictions becomes a serious concern. Because 85% of all agriculture products made in Wisconsin are exported, any reduction in inspector staffing could be disastrous in that the quantity of goods will be significantly reduced or the quality of these goods will be sacrificed. We have all heard about the dangers of ecoli at the Hudson foods facility in Nebraska. There have been major instances where food was contaminated, and food contamination is a problem that everyone must be concerned with. Limiting inspections increases the potential for future problems.
8. Although there has been no action taken by my committee, legislators are still free to proposed separate legislation to directly deal with this fee increase. The rule oversight done by the Assembly Committee on Agriculture is one option available to change policy. Any objection by the committee would have postponed the implementation of these fees, and as seen in point 7, this is not an acceptable scenario.
9. **Any attempt to object or delay the rule would place a serious burden on the efforts of the Task Force to review the efficiency of all administrative inspection programs.** Once the task force has carefully researched and debated the current system, any recommendations or changes which are deemed necessary may be addressed via a new administrative rule or an emergency rule, should time be an issue. As always, new legislation can be proposed to address the fee situation.

This is not a political issue. We are dealing with the quality of food that we eat. Therefore any attempt to make this a partisan issue is not warranted and should not be tolerated by the citizens of Wisconsin.



STATE REPRESENTATIVE
TOM SPRINGER

MADISON OFFICE
P.O. BOX 8953
MADISON, WI 53708
(608) 266-1182

LEGISLATIVE HOTLINE
1-800-362-9472

For immediate release
Additional information available
upon request.

For more information contact:
Representative Tom Springer
608/266-1182 or 715/693-1105

Springer Slams Proposed Increases in Dairy Fees

Madison, WI — State Representative Tom Springer (D-Mosinee) criticized a proposed increase in dairy and food license fees today.

“The Assembly Republican leadership is wrong if they think they can sneak through this increase and farmers won’t know it,” Springer said. “I am totally opposed to this increase.”

Wisconsin’s Department of Agriculture, Trade and Consumer Protection, which enforces food safety laws, is projecting a program deficit in its food safety budget for fiscal year 1997-98.

To cover the deficit, a hearing was held in the Assembly Agriculture committee, chaired by Republican Representative Al Ott to increase fees by \$600,000. Ott denied a motion by Democrats which would have forced a vote on the fee increase. Instead, the fee will be implemented without a vote from the committee members.

“I am outraged that the committee chairs in the Assembly and Senate would just let this fee go into effect. There are other ways to fund this program without digging into farmer’s pockets,” Springer stated.

The proposal would increase the monthly milk procurement fee for Grade A milk from 0.4 cents per hundredweight to 0.6 cents per hundredweight, resulting in a \$360,000 increase from dairy businesses. It would also increase food processing fees and retail food inspection fee by \$240,000.

The Department of Agriculture, Trade and Consumer Protection has begun an efficiency study to review their own procedures to find ways of cutting costs and improving services of the inspection officials.

Springer feels that the state should fund any short-term budgetary shortages to DATCP until the efficiency study has been completed.

“Once fees are in place it’s rare that they ever go down again. A better solution would be to let the state provide the funds to run its agency. Once the efficiency study has been completed, we will know how much money is needed to continue to run food safety inspection,” he said. “But the Republican leadership decided it would be easier to stick it to the farmers by letting DATCP write a rule to raise the fees. “

Before 1987, the state fully funded food inspection programs. Since 1987, a fee system has been developed which requires dairy plants, food processors and retail food establishments to pay a licensing fee. In the 1995-97 biennial budget, fees to fund the program were increased from 40% to 50% of program costs.

“This is just another example of how the last Republican budget stole from Peter to give to Paul. On the one hand they say their going to lower property taxes and then they raise your fees. And after this year property taxes are projected to rise again,” Springer said. “They need to stop sneaking through these fee increases and be honest with the taxpayers and the farmers.”



Al Ott

State Representative • 3rd Assembly District

602-238-2023
TO: BOB SOUSTRA
FROM: Al Ott

Listing of points in support of Al Ott's action in the Assembly Committee on Agriculture on November 13, 1997.

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4. During the last legislative session, the state legislature successfully passed a policy change which changes the GPR to fee ratio from 60% GPR to 40% fee to the current 50-50 ratio.
5. Passed with overwhelming bipartisan support and signed into law by the governor, the 1997-98 state budget created serious budget restraints for all administrative agencies. Although I support increasing the amount of GPR and reducing the fees for inspection purposes, budget limitations make this option difficult. Unfortunately, in order to maintain a high level of inspections, money must be acquired through the use of fees.
6. Should this rule be postponed further, DATCP is presented with a stoppage of inspections. To address concerns about possible inefficiencies, the department has created an efficiency task force to review all inspection programs to determine if there exists the means to make the inspection process more effective. The task force is composed of members from all effected groups. Once the task force has carefully looked into this situation, concerns can then be debated and the effectiveness and the

efficiency of the fee system can be evaluated. These discussions will look at issues such as level of service, duplication of service, cost effectiveness and budgeting levels. Once the survey is completed it will be a valuable source of information in developing future budgets for administrative departments in the next legislative session.

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This is not a political issue. We are dealing with the quality of food that we eat. Therefore any attempt to make this a partisan issue is not warranted and should not be tolerated by the citizens of Wisconsin.

Summary of Current Fee Proposal

The final draft rule revises current license fees for dairy plants, food processing plants, food warehouses and retail food establishments. This includes changes in "reinspection fees" charged when a rule violation makes it necessary for the department to reinspect a licensed facility. The fee changes are summarized in the following tables:

Milk Procurement Fee. The increased fee, which is paid monthly, takes effect on the effective date of the rule.

Category	Current Procurement Fee	Proposed Procurement Fee
Grade A	0.4 Cents per Hundredweight	0.6 Cents per hundredweight
Grade B	0.2 Cents per Hundredweight	NO CHANGE; remains at 0.2 Cents per hundredweight.

Food Processing Plant License Fees. The increased license fees will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Annual production of \$25,000 or more but less than \$250,000 and is engaged in processing potentially hazardous food	\$120	\$250
Annual production of \$250,000 or more and is engaged in processing potentially hazardous food	\$270	\$525
Annual production of \$25,000 or more but less than \$250,000 and is not engaged in processing potentially hazardous food or in canning	\$50	\$100
Annual production of \$250,000 or more and is not engaged in processing potentially hazardous food or in canning	\$110	\$325
Annual production of less than \$25,000	\$40	\$60

Food Processing Plant Reinspection Fees. The increased fees will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Annual production of \$25,000 or more but less than \$250,000 and is engaged in processing potentially hazardous food	\$80	\$170
Annual production of \$250,000 or more and is engaged in processing potentially hazardous food	\$180	\$350
Annual production of \$25,000 or more but less than \$250,000 and is not engaged in processing potentially hazardous food or in canning	\$50	\$100
Annual production of \$250,000 or more and is not engaged in processing potentially hazardous food or in canning	\$110	\$325

Retail Food Establishment License Fees. The increased license fees will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food	\$90	\$175
Annual food sales of \$1,000,000 or more and that processes potentially hazardous food	\$210	\$450
Annual food sales of \$25,000 or more an that is engaged in food processing but does not process potentially hazardous food	\$80	\$125
Annual food sales of less than \$25,000 and that is engaged in food processing	\$40	\$60
Not engaged in food processing	\$20	\$30

Retail Food Establishment Reinspection Fees. The reinspection fee increases will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food	\$60	\$125
Annual food sales of \$1,000,000 or more and that processes potentially hazardous food	\$140	\$300
Annual food sales of \$25,000 or more an that is engaged in food processing but does not process potentially hazardous food	\$80	\$125
Annual food sales of less than \$25,000 and that is engaged in food processing	\$40	\$60
Not engaged in food processing	\$50	\$60

Food Warehouse License Fees. The license fee increases will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Stores potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$75
Stores potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200
Does not store potentially hazardous food and has fewer than 50,000 square feet of storage area	\$25	\$50
Does not store potentially hazardous food and has 50,000 square feet or more of storage area	\$50	\$100

Food Warehouse Reinspection Fees. The reinspection fee increases will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Stores potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$75
Stores potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200
Does not store potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$100
Does not store potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200

Fiscal Estimate

This rule will increase local government costs for 15 agent cities and counties. The combined cost increase for all 15 agent cities and counties will be about \$16,000 per year. City and county health departments that license and inspect retail food establishments on behalf of the department may set their own license fees. However, they must reimburse the department, for support services, an amount equal to 20% of the department's statewide license fee. This rule will increase local reimbursement payments beginning with licenses issued for fiscal year 2000. A copy of the fiscal estimate is attached.

Small Business Impact

License fee increases will affect small businesses. The department has attempted to accommodate small businesses and provide a reasonably fair and equitable license fee schedule. In general, smaller establishments processing and handling food with less potential food safety risks pay lower license fees than large establishments handling foods with higher food safety risks. A small business analysis (final regulatory flexibility analysis) is attached.

Next Steps

If the Board approves this final draft rule, the department will transmit the final draft to the Legislature for review by appropriate legislative committees. If the Legislature takes no action to stop the rule, the Secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect upon publication in the Wisconsin Administrative Register unless the final draft rule specifies a later effective date.

The department projects an effective date of March 1, 1998. Agent cities and counties will not be required to reimburse the department based on the department's new retail food establishment license fees until fiscal year 2001.

Proposed Final Draft
August 25, 1997

PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING OR REPEALING RULES

The state of Wisconsin department of agriculture, trade and consumer protection proposes the following order to amend ATCP 70.03(1) and (2), 71.02(3) and (5)(b), 74.08(1), 75.015(2), and 80.04(2)(b)1.; and to create ATCP 70.03(2m), (2n) and (2r), and 75.015(2m) and (2n), relating to food and dairy license fees.

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

Statutory authority: ss 93.07(1), 97.20(4), 97.22(8),
97.27(5), 97.29(5) and 97.30(5), Stats.

Statutes interpreted: ss. 97.20(2c)(b), (2g)(b), and (2n)(b);
97.22(2)(b) and (4)(am); 97.27(3m),
97.29(3)(am) and (3)(cm); and 97.30(3m),
Stats.

The department of agriculture, trade and consumer protection enforces Wisconsin's food safety laws. Among other things, the department licenses and inspects food processing plants, retail food establishments, food warehouses, dairy plants and dairy farms. These programs are designed to safeguard public health, and ensure a safe and wholesome food supply. They also facilitate the sale of Wisconsin dairy and food products in interstate and international markets.

Wisconsin's food safety programs are funded by general tax dollars (GPR) and program revenue from industry license fees (PR). In 1991, license fees funded about 40% of program costs. The 1995-97 biennial budget act reduced GPR funding, and raised the percentage of PR funding to 50%. Program costs have also increased due to external factors, such as inflation and statewide pay increases. As a result, the department projects a deficit in its food safety budget in FY 1997-98.

In order to maintain current food safety inspection services, the department is proposing to increase certain food and dairy license fees. The department has not increased license fees since 1991. This rule increases license fees and reinspection fees for food processing plants, retail food establishments and food warehouses. It also increases the grade A milk procurement

fee for dairy plants.

Milk Procurement Fees

Currently, dairy plants pay a monthly milk procurement fee which is intended to fund a portion of the dairy farm inspection program. This rule increases the grade A milk procurement fee from 0.4 cents per hundredweight of grade A milk received from producers to 0.6 cents per hundredweight. The milk procurement fee for grade B milk is not changed by this rule and remains at the current rate of 0.2 cents per hundredweight.

Food Processing Plant License Fees

This rule will increase annual food processing plant license fees as follows:

- The current annual \$120 fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is engaged in processing potentially hazardous food or in canning will increase to \$250.
- The current annual \$270 fee for a food processing plant that has an annual production of at least \$250,000, and is engaged in processing potentially hazardous food or in canning, will increase to \$525.
- The current annual \$50 fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, will increase to \$100.
- The current annual \$110 fee for a food processing plant with an annual production of at least \$250,000 that is not engaged in processing potentially hazardous food or in canning will increase to \$325.
- The current annual \$40 fee for a food processing plant that has an annual production of less than \$25,000 will increase to \$60.
- The current annual \$195 surcharge for food processing plants engaged in canning operations will increase to \$200.

Food Processing Plant Reinspection Fees

This rule will increase food processing plant reinspection fees as follows:

- The current \$80 reinspection fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is engaged in processing potentially

hazardous food or in canning, will increase to \$170.

- The current \$180 reinspection fee for a food processing plant that has an annual production of at least \$250,000, and is engaged in processing potentially hazardous food or in canning, will increase to \$350.
- The current \$50 reinspection fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, will increase to \$100.
- The current \$110 reinspection fee for a food processing plant with an annual production of at least \$250,000 that is not engaged in processing potentially hazardous food or in canning will increase to \$325.

Retail Food Establishment License Fees

This rule will increase annual retail food establishment license fees as follows:

- The current annual \$90 fee for a retail food establishment that has annual food sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, will increase to \$175.
- The current annual \$210 fee for a retail food establishment that has annual food sales of at least \$1,000,000, and processes potentially hazardous food, will increase to \$450.
- The current annual \$80 fee for a retail food establishment that has annual food sales of at least \$25,000 and is engaged in food processing, but does not process potentially hazardous food, will increase to \$125.
- The current annual \$40 fee for a retail food establishment that has annual food sales of less than \$25,000, and is engaged in food processing, will increase to \$60.
- The current annual \$20 fee for a retail food establishment not engaged in food processing will increase to \$30.

Under current law, agent cities and counties that license retail food establishments on behalf of the department may establish license fees that are different from state license fees. Under s. 97.41(5), Stats., an agent city or county must pay 20% of the state license fee amount to the department. This rule incorporates the 20% payment requirement without change.

However, the amount of the payment will be higher, because it will be calculated on a higher state license fee amount. Agent cities and counties may therefore wish to amend local ordinances

which set retail food license fees. The increased fee payment requirement is delayed until fiscal year 1999-2000 to give agent cities and counties time to amend their ordinances.

Retail Food Establishment Reinspection Fees

This rule will increase retail food establishment reinspection fees as follows:

- The current \$60 reinspection fee for a retail food establishment that has annual food sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, will increase to \$125.
- The current \$140 reinspection fee for a retail food establishment that has annual food sales of at least \$1,000,000, and processes potentially hazardous food, will increase to \$300.
- The current \$80 reinspection fee for a retail food establishment that has annual food sales of at least \$25,000 and is engaged in food processing but does not process potentially hazardous food, will increase to \$125.
- The current \$40 reinspection fee for a retail food establishment that has annual food sales of less than \$25,000, and is engaged in food processing, will increase to \$60.
- The current \$50 reinspection fee for a retail food establishment not engaged in food processing will increase to \$60.

Food Warehouse License Fees

This rule will increase annual food warehouse license fees as follows:

- The current \$50 license fee for a food warehouse that stores potentially hazardous food and that has fewer than 50,000 square feet of storage area will increase to \$75.
- The current \$100 license fee for a food warehouse that stores potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$200.
- The current \$25 license fee for a food warehouse that does not store potentially hazardous food and has fewer than 50,000 square feet of storage area will increase to \$50.
- The current \$50 license fee for a food warehouse that does not store potentially hazardous food and has at least 50,000

square feet of storage area will increase to \$100.

Food Warehouse Reinspection Fees

This rule will increase food warehouse reinspection fees as follows.

- The current \$50 reinspection fee for a food warehouse that stores potentially hazardous food and has fewer than 50,000 square feet of storage area will increase to \$75.
- The current \$100 reinspection fee for a food warehouse that stores potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$200.
- The current \$50 reinspection fee for a food warehouse that does not store potentially hazardous food and has fewer than 50,000 square feet of storage area will increase to \$100.
- The current \$100 reinspection fee for a food warehouse that does not store potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$200.

SECTION 1. ATCP 70.03(1) and (2) are amended to read:

ATCP 70.03(1) LICENSE REQUIRED. Except as provided under sub. (7), no person may operate a food processing plant without a valid license issued by the department for that food processing plant under s. 97.29, Stats. A food processing plant license expires on March 31 annually. A license is not transferable between persons or food processing plants.

(2) LICENSE APPLICATION. Application for an annual food processing plant license shall be made on a form provided by the department. The application shall be accompanied by the fees required under ~~s. 97.29 (3), Stats.~~ sub. (2m) and (2n), and by the sworn statement required under s. 100.03 (2), Stats.

SECTION 2. ATCP 70.03 (2m), (2n) and (2r) are created to read:

ATCP 70.03(2m) ANNUAL LICENSE FEE. An applicant for a food processing plant license shall pay an annual license fee as follows:

(a) For a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is engaged in processing potentially hazardous food or in canning, an annual license fee of \$250.

(b) For a food processing plant that has an annual production of at least \$250,000 and is engaged in processing potentially hazardous food or in canning, an annual license fee of \$525.

(c) For a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, an annual license fee of \$100.

(d) For a food processing plant that has an annual production of at least \$250,000, and is not engaged in processing potentially hazardous food or in canning, an annual license fee of \$325.

(e) For a food processing plant that has an annual production of less than \$25,000, an annual license fee of \$60.

(2n) CANNING OPERATIONS; LICENSE FEE SURCHARGE. If a food processing plant is engaged in canning operations, the operator shall pay an annual license fee surcharge of \$200, which shall be added to the license fee under sub. (2m).

(2r) REINSPECTION FEE. (a) If the department reinspects a

food processing plant because the department has found a violation of ch. 97, Stats., or this chapter on a regularly scheduled inspection, the department shall charge the food processing plant operator the reinspection fee specified under par. (b). A reinspection fee is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application form to a food warehouse operator.

(b) The reinspection fee required under par. (a) is as follows:

1. For a food processing plant that has an annual production of less than \$250,000, and is engaged in processing potentially hazardous food or in canning, the reinspection fee is \$170.

2. For a food processing plant that has an annual production of at least \$250,000, and is engaged in processing potentially hazardous food or in canning, the reinspection fee is \$350.

3. For a food processing plant that has an annual production of less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, the reinspection fee is \$100.

4. For a food processing plant that has an annual production of \$250,000 or more, and is not engaged in processing potentially hazardous food or in canning, the reinspection fee is \$325.

SECTION 3. ATCP 71.02(3) and (5)(b) are amended to read:

ATCP 71.02(3) ANNUAL LICENSE FEE. An applicant for a food warehouse license shall pay an annual license fee as follows:

(a) For a food warehouse that stores potentially hazardous food, and ~~that~~ has fewer than 50,000 square feet of storage area, ~~\$50~~ \$75.

(b) For a food warehouse that stores potentially hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage area, ~~\$100~~ 200.

(c) For a food warehouse that does not store potentially hazardous food, and ~~that~~ has fewer than 50,000 square feet of storage area, ~~\$25~~ 50.

(d) For a food warehouse that does not store potentially hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage area, ~~\$50~~ 100.

(5)(b) The reinspection fee required under par. (a) is as follows:

1. For a food warehouse that stores potentially hazardous food, and ~~that~~ has fewer than 50,000 square feet of storage area, ~~\$50~~ 75.

2. For a food warehouse that stores potentially hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage area, ~~\$100~~ 200.

3. For a food warehouse that does not store potentially hazardous food, and ~~that~~ has fewer than 50,000 square feet of storage area, ~~\$50~~ 100.

4. For a food warehouse that does not store potentially hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage area, ~~\$100~~ 200.

SECTION 4. ATCP 74.08(1) is amended to read:

ATCP 74.08(1) The fiscal year under an agency agreement shall begin on July 1 and end on June 30, except as otherwise authorized by the department. Each agent city or county shall pay the department 20% of the license fee charged under s. ATCP 75.015(2m), to reimburse the department for its costs as required under s. 97.41(5), Stats. By September 30 of each year, the agent city or county shall file with the department all reimbursement required under ~~s. 97.41(5), Stats.~~ this subsection for licenses issued during the previous fiscal year.

SECTION 5. ATCP 75.015(2) is amended to read:

ATCP 75.015(2) LICENSE APPLICATION. Application for a retail food establishment license shall be made on a form provided by the department, or by the agent municipality or county, and shall be accompanied by the applicable fees under sub. (2m) or s. 97.30(3) or (4), Stats.

SECTION 6. ATCP 75.015(2m) and (2n) are created to read:

ATCP 75.015(2m) ANNUAL LICENSE FEE. An applicant for a retail food establishment license shall pay an annual license fee as follows:

(a) For a retail food establishment that has annual food sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, an annual license fee of \$175.

(b) For a retail food establishment that has annual food sales of at least \$1,000,000 and processes potentially hazardous food, an annual license fee of \$450.

(c) For a retail food establishment that has annual food sales of at least \$25,000 and is engaged in food processing, but does not process potentially hazardous food, an annual license fee of \$125.

(d) For a retail food establishment that has annual food sales of less than \$25,000, and is engaged in food processing, but does not process potentially hazardous food, an annual license fee of \$60.

(e) For a retail food establishment that is not engaged in food processing, an annual license fee of \$30.

(2n) REINSPECTION FEE. (a) If the department reinspects a retail food establishment because the department has found a violation of ch. 97, Stats., or this chapter on a regularly scheduled inspection, the department shall charge the retail food establishment operator the reinspection fee specified under par.

(b). A reinspection fee is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application form to the retail food establishment operator.

(b) The reinspection fee required under par. (a) is as follows:

1. For a retail food establishment that has annual food

sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, the reinspection fee is \$125.

2. For a retail food establishment that has annual food sales of at least \$1,000,000 and processes potentially hazardous food, the reinspection fee is \$300.

3. For a retail food establishment that has annual food sales of at least \$25,000, and is engaged in food processing but does not process potentially hazardous food, the reinspection fee is \$125.

4. For a retail food establishment that has annual food sales of less than \$25,000 and is engaged in food processing, the reinspection fee is \$60.

5. For a retail food establishment that is not engaged in food processing, the reinspection fee is \$60.

SECTION 7. ATCP 80.04(2)(b)1. is amended to read:

ATCP 80.04(2)(b)1. For each 100 pounds of grade A milk received from milk producers, 0.6 cent.

SECTION 8. EFFECTIVE DATE. The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided under s. 227.22(2)(intro.), Stats.

SECTION 12. INITIAL APPLICABILITY. (1) The treatment of section ATCP 70.03(2m) and (2n) first applies to applications for new licenses that are filed on or after the effective date of this section and to renewals of food processing plant licenses which expire on March 31, 1998.

(2) The treatment of sections ATCP 71.02(3) and 75.015(2m) first applies to applications for new licenses that are filed on or after the effective date of these subsections, and to renewals of food warehouse and retail food establishment licenses which expire on June 30, 1998.

(3) The treatment of section ATCP 74.08(1) first applies to reimbursements payable to the department on September 30, 2000, for licenses issued by agent cities or counties during fiscal year 1999-2000.

Dated this _____ day of _____, 19____.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Joseph E. Tregoning,
Acting Secretary

Final Regulatory Flexibility Analysis

Proposed chs. ATCP 60, 70, 71, 75, 80, Wis. Adm. Code

FOOD AND DAIRY LICENSE FEES

This rule increases existing license fees for dairy plants, food processing plants, food warehouses and retail food establishments. The department has not increased license fees since 1991.

Wisconsin's food safety programs are funded by general tax dollars (GPR) and industry license fees (PR). In 1991, license fees funded about 40% of the food safety program costs. Program costs have increased due to external factors, such as inflation and statewide pay increases, over which the department has no control. In addition, the 1995-97 biennial budget reduced GPR funding, and required a higher percentage (50%) of license fee funding. As a result, the department projects a deficit in its food safety budget in FY 1997-98.

Increasing license fees as proposed in this rule will affect small businesses. License fees for all categories of dairy plants, food processing plants, food warehouses and retail food establishments will increase. Small businesses exist in each category of food and dairy establishment.

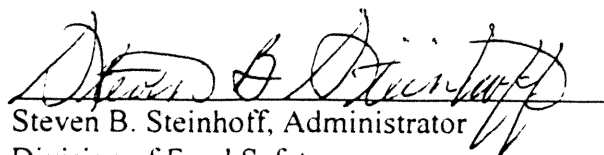
The department has attempted to accomodate small businesses and provide a reasonably fair and equitable license fee schedule. This is done by basing fees on the actual costs associated with each category of licensed establishment and then determining further subcategories of establishments based on the size or volume of each establishment and the food products processed or handled by the establishment. Smaller establishments processing and handling food with less potential food safety risks pay lower license fees than large establishments handling foods with higher food safety risks.

This rule requires no additional recordkeeping or other procedures for small businesses. Small businesses will need no additional professional skills or assistance in order to comply with this rule.

Dated this 15th day of September, 1997

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

by:


Steven B. Steinhoff, Administrator
Division of Food Safety

FISCAL ESTIMATE

DCA-2048 (R 10/94)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No. / Adm. Rule No.
 ATCP 60,70,71,75 & 80

Amendment No. (If Applicable)

Subject

Food and Dairy License Fees

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues

Decrease Costs

Revenues

Create New Appropriation

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Unit Affected:

- Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Source Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations
 20.115(1)(gb)

Assumptions Used in Arriving at Fiscal Estimate

This rule will increase program revenues for the department's food safety programs by \$.9M. The increase in revenues is needed to pay for cost increases since 1991 and increases which are anticipated during the next four fiscal years (FY 98-01). The department has not raised fees since 1991.

The department proposes to increase license and reinspection fees for the following categories of food and dairy businesses: dairy farms, dairy plants, food processing plants, retail food establishments, and food warehouses.

The 1991-93 biennial budget act created the current structure for food and dairy license fees and set the fees at the current level. The 1991 budget legislation also authorized the department to adjust license fees via the rulemaking process.

Wisconsin's food safety programs are funded by general tax dollars (general purpose revenue (GPR)) and industry license fees (PR). In 1991, license fees funded about 40% of program costs. Program costs have increased since 1991 and will continue to do so during the next four years. The 1995-97 biennial budget act reduced GPR funding, and required a higher percentage (50%) of license fee funding. No staff positions have been added since 1991. Cost increases are due to external factors, such as inflation and statewide employee pay and benefit increases. As a result, the department projects a deficit in its food safety budget in FY 1997-98 and subsequent years.

Local Government Impact

The cost to local governments will increase by \$16,191.

As a result of these fee increases, local governments that license and inspect retail food establishments as agents of the department will be required to increase their reimbursement to the department for administrative services. Local governments can and do pass this increase on to retail food businesses. Local governments can set license fees to recover up to 100% of their reasonable operating costs. Currently, agents must reimburse the department for 20% of the license fee the department would charge if the department was delivering inspection-related services. For FY 95-96, agent reimbursement to the department equaled \$37,656. If the proposed fee increases are implemented, the rate of reimbursement will remain at 20%, but the total agent reimbursement to the department will increase to \$53,847.

Long - Range Fiscal Implications

Agency/prepared by: (Name & Phone No.)

Authorized Signature/Telephone No.

Date

DATCP
 Peter Pawllsch 224-4702

Barbara Knapp
 Barbara Knapp 224-4746

2/26/97

FISCAL ESTIMATE WORKSHEET

1997 SESSION

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No/Adm.Rule No.
ATCP 60,70,71,75 &
80

Amendment No.

Subject

Food and Dairy License Fees

I. One-time Cost or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Cost:

Annualized Fiscal Impact on State funds from:

A. State Costs by Category

Increased Costs

Decreased Costs

State Operations - Salaries and Fringes

\$

\$ -

(FTE Position Changes)

(FTE)

(- FTE)

State Operations - Other Costs

-

Local Assistance

-

Aids to Individuals or Organizations

-

TOTAL State Costs by Category

\$

\$ -

B. State Costs by Source of Funds

Increased Costs

Decreased Costs

GPR

\$

\$ -

FED

-

PRO/PRS

-

SEG/SEG-S

-

III. State Revenues -

Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)

Increased Costs

Decreased Costs

GPR Taxes

\$

\$ -

GPR Earned

-

FED

-

PRO/PRS

899,901

-

SEG/SEG-S

-

TOTAL State Revenues

\$ 899,901

\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$ 0

\$ 16,191

NET CHANGE IN REVENUES

\$ 899,901

\$ 16,191

Agency Prepared by: (Name & Phone No.) DATCP Peter Pawlisch 224-4702	Authorized Signature/Telephone No. <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	Date 2/26/97
--	--	-----------------

o 100 increased since '91

o Food Safety Task Force

- Done May!
w/ recommendations

- need for Budget next
Bismillah

o GPR - Fees
(50 - 50)

o Efficiency Study done after

Fee Proposal - (word) ^{insurance to} _{more efficient?}

- Insurance because they'll
have to come up w/ more
th next Budget (600,000 shd)

o Duplicated Services (etc)?

Local Health Dept. + DHRCP
↳ contract w/ Dept. to inspect

Gary Peterson (Revenue's)

- Have their own Food Safety
Program

- Not the right time for fee
increases - more competition

o Fees are paid by everyone
including other competitors

o Weighs + measures checks
by DHRCP partners each stat.
(standard)

o Don't everyone (restaurants) have
the same Food Safety Programs
as Revenue's (Government)

o Spend on Food Safety? ^{↳ Didn't} _{legis}

Probs: others

Duplicated Team, they shouldn't have to do the
entire Brunt, they have their own Safety Programs,
more GPR; less Fees

Starts (generally OK)

- Delay Grade A Fee until completion of Task Force

- Possible savings could be found

Process

- OK w/ the Dept. Efforts to reduce original package.

- Understand this is a temporary Budget - Task Force will try to find more efficiencies

- Support 60-40 Split, more GPR - doing has been subsidizing food in part

STATE OF WISCONSIN

To _____

Date _____ Time _____

WHILE YOU WERE OUT

M Steinbrink

of Will be 15-30 min

Phone Late

Telephoned		Please Call	
Called to See You		Rush	
Returned Your Call		Will Call Again	

Message _____



Party Receiving Call

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Chairman of the Board

Trygve A. Solberg
President
Trig's Food & Drug
Minocqua

Vice Chairman

Tim Wade
Senior Vice President
Sales & Marketing
Kohl's Foods Stores
Milwaukee

Secretary/Treasurer

Tom Metcalfe
President
Metcalfe, Inc./Sentry Foods
Madison

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Vice President - Sales
Roundy's Inc.
Milwaukee

Mike Carey
Division President
Fleming Companies
La Crosse

James Dickelman
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Schultz Sav-O Stores, Inc.
Sheboygan

Steve Diehlmann
Owner
PALAN Foods/Piggly Wiggly
Janesville

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CEO/President
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Kramer's IGA
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Green Bay

Gail Omernick
Vice President - Customer Care
The Copps Corporation
Stevens Point

Phil Quillin
President
Quillin's Inc.
La Crosse

Richard Schmitz
President
County Market
Hudson

Gerry Totoritis
Branch Manager
Nash Finch Company
Appleton



**WISCONSIN
GROCERS
ASSOCIATION
INC.**

NOV 20 1997

Brandon Scholz
President

November 18, 1997

Representative Al Ott, Chair
Assembly Committee on Agriculture
P.O. Box 8953
Madison, WI 53708-8953

Dear Representative Ott:

On behalf of the Wisconsin Grocers Association (WGA), we would like to thank you for listening to the testimony presented by our members in opposition to DATCP's Clearinghouse Rule 97-038, which relates to food and dairy license fee increases.

We appreciate the extra time and attention given to the four WGA members who testified before the Agriculture Committee on November 13, 1997. It is not very often that four of our members are able to take an entire day away from their business. Yet, when faced with the possibility of an increase in licensing fees, our members were quick to respond.

We hope their statements provided insight into our complete opposition for the fee increases. Once again, we would like to thank you for listening to the testimony supplied by our members. If you have any questions or comments, please let us know.

Sincerely,

Brandon Scholz
President

Michelle Kussow
Mgr. of Government Affairs

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

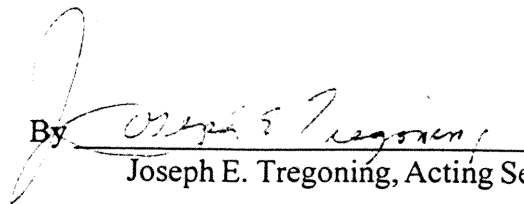
NOTICE OF SUBMISSION OF PROPOSED RULES TO
PRESIDING OFFICERS OF EACH HOUSE OF THE LEGISLATURE

NOTICE IS HEREBY GIVEN, pursuant to s. 227.19(2), Stats., that the State of Wisconsin Department of Agriculture, Trade and Consumer Protection is submitting a final draft of proposed Clearinghouse Rule Number 97-038 to the presiding officer of each house of the legislature for standing committee review. The proposed rule amends Chapters ATCP 70, 71, 74, 75 and 80, relating to food and dairy license fees.

Dated this 17th day of September, 1997.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

By



Joseph E. Tregoning, Acting Secretary



State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection

2811 Agriculture Drive
Madison, Wisconsin 53704-6777

PO Box 8911
Madison, WI 53708-8911

Date: September 16, 1997

To: The Honorable Fred Risser
President, Wisconsin State Senate
Rm. 102
119 Martin Luther King Jr. Blvd.
Madison, WI 53707-7882

The Honorable Ben Brancel
Speaker, Wisconsin State Assembly
Rm. 211 W, State Capitol
PO Box 8953
Madison, WI 53708-8952

From: Joseph E. Tregoning, Acting Secretary
Department of Agriculture, Trade and Consumer Protection

Subject: **Proposed Rules Relating to Food and Dairy License Fees
(Clearinghouse Rule #97-038)**

In accordance with § 227.19(2) and (3), Stats., the Department of Agriculture, Trade and Consumer Protection hereby transmits the above rules for legislative committee review. We are enclosing 3 copies of the final draft rules, together with the following report. In accordance with § 227.19(2), Stats., the department will publish a notice of this referral in the Wisconsin Administrative Register.

SUMMARY: EXPLANATION OF NEED FOR RULES

The rules increase license fees to remedy a projected deficit in the department's food safety budget. The rules will modify current license fees for dairy plants, food processing plants, food warehouses and retail food establishments.

Background

Wisconsin's food safety programs are designed to safeguard public health, and ensure a safe and wholesome food supply. They also facilitate the sale of Wisconsin dairy and food products in interstate and international markets.

Wisconsin's food safety programs are funded by a combination of general tax dollars (GPR) and program revenue from industry license fees (PR). In 1991, license fees funded about 40% of program costs. The 1995-97 biennial budget act reduced GPR funding, and raised the percentage of PR funding to 50%. Program costs have also increased due to external factors, such as inflation and statewide pay increases. As a result, the department projects a deficit in its food safety budget in FY 1997-98.

The department has not raised fees since 1991. The 1991-93 biennial budget act created the current structure for food and dairy license fees. It also set the fees at the current level and authorized the department to adjust license fees by rule.

The department continues to explore ways to be more effective and efficient. The Division of Food Safety will have 2.75 fewer staff in the 1997-99 biennium than in 1993-94. Grade A dairy farms are scheduled for inspection based on their milk quality and inspection performance. A 1990 report by the Special Advisory Committee on Food Safety identified critical resource deficiencies in several areas. As the number of dairy farms decreases, the department is directing resources toward critical food safety needs in food and dairy processing establishments.

The department also seeks to develop operating partnerships with other agencies. Through such arrangements, there is a mutual sharing of expertise and resources, and duplication is minimized. Some examples include the following:

- The number of local governmental agencies contracting to license and inspect retail food establishments increased from 11 to 15 since 1993.
- The department entered into a pilot project with the U. S. Department of Agriculture to share routine inspection responsibility for dairy plants in the USDA grading program.
- The department has entered into several partnerships with the U.S. Food and Drug Administration in areas such as inspection of processors of ready-to-eat delicatessen foods, maple syrup, acidified foods and smoked fish.
- The department is working with the Wisconsin Department of Health and Family Services to minimize unnecessary duplication in the licensing and inspection of retail food businesses that operate both as grocery stores and restaurants.

RULE MODIFICATIONS AFTER PUBLIC HEARINGS

The final draft rules incorporate the following significant changes from the hearing draft:

1. Under the hearing draft, dairy producer license fees would have increased. The final draft rule eliminates those fee increases.

2. Under the hearing draft, a variety of dairy plant license fees would have increased. The final draft rule eliminates all of those fee increases except the increase in grade A milk procurement fees. The final draft rule, like the hearing draft, increases the grade A milk procurement fee from 0.4 cents per hundredweight to 0.6 cents per hundredweight.
3. Under the hearing draft, retail food establishments and food warehouses currently licensed by the department would have been required to pay increased license fees for the remainder of the current license year ending June 30, 1998. Under the final draft, license fee increases will apply to licenses issued or renewed on or after the effective date of the rule.
4. Currently, 15 county and municipal health departments license and inspect retail food establishments as agents of the department. These local agents set their own license fees, but reimburse the department for support services at 20% of the department's license fee. An increase in the department's license fee automatically increases the reimbursement amount. Under the hearing draft, retail agents would have been required to pay the higher amount in 1998. Under the final draft, they will not have to pay the higher amount until 1999.

RESPONSE TO RULES CLEARINGHOUSE COMMENTS

The Legislative Council Rules Clearinghouse made two minor comments on drafting style in the hearing draft rule (see Clearinghouse Report attached). The department modified the final draft rule to address both of the Rules Clearinghouse comments.

FISCAL ESTIMATE

A fiscal estimate on the proposed rules is attached. The cost to local governments will increase by \$16,191. Local governments can pass this cost increase on to retail food businesses.

FINAL REGULATORY FLEXIBILITY ANALYSIS

A final regulatory flexibility analysis is attached. Increasing license fees as proposed in this rule will affect small businesses. License fees for all categories of dairy plants, food processing plants, food warehouses and retail food establishments will increase. Small businesses exist in each category of food and dairy establishment.

HEARING TESTIMONY

- The department held four public hearings on the proposed rules: April 18, 1997, in Milwaukee; April 22, 1997, in Appleton; April 23, 1997, in Eau Claire; and April 28, 1997, in Madison. Fifteen persons appeared at the hearings. The department received additional written comments from 10 persons and organizations.

Testified in Opposition to the Hearing Draft Rules

- Roman Hintz, representing Delmonte Foods and Midwest Food Processors, testified that plants have low profit margins and stiff competition, and that increases could drive plants out of state. He suggested that the department aggressively implement more efficient operating methods.
- Glen Dedow, representing Lone Elm Sales, Inc., testified that state government is creating an unfavorable business environment. He suggested that the department downsize and become more efficient.
- Dave Simon, representing Pleasant View Cheese Factory, Inc., testified that the world market requires cutting costs, that industry is over-regulated, that the cost of regulation is high, that the new large grade B plant category may not be legal or fair, and that more fee categories are needed. He suggested that the department regulate less, have farmers pay their own fees, and have department employees: spend less time per inspection, work longer, get paid less, less vacation, less sick days, and fewer holidays.
- Timothy Mirkes, representing Appleton Health Department, testified that the timing of the increase may require agents to reimburse the state at a higher rate before the higher fees from retail establishments have been collected. He suggested that the department not bill county and city agents for the higher fees until they have time to implement the fee increases.
- Mark Lamers, representing Lamers Dairy, Inc., testified that intense competition requires that businesses cut costs and that the fee increases are excessive. He suggested that the department make the dairy and food program more cost effective.
- Ken Heiman, representing Nasonville Dairy, testified that there is a decline in the number of dairy farms and plants, that Wisconsin dairy needs to compete with western states, and that he is opposed to the supplemental fee for dairy plant receiving stations. He suggested that the department be more efficient, get more general tax dollars, and get more money from the grocery stores.
- Darryl Farmer, representing Eau Claire Health Department, testified in opposition to the rules. He suggested that the department reduce the reimbursement rate from 20 percent to 10 percent for city and county agents.
- Sid Cook, representing Carr Valley Cheese, Pride Cheese, and Great Northern Cold Storage, testified that over-regulation has resulted in a decline in the number of dairy plants and does not contribute to a positive business environment. He suggested that the department get more competitive, learn to be more efficient, get rid of unneeded paperwork and positions, renegotiate leases on buildings, and have its employees type their own letters and miss a raise in pay.

- Cameron Peckham, semi-retired, testified that regulation and costs have contributed to a decline in the number of farms and dairy plants. He suggested that the department get rid of bloated bureaucracy.
- Tom Torkelson, representing Springdale Cheese, testified that this is a difficult time for dairy plants and farms.
- Brad Legreid, representing Wisconsin Dairy Products Association, testified that he supported the 50/50 split in GPR/PR funding of the food and dairy inspection program. He opposed the disproportionate increase for large dairy plants and that there is no increase in the grade B procurement fee. He suggested that the department make the fee increases equal proportionately among payers.
- Paul Julius, representing Midwest Food Processors Association, testified that Wisconsin's fees are higher than most states, and that he opposed the size of the increase in fees for his members. He suggested that the department aggressively seek every possible operating efficiency.
- John Umhoefer, representing Wisconsin Cheese Makers Association, testified that plants cannot afford to compete against lower cost competitors in other states, especially the west coast states. He is opposed to the large grade B plant category which may not be legal and may be a bad precedent. He suggested that the department seek to avoid fee increases through internal cost reductions and have farmers pay for any inspection over two per year.
- Robert Bartlett, representing Wisconsin Association of Convenience Stores, testified in opposition to the rules.
- Tommye Schneider, representing Madison Department of Public Health, testified in opposition to the rules. She suggested that the department lower the reimbursement rate paid to the state by city and county agents.

Written Comments in Opposition to the Hearing Draft Rules

- Steve Coy, representing Fleming Companies, Inc., commented that the fees for convenience stores seem unfair when compared to large retailers. He suggested that the large establishments should be charged more and the smaller establishments charged less.
- Timothy Grygiel, representing New Harvest Foods, Inc., commented that the fee increase for canning plants was unjustifiable. He suggested the department downsize and do more with less.
- W.P. Springer, representing Uni-Mart Convenience Stores, commented that the fee increases will cause economic hardship to store owners and that inspections were of limited benefit. He

suggested the department not inspect convenience stores because there was little danger of public harm.

- Senaca Foods Corporation commented that the fee increases were too high. They suggested the department should reduce costs through staff cuts and more efficient methods.
- Roger Krohn, Jean Doell, and Karl Krohn representing Krohn Dairy Products commented that the dairy industry is already moving out of Wisconsin. They suggested the department should have farmers pay for their own licenses and inspection fees.
- Bruce Albrecht, representing Gad Cheese, Inc., commented that times were difficult for the dairy industry due to low dairy prices and that Wisconsin companies have a disadvantage due to fees and mismanagement. He suggested the department close the Altoona and Green Bay offices.
- John Manske, representing the Wisconsin Federation of Cooperatives, commented that he supported strong food and dairy safety programs, however he challenged the new large grade B dairy plant category and the no increase in the grade B procurement fee. He noted that fees are greater in Wisconsin than in other states. He suggested the department conduct a cost efficiency study to reduce regulatory costs.
- Don Morgan, representing Sunset Oil Co., Inc., commented that small business is paying a disproportionate share of the costs of the food and dairy inspection program. He suggested the department create a separate convenience store license category.
- Donald and William Mullins, representing Mullins Cheese, Inc., commented that the fee increase adds a financial burden to farmers and plants. They suggested the department do things more efficiently and economically.
- Lindquist, Brey, Fisher, Krause, Statz, and Nispel, representing NFO Dairy Department, commented that there is a decreasing number of farmers and farm inspections and that the timing of the increase is bad. They suggested the department reduce the number of inspection staff and not submit the fee package until the cost efficiency study is done.

The written and oral comments made by representatives of the dairy industry were addressed, in part, by the elimination of the dairy producer fee increase and the elimination of all dairy plant fee increases except for the increase in the grade A procurement fee which was retained. The department has not reduced the increase in fees for food industry establishments. In the final draft rule fees paid by the dairy and food industries will produce revenues in proportion to the costs of the inspection services each industry receives.

Proposed Final Draft
August 25, 1997

PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING OR REPEALING RULES

The state of Wisconsin department of agriculture, trade and consumer protection proposes the following order to amend ATCP 70.03(1) and (2), 71.02(3) and (5)(b), 74.08(1), 75.015(2), and 80.04(2)(b)1.; and to create ATCP 70.03(2m), (2n) and (2r), and 75.015(2m) and (2n), relating to food and dairy license fees.

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

Statutory authority: ss 93.07(1), 97.20(4), 97.22(8),
97.27(5), 97.29(5) and 97.30(5), Stats.

Statutes interpreted: ss. 97.20(2c)(b), (2g)(b), and (2n)(b);
97.22(2)(b) and (4)(am); 97.27(3m),
97.29(3)(am) and (3)(cm); and 97.30(3m),
Stats.

The department of agriculture, trade and consumer protection enforces Wisconsin's food safety laws. Among other things, the department licenses and inspects food processing plants, retail food establishments, food warehouses, dairy plants and dairy farms. These programs are designed to safeguard public health, and ensure a safe and wholesome food supply. They also facilitate the sale of Wisconsin dairy and food products in interstate and international markets.

Wisconsin's food safety programs are funded by general tax dollars (GPR) and program revenue from industry license fees (PR). In 1991, license fees funded about 40% of program costs. The 1995-97 biennial budget act reduced GPR funding, and raised the percentage of PR funding to 50%. Program costs have also increased due to external factors, such as inflation and statewide pay increases. As a result, the department projects a deficit in its food safety budget in FY 1997-98.

In order to maintain current food safety inspection services, the department is proposing to increase certain food and dairy license fees. The department has not increased license fees since 1991. This rule increases license fees and reinspection fees for food processing plants, retail food establishments and food warehouses. It also increases the grade A milk procurement

fee for dairy plants.

Milk Procurement Fees

Currently, dairy plants pay a monthly milk procurement fee which is intended to fund a portion of the dairy farm inspection program. This rule increases the grade A milk procurement fee from 0.4 cents per hundredweight of grade A milk received from producers to 0.6 cents per hundredweight. The milk procurement fee for grade B milk is not changed by this rule and remains at the current rate of 0.2 cents per hundredweight.

Food Processing Plant License Fees

This rule will increase annual food processing plant license fees as follows:

- The current annual \$120 fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is engaged in processing potentially hazardous food or in canning will increase to \$250.
- The current annual \$270 fee for a food processing plant that has an annual production of at least \$250,000, and is engaged in processing potentially hazardous food or in canning, will increase to \$525.
- The current annual \$50 fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, will increase to \$100.
- The current annual \$110 fee for a food processing plant with an annual production of at least \$250,000 that is not engaged in processing potentially hazardous food or in canning will increase to \$325.
- The current annual \$40 fee for a food processing plant that has an annual production of less than \$25,000 will increase to \$60.
- The current annual \$195 surcharge for food processing plants engaged in canning operations will increase to \$200.

Food Processing Plant Reinspection Fees

This rule will increase food processing plant reinspection fees as follows:

- The current \$80 reinspection fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is engaged in processing potentially

hazardous food or in canning, will increase to \$170.

- The current \$180 reinspection fee for a food processing plant that has an annual production of at least \$250,000, and is engaged in processing potentially hazardous food or in canning, will increase to \$350.
- The current \$50 reinspection fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, will increase to \$100.
- The current \$110 reinspection fee for a food processing plant with an annual production of at least \$250,000 that is not engaged in processing potentially hazardous food or in canning will increase to \$325.

Retail Food Establishment License Fees

This rule will increase annual retail food establishment license fees as follows:

- The current annual \$90 fee for a retail food establishment that has annual food sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, will increase to \$175.
- The current annual \$210 fee for a retail food establishment that has annual food sales of at least \$1,000,000, and processes potentially hazardous food, will increase to \$450.
- The current annual \$80 fee for a retail food establishment that has annual food sales of at least \$25,000 and is engaged in food processing, but does not process potentially hazardous food, will increase to \$125.
- The current annual \$40 fee for a retail food establishment that has annual food sales of less than \$25,000, and is engaged in food processing, will increase to \$60.
- The current annual \$20 fee for a retail food establishment not engaged in food processing will increase to \$30.

Under current law, agent cities and counties that license retail food establishments on behalf of the department may establish license fees that are different from state license fees. Under s. 97.41(5), Stats., an agent city or county must pay 20% of the state license fee amount to the department. This rule incorporates the 20% payment requirement without change. However, the amount of the payment will be higher, because it will be calculated on a higher state license fee amount. Agent cities and counties may therefore wish to amend local ordinances

which set retail food license fees. The increased fee payment requirement is delayed until fiscal year 1999-2000 to give agent cities and counties time to amend their ordinances.

Retail Food Establishment Reinspection Fees

This rule will increase retail food establishment reinspection fees as follows:

- The current \$60 reinspection fee for a retail food establishment that has annual food sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, will increase to \$125.
- The current \$140 reinspection fee for a retail food establishment that has annual food sales of at least \$1,000,000, and processes potentially hazardous food, will increase to \$300.
- The current \$80 reinspection fee for a retail food establishment that has annual food sales of at least \$25,000 and is engaged in food processing but does not process potentially hazardous food, will increase to \$125.
- The current \$40 reinspection fee for a retail food establishment that has annual food sales of less than \$25,000, and is engaged in food processing, will increase to \$60.
- The current \$50 reinspection fee for a retail food establishment not engaged in food processing will increase to \$60.

Food Warehouse License Fees

This rule will increase annual food warehouse license fees as follows:

- The current \$50 license fee for a food warehouse that stores potentially hazardous food and that has fewer than 50,000 square feet of storage area will increase to \$75.
- The current \$100 license fee for a food warehouse that stores potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$200.
- The current \$25 license fee for a food warehouse that does not store potentially hazardous food and has fewer than 50,000 square feet of storage area will increase to \$50.
- The current \$50 license fee for a food warehouse that does not store potentially hazardous food and has at least 50,000

square feet of storage area will increase to \$100.

Food Warehouse Reinspection Fees

This rule will increase food warehouse reinspection fees as follows.

- The current \$50 reinspection fee for a food warehouse that stores potentially hazardous food and has fewer than 50,000 square feet of storage area will increase to \$75.
- The current \$100 reinspection fee for a food warehouse that stores potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$200.
- The current \$50 reinspection fee for a food warehouse that does not store potentially hazardous food and has fewer than 50,000 square feet of storage area will increase to \$100.
- The current \$100 reinspection fee for a food warehouse that does not store potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$200.

SECTION 1. ATCP 70.03(1) and (2) are amended to read:

ATCP 70.03(1) LICENSE REQUIRED. Except as provided under sub. (7), no person may operate a food processing plant without a valid license issued by the department for that food processing plant under s. 97.29, Stats. A food processing plant license expires on March 31 annually. A license is not transferable between persons or food processing plants.

(2) LICENSE APPLICATION. Application for an annual food processing plant license shall be made on a form provided by the department. The application shall be accompanied by the fees required under ~~s. 97.29 (3), Stats.~~ sub. (2m) and (2n), and by the sworn statement required under s. 100.03 (2), Stats.

SECTION 2. ATCP 70.03 (2m), (2n) and (2r) are created to read:

ATCP 70.03(2m) ANNUAL LICENSE FEE. An applicant for a food processing plant license shall pay an annual license fee as follows:

(a) For a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is engaged in processing potentially hazardous food or in canning, an annual license fee of \$250.

(b) For a food processing plant that has an annual production of at least \$250,000 and is engaged in processing potentially hazardous food or in canning, an annual license fee of \$525.

(c) For a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, an annual license fee of \$100.

(d) For a food processing plant that has an annual production of at least \$250,000, and is not engaged in processing potentially hazardous food or in canning, an annual license fee of \$325.

(e) For a food processing plant that has an annual production of less than \$25,000, an annual license fee of \$60.

(2n) CANNING OPERATIONS; LICENSE FEE SURCHARGE. If a food processing plant is engaged in canning operations, the operator shall pay an annual license fee surcharge of \$200, which shall be added to the license fee under sub. (2m).

(2r) REINSPECTION FEE. (a) If the department reinspects a

food processing plant because the department has found a violation of ch. 97, Stats., or this chapter on a regularly scheduled inspection, the department shall charge the food processing plant operator the reinspection fee specified under par. (b). A reinspection fee is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application form to a food warehouse operator.

(b) The reinspection fee required under par. (a) is as follows:

1. For a food processing plant that has an annual production of less than \$250,000, and is engaged in processing potentially hazardous food or in canning, the reinspection fee is \$170.

2. For a food processing plant that has an annual production of at least \$250,000, and is engaged in processing potentially hazardous food or in canning, the reinspection fee is \$350.

3. For a food processing plant that has an annual production of less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, the reinspection fee is \$100.

4. For a food processing plant that has an annual production of \$250,000 or more, and is not engaged in processing potentially hazardous food or in canning, the reinspection fee is \$325.

SECTION 3. ATCP 71.02(3) and (5)(b) are amended to read:

ATCP 71.02(3) ANNUAL LICENSE FEE. An applicant for a food warehouse license shall pay an annual license fee as follows:

(a) For a food warehouse that stores potentially hazardous food, and ~~that~~ has fewer than 50,000 square feet of storage area, ~~\$50~~ \$75.

(b) For a food warehouse that stores potentially hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage area, ~~\$100~~ 200.

(c) For a food warehouse that does not store potentially hazardous food, and ~~that~~ has fewer than 50,000 square feet of storage area, ~~\$25~~ 50.

(d) For a food warehouse that does not store potentially hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage area, ~~\$50~~ 100.

(5)(b) The reinspection fee required under par. (a) is as follows:

1. For a food warehouse that stores potentially hazardous food, and ~~that~~ has fewer than 50,000 square feet of storage area, ~~\$50~~ 75.

2. For a food warehouse that stores potentially hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage area, ~~\$100~~ 200.

3. For a food warehouse that does not store potentially hazardous food, and ~~that~~ has fewer than 50,000 square feet of storage area, ~~\$50~~ 100.

4. For a food warehouse that does not store potentially hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage area, ~~\$100~~ 200.

SECTION 4. ATCP 74.08(1) is amended to read:

ATCP 74.08(1) The fiscal year under an agency agreement shall begin on July 1 and end on June 30, except as otherwise authorized by the department. Each agent city or county shall pay the department 20% of the license fee charged under s. ATCP 75.015(2m), to reimburse the department for its costs as required under s. 97.41(5), Stats. By September 30 of each year, the agent city or county shall file with the department all reimbursement required under ~~s. 97.41(5), Stats.,~~ this subsection for licenses issued during the previous fiscal year.

SECTION 5. ATCP 75.015(2) is amended to read:

ATCP 75.015(2) LICENSE APPLICATION. Application for a retail food establishment license shall be made on a form provided by the department, or by the agent municipality or county, and shall be accompanied by the applicable fees under sub. (2m) or s. 97.30(3) or (4), Stats.

SECTION 6. ATCP 75.015(2m) and (2n) are created to read:

ATCP 75.015(2m) ANNUAL LICENSE FEE. An applicant for a retail food establishment license shall pay an annual license fee as follows:

(a) For a retail food establishment that has annual food sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, an annual license fee of \$175.

(b) For a retail food establishment that has annual food sales of at least \$1,000,000 and processes potentially hazardous food, an annual license fee of \$450.

(c) For a retail food establishment that has annual food sales of at least \$25,000 and is engaged in food processing, but does not process potentially hazardous food, an annual license fee of \$125.

(d) For a retail food establishment that has annual food sales of less than \$25,000, and is engaged in food processing, but does not process potentially hazardous food, an annual license fee of \$60.

(e) For a retail food establishment that is not engaged in food processing, an annual license fee of \$30.

(2n) REINSPECTION FEE. (a) If the department reinspects a retail food establishment because the department has found a violation of ch. 97, Stats., or this chapter on a regularly scheduled inspection, the department shall charge the retail food establishment operator the reinspection fee specified under par.

(b). A reinspection fee is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application form to the retail food establishment operator.

(b) The reinspection fee required under par. (a) is as follows:

1. For a retail food establishment that has annual food

sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, the reinspection fee is \$125.

2. For a retail food establishment that has annual food sales of at least \$1,000,000 and processes potentially hazardous food, the reinspection fee is \$300.

3. For a retail food establishment that has annual food sales of at least \$25,000, and is engaged in food processing but does not process potentially hazardous food, the reinspection fee is \$125.

4. For a retail food establishment that has annual food sales of less than \$25,000 and is engaged in food processing, the reinspection fee is \$60.

5. For a retail food establishment that is not engaged in food processing, the reinspection fee is \$60.

SECTION 7. ATCP 80.04(2)(b)1. is amended to read:

ATCP 80.04(2)(b)1. For each 100 pounds of grade A milk received from milk producers, 0.6 cent.

SECTION 8. EFFECTIVE DATE. The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided under s. 227.22(2)(intro.), Stats.

SECTION 12. INITIAL APPLICABILITY. (1) The treatment of section ATCP 70.03(2m) and (2n) first applies to applications for new licenses that are filed on or after the effective date of this section and to renewals of food processing plant licenses which expire on March 31, 1998.

(2) The treatment of sections ATCP 71.02(3) and 75.015(2m) first applies to applications for new licenses that are filed on or after the effective date of these subsections, and to renewals of food warehouse and retail food establishment licenses which expire on June 30, 1998.

(3) The treatment of section ATCP 74.08(1) first applies to reimbursements payable to the department on September 30, 2000, for licenses issued by agent cities or counties during fiscal year 1999-2000.

Dated this _____ day of _____, 19____.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Joseph E. Tregoning,
Acting Secretary