

Clearinghouse Rule 07-037

DATCP Docket No. 05-R-07
Rules Clearinghouse No: _____

Proposed Hearing Draft
March 7, 2007

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

1 The state of Wisconsin department of agriculture, trade and consumer protection proposes the
2 following order to amend ATCP 60.02(4)(a), 60.04(2)(a) and (b), 69.01(5), 69.02(6),
3 70.03(2m)(a) to (e), (2n), and (2r)(b)1. to 5., 71.02(3)(a) to (d) and (5)(b)1. to 4., 71.10(3)(a) and
4 (b), 75.02(3)(a) to (e) and (4)(b)1. to 5., 77.06(1)(a), (b) and (d), 77.23(3)(a) and (c) to (e),
5 80.04(1)(b)(intro.) and 1. to 3., (2)(b)1., (3)(b)(intro.) and 1. to 3., and (5)(b), 81.02(3), 82.02(4)
6 and (5)(b), 82.04(5)(a) and (b), and 85.07(2); relating to food and dairy license and reinspection
7 fees.

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

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) administers Wisconsin’s dairy and food safety program. The program is funded, in major part, by dairy and food license fees. This rule increases current license fees in order to address an imminent deficit in the food safety program revenue account.

Statutory Authority

Statutory authority: 93.07(1), 93.09(10), 93.12(7), 97.17(4), 97.175(2), 97.20(2c)(b), (2g)(b), (2n)(b), (2w) and (4), 97.21(4m) and (6), 97.22(2)(b), (4)(am) and (8), 97.27(3m) and (5), 97.29(3)(am), (cm) and (5), 97.30(3m) and (5), and 98.146(4), Stats.

Statutes interpreted: 93.09, 93.12, 97.17, 97.175, 97.20, 97.21, 97.22, 97.27, 97.29, 97.30 and 98.146(4), Stats.

DATCP has broad authority, under s. 93.07(1), Stats., to adopt rules needed to implement laws under its jurisdiction. DATCP also has specific authority, under the provisions cited above, to establish dairy and food license and reinspection fees.

Rule Content

This rule increases current license and reinspection fees for dairy and food businesses, as shown below. DATCP plans to adopt and publish this rule before May 1, 2008, but fee increases will first apply to fees that are due on July 1, 2008.

Entity	Current Fee(s)	Proposed Fee(s)
Dairy Farm	\$24 annual license fee (paid by dairy plant operator)	\$32
	\$24 or \$48 reinspection fee (paid by dairy plant operator if reinspection is required)	\$32 or \$64
Dairy Plant	<i>Annual license fee</i> (calculations include an increase in the basic license fee from \$96 to \$129):	
	\$699 or \$879 for grade A processing plant (based on size)	\$937 or \$1,178
	\$397 for grade A receiving station	\$532
	\$96 for grade A transfer station	\$129
	\$96 to \$421 for grade B processing plant (based on size)	\$129 or \$565
	\$96 for grade B receiving station or transfer station	\$129
	Grade A milk procurement fee: 0.96 cent per 100 lbs.	1.081 cent per 100 lbs. (for payments due beginning July 1, 2008)
	Grade B milk procurement fee: 0.2 cent per 100 lbs.	No change
<i>Reinspection fee:</i>		

	\$203 or \$246 for grade A processing plant	\$336 or \$394
	\$221 for grade B processing plant	\$360
	\$122 for grade A receiving station	\$229
	\$48 for grade B receiving station or transfer station	\$64
	<i>Butter and cheese grading fee:</i>	
	1.09 cents per 100 lbs. of product	1.5 cents per 100 lbs. of product
Food Processing Plant	\$78-\$685 annual license fee (based on size and type)	\$105 - \$918
	\$261 canning surcharge for canning plants with annual production of \$25,000 or more	\$350
	\$49-\$431 reinspection fee (based on size and type)	\$66 - \$578
Food Warehouse	\$65-\$261 annual license fee (based on size and type)	\$87-\$350
	\$92-\$246 reinspection fee (based on size and type)	\$123 - \$330
Milk Distributor	\$60 annual license fee per facility	\$80
	\$25 reinspection fee per facility	\$34
Retail Food Store	\$37-\$562 annual license fee (based on size and type)	\$50-\$753
	\$74-\$369 reinspection fee (based on size and type)	\$99 - \$494
Dairy, Food or Water Testing Lab	\$336 annual lab certification fee	\$450

	for each dairy or food test (other than milk drug residue screening)	
	\$276 annual lab certification fee for each water test	\$370
	\$25 annual certification fee for each dairy or food analyst (other than milk drug residue screening analyst)	\$34
	\$50-\$500 initial fee and \$25-\$50 annual renewal fee for lab performing milk drug residue screening	\$67-\$670 initial fee \$34-\$67 annual renewal fee
	\$25 initial evaluation fee for milk drug residue screening analysts (if more than 3 per lab)	\$34
Bulk Milk Tanker	\$36 annual bulk milk tanker license fee	\$48
	\$36 bulk milk tanker reinspection fee	\$48
	\$48 bulk milk weigher and sampler license fee (2-year license)	\$64
	\$48 bulk milk weigher and sampler reinspection fee	\$64
Buttermaker or Cheesemaker	\$60 license fee (2-year license)	\$80
Butter or Cheese Grader	\$60 license fee (2-year license)	\$80

This rule does *not* affect any of the following:

- *Fees that DATCP charges for certain services*, such as review of food processing equipment plans, or the testing, timing and sealing of pasteurizers. DATCP is authorized to charge fees for such services in order to cover its cost of providing the services. DATCP may adjust these service fees by written notice, in order to keep fees consistent with service costs.
- *License fees for milk and cream testers*. DATCP is not authorized to adjust these fees by rule. Milk and cream testers currently pay a license fee of \$50 (for a 2-year license) and a reinspection fee of \$25.

- *License fees for meat establishments.* Meat inspection programs are funded by a combination of federal dollars and matching state GPR dollars. Under federal law, states must match federal dollars with state GPR dollars, not license fees.

Fiscal Estimate

State Fiscal Effect

This rule will increase food safety program revenues by approximately \$994,000 per year, beginning in FY 2008. The increase is needed to offset a projected deficit in DATCP's food safety program revenue account beginning in FY 2007. A complete fiscal estimate is attached.

Wisconsin's food safety program is funded by a combination of general tax dollars (GPR) and program revenue from license fees (PR). In 1991, license fees funded about 40% of program costs. The 1995-97 biennial budget act reduced the GPR funding share, so that PR funded about 50% of program costs. Subsequent state budgets further reduced the GPR funding share, so that PR now funds about 60% of the food safety budget.

Recent state budgets have lapsed a substantial amount of food safety license fee revenue to the state general fund (to help remedy state budget deficits). At the same time, DATCP has experienced a modest increase in operating costs. DATCP proposed a license fee increase in 2005, but was forced to withdraw a large share of that fee increase proposal. As a result, DATCP projects a substantial food safety budget deficit beginning in FY 2007.

DATCP is working to deliver effective food safety protection as efficiently as possible. For example:

- DATCP has reduced its food and dairy staff by approximately 17% since 1990 (from 118 to 98 staff). Staffing trends fairly reflect changes in the food and dairy industry, including a reduction in dairy farm numbers and increased delegation of retail food regulation to cooperating local governments. While food safety staffing needs have declined in some traditional areas, they are growing in other areas.
- DATCP works with local governments to license and inspect retail food establishments. Thirty-four local entities license and inspect on behalf of DATCP, compared to 15 in 1997 (local participation is voluntary). Local entities now license and inspect 4,600 retail food establishments. DATCP licenses and inspects the remaining 4,200 establishments.
- DATCP is working to reform national dairy regulations, which impose rigid Grade A inspection frequency requirements. DATCP is pursuing a more flexible, risk-based inspection system that could reduce inspection costs. In the meantime, Wisconsin must comply with current inspection mandates in order to ship milk and fluid milk products in interstate commerce.

- DATCP and the Wisconsin Department of Health and Family Services (DHFS) have eliminated duplicate licensing and inspection of grocery stores, restaurants, and combination grocery-restaurants. DATCP and DHFS have adopted uniform rules for grocery stores and restaurants, based on the federal Model Food Code.

Local Fiscal Effect

DATCP currently provides administrative support to local governments that license and inspect retail food establishments as agents of DATCP. Local governments establish their own license fees, and reimburse DATCP for administrative services costs. The reimbursement amount equals 10% of the license fees that DATCP would charge local license holders, if DATCP licensed them directly. An increase in DATCP license fees therefore increases local reimbursement payments (current payments do not fully compensate DATCP for its costs).

In FY 2006, local governments made a total of \$58,000 in reimbursement payments. If DATCP adopts the fee increases proposed in this rule, the reimbursement rate will remain at 10%, but the total reimbursement amount will increase to approximately \$76,500. This rule thus increases local costs by approximately \$18,500 (statewide total). Local governments can (and likely will) pass this increased cost on to retail food businesses. Local governments can set license fees to recover up to 100% of their reasonable operating costs.

Business Impact

This rule affects all milk producers, dairy plants, food processing plants, food warehouses, milk distributors, retail food stores, dairy and food testing laboratories, milk haulers, buttermakers, cheesemakers, and butter and cheese graders licensed by the department. Many of these businesses are “small businesses” as defined in s. 227.114(1)(a), Stats.

This rule increases annual license fees, reinspection fees and milk procurement fees, beginning with fees that are due in July, 2008. This will increase overall dairy and food industry costs by a combined total of approximately \$994,000 per year. Costs for individual businesses will depend on business size and type. Because of competitive market conditions, it may be difficult for affected businesses to increase prices to recover these costs.

The proposed fee increases will have a significant but not dramatic impact on affected businesses. In the multi-billion dollar dairy and food industries, license fees comprise a relatively small overall share of industry costs. DATCP has worked to maintain a fair and equitable license fee schedule.

Fees are based on actual food safety costs related to each license sector. Fees are also based on business size, food product type, and type of food handling operations. Smaller businesses generally pay lower fees than large businesses, and lower-risk businesses generally pay lower fees than higher-risk businesses.

This rule increases food safety license fees, but does not change other license requirements. This rule requires no additional recordkeeping, and no added professional services to comply. A Business Impact Analysis is attached.

DATCP has not incorporated a small business enforcement policy in this rule, but has adopted a separate rule on that subject (see subch. VII of ch. ATCP 1). DATCP will seek voluntary compliance. However, food and dairy businesses must pay required license fees in order to obtain a license from DATCP.

Federal Regulation

There are no existing or proposed federal regulations related to license fees for food and dairy businesses operating in Wisconsin. However, national regulations such as the Interstate Pasteurized Milk Ordinance (“PMO”) have a significant impact on state program costs. The PMO includes rigid inspection frequency requirements for grade A dairy farms and other grade A dairy operations. Wisconsin must comply with the PMO in order to ship milk and fluid milk products in interstate commerce.

Surrounding State Programs

All of the surrounding states charge license fees to food and dairy businesses. License structure and fees vary between states. Differences in license fees are partly related to differences in general tax dollar support for food and dairy programs in different states.

Minnesota

Minnesota has a license and fee structure that is similar to, but not identical to, Wisconsin’s structure:

Dairy Fees – Minnesota

Grade A pasteurizing plant	\$500
Grade A farm	\$50
Grade A farm reinspection fee	\$45
Manufacturing plant	\$140 per pasteurizer unit
Manufactured farm	\$25
Manufactured farm reinspection fee	\$45
Processor assessment	\$.07 per cwt for fluid milk products sold for retail sale in Minnesota
Farm bulk milk pick-up tanker	\$25
Milk procurement fee	\$.0071 per cwt of raw milk purchased

Food Fees – Minnesota

Retail food handler	\$50-\$2,001 based on sales volume
Wholesale food handler	\$57-\$1,502 based on sales volume
Food broker	\$150
Wholesale food processor or manufacturer	\$169-\$2,571 based on sales volume

Michigan

Michigan has a license and fee structure that is similar to, but not identical to, Wisconsin's structure:

Dairy fees – Michigan

Milk plant	\$175
Farms sending milk to plant	\$5-\$10
Receiving or transfer station	\$50
Milk tank truck cleaning facility	\$50
Milk transportation company	\$20
Milk tank truck	\$10
Grade A milk distributor	\$50
Single service container and closure plant	\$50
Bulk milk hauler/sampler	\$40 for 2 years

Food Fees – Michigan

Retail food establishment	\$70
Limited wholesale food processor	\$70
Food warehouse	\$70
Extended retail food establishment	\$175
Wholesale food processor	\$175
Mobile food establishment	\$175
Temporary food establishment	\$28
Bottled water manufacturer	\$25 for each product registered and \$25 for each water dispensing machine

Iowa

Iowa has a license and fee structure that is similar to, but not identical to, Wisconsin's structure:

Dairy Fees – Iowa

Milk plant	\$2,000 for 2 years
Transfer station	\$400 for 2 years
Receiving station	\$400 for 2 years
Milk hauler	\$20 for 2 years
Milk grader	\$20 for 2 years
Bulk milk tanker permit	\$50 for 2 years
Reinspection fee	\$40
Resealing pasteurizer fee	\$100 per reseal
Purchaser of milk fee - Grade A	\$.015 per cwt of raw milk purchased
Purchaser of milk fee - Grade B	\$.005 per cwt of raw milk purchased

Food Fees – Iowa

Mobile food unit or pushcart	\$20
Temporary food establishment	\$25
Food establishment	\$30-\$225 based on sales volume*
Food service establishment	\$50-\$225 based on sales volume*
Food processing plant	\$50-\$250 based on sales volume
Egg handler	\$15-\$250 based on cases sold

*If one establishment must hold both a food establishment and a food service establishment license, each license fee is 75% of the established fee.

Illinois

Illinois has a license and fee structure that is substantially different from the Wisconsin structure:

Dairy Fees – Illinois

Milk plant permit	\$100
Receiving or transfer station	\$50
Cleaning and sanitizing facility	\$50
Milk hauler-sampler	\$25
Milk tank truck	\$25
Certified pasteurizer sealer	\$100

Illinois does not license or charge fees to non-dairy food establishments, except that Illinois charges the following fees to the following establishments:

Food Fees

Salvage Operator	\$100 plus inspection fee based on size
Bottled water manufacturer or distributor	\$150
Egg handlers, distributors and breakers	\$15-\$200 plus inspection fee per case of eggs sold

1

2 **SECTION 1.** ATCP 60.02(4)(a) is amended to read:

3 ATCP 60.02(4)(a) The annual fee for a milk producer license under this section is ~~\$24~~
4 \$32.

5 **SECTION 2.** ATCP 60.04(2)(a) and (b) are amended to read:

6 ATCP 60.04(2)(a) Except as provided in par. (b), the reinspection fee under sub. (1) is
7 ~~\$24~~ \$32.

8 (b) If a reinspection is required under this chapter for reinstatement of a producer's
9 license or grade A permit, the reinspection fee under sub. (1) is ~~\$48~~ \$64.

10 **SECTION 3.** ATCP 69.01(5) is amended to read:

11 ATCP 69.01(5) LICENSE FEE. An applicant for a buttermaker license shall pay a license
12 fee of ~~\$60~~ \$80.

13 **SECTION 4.** ATCP 69.02(6) is amended to read:

1 ATCP 69.02(6) LICENSE FEE. An applicant for a cheesemaker license shall pay a license
2 fee of ~~\$60~~ \$80.

3 **SECTION 5.** ATCP 70.03(2m)(a) to (e) are amended to read:

4 ATCP 70.03(2m)(a) For a food processing plant that has an annual production of at least
5 \$25,000 but less than \$250,000, and is engaged in processing potentially hazardous food or in
6 canning, an annual license fee of ~~\$326~~ \$437.

7 (b) For a food processing plant that has an annual production of at least \$250,000, and is
8 engaged in processing potentially hazardous food or in canning, an annual license fee of
9 ~~\$685~~ \$918

10 (c) For a food processing plant that has an annual production of at least \$25,000 but less
11 than \$250,000, and is not engaged in processing potentially hazardous food or in canning, an
12 annual license fee of ~~\$134~~ \$176.

13 (d) For a food processing plant that has an annual production of at least \$250,000, and is
14 not engaged in processing potentially hazardous food or in canning, an annual license fee of
15 ~~\$424~~ \$568.

16 (e) For a food processing plant that has an annual production of less than \$25,000, an
17 annual license fee of ~~\$78~~ \$105.

18 **SECTION 6.** ATCP 70.03(2n) is amended to read:

19 ATCP 70.03(2n) CANNING OPERATIONS; LICENSE FEE SURCHARGE. If a food processing
20 plant is engaged in canning operations and has an annual production of \$25,000 or more, the
21 operator shall pay an annual license fee surcharge of ~~\$264~~ \$350, which shall be added to the
22 license fee under sub. (2m).

23 **SECTION 7.** ATCP 70.03(2r)(b)1. to 5. are amended to read:

1 ATCP 70.03(2r)(b)1. For a food processing plant that has an annual production of less
2 than \$250,000, and is engaged in processing potentially hazardous food or in canning, the
3 reinspection fee is ~~\$209~~\$280.

4 (b)2. For a food processing plant that has an annual production of at least \$250,000, and
5 is engaged in processing potentially hazardous food or in canning, the reinspection fee is
6 ~~\$431~~\$578.

7 (b)3. For a food processing plant that has an annual production of less than \$250,000, and
8 is not engaged in processing potentially hazardous food or in canning, the reinspection fee is
9 ~~\$123~~\$165.

10 (b)4. For a food processing plant that has an annual production of \$250,000 or more, and
11 is not engaged in processing potentially hazardous food or in canning, the reinspection fee is
12 ~~\$400~~\$536.

13 (b)5. For a food processing plant that has an annual production of less than \$25,000 the
14 reinspection fee is ~~\$49~~\$66.

15 **SECTION 8.** ATCP 71.02(3)(a) to (d) are amended to read:

16 ATCP 71.02(3)(a) For a warehouse that stores potentially hazardous food, and has fewer
17 than 50,000 square feet of storage area, ~~\$98~~ \$131.

18 (b) For a warehouse that stores potentially hazardous food, and has at least 50,000 square
19 feet of storage area, ~~\$261~~ \$350.

20 (c) For a warehouse that does not store potentially hazardous food, and has fewer than
21 50,000 square feet of storage area, ~~\$65~~ \$87.

22 (d) For a warehouse that does not store potentially hazardous food, and has at least
23 50,000 square feet of storage area, ~~\$131~~ \$176.

1 **SECTION 9.** ATCP 71.02(5)(b)1. to 4. are amended to read:

2 ATCP 71.02(5)(b)1. For a food warehouse that stores potentially hazardous food and has
3 fewer than 50,000 square feet of storage area, ~~\$92~~ \$123.

4 (b)2. For a food warehouse that stores potentially hazardous food and has at least 50,000
5 square feet of storage area, ~~\$246~~ \$330.

6 (b)3. For a food warehouse that does not store potentially hazardous food and has fewer
7 than 50,000 square feet of storage area, ~~\$123~~ \$165.

8 (b)4. For a food warehouse that does not store potentially hazardous food and has at least
9 50,000 square feet of storage area, ~~\$246~~ \$330.

10 **SECTION 10.** ATCP 71.10(3)(a) and (b) are amended to read:

11 ATCP 71.10(3)(a) An annual license fee. The license fee is ~~\$60~~ \$80 for each storage
12 facility operated by the milk distributor.

13 (b) A reinspection fee, if required under s. 97.21(4)(b), Stats., for each reinspection of a
14 storage facility operated by the milk distributor. The reinspection fee is ~~\$25~~ \$34 for each
15 reinspected storage facility.

16 **SECTION 11.** ATCP 75.02(3)(a) to (e) are amended to read:

17 ATCP 75.02(3)(a) For a retail food establishment that has annual sales of at least
18 \$25,000 but less than \$1,000,000 and processes potentially hazardous food, an annual license fee
19 of ~~\$218~~ \$292.

20 (b) For a retail food establishment that has annual sales of at least \$1,000,000 and
21 processes potentially hazardous food, an annual license fee of ~~\$562~~ \$753.

1 (c) For a retail food establishment that has annual sales of at least \$25,000 and is
2 engaged in food processing, but does not process potentially hazardous food, an annual license
3 fee of ~~\$156~~ \$209.

4 (d) For a retail food establishment that has annual food sales of less than \$25,000, and is
5 engaged in food processing, an annual license fee of ~~\$50~~ \$67.

6 (e) For a retail food establishment that is not engaged in food processing, an annual
7 license fee of ~~\$37~~ \$50.

8 **SECTION 12.** ATCP 75.02(4)(b)1. to 5. are amended to read:

9 ATCP 75.02(4)(b)1. For a retail food establishment that has annual food sales of at least
10 \$25,000 but less than \$1,000,000, and processes potentially hazardous food, the reinspection fee
11 is ~~\$154~~ \$206.

12 (b)2. For a retail food establishment that has annual food sales of at least \$1,000,000, and
13 processes potentially hazardous food, the reinspection fee is ~~\$369~~ \$494.

14 (b)3. For a retail food establishment that has annual food sales of at least \$25,000, and is
15 engaged in food processing but does not process potentially hazardous food, the reinspection fee
16 is ~~\$154~~ \$206.

17 (b)4. For a retail food establishment that has annual food sales of less than \$25,000, and
18 is engaged in food processing, the reinspection fee is ~~\$74~~ \$99.

19 (b)5. For a retail food establishment that is not engaged in food processing, the
20 reinspection fee is ~~\$74~~ \$99.

21 **SECTION 13.** ATCP 77.06(1)(a), (b) and (d) are amended to read:

22 ATCP 77.06(1)(a) *Milk or food tests.* An annual certification fee of ~~\$336~~ \$450 for each
23 test under s. ATCP 77.02(1) or (2) at each laboratory for which the operator is certified. This fee

1 does not apply to a laboratory that is approved under s. ATCP 77.23 only to conduct drug residue
2 screening tests on milk samples.

3 (b) *Certified analysts; milk or food tests.* An annual certification fee of ~~\$25~~ \$34 for each
4 analyst who performs one or more tests under s. ATCP 77.02(1) or (2). This fee does not apply
5 to an individual approved under s. ATCP 77.23 only to conduct drug residue screening tests on
6 milk samples.

7 (d) *Water tests.* An annual certification fee of ~~\$276~~ \$370 for each test under s. ATCP
8 77.02(3) for which the operator is certified.

9 **SECTION 14.** ATCP 77.23(3)(a) and (c) to (e) are amended to read:

10 ATCP 77.23(3)(a) An initial fee of ~~\$500~~ \$670, except as provided in par. (b) or (c).

11 (c) An initial fee of ~~\$50~~ \$67 if the laboratory does not apply for approval to perform any
12 visual read test.

13 (d) A fee of ~~\$25~~ \$34 for each individual, in excess of 3 individuals, that the department
14 evaluates under sub. (4) at the time of the initial laboratory inspection under sub. (1)(c)1.

15 (e) An annual renewal fee of ~~\$50~~ \$67 for each annual renewal of the laboratory approval,
16 except that the renewal fee is ~~\$25~~ \$34 if the laboratory qualifies under par. (b).

17 **SECTION 15.** ATCP 80.04(1)(b)(intro.) and 1. to 3. are amended to read:

18 ATCP 80.04(1)(b)(intro.) *License fee amounts.* The license fee under par. (a) is ~~\$96~~ \$129
19 plus the following:

20 (b)1. For a grade A processing plant, a supplementary license fee of ~~\$783~~ \$1,049 if the
21 plant received more than 2,000,000 pounds of milk from milk producers, or a supplementary
22 license fee of ~~\$603~~ \$808 if the plant received 2,000,000 pounds or less of milk from producers.

1 (b)2. For a grade B processing plant that manufactured or processed more than 1,000,000
2 pounds of dairy products or more than 200,000 gallons of frozen dairy products, a supplementary
3 license fee of ~~\$325~~ \$436.

4 (b)3. For a grade A receiving station, a supplementary license fee of ~~\$301~~ \$403.

5 **SECTION 16.** ATCP 80.04(2)(b)1. is amended to read:

6 ATCP 80.04(2)(b)1. For each 100 pounds of grade A milk received from milk producers,
7 ~~0.86 cent beginning January 1, 2006 and 0.96 cent beginning July 1, 2007~~ 1.081 cent.

8 **SECTION 17.** ATCP 80.04(3)(b)(intro.) and 1. to 3. are amended to read:

9 ATCP 80.04(3)(b)(intro.) *Fee amounts.* The reinspection fee required under par. (a)
10 includes, for each reinspection, a basic reinspection fee of ~~\$48~~ \$64 plus a supplementary
11 reinspection fee as follows:

12 (b)1. For a grade A processing plant, a supplementary reinspection fee of ~~\$198~~ \$330 if
13 the plant received more than 2,000,000 pounds of milk from milk producers during the previous
14 calendar year, or a supplementary reinspection fee of ~~\$155~~ \$272 if the plant received 2,000,000
15 pounds or less of milk from milk producers during the previous calendar year.

16 (b)2. For a grade B processing plant, a supplementary reinspection fee of ~~\$173~~ \$296.

17 (b)3. For a grade A receiving station, a supplementary reinspection fee of ~~\$74~~ \$165.

18 **SECTION 18.** ATCP 80.04(5)(b) is amended to read:

19 ATCP 80.04(5)(b) The grading fee under par. (a) is ~~1.09~~ 1.5 cent per 100 pounds of
20 gradable butter and cheese produced at the dairy plant by any operator during the previous
21 calendar year. If the dairy plant was not in operation during the previous calendar year, the
22 license applicant shall pay a grading fee based on estimated production for the calendar year in
23 which the application is made. At the end of the license year, the license holder shall report the

1 actual calendar year production, and the department shall re-calculate the grading fee based on
2 that actual production. If the grading fee based on actual production differs from the fee based
3 on estimated production, the license holder shall pay the balance due or receive a credit from the
4 department on the next year's grading fee.

5 **SECTION 19.** ATCP 81.02(3) is amended to read:

6 ATCP 81.02(3) LICENSE FEE. A person applying for a license under sub. (1) shall pay an
7 annual license fee of ~~\$60~~ \$80.

8 **SECTION 20.** ATCP 82.02(4) and (5)(b) are amended to read:

9 ATCP 82.02(4) LICENSE FEE. An applicant for a bulk milk tanker license shall pay an
10 annual license fee of ~~\$36~~ \$48.

11 (5)(b) The reinspection fee under par. (a) is ~~\$36~~ \$48.

12 **SECTION 21.** ATCP 82.04(5)(a) and (b) are amended to read:

13 ATCP 82.04(5)(a) *License fee.* An applicant for a bulk milk weigher and sampler
14 license shall pay a biennial license fee of ~~\$48~~ \$64.

15 (b) *Reinspection fee required.* If the department reinspects a bulk milk sampler because
16 the department finds a violation of ch. 97, Stats., or this chapter, the department shall charge the
17 bulk milk weigher and sampler a reinspection fee. The fee is ~~\$48~~ \$64. The reinspection fee is
18 payable when the reinspection is completed, and is due upon written demand from the
19 department. The department may issue a demand for payment when it issues a license renewal
20 application to the bulk milk weigher and sampler.

21 **SECTION 22.** ATCP 85.07(2) is amended to read:

22 ATCP 85.07(2) A person applying for a license under sub. (1) shall pay a biennial
23 license fee of ~~\$60~~ \$80.

1 **EFFECTIVE DATE.** (a) Except as provided in par. (b), this rule takes effect on the first
2 day of the month following publication in the Wisconsin administrative register, as provided
3 under s. 227.22(2) (intro.), Stats.

4 (b) Pursuant to s. 227.22(2)(e), Stats., for small businesses as defined in s. 227.114(1),
5 Stats., this rule takes effect on the first day of the third month commencing after the date of
6 publication in the Wisconsin administrative register.

7 **INITIAL APPLICABILITY.** This rule first applies to fees and surcharges that are due on or
8 after the later of the following:

9 (a) The rule effective date.

10 (b) July 1, 2008.

Dated this _____ day of _____, 2007.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Rodney J. Nilsestuen
Secretary