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WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules...

COMMITTEE NOTICES ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
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- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)



State of Wisconsin
Jim Doyle, Governor

Senator Robert Jauch
JCRAR Co-Chair
Room 118 South, State Capitol

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

DATE: July 21, 2008

TO: The Honorable Fred Risser
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
Madison, WI 53707-7882

The Honorable Michael Huebsch
Speaker, Wisconsin State Assembly
Room 211 West, State Capitol
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FROM: Rodney J. Nilsestuen, Secretary
Department of Agriculture, Trade and Consumer Protection

**SUBJECT: Meat and Inedible Animal By-Products
(Clearinghouse Rule # 07-116)**

The Department of Agriculture, Trade and Consumer Protection ("DATCP") is transmitting this rule for legislative committee review, as provided in s. 227.19(2) and (3), Stats. DATCP will publish notice if this referral in the Wisconsin Administrative Register, as provided in s. 227.19(2), Stats.

This rule updates current state meat inspection rules (ATCP 55), to make them consistent with federal rules. This rule also repeals and recreates current rules related to rendering, animal food processing, grease processing, and the transportation and handling of animal carcasses and carcass materials (ATCP 57). This rule clarifies and updates all of the following:

- License requirements for renderers, animal food processors, grease processors and dead animal collectors (this rule does not increase license fees).
- Rules to prevent the processing and sale of inedible carcass materials as human food.
- Rules to prevent and control animal disease, including BSE.
- Rules to ensure safe and properly labeled animal feed.

Agriculture generates \$51.5 billion for Wisconsin

Background

DATCP administers Wisconsin food safety laws. DATCP licenses and inspects approximately 360 meat establishments that produce meat for human consumption. DATCP also licenses and regulates rendering plants, animal food processors and other entities that process and handle *inedible* animal carcasses. These entities process and handle inedible animal carcasses and carcass materials, and produce products for *non-food* use. Regulation keeps inedible materials out of the human food chain and helps ensure safe animal feed.

DATCP overhauled its meat inspection rules in 2002, but has not updated its rules related to inedible by-products since 1983. For the most part, this rule reorganizes and clarifies the current rules without making major substantive changes. Clarification will improve the administration of current rules, and help ensure safe food and feed.

DATCP currently enforces federal commercial feed regulations under contract with the United States food and drug administration ("FDA"). Federal regulations include prohibitions designed to prevent the occurrence and spread of BSE ("mad cow disease"). This rule is consistent with current federal regulations.

Rule Contents

This rule does all of the following:

- Repeals and recreates current DATCP rules related to rendering plants, animal food processors, grease processors, dead animal collectors and carcass dealers. These entities process and handle inedible animal carcasses and carcass materials, and produce products for *non-food* use. Regulation keeps inedible materials out of the human food chain and helps ensure safe animal feed. For the most part, this rule clarifies current rules without making major substantive changes.
- Incorporates current federal regulations that prohibit the feeding of protein from mammalian tissues to cattle or other ruminants. The federal regulations are designed to prevent the incidence of BSE ("mad cow disease"). DATCP is already enforcing the current federal regulations that are incorporated in this rule. This rule does not yet incorporate new federal regulations barring certain cattle materials from all animal feed (issued on April 23, 2008) that are scheduled to take effect in April 2009. However, DATCP will enforce those new federal regulations on behalf of the FDA when they take effect.
- Amends current state meat inspection rules to incorporate recent changes in federal regulations adopted by the United States Department of Agriculture ("USDA"). State rules must be at least "equal to" federal regulations. Consistent with USDA regulations, this rule does all of the following:

- Prohibits, with limited exceptions, the slaughter of non-ambulatory disabled cattle for human consumption (DATCP is already enforcing this federal prohibition).
- Requires producers of “ready-to-eat” meat products to have written procedures for minimizing food safety risks related to *Listeria monocytogenes* (DATCP has already implemented this federal requirement).
- Restricts the amount of water from post-evisceration processing that may be retained in raw meat and poultry.

Inedible Animal By-Products

Renderers

This rule clarifies current regulation of rendering operations. “Rendering” means melting or reconstituting carcasses or carcass materials, with the use of heat, to produce rendered products for non-food use. “Rendering” does not include licensed meat processing, licensed food processing, licensed grease processing, hide processing, or the manufacture of glue, pharmaceuticals, or gelatin (those operations are subject to other licensing and regulatory requirements).

This rule clarifies, but does not substantially alter, current regulations related to:

- Renderer licenses. This rule does *not* increase license fees.
- Rendering plant facilities, operations, sanitation and records.
- Limitations on the use of rendered products.

Animal Food Processors

This rule clarifies current licensing and regulation of animal food processors. “Animal food processing” means slaughtering animals or processing carcasses or carcass materials for use as animal feed (not human food). This rule clarifies, but does not substantially alter, current regulations related to:

- Animal food processor licenses (licensed animal food processors are distinguished from licensed meat processors, renderers, grease processors, feed manufacturers, dead animal collectors and others). This rule does *not* increase license fees.
- Animal food processor facilities, operations, sanitation and records.
- Limitations on the use of products produced by an animal food processor.

Grease Processors

This rule clarifies current regulation of grease processors. "Grease processing" means combining, melting, refining, reconstituting, or recycling fully rendered products to produce grease or other products for non-food use. This rule clarifies, but does not substantially alter, current regulations related to:

- Grease processor licenses (licensed grease processors are distinguished from licensed meat processors, renderers, animal food processors, feed manufacturers, dead animal collectors and others). This rule does *not* increase license fees.
- Grease processor facilities, operations, sanitation and records.
- Limitations on the use of grease produced by a grease processor.

Dead Animal Collectors

This rule clarifies current regulation of dead animal collectors. A "dead animal collector" means a person who collects and transports whole carcasses, with hide or feathers intact, for delivery to a renderer, animal food processor or fur farm operator. This rule clarifies, but does not substantially alter, current regulations related to:

- Dead animal collector licenses (licensed dead animal collectors are distinguished from licensed renderers, animal food processors and others). This rule does *not* increase license fees.
- Dead animal collector facilities, operations, sanitation and records.
- Limitations on dead animal collector operations.

Transporting Carcasses and Carcass Materials

This rule, like current rules, prohibits a person from transporting carcasses or carcass materials on a public road unless the person is licensed as a renderer, animal food processor or dead animal collector. This rule clarifies current exemptions for the following:

- The transportation of meat according to state meat inspection rules.
- A farmer transporting carcasses of animals raised on his or her farm.
- Transportation solely for purposes of destruction, burial, or landfill disposal.
- Transportation by a government agency.
- Transportation by a bona fide research institution, for purposes of scientific research.
- A licensed animal trucker who transports, for direct delivery to a licensed renderer, animal food processor, or dead animal collector, the carcass of an animal that died while being transported by the animal trucker.
- The transportation of hides, feathers, or fully rendered products.
- A fur farm operator's transportation of carcasses or carcass materials solely to feed fur-bearing animals on the operator's fur farm.

- The transportation of legally harvested wild animals by or on behalf of the person who harvested them.
- An employee of a license holder, acting within the scope of his or her employment.

Under this rule, as under current rules, a person who transports carcasses and carcass materials under this rule must hold an annual DATCP permit for each vehicle. There is no fee. Each vehicle must bear the name and address of the permit holder. This rule clarifies current prohibitions and sanitation requirements.

Denaturing Carcasses and Carcass Materials

This rule clarifies current denaturing requirements for inedible carcasses or carcass materials. Inedible materials must be denatured, according to this rule, so that they cannot be used or mistaken for edible materials.

Labeling Processed Products

This rule clarifies current labeling requirements for processed inedible products. Products must be clearly identified, must be labeled as inedible, must bear a net quantity statement, and must be labeled with the name and address of the processor. Products that cannot be used for ruminant feed must bear labeling to that effect.

Inedible Animal By-Products; Use Restrictions

This rule updates and clarifies current restrictions on the use of inedible materials (materials not allowed for sale as human food), consistent with current federal regulations:

- Inedible materials may not be fed to food animals, unless the materials are fully rendered.
- Inedible protein materials, even if fully rendered, may not be fed to cattle or other ruminants.

This rule clarifies that no person may:

- Produce human food under a renderer license, an animal food processor license or a grease processor license.
- Process food in the same facilities used for a rendering plant, animal food processing plant or grease processing plant.

Meat and Poultry for Human Consumption

Wisconsin's program must be at least "equal to" the federal program administered by USDA. This rule modifies current DATCP meat inspection rules to make them consistent with federal rules, and to incorporate recent federal rule changes.

Slaughter of Nonambulatory Cattle for Human Consumption

With very limited exemptions, current federal rules prohibit the slaughter of “non-ambulatory” cattle (cattle that cannot stand or walk) for human consumption. The federal prohibition applies to custom-slaughtered animals, as well as animals slaughtered for sale. An animal does not qualify for exemption unless a state or federal veterinarian makes that determination, based on an ante mortem and post mortem examination of the affected animal. This rule incorporates the federal rules by reference, so that state rules will be fully consistent with federal rules (DATCP already enforces the federal rules).

Listeria Control Plans

Under federal regulations, meat establishments producing “ready-to-eat” meat products (such as bologna and frankfurters) must have written operating plans to minimize potential consumer health risks from *Listeria monocytogenes*. DATCP has already implemented this federal requirement in state-inspected meat establishments. This rule incorporates the federal regulations by reference.

Water Retained in Meat Products

Federal regulations prohibit retained water from post-evisceration processing in raw meat and poultry, except to the extent that the retained water is an unavoidable consequence of processing to meet food safety requirements. The product label must disclose the presence of any water in excess of naturally occurring water. This rule incorporates the federal regulations by reference.

Meat Brokers and Distributors; Records

Under current DATCP rules, meat brokers and meat distributors must register annually with DATCP unless they are licensed as meat establishments. Under this rule, meat brokers and meat distributors must keep the following records related to meat transactions in which they are involved as buyers, sellers or brokers:

- The name and address of the seller.
- The name and address of the buyer.
- The date and location of sale.
- The types of products sold.
- The amount of product of each type sold.
- The disposition of any meat products received by the meat broker or meat distributor.

Public Hearings

DATCP held 2 hearings on this rule. DATCP held the hearings on February 20, 2008, in Madison, February 22, 2008 in Wausau. Four persons testified at the hearings, and 4 others attended but did not testify. There were no written comments. A summary of the hearings is attached.

Changes from Hearing Draft

DATCP made minor changes to the final draft rule following public hearings, including minor changes suggested by the Legislative Council Rules Clearinghouse. Among other things, DATCP clarified the final draft rule related to slaughter of non-ambulatory cattle for human consumption (consistent with federal rules).

Fiscal Impact

This rule will have no significant fiscal impact on DATCP or local government units. A complete fiscal estimate is attached.

Business Impact

This rule will strengthen food and feed safety, and will not have any significant adverse impact on business. For the most part, this rule merely clarifies current rules without making significant substantive changes. Among other things, this rule clarifies the coverage of current licenses related to renderers, animal food processors, grease processors, commercial feed manufacturers and dead animal collectors.

This rule incorporates current federal rules, including rules related to slaughter of non-ambulatory cattle for human consumption. Because DATCP is already enforcing those federal rules, this rule will have no added impact on regulated businesses.

With the advent of BSE ("mad cow disease"), there has been increased focus on the rendering and animal food processing industries. DATCP currently enforces federal BSE regulations under contract with FDA. This rule incorporates the federal regulations that are currently in effect. On April 23, 2008, FDA issued additional regulations, which are scheduled to take effect in April 2009.

When they take effect, the new FDA regulations may have a significant impact on the rendering and animal food processing industries. However, this rule does not yet incorporate the new regulations. DATCP will enforce the new federal regulations on behalf of FDA when they take effect. DATCP will also update its rules at that time.

Federal Regulation

Federal law requires federal or state inspection of all meat establishments. State meat inspection must be at least "equal to" federal inspection. USDA administers the federal meat inspection program, and DATCP administers Wisconsin's state inspection program. This rule revises state meat inspection rules to keep them at least "equal to" federal regulations.

DATCP currently enforces federal commercial feed regulations under contract with FDA. This rule incorporates current federal regulations that prohibit the feeding of protein from mammalian tissues to cattle or other ruminants. The prohibition is designed to prevent the incidence of BSE ("mad cow disease"). DATCP is already enforcing this federal prohibition.

On April 23, 2008, the FDA issued a final regulation barring certain cattle materials from *all* animal feed (not just cattle or other ruminant feed), as a precautionary measure to prevent BSE. The new FDA regulation also applies to pet food. The new FDA regulation will not take effect until April, 2009. When it takes effect, the new FDA regulation will do all of the following:

- Prohibit the use of brains and spinal cords, from cattle 30 months of age and older, in animal feed (not just ruminant feed).
- Prohibit feed use of any cattle carcasses that have not been inspected and passed for human consumption, unless the cattle were less than 30 months old and the carcasses have brains and spinal cords removed.

This rule does not yet incorporate the new FDA regulation, but DATCP will enforce the new regulation on behalf of FDA when it takes effect. DATCP will also update its rules at that time.

Regulation in Surrounding States

All of the surrounding states (Michigan, Minnesota, Illinois and Iowa) regulate inedible animal by-products, including licensing and fees, processing and handling, facility standards, sanitation, labeling and enforcement. However, the surrounding states may use different terminology in their regulations.

All of the surrounding states require vehicle permits and identification of vehicles used to haul inedible carcasses and carcass materials. Surrounding states all require similar labeling of inedible carcasses, carcass materials and products. Surrounding states enforce FDA feed regulations, including prohibitions against the feeding of mammalian protein material to cattle or other ruminants. However, not all states have incorporated federal regulations by rule (incorporation facilitates enforcement under state law).