

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis¹

Rule Subject: Food Processing Plants
Adm. Code Reference: ch. ATCP 70
Rules Clearinghouse # Not yet assigned
DATCP Docket #: 06-R-07

Rule Summary

This rule addresses the regulation and inspection of wholesale food processing plants. Among other things, this rule updates current rules and makes the rule consistent with federal rules and other state rules such as ch. ATCP 75 (Model Food Code). This rule does not increase industry fees. Food processing rule modifications include:

- **Fish processing** rules are repealed and recreated to be consistent with federal rules under 21 CFR 123.
- Rules related to bottling water and juice processing at **bottling establishments** have been updated and clarified to be consistent with federal rules under 21 CFR 120 and 129.
- Rules concerning **reclaimed water** are updated and clarified.
- Rules concerning **handwashing facilities** are updated; however, new requirements will apply only to handwashing facilities that are installed after the effective date of this rule or with respect to food processing plant licenses issued to a new operator after the effective date of this rule.
- **Bare hand contact with ready-to eat-food** rules are made consistent with the current retail food rules under ch. ATCP 75 (Model Food Code).
- Standards related to **re-circulated water systems** and **water and potable liquids transported in bulk** are addressed.
- Rules will require a written plan for identifying and **recalling food** produced at a food processing plant, consistent with current federal rules. This rule does not mandate plant *content*, but it does provide suggestion.
- Federal and state **food labeling requirements**, including federal rules related to disclosure of major food allergens, are incorporated by reference.
- **Laboratory methods** for food safety tests are updated, based on updated official methods published by the Association of Official Analytical Chemists.
- This rule requires fish processors and juice processors to implement hazard analysis and critical control point (**HACCP**) plans.

¹ This analysis includes, but is not limited to, a small business analysis (“regulatory flexibility analysis”) under s. 227.114, Stats.

Effects on Business

This rule will help Wisconsin food processors to produce safe food products. Food safety regulation is important not only for consumers, but also for the food processors themselves. Food safety problems can harm individual businesses and the overall food industry.

For the most part, this rule merely updates and clarifies current rules and makes the rules consistent with other federal and state rules. These modifications will eliminate inconsistent and duplicative regulation, which will make it easier for food processors to comply. Generally, this rule gives affected food processors more flexibility to design effective food safety systems tailored to their operations. But in some instances, this rule provides definite compliance standards that are not provided by federal rules.

This rule requires fish processors and juice processors to implement HACCP plans. But there will be no added cost to affected businesses. DATCP will help train affected businesses on the implementation of HACCP plans and other food safety measures. The University of Wisconsin-Extension may offer seminars and training sessions at modest cost.

Consistent with current federal rules, this rule requires food processors to have written recall plans. However, this rule gives processors considerable flexibility to design recall plans that are tailored to their operations. This rule provides guidance on plan contents, but it does not impose specific content requirements.

This rule incorporates current state and federal labeling requirements for processed food, including current federal requirements related to disclosure of major allergens. This rule may prompt food processors to review their labels for compliance with current law, but it does not add any major new labeling requirements.

This rule requires food processors to keep certain records related to food processing operations to help ensure food safety. Since the recordkeeping requirements are consistent with normal business practice, they will not impose significant new burdens or costs. There are no new professional skills required.

This rule may require some changes in some food processing facilities and operations. But for most food processors, the changes (if any) will not be large or costly. Most food processors are already complying with most of the requirements. New requirements related to hand-washing facilities will apply prospectively to newly installed facilities or newly licensed operations.

Many of the food processing plants affected by this rule are “small businesses.” This rule will not have a significant adverse effect on small businesses, and it will help many small businesses by making food safety regulations clearer and more consistent. This rule does not exempt small businesses, because food safety risks affect small as well as large businesses. DATCP will help train affected businesses on the implementation of HACCP plans and other food safety measures. The University of Wisconsin-Extension may offer seminars and training sessions at modest cost.

This rule will promote food safety for the benefit of consumers *and* food processors. This rule will clarify current regulations, and make them more consistent. That will facilitate compliance by food processors. This rule will not have a significant adverse impact on affected small businesses or other affected businesses, and it is not subject to the delayed small business effective date under s. 227.22(2)(e), Stats.

Accommodation for Small Business

This rule will make it easier for affected businesses to understand and comply with the rules that apply to them. DATCP will send copies of the rules to all affected businesses and will offer education and training during inspections.

The department has worked and continues to work with businesses, including small businesses, in an effort to minimize the financial burden of training on businesses. Most business are already doing much of the monitoring that is required under HACCP, so the impact is mainly in the area of formatting and formalizing these practices into HACCP plans. Many plants also have written recall procedures in place, and the department is willing to work with them to provide help in meeting the requirements of the rule.

This rule will not have any significant adverse impacts on small business. DATCP has not exempted small businesses, because the food safety and other requirements under this rule are important for small as well as large businesses. DATCP has already adopted a rule (subch. VII of ch. ATCP 1) that allows DATCP to exercise enforcement discretion for small business.

Conclusion

This rule generally benefits affected business by clarifying current regulatory requirements. This rule will not have any significant adverse impacts on affected businesses. This rule does not increase industry fees. This rule is not subject to the delayed “small business” effective date provided in s. 227.22(2)(e), Stats.

Dated this _____ day of _____, 2008

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
James A. Larson, Acting Administrator
Division of Food Safety