



State of Wisconsin
Jim Doyle, Governor

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

DATE: August 7, 2009

TO: Bruce Hoesly, Legislative Reference Bureau
1 East Main Street, Suite 200

FROM: Rodney J. Nilsestuen, Secretary

SUBJECT: Food Processing Plants, ATCP 70 (*Clearinghouse Rule No.09-009*)

The Department of Agriculture, Trade and Consumer Protection (DATCP) hereby submits the following rule for publication:

CLEARINGHOUSE RULE #: 09-009
SUBJECT: Food Processing Plants, ATCP 70
ADM. CODE REFERENCE: ATCP 70
DATCP DOCKET #: 06-R-07

We are enclosing a copy of the final draft rule, as adopted by DATCP. We are also providing the following information for publication with the rule, as required by s. 227.114(6), Stats.

Final Regulatory Flexibility Analysis (Summary)

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 federal rules already require HACCP plans, and 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. This rule gives processors considerable flexibility to design recall plans that are tailored to their operations. The rule establishes general content standards, but does not impose specific content requirements. Actual recall procedures may deviate from advance plans, as circumstances warrant.

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.

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, including education and training during inspections.

Comments from Legislative Committees (Summary)

On May 28, 2009, DATCP transmitted the above rule for legislative review. The rule was assigned to the Senate Committee on Agriculture and Higher Education on June 2, 2009. The Senate Committee on Agriculture and Higher Education reported the rule out on July 2, 2009, with a report of no action taken by the assigned senate committee.