

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis

Rule Subject: Retail Food Establishments
Adm. Code Reference: Appendix to ATCP 75
Rules Clearinghouse #: Not yet assigned
DATCP Docket #: 09-R-01

Rule Summary

The Department of Agriculture, Trade and Consumer Protection (“DATCP” or “department”) licenses and inspects groceries, convenience stores, and other retail food establishments. The department has adopted food safety rules for these establishments in ch. ATCP 75. This rule generally does the following:

- Incorporates updates from the 2009 federal model food code issued by the United States Food and Drug Administration into the Wisconsin Food Code to reflect current food science standards and to clarify existing rules.
- Makes technical and other minor changes to correct or update the current rules relating to retail food establishments and the Wisconsin Food Code.
- Coordinates DATCP’s licensing requirements for food establishments with the licensing requirements for restaurants, which are regulated by the Department of Health Services (DHS). The agencies have collaborated to consistently modify their food codes.
- In addition to the extensive collaboration between DATCP and DHS, input and support have been obtained from key stakeholders. This rule was developed in consultation with an advisory group that included local health agencies, the Wisconsin Grocer’s Association, the Wisconsin Restaurant Association, the Tavern League of Wisconsin, Wisconsin Technical Colleges, the Wisconsin Department of Instruction, and the University of Wisconsin -Madison, Department of Food Science. These stakeholders have indicated support for this rule.

More specifically, the rule makes a number of updates and minor changes to current rules. These changes include:

- Each provision is now designated as a “Priority Item”, a Priority Foundation Item”, or a “Core Item”, to assist the industry and regulatory community in prioritizing their food safety inspections and interventions, as necessary. (These terms replace the former system using the terms “Critical” and “Non-Critical” in pre-2009 editions of the model food code.)

- Cut leafy greens and cut tomatoes are included among foods that require time and temperature control (and will require refrigeration).
- Food allergy awareness has been added as part of the food safety training required to be provided to employees by the person in charge.
- Food establishment managers are required to inform food employees of their responsibility to report certain symptoms of illness as they relate to diseases that are transmissible through food. Certain symptoms or diseases may temporarily limit activities that a food employee can do.
- Food employees' bare hand contact with ready-to-eat food is now only allowed under certain limited conditions.
- Serving ground meats in an undercooked form is no longer an option for items offered on a children's menu.
- Certain requirements related to methods of reduced oxygen packaging are clarified in the rule.
- Criteria for non-continuous cooking have been added.

Business Impact

This rule is not expected to have a major impact on large or small businesses. This rule benefits businesses by defining previously undefined terms and clarifying rules to reduce error in interpretation. Businesses that may be affected include groceries, bakeries, coffee shops, and convenience food stores.

It is likely that many establishments have already implemented the requirements contained in the rule and will incur no additional compliance costs. No additional licensing or other fees are imposed this rule.

The rule clarifies but does not substantially alter current rules related to the regulation of retail food establishments. Retail food establishments can implement this rule with existing personnel.

Accommodation for Small Business

The department will provide training, fact sheets, and handouts to Wisconsin retail food establishments and our regulatory partners to help implement the modified requirements contained in this rule. DATCP will review and update current training materials and create new materials where needed.

Conclusion

This rule will not have a major impact on retail food establishment businesses because the rule clarifies but does not substantially alter the existing licensing and inspection requirements of retail food establishments. The department will provide assistance to business, including small business, to implement the updated requirements.

Dated this _____ day of _____, 2012

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Steve Ingham, Administrator
Division of Food Safety