

Chapter ATCP 75

RETAIL FOOD ESTABLISHMENTS

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Note: Chapter Ag 32 was renumbered ch. ATCP 75 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

ATCP 75.01 Definitions. (1) "Agent municipality or county" means a city, village, or county granted agent status by the department under s. 97.41, Stats., and ch. ATCP 74.

(1m) "Approved sanitizers" mean substances or compounds approved by the department for the sanitizing of equipment or utensils under s. ATCP 75.10 (4).

(2) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

(3) "Equipment" means items other than utensils used in the processing, storage, handling, display or transportation of food, such as stoves, ovens, hoods, slicers, grinders, mixers, meat blocks, tables, food shelving, reach-in refrigerators and freezers, sinks, ice makers, machines for washing food contact surfaces of equipment and utensils, and similar items used in the operation of a retail food establishment. It does not include fork lift trucks or dollies.

(4) "Food" means food as defined in s. 97.01, Stats.

(5) "Food contact surfaces" means those surfaces of equipment and utensils with which food normally comes in direct contact, and those surfaces from which food may drain, drip or splash back onto surfaces normally in contact with food.

(6) "Frozen food" means any food intended for sale in a frozen state.

(6m) "Mobile food establishment" means a retail food establishment that is erected on a temporary basis, or designed to be moved from place to place. "Mobile food establishment" includes a pushcart but does not include a vehicle which is used solely to transport or deliver food.

(7) "Potentially hazardous food" means any food which consists wholly or in part of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, and which is capable of supporting rapid and progressive growth of pathogenic, infectious or toxicogenic microorganisms. "Potentially hazardous food" does not include foods that have a pH level of 4.6 or below, or a water activity (a_w) value of 0.85 or less under standard conditions; or food products in hermetically sealed containers processed to prevent spoilage.

(8) "Processing" means the manufacture or preparation of food for sale through the process of canning, extracting, fermenting, distilling, pickling, freezing, baking, drying, smoking, grinding, cutting, mixing, coating, stuffing, packing, bottling or packaging, or through any other treatment or preservation process. "Food processing" includes the activities of a bakery, confectionary or bottling establishment, and also includes the receipt and salvaging of distressed food for sale or use as food. "Food processing" does not include any of the following:

(a) Activities covered under a dairy plant license issued under s. 97.20, Stats.

(b) Activities covered under a meat or poultry establishment license issued under s. 97.42, Stats.

(c) The retail preparation and processing of meals for sale directly to consumers or through vending machines if the preparation and processing is covered under a restaurant permit or other permit issued under s. 50.51, Stats.

(d) Activities inspected by the federal department of agriculture under 21 USC 451 to 695 and 21 USC 1031 to 1056.

(e) The extraction of honey from the comb, or the production and sale of raw honey or raw bee products by a beekeeper.

(f) The washing and packaging of fresh fruits and vegetables if the fruits and vegetables are not otherwise processed at the packaging establishment.

(g) The receipt and salvaging of distressed food for sale or use as food if the food is received, salvaged and used solely by a charitable organization and if contributions to the charitable organization are deductible by corporations in computing net income under s. 71.26 (2) (a), Stats.

(8m) "Pushcart" means a mobile food establishment that is designed to be pushed by hand, with or without auxiliary power.

(9) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.

(10) "Retail food establishment" means any of the following, but does not include a restaurant or other establishment holding a permit under s. 50.51, Stats., to the extent that the activities of the establishment are covered by that permit:

(a) A permanent or mobile food processing facility where food is processed primarily for direct retail sale to consumers at the facility.

(b) A mobile facility from which potentially hazardous food is sold to customers at retail.

(c) A permanent facility from which food is sold to consumers at retail, whether or not that facility sells potentially hazardous food or is engaged in food processing.

(11) "Safe temperatures" as applied to potentially hazardous refrigerated foods means temperatures of 40° F (5° C) or below. As applied to potentially hazardous heated foods, safe temperatures means temperatures of 150° F (65° C) or above. As applied to frozen foods, safe temperatures means temperatures of 0° F (-17° C) or below.

(12) "Sanitize" means to destroy pathogens and other organisms, to the maximum extent practicable, by the application of an approved sanitizer or sanitizing method to food contact surfaces of utensils or equipment which are otherwise clean.

(13) "Single-service articles" means cups, containers, lids, napkins, and packaging materials, including bags and similar articles, that are designed for one-time use only.

(14) "Utensil" means any food contact implement such as a knife, fork, spoon, tong, spatula, scoop, pot or pan used in the processing, storage, handling, display, dispensing or transportation of unpackaged food.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80; am. (11), Register, December, 1980, No. 300, eff. 1-1-81; emerg. r. and recr. (8) and (10), eff. 7-1-88; renum. (1) to be (1m), cr. (1) and (6m), am. (7) and (11), r. and recr. (8) and (10), Register, October, 1989, No. 406, eff. 11-1-89; correction in (8) made under s. 13.93 (2m) (b) 1., Stats., Register, June, 1994, No. 462.

ATCP 75.012 Scope. This chapter applies to all retail food establishments as defined under s. ATCP 75.01 (10), regardless of whether the retail food establishment is subject to licensing under s. 97.30, Stats., or this chapter.

History: Cr. Register, October, 1989, No. 406, eff. 11-1-89.

ATCP 75.015 Retail food establishments; licensing.

(1) **LICENSE REQUIRED.** Except as provided under sub. (7), no person may operate a retail food establishment without a valid license issued by the department or an agent municipality or county. Licenses expire on June 30 annually. Each retail food establishment shall have a separate license, which shall be prominently displayed in the retail food establishment. A license is not transferable between persons or establishments.

(2) **LICENSE APPLICATION.** Application for a retail food establishment license shall be made on a form provided by the department, or by the agent municipality or county, and shall be accompanied by the applicable fees under sub. (2m) or s. 97.30 (4), Stats.

(2m) **ANNUAL LICENSE FEE.** An applicant for a retail food establishment license shall pay an annual license fee as follows:

(a) For a retail food establishment that has annual food sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, an annual license fee of \$175.

(b) For a retail food establishment that has annual food sales of at least \$1,000,000 and processes potentially hazardous food, an annual license fee of \$450.

(c) For a retail food establishment that has annual food sales of at least \$25,000 and is engaged in food processing, but does not process potentially hazardous food, an annual license fee of \$125.

(d) For a retail food establishment that has annual food sales of less than \$25,000, and is engaged in food processing, but does not process potentially hazardous food, an annual license fee of \$60.

(e) For a retail food establishment that is not engaged in food processing, an annual license fee of \$30.

Note: The treatment of sub. (2m) first applies to applications for new licenses that are filed on or after February 1, 1998 and to renewals of food warehouse and retail food establishment licenses which expire on June 30, 1998.

(2n) **REINSPECTION FEE.** (a) If the department reinspects a retail food establishment because the department has found a violation of ch. 97, Stats., or this chapter on a regularly scheduled inspection, the department shall charge the retail food establishment operator the reinspection fee specified under par. (b). A reinspection fee is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application form to the retail food establishment operator.

(b) The reinspection fee required under par. (a) is as follows:

1. For a retail food establishment that has annual food sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, the reinspection fee is \$125.

2. For a retail food establishment that has annual food sales of at least \$1,000,000 and processes potentially hazardous food, the reinspection fee is \$300.

3. For a retail food establishment that has annual food sales of at least \$25,000, and is engaged in food processing but does not process potentially hazardous food, the reinspection fee is \$125.

4. For a retail food establishment that has annual food sales of less than \$25,000 and is engaged in food processing, the reinspection fee is \$60.

5. For a retail food establishment that is not engaged in food processing, the reinspection fee is \$60.

(3) **ACTION ON LICENSE APPLICATION.** Within 15 business days after a complete license application is received by the department, or by its agent municipality or county, the department or its agent shall do one of the following:

(a) Grant the application.

(b) Deny the application. If the license application is denied, the department or its agent shall notify the applicant, in writing, of the reasons for the denial.

(c) Issue a temporary license under sub. (4).

(4) **TEMPORARY LICENSE.** The department or its agent municipality or county may issue a temporary license, for a period not to exceed 40 business days, pending final action on an application for an annual retail food establishment license. The department or its agent shall grant or deny the annual license application before the temporary license expires. If the department or its agent denies a license application before the applicant's temporary license expires, the temporary license is automatically terminated when the applicant receives written notice of the denial. The holder of a temporary license acquires no license rights beyond those conferred by the temporary license under this subsection. A temporary license may not be issued in response to a renewal application by the holder of an existing license.

(5) **PRE-LICENSE INSPECTION.** The department or its agent municipality or county may inspect a retail food establishment, as the department or agent deems necessary, before issuing a license to the retail food establishment. No license or temporary license may be issued for a new retail food establishment until the new retail food establishment is inspected for compliance with this chapter. A previously licensed retail food establishment is not considered a new retail food establishment under this subsection solely because of a change of ownership, or solely because of alterations in the retail food establishment.

(6) **DENIAL, SUSPENSION OR REVOCATION OF LICENSE; CONDITIONAL LICENSE.** The department or its agent may deny, suspend or revoke a license, or impose conditions on a license as provided under s. 93.06 (7) and (8), Stats. Except as otherwise provided by statute, rule or local ordinance, the suspension or revocation of a license shall comply with the prior notice requirements of s. 227.51, Stats.

(7) **LICENSE EXEMPTIONS.** A retail food establishment license is not required under s. 97.30, Stats., or this section for:

(a) A retail food establishment that sells only packaged foods or fresh fruits and vegetables, provided the establishment does not sell potentially hazardous food and does not engage in food processing.

(b) A retail food establishment which is operated by the holder of a food processing plant license under s. 97.29, Stats., if:

1. The retail food establishment is operated at the same location as the licensed food processing plant; and

2. Sales from the retail food establishment are included in the computation of the food processing plant license fee under s. 97.29 (3), Stats.

(c) A retail food establishment which is operated by the holder of a restaurant permit issued under s. 254.64, Stats., if:

1. The retail food establishment is operated at the same location as the restaurant for which a permit is held under s. 254.64, Stats.; and

2. Non-meal food sales from that location comprise less than 50% by dollar volume of all meal and non-meal food sales from that location. When calculating food sales amounts under this subdivision, sales of alcohol beverages shall be excluded.

Note: In a city or county that licenses and inspects retail food establishments on behalf of the department, pursuant to s. 97.41, Stats., and ch. ATCP 74, the rule amendment to s. ATCP 75.01 (7) (c) 2. takes effect on July 1, 1999.

(d) A restaurant, vending machine, vending machine commissary or other establishment for which a permit is issued under s.

50.51, Stats., to the extent that the activities of the establishment are covered by that permit.

(e) A retail food establishment which is operated by the holder of a dairy plant license issued under s. 97.20, Stats., if:

1. The retail food establishment is operated at the same location as the licensed dairy plant; and

2. Food sales from that location, other than sales of dairy products produced at that location, comprise no more than 25% by dollar volume of all dairy and non-dairy food sales from that location.

(f) A retail food establishment which is operated in conjunction with a state licensed or federally inspected meat establishment if all of the following apply:

1. The meat establishment is licensed under s. 97.42, Stats., or inspected under 21 USC 71 et seq. or 21 USC 451 et seq.

2. The retail food establishment is operated at the same location, and by the same person, as the meat establishment.

3. Food sales from that location, other than inspected meat or meat products produced at that location, comprise no more than 25% by dollar volume of all meat and non-meat food sales from that location.

(g) A retail food establishment which is primarily engaged in selling fresh fruits and vegetables, honey, cider, sorghum or maple syrup produced by the operator of the retail food establishment, if no other food processing activities are conducted at that retail food establishment.

(h) A temporary retail food processing facility operated by a religious, charitable or non-profit organization for no more than 14 days in any license year.

History: Emerg. cr. eff. 7-1-88; cr. Register, October, 1989, No. 406, eff. 11-1-89; r. and recr. (7) (a), Register, June, 1994, No. 462, eff. 7-1-94; am. (2), cr. (2m) and (2n), Register, January, 1998, No. 505, eff. 2-1-98; am. (7) (c), Register, December, 1999, No. 528, eff. 1-1-00.

ATCP 75.02 Retail food establishment; construction, facilities and maintenance. (1) **BUILDINGS, FACILITIES AND EQUIPMENT; GENERAL.** (a) Buildings, facilities and equipment used in the operation of a retail food establishment shall be of sound construction, and shall be capable of being maintained in a clean and sanitary condition to prevent the adulteration or contamination of food. Both interior and exterior portions of the buildings, and the premises on which they are located, shall be kept free of unclean, unhealthful or unsanitary conditions, and shall otherwise be maintained in a manner prescribed by this chapter.

Note: Retail food establishments are subject to applicable provisions of the state commercial building code, chs. Comm 50 to 64, enforced by the department of commerce.

(b) All floors, walls and ceilings in retail food establishments shall be kept clean and in good repair. Floors, walls and ceilings in processing areas, toilet rooms, and areas used for the cleaning or storage of equipment or utensils shall be constructed of smooth impervious and easily cleanable materials. This does not prohibit the use of anti-slip floors which are otherwise easily cleanable in areas where necessary for safety. Walls and ceilings in processing areas shall be light colored.

(c) No food processing or handling operations may be conducted in any room used as living or sleeping quarters. Retail food establishment operations shall be separated from adjacent living or sleeping quarters by a tight-fitting, self-closing door.

(d) Doors, windows, skylights, transoms and other openings to the outside shall be tight-fitting, free of breaks, and effectively screened or otherwise protected against the entry of rodents, insects, birds and other animals. External doors, other than overhead doors in delivery areas, shall be self-closing. External doors shall be kept closed when not in use.

(e) Establishments constructed, substantially reconstructed or extensively altered after November 1, 1984, shall conform to the following requirements:

1. The junctions of walls and floors in processing areas shall be coved to facilitate cleaning.

2. Floors waterflushed for cleaning or on which water or fluid wastes are discharged shall be provided with floor drains and be sufficiently sloped to provide adequate drainage.

3. At least one service sink or curbed floor drain shall be provided for use in the cleaning of mops or wet floor cleaning tools, and for the disposal of mop water or similar wastes.

(2) **LIGHTING.** Lighting in every area of the retail food establishment, whether natural or artificial, shall be sufficient for the purpose for which the area is used. Artificial lights in food processing areas shall be equipped with protective shields or shatterproof bulbs. In processing and storage areas, the following minimum light intensities shall be maintained:

(a) Not less than 20 foot candles on working surfaces including produce handling surfaces, except that working surfaces used for mixing, grinding, stuffing, packaging or other processing operations shall be illuminated to an intensity of not less than 50 foot candles.

(b) Not less than 10 foot candles in all food storage areas as measured at a point 3 feet from the floor.

(3) **VENTILATION.** All areas in which food is processed or handled, all areas in which equipment or utensils are cleaned or sanitized, and all dressing rooms, locker rooms, toilet rooms, employee break rooms and garbage or rubbish storage areas shall be adequately ventilated. Ventilation shall be adequate to remove excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be positioned so that exhaust air is not vented onto exposed food, or onto clean food packages, equipment or utensils. Intake fans shall be equipped with filters that are readily removable for cleaning and replacement. Exhaust fans, intake fans and ducts shall be kept clean and in good repair, and shall be screened or louvered to prevent the entrance of dust, dirt, insects and other potential contaminants. Ventilation systems shall be capable of maintaining positive pressures in food processing areas. Ventilation systems in food processing areas shall comply with s. Comm 64.67.

(4) **TOILET FACILITIES.** (a) A sufficient number of sanitary toilets to accommodate all employees, in accordance with applicable state and local regulations, shall be provided in convenient locations. Toilet rooms shall be completely enclosed, well-lighted, and equipped with tight-fitting, self-closing doors. Toilet rooms and fixtures shall be easily cleanable, and shall be kept clean and in good repair.

(b) Toilet rooms constructed, substantially reconstructed or extensively altered after November 1, 1984:

1. Shall be separately vented to the outside;
2. Shall be equipped with an exhaust fan capable of creating a negative pressure within the toilet facility; and
3. Shall not open directly into a food processing area.

(c) Handwashing facilities shall be located in or adjacent to every toilet room. Handwashing facilities shall include hot and cold running water, soap in a soap dispenser, and a sanitary single-service means of drying the hands. A sign directing employees to wash their hands shall be prominently posted in every toilet room used by employees. If handwashing facilities are installed after June 30, 1989, the facilities shall comply with the following requirements:

1. The facility shall be served by hot and cold running water provided through a mixing valve or combination faucet, or by potable tempered water.

2. Faucets shall be of a type which is not hand operated. If a self-closing, slow-closing or metering faucet is used, that faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(d) An easily cleanable covered trash receptacle and an adequate supply of toilet tissue shall be available in every toilet room at all times.

(5) **LOCKER AND LINEN FACILITIES** (a) Lockers or comparable facilities shall be provided for the clothing and similar personal belongings of employes. Clothing and personal belongings of employes shall not be stored in food processing areas or in areas where equipment or utensils are cleaned or stored. Small personal items, such as purses and jewelry, may for security reasons be kept in processing or equipment areas, provided they are kept covered or separately stored so as to prevent the contamination of food.

(b) Damp or soiled linen and clothing shall be placed and kept in non-absorbent containers or laundry bags until removed for laundering. Damp or soiled linen and clothing shall be removed as often as necessary to prevent the creation of unsanitary conditions.

(6) **HANDWASHING FACILITIES IN PROCESSING AREAS** (a) Handwashing sinks with available hot and cold running water shall be provided for the use of employes working in all food processing areas. The sinks shall be conveniently located for the use of the employes and be kept in a clean and sanitary condition. A supply of soap or detergents and sanitary single-service towels shall be kept available at the sink for the washing and drying of hands. If disposable towels are used, clean waste receptacles shall be provided for their disposal. The use of common towels is prohibited.

(b) If a handwashing sink is installed under this subsection after June 30, 1989, the handwashing sink shall:

1. Be located in the processing area;

2. Be served by hot and cold running water provided through a mixing valve or combination faucet, or by potable tempered water; and

3. Be of a type which is not hand operated. If a self-closing, slow-closing or metering faucet is used, that faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(7) **WATER SUPPLY** An ample supply of potable hot and cold water shall be available for lavatory facilities and for all processing operations. Water shall be obtained from a source which complies with ch. NR 811 or 812. Water shall comply with the microbiological standards under s. NR 809.30. If a private water system is used as the source of water, a sample of the water shall be obtained and tested at least once annually for compliance with the microbiological standards under s. NR 809.30. Record of test results shall be kept on file for a period of 3 years, and shall be available for inspection and copying.

(8) **EXTERIOR PREMISES** Premises on which retail food establishments are located shall be well drained and kept in a clean and orderly condition, free from accumulations of trash, garbage, and other sources of contamination. Driveways and parking lots surrounding the retail food establishment shall be surfaced or otherwise maintained so as to minimize dust and dirt.

(9) **SEWAGE AND WASTE DISPOSAL** (a) Sewage and waste materials shall be disposed of in a sanitary manner, and in accordance with applicable state and local regulations. All plumbing, plumbing fixtures and equipment shall be designed, installed and maintained to prevent backflow, back-siphonage and cross-connections.

Note: Plumbing and plumbing fixtures are subject to the requirements of chs. Comm 82 to 86, enforced by the department of commerce.

(b) Garbage and other refuse shall not be allowed to accumulate in and about the premises and shall be removed as often as necessary to maintain the premises in a clean and sanitary condition. Garbage storage areas shall be constructed and maintained in such a manner as to prevent the attraction or harborage of

insects, rodents or other animals. Garbage and refuse shall be held in durable, easily cleanable, insect and rodent-resistant containers. Containers shall be kept covered with tight-fitting lids, and be cleaned as necessary after being emptied and before reuse.

(c) Garbage and other refuse shall not be burned on the premises except in a manner which complies with state and local laws and regulations, and presents no threat of contamination to food, or areas used in the processing, handling or storage of food.

(10) **CONSTRUCTION; PLAN REVIEW** When a retail food establishment is constructed, substantially reconstructed or extensively altered, or when an existing structure is converted for use as a retail food establishment, plans and specifications for the construction, conversion or alteration may be submitted to the department for review before the work is begun.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80; am. (1) (a), (d) and (e) (intro.), (2) (b), (3), (7) and (9) (as), r. (2) (c), r. and recr. (4) and (6) (b), Register, October, 1989, No. 406, eff. 11-1-89; corrections in (7) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1993, No. 448; corrections in (7) made under s. 13.93 (2m) (b) 7., Stats., Register, January, 1998, No. 505.

ATCP 75.03 Personnel standards. (1) CLEANLINESS.

Retail food establishment employes shall maintain a high degree of person cleanliness and observe good hygienic practices during all working periods. Employes shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or engaging in other activities which may soil or contaminate the hands. Employes shall keep their fingernails clean and neatly trimmed.

(2) **CLOTHING AND JEWELRY** (a) Clean, white or light colored washable outer garments and effective hair restraints, including effective hair restraints for beards longer than 1/2 inch, shall be worn by all persons in food processing areas. Hair restraints may include hair nets, caps and snoods, but do not include hairsprays, visors or headbands.

(b) Employes shall remove all jewelry from their hands and fingers before having any direct manual contact with food. Jewelry shall not be worn in such a manner as to subject food to possible contamination. This paragraph does not apply to plain band wedding rings.

(3) **EMPLOYEE HEALTH** No person afflicted with a communicable disease, or having a discharging or open wound, sore or lesion on the hands, arms or other exposed portions of the body, may be permitted to work in a retail food establishment in any capacity which may result in the contamination of food, or equipment or utensils used in the processing or handling of food. This prohibition shall also apply to persons reasonably suspected of being affected with any of these conditions.

(4) **CONSUMPTION OF FOOD, BEVERAGES AND TOBACCO** No person may consume food, beverages or tobacco in any food processing area, or in any area where food processing equipment or utensils are cleaned or stored. Employes may not consume food, beverages or tobacco except in designated areas which are separated from food processing areas. This subsection does not prohibit on-line quality control sampling in accordance with written quality control procedures established by the operator of a retail food establishment.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80; am. (2) (a) and (4), Register, October, 1989, No. 406, eff. 11-1-89.

ATCP 75.04 Equipment and utensils; design, installation and maintenance. (1) GENERAL REQUIREMENTS.

Equipment and utensils shall be of sanitary design and construction. They shall be readily accessible for cleaning and inspection, and be kept clean and in good repair.

(2) **FOOD CONTACT SURFACES** (a) Food contact surfaces shall be smooth and free of breaks, open seams, cracks, chips, pits and similar defects.

(b) Food contact surface materials, including materials used for the repair of food contact surfaces, shall be smooth, impervi-

ous, and non-absorbent. Materials shall be easily cleanable, durable under normal conditions of use, and capable of withstanding repeated scrubbing and scouring, and the corrosive action of detergents and sanitizers. They shall not impart odors, color or taste, or contribute to the adulteration of food coming in contact with them. Hard maple or other material which is relatively non-absorbent may be used for cutting blocks, boards and bakers tables. Paint is prohibited on food contact surfaces.

Note: Sanitary wooden paddles in good condition may be used in processing confectionary products.

(3) **NON-FOOD CONTACT SURFACES AND PARTS.** (a) Equipment surfaces, other than food contact surfaces, which are exposed to splash or food debris or require frequent cleaning to prevent accumulation of dirt or waste, shall be constructed of reasonably smooth, washable materials, and be free of unnecessary ledges, projections or crevices, so as to facilitate cleaning. Equipment surfaces shall be accessible for cleaning and inspection, and be kept in clean and sanitary conditions.

(b) Equipment shall be designed and constructed in such a manner that gear and bearing lubricants cannot contaminate food or food contact surfaces. Only food grade lubricants shall be used in equipment.

(4) **EQUIPMENT INTENDED FOR IN-PLACE CLEANING.** Equipment systems intended for in-place cleaning of food contact surfaces shall be designed and constructed to permit the circulation of cleaning and sanitizing solutions throughout all interior food contact surfaces in the system. The system shall be self-draining or otherwise capable of being completely evacuated.

(5) **INSTALLATION OF EQUIPMENT IN PROCESSING AREAS.** Equipment placed on tables, counters, floors or other surfaces in processing areas, unless readily removable, shall be installed in such a manner as to prevent the accumulation of liquids or debris underneath, between or behind such equipment.

(6) **Mechanical cleaning systems.** If a mechanical system is used to clean or sanitize equipment, utensils or food containers, the mechanical system shall be designed, installed and maintained so that it is fully effective for the purpose used. Dishwashers and other mechanical cleaning systems shall be properly installed in compliance with chs. Comm 82 and 84.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80; cr. (6), Register, October, 1989, No. 406, eff. 11-1-89; correction in (6) made under s. 13.93 (2m) (b) 7., Stats., January, 1998, No. 505.

ATCP 75.05 Food sources. (1) **CANNED AND PROCESSED FOODS.** Canned and processed foods may not be used or offered for sale in retail food establishments unless they originate from food processing plants licensed or inspected under state or federal law. Foods may not be vacuum packed in a retail food establishment unless authorized by the department in writing.

(2) **MILK AND DAIRY PRODUCTS.** No milk or dairy products may be sold, offered for sale, or used in the processing of food for sale in a retail food establishment unless they have been processed and packaged in a licensed dairy plant.

(3) **MEAT AND POULTRY.** No meat, poultry or meat food products may be sold or offered for sale, or used in the processing of food for sale at retail except meat, poultry and meat food products obtained from state or federally inspected meat slaughtering or processing plants. Only meat, poultry, and meat food products from inspected sources shall be permitted in a retail food establishment. This does not prohibit the processing of meat, poultry or meat food products for sale directly to consumers as provided under s. 97.42 (2) (b), Stats., or the custom processing of wild game in compliance with s. ATCP 75.07 (5).

(4) **ICE.** Ice which is sold or offered for sale at retail, or which may come in contact with food, shall be made from potable water and be manufactured, stored, transported and handled in a sanitary manner. Ice which is offered for sale shall be packaged. Ice used to cool food at a retail food establishment shall not be sold for human consumption.

(5) **EGGS AND EGG PRODUCTS.** Only clean whole eggs, pasteurized egg products, or pasteurized eggs in liquid, frozen or dry form may be used as egg ingredients in the processing of food. Clean whole eggs shall be equivalent to USDA grade B or better, with shells intact and without cracks or checks.

(6) **FOOD INGREDIENTS; GENERAL.** Only safe and wholesome food ingredients may be used in food processing. Raw agricultural commodities and other food ingredients shall be inspected and segregated as necessary to determine if they are clean and fit for processing. Food ingredients shall be held and processed under conditions that protect against contamination, minimize deterioration and inhibit growth of harmful microorganisms.

(7) **BOTTLED WATER.** If drinking water is bottled at a retail food establishment for sale to consumers, the ingredient water shall comply with s. ATCP 70.07 (2) and the bottled product shall comply with s. ATCP 70.26 (2). A person who bottles water at retail for sale to consumers shall comply with applicable testing, record-keeping and reporting requirements under s. ATCP 70.26.

(8) **GAME.** Wild game may not be sold or offered for sale in a retail food establishment. Captively raised game animals and birds obtained from inspected and approved sources may be sold in a retail food establishment if authorized by the department in writing.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80; am. (1) and (4), cr. (5) to (8), Register, October, 1989, No. 406, eff. 11-1-89.

ATCP 75.06 Food handling, display and storage.

(1) **GENERAL REQUIREMENTS.** Food shall be protected from contamination during all periods in which it is stored, processed, displayed, handled, dispensed or otherwise held for sale.

(2) **FOOD TEMPERATURES.** (a) Frozen and potentially hazardous foods shall be kept at safe temperatures at all times while being stored, displayed or offered for sale. Frozen foods, the temperature of which may temporarily exceed a safe temperature because of normal defrost cycles, the loading or unloading of a freezer, or other similar reasons, shall be returned to a safe temperature as quickly as possible. In no case shall the internal temperature of frozen food exceed 10° F (-12° C.).

(b) Easily readable thermometers accurate to within 2° F (1° C.) shall be installed in all freezers, and in all refrigerators and hot food holding units used for the storage or display of potentially hazardous foods. Thermometers shall be installed so that their readings are reasonably representative of the warmest freezer or refrigerator temperature at which food is being held, and the coolest hot food holding unit temperature at which food is being held.

(c) Refrigerator and freezer display cases shall not be filled in excess of the maximum capacity specified by the manufacturer of the unit.

(d) If potentially hazardous food is heated, refrigerated or frozen in the course of processing, the internal temperature of the food shall be accurately monitored, as necessary, to ensure that safe temperatures are promptly attained and maintained.

(e) Potentially hazardous frozen foods shall be thawed by one of the following methods:

1. In a refrigerated space at a temperature of not more than 40° F (4° C.).

2. Under potable running water at a temperature of not more than 70° F (21° C.). Water velocity shall be sufficient to agitate loose particles and drain or float them away from the food being thawed.

3. In a microwave oven if the food is fully cooked in the microwave oven, or if cooking is immediately completed in another cooking facility.

4. In any cooking facility, as part of the cooking process by which the food is fully cooked.

(f) A potentially hazardous food that is cooked at a retail food establishment shall be cooked so that all parts of the food are heated to a temperature of at least 150° F (66° C), except that:

1. Cooked poultry, poultry stuffing, stuffed meats and stuffing containing meat shall be cooked so that all parts of the food are heated to at least 165° F. (74° C.) with no interruption of the cooking process.

2. Cooked pork and pork products shall be cooked so that all parts of the food are heated to at least 150° F. (66° C.) or, if cooked in a microwave oven, to at least 170° F. (77° C.).

3. Beef roasts, if cooked in a microwave oven, shall be cooked to an internal temperature of at least 145° F. (63° C.).

4. Rare roast beef shall be cooked to an internal temperature of at least 140° F. (60° C.) unless otherwise ordered by the immediate consumer.

5. Cooked ground meat and ground meat products shall be cooked to an internal temperature of at least 155° F. (68.3° C.) unless otherwise ordered by the immediate consumer.

(g) If a potentially hazardous food has been cooked and then refrigerated, all parts of that food shall be reheated rapidly to at least 165° F. (74° C.) before the food is served for consumption or placed in a hot food holding facility at a retail food establishment. The time period needed to reach 165° F. shall not exceed 2 hours. A hot food holding facility such as a steam table, bainmarie, warmer or similar hot food holding devices may not be used for the rapid reheating of a potentially hazardous food under this paragraph.

(3) FOOD STORAGE. (a) *Storage areas.* Food storage areas, including walk-in refrigerated and frozen food storage units, shall be maintained in a clean, sanitary and orderly condition, free from accumulations of litter or other materials which may result in the contamination of food. Waste water and other waste materials shall not be permitted to drain or accumulate on the floors in food storage areas.

(b) *Manner of storage.* Food shall be stored a minimum of 6 inches above the floor or on pallets in such manner as to protect it from splash, damage and other potential sources of contamination. Food shall be stored away from walls to allow for cleaning and inspection and to prevent the harborage of insects and rodents. Unpackaged foods, except for raw agricultural commodities, shall not be stored in direct contact with racks, dollies, shelves or other such storage surfaces. Food packaged in metal, glass or other vermin proof containers need not be elevated off the floor or kept away from walls, provided that floors and walls of the storage area are clean and not exposed to water or excessive moisture, and rodents, insects or other vermin are not in evidence.

(c) *Storage in re-used containers.* Poultry crates, meat boxes, and other containers used for the packaging or storage of potentially hazardous foods shall not be re-used for the packaging or storage of foods other than those for which they were originally used. Containers used for the packaging or storage of poisonous materials shall not be reused for the packaging or storage of food.

(4) DISPLAY AND HANDLING OF FOOD. (a) *Display facilities.* Display cases and containers, refrigerated display cases, counters, shelves and other facilities used for the display of food, or from which food is dispensed to the public, shall be kept in good repair and in a clean and sanitary condition.

(b) *Single-service articles.* Single-service articles shall be stored in the original containers in which they were received or in other closed containers which will protect them from contamination. The re-use of single-service articles is prohibited.

(c) *Display of bulk, unwrapped, ready-to-eat or delicatessen foods.* Bulk, unwrapped, ready-to-eat or delicatessen foods, while on display, shall be kept covered or otherwise protected against contamination. Except for salad ingredients displayed in a salad bar, the displayed foods shall not be available for handling by the public, and shall be handled only by employees. This paragraph does not apply to:

1. Raw agricultural commodities.

2. Foods which are dispensed by a mechanical device which allows customers to serve themselves, but which prevents direct customer contact with food not included in the individual self-served portion. Foods, while on display in the dispensing device, shall be kept covered or otherwise protected against contamination. Dispensing devices shall be approved by the department for compliance with this subdivision. Approvals shall comply with par. (d).

3. Foods which are not potentially hazardous, including processed foods requiring further heat treatment, if specifically approved by the department for sale in unwrapped bulk form, by means of customer self-service. Approvals shall comply with par. (d).

(d) *Sale of unwrapped foods in bulk form; department approval.* The department may approve the display and sale of unwrapped food in bulk form, by means of customer self-service, if the method of display and sale provides adequate protection against the contamination of food, and if the food is not potentially hazardous. Approval shall be specific to the individual retail food establishment, the type of food being displayed and sold, and the method of display and sale. Approval may be revoked at any time, if it appears that food is not adequately protected from contamination. The following conditions shall apply to all approvals under this paragraph:

1. Unwrapped bulk foods, while on display or in storage, shall be adequately separated from all potential sources of contamination within the retail food establishment. Areas used for the storage of unwrapped bulk foods, and for the filling of retail display containers, shall be clean and sanitary.

2. Equipment and utensils, including retail display containers, used for the storage, handling, display or transportation of unwrapped bulk foods shall be cleaned and sanitized as necessary to keep them in a sanitary condition. Cleaning and sanitizing facilities and methods shall comply with s. ATCP 75.10.

3. Self-service display containers, other than mechanical dispensing devices under par. (c) 2., shall be equipped with a tight-fitting lid. The lid shall be permanently attached in such a manner that the lid, when opened, is prevented from touching the floor or other containers. The lid shall be self-closing or kept in a closed position at all times, except when food is being removed from the container by a customer. Salad ingredients, while on display in a salad bar, may be protected by an overhead canopy and food shield over the salad bar, rather than by individual covers or lids on the salad ingredient containers. Salad ingredients shall be arranged so that customers may have access to the ingredients without reaching over uncovered food.

4. Each self-service display container shall be equipped with a utensil, complete with handle, to be used by customers in removing food from the container. A sign, prominently posted on or near the self-service display container, shall direct customers to use the utensil provided for self-service of unwrapped bulk foods.

5. Individual serving containers provided to customers by a retail food establishment shall be for single-service use. Containers shall not be returnable for re-use by other customers for purchases of unwrapped foods in bulk form. Containers supplied by customers shall not be used in a manner which may cause contamination of displayed food.

6. Every retail food establishment shall maintain a record of sources from which unwrapped foods, displayed for sale in bulk form, were obtained. Records shall identify the wholesale source of the food, and the bulk packager or manufacturer of the food. Records shall be made available for inspection and copying by the department upon request.

7. The contents of each self-service display container shall be labeled as provided in s. ATCP 75.11 (4).

8. Retail food establishment employees engaged in the handling of unpackaged foods in bulk form shall be given appropriate

sanitation training and instructions, including appropriate written or posted instructions. Copies of all written instructions shall be made available for inspection and copying by the department upon request.

9. Bulk food returned to a retail food establishment shall not be resold, or placed together with food inventory held for sale. Bulk food returns shall be promptly discarded, except where the retail food establishment contemplates a possible recall action related to the bulk food. Bulk food returns kept in anticipation of, or pursuant to a recall action shall be kept in segregated storage, and be identified and maintained so as to facilitate testing and the identification of source lots or batches.

(5) **DAMAGED FOOD PACKAGES.** (a) Food shall not be sold in packages that are damaged to such an extent that the food contents may have been exposed or subjected to possible contamination. Packages or containers with bulging ends, ruptures, hairline fractures, breakage along critical seams, or openings whereby the food contents may have been exposed to contamination, shall be considered as damaged food and be removed from sale.

(b) Food and food packages which have been subjected to contamination or possible contamination in a fire, flood or other casualty shall not be sold, offered for sale or reprocessed for sale for human consumption unless the department has first inspected all such food and food packages, and authorized their sale or disposition. Retail food establishments shall notify the department when food in their possession has been subjected to damage or possible damage because of fire, flood or other casualty.

(6) **CONTROL OF INSECTS, RODENTS AND OTHER ANIMALS.** (a) Effective measures and programs shall be employed to control the presence of insects, rodents and other vermin on the premises.

(b) Live birds, turtles and other animals shall be excluded from all retail food processing, storage, display, and sales areas. This does not apply to edible crustacea, shellfish or fish, or to fish in aquariums. Patrol dogs accompanying security or police officers and guide dogs accompanying handicapped persons are permitted in areas other than processing areas.

(7) **POISONOUS AND HAZARDOUS SUBSTANCES.** (a) Pesticides and other poisonous and hazardous substances shall not be displayed, stored or used in a manner which may contaminate food, equipment, utensils, or single-service articles, or constitute a hazard to employees or the public.

(b) Containers of poisonous or hazardous substances shall be prominently and distinctly labeled so that the contents of the container can be readily identified. Small working containers of bulk cleaning or sanitizing compounds shall be individually labeled. Cleaning and sanitizing compounds shall be stored separately from pesticides and other poisonous or hazardous substances.

Note: Pesticide storage and use must comply with ss. 94.67 to 94.71, Stats., and ch. ATCP 29. Pesticides must be registered for use by the U.S. environmental protection agency or by the department. Pesticides shall not be stored, handled or used contrary to label directions, or in a negligent manner.

(8) **BULK FLOUR HANDLING SYSTEMS.** (a) Food contact surfaces in bulk flour handling equipment shall comply with the provision of s. ATCP 75.04 (1), except that pneumatic systems using storage bins constructed of semipermeable cloth material are exempt from the requirement that surfaces be smooth, impervious, and nonabsorbent, provided that the surfaces can be effectively cleaned.

(b) Attachment mechanisms for holding inspection port covers, access doors, delivery pipe caps or other removable accessories shall have no loose parts. Delivery pipe caps shall be in place and secured against removal except when a bulk flour handling system is in use.

(c) Outside installations shall be watertight or suitably covered to prevent entry of water and foreign material.

(d) Intake air used in pneumatic flour handling systems shall be filtered to exclude particles of 50 microns or larger. Air discharged from the system shall be filtered so that no visible dust is

permitted to escape. Filters shall be readily removable for cleaning or replacement. Straight runs of pneumatic conveyors shall comply with the provisions of s. ATCP 75.04 (1), except that piping which is self-purging is exempt from accessibility requirements.

(9) **REWORK.** All food ingredients reclaimed from processing for reworking into finished products shall be handled in a sanitary manner, and shall be stored in properly identified containers as reclaimed or reworked ingredients.

(10) **MATERIAL HANDLING.** Effective measures shall be taken to prevent cross contamination between raw materials and finished food products. Raw materials shall not be handled simultaneously with finished products in a receiving, loading, or shipping area if either the raw materials or the finished products are uncovered or unprotected, and if the handling may result in contamination.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80; am. (4) (c) and cr. (4) (d), Register, May, 1984, No. 341, eff. 6-1-84; cr. (2) (d) and (e), (7) (b), (8) to (10), renum. (7) to be (7) (a), Register, October, 1989, No. 406, eff. 11-1-89; cr. (2) (f) and (g), Register, June, 1994, No. 462, eff. 7-1-94.

ATCP 75.07 Meat operations. (1) FLOOR CLEANLINESS. Sawdust, wood shavings, baked clay and similar materials are not permitted on the floors of retail food establishments. This does not prohibit the use of granular salt as an anti-slip covering on floors where necessary for safety, provided the salt is removed at the close of each day's operation. Meat wastes shall be placed in inedible waste containers, and not be allowed to accumulate on floors. Floors shall be cleaned as often as necessary to maintain them in a sanitary condition. Mats or duckboards, if used, shall be easily removable for cleaning and be kept in a clean condition.

(2) **MEAT HANGING RAILS.** (a) Meat rails for the hanging of carcasses shall be kept clean and in good repair, and free of accumulated residues or rust at all times. Wooden meat rails which cannot be kept clean or in good repair shall be replaced with metal rails. Wooden rails shall be varnished, lacquered or otherwise treated with harmless, non-toxic materials so as to be easily cleanable. Paint is prohibited on meat rails.

(b) Meat rails in facilities constructed, substantially reconstructed or extensively altered after the effective date of this chapter shall be of metal construction, and be located at least 18" from the nearest wall, and be spaced at least 30 inches from each other. Carcasses and parts of carcasses shall hang no lower than 6 inches above the floor.

(3) **CLEANING OF EQUIPMENT BETWEEN MEAT TYPES.** Equipment and utensils used in the cutting, handling or processing of pork, poultry, seafood or wild game shall be cleaned and sanitized prior to the cutting, handling or processing of any other type or class of animal product.

(4) **POULTRY HANDLING.** Unpackaged poultry and poultry products, while being processed or held in storage, shall not come in contact with any other food. Frozen and refrigerated storage facilities shall have a separate designated compartment or area for the storage of poultry and poultry products. Persons handling poultry or poultry products shall wash their hands before handling any other food.

(5) **WILD GAME.** Wild game shall be conspicuously labeled as such, and be prominently and conspicuously marked with the words "NOT FOR SALE". Wild game, while being processed or held in storage, shall be kept separate and apart from other food. Trimmings shall not be permitted to come in contact with other food. No wild game may be brought into a retail food establishment with the hide or feathers attached, and without prior evisceration.

(6) **STORAGE OF MEAT PRODUCTS.** Frozen and potentially hazardous meat products shall, immediately upon being received at the retail food establishment, be placed at safe temperatures in frozen or refrigerated display or storage facilities. Meat products in packages or containers, while in frozen or refrigerated storage

areas, shall be kept at least 6 inches above the floor or on pallets to permit air flow around the packages or containers for adequate freezing or refrigeration.

(7) **INEDIBLE PRODUCTS; HANDLING AND STORAGE.** Inedible meat products and wastes shall be placed in containers prominently and conspicuously marked "INEDIBLE" and segregated in such a manner as to preclude contamination of food, equipment or utensils. Containers shall be reasonably clean, and free from odors, accumulated residues and rust, and not create a health hazard or nuisance. Containers received from rendering plants are prohibited in food processing and storage areas unless they have been thoroughly cleaned and sanitized.

(8) **MISREPRESENTATION OF APPEARANCE OR QUALITY.** The use of lighting or colored see-through wrappings to misrepresent the true appearance, color or quality of meat or meat products, including poultry and seafood, processed at a retail food establishment, is prohibited.

(9) **TREATING PORK AND PORK PRODUCTS TO DESTROY TRICHINAE.** (a) *Treatment required.* All meat products listed under par. (b) and all pork muscle tissue used as an ingredient of a meat product listed under par. (b) shall be treated to destroy any possible live trichinae. Treatment shall consist of heating or curing. Heating and curing shall comply with applicable requirements under pars. (c) to (e).

(b) *Products requiring treatment.* The following meat products and all products of a similar character, if produced at a retail food establishment, shall be treated under par. (a) if they contain any pork muscle tissue, pork hearts, pork stomachs or pork livers:

1. Bologna.
2. Frankfurters.
3. Vienna sausage.
4. Smoked sausage and knoblauch sausage.
5. Mortadella.
6. All forms of summer or dried sausage, including mettwurst.
7. Ground meat mixtures containing pork and beef, veal, lamb, mutton, goat, or game meat, which may be prepared in such a manner that the ground meat mixture might be eaten rare or without thorough cooking.
8. Flavored pork sausages such as those containing wine or similar flavoring materials.
9. Cured pork sausage.
10. Sausage containing cured pork or smoked pork, or both.
11. Cooked pork loaves.
12. Roasted, baked, boiled or cooked hams.
13. Pork shoulders or pork shoulder picnics.
14. Italian-style hams.
15. Westphalia-style hams.
16. Smoked boneless pork shoulder butts.
17. Cured meat rolls.
18. Capocollo, also known as capicola or capicola.
19. Coppa.
20. Fresh or cured boneless pork shoulder butts, hams, loins, shoulders, shoulder picnics, and similar pork cuts in casings or other containers in which ready-to-eat delicatessen articles are customarily enclosed. Cured boneless pork loins shall be treated to destroy trichinae before they are shipped from the establishment where cured.
21. Breaded pork products.
22. Boneless back bacon.
23. Smoked pork cuts such as hams, shoulders, loins and pork shoulder picnics.

(c) *Heating.* 1. If a product is treated by heating, all parts of the product shall be heated to one of the internal temperatures in

the following table for the period of time corresponding to that temperature:

TABLE 1
HEAT TREATMENT TIME AND TEMPERATURE

Minimum Internal Temperature		Minimum Time
Degrees Fahrenheit	Degrees Centigrade	
120	49.0	21.0 hours
122	50.0	9.5 hours
124	51.1	4.5 hours
126	52.2	2.0 hours
128	53.4	1.0 hours
130	54.5	30.0 minutes
132	55.6	15.0 minutes
134	56.7	6.0 minutes
136	57.8	3.0 minutes
138	58.9	2.0 minutes
140	60.0	1.0 minute
142	61.1	1.0 minute
144	62.2	Instant

2. If a product is treated by heating, the time to raise the product's temperature from 60° F. to 120° F. shall not exceed 2 hours unless the product has been cured or fermented to inhibit the growth of *Clostridium botulinum*.

3. If a product is heated to a temperature of at least 138° F. but not greater than 143° F., the time under subd. 1. need not be monitored if the product's minimum thickness exceeds 2 inches and the product is not refrigerated until at least 5 minutes after the temperature of 138° F. is attained.

(d) *Curing.* If a product is cured to destroy trichinae, the product shall be cured using an appropriate curing method for that product as provided in 9 CFR 318.10 (c) (3), or by another method approved in writing by the department.

(e) *Time and temperature monitoring.* When necessary to comply with this subsection, smokehouses, drying rooms, and other compartments used in the treatment of pork to destroy trichinae shall be equipped with accurate automatic recording thermometers. Alternate methods of monitoring time and temperature may be approved by the department upon written request from a retail food establishment. A department inspector may approve an automatic recording thermometer for use in a sausage smokehouse, drying room, or other compartment if, in the inspector's judgment, the thermometer is adequate for the purpose used.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80; cr. (9), Register, June, 1994, No. 462, eff. 7-1-94.

ATCP 75.08 Delicatessen operations. (1) **PROCESSING OF DELICATESSEN FOOD.** (a) Only safe and wholesome foods or food ingredients may be used in the preparation or processing of delicatessen foods. Raw agricultural commodities shall be thoroughly washed, peeled, or otherwise cleaned or processed as necessary to prevent the contamination of delicatessen foods, including contamination from pesticide residues.

(b) Equipment and utensils used in the processing of different types of delicatessen foods shall be thoroughly cleaned before being used for the processing of other foods, to prevent cross-contamination or adulteration of one food with another, resulting from the use of the same equipment or utensils. Delicatessen foods and food ingredients shall be processed with a minimum of contact with the hands. Hands shall be kept clean throughout all processing operations, to prevent the contamination of foods, or the cross-contamination or adulteration of one food with another.

(c) Only Grade A pasteurized fluid milk and fluid milk products obtained from a licensed dairy plant may be used in the preparation and processing of delicatessen foods. Dry milk and dried

milk products may be reconstituted for use only in products which are to be thoroughly cooked or heat sterilized.

(2) STORAGE, DISPLAY AND HANDLING OF DELICATESSEN FOODS.

(a) All delicatessen foods, including raw and prepared products and ingredients, shall be kept in covered containers while in storage, to protect them from contamination. Containers shall be identified as to their contents. The nesting of containers of raw and prepared products is prohibited.

(b) Containers in which delicatessen foods are displayed for sale shall be located or situated in such a manner as to prevent the cross-contamination or adulteration of delicatessen foods displayed in adjoining containers. Newly or separately prepared delicatessen foods shall not be mixed with or added to foods already on display in retail display containers.

(c) Only clean and sanitized utensils shall be used in transferring delicatessen foods from bulk containers to retail display containers, or in dispensing delicatessen foods to purchasers from retail display containers. Common utensils may not be used for the handling or dispensing of differing types of delicatessen foods, unless thoroughly cleaned after each use and before being used for the handling or dispensing of another type of food.

(d) Tags, labels, or other nonfood items coming in direct contact with displayed food shall be cleaned and sanitized at least daily.

(e) During transportation to or from a delicatessen, all potentially hazardous and ready-to-eat foods shall be maintained at safe temperatures, and be kept in covered containers unless otherwise wrapped or packaged to protect them from contamination. All vehicles used for transporting the food shall be constructed or equipped in such a manner that safe temperatures can be maintained during the course of transportation. Vehicles shall be kept in a clean and sanitary condition, and not be overloaded to such an extent that foods being transported cannot be maintained at safe temperatures.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.

ATCP 75.09 Produce operations. All produce and produce packaging materials shall be stored at least 6 inches off the floor or on pallets. All areas used for the packaging, storage or display of produce shall be maintained in a clean, sanitary and orderly condition. Food waste grinders used in disposing of deteriorated produce or other food waste shall be constructed and installed so as to comply with applicable state and local plumbing laws, rules and ordinances. All equipment used in the packaging, trimming, or handling of produce, or the grinding or disposal of produce wastes, shall be kept clean and in good repair.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80.

ATCP 75.10 Cleaning and sanitizing requirements.

(1) CLEANING. (a) All processing areas, and all equipment and utensils used in the processing of food, shall be thoroughly cleaned immediately after each day's processing operations and more frequently as necessary to keep them in a sanitary condition. Equipment and utensils, if washed manually, shall be thoroughly washed in a hot solution and rinsed free of detergents and other residues. All nonfood contact surfaces of equipment and utensils shall be cleaned as often as necessary to prevent the accumulation of dust, food particles and other possible contaminants.

(b) Food contact surfaces of equipment used solely to process low moisture food ingredients, chocolate, fats and oils, liquid nutritive sweeteners, peanut butter, or similar foods which are not potentially hazardous, shall be maintained in a sanitary condition. If wet cleaning of that equipment may cause conditions conducive to microbial growth, other effective cleaning methods shall be utilized to prevent food contamination.

(2) CLEANING FACILITIES. (a) If equipment and utensils are cleaned or sanitized manually, the retail food establishment shall be equipped with wash and rinse sinks which are suitable for all manual cleaning and sanitizing operations. Sinks shall be conve-

niently located and adequate in number. Each sink shall be constructed of stainless steel or other approved material. Each sink shall have at least 2 compartments. A sink installed in a retail food establishment after June 30, 1989 shall have at least 3 compartments unless the department or its agent determines in writing that a 2-compartment sink is adequate to clean and sanitize the equipment and utensils at the retail food establishment.

(b) Every sink compartment shall be large enough to permit 50% immersion of the largest item cleaned or sanitized in the sink. Every sink compartment shall be served by hot and cold running water, and shall be cleaned prior to each use.

(c) Drain boards shall be provided in connection with every sink. Drain boards shall be large enough to accommodate soiled equipment and utensils prior to washing, and clean equipment and utensils after they are sanitized. Drainboards shall be located and constructed so that they do not interfere with washing and sanitizing operations. This paragraph does not prohibit the use of easily movable dish tables as drainboards if the dish tables comply with this paragraph.

(d) Brushes and cleaning tools used to clean equipment and utensils shall be kept clean and in good repair. Cloths and sponges used to clean equipment and utensils shall be cleaned and sanitized frequently, and shall be stored in an approved sanitizing solution between uses. Cloths and sponges used to clean equipment and utensils shall not be used for any other purpose. Single service disposable towels may be used in place of re-usable cloths and sponges if they are discarded after each use.

(3) SANITIZING METHODS. Except as provided under sub. (3m), utensils and food contact surfaces of equipment shall be sanitized prior to each use by one of the following methods:

(a) Immersion for at least 30 seconds in clean water at a temperature of at least 170° F. (77° C.).

(b) Immersion for a period of at least 2 minutes in a sanitizing solution containing at least 100 ppm of available chlorine at a temperature not less than 75° F. (24° C.).

(c) Immersion for a period of at least one minute in a sanitizing solution containing at least 12.5 ppm of available iodine, and having an acid pH not higher than 5.0, at a temperature of not less than 75° F. (24° C.) nor more than 110° F. (44° C.).

(d) Application, according to manufacturer's instructions, of a non-toxic chemical sanitizer or sanitizing method which has been demonstrated to be equally as effective in the sanitizing of equipment and utensils as the methods described under pars. (a) to (c), and which has been approved by the department.

(3m) BAKING AND COOKING CONTAINERS; EXEMPTION. Subsection (3) does not apply to baking and cooking containers if time and temperature combinations are adequate to destroy pathogenic microorganisms, and if the containers are cleaned, stored and used in conformity with industry practice and in a manner which prevents contamination of food.

(4) SANITIZERS; DEPARTMENTAL APPROVAL. The department shall approve sanitizers and sanitizing methods which in its judgment are determined to be safe and effective for the sanitizing of utensils or equipment. Sanitizers and sanitizing methods approved by the United States department of agriculture under the poultry products inspection act, 21 USC 451 et. seq., or the federal meat inspection and wholesome meat acts, 21 USC 601 et. seq., or by the Wisconsin department of health and social services under subch. III of ch. 50, Stats., shall be approved by the department. The department may deny or withdraw approval of any sanitizer or sanitizing method, whether or not approved by any other state or federal agency, if it determines that the sanitizer or sanitizing method is not safe or effective for the purposes or under the conditions under which it is to be used, or that it adversely affects the sanitary characteristics of equipment or utensils. Persons affected by denial or withdrawal of approval shall be entitled to a hearing if requested within 10 days after the denial or withdrawal of approval.

(4m) SANITIZERS; MAXIMUM CONCENTRATIONS. Sanitizers and cleaning compounds used on food contact surfaces shall not be used in a way that leaves a toxic residue on the food contact surface. Sanitizing solutions shall not exceed the maximum concentrations established by the food and drug administration, United States department of health and human services, under 21 CFR 178.1010. A test kit or other device that measures the concentration of sanitizing solutions in parts per million shall be used as necessary to ensure compliance with this subsection at all times.

Note: Copies of 21 CFR 178.1010 are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from the department at cost.

(5) STORAGE OF EQUIPMENT. Cleaned and sanitized utensils and portable equipment shall be stored above the floor in a clean, dry location. Food contact surfaces of utensils and equipment, including fixed equipment, shall be protected from dust, splash and other possible sources of contamination. Utensils shall be air-dried prior to storage, or stored in a self-draining position on suitably located hooks or racks constructed of corrosion resistant impervious material.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80; renum. (1) to be (1) (a), cr. (1) (b), (3m) and (4m), r. and recr. (2), am. (3) (intro.), Register, October, 1989, No. 406, eff. 11-1-89; am. (2) (a), Register, June, 1994, No. 462, eff. 7-1-94.

ATCP 75.11 Labeling. (1) PREPACKAGED FOOD PRODUCTS. All pre-packaged food products offered for sale in a retail food establishment shall be labeled in compliance with ch. 97, Stats., and chs. ATCP 55 and 90.

(2) DELICATESSEN LABELING. All delicatessen foods displayed for sale at retail shall be conspicuously labeled or placarded to show the name of the food. A list of ingredients for each food product shall be kept on file at the establishment and be available for inspection by consumers and the department upon request.

(3) LABELING OF FRESH MEAT CUTS. All fresh meat cuts offered for sale in a retail food establishment shall be labeled in compliance with ch. 97, Stats., and ch. ATCP 55.

(4) UNWRAPPED FOODS DISPLAYED FOR SALE IN BULK FORM. (a) The contents of every self-service display container, used for the display and sale of unwrapped food in bulk form under s. ATCP 75.06 (4) (d), shall be conspicuously labeled on the container, or immediately adjacent to the containers. The label shall include:

1. The common name of the food.

2. In the case of a processed food, a declaration of the ingredients used in the manufacture of the food. Ingredients shall be identified by their common or usual names, in descending order of predominance by weight.

(b) No manufacturer, packer or distributor shall sell or distribute an unwrapped, processed food for resale in bulk form unless the bulk distribution container is accompanied by a label which complies with par. (a).

(c) If a bulk food is not readily identifiable on sight, the retail food establishment shall provide labels or marking devices which may be used by customers to identify the contents of the individual serving containers in which the bulk food is sold.

(4m) SMOKED FISH. Smoked fish sold or offered for sale at a retail food establishment shall be labeled in compliance with s. ATCP 70.22.

(5) INFANT FORMULA. Infant formula may not be sold or offered for sale after the code date specified by the manufacturer on the infant formula label.

History: Cr. Register March, 1980, No. 291, eff. 4-1-80; cr. (4), Register, May, 1984, No. 41, eff. 6-1-84; cr. (4m) and (5), Register, October, 1989, No. 406, eff. 11-1-89.

ATCP 75.12 Mobile food processing facilities.

(1) GENERAL. (a) Food sold from mobile food processing facilities shall be stored, handled and processed under sanitary conditions. Food shall be held and processed under conditions that pro-

tect food from contamination, minimize deterioration, and inhibit the growth of harmful microorganisms.

(b) Except as otherwise provided under this section, mobile food processing facilities are exempt from permanent construction requirements under ss. ATCP 75.02 and 75.10 (2), but are not exempt from other requirements under this chapter.

(2) SANITARY CONSTRUCTION. (a) A mobile food establishment shall be soundly constructed, and shall be kept clean and in good repair. An outdoor pushcart mobile food establishment shall have a ceiling or canopy that extends over the entire length and width of the pushcart. An indoor pushcart mobile food establishment may operate without a ceiling or canopy. Floors, walls, ceilings or canopies, and other permanent surfaces shall be reasonably smooth, impervious to water and easily cleanable.

(b) If a temporarily assembled mobile food establishment is exempt from licensing under s. ATCP 75.015 (7) (a), the mobile food establishment may be assembled on the ground, without a floor, provided that the ground is covered with an easily cleanable material which protects against splash and dust.

(c) A mobile food establishment subject to licensing shall be effectively enclosed or screened to prevent insects and other pests from entering processing areas. This paragraph does not apply to a pushcart.

(d) Lighting in a mobile food establishment shall be adequate for sanitary food processing and handling, and for effective cleaning of food contact surfaces. Artificial lights, if any, shall be equipped with protective shields or shatterproof bulbs.

(3) EQUIPMENT AND UTENSILS. Equipment, utensils, containers and counters in a mobile food processing facility shall comply with s. ATCP 75.04. Containers used to store unpackaged food shall be easily cleanable, and shall be constructed of food grade materials. Food containers shall be equipped with tight-fitting covers. Food containers shall be stored in the mobile food processing facility or in a separate storage facility which is approved by the department. Food ingredients may be kept in their original containers if the containers are adequate to protect the food ingredients from contamination.

(4) WATER SUPPLY. An ample supply of potable water shall be available in a mobile food processing facility. An adequate supply of hot water shall be available for handwashing, and for cleaning equipment and utensils. The water supply shall comply with s. ATCP 75.02 (7). If water storage tanks are used, they shall be constructed of non-toxic and non-corrosive material.

(5) CLEANING AND SANITIZING EQUIPMENT AND UTENSILS. (a) Equipment and utensils used in a mobile food establishment shall be cleaned and sanitized according to s. ATCP 75.10. A mobile food establishment, other than a pushcart, shall be equipped with automatic cleaning and sanitizing equipment or with manual facilities under par. (b).

(b) If equipment or utensils are cleaned or sanitized manually, the mobile food establishment shall have at least 3 sink compartments, or 3 pans of adequate size, for that purpose. If the mobile food establishment was constructed after June 30, 1989, the mobile food establishment shall have a permanently installed 3-compartment sink, served by hot and cold running water from a faucet, unless the department or its agent determines in writing that an alternative facility is adequate to clean and sanitize equipment and utensils at the mobile food establishment.

(6) HANDWASHING FACILITIES. A mobile food processing facility shall be equipped with a handwashing facility which is separate from the cleaning facilities under sub. (5). Soap and single-service towels shall be provided at the handwashing facility. If a mobile food processing facility is constructed after June 30, 1989, and if the facility is designed to be towed or transported in permanently constructed form, the handwashing facility shall consist of a permanently installed sink which is served by hot and cold running water from a faucet.

(7) **PERSONNEL SANITATION** Persons working in a mobile food processing facility shall comply with s. ATCP 75.03.

(8) **SURROUNDING PREMISES** The premises on which a mobile food processing facility is kept or operated shall be kept clean. Trash and rubbish shall not be permitted to accumulate. Effective measures shall be taken to exclude insects, rodents and other pests from a mobile food processing facility. Pest control measures shall comply with s. ATCP 75.06 (7).

(9) **PUSHCARTS** (a) Outdoor pushcarts shall be located on a paved surface. Indoor pushcarts shall be located on permanent flooring material which is smooth and easily cleanable.

(b) No pushcart may be used to sell or process a potentially hazardous food unless all of the following apply:

1. The potentially hazardous food is held at all times in a fully enclosed container.

2. The pushcart is mechanically equipped to keep the potentially hazardous food at a safe temperature, and is equipped with a thermometer to measure the temperature at which the food is kept.

3. The potentially hazardous food is kept at a safe temperature at all times.

4. The potentially hazardous food, if sold as a separate food item, is dispensed to consumers in prepackaged form in the original packaging of the manufacturer or processor.

5. The potentially hazardous food, if used as a food ingredient and processed at an outdoor pushcart, is entirely contained and processed in an enclosed system that precludes any contamination of the food.

6. There is no manual contact with the potentially hazardous food.

(c) A pushcart shall be returned to a service facility at least once every 24 hours for cleaning and servicing. The service facility shall be a permanent building which is one of the following:

1. A food processing plant licensed under s. 97.29, Stats.

2. A retail food establishment licensed under s. 97.30, Stats.

3. A restaurant holding a permit under s. 50.51, Stats.

(d) A service facility under par. (c) shall be large enough, and shall be adequately equipped, to clean and service all of the pushcarts which operate from that facility. Equipment and utensils used in connection with the pushcart shall be cleaned and sanitized daily at the service facility.

(e) A pushcart shall be equipped with an adequate supply of clean and sanitized containers and utensils so that a soiled container or utensil can be immediately replaced with a clean and sanitized item. Steaming pitchers and steaming wands used to froth fluid milk products used in making espresso may only be used on indoor pushcarts. Steaming pitchers shall be replaced with a clean and sanitized pitchers at least every 4 hours or more often as necessary. Steaming wands shall be cleaned and sanitized after each use. Only single-service food containers and utensils may be used by consumers to receive or consume food from a pushcart. Consumer self-service from pushcarts is prohibited.

History: Cr. Register, October, 1989, No. 406, eff. 11-1-89; r. and recr. (2) and (5), cr. (9), Register, June, 1994, No. 462, eff. 7-1-94.

ATCP 75.13 Effect of rules on local ordinances.

(1) This chapter does not prohibit or nullify any local government ordinance with which it is not in direct conflict as provided in sub. (2).

(2) In the event of any direct conflict between this chapter and any local government ordinance, so that compliance with one can only be achieved by violating the other, this chapter shall be controlling.

(3) Compliance with local government ordinances shall not relieve any person from the duty of complying with this chapter.

History: Cr. Register, March, 1980, No. 291, eff. 4-1-80; renum. from Ag 32 12, Register, October, 1989, No. 406, eff. 11-1-89.