



State of Wisconsin  
Governor Scott Walker

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**Department of Agriculture, Trade and Consumer Protection**  
Ben Brancel, Secretary

**DATE:** April 8, 2013

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

**FROM:** Ben Brancel, Secretary

**SUBJECT:** **Ch. ATCP 75 - Retail Food Establishments; Final Rule  
(Clearinghouse Rule #12-033)**

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

**CLEARINGHOUSE RULE #:** 12-033

**SUBJECT:** Retail Food Establishments

**ADM. CODE REFERENCE:** ATCP 75

**DATCP DOCKET #:** 09-R-01

We are enclosing a copy of the final 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.

#### **Business Impact Analysis (Summary)**

This rule updates the Wisconsin Food Code, which is used to regulate retail food establishments, to be consistent with the 2009 edition of the FDA Model Food Code. DATCP licenses and inspects 3,472 retail food establishments, under 97.30, Stats., which include grocery stores, bakeries and convenience stores. Cities and counties may choose to contract with DATCP as local agents and inspect retail food establishments in their jurisdictions. Currently, 42 local agents contract with DATCP to inspect 6,647 retail food establishments. The Wisconsin Department of Health Services (DHS) also uses the Wisconsin Food Code to regulate restaurants and DHS proposed an identical version of the Wisconsin Food Code as an appendix to their administrative rules regulating restaurants. This rule is not expected to have a significant impact on business, including small business, because the food sanitation requirements contained in this rule are similar to those that currently apply. The FDA Model Food Code establishes minimum requirements for safe food handling and DATCP is unable to lessen or exempt food establishments from these requirements. However, DATCP may grant a variance in cases where it is impractical for a food establishment to achieve strict adherence to the Wisconsin if the variance does not jeopardize the public's health, safety or welfare.

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Bruce Hoesly  
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### **Comments from Legislative Committees (Summary)**

The legislature received the rule for legislative review from DATCP on January 7, 2013. The rule was referred to the Assembly Committee on Consumer Protection and the Senate Committee on Health and Human Services. Neither committee took action. The Senate referred the rule to the Joint Committee for Review of Administrative Rules (JCRAR) on February 12, 2013, and the Assembly referred it to JCRAR on February 26, 2013. JCRAR also took no action on the rule.