

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis¹

Rule Subject: Meat and Meat Products
Adm. Code Reference: ATCP 55
Rules Clearinghouse #: Not yet assigned
DATCP Docket #: 11-R-10

Rule Summary

Wisconsin operates the nation's largest state meat and poultry inspection program, with more than 270 official licensed establishments. State meat and poultry inspection programs operate under a cooperative agreement with the United States Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS). Under such an agreement, states must provide inspection services "at least equal to" federal meat and poultry inspection. State-inspected meat and poultry establishments may only sell their products within the state in which they are located. In May, 2011, USDA finalized rules that will allow some selected state-inspected establishments to sell their meat and poultry products in other states. To qualify for this program, known as the Cooperative Interstate Shipment (CIS) program, states must provide inspection that is the "same as" (identical to) federal inspection.

This rule provides the regulatory foundation needed for Wisconsin's state meat inspection program to participate in USDA's CIS program. This proposed rule will revise ch. ATCP 55, Meat and Meat Food Products, to incorporate by reference federal regulations creating the CIS program and specify rules of practice that ensure the state program operates the "same as" the federal program when overseeing plants selected for the CIS program. DATCP will also seek an emergency rule to revise ch. ATCP 55 and allow the program to begin immediate participation in the CIS program.

Business Impact

This rule will have a positive impact on small state-inspected meat and poultry establishments that choose to participate and are selected for the program. Currently, state-inspected meat and poultry plants may only sell products in the state in which they are located. The department estimates 17 plants will participate in the program within the first year, with more plants joining the program over time. Participation in the CIS program will allow these state-inspected meat and poultry plants to expand their markets from only selling in Wisconsin to all fifty states.

¹ This analysis includes, but is not limited to, a small business analysis ("regulatory flexibility analysis") under ss. 227.114 and 227.19(3)(e), Stats.

As part of the planning process for the CIS program, USDA expects establishments to incur a one-time start-up cost associated with filing an application, training employees, meeting regulatory performance standards, obtaining label approval, and implementing a food safety program that complies with all federal requirements. USDA expects some state-inspected establishments may need to make structural modifications to their facilities to meet federal requirements. Based on preliminary reviews of establishments expressing interest in participation in the program, the department anticipates that costs associated with these activities will be minimal. Most Wisconsin businesses will not need to change their business practices substantially to meet federal regulations. The department expects that establishments may incur minor costs related to revising labels to meet federal requirements. As a voluntary program, no Wisconsin state-inspected meat establishment will be required to make any change unless they volunteer to participate in the CIS program. Finally, there are no new or additional licensing fees to participate in the program.

Accommodation for Small Business

Federal law requires participants in the CIS program to meet inspection requirements that are the “same as” federal meat inspection requirements. Wisconsin will not be able to provide flexibility from these federal regulations to small businesses. However, state-inspected meat and poultry businesses already meet federal regulations that are “at least equal to” federal requirements, which are not substantially different from “same as” requirements. In addition, the program is voluntary and no state-inspected meat or poultry business will be required to participate. Businesses may choose to continue to be inspected under the state meat inspection program and sell their products only within Wisconsin.

Conclusion

This rule will benefit small Wisconsin state-inspected meat and poultry businesses affected by the rule. Negative effects, if any, will be few and limited, and businesses may choose not to participate in this voluntary program.

DATCP will, to the maximum extent feasible, seek voluntary compliance with this rule.

Dated this _____ day of _____, 2012.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Steven C. Ingham, Administrator,
Division of Food Safety