

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: Inedible Animal By-Products
Adm. Code Reference: ATCP 57

Rule Summary

A revision of ch. ATCP 57 is necessary, due to changes in business practices, and updates to the Code of Federal Regulations (CFR) which include the implementation of definitions from the United States Food and Drug Administration (FDA) Food Safety Modernization Act (FSMA), related to the production of animal feed.

The proposed rule harmonizes definitions with relevant federal regulations. Establishments in Wisconsin are governed by the state for their business activities, but also have oversight by United States Department of Agriculture (USDA) and the FDA, who oversee interstate and international distribution. The updated definitions create a smooth integration with relevant federal regulations.

The proposed rule addresses current and emerging business models. Truck transfer stations, which are used by animal food processors and renderers to be more efficient and cost effective, have been added to align with s. 95.72 (8), Stats. Building requirements have been clarified to match statute. This allows registration and reciprocity by agreement with contiguous states which allows more efficient and effective business planning.

The exemption for an operator of a grease processing plant that is solely engaged in the production of bio-diesel or other biofuels has been removed.

Carcass dealer registration has been removed from the rule. There have not been any registrations of carcass dealers for over thirty years, and it is not a current business practice.

Marking of vehicles has been clarified and requires the vehicle to be identified as “Inedible – Not Intended for Human Food”. This is to clearly separate and address inedible products from human food. The vehicles have a single use purpose limited to inedible products only.

Significant input from industry suggested that a variety of waterproof tarpaulin or other cleanable coverings could meet sanitary transport requirements for truck boxes or trailers that are leak proof, even if not fully enclosed. The rule has been modified to address the need to prevent leakage, but to allow industry to innovate to meet requirements without being overly prescriptive.

The proposed rule addresses two additional denaturants that industry has requested due to evolving technology and application of denaturants. They are liquid charcoal and a black dye; both will impart the color needed to assure the product cannot be diverted into the human food chain.

Small Businesses Affected

The department does not anticipate a significant fiscal impact from the proposed rule revisions. There may be some cost for licensing for certain, previously unlicensed, dead animal collection businesses that move into the rendering and animal food processing realms. Pursuant to current requirements for licensing in s. 95.72 (2) (c), Stats., the cost would be \$100 per business per year. However, there would likely be only a small number of persons requiring such a license, and

Reporting, Bookkeeping and other Procedures

The proposed rule will not require any additional reporting, bookkeeping, or other procedures requirements for compliance.

Professional Skills Required

Consistent with industry standards, the proposed rule does not require any new professional skills for small businesses engaged in collection or processing of animal by-products.

Accommodation for Small Business

No accommodations for small business will be necessary for the propose rule.

Conclusion

The department expects the proposed rule to have a positive long range impact on all stakeholders because it will give more flexibility for businesses in complying with rule requirements that are consistent with recognized industry best practices, allocate regulatory requirements. The rule revision reduces the additional time and resources involved with resolving confusion created by the existing rule not keeping pace with changes that have occurred with renders, animal food processors, grease processors, and collectors of inedible meat products over the years.

Industry stakeholder's subject matter experts have been a part of this entire rule revision process. The department solicited input from an advisory committee during both the scope statement and rule development. Meeting notices were sent to all licensee or registration holders allowing them to participate in meetings over the last year. Stakeholders have all shared their eagerness for rule revision.

This rule will have little effect on "small business" and is not subject to the delayed "small business" effective date provided in s. 227.22 (2) (e), Stats.

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

Dated this 15th day of December, 2022.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

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