

☛ **07hr_JCR-AR_CRule_07-116_pt02a**



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)



State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

PUBLIC NOTICE

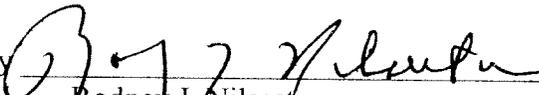
FINAL DRAFT RULE TO LEGISLATURE

The Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it is submitting the following rule for legislature committee review, pursuant to s. 227.19, Status.:

CLEARINGHOUSE RULE #: 07-116
ADM. CODE REFERENCE: ATCP 42, 55 and 57
DATCP DOCKET #: 05-R-02

Dated this 21 day of July, 2008

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Rodney J. Nilsestuen
Secretary

Agriculture generates \$51.5 billion for Wisconsin

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING, AND REPEALING RULES**

The state of Wisconsin department of agriculture, trade and consumer protection proposes the following order *to amend* ATCP 55.07(1)(a)(intro.), (2)(a)(intro.), (3)(a)(intro.) and (8)(intro.) and (a) to (d), and 55.09(1); *to repeal and recreate* ch. ATCP 57; and *to create* ATCP 42.02(2)(e), 55.07(8)(e) and (note), and 55.12(6); *relating to* meat and inedible animal by-products.

**Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection**

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) administers Wisconsin food safety laws. Among other things, DATCP licenses and inspects meat establishments that produce meat for human consumption. DATCP also regulates rendering plants, animal food processors and other entities that process and handle *inedible* animal carcasses. This rule does all of the following:

- Repeals and recreates current DATCP rules related to rendering plants, animal food processors, grease processors, dead animal collectors and carcass dealers. These entities process and handle inedible animal carcasses and carcass materials, and produce products for *non-food* use. Regulation keeps inedible materials out of the human food chain and helps ensure safe animal feed. For the most part, this rule clarifies current rules without making major substantive changes.
- Incorporates current federal regulations that prohibit the feeding of protein from mammalian tissues to cattle or other ruminants. The federal regulations are designed to prevent the incidence of BSE (“mad cow disease”). DATCP is already enforcing the current federal regulations that are incorporated in this rule. This rule does not yet incorporate new federal regulations barring certain cattle materials from all animal feed, which are scheduled to take effect in April 2009, but DATCP will enforce those new federal regulations on behalf of the United States Food and Drug Administration (FDA) when they take effect.

- Amends current state meat inspection rules to incorporate recent changes in federal regulations (state rules must be at least “equal to” federal regulations). Consistent with federal regulations, this rule does all of the following:
 - Prohibits, with limited exceptions, the slaughter of non-ambulatory disabled cattle for human consumption (DATCP is already enforcing this federal prohibition).
 - Requires producers of “ready-to-eat” meat products to have written procedures for minimizing food safety risks related to *Listeria monocytogenes* (DATCP has already implemented this federal requirement).
 - Restricts the amount of water from post-evisceration processing that may be retained in raw meat and poultry.
- Clarifies current rules related to meat brokers and meat distributors.

Statutes Interpreted

Statutes interpreted: ss. 93.07(10), 94.72, 95.71, 95.72, 97.02, 97.10, 97.42, 97.43, 97.44

Statutory Authority

Statutory authority: ss. 93.07(1), 93.07(10), 94.72(13)(a), 95.71(8), 95.72(5), 97.42(4)

Explanation of Statutory Authority

DATCP has broad authority to regulate the production and sale of food and animal feed, and broad authority to regulate activities that may threaten animal health or spread disease. DATCP licenses and regulates rendering plants, animal food processors, grease processors, dead animal collectors and related businesses under s. 95.72, Stats. DATCP licenses and regulates commercial feed manufacturers under s. 94.72, Stats. DATCP licenses and regulates meat establishments under s. 97.42, Stats. DATCP has general and specific rulemaking authority, under the statutes cited above, to implement its regulatory responsibilities.

Background

Wisconsin has a large rendering and animal food processing industry. This industry collects and processes inedible animal carcasses, inedible carcass materials and inedible meat by-products from Wisconsin’s large livestock and meat processing industries, and produces useful *non-food* products such as grease, tallow, blood meal, bone meal and animal feed.

DATCP currently regulates rendering plants, animal food processors, grease processors and dead animal collectors under s. 95.72, Stats., and ch. ATCP 57, Wis. Adm. Code. Regulation protects human and animal health, and is closely related to the regulation of food and animal feed.

With the advent of BSE (“mad cow disease”), there has been increased focus on the rendering and animal food processing industries. DATCP currently enforces federal BSE regulations under contract with FDA. This rule incorporates the federal regulations that are currently in effect. FDA recently issued additional regulations, which are scheduled to take effect in April 2009. This rule does not yet incorporate the new regulations, but DATCP will enforce those new federal regulations on behalf of FDA when they take effect. DATCP will also update its rules at that time.

In cooperation with the United States Department of Agriculture (USDA), Wisconsin has tested over 100,000 cattle for BSE without any positive disease findings. Wisconsin has tested far more cattle than any other state. Indeed, Wisconsin has tested about 20% of all the cattle tested to date in the *entire nation*.

Rule Contents

Renderers

General

This rule clarifies current licensing and regulation of rendering operations under s. 95.72, Stats. Under this rule, “rendering” means melting or reconstituting carcasses or carcass materials, with the use of heat, to produce rendered products for non-food use. “Rendering” does not include licensed meat processing, licensed food processing, licensed grease processing, hide processing, or the manufacture of glue, pharmaceuticals or gelatin.

Renderer License

Under this rule, no person may do any of the following without an annual renderer license from DATCP:

- Operate a rendering plant in this state (a renderer may operate 2 or more rendering plants under a single license).
- Collect, receive or transport, in this state, carcasses or carcass materials for rendering by that person in this state or another state.
- Slaughter animals in this state for rendering by that person in this state or another state.

An annual license expires on February 28 of each year and is not transferable. A license does not authorize the license holder to produce, sell or distribute food for human consumption.

An applicant must submit an annual license application that identifies rendering plant locations and includes other information required under this rule. The application must include an annual fee of \$200 for each rendering plant (this rule does not change the current fee).

Before DATCP issues a license covering a new rendering plant, DATCP must inspect the rendering plant (DATCP may also inspect new transfer stations used to transfer carcasses from one vehicle to another). There is an inspection fee of \$25 for each new rendering plant (this rule does not increase the current fee). There is no inspection fee for new transfer stations.

If a pre-license inspection is required, DATCP must complete the inspection within 30 days after DATCP receives a complete license application (unless the applicant agrees to a later inspection date). DATCP must grant or deny a license application within 30 days after DATCP receives the license application or, if a pre-license inspection is required, within 30 days after DATCP completes the inspection.

Rendering Plants; Location, Facilities and Operations

Current statutes prohibit the construction of a rendering plant within 1/8 mile of an existing residence or place of business (this rule incorporates that statutory prohibition). Rendering plant facilities must comply with basic sanitation standards, including basic ventilation standards, specified in this rule. Facilities must be designed for easy cleaning. Fully rendered products must be stored in a location and manner that protects them from contamination by live animals, un-rendered carcasses and un-rendered carcass materials.

A rendering plant must be kept free of nuisance conditions that pose a significant health or environmental risk, or cause obnoxious odors (other than normal odors incidental to generally accepted processing practices). Nuisance conditions include things like accumulated carcasses or manure, drainage from carcasses, accumulated litter, unclean facilities or rodent infestations.

A renderer must collect and safely dispose of all solid and liquid waste from rendering operations. A renderer must collect manure, offal, processing waste and other solid waste at least daily, and more often as necessary, to keep facilities clean and orderly. Liquid waste must be discharged to a public sewer system, or to an effluent disposal system that complies with department of natural resources (DNR) rules. A renderer must comply with applicable waste disposal laws, keep waste storage areas clean and orderly, and keep waste collection and disposal systems in good working order.

A renderer must transport and handle carcasses and carcass materials according to this rule (see below). If a renderer slaughters animals for rendering, the renderer must use

humane methods, and must slaughter the animals in an area that is designed and equipped for safe and humane slaughtering. Live animals may not be unloaded, kept or slaughtered in processing or storage areas.

Renderer Records

Under this rule, a renderer must keep records of rendering operations. Records must include all of the following:

- The name and address of each person from whom the renderer receives carcasses or carcass materials, the date and location of each receipt, the types of carcasses or carcass materials received, the number or weight of carcasses received, the weight or liquid volume of carcass materials received, and the disposition of any carcasses or carcass materials received but not rendered.
- The name and address of each person from whom the renderer receives live animals, the date and location of each receipt, the numbers and types of live animals received, and the disposition of each animal. If the renderer slaughters an animal, the renderer must record the date and location of slaughter, and the disposition of the carcass.
- The types of rendered product, and the daily amounts of each type of rendered product, produced at each rendering plant.
- The name and address of each person to whom the renderer sells or distributes rendered product, the dates on which the renderer ships rendered product to each person, and the type and amount of rendered product included in each shipment.
- Lot coding or other records that effectively track the receipt, processing and distribution of ingredients and rendered products, so that it is possible to identify ingredient sources for each lot of rendered product (and vice versa).

A renderer must retain required records for at least 3 years, and must make the records available for inspection and copying by DATCP upon request.

Animal Food Processors

General

This rule clarifies current licensing and regulation of animal food processors under s. 95.72, Stats. Under this rule, "animal food processing" means slaughtering animals or processing carcasses or carcass materials for use as animal feed. "Animal food processing" does not include any of the following:

- The collection or transportation of whole animal carcasses by a dead animal collector licensed under this rule (see below), provided that the dead animal collector does not process the carcasses or remove hide or feathers.

- A fur farm operator's processing of carcasses or carcass materials solely for feeding to fur bearing animals produced on that fur farm (fur farmers must register with DATCP under s. 97.44(2), Stats.).
- Licensed rendering operations (see above).
- Licensed grease processing operations (see below).
- Licensed meat processing operations (see ch. ATCP 55).
- Licensed food processing operations (see chs. ATCP 70 and 75, and s. 254.64, Stats.).
- Licensed commercial feed manufacturer operations that extend beyond "minimal processing" of animal carcasses (see ch. ATCP 42 and s. 94.72(5), Stats.).
- The processing of hides, or the manufacture of glue, pharmaceuticals or gelatin.

This rule clarifies that a licensed animal food processor is not required to hold a commercial feed manufacturer license (ATCP 42) if the animal food processor does only "minimal processing" of carcasses or carcass materials fed to animals. "Minimal processing" includes removal of hides or feathers, cutting, grinding, denaturing, freezing and packaging. "Minimal processing" does not include heat treating, rendering, or mixing with other ingredients such as vitamins or minerals.

Animal Food Processor License

Under this rule, no person may do any of the following without an animal food processor license from DATCP:

- Operate an animal food processing plant in this state.
- Collect, receive or transport, in this state, carcasses or carcass materials for animal food processing by that person in this state or another state.
- Slaughter animals in this state for animal food processing by that person in this state or another state.

An annual license expires on February 28 of each year and is not transferable. A license does not authorize the license holder to produce, sell or distribute food for human consumption. An applicant must submit an annual license application that identifies animal food processing plant locations and includes other information required under this rule. The application must include an annual fee of \$200 for each animal food processing plant (this rule does not change the current fee).

Before DATCP licenses a new animal food processing plant, DATCP must inspect the plant (DATCP may also inspect new transfer stations where carcasses are transferred from one transport vehicle to another). There is an inspection fee of \$25 for each new animal food processing plant (this rule does not change the current fee). There is no inspection fee for new transfer stations.

If a pre-license inspection is required, DATCP must complete the inspection within 30 days after DATCP receives a complete license application (unless the applicant agrees to a later inspection date). DATCP must grant or deny a license application within 30 days after DATCP receives the license application or, if a pre-license inspection is required, within 30 days after DATCP completes the inspection.

Animal Food Processing Plants; Location, Facilities and Operations

Current statutes prohibit the construction of an animal food processing plant within 1/8 mile of an existing residence or place of business (this rule incorporates that statutory prohibition). Animal food processing plant facilities must comply with basic sanitation standards, including basic ventilation standards, specified in this rule.

Facilities must be designed for easy cleaning. Processed products must be stored in a location and manner that protects them from contamination by live animals, unprocessed carcasses and unprocessed carcass materials.

An animal food processing plant must be kept free of nuisance conditions that pose a significant health or environmental risk, or cause obnoxious odors (other than normal odors incidental to generally accepted processing practices). Nuisance conditions include things like accumulated carcasses or manure, drainage from carcasses, accumulated litter, unclean facilities or rodent infestations.

An animal food processor must collect and safely dispose of all solid and liquid waste from processing operations. An animal food processor must collect manure, offal, processing waste and other solid waste at least daily, and more often as necessary, to keep facilities clean and orderly. Liquid waste must be discharged to a public sewer system, or to an effluent disposal system that complies with DNR rules. An animal food processor must comply with applicable waste disposal laws, keep waste storage areas clean and orderly, and keep waste collection and disposal systems in good working order.

An animal food processor must transport and handle carcasses and carcass materials according to this rule (see below). If an animal food processor slaughters animals for processing, the animal food processor must use humane methods, and must slaughter the animals in an area that is designed and equipped for safe and humane slaughtering. Live animals may not be unloaded, kept or slaughtered in processing or storage areas.

Animal Food Processor Records

Under this rule, an animal food processor must keep records of animal food processing operations. Records must include all of the following:

- The name and address of each person from whom the animal food processor receives carcasses or carcass materials, the date and location of each receipt, the types of carcasses or carcass materials received, the number or weight of carcasses received, the weight or liquid volume of carcass materials received, and the disposition of any carcasses or carcass materials received but not processed.
- The name and address of each person from whom the animal food processor receives live animals, the date and location of each receipt, the numbers and types of live animals received, and the disposition of each animal. If the animal food processor slaughters an animal, the animal food processor must record the date and location of slaughter, and the disposition of the carcass.
- The types of animal feed, and the daily amounts of each type of feed, produced at each animal food processing plant.
- The name and address of each person to whom the animal food processor sells or distributes animal feed, the dates on which the animal food processor ships the animal feed to each person, and the type and amount of animal feed included in each shipment.
- Lot coding or other records that effectively track the receipt, processing and distribution of ingredients and processed products, so that it is possible to identify ingredient sources for each lot of processed product (and vice versa).

An animal food processor must retain required records for at least 3 years, and must make the records available for inspection and copying by DATCP upon request.

Grease Processors

General

This rule clarifies current licensing and regulation of grease processors under s. 95.72, Stats. Under this rule, "grease processing" means combining, melting, refining, reconstituting or recycling fully rendered products to produce grease or other products for non-food use. "Grease processing" does not include any of the following:

- Licensed rendering operations (see above).
- Licensed animal food processing operations (see above).
- Licensed meat processing operations (see current ch. ATPC 55).

- Licensed food processing operations (see current chs. ATCP 70 and 75, and s. 254.64, Stats.).

Grease Processor License

Under this rule, no person may operate as a grease processor without an annual license from DATCP. An annual license expires on February 28 of each year and is not transferable. A license does not authorize the license holder to do any of the following:

- Produce, sell or distribute food for human consumption.
- Receive, collect, transport or slaughter live animals.
- Receive, collect, transport or process carcasses or carcass materials.

An applicant must submit an annual license application that identifies grease processing plant locations and includes other information required under this rule. The application must include an annual fee of \$200 for each grease processing plant (this rule does not change the current fee).

Before DATCP licenses a new grease processing plant, DATCP must inspect the plant. There is an inspection fee of \$25 for each new grease processing plant (this rule does not change the current fee). If a pre-license inspection is required, DATCP must complete the inspection within 30 days after DATCP receives a complete license application (unless the applicant agrees to a later inspection date).

DATCP must grant or deny a license application within 30 days after DATCP receives the license application or, if a pre-license inspection is required, within 30 days after DATCP completes the inspection.

Grease Processing Plants; Location, Facilities and Operations

Current statutes prohibit the construction of a rendering plant within 1/8 mile of an existing residence or place of business (this rule incorporates that statutory prohibition). Grease processing plant facilities must comply with basic sanitation standards, including basic ventilation standards, specified in this rule. Facilities must be designed for easy cleaning.

Processed grease must be stored in a location and manner that protects it from contamination from unprocessed ingredients. A grease processing plant must be kept free of nuisance conditions that pose a significant health or environmental risk, or cause obnoxious odors (other than normal odors incidental to generally accepted processing practices).

A grease processor must collect and safely dispose of all solid and liquid waste from grease processing operations. A grease processor must collect processing waste and other solid waste at least daily, and more often as necessary, to keep facilities clean and

orderly. Liquid waste must be discharged to a public sewer system, or to an effluent disposal system that complies with DNR rules. A grease processor must comply with applicable waste disposal laws, keep waste storage areas clean and orderly, and keep waste collection and disposal systems in good working order.

Grease Processor Records

Under this rule, a grease processor must keep records related to the receipt and processing of grease ingredients and the sale or distribution of processed grease. Records must identify all of the following:

- The name and address of each person from whom the grease processor receives ingredients for processing, the date and location of each receipt, the types of ingredients received, the weight or liquid volume of ingredients received, and the disposition of any ingredients not processed into grease.
- The types and daily amounts of grease produced at each grease processing plant.
- The name and address of each person to whom the grease processor sells or distributes grease, the dates on which the grease processor ships grease to each person, and the type and amount of grease included in each shipment.
- Lot coding or other records that effectively track the receipt, processing and distribution of ingredients and processed grease, so that it is possible to identify ingredient sources for each lot of processed grease (and vice versa).

A grease processor must retain required records for at least 3 years, and must make the records available for inspection and copying by DATCP upon request.

Dead Animal Collectors

General

This rule clarifies current licensing and regulation of dead animal collectors under s. 95.72, Stats. Under this rule, a "dead animal collector" means a person who collects and transports whole carcasses, with hide or feathers intact, for delivery to a renderer, animal food processor or fur farm operator. "Dead animal collector" does not include any of the following:

- A person who is solely engaged in collecting or transporting hides or feathers.
- A licensed renderer (see above).
- A licensed animal food processor (see above).

- A fur farm operator who collects and transports carcasses solely for feeding to fur bearing animals on that person's fur farm farm (fur farmers must register with DATCP under s. 97.44(2), Stats.).

Dead Animal Collector License

Under this rule, no person may operate as a dead animal collector without an annual license from DATCP. This license requirement does not apply to a licensed renderer or animal food processor (see above) who collects or transports carcasses or carcass materials solely for processing by that renderer or animal food processor. A dead animal collector license does not authorize a license holder to do any of the following:

- Process carcasses or carcass materials.
- Collect or transport anything other than whole carcasses with hide or feathers intact.
- Collect, transport or deliver carcasses for processing or use as human food.
- Collect, transport or deliver carcasses for processing or use as animal feed, other than for processing by a licensed renderer or animal food processor.

An annual license expires on February 28 of each year and is not transferable. An annual license application must identify each transfer station operated by the dead animal collector, and must include other information required under this rule. The application must include an annual fee of \$100 for the applicant's principal business location and for each of transfer station (this rule does not change the current fee). DATCP must grant or deny a license application within 30 days after DATCP receives a complete application.

Dead Animal Collector; Facilities and Operations

Facilities operated by a dead animal collector must comply with basic sanitation standards, including basic ventilation standards, specified in this rule. Facilities must be designed for easy cleaning, and must be kept free of nuisance conditions.

A dead animal collector must collect and safely dispose of all solid and liquid waste related to that person's operations. Liquid waste must be discharged to a public sewer system, or to an effluent disposal system that complies with DNR rules. A dead animal collector must comply with applicable waste disposal laws, keep waste storage areas clean and orderly, and keep waste collection and disposal systems in good working order.

A dead animal collector must transport and handle carcasses and carcass materials according to this rule (see below). If a dead animal collector slaughters an animal before collecting its carcass, the dead animal collector must use humane methods.

Dead Animal Collector Records

Under this rule, a dead animal collector must keep all of the following records:

- The name and address of each person from whom the dead animal collector receives carcasses, the date and location of each receipt, the types of carcasses received, and the number of carcasses of each type received.
- The name and address of each person to whom the dead animal collector delivers carcasses, the date and location of each delivery, the types of carcasses delivered, and the number of carcasses of each type delivered.

A dead animal collector must retain required records for at least 3 years, and must make the records available for inspection and copying by DATCP upon request.

Carcass Dealers

Under current DATCP rules, a person engaged in the business of buying, selling or distributing inedible animal carcasses or carcass materials must register annually with DATCP (unless that person is licensed as a rendering plant operator, animal food processor or dead animal collector). A registrant must keep records related to carcass transactions. This rule clarifies, but does not substantially alter, current rules. Under this rule, registrants are called "carcass dealers." There is no fee to register as a carcass dealer.

Transporting Carcasses and Carcass Materials

Licensing

Under this rule, no person may transport carcasses or carcass materials on a public road unless the person is licensed as a renderer, animal food processor or dead animal collector. This license requirement does not apply to any of the following:

- The transportation of meat according to ATCP 55.
- A farmer transporting carcasses of animals raised on his or her farm.
- Transportation solely for purposes of destruction, burial or landfill disposal.
- Transportation by a government agency.
- Transportation by a bona fide research institution, for purposes of scientific research.
- An animal trucker licensed under ch. ATCP 12 who transports, for direct delivery to a licensed renderer, animal food processor or dead animal collector, the carcass of an animal that died while being transported by the animal trucker.
- The transportation of hides, feathers, or fully rendered products.
- A fur farm operator's transportation of carcasses or carcass materials solely to feed fur-bearing animals on the operator's fur farm.
- The transportation of legally harvested wild animals by or on behalf of the person who harvested them.

- An employee of a license holder, acting within the scope of his or her employment.

Vehicle Permit

A person who transports carcasses and carcass materials under this rule must hold a DATCP permit for each vehicle that the person uses to transport carcasses or carcass materials on a public road. A permit expires on February 28 of each year. There is no fee.

To obtain a vehicle permit, a person must apply on a form provided by DATCP. An application must identify the applicant and vehicle and must show that the applicant is licensed (or applying for a license) as a renderer, animal food processor or dead animal collector. DATCP must grant or deny an application within 30 days after DATCP receives a complete application.

Vehicle Marking

Each transport vehicle must bear the following information on both sides of the vehicle:

- The correct legal name of the vehicle permit holder, prominently printed in block lettering at least 3 inches high.
- The principal business address of the permit holder, prominently printed below the permit holder's name in block lettering at least 2 inches high.

Sanitary Transport

A person who transports carcasses or carcass materials under this rule must do all of the following:

- Transport carcasses or carcass materials in leakproof vehicles or containers that are closed or fully covered by a tarpaulin or other watertight covering.
- Clean and sanitize, after each day's use and more often if necessary, vehicles and containers used to transport carcasses and carcass materials.

Prohibited Practices

No person covered by this rule may do any of the following:

- Transport live animals without an appropriate license under ch. ATCP 12 (Livestock Markets, Dealers and Truckers).
- Transport live animals in the same vehicle with carcasses or carcass materials.

- Park a vehicle containing carcasses or carcass materials in any place where the parked vehicle may create a nuisance condition.

Removing Carcasses from Transfer Stations

A person who operates a transfer station must remove carcasses and carcass materials from that transfer station within 24 hours after they are received, and sooner if necessary to prevent nuisance conditions. Carcasses and carcass materials received on a Saturday, or on a Sunday followed by a legal holiday, must be removed within 48 hours and sooner if necessary to prevent nuisance conditions.

Denaturing Carcasses and Carcass Materials

Under this rule, no renderer or animal food processor may transport, freeze, or receive for processing any carcasses or carcass materials other than the following:

- Complete carcasses with hide or feathers intact.
- Carcasses or carcass materials that are denatured according to this rule.
- Fully rendered products.
- Carcasses or carcass materials that are naturally incapable of being consumed by humans.
- Lungs and lung lobes originating from a licensed meat establishment.

To denature carcasses or carcass materials, a person must apply an approved denaturing agent according to this rule, so that the denatured carcass or carcass material has a distinctive color, texture, odor or taste and cannot be confused with human food. This rule identifies approved denaturing agents (the department may approve additional denaturing agents).

Labeling Processed Products

Under this rule, no person may sell or distribute any rendered product, animal feed (containing animal by-products) or grease unless that product is clearly and conspicuously labeled with all of the following:

- The name and address of the renderer, animal food processor, feed manufacturer or grease processor.
- A clear identification of the product.
- The net quantity of product included in any package or bulk shipment.
- The clear and conspicuous statement **“INEDIBLE (SPECIES) NOT INTENDED FOR HUMAN FOOD”** if the product is capable of being consumed by humans.

- The clear and conspicuous statement “**DO NOT FEED TO CATTLE OR OTHER RUMINANTS**” if required by current FDA rules under 21 CFR 589.2000.

Prohibitions

Under this rule, no person may do any of the following:

- Process, sell or distribute any carcass or carcass material as feed for food animals unless the material has been fully rendered.
- Do any of the following contrary to current FDA rules under 21 CFR 589.200 (some exemptions apply under current FDA rules):
 - Feed protein derived from animal tissues to cattle or other ruminant animals.
 - Manufacture, label, sell or distribute, as feed for ruminant animals, any protein derived from mammalian tissues.
- Produce, sell or distribute food for human consumption pursuant to a renderer license, animal food processor license or grease processor license.
- Process food in the same facilities used for a rendering plant, animal food processing plant or grease processing plant.

Meat and Poultry for Human Consumption

DATCP administers Wisconsin’s meat inspection program (includes poultry). DATCP licenses and inspects approximately 360 meat slaughter and processing establishments, and regulates the sale and distribution of meat. Wisconsin’s program must be at least “equal to” the federal program administered by USDA. This rule modifies current DATCP meat inspection rules to make them consistent with federal rules, and to incorporate recent federal regulatory changes.

Slaughter of Nonambulatory Cattle for Human Consumption

With very limited exemptions, current federal rules prohibit the slaughter of “non-ambulatory” cattle (cattle that cannot stand or walk) for human consumption. The federal prohibition applies to custom-slaughtered animals, as well as animals slaughtered for sale. An animal does not qualify for exemption unless a state or federal veterinarian makes that determination, based on an ante mortem and post mortem examination of the affected animal. This rule incorporates the federal rules by reference, so that state rules will be fully consistent with federal rules.

Listeria Control Plans

Under federal regulations, meat establishments producing “ready-to-eat” meat products (such as bologna and frankfurters) must have written operating plans to minimize potential consumer health risks from *Listeria monocytogenes*. DATCP has already implemented this federal requirement in state-inspected meat establishments. This rule incorporates the federal regulations by reference.

Water Retained in Meat Products

Federal regulations prohibit retained water from post-evisceration processing in raw meat and poultry, except to the extent that the retained water is an unavoidable consequence of processing to meet food safety requirements. The product label must disclose the presence of any water in excess of naturally occurring water. This rule incorporates the federal regulations by reference.

Meat Brokers and Distributors; Records

Under current DATCP rules, meat brokers and meat distributors must register annually with DATCP unless they are licensed as meat establishments. Under this rule, meat brokers and meat distributors must keep all of the following records related to meat transactions in which they are involved as buyers, sellers or brokers:

- The name and address of the seller.
- The name and address of the buyer.
- The date and location of sale.
- The types of products sold.
- The amount of product of each type sold.
- The disposition of any meat products received by the meat broker or meat distributor.

Fiscal Impact

This rule will have no significant fiscal impact on DATCP or local government units. A complete fiscal estimate is attached.

Business Impact

For the most part, this rule merely clarifies current rules without making significant substantive changes. Among other things, this rule clarifies the coverage of current licenses related to renderers, animal food processors, grease processors, commercial feed manufacturers and dead animal collectors.

This rule incorporates current federal rules, including rules related to slaughter of nonambulatory cattle for human consumption. Because DATCP is already enforcing those federal rules, this rule will have no added impact on regulated businesses.

With the advent of BSE (“mad cow disease”), there has been increased focus on the rendering and animal food processing industries. DATCP currently enforces federal BSE regulations under contract with FDA. This rule incorporates the federal regulations that are currently in effect. On April 23, 2008, FDA issued additional regulations, which are scheduled to take effect in April 2009.

When they take effect, the new FDA regulations may have a significant impact on the rendering and animal food processing industries. However, this rule does not yet incorporate the new regulations. DATCP will enforce the new federal regulations on behalf of FDA when they take effect. DATCP will also update its rules at that time.

This rule will not have any significant adverse impact on business (including small business). This rule clarifies current recordkeeping requirements, but it does not add significant new recordkeeping requirements. This rule requires regulated entities to keep records for 3 years (instead of 2 years under current rules). A business impact analysis is attached.

Federal Regulation

Federal law requires federal or state inspection of all meat establishments. State meat inspection must be at least “equal to” federal inspection. USDA administers the federal meat inspection program, and DATCP administers Wisconsin’s state inspection program. This rule revises state meat inspection rules to keep them at least “equal to” federal regulations.

DATCP currently enforces federal commercial feed regulations under contract with FDA. This rule incorporates current federal regulations that prohibit the feeding of protein from mammalian tissues to cattle or other ruminants. The prohibition is designed to prevent the incidence of BSE (“mad cow disease”). DATCP is already enforcing this federal prohibition.

On April 23, 2008, the FDA issued a final regulation barring certain cattle materials from *all* animal feed (not just cattle or other ruminant feed), as a precautionary measure to prevent BSE. The new FDA regulation also applies to pet food. The new FDA regulation will not take effect until April, 2009. When it takes effect, the new FDA regulation will do all of the following:

- Prohibit the use of brains and spinal cords, from cattle 30 months of age and older, in animal feed (not just ruminant feed).
- Prohibit feed use of any cattle carcasses that have not been inspected and passed for human consumption, unless the cattle were less than 30 months old and the carcasses have brains and spinal cords removed.

This rule does not yet incorporate the new FDA regulation, but DATCP will enforce the new regulation on behalf of FDA when it takes effect. DATCP will also update its rules at that time.

Regulation in Surrounding States

All of the surrounding states (Michigan, Minnesota, Illinois and Iowa) regulate inedible animal by-products. Regulations include licensing and fees, processing and handling regulations, facility standards, sanitation and labeling regulations, and enforcement provisions. However, the surrounding states may use different terminology in their regulations.

All of the surrounding states require vehicle permits and identification of vehicles used to haul inedible carcasses and carcass materials. Surrounding states all require similar labeling of inedible carcasses, carcass materials and products. Surrounding states enforce FDA feed regulations, including prohibitions against the feeding of mammalian protein material to cattle or other ruminants. However, not all states have incorporated federal regulations by rule (incorporation facilitates enforcement under state law).

Data and Analytical Methodologies

See above. DATCP has analyzed current rules in light of actual program experience and industry practice. This rule is designed to clarify current rules, make current rules consistent with relevant federal rules, and make current rules internally consistent. DATCP has not conducted a formal scientific data analysis, because it is not necessary or relevant to this rulemaking proceeding.

DATCP conducts or monitors disease testing and surveillance as part of normal program administration, and evaluates programs in light of relevant disease findings and test results. Among other things, Wisconsin has tested over 100,000 cattle for BSE (about 20% of all the cattle tested to date in the U.S.) without any positive disease findings.

Agency Contact

Questions or comments related to this rule may be submitted to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Attn: Paul E. Pierce
Division of Food Safety
P.O. Box 8911
Madison, Wisconsin 53708-8911
Telephone: (608) 224-4731
E-mail: Paul.Pierce@wi.gov

SECTION 1. ATCP 42.02(2)(e) is created to read:

ATCP 42.02(2)(e) Manufacture and distribute minimally processed carcasses and carcass materials for consumption by animals other than food animals as defined in s. ATCP 57.01(14) if the person is licensed as an animal food processor under s. ATCP 57.12. Minimal processing includes removal of hides or feathers, cutting, grinding, denaturing, freezing and packaging. Minimal processing does not include heat treating, rendering, or mixing with other ingredients such as vitamins or minerals.

SECTION 2. ATCP 55.07(1)(a)(intro.), (2)(a)(intro.), (3)(a)(intro.), and (8)(intro.) and (a) to (d) are amended to read:

ATCP 55.07(1)(a)(intro.) A meat establishment operator who does any of the following shall comply with applicable federal standards under 9 CFR parts 307 to 311, 313 to 315, 317, 319, 416, and 417, 430 and 441:

(2)(a)(intro.) A meat establishment operator who does any of the following shall comply with applicable requirements under 9 CFR parts 416, and 417, and 441, and subparts G, H, I, J, K, L, O and P of 9 CFR 381:

(3)(a)(intro.) A meat establishment operator who does any of the following shall comply with applicable requirements under 9 CFR parts 307 to 311, 313 to 315, 317, 319, 416, and 417 and 441:

(8)(intro.) ANIMALS THAT CANNOT STAND OR WALK. No person may slaughter a food animal for human consumption or submit a food animal for slaughter for human consumption if that animal cannot stand, rise from a recumbent position, or walk without assistance. This prohibition does not apply to any of the following:

(8)(a) ~~An animal that was~~ Food animals, other than cattle, slaughtered at a meat establishment licensed under s. ATCP 55.03 if all the following apply:

1. The meat establishment has adequate facilities to handle the food animal in a humane manner, including facilities required under sub. (11)(c).
2. A department veterinarian performs an ante mortem and post mortem inspection on the food animal.

(8)(b) ~~An animal~~ Food animals, other than cattle, slaughtered at a meat establishment inspected by the United States department of agriculture under 21 USC 451 to 695.

(8)(c) The mobile custom slaughter of ~~an animal~~ food animals, other than cattle, that are injured within 24 hours prior to slaughter, provided ~~the animal~~ the animals are not diseased.

(8)(d) The mobile custom slaughter of ~~an animal~~ food animals, other than cattle, that are injured more than 24 hours prior to slaughter if all the following apply:

1. The ~~animal is~~ food animals are not diseased.
2. A licensed practicing veterinarian performs ~~an~~ ante mortem and post mortem ~~inspection~~ inspections on the slaughtered ~~animal~~ food animals.

SECTION 3. ATCP 55.07(8)(e) and (note) are created to read:

55.07(8)(e) Cattle that qualify for exemption under 9 CFR 309.3 based on ante mortem and post mortem inspection by a veterinarian employed by the department or by the United States department of agriculture under 21 USC 451 to 695.

NOTE: With very limited exemptions, 9 CFR 309.3 prohibits the slaughter of non-ambulatory cattle for human consumption (the prohibition applies to custom-slaughtered animals, as well as animals slaughtered for sale). An animal does not qualify for exemption unless a state or federal veterinarian

makes that determination, based on an ante mortem and post mortem examination of the animal.

SECTION 4. ATCP 55.09(1) is amended to read:

ATCP 55.09(1) GENERAL. A person engaged in mobile custom slaughter or mobile custom processing shall comply with ~~s.~~ ss. ATCP 55.07 and 55.08 and this section.

SECTION 5. ATCP 55.12(6) is created to read:

ATCP 55.12(6) RECORDS. (a) A meat broker or meat distributor shall keep all of the following records related to transactions in which the meat broker or meat distributor is involved as a buyer, seller, or broker of meat or meat food products:

1. The name and address of the seller.
2. The name and address of the buyer.
3. The date and location of sale.
4. The types and amounts of meat or meat food products sold.
5. If the meat broker or meat distributor takes physical custody of the meat or meat food products, complete records related to the receipt, storage, and disposition of that meat or those meat food products.

(b) A meat broker or meat distributor shall retain each record under par. (a) for at least 3 years after the record is made, and shall make records available to the department for inspection and copying upon request.

SECTION 6. Chapter ATCP 57 is repealed and recreated to read:

**CHAPTER ATCP 57
INEDIBLE ANIMAL BY-PRODUCTS**

**Subchapter I
Definitions and General Provisions**

ATCP 57.01 Definitions. In this chapter:

(1) "Animal" means any member of the animal kingdom other than a human being.

(2) "Animal food processing" means slaughtering animals or processing carcasses or carcass materials for use as animal feed, and includes packaging or labeling carcass materials. "Animal food processing" does not include any of the following:

(a) The collection or transportation of whole animal carcasses by a dead animal collector licensed under s. ATCP 57.16, provided that the dead animal collector does not process the carcasses or remove hides or feathers.

(b) A fur farm operator's processing of carcasses or carcass materials solely for feeding to fur bearing animals produced on that fur farm.

NOTE: Fur farmers must register with the department under s. 97.44(2), Stats.

(c) Rendering operations conducted pursuant to a license under s. ATCP 57.10.

(d) Grease processing pursuant to a license under s. ATCP 57.14.

(e) Meat processing pursuant to a license under s. ATCP 55.03.

(f) Mobile custom processing of meat pursuant to a registration under s. ATCP 55.09(2).

(g) Food processing pursuant to a license under s. ATCP 70.03.

(h) Retail food processing pursuant to a license under s. ATCP 75.02 or a permit under s. 254.64, Stats.

(i) The processing of hides.

(j) The manufacture of glue, pharmaceuticals, or gelatin.

(k) The processing of fully rendered products for use as animal feed, pursuant to a commercial feed license under ch. ATCP 42.

NOTE: Persons who produce gelatin or other products for human food are subject to state licensing requirements under chs. ATCP 55 (meat and meat food products), ch. ATCP 70 (food processing plants), and ch. ATCP 75 (retail food establishments). The United States food and drug administration regulates pharmaceutical manufacturers.

Persons who produce commercial feed must be licensed under ch. ATCP 42, except an animal food processor licensed under s. ATCP 57.12 does not need a commercial feed license if the animal food processor is engaged only in "minimal processing" of carcasses and carcass materials (see s. ATCP 42.02(2)(e)).

If an animal food processor licensed under s. ATCP 57.12 does more than "minimal processing," the animal food processor *also* needs a commercial feed license under ch. ATCP 42. A feed manufacturer licensed under ch. ATCP 42 does not need an animal food processor license under s. ATCP 57.12 if the feed manufacturer processes only *fully rendered* animal products.

(3) "Animal food processing plant" means a place at which animal food processing occurs.

(4) "Animal food processor" means a person who engages in animal food processing.

(5) "Carcass" means all or part of a dead animal, as defined in s. 95.72(1)(c), Stats. "Carcass" does not include any of the following:

(a) Material that may be lawfully sold or distributed as food for human consumption.

NOTE: For example, the term "carcass" as used in this chapter does not include fish that are lawfully sold or distributed as food, nor does it include state-inspected or federally-inspected meat or poultry products that are lawfully sold as food.

(b) A fully-rendered product.

(6) "Carcass dealer" means a person who is engaged in the sale or distribution of carcasses or carcass materials, or in brokering the sale of carcasses or carcass materials.

"Carcass dealer" does not include any of the following:

(a) A renderer, animal food processor, or dead animal collector.

(b) A meat establishment operator, meat broker, meat distributor, or other person engaged in the sale or distribution of state-inspected or federally-inspected meat or meat products.

(7) "Carcass material" means blood, tankage, bone, offal or other material derived from a carcass. "Carcass material" does not include a fully rendered product.

(8) "Dead animal collector" means a person who collects and transports whole carcasses, with hide or feathers intact, for delivery to a renderer, animal food processor or fur farm operator. "Dead animal collector" does not include any of the following:

(a) A person who is solely engaged in collecting or transporting hides or feathers.

(b) A renderer licensed under s. ATCP 57.10.

(c) An animal food processor licensed under s. ATCP 57.12.

(d) A fur farm operator who collects and transports carcasses solely for feeding to fur bearing animals at that person's fur farm.

(9) "Denature" means to alter the normal character or appearance of carcasses or carcass materials to make them incapable of being used as human food.

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

(11) "Facilities" means premises, fixtures, and equipment used in the operation of a rendering plant, animal food processing plant, grease processing plant, or transfer station. "Facilities" includes carcass receiving and holding areas.

(12) "Feed" means a substance consumed or intended for consumption by animals. "Feed" includes feed ingredients. "Feed" does not include animal pharmaceuticals unless those pharmaceuticals are incorporated in feed.

NOTE: See also ch. ATCP 42.

(13) "Food," except as used in the term "animal food processor" or "animal food processing," has the meaning given in s. 97.01(6), Stats. "Food" includes oils or animal fats used to cook food if, during the cooking process, the oils or animal fats may come in contact with the food.

NOTE: "Food," as defined in sub. (13), means food for human consumption. A license under this chapter does *not* authorize the license holder to produce any kind of food, including any cooking oils or fats that may come in contact with food.

(14) "Food animals" means domesticated animals of a type commonly raised for human consumption, and includes ratites, captive game animals, and captive game birds.

(15) "Fully rendered product" means a rendered product whose ingredients have been fully melted or reconstituted by the application of heat, according to generally accepted rendering practices that destroy microorganisms in the rendered product.

(16) "Grease" means a fully rendered product consisting of animal fat or tallow, or animal fat or tallow combined with vegetable oil. "Grease" does not include any oil or fat used as food, nor does it include any oil or fat used to cook food if the oil or fat may come in contact with the food.

(17) "Grease processing" means combining, melting, refining, reconstituting or recycling fully rendered products to produce grease or other products for non-food use.

"Grease processing" does not include any of the following:

- (a) Rendering pursuant to a license under s. ATCP 57.10.
- (b) Animal food processing pursuant to a license under s. ATCP 57.12.
- (c) Meat processing pursuant to a license under s. ATCP 55.03.
- (d) Mobile custom processing of meat pursuant to a registration under s. ATCP 55.09(2).
- (e) Food processing pursuant to a license under s. ATCP 70.03.
- (f) Retail food processing pursuant to a license under s. ATCP 75.02 or a permit under s. 254.64, Stats.

(18) "Grease processing plant" means a place at which grease processing occurs.

(19) "Grease processor" means a person engaged in grease processing.

(20) "Meat" means the edible muscle and other edible parts of a food animal, including edible skeletal muscle, edible organs, and edible muscle found in the tongue, diaphragm, heart, or esophagus. "Meat" includes edible fat, bone, skin, sinew, nerve, or blood vessel that normally accompanies meat and is not ordinarily removed in processing.

(21) "Meat broker" means a person who, without taking title to meat or meat food products, arranges the purchase or sale of meat or meat food products.

(22) "Meat establishment" means a plant or fixed premises used to slaughter food animals for human consumption, or to process meat or meat food products for human consumption.

(23) "Meat food product" means an edible product derived in whole or in substantial and definite part from meat.

(24) "Nuisance conditions" means conditions that pose a significant risk to human health or the environment, or cause obnoxious odors other than normal odors incidental to generally accepted processing practices. "Nuisance conditions" may include accumulated carcasses, carcass materials, or manure; drainage from carcasses, carcass materials or manure; accumulated litter; insect or rodent infestations; unclean facilities; or similar conditions.

(25) "Person" means an individual, corporation, partnership, cooperative, limited liability company, trust, or other legal entity.

(26) "Rendered product" means grease, tallow, liquified fat, blood meal, bone meal, meat meal, meat and bone meal, reconstituted tankage, dry poultry product meal, feather meal, or other product produced by rendering. "Rendered product" does not include food for human consumption.

(27) "Rendering" means melting or reconstituting carcasses or carcass materials, with the use of heat, to produce rendered products for non-food use. "Rendering" includes the slaughter of animals by a renderer, or the processing of animal carcasses or carcass materials by a renderer, for use in rendering. "Rendering" does not include any of the following:

(a) Meat processing pursuant to a license under s. ATCP 55.03.

(b) Mobile custom processing of meat pursuant to a registration under s. ATCP 55.09(2).

(c) Food processing pursuant to a license under s. ATCP 70.03.

(d) Retail food processing pursuant to a license under s. ATCP 75.02 or a permit under s. 254.64, Stats.

(e) Grease processing pursuant to a license under s. ATCP 57.14.

(f) The processing of hides.

(g) The manufacture of glue, pharmaceuticals, or gelatin.

(h) Animal food processing by a person who does not render the processed materials.

NOTE: Persons who produce gelatin or other products for human food are subject to state licensing requirements under chs. ATCP 55 (meat and meat food products), ch. ATCP 70 (food processing plants), and ch. ATCP 75 (retail food establishments). Animal food processors are subject to licensing under s. ATCP 57.12. Commercial feed manufacturers are subject to licensing under ch. ATCP 42. The United States food and drug administration regulates pharmaceutical manufacturers.

(28) "Renderer" means a person who engages in rendering.

(29) "Rendering plant" means a place at which rendering occurs.

(30) "Transfer station" means a location at which carcasses or carcass materials are collected or transferred between vehicles for transportation to another location.

"Transfer station" does not include a receiving or holding area that is part of a rendering plant or animal food processing plant.

ATCP 57.10 Renderers. (1) ANNUAL LICENSE REQUIRED. (a) No person may do any of the following without an annual renderer license from the department:

1. Operate a rendering plant in this state.

2. Collect, receive or transport, in this state, carcasses or carcass materials for rendering by that person in this state or another state.