

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis¹

<i>Rule Subject:</i>	Rule Creating License Exemptions For Certain Small Food Processors
<i>Adm. Code Reference:</i>	ATCP 70
<i>Rules Clearinghouse#:</i>	None
<i>DATCP Docket #:</i>	10-R-02

Rule Summary

This rule does all of the following:

- Implements 2009 Wis. Act 101, which exempts certain home canning operations from food processing plant licensing requirements under s. 97.29, Stats. This rule exempts individuals who home-can small amounts of vegetable or fruit products for sale at community or social events, a farmers' market or a farm roadside stand. The rule clarifies the scope, application and terms of the statutory license exemption and includes food safety requirements to protect the public from serious food safety hazards that may be associated with home canned products.
- Creates a food processing plant license exemption for maple sap processors who process limited amounts of sap to create maple syrup or concentrated maple sap that is sold to other processor for further processing.

The Department of Agriculture, Trade and Consumer Protection (DATCP) currently is administering a temporary emergency rule on the same matters, pending the adoption of this "permanent" rule.

Business Impact

Home Canning License Exemption

This rule will benefit home-canners who wish to sell their home-canned vegetable or fruit products at community or social events, at farmers' markets, or at their own farm roadside stands. Those home canners will no longer need a food processing plant license, provided that they sell less than \$5,000 worth of home-canned product during the license year and meet other requirements for exemption. Exempt home canners will save a \$95 annual license fee and will be exempt from facility construction and sanitation requirements that apply to licensed food processing plants.

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.

License-exempt sales of home-canned products may have an adverse competitive impact on licensed canners who currently supply those sales outlets, although the adverse effect is likely to be minimal. Larger food canning businesses that supply canned food for the mass consumer market will not be significantly affected by this rule.

Maple Sap Processing Exemption

This rule will also benefit persons who process maple sap to produce maple syrup or concentrated maple sap for sale to other processors for further processing. Those persons will no longer need a food processing plant license, provided that they sell less than \$5,000 worth of maple syrup or concentrated maple sap for further processing in the license year and meet other requirements for exemption. Exempt maple sap processors will save a \$95 annual license fee and will be exempt from facility construction and sanitation requirements that apply to licensed food processing plants.

Accommodation for Small Business

This rule is designed to benefit certain small businesses, including home canners and maple sap processors, by exempting them from food processing plant licensing requirements. This rule will not have any significant adverse impact on small business.

To qualify for a license exemption under this rule, a small business must meet the food safety requirements prescribed in this rule. Those requirements are minimal requirements needed to protect public health and safety. Home-canned products, if not properly canned, may pose serious public health risks including botulism risks.

DATCP will publish fact sheets about this rule, and will make them available to affected small businesses. DATCP will also notify interested small business and food processing associations, and invite their comments on this “permanent” rule.

Conclusion

This rule will benefit certain small businesses, including certain maple sap processors and home canners. This rule will not have a significant adverse effect on small businesses or other business.

Dated this _____ day of _____, 2010

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
C. Thomas Leitzke
Director, Bureau of Food Safety