

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

ATCP 55, Meat and Meat Products

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3. Subject

Revision of ATCP 55, Meat and Meat Products, to meet federal requirements allowing the interstate sales of state-inspected meat and poultry products

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect       Increase Existing Revenues       Increase Costs  
 Indeterminate       Decrease Existing Revenues       Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy       Specific Businesses/Sectors  
 Local Government Units       Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes       No

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9. Policy Problem Addressed by the Rule

Wisconsin operates the nation's largest state meat and poultry inspection program, with more than 270 official licensed establishments. Twenty-seven states currently operate state meat and poultry inspection programs. All state-inspected Wisconsin meat and poultry establishments are very small (as defined by USDA) and fill an important niche in the state's economy. According to USDA, state meat and poultry inspection programs provide unique services to these small plants by "providing more personalized guidance to establishments in developing their food safety oriented operations." USDA provides half of the funding for state meat and poultry inspection programs.

State meat and poultry inspection programs operate under a cooperative agreement with USDA FSIS. Although state meat inspection procedures may vary from federal inspection, states must provide inspection services "at least equal to" federal meat inspection. Each program conducts a self-assessment annually and USDA FSIS conducts an on-site audit every three years to determine whether the program meets federal "at least equal to" requirements. Wisconsin's program currently meets these "at least equal to" standards and has met them since the program's inception.

Currently state-inspected meat and poultry establishments may only sell their products within the state where the establishment is located. However, in May, 2011, USDA finalized rules that will allow some selected state-inspected meat and poultry 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. USDA will fund 60 percent of the state's costs for inspecting meat and poultry establishments selected to participate in the CIS program.

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This proposed rule will revise ch. ATPC 55, Meat and Meat Food Products, to incorporate by reference federal regulations creating the CIS program and specifying practices that ensure the state program operates the “same as” the federal program in establishments selected for the CIS program.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This rule primarily impacts those very small state-inspected establishments that choose to participate and meet the requirements of the voluntary CIS program. This rule will have a minimal impact on very small state-inspected establishments that choose not to participate in the CIS program, by updating section headings and adopting appropriate sections of federal regulations that are followed in operating the existing state inspection program. All state-inspected meat establishments in Wisconsin, along with members of the Wisconsin Association of Meat Processors (WAMP), were contacted and asked to comment on the economic impact of the rule.

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11. Identify the local governmental units that participated in the development of this EIA.

None. Local governmental units are not impacted by this rule.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

### Businesses and Business Sectors

This rule will have a positive impact on very small (as defined by USDA) state-inspected meat and poultry establishments in Wisconsin that choose to participate and are selected for the program. The department estimates that 17 establishments will participate in the program in the first year of its operation and that the number of establishments participating in the program may grow in the future. Participation in the CIS program will allow these state-inspected meat and poultry establishments to expand their markets from selling only in Wisconsin to all fifty states. USDA expects establishments to incur one-time start-up costs 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 also expects some state-inspected establishments may need to make structural modifications to their facilities to meet federal requirements. Since state-inspected meat and poultry establishments are already meeting requirements that are “at least equal to” federal requirements, the department anticipates these costs will be minimal and will be offset by increased sales in a larger market area. There will be no additional licensing fees to participate in the CIS program beyond the cost of a license currently required to operate a meat or poultry business. Changes to the rule designed to ensure the program meets "same as" requirements will not impact the way state-inspected meat establishments not participating in the program are inspected.

### State's Economy

The rule will benefit the state's economy by allowing very small state-inspected meat and poultry establishments to increase sales. These increased sales will benefit the local economy of state-inspected meat and poultry establishments, many of which are located in Wisconsin's rural communities. The rule will also benefit farmers by providing access to new markets for their meat and poultry products, while allowing the farmers to transport their animals to local slaughter and processing establishments.

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#### Local Governmental Units and Public Utility Rate Payers

The rule will have no impact on local governmental units or public utility rate payers.

#### Economic Impact Analysis Comments

DATCP posted the proposed rule online as required under Wis. Stat. § 227.137 and solicited comments from all state-inspected meat establishments and the Wisconsin Association of Meat Processors (WAMP). The department received three comments, all supportive of the rule changes needed to ensure participation in the CIS program. Two comments described the positive impact the CIS program would have on their businesses. One business noted that they have had to turn down orders from stores and restaurants from across the U.S. almost weekly because they cannot currently sell their products in interstate commerce. They state that, "going forward with the regulation changes will allow my company alone to create several full time position, several part time positions, and put tens of thousands of dollars into the state's small-scale farming economy every month, and a sizable amount of investment into our facility, which is in an economically disadvantaged area in the city of Milwaukee." Another business owner described how the CIS program will have a very positive impact on her business, allowing her to deliver her product throughout the midwest. A third business owner described how he had considered pursuing federal inspection for his product, but felt that state inspection personnel have been more helpful and preferred to pursue participation in the CIS program.

#### Fiscal Impact

This rule is not anticipated to have a fiscal impact on state operations and will have no impact on local governments. The Bureau of Meat Safety and Inspection expects that it will incur minimal costs to implement the CIS program since the Bureau already inspects meat and poultry establishments selected into the program using procedures deemed "at least equal to" the federal standards. In analyzing the final federal rule, USDA noted that states may incur some costs associated with processing and evaluating applications submitted by establishments requesting selection into the CIS program. Wisconsin may make some changes in procedures to meet "same as" federal inspection requirements, but the costs associated with these changes are minimal. The state program gained additional inspector positions in the current biennium to meet the "same as" requirement. Program and workload analysis will continue to be provided to assess future needs.

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#### 13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Implementing this rule will be beneficial to Wisconsin's small state-inspected meat and poultry businesses. These rule changes are required for Wisconsin to participate in USDA's CIS program, which will allow certain selected state-inspected meat and poultry establishments to sell their products in interstate commerce. Since state-inspected meat establishments are already meeting requirements that are "at least equal to" federal requirements, these rule changes will not impose any new regulatory burden on state-inspected meat establishments in Wisconsin.

#### Alternative to Implementing the Rule

If these rules are not adopted, USDA may determine that Wisconsin cannot participate in the CIS program, thereby preventing Wisconsin's state-inspected meat and poultry establishments from selling their products in interstate commerce.

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#### 14. Long Range Implications of Implementing the Rule

There are no long range fiscal implications of implementing the rule. In the long run, the rule changes will benefit very small state-inspected meat and poultry businesses in Wisconsin by allowing them to expand their market into other states.

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#### 15. Compare With Approaches Being Used by Federal Government

The Federal Meat Inspection Act and the Poultry Products Inspection Act gave USDA FSIS the responsibility for ensuring the safety and wholesomeness of meat and poultry distributed in commerce for use as human food. FSIS inspects more than 6,200 establishments, conducting ante and post mortem slaughter inspection, inspection of meat and poultry food products and inspection of basic sanitation practices. FSIS also ensures that meat and poultry businesses meet labeling requirements and follow humane handling procedures during slaughter, as required by federal law. The agency also reviews Hazard Analysis and Critical Control Point (HACCP) systems. HACCP is a preventive system employed by each establishment for ensuring the safety of meat and poultry products.

Wisconsin's state meat and poultry inspection program operates under a cooperative agreement with FSIS. The Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968 created state meat inspection programs under the authority of FSIS. FSIS ensures that state programs meet inspection standards that are "at least equal to" federal meat inspection standards. FSIS provides 50 percent of Wisconsin's program funding.

Until 2008, only meat and poultry establishments inspected by FSIS were allowed to sell products in interstate commerce. The 2008 Farm Bill authorized FSIS to create the CIS program, allowing selected state-inspected meat and poultry establishments to sell their products in interstate commerce. FSIS published final rules for the voluntary program in May 2011 and will provide oversight for the program to ensure that state meat inspection programs deliver inspection services to CIS participants that are the "same as" (identical to) federal meat inspection. FSIS will provide states with 60 percent of the cost for inspecting those plants that participate in the program.

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#### 16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Any state that operates a state meat inspection program must meet federal requirements to provide services that are "at least equal to" federal inspection, including an expectation that states have regulations in place that are "at least equal to" federal meat and poultry inspection regulations. Participation in the CIS program requires that states have a regulatory foundation that is the "same as", rather than "at least equal to", federal meat and poultry inspection regulations. The following describes state meat inspection regulations in neighboring states:

**Illinois-** Illinois statutes mandate the adoption by reference of federal regulations; some provisions from federal regulations (Sanitation Standard Operating Procedures, Biotype I E. coli testing) are reproduced in whole and without citation in the statute. In the Illinois rules, federal regulations are adopted by reference, with an additional limitation of scope and definitions to intrastate commerce in Illinois.

**Iowa-** Iowa has adopted applicable sections of the federal meat and poultry inspection regulations by reference into their administration rules, but, is statutorily limited to applying them within the scope of intra-state commerce. Iowa statute states that goal of the regulations is to ensure that the Iowa program requirements are at least equal to those of the federal program. Iowa regulations contain several definitions which are altered from the federal regulations so that they only apply within the state of Iowa.

**Michigan -** Michigan does not operate a state meat inspection program and is not qualified to participate in the CIS program.

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Minnesota - Minnesota statutes require rules development such that its program requirements are "at least equal to" federal meat and poultry inspection program requirements. Minnesota rules do not adopt federal requirements by reference.

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17. Contact Name

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18. Contact Phone Number

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This document can be made available in alternate formats to individuals with disabilities upon request.

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

These rule changes adopt federal regulations that establish the Cooperative Interstate Shipment (CIS) program and formally adopts current practice into rule to provide the regulatory foundation required under federal law to allow certain small state meat inspected businesses to participate in the CIS program and sell their products in interstate commerce. The rule will have a positive economic impact on small meat establishments that meet requirements and choose to participate in the CIS program. This rule will not have a fiscal impact on other state-inspected meat establishments because they already meet requirements that are "at least equal to" federal regulations and these rule changes will not impact inspection practices for these plants.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The department reviewed data USDA collected and analyzed as part of their rulemaking process regarding the potential impact of the federal rule authorizing the CIS program on small businesses. In addition, the department sent a questionnaire to state inspected meat establishments in Wisconsin that expressed interest in the CIS program to provide these businesses with information about program requirements and determine the extent to which these businesses were still interested in applying for the program.

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

All of the above steps have been considered, but cannot be taken, as the rule incorporates federal regulatory requirements that must be met to participate in the CIS program. However, this program is completely voluntary on the part of the small business and so no undue economic impact will be imposed on those establishments that choose to participate. Inspection practices will not change for those establishments that do not choose to participate in the program.

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

Small businesses that participate in this program must meet federal requirements and Wisconsin cannot modify those requirements. However, the CIS program is voluntary and meat establishments will be able to make their own assessment as to whether it is profitable for their business to participate.

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5. Describe the Rule's Enforcement Provisions

This rule does not change enforcement provisions for state-inspected meat establishments. They will be the same as what already exists for the small meat businesses currently holding our license.

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes     No

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