

Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: Meat and Poultry Products
Adm. Code Reference: ATCP 55
Rules Clearinghouse #: 17-072
DATCP Docket #: 16-R-04

Rule Summary

Revised Fee Structure

Currently, a licensed meat establishment is required to pay a \$200 annual license fee or an annual license fee of \$80 if the owner is solely engaged in custom processing at that establishment. After consultation with industry, the Department is replacing the \$200 annual fee with a new fee structure based on the activities done at the licensed meat establishment (effective January 1, 2019). The maximum annual fee for any single licensed meat establishment will not exceed \$200. Fees will not increase for any licensed meat establishment and may decrease for most establishments with the new fee structure:

- A person who is solely engaged in custom processing will continue to pay an \$80 annual license fee.
- A licensed meat establishment will pay annual fees, not to exceed \$200, of:
 - \$100 for processing cooked meat or poultry products, or processing shelf-stable uncooked meat or poultry products,
 - \$100 for the slaughter of livestock, other than rabbits, and captive game animals,
 - \$50 for processing not shelf stable uncooked meat or poultry products,
 - \$50 for the slaughter of poultry – unless exempt from the license fee – ratites, and captive game birds, and/or
 - \$25 for the slaughter of more than 3,000 rabbits annually. All rabbit slaughter establishments must be licensed, but there shall be no charge for the slaughter of 3,000 or fewer rabbits annually.

Based on the establishments listed in the 2016-2017 Meat Establishment Directory (subtracting two establishments no longer in business), licensing fees charged to official establishments, industry-wide, would decrease by \$18,550. Under the proposed rule, an estimated 76 establishments would still pay \$200, 88 establishments would pay \$150, 5 establishments would pay \$100, and 91 establishments would pay \$50.

Definition of Livestock

2015 Wisconsin Act 243 broadened the range of animals defined as “livestock” for which slaughter inspection is provided without fee by the department. Alpacas, bison, llamas, and rabbits are now considered livestock, and the slaughter inspection fees are eliminated

for alpaca, bison, and llama producers who previously had to pay for voluntary inspection of slaughter.

The Department recently learned that rabbit slaughter, done in uninspected facilities (often on-farm) rather than under voluntary for-fee inspection, has been a fairly common practice in Wisconsin. This practice had uncertain legality before the passage of 2015 Wisconsin Act 243 and is now clearly prohibited by a statutory requirement. Rabbits must be slaughtered in a licensed establishment.

Effective January 1, 2019, this rule legalizes the commercial slaughter and processing of rabbits by creating a no-cost license category for the slaughter of 3,000 or fewer rabbits annually (\$25 if more than 3,000 are slaughtered) and instituting baseline sanitation and recordkeeping requirements to adequately safeguard public health while allowing low-volume rabbit producers to develop their businesses. The rule exempts low-volume rabbit slaughter from slaughter inspection requirements, provided the rabbits are slaughtered at the same premises where raised, and recordkeeping and licensing requirements are met.

Retail Food Exemptions

This rule revision ensures that exemptions from the requirement in rule to hold a meat establishment license are consistent with those created by 2015 Wisconsin Act 243. The exemptions affect a greater number of retail food establishments than were previously considered exempt, making the statutory and rule language consistent with USDA regulations.

Many licensed meat establishments operate a retail food establishment on the same premises. These licensed meat establishments may manufacture some meat products solely for the retail food establishment part of their business. The packages containing these products are not required to bear the inspection legend that is required for meat products being sold wholesale. However, the existing rule has long been interpreted as requiring that the formula and label of each of these products must be pre-approved by the Department before retail sale. Some business operators have questioned the fairness of this interpretation, as there are no such requirements for other, non-meat, potentially hazardous foods made for retail sale (i.e., fish sausage). In addition, retail food establishments not linked to a meat establishment commonly make and sell meat items without formula (recipe) or label approval, e.g. rotisserie chicken. This rule clarifies the retail meat and poultry products formula and labeling packaging exemptions.

Other Revisions

The rule revision updates terminology and adds definitions to improve clarity. Some revisions are made to align the rule terminology with recent changes in state and federal law. Among these revisions are the following:

- The rule aligns the list of exemptions related to custom processing with statutes. The definition of custom processing is clarified to include both slaughter and processing of meat or poultry products. Currently, meat or poultry may be used for the owner’s own consumption, consumption by members of the owner’s immediate household, and nonpaying guests. The rule was revised to reflect statutory language that allows consumption by the owner, members of the owner’s household, and the owner’s nonpaying guests and employees.
- The rule adds the Martin Luther King, Jr. Day holiday to the list of holidays for the purposes of scheduling inspection.
- The rule simplifies the listing of applicable federal regulation while incorporating 9 CFR 412, which relates to labeling requirements.
- The rule replaces the term “meat and meat food products” with “meat and poultry products” throughout to reflect modification of this definition.

Small Business Affected

This rule will have a generally positive impact on meat and poultry related businesses. The modifications are anticipated to decrease costs for producers of alpacas, bison, and llamas; reduce license fees for most meat establishments and several retail food establishments; and decrease procedural barriers for meat establishment operators running a retail food establishment on the same premises. While rabbit producers may face a slight increase in costs, the ability to slaughter rabbits in an on-farm licensed facility may increase their ability to sell rabbit to restaurants and other retail food establishments. By increasing the number of animal species that can be slaughtered in Wisconsin under no-fee inspection, as opposed to under voluntary for-fee inspection, the rule enhances the economic position of farmers producing alpacas, bison, and llamas.

A draft of the proposed ATCP 55 was posted for public comment on economic impact from June 23, 2017 to July 22, 2017. No comments were submitted.

Reporting, Bookkeeping, and other Procedures

This rule legalizes the commercial slaughter and processing of rabbits by creating a no-cost license category for the slaughter of 3,000 or fewer rabbits annually (\$25 if more than 3,000 are slaughtered; effective January 1, 2019) and instituting baseline sanitation and recordkeeping requirements to adequately safeguard public health while allowing low-volume rabbit producers to develop their businesses. This record keeping requirement is consistent with existing requirements for other animal slaughter and processing.

Based on public comments, the rule was revised to have more clear and consistent records requirements among general slaughter and processing, custom processing, and mobile custom processing. Based on hearing comments, the rule clarifies that records

must be made at the time the specific event occurs, include the date and time recorded, and be signed or initialed by the meat establishment employee making the entry. There are no other reporting, bookkeeping, or other procedures in the proposed rule for small businesses.

Professional Skills Required

The proposed rule does not specifically regulate professional skills required for any small businesses.

Accommodation for Small Business

Many of the businesses affected by this rule are “small businesses.” This rule does not make special exceptions for small businesses because it applies to meat establishment businesses of all sizes.

This rule includes provisions which will benefit large and small businesses alike. For example:

- This rule is anticipated to decrease costs for producers of alpacas, bison, and llamas. By increasing the number of animal species that can be slaughtered in Wisconsin under no-fee inspection, as opposed to under voluntary for-fee inspection, the rule enhances the economic position of farmers producing alpacas, bison, and llamas.
- The rule also reduces license fees for most meat establishments and several retail food establishments, and decreases procedural barriers for meat establishment operators running a retail food establishment on the same premises.
- While rabbit producers may face a slight increase in costs, the ability to slaughter rabbits in an on-farm licensed facility may increase their ability to sell rabbits to restaurants and other retail food establishments.

Conclusion

This rule will generally benefit affected businesses, including “small businesses.” Negative effects, if any, will be few and limited. This rule will not have a significant adverse effect on “small business” and is not subject to the delayed “small business” effective date provided in s. 227.22(2)(e), Stats.

Dated this _____ day of _____, 20_____.

STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Steve Ingham, Administrator
Division of Food and Recreational Safety