

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis¹

Rule Subject: Wisconsin’s Shellfish Shippers and Processors
Adm. Code Reference: ATCP 70
Rules Clearinghouse #: Not yet assigned
DATCP Docket #: 11-R-5

Rule Summary

This rule modifies current Wisconsin food processing plant rules administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). Among other things, this rule:

- Adds provisions relating to the receipt, processing, repacking, labeling and shipping of shellfish in wholesale interstate commerce. These provisions are based on guidance from the National Shellfish Sanitation Program (NSSP), which is directed by the Interstate Shellfish Sanitation Conference (ISSC), the primary organization of Shellfish Officials (state regulators and the FDA). Adoption of the provisions will allow Wisconsin food processors to receive shellfish and then further process, repack, and ship the shellfish in interstate commerce.
- Establishes licensing, HACCP-based food safety system, and inspection requirements for food processors who wish to participate in the receipt, processing, labeling, re-packaging and interstate shipment of molluscan shellfish.
- Defines terms related to the activities associated with the receipt, processing, labeling, re-packaging, and shipping of molluscan shellfish.
- Applies existing standards for food processing plant facilities, sanitation, and personal hygiene to molluscan shellfish shippers and reprocessors.
- Sets standards for record-keeping necessary to meet NSSP guidelines.
- Incorporates the modified NSSP guidelines into the existing rules.

Business Impact

This rule will have a positive impact on businesses in Wisconsin. Currently, Wisconsin businesses that receive molluscan shellfish from out of state may only sell that product within the state or pass them through to another state without repackaging or processing

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.

the product. Although Wisconsin does not produce molluscan shellfish, this rule will open new markets to Wisconsin businesses that handle molluscan shellfish from other states. The rule will allow these businesses to add value to the product by further processing, such as shucking and repackaging, molluscan shellfish they receive from other states and selling the reprocessed product in interstate commerce.

Large-scale food wholesalers will now have the option, under a food processing plant license, of breaking down and further processing shipments of molluscan shellfish in Wisconsin to meet the needs of their customers in other states. These changes will put Wisconsin on an equal footing with molluscan shellfish shippers and processors in Illinois – specifically in the Chicago area. Large wholesalers operating in several states will now have the option of locating molluscan shellfish processing operations in Wisconsin, which may be more convenient for serving markets in other states such as the Twin Cities, Michigan’s Upper Peninsula, Iowa, and the Dakotas.

Accommodation for Small Business

The impact of this rule will be primarily on large businesses that provide wholesale food products to the retail and wholesale food industries nationwide. Small businesses generally serve local markets and are adequately served by current regulations that allow them to receive molluscan shellfish from out-of-state and sell the product locally. However, small businesses wishing to sell molluscan shellfish products in interstate commerce should be able to meet the provisions of the rule. Several provisions of this rule deal with general facility and sanitation standards that already apply to any food processor in Wisconsin and the Hazard Analysis and Critical Control Point Plan (HACCP) program requirements can be met following completion of on-line training and the development and implementation of a HACCP plan. All seafood processors in Wisconsin, including warehouse operators who store seafood, already have met HACCP program requirements.

Any business regardless of size that sells molluscan shellfish products in interstate commerce must meet NSSP requirements. However, a small business that chooses to participate in the program is expected to be able to easily meet program requirements. DATCP would also provide support and guidance to any small business interested in participation to ensure they meet HACCP and other regulatory requirements.

Conclusion

By opening new interstate markets for processed or re-packaged molluscan shellfish, this rule will allow Wisconsin businesses to increase sales of these products. The rule will primarily benefit the large businesses who requested the rule change, but small businesses that wish to expand their offerings into an interstate market may choose to participate as well. Implementation costs associated with this rule are expected to be minimal.

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

Dated this _____ day of _____, 2012.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
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Division of Food Safety