

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis¹

Rule Subject: Wisconsin’s Food Processing Plants and Shellfish Shippers and Processors
Adm. Code Reference: ATCP 70
Rules Clearinghouse #: 12-037
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:

- Defines terms related to activities associated with the receipt, processing, repacking, labeling, storage, and shipping of molluscan shellfish.
- Modifies current rules to include provisions of the National Shellfish Sanitation Program (NSSP) and the guidelines of the ISSC related to receiving, processing, repacking, labeling, storage, and shipping molluscan shellfish for wholesale interstate and intrastate trade.
- Applies existing standards for facilities, sanitation, and personal hygiene in food processing plants to molluscan shellfish shippers, reshippers and reproprocessors.
- Sets standards for critical control points, critical limits, record-keeping and traceability, consistent with NSSP guidelines.

Business Impact

This rule will have a positive impact on businesses in Wisconsin. Currently, Wisconsin businesses may receive and process molluscan shellfish from out of state, but may only sell these products within Wisconsin. Wisconsin does not produce molluscan shellfish, but some businesses bring shellfish in from other states and package and reprocess it for sale within the state. This rule will allow Wisconsin businesses to expand their markets for shellfish by allowing them to process and sell molluscan shellfish in interstate commerce.

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.

This rule will provide businesses with the option, under a food processing plant license, of processing and repackaging 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. This rule will also provide an incentive to large wholesalers that operate in Minnesota, Iowa and the Dakotas to locate molluscan shellfish processing operations in Wisconsin.

Effect on Small Business

This rule will have a positive impact on businesses in Wisconsin. Currently, Wisconsin businesses may receive and process molluscan shellfish from out of state, but may only sell these products within Wisconsin. This rule will allow Wisconsin businesses to expand their markets for shellfish by allowing them to process and sell molluscan shellfish in interstate commerce.

The implementation costs for businesses to participate in this program are expected to be minimal. The provisions of this rule are consistent with general facility and sanitation standards that food processors must already meet. Businesses that choose to participate in the program would not need to extensively modify existing facilities or implement unusually burdensome recordkeeping. Participation in the program is voluntary and only businesses that choose to sell molluscan shellfish in interstate commerce would be required to meet the requirements. There will be no additional licensing fees beyond those already required for a food processing plant license.

This rule will primarily benefit large businesses that provide wholesale food products to retail food establishments, restaurants, and other wholesale food industries nationwide. Small businesses are unlikely to participate in this program, with current regulations allowing them to receive and sell molluscan shellfish in their local market areas. Any business, regardless of size, that sells molluscan shellfish products in interstate commerce must meet NSSP requirements. A small business that chooses to participate in the program is expected to be able to easily meet program requirements. In addition, DATCP would also provide support and guidance to any small business interested in participation to ensure they meet Hazard Analysis Critical Control Points (HACCP) and other regulatory requirements.

Conclusion

The rule will allow certain Wisconsin businesses to increase sales of molluscan shellfish in interstate commerce, while also helping to protect the public health of consumers who purchase molluscan shellfish. Implementation costs associated with this rule are expected to be minimal.

Dated this _____ day of _____, 2012.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
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