

Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: Egg grading, handling, and labeling
Adm. Code Reference: ATCP 88, 70, and 75
Rules Clearinghouse #: CR 14-037
DATCP Docket #: 13-R-05

Rule Summary

This proposed rule comprehensively revises ATCP 88, Wis. Adm. Code, to clarify the regulatory requirements applicable to egg producers and egg handlers. The proposed rule makes minor revisions to ATCP 70 and 75 and moves primary egg regulation to ATCP 88, thus limiting the need for egg business operators to consult multiple chapters of rules. The rule consolidates in ATCP 88 regulations regarding licensing of egg processing and sales, and requirements for facilities, equipment and utensils, packaging, and labeling at egg handling operations. The rule implements 2013 Wisconsin Act 245, by eliminating the requirement for small-scale egg producers to hold a food processing plant license to gather, package, and store eggs which will be sold to consumers at a farmers' market, on an egg route, or at the egg producer's farm. It also exempts producers from obtaining a retail food establishment license when selling eggs to consumers on the producer's farm or as part of a community-supported agriculture business. The proposed rule removes obsolete provisions in the existing rule and incorporates explanatory text to improve rule clarity. The rule spells out federal registration requirements that must also be met by some egg producers and egg handlers.

Small Businesses Affected

The rule will impact egg producers and egg handlers of all sizes. This rule is expected to have a positive impact on small-scale egg producers with flocks of not more than 150 birds as it removes the requirement to obtain and pay the fee for a food processing plant license if the producer gathers, packages, and stores eggs to be later sold to consumers on the site where the eggs are produced, at farmers' markets, or on egg sales routes. It also exempts producers from obtaining a retail food establishment license when selling eggs to consumers on the producer's farm or as part of a community-supported agriculture business. It assists all egg-related businesses by clarifying and consolidating existing regulatory requirements specific to egg production establishments, making it easier for businesses to understand and meet critical requirements to protect the public from foodborne illness. Some licensed egg handling operations may need to upgrade facilities, *e.g.* sinks, walls, temperature monitoring devices, in order to meet the requirements in the rule. The rule does not increase license fees.

Reporting, Bookkeeping and other Procedures

The rule does not require any additional reporting or bookkeeping procedures for small producers. The rule incorporates registration requirements for large producers, as required under federal law. The rule also requires Wisconsin egg handlers who receive eggs from producers who own 3,000 or more laying birds to maintain records showing that the producers are registered, as required under the federal egg safety rule, with the Food and Drug Administration (FDA). The FDA requires producers with 3,000 or more laying birds to register and meet federal requirements to reduce the risk of *Salmonella* Enteritidis contamination, a significant food safety hazard associated with eggs. Registration allows FDA to identify and inspect these large-scale egg producers. By requiring egg handlers to maintain documentation demonstrating compliance with FDA registration requirements, Wisconsin inspectors will be able to quickly and efficiently ensure that eggs entering the marketplace from these large-scale egg producers have been produced subject to federal SE reduction requirements.

Professional Skills Required

The proposed rule does not require small businesses to acquire any new professional skills.

Accommodation for Small Business

The proposed rule creates a new exemption from food processing plant licensing for egg producers with not more than 150 laying birds who sell eggs to consumers at farmers' markets, on egg-sales routes or at the location where the eggs are produced. The rule also exempts producers from obtaining a retail food establishment license when selling eggs to consumers at the producer's farm or as part of a community-supported agriculture business.

Conclusion

The provisions in this proposed rule will benefit Wisconsin's egg production industry.

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.

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

Dated this _____ day of _____, 2014.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Steven C. Ingham, Administrator,
Division of Food Safety