

Wisconsin Department of Agriculture, Trade and Consumer Protection

Initial Regulatory Flexibility Analysis

Rule Subject: Maple Syrup Grading and Processing
Adm. Code Reference: ATCP 87
Rules Clearinghouse #: TBD
DATCP Docket #: 15-R-06

Rule Summary

This proposed revision essentially replaces Wisconsin's existing maple syrup grade standards with grade standards for maple syrup recently adopted by the United States Department of Agriculture ("USDA") and other leading maple syrup-producing states. The hearing and comment process will allow the Department of Agriculture, Trade, and Consumer Protection ("Department") to determine if it is appropriate to keep the existing standards, adopt the federal ones, or develop new unique standards. The proposed new grading standard will include the re-categorization of dark maple syrup, currently allowed to be graded as only for manufacturing, so that it may be packaged as Grade "A" syrup and sold at retail.

This proposed revision also reduces the application of some food processing plant facility standards found in ATCP 70 to maple syrup facilities that only boil maple sap, *i.e.* "sugar shacks." This revision is in response to the Department's and industry concerns that it may not be necessary to hold sugar shacks, which are often in remote locations, to standards that are more appropriate for maple syrup producers who are doing much more complex processing and packaging. With input received during the hearing and comment period from industry, the Department will determine the extent to which food processing plant regulations should refer to less stringent requirements for "sugar shacks" found in the revised maple syrup regulations.

The rule facilitates the transfer of maple sap and syrup between rudimentary thermal concentration facilities and food processing facilities conducting more sophisticated storage, processing, and packaging operations.

The new rule also defines a variety of newly popular products made from maple sap and specifies facility and processing requirements for making them. These new products include "maple water", which has various marketplace definitions including pasteurized maple sap (not concentrated), or water removed from maple sap by reverse osmosis. The Department will use the comment and hearing period to determine the extent this rule revision adequately addresses any food safety hazards and accurately removes the risk of misbranding associated with these products.

Small Businesses Affected

The requirements under the revised ATCP 87 will likely be met in most facilities that are used only for thermal concentrations of maple sap. Thus it is likely that the proposed rule will have little effect on a sizeable proportion of existing maple syrup processors. It is possible that some facilities that do not currently meet the proposed facility requirements for thermal concentration of maple syrup operations may face some facility-upgrade costs. Other, more complex operations such as those that add reverse osmosis units to a facility that is currently only performing thermal concentration of maple sap, may face facility-upgrade costs necessary to meet the requirements of ATCP 70. Businesses processing maple-derived water or un-concentrated or partially concentrated maple sap may face facility-upgrade costs since they will be held to the same facility standard as other business that are conducting similar operations.

Accommodation for Small Business

A primary focus of this new rule *is* the accommodation of small, traditional operations that simply boil sap to produce maple syrup. This rule will allow them to continue to operate without extensive facility upgrades. The proposed rule also contains language that clarifies requirements for acceptable transfer of concentrated sap from these simple maple sap thermal concentration facilities to more complex operations for further storage, processing, and/or packaging.

Conclusion

The provisions in this proposed rule will benefit Wisconsin's maple sap and syrup industry, especially small maple sap thermal concentration operations ("sugar shacks"), by creating adequate but less stringent food processing plant facility requirements. The rule will help ensure that small maple syrup operations are regulated in accordance with the minimal risks associated with their unique product yet provides a regulatory framework to deal with the new and innovative products made from maple sap that are now being produced in Wisconsin.

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.

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

Dated this _____ day of _____, 2016.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

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