



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

DATE: May 11, 2023

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Randy Romanski, Secretary
Amy Millard, Deputy Administrator, Division of Food and Recreational Safety

SUBJECT: Wis. Admin. Code Ch. **ATCP 57 (Inedible Animal By-Products)**

PRESENTED BY: Andrea Northwood, Program & Policy Analyst, Division of Food and Recreational Safety

REQUESTED ACTION:

At the meeting of the Board on May 11, 2023, the Department will request approval of the final rule regarding Wis. Admin. Code Ch. ATCP 57 relating to Inedible Animal By-Products.

SUMMARY:

This proposed rule adds necessary changes to harmonize definitions with relevant federal regulations. Establishments in Wisconsin are governed by the state for their business activities, but also have oversight by United States Department of Agriculture (USDA) and the FDA, who oversee interstate and international distribution. The updated definitions create a smooth integration with relevant federal regulations.

- Clarification to the truck transfer stations' building requirements.
- Removal of the exemption for an operator of a grease processing plant that is solely engaged in the production of biodiesel and other biofuels.
- Removal of the carcass dealer registration.
- Clarification of the requirement to mark vehicles which contain products that are Inedible -Not Intended for Human Food.
- Modification to address leak prevention of truck boxes or trailers to allow industry to innovate to meet the requirements.
- Addresses two additional denaturants, liquid charcoal, and a black dye, due to the evolving technology and application.

If the Board approves this final draft rule, the Department will submit the final draft rule to the Governor's Office of Regulatory Compliance. If the Governor's office approves the final draft rule, the Department will then submit the rule to the Legislature for legislative committee review. If the Legislature has no objection to the rule, the Department secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect on the first day of the third month following publication.

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THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S
PROPOSED ORDER TO ADOPT PERMANENT RULES

PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection proposes an order *to repeal* ss. ATCP 57.10 (9), 57.12 (8) (f), (10), 57.14 (7) (f), 57.16 (5) (f); *amend* ss. ATCP 57.10 (2) (j) (note), (7), (11), 57.12 (1) (b) (note), 57.12 (2) (j) (note), (7) (a), 57.14 (2) (g) (note), (7) (a), 57.16 (2) (i) (note), (5) (a), 57.20 (2) (c) (note), (4), 57.26 (3) (a); *repeal and recreate* ss. ATCP 57.01, 57.18; and *create* ss. ATCP 57.10 (1m), 57.12 (1m), 57.14 (1m), (2) (h), 57.20 (3) (c), 57.22 (3) (gg) and (r); *relating to* Inedible Animal By-Products.

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

Statutes Interpreted: s. 95.72, Stats.

Statutory Authority: s. 95.72 (2) and (5), Stats.

Explanation of Agency Authority

Subsection 95.72 (2), Stats., provides statutory authority for the licensing of businesses that collect or process dead animals as a renderer, animal food processor, grease processor, or collector. Subsection 95.72 (5), Stats., gives the department specific rulemaking authority for the “collection, transportation, processing, rendering and disposal of dead animals, entrails and paunch materials, the slaughtering of animals for animal food processing or rendering, the location, construction and maintenance of all buildings, facilities and equipment used in collecting, slaughtering and processing operations, the sale or use of dead animal products as food for animals, the issuance of licenses or permits and other rules for the conduct of operations subject to a license under this section.”

Related Statutes and Rules

Section 95.72, Stats.

Plain Language Analysis

A revision of ch. ATCP 57 is necessary, due to changes in business practices, and updates to the Code of Federal Regulations (CFR) which include the implementation of definitions from the United States Food and Drug Administration (FDA) Food Safety Modernization Act (FSMA), related to the production of animal feed.

The proposed rule harmonizes definitions with relevant federal regulations. Establishments in Wisconsin are governed by the state for their business activities, but also have oversight by the United States Department of Agriculture (USDA) and the FDA, who oversee interstate and international distribution. The updated definitions create a smooth integration with relevant federal regulations.

The proposed rule addresses current and emerging business models. Truck transfer stations, which are used by animal food processors and renderers to be more efficient and cost effective, have been added to align with s. 95.72 (8), Stats. Building requirements have been clarified to match statute. This allows registration and reciprocity by agreement with contiguous states which allows more efficient and effective business planning.

The exemption for an operator of a grease processing plant that is solely engaged in the production of bio-diesel or other biofuels has been removed.

Carcass dealer registration has been removed from the rule. There have not been any registrations of carcass dealers for over thirty years, and it is not a current business practice.

Marking of vehicles has been clarified and requires the vehicle to be identified as “Inedible – Not Intended for Human Food.” This is to clearly separate and differentiate between inedible meat products and those intended as food for human consumption. The vehicles have a single use purpose limited to inedible products only.

Significant input from industry suggested that a variety of waterproof tarpaulin or other cleanable coverings could meet sanitary transport requirements for truck boxes or trailers that are leak proof, even if not fully enclosed. The rule has been modified to address the need to prevent leakage, but to allow industry to innovate to meet requirements without being overly prescriptive.

The proposed rule addresses two additional denaturants that industry has requested due to evolving technology and application of denaturants. They are liquid charcoal and a black dye; both will impart the color needed to assure the product cannot be diverted into the human food chain.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

Title 9 of the CFR is enforced by the USDA Food Safety and Inspection Service. 9 CFR Part 325 addresses transportation and other transactions concerning dead, dying, disabled or diseased livestock, and parts of carcasses of livestock that have died other than by slaughter. Importantly, these regulations apply to livestock that are legally “in commerce” as defined by USDA. As such they may not be applicable to all Wisconsin businesses handling carcasses and carcass materials. In addition, these federal regulations do not overlap requirements of ch. ATCP 57. Title 21 of the CFR contains applicable FDA regulations, namely Subchapter E. Animal Drugs, Feeds, and Related Products. Of particular relevance, 21 CFR Part 589 address substances prohibited from use in animal food or feed. The combination of USDA and FDA regulations (9 CFR Part 325 and 21 CFR Part 589, respectively) is intended to prevent the spread of Transmissible Spongiform Encephalopathies (TSE’s; caused by prions) via animal food or feed. There is little overlap of these regulatory requirements and those of ch. ATCP 57. Regulations implementing FSMA address a broader range of hazards besides TSE-causing prions, and require animal food facilities to have a food safety plan in place that includes a hazard analysis, and the implementation of risk-based preventive controls to minimize or prevent those hazards identified as known or reasonably foreseeable. FSMA definitions found in 21 CFR Part 507 have been incorporated in this rule.

***Summary of Comments Received during Preliminary Comment Period
and at Public Hearing on Statement of Scope***

The department held a preliminary public hearing on the Statement of Scope (SS 783A2) on March 15, 2021 and accepted public comments until March 29, 2021. The department received no oral comments during the preliminary hearings and one written comment. The department considered the comment which included the consideration of adding, expanding, clarifying or eliminating definitions. They also wanted to share that they are a global company regulated by other state and federal programs and would prefer less prescriptive rule revisions to allow industry to develop policies, practices, and safeguards that best fit the facilities and business culture. The commenter also expressed a desire to participate in the process as an industry expert.

Comparison with Rules in Adjacent States

Illinois

Illinois regulates inedible animal by-products through the Illinois Compiled Statutes, Animal Mortality Act (225 ILCS 610) and Meat and Poultry Inspection Act (225 ILCS 650). Regulations include licensing and fees, processing and handling regulations, facility standards, sanitation and labeling regulations, and enforcement provisions.

Illinois has several classifications of license depending on what materials are collected. Vehicle permits are required and the classification with specific naming conventions are required on the vehicle as well as address and business name.

Iowa

Iowa regulates inedible animal by-products through Iowa's Code section 167 and 189a, and by Administrative Codes, Chapters 61 "Dead Animal Disposal," and 76 "Meat and Poultry Inspection." Regulations include licensing and fees, processing and handling regulations, facility standards, sanitation and labeling regulations, and enforcement provisions.

Iowa also requires inedible carcasses, carcass materials, and products to be identified and labeled similar to the requirements in Wisconsin. Iowa has incorporated federal regulations into their program. Vehicle permits are required for vehicles used to transport carcass and carcass materials. Vehicles also are required to identify the license holder and the address.

Michigan

Michigan regulates inedible animal by-products through Act 239 of 1982 BODIES OF DEAD ANIMALS. The act includes licensing and fees, processing and handling regulations, facility standards, sanitation and labeling requirements, and enforcement provisions.

Michigan also requires vehicles used to transport carcass and carcass materials to be registered, and identification on the vehicle that the material is not intended for human consumption. Vehicles also are required to identify the license holder and the address.

Minnesota

Minnesota regulates inedible animal by-products through Minnesota Statutes section 31A "Meat and Poultry Inspection" and 35 "Animal Health," and Minnesota Administrative rules Chapter 1540 "Meat Inspection." Regulations include licensing and fees, processing and handling regulations, facility standards, sanitation and labeling regulations, and enforcement provisions. Minnesota addresses reciprocity in their statute with adjacent states.

Minnesota also requires inedible carcasses, carcass materials, and products to be identified and labeled similar to the requirements in Wisconsin. Minnesota incorporated 31A.21 “Cooperation with Federal Government” into their program. Vehicle permits are required for vehicles used to transport carcass and carcass materials.

Summary of Factual Data and Analytical Methodologies

Feedback on ch. ATP 57 was solicited through an advisory committee during both the scope statement and rule development. There were approximately five meetings throughout fiscal year 2021 and 2022. We took all the information from a series of virtual public meetings into consideration during the modification of the rule. The department continually sought feedback on ch. ATP 57 from industry stakeholders and notified license or registration holders in advance of public meetings.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

The department does not anticipate a significant fiscal impact from the proposed rule revisions. There may be some cost for licensing for certain, previously unlicensed, dead animal collection businesses that move into the rendering and animal food processing realms. Pursuant to current requirements for licensing in s. 95.72 (2) (c), Stats., the cost would be \$100 per business per year. However, there would likely be only a small number of persons requiring such a license.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

The Department’s Regulatory Review Coordinator may be contacted by:
Email at Bradford.Steinel@wisconsin.gov
Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

Department Contact Person

Paul Pierce
Division of Food and Recreational Safety
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
(608) 224-4731
e-mail: paul.pierce@wisconsin.gov

Place Where Comments are to Be Submitted and Deadline for Submission:

Comments must be received on or before March 31, 2023 to be included in the record of rule-making proceedings. Submit comments:

By mail to:

Paul Pierce
Division of Food and Recreational Safety
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
(608) 224-4731
e-mail: paul.pierce@wisconsin.gov

RULE TEXT

1 SECTION 1. ATCP 57.01 is repealed and recreated to read:

2 ATCP 57.01 **Definitions.** In this chapter:

3 (1) “Adulterated” means any animal remains from an animal that has been euthanized by the use of any
4 drug injected intravenously or through another nonvascular route.

5 (2) “Animal” means any member of the animal kingdom other than a human being.

6 (3) “Animal food” means any article intended for use as food for dogs, cats, or other animals derived
7 wholly, or in part, from the carcass or parts or products of the carcass of any livestock.

8 (4) “Animal food processing” means slaughtering animals or collecting or receiving of dead animals that
9 are unadulterated for processing into animal food or processing carcasses or carcass materials for use as
10 animal feed, and includes packaging or labeling carcass materials or other finished product.

11 (5) “Animal food processing plant” means a place at which animal food processing occurs.

12 (6) “Animal food processor” means a person, other than a renderer, engaged in the business of animal
13 food processing.

14 (7) “Brown grease” means a mixture of oils, fats, solids and detergents from food industry wastes that is
15 captured in grease traps.

16 (8) “Carcass” means all or part of a dead animal, as defined in s. 95.72 (1) (c), Stats. Carcass does not
17 include any of the following:

18 (a) Material that may be lawfully sold or distributed as food for human consumption.

19 **(Note):** The term “carcass” as used in this chapter does not include fish that are lawfully sold or distributed
20 as food for human consumption, nor does it include state-inspected or federally-inspected meat or poultry
21 products that are lawfully sold as food for human consumption.

22 (b) A fully rendered product.

23 **(9)** “Carcass material” means blood, tankage, bone, offal, or other material derived from a carcass.
24 Carcass material does not include a fully rendered product.

25 **(10)** “Collector” means a person engaged in the business of collecting or receiving dead animals for sale
26 or delivery to a renderer, animal food processor, grease processor or an operator of a fur farm and who does
27 not otherwise process the dead animals.

28 **(11)** “Dead animal”

29 (a) Means any dead animal or part of a dead animal other than an animal slaughtered as food for human
30 consumption.

31 (b) Means an animal slaughtered as food for human consumption, but which becomes unsuitable as food
32 for human consumption.

33 (c) Includes an animal slaughtered or processed as food for animals and all inedible parts and by-products
34 of animals slaughtered or processed as food for human consumption.

35 (d) Does not include commercial feed as defined under s. 94.72 (1) (b), Stats., or fully rendered products
36 of dead animals.

37 **(12)** “Denature” means to alter the normal character or appearance of carcasses or carcass materials to
38 make them incapable of being used as food for human consumption.

39 **(13)** “Department” means the Wisconsin department of agriculture, trade and consumer protection.

40 **(14)** “Disinfect” means to destroy pathogens and other disease-causing microorganisms, to the maximum
41 practicable extent, by applying a federally registered chemical agent to a surface.

42 **(15)** "Facilities" means premises, fixtures, and equipment used in the operation of a rendering plant,
43 animal food processing plant, grease processing plant, or truck transfer station. Facilities includes carcass
44 receiving and holding areas.

45 **(16)** "Feed" means any substance which is intended for use as food for animals other than humans. Feed
46 includes commercial feed and feed ingredients.

47 **(Note):** See also ch. ATCP 42.

48 **(17)** "Food," except as used in the term "animal food processor" or "animal food processing," has the
49 meaning given in s. 97.01 (576), Stats. Food includes oils or animal fats used to cook food if, during the
50 cooking process, the oils or animal fats may come in contact with the food.

51 **(Note):** "Food," as defined in sub. (17), means food for human consumption. A license under this chapter
52 does not authorize the license holder to produce any kind of food, including any cooking oils or fats that
53 may come in contact with food.

54 **(18)** "Fully rendered product" means a rendered product whose ingredients have been fully melted or
55 reconstituted by the application of heat, according to generally accepted rendering practices that destroy
56 microorganisms in the rendered product.

57 **(19)** "Grease" means a fully rendered product consisting of animal fat or tallow, or animal fat or tallow
58 combined with vegetable oil.

59 **(20)** "Grease processing" means combining, melting, refining, reconstituting or recycling fully rendered
60 products to produce grease or other products for non-food use.

61 **(21)** "Grease processing plant" means a place at which grease processing occurs.

62 **(22)** "Grease processor" means any person engaged in the business of collecting or receiving and melting
63 or refining previously cooked materials containing dead animal fat or tallow or a combination of dead
64 animal fat or tallow and vegetable oil to produce grease.

65 **(23)** "Nuisance conditions" means conditions that pose a significant risk to human health or the
66 environment, or cause obnoxious odors other than normal odors incidental to generally accepted processing

67 practices. Nuisance conditions may include accumulated carcasses, carcass materials, or manure; drainage
68 from carcasses, carcass materials or manure; accumulated litter; insect or rodent infestations; unclean
69 facilities; or similar conditions.

70 (24) "Rendered product" means grease, tallow, liquefied fat, blood meal, bone meal, meat meal, meat
71 and bone meal, reconstituted tankage, dry poultry product meal, feather meal, or other product produced by
72 rendering. Rendered product does not include food for human consumption.

73 (25) "Renderer" means a person who engages in rendering.

74 (26) "Rendering" means reducing, converting or melting down carcasses or carcass materials, with the
75 use of heat, to produce rendered products for non-food use. Rendering includes the slaughter of animals by
76 a renderer, or the processing of animal carcasses or carcass materials by a renderer, for use in rendering.

77 (27) "Rendering plant" means a place at which rendering occurs.

78 (28) "Truck transfer station" means a location at which carcasses or carcass materials are collected or
79 transferred between vehicles for transportation to another location. Truck transfer station does not include
80 a receiving or holding area that is part of a rendering plant or animal food processing plant.

81 (29) "Yellow grease" means fats, oils, and grease recovered from food preparation that have not been in
82 contact or contaminated with other sources such as water, wastewater, or solid waste.

83 SECTION 2. ATCP 57.10 (1m) is created to read:

84 ATCP 57.10 (1m) LICENSE EXEMPTIONS. Rendering does not include any of the following:

85 (a) Grease processing pursuant to a license under s. ATCP 57.14.

86 (b) The processing of hides.

87 (c) The manufacture of glue, pharmaceuticals, or gelatin.

88 (d) Animal food processing by a person who does not render the processed materials.

89 (Note): Persons who produce gelatin or other food for human consumption are subject to state licensing
90 requirements under ch. ATCP 55 (meat and poultry products), ch. ATCP 70 (wholesale food
91 manufacturing), and ch. ATCP 75 (retail food establishments). Animal food processors are subject to

92 licensing under s. ATCP 57.12. Commercial feed manufacturers are subject to licensing under ch. ATCP
93 42. The United States food and drug administration regulates pharmaceutical manufacturers.

94 SECTION 3. ATCP 57.10 (2) (j) (Note) is amended to read:

95 ATCP 57.10 (2) (j) (**Note**): A person may obtain an annual renderer license application by calling (608)
96 ~~224-47264694~~, sending an email to datcpmeatpoultrylicensing@wi.govr by writing to the following
97 address:

98 Wisconsin Department of Agriculture, Trade and Consumer Protection
99 Division of Food Safety
100 PO Box 8911
101 Madison, WI 53708-8911

102 SECTION 4. ATCP 57.10 (7) is amended to read:

103 ATCP 57.10 (7) FACILITIES. Facilities operated by a renderer shall be all of the following:

104 (a) Designed, constructed, ~~and equipped, and maintained~~ for safe, sanitary, orderly operation, and for
105 easy cleaning.

106 (c) Fully enclosed to prevent access by dogs, cats, wild animals, rodents, birds and insects.

107 (d) Constructed with self-draining floors and smooth interior walls and ceilings that can be easily
108 cleaned.

109 (e) Equipped with effective ventilation and vapor control systems to minimize offensive odors.

110 ~~(f) Maintained for safe, sanitary and orderly operation, and for easy cleaning.~~

111 (g) Kept clean, orderly, and free of nuisance conditions.

112 (h) Served by hot and cold running water that is adequate for processing, cleaning, waste disposal,
113 drinking and employee sanitation needs. Water shall be obtained from a source that complies with chs. NR
114 811 or 812. Water outlets shall be conveniently designed and located.

115 (i) Equipped with drinking water, toilet and hand washing fixtures for persons who work at the facilities.

116 SECTION 5. ATCP 57.10 (9) is repealed.

117 SECTION 6. ATCP 57.10 (11) is amended to read:

118 ATCP 57.10 **(11)** SLAUGHTERING ANIMALS. If a renderer slaughters animals for rendering, the renderer
119 shall use one of the humane methods listed in ~~s. ATCP 55.07 (11) (a) 1. to 4.~~ s. 95.80 (1), Stats. Animals
120 slaughtered at a rendering plant shall be slaughtered in an area that is designed and equipped for safe and
121 humane slaughtering. Live animals may not be unloaded, kept or slaughtered in processing or storage areas.

122 **(Note):** A renderer may not transport live animals unless licensed to do so under ch. ATCP 12. See s. ATCP
123 57.20 (5) (a).

124 **(Note):** Animal markets, dealers and truckers that handle live animals are regulated under ch. ATCP 12.
125 Live animal movements are also governed by ch. ATCP 10. No person may transport carcasses or carcass
126 materials in the same vehicle used to transport live animals, except that if a live animal dies in transit the
127 animal trucker may deliver the carcass directly to a renderer or animal food processor licensed under ss.
128 ATCP 57.10 or 57.12. See s. ATCP 57.20 (1) (b) 6.

129 SECTION 7. ATCP 57.12 (1) (b) (Note) is amended to read:

130 ATCP 57.12 **(1)** (b) **(Note):** An animal food processor licensed under sub. (1) must also hold a commercial
131 feed license under s. ATCP 42.02 if the animal food processor does more than “minimal processing” of
132 carcasses or carcass materials (see s. ATCP 42.02 (2) (e)). A commercial feed manufacturer licensed under
133 s. ATCP 42.02 does not need an animal food processor license under sub. (1) if the commercial feed
134 manufacturer processes only fully rendered animal products (see ~~s. ATCP 57.01 (2) (k)~~ ATCP 57.01 (18)).
135 An animal food processor license does not authorize a person to process food for human consumption. Food
136 processing is subject to other license requirements. See ch. ATCP 55 (meat and ~~meat food~~ poultry
137 products), ch. ATCP 70 (~~food processing plants~~ wholesale food manufacturing) and ch. ATCP 75 (retail
138 food establishments).

139 SECTION 8. ATCP 57.12 (1m) is created to read:

140 ATCP 57.12 **(1m)** LICENSE EXEMPTIONS. Animal food processing does not include any of the following:

141 (1) The collection or transportation of whole animal carcasses by a collector licensed under s. ATCP
142 57.16, provided that the collector does not process the carcasses or remove hides or feathers.

143 (2) A fur farm operator's processing of carcasses or carcass materials solely for feeding to fur bearing
144 animals produced on that fur farm.

145 **(Note):** Fur farmers must register with the department under s. 97.44 (2), Stats.

146 (3) Rendering pursuant to a license under s. ATCP 57.10.

147 (4) Grease processing pursuant to a license under s. ATCP 57.14.

148 (5) Meat processing pursuant to a license under s. ATCP 55.03.

149 (6) Mobile custom processing of meat pursuant to a registration under s. ATCP 55.09 (2).

150 (g) Food processing pursuant to a license under s. ATCP 70.06.

151 (7) Retail food processing pursuant to a license under s. 97.30 (2), Stats.

152 (8) The processing of hides.

153 (9) The manufacture of glue, pharmaceuticals, or gelatin.

154 (10) The processing of fully rendered products for use as animal feed, pursuant to a commercial feed
155 license under ch. ATCP 42.

156 **(Note):** Persons who produce gelatin or other food for human consumption are subject to state licensing
157 requirements under ch. ATCP 55 (meat and poultry products), ch. ATCP 70 (wholesale food
158 manufacturing), and ch. ATCP 75 (retail food establishments). The United States food and drug
159 administration regulates pharmaceutical manufacturers.

160 **(Note):** Persons who produce commercial feed must be licensed under ch. ATCP 42 except an animal food
161 processor licensed under s. ATCP 57.12 does not need a commercial feed license if the animal food
162 processor is engaged only in minimal processing of carcasses and carcass materials, s. ATCP 42.02 (2) (e).
163 If an animal food processor licensed under s. ATCP 57.12 does more than minimal processing, the animal
164 food processor also needs a commercial feed license under ch. ATCP 42. A feed manufacturer licensed
165 under ch. ATCP 42 does not need an animal food processor license under s. ATCP 57.12 if the feed
166 manufacturer processes only fully rendered animal products.

167 SECTION 9. ATCP 57.12 (2) (j) (Note) is amended to read:

168 ATCP 57.12 (2) (j) (Note): A person may obtain an animal food processor license application by calling
169 (608) 224-47264694, sending an email to datcpmeatpoultrylicensing@wi.gov, or by writing to the
170 following address:

171 Wisconsin Department of Agriculture, Trade and Consumer Protection

172 Division of Food Safety

173 P.O. Box 8911

174 Madison, WI 53708-8911

175 SECTION 10. ATCP 57.12 (7) (a) is amended to read:

176 ATCP 57.12 (7) (a) Designed, constructed~~and~~, equipped and maintained for safe, sanitary~~and~~ orderly
177 operation, and for easy cleaning.

178 SECTION 11. ATCP 57.12 (8) (f) and (10) are repealed.

179 SECTION 12. ATCP 57.14 (1m) is created to read:

180 ATCP 57.14 (1m) LICENSE EXEMPTIONS. Grease processing does not include any of the following:

181 (1) Rendering pursuant to a license under s. ATCP 57.10.

182 (2) Animal food processing pursuant to a license under s. ATCP 57.12.

183 (3) Meat processing pursuant to a license under s. ATCP 55.03.

184 (4) Food processing pursuant to a license under s. ATCP 70.06.

185 (5) Retail food processing pursuant to a license under s. 97.30 (2), Stats.

186 SECTION 13. ATCP 57.14 (2) (g) (Note) is amended to read:

187 ATCP 57.14 (2) (g) (Note): A person may obtain a grease processor license application by calling (608)
188 ~~224-46964694~~, sending an email to datcpmeatpoultrylicensing@wi.gov, or by writing to the following
189 address:

190 Wisconsin Department of Agriculture, Trade and Consumer Protection

191 Division of Food Safety

192 P.O. Box 8911

193 Madison, WI 53708-8911

194 SECTION 14. ATCP 57.14 (2) (h) is created to read:

195 ATCP 57.14 (2) (h) A pre-license inspection fee of \$25 for each grease processor for which a pre-license
196 inspection is required under sub. (3).

197 SECTION 15. ATCP 57.14 (7) (a) is amended to read:

198 ATCP 57.14 (7) (a) Designed, constructed ~~and~~, equipped and maintained for safe, sanitary ~~and~~, orderly
199 operation, and for easy cleaning.

200 SECTION 16. ATCP 57.14 (7) (f) is repealed.

201 SECTION 17. ATCP 57.16 (2) (i) (Note) is amended to read:

202 ATCP 57.16 (2) (i) (**Note**): A person may obtain a ~~dead animal~~ collector license application by calling (608)
203 224-46964694, sending an email to datcpmeatpoultrylicensing@wi.gov, or by writing to the following
204 address:

205 Wisconsin Department of Agriculture, Trade and Consumer Protection

206 Division of Food Safety

207 P.O. Box 8911

208 Madison, WI 53708-8911

209 SECTION 18. ATCP 57.16 (5) (a) is amended to read:

210 ATCP 57.16 (5) (a) Designed, constructed ~~and~~, equipped and maintained for safe, sanitary ~~and~~, orderly
211 operation, and for easy cleaning.

212 SECTION 19. ATCP 57.16 (5) (f) is repealed.

213 SECTION 20. ATCP 57.18 is repealed and recreated to read:

214 **ATCP 57.18 Truck Transfer Station.**

215 **(1) PERMIT REQUIRED.** No person may operate a truck transfer station without an annual permit from the
216 department. An annual permit expires on February 28 of each year.

217 **(Note):** The department shall issue permits only to persons licensed under this section, or under a reciprocity
218 agreement with a contiguous state with Wisconsin.

219 **(2) PERMIT PROCEDURES.** (a) To obtain a permit under sub (1), an applicant shall apply with the department
220 on a form provided by the department. The completed form shall include all of the following information:

221 1. The applicant's legal name and any trade names under which the applicant does business in this state.

222 2. A statement indicating whether the applicant is an individual, corporation, partnership, cooperative,
223 limited liability company, trust, or other legal entity.

224 3. The applicant's principle business address.

225 4. Other relevant information reasonably required by the department for permitting purposes.

226 (b) The department shall grant or deny an initial permit under sub. (1) after completing an inspection
227 within 30 days after the department receives a complete application under par (a), unless the applicant
228 agrees to a later inspection date.

229 (c) The department shall issue an annual permit under sub. (1) within 30 days after the department
230 receives a complete application under par (a).

231 **(Note):** A person may obtain a truck transfer station permit application by calling (608) 224-4694, sending
232 an email to datcpmeatpoultrylicensing@wi.gov, or by writing to the following address:

233 Wisconsin Department of Agriculture, Trade and Consumer Protection

234 Division of Food Safety

235 P.O. Box 8911

236 Madison, WI 53708-8911

237 **(3) FACILITIES.** Facilities operated by a truck transfer station shall be all of the following:

238 (a) Designed, constructed, equipped, and maintained for safe, sanitary, orderly operation, and for easy
239 cleaning.

240 (b) Fully enclosed to prevent access by dogs, cats, wild animals, rodents, birds and insects.

241 (c) Constructed with self-draining floors and smooth interior walls and ceilings that can be easily
242 cleaned.

243 (d) Equipped with effective ventilation and vapor control systems to minimize offensive odors.

244 (e) Kept clean, orderly, and free of nuisance conditions.

245 (f) Served by hot and cold running water that is adequate for processing, cleaning, waste disposal,
246 drinking and employee sanitation needs. Water shall be obtained from a source that complies with chs. NR
247 811 or 812. Water outlets shall be conveniently designed and located.

248 (g) Equipped with drinking water, toilet and hand washing fixtures for persons who work at the
249 facilities.

250 SECTION 21. ATCP 57.20 (2) (c) (Note) is amended to read:

251 ATCP 57.20 (2) (c) **Note:** A person may obtain ~~an~~ a vehicle permit application under sub (2) by calling
252 (608) 224-47264694, sending an email to datcpmeatpoultrylicensing@wi.gov, or by writing to the
253 following address:

254 Wisconsin Department of Agriculture, Trade and Consumer Protection

255 Division of Food Safety

256 P.O. Box 8911

257 Madison, WI 53708-8911

258 SECTION 22. ATCP 57.20 (3) (c) is created to read:

259 57.20 (3) (c) The words “Inedible – Not Intended for Human Food” not less than 4 inches high, unless all
260 product is in other containers properly marked inside the vehicle.

261 SECTION 23. ATCP 57.20 (4) is amended to read:

262 ATCP 57.20 (4) SANITARY TRANSPORT. A person who is required to hold a license under sub. (1) shall do
263 all of the following:

264 (a) Transport carcasses or carcass materials in ~~leakproof~~ leak-proof vehicles or containers that are closed
265 or fully covered by a tarpaulin or other cleanable ~~watertight~~ covering.

266 (b) Clean and sanitize, after each day's use and more often if necessary, vehicles and containers used
267 to transport carcasses and carcass materials. The person shall clean and ~~sanitize~~disinfect vehicles and
268 containers immediately after transporting carcasses or carcass materials that may spread contagious or
269 infectious diseases.

270 SECTION 24. ATCP 57.22 (3) (gg) and (gr) are created to read:

271 ATCP 57.22 (3) (gg) Liquid charcoal, in an amount sufficient to impart a distinctive coloring to all surfaces
272 of the material.

273 (gr) Black dye, in an amount sufficient to impart a distinctive coloring to all surfaces of the material.

274 SECTION 25. ATCP 57.26 (3) (a) is amended to read:

275 ATCP 57.26 (3) (a) No person may produce, sell, store or distribute food for human consumption pursuant
276 to a renderer license under s. ATCP 57.10, an animal food processor license under s. ATCP 57.12, or a
277 grease processor license under s. ATCP 57.14.

278 SECTION 26. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the
279 month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.),
280 Stats.

(END OF RULE TEXT)

Dated this ____ day of _____, 2023

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: Randy Romanski, Secretary

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input type="checkbox"/> Original <input checked="" type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 11/28/2022
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ATCP 57	
4. Subject Inedible Animal By-Products	
5. Fund Sources Affected <input checked="" type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$There may be minimal cost for licensing for certain, previously unlicensed, dead animal collection businesses, specifically if these operators will be required to hold a license to collect animals that move into the rendering and animal food processing realms. Pursuant to current requirements for licensing in s. 95.72 (2) (c), Stats., the cost would be \$100 per business per year. However, there will likely be only a small number of persons requiring such a license, and the department does not anticipate a significant fiscal impact from the proposed rule revisions. In these cases, the cost of licensing would likely be offset by the revenue gained from an expanded business model that allows for a range of animal carcass dispositions.	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The objective of the proposed rule is to complete a comprehensive review of Chapter 57 and make revisions to ensure the chapter is statutorily compliant, allows for technology, and current with industry standards and practices.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The Department solicited input from an advisory committee during the rule development. Meeting notices were sent to all licensee or registration holders allowing them to participate in meetings over the last year.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. none	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The department expects the proposed rule to have a positive impact on most stakeholders because it will give more flexibility for businesses to meet rule requirements. For example, licensed businesses may develop alternative systems for collecting, stockpiling, and transporting carcasses and carcass materials under a revised rule. There may be some cost for licensing for certain, previously unlicensed, dead animal collection businesses, specifically if these operators will be required to hold a license to collect animals that move into the rendering and animal food processing realms. Pursuant to current requirements for licensing in s. 95.72 (2) (c), Stats., the cost would be \$100 per business per year. However, there	

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

would likely be only a small number of persons requiring such a license, and the department does not anticipate a significant fiscal impact from the proposed rule revisions. In these cases, the cost of licensing would likely be offset by the revenue gained from an expanded business model that allows for a range of animal carcass dispositions.

Some existing licensed businesses may incur facility upgrade costs. These costs are expected to range from small or moderate, e.g. conducting an annual water test or adding light fixtures, to more significant, e.g. repairing floor concrete or improving floor drainage.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

An undesirable alternative to updating the rule would be to continue as is, attempting to continue applying the existing rule to new methods, innovations, and trends not addressed or permitted under the existing rule. By continuing to regulate under the existing rule, the department would be unable to address emerging threats and conditions and may be unnecessarily complicating the regulatory landscape for business operators.

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is clear and concise rules. The rule will continue to facilitate the working relationship between the department, the USDA, and the inedible animal by-product industry. Long range implications include the continued vigilance of promoting separation of human and animal food aligning with healthy business practices that help businesses to grow and that ensure food safety guidelines are met.

17. Compare With Approaches Being Used by Federal Government

Title 9 of the CFR is enforced by the USDA Food Safety and Inspection Service. 9 CFR Part 325 addresses transportation and other transactions concerning dead, dying, disabled or diseased livestock, and parts of carcasses of livestock that have died other than by slaughter. Importantly, these regulations apply to livestock that are legally “in commerce” as defined by USDA. As such they may not be applicable to all Wisconsin businesses handling carcasses and carcass materials. In addition, these federal regulations do not overlap requirements of ch. ATCP 57. Title 21 of the CFR contains applicable FDA regulations, namely Subchapter E. Animal Drugs, Feeds, and Related Products. Of particular relevance, 21 CFR Part 589 address substances prohibited from use in animal food or feed. The combination of USDA and FDA regulations (9 CFR Part 325 and 21 CFR Part 589, respectively) is intended to prevent the spread of Transmissible Spongiform Encephalopathies (TSE’s; caused by prions) via animal food or feed. There is little overlap of these regulatory requirements and those of ch. ATCP 57. Regulations implementing the FSMA address a broader range of hazards besides TSE-causing prions, and require animal food facilities to have a food safety plan in place that includes a hazard analysis, and the implementation of risk-based preventive controls to minimize or prevent those hazards identified as known or reasonably foreseeable. FSMA requirements are found in 21 CFR Part 507 and generally do not overlap with requirements in ch. ATCP 57.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois

Illinois regulates inedible animal by-products through the Illinois Compiled Statutes, Animal Mortality Act (225 ILCS 610) and Meat and Poultry Inspection Act (225 ILCS 650). Regulations include licensing and fees, processing and handling regulations, facility standards, sanitation and labeling regulations, and enforcement provisions.

Illinois has several classification of license depending on what materials are collected. Vehicle permits are required and the classification with specific naming conventions are required on the vehicle as well as address and business name.

Iowa

Iowa regulates inedible animal by-products through Iowa’s Code section 167 and 189a, and by Administrative Codes, Chapters 61 “Dead Animal Disposal”, and 76 Meat and Poultry Inspection. Regulations include licensing and fees, processing and handling regulations, facility standards, sanitation and labeling regulations, and enforcement provisions.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

Iowa also requires inedible carcasses, carcass materials, and products to be identified and labeled similar to the requirements in Wisconsin. Iowa has incorporated federal regulations into their program. Vehicle permits are required for vehicles used to transport carcass and carcass materials. Vehicles also are required to identify the license holder and the address.

Michigan

Michigan regulates inedible animal by-products through Act 239 of 1982 BODIES OF DEAD ANIMALS. The act includes licensing and fees, processing and handling regulations, facility standards, sanitation and labeling requirements, and enforcement provisions.

Michigan also requires vehicles used to transport carcass and carcass materials to be registered, and identification on the vehicle that the material is not intended for human consumption. Vehicles also are required to identify the license holder and the address.

Minnesota

Minnesota regulates inedible animal by-products through Minnesota Statutes section 31A “Meat and Poultry Inspection” and 35 “Animal Health”, and Minnesota Administrative rules Chapter 1540 “Meat Inspection”. Regulations include licensing and fees, processing and handling regulations, facility standards, sanitation and labeling regulations, and enforcement provisions. Minnesota addresses reciprocity in their statute with adjacent states.

Minnesota also requires inedible carcasses, carcass materials, and products to be identified and labeled similar to the requirements in Wisconsin. Minnesota incorporated 31A.21 Cooperation with Federal Government into their program. Vehicle permits are required for vehicles used to transport carcass and carcass materials.

19. Contact Name

Paul Pierce

20. Contact Phone Number

608-224-4731

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: Inedible Animal By-Products
Adm. Code Reference: ATCP 57

Rule Summary

A revision of ch. ATCP 57 is necessary, due to changes in business practices, and updates to the Code of Federal Regulations (CFR) which include the implementation of definitions from the United States Food and Drug Administration (FDA) Food Safety Modernization Act (FSMA), related to the production of animal feed.

The proposed rule harmonizes definitions with relevant federal regulations. Establishments in Wisconsin are governed by the state for their business activities, but also have oversight by United States Department of Agriculture (USDA) and the FDA, who oversee interstate and international distribution. The updated definitions create a smooth integration with relevant federal regulations.

The proposed rule addresses current and emerging business models. Truck transfer stations, which are used by animal food processors and renderers to be more efficient and cost effective, have been added to align with s. 95.72 (8), Stats. Building requirements have been clarified to match statute. This allows registration and reciprocity by agreement with contiguous states which allows more efficient and effective business planning.

The exemption for an operator of a grease processing plant that is solely engaged in the production of bio-diesel or other biofuels has been removed.

Carcass dealer registration has been removed from the rule. There have not been any registrations of carcass dealers for over thirty years, and it is not a current business practice.

Marking of vehicles has been clarified and requires the vehicle to be identified as “Inedible – Not Intended for Human Food”. This is to clearly separate and address inedible products from human food. The vehicles have a single use purpose limited to inedible products only.

Significant input from industry suggested that a variety of waterproof tarpaulin or other cleanable coverings could meet sanitary transport requirements for truck boxes or trailers that are leak proof, even if not fully enclosed. The rule has been modified to address the need to prevent leakage, but to allow industry to innovate to meet requirements without being overly prescriptive.

The proposed rule addresses two additional denaturants that industry has requested due to evolving technology and application of denaturants. They are liquid charcoal and a black dye; both will impart the color needed to assure the product cannot be diverted into the human food chain.

Small Businesses Affected

The department does not anticipate a significant fiscal impact from the proposed rule revisions. There may be some cost for licensing for certain, previously unlicensed, dead animal collection businesses that move into the rendering and animal food processing realms. Pursuant to current

requirements for licensing in s. 95.72 (2) (c), Stats., the cost would be \$100 per business per year. However, there would likely be only a small number of persons requiring such a license, and

Reporting, Bookkeeping and other Procedures

The proposed rule will not require any additional reporting, bookkeeping, or other procedures requirements for compliance.

Professional Skills Required

Consistent with industry standards, the proposed rule does not require any new professional skills for small businesses engaged in collection or processing of animal by-products.

Accommodation for Small Business

No accommodations for small business will be necessary for the propose rule.

Conclusion

The department expects the proposed rule to have a positive long range impact on all stakeholders because it will give more flexibility for businesses in complying with rule requirements that are consistent with recognized industry best practices, allocate regulatory requirements. The rule revision reduces the additional time and resources involved with resolving confusion created by the existing rule not keeping pace with changes that have occurred with renders, animal food processors, grease processors, and collectors of inedible meat products over the years.

Industry stakeholder’s subject matter experts have been a part of this entire rule revision process. The department solicited input from an advisory committee during both the scope statement and rule development. Meeting notices were sent to all licensee or registration holders allowing them to participate in meetings over the last year. Stakeholders have all shared their eagerness for rule revision.

This rule will have little 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 15th day of December, 2022.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Joseph D. Meyer
Joseph Meyer, Administrator,
Division of Food and Recreational Safety