



RET-APP-001	Retail
Revision: 1.0	Q-A Responses from 2020 ATCP 75 Webinars
Approved: March 2 2021	Wis. Admin. Code § ATCP 75; Appendix

<b>Question</b>	<b>DATCP Response</b>
<i>Are diarrhea and vomit procedures required to be written down, or can they be told to the inspector?</i>	The Wisconsin food code 2-501.11 requires procedures. This implies that they must be written so that all employees understand what to do in a vomiting or diarrheal event. The inspector during the inspection must be able to verify they have procedures in place.
<i>The new assessment mentions a Retail facility that caters, processes, packages or holds. What does the hold refer to? Is it referring to cold or hot holding or something else?</i>	What "hold" refers to is meant to address situations in which a retail food establishment does not cater, but prepares larger quantities of food in advance for an event or gathering (i.e. company picnic, graduation party, retirement party) and where the food is delivered or picked up by the entity conducting the event. The department is currently developing guidance for more clarity on this question.

<p><i>Regarding the removal of (C) from 5-203.11 allowing approval of chemical treated towelettes in lieu of a hand wash sink. We have several vendors at a market (approx. 11) that scoop bulk, non-TCS food into bags per customer request using gloves and scoops that we have issued these approval to. These vendors only operate on the weekend Sat and Sun. The buildings they operate out of do not have plumbing available for all vendors. Two Questions: 1) Are these approvals now null and void because of the code change and 2) If null and void and moving forward with new vendors, are they going to need to apply for a variance to the food code if they want to use only chemically treated towelettes? Having them install a portable hand washing station is going to be a huge expense for these vendors.</i></p>	<p>Any approvals already in place, will be allowed to continue, this change is effective for new operations after the effective date of the rule. Any new operations must meet the new food code requirements or apply for a variance.</p>
<p><i>Are the hand wash sinks using the 4th compartment of the warewash sink still grandfathered in as long as there is no ownership change of the license?</i></p>	<p>This applies to all retail food establishments. At a new license or change of operator, a separate, conveniently located, handwashing sink is required at all necessary locations: food preparation, food dispensing, and warewashing areas. This has been a requirement in the rule for 20 years now. Existing operations before the effective date of the rule are allowed to continue as previously approved. If the handwashing set-up was approved previously and there has been no other change, they are allowed to continue its use. If however, during inspection, you find that a pre-wash sink is unavailable for handwashing, they will be required to install a handwashing sink. New operations still have the ability to apply for a variance in unusual circumstances with justification.</p>
<p><i>Are the handwash sinks using the fourth compartment of the warewash sink still grandfathered in, as long as there is no ownership or change of license?</i></p>	
<p><i>Chapter 5—Water, Plumbing and Waste. The hand wash exemption for a four-compartment sink has been removed (5-205.11 (B)). Will this be enforced in 2021 to all businesses or only to new construction?</i></p>	

<p><i>With the change to 2-301.15 Where to wash, are all existing food establishments that are still using the first compartment of a 4-compartment sink for handwashing, required to add a separate hand sink at this time? Does the same apply to sinks in bar areas that still have four compartment sinks and no separate hand sink?</i></p>	
<p><i>Have you had an opportunity to discuss if a cappuccino machine only facilities will require a CFM? Yes, this was a good question that recently came up the other day on, was the intent to have retail food establishments not serving meals with only a cappuccino machine, are they going to be required to have a certified food manager?</i></p>	<p>The Department is developing guidance.</p>
<p><i>Someone is hired to provide pig roasting services for a party. If the person hired brings the pig, is this a contract cook or a caterer? If the person hired does not bring the pig, is this a contract cook or caterer?</i></p>	<p>If the person is hired to prepare the pig for the group, he is considered a contract cook. The contract cook does not transport any food or portion of a meal from one location to another. However, the Department understands that the contract cook may have specialized equipment to handle large quantities of meat so that person may be allowed to pick up a carcass, purchased in advance by the contractor, and transport it to the event. A contract cook may only bring specialized tools and equipment to the event.</p>
<p><i>Where are the exceptions to needing a CFPM listed in ATCP 75 or the food code? In the webinar it mentioned these exceptions? (Serving meals but only prepackaged meals, not serving meals and selling only packaged foods or fresh fruits and vegetables, transient Retail Food Establishment and micro markets)</i></p>	<p>12-101.11 indicates the exemptions for a certified food protection manager and ATCP 75.44 identifies the exemption for micro markets.</p>

<p><i>What procedure and time line will DATCP follow to transition to the new licensing fee structure? Please answer the question for both existing facilities that are licensed the old way and for new facilities. Timeline for doing assessments, timeline for changing categories, are you reimbursing or collecting difference in cost of license?</i></p>	<p>The new assessment and fee structure will take effect the end of January/beginning of February. This will apply to existing establishments and new establishments as this functionality will not be available in HealthSpace until that time. The timeline for conducting assessments can be either done immediately after implementation in January/February or during your routine inspection. The department is following the latter process.</p>
<p><i>In 75.01(3) it states existing facilities or equipment that were in use before 10/25/20. Does this only apply to those existing as a retail food establishment, or does it also apply to those existing as a food processor (or their equipment) changing to a retail food establishment?</i></p>	<p>This applies to all retail food establishments. Equipment needs to be evaluated for use, capacity, and equipment standards. Equipment, for instance, in food processing plants or meat establishments, may meet food code standards but not be ANSI approved. The equipment should be evaluated by the Department's equipment committee for continued use and approval.</p>
<p><i>Are there significant content changes reflected in the 9/20 version of the employee health reporting agreement? Should food service staff be reviewing and re-signing the form due to these updates?</i></p>	<p>Employee illness agreements meet the verifiable documentation requirements for the person in charge. This should not be looked at as a one-and-done requirement. These should be reviewed and signed when refresher training occurs. There are changes with the inclusion of Salmonella non-typhoidal and the exclusion and restriction requirements from 48 hours to 24 hours. These changes alone are significant enough to have a refresher training and re-signing of employee illness agreements.</p>
<p><i>4-602.11 Equipment Food Contact Surfaces and Utensils. The added language states the equipment and utensil shall be cleaned to remove known allergens. Please explain how this is achieved?</i></p>	<p>Upon further review, this section referring to the removal of allergens was not included in the revised version of the food code. This will be revisited during the next rule revision.</p>
<p><i>Can a CFPM prepare pasties in a moderate complexity kitchen to freeze, then transport frozen pasties to the very small complexity licensed bakery at another location under the same license holder to be heated and sold?</i></p>	<p>If the entity holds a retail license at the processing facility and makes retail sales at that location, they may freeze meat pasties, and transport them to another location that they own under the same license holder/entity. This is an activity that does not require a meat establishment license per FSIS guidance.</p>

<p><i>Will sesame be added or required as an allergen, given the new guidance from the FDA, their press announcement?</i></p>	<p>We will await guidance from the FDA.</p>
<p><i>Can you explain more about the wild mushroom expectations? Who will be approving each establishment and what are the parameters for approval. Additionally, when would they be expected to have a food processing plant license rather than this approval?</i></p>	<p>The expectation is that operators that serve wild mushrooms in their establishments must be approved to do so. The Department is currently developing an approval that would consist of documentation provided to the inspector and that either the operator or the person providing the wild mushrooms would receive a certificate for training in wild mushroom identification. Currently, however, no wild mushroom certification training is offered in Wisconsin.</p> <p>The Department is working with several partners to have a wild mushroom course offered in Wisconsin. In the meantime, the Department will come out shortly with an interpretive memo. If this is not resolved by the next code revision, it will be addressed through the rulemaking process.</p>
<p><i>Does either webinar pertain to B&amp;B innkeepers?</i></p>	<p>B&amp;B operations are not covered in the Wisconsin Food Code. They have their own specific requirements. This will be addressed in the B&amp;B rule when updated in the future. When reviewing temperature requirements during B&amp;B inspections, it is highly encouraged that operators follow the Food Code because this is the best established science for food safety.</p>
<p><i>If we are requiring procedures for vomit and diarrhea cleanup, are there specifics the operators need to have for this? The Code states that procedure shall address the specific actions employees must take to minimize the spread of contamination.</i></p>	<p>The Department has created multiple documents that are in the review process. If you go to the FDA 2013 Food Code, the Public Health Reasons, the citation is 2-501.11. They have a very good discussion on what they expect and what the retail food establishment should have in place.</p>

<p><i>Where can we find the new fee structure on SharePoint? The fee structure itself is not located on SharePoint.</i></p>	<p>It's actually in the rule itself. If you go to ATCP 75, and you go to the section that talks about fees, that section explains the fee structure. That section also covers what facilities are called, as well as the assessment and how the assessment tool works.</p>
<p><i>Now that separate handwashing sinks are required of existing operators that used to be allowed to use four compartment sinks with approval, how will this process be handled? Will it be a three part situation? Conditional License? Or something else. Consistency throughout the state on this is important.</i></p>	<p>Existing operations before the effective date of the rule are allowed to continue as previously approved. If the handwashing set-up was approved previously and there has been no other change, they are allowed to continue its use. If however, during inspection, you find that a pre-wash sink is unavailable for handwashing, they will be required to install a handwashing sink. They have the ability to apply for a variance in unusual circumstances with justification. If denied, orders are to be written to provide a separate hand wash sink. If not provided within the specified timeframe, the operator's license may be placed in a conditional status, and we would follow normal compliance procedures.</p>
<p><i>Please provide a fact sheet to describe contract cooks, personal chefs and caterers.</i></p>	<p>Good idea, thanks for the suggestion. We forwarded it to the fact sheet committee. A fact sheet has been developed and is in the review process.</p>
<p><i>A continental breakfast at a hotel has hard boiled eggs requiring cold hold. Is this considered a meal?</i></p>	<p>Packaged foods are considered retail items, bulk eggs are intended for immediate consumption. Review all the food offerings on the food bar, and use the 51/49 rule to determine if it's a <i>servicing meals</i> or <i>not servicing meals</i> facility.</p>
<p><i>Back to the continental breakfast and the bagged boiled eggs. The eggs come in bags of 10, and from what I saw, are always in some kind of display, not in the bag. So a continental breakfast that serves this type of product would be a retail food facility servicing meals?</i></p>	<p>Answer provided above.</p>

<p><i>In 75.02 it does not read exempt from the license, but not the rule. 75 and/or WFC cannot be enforced at a retail food establishment that is not licensed or inspected, correct? Also a food processor with retail less than 25% would not fall under 75 and/or WFC either, only ATCP 70.</i></p>	<p>ATCP 75 and the Food Code both indicate that the rule applies whether you hold a license or not. This is also backed up in Statute under 97.12, which gives the Department authority over <u>any</u> food that is adulterated, possibly contaminated, or injurious to public health.</p>
<p><i>In regards to the handwashing sinks being separate in existing facilities again, what if the facility has a dishwasher and a three compartment sink, but the three compartment sink has been verbally approved in the past for handwashing on one end of the three compartment sink, no uses in the middle and food prep on the other end. Would this facility now be required to install a separate handwashing sink? To clarify, if the facility dishwasher was not working, the facility would be required to close and three compartment sink was only allowed for the handwashing/food prep uses noted in this question.</i></p>	<p>We have two non-conforming issues here: Food preparation in a three compartment sink and handwashing in a three compartment sink. Both of those are no longer acceptable practices. Discussions should be had on replacing the three compartment sink with a separate hand wash and food preparation sink or a variance may be submitted. All approvals must be written and documented.</p>
<p><i>Please provide a fact sheet for the wholesale meat exemptions.</i></p>	<p>This also a good idea. Thanks for the suggestion. A fact sheet is in the document review process.</p>
<p><i>The webinar indicated operators must clean and sanitize to remove allergens and cited 4-602.11. Where in the new food code does it specifically say cleaning and sanitizing must be adequate to remove allergens?</i></p>	<p>Thanks for bringing this to our attention. In approval process of the final rule, it appears that this provision was accidentally deleted.</p>
<p><i>The new code indicates grab n go sandwiches (whether held hot or cold) are not a meal. Are grab n go sandwiches not a meal whether they are assembled at the retail food establishment or obtained pre-packaged by the food establishment? Are grab n go pizza slices also not a meal?</i></p>	<p>Correct. If the sandwich is packaged, whether done by the food establishment or from a food processor and put out for display as a grab-and-go item, this is not considered a meal. That product would fall under RFE-not serving meals category. The same applies to grab-and-go pizza slices, if packaged. Again, you must review the entire operation and apply the 49/51 rule to determine the appropriate license.</p>
<p><i>The correct appendix for the Code now is July 2020 number 775</i></p>	<p>Correct. I believe that is the version that I have.</p>

<p><i>Where do we find the requirement for mechanical refrigeration for eggs at a farmer's market?</i></p>	<p>WFC 3–202.11 (C) Raw EGGs shall be received in refrigerated EQUIPMENT that maintains an ambient air temperature of 7 C. (45 F.) or less. The Department is exploring options for eggs to be held on ice at farmers markets as long as the eggs maintain a temperature of 41 F. or below. Stay tuned for further guidance on this.</p>
<p><i>Please elaborate as to what was stated about alcohol being an adulterant, in what amount and in what foods?</i></p>	<p>This was meant more as an example what might be considered an adulterant, and be considered an alcohol product regulated by another entity. Don't read a lot into this; it was more of an interesting fact pertaining to adulteration and where to find the alcohol limit in food.</p>
<p><i>I thought during our meeting yesterday, it was discussed that if a facility is packaging the sandwiches on site and holding them hot, this was considered a retail food establishment serving meals, that a CFPM would be required. It seems this is not in line with a question that was previously asked.</i></p>	<p>This is a question as to whether you need a Certified Food Protection Manager. What we were talking about in a prior question was how are we looking at this, as a meal or not a meal? If you have an establishment that was solely handling prepackaged product that establishment is exempt from having a Certified Food Protection Manager, regardless if they're holding those packages hot or cold. To be truly prepackaged and not require a Certified Food Protection Manager, those packaged products must be coming from a licensed food processor. If you have an employee or operator that is actually preparing sandwiches and putting them out for hot or cold holding, that preparation and packaging activity would require a Certified Food Protection Manager.</p>
<p><i>The webinar indicated mobiles have to keep a schedule of where they will be serving AND log when they are using the base. The food code only says, itineraries of the mobile food establishment shall be available at the base. Where does it say mobiles have to log when they are using the base?</i></p>	<p>ATCP 75.07 Mobile retail food establishment base; licensing. (5) The license holder shall provide a copy of the schedule for the use of the base to the department or its agent upon request.</p>

<p><i>So are fast food-type wrappers not considered a package?</i></p>	<p>No, they are not. They are for protection and convenience for the purchaser and the purchased food. That's been our policy for quite a few years. For clarity, fast food wrappers used to wrap food that is not for customer self-service is not considered a package. Wrapped food items held hot or cold for customer self-service would be considered a package and need to be labeled.</p>
<p><i>If a condiment bar has a single TCS condiment (e.g. sour cream), would it then be considered a food bar and result in 1 licensing point?</i></p>	<p>Yes, if TCS food is present, and this is considered a food bar, it is considered 1 point in the assessment.</p>
<p><i>Can you please discuss when a service base is required versus a variance to having a service base?</i></p>	<p>The requirement is that every mobile retail food establishment shall have a base. We do have certain circumstances where, a mobile unit can be totally self-contained and meet all the requirements for operating without a base. The self-contained unit must meet water supply, utensil washing, handwashing, and disposal needs as required in the Wisconsin Food Code. The operator can apply for a variance to the Department. The request must include details on the mobile unit's construction and method of operation. The Department may grant a variance to not require a separate base license.</p>
<p><i>Does the definition of a new retail food establishment mean that if it is the same person changing from a food processor to a retail food establishment, that is not considered a new retail food establishment? If it is considered a new retail food establishment, then a plan review would be required?</i></p>	<p>This only would apply to a business that has drastically changed its business model over a course of three or more years and is now clearly identified as needing a retail food establishment license. The answer is "yes", they would be required to submit a plan review. Food processing operations licensed before October 2020, will be allowed to continue operation under their original food processing license.</p>
<p><i>Will food manager class providers change to the new terminology, "Certified Food Protection Manager?"</i></p>	<p>Good question, this will need further discussion with the approved course providers.</p>

<p><i>A candy store has cold holding for heavy cream used as an ingredient in making dipped chocolates; however, the final product is non-TCS. Does the cold holding of a TCS ingredient result in 1 point?</i></p>	<p>Yes, it would result in 1-point in the assessment.</p>
<p><i>Why are grab and go packaged foods (cold or hot) not considered meals? Why does it matter if an item that is sold by weight or volume out of a deli case as the deciding factor if it is a meal? Is a donut and coffee considered a meal?</i></p>	<p>This was a decision to help differentiate between what is and isn't a meal. A food product bought by weight or volume is typically not for immediate consumption and is considered a meal. A donut and a cup of coffee has not been considered a meal for many years and is not considered a meal in the new rule.</p>
<p><i>My service connection stopped when speaking to MRFE having a base versus variance. If the MRFE is granted a variance because they can demonstrate self-contained wholly, does that prevent them from prepping and cooking at a licensed commercial kitchen when they choose to? I ask because having a service base license versus a license is very expensive. Do you remember what you said there, Jim?</i></p>	<p>If they're getting a variance to do all of their food preparation on their mobile unit, then all of the food preparation has to be done on the mobile unit. If they want to use, and do prepping and cooking, at a licensed commercial kitchen, then they would be required to have a service base license at that location.</p>
<p><i>If bulk foods, whether hot or cold held, are not considered a meal, can you please explain how food off a hot bar in the deli is not a meal? As someone who worked in a deli for years, this is often intended for immediate consumption and as a meal. Please advise.</i></p>	<p>We agree. If the food is in a hot bar in the deli, then it probably is a meal. Again, you have to look at the overall operation in that facility. Most likely, it's still going to be a <i>retail food establishment - not serving meals</i> license. If you have an establishment with roller dogs, we consider that a meal. Remember, we are still tied to the 49-51 rule to determine the license category.</p>
<p><i>A service base is required for food trucks. When an operator has multiple food trucks, would it be a separate service base license for each truck or would one service base license cover all trucks (provided each truck operates the same way with same menu)?</i></p>	<p>Yes, every mobile retail establishment licensee is required to hold at least one service base license, or have an approved service base variance for each mobile food establishment that they operate. The Department has discussed this and agrees that if a person has</p>

<p><i>For an operator with multiple food trucks, do they need a separate service base for each truck?</i></p>	<p>multiple mobiles under the same licensee that it would be acceptable to have one base license, but they need to demonstrate adequate capacity. A service base does not need to be very large or sophisticated if only used for storage, potable and waste water, and cleaning. If they require extensive food preparation at the service base, a small kitchen may only be sized to support one mobile food establishment. We will put together a policy relating to this.</p>
<p><i>Is a splash guard separating the fourth compartment for handwashing still acceptable? If you have a variance that allows this, that variance is still valid for as long as it runs.</i></p>	<p>Existing operations before the effective date of the rule are allowed to continue as previously approved. If the handwashing set-up was approved previously and there has been no other change, they are allowed to continue its use. They have the ability to apply for a variance in unusual circumstances with justification. In the question asked, typically the first compartment, or prewash sink is requested to be provided with a barrier for handwashing to occur. In some cases that may prohibit the faucet from being able to supply water to other sink compartments. If they want to do something like this, they may apply for a variance. The variance application should include pictures and a description of what's going on in that establishment to show us how it's going to work, so we can properly assess the variance request.</p>

<p><i>Can you clarify the base situation again? If the trucks only operate within the county, can they use only one base, or does each base need its own location?</i></p>	<p>Every mobile unit, as currently required in rule, must have its own base. So whether an operator has one truck or three trucks, each of those units must have a mobile license and each must have a base license. If they have a variance for a self-contained unit, then only the unit itself needs a license. A mobile unit typically is going to have its own mobile base. As previously stated, in response to these questions, the Department has discussed this and agrees that if a person has multiple mobile units under the same licensee, it would be acceptable to have one base license. The Department will put together a policy relating to this.</p>
<p><i>Could you give an example of when a MRFE cannot use their restaurant as their base? Or were you referring to the inspector ensuring that they do use it?</i></p>	<p>If the retail food establishment - serving meals was, for example, a little kiosk-type operation that was in itself almost a mobile unit, a coffee kiosk for example, that may not be adequate as a base. This is a case by case situation. If somebody wants to use a specific location as a base and there's some question about it, this is where the sanitarian must gather additional information. It is important to note that not every retail food establishment is suitable to act as a base. You must assess whether the location where they want to have the base is going to be adequate to support that mobile operation.</p>

<p><i>Are wineries breweries that are licensed under us are considered retail-- not serving meals as long as they meet the 49/51 rule-- if they have prepackaged pizzas or sliced cheeses and meats, they will still be considered retails not serving meals?</i></p>	<p>I think the question is: If they have prepackaged pizzas or sliced cheeses and meats, would they still fall under the 49/51 rule. Would they still be considered a retail food establishment - not serving meals? The reality is that restaurant-type facilities are now doing retail sales. Retail-type facilities are now also doing meal activity, and that's OK. The 49/51 rule is going to determine what type of license they need, either a retail food establishment - not serving meals license or a serving meals license. They can do both activities, but the license they get is going to be based on the predominance of those types of sales.</p>
<p><i>Is a papaya salad a meal?</i></p>	<p>The ingredients in a salad are not the determining factor in making it a meal. The way the salad is presented (is it ordered and served or sold in a clam shell, or is it in a bag) make it a meal or a retail sale. There is not enough information provided to properly answer the question.</p>
<p><i>I recall a conversation from DATCP that Mobile Food Establishments (food trucks...) would be required to have a base. That a variance to avoid no base would no longer be accepted. Those that expire at 5 years would not be granted a new variance for this. Does this still hold true?</i></p>	<p>The option is still present for a mobile retail food establishment to apply for a variance to the required base license. The requirement that all mobile retail food establishments units must have a licensed base location and that the option for a variance to not have a base be removed has been discussed, but did not make it into this rule revision.</p>
<p><i>Please provide additional examples of using the new assessment. Include meat markets, small retail and large retail, restaurants and restaurant with retail scenarios.</i></p>	<p>Please see initial Webinar training. We provided 5 or 6 examples. If you still have questions, please contact the Retail Mailbox.</p>
<p><i>Could you go over the a few examples of common facilities (McDonald's, Pick-n-Save, Kwik Trip, Subway, etc.) using Table A to assign license categories?</i></p>	<p>Please see initial Webinar training. We provided 5 or 6 examples. If you still have questions, please contact the Retail Mailbox.</p>

<p><i>Will DATCP update their existing employee health agreement form with the new food code information so we can provide a new written plan for operators to use?</i></p>	<p>The employee health agreement has been updated.</p>
<p><i>Does the department still have a Special Organization license that allows an organization to operate as a restaurant between 4 and 12 days a year, with limited requirements for commercial food equipment. If not, is there still an option to allow these type of organizations to operate with these limited equipment requirements?</i></p>	<p>Yes, I believe we still want to address special organizations serving meals. This section was inadvertently removed in the rule revision process. The Department will be working on an interpretive memo that will provide allowances on equipment for these operations. The retail policy team is currently addressing this document.</p>
<p><i>A "Meal" does not include grab n go packaged foods. Would a gas station that sells commercially processed sandwiches and salads (less than 50% of their sales) would be classified as a Retail Food Establishment-Not Serving Meals?</i></p>	<p>Not sure what the question is here, but if more than 50% of retail food sales are commercially processed or grab-and-go packaged foods, the establishment would get a retail food establishment - not serving meals license.</p>
<p><i>Can you create a list of what is considered a meal / not?</i></p>	<p>The Department does not specifically create lists, because they are difficult to maintain. If you have a specific question, you can reach out to the Retail Mailbox.</p>
<p><i>With the new requirement of following up with priority violations, priority foundation and core violations, can you explain how this will work within HealthSpace? How do we avoid repeat violations from triggering if multiple visits to a facility is required under one report? Example: routine inspection triggers 5 violations. 2 are Priority and cannot be corrected on site, we need to return in 3 days, and there are 2 PF violations that require 10 days with a return visit and one core requiring 90 days. What is the best route to take for entering 3 different dates of inspections based off of one routine inspection?</i></p>	<p>See the next question for an answer.</p>

<p><i>Per ATCP 75.20(4)4 all Priority, PF and Core violations noted in the initial inspection will need to be followed up on within the time frames designated in the statute. In the past hasn't the requirement been only to conduct a re-inspection for priority violations? Won't this cause an excessive amount of return visits following up on core items?</i></p>	<p>ATCP 75.20 (4), refers to a written violation needing a corrective action date based on the type of violation. This has nothing to do with the requirement for a reinspection to occur. This section indicates the time requirement for corrective action to occur, not the requirement for the Department or its agent to conduct a reinspection. The Department still continues to follow the reinspection criteria for when to conduct a reinspection.</p>
<p><i>Will DATCP charge a meat plant starting a new retail license a new facility pre-inspection fee or a change of owner pre-inspection fee? If you are only charging a change of owner fee, can Agents still require an operator to go through a "free" plan review process as a way to gather information and properly plan the retail operation?</i></p>	<p>DATCP does not charge a pre-inspection fee for retail food establishments – not serving meals. These are considered new licenses and a plan review can be required, if needed. All applicable fees at an agent level will apply, these are not change of operators, but new licenses. Remember, the retail food license only applies to the retail operation.</p>
<p><i>If an operator already holds a retail food establishment serving meals license, and then decides to get a food truck under the same licensee, is a separate service based license required or does the retail food establishment serving meals act as their service based license?</i></p>	<p>Correct. If you already have a retail food establishment, either serving meals or not serving meals license, and you then acquire a license for a mobile retail food establishment, that retail establishment license serves as the base license. The important thing to remember is, that you have to make sure that that retail food establishment location indeed can support a mobile retail food establishment operation. If the location can accommodate the mobile food establishment, and they have a retail food establishment license, no service based license is needed. Note: The licenses for mobile retail food establishments and bases must match. For instance, a mobile retail food establishment - serving meals license would be matched with a mobile retail food establishment - serving meals base license. The base supports the unit.</p>

<p><i>Can you review the requirements for equipment? Existing facility and how to handle this?</i></p>	<p>ATCP 75.01 (3) During an inspection to evaluate compliance with this chapter and ch. ATCP 75 Appendix, the department or its agent shall assess existing facilities or equipment that were in use before October 25, 2020, based on all of the following considerations:          (a) Compliance with food-contact surface requirements in ch. ATCP 75 Appendix part 4-101.          (b) Compliance with requirements for cooling, heating, and holding temperature capability in equipment, under ch. ATCP 75 Appendix part 4-301.11.          Simply put, existing equipment is not grandfathered. Existing equipment must meet food contact surface requirements in ATCP 75 Part 4-101, and requirements for cooling, heating, or holding temperatures under ATCP 75 4-301.11. This section should not be confused with equipment needing to meet certification or classification for sanitation (ANSI standards).</p>
<p><i>Note ATCP 75 related...can a training be done on using SharePoint? It is difficult to navigate and not easy to find documents, recorded trainings.</i></p>	<p>Noted, this had been forwarded to the SharePoint Group.</p>
<p><i>How is a gas station with roller dogs licensed?</i></p>	<p>This is considered a meal activity, but you have to take into consideration all the retail food sales activity (the 49/51 Rule) to determine the correct licensing category.</p>

<p><i>3-202.11(G)-- if ingredients are added, example dill, to cheese curds, does this code reference apply?</i></p>	<p>The code reference is as follows for 3-202.11(G) Cheese curds intended for the production of Cheddar cheese manufactured at a Wisconsin-licensed dairy plant as specified in ch. ATCP 65, Wis. Admin. Code, may be received at temperatures other than 5 C (41 F); if</p> <ul style="list-style-type: none"> <li>(a) They are immediately placed in refrigerated EQUIPMENT that maintains an ambient air temperature of 5 C (41 F) or less and meet cooling requirements as specified under § 3-501.14 (B), or</li> <li>(b) They are held at ambient air temperatures according to the requirements of §3-501.19 (D).</li> </ul> <p>I'm not sure what this question is referring, but this section deals with temperature requirements and, yes, if dill is added to cheddar cheese curds they would still either need to be refrigerated or follow the requirements for time as a public health control for cheddar cheese curds. This would be noted as violation if these requirements were not met.</p>
<p><i>If an establishment with a bar area does not conduct any food preparation behind the bar, and is able to pre-fill toothpicks with garnishes in the kitchen, is a separate hand sink still required behind the bar? If no food prep is conducted in the bar, is an establishment able to continue using the first compartment of the four-compartment sink for handwashing? This was the answer that we had previously been given.</i></p>	<p>If you are dispensing a food item, we would expect that there be handwashing available. Ice is also considered food, so if you're scooping ice and filling ice into glasses, or you are doing any type of food handling whatsoever, the minimum expectation that we would expect to see is that there would be a handwashing sink provided for handwashing. If a handwashing sink is easily accessible, it may not have to be located immediately at the bar to answer the question.</p>

<p><i>4-302.12 Does this refer to high registering thermometers only, or can the color changing strips be used?</i></p>	<p>There are multiple references to use for color changing strips depending on the situation. 4-703.11 (B), hot water mechanical operations by being cycled through EQUIPMENT that is set up as specified under §§ 4-501.15, 4-501.112, and 4-501.113 and achieving a UTENSIL surface temperature of 71 C (160 F) as measured by an irreversible registering temperature indicator or 4-302.13 (B) In hot water mechanical WAREWASHING operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the UTENSIL surface temperature. This could include a registering thermometer or test strips that change color when a specific temperature is achieved.</p>
<p><i>Will there'll be an updated Food Code reference sheet available?</i></p>	<p>The standardization manual has been updated. There is an updated Food Code reference sheet. You can find that on SharePoint, in the inspector's toolbox folder.</p>
<p><i>Are bodily fluid cleanup kits a requirement for mobile food trucks?</i></p>	<p>Yes, this a requirement for all retail food establishments. We are concerned with employees as well as customers.</p>
<p><i>Public restroom and employee restrooms</i></p>	<p>One thing to understand is that, in the Food Code, when you deal with Chapter 8, Chapter 8 deals only with public restrooms. Any other mention about restrooms in the Food Code is really dealing with the requirement for employee restrooms. You have two different sections here. Both are completely acceptable. One specifically deals with public accessibility and public toilet rooms, and how those shall be maintained. The other section refers to all other toilet facilities.</p>

<p><i>I have a question regarding washing and sanitizing returnables provided by the establishment meant to be refilled. Does this apply to beverages like coffee?</i></p>	<p>Are you talking about the coffee mug itself? Yes. The Food Code has some specific language on how to treat that. This is addressed in the code. The Food Code refers to containers filled with food, and containers filled with beverages. It says is that people can bring in their own personal beverage containers to be refilled, and they can be refilled by the customer or the employee, as long as it's done through a contamination-free process. The only items that need to be washed and sanitized before reuse, are containers used for TCS food items.</p> <p>For example, if I bring in my own container and have it filled with won-tons and fried rice, that operator would have to clean and sanitize the container before filling it with food and handing it back to me.</p> <p>For example, a special Packers promotion cup purchased at the convenience store, where I'm taking it to be refilled, can be refilled by the customer as long as it can be accomplished through a contamination-free process.</p>
<p><i>Under 4-301.16 for food prep sinks, may operators use their warewashing sinks for cleaning or thawing, if they can demonstrate the activity occurs above the flood rim of the sink?</i></p>	<p>If they can use a colander, or something that is above the flood rim of the sink, then they certainly may use that sink for those other activities, as long as there is no potential for contamination and everything is clean and sanitary.</p>
<p><i>Would putting up a Plexiglas barrier in between the third and fourth compartment of a four-compartment sink be enough to consider it separate?</i></p>	<p>There is the possibility of installing the barrier. Typically, that would prohibit the faucet from being able to supply the other sink basins. Have the operator apply for a variance to the Department, explain the proposal in detail, and we will evaluate the variance request.</p>
<p><i>Can the customer bring in their own container to fill up non TCS food, such as almonds, granola, if they can do it without cross contamination? What do you think about that, Jim? Can I bring in my own bag and shovel almonds into it?</i></p>	<p>If it's a non-TCS food item, and they can do it through a contamination-free process, it is not an issue.</p>

<p><i>Would a basin of a three or four-compartment sink, which was not used for warewashing and is only used for handwashing, need the intent of a dedicated handwashing sink?</i></p>	<p>To meet rule requirements they must designate the sink as either a handwashing or warewashing sink. Suggest an action plan with the operator to have another sink installed. They may have an opportunity for a variance, but please contact the Retail Team before offering this as an option. We have many questions about this situation.</p>
<p><i>Suggest training/webinar from HealthSpace team to ask similar questions to them. Focus on changes with new assessments issues such as return visits from a routine inspection, billing changes due to complexity changes</i></p>	<p>The suggestion has been forwarded to the HealthSpace team.</p>
<p><i>In the past, and a change of operator we were requiring the addition of a food preparation sink. Now it seems a step backward if they can go back to using a insert in the four or a three-compartment sink.</i></p>	<p>I think the important message is that food cannot be inserted below the flood level rim of a three or four-compartment sink. Any type of food preparation that involves food being below the flood level rim of the sink, requires a food preparation sink. It's that simple. For example, just washing a tomato or a head of lettuce can be done in using a colander, above the flood level rim of the sink. Then they don't need to have a separate food preparation sink. Inevitably, if an operator is thawing below the flood level rim of the sink under running water, whether it's fish or chicken or only soaking lettuce leaves, that's going to require a separate food preparation sink.</p>
<p><i>So if the inspector decides to return to observe a corrected violation, do you have recommendations for how to enter this in HealthSpace to avoid other violations from the routine inspection being triggered as a repeat.</i></p>	<p>Flag the visit as a follow up, and that would prevent it from being billable. We will explore this further to determine the correct method.</p>

*Do I need a variance or HACCP plan if I distribute seafood to another store under the same license holder.*

The requirement for a variance or HACCP plan is dependent on a special process being performed on the product, not the fact that it is being distributed. Internal distribution is covered under ATCP 75 and the requirement for safe distribution are covered under the Wisconsin Food Code.  
For example, if you are smoking fish, you are required to have a variance and HACCP plan regardless of whether the sales are made from your location or transported to locations under the same license.

**Document History**

The most recent changes to this controlled document are listed at the top of the table:

Revision	Author	Change Description	Approval Date
Revision 1.0	BFRB Retail Policy Team	New document.	March 2 2021

**Approval**

- 3/2/2021 2:56 PM Task Completed ■ Ness, Arthur J Task assigned to Ness, Arthur J was approved by Ness, Arthur J. Comments: Approved by Ness, Arthur J
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