



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Sheila E. Harsdorf, Secretary

DATE: January 11, 2018

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Sheila Harsdorf, Secretary *Sheila Harsdorf*
Dr. Steve Ingham, Division of Food and Recreational Safety Administrator *Steve Ingham*

SUBJECT: Ch. ATCP 55–Meat and Meat Food Products; Final Draft

PRESENTED BY: Dr. Steve Ingham

REQUESTED ACTION:

At the January 25, 2018 Board meeting, the Department of Agriculture, Trade and Consumer Protection (“Department”), will ask the Board to approve the final rule (copy attached) related to meat and poultry products.

SUMMARY:

Background

The Department of Agriculture, Trade, and Consumer Protection's state meat and poultry inspection program is governed by ch. 97, Stats., Food, Lodging and Recreation. Wisconsin operates the nation's largest state meat and poultry inspection program, with approximately 260 meat establishments. Twenty-seven states currently operate state meat and poultry inspection programs. All state-inspected Wisconsin meat and poultry establishments are very small (as defined by USDA), yet these establishments fill an important niche in the State's economy. According to the USDA, state meat and poultry inspection programs provide unique services to these very small establishments by “providing more personalized guidance to establishments in developing their food safety oriented operations.” USDA provides half of the funding for state meat and poultry inspection programs.

State meat and poultry inspection programs operate under a cooperative agreement with USDA FSIS. Under this agreement, states must provide inspection services “at least equal to” federal meat and poultry inspection. Each state program conducts a self-assessment annually, and USDA FSIS conducts an on-site audit every three years to determine whether the program meets federal “at least equal to” requirements. Wisconsin's program currently meets these “at least equal to” standards and has done so since the program's inception.

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Rule Content

This proposed rule will replace the \$200 annual meat establishment license fee with a new fee structure, effective 1/1/19, based on the activities done at the licensed meat establishment. Based on the establishments listed in the 2016-2017 Meat Establishment Directory (subtracting two establishments which have gone out of business), licensing fees charged to official establishments, industry-wide, would decrease by \$18,550. Under the proposed rule, an estimated 76 establishments would still pay \$200, 88 establishments would pay \$150, 5 establishments would pay \$100, and 91 establishments would pay \$50.

This proposed rule also:

- Eliminates slaughter inspection fees for alpaca, bison, and llama producers who previously had to pay for voluntary inspection of slaughter.
- Legalizes the commercial slaughter and processing of rabbits by creating a no-cost license category for the slaughter of 3,000 or fewer rabbits annually (\$25 if more than 3,000 are slaughtered). The proposed rule also institutes baseline sanitation and recordkeeping requirements to adequately safeguard public health while allowing low-volume rabbit producers to develop their businesses.
- Exempts low-volume rabbit slaughter from slaughter inspection requirements, provided the rabbits are slaughtered at the same premises where produced, and recordkeeping and licensing requirements are met.
- Ensures that exemptions from the requirement in rule to hold a meat establishment license are consistent with those created by 2015 Wisconsin Act 243.
- Clarifies the formula and package labeling exemptions for retail meat and poultry products.
- Aligns the list of exemptions related to custom processing with statutes, including defining custom processing to include both slaughter and processing of meat or poultry products.
- Adds the Martin Luther King, Jr. Day holiday to the list of holidays for the purposes of scheduling meat inspection.
- Simplifies the listing of applicable federal regulations, while incorporating 9 CFR 412, which relates to labeling requirements.
- Replaces the term “meat and meat food products” with “meat and poultry products” throughout the rule.
- Updates terminology and adds definitions to improve clarity.

Fiscal Impact

This rule is not anticipated to have a fiscal effect on state resources. It does not require additional staff specifically to enforce the proposed rule. The Department will train staff on the new requirements.

Business Impact

The Small Business Regulatory Review Board did not issue a report on this rule. This rule will have a generally positive impact on meat and poultry related businesses. The modifications are

anticipated to decrease costs for producers of alpacas, bison, and llamas; reduce license fees for most meat establishments and several retail food establishments; and decrease procedural barriers for meat establishment operators running a retail food establishment on the same premises. While rabbit producers may face a slight increase in costs, the ability to slaughter rabbits in a licensed on-farm facility may increase their ability to sell rabbit to restaurants and other retail food establishments. By increasing the number of animal species which can be slaughtered in Wisconsin under no-fee inspection, as opposed to under voluntary for-fee inspection, the proposed rule enhances the economic position of farmers producing alpacas, bison, and llamas.

A draft of the proposed ATCP 55 was posted for public comment on economic impact from June 23 to July 22, 2017. No comments were submitted.

Environmental Impact

This rule will have essentially no environmental impact.

Federal and Surrounding State Programs

State meat inspection programs operate under a cooperative agreement with the USDA Food Safety and Inspection Service (FSIS). Under this agreement, state meat inspection programs are required to adopt regulations that are “at least equal to” federal meat and poultry inspection regulations. In addition, Wisconsin is one of four states participating in the Cooperative Interstate Shipment (CIS) program allowing certain selected state-inspected meat establishments to ship their products in interstate commerce. States in the CIS program must adopt regulations that are the “same as” federal meat inspection regulations.

The proposed rule will ensure Wisconsin’s state meat inspection program is consistent with federal regulations and expectations for inspection and enforcement procedures, as well as exemptions from inspection, and suspension of inspection.

Michigan currently does not operate a state meat and poultry inspection program and is not eligible to participate in the CIS program. Minnesota, Iowa, and Illinois operate state meat inspection programs similar to Wisconsin’s program, but these states are not in the CIS program.

Illinois’ state meat inspection program includes USDA’s Federal-State Cooperative program (formerly known as the “Talmadge-Aiken” program). Under this program, state inspectors conduct federal inspections, and the inspected establishments are thereby allowed to sell their products in interstate commerce.

Changes from the Hearing Draft

The Department incorporated all but one technical correction suggested by the Legislative Council Rules Clearinghouse. In the Clearinghouse Report, section 5.d., the Legislative Council suggested reviewing whether the rule should also include any provisions for how processing inspection must be conducted. Because the entirety of processing does not have to be observed,

and because inspection can be accomplished by records review and direct observation, no change is necessary.

Changes based on the public hearings and comments sent to the Department are listed in **Appendix A**.

Next Steps

If the Board and the Governor approve this rule, the Department will transmit the final rule to the Legislature for review by the appropriate legislative committees. If the Legislature approves the rule, the Secretary will sign the final rulemaking order and transmit it for publication.

Appendix A.

Public Hearings

The Department held five public hearings around the State. Following the public hearings, the hearing record remained open until December 15, 2017. The following is a summary of the hearing attendees, including those who submitted written comments.

Public Hearing Summary

Date and Time	Location
Thursday, November 16, 2017 9:30 a.m. to 3:30 p.m.	Mead Public Library, Rocca Room 710 N. 8 th Street, Sheboygan, WI
Wednesday, November 22, 2017 9:30 a.m. to 3:30 p.m.	Division of Public Health Regional Office 2187 N. Stevens Street, Rhinelander, WI
Friday, November 24, 2017 9:00 a.m. to 3:30 p.m.	Prairie Oak State Office Building, Room 106 2811 Agriculture Drive, Madison, WI
Friday, December 1, 2017 9:30 a.m. to 3:30 p.m.	Wisconsin State Office Building, Room 129 718 W. Clairemont Ave., Eau Claire, WI
Friday, December 8, 2017 9:30 a.m. to 3:30 p.m.	Shawano Public Library 128 South Sawyer Street, Shawano, WI

List of Public Hearing Attendees and Commenters

The following is a complete list of the persons who attended the public hearing or submitted comments on the proposed rule during the public comment period, the position taken by the commenter and whether or not the individual provided written or oral comments.

Commenter #	Name and Address	Position Taken (Support or Opposed)	Method of Commenting (Oral or Written)
1.	Greg Worzalla, 258 Hillebrand Dr., Jefferson, WI 53549	None	Written and Oral
2.	Joyce Malterer, N5100 Cedar Rd., Iron Ridge, WI 53035	None	Written and Oral
3.	Joshua Knutson, DATCP, 2811 Agriculture Dr., Madison, WI 53708	None	Written and Oral
4.	Gayle Gregor, Rocky Acres Angus, N5131 Hwy F, Weyerhaeuser, WI 54895	None	Written
	*Commenters 1, 2, and 3 are Department employees		

Summary of Public Comments Resulting in Department Changes to Proposed Final Rule

The number(s) following each comment corresponds to the number assigned to the individual listed in the List of Public Hearing Attendees and Commenters section of this document.

Rule Provision	Public Comment Resulting in Change	Department Response
ATCP 55.07(13), 55.08(1)(h), 55.09(9)	Would like records requirements to be more clear and consistent among general slaughter and processing, custom processing, and mobile custom processing. Also requested clarification for when records must be made. (1, 3)	The Department agrees and made amendments or included language in the relevant rule provisions. All records are consistent with requirements under 55.07(13), and records must be made at the time the specific event occurs and include the date and time recorded, and shall be signed or initialed by the meat establishment employee making the entry.
ATCP 55.02(31)	Would like to clarify the definition of “wholesale” by replacing the word, “sale”, with the word, “distribution”. (2)	The Department agrees and incorporated “distribution” into the definition.

Summary of Public Comments Resulting in No Change to Proposed Final Rule and Department Responses

The number(s) following each comment corresponds to the number assigned to the individual listed in the List of Public Hearing Attendees and Commenters section of this document.

Rule Provision	Public Comment	Department Response
ATCP 55.08(1)(c) no change	Would like to change 55.08(1) “applicable requirements” to clarify which requirements in 55.07 apply to custom processing in 55.08. (1)	Custom processing services under 55.08 must comply with all elements of 55.07 in conjunction with the definition of “custom” processing, as being done solely for an individual who owns and will consume all meat and products.
General - statute	Would like to remove the statutory requirement that rabbits be inspected for sale. (4)	As it would require changing a state statute, the Department is unable to make the requested change. However, the Department plans to work in cooperation with all rabbit processors, as it does with other meat processors, to schedule inspection times that are amenable to both parties.

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Repeal Modification

2. Administrative Rule Chapter, Title and Number

Ch. ATCP 55, Meat and Meat Food Products

3. Date Rule promulgated and/or revised; Date of most recent Evaluation

Last revised May 2015, Register No. 713

4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

The Department of Agriculture, Trade, and Consumer Protection's state meat and poultry inspection program is governed by ch. 97, Stats., Food, Lodging and Recreation. Wisconsin operates the nation's largest state meat and poultry inspection program, with approximately 260 meat establishments.

Currently, a licensed meat establishment is required to pay a \$200 annual license fee or an annual license fee of \$80 if the owner is solely engaged in custom processing at that establishment. After consultation with industry, this rule will replace the \$200 annual fee with a new fee structure effective 1/1/19 based on the activities done at the licensed meat establishment. Based on the establishments listed in the 2016-2017 Meat Establishment Directory (subtracting two establishments which have gone out of business), licensing fees charged to official establishments, industry-wide, would decrease by \$18,550. Under the proposed rule, an estimated 76 establishments would still pay \$200, 88 establishments would pay \$150, 5 establishments would pay \$100, and 91 establishments would pay \$50. This rule also:

- Eliminates slaughter inspection fees for alpaca, bison, and llama producers who previously had to pay for voluntary inspection of slaughter.
- Legalizes the commercial slaughter and processing of rabbits by creating a no-cost license category for the slaughter of 3,000 or fewer rabbits annually (\$25 if more than 3,000 are slaughtered) and instituting baseline sanitation and recordkeeping requirements to adequately safeguard public health while allowing low-volume rabbit producers to develop their businesses.
- Exempts low-volume rabbit slaughter from slaughter inspection requirements, provided the rabbits are slaughtered at the same premises where produced, and recordkeeping and licensing requirements are met.
- Ensures that exemptions from the requirement in rule to hold a meat establishment license are consistent with those created by 2015 Wisconsin Act 243.
- Clarifies the formula and package labeling exemptions for retail meat and poultry products.
- Aligns the list of exemptions related to custom processing with statutes, in part by defining custom processing to include both slaughter and processing of meat or poultry products.
- Adds the Martin Luther King, Jr. Day holiday to the list of holidays for the purposes of scheduling meat inspection.
- Simplifies the listing of applicable federal regulations, while incorporating 9 CFR 412, which relates to labeling requirements.
- Replaces the term "meat and meat food products" with "meat and poultry products" throughout the rule.
- Updates terminology and adds definitions to improve clarity.

5. Describe the Rule's Enforcement Provisions and Mechanisms

The Department has specific authority under s. 97.42 (4), Stats., to establish rules to regulate the slaughter and processing of animals and poultry for human consumption, and ch. 97, Stats., includes authority for compulsory inspection of animals, poultry, and carcasses. Wis. Admin. Code ch. ATCP 55 interprets and implements Wis. Stat. ch. 97, as it relates to Meat and Meat Food Products. Wisconsin's meat and poultry inspection program operates under a cooperative agreement with the US Department of Agriculture (USDA) to provide inspection services to meat establishments not engaged in interstate commerce and those enrolled in the Cooperative Interstate Shipment program.

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The USDA ensures that state programs meet inspection standards that are "at least equal to" federal meat inspection standards.

-
6. Repealing or Modifying 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 checked="" type="checkbox"/> Small Businesses |

7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

This rule change is anticipated to decrease costs for producers of alpacas, bison, and llamas; reduce license fees for most meat establishments and several retail food establishments; and decrease procedural barriers for meat establishment operators running a retail food establishment on the same premises. While rabbit producers may face a slight increase in costs, the ability to slaughter rabbits in an on-farm licensed facility may increase their ability to sell rabbit to restaurants and other retail food establishments. By increasing the number of animal species that can be slaughtered in Wisconsin under no-fee inspection, as opposed to under voluntary for-fee inspection, the rule enhances the economic position of farmers producing alpacas, bison, and llamas.

The rule will not have an economic impact on local governmental units or public utility taxpayers. The Department is unaware of any burdens the rule would place on the ability for small businesses to conduct their affairs.

8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

A draft of the proposed ATCP 55 was posted for public comment on economic impact from June 23, 2017 to July 22, 2017. No comments were submitted.

9. Did the Agency consider any of the following Rule Modifications to reduce the impact of the Rule on Small Businesses in lieu of repeal?

- 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: New licence fee structure based on product and process risk

10. Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

11. Chapter 20, Stats. Appropriations Affected

-
12. Fiscal Effect of Repealing or Modifying the Rule
- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> No Fiscal Effect | <input type="checkbox"/> Increase Existing Revenues | <input type="checkbox"/> Increase Costs |
| <input type="checkbox"/> Indeterminate | <input type="checkbox"/> Decrease Existing Revenues | <input type="checkbox"/> Could Absorb Within Agency's Budget |
| | | <input type="checkbox"/> Decrease Cost |

13. Summary of Costs and Benefits of Repealing or Modifying the Rule

This rule change is anticipated to decrease costs for producers of alpacas, bison, and llamas; reduce license fees for most meat establishments and several retail food establishments; and decrease procedural barriers for meat establishment operators running a retail food establishment on the same premises. While rabbit producers may face a slight increase in costs, the ability to slaughter rabbits in an on-farm licensed facility may increase their ability to sell rabbit to restaurants and other retail food establishments.

The Department believes the changes being presented will have a beneficial impact on the license holder because of a potential reduction in fees based on product and process risk. The Department included provisions in order to make the rule more flexible and equitable for small rabbit processing establishments. In addition, several elements of the rule

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

regarding retail sales of meat and poultry products may reduce the regulatory burden on some of the retail food establishments that process meat and poultry. As the Department concurrently revises ATCP 70 (Food Processing Plants) and ATCP 75 (Retail Food Establishments) to coordinate food business licensing requirements, some meat establishments may be required to obtain a retail food establishment license instead of, or in addition to, a meat establishment license. Retail food establishment license fees vary according to the scope and nature of processing done at the establishment. Finally, the rule is revised to ensure consistent inspection service to custom meat establishments.

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

Yes No

15. Long Range Implications of Repealing or Modifying the Rule

This rule modification implements provisions of 2015 Wisconsin Act 243. The long range benefits of modifying ATCP 55 include clarification of requirements for affected businesses as well as services provided by the Department. The revised fee structure for meat establishment licenses will support a range of business types. Clarification of terminology, formula and labeling requirements, and exemptions will benefit meat establishments in their long-term planning and business development.

16. Compare With Approaches Being Used by Federal Government

State meat inspection programs operate under a cooperative agreement with the USDA Food Safety and Inspection Service (FSIS). Under this agreement, state meat inspection programs are required to adopt regulations that are "at least equal to" federal meat and poultry inspection regulations. In addition, Wisconsin is one of four states participating in the Cooperative Interstate Shipment (CIS) program allowing certain selected state-inspected meat establishments to ship their products in interstate commerce. States in the CIS program must adopt regulations that are the "same as" federal meat inspection regulations.

The proposed rule will ensure Wisconsin's state meat inspection program is consistent with federal regulations and expectations for inspection and enforcement procedures, as well as exemptions from inspection, and suspension of inspection.

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

Michigan currently does not operate a state meat and poultry inspection program and is not eligible to participate in the CIS program. Minnesota, Iowa, and Illinois operate state meat inspection programs similar to Wisconsin's program, but are not in the CIS program.

Illinois' state meat inspection program includes USDA's Federal-State Cooperative program (formerly known as the "Talmadge-Aiken" program). Under this program, state inspectors conduct federal inspections, and the inspected establishments are thereby allowed to sell their products in interstate commerce.

18. Contact Name

Cindy Klug, Director - Bureau of Meat and Poultry Businesses

19. Contact Phone Number

608-224-4729

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

Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: Meat and Poultry Products

Adm. Code Reference: ATCP 55

Rules Clearinghouse #: 17-072

DATCP Docket #: 16-R-04

Rule Summary

Revised Fee Structure

Currently, a licensed meat establishment is required to pay a \$200 annual license fee or an annual license fee of \$80 if the owner is solely engaged in custom processing at that establishment. After consultation with industry, the Department is replacing the \$200 annual fee with a new fee structure based on the activities done at the licensed meat establishment (effective January 1, 2019). The maximum annual fee for any single licensed meat establishment will not exceed \$200. Fees will not increase for any licensed meat establishment and may decrease for most establishments with the new fee structure:

- A person who is solely engaged in custom processing will continue to pay an \$80 annual license fee.
- A licensed meat establishment will pay annual fees, not to exceed \$200, of:
 - \$100 for processing cooked meat or poultry products, or processing shelf-stable uncooked meat or poultry products,
 - \$100 for the slaughter of livestock, other than rabbits, and captive game animals,
 - \$50 for processing not shelf stable uncooked meat or poultry products,
 - \$50 for the slaughter of poultry – unless exempt from the license fee – ratites, and captive game birds, and/or
 - \$25 for the slaughter of more than 3,000 rabbits annually. All rabbit slaughter establishments must be licensed, but there shall be no charge for the slaughter of 3,000 or fewer rabbits annually.

Based on the establishments listed in the 2016-2017 Meat Establishment Directory (subtracting two establishments no longer in business), licensing fees charged to official establishments, industry-wide, would decrease by \$18,550. Under the proposed rule, an estimated 76 establishments would still pay \$200, 88 establishments would pay \$150, 5 establishments would pay \$100, and 91 establishments would pay \$50.

Definition of Livestock

2015 Wisconsin Act 243 broadened the range of animals defined as “livestock” for which slaughter inspection is provided without fee by the department. Alpacas, bison, llamas, and rabbits are now considered livestock, and the slaughter inspection fees are eliminated

for alpaca, bison, and llama producers who previously had to pay for voluntary inspection of slaughter.

The Department recently learned that rabbit slaughter, done in uninspected facilities (often on-farm) rather than under voluntary for-fee inspection, has been a fairly common practice in Wisconsin. This practice had uncertain legality before the passage of 2015 Wisconsin Act 243 and is now clearly prohibited by a statutory requirement. Rabbits must be slaughtered in a licensed establishment.

Effective January 1, 2019, this rule legalizes the commercial slaughter and processing of rabbits by creating a no-cost license category for the slaughter of 3,000 or fewer rabbits annually (\$25 if more than 3,000 are slaughtered) and instituting baseline sanitation and recordkeeping requirements to adequately safeguard public health while allowing low-volume rabbit producers to develop their businesses. The rule exempts low-volume rabbit slaughter from slaughter inspection requirements, provided the rabbits are slaughtered at the same premises where raised, and recordkeeping and licensing requirements are met.

Retail Food Exemptions

This rule revision ensures that exemptions from the requirement in rule to hold a meat establishment license are consistent with those created by 2015 Wisconsin Act 243. The exemptions affect a greater number of retail food establishments than were previously considered exempt, making the statutory and rule language consistent with USDA regulations.

Many licensed meat establishments operate a retail food establishment on the same premises. These licensed meat establishments may manufacture some meat products solely for the retail food establishment part of their business. The packages containing these products are not required to bear the inspection legend that is required for meat products being sold wholesale. However, the existing rule has long been interpreted as requiring that the formula and label of each of these products must be pre-approved by the Department before retail sale. Some business operators have questioned the fairness of this interpretation, as there are no such requirements for other, non-meat, potentially hazardous foods made for retail sale (i.e., fish sausage). In addition, retail food establishments not linked to a meat establishment commonly make and sell meat items without formula (recipe) or label approval, e.g. rotisserie chicken. This rule clarifies the retail meat and poultry products formula and labeling packaging exemptions.

Other Revisions

The rule revision updates terminology and adds definitions to improve clarity. Some revisions are made to align the rule terminology with recent changes in state and federal law. Among these revisions are the following:

- The rule aligns the list of exemptions related to custom processing with statutes. The definition of custom processing is clarified to include both slaughter and processing of meat or poultry products. Currently, meat or poultry may be used for the owner’s own consumption, consumption by members of the owner’s immediate household, and nonpaying guests. The rule was revised to reflect statutory language that allows consumption by the owner, members of the owner’s household, and the owner’s nonpaying guests and employees.
- The rule adds the Martin Luther King, Jr. Day holiday to the list of holidays for the purposes of scheduling inspection.
- The rule simplifies the listing of applicable federal regulation while incorporating 9 CFR 412, which relates to labeling requirements.
- The rule replaces the term “meat and meat food products” with “meat and poultry products” throughout to reflect modification of this definition.

Small Business Affected

This rule will have a generally positive impact on meat and poultry related businesses. The modifications are anticipated to decrease costs for producers of alpacas, bison, and llamas; reduce license fees for most meat establishments and several retail food establishments; and decrease procedural barriers for meat establishment operators running a retail food establishment on the same premises. While rabbit producers may face a slight increase in costs, the ability to slaughter rabbits in an on-farm licensed facility may increase their ability to sell rabbit to restaurants and other retail food establishments. By increasing the number of animal species that can be slaughtered in Wisconsin under no-fee inspection, as opposed to under voluntary for-fee inspection, the rule enhances the economic position of farmers producing alpacas, bison, and llamas.

A draft of the proposed ATCP 55 was posted for public comment on economic impact from June 23, 2017 to July 22, 2017. No comments were submitted.

Reporting, Bookkeeping, and other Procedures

This rule legalizes the commercial slaughter and processing of rabbits by creating a no-cost license category for the slaughter of 3,000 or fewer rabbits annually (\$25 if more than 3,000 are slaughtered; effective January 1, 2019) and instituting baseline sanitation and recordkeeping requirements to adequately safeguard public health while allowing low-volume rabbit producers to develop their businesses. This record keeping requirement is consistent with existing requirements for other animal slaughter and processing.

Based on public comments, the rule was revised to have more clear and consistent records requirements among general slaughter and processing, custom processing, and mobile custom processing. Based on hearing comments, the rule clarifies that records

must be made at the time the specific event occurs, include the date and time recorded, and be signed or initialed by the meat establishment employee making the entry. There are no other reporting, bookkeeping, or other procedures in the proposed rule for small businesses.

Professional Skills Required

The proposed rule does not specifically regulate professional skills required for any small businesses.

Accommodation for Small Business

Many of the businesses affected by this rule are “small businesses.” This rule does not make special exceptions for small businesses because it applies to meat establishment businesses of all sizes.

This rule includes provisions which will benefit large and small businesses alike. For example:

- This rule is anticipated to decrease costs for producers of alpacas, bison, and llamas. By increasing the number of animal species that can be slaughtered in Wisconsin under no-fee inspection, as opposed to under voluntary for-fee inspection, the rule enhances the economic position of farmers producing alpacas, bison, and llamas.
- The rule also reduces license fees for most meat establishments and several retail food establishments, and decreases procedural barriers for meat establishment operators running a retail food establishment on the same premises.
- While rabbit producers may face a slight increase in costs, the ability to slaughter rabbits in an on-farm licensed facility may increase their ability to sell rabbits to restaurants and other retail food establishments.

Conclusion

This rule will generally benefit affected businesses, including “small businesses.” Negative effects, if any, will be few and limited. This rule will not have a significant adverse effect on “small business” and is not subject to the delayed “small business” effective date provided in s. 227.22(2)(e), Stats.

Dated this 11th day of January, 20 .

STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Steve Ingham
Steve Ingham, Administrator
Division of Food and Recreational Safety

**PROPOSED ORDER
OF THE
WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

The Wisconsin department of agriculture, trade and consumer protection hereby proposes the following rule *to repeal* ATCP 55.02 (6) (Note), (21), (29) (Note), (31) (Note), and 55.03 (2) (e) 3. (Note); *to renumber* 55.07 (13) (c); *to renumber and amend* ATCP 55.03 (4); *to amend* ATCP 55 (Title), 55.01 (1), (2) (a) and (c), 55.02 (1), (1m), (2), (3), (5) and (5) (Note), (14), (16) to (20), (23) to (25), 55.03 (1), (2) (b), (c), (d) (intro.), (d) 1. to 3., (e) (intro.), (e) 1. to 3., (2) (e) 4., 5. and 6., (2) (f), (11) (a), (b) 2. and 4. to 7., (12) (Title), (a), (b) (intro.) and 1. to 3., (c) (intro.) and (Note), and (d), 55.04 (Title), (1) (a), (1) (a) (Note) and (1) (c) (intro.) and 1. to 3., (1m), (2), (3) (a) 2., (4) (Title) and (b), (5) (Title), (6), and (8), 55.06 (2), (4) and (5) (a), (e), (f) and (g), 55.07 (Title), (1) (Title), (a), and (b), (2) (Title), (a) (intro.) and 2., (b), (c) (intro), 1. and 2., (3) (Title), (a) (intro.) and 2., and (b), (4), (5), (6) (intro.), (d) and (Note), (9) (b), (e) 2., and (Note), (10) (b), (d) and (e) and (11) (g), 55.08 (Title), (1) (intro.), (d), (d) (Note) and (e), (1) (f) to (h), (2) (a) and (Note), (2) (c) and (3) (a) (intro.), 55.09 (Title), (1), (2) (a), (3) (a) and (b), (4) to (6), and (8) (b), 55.10 (1), (2) (intro.), (a) to (f), and (g) (intro.), (3) (a), (b), and (d) 1., 3., and (Note), (4), and (5) (a) and (b), (6), (7) (a) to (c) and (f), 55.11, 55.12 (6) (a) (intro.) and 4. and 5., 55.13 (1), (3) and (4), 55.14 (2), (3), (5), and (6) (Title), and 55.15 (1) (b); *to repeal and recreate* ATCP 55.02 (6), (29), and (31); and *to create* ATCP 55.01 (2) (d), 55.02 (1g), (4g), (19m), and (26m), 55.03 (4) (a) and (b), 55.04 (1) (d), and (9), 55.06 (5) (k), 55.07 (13) (c), 55.08 (1) (e) (Note), 55.09 (9), 55.10 (5) (d), and 55.13 (6) (f) *relating to* meat and poultry products, and affecting small business.

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

The Department of Agriculture, Trade and Consumer Protection (“Department”) operates the nation’s largest state meat and poultry inspection program, with approximately 260 meat establishments. State meat and poultry inspection programs operate under a cooperative agreement with United States Department of Agriculture (“USDA”) Food Safety and Inspection

Service (“FSIS”). State meat and poultry inspection programs provide unique and scale-appropriate services to small meat and poultry establishments.

Statutes Interpreted

Statute Interpreted: Wis. Stat. § 97.42

Statutory Authority

Statutory Authority: Wis. Stat. §§ 97.42 (4), 97.09 (4), and 93.07 (1).

Explanation of Statutory Authority

The Department has specific authority under Wis. Stat. § 97.42 (4) to establish rules to regulate the slaughter and processing of animals and poultry for human consumption. The Department also has general authority under Wis. Stat. § 97.09 (4) to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. Additionally, the Department has general authority under Wis. Stat. § 93.07 (1) to adopt rules to implement programs under its jurisdiction.

Related Statutes and Rules

Wisconsin’s state meat and poultry inspection program is governed by Wis. Stat. ch. 97, Food, Lodging and Recreation, which includes Wis. Stat. § 97.42, compulsory inspection of livestock or poultry, and meat or poultry products. Wis. Admin. Code ch. ATCP 55 interprets and implements Wis. Stat. ch. 97 as it relates to Meat and Meat Food Products.

State meat and poultry inspection programs operate under a cooperative agreement with the USDA FSIS to provide inspection services to meat establishments not engaged in interstate commerce. These establishments are generally very small in size. State meat and poultry inspection programs were established by the Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968, which amended the Federal Meat Inspection Act (“FMIA”) to create 21 USC 661 and the Poultry Products Inspection Act (“PPIA”) to create 21 USC 454. Section 11015 of Title XI of the Food, Conservation, and Energy Act of 2008 (the 2008 “Farm Bill”), enacted on June 18, 2008, amended FMIA and PPIA to establish a new voluntary program allowing certain selected state-inspected meat establishments to sell their products in interstate commerce.

Title 9, Animal and Animal Products, of the Code of Federal Regulations (“CFR”), interprets and implements the federal FMIA and PPIA. Wis. Stat. § 97.42 (4m) and Wis. Admin. Code §§ ATCP 55.06 (2), (3), (4), and (5)(d), and 55.07 (1), (2), and (3) currently adopt certain relevant sections of Title 9 relating specifically to inspection of meat and meat food products, meat and

poultry and food products, the cooperative interstate shipment program, and poultry and poultry products inspection. Effective April 1, 2018, Wis. Stat. § 97.42(4m) will no longer cite the specific federal regulations. Instead, all specific federal regulations will be incorporated by reference in Wis. Admin. Code ch. ATCP 55.

Plain Language Analysis

Wisconsin operates the nation's largest state meat and poultry inspection program, with approximately 260 meat establishments. Twenty-seven states currently operate state meat and poultry inspection programs. All state-inspected Wisconsin meat and poultry establishments are very small (as defined by USDA) and fill an important niche in the State's economy. According to USDA, state meat and poultry inspection programs provide unique services to these very small establishments by "providing more personalized guidance to establishments in developing their food safety oriented operations." USDA provides half of the funding for state meat and poultry inspection programs.

State meat and poultry inspection programs operate under a cooperative agreement with USDA FSIS. Under this agreement, states must provide inspection services "at least equal to" federal meat and poultry inspection. Each state program conducts a self-assessment annually and USDA FSIS conducts an on-site audit every three years to determine whether the program meets federal "at least equal to" requirements. Wisconsin's program currently meets these "at least equal to" standards and has done so since the program's inception.

Revised Fee Structure

Currently, a licensed meat establishment is required to pay a \$200 annual license fee or an annual license fee of \$80 if the owner is solely engaged in custom processing at that establishment. After consultation with industry, the Department is replacing the \$200 annual fee with a new fee structure based on the activities done at the licensed meat establishment (effective January 1, 2019). The maximum fee for any single licensed meat establishment will not exceed \$200 in a year. Fees will not increase for any licensed meat establishment and may decrease for most establishments under the new fee structure:

- A person who is solely engaged in custom processing will continue to pay an \$80 annual license fee.
- A licensed meat establishment will pay annual fees, not to exceed \$200, of:
 - \$100 for processing cooked meat or poultry products or processing shelf-stable uncooked meat or poultry products,
 - \$100 for the slaughter of livestock, other than rabbits, and captive game animals,
 - \$50 for processing not shelf stable uncooked meat or poultry products,
 - \$50 for the slaughter of poultry – unless exempt from the license fee – ratites, and captive game birds, and/or
 - \$25 for the slaughter of more than 3,000 rabbits annually. All rabbit slaughter establishments must be licensed, but there shall be no charge for the slaughter of 3,000 or fewer rabbits annually.

Based on the establishments listed in the 2016-2017 Meat Establishment Directory (subtracting two establishments which are no longer in business), licensing fees charged to official establishments, industry-wide, would decrease by \$18,550. Under the proposed rule, an estimated 76 establishments would still pay \$200, 88 establishments would pay \$150, 5 establishments would pay \$100, and 91 establishments would pay \$50.

Definition of Livestock

2015 Wisconsin Act 243 broadened the range of animals, defined as “livestock”, for which slaughter inspection is provided without fee by the Department. Alpacas, bison, llamas, and rabbits are now considered livestock, and the slaughter inspection fees are eliminated for alpaca, bison, and llama producers who previously had to pay for voluntary inspection of slaughter.

The Department recently learned that rabbit slaughter, done in uninspected facilities (often on-farm) rather than under voluntary for-fee inspection, has been a fairly common practice in Wisconsin. This practice had uncertain legality before the passage of 2015 Wisconsin Act 243, and is now clearly prohibited by a statutory requirement. Rabbits must be slaughtered in a licensed establishment.

Effective January 1, 2019, this proposed rule legalizes the commercial slaughter and processing of rabbits by creating a no-cost license category for the slaughter of 3,000 or fewer rabbits annually (\$25 if more than 3,000 are slaughtered). The proposed rule institutes baseline sanitation and recordkeeping requirements to adequately safeguard public health while allowing low-volume rabbit producers to develop their businesses. The rule exempts low-volume rabbit slaughter from slaughter inspection requirements, provided the rabbits are slaughtered at the same premises where raised, and recordkeeping and licensing requirements are met.

Retail Food Exemptions

This rule revision ensures that exemptions from the requirement in rule to hold a meat establishment license are consistent with those created by 2015 Wisconsin Act 243. The exemptions affect a greater number of retail food establishments than were previously considered exempt, making the statutory and rule language consistent with USDA regulations.

Many licensed meat establishments operate a retail food establishment on the same premises. These licensed meat establishments may manufacture some meat products solely for the retail food establishment part of their business. The packages containing these products are not required to bear the inspection legend that is required for meat products being sold wholesale. However, the existing rule has long been interpreted as requiring that the formula and label of each of these products must be pre-approved by the Department before retail sale. Some business operators have questioned the fairness of this interpretation, as there are no such requirements for other, non-meat, potentially hazardous foods made for retail sale (i.e., fish sausage). In addition, retail food establishments not linked to a meat establishment commonly make and sell meat items without formula (recipe) or label approval, e.g. rotisserie chicken. This rule clarifies the retail meat and poultry products formula and labeling packaging exemptions.

Other Revisions

The rule revision updates terminology and adds definitions to improve clarity. Some revisions are made to align the rule terminology with recent changes in state and federal law. Among these revisions are the following:

- The rule aligns the list of exemptions related to custom processing with statutes. The definition of custom processing is clarified to include both slaughter and processing of meat or poultry products. Currently, meat or poultry may be used for the owner’s own consumption, consumption by members of the owner’s immediate household, and nonpaying guests. The rule was revised to reflect statutory language that allows consumption by the owner, members of the owner’s household, and the owner’s nonpaying guests and employees.
- The rule adds the Martin Luther King, Jr. Day holiday to the list of holidays for the purposes of scheduling inspection.
- The rule simplifies the list of applicable federal regulations, while incorporating 9 CFR 412, which relates to labeling requirements.
- The rule replaces the term “meat and meat food products” with “meat and poultry products” throughout to reflect modification of this definition.

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

The FMIA and the PPIA gave USDA FSIS the responsibility for ensuring the safety and wholesomeness of meat and poultry distributed in commerce for use as human food. FSIS conducts ante mortem and post mortem slaughter inspection, inspection of meat and poultry food products, and inspection of basic sanitation practices. FSIS also ensures that meat and poultry businesses meet labeling requirements and use humane handling procedures during slaughter, as required by federal law. The agency also reviews Hazard Analysis and Critical Control Point (“HACCP”) systems. HACCP is a system employed by each establishment to ensure the safety of meat and poultry products.

Wisconsin’s state meat and poultry inspection program operates under a cooperative agreement with FSIS. The Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968 created state meat inspection programs under the authority of FSIS. FSIS ensures that state programs meet inspection standards that are “at least equal to” federal meat and poultry inspection standards. FSIS provides 50 percent of Wisconsin’s program funding.

Until 2008, only meat and poultry establishments inspected by FSIS were allowed to sell products in interstate commerce. The 2008 Farm Bill authorized FSIS to create the Cooperative Interstate Shipment (“CIS”) Program, allowing selected state-inspected meat and poultry establishments to sell their products in interstate commerce. FSIS published final rules for the voluntary CIS program in May 2011, and Wisconsin participates in the program. FSIS provides

states with 60 percent of the cost for inspecting those establishments that participate in the CIS program.

Comparison with Rules in Adjacent States

Michigan currently does not operate a state meat and poultry inspection program and is not eligible to participate in the CIS program. Minnesota, Iowa, and Illinois operate state meat inspection programs similar to Wisconsin's program, but these states are not in the CIS program.

Illinois' state meat inspection program includes USDA's Federal-State Cooperative program (formerly known as the "Talmadge-Aiken" program). Under this program, state inspectors conduct federal inspections, and the inspected establishments are thereby allowed to sell their products in interstate commerce.

Summary of Factual Data and Analytical Methodologies

Input and analysis was provided by Department experts, but no other data collection was conducted. The Department reviewed statutory provisions and federal regulations and has gathered information over the last several years from stakeholders. This information was used in developing this rule. The Department solicited information from industry about the potential economic impact of the rule, but no comments were submitted.

Analysis and Supporting Documents used to Determine Effect on Small Business

The Department held a series of industry meetings in the recent past and collected information on the services provided by the Department. Many comments came from small, licensed establishments, and the Department used those comments in developing this rule.

Effect on Small Business

The Department believes the changes being presented will have a beneficial impact on the license holder because of a potential reduction in fees based on product and process risk. The Department included provisions in order to make the rule more flexible and equitable for small rabbit processing establishments. In addition, several elements of the rule regarding retail sales of meat and poultry products may reduce the regulatory burden on some of the retail food establishments that process meat and poultry. As the Department concurrently revises ATCP 70 (Food Processing Plants) and ATCP 75 (Retail Food Establishments) to coordinate food business licensing requirements, some meat establishments may be required to obtain a retail food establishment license instead of, or in addition to, a meat establishment license. Retail food establishment license fees vary according to the scope and nature of processing done at the establishment. Finally, the rule is revised to ensure consistent inspection service to custom meat establishments.

The Department solicited information about the potential economic impact of the rule from June 23, 2017 to July 22, 2017. No public comments were received.

Agency Contact

Questions and comments related to this rule may be directed to:

Cindy Klug, Director
Bureau of Meat and Poultry Businesses
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-4729
Email: Cindy.Klug@Wisconsin.gov

Comments on this rule were accepted until December 15, 2017. Five hearings were held throughout the State of Wisconsin from November 16, 2017 through December 8, 2017.

1 **SECTION 1.** ATCP 55 (Title) is amended to read:

2 **ATCP 55** (Title) ~~MEAT AND MEAT FOOD~~ POULTRY PRODUCTS

3 **SECTION 2.** ATCP 55.01 (1), (2) (a) and (c) are amended to read:

4 **ATCP 55.01 (1) GENERAL.** Except as provided in sub. (2), this chapter applies to persons
5 who slaughter livestock, poultry, captive game animals, captive game birds, or other food
6 animals for human consumption, who submit livestock, poultry, captive game animals, captive
7 game birds, or other food animals for slaughter for human consumption, or who process, store,
8 transport, sell, or distribute meat or ~~meat food~~ poultry products or edible food made from captive
9 game animals, captive game birds, or other food animals for human consumption. This chapter
10 applies to slaughter and other processing establishments, mobile custom slaughterers and
11 processors, food warehouses and locker plants, meat distributors and transporters, meat brokers,
12 food retailers, and central restaurant commissaries that engage in activities covered by this
13 chapter.

14 (2) (a) A restaurant, vending machine commissary, or catering establishment licensed and
15 inspected by the department of health services or its agent, provided that all the following apply:

16 1. The establishment processes no meat or poultry products other than ~~state or federally~~
17 ~~inspected~~ meat or poultry products previously subjected to state or federal inspection.

18 2. The establishment sells meat or poultry products only as part of a meal.

19 3. ~~Meat processing~~ Any processing of meat or poultry products is confined to the premises
20 where the meat or poultry product is served as part of a meal or, in the case of a vending machine
21 commissary or catering establishment, to the premises where ready-to-eat meals are prepared for
22 catered service or vending machine service to individual consumers.

23 (c) An individual slaughtering or transporting his or her own animals, or processing or
24 transporting his or her own meat, for ~~his or her own~~ the owner's consumption or consumption by
25 members of the owner's household and the owner's nonpaying guests and employees. ~~An~~
26 ~~individual's own consumption may include consumption by the individual's immediate family,~~
27 ~~immediate household, and nonpaying guests and employees.~~

28 **SECTION 3.** ATCP 55.01 (2) (d) is created to read:

29 **ATCP 55.01 (2)** (d) An individual processing poultry products who is exempted under 21
30 USC 464 (c)(1)(A) to (D) and 21 USC 464 (c)(4), which exempts certain personal and custom
31 poultry slaughter and processing from federal regulations.

32 **SECTION 4.** ATCP 55.02 (1) is amended to read:

33 **ATCP 55.02 (1)** "Adulterated" has the meaning given in ~~9 CFR 301.2 (2)(i)~~ 9 CFR 301.2.

34 **SECTION 5.** ATCP 55.02 (1g) is created to read:

35 **ATCP 55.02 (1g)** "Amenable to inspection" means subject to mandatory inspection under 21
36 USC 451 to 695 or this chapter.

37 SECTION 6. ATCP 55.02 (1m), (2), and (3) are amended to read:

38 ATCP 55.02 (1m) "Ante mortem inspection" means a pre-slaughter inspection of a live food
39 ~~animal~~ animals.

40 (2) "Captive game animals" means ~~bison~~, white-tailed deer and other animals of a normally
41 wild type that are produced in captivity for slaughter and consumption. "Captive game animals"
42 does not include farm-raised deer, ratites, captive game birds, fish, or animals kept solely for
43 hunting purposes at a hunting preserve.

44 (3) "Captive game birds" means birds of a normally wild type, ~~such as pheasants~~ including
45 pheasant, quail, wild turkeys turkey, or migratory wildfowl, ~~and exotic birds~~, that are produced
46 in captivity for slaughter and consumption. "Captive game birds" does not include poultry,
47 ratites, or birds kept solely for hunting purposes in a hunting preserve.

48 SECTION 7. ATCP 55.02 (4g) is created to read:

49 ATCP 55.02 (4g) "Community supported agriculture business" means a farm with which
50 individuals contract to regularly receive two or more different agricultural products, which may
51 include uncooked poultry products, originating from the farm.

52 SECTION 8. ATCP 55.02 (5) and (5) (Note) are amended to read:

53 ATCP 55.02 (5) "Custom processing" means slaughtering a food animal or processing meat
54 products as a custom service for an individual who owns ~~that~~ the animal or those meat products,
55 and who uses all the resulting meat ~~or meat food~~ products for his or her own consumption. An
56 individual's own consumption may include consumption by the ~~individual's immediate family~~
57 owner, immediate household members of the owner's household, and the owner's nonpaying
58 guests and employees. "Custom processing" includes mobile custom processing.

59 **Note:** A provider of custom slaughtering services does not “sell” the slaughtered food animal or the
60 resulting meat, but merely provides a service to the meat owner. An owner’s nonpaying guests may
61 include nonpaying immediate family members.
62

63 **SECTION 9.** ATCP 55.02 (6) is repealed and recreated to read:

64 **ATCP 55.02 (6)** “Denature” means to intentionally make an item unfit for human
65 consumption by adding a substance to it to alter the item’s appearance or other natural
66 characteristics.

67 **SECTION 10.** ATCP 55.02 (6) (Note) is repealed.

68 **SECTION 11.** ATCP 55.02 (14) is amended to read:

69 **ATCP 55.02 (14)** “Livestock” means domesticated food animals other than poultry.
70 Livestock includes bison, alpacas, llamas, and rabbits.

71 **SECTION 12.** ATCP 55.02 (16) to (19) are amended to read:

72 **(16)** “Meat broker” means a person who, without taking title to meat or ~~meat food~~ poultry
73 products, purchases, sells, or arranges the purchase or sale of meat or ~~meat food~~ poultry
74 products.

75 **(17)** “Meat distributor” means a person who distributes meat or ~~meat food~~ poultry products
76 at wholesale.

77 **(18)** “Meat establishment” means a permanent or mobile plant or fixed-premises used to
78 slaughter food animals for human consumption, or to process where meat or ~~meat food~~ poultry
79 products for human consumption are processed for entering commerce or where meat or poultry
80 processing services are provided.

81 **(19)** “Meat ~~food~~ poultry product” means any edible ~~product derived in whole or in~~
82 substantial and definite part from meat parts, including the viscera, of slaughtered livestock,
83 poultry, or ratites that are capable of use for human food.

84 **SECTION 13.** ATCP 55.02 (19m) is created to read:

85 **ATCP 55.02 (19m)** “Misbranded” has the meaning given in 9 CFR 301.2.

86 **SECTION 14.** ATCP 55.02 (20) is amended to read:

87 **ATCP 55.02 (20)** “Mobile custom processing” means conducting slaughter or otherwise
88 custom processing meat or poultry products for another person at that person’s premises.

89 **SECTION 15.** ATCP 55.02 (21) is repealed.

90 **SECTION 16.** ATCP 55.02 (23) to (25) are amended to read:

91 **ATCP 55.02 (23)** “Post mortem inspection” means the ~~post-slaughter~~ inspection of a
92 slaughtered food animal’s carcass animal carcasses and parts thereof.

93 **(24)** “Poultry” means domesticated ~~fowl commonly used for human food,~~ birds including
94 domesticated chickens, turkeys, geese, ducks, ~~guinea fowl,~~ and guineas squab. “Poultry” does
95 not include captive game birds or ratites.

96 **(25)** “Process” means to slaughter an animal or bird, cut, grind, manufacture, compound,
97 intermix, or otherwise prepare meat or ~~meat food~~ poultry products.

98 **SECTION 17.** ATCP 55.02 (26m) is created to read:

99 **(26m)** “Retail” means selling food or food products directly to any consumer only for
100 consumption by the consumer or the consumer’s immediate family or non-paying guests.

101 **SECTION 18.** ATCP 55.02 (29) is repealed and recreated to read:

102 **ATCP 55.02 (29)** “Specified risk materials” means tonsils and the distal ileum of the small
103 intestine from cattle of any age. For cattle 30 months of age or older, specified risk materials also
104 means each of the following:

105 (a) Skull.

106 (b) Brain.

107 (c) Trigeminal ganglia. Note: Trigeminal ganglia are the nerves attached to the brain.

108 (d) Eyes.

109 (e) Spinal cord.

110 (f) Vertebral column, excluding the vertebrae of the tail, the transverse processes of the
111 thoracic and lumbar vertebrae, and the wings of the sacrum.

112 (g) Dorsal root ganglia. Note: Dorsal root ganglia are the nerves attached to the spinal cord.

113 **SECTION 19.** ATCP 55.02 (29) (Note) is repealed.

114 **SECTION 20.** ATCP 55.02 (31) is repealed and recreated to read:

115 **ATCP 55.02 (31)** “Wholesale” means the transfer of any food to a person or commercial
116 entity who will either re-sell it, distribute it, or use it as an ingredient in a product that will be
117 then offered for sale or distribution. “Wholesale” also means the transfer of food from the point
118 of production to another location for sale even if the other location is adjacent to the point of
119 production.

120 **SECTION 21.** ATCP 55.02 (31) (Note) is repealed.

121 **SECTION 22.** ATCP 55.03 (1), (2) (b), (c), (d) (intro.), (d) 1. to 3., (e) (intro.) and (e) 1. to 3.
122 are amended to read:

123 **ATCP 55.03 (1) ANNUAL LICENSE REQUIRED.** Except as provided in sub. (2), no person may
124 operate a meat establishment without a current annual license from the department. A license
125 expires on June 30 of each year. A person who operates more than one meat establishment shall
126 hold a current annual license for each meat establishment. ~~Each slaughter~~ The license, for each
127 licensed meat establishment license conducting slaughter, shall bear a livestock premises code
128 issued under s. ATCP 17.02 (7). A license may not be transferred between persons or meat
129 establishments.

130 ~~ATCP 55.03 (2) (b) Mobile custom slaughter or mobile custom processing operations.~~

131 (c) The custom ~~slaughter or custom~~ processing of captive game animals or captive game
132 birds.

133 (d) A person slaughtering and otherwise processing poultry produced on that person's ~~farm~~
134 premises, provided that all the following apply:

135 1. The person slaughters and otherwise processes no more than 1,000 poultry ~~per year~~
136 annually.

137 2. The person slaughters, otherwise processes, and sells the poultry at the ~~farm~~ premises
138 where they are produced.

139 3. The person clearly and conspicuously labels each package or container of poultry meat
140 with the ~~person's processor's~~ name and address and the words "NOT INSPECTED."

141 (e) A retail food establishment licensed under s. 97.30 (2), Stats., that processes meat or
142 ~~meat food~~ poultry products primarily for sale to individual consumers at the retail food
143 establishment, provided that all the following apply:

144 1. The retail food establishment is not engaged in slaughter operations that are amenable to
145 inspection.

146 2. The retail food establishment sells the processed meat ~~and meat food~~ or poultry products
147 only to individual consumers at the retail food establishment, or to hotels, restaurants, or
148 institutions for use in meals served at those hotels, restaurants, or institutions.

149 3. The retail food establishment's gross annual value of sales of its ~~processed meat and meat~~
150 ~~food~~ poultry products to hotels, restaurants, or institutions ~~do~~ does not exceed \$28,800 ~~annually,~~
151 the adjusted dollar limits published by the United States department of agriculture in 9 CFR
152 303.1 (d) (2) (iii) (b) and 9 CFR 381.10 (d)(2)(iii)(b) or 25% by dollar volume of all meat sales

153 from the retail establishment, whichever is less. No person exempt from licensure under this
154 paragraph may sell any cured, smoked, canned, or cooked meat or poultry products produced by
155 the person to hotels, restaurants, or institutions.

156 **SECTION 23.** ATCP 55.03 (2) (e) 3. (Note) is repealed.

157 **SECTION 24.** ATCP 55.03 (2) (e) 4., 5. and 6., and (2) (f) are amended to read:

158 **ATCP 55.03 (2) (e) 4.** The retail food establishment receives meat only from meat
159 establishments licensed under this section or inspected by the United States department of
160 agriculture under 21 USC 451 to 695.

161 5. The operator of the retail food establishment does not sell, to any person other than an
162 individual consumer, any meat or ~~meat food~~ poultry product that is cured, smoked, ~~seasoned,~~
163 canned, or cooked at the retail establishment.

164 6. The operator of the retail food establishment does not sell, to any person other than an
165 individual consumer, any meat or ~~meat food~~ poultry product made by combining meat from
166 different animal species at the retail establishment.

167 **(2) (f)** A retail food establishment qualifying for an exemption under 9 CFR 303.1 (d) (2) (iv)
168 (c) or (e) (1) or 9 CFR 381.10 (d) (1) or (e) (1).

169 **SECTION 25.** ATCP 55.03 (4) is renumbered ATCP 55.03 (4) (intro.) and amended to read:

170 **ATCP 55.03 (4) LICENSE FEES.** A person shall pay a \$200 an annual license fee for each
171 licensed meat establishment, ~~except that the person shall pay an annual license fee of \$80 if the~~
172 ~~person is solely engaged in custom slaughtering or custom processing operations at that meat~~
173 ~~establishment.~~ as follows:

174 **SECTION 26.** ATCP 55.03 (4) (a) and (b) are created to read:

175 **ATCP 55.03 (4)** (a) A person shall pay an annual license fee of \$80 if the person is solely
176 engaged in custom processing operations.

177 (b) A person shall pay an annual license fee for each of the following activities up to a
178 maximum of \$200:

179 1. \$100 for processing cooked meat or poultry products or processing shelf-stable uncooked
180 meat or poultry products.

181 2. \$100 for the slaughter of livestock, other than rabbits, and captive game animals.

182 3. \$50 for processing not shelf stable uncooked meat or poultry products.

183 4. \$50 for the slaughter of poultry unless exempt under ATCP 55.03 (2)(d), ratites, and
184 captive game birds.

185 5. \$25 for the slaughter of more than 3,000 rabbits annually. A rabbit slaughter
186 establishment shall be licensed except there shall be no license fee for the slaughter of 3,000 or
187 fewer rabbits annually.

188 **SECTION 27.** ATCP 55.03 (11) (a), (b) 2. and 4. to 7., (12) (Title), (a), (b) (intro.) and 1. to
189 3., (c) (intro.) and (Note), and (d) are amended to read:

190 **ATCP 55.03 (11)** (a) Except as provided in par. (b), no person may slaughter or otherwise
191 process any animals other than food animals at a meat establishment.

192 (b) 2. The operator accepts only clean and apparently ~~wholesome~~ unadulterated wild game
193 carcasses for custom processing.

194 4. The operator custom processes wild game only at times when the operator is not engaged
195 in slaughtering or processing food animals. The operator shall thoroughly clean and sanitize
196 equipment and utensils used to process wild game before using the same equipment or utensils to
197 slaughter food animals or otherwise process food animals or the meat of food animals.
198

199 5. The operator keeps wild game and wild game products separate from all other meat ~~and~~
200 ~~meat food~~ or poultry products in the meat establishment.

201 6. The operator clearly labels wild game products, so they cannot be confused with other
202 meat or ~~meat food~~ poultry products. Wild game products shall be clearly identified by species.

203 7. The operator handles, processes, and stores wild game and wild game products in a
204 manner that prevents contamination of other meat ~~and meat food~~ or poultry products.

205 (12) SLAUGHTER AND OTHER PROCESSING SCHEDULE. (a) A person applying for a meat
206 establishment license shall include, with the license application, a proposed schedule for
207 slaughter and other processing schedule. A meat establishment operator need not include a
208 schedule with a license renewal application if there has been no change in the schedule last
209 established for the meat establishment under this subsection.

210 (b) A schedule under par. (a) shall specify the days of each week, and the hours of each day,
211 during which the applicant proposes to engage in each of the following activities at the meat
212 establishment:

- 213 1. Slaughter food animals to produce meat or ~~meat food~~ poultry products for sale.
- 214 2. Process, by means other than slaughtering, meat or ~~meat food~~ poultry products for sale.
- 215 3. Custom slaughter food animals, or otherwise custom process meat or ~~meat food~~ poultry
216 products.

217 (c) The department may require a change in a schedule for slaughtering and other processing
218 ~~schedule~~ under this subsection if any of the following apply:

219 **Note:** A meat establishment operator may not engage in custom slaughter or other custom processing
220 operations while the operator is simultaneously slaughtering food animals for sale, or simultaneously
221 otherwise processing the meat of food animals for sale. There are exceptions for *inspected* custom
222 operations, and for simultaneous operations that are physically separated to prevent cross-contamination
223 and commingling. The department may disapprove a simultaneous schedule if these exceptions do not
224 apply. See s. ATCP 55.08 (3).
225

226 (d) A meat establishment operator may not deviate from a schedule established under this
227 subsection, without prior written department approval.

228 **SECTION 28.** ATCP 55.04 (Title), (1) (a), (1) (a) (Note) and (1) (c) (intro.) and 1. to 3. are
229 amended to read:

230 **ATCP 55.04 (Title) Slaughter and other processing inspection; general.**

231 (1) (a) Except as provided in par. (b) ~~or (e)~~ to (d), no person may sell any meat from any food
232 animal for human consumption unless the department or the United States department of
233 agriculture has conducted a slaughter inspection of that food animal. The slaughter inspection
234 shall include an ante mortem inspection of the live food animal, and a post mortem inspection of
235 the food animal carcass.

236 **Note:** Slaughter inspection is not required for custom slaughtered animals, because there is no sale of
237 meat. ~~Federal~~ Except as allowed under the cooperative interstate shipment program, federal law prohibits
238 the interstate sale of meat from animals slaughtered under state (rather than federal) inspection. But this
239 federal prohibition does not apply to meat from farm-raised deer, captive game animals, ~~or~~ captive game
240 birds, bison, alpacas, llamas, or rabbits.

241
242 (c) Paragraph (a) does not apply to a person selling meat from not more than 1,000 poultry
243 ~~per-year~~ annually, provided that all the following apply:

244 1. The person produces all of those poultry on his or her ~~farm~~ premises.

245 2. The person slaughters, otherwise processes, and sells the poultry at the ~~farm~~ premises
246 where they are produced or directly to consumers contracting with the person's community
247 supported agriculture business, or has them slaughtered and otherwise processed at a licensed
248 meat establishment.

249 3. The person clearly and conspicuously labels each package or container of poultry meat
250 with the ~~person's~~ processor's name and address and the words "NOT INSPECTED."

251 **SECTION 29.** ATCP 55.04 (1) (d) is created to read:

252 **ATCP 55.04 (1)** (d) Par. (a) does not apply to a person selling meat from rabbits, provided
253 that all the following apply:

254 1. The person only slaughters and otherwise processes rabbits produced on that person's
255 premises.

256 2. The person slaughters and otherwise processes not more than 3,000 rabbits annually.

257 3. The person keeps a record of the number of rabbits slaughtered, retains that record for at
258 least 3 years, and makes the record available for inspection and copying by the department upon
259 request.

260 4. The person slaughtering and otherwise processing rabbits complies with the requirements
261 of s. ATCP 55.07 (4).

262 5. The person holds an establishment license under s. ATCP 55.03.

263 **SECTION 30.** ATCP 55.04 (1m), (2), (3) (a) 2., (4) (Title) and (b), (5) (Title), (6), and (8) are
264 amended to read:

265 **ATCP 55.04 (1m)** Processing inspection required. (a) No person operating a licensed meat
266 establishment may sell any meat ~~food~~ or poultry product unless that meat ~~food~~ or poultry product
267 is labeled as provided in s. ATCP 55.10 (3).

268 (b) Paragraph (a) does not apply to meat ~~food~~ or poultry products processed at a retail food
269 establishment licensed under s. 97.30, Stats., and sold only to individual consumers at that
270 establishment.

271 **(2) SLAUGHTER AND OTHER PROCESSING INSPECTION PROVIDED TO LICENSED MEAT**
272 **ESTABLISHMENTS.**

273 (a) The department shall provide required ante mortem and post mortem slaughter inspection
274 services and processing inspection services to operators of meat establishments licensed under s.

275 ATCP 55.03. The department shall specify the minimum frequency at which custom slaughter
276 and other custom processing activities in a licensed meat establishment are to be inspected. This
277 inspection frequency shall be at least once every three months during which custom processing
278 activities or transactions occur. The department may not provide slaughter or other processing
279 inspection services to other persons.

280 (b) A meat establishment operator requesting slaughter or other processing inspection
281 services shall submit the request to the department in writing, and shall specify a proposed
282 schedule of slaughter or other processing schedule-according to s. ATCP 55.03 (12) (b). The
283 department may require a different schedule, as provided in s. ATCP 55.03 (12) (c). The meat
284 establishment operator may not deviate from the specified schedule without prior department
285 approval, as provided in s. ATCP 55.03 (12) (d).

286 (3) (a) 2. Apparently healthy ~~domesticated food animals~~ livestock or ratites, if special
287 circumstances prevent the transportation of those animals to a licensed meat establishment for
288 ante mortem inspection.

289 (4) ~~SLAUGHTER INSPECTION~~ INSPECTION CHARGES; WHEN REQUIRED.

290 (b) The department performs the inspection on any of the following days, or at any of the
291 following times:

292 1. Days or times not included in the normal schedule of slaughter or other processing
293 schedule-under sub. (2).

294 2. Before 6:00 a.m. or after 6:00 p.m.

295 3. Any inspection time in excess of 40 hours in any calendar week.

296 4. Saturday or Sunday.

297 5. The holidays of New Year's Eve, New Year's Day, Martin Luther King, Jr. Day,
298 Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, or Christmas
299 Day. If any of these holidays, other than New Year's Eve and Christmas Eve, falls on Sunday,
300 the following Monday is considered the holiday.

301 6. Any day that is an official holiday for state employees.

302 (5) ~~SLAUGHTER INSPECTION~~ INSPECTION CHARGES; AMOUNT.

303 (6) SLAUGHTER AND OTHER PROCESSING INSPECTION PROCEDURES. Slaughter and other
304 processing inspection procedures shall comply with this chapter, including ss. ATCP 55.05 to
305 55.07 and applicable federal requirements as specified in 9 CFR 305, 309, 310, 316, 318, 321,
306 329, 332, 416, 417, and 500, and 9 CFR 381, Subparts E, J, K, M, O, R, U, Y, and Z Chapter III,
307 Subchapters A and E.

308 (8) ~~WITHDRAWING SLAUGHTER INSPECTION.~~ The department may, upon written notice,
309 withdraw inspection of slaughter or other processing inspection for cause, including violations of
310 this chapter. No person may conduct ~~slaughter~~ operations for which department inspection is
311 required under this chapter while those inspection services are withdrawn.

312 **SECTION 31.** ATCP 55.04 (9) is created to read:

313 **ATCP 55.04 (9) INSPECTION EFFICIENCY.** All animal slaughter or other processing shall be
314 conducted with sufficient staffing to attain a reasonable rate of operation, considering the meat
315 establishment's size and scope of operations. Ante mortem and post mortem inspection shall be
316 conducted continuously throughout slaughter with one lunch period of between 30 and 45
317 minutes beginning between four and five hours after slaughter operations begin.

318 **SECTION 32.** ATCP 55.06 (2) is amended to read:

319 **ATCP 55.06 (2) DOMESTICATED FOOD ANIMALS.** Post mortem inspections of domesticated
320 food animals, other than poultry, shall comply with 9 CFR 310. Post mortem inspection
321 procedures for farm-raised deer shall be the same as for sheep.

322 **SECTION 33.** ATCP 55.06 (4) is amended to read:

323 **ATCP 55.06 (4) CAPTIVE GAME ANIMALS, RABBITS, ALPACAS, AND LLAMAS.** The department
324 may specify post mortem inspection procedures for captive game animals, rabbits, alpacas, and
325 llamas. Post mortem inspections of captive game animals, rabbits, alpacas, and llamas shall
326 comply with 9 CFR 310, as applicable. Post mortem inspection procedures for bison shall be the
327 same as for cattle.

328 **SECTION 34.** ATCP 55.06 (5) (a), (e), (f) and (g) are amended to read:

329 **ATCP 55.06 (5) (a)** ~~The~~ Except as provided under par. (k), the department shall apply
330 official inspection marks to each carcass that the department finds, after post mortem inspection,
331 to be ~~wholesome-unadulterated~~ and fit for human food. The department shall mark each primal
332 part of the carcass, each detached organ and each detached part that the department finds to be
333 ~~wholesome-unadulterated~~ and fit for use as human food.

334 (e) If the department finds upon post mortem inspection that any part of a carcass is
335 ~~unwholesome-adulterated~~ or unfit for human food, the department shall mark that part "WIS.
336 INSPECTED AND CONDEMNED." If space is limited, the phrase may be abbreviated "WIS.
337 INSP'D AND CONDEMNED."

338 (f) If the department finds that further inspection is needed to determine whether any part of
339 a carcass is ~~wholesome-unadulterated~~ and fit for human food, the department may tag that part
340 "WIS. RETAINED." The tagged part is deemed to be covered by a department holding order
341 under s. ATCP 55.14 (2). The department may specify retention conditions, including

342 refrigeration requirements. No person may discard a tagged part unless the part is released by
343 the department, and no person may process or sell any of the affected meat for human
344 consumption unless and until the department completes its inspection and passes the meat.

345 (g) The department may stamp carcass parts with the appropriate marks under pars. (a) to
346 (e). If an organ or other carcass part is not ~~suseptible to~~ suitable for stamping, the department
347 may apply the mark by other means such as tagging.

348 **SECTION 35.** ATCP 55.06 (5) (k) is created to read:

349 **ATCP 55.06 (5) (k)** The official inspection mark shall be applied to the label of packages
350 containing rabbit carcasses or rabbit meat processed under required or voluntary inspection.

351 **SECTION 36.** ATCP 55.07 (Title), (1) (Title), (a), and (b), (2) (Title), (a) (intro.) and 2., (b),
352 (c) (intro), 1., and 2., (3) (Title), (a) (intro.) and 2., and (b) are amended to read:

353

354 **ATCP 55.07 Slaughter and other processing standards; general. (1) SLAUGHTER AND**

355 OTHER PROCESSING STANDARDS; DOMESTICATED FOOD ANIMALS LIVESTOCK. (a) A meat

356 establishment operator who does any of the following shall comply with applicable federal

357 standards under 9 CFR 307, ~~309, 310, 311, 313 to 315, 317, 318, 319, to 320, 325, 412, 416 to,~~

358 ~~417, 418, 424, 430, 441, 442, and 500~~ Chapter III, Subchapters A and E:

359 1. Slaughters ~~domesticated food animals~~ livestock, ~~other than poultry~~, for human

360 consumption.

361 2. Processes the meat of ~~domesticated food animals~~ livestock, ~~other than poultry~~, for human

362 consumption.

363 (b) Paragraph (a) does not apply to mobile custom ~~slaughter or mobile custom~~ processing.

364 **(2) SLAUGHTER AND OTHER PROCESSING STANDARDS; POULTRY AND CAPTIVE GAME BIRDS.**

365 (a) A meat establishment operator who does any of the following shall comply with applicable

366 requirements under 9 CFR 416, 417, 418, 424, 430, 441, 442, and 500, and 9 CFR 381, Subparts
367 G, I, J, K, L, N, O, P, Q, R, S, X, Y, and Z Chapter III, Subchapters A and E.

368 2. ~~Processes~~ Otherwise processes the meat of poultry or captive game birds for human
369 consumption.

370 (b) Paragraph (a) does not apply to mobile custom ~~slaughter or mobile custom~~ processing.

371 (c) Paragraph (a) does not apply to a person slaughtering and otherwise processing not more
372 than 1,000 poultry ~~per year~~ annually, provided that all the following apply:

373 1. The person produces all of those poultry on his or her ~~farm~~ premises.

374 2. The person slaughters, otherwise processes, and sells the poultry at the ~~farm~~ premises
375 where they are produced or directly to consumers contracting with the person's community
376 supported agriculture business.

377 **(3) SLAUGHTER AND OTHER PROCESSING STANDARDS: RATITES.** (a) A meat establishment
378 operator who does any of the following shall comply with applicable requirements under 9 CFR
379 416, 417, 418, 424, 430, 441, 442, and 500, and 9 CFR 381, Subparts G, I, J, K, L, N, O, P, Q,
380 R, S, X, Y, and Z Chapter III, Subchapters A and E:

381 2. ~~Processes~~ Otherwise processes the meat of ratites for human consumption.

382 (b) Paragraph (a) does not apply to mobile custom ~~slaughter or mobile custom~~ processing.

383 **SECTION 37.** ATCP 55.07 (4) is amended to read:

384 **ATCP 55.07 (4) SLAUGHTER AND OTHER PROCESSING STANDARDS; RABBITS AND CAPTIVE**
385 **GAME ANIMALS.** (a) A person slaughtering a rabbit or a captive game animal for human
386 consumption shall do so in a humane and sanitary manner. If the department provides ante
387 mortem and post mortem slaughter inspection, the person shall comply with procedures specified

388 by the department. The procedures shall be consistent with applicable procedures specified by
389 the United States department of agriculture.

390 **SECTION 38.** ATCP 55.07 (5), (6) (intro.), (d) and (Note), (9) (b), (e) 2., and (Note), (10) (b),
391 (d) and (e), and (11) (g) are amended to read:

392 **ATCP 55.07 (5) CUSTOM ~~SLAUGHTER AND~~ PROCESSING; STANDARDS.** Custom ~~slaughter and~~
393 ~~custom~~ processing operations shall comply with applicable requirements under this section and
394 ss. ATCP 55.08 and 55.09.

395 **(6) ANIMALS THAT ARE DISEASED, INJURED, OR WILL YIELD AN ADULTERATED CARCASS;**
396 **GENERAL.** No person may slaughter a food animal for human consumption, or submit a food
397 animal for slaughter for human consumption, if the person knows or has reason to know that the
398 animal is diseased, injured, or will yield ~~an adulterated~~ a carcass that is adulterated as defined in
399 9 CFR 301.2. This subsection does not prohibit any of the following:

400 (d) The slaughter of an animal presented by a producer listed in the U.S. department of
401 ~~Agriculture~~ agriculture Residue Repeat Violator List for Use by Livestock Markets and
402 Establishments if the producer, in collaboration with a licensed veterinarian, provides to the
403 department written evidence of enrollment and completion of a course on proper administration
404 of animal medications, approved by the department. Certification of course enrollment and
405 completion shall be provided on a form prescribed by the department. Enrollment in the course
406 shall occur not more than 30 days after the producer is listed on the U.S. department of
407 ~~agriculture~~ agriculture Residue Repeat Violator List for Use by Livestock Markets and Establishments, and
408 completion of the course shall occur not more than 180 days after enrollment.

409 **Note:** The U.S. department of ~~Agriculture~~ agriculture Residue Repeat Violator List for Use by
410 Livestock Markets and Establishments may be accessed at the following website:
411 <http://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/chemistry/residue-chemistry>
412 and selecting the link to the USDA Residue Repeat Violator List for Use by Livestock Markets and
413 Establishments.

414
415 (9) (b) A meat establishment operator may not receive, into any processing or storage area,
416 any unclean or apparently ~~unwholesome~~ adulterated carcass or meat. The operator shall handle,
417 store, and prepare carcasses and meat to prevent contamination of other carcasses, meat and
418 food.

419 (e) 2. A licensed practicing veterinarian performed an ante mortem and post mortem
420 inspection on the slaughtered animal, and certified in writing that the carcass was ~~wholesome~~
421 unadulterated and free of disease.

422 **Note:** The department may retain or condemn ~~unwholesome~~, adulterated or misbranded meat or meat
423 food products, including those produced by custom slaughter or processing (see s. ATCP 55.14). If the
424 department inspects a custom slaughter, the department will follow applicable inspection procedures under
425 this chapter.

426
427 (10) (b) No person may slaughter, for human consumption, any food animal that the
428 department has condemned as being ~~unwholesome~~ adulterated or unfit for human consumption.
429 The animal owner or meat establishment operator shall dispose of the condemned animal in a
430 manner directed by the department.

431 (d) No person may process for human consumption, or sell or distribute for human
432 consumption, any meat that the department has condemned as being ~~unwholesome or unfit for~~
433 ~~human consumption~~ adulterated. The meat establishment operator shall denature or de-
434 characterize the condemned meat so that the meat is no longer naturally edible by humans.
435 Containers used for condemned meat shall be conspicuously marked "INEDIBLE."

436 (e) If the department orders a meat establishment operator to trim any carcass to remove
437 ~~unfit or unwholesome~~ adulterated meat, the operator shall complete the trimming before placing
438 the carcass in a cooler.

439 (11) (g) No livestock, ratites, or captive game animals may be shackled, hoisted, stuck, or cut
440 for slaughter, except according to rabbinical (kosher) or other established religious dietary
441 practices, until the livestock, ratites, or captive game animals are rendered insensible to pain.

442 **SECTION 39.** ATCP 55.07 (13) (c) is renumbered ATCP 55.07 (13) (d).

443 **SECTION 40.** ATCP 55.07 (13) (c) is created to read:

444 **ATCP 55.07 (13) (c)** Records required under this subsection shall be made at the time the
445 specific event occurs and include the date and time recorded, and shall be signed or initialed by
446 the meat establishment employee making the entry.

447 **SECTION 41.** ATCP 55.08 (Title), (1) (intro.), (d), (d) (Note), and (e) are amended to read:

448 **ATCP 55.08 Custom slaughter and processing. (1) GENERAL.** A person providing a
449 custom ~~slaughter or custom~~ processing service shall do all the following:

450 (d) Mark or label all the resulting meat ~~and meat food~~ products "NOT FOR SALE;" and all
451 the resulting poultry products "NOT INSPECTED" as provided in sub. (2). A person providing
452 a custom ~~slaughter or custom~~ processing service shall keep the service recipient's meat and ~~meat~~
453 ~~food~~ poultry products separate from all other food that the service provider holds for others or
454 offers for sale. The person may not sell any of the service recipient's meat ~~or meat food~~
455 products, or commingle them with any food that the person holds for others or sells.

456 **Note:** For example, a person providing custom ~~slaughter or custom~~ processing services may not
457 combine saved carcass parts, such as head meat, tongues, hearts, fat, or trimmings, with meat or ~~meat~~
458 ~~food~~ poultry products processed for other service recipients or purchasers. The licensing exemption under
459 ATCP 55.03(2)(d) allows for the direct sale from a service recipient to customers of up to 1,000 birds.

460 (e) Return all of the resulting meat and ~~meat food~~ poultry products to the service recipient.

461 The service recipient may use them only for the service recipient's personal consumption, which
462 may include consumption by members of the service recipient's immediate family, immediate
463 household, and the service recipient's nonpaying guests and employees.

465 SECTION 42. ATCP 55.08 (1) (e) (Note) is created to read:

466 **Note:** An owner's nonpaying guests may include nonpaying immediate family members.

467 SECTION 43. ATCP 55.08 (1) (f) to (h), (2) (a) and (Note), (2) (c), and (3) (a) (intro.) are
468 amended to read:

469 **ATCP 55.08 (1) (f)** Comply with s. ATCP 55.09 if the person engages in mobile custom
470 ~~slaughter or mobile custom~~ processing.

471 (g) Conduct custom ~~slaughter and~~ processing operations in a sanitary manner.

472 (h) ~~Keep~~ Create and keep complete and accurate records of all custom ~~slaughter and~~
473 processing transactions that are completed upon slaughter of a food animal or receipt of meat for
474 processing. The service provider shall keep the records for at least 3 years, and shall make the
475 records available to the department for inspection and copying upon request. Each record shall
476 include all of the following:

477 1. The name and address for each individual for whom the person provides mobile custom
478 slaughter or processing service.

479 2. The number and type of animals slaughtered for each service recipient.

480 3. The date of each slaughter.

481 4. The disposition of each carcass. The report shall indicate whether a carcass was
482 transported to another location for processing and, if so, the location to which it was transported.

483 5. Any certificates required under s. ATCP 55.07 (7).

484 6. Other relevant information required by the department.

485 **(2) (a)** A person providing a custom ~~slaughter or custom~~ processing service shall mark or
486 label the resulting meat and ~~meat food~~ poultry products with all the following information:

487 1. The words "NOT FOR SALE" for meat products or "NOT INSPECTED" for poultry
488 products in block letters at least $\frac{3}{8}$ " high.

489 2. The name or commonly recognized trade name of the person providing the custom
490 ~~slaughter or custom~~ processing service. If the person performs the service at a meat
491 establishment licensed under s. ATCP 55.03, the person may use the meat establishment number
492 assigned under s. ATCP 55.03 (10) instead of the person's name. If the person provides the
493 service as a mobile custom ~~slaughter or mobile custom~~ processing service, the person may use
494 the registration number assigned under s. ATCP 55.09 (2) (g) instead of the person's name.

495 **Note:** The following examples illustrate possible label formats under par. (a):

496	NOT FOR SALE	NOT FOR SALE	<u>NOT INSPECTED</u>
497	XYZ Market	WIS 000	<u>ABC FARMS</u>
498			

499 (c) A person providing a custom processing service shall apply the label under par. (a) to all
500 packages and containers of custom processed meat and ~~meat food~~ poultry products when that
501 ~~meat or those meat food~~ or poultry products are packaged or placed in those containers. The
502 person shall individually label sausages that have a diameter of more than 1 $\frac{1}{2}$ " if those sausages
503 are individually packaged, or if they are shipped or stored in unsealed containers.

504 (3) (a) Except as provided in par. (b), a meat establishment operator may not engage in
505 custom slaughter or ~~custom~~ other processing operations at a meat establishment while the
506 operator is simultaneously doing any of the following at that establishment:

507 **SECTION 44.** ATCP 55.09 (Title), (1), (2) (a), (3) (a) and (b), (4) to (6), and (8) (b) are
508 amended to read:

509 **ATCP 55.09 Mobile custom slaughter and processing. (1) GENERAL.** A person engaged
510 in mobile custom slaughter or mobile custom processing shall comply with ss. ATCP 55.07 and
511 55.08 and this section.

512 **(2) (a)** No person may receive any compensation, other than bartered services, for providing
513 mobile custom slaughter or mobile custom processing services unless that person holds a current
514 annual registration certificate from the department. No registration certificate is required if the
515 person holds a meat establishment license under s. ATCP 55.03.

516 **(3) (a)** Mobile custom slaughter and mobile custom processing operations shall be conducted
517 under clean and sanitary conditions.

518 **(b)** Vehicles and facilities used in mobile custom slaughter and mobile custom processing
519 operations shall be designed and constructed so ~~they can be kept~~ that clean and sanitary
520 conditions are maintained.

521 **(4) EQUIPMENT AND UTENSILS.** Equipment and utensils used in mobile custom slaughter and
522 mobile custom processing operations shall be of sanitary design and construction, and shall be
523 kept clean and sanitary. Meat or poultry product contact surfaces of equipment and utensils shall
524 be cleaned and sanitized after each use, and more frequently as necessary, to keep them clean
525 and sanitary.

526 **(5) PERSONNEL.** Personnel engaged in mobile custom slaughter or mobile custom
527 processing operations shall wear clean and washable outer clothing, and shall wash and rinse
528 their hands sufficiently during the operations to prevent contamination of carcasses, and meat,
529 ~~and meat food~~ or poultry products.

530 **(6) WATER SUPPLY.** Potable water shall be available for all mobile custom slaughter and
531 mobile custom processing operations. There shall be enough water for thorough cleaning of all

532 carcasses, equipment, and utensils. Water shall be available during all slaughtering, other
533 processing, and cleanup operations.

534 (8) (b) The number and type of animals slaughtered for each service recipient, including
535 indication of whether cattle are less than 30 months of age or 30 months of age or greater, and if
536 the specified risk materials were removed.

537 SECTION 45. ATCP 55.09 (9) is created to read:

538 ATCP 55.09 (9) RECORDS. A person providing mobile custom processing shall keep
539 complete and accurate records of all processing transactions as under s. ATCP 55.08 (1) (h). The
540 service provider shall keep the records for at least 3 years, and shall make the records available
541 to the department for inspection and copying upon request.

542 SECTION 46. ATCP 55.10 (1), (2) (intro.), (a) to (f), and (g) (intro.), (3) (a), (b) and (d) 1., 3.,
543 and (Note), (4), and (5) (a) and (b) are amended to read:

544 ATCP 55.10 (1) GENERAL. Meat ~~and meat food~~ or poultry products sold in this state shall
545 be labeled according to this chapter and ch. ATCP 90. No person may sell any misbranded meat
546 or ~~meat food~~ poultry products, or make any false, deceptive, or misleading representation in
547 connection with the sale of meat or ~~meat food~~ poultry products.

548 (2) MEAT LABELS; GENERAL. No person may sell any meat or ~~meat food~~ poultry product
549 unless that meat or ~~meat food~~ poultry product is clearly labeled with all the following:

550 (a) The name of the meat or ~~meat food~~ poultry product.

551 (b) The net weight of the meat or ~~meat food~~ poultry product.

552 (c) The name and address of the person who last processed the meat or poultry product, or
553 the name and address of the legally responsible distributor for whom the meat or poultry product
554 was last processed.

555 (d) An inspection legend if required under sub. (3), ~~or~~ 9 CFR 317.2, or 9 CFR 381.96.

556 (e) An ingredient statement if the product contains 2 or more ingredients. The ingredient
557 statement shall contain the word "INGREDIENTS:" followed by a listing of ingredients in order
558 of decreasing predominance by weight.

559 (f) Safe handling instructions if required under 9 CFR 317.2(l) or 9 CFR 381.125.

560 (g) One of the following statements if the meat or ~~meat food~~ poultry product is being sold at
561 retail and is perishable:

562 (3) INSPECTION LEGEND. (a) Except as provided in par. (b), a license holder under s. ATCP
563 55.03 who processes meat or ~~meat food~~ poultry products from meat inspected and passed by the
564 department shall label ~~that processed meat and those processed~~ those meat food or poultry
565 products with a state inspection legend. The legend shall ~~appear~~ be clearly visible to prospective
566 purchasers on all packages and containers of ~~processed meat and meat food~~ or poultry products,
567 ~~so that it is clearly visible to prospective purchasers.~~

568 (b) Paragraph (a) does not apply to meat ~~and meat food~~ or poultry products processed at a
569 retail establishment and sold only to individual consumers at that establishment.

570 (d) 1. The meat or poultry ~~meat food~~ product contains meat from farm-raised deer, captive
571 game animals, or captive game birds.

572 3. ~~Meat fat~~ Fat from domesticated food animals and ratites constitutes less than 30% of the
573 product by weight.

574 **Note:** Federal law does *not* prohibit the sale, in other states, of state-inspected meat from *farm-raised deer,*
575 *captive game animals,* ~~or captive game birds,~~ alpacas, bison, llamas, or rabbits (meat required to bear a triangular
576 inspection legend under par. (d)). The following is an illustration of the state inspection legend described in par. (d):
577

578 (4) STANDARDS OF IDENTITY. Labeling of meat and ~~meat food~~ poultry products shall comply
579 with applicable standards of identity in 9 CFR 319 and 9 CFR 381 Subpart P. No person may
580 misrepresent the identity of any meat or ~~meat food~~ poultry product.

581 (5) FORMULA APPROVAL. (a) No person may manufacture any meat ~~food~~ or poultry product
582 bearing the mark of inspection in a meat establishment licensed under s. ATCP 55.03 unless the
583 department first approves the product formula for compliance with applicable labeling and food
584 safety requirements, including applicable standards of identity under sub. (4).

585 (b) To obtain the department's approval under par. (a), a person shall submit the product
586 formula on a form provided by the department. The form shall identify ~~the meat, chemical, and~~
587 ~~either~~ all meat and non-meat ingredients in the product, and shall include any other information
588 required by the department.

589 **SECTION 47.** ATCP 55.10 (5) (d) is created to read:

590 **ATCP 55.10 (5) (d)** No department formula approval under this chapter is required for meat
591 and poultry products that are made in a licensed meat establishment only for sale to individual
592 consumers if all the following apply:

593 1. The products are produced under a retail food establishment license in accordance with s.
594 97.30, Stats.

595 2. Operation of the retail food establishment meets the requirements of ch. ATCP 75 and 75
596 Appendix.

597 **SECTION 48.** ATCP 55.10 (6), (7) (a) to (c) and (f) are amended to read:

598 **ATCP 55.10 (6) LABEL APPROVAL.** No person may sell any of the following meat or meat
599 ~~food~~ poultry products intended for sale at wholesale unless the department first approves the
600 labeling of that meat or those meat food products:

601 (a) Meat or ~~meat food~~ poultry products bearing labels that make claims related to health,
602 quality, or nutritional ~~claims~~ characteristics or food animal production methods.

603 (b) Meat from farm-raised deer, captive game animals, or captive game birds, or meat ~~food~~
604 products made from that meat.

605 (c) Meat or ~~meat food~~ poultry products bearing labels that make claims related to
606 organizational membership or organizational standards.

607 (7) PROHIBITED LABELING PRACTICES. (a) No person may apply, to any meat or ~~meat food~~
608 poultry product, any mark, legend, or label that is false, deceptive, or misleading.

609 (b) No person may misrepresent that the department has inspected meat or poultry products,
610 or misrepresent the department's inspection findings related to meat or poultry products.

611 (c) No person may misrepresent that any meat or ~~meat food~~ poultry product has been
612 processed at a licensed meat establishment, or is derived from meat inspected and passed by the
613 department.

614 (f) No person may sell, transport, or store any meat or ~~meat food~~ poultry product that is not
615 marked, labeled, or identified according to this chapter.

616 **SECTION 49.** ATCP 55.11 is amended to read:

617 **ATCP 55.11 Transporting meat. (1) GENERAL.** A person transporting meat or poultry
618 products for human consumption shall do so in a manner that keeps the meat or poultry products
619 ~~wholesome and~~ unadulterated. Meat ~~and meat food~~ or poultry products for human consumption
620 shall be ~~refrigerated~~ maintained at 41° F (5° C) or cooler during transport if they are perishable,
621 or if they are labeled "Keep Refrigerated" or "Keep Frozen." The internal temperature of the
622 refrigerated products may not exceed ~~5° C (41° F)~~ 41° F (5° C) at the time of delivery.

623 (2) VEHICLES AND FACILITIES. Vehicles and facilities used to transport meat ~~and meat food~~
624 or poultry products shall be constructed and maintained to ensure that the meat ~~and meat food~~ or
625 poultry products arrive at their destination in a ~~wholesome and~~ an unadulterated condition.
626 Vehicles and facilities shall be adequately equipped to ensure compliance with sub. (1).

627 (3) UNWRAPPED MEAT OR POULTRY PRODUCTS. Unwrapped meat ~~and meat food~~ or poultry
628 products shall be transported in enclosed vehicles equipped with tight fitting doors, and shall be
629 protected from contamination from the vehicle.

630 SECTION 50. ATCP 55.12 (6) (a) (intro.) and 4. and 5. are amended to read:

631 ATCP 55.12 (6) RECORDS. (a) A meat broker or meat distributor shall keep all of the
632 following records related to transactions in which the meat broker or meat distributor is involved
633 as a buyer, seller, or broker of meat or ~~meat food~~ poultry products:

634 4. The types and amounts of meat or ~~meat food~~ poultry products sold.

635 5. If the meat broker or meat distributor takes physical custody of the meat or ~~meat food~~
636 poultry products, complete records related to the receipt, storage, and disposition of ~~that meat or~~
637 those meat ~~food~~ or poultry products.

638 SECTION 51. ATCP 55.13 (1), (3) and (4) are amended to read:

639 ATP 55.13 (1) Process or sell, for human consumption, any ~~unwholesome~~, adulterated or
640 misbranded meat or poultry product.

641 (3) Process, store, handle, transport, or sell, ~~under unsanitary conditions~~, meat or ~~meat food~~
642 poultry products for human consumption under conditions that may render the meat or poultry
643 products adulterated.

644 (4) Slaughter any food animal for human consumption, or otherwise process any meat or
645 ~~meat food~~ poultry products for human consumption, at a place other than a meat establishment

646 licensed under s. ATCP 55.03. This prohibition does not apply to slaughter or processing
647 operations that are exempted from licensing under s. ATCP 55.03 (2).

648 **SECTION 52.** ATCP 55.13 (6) (f) is created to read:

649 **ATCP 55.13 (6) (f)** Concealing records, ingredients, meat or poultry products, labels,
650 packaging materials, or any other item that may be observed pursuant to 97.12 (1), Stats.

651 **SECTION 53.** ATCP 55.14 (2), (3), (5), and (6) (Title) are amended to read:

652 **ATCP 55.14 (2) MEAT HOLDING HOLDING ORDER.** (a) The department may issue a holding
653 order to prohibit the sale or movement of any meat or ~~meat food~~ poultry product if the
654 department has reasonable grounds to suspect that the meat or ~~meat food~~ poultry product is
655 ~~unwholesome~~, adulterated, or misbranded, or otherwise fails to meet the standards or
656 requirements of this chapter or ch. 97, Stats. The department may issue a holding order pending
657 further examination or analysis to determine whether the meat or ~~meat food~~ poultry product is
658 ~~unwholesome~~, adulterated, or misbranded, or otherwise fails to meet the standards or
659 requirements of this chapter or ch. 97, Stats.

660 (b) The department shall serve a holding order by delivering a copy to the owner or
661 custodian of the meat or ~~meat food~~ poultry products, or by placing a copy in a conspicuous place
662 on or near the meat or ~~meat food~~ poultry products. A "WIS. RETAINED" tag applied under s.
663 ATCP 55.06 (5) (f) has the effect of a holding order served under this subsection.

664 (c) A holding order remains in effect for 14 days unless the department withdraws it earlier.
665 The department may extend a holding order for one additional 14-day period by re-serving the
666 order or by leaving the "WIS. RETAINED" tag on the meat or poultry product.

667 (d) No person may sell, move, or alter any meat or ~~meat food~~ poultry product under holding
668 order, except with the department's written permission. The department may authorize the
669 owner or custodian to take appropriate corrective action.

670 (e) The department may release a holding order if the department finds that the suspect meat
671 or ~~meat food~~ poultry product is not ~~unwholesome~~, adulterated, or misbranded, or that the
672 violation has been corrected.

673 (3) ~~MEAT CONDEMNATION~~ CONDEMNATION ORDER. (a) If the department finds that a meat
674 or ~~a meat food~~ poultry product is ~~unwholesome~~, adulterated, misbranded, not inspected and
675 approved according to this chapter or s. 97.42, Stats., or not processed according to this chapter
676 or s. 97.42, Stats., the department may order the owner or custodian to do any of the following:

677 1. Correct the violation within a reasonable time period in a manner specified by the
678 department in writing.

679 2. Dispose of the meat or ~~meat food~~ poultry product, in a manner specified by the
680 department in writing. The department may order disposal of a meat or ~~a meat food~~ poultry
681 product if a violation cannot be corrected, or if the owner or custodian fails to correct the
682 violation within the time specified under subd. 1. ~~Returning meat to the recipient of a custom~~
683 ~~slaughter or custom processing service does not correct a violation.~~

684 (b) The department shall serve an order under par. (a) by delivering a copy to the owner or
685 custodian of the meat or ~~meat food~~ poultry products, or placing a copy in a conspicuous place on
686 or near the meat or ~~meat food~~ poultry products. An order takes effect when served. A "WIS.
687 INSP'D and CONDEMNED" mark applied under s. ATCP 55.06 (5) (e) has the effect of a ~~meat~~
688 condemnation order served under this subsection.

689 (c) No person may sell, move, or alter any meat or ~~meat-foed~~ poultry product covered by the
690 department's order except as directed by this chapter or by the department.

691 (5) REJECTED FACILITIES, EQUIPMENT OR UTENSILS. The department may issue an order
692 prohibiting the use of unsanitary facilities, equipment, or utensils that may contaminate meat or
693 ~~meat-foed~~ poultry products. The department may issue an order under this subsection by
694 applying a "REJECTED" tag to the facilities, equipment, or utensils. A person may not use the
695 equipment or utensils until the violation is corrected and the department withdraws its order.

696 (6) ~~MEAT INSPECTION~~ INSPECTION STAFF AUTHORIZED TO ISSUE ORDERS.

697 SECTION 54. ATCP 55.15 (1) (b) is amended to read:

698 ATCP 55.15 (1) (b) Ante mortem or post mortem inspection findings affecting the
699 disposition of animals, carcasses, or meat or poultry products.

700 SECTION 55. EFFECTIVE DATE. Except for sections 11, 25, 26, 29, 33, 35, and 37 that shall
701 take effect January 1, 2019, this rule shall take effect on the first day of the month following
702 publication in the Wisconsin Administrative Register, as provided under s. 227.22 (2) (intro.),
703 Stats.

Dated this _____ day of _____, 2018.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Sheila Harsdorf, Secretary

