



Significant Administrative Rule Changes to ATCP 75

75.01(3) Authority and Purpose

Existing facilities or equipment in use before the effective date of this chapter and Appendix must be assessed based on compliance with 4-101 and the requirements for cooling, heating and holding temperatures capability under 4-301.11.

75.04 Definitions

Many definitions were changed or added. Below are a few:

“Additional area.” A non-contiguous, separately located area that is on the same premises, but not part of the primary food processing or warewashing operation, contributing to the overall food operation. It may include banquet staging, bakery preparation, produce preparation or outdoor cooking areas.

“Meal.” food that is ordered, prepared for, or served to a customer with or without a beverage and is obtained from the retail food establishment in a ready-to-eat form with the expectation of immediate consumption, although consumption may occur at a different location. “Meal” includes:

- Food that is ordered, prepared or served with the expectation for immediate consumption. This includes food and food service normally found in a restaurant setting.
- Continental breakfast (buffet style set-up with TCS foods such as eggs, sausage, bacon and waffles. This does not include non-meal items)
- Bakery items where additional preparation occurs before service.

NOT ALL CHANGES ARE INCLUDED IN THIS FACT SHEET. PLEASE REVIEW THE ENTIRE UPDATED WISCONSIN FOOD CODE [FOUND HERE](#).

“Meal” **does not** include:

- Beverages such as soft drinks, coffee, juices
- Ice cream
- Milk and milk drinks
- Ices
- Confections
- Grab-and-go packaged foods whether cold or from a hot case
- Deli case items sold by weight or volume
- Bakery items (breads, cakes, pastry, donuts, cookies, pie)
- Single-bite sized free food samples or an equivalent portion given away to demonstrate the characteristics of food.

“Micro market.” Any indoor, unstaffed, self-service area that is accessible only to persons authorized by the person in control of the premises and not accessible to the general public, where a customer may obtain unit serving of food or beverage, either in bulk or in package before payment at an automatic kiosk or by other automated method without the necessity of replenishing the area between each transaction.

“Mobile or transient retail food establishment—not serving meals.” A mobile or transient retail food establishment where food processing is conducted primarily for the direct sale of TCS foods



to consumers at the mobile or transient facility and that does not prepare, serve or sell any meals.

“Mobile or transient retail food establishment—serving meals.” A mobile or transient retail food establishment that prepares, serves or sells meals.

“Retail” means selling food or food products directly to any consumer only for consumption by the consumer or the consumer’s immediate family or non-paying guests.

“Retail food establishment” includes a retail food establishment-not serving meals, a retail food establishment-serving meals, vending machines, micro markets, a mobile or transient retail food establishment-not serving meals, a mobile or transient retail food establishment-serving meals and a retail food establishment serving prepackaged meals.

“Retail food establishment—not serving meals.” A permanent retail food establishment where food processing is conducted primarily for direct retail sale of TCS food to consumers at the facility and the total non-meal sales exceeds 50% of all retail sales (e.g., grocery and convenience stores).

“Retail food establishment—serving meals.” A permanent retail food establishment operating as a restaurant where the total meal sales exceeds 50% of all retail food sales.

“Retail food establishment—serving prepackaged meals.” Only serves individually wrapped single food servings that are prepared and packaged off-premises by a food processing plant or retail food establishment, with preparation at retail food establishment limited to heating and serving by the establishment personnel.

“Special event.” A department-recognized event that is sponsored, planned, organized and publicly advertised by an organization that includes the following: neighborhood associations, religious and cultural groups, political parties, churches, schools,

sports teams, fraternal and non-profit organizations and city, county, state or federal governments. Special events include gatherings of people for concerts, sports, trade shows, flea or farmers markets, public exhibitions, fairs, carnivals, circuses, holidays, anniversaries or any other event approved by the regulatory authority. A “potluck” is not a special event.

“Transient retail food establishment.” A temporary retail food establishment that operates in a fixed location in conjunction with a special event for no more than 14 consecutive days.

“Wholesale.” Sale of any food to a person or commercial entity who will either re-sell, distribute it for

re-sale or use it as an ingredient in a product that will be offered for sale. It does not include the movement of food between two food processing plants or retail food establishments licensed to the same licensee, except for the movement of dairy products.

75.06(5) Pre-Licensing Inspection

The department or its agent may not issue a license for a new retail food establishment until it conducts a pre-licensing inspection of the new retail food establishment for compliance with ATCP 75 and all fees have been paid in full. A pre-licensing inspection is not required for a transient retail food establishment, vending machine, or vending machine operator. A pre-licensing inspection shall not be conducted or a pre-inspection fee charged for an immediate family transfer, when at least one individual who had an ownership interest in the business entity retains ownership in a newly formed business entity, a mobile retail food establishment license transfers from an agent issued license to a state issued license. For an initial inspection of a micro market, a pre-inspection fee shall not be charged and the license may be issued without an initial pre-licensing inspection.



75.063 Retail Food Establishments— License Exemptions

Exemption for meat establishments has been removed.

Retail sales from a food processing plant location that comprise no more than 25% dollar value of all food sales from that location (75.063 (2) (c)) and are not engaged in the activity of a retail food establishment—serving meals.

Operator of a dairy plant that is not engaged in the activity of a retail food establishment -serving meals or have non-dairy retail sales that comprise no more than 25% dollar value of all food sales from that location (75.063 (3) (c)).

Religious, charitable or non-profit organization occasionally (12-days per calendar year) operating a retail food establishment-not serving meals (75.063 (6)).

Church, religious, fraternal, youth, patriotic or civic organizations or service clubs that occasionally (3-days per calendar year) prepares, serves or sells meals to transients or the general public (75.063 (7)).

75.065 Retail Food Establishments— License Exemption for Food Processing

A license holder may wholesale up to 25% of the gross annual sales of food that is manufactured and

used in the retail food establishment without obtaining an additional food processing plant license. This exemption does not allow the manufacturing for wholesale or distribution of any of the following:

- Food that must be processed, in compliance with 21 CFR 108, 113, 114, in hermetically sealed containers.
- Dairy products or amenable meat and poultry products, except as allowed in ch. ATCP 55.
- Food processed at a mobile or transient retail food establishment.

The following items may be processed for wholesale in a retail food establishment under the 25% wholesale exemption:

- Juice processed in compliance with 21 CFR 120
- Fish and fishery products processed in compliance with 21 CFR 123

75.20(7) Inspections—Posting of Inspection Report

Inspection reports must be made available to the public on the internet.

Subchapter VI – Micro Markets

New subchapter has been added to address micro markets.

