



ALVIN R. OTT

State Representative
3rd Assembly District

Assembly Agriculture Committee

MEMO

To: Members of the Assembly Agriculture Committee

From: Representative Al Ott, Chair

Date: October 12th, 1995

The following clearinghouse rule has been referred to the Assembly Agriculture Committee:

Rule No. 95-104: relating to nonsubstantive rule organization and drafting changes.

The deadline for committee action on this rule is **November 10th, 1995**. For further information on the rule, please see the attached memo. If you would like a copy of the rule, please contact Kim in my office at 266-5831.



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State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection


Alan T. Tracy, Secretary

PO Box 8911
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DATE: October 5, 1995

TO: The Honorable Brian Rude
President, Wisconsin State Senate
Room 239S, State Capitol
Madison, WI

The Honorable David Prosser
Speaker, Wisconsin State Assembly
Room 211W, State Capitol
Madison, WI

FROM: Alan T. Tracy, Secretary 
Department of Agriculture, Trade and Consumer Protection

SUBJECT: **Proposed Rules Relating to Nonsubstantive Rule Organization and Drafting Changes**

Pursuant to ss. 227.19(2) and (3), Stats., the Department of Agriculture, Trade and Consumer Protection hereby transmits the above rule for legislative committee review. We are enclosing three copies of the final draft rule, together with the following report. Pursuant to s. 227.19(2), Stats., the department will publish a notice of this referral in the Wisconsin Administrative Register.

1. **BACKGROUND; EXPLANATION OF NEED FOR RULE.**

This rule is part of the department's continuing effort to reorganize and update its rules. The department has, in recent years worked to reorganize and update its entire body of administrative rules. The department has reorganized its rules by division, repealed outdated rules, and consolidated many rules under broader organizational headings. This rule consolidates, renumbers and corrects typographical errors in a number of current rules. However, this rule does not change the substance of those rules.

This rule does the following:

- Incorporates a current rule related to potato rot nematode (ATCP 27) into the department's general rule related to plant inspection and pest control (ATCP 21).

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- Renumbers the department's certified seed potato rule from ATCP 26 to ATCP 156, so that it will be located among other rules administered by the department's marketing division. The marketing division is primarily responsible for administering the rule, in cooperation with the college of agricultural and life sciences.
- Consolidates three current price discrimination rules into a single new chapter (ATCP 102, Price Discrimination and Related Practices). The three current rules regulate price discrimination in the sale of fermented malt beverages (ATCP 106), soda water beverages (ATCP 107) and motor fuel (ATCP 108). Each of the current rules will comprise a subchapter in the consolidated rule.
- Retitles ATCP 105 from "Unfair Sales Act" to "Sales Below Cost." The new title more clearly describes the subject matter of the rule. The rule interprets provisions of s. 100.30, Stats., related to sales below cost.
- Consolidates two current rules related to environmental labeling of products into a single chapter (ATCP 137, Environmental Labeling of Products). One of the current rules (ATCP 137) regulates claims that products are recycled, recyclable or degradable. The other (ATCP 135) requires that plastic containers be labeled to facilitate recycling. Each of the current rules will comprise a subchapter in the consolidated rule.
- Repeals ch. ATCP 130, an obsolete and nonsubstantive list of forms.
- Consolidates current grading rules for honey and maple syrup into a single chapter (ATCP 157, Honey and Maple Syrup). Within the consolidated rule, there will be separate subchapters for honey and maple syrup.
- Corrects miscellaneous typographical errors in current rules.

2. **RESPONSE TO RULES CLEARINGHOUSE COMMENTS.**

The Legislative Council Rules Clearinghouse reviewed the proposed rule and suggested some changes. The rule was modified to address the concerns raised by the Rules Clearinghouse in their comments to the department.

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3. **RULE MODIFICATIONS AFTER PUBLIC HEARING.**

The department chose to adopt these nonsubstantive rule changes without public hearing, using a 30-day notice procedure under s. 227.16(2)(3), Stats. The department did notify a number of known interested groups of the proposed changes. The department did not receive any comments or petitions concerning this rule.

4. **FISCAL ESTIMATE.**

A fiscal estimate on the proposed rule is attached. The rule is not expected to have any fiscal impact on the department.

5. **FINAL REGULATORY FLEXIBILITY ANALYSIS.**

This rule will have no effect on small business.