

Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: Direct Marketing; Telephone Solicitations; No-Call List
Adm. Code Reference: ATCP 127
Rules Clearinghouse #: 14-050
DATCP Docket #: 14-R-09

Rule Summary

This rule interprets the no-call law administered by the Department of Agriculture, Trade and Consumer Protection (“DATCP”). Among other things, this rule does all of the following:

- Establishes updated registration requirements for telephone solicitors.
- Repeals portions of the rule made obsolete under a statute change.

Registration requirements

This rule updates registration requirements for telephone solicitors. This rule requires telephone solicitors to provide DATCP with proof of registration with the Federal Trade Commission (FTC) and the ability to obtain updated do-not-call registry information. The federal Subscription Account Number (SAN) will serve as proof of registration.

Obsolete rule provisions

This rule repeals sections of the existing rule that became obsolete as a result of a statutory change enacted in 2013 Act 234. Sections of the rule that are repealed include those requiring consumers to register for the no-call list with DATCP and DATCP to provide the no-call list to telephone solicitors on a quarterly basis.

Small Business Affected

This rule affects businesses in the following ways:

Telephone solicitors that are currently registered with DATCP but not with the FTC.

Under s. 100.52, Stats., and this rule, telephone solicitors will be required to register with DATCP and also with the FTC. Most telephone solicitors have been registered with both DATCP and the FTC and will not be impacted by this requirement. The few solicitors who have only registered with DATCP will incur an additional registration fee with the FTC. The first five area codes in a national do-no-call registry subscription are free, so this annual access fee would be \$59 for the 6th Wisconsin area code.

Offsetting this added fee, telephone solicitors will no longer be required to pay the following fees:

- \$25 for each additional email address to receive a compact disc containing the no-call list.
- \$25 for each mailing address to receive a compact disc containing the no-call list.
- \$1,000 for each mailing address to receive the no-call list in a hard-copy printed form.

Accommodation for Small Business

Many of the businesses affected by this rule are “small businesses.” However, given the subject matter, there are very few accommodations or special exceptions that can be made for small businesses.

This rule and DATCP’s administrative efforts related to the rule benefit large and small businesses alike. For example:

- DATCP publishes a fact sheet for solicitors, clearly explaining the requirements and prohibitions contained in the rule.
- DATCP administers and enforces violations of the rule which ensures a level playing field for all businesses.

Conclusion

This rule will have minimal impact on 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 _____ day of _____, 20____.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Sandra Chalmers, Administrator
Division of Trade and Consumer Protection