

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

ATCP 1, Administrative Orders and Contested Cases

3. Subject

Allowing division administrators or staff to issue most special orders under s. ATCP 1.03(2), Wis. Adm. Code

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.115(1)(a)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The Department of Agriculture, Trade and Consumer Protection (Department) proposes a rule revision for ch. ATCP 1, Wis. Adm. Code, to allow division administrators or staff to issue most of the special orders under s. ATCP 1.03(2), Wis. Adm. Code. This will allow for clarification of the Secretary's responsibility to hear any appeal of a special order under s. ATCP 1.06, Wis. Adm. Code. The proposed rule also amends s. ATCP 1.05(1) and (3)(f) to clarify that, if a division administrator is designated to sign a special order, then the complaint seeking the special order must be signed by a different designee within the division.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This proposed rule change is anticipated to affect all licensees—businesses and individuals. To the extent that the proposed rule allows the Secretary to fully exercise his or her appellate jurisdiction, this may have a positive impact in having the Secretary be able to review special orders in light of harmonizing, within the law, a final decision in a case, involving a business or individual, with broader public policies on issues involving licensees.

11. Identify the local governmental units that participated in the development of this EIA.

Special orders are issued directly by the State of Wisconsin's Department of Agriculture, Trade and Consumer Protection. Local governmental units are not impacted by this rule and did not participate in development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule makes minor changes to current rules and is expected to have no economic and fiscal impact.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The Secretary has appellate jurisdiction to ensure that decisions in individual cases, while conforming to the law, are harmonized with broader, important public policies also within the Secretary's jurisdiction. Failure to make the rule change means that these authorities granted to the Secretary continue to be abrogated by a rule that limits, in large part, the Secretary's roles as appellate decisionmaker harmonizing final decisions with public policies. If the rule is amended, allowing special orders to be issued by the division administrator, the Secretary may then exercise the duty to oversee

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any division's action by granting and deciding an informal hearing or contested case hearing, if the special order is appealed.

14. Long Range Implications of Implementing the Rule

Implementing this rule may have a positive impact in having the Secretary be able to review special orders in light of harmonizing, within the law, a final decision in a case involving a business or individual with broader public policies on issues involving licensees.

15. Compare With Approaches Being Used by Federal Government

A variety of federal regulations govern procedures for federal administrative orders. However, none of those regulations has a direct bearing on this rule.

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

Surrounding states, including Illinois, Indiana, Iowa, Michigan, and Minnesota, have their own procedural regulations related to administrative "contested cases" in those states. None of those regulations has a direct bearing on this rule. Wisconsin is generally regarded as having more well-developed "contested case" procedures and standards than most other states.

17. Comments Received in Response to Web Posting and DATCP Response

No comments were received in response either to the posting on the Department external website or the statewide administrative rules website. No comments were received either at the public hearing or while the comment period was open.

17. Contact Name Cheryl Daniels, Assistant Legal Counsel - Office of the Secretary	18. Contact Phone Number (608) 224-5026
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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- 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:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

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

- Yes No
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