



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Bradley M. Pfaff, Secretary

DATE: August 9, 2019

TO: The Honorable Roger Roth
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
Madison, WI 53707-7882

The Honorable Robin Vos
Speaker, Wisconsin State Assembly
Room 217 West, State Capitol
PO Box 8953
Madison, WI 53708-8953

FROM: Bradley M. Pfaff, Secretary
Department of Agriculture, Trade and Consumer Protection

SUBJECT: **ATCP 20, 21 Appendix A, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 90, 91, 92, 94, 99, 105 and 118
Minor and Technical Changes to Multiple Department Chapters
Clearinghouse Rule #18-019**

Introduction

The Department of Agriculture, Trade and Consumer Protection (Department) is transmitting this rule for legislative committee review, as provided in Wis. Stat. §§ 227.19 (2) and (3). The Department will publish notice of this referral in the Wisconsin Administrative Register, as provided in Wis. Stat. § 227.19 (2). This rule makes minor or technical changes to a number of current ATCP rules.

Rule Content

This proposed rule makes minor or technical changes to a number of current ATCP rules, specifically:

Plant Inspection and Pest Control

The proposed rule adds the state of Maryland to the section specific to the thousand cankers disease of walnut trees infested area. The rule repeals Appendix A, Areas Infested by Hemlock Woolly Adelgid, and amends the rule to clarify which geographic areas are subject to import controls for this disease.

Fertilizer and Related Products

The proposed rule changes the expiration date of a license to a later date, lowers the fee for the agricultural chemical cleanup surcharge, and updates referenced publications to the most recent versions.

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Commercial Feed

Updates the referenced publications and technical standards to the most recent versions.

Milk and Milk Products

Corrects references to federal regulations.

Food Warehouses and Milk Distributors

Corrects references to federal regulations.

Hotels, Motels and Tourist Rooming Houses

The proposed rule replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services (DHS).

Bed and Breakfast Establishments

The rule replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services (DHS).

Safety, Maintenance, and Operation of Public Pools and Water Attractions

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services (DHS).

Recreational and Educational Camps

Replaces a specific term to make the language of the rule consistent with the Department's use of the terms "permit" and "license." This rule was previously under the Department of Health Services (DHS).

Campgrounds

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services (DHS).

Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights and Measures; Petroleum and Other Liquid Fuel Products

- Corrects small grammatical errors.
- Updates the technical references so as to cite the current NIST Handbook and ASTM fuel standards.
- Amends notes to reference website addresses and form numbers.
- Removes obsolete notes.

Sales Below Cost

Adds a provision allowing for electronic notice.

Car Rentals; Customer Notices

Grammatical corrections.

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

The technical rule changes proposed in this rule will not create any disparities between Wisconsin rules and federal statutes and regulations.

Comparison with Rules in Adjacent States

The technical rule changes proposed in this rule will not create any disparities between Wisconsin and any adjacent states.

Summary of Factual Data and Analytical Methodologies

This rule does not depend on any complex analysis of data. This rule merely makes minor or technical changes to current rules.

Analysis and Supporting Documents Used to Determine Effect on Small Business

Because this rule makes minor technical changes, no significant analysis or documentation was required to determine that the proposed rule will have no impact on small businesses.

Effect on Business Impact

This rule will not have an impact on small businesses or other businesses. This rule makes minor technical changes that will not have an impact on business standards, costs, or operations. See the *Initial Regulatory Flexibility Analysis* that accompanies this rule.

Environmental Impact

Since this rule only makes minor or technical changes, this rule will have no significant impact on the environment.

Hearings

The Department held a hearing on the draft rule on June 22, 2018 at the DATCP Board Room, Department of Agriculture, Trade and Consumer Protection, Prairie Oaks State Office Building, 2811 Agriculture Drive, Madison, Wisconsin. After the hearing, the Department accepted formal written comments until June 29, 2018.

List of Comments and Department Response

No written or public comments were received on the proposed rule during the public comment period.

Changes from Hearing Draft

The Department received the Wisconsin Legislative Council Rules Clearinghouse report on April 3, 2018, which reported 12 distinct comments related to: statutory authority; form, style and placement in administrative code, and clarity, grammar, punctuation and use of plain language. The Department made all recommended changes.

Standards Incorporated by Reference

The Department requested approval from the Attorney General to incorporate by reference a number of nationally-recognized standards into the following ATCP chapters of the Wisconsin Administrative Code: ATCP 20, 21, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 91, 92, 94, 99, 105, 118, 163, 164, 165 and 166. In a letter on October 19, 2018, pursuant to the authority under Wis. Stat. § 227.21, the Attorney General approved the Department's request for incorporation by reference the requested standards into Wisconsin Administrative Code ATCP Chapters 20, 21, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 91, 92, 94, 99, 105, 118, 163, 164, 165 and 166.

Department Contact

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

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