

CR 92-105

STATE OF WISCONSIN)
)
DEPARTMENT OF AGRICULTURE,) ss.
TRADE AND CONSUMER PROTECTION)

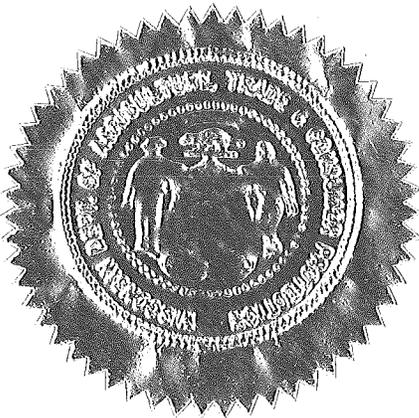
Docket No. 2361

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, James Smith, Administrator, Marketing Division, State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order renumbering ch. Ag 4 and creating subchapter II of chapter Ag 4, relating to use of the "Something Special from Wisconsin" logo was duly approved and adopted by the Department on January 25, 1993.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 25th day of January, 1993.



James Smith
James Smith, Administrator
Marketing Division

RECEIVED

JAN 28 1993
10:00
Revisor of Statutes
Bureau

4-1-93



State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

Alan T. Tracy, Secretary

801 West Badger Road • PO Box 8911
Madison, WI 53708-8911

1/26/93

RECEIVED

JAN 28 1993

Revisor of Statutes
Bureau

TO: Gary Poulson, Revisor of Statutes Office
131 W. Wilson St., Suite 800
Madison WI 53703-3233

FROM: James L. Smith, Administrator, Marketing Div.
Wisconsin Department of Agric., Trade
and Consumer Protection

SUBJECT: Clearinghouse Rule 92-105, relating to Chapter Ag 4;
and to create subchapter II of Chapter Ag 4, relating
to use of the "Something Special from Wisconsin" logo.

Final Regulatory Flexibility Analysis

Under s. 227.19(3m), Wis. Stats., the rule will have an economic impact on the registered applicants and users of the "Something Special from Wisconsin" logo. The economic impact will be the annual permit fees based on gross sales.

The annual permit fees will be used to fund the marketing of the logo and the products and services using the logo. The increased visibility of the applicant's product through the promotion of the "SSFW" logo and its products will more than offset the user permit fees paid for the use of the logo.

Comments from Legislative Committees

The Assembly Committee on Agriculture, Aquaculture and Forestry met on Wednesday, December 16, 1992 at 3:00 p.m. in the Wisconsin State Assembly Parlor to further review the proposed rule. The committee voted seven to four to waive further review of the rule.

The Senate Aquaculture, Corrections, Health and Human Services Committee allowed its review period to expire and did not hold a hearing.

STATE OF WISCONSIN)
)
DEPARTMENT OF AGRICULTURE,) ss.
TRADE AND CONSUMER PROTECTION)

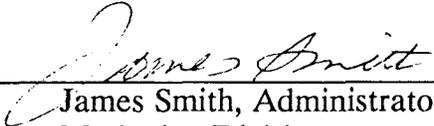
Docket No. 2361

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, James Smith, Administrator, Marketing Division, State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order renumbering ch. Ag 4 and creating subchapter II of chapter Ag 4, relating to use of the "Something Special from Wisconsin" logo was duly approved and adopted by the Department on January 25, 1993.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 25th day of January, 1993.



James Smith, Administrator
Marketing Division

RECEIVED

JAN 28 1993

Revisor of Statutes
Bureau

ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING RULES

1 The Wisconsin department of agriculture, trade and consumer
2 protection adopts the following order to renumber chapter Ag 4
3 and to create subchapter II of chapter Ag 4, related to use of
4 the "Something Special from Wisconsin" logo.

Analysis Prepared by the Department of Agriculture,
Trade and Consumer Protection

Statutory authority: ss. 93.07(1) and 93.44, Stats., as amended by 1991 Wisconsin Act 39.
Statutes interpreted: s. 93.44, Stats., as amended by 1991 Wisconsin Act 39.

Regulation and User Fees; Authority

Under s. 93.44, Stats., as amended by 1991 Wisconsin Act 39, the department of agriculture, trade and consumer protection is authorized to regulate the use of the department's "Something Special from Wisconsin" marketing logo. The department is also authorized to charge fees for the use of the logo. Fees must be established by administrative rule, and must be deposited to the appropriation under s. 20.115(3)(L), Stats., for the support of the "Something Special from Wisconsin" marketing program.

"Something Special from Wisconsin" Logo; Annual Permit Fees

This rule prohibits any person from using the "Something Special from Wisconsin" logo on products or commodities, promotional items, or packaging or labeling materials unless that person holds a current annual permit from the department. An annual permit expires on June 30 of each year.

To obtain an annual permit, a person must file a permit application with the department. The application must explain how the logo will be used on products or commodities, promotional items, or packaging or labeling materials sold by the applicant.

Amount of Annual Permit Fee

If a person sells products or commodities, promotional items, or packaging or labeling materials that use the "Something Special"

logo, that person must pay an annual permit fee based on the applicant's gross annual sales during the applicant's last complete fiscal year, as follows:

<u>Gross Annual Sales</u>	<u>Annual Fee</u>
\$10,000 or less	\$ 10.00
\$10,001 to \$50,000	\$ 35.00
\$50,001 to \$100,000	\$ 50.00
\$100,001 to \$250,000	\$100.00
\$250,001 to \$500,000	\$150.00
More than \$500,000	\$200.00

A non-profit or tax exempt organization is not required to pay the annual permit fee.

Products or Commodities; Requirements for Use of "Something Special" Logo

The "Something Special" logo may not be used on a product or commodity unless the product or commodity meets both of the following requirements:

(1) At least 50% of the product's or commodity's value added is attributable to Wisconsin ingredients, or to Wisconsin production or processing activities.

(2) The product or commodity is not an imitation of a product or commodity for which there is a standard of identity established under state or federal law.

Rule Reorganization

This rule also rennumbers current rules related to the department's agricultural development and diversification grant program. Those current rules are combined with the new "Something Special" rules into a single chapter on agricultural development and market promotion.

1 SECTION 1. Chapter Ag 4 (title) is repealed and recreated
2 to read:

3 CHAPTER AG 4 (title) AGRICULTURAL DEVELOPMENT AND MARKET
4 PROMOTION

5 SECTION 2. Chapter Ag 4 is renumbered subchapter I of
6 chapter Ag 4, and ss. Ag 4.01 and 4.02 (intro.) of subchapter I

1 are amended to read:

2 Ag 4.01 PURPOSE. This ~~chapter~~ subchapter establishes
3 procedural requirements for administration of the agricultural
4 diversification and development grant program under s. 93.46,
5 Stats.

6 Ag 4.02 DEFINITIONS. As used in this ~~chapter~~ subchapter:

7 SECTION 3. Subchapter II of chapter Ag 4 is created to
8 read:

9 Subchapter II

10 "SOMETHING SPECIAL FROM WISCONSIN" PROGRAM;
11 PERMIT AND USER FEES

12 Ag 4.20 PURPOSE. This subchapter regulates use of the
13 department's "Something Special from Wisconsin" logo and
14 establishes a fee for its use under s. 93.44, Stats.

15 Ag 4.21 DEFINITIONS. As used in this subchapter:

16 (1) "Department" means the state of Wisconsin department of
17 agriculture, trade and consumer protection.

18 (2) "Gross sales" means a person's total annual sales of
19 all products and commodities, regardless of whether the logo was
20 affixed to the products or commodities sold.

21 (3) "Logo" means the certification mark "Something Special
22 from Wisconsin" registered in the U. S. Patent and Trademark
23 Office on March 7, 1989, under Registration No. 1,529,098.

24 (4) "Packaging or labeling materials" means package labels,
25 stickers, printed display materials or similar items, featuring
26 the logo, which are produced for sale to other persons, and which

1 are designed to be used by other persons in connection with the
2 sale or distribution of their products or commodities.

3 "Packaging or labeling materials" does not include promotional
4 items.

5 (5) "Person" means any individual, partnership, firm
6 association, corporation or other business or legal entity.

7 (6) "Product or commodity" means any article of commerce,
8 including any product of agricultural or industrial production.

9 "Product or commodity" does not include either of the following:

10 (a) Promotional items.

11 (b) Packaging or labeling materials.

12 (7) "Promotional item" means clothing, pins, pens, cups,
13 mugs and similar items featuring the logo. "Promotional item"
14 does not include packaging or labeling materials.

15 Ag 4.22 PERMIT REQUIRED. No person may use the logo on any
16 product or commodity, on any promotional item, or on any
17 packaging or labeling materials without an annual permit from the
18 department. An annual permit expires on June 30 of each year. A
19 permit application filed on or before July 1, 1993, expires on
20 June 30, 1994. To obtain a permit, a person shall submit an
21 application under s. Ag 4.23. The department may deny, suspend
22 or revoke a permit if the applicant or permit holder violates any
23 provision of this chapter, fails to pay any required fee or
24 royalty, or misrepresents any fact in a permit application.

25 Ag 4.23 PERMIT APPLICATION. (1) GENERAL. To obtain a
26 permit under s. Ag 4.22, a person shall submit a signed written

1 application on a form provided by the department. The
2 application shall include all of the information required under
3 this section. The application shall also be accompanied by the
4 fees required under s. Ag 4.24 or 4.25, if any.

5 NOTE: A permit application form may be obtained from the State of
6 Wisconsin Department of Agriculture, Trade and Consumer Protection,
7 Marketing Division, P. O. Box 8911, Madison, WI 53708-8911.

8 (2) NAME AND BUSINESS ADDRESS. Every application shall
9 include the applicant's name and business address.

10 (3) COMPLIANCE AGREEMENT. Every application shall include
11 a statement that the applicant agrees to comply with all
12 applicable conditions under this subchapter for the use of the
13 logo.

14 (4) PRODUCTS OR COMMODITIES. If the applicant intends to
15 sell any product or commodity bearing the logo, the application
16 shall include all of the following:

17 (a) An identification of the specific products or
18 commodities on which the logo will be used.

19 (b) For each product or commodity identified under par.
20 (a), information showing that the product or commodity complies
21 with the eligibility requirements under s. Ag 4.28.

22 (c) The applicant's gross sales of all products and
23 commodities during the applicant's last complete fiscal year, for
24 purposes of calculating the required fee under s. Ag 4.25. This
25 information is not required if the applicant is applying for a
26 permit for the first time.

27 (5) PROMOTIONAL ITEMS. If the applicant intends to sell

1 any promotional item bearing the logo, the application shall
2 identify the specific promotional items on which the applicant
3 intends to use the logo.

4 (6) PACKAGING OR LABELING MATERIALS. If the applicant
5 intends to sell packaging or labeling materials bearing the logo,
6 the application shall identify the packaging and labeling
7 materials which the applicant intends to offer for sale.

8 Ag 4.24 ANNUAL PERMIT FEES. (1) AMOUNT OF FEE. Except as
9 provided under sub. (2), if a person intends to sell any product,
10 commodity, or promotional item bearing the logo, or sell or use
11 any packaging or labeling materials bearing the logo, that
12 person's annual permit application under s. Ag 4.23 shall include
13 a fee based on the applicant's gross sales during the last
14 complete fiscal year. The amount of the fee is determined as
15 follows:

16 (a) If the applicant's gross annual sales are \$10,000 or
17 less, the annual fee is \$10.00.

18 (b) If the applicant's gross annual sales are more than
19 \$10,000 but not more than \$50,000, the annual fee is \$35.00.

20 (c) If the applicant's gross annual sales are more than
21 \$50,000 but not more than \$100,000, the annual fee is \$50.00.

22 (d) If the applicant's gross annual sales are more than
23 \$100,000 but not more than \$250,000, the annual fee is \$100.

24 (e) If the applicant's gross annual sales are more than
25 \$250,000 but not more than \$500,000, the annual fee is \$150.

26 (f) If the applicant's gross annual sales are more than

1 \$500,000, the annual fee is \$200.

2 (2) EXEMPTION. The fee under sub. (1) does not apply to a
3 person which is a tax exempt organization under the federal
4 internal revenue code, 26 USC 501(a).

5 (3) FAILURE TO PAY. The department may suspend or revoke a
6 permit if the permit holder fails to pay annual user permit fees
7 on a timely basis, and may bring an action to collect unpaid
8 permit fees.

9 Ag 4.25 PRODUCTS AND COMMODITIES; ELIGIBILITY REQUIREMENTS.

10 No person may use the logo on any product or commodity unless the
11 product or commodity meets both of the following requirements:

12 (1) At least 50% of the product's or commodity's value
13 added is attributable to Wisconsin ingredients, or to Wisconsin
14 production or processing activities.

15 (2) The product or commodity is not an imitation of a
16 product or commodity for which there is a standard of identity
17 established under state or federal law.

18 Ag 4.26 PROHIBITIONS. No person may do any of the
19 following without the department's written permission:

20 (1) Use the logo for a different purpose than that
21 described in the person's permit application under s. Ag 4.23.

22 (2) Affix the logo to any item other than those described
23 in the person's permit application under s. Ag 4.23.

24 (3) Alter the logo in any way.

1 SECTION 4. EFFECTIVE DATE. The rules contained in this
2 order shall take effect on the first day of the month following
3 publication in the Wisconsin administrative register, as provided
4 in s. 227.22(2)(intro.), Stats.

Dated this 25th day of JANUARY, 1993.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By James L. Smith
James L. Smith
Administrator
Marketing Division

kwm/D4
1.15.93

RECEIVED
JAN 28 1993
Revisor of Statutes
Bureau