

**Wisconsin Department of Agriculture, Trade and
Consumer Protection**

Initial Regulatory Flexibility Analysis

Rule Subject: Fertilizer Content Deficiencies
Adm. Code Reference: ATCP 40
Rules Clearinghouse#: Not yet assigned
DATCP Docket #: 14-R-14

Rule Summary

This rule modifies the existing s. ATCP 40.14, Wis. Admin. Code, in two ways. The rule:

- Changes the requirement that the economic value of primary nutrients actually present must be less than 97%, rather than 98%, of the economic value of the amounts guaranteed; and
- Updates the economic value formula used to determine the value of primary fertilizer nutrients nitrogen, phosphorus, and potassium, based on the current wholesale prices of those nutrients.

The change in percentage in the rule will bring Wisconsin's formula in conformity with states such as Minnesota and Illinois. The change to the economic value formula will more accurately reflect the relative economic value of fertilizer nutrients in the current marketplace than the economic value formula presently in the rule, which was developed over forty years ago.

Impact on Small Business

DATCP anticipates that this rule revision will have no negative economic impact on small business. There are approximately 700 persons licensed to manufacture or distribute fertilizers in Wisconsin. Affected businesses include farm centers and cooperatives, and manufacturers of nonagricultural and specialty fertilizers. Up to 30% of these license holders may be small businesses. Those businesses that manufacture or otherwise label fertilizers will benefit from this proposed rule because their fertilizer products are less likely to be considered "mislabelled" due to use of a formula that relies upon relative nutrient values based on costs from the 1970s.

The fertilizer industry serves about 30,000 Wisconsin farmers, many of whom are small businesses. This rule will benefit farmers by continuing to ensure accurately labeled fertilizer products.

Reporting, Bookkeeping and other Procedures

The proposed rule creates no reporting, bookkeeping or other procedures for small businesses.

Professional Skills Required

The proposed rule does not require any professional skills for small businesses.

Accommodation for Small Business

This rule does not make special accommodations for small business because no fertilizer business, large or small, is expected to need to change any manufacturing or labeling practices due to this rule.

Conclusion

This rule will generally benefit affected businesses, including “small businesses.” No negative effects are expected. 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.