

STATEMENT OF SCOPE

Department of Agriculture, Trade and Consumer Protection

Rule No.: ATCP 161

Relating to: Something Special from Wisconsin

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

n/a

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to complete a comprehensive review of ch. ATCP 161 the Something Special from Wisconsin program; make revisions to ensure the chapter is statutorily compliant and current with industry standards and practices; and consider modifications to modernize the program's fee and permit structure.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Something Special from Wisconsin is a voluntary program for the promotion of products and commodities produced or manufactured in Wisconsin. Individuals, partnerships, industry associations, corporations, other business, and legal entities can participate in the program by paying a fee to the department to use the Something Special from Wisconsin logo on products, commodities, promotional items, packaging, and labeling materials. The department uses the fees for the advertising and promotion of the Something Special from Wisconsin program, resulting in a direct benefit to the person or entity using the Something Special from Wisconsin logo.

The program has evolved from its inception in 1983, but the chapter has not been updated since 1993. The department will conduct a comprehensive review of the chapter to identify and consider updating outdated definitions and requirements. The department will also consider revising the permit application process for the modernization of electronic technology practices. In addition, the proposed rule will be reviewed to consider formatting revisions to reflect current rule promulgation standards.

The department will consider modifying current standards, eligibility requirements and prohibitions to reflect industry marketing value and significance.

The department will also evaluate and consider modernizing the fee structure for the use of the Something Special from Wisconsin logo. Currently, the chapter sets an annual fee to use the logo that ranges from \$10 to \$200 based upon the applicant's gross annual sales during the last complete fiscal year. The restructuring of the fee schedule may result in an increase of permit fees for some businesses or organizations. The evaluation of the fee structure will seek to increase flexibility for businesses and organizations and determine whether the current fee categories are best serving the interests of the program and participants.

The alternative is not revising rules that have not had a comprehensive review and update for three decades. Rules which have not had a comprehensive review and update can create a less beneficial program for businesses and organizations, thus making the program less attractive to participate in.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 93.07 (1), Stats., Department Duties

It shall be the duty of the department to make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, which regulations shall have the force of law.

Section 93.44 (2), Stats., Commodity Promotion

The department shall allow all products and commodities produced or manufactured in this state that meet the standards established by the department to be included in the department's promotional campaign that uses the phrase "Something Special from Wisconsin", which phrase is a certified mark that is registered under federal law. The department may establish standards to be used to prohibit or limit the use of the certified mark to preserve its marketing value and significance. The standards may prohibit or limit the use of the certified mark based upon the grade or quality of a product or commodity and the standards may prohibit the use of the certified mark by a product or commodity which imitates a product or commodity for which there is a standard of identity established under state or federal law.

Section 93.44 (4), Stats., Commodity Promotion

The department by rule may establish a fee for the use of the mark and any slogan or logo under this section. The fees shall be created to the appropriation under s. 20.115 (3) (L), Stats.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

The department estimates it will take approximately 250 hours to develop this rule.

6. List with description of all entities that may be affected by the proposed rule :

Individuals, businesses, and organizations that utilize the Something Special from Wisconsin logo and the people who purchase or benefit from the products or commodities identified with the Something Special from Wisconsin logo.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

This is a voluntary program providing a direct advertising and promotional benefit to businesses and organizations. The department anticipates that the proposed rule will have minimal economic impact, and it is not likely to have a significant economic impact on small businesses. The restructuring of the fee schedule may result in an increase of permit fees for some businesses or organizations that elect to participate in this voluntary program. However, the department's objective is to create more flexibility and best serve the interests of the program and participants.

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