

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis

Rule Subject: Minor and Technical Rule Changes
Adm. Code Reference: ATCP 21, 29, 30, 35, 50, 55, 57, 90, 91, 92
and 161
Rules Clearinghouse #: 10-122
DATCP Docket #: 09-R-05

Rule Summary

This rule makes minor or technical changes to a number of current DATCP rules. This rule does all of the following:

Hemlock Wooley Adelgid; Import Restrictions

Current DATCP rules (ch. ATCP 21, Wis. Adm. Code) restrict imports of host materials from areas outside this state that are known to be infested with Hemlock Wooley Adelgid, a serious pest of hemlock trees. The current rule is designed to prevent the spread of Hemlock Wooley Adelgid to this state. This rule updates the current list of places outside this state that are known to be infested with Hemlock Wooley Adelgid, as determined by the United States department of agriculture (USDA).

Atrazine Rules

This rule repeals an obsolete rule provision requiring DATCP to report on its atrazine pesticide rules (subch. VIII of ch. ATCP 30, Wis. Adm. Code) by April 1, 1996. In 1996, DATCP made a timely report in response to the (now obsolete) reporting requirement. This rule makes no substantive change to the current atrazine rules, which are designed to protect groundwater from atrazine contamination. DATCP annually reviews and updates its atrazine rules, based on the most recent groundwater survey and test data.

Agricultural Chemical Cleanup Program

This rule makes minor technical wording changes to current rules related to the agricultural chemical cleanup program (ch. ATCP 35, Wis. Adm. Code). This rule makes no substantive change to the current rules.

County Land and Water Resource Management Plans

Under s. 92.10, Stats., and current DATCP rules (ch. ATCP 50, Wis. Adm. Code), a county that wishes to be eligible for land and water resource management grants from DATCP must submit a land and water resource management plan for DATCP approval.

Under current rules, DATCP may approve a county plan for up to 5 years (in consultation with the land and water conservation board). Under this rule, DATCP may approve a county plan for up to 10 years (in consultation with the land and water conservation board).

Meat Establishments

This rule incorporates, by reference, certain federal meat inspection regulations that govern the operation of meat establishments licensed and inspected by DATCP. Under federal law, state meat inspection standards must be at least “equal to” federal standards. Among other things, state-inspected meat establishments must meet federal regulations related to net weight evaluations at state-inspected facilities.

USDA recently re-codified applicable federal regulations related to net weight evaluations, and renumbered them to 9 CFR 442. This rule modifies current DATCP meat inspection rules (ch. ATCP 55, Wis. Adm. Code) to reference the re-codified federal regulations contained in 9 CFR 442. DATCP has already implemented the re-codified federal regulations, so there will be no substantive change to state meat inspection standards or operations.

Location of Rendering Plants, Animal Food Processing Plants and Grease Processing Plants

This rule modifies current rules related to the location of rendering plants, animal food processing plants and grease processing plants, in order to conform to statutory changes made by 2009 Wis. Act 398. Under section 95.72(3), Stats., and current DATCP rules (ch. ATCP 57, Wis. Adm. Code), these plants may not ordinarily be located within 1/8 mile of an existing dwelling or business building. However, under 2009 Wis. Act 398 and this rule, a plant may be located within 1/8 mile of a dwelling or a business building with the approval of the city, village, or town in which the plant will be located if no animals are slaughtered at the plant.

Out-of-State Rendering Plants and Animal Food Processing Plants

Under current DATCP rules (ch. ATCP 57, Wis. Adm. Code), the operator of an out-of-state rendering plant or animal food processing plant must hold a license from DATCP if the operator collects dead animals in this state for processing in the out-of-state plant. This rule clarifies that the operator is only required to hold a dead animal collector license from DATCP and is *not* required to hold a rendering plant or animal food processing plant from DATCP (as long as the operator does not operate a rendering plant or animal food processing plant in this state). This rule is consistent with current DATCP licensing practice.

Weights and Measures

This rule updates technical standards incorporated by reference in current rules related to fair packaging and labeling (ch. ATCP 90, Wis. Adm. Code), methods of sale of commodities (ch. ATCP 91, Wis. Adm. Code), and fair weights and measures (ch. ATCP 92, Wis. Adm. Code). The technical standards are published by the National Institute of Standards and Technology (NIST). This rule incorporates the latest published editions of the relevant NIST standards, which include routine technical updates to the previously-cited editions.

ADD Grants; Signature Authority

Under current rules (ch. ATCP 161, Wis. Adm. Code), contracts awarding agricultural development and diversification grants (ADD grants) must be signed by the DATCP Secretary. This rule authorizes the DATCP Secretary to delegate signature authority to other DATCP officials such as the Deputy Secretary and Executive Assistant (this rule does not *require* the Secretary to delegate signature authority). This rule also repeals an obsolete reference, in the ADD grant rules, to a statute (s. 93.47, Stats.) that no longer exists.

Payment to Ethanol Producers

This rule repeals obsolete rules related to DATCP payments to ethanol producers (subch. III of ch. ATCP 161, Wis. Adm. Code), because the Legislature has repealed the ethanol producer payment program to which the rules pertained. Section 93.75, Stats., which created the ethanol producer payment program, was repealed by 2007 Wis. Act 20.

Other Minor Edits

This rule corrects typographical errors and makes other non-substantive edits to current rules, as needed.

Business Impact

This rule will not have any significant impact on small business or other business. This rule makes minor and technical “housekeeping” changes that will not have a significant impact on business standards, costs or operations.

Steps to Assist Small Business

This rule does not have a significant impact on small business, and does not make any special exceptions for small business.

Conclusion

This rule does not materially affect small business, and is not subject to the delayed small business effective date provided in s. 227.22(2)(e), Stats.

Dated this _____ day of _____, 2011.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
James K. Matson, Chief Legal Counsel