

Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: Fertilizer Content Deficiencies
Adm. Code Reference: ATCP 40
Rules Clearinghouse #: 15-045
DATCP Docket #: 14-R-14

Rule Summary

This rule amends s. ATCP 40.14 (1) and (3), Wis. Admin. Code, relating to fertilizer content deficiencies.

This rule will do the following:

1. Replace the term “economic value” with “combined nutrient index” wherever it appears in s. ATCP 40.14, Wis. Admin. Code. The proposed new term represents a more accurate description of the index used in developing the multipliers within the formula.
2. In place of the 2:2:1 ratio of N, P, and K, in the current s. ATCP 40.14 (3), Wis. Admin. Code, the proposed rule substitutes a ratio 1:1:1 of N, P, and K:

Current formula: Economic value = {[total nitrogen (N) guarantee] x 2} + {[available phosphate (P₂O₅) guarantee] x 2} + {soluble potash (K₂O) guarantee}

to

Amended formula: Combined Nutrient Index = {total nitrogen (N) guarantee} + {available phosphate (P₂O₅) guarantee} + {soluble potash (K₂O) guarantee}

The amended formula more accurately reflects the value of fertilizer ingredients sold in the marketplace than the current formula, which was developed over forty years ago.

3. The proposed rule changes the standard in s. ATCP 40.14 (1) (c), Wis. Admin. Code, for the economic value (proposed combined nutrient index) formula, so that the guarantee percentage, which currently is listed in the rule as 98%, is reduced to 97%. This conforms to the department’s prior guarantee percentage in the rule, and is consistent with the percentage used by other states, such as Minnesota and Illinois.

This rule amends s. ATCP 40.14 (1) and (3), Wis. Admin. Code, relating to fertilizer content deficiencies. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) regulates the manufacture and sale of fertilizer, pursuant to s. 94.64 Stats. DATCP regulates fertilizer to protect farmers and consumers against unfair and deceptive sales practices. Regulation is designed to prevent fraudulent sales of products, deceptive ingredient and performance claims, and latent safety hazards.

This rule updates standards for the nutrient content of fertilizer.

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 “misabeled” 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.

Because this rule will not have a significant adverse impact on small business, it is not subject to the delayed small business effective date provision in s. 227.22(2)(e), Stats.

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.

Dated this _____ day of _____, 20__.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
John Petty, Administrator
Division of Agricultural Resource Management