

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis

Rule Subject: **Addition of Cell Phone Numbers to
Wisconsin No Call List**

Adm. Code Reference: **ATCP 127**

Rules Clearinghouse #: **10-045**

DATCP Docket #: **09-R-11**

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers the Wisconsin No Call law, s. 100.52, Wis. Stats. The No Call law authorizes the department to create a list of telephone numbers of Wisconsin consumers who do not want to receive telemarketing calls, and prohibits persons who solicit goods and services by telephone from placing calls to consumers on the list. Under the No Call law, the department registers persons who solicit telemarketers and providers the registrants with a copy of the No Call list.

DATCP has promulgated rules contained in ch. ATCP 127, subchapter V, Wis. Adm. Code, to interpret and administer the No Call law, and require fair trade practices related to the No Call law.

When first enacted, the No Call law only authorized residential consumers with telephone services provided through land lines to place their telephone numbers on the No Call list. 2007 Act 226 changed the No Call law to also authorize consumers with telephone services provided through commercial mobile service to place their telephone numbers on the No Call list.

This rule updates and clarifies current rule coverage to reflect the addition of cell phone numbers to the No Call list.

Rule Content

This rule does all of the following:

- Changes the definition of “residential telephone customer” to “covered telephone customer” and defines this term to mean “an individual in this state who receives basic local exchange service or commercial mobile service from a telecommunications utility.”

- Changes the definition of “nonresidential telephone customer” to “noncovered telephone customer” and defines this term to mean “a person, other than a covered customer, who receives telecommunications service from a telecommunications utility.”
- Amends the definition of “telephone call” to include a voice communication “through the use of commercial mobile service.”
- Clarifies that the definition of “telecommunications utility” includes a person who provides commercial mobile service.
- Renumbers the definitions and amends other parts of the rule to reflect changes in the definitions.

Business Impact

This rule itself will have few, if any, negative impacts on business. This rule simply updates the definitions and coverage of current law to reflect the legislature’s recent addition of individuals who are provided commercial mobile services to persons covered under the rule (2007 Act 226).

Steps to Assist Small Business

None of the businesses affected by this rule are “small businesses.” This rule does not make special exceptions for “small businesses.”

Conclusion

This rule recognizes the recent addition of cell phone numbers to the No Call list. By adding cell phone numbers to the No Call list, this rule clarifies how a business that makes telemarketing calls to consumers’ cell phones may comply with the No Call law.

Since the addition of cell phones to the No Call list is mandated by statute, negative effects caused by this rule, if any, will be few and limited. 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.

Under 2003 Wis. Act 145, DATCP and other agencies must adopt rules spelling out their rule enforcement policy for small businesses. DATCP has not incorporated a small business enforcement policy in this rule, but will propose a separate rule on that subject. DATCP will, to the maximum extent feasible, seek voluntary compliance with this rule.

Dated this _____ day of _____, 2010

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Janet Jenkins, Administrator,
Division of Trade & Consumer Protection