



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

Report From Agency

DATE: May 24, 2022

TO: The Honorable Chris Kapenga
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
Madison, WI 53707-7882

The Honorable Robin Vos
Speaker, Wisconsin State Assembly
Room 217 West, State Capitol
PO Box 8953
Madison, WI 53708-8953

FROM: Randy Romanski, Secretary
Department of Agriculture, Trade and Consumer Protection

SUBJECT: Clearinghouse Rule
Final Draft Rule regarding chs. ATCP 21, 29 and 35 relating to removal of obsolete language and resolve statutory conflicts

Proposed Rule

The proposed rule is attached.

Reference to Applicable Forms

There are no applicable forms.

Fiscal Estimate and EIA

The fiscal estimate and EIA are attached.

Detailed Statement Explaining the Basis and purpose of the Proposed Rule, Including How the Proposed Rule Advances Relevant Statutory Goals or Purposes

The purpose of the proposed rule is to review chs. ATCP 21, 29, and 35 with regard to recent statutory changes, current diagnostic techniques, and inclusive language. This project will propose rule language

Wisconsin - America's Dairyland

2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • Wisconsin.gov

An equal opportunity employer

to ensure statutory compliance, including necessary updates resulting from 2017 Wisconsin Act 59. Presently, ch. ATCP 21 contains references to a pest common name that has been changed by the Entomological Society of America and is now obsolete, and contains outdated pest infestation levels and outdated diagnostic techniques. Chapter ATCP 29 contains obsolete language regarding licensing of pesticide manufacturers and labelers. Chapters ATCP 29 and ATCP 35 each refer to incorrect fees and surcharges that were changed in statute by the 2017 Wisconsin Act 59. These proposed rule revisions clarify terminology and standards for Wisconsin's nursery industry and beekeepers. This also aligns agency rules to state statutes, which reduces the possibility for confusion or error related to pesticide licensing, and assessment of fees and surcharges. Clarifying spongy moth regulations will benefit Wisconsin's nursery industry, which generates \$2.85 billion in revenue per year and supports over 52,000 Wisconsin jobs, according to a study published in the Journal of Environmental Horticulture published in 2010. Removing obsolete apiary rules will benefit Wisconsin's beekeepers, who play an integral role in pollinating Wisconsin's crops valued at \$213 million, and producing honey, valued at \$5.5 million in 2021. Updating agency language to be consistent with the 2017 Act 59 (the 2017-2019 biennial budget Act) provides clearer understanding of pesticide-related revenues and expenditures. Positive impacts to business have been realized through the implementation of statutory changes resulting from the implementation of 2017 Wisconsin Act 59, which reduced compliance costs for businesses and consumers. This proposed rule change will bring agency rules into compliance with the current statutes.

Summary of Public Comments and the Department's Responses, Explanation of Modifications to Proposed Rules Prompted by Public Comments

Stakeholders representing plant industry (Wisconsin Christmas Tree Producers Association (WCTPA), Wisconsin Honey Producers Association, and Apiary Inspectors of America) were notified about public comment opportunities (public hearings and opportunities to submit written comments) for proposed ch. ATCP 21 rule changes.

Wisconsin Agribusiness Association (WABA) members were notified about public comment opportunities (public hearings and opportunities to submit written comments) for proposed chs. ATCP 29, and ATCP 35 rule changes.

Cooperative Network members were notified about public comment opportunities (public hearings and opportunities to submit written comments) for proposed chs. ATCP 29, and ATCP 35 rule changes.

Department representatives attended various local bee club meetings within Wisconsin during the months of November 2022 through March 2023 and developed numerous e-news articles that were delivered to stakeholders via the Wisconsin – GovDelivery process, notifying these individuals and groups about public comment opportunities (public hearings and opportunities to submit written comments) for proposed ch. ATCP 21 rule changes.

Proposed changes to chs. ATCP 21, 29, and 35 are not anticipated to have any impacts on public utility rate payers, local units of government, businesses, or the state's economy as a whole. The alternative is to do nothing, which allows continued misalignment of agency rules with state statute and industry standards.

Preliminary Public Hearing and Comment Period on the Statement of Scope

The Department posted the chs. ATCP 21, 29, and 35 Statement of Scope to the Department website on September 19, 2022 and no comments were received by the October 3, 2022 comment deadline.

Comment Period on the Economic Impact Analysis

Because local governmental units will not be impacted by proposed rule changes to chs. ATCP 21, 29, and 35, they were not involved in the development of the EIA.

Public Hearing and Comment Period on the Preliminary Rule Draft

On December 16, 2022, the Department held a public hearing on the draft rule in Madison, with both in-person and virtual hearing options. No comments were received by the December 30, 2022, comment deadline.

Response to Legislative Council Staff Recommendations

The Department modified the rule draft to address all Clearinghouse comments.

Report from the SBRRB and Final Regulatory Flexibility Analysis

The Small Business Regulatory Review Board did not issue a report on this rule. The Final Regulatory Flexibility Analysis is attached.