

STATEMENT OF SCOPE
Department of Revenue

Rule No.: Chapter Tax 11

Relating to: Sales and use tax provisions

Rule Type: Permanent

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

The objective of the rule is to amend s. Tax 11.20 to modify the documentation requirements for persons in the business of raising animals for use in qualified research, as such requirements relate to whether the person sold the animals to a "biotechnology business" as required under s. 77.54 (57) (b), Stats., as well as to whether animals sold to universities and/or government agencies are used in qualified research. The sales and use tax exemption became effective January 1, 2012, pursuant to 2009 Wis. Act 28.

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

DOR's current policy, as outlined in current sec. Tax 11.20 (4), Wis. Adm. Code, is to require persons in the business of raising animals to have their customers obtain a formal certification from DOR that they are a "biotechnology business." This policy has shown itself to be burdensome for businesses to comply with.

The proposal creates an exception to this requirement. The exception allows the person in the business of raising animals to treat a customer, other than a university or government unit, as a biotechnology business if the person obtains an exemption certificate from the customer indicating the customer will use the animals exclusively and directly in qualified research, subject to DOR verifying/certifying that the customer actually meets the requirements in current sec. Tax 11.20 (4), Wis. Adm. Code.

DOR's existing policy is to treat animals sold to universities and government agencies as sold for exclusive and direct use in qualified research. The rule is being updated to reflect this policy.

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

Section 77.54 (57) (b) 3. and 4., Stats., provides, in part, exemptions for certain purchases made by persons who raise animals sold primarily to a "biotechnology business," for use in qualified research. Section 77.51 (1d), Stats., defines "biotechnology business," in part, to mean "...a business certified by the department in the manner prescribed by the department...".

DOR is using its authority under s. 77.51 (1d), Stats., to modify the manner in which it certifies a "biotechnology business" for purposes of s. 77.54 (57), Stats.

Section 77.65 (3), Stats., provides "[t]he department may promulgate rules to administer this section..."

Section 227.11 (2) (a), Stats., provides "[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

4. 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 100 hours to develop the rule.

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

Purchasers and sellers of the products described above.

6. 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:

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

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

No economic impact is anticipated.

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