

STATEMENT OF SCOPE

Department of Agriculture, Trade and Consumer Protection

Rule No.: ATCP 161

Relating to: Something Special from Wisconsin

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

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

The objective of the proposed rule is to complete a comprehensive review of ATCP 161, Subchapter II “Something Special from Wisconsin” Program; Permit and User Fees, and make revisions to ensure the subchapter is statutorily compliant, current with industry standards and practices, and update the fee structure.

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

Something Special from Wisconsin is a voluntary program for businesses and organizations for promotion of products and commodities produced or manufactured in Wisconsin. The program has evolved from its inception in 1983. The fees are used for the advertising and promotion of Something Special from Wisconsin resulting in a direct benefit to the person or entity using the Something Special from Wisconsin mark, slogan or logo on products or commodities, promotional items or packaging or labeling materials.

This subchapter has not been updated since 1993. The department will conduct a comprehensive review of the subchapter to identify and consider updating any burdensome requirements, modernizing for electronic technology, clarifying requirements and modifying standards to reflect industry marketing value and significance.

In addition, the department will evaluate and update the fee structure for the use of the Something Special from Wisconsin mark and slogan or logo. Currently the fee to use the mark and slogan or logo is a set fee (based upon gross annual sales) for use during the time period of July 1 to June 30. The current annual fee ranges from \$10 to \$200 based upon the gross annual sales during the last complete fiscal year. The department is aware of circumstances of businesses and organizations that seek to join the program a couple months or weeks before the June 30th date resulting in the business or organization paying for two years within a short time period or creating a delay in participation in the program until July 1st in order to avoid the double payment. Proposals which may be considered for the fee structure could include: a biennial fee instead of annual fee; waiving the renewal fee requirement if the initial application is within a set timeframe of the renewal period; and the categories for the various fee amounts (which are currently based upon gross annual sales). The restructuring of the fee schedule may result in an increase of the permit fee for some businesses or organizations. The evaluation of the fee structure will seek to increase flexibility for businesses and organizations and determination of whether the current fee categories are best serving the interests of the program and participants.

The alternative is not revising rules which have not had a comprehensive review and update for almost three decades. Rules which have not had a comprehensive review and update can create a less beneficial program for the businesses and organizations participating in the program.

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

It shall be the duty of the department to make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, which regulations shall have the force of law. [s. 93.07, Stats.]

The department shall allow all products and commodities produced or manufactured in this state that meet the standards established by the department to be included in the department's promotional campaign that uses the phrase "Something Special from Wisconsin", which phrase is a certified mark that is registered under federal law. The department may establish standards to be used to prohibit or limit the use of the certified mark to preserve its marketing value and significance. The standards may prohibit or limit the use of the certified mark based upon the grade or quality of a product or commodity and the standards may prohibit the use of the certified mark by a product or commodity which imitates a product or commodity for which there is a standard of identity established under state or federal law. [s. 93.44 (2), Stats.]

The department by rule may establish a fee for the use of the mark and any slogan or logo under this section. The fees shall be created to the appropriation under s. 20.115 (3) (L). [s. 93.44 (4), Stats.]

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

150 hours

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

Individuals, businesses and organizations that utilize the Something Special from Wisconsin mark and slogan or logo and the people who purchase or benefit from the products or commodities identified with a Something Special from Wisconsin mark and slogan or logo.

7. 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 :

None.

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

The department anticipates that the proposed rule will have no to minimal negative economic impact. It is not likely to have a significant economic impact on small businesses. The restructuring of the fee schedule may result in an increase of the permit fee for some businesses or organizations, however, the objective is to create more flexibility and best serve the interests of the program and participants. This is a voluntary program providing a direct advertising and promotional benefit to the businesses and organizations.

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