

Chapter ATCP 161

SOMETHING SPECIAL FROM WISCONSIN

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Note: Chapter Ag 4 was renumbered chapter ATCP 161 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

ATCP 161.20 Purpose. This chapter regulates use of the department's "Something Special from Wisconsin" logo and establishes a fee for its use under s. 93.44, Stats.

History: Cr. Register, March 1993, No. 447, eff. 4-1-93; **correction made under s. 13.92 (4) (b) 2., Stats., Register June 2023 No. 810.**

ATCP 161.21 Definitions. As used in this chapter:

(1) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

(2) "Gross sales" means a person's total annual sales of all products and commodities, regardless of whether the logo was affixed to the products or commodities sold.

(3) "Logo" means the certification mark "Something Special from Wisconsin" registered in the U.S. patent and trademark office on March 7, 1989, under registration No. 1,529,098.

(4) "Packaging or labeling materials" means package labels, stickers, printed display materials, or similar items, featuring the logo, which are produced for sale to other persons, and which are designed to be used by other persons in connection with the sale or distribution of their products or commodities. "Packaging or labeling materials" does not include promotional items.

(5) "Person" means any individual, partnership, firm association, corporation, or other business or legal entity.

(6) "Product or commodity" means any article of commerce, including any product of agricultural or industrial production. "Product or commodity" does not include either of the following:

(a) Promotional items.

(b) Packaging or labeling materials.

(7) "Promotional item" means clothing, pins, pens, cups, mugs, and similar items featuring the logo. "Promotional item" does not include packaging or labeling materials.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93; **correction in (intro.) made under s. 13.92 (4) (b) 2., Stats., Register June 2023 No. 810.**

ATCP 161.22 Permit required. No person may use the logo on any product or commodity, on any promotional item, or on any packaging or labeling materials without an annual permit from the department. An annual permit expires on June 30 of each year. A permit application filed on or before July 1, 1993, expires on June 30, 1994. To obtain a permit, a person shall submit an application under s. ATCP 161.23. The department may deny, suspend, or revoke a permit if the applicant or permit holder violates any provision of this chapter, fails to pay any required fee or royalty, or misrepresents any fact in a permit application.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.23 Permit application. (1) GENERAL. To obtain a permit under s. ATCP 161.22, a person shall submit a signed written application on a form provided by the department. The application shall include all of the information required under this section. The application shall also be accompanied by the fees required under s. ATCP 161.24 if any.

Note: A permit application form may be obtained from the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, Marketing Division, P. O. Box 8911, Madison, WI 53708-8911.

(2) **NAME AND BUSINESS ADDRESS.** Every application shall include the applicant's name and business address.

(3) **COMPLIANCE AGREEMENT.** Every application shall include a statement that the applicant agrees to comply with all applicable conditions under this chapter for the use of the logo.

(4) **PRODUCTS OR COMMODITIES.** If the applicant intends to sell any product or commodity bearing the logo, the application shall include all of the following:

(a) An identification of the specific products or commodities on which the logo will be used.

(b) For each product or commodity identified under par. (a), information showing that the product or commodity complies with the eligibility requirements under s. ATCP 161.25.

(c) The applicant's gross sales of all products and commodities during the applicant's last complete fiscal year, for purposes of calculating the required fee under s. ATCP 161.25. This information is not required if the applicant is applying for a permit for the first time.

(5) **PROMOTIONAL ITEMS.** If the applicant intends to sell any promotional item bearing the logo, the application shall identify the specific promotional items on which the applicant intends to use the logo.

(6) **PACKAGING OR LABELING MATERIALS.** If the applicant intends to sell packaging or labeling materials bearing the logo, the application shall identify the packaging and labeling materials which the applicant intends to offer for sale.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93; am. (4) (b), Register, February, 1996, No. 482, eff. 3-1-96; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1999; **correction in (3) made under s. 13.92 (4) (b) 2., Stats., Register June 2023 No. 810.**

ATCP 161.24 Annual permit fees. (1) AMOUNT OF FEE. Except as provided under sub. (2), if a person intends to sell any product, commodity, or promotional item bearing the logo, or sell or use any packaging or labeling materials bearing the logo, that person's annual permit application under s. ATCP 161.23 shall include a fee based on the applicant's gross sales during the last complete fiscal year. The amount of the fee is determined as follows:

(a) If the applicant's gross annual sales are \$10,000 or less, the annual fee is \$10.00.

(b) If the applicant's gross annual sales are more than \$10,000 but not more than \$50,000, the annual fee is \$35.00.

(c) If the applicant's gross annual sales are more than \$50,000 but not more than \$100,000, the annual fee is \$50.00.

(d) If the applicant's gross annual sales are more than \$100,000 but not more than \$250,000, the annual fee is \$100.

(e) If the applicant's gross annual sales are more than \$250,000 but not more than \$500,000, the annual fee is \$150.

(f) If the applicant's gross annual sales are more than \$500,000, the annual fee is \$200.

(2) **EXEMPTION.** The fee under sub. (1) does not apply to a person which is a tax exempt organization under the federal internal revenue code, 26 USC 501 (a).

(3) FAILURE TO PAY. The department may suspend or revoke a permit if the permit holder fails to pay annual user permit fees on a timely basis, and may bring an action to collect unpaid permit fees.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.25 Products and commodities; eligibility requirements. No person may use the logo on any product or commodity unless the product or commodity meets both of the following requirements:

(1) At least 50% of the product's or commodity's value-added is attributable to Wisconsin ingredients, or to Wisconsin production or processing activities.

(2) The product or commodity is not an imitation of a product or commodity for which there is a standard of identity established under state or federal law.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.26 Prohibitions. No person may do any of the following without the department's written permission:

(1) Use the logo for a different purpose than that described in the person's permit application under s. ATCP 161.23.

(2) Affix the logo to any item other than those described in the person's permit application under s. ATCP 161.23.

(3) Alter the logo in any way.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.