



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary-designee Randy Romanski

DATE: April 28, 2021

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Randy Romanski, Secretary-designee
Krista Knigge, Administrator, Division of Agriculture Development

SUBJECT: ATCP 149, (Potato Industry)

PRESENTED BY: Sharon Henes, Program Policy Analyst, Division of Agriculture Development

REQUESTED ACTION:

At the May 13, 2021, Board meeting, the Department will request approval of the attached scope statement, regarding ch. ATCP 149 relating to the potato industry.

SUMMARY:

The objective of the proposed rule is to repeal or modify ATCP 149.10 which specifies the process for suspending operations under the potato industry act. 1991 Wisconsin Act 39 repealed the potato industry act, therefore, this provision is obsolete.

On March 4, 2021, the DATCP Board approved the request to hold a preliminary public hearing and comment period on the Scope Statement. The Department held a public hearing on March 25, 2021 and accepted public comments until April 1, 2021. No one attended the public hearing and no public comments were submitted.

The Department is requesting approval of the Scope Statement for implementation in order to begin drafting rule revisions.

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STATEMENT OF SCOPE

Department of Agriculture, Trade and Consumer Protection

Rule No.: ATCP 149.10

Relating to: Potato Industry

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 rule is to repeal or modify provisions of the rule identified in the Department of Agriculture, Trade and Consumer Protection's report to the Joint Committee for Review of Administrative Rules pursuant to s. 227.29, Stats., submitted on March 29, 2019.

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:

The Department of Agriculture, Trade and Consumer Protection identified the following as obsolete or unnecessary rules in the report filed with the Joint Committee for Review of Administrative Rules pursuant to s. 227.29, Stats.:

- ATCP 149.10 specifies the process for suspending operations under the potato industry act [s. 100.39, Stats. (1989)]. 1991 Wisconsin Act 39 repealed the potato industry act, therefore, this section is obsolete.

The alternative to the proposed rule is to have an obsolete process in rule for suspending operations under a repealed potato industry act. Retaining this rule creates confusion when there are references to a repealed statutory provision.

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 secretary may, in consultation with the appropriate marketing board or council, issue such rules as necessary to facilitate the administration and enforcement of this chapter. [s. 96.15, Stats.]

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

75 hours

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

Potato producers

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 economic impact. It is not likely to have a significant economic impact on small businesses.

Contact Person: Sharon Henes, Program Policy Analyst - Advanced, (608) 381-2808



Randy Romanski, Secretary-designee

January 19, 2021
Date Submitted