



State of Wisconsin
Governor Tony Evers

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

DATE: July 8, 2021

TO: Board of Agriculture, Trade and Consumer Protection

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

SUBJECT: ATCP 160, (Fair Organizations)

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

REQUESTED ACTION:

At the July 22, 2021, Board meeting, the Department will request approval of a preliminary rule draft, regarding ch. ATCP 160 relating to fair organizations in order for the Department to submit the preliminary rule draft to the Legislative Council Rules Clearinghouse and for the Department to hold a public hearing on the proposed rule.

SUMMARY:

The Department identified s. ATCP 160.92 (6) as an obsolete or unnecessary rule in the report filed with the Joint Committee for Review of Administrative Rules pursuant to s. 227.29, Stats.

Section ATCP 160.92 (6) contains a provision requiring a copy of the fair organization's annual financial report as published in the newspaper to be submitted to the Department. 2015 Wisconsin Act 207 repealed the requirement for a fair organization to publish a financial statement as a class I notice [s. 93.23 (1) (d), Stats. (2013)]. This rule removes the obsolete provision within s. ATCP 160.92 (6).

The Department will hold a public hearing on the preliminary rule draft on August 26, 2021.

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STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
PROPOSED ORDER OF THE DEPARTMENT OF AGRICULTURE, TRADE AND
CONSUMER PROTECTION ADOPTING RULES

PROPOSED ORDER

- 1 An order of the department of agriculture, trade and consumer protection *to amend* ATCP 160.92
 - 2 (6) *relating to* fair organization's annual financial report.
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Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

Statutes Interpreted: s. 93.23 (1) (d), Stats. (2013)

Statutory Authority: s. 93.23 (1) (a) 1. b. and 2., Stats.

Explanation of Agency Authority

No fair, association, or board shall receive state aid unless its premium list, entry fees, and charges conform to uniform premium lists and other rules established under subd. 2., both as to premiums offered, amounts to be paid, entry fees to be charge, and all other charges for exhibiting.

In order to have a more equitable distribution of state aid among fairs and to effect wider participation and interest by the public in exhibits, the department may prescribe uniform premium lists setting forth classes of exhibits which will be approved for the purposes of state aid, premium awards in such classes and entry qualifications, fees and charges for exhibitors. All fairs shall receive aid in the same manner, except that an entity operating a fair may impose restrictions on the total number of fairs at which an exhibitor may participate in order to be eligible for premium awards for exhibits at that fair. [s. 93.23 (1) (a) 1.b. and 2., Stats.]

Related Statutes and Rules

Section 93.23, Stats and ch. ATCP 160

Plain Language Analysis

The Department identified s. ATCP 160.92 (6) as an obsolete or unnecessary rule in the report filed with the Joint Committee for Review of Administrative Rules pursuant to s. 227.29, Stats.

Section ATCP 160.92 (6) contains a provision requiring a copy of the fair organization's annual financial report as published in the newspaper to be submitted to the Department. 2015 Wisconsin Act 207 repealed the requirement for a fair organization to publish a financial statement as a class I notice [s. 93.23 (1) (d), Stats. (2013)]. This rule removes the obsolete provision within s. ATCP 160.92 (6).

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

None

Summary of Public Comments Received on Statement of Scope and a Description of How and To What Extent Those Comments and Feedback Were Taken Into Account in Drafting the Proposed Rule

The Department held a preliminary public hearing on the Statement of Scope on March 25, 2021 and accepted public comments until April 1, 2021. No one testified or submitted written comments.

Comparison with Rules in Adjacent States

Illinois In Illinois, county and district fairs are not required to publish a financial statement. [Ill. Admin. Code tit. 8 s. 260.100 and 260.537]

Iowa In Iowa, a fair is required to annually publish in one newspaper of the county a financial statement of receipts and disbursements for the current year. [Title V IAC 174.8]

Michigan In Michigan, fairs are not required to publish a financial statement. [Mich. Admin. Code, R 285.805.4]

Minnesota In Minnesota, fairs are not required to publish a financial statement. [Minn. Stat. 38.04]

Summary of Factual Data and Analytical Methodologies

The Department reviewed ch. ATCP 160 and identified s. ATCP 160.92 (6) as an obsolete or unnecessary rule in the report filed with the Joint Committee for Review of Administrative Rules pursuant to s. 227.29, Stats. This rule repeals the provision in the s. ATCP 160.92 which is obsolete.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Analysis

The rule was posted on the Department's website for economic comments for 14 days and none were received. This proposed rule removes an obsolete provision.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

This proposed rule does not have an economic impact on small business, as defined in s. 227.114 (1), Stats.

The Department's Regulatory Review Coordinator may be contacted by:

Email at Bradford.Steine1@wisconsin.gov

Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

Department Contact Person

Sharon Henes, Program and Policy Analyst - Advanced
Division of Agricultural Development
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
(608) 381-2808
Sharonm.Henes@wisconsin.gov

Place Where Comments are to Be Submitted and Deadline for Submission:

Comments must be received on or before September 2, 2021 to be included in the record of rule-making proceedings. Submit comments:

By mail to:

Sharon Henes, Program and Policy Analyst - Advanced
Division of Agricultural Development
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911

By email to: Sharonm.Henes@wisconsin.gov

TEXT OF RULE

1 SECTION 1. ATCP 160.92 (6) is amended to read:

2 **ATCP 160.92 (6)** A copy of a financial report ~~as published in a newspaper of general circulation~~
3 ~~in the county in which the fair was held~~ shall be submitted to the department prior to December
4 31st of the year in which the fair was held. The financial statement shall include all receipts,
5 disbursements, accounts receivable and accounts payable in connection with the operation of the
6 fair, and shall show the financial condition of the fair organization before and after the fair.

7 SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the
8 first day of the month following publication in the Wisconsin Administrative Register, pursuant to
9 s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated this 9th day of July, 2021.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION



By: Randy Romanski, Secretary-designee

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date 6 July 2021</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ATCP 160.92 (6)</p>	
<p>4. Subject Fair Organizations</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0.00</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule Section ATCP 160.92 (6) contains a provision requiring a copy of the fair organization's annual financial report as published in the newspaper to be submitted to the Department. 2015 Wisconsin Act 207 repealed the requirement for a fair organization to publish a financial statement as a class I notice [s. 93.23 (1) (d), Stats. (2013)]. This rule removes the obsolete provision within ATCP 160.92 (6).</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. This rule was posted on the Department website for 14 days to obtain economic impact comments and none were received..</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This rule does not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the State's Economy as a Whole.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is to remove an obsolete provision resulting in rule clarity. The alternative is to retain in rule a provision that the legislature repealed.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is statutory compliance.</p>	
<p>17. Compare With Approaches Being Used by Federal Government None</p>	
<p>18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</p>	

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

In Iowa, a fair is required to annually publish in one newspaper of the county a financial statement of receipts and disbursements for the current year. In Illinois, Michigan and Minnesota, a financial statement is not required to be published in a newspaper.

19. Contact Name Sharon Henes	20. Contact Phone Number (608) 381-2808
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This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: Fair Organizations
Admin. Code Reference: ATCP 160.92 (6)
Rules Clearinghouse #:
DATCP Docket #: 21-R-02

Rule Summary

Section ATCP 160.92 (6) contains a provision requiring a copy of the fair organization's annual financial report as published in the newspaper to be submitted to the Department. 2015 Wisconsin Act 207 repealed the requirement for a fair organization to publish a financial statement as a class I notice. This rule removes the obsolete provision within ATCP 160.92 (6).

Small Business Affected

This is a technical change removing an obsolete provision. No small businesses are affected.

Proposed Reporting, Bookkeeping, and Other Procedures Required for Compliance

The proposed rule does not create any new reporting, bookkeeping, or other procedural requirements for compliance with the rule. The proposed rule does clarify that the financial report is not required to be published in the newspaper prior to submitting to the Department.

Types of Professional Skills Necessary for Compliance

The proposed rule does not create any new professional skill requirements for compliance with the rule.

Accommodation for Small Business

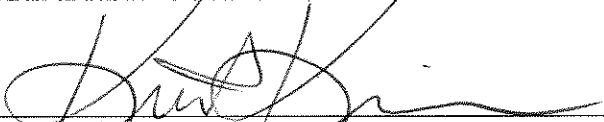
No accommodations for small business will be necessary for the proposed rule.

Conclusion

This proposed rule does not have an economic impact on small business, as defined in s. 227.114 (1), Stats.

Dated this 6th day of July, 2021

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION


By: Krista Knigge, Administrator
Division of Agricultural Development

**State of Wisconsin
Department of Agriculture, Trade and Consumer Protection**

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD

The Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a permanent rule for ATCP 160 relating to fair organization's annual financial report, at the time and place shown below.

Hearing Date and Location:

DATE: Thursday, August 26, 2021

TIME: 2:30 p.m.

LOCATION: Prairie Oaks State Office Building, Room 106
2811 Agriculture Drive
Madison, Wisconsin 53708

Appearances at the Hearing and Submittal of Written Comments:

Comments may be submitted to Sharon Henes, Program Policy Analyst – Advanced, Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911 or by email to Sharonm.Henes@wisconsin.gov. Comments must be received by September 2, 2021 to be included in the record of rule-making proceedings.

The rule may be reviewed and comments made at: <https://docs.legis.wisconsin.gov/code/chr/hearings>. You may also obtain a copy by contacting the division program policy analyst, Sharon Henes, at Sharonm.henes@wisconsin.gov or by calling (608) 381-2808.

Hearing-impaired persons may request accommodation for this hearing. Please make reservations by August 23, 2021, by writing, calling, or emailing the program policy analyst, Sharon Henes.

Initial Regulatory Flexibility Analysis

The rule does not have an economic impact on small business, as defined in s. 227.114 (1), Stats. The Initial Regulatory Flexibility Analysis is attached.

Agency Small business Regulatory Coordinator

Bradford Steine, Bradford.Steine1@wisconsin.gov, (608) 224-5024

Dated this 9th day of July, 2021

STATE OF WISCONSIN,
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION



By _____
Randy Romanski, Secretary-designee