



State of Wisconsin  
Governor Scott Walker

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**Department of Agriculture, Trade and Consumer Protection**  
Ben Brancel, Secretary

**DATE:** August 1, 2012

**TO:** Board of Agriculture, Trade and Consumer Protection

**FROM:** Ben Brancel, Secretary *Ben Brancel*  
*for* Sandy Chalmers, Administrator, Division of Trade and Consumer Protection *SC*

**SUBJECT: Amending ch. ATCP 125, Mobile Home Parks; Rulemaking Scope Statement**

**TO BE PRESENTED BY:** Michelle Reinen

**REQUESTED ACTION:**

At the August 14, 2012 Board meeting, the Department of Agriculture, Trade and Consumer Protection (DATCP) will ask the DATCP Board to approve a "Statement of Scope" (copy attached) for proposed amendments to current DATCP rules related to mobile home parks, ch. ATCP 125. The proposed amendments would update and modernize ch. ATCP 125 to make it more compatible with current industry practices and to align it with other laws and rules that regulate manufactured housing.

A scope statement spells out the general purpose and scope of a proposed rule. DATCP may not begin drafting a proposed rule (including a proposal to amend or repeal an existing rule) until the Governor approves a scope statement for the proposed rule and the DATCP Board approves the scope statement. In accordance with 2011 Wisconsin Act 21 (s.227.135(2), Stats.), the Governor approved this scope statement for permanent rule changes on July 6, 2012, thereby allowing DATCP to submit this scope statement for publication and to seek approval of the scope statement by the DATCP Board.

DATCP must publish a draft scope statement in the Wisconsin Administrative Register, and file a copy with the Department of Administration (DOA), at least 10 days before the Board approves the scope statement. DATCP filed the attached statement of scope with the Legislative Reference Bureau for publication in the August 1, 2012, issue of the Wisconsin Administrative Register. DATCP also filed a copy with DOA.

If the Board approves the scope statement, the Department will begin work to draft the permanent rule. Approval of a scope statement is the first, preliminary step in a lengthy process for enacting permanent rules. The Board will have at least two further opportunities to review the proposed rule. The Board must approve a hearing draft rule before DATCP may hold public hearings on the rule proposal. The Board must also approve the final draft rule before DATCP may adopt the rule. The permanent rule will be effective when the final draft has been approved

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by the DATCP Board, approved by the Governor, reviewed by the Legislature, and adopted by the Secretary.

# STATEMENT OF SCOPE

## Department of Agriculture, Trade and Consumer Protection (DATCP)

Rule No.: Ch. ATCP 125, Wis. Adm. Code (Existing)

Relating to: Mobile Home Parks

### 1. Description of the objective of the rule:

This proposed rule will update and modernize Ch. ATCP 125 to make it more compatible with current industry practices and to align it with other sections of law that regulate mobile home parks. Specifically, the department will make technical changes for consistency with other provisions of law. The department will explore modernizing sections of the rule that are outdated. The department will also explore whether provisions of the rule deter or prohibit lenders from making loans to mobile home park operators.

### 2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule:

History and background. ATCP 125 was first promulgated as Ag 125 in 1972. At the time, zoning restrictions led to a shortage of mobile home sites in many areas of the state, which inhibited competition and market choice. The rule was promulgated to address unfair trade practices and methods of competition that emerged in the industry. The rule prohibited mobile home park operators from using unfair or deceptive trade practices and unconscionable rental terms and conditions. It also required that rental contracts be in writing and contain specific disclosures. The rule was rewritten in 1976 in response to a substantial number of complaints from mobile home park residents and after a thorough evaluation of the industry and the problems not fully resolved by the existing rule. ATCP 125 was amended again in 1987, following a request from the legislature's Joint Committee for the Review of Administrative Rules in response to numerous consumer complaints.

Proposed policies. DATCP is not planning any major policy change to the existing rule. Rather, there are a number of details in the current rule that should be examined and updated if necessary. For example, the current rule limits security deposits to 3 months' rent or \$350, whichever is less. The \$350 limit dates back to 1987. DATCP proposes to consider updating the limit to reflect inflationary changes. Additionally, the current rule's provisions relating to tie-in sales may need revisions to correspond to current practices.

Policy Alternatives. Do nothing. If the department does not revise the rule, manufactured home site tenants, community operators, and dealers will continue to operate under outdated regulations.

### 3. Statutory authority for the rule (including the statutory citation and language):

Sections 93.07 (1) and 100.20(2)(a) Stats.

**Section 93.07 Department duties.** It shall be the duty of the department:

(1) REGULATIONS. 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.

**Section 100.20 (2)(a), Stats.**

The department, after public hearing, may issue general orders forbidding methods of competition in business or trade practices in business which are determined by the department to be unfair. The department, after public hearing, may issue general orders prescribing methods of competition in business or trade practices in business which are determined by the department to be fair.

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

DATCP estimates that it will use approximately 0.4 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

**5. Description of all entities that may be impacted by the rule:**

This rule impacts mobile home park operators, mobile home dealers, and mobile home park tenants throughout the state.

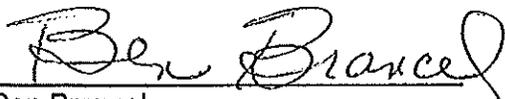
**6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:**

The federal government does not regulate mobile home park landlord and tenant relationships.

**7. Anticipated economic impact**

DATCP expects the proposed rule to have minimal economic impact statewide and locally.

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Ben Brancel  
Secretary  
Department of Agriculture, Trade and Consumer Protection

6-18-12  
Date Submitted