



State of Wisconsin  
Governor Scott Walker

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

**DATE:** September 8, 2017

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

**FROM:** Jeff Lyon, Interim Secretary  
Paul Dedinsky, Chief Legal Counsel *Paul Dedinsky*

**SUBJECT:** Chs. ATCP 20, 21, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 90, 91, 92, 94, 99, 105, 118, 163, 164, 165, 166 Minor and Technical Changes to Multiple Department Chapters; Scope Statement

**TO BE PRESENTED BY:** Jeff Lyon

**REQUESTED ACTION:**

At the September 21, 2017, Board meeting, the Department of Agriculture, Trade and Consumer Protection ("Department") will ask the Department Board to approve a "Statement of Scope" (copy attached) for proposed minor and technical amendments to current Wis. Admin. Code Chs. 20, 21, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 90, 91, 92, 94, 99, 105, 118, 163, 164, 165, 166 related to Seed Labeling and Sale; Pest Inspection and Pest Control; Fertilizer and Related Products; Commercial Feed; Milk and Milk Products; Hotels, Motels and Tourist Rooming Houses; Bed and Breakfast Establishments; Safety, Maintenance, and Operation of Public Pools and Water Attractions; Recreational and Educational Camps; Campgrounds; Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights & Measures; Petroleum and Other Liquid Fuel Products; Grain Dealers and Grain Warehouse Keepers; Sales Below Cost; Car Rental, Customer Notices; Dairy Manufacturing Facility Investment Credit; Meat Processing Facility Investment Credit; Food Processing Plant And Food Warehouse Investment Credit; Woody Biomass Harvesting And Processing Credit. The proposed rule will make technical changes (non-substantive or minor substantive changes) to a number of administrative code chapters administered by the Department.

A scope statement spells out the general purpose and scope of a proposed rule. The Department 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 Department 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 7, 2017, thereby allowing the Department to submit this scope statement for publication and to seek approval of the scope statement by the Department Board.

The Department must publish a 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. The Department filed the attached statement of scope with the Legislative Reference

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Bureau for publication in the July 3, 2017 issue of the Wisconsin Administrative Register. The Department also filed a copy with DOA.

If the Board approves the scope statement, the Department will begin to draft the permanent rule. Approval of the scope statement is just the first step in a process for enacting permanent rules. The Board will have at least two additional opportunities to review the proposed rule. The Board must approve a hearing draft rule before the Department may hold public hearings on the rule proposal. The Board must also approve the final draft rule before the Department may adopt the rule. The permanent rule will be effective when the final draft has been approved by the Department Board, approved by the Governor, completed the legislative review process, and adopted by the Secretary.

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# STATEMENT OF SCOPE

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

**Rule No.:** Chs. ATCP 20, 21, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 90, 91, 92, 94, 99, 105, 118, 163, 164, 165, 166

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**Relating to:** Seed Labeling and Sale; Pest Inspection and Pest Control; Fertilizer and Related Products; Commercial Feed; Milk and Milk Products; Food Warehouses and Milk Distributors; Hotels, Motels and Tourist Rooming Houses; Bed and Breakfast Establishments; Safety, Maintenance, and Operation of Public Pools and Water Attractions; Recreational and Educational Camps; Campgrounds; Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights & Measures; Petroleum and Other Liquid Fuel Products; Grain Dealers and Grain Warehouse Keepers; Sales Below Cost; Car Rental, Customer Notices; Dairy Manufacturing Facility Investment Credit; Meat Processing Facility Investment Credit; Food Processing Plant And Food Warehouse Investment Credit; Woody Biomass Harvesting And Processing Credit

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**Rule Type:** *Permanent*

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

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

This proposed rule will make technical changes (non-substantive or minor substantive changes) to a number of administrative code chapters administered by Department of Agriculture, Trade and Consumer Protection ("Department"). This rule may make the following technical changes to current rules:

- Update technical standards incorporated by reference in current rules (new editions of technical references cited in current rules).
- Correct erroneous and obsolete citations and cross-references.
- Correct typographical errors.
- Make non-substantive organizational and drafting changes.
- Make other minor changes to current rules to incorporate new statutory language.
- Repeal certain rules that no longer have statutory language tied to them.

**3. 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:**

This proposed rule makes solely minor technical changes that make no policy changes.

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

**93.07 (1) and (24)**

**93.07 Department duties:**

(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.

(24) ENFORCEMENT OF LAWS. To enforce chs. 88 and 93 to 100 and all other laws entrusted to its administration, and especially:

(a) To enforce the laws regarding the production, manufacture and sale, offering or exposing for sale or having in possession with intent to sell, of any dairy, food or drug product.

(b) To enforce the laws regarding the adulteration or misbranding of any articles of food, drink, condiment or drug.

(c) To inspect any milk, butter, cheese, lard, syrup, coffee, tea or other article of food, drink, condiment or drug made or offered for sale within this state which it may suspect or have reason to believe to be impure, unhealthful, misbranded, adulterated or counterfeit, or in any way unlawful.

(d) To prosecute or cause to be prosecuted any person engaged in the manufacture or sale, offering or exposing for sale or having in possession with intent to sell, of any adulterated dairy product or of any adulterated, misbranded, counterfeit, or otherwise unlawful article or articles of food, drink, condiment or drug.

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

The Department estimates that it will use approximately 0.20 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. The Department will use existing staff to develop this rule.

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

The proposed technical changes to current rules will not have any impact on persons covered by those rules. There will be no adverse impact on business or local government.

**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:**

Not applicable.

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

None.

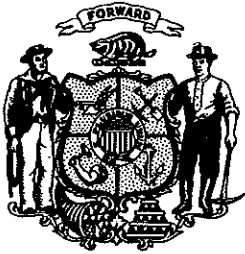
**Contact Person:** Cheryl Daniels, Assistant Legal Counsel, (608) 224-5026.

Ben Biancel

Department Head or Authorized Signature

7-6-17

Date Submitted



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

July 7, 2017

Ben Brancel  
Secretary  
Wisconsin Department of Agriculture, Trade, and Consumer Protection  
2811 Agriculture Drive  
P.O. Box 8911  
Madison, WI 53708-8911

**RE: Scope Statement for Chs. ATCP 20, 21, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 90, 91, 92, 94, 99, 105, 118, 163, 164, 165, 166 relating to: Seed Labeling and Sale; Pest Inspection and Pest Control; Fertilizer and Related Products; Commercial Feed; Milk and Milk Products; Food Warehouses and Milk Distributors; Hotels, Motels and Tourist Rooming Houses; Bed and Breakfast Establishments; Safety, Maintenance, and Operation of Public Pools and Water Attractions; Recreational and Educational Camps; Campgrounds; Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights & Measures; Petroleum and Other Liquid Fuel Products; Grain Dealers and Grain Warehouse Keepers; Sales Below Cost; Car Rental, Customer Notices; Dairy Manufacturing Facility Investment Credit; Meat Processing Facility Investment Credit; Food Processing Plant And Food Warehouse Investment Credit; Woody Biomass Harvesting And Processing Credit**

Dear Secretary Brancel,

I hereby approve the statement of scope submitted on July 6, 2017, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapter(s) ATCP 20, 21, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 90, 91, 92, 94, 99, 105, 118, 163, 164, 165, 166 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker  
Governor