



State of Wisconsin  
Governor Scott Walker

**Department of Agriculture, Trade and Consumer Protection**  
Sheila E. Harsdorf, Secretary

**DATE:** February 15, 2018

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

**FROM:** Sheila Harsdorf, Secretary  
Paul Dedinsky, Chief Legal Counsel

**SUBJECT:** Minor & Technical Changes to Multiple Department Chapters  
Proposed Hearing Draft  
Wis. Admin. Code chs. ATCP 20, 21, Appendix A, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 90, 91, 92, 94, 99, 105, 118, 163, 164, 165, 166

**TO BE PRESENTED BY:** Paul Dedinsky

**REQUESTED ACTION:**

At the February 27, 2018 Board meeting, the Department will ask the Board to approve a "Hearing Draft" (copy attached) for proposed minor and technical amendments to current Wis. Admin. Code chs. 20, 21, Appendix A, 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.

The Department began to draft the proposed hearing draft of the technical rule after the Governor approved the scope statement in accordance with Wis. Stat. § 227.135(2) for permanent rule changes and the Legislative Reference Bureau published it in the July 3, 2017 issue of the Wisconsin Administrative Register. The scope statement was approved by the DATCP Board at the July 21, 2017 Board meeting.

The Department drafted the attached proposed technical rule. The Board must approve a hearing draft before the Department may hold public hearings on the rule proposal. Following the completion of public hearings, the Board must approve the final permanent rule draft before submittal to the Governor and Legislature. 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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**PROPOSED ORDER OF THE WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION  
ADOPTING RULES**

1           The Wisconsin department of agriculture, trade and consumer protection proposes the  
2 following order *to repeal* ATCP 99.22(2), 163, 164, 165, 166; *to amend* ATCP 21.21 (1)(c)1.  
3 and (Note), 21 Appendix A, 40.04(1), (4)(b) and (c), 40.06 (1), (2)(f) and (5), 40.08(8) and  
4 (Note), 40.10(4)(b)2. and (Note), 40.12(2)(c)1. and (Note), 40.16(2) and (Note), 40.18 (2) and  
5 (Note), 40.20(1), 40.22(1), (1)(a), and (4), 40.26(5) and (Note), 40.28(2)(g)1. and (Note),  
6 42.06(3), 42.16(1)(b) and (2)(b), 42.32(2)(b), 42.40(4)(b), 42.44(6)(a) and (b), 42.48 (2)(a)6.,  
7 42.54(1)(a), 65.23(1)(a), (2)(a) and (2)(b), 71.02(11)(a), (b) and (c), 73, 73.04(4)(b), 76, 77, 78,  
8 79, 79.13(2)(b) and (3)(d), 90.01(15g) and (Note) and (15r) and (Note), 90.03(1)(b), 90.04(7)  
9 (Note), 91.01(4) and (Note), 91.03(3)(L), 92.01(10h) and (Note), (10p) and (Note), and (10t) and  
10 (Note), 92.30 (9) and (Note), 94.200(1)(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (L),  
11 118.02(2)(b), 118.12; **and to create** 105.23(2)(bm), *relating to* various minor and technical rule  
12 changes.

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**Analysis Prepared by the Department of Agriculture,  
Trade and Consumer Protection**

This rule makes minor and technical changes to a number of current rules administered by the Department of Agriculture, Trade and Consumer Protection (Department).

***Statutes Interpreted***

Statutes Interpreted: Wis. Stat. chs. 93, 94, 97, 98, 126, and 168.

### *Statutory Authority*

Statutory Authority: Wis. Stat. §§ 93.12 (5) Lab Certification, 93.12 (7) Fees, 94.64(9) Fertilizer, 94.72(13) Commercial Feed, 97.20(4) Dairy Plants, 97.27(5) Food Warehouses, 97.625(1) Local Health Departments, 97.67(1) and (2m) Recreational Licenses and Fees, 97.09 Food, Lodging and Recreation, 98.03(2) Weights and Measures, 126.81 Agricultural Producer Security, 168.16 Petroleum Products and Dangerous Substances, and 93.07 (1) and (24).

### *Explanation of Statutory Authority*

The Department has general authority, under § 93.07(1), Stats., to adopt rules to interpret laws under its jurisdiction. It also has specific rulemaking authority related to various matters addressed by this rule (see citations above). This rule makes minor and technical changes to a number of different rules administered by the Department. The changes are adopted under the same authority used to adopt the original rules.

### *Related Rules or Statutes*

This rule is not substantially affected by statutes or rules other than those identified in this rule.

### *Plain Language Analysis*

This rule makes minor or technical changes to a number of current Department rules. This rule does all of the following:

#### **Plant Inspection and Pest Control**

Adds the state of Maryland to the section specific to the thousand cankers disease of walnut trees infested area. Adds additional county, state, and provincial references in Appendix A, Areas Infested by Hemlock Woolly Adelgid.

#### **Fertilizer and Related Products**

Changes the expiration date of a license to a later date, lowers the fee for the agricultural chemical cleanup surcharge, and updates referenced publications to the most recent versions.

#### **Commercial Feed**

Updates the referenced publications and technical standards to the most recent versions.

#### **Milk and Milk Products**

Corrects references to federal regulations.

#### **Food Warehouses and Milk Distributors**

Corrects references to federal regulations.

### **Bed and Breakfast Establishments**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

### **Safety, Maintenance, and Operation of Public Pools and Water Attractions**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

### **Laboratory Certification**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

### **Recreational and Educational Camps**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

### **Campgrounds**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

### **Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights and Measures; Petroleum and Other Liquid Fuel Products**

- Corrects small grammatical errors.
- Updates the technical references to cite the current NIST Handbook and ASTM fuel standards.
- Amends notes to reference website addresses and form numbers.
- Removes obsolete notes.

### **Grain Dealers and Grain Warehouse Keepers**

Removes requirement for a notary.

### **Sales Below Cost**

Adds provision allowing for electronic notice.

### **Car Rentals; Customer Notices**

Grammatical corrections.

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

The technical rule changes proposed in this rule will not create any disparities between Wisconsin rules and federal statutes and regulations.

***Comparison with Rules in Adjacent States***

The technical rule changes proposed in this rule will not create any disparities between Wisconsin and the adjacent states.

***Summary of Factual Data and Analytical Methodologies***

This rule does not depend on any complex analysis of data. This rule merely makes minor or technical changes to current rules.

***Analysis and Supporting Documents Used to Determine Effect on Small Business***

Because this rule makes minor technical changes, no significant analysis or documentation was required to determine that the proposed rule will have no impact on small businesses.

***Effect on Business Impact***

This rule will not have any impact on small businesses or other businesses. This rule makes minor technical changes that will not have an impact on business standards, costs or operations. See the *Initial Regulatory Flexibility Analysis* that accompanies this rule.

***Environmental Impact***

Since this rule only makes minor or technical changes, this rule will have no significant impact on the environment.

***Agency Contact***

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- 37 • In the state of Georgia, the counties of Banks, Dade, Dawson, Fannin, Gilmer, Gordon,  
38 Habersham, Hall, Lumpkin, Murray, Pickens, Rabun, Stephens, Towns, Union, Walker, White.
- 39 • In the state of Kentucky, the counties of Bell, Breathitt, Carter, Clay, Elliott, Fayette, Floyd,  
40 Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Martin,  
41 Madison, Magoffin, Marin, McCreary, Menifee, Morgan, Owsley, Perry, Pike, Powell, Pulaski,  
42 Rockcastle, Rowan, Wayne, Whitley, Wolfe.
- 43 • In the state of Maine, the counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln,  
44 Sagadahoc, York.
- 45 • In the state of Michigan, the counties of Allegan, Muskegon, Oceana, Ottawa.
- 46 • In the state of New Hampshire, the counties of Belknap, Carroll, Cheshire, Hillsborough,  
47 Merrimack, Rockingham, Strafford, Sullivan.
- 48 • In the state of New York, the counties of Albany, Bronx, Broome, Cattaraugus, Cayuga, Chemung,  
49 Chenango, Columbia, Delaware, Dutchess, Greene, Kings, Livingstone, Monroe, Nassau, New  
50 York, Onondaga, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland,  
51 Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster,  
52 Westchester, Wyoming, Yates.
- 53 • In the state of North Carolina, the counties of Alamance, Alexander, Alleghany, Ashe, Avery,  
54 Buncombe, Burke, Caldwell, Caswell, Catawba, Cherokee, Clay, Durham, Forsyth, Graham,  
55 Haywood, Henderson, Iredell, Jackson, Macon, Madison, McDowell, Mitchell, Orange, Polk,  
56 Rockingham, Rutherford, Stokes, Surry, Swain, Transylvania, Wake, Watauga, Wilkes, Yancey.
- 57 • In the state of Ohio, the counties of Athens, Geauga, Gallia, Hocking, Jackson, Lake, Lawrence,  
58 Meigs, Monroe, Vinton, and Washington.
- 59 • In the state of Pennsylvania, the counties of Adams, Allegheny, Armstrong, Beaver, Bedford,  
60 Berks, Blair, Bradford, Bucks, Cambria, Cameron, Carbon, Centre, Chester, Clarion, Clearfield,  
61 Clinton, Columbia, Cumberland, Dauphin, Delaware, Elk, Fayette, Forest, Franklin, Fulton,  
62 Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne,  
63 Lycoming, McKean, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland,  
64 Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga,  
65 Union, Warren, Wayne, Westmoreland, Wyoming, York.
- 66 • In the state of South Carolina, the counties of Greenville, Oconee, Pickens, Spartanburg.
- 67 • In the state of Tennessee, the counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Carter,  
68 Claiborne, Cocke, Cumberland, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen,  
69 Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs,  
70 Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier,  
71 Sullivan, Unicoi, Union, Van Buren, Warren, Washington, White.

72 • In the state of Vermont, the counties of Bennington, ~~and~~ Windham, Windsor.

73 • In the state of Virginia, the counties of Albemarle, Alexandria, Alleghany, Amherst, Appomattox,  
74 Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Bristol, Buchanan, Buckingham, Buena  
75 Vista, Campbell, Caroline, Carroll, Charlottesville, Chesterfield, Clarke, Craig, Culpeper,  
76 Danville, Dickenson, Essex, Fairfax, Falls Church, Fauquier, Floyd, Fluvanna, Franklin,  
77 Frederick, Galax, Giles, Grayson, Greene, Halifax, Hanover, Harrisonburg, Henrico, Henry,  
78 Highland, King William, Lee, Lexington, Loudon, Lunenburg, Lynchburg, Madison, Manassas,  
79 Manassas Park, Martinsville, Montgomery, Nelson, Northumberland, Norton, Orange, Page,  
80 Patrick, Pittsylvania, Prince William, Pulaski, Radford, Rappahannock, Richmond, Roanoke,  
81 Rockbridge, Rockingham, Russell, Salem, Scott, Shenandoah, Smyth, Spotsylvania, Staunton,  
82 Tazewell, Warren, Washington, Waynesboro, Winchester, Wise, Wythe.

83 • In the state of West Virginia, the counties of Barbour, Berkeley, Boone, Braxton, Cabell, Clay,  
84 Fayette, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jefferson, Kanawha, Lewis, Lincoln,  
85 Logan, Marion, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Morgan,  
86 Nicholas, Ohio, Pendleton, Pocahontas, Pleasants, Preston, Raleigh, Randolph, Roane, Summers,  
87 Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wirt, Wood, Wyoming.

88           **SECTION 3.** ATCP 40.04(1) is amended to read:

89           ATCP 40.04(1). ANNUAL LICENSE REQUIRED. Except as provided in sub. (2), no person  
90 may manufacture or distribute a fertilizer in this state without an annual license from the  
91 department. A separate license is required for each business location or mobile unit at which a  
92 person manufactures fertilizer in this state. A license is not transferable between persons or  
93 locations. A license expires on ~~August 14~~ September 30 of each year.

94           (4)(b) Except as adjusted under 94.73(15), a ~~\$11-20~~ agricultural chemical cleanup  
95 surcharge for each business location and each mobile unit at which the applicant proposes to  
96 manufacture fertilizer in this state, other than a business location or mobile unit licensed under s.  
97 94.685 or s. 94.703, Stats. If the applicant distributes but does not manufacture fertilizer in this  
98 state, the applicant shall pay a single agricultural chemical cleanup surcharge of ~~\$11-20~~.

99           (c) A late renewal fee equal to 20% of the combined license fees and surcharges required  
100 under pars. (a) and (b), ~~whichever is greater~~; if the applicant fails to apply for a renewal license  
101 before the prior year's license expires.



102           **SECTION 4.** ATCP 40.06(1), (2)(f), and (5) are amended to read:

103           ATCP 40.06 (1) ANNUAL TONNAGE REPORT AND FEE PAYMENT. By ~~August 14~~ September  
104 30 of each year, a person required to hold a fertilizer license under s. ATCP 40.04 shall do all of  
105 the following:

106           (2)(f) An agricultural chemical cleanup surcharge of 44 11 cents per ton, or the adjusted  
107 amount under s. 94.73(15).

108           (5) PENALTIES FOR LATE FILING. A person who fails to comply with sub. (1) by ~~August 14~~  
109 September 30 shall pay an additional fee of 10 percent of the tonnage fees due, but not less than  
110 \$10.

111           **SECTION 5.** ATCP 40.08 (8) and (Note) are amended to read:

112           ATCP 40.08 (8) TERMS AND DEFINITIONS. Terms used in fertilizer labeling shall be  
113 consistent with the fertilizer terms and definitions contained in the *Official Publication of the*  
114 *Association of American Plant Food Control Officials, No. 68 70 (20157).*

115           **Note:** The *Official Publication of the Association of American Plant Food Control*  
116 *Officials, No. 68 70 (20157)* is on file with the department and the legislative  
117 reference bureau. Copies may be obtained from the treasurer of the Association of  
118 American Plant Food Control Officials, Inc., North Carolina Department of  
119 Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at  
120 <http://www.aapfco.org>.

121           **SECTION 6.** ATCP 40.10 (4) (b) 2. and (Note) are amended to read:

122           ATCP 40.10 (4) (b) 2. Identify the source of each plant nutrient, using only terms defined  
123 in the *Official Publication of the Association of American Plant Food Control Officials, No. 68*  
124 *70 (20157).*

125           **Note:** The *Official Publication of the Association of American Plant Food Control*  
126 *Officials, No. 68 70 (20157)* is on file with the department and the legislative  
127 reference bureau. Copies may be obtained from the treasurer of the Association of  
128 American Plant Food Control Officials, Inc., North Carolina Department of  
129

Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at  
<http://www.aapfco.org>.

**SECTION 7.** ATCP 40.12 (2) (c) 1. and (Note) are amended to read:

ATCP 40.10 (2) (c) 1. The source material is accurately described by a term defined in  
the *Official Publication of the Association of American Plant Food Control Officials, No. 68 70*  
(20157).

**Note:** The *Official Publication of the Association of American Plant Food Control Officials, No. 68 70 (20157)* is on file with the department and the legislative reference bureau. Copies may be obtained from the treasurer of the Association of American Plant Food Control Officials, Inc., North Carolina Department of Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at <http://www.aapfco.org>.

**SECTION 8.** ATCP 40.16 (2) and (Note) are amended to read:

ATCP 40.16 (2) TEST METHODS. The department may test official fertilizer samples to  
determine compliance with nutrient guarantees. The department shall test official samples using  
applicable methods from the "Official Methods of Analysis of AOAC International," ~~volume I,~~  
~~17 20th edition as updated by the 2nd revision (200316).~~

**Note:** The "Official Methods of Analysis of AOAC International," ~~volume I, 17 20th~~  
~~edition as updated by the 2nd revision (200316)~~ is on file with the department and  
the legislative reference bureau. Copies are available from AOAC International at  
481 N. Frederick Ave., Suite 500, Gaithersburg, MD 20877-2417.

**SECTION 9.** ATCP 40.18 (2) and (Note) are amended to read:

ATCP 40.18 (2) No fertilizer may contain a metal in a concentration that exceeds the  
maximum allowable concentration specified for that metal in the *Official Publication of the*  
*Association of American Plant Food Control Officials, No. 68 70*, statement of uniform  
interpretation and policy number 25, (20157)

**Note:** Statement of uniform interpretation and policy number 25, from the *Official*  
*Publication of the Association of American Plant Food Control Officials, No. 68*  
*70 (20157)*, is on file with the department and the legislative reference bureau.

163 Copies may be obtained from the treasurer of the Association of American Plant  
164 Food Control Officials, Inc., North Carolina Department of Agriculture, P.O. Box  
165 33508, Raleigh, NC 33636-3508, or online at <http://www.aapfco.org>.  
166

167 **SECTION 10.** ATCP 40.20 (1) is amended to read:

168 ATCP 40.20 (1) ANNUAL LICENSE REQUIRED. Except as provided in sub. (2), no person  
169 may manufacture or distribute a soil or plant additive in this state without an annual license from  
170 the department. A license is not transferable between persons. A license expires on ~~March 31~~  
171 September 30 of each year.

172 **SECTION 11.** ATCP 40.22 (1), (1)(a), and (4) are amended to read:

173 ATCP 40.22 (1) ANNUAL TONNAGE REPORT AND FEE PAYMENT. By ~~March 31~~ September  
174 30 of each year, a person required to hold a license under s. ATCP 40.20 shall do all of the  
175 following:

176 (a) Report to the department the number of tons of each soil or plant additive the person  
177 distributed in this state ~~in the preceding calendar year~~ from July 1 to June 30 of the preceding  
178 year. The person shall file the report in writing, on a form provided by the department.

179 (4) PENALTIES FOR LATE FILING. A person who fails to comply with sub. (1) by ~~March 31~~  
180 September 30 shall pay an additional fee of 10 percent of the tonnage fees due, but not less than  
181 \$10.

182 **SECTION 12.** ATCP 40.26 (5) and (Note) are amended to read:

183 ATCP 40.26 (5) INGREDIENT IDENTIFICATION. Except as provided in sub. (3) (b), the  
184 guaranteed analysis shall identify each ingredient by its common name, if any, followed in  
185 parentheses by its chemical name as stated in the Merck Index, 12<sup>5</sup>th edition (1996 2013). If an  
186 ingredient is not sufficiently defined in the Merck Index, the department may approve an  
187 additional or alternative name for the ingredient.

188 **Note:** The Merck Index, 12<sup>5</sup>th edition (~~1996~~2013) is on file with the department and the  
189 legislative reference bureau.

190 **SECTION 13.** ATCP 40.28 (2)(g)1. and (Note) are amended to read:

191 ATCP 40.28 (2)(g)1. A method contained in the "Official Methods of Analysis of AOAC  
192 International", ~~volume I, 17<sup>th</sup> 20<sup>th</sup> edition, as updated by the 2<sup>nd</sup> revision (2003~~16).

193 **Note:** The "Official Methods of Analysis of AOAC International", "~~volume I, 17<sup>th</sup> 20<sup>th</sup>~~  
194 ~~edition, as updated by the 2<sup>nd</sup> revision (2003~~16) is on file with the department  
195 and the legislative reference bureau.

196 **SECTION 14.** ATCP 42.06 (3) is amended to read:

197 ATCP 42.06 (3) SINGLE-INGREDIENT FEEDS. Product names for single-ingredient  
198 commercial feeds shall be consistent with the feed ingredient definitions specified in the ~~2015~~18  
199 *Official Publication of the Association of American Feed Control Officials.*

200 **SECTION 15.** ATCP 42.16 (1) (b) and (2) (b) are amended to read:

201 ATCP 42.16 (1) (b) Paragraph (a) does not apply to a commercial feed which is defined  
202 as a single ingredient feed product by the ~~2015~~18 *Official Publication of the Association of*  
203 *American Feed Control Officials.*

204 (2) (b) The official name of that ingredient as stated in the ~~2015~~18 *Official Publication of*  
205 *the Association of American Feed Control Officials.*

206 **SECTION 16.** ATCP 42.32 (2) (b) is amended to read:

207 ATCP 42.32 (2) (b) The official name of that ingredient as stated in the ~~2015~~18 *Official*  
208 *Publication of the Association of American Feed Control Officials.*

209 **SECTION 17.** ATCP 42.40 (4) (b) is amended to read:

210 ATCP 42.40 (4) (b) By a testing procedure published in the ~~2015~~18 *Official Publication*  
211 *of the Association of American Feed Control Officials.*

212 **SECTION 18.** ATCP 42.44 (6) (a) and (b) are amended to read:

213 ATCP 42.44 (6) (a) The dog or cat food, when fed in recommended amounts, meets all  
214 nutrient requirements established in applicable pet nutrient profiles specified in the 2015~~18~~  
215 *Official Publication of the Association of American Feed Control Officials*.

216 (b) The dog or cat food is adequate as a sole source of nourishment for dogs or cats when  
217 fed according to label directions and according to feeding protocols for dogs and cats specified in  
218 the 2015~~18~~ *Official Publication of the Association of American Feed Control Officials*.

219 **SECTION 19.** ATCP 42.48 (2)(a)6. is amended to read:

220 ATCP 42.48 (2)(a)6. *Nutrient Requirements of Beef Cattle* (~~78~~th revised edition, 1996,  
221 ~~update 2000~~ 2016).

222 **SECTION 20.** ATCP 42.54 (1) (a) is amended to read:

223 ATCP 42.54 (1) (a) The non-protein nitrogen ingredients are identified in the 2015 2018  
224 *Official Publication of the Association of American Feed Control Officials*.

225 **SECTION 21.** ATCP 65.23(1)(a), (2)(a), (2)(b) are amended to read:

226 ATCP 65.23(1)(a) A grade A dairy plant that is a qualified facility shall comply with the  
227 requirements of 21 CFR 117 Subpart A, B and E, and 21 CFR 117.201.

228 (2)(a) A grade B dairy plant that is a qualified facility shall comply with the requirements  
229 of 21 CFR Subparts A, B, E and F, and 21 CFR 117.201.

230 (2)(b) A grade B dairy plant that is a facility shall comply with the requirements of 21  
231 CFR Subparts A, B, C, F, and G.

232 **SECTION 22.** ATCP 71.02(11)(a), (b) and (c) are amended to read:

233 ATCP 71.02(11)(a) A food warehouse which is also a qualified facility shall comply with  
234 the requirements of this chapter and 21 CFR 117 Subparts A, B, E, and F, and 21 CFR 117.5(a).

235 (b) A food warehouse that is a facility, but is not a qualified facility, and only stores  
236 unexposed packaged potentially hazardous food shall comply with the requirements of this  
237 chapter, and 21 CFR 117.7 Subparts A, B, E, and F, and 21 117.206.

238 (c) A food warehouse that is a facility, but is not a qualified facility, and stores exposed  
239 food shall comply with the requirements of this chapter and 21 CFR 117, Subparts A, B, C, F,  
240 and G.

241 **SECTION 23.** ATCP 73 is amended to replace all instances of ~~permit~~ to license and  
242 ~~permits~~ to licenses.

243 **SECTION 24.** ATCP 73.04 (4) (b) is amended to read:

244 ATCP 73.04 (4) (b) *Renewal permit.* To renew the permit of the bed and breakfast  
245 establishment, the operator shall pay the department, the applicable establishment permit fee  
246 specified under s. ATCP 73.05 before the permit expires. If the payment to renew the permit of a  
247 bread and breakfast establishment is not made to the department before the expiration date of the  
248 establishment permit, the late fee specified under s. ATCP 73.05 shall be paid in addition to the  
249 permit fee.

250 **SECTION 25.** ATCP 76 is amended to replace all instances of ~~permit~~ to license and  
251 ~~permits~~ to licenses.

252 **SECTION 26.** ATCP 77 is amended to replace all instances of ~~permit~~ to license and  
253 ~~permits~~ to licenses.

254 **SECTION 27.** ATCP 78 is amended to replace all instances of ~~permit~~ to license and  
255 ~~permits~~ to licenses.

256 **SECTION 28.** ATCP 79 is amended to replace all instances of ~~permit~~ to license and  
257 ~~permits~~ to licenses.

258           **SECTION 29.** ATCP 79.13 (2) (b) and (3) (d) are amended to read:

259           ATCP 79.13 (2) (b) *Camping cabins.* Each camping cabin in the seasonal campsite and  
260 any addition or attachment to a camping cabin, whether used for habitation or means of ingress  
261 or egress, shall be maintained and equipped in a manner that protects the health and safety of  
262 camper in accordance with chs. SPS 3270 to 325. Camping cabins may not be more than 400  
263 square feet in area. The department or its agent may refer health and safety related construction  
264 concerns to the local zoning department or the department of safety and professional services.

265           (3) (d) *Camping cabins; building code requirements.* Each operator-provided camping  
266 cabin and any addition or attachment to a camping cabin, whether used for habitation or means  
267 of ingress or egress, shall be maintained in accordance with chs. SPS 3270 to 325. The  
268 department or its agent may refer health and safety related construction concerns to the local  
269 zoning department or the department of safety and professional services.

270           **SECTION 30.** ATCP 90.01 (15g) and (Note), and (15r) and (Note) are amended to read:

271           ATCP 90.01 (15g) "*NIST Handbook 44*" means *NIST Handbook 44* (2016 2018 edition)  
272 published by the National Institute of Standards and Technology, United States department of  
273 commerce.

274           **Note:** Copies of *NIST Handbook 44, Specifications, Tolerances and Other Technical*  
275 *Requirements for Weighing and Measuring Devices* (2016 2018 edition) are on  
276 file with the department and the legislative reference bureau. Copies may be  
277 obtained from the U.S. Government Printing Office, Stop SSOP, Washington,  
278 D.C. 20102-0001, website: [www.nist.gov](http://www.nist.gov).

279           (15r) "*NIST Handbook 133*" means *NIST Handbook 133* (2016 2018 edition) published  
280  
281 by the National Institute of Standards and Technology, United States department of commerce.

282           **Note:** Copies of *NIST Handbook 133, Checking the Net Contents of Packaged Goods*  
283 (2016 2018 edition) are on file with the department and the legislative reference  
284 bureau. Copies may be obtained from the U.S. Government Printing Office, Stop  
285 SSOP, Washington, D.C. 20102-0001, website: [www.nist.gov](http://www.nist.gov).

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**SECTION 31.** ATCP 90.03 (1) (b) is amended to read:

ATCP 90.03 (1) (b) Business address. The business address of the responsible person under par. (a). The business address shall include street address, city, state, and ZIP code, except that the street address may be omitted ~~if the address can be found under the name of the responsible person in a current city directory or telephone directory~~ if it is listed in any readily accessible, well-known, widely published, and publicly available resource, including but not limited to a printed directory, electronic database or website. If a person manufactures, packs, or distributes a consumer commodity at a place of business other than the person's principal place of business, the label may disclose the address of that principal place of business rather than the actual place of manufacture, packing, or distribution, provided that the substitute disclosure is not deceptive or misleading.

**SECTION 32.** ATCP 90.04 (7) (Note) is amended to read:

**Note:** The above symbols need not be followed by periods or expressed as plurals. For example, "oz" is the symbol for both "ounce" and "ounces." Both upper and lower case letters and exponents are acceptable.

**SECTION 33.** ATCP 91.01 (4) and (Note) are amended to read:

ATCP 91.01 (4) "*NIST Handbook 130*" means *NIST Handbook 130* (~~2016~~ 2018 edition) published by the National Institute of Standards and Technology, United States department of commerce.

**Note:** Copies of *NIST Handbook 130* (~~2016~~ 2018 edition) are on file with the department and the legislative reference bureau. Copies may be obtained from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001, or at [www.nist.gov](http://www.nist.gov).

**SECTION 34.** ATCP 91.03 (3) (L) is repealed.



313           **SECTION 35.** ATCP 92.01 (10h) and (Note), (10p) and (Note), and (10t) and (Note) are  
314 amended to read:

315           ATCP 92.01 (10h) "*NIST Handbook 44*" means *NIST Handbook 44* (~~2016~~ 2018 edition)  
316 published by the National Institute of Standards and Technology, United States department of  
317 commerce.

318           **Note:** Copies of *NIST Handbook 44*, Specifications, Tolerances and Other Technical  
319 Requirements for Weighing and Measuring Devices (~~2016~~ 2018 edition) are on  
320 file with the department and the legislative reference bureau. Copies may be  
321 obtained from the U.S. Government Printing Office, Stop SSOP, Washington,  
322 D.C. 20102-0001, website: [www.nist.gov](http://www.nist.gov).

323           (10p) "*NIST Handbook 130*" means *NIST Handbook 130* (~~2016~~ 2018 edition) published  
324  
325 by the National Institute of Standards and Technology, United States department of commerce.

326           **Note:** Copies of *NIST Handbook 130*, Uniform Laws and Regulation in the Areas of  
327 Legal Metrology and Engine Fuel Quality (~~2016~~ 2018 edition) are on file with the  
328 department and the legislative reference bureau. Copies may be obtained from the  
329 U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001,  
330 website: [www.nist.gov](http://www.nist.gov).

331           (10t) "*NIST Handbook 133*" means *NIST Handbook 133* (~~2016~~ 2018 edition) published  
332  
333 by the National Institute of Standards and Technology, United States department of commerce.

334           **Note:** Copies of *NIST Handbook 133*, Checking the Net Contents of Packaged Goods  
335 (~~2016~~ 2018 edition) are on file with the department and the legislative reference  
336 bureau. Copies may be obtained from the U.S. Government Printing Office, Stop  
337 SSOP, Washington, D.C. 20102-0001, website: [www.nist.gov](http://www.nist.gov).

338           **SECTION 36.** ATCP 92.30 (9) Intro and (Note) are amended to read:  
339

340           ATCP 92.30 (9) EXEMPTIONS. Subsections (1) to (~~7~~6) do not apply to any of the  
341 following:

342           **Note:** Scales identified under sub. (~~8~~9) are not exempt from s. ATCP 92.02, from  
343 licensing requirements under s. 98.16, Stats., or from the testing requirement  
344 under s. 98.16 (3m), Stats.

345 SECTION 37. ATCP 94.200 (1), (a), (b), (c), (d), (e), (f), (g), (h), (j), (k) and (L) are  
346 amended to read:

347 ATCP 94.200 (1) The following standards of the ~~2015~~ 2018 *Annual Book of ASTM*  
348 *Standards* of the American society for testing and materials are incorporated by reference into  
349 this chapter:

350 (a) ASTM ~~D396-15~~e17, standard specification for fuel oils.

351 (b) ASTM D910-~~15~~17, standard specification for aviation gasolines.

352 (c) ASTM D975-~~15~~e17, standard specification for diesel fuel oils.

353 (d) ASTM D1655-~~15~~e17, standard specification for aviation turbine fuels.

354 (e) ASTM D3699-13be1, standard specification for kerosine.

355 (f) ASTM D4806-~~15~~e17, standard specification for denatured fuel ethanol for blending  
356 with gasolines for use as automotive spark-ignition engine fuel.

357 (g) ASTM D4814-~~15~~e17, standard specification for automotive spark-ignition engine fuel.

358 (h) ASTM D5798-~~15~~e17, standard specification for ethanol fuel blends for flexible-fuel  
359 for automotive spark-ignition engines.

360 (i) ASTM D6227-~~14~~17, standard specification for unleaded aviation gasoline containing  
361 a non-hydrocarbon component.

362 (j) ASTM D6751-15ce1, standard specification for biodiesel fuel blend stock (B100) for  
363 middle distillate fuels.

364 (k) ASTM D7467-~~15~~e17, standard specification for diesel fuel oil, biodiesel blend (B6 to  
365 B20).

366 (L) ASTM D7547-~~15~~17a, standard specification for hydrocarbon unleaded aviation  
367 gasoline.

368           **SECTION 38.** ATCP 99.22 (2) is repealed.

369           **SECTION 39.** ATCP 105.23 (2) (bm) is created to read:

370           ATCP 105.23 (2) (bm) Electronically, by transmitting a web-based notification to a  
371 website specified by the department. Notice under this paragraph is rebuttably presumed to be  
372 timely under sub. (1) if the department receives it by midnight of the day on which the person is  
373 required to give the notice.

374           **SECTION 40.** ATCP 118.02 (2) (b) is amended to read:

375           ATCP 118.02 (2) (b) Contain the following information in the following format.

376           **NOTICE ABOUT LIABILITY FOR DAMAGE TO THE RENTAL CAR**

377           The State of Wisconsin requires us to provide the following information about your liability  
378           for damage to a rental car and the purchase of a damage waiver.

379           **LIABILITY FOR DAMAGE TO THE RENTAL CAR**

380           The rental agreement makes you and any authorized driver liable for any damage to the rental  
381           car caused by an accident, or by intentional, reckless or wanton misconduct, or by theft that  
382           you may have intentionally caused. Total liability for any damage is limited to:

- 383           1) reasonable repair costs, less discounts available to us, or the fair market value of the car,  
384           whichever is less, and
- 385           2) actual and reasonable towing costs, and for storage costs during the period before you  
386           notify the rental company of the damage to the vehicle or for 14 days after the damage  
387           occurs, whichever period is shorter.

388           **LIABILITY FOR DAMAGE AFTER THE RENTAL CAR HAS BEEN STOLEN**

389           If a person who drives the rental car without your authorization causes damage to the car,  
390           you may be liable for the damage as though you or an authorized person was driving the car  
391           unless you do all of the following:


- 392           1) Refrain from leaving the ignition key in the car when you are not in the car.
- 393           2) Always keep the ignition key in your possession.
- 394           3) Immediately report to the local police if you learn the car has been stolen, or that an  
395           unauthorized person is driving the car.

396 4) Cooperate fully with the local police by providing any information you know that may be  
397 helpful.

398 **INSURANCE OR CREDIT CARD COVERAGE**

399 Liability for any damage may be covered by your personal insurance policy or credit card  
400 agreement. Check your insurance policy or credit card agreement about coverage.

401 **DAMAGE WAIVER COVERAGE**

402 A damage waiver is **not** insurance coverage. If you purchase a damage waiver for per day,  
403 we will waive our right to hold you or any authorized driver liable for damage. Even if you  
404 buy a damage waiver, you and any authorized driver will remain liable for damage if any of  
405 the following apply: - See PDF for table 

406 **NOTICE OF RIGHT TO INSPECT DAMAGE**

407 If the car is damaged, we may not collect any amount for the damage unless you, or an  
408 authorized driver against whom we claim liability, have been promptly notified of your and  
409 your insurers' right to inspect the unrepaired car within two working days after we were  
410 notified of the damage. If you request, we must also give you a copy of any estimate we have  
411 obtained from a repair shop regarding any damage claim. Within 2 working days after  
412 receiving that estimate, you may request a second estimate from a competing repair shop and  
413 we must give you a copy of the second estimate.

414 **COMPLAINTS**

415 If you have any complaints about our attempt to hold you liable for damages or would like a  
416 copy of the state law that fully sets forth your rights and obligations, contact:

417 ~~Wisconsin~~ Bureau of Consumer Protection Bureau  
418 P.O. Box 8911, Madison, WI 53708-8911  
419 ~~608-224-4960 (Madison area)~~ or Call toll-free: 1-800-422-7128

420  
421 **SECTION 41.** ATCP 118.12 is amended to read:

422 ATCP 118.12 (2) (a) Include the following verbatim notice, in 16-point bold-face type in the  
423 following format, immediately adjacent to the renter signature line in the rental agreement:

424 **“WHAT IF YOU FAIL TO PAY A PARKING TICKET?**

425 **We Will Charge Your Credit Card For Unpaid Parking Tickets You May Incur While The**  
426 **Vehicle Is In Your Possession.”**

427 (b) Include the following verbatim written notice in the rental agreement, or in an  
428 accompanying document without other text or markings, before the renter signs the rental  
429 agreement:

430 **“NOTICE ABOUT CHARGES AGAINST YOUR CREDIT CARD FOR UNPAID**  
431 **PARKING TICKETS**

432 **IF YOU FAIL TO PAY any forfeitures, costs, or towing and storage charges for**  
433 **nonmoving traffic violations incurred while you are in possession of the rental or leased**  
434 **vehicle, the rental company may pay those sums and CHARGE TO YOUR CREDIT**  
435 **CARD the amount paid for the forfeitures, costs, or charges plus an administrative fee of**  
436 **not more than \$30.”**

437 (c) The notice under par. (b) shall be printed in 11-point type, except that capitalized portions  
438 shall be in 13-point type bold-face type. If the notice is contained on a separate document, it shall  
439 be printed on 8 ½ by 11 inch paper.

440 (d) The rental company shall give each renter a copy of the notice under par. (b) along with  
441 the renter's copy of the signed rental agreement, and shall retain a copy with a copy of the signed  
442 rental agreement for at least 6 years. The rental company may retain its copy in photographic or  
443 electronic form. A rental company that retains its copy in photographic or electronic form shall  
444 print that copy for the department upon request.

445 **SECTION 42.** ATCP 163, 164, 165 and 166 are repealed.

446       **SECTION 43. EFFECTIVE DATE:** This rule takes effect on the first day of the month  
447 following publication in the Wisconsin administrative register, as provided in s. 227.22 (2)  
448 (intro.), Stats.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By \_\_\_\_\_  
Sheila E. Harsdorf, Secretary

Wisconsin Department of Agriculture, Trade and Consumer Protection

**Initial Regulatory Flexibility Analysis**

**Rule Subject:** Technical Rule  
**Adm. Code Reference:** ATCP 20, 21 Appendix A, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 90, 91, 92, 94, 99, 105, 118, 163, 164, 165, 166  
**Rules Clearinghouse #:** Not yet assigned  
**DATCP Docket #:** 17-R-07

*Rule Summary*

This rule makes minor or technical changes to a number of current Department rules. This rule does all of the following:

**Plant Inspection and Pest Control**

Adds the state of Maryland to section specific to the thousand cankers disease of walnut trees infested area. Adds additional county, state, and provincial references in Appendix A, Areas Infested by Hemlock Woolly Adelgid.

**Fertilizer and Related Products**

Changes the expiration date of a license to a later date, lowers the fee for the agricultural chemical cleanup surcharge, and updates referenced publications to the most recent versions.

**Commercial Feed**

Updates the referenced publications and technical standards to the most recent versions.

**Milk and Milk Products**

Corrects references to federal regulations.

**Food Warehouses and Milk Distributors**

Corrects references to federal regulations.

**Bed and Breakfast Establishments**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

## **Safety, Maintenance, and Operation of Public Pools and Water Attractions**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

## **Laboratory Certification**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

## **Recreational and Educational Camps**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

## **Campgrounds**

Replaces a specific term to make the language of the rule consistent with the Department's use of permits and licenses. This rule was previously under the Department of Health Services.

## **Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights and Measures; Petroleum and Other Liquid Fuel Products**

- Corrects small grammatical errors.
- Updates the technical references to cite the current NIST Handbook and ASTM fuel standards.
- Amends notes to reference website addresses and form numbers.
- Removes obsolete notes.

## **Grain Dealers and Grain Warehouse Keepers**

Removes requirement for a notary.

## **Sales Below Cost**

Adds provision allowing for electronic notice.

## **Car Rentals; Customer Notices**

Grammatical corrections.



***Small Business Affected***

This rule will not have any impact on small businesses or other businesses. This rule makes minor or technical changes that will not have an impact on operating costs or operations.

***Reporting, Bookkeeping and other Procedures***

The proposed rule does not create any reporting, bookkeeping, or other requirement for small businesses.

***Professional Skills Required***

The proposed rule does not require any new professional skills for small businesses.

***Accommodation for Small Business***

This rule has no impact upon small businesses and as a result, no accommodations are needed.

***Conclusion***

This rule will not have any effect on “small business,” and is not subject to the delayed “small business” effective date provided in s. 227.22(2) (e), Stats.

Dated this 15<sup>th</sup> day of February, 2018.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By: Paul Dedinsky  
Paul Dedinsky, Chief Legal Counsel

**ADMINISTRATIVE RULES  
FISCAL ESTIMATE  
AND ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original     Updated     Corrected

Administrative Rule Chapter, Title and Number

Chaps. ATCP 21, 21 Appendix A, 40, 42, 65, 71, 72, 73, 76, 77, 78, 79, 90, 91, 92, 94, 99, 105, 118, 163, 164, 165, 166

Subject

Technical Rule Changes

Fund Sources Affected

Chapter 20 , Stats. Appropriations Affected

GPR     FED     PRO     PRS     SEG SEG-S

Fiscal Effect of Implementing the Rule

No Fiscal Effect  
 Indeterminate

Increase Existing Revenues  
 Decrease Existing Revenues

Increase Costs  
 Could Absorb Within Agency's Budget  
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes     No

Policy Problem Addressed by the Rule

This rule makes minor or technical changes to a number of current Department rules. This rule does all of the following:

**Plant Inspection and Pest Control**

Adds the state of Maryland to section specific to the thousand cankers disease of walnut trees infested area. Adds additional county, state, and provincial references in Appendix A, Areas Infested by Hemlock Woolly Adelgid.

**Fertilizer and Related Products**

Changes the expiration date of a license to a later date, lowers the fee for the agricultural chemical cleanup surcharge, updates referenced publications to current versions,

**Commercial Feed**

Updates the technical standards in the current rule to the most recent versions.

**Milk and Milk Products**

Corrects references to federal regulations.

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### **Grain Dealers and Grain Warehouse Keepers**

Removes requirement for a notary.

### **Sales Below Cost**

Adds provision allowing for electronic notice.

### **Car Rentals; Customer Notices**

Grammatical corrections.

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)

### **Small Businesses**

This rule makes minor or technical changes that will have no effect upon small businesses.

**Utility Rate Payers**

The rule will have no impact on utility rate payers.

**Local Governments**

This rule will not impact local governments. Local governments will not have any implementation or compliance cost.

**General Public**

This rule makes minor or technical changes to the existing rules identified above. The proposed rule will not have any economic impact on the general public or the State's economy different from the impact of the existing rules that are proposed to be amended.

**Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule****Benefits**

This rule will benefit the public and various business sectors, as described above, by making technical changes to existing rules.

**General Public**

The general public and consumers will benefit from the technical changes in this rule through the clarification and updating of existing rules.

**Alternatives**

This rule makes necessary technical changes in existing rules. If the Department does not make the proposed technical changes, there will continue to be outdated provisions in existing regulations, inconsistencies between regulations and referenced documents, and certain regulations will lack necessary clarity.

**Long Range Implications of Implementing the Rule**

Long-term, implementing the rule will benefit businesses and the general public for the reasons stated above.

**Compare With Approaches Being Used by Federal Government**

The technical changes are proposed to ensure that the specified existing Department rules remain consistent with federal statutes and regulations.

**Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)**

The housekeeping and technical rule changes proposed in this rule will not create any disparities between Wisconsin and the adjacent states.

**Comments Received in Response to Web Posting and Department Response**

No comments were received in response either to the posting on the Department's external website or the statewide administrative rules website.