

# **BOARD OF AGRICULTURE, TRADE AND CONSUMER PROTECTION MINUTES**

**May 24, 2018**

The Board of Agriculture, Trade and Consumer Protection (“Board”) met on May 24, 2018, at the Department of Agriculture, Trade and Consumer Protection (“Department”), 2811 Agriculture Drive, Board Room, Madison, WI. The meeting was preceded by public notice as required by Wis. Stat. § 19.84.

## **Call to Order**

Board Chair Miranda Leis called the meeting to order at 9:01 a.m.

## **Members Present**

Miranda Leis, Andy Diercks, Paul Palmby, Greg Zwald, Nicole Hansen, Kurt Hallstrand, and Paul Bauer.

## **Minutes**

### **Motion**

Andy Diercks moved, and Nicole Hansen seconded, a motion to approve the February 27, 2018, Board minutes. Motion approved.

## **Public Appearances**

**Laurie Seale**, deer farmer, on behalf of the Whitetails of Wisconsin, appeared before the Board to provide testimony regarding Wis. Admin. Code ch. ATCP 10. Ms. Seale indicated that she has spent 30 years deer farming, loves what she does, and is upset with what is proposed for deer farmers in the state. Ms. Seale states that there is a federal rule for CWD in effect as of 2010, mimicking the Wisconsin CWD rules. Wisconsin has one of the strictest programs in the nation, where we find the disease early and eliminate. Wisconsin requirements allow for easy trace and elimination of CWD positive deer, unlike in the wild herd. The proposal will cost millions of dollars and not stop the spread of CWD. Farms are already double fenced. In a CWD positive county, you would not be able to move live animals, so fencing will not help. Ms. Seale asked that the Board please review the industry best management practices. Ms. Seale indicated that there’s is a highly regulated industry. In facing a 75% shutdown on movement due to a disease, other animal industries would be up in arms. Ms. Seale indicated that CWD is not an emergency, and she asked what part of the emergency rule description is the state using to promulgate an emergency rule because she does not see any of those criteria meeting this rule. Since 2002, Wisconsin has spent more tax dollars than any other state and now proposes another action without scientific basis. Media has not accurately portrayed the problem. Unfunded

mandates like this do not solve the problem. Farmers are finding CWD early and eliminating it, without compensation. Even if deer farms are put out of business, it will not stop the spread of CWD in Wisconsin. Deer farmers are doing everything they can to prevent CWD spread. A double fence would only help a CWD positive facility that chooses to stay in business.

**Rick Vojtik** appeared before the Board regarding ATCP 10 to address the scope statement. According to Mr. Vojtik, the objective of scope statement is to slow CWD, with justification that existing policy has not arrested the problem. Ms. Vojtik indicated that the rule is more of the same and will not work, in terms of regulating deer farms and adding testing. Deer farms must be completely certified and tested to move to another location in the state. These farms are overregulated based on federal rules. Economic impact as it relates to the double impact is not where the real economic impact is; rather, it is in moving animals from affected areas. The scope statement needs to bring out what the economic impact is: shutting down nearly 70-80% of the farms in the state who would not be able to move animals. Those farms would have no choice but to depopulate their facilities, losing the animals and their investments in equipment. They also would have to pay for more testing. As to the proposed scope's objective, enforcing more rules on deer farms, there has yet been a case where we proved that deer farms spread the disease to a wild animal. Low risk. Even the cited studies regarding saliva passing CWD through a fence is skewed; the 2006 study had to give 3 fawns 50 ml of saliva to get the disease to pass. This would not happen naturally. Using lesser amounts of infected material did not transmit disease. The proposed scope/rule is more of the same that has not worked and will not prevent the spread of the disease.

**George Mayer**, on behalf of the Wisconsin Wildlife Federation, appeared before the Board to address Wis. Admin. Code ch. ATCP 10. The federation represents over 50,000 members directly, while indirectly representing the 650,000 gun deer hunter and 225,000 archer deer hunters. Hunting is part of our heritage, recreation, and it is big business. The economic impact of CWD affects a multi-billion dollar industry and clearly is threatened by the spread of CWD. DNR records show that even over many years, there is an average of 25 to 30 escapes from deer farms of domestic white tail deer. There are many facts that inundate us. Mr. Mayer suggested that we not lose sight of the forest for the trees. There are detailed regulations and excellent staff in place. Despite the regulations being in place for many years, in the last 3 years, hundreds of miles away from the endemic herd, CWD has been found in Eau Claire, Oconto, Shawano, Waupaca counties (and one other). That tells him that what is in place is not slowing the spread of CWD on the domestic side. Sportsmen need to do more. Oppose deer baiting. But the Governor's proposal needs to be put in place. He questioned the authority for the rule regarding movement from deer farms – whether that is under the authority of DATCP. Moving deer carcasses – under the scope of responsibility of DNR. There is discussion regarding who is responsible for fencing. Mr. Mayer claims that pursuant to Wis. Stat. § 90.21, the DNR shall promulgate rules regarding fences.

**Shawn Schafer**, on behalf of the North American Deer Farmers Association, formerly of the North Dakota Board of Animal Health, appeared before the Board regarding ATCP 10. We have good regulations in place. Mr. Schafer asks not for more regulations, but to update the science and to enforce the existing regulations. Look at the latest and greatest. We are talking about

farmers and ranchers. They are an agriculture industry. Mr. Schafer is fearful of the precedent this Scope and potential rule sets. Remember TB in Minnesota as an example. Shutting down an agriculture industry, for example, poultry industry with avian disease. In essence, shutting down an industry movement is shutting down the industry. Mr. Schafer asked: How can you have a market without movement from your farm? The emergency need for it is questioned. CWD is serious, but what has changed in the last 6 months that has not been true for the last 20 years. He has been active in this issue since 1997. The hearing process makes better rules and regulations than the kneejerk emergency rule process. These are livelihoods that will be suspended and taken away.

**Greg Flees, 41 year Wisconsin deer farmer**, on behalf of WOW, appeared before the Board in opposition to proposed changes to ATCP 10. The rules are working. We test 100% of animals, and that is why we find it. If we tested 100% of the wild animals, we would find many more. We find it on farms because we test it. He has a positive farm in Marathon County. Game farmers are working to figure out how to beat CWD. They are working with CWD researchers to develop deer that are resistant to CWD. His facility and other positive facilities are being researched. Knowledge being gained includes identification of genetic resistance. Farmers are starting to breed for resistant animals. Given the opportunity, they can be part of the solution more than they ever were a part of the problem. If we can breed animals that resist CWD, maybe farmers can help solve the problem with the wild deer. Doing what we are doing we will have CWD for the next 200 years. What deer farms are doing could stop the spread of CWD. His herd is going to flip the genetics so that 95% of the herd is genetically resistant. Mr. Flees is working with Nick Haley on research. This information will not be able to be used if he is unable to move his animals. People are bashing deer farms, and people do not know how regulated the industry already is. Mr. Flees has a breeding farm 41 years old, and he purchased a new farm in Marathon County which tested positive. The original herd did not ever test positive. The Marathon County CWD came from the landscape.

**Brad Heath** appeared before the Board to address ATCP 10. Raising deer for over 20 years, his sole source of income on the farm for over 15 years is gained from deer farming. Mr. Heath has done everything to prevent it – double fenced for 15 years and currently participating in the monitoring program. The rules in place are working. That is why we can find the disease and eradicate it. If you eliminate all deer farms in Wisconsin, CWD will still be here. It will be bad for his family and business if this goes through.

**Ryan Rodenkirch**, on behalf of the Whitetails of Wisconsin, appeared before the Board to discuss ATCP 10. Mr. Rodenkirch is a deer farmer. He attended to urge the DATCP Board not to approve the proposal. He owns facilities in Dodge and Wood counties. Mr. Rodenkirch cannot move animals between properties, forcing him to close businesses. His breeding farm is at 100% testing. Fencing or movement did not create the Eau Claire positive. Hunters from all the states have harvested deer in Wisconsin. We need to keep researching and solve CWD.

**Roxanne Lotts** appeared before the Board regarding ATCP 10. There are 5 seasons in the deer industry – this is fawning season. Ms. Lotts owns Indianhead Whitetails in Barron County with 500+ whitetail deer and 20 elk on separate farms, providing urine collection industry and a huge

amount of revenue for Wisconsin. If we are prevented from moving our animals, we cannot feed them. No end market means killing healthy animals and not even being able to send them to slaughter. How can this farming industry sustain itself if you cannot move or sell your product? The federal rules are working as intended. Her farm has tested over 500 animals – all their animals. Testing records show they have a CWD free farm. If CWD comes in, it will be confined and detected. Ms. Lotts is testing 45 of 500 deer annually. Instead of restricting movement, consider testing a certain amount of animals in a herd each year. Increase testing instead of restricting movement. Double fencing has not stopped the movement of CWD. One of their farms is double fenced. CWD is moving through the wild deer. In a captive herd, it is contained, and the herd is depopulated. National impact of her company is \$30M, lure for deer hunters. If Wisconsin is the first state to adopt such a rule, others will follow. It will have an enormous economic impact. The Scope/proposed rule will force her into bankruptcy.

**Joel Espe**, on behalf of the WCDEFA and his family, appeared before the Board to oppose the proposed ATCP 10 changes. Ms. Espe served on Vilsack council and has spoken at CWD symposiums. Mr. Espe presented five questions. Did DNR report the outbreak of west Nile disease as a human communicable disease? Did DNR report CWD outbreak as a human communicable disease? With suicide concerns, is DATCP looking at high risk of suicide for the 416 farm families? Knowing that livestock have no problem jumping fences, the cattle, etc., can still spread the disease in their manure, are we at some point going to stop allowing movement of other livestock? Mr. Espe was required to double fence last year. There has never been an elk with CWD. The testing was required due to the 5 mile rule. DNR had no proof or chain of custody. Just someone turned in a positive sample and said it came from this area, and it cost him over \$20K for fencing. Looking at spread of CWD, the rules may require other types of farms and crops to be fenced in if they are found to also be spreading CWD. What do taxidermists do with the body parts they are not mounting, i.e. brains, spinal columns, etc.? Are they poured out in the field and possibly spreading CWD? Mr. Espe did provide a written statement in advance of his testimony today.

**Corey Siegler**, on behalf of the President of WI commercial deer and elk farmers association, appeared before the Board to oppose the ATCP 10 Scope statement. Mr. Siegler is a third generation deer farmer, family farming since 1992. Never a case of CWD has been found on his farm. He has been a hunter since he could follow his dad through the woods. The proposal will put farmers out of business. The fencing cost will be unmanageable. The inability to move animals will make it impossible to generate revenue. He asks that the state of Wisconsin make no further rules to restrict movement. The federal rules are grounded in science. The proposed rule will do nothing to prevent CWD in the captive or wild herd and will put an unmanageable burden on small family farms.

**Lisa Clark** appeared before the Board to address ATCP 10. There are many passionate stakeholders here. Ms. Clark indicates that she is one of them, with a farm in operation over 25 years. Tested 100% and all were CWD negative. She will be put out of business if they cannot move animals. Both of them have outside jobs. They love what they do. Although the Department is in charge of agriculture, it is also in charge of trade. Trade in the state of Wisconsin contributes a large amount to the economy. Feed, corn, seed for deer plots generates

income. Local cooperatives would lose money if the farms close. Veterinarian service for deer farm herds would lose over \$10K in revenue just from deer farms if they close. To her knowledge, no deer found in Marathon County yet. Remember what responsibility means. None of us know how CWD got here. Our ability to respond can be quantified. This DATCP board has the ability to point out what is accurate, available, working, what might be improved, and what has been done already. The DNR also has abilities here.

**Bill Knutson**, on behalf of the Spring Coulee Ranch, appeared before the Board regarding ATCP 10. Served on Wisconsin commercial deer and elk farming board and other boards. Mr. Knutson has farmed for over 15 years. He has been breeding for resistant animals. He has never had a case of CWD. Double fencing cost is not feasible to continue in the elk ranching business. Not being able to move trophy elk would put him out of business. The antler products he sells would also not be able to be moved. The proposed rules will not prevent the spread of CWD in Wisconsin.

**Bruce Krueger** appeared before the Board to oppose the changes to ATCP 10. Mr. Krueger raises elk in Manitowoc, Wisconsin. He specializes in handicapped hunts. The proposal will affect feed mills, guides, veterinarians, and meat processors. There never has been a CWD elk, with over 10K animals tested. He does not see where this rule is coming from.

**Brian Wolf** appeared before the Board to oppose changes ATCP 10. Mr. Wolf is a member of the Wisconsin commercial deer and elk farmers. This ban would hurt his operation. He is double fenced. He hopes it would have an affect but is not convinced it will. Banning his ability to move animals (elk meat at a farmer's market, bulls to a hunt ranch) are his two sources of income and will put him out of business. While this ban is in effect, he still has sunk expenses for feed and vet. It will be an extreme financial hardship. When the 2002 monitoring program started, he joined it and has never had a positive. He has done all that has been asked of him. The ban is unfair.

**Katie Marty**, on behalf of the Whitetails of Wisconsin, appeared before the Board to oppose changes to ATCP 10. Ms. Marty fully supports the Whitetails of Wisconsin position. She disagrees with emergency rule ban on live movement in CWD affected counties. The proposal will hurt her small 3 generation deer farm. The farm began 6 years ago. Her family also hunts. The rule will put them out of business. They both work full time off the farm, and her parents help with bookkeeping and other work. Their child helps with farm care and wants to become a veterinarian. The proposal will devastate them. It will require them to kill their herd because they cannot afford the feed costs required to keep the animals alive. She estimates that 75% of the farms would be put out of business. Please work with them and recognize that they are the victim and not the problem.

**Steve Hookstead** appeared before the Board to opposed the proposed changes to ATCP 10. Previous speakers have hit on a lot of his topics already: Ideas to think about, options, and solutions. Things that we could do different to improve the rule. He is against any more rules including this emergency rule. As a 24-year deer farmer and a hunter long before that, as CWD came onto the landscape, he does not always look at it through a farmer's eyes. He also looks at

it as a hunter. What has jumped out to Mr. Hookstead is whether the state and DNR have done everything they can to this point. Incorporating what Mr. Meyer said, it is apparent that throughout Wisconsin, there is not a retail store that does not sell deer bait, even though we only have 20 counties that can bait. So why have we not done something there? Why do people buy bait in Beloit? Where has this bait deer corn been going? Second, why are we not harvesting any and all deer in CWD affected counties? Why are we allowing white deer to not be harvested especially in the CWD affected counties? Have we done everything and are we truly serious about stopping CWD? If we are not going to harvest the deer and sell bait everywhere, then no, we are not serious. So, we will put farmers out of business. But, what is step number two? Last, DNR says \$2.54 billion impact for deer... bigger than Foxconn, and look at what Wisconsin has done for Foxconn.

**Jan and Barb Armstrong**, on behalf of the Wildlife Creations Whitetails, appeared before the Board to discuss ATCP 10. Their family has put everything they have into their farm hoping that it will help them at their retirement. They live for their farm. The Armstrong's stated that they are all concerned about the spread of CWD, but cervid farms are being unjustly regulated out of business, especially considering the small number of animals they have compared to the wild herds. They will lose everything. What will they do? If this ruling passes, what will they do? They will lose everything.

**Gretchen Schmitt** appeared before the Board to oppose changes to ATCP 10. Ms. Schmitt owns a farm in the Green Bay area, saving land from a housing development. She suggested that we learn from the USDA genetic based flock cleanup plan for scrapie in sheep. It is controlled and no longer pose a threat to the sheep industry. Some cervids like mule deer are susceptible, while others are not. Genetic markers for resistance are an excellent potential way to reduce the disease in the herd. Deer farmers support the research through their foundations. Both wild and farmed deer will benefit. Destroy their industry, and the research will disappear. Ms. Schmitt provided written information on scrapie and deer genetics to the DATCP Board.

**Jenny and Logan Chireck**, on behalf of the Whitetails of Wisconsin, appeared before the Board to oppose changes to ATCP 10. They own Logan's Legacy Ranch. The proposal will stop them from moving deer. They make enough to get by and love it. They are in fawning season and are currently bottle feeding. The proposed rule will stop farmers from moving deer. Whitetails of Wisconsin is a wonderful organization that helps many charities. This will all stop if DATCP stops farmers from moving animals. Other related industries will also be impacted, with their livelihoods at stake. Please reconsider this emergency rule. Deer producers are under tight wrap – highly regulated and over scrutinized by the media. These animals are loved. Sick animals are not wandering the ranches. What is step 2 after they are put out of business? What did they do wrong? Define emergency – what happened last week that has not happened for last 40 years of deer farming. DATCP should start by carcass movement rules for hunters. Logan (age 11) spoke, indicating that he has helped raise deer since age 3 and does not want to stop raising deer.

**Rick Alsager**, on behalf of the Three Lakes Trophy Ranch, appeared before the Board to oppose changes to ATCP 10. Mr. Alsager stated that the real problem is perception and disregard of science. What has been affected is his ability to do business. Mounting regulations are based on

assumption. It is assumed disease is spreading. In Wisconsin, we do not see animals dying on the farm. We can put up another fence. Fencing will not stop scavenger birds or blood sucking insects. Why has this not been discussed? Simple reason is because it does not help move the agenda forward to destroy industry. We need to get to a politician and get control of bureaucrats who want to put industry out of business. Mr. Alsager also takes offense when a bureaucrat walks on his place and says you are contaminated, cannot trade, and all your animals must die. He has been around livestock his whole life. Feeding livestock does not create disease – this assumption is not based on fact or science. Mr. Alsager attended a meeting in his county and listened. Everyone was against game farmers for bringing in disease to the county. They wanted to burn him out and kill all his animals. He was stopped from addressing the public by the bureaucrats in the room. A reporter was not allowed to interview him or show his side of the story. The industry is being targeted to discourage hunting.

**Sam Vainisi** appeared before the Board to oppose revising ATCP 10. Mr. Vainisi represents any small farmer, no matter what species. He is trying to follow his dream and do a good job. He is a veterinarian and co-owner of a deer farm. A 1954 trip to New Zealand inspired him to farm red deer in a Green Bay suburb. He currently has 300 animals and markets to restaurants. He has trophy stags which are sold across the country. A closed herd since their beginning, he has tested 10% of his animals annually since 2001. He double fenced in 2002 when DATCP offered to cost share. Mr. Vainisi never thought CWD would be a problem. The proposed scope/rule will close all farms without impacting CWD prion transmission. Infection vector is likely a wild bird or other varmint. Mr. Vainisi shared an example of a closed deer herd in Minneapolis where the only red deer in the world was diagnosed, and all the herd was put down. APHIS is not sure how the transmission occurred, but surmises that it probably occurred from a wild bird or varmint. Prions will get on farm from a bird or varmint. The rule would put his farm out of business. What do they do with their 300 animals? There are science based options.

**Bob Welch**, on behalf of the Whitetails of Wisconsin, appeared before the Board to discuss Wis. Admin. Code ch. ATCP 10. Everyone has an opinion about CWD. Experts make informed decisions to solve this problem. We are here today, optimistic that we can work with the Department and everyone to get to a good outcome. People are afraid of a bad outcome. Mr. Welch handed out the CWD best management practices – this is the law. They work closely with the Department to make sure we have healthy farms. They use science, the same science as on other livestock farms. If there is an outbreak, they depopulate. Double fencing will put some farmers out of business. Mr. Welch stated that his organization does not see the scientific benefit of double fencing. There exists no correlation between double fencing and the spread of the disease. The limitation on movement of captive deer will not be a moderate impact. 80% of the farms will be out of business in months if there is a ban on movement of deer in affected areas. Take the word “deer” out and put “cattle” in. These animals are raised to be sold. There are genetics we can use to make a herd CWD immune. Within 5 years, the farms could all be CWD immune. Then, as we continue to fight CWD in the wild, we can help with that effort. Mr. Welch told the DATCP Board not to kill the goose that is about to lay the golden egg.

**Jane Stolz** appeared before the Board in opposition to the changes proposed to ATCP 10. Ms. Stolz is a 20-year deer farmer. Ms. Stolz brought a transparency map showing where CWD

came from versus where deer farmers are located. There is no correlation. Farmers are not spreading the disease. Ms. Stolz is testing 100% of her farm. There is much research being done, and farmers can be the solution. Putting double fences on, and other regulations, will put them out of business. It is not possible to fence everything in. They are also hunters. This emergency rule will not solve the problem. Research since the 1950's has not solved CWD. The disease is likely in the soil and in insects. Deer are not wandering around dying. It is not an emergency and will just cost a lot of money and put a lot of people out of business.

The following 18 people filed appearance cards in opposition to ATCP 10 but did not wish to speak on the proposal: Ben Ruys; Amy Jelinek; Chad Jelinek; Cathy Wininger; Chad Bowers; Todd Breitenfeldt; Greg Listle; Andy Lezner; Dan Van Ooyen; Guy Senkowski; Carol Kubly; Sheridan Clark; Ron Rodenkirch; Carley Rodenkirch; Jonathan Szczesny; Jonathan Szczesny I; Jim Siegler; and Greg Stec.

**ATCP 10 (Emergency Rule) – Farm Raised Deer Movement and Fencing (Notice of Preliminary Public Hearing and Comment Period)**

Dr. Paul McGraw, DVM, State Veterinarian and Administrator of the Division of Animal Health, presented the Notice of Preliminary Public Hearing and Comment Period, pursuant to Wis. Stat. § 227.136(2), of Wis. Admin. Code ch. ATCP 10 to the Board. The Governor approved the emergency scope statement on May 3, 2018, and the Joint Committee for Review of Administrative Rules directed DATCP to hold a preliminary public hearing and comment period on the proposed emergency scope statement.

The hearing date and location is proposed for 9 a.m. on June 7, 2018 at the DATCP Board Room, and public comments may be submitted from May 30, 2018 to June 14, 2018. DATCP Chief Legal Counsel Paul Dedinsky explained some details pertaining to the emergency rule process (Wis. Stat. §§ 227.24 and 227.136). The preliminary public hearing and comment period is a precursor to the presentation of the proposed emergency scope statement before the DATCP Board on July 24, 2018. If the scope statement is approved, the Department would then draft the contents of the emergency rule pertaining to Wis. Admin. Code ch. ATCP 10. Once the rule draft is completed, the proposed emergency rule in final draft form proceeds to the Governor, who, in his discretion, may approve or reject the proposed emergency rule.

Several members of the DATCP Board indicated that they would like to hear and understand the counterarguments to the testimony heard from the public. Some members of the DATCP Board indicated that neither have they heard a compelling argument as of yet that the current situation rises to the level of an “emergency” that would warrant the necessity of an emergency rule. The DATCP Board indicated their understanding that the Department, pursuant to Wis. Stat. § 227.24(1)(e)1d., may not “perform any activity in connection with the drafting of a proposed emergency rule except for an activity necessary to prepare the statement of the scope of the proposed emergency rule until the governor and the individual or body with policy-making powers (in this case, the DATCP Board) over the subject matter of the proposed emergency rule approve the statement.” Nonetheless, several members of the DATCP Board stated that they must hear and understand the purposes and reasons for the emergency rule at the July 24, 2018

DATCP Board meeting before they would be inclined to approve the Emergency Statement of Scope for ATCP 10.

**Motion**

Nicole Hansen moved, and Andy Diercks seconded, a motion to approve the Notice of Preliminary Public Hearing and Comment Period of Wis. Admin. Code ch. ATCP 10. Motion approved unanimously. A short, 10-minute break was observed by the DATCP Board.

**ATCP 17 – Livestock Premises Registration  
(Final Rule)**

Dr. Paul McGraw, DVM, State Veterinarian and Administrator of the Division of Animal Health, presented the Final Draft of Wis. Admin. Code ch. ATCP 17 to the DATCP Board.

The proposed rule specifies requirements for livestock premises registration. At present, a secondary premises is not searchable in the livestock premises information database. The proposed rule requires that secondary premises be registered separately with their own concurrent premises code, so that secondary premises will receive notification and testing during disease responses. The Wisconsin Pork Association submitted a written letter supporting the proposed rule changes.

**Motion**

Paul Bauer moved, and Kurt Hallstrand seconded, a motion to approve the Final Draft of Wis. Admin. Code ch. ATCP 10. Motion approved unanimously.

**ATCP 16 – Dog Sellers and Dog Facility Operators  
(Hearing Draft)**

Dr. Paul McGraw, DVM, State Veterinarian and Administrator of the Division of Animal Health, presented the Final Draft of Wis. Admin. Code ch. ATCP 16 to the DATCP Board. The proposed rule specifies requirements for persons to become licensed under the Wisconsin dog sellers and dog facility operators program. The proposed rule updates include minor modifications such as updating statutory cross references, adding statutory language to the rule, or modifying the rule to reflect statutory language. If the Board authorizes public hearings on this rule, DATCP will refer a copy of the proposed rule to the Legislative Council Rules Clearinghouse and publish a hearing notice in the Wisconsin Administrative Register. DATCP will then hold public hearings at a date and location to be determined.

**Motion**

Greg Zwald moved, and Andy Diercks seconded, a motion to approve the Hearing Draft of Wis. Admin. Code ch. ATCP 16. Motion approved unanimously.

### **Division of Animal Health (Report)**

Dr. Paul McGraw, DVM, State Veterinarian and Administrator of the Division of Animal Health, provided an update to the Board on several items related to DAH.

1) Implementation of swine rules. Working with industry, DAH drafted a waiver which will be inserted into the draft final rule going forward. Thus far, DAH has issued 57 herd plans – issued for positive or untested herds being brought into the state. DAH has received positive feedback. Dr. McGraw noted that there is regional interest in how the program is working, and he believes that it would benefit Wisconsin if other states get involved in the effort.

2) Depopulation of a Farm. It was necessary to depopulate a farm in Mineral Point where 11 animals tested positive for CWD last fall using joint state and federal indemnity.

3) Foot and Mouth Disease Investigations. DAH continues to perform regular foot and mouth disease investigations. Since 2015, DAH has performed 707 total. Swine vaccines may be contaminated and that may be how these animals can get infected.

4) Veterinary Examining Board (VEB). Since the VEB transitioned from DSPS to DATCP, it remained outside of DAH. That has now changed, given the retirement of the Department's former director. Dr. McGraw now has assumed the directorship position within the Department, and the VEB has now transitioned to the Division of Animal Health.

5) Emergency Exercises. The Division of Animal Health participated in a successful three-day nationwide foot and mouth disease exercise designed to test DATCP's capacities for biosecurity. The exercises have been useful to bolster DAH's efforts to engage in emergency preparedness.

### **Wisconsin Agricultural Statistics Services (WASS Report)**

Greg Bussler, State Statistician, updated the DATCP Board on the recent production and price reports. Mr. Bussler presented information on 2018 crop planting intentions, milk production, cheese production, winter wheat production, March prices, crop progress, as well as chicken and eggs. Mr. Bussler reported that soybean acres exceeded corn acres for the first time since 1983. The Custom Rate Guide was released in March 2018 and is one of the most requested data items in Wisconsin. The June Agriculture Survey is currently collecting data from May 29, 2018 until June 10, 2018. The data will be used to set planted acres for 2018. Results will be released on June 29, 2018. As of May 22, 2018, 69.8% of Wisconsin farmers have returned the Census of Agriculture forms, as compared to 61.6% of U.S. farmers. Wisconsin ranks 2<sup>nd</sup> in census returns. Results will be available in early 2019. Mr. Bussler also reported from the Wisconsin Farm Reporter, April 5, 2018 – Vol. 18, No. 7.

**ATCP 22 – Industrial Hemp  
(Scope Statement)**

Melody Walker, Chief, Pest Survey and Control Section, Plant Industry Bureau of the Division of Agriculture Resource Management (DARM), presented the Scope Statement of Wis. Admin. Code ch. ATCP 22 to the DATCP Board.

By the deadline of May 1, 2018, DARM received 370 applications under the emergency rule, most locations situated in south-central Wisconsin. Applications represent over 2,000 acres, as well as indoor operations. People are already contacting DATCP for 2019. DATCP issued 315 licenses, including 227 hemp grower licenses. Eighty-eight hemp processor licenses have been issued. Because the legislature created no staff for the Industrial Hemp program, personnel from other areas in DARM needed to be pulled in just to handle the excessive amount of work generated by the Industrial Hemp program. DATCP is working with several other states to learn successful practices. The Wisconsin Department of Justice recently clarified its stance related to the legalities of CBD oil products. As the program is meeting its next steps, DARM will be working on planting forms and regulatory samples. One DATCP Board member asked a question regarding processor demographics, and was informed that the Department can track demographics as to how licensees intend to make use of their grown hemp product. Regarding the processes and procedures, the DATCP Board offered feedback regarding farmers who have been most appreciative of just how helpful the Department has been and thank the Department. There was a question regarding testing fees that might have an economic impact upon small farms, and Ms. Walker explained that the calculations for fees will be dependent upon the field or the variety of crop production.

If the DATCP Board approves the statement of scope, the Department will begin work on drafting the permanent rule.

**Motion**

Andy Diercks moved, and Paul Bauer seconded, a motion to approve the Scope Statement of Wis. Admin. Code ch. ATCP 22. Motion approved unanimously.

**ATCP 20 – Seed Labeling and Sale  
(Final Draft)**

Greg Helmbrecht, Bureau of Plant Industry of the Division of Agricultural Resource Management (DARM), presented the Final Draft of Wis. Admin. Code ch. ATCP 75 to the DATCP Board.

The proposed rule adds two new prohibited noxious weed seeds, Palmer amaranth and Waterhemp. Palmer amaranth is moving from NRCS seed mixtures that are not sold at retail and so remain untested; there is a movement to professionally produce the mixes. If the DATCP Board approves the final draft rule, the Department will submit the final draft rule to the Governor's Office of Regulatory Compliance. If the Governor's office approves the final draft

rule, the Department will then submit the rule for legislative committee review. Should the Legislature have no objection to the rule, the Department Secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect on the first day of the third month following publication.

### **Motion**

Paul Palmby moved, and Paul Bauer seconded, a motion to approve the final draft of Wis. Admin. Code ch. ATCP 20. Motion approved unanimously.

### **Weights and Measures – 2017 Annual Statistics (Report)**

Alicia Clark, Compliance Officer, Bureau of Weights and Measures, of the Division of Trade and Consumer Protection, provided an update to the Board on completed and ongoing projects as well as 2017 statistics. Weights and Measures completed 216,887 inspections at 5,630 business locations. 51,721 devices were inspected for accuracy. DATCP Board members received a written report for additional information. Regarding credit card skimmers, there were 18 reported incidents in 2017, and only one reported incident in 2018 to date. The Bureau of Weights and Measures is working diligently to educate retailers to contact law enforcement should new issues arise. The Bureau updated fact sheets to educate the industry and provide further training. The Bureau is also working with the FBI to report skimmers. Finally, the Bureau is also working on E15 to retail market and developed fact sheets.

### **ATCP 100 (Emergency Rule) (Scope Statement)**

Jeremy McPherson, Bureau Director for the Business Trade Practices of the Division of Trade and Consumer Protection, presented the Scope Statement of the emergency rule pertaining to Wis. Admin. Code ch. ATCP 100 to the DATCP Board. The proposed emergency rule will effect a mandate required by 2017 Wisconsin Act 155. The mandate pertains to the Agricultural Producer Security Fund, a public trust administered by DATCP. A variety of agricultural contractors, including milk contractors, are required to contribute to the fund annually. Monies in the fund are used to settle claims by producers in the event a contractor defaults on payment to a producer. Act 155 allows milk contractors to contract with producers so as to defer payments up to 120 days, starting on April 28, 2018. The emergency rule is needed because milk contractors and producers are already authorized to begin entering into deferred payment contracts. Simultaneously, with this emergency rule, DATCP is also proposing a permanent rule designed to set deferred payment assessment rates.

### **Motion**

Paul Bauer moved, and Greg Zwald seconded, a motion to approve the Scope Statement of Emergency Rule Wis. Admin. Code ch. ATCP 100. Motion approved unanimously.

**ATCP 99, 100 – Grain Dealers and Milk Contractors  
(Scope Statement)**

Jeremy McPherson, Bureau Director of the Division Trade and Consumer Protection, presented the Scope Statement of Wis. Admin. Code ch. ATCP 99, 100 to the Board. The statement of scope pertains to proposed amendments to DATCP rules related to grain dealers, grain warehouse keepers, and milk contractors. The proposed rulemaking will align Wis. Admin. Code. chs. ATCP 99 and 100 with changes mandated by 2017 Wisconsin Act 155. If the DATCP Board approves the scope statement, the Department will begin to work to draft the permanent rule.

**Motion**

Paul Bauer moved, and Nicole Hansen seconded, a motion to approve the Scope Statement of Wis. Admin. Code ch. ATCP 99, 100. Motion approved unanimously.

**Alice in Dairyland – Yearly Accomplishments (Report)**

Crystal Siemers-Peterman of Division of Agricultural Development, provided an update to the Board. Over the past year, Crystal shared that she immensely enjoyed serving as Alice in Dairyland, Wisconsin's agricultural ambassador. Crystal traveled over 35,000 miles and discovered the diversity of Wisconsin agriculture. Each day provided new adventures. She began her tenure with several goals: 1) Generate media coverage; 2) Give speeches to diverse agricultural audiences; and 3) Develop and execute 9 industry media blitzes. Ms. Siemers-Peterman focused on certain crops by season and on developing recipes. She participated in several agricultural sectors and with several initiatives, including: Dairy dance off, pumpkin industry, turkey hunting, mink ranching, Something Special from Wisconsin, maple syrup, cheese, goat cheese, wool, potatoes, and cranberries. Crystal enjoyed getting to know so many good people in Wisconsin from all walks of life. She had unique conversations with farmers about tough times in the dairy industry, and she learned how Wisconsin needs all kinds of farms, large and small. Ms. Siemers-Peterman wants to pursue a future career in the dairy industry.

**Appointments to Standing Advisory Councils**

The DATCP Board was asked to confirm appointments for vacancies on standing advisory councils created under Wis. Stat. § 15.04(1)(c). Members of the Standing Advisory Councils are appointed by the DATCP Secretary with the approval of the DATCP Board. The DATCP Secretary recommends the following individuals: Benjamin Nelson, Marv Prestrud, and Joe Sekora for reappointment to the Agricultural Chemical Cleanup Council. The DATCP Secretary recommends Gerald Klinker, Anthony Saarem, Bill Stoneman, and Steve Walker for reappointments to the Organic Advisory Council.

Moved by Paul Bauer, and seconded by Nicole Hansen, a motion to approve the appointments. Motion approved unanimously.

### Board Member Reports

**Kurt Hallstrand.** Mr. Hallstrand indicated that planting has been accomplished for the 2018 growing season. He stated that his business is progressing well, and on a personal level, his family is doing well.

**Paul Palmby.** Mr. Palmby stated that his industry is ahead of last year and only slightly behind the last two years. In terms of producers planting peas and beans, the extended wet period slowed things down initially, but the central sands can catch up even with poor weather. Mr. Palmby announced that his company is exiting the mixed fruit business, which has been challenging. Currently, the industry is contending with the steel tariffs issue over the last several months. Steel costs are rising at the current time, which is having a direct impact on canning.

**Andy Diercks.** Mr. Diercks stated that planting for potatoes has been completed for the 2018 growing season. Planting started late this spring, but planters got caught up quickly, which leaves them perhaps a week behind their typical schedule.

**Paul Bauer.** Mr. Bauer discussed the dairy industry, indicating that their creamery is doing pretty well, as they just purchased a cheese plant. Currently, they employ up to 300 employees. The industry continues to lose a number of farms, smaller and some medium-sized farms. Milk volume is steady, as larger producers catch up.

**Greg Zwald.** Mr. Zwald stated that his area of the state remains fairly dry, without a great deal of rain. Farmers planted early, and at present, almost all is planted. He indicated that first crop hay is up, with farmers utilizing irrigation for berries, due to dryness.

**Nicole Hansen.** Ms. Hansen stated that the final ruling volume regulation for cranberries has been decided and released. Good intent by industry to help individual growers manage supply. Results are not as promising because there remain some loopholes which is creating headaches. Winter burn on cranberries resulted because of ice staying on longer, cold temperatures, and a great deal of wind. Good meetings regarding pollinators occurred between the industry with federal agencies and UW. Some beekeepers lost hives in Texas this winter due to heavy rain where hives floated away, but hive strength is good for remaining hives. Beekeepers are getting foreign worker visas. The industry continues to experience a farm worker shortage. Ms. Hansen predicted that some crops could compete against each other for labor. Mowing vines was three to four weeks behind schedule due to ice, but with warm weather, now it is only a week behind.

**Miranda Leis.** Ms. Leis attended a leadership training for agricultural cooperatives, learning the history of coops and the lifecycles of cooperative leadership behavior and member behavior. She also attended the Dairy 123 DBA conference which stressed the current challenges in the dairy industry, as well as grassroots ideas to improve the current conditions. She indicated that there is a tremendous sense of frustration from smaller producers who are excited about the industry but are stressed about the consolidation of the industry. Diversity of types of farms is

good for the fabric of our state. From a farming standpoint, planting is currently half-done due to wet fields.

### Secretary's Report

**Secretary Sheila Harsdorf.** May 9, 2018 marked employee appreciation day at DATCP. Department management served ice cream to show their appreciation to the DATCP team while recognizing the contributions of many individuals who went above and beyond to serve our constituents. These "employees of the year" each received a certificate of commendation as a token of our gratitude for their excellent work. These employees were also recognized on a plaque now prominently displayed in the DATCP hall of fame room. Secretary Harsdorf noted that DATCP has a great team, and it was a tough competition. This year's recipients are:

- Ag Development – Kietra Olson
- Ag Resource Management - Frances Hegarty
- Animal Health – Amy Horn Delzer
- Food and Recreational Safety - Kathy Lembezeder
- Trade and Consumer Protection – Steve Samuel
- Management Services – Jennifer Haas

Secretary Harsdorf stated that all divisions are encouraged to utilize annual employee survey responses to focus on where we need to improve and how we can improve employee satisfaction.

Secretary Harsdorf reported her attendance at the world championship cheese contest in March of 2018. Wisconsin did well, ranking 5 of the top global cheese finalists. Wisconsin is again the top cheese producer at 3.37 billion pounds, with over 600 specialty cheeses. 90% of our milk goes to cheese, and 90% of cheese is exported out of state. Secretary Harsdorf also attended the dairy forum in Barron County hosted by BCFB and BCFU in order to hear about challenges faced by the dairy industry. It was a valuable opportunity to hear directly from industry stakeholders. Dairy breakfasts will soon be underway. Secretary Harsdorf announced that the DATCP Board members can find the schedule on [www.hooraywisconsinidairy.com](http://www.hooraywisconsinidairy.com). In March of 2018, Secretary Harsdorf attended Ag Day in Wisconsin Rapids. Secretary Harsdorf also attended a Farm Bureau Ignite Conference in April of 2018 where she spoke at UW River Falls about Agriculture career opportunities. In April of 2018, Secretary Harsdorf also spoke with a 4<sup>th</sup> grade class in Prescott. This marked her first time to do so in her current position as DATCP Secretary. Secretary Harsdorf indicated that, if requested by DATCP Board members, she would be happy to offer her services to present more to youth since schools present an excellent opportunity to provide information and education pertaining to Agriculture.

The Department continues to focus on domestic and international market development. In March of 2018, Secretary Harsdorf visited the Center for Dairy Research at UW. Secretary Harsdorf also visited the Peninsular Ag Research Station for cherry producers. At a recent Food Security and Global Development meeting at the UW CALS, Secretary Harsdorf gave the opening remarks.

The April blizzard in northeast Wisconsin caused over 100 barn roofs to collapse. In combination with a late spring, there has been a lot of noticeable damage. Secretary Harsdorf

and Department staff coordinated with other state agencies to see how the Department could be most helpful in this time of need. Currently, the FSA is seeking a disaster declaration that would enable farmers to access low interest loans. Secretary Harsdorf encourages farmers to report their damage. OCI reports \$25-\$35M in claim damages. Secretary Harsdorf disseminated cards with information on reaching the Farm Center for DATCP Board members to share broadly with farmers and other industry stakeholders to encourage people to utilize the Department's services. Secretary Harsdorf announced that this year will be a busy summer, filled with dairy breakfasts and other important events. Farm Technology Days are on the horizon followed by county fairs and Wisconsin State Fair in July and August.

### **Future Schedule and Agenda Items**

The DATCP Board is next scheduled to meet on July 24, 2018 in Sheboygan, Wisconsin.

### **Adjournment**

#### **Motion**

Miranda Leis moved, and Nicole Hansen seconded, a motion to adjourn. Motion approved unanimously.

The Board adjourned at approximately 1:44 PM

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Miranda Leis, Board Chair

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Paul Palmby, Secretary

All reports and any associated documents presented during a DATCP Board meeting may be accessed by contacting the Office the Secretary, Legal Counsel at (608) 224-5023 or by e-mailing [datcpublicrecords@wisconsin.gov](mailto:datcpublicrecords@wisconsin.gov).