

(2) Under s. ATCP 10.93, Wis. Admin. Code, the department may waive any provision of ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with the objective of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing.

(3) Section ATCP 10.01 (71), Wis. Admin. Code, defines official individual identification for swine.

(4) Section ATCP 10.31 (1), Wis. Admin. Code, requires a slaughtering establishment operator to identify with an official back tag, premises identification number ear tag or other approved slaughter identification any sow, boar or stag received for slaughter. This provision does not apply if the swine already bears an official individual or approved slaughter identification.

(5) Section ATCP 10.31 (2), Wis. Admin. Code, requires a slaughtering establishment operator to record all of the following information relating to the swine under par. (4), make the records available to the department, and retain the records for at least 5 years:

- a. The swine's official individual identification or slaughter identification number.
- b. The date on which the swine was received.
- c. The date on which the slaughter identification was applied, if applicable. If the swine already bore an official individual identification or a slaughter identification when received, the record shall note that fact.
- d. The name and address of the person from whom the swine was received.
- e. The swine's class.

(6) The requirements under pars. (4) and (5) are in place to assist the department in implementing federal traceability regulations for livestock moving interstate specified under 9 CFR Parts 71, 77, 78, and 86. The purpose of these regulations is to improve the ability of the department and the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) to trace livestock when disease is found.

(7) On November 7, 2017, Pat Reis, Abbyland Pork Pack, Inc., requested that the Division of Animal Health waive the requirements under s. ATCP 10.31 (1) and (2), Wis. Admin. Code, which requires slaughter identification to be applied to any sow, boar, or stag that does not already bear official individual identification and requires the information under par. (5) to be recorded and retained for at least 5 years.

(8) Mr. Reis suggested that tagging and record keeping needs to be done by animal dealers, not slaughter plants, as dealers are moving live animals. Animals do not leave the slaughter plant alive. Chapter ATCP 12, Wis. Admin. Code, provides for similar record keeping requirements for markets, dealers and truckers.

(9) Abbyland Pork Pack, Inc., is a large slaughter plant for sows, but this waiver pertains to all slaughter establishments.

(10) Because traceability requirements are designed to trace diseased animals, the department has determined that there is no need for an operator of a slaughtering establishment to meet the requirements under pars. (4) and (5) when a swine animal arrives and successfully completes the inspection process by state or federal inspectors.

(11) If a state or federal inspector determines there is a problem upon inspection of any sow, boar, or stag animal or if the animal is tested for any disease, the operator of the slaughtering establishment must make and keep records relating to that animal as specified under the Order section of this waiver.

(12) The requirements to apply an official slaughter identification and record and keep specific information regarding a sow, boar, or stag arriving at a slaughter establishment are rule provisions (see ss. ATCP 10.31 (1) and (2), Wis. Admin. Code) and not statutory requirements.

(13) A waiver granted to slaughtering establishments from the requirements that sows, boars, and stags be identified with official slaughter identification and that specified information be recorded and retained for 5 years would be reasonable and necessary as there is no further movement of live animals once they arrive at a slaughtering establishment, would be consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, for animal disease and would not conflict with state statutes.

CONCLUSIONS OF LAW

(1) This waiver does not affect any other provisions of ch. ATCP 10, Wis. Admin. Code.

(2) This waiver does not conflict with any requirements under ch. 95, Wis. Stats.

(3) Pursuant to s. ATCP 10.93, Wis. Admin. Code, the department may grant a written waiver from a requirement under ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with objectives of the chapter and will not conflict with state law.

(4) The department has made the findings required under s. 10.93, Wis. Admin. Code.

(5) Pursuant to s. ATCP 10.93, Wis. Admin. Code, and Findings of Fact (1) through (13), the department should waive the requirements under s. ATCP 10.31 (1) and (2), Wis. Admin. Code, if conditions specified under the Order are met.

ORDER

NOW, THEREFORE, it is ordered pursuant to s. ATCP 10.93, Wis. Admin. Code, that:

(1) The department grants a waiver from the requirements under s. ATCP 10.31 (1) and (2), to a slaughtering establishment that is licensed and inspected by the department or USDA under the following conditions:

- a. The swine animals successfully pass the inspection process completed by state or federal inspectors.
- b. The swine animals are not tested for disease.

(2) a. If the swine animals do not successfully complete the inspection process under par. (1) a., or are tested for disease under par. (1) b., the slaughtering establishment operator shall record all of the following information relating to the swine animal:

1. All forms of official individual identification and slaughter identification available.
2. The date on which the animal was received.
3. The name and address of the person from whom the animal was received.
4. The swine's class.

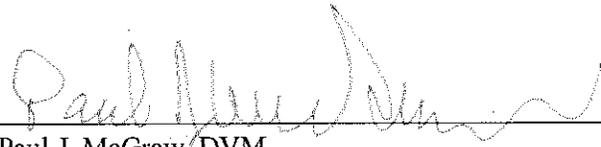
b. The records completed under par. (2) a. must be retained as follows:

1. Records for swine animals that do not successfully complete the inspection process must be retained and made available for department inspection for at least one year from the date the animal was inspected.
2. Records for swine animals that are sampled for disease must be retained and made available for department inspection as follows:
 - a. Records must be kept until negative test results are received.
 - b. Records must be kept for at least one year from the date positive test results are received.

(3) This waiver will remain in effect until formally rescinded by order of the Secretary or State Veterinarian.

Dated this 12th day of February, 2018

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: 
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State Veterinarian