State of Wisconsin
Governor Scott Walker

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

DATE: March 8, 2016

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Ben Brancel, Secretary
Paul J. McGraw, DVM Administrator, Division of Animal Health

SUBJECT: Chapter ATCP 10, Animal Disease and Movement, Scope Statement

TO BE PRESENTED BY: Dr. Darlene Konkle

REQUESTED ACTION:

At the March 22, 2016, board meeting, the Department of Agriculture, Trade and Consumer Protection ("Department") will ask the Department Board to approve a "Statement of Scope" (copy attached) for proposed amendments to current Department rule, chapter ATCP 10, related to animal disease and movement.

To control and eradicate diseases of swine, the swine industry in Wisconsin has requested the Department consider modifying reporting, testing, and movement requirements for porcine reproductive and respiratory syndrome (PRRS), porcine epidemic diarrhea (PED), and other emerging diseases affecting swine.

PRRS and PED are costly, highly contagious diseases among pigs that can result in tremendous production losses for swine producers. The current rule requires that a statement disclosing the porcine reproductive and respiratory syndrome status (PRRS) and the porcine epidemic diarrhea (PED) status of the herd of origin, if known, be included on the Certificate of Veterinary Inspection (CVI) for any swine imported into Wisconsin. The current rule also requires that PRRS and PED in swine be reported to the Department within 10 days of diagnosis or diagnosis evidence. Except for movement to exhibitions and fairs, current rule does not have any movement requirements for commercial swine in Wisconsin. These rule requirements were made in consultation with the swine industry as a first step to protect the swine industry from the diseases of PRRS and PED.

The proposed rule will make modifications to the current requirements in ss. ATCP 10.30 and 10.32, Wis. Admin. Code, along with other possible changes to ch. ATCP 10, Wis. Admin. Code, to require more proactive measures to prevent, control, and eradicate diseases of swine, providing important health protection for the Wisconsin swine livestock industry.

A scope statement spells out the general purpose and scope of a proposed rule. The Department may not begin drafting a proposed rule (including a proposal to amend or repeal an existing rule) until the Governor approves a scope statement for the proposed rule and the Department Board approves the scope statement. In accordance with 2011 Wisconsin Act 21 (s. 227.135 (2), Stats.), the Governor approved this scope statement for permanent

rule changes on January 26, 2016, thereby allowing the Department to submit this scope statement for publication and to seek approval of the scope statement by the Department Board.

The Department must publish a draft scope statement in the Wisconsin Administrative Register, and file a copy with the Department of Administration ("DOA"), at least 10 days before the Board approves the scope statement. The Department filed the attached statement of scope with the Legislative Reference Bureau for publication in the February 8, 2016, issue of the Wisconsin Administrative Register. The Department also filed a copy with DOA.

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

STATEMENT OF SCOPE

Department of Agriculture, Trade and Consumer Protection (DATCP)

Rule No.: Ch. ATCP 10, Wis. Adm. Code (existing)

Relating to: Animal Disease and Movement

1. Description of the objective of the rule:

To control and eradicate diseases of swine, the swine industry in Wisconsin has requested the Department of Agriculture, Trade and Consumer Protection (DATCP) consider modifying reporting, testing and movement requirements for porcine reproductive and respiratory syndrome (PRRS), porcine epidemic diarrhea (PED), and other emerging diseases affecting swine.

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

History and Background. PRRS and PED are costly, highly contagious diseases among pigs that can result in tremendous production losses for swine producers. The current rules require that a statement disclosing the porcine reproductive and respiratory syndrome status (PRRS) and the porcine epidemic diarrhea (PED) status of the herd of origin, if known, be included on the Certificate of Veterinary Inspection (CVI) for any swine imported into Wisconsin. The current rules also require that PRRS and PED in swine be reported to DATCP within 10 days of diagnosis or diagnosis evidence. Except for movement to exhibitions and fairs, current rule does not have any movement requirements for commercial swine in Wisconsin. These rules were made in consultation with the swine industry as a first step to protect the swine industry from the diseases of PRRS and PED.

Proposed Policies. The proposed rule will make modifications to the current requirements in ss. ATCP 10.30 and 10.32, Wis. Admin. Code, along with other possible changes to ch. ATCP 10, Wis. Admin. Code, to require more proactive measures to prevent, control, and eradicate diseases of swine, providing important health protection for the Wisconsin swine livestock industry.

Policy Alternatives. Do nothing further. Current DATCP rules appear to be inadequate to prevent, control, and eradicate PRRS and PED in the Wisconsin swine population. If DATCP does not modify current rule provisions, highly contagious diseases affecting swine could continue to spread, causing significant losses to the swine industry.

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

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

(1) REGULATIONS. To make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, which regulations shall have the force of law.

(2) FORMS. To prescribe forms for all applications, notices and reports required to be made to the department or which are necessary in its work.

(10) ANIMAL HEALTH; QUARANTINE. To protect the health of animals located in this state and of humans residing in this state and to determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of communicable diseases among animals. For these purposes, the department may establish, maintain, enforce, and regulate such quarantine and such other measures relating to the importation, movement, and care of animals and their products, the disinfection of suspected localities and articles, and the disposition of animals, as the department determines are necessary. The definition of "communicable disease" in s. 990.01 (5g) does not apply to this subsection.

93.15 Reports to department; inspections.

(1) The department may, by general or special order, require persons engaged in business to file with the department, at such time and in such manner as the department may direct, sworn or unsworn reports or sworn or unsworn answers in writing to specific questions, as to any matter which the department may investigate.

(2) The department or any of its authorized agents may have access to and may copy any document, or any part thereof, which is in the possession or under the control of any person engaged in business, if such document, or such part thereof, is relevant to any matter which the department may investigate.

(3) No person shall refuse or fail to render any report or answer required under this section at such time and in such manner as the department may prescribe. No person shall refuse, neglect or fail to submit, for the purpose of inspection or copying, any document demanded under this section. No person shall willfully make any false entry or statement in any report or answer required or document demanded under this section. No person shall willfully fail to make full and true entries and statements in any report or answer required or document demanded under this section. No person shall, for the purpose of embarrassing the department in the conduct of any investigation, hearing or proceeding, remove out of the state or mutilate or alter any document. No person shall, except through judicial process, resist or obstruct any official or subordinate of the department in the exercise of the official's or subordinate's lawful authority.

95.20 Import and movement of animals. The department may prohibit or regulate the importing of animals into this state or the movement of animals within this state if the department has reasonable grounds to believe that regulation or prohibition is necessary

to prevent the introduction or spread of a disease in this state that threatens the health of animals or of humans.

95.22 Reporting animal diseases.

(1) A veterinarian and the department of natural resources shall report to the department of agriculture, trade and consumer protection any disease specified in the rules promulgated under sub. (2) (a) each time a veterinarian or the department of natural resources discovers that such a disease is present in any animal in this state.

(2) The department shall promulgate rules that specify all of the following:

(a) The diseases that a veterinarian or the department of natural resources must report under this section.

(b) For each disease specified in par. (a), the deadline for reporting the disease after the date of its discovery.

(c) The information that a veterinarian or the department of natural resources must include in his or her report.

(d) Procedures to be used in preparing and submitting the report.

95.38 Altering records; tampering with ear tags.

(3) The department may adopt rules that are necessary to administer this section.

95.42 Revocation of permit to test. Only veterinarians approved by the department may apply the tuberculin test to cattle and farm-raised deer, and no veterinarian applying the test may tag or brand reactors except as specifically authorized or directed by the department. Any veterinarian who fails to comply with this section and the rules and instructions furnished by the department shall forfeit all right to apply the tuberculin test.

95.45 Certificates of veterinary inspection; tests for interstate shipment.

(4)(c) The department may promulgate rules to impose requirements on the form, issuance, and filing of certificates of veterinary inspection.

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

DATCP estimates that it will use approximately 0.80 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings, and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

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

The proposed rule will make modifications to ch. ATCP 10 in order to prevent, control, and eradicate diseases of swine to provide important health protection for the Wisconsin swine livestock industry. This proposed rule will have a direct impact on veterinarians and swine livestock operations.

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

Current federal regulations require reporting of swine enteric corona diseases including PED. When a positive herd is reported, the herd is also required to work with a veterinarian to develop a herd plan to control the disease.

7. Anticipated economic impact

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

Contact Person: Darlene Konkle, DVM, Assistant State Veterinarian, DATCP; Phone (608) 224-4902

Ben Brancel

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

1-8-16
Date Submitted