

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

September 23, 2015

The Board of Agriculture, Trade and Consumer Protection met on September 23, 2015, beginning at 9:00 a.m. for a tour of Nelson & Pade, Inc. located at W3731 State Road 23, Montello, WI 53949. Following the tour, the Board held its business meeting in the Nelson & Pade classroom. The meeting was preceded by public notice as required by s. 19.84, Stats.

Call to Order

Board Chair Andy Diercks called the meeting to order at 10:30 a.m.

Members Present

Andy Diercks, Paul Palmby, Dennis Badtke, Greg Zwald, Miranda Leis, Mark Schleitwiler, Nicole Hansen, and Doug Wolf were present. Dean Strauss was absent.

Thanks and Introductions

On behalf of the DATCP board, Board Chair Andy Diercks thanked Nelson & Pade for the interesting and enlightening tour earlier in the morning and for hosting the DATCP board meeting.

Andy also welcomed new DATCP board member Greg Zwald. Greg joins the board from the River Falls area. Greg, along with his wife, own White Pine Berry Farm which focuses on marketing strawberries, raspberries, blueberries, and vegetables direct to their customers. They have three grown children and hope to become grandparents soon.

Minutes

Motion

Nicole Hansen made a motion, seconded by Miranda Leis, to approve the July 15, 2015, Board minutes. Motion approved unanimously.

Public Appearances

Nick George, Director of the Midwest Food Processors Association, Inc., appeared in support of ATCP emergency rule 101 relating to vegetable contractors. The Midwest Food Processor

Association, Inc. is a trade association that advocates on behalf of food processing companies and affiliated industries in Illinois, Minnesota, and Wisconsin. Mr. George expressed his appreciation for the work the DATCP staff has done on this topic and is looking forward to working with the Department further.

ATCP 70/87 –Maple Syrup Grading Standards and Processing (Scope Statement)

Peter Haase, Food Safety Bureau Director within the Division of Food Safety, presented the scope statement relating to ATCP 70 and ATCP 87 to the Board.

In 2011, USDA's Agricultural Marketing Service (AMS) received a petition from the International Maple Syrup Institute (IMSI) requesting that they revise the federal voluntary U.S. Standards for Grades of Maple Syrup (Syrup), which AMS adopted in January 14, 1980. IMSI is a non-profit organization representing the maple syrup industry in the U.S. and Canada. It was founded in 1975 to promote cooperation in the maple syrup industry. AMS promulgated new federal standards, based on maple syrup grades developed by IMSI, with an effective date of March 2, 2015. Among the changes made were:

- Replacing the three color classifications of the Grade A standards for maple syrup with four classifications, including a Grade A category for "very dark" maple syrup. Previously, the standards labeled darker syrups with "rich bold flavor" as "U.S. Grade B for Reprocessing," which was maple syrup not intended for retail sale. The revision will allow darker syrup that meets other Grade A standards to be sold at retail, recognizing an increasing consumer demand for the darkest color class of maple syrup for cooking and table use.
- Removing references to the USDA permanent glass color standards, which will no longer be applicable to maple syrup grading. Maple syrup color will now be evaluated by spectrophotometer or any method that provides equivalent results.
- Removing the category of "U.S. Grade B for Reprocessing" and replacing it with a new "Processing Grade." Unlike Grade B syrup, this new "Processing Grade" is not restricted to dark maple syrup, but includes any color of syrup with a "good characteristic maple taste." "Processing Grade" syrup may contain off-flavors and must be fairly free of damage, turbidity or cloudiness, and be fairly clean. "Processing Grade" maple syrup is used solely for manufacturing and may not be sold at retail.

This rule revision will assess and revise ATCP 87 and ATCP 70 rules to modernize grading standards, to ensure food processing regulations are meeting the unique needs of the maple syrup industry, and to ensure regulations are adequate as to the safety of newly developed maple syrup products.

Motion

Dennis Badtke made a motion, seconded by Nicole Hansen, to approve the scope statement of ATCP 70/87. Motion approved unanimously.

ATCP 82-Bulk Milk Collection, Sampling and Transportation (Scope Statement)

Peter Haase, Food Safety Bureau Director within the Division of Food Safety, presented the scope statement relating to ATCP 82 to the Board.

Wisconsin has close to 10,000 licensed dairy farms shipping their milk to one of more than 400 licensed dairy plants in the state, or to a licensed dairy plant in another state. Approximately 4,000 bulk milk tankers from Wisconsin and other states deliver milk to Wisconsin dairy plants.

Prior to the adoption of 2015 Wisconsin Act 55, Wisconsin required the owner of bulk milk tankers used to transport Grade "A" milk to hold a license and a Grade "A" permit for each tanker. The Department charged a licensing fee of \$45 and issued a Grade "A" permit as an endorsement on the license. 2015 Wisconsin Act 55 revised s. 97.21, Stats., eliminating bulk milk tanker licensing and license fee requirements and aligning Wisconsin with most other states by removing the requirement that bulk milk tanker operators hold both a tanker license and a Grade "A" permit. The Department proposes incorporating these revisions into ATCP 82 to reflect these recent statutory changes.

Motion

Doug Wolf made a motion, seconded by Miranda Leis, to approve the scope statement of ATCP 82. Motion approved unanimously.

ATCP 101-Vegetable Contractors-Emergency Rule (Scope Statement)

Jeremy McPherson, Director of the Bureau of Business Trade Practices within the Division of Trade and Consumer Protection, presented to the Board the emergency rule scope statement related to vegetable contractors.

The Agricultural Producer Security Fund (APSF) is a public trust administered by DATCP. Milk contractors, grain dealers, grain warehouse keepers, and vegetable contractors (collectively known as contractors) must purchase a license to obtain milk, grain, and vegetables, respectively, from producers, and most contractors are required to contribute to the APSF annually. Funds are used to settle claims by producers in the event that a contractor defaults on payment. Funds from each industry are accounted for separately and deposited into the overall fund. Ch. 126, Stats. establishes detailed fund assessment requirements, except that it requires DATCP to establish milk contractor fund assessments by rule. Ch. 126, Stats. sets minimum fund balances for each industry, as well as a minimum balance requirement for the overall fund.

Section 126.88, Stats. establishes minimum and maximum balances for each of the four licenses administered under the Agricultural Producer Security Program and directs the Department to modify assessments to maintain these thresholds. Assessments for contributing vegetable

contractors shall be modified to maintain a fund balance attributable to vegetable contractors of at least \$800,000, but not more than \$3,000,000.

DATCP proposes an emergency rule that will amend fund assessment amounts required for contributing vegetable contractors. As a result of a recent default by a contributing vegetable contractor, the fund balance attributable to vegetable contractors is at a deficit of \$4.8 million. Section 126.88 (2) (a), Stats., directs DATCP to promulgate a rule modifying assessments when the fund balance or a portion of the fund balance falls below the minimum amounts required under section 126.88 (1) (a) through (e), Stats. Section 126.88 (2) (b), Stats., authorizes the department to employ the emergency rule process for this purpose. An emergency rule must be in effect by February 1, 2016, in order to apply to the next license year for vegetable contractors.

Motion

Nicole Hansen made a motion, seconded by Dennis Badtke, to approve the emergency rule scope statement of ATCP 101. Motion approved unanimously.

Division of Agricultural Development (Report)

Dan Smith, Division Administrator of the Division of Agricultural Development, presented the 2015 Annual Division report.

The Division of Agricultural Development is responsible for marketing the diverse and growing agricultural industry and connecting those in agriculture to available resources. The report describes the Division's effort to promote success on the farm, through local and regional markets, to the national and international marketplaces.

Within the Division, the Wisconsin Farm Center bureau assists farmers with generational transitions, financial analysis, and business planning. The Wisconsin Agriculture & Food Center bureau enhances the state's efforts in organics, specialty crops, and food processing while identifying new opportunities for those to enter the marketplace. Lastly, the Wisconsin International Agribusiness Center bureau continues to promote Wisconsin products abroad by hosting international delegations, leading trade missions, and offering educational seminars.

Alice in Dairyland (Report)

Teyanna Loether introduced herself and presented an update to the Board of her activities since being named the 68th Alice in Dairyland earlier this May.

Teyanna grew up on her family's farm in Sauk City. There, she was actively involved in the Sauk County Fair, showing horses, chickens, and swine as well as serving as the 2010 Fairest of the Fair. She graduated with a Master's degree in animal sciences, focusing on reproductive physiology from UW-Madison in 2015. She continues to work towards a Delta Certificate in

Research, Training, and Learning. During her time in graduate school, Teyanna also worked as a teaching assistant and tutor.

Alice in Dairyland is Wisconsin's Agricultural Ambassador and her mission is to support agricultural business by educating the general public about the vital role agriculture plays in the economy, environment, and quality of life in Wisconsin.

Throughout the year, Alice will focus on three key messages that reflect the goals and work plan of DATCP:

- Agriculture is a diverse industry vital to Wisconsin's economic development, generating \$88.3 billion annual impact.
- Buying Wisconsin grown and produced products supports Wisconsin agriculture and local farmers, producers, communities, and economics.
- Wisconsin consumers know the value and quality of Wisconsin agricultural products, and so do people around the world. Wisconsin exported more than \$3.6 billion in agricultural products to 145 countries in 2014.

Wisconsin Agricultural Statistics Services (WASS) Report

Audra Hubbell, Research Analyst, updated the Board on the following:

- Production Report
 - In July, 2.50 billion pounds of milk were produced in Wisconsin.
 - Milk production in 23 major states totaled 16.6 billion pounds.
 - As of August 1st, Wisconsin had 9,848 milk cow herds, down 361 herds since August 2014.
 - Wisconsin ranked #1 in cheese production in 2014 with 2.9 billion pounds of cheese produced. Wisconsin produced 25% of the US cheese production.
- Price Report
 - July price of \$17.50 per hundredweight of milk.
 - Price of corn sold for \$3.78 per bushel.
 - Soybean price sold for \$9.79 per bushel.
 - Alfalfa hay sold for \$88 per ton, down \$47 per ton since last July.
- September Crop Production Report
 - Wisconsin corn production estimated to yield 162 bushels per acre, up 6 bushels up from 2014.
 - US corn production is forecasted at 13.6 billion bushels, down 4% from last year's record production.
 - Wisconsin soybean production estimated to reach 90.2 million bushels, up 15% from 2014.
 - US soybean yield is forecasted to average 47.1 bushels per acre, up .2% bushels from last month's record production.
 - Next Crop Production Report will be released on Friday, October 9th.

- Crop Progress Report
 - Corn condition rating was 78% good to excellent.
 - Soybean condition rating was 81% good to excellent.
 - Top soil moisture rated at 78% adequate.
- Wisconsin Farm Computer Usage
 - Wisconsin farms owning or leasing a computer in 2013 was at 73% and is 7 percentage points higher than the US percentage.
 - DSL is the most common method of internet access with 43% of Wisconsin farms using it. Wireless access came in at 32% in 2013.
- Upcoming NASS Surveys
 - Row Crop (CAPS)
 - Conservation Effects Assessment Project (CEAP)
 - ARMS II- Soybean chemical use, Oats
 - Postharvest Microbial Food Safety Survey
 - December Ag Survey

ATCP 40- Fertilizer and Related Products (Final Draft)

Amy Basel, Fertilizer Program Manager, along with Robby Personette, within the Division of Agricultural Resource Management, presented the final draft of ATCP 40 to the board.

This rule amends s. ATCP 40.14 (1) and (3), Wis. Admin. Code, relating to fertilizer content deficiencies. The department of agriculture, trade and consumer protection (“DATCP” or “department”) regulates the manufacture and sale of fertilizer, pursuant to s. 94.64 Stats. DATCP regulates fertilizer to protect farmers and consumers against unfair and deceptive sales practices. Regulation is designed to prevent fraudulent sales of products, deceptive ingredient and performance claims, and latent safety hazards.

This rule will:

- Update the standards that are used for verifying the nutrient content of a fertilizer product.
- Revise the title of one standard to reflect the type of index that is currently used for determining the formulation multiplier of the nutrient content of a fertilizer product.

DATCP held one public hearing on the original rule on June 30, 2015, in Madison with written comments accepted until July 21, 2015. A total of four people attended and registered at the public hearing, two of whom spoke and submitted written comments. No other written comments were submitted. The Department received both general comments related to the rule and specific comments related to certain provisions within the rule. The general comments were supportive of the rule revision. Specific comments were also in support of the rule revision with a suggestion to include an additional percentage of variance for bagged fertilizer.

The Department heard a suggestion expressed at the public hearing for a separate threshold value of 96% for bagged fertilizer products. However, the Department did not incorporate this suggestion into the rule revision. An analysis of the sample results from bagged and bulk fertilizer, setting a 96% threshold did not show a significant decrease in bagged fertilizer failure rates than that of bulk or liquid set at the same threshold. The Department maintains that a decrease of the overall threshold variance to 97% addresses the concerns relating to bagged fertilizer.

Motion

Dennis Badtke made a motion, seconded by Doug Wolf, to approve the final draft rule of ATCP 40. Motion approved unanimously.

ATCP 52- Producer Led Watershed Protection Grants- Emergency/Permanent (Scope Statement)

Sara Walling, Chief of Nutrient Management Section and Water Quality within the Division of Agricultural Resource Management, presented the emergency and permanent scope statement relating to the new DATCP rule ATCP 52.

The 2015 Wisconsin Act 55 authorized the Department of Agriculture, Trade and Consumer Protection under s. 93.59, Stats., to make grants for nonpoint source pollution abatement activities that are “conducted with the assistance of producer led groups.” The Department proposes an emergency and permanent rule that will establish criteria for issuing the grants.

Accordingly, this rule will specify the application process for a grant, identify which activities may be conducted using a grant, and define the term “legal entity,” used in section 93.59(1) of the statutes.

Motion

Miranda Leis made a motion, seconded by Mark Schleitwiler, to approve the emergency and permanent scope statement of ATCP 52. Motion approved unanimously.

Natural Resources Conservation Service (NRCS) 590 Nutrient Management Standard Revision Update (Report)

Sara Walling, Chief of the Nutrient Management Section and Water Quality within the Division of Agricultural Resource Management, presented a powerpoint report updating the board on the NRCS 590 standard changes.

The report provided information to the Board regarding the current NRCS 590 standards, proposed changes to the standard, and how the revision will impact DATCP nutrient management programs.

The practice of nutrient management means managing the amount (rate), source, placement (method of applications), and timing of plant nutrients and soil amendments. The purpose of nutrient management is to:

- Budget, supply, and conserve nutrients for plant production
- Minimize the risk of agricultural nonpoint source pollution of surface and groundwater resources
- Properly utilize manure and organic by-products as a plant nutrient source
- Reduce odors and reactive nitrogen emissions (ammonia, inorganic oxidized forms, and organic compounds)
- To maintain or improve the physical, chemical, and biological condition of the soil

A 590 standard revision team recommended changes to the current 590 standard which include: changes to winter spreading, groundwater protections, and runoff risk reductions.

Agricultural Enterprise Area (AEA) Designation Report

Coreen Fallat, Program Manager for the Agricultural Enterprise Areas Program, presented five AEA petitions submitted during the 2015 petition cycle. Two new AEAs are being recommended, with the modification of an existing AEA to take effect January 1, 2016. Designation of the two remaining agricultural enterprise areas were not recommended for this petition cycle.

To be officially designated as an AEA, a department order and notification must be printed in the state newspaper.

The recommended AEAs are as follows:

- Golden Triangle, Eau Claire County
- Scenic Ridge and Valley, Monroe County
- Greenville Greenbelt, Outagamie County (Modification of existing AEA)

The AEAs not recommended for this cycle are as follows:

- North-West Pierce County, Pierce County
- Cadott Area, Chippewa County (Modification of existing AEA)

Following designation, there will be 31 AEAs in the state totaling nearly 1,000,000 acres, located in 23 counties, 92 towns, and the Bad River Reservation. The State currently has authority to designate up to 2 million acres as AEAs.

Board Member Reports

Mark Schleitwiler- Mark welcomed Greg Zwald to the DATCP Board. The milk supply to Belgioioso Cheese has been more than adequate with the patron base growing faster than state average. Mark is looking forward to the holiday season with high mozzarella sales expected. Building projects allowing for more manufacturing capacity for the 2016-2017 season have begun winding down.

Paul Palmby- Seneca Foods is nearing the end of its fresh pack season with sweet corn and snap beans. The state experienced a good pea crop with the favorable planting conditions in the spring. This has also resulted in good financial returns for producers and processors.

Greg Zwald- The wet ground near Greg's farm is slowing the corn silage harvest slightly. Farmers are concerned that there was possible late blight that occurred. Despite some heavy rains as of late, Greg was appreciative of the near perfect growing season and predicts that crop yield will be very high.

Andy Diercks- The potato crop did receive a lot of rain towards the end of August and September, which may affect the quality. There is a large yield again this year which is driving the price down. Andy has been focused on harvesting since the end of July and has enjoyed taking a break from the meeting season. Getting some movement on a high capacity well bill remains a focus for Andy.

Nicole Hansen- Nicole welcomed Greg Zwald to the DATCP Board and thanked Nelson & Pade for the very interesting and intriguing tour earlier in the day. Harvest started at Cranberry Creek in the middle of September with good yields from the rains that came this season. The industry yields will be similar to last year. At home, the kids are getting into volleyball season and her youngest is doing well with all the support and well-wishes they have received.

Dennis Badtke- Dennis welcomed Greg Zwald to the Board. Dennis reported that he has had plenty of rain in September and is still working on getting his corn and beans off the field. Dennis was happy to see Green Bay Packers off to a good game season start at 2-0.

Doug Wolf- Doug started corn harvest this week and is projecting an over 200 bushel yield average. His area had been previously very dry in July and August but has been refreshed with several recent good rains. Doug is looking forward to a good fall.

Miranda Leis- The harvest of small grains, barley, and wheat from the Pacific Northwest is under way with three weeks left to go. The yields are projected to be average with no vomitoxin or aflatoxin issues occurring within the crop. Other areas of the country experience more cool and wet weather so the grain quality may be more affected by the toxins. At home, Miranda and her family are in the middle of corn silage harvest and looking forward to the upcoming school year. This past summer, Miranda and her family took a trip to Washington D.C. and toured the Smoky Mountains, and Gatlinburg, TN on the way home.

Secretary's Report

Food Safety Division Administrator Steve Ingham, along with other Department staff, has been working closely with the Department of Health Services (DHS) to transition inspection duties over to DATCP effective July 1, 2016. The Governor's budget directed a transfer of activities related to the licensing and inspection of all restaurants, vending machines, food commissaries, licensed campgrounds, recreational camps, swimming pools, hotels, and rooming houses from DHS to DATCP.

The Secretary recently spoke at the American Association of Veterinary Examining Boards national annual meeting and conference in Milwaukee. Earlier in the summer, Assistant Deputy Secretary Sandy Chalmers and Division of Animal Health Administrator Dr. Paul McGraw attended the Wisconsin Veterinary Examining Board's (VEB) meeting, which was held at the Department of Safety and Professional Services (DSPS). The Governor's budget authorized a transfer of the VEB from DSPS to DATCP effective July 1st.

The Secretary will attend and participate in both the World Beef Expo held in Milwaukee later this week and the World Dairy Expo to be held in Madison the first week in October. The World Beef Expo brings people from around the country to visit Milwaukee for one of the Midwest's largest cattle expositions with over 400 cattle exhibitors and 18 states represented. The World Dairy Expo serves as a forum for dairy producers, companies, organizations, and other dairy enthusiasts from around the globe to come together to compete, and to exchange ideas, knowledge, technology, and commerce.

In early September, the Secretary participated in celebrating the UW Discovery Farms graduation of the Bragger Family Dairy, Wisconsin's first Discovery Farm. The celebration included a program and tour of the farm located in Independence.

The annual Tri-National Agricultural Accord will be held in November. The Tri-National Agricultural Accord represents a longstanding commitment among the senior state and provincial agricultural officials of Canada, the United States, and Mexico to work together collaboratively on agricultural trade and development issues. State and provincial agricultural leaders meet each year to discuss important trade and development-related issues that impact the three nations. Topics that may be discussed this year involve animal health issues, pesticide usage and labeling and country-of-origin labeling (COOL) for beef, pork, and chicken. COOL, which went into effect for meat in 2013, requires that packaging indicate the country, or countries, where animals were born, raised, and slaughtered.

The ninth annual Governor's Northern Wisconsin Economic Development Summit will be held in Trego, Wisconsin. The annual summit provides an opportunity to address the unique challenges and opportunities of Northern Wisconsin's economy through a forum with the Governor's Cabinet, keynote speakers, and a series of workshops.

The Secretary welcomed the new DATCP board member Greg Zwald and is looking forward to Greg's participation on the board based on his background and wealth of knowledge.

Bill Cosh was introduced as the Department's new Chief Public Information Officer. Bill grew up in Athens, Wisconsin and has been the Communications Director for the Department of Natural Resources (DNR), the Department of Justice (DOJ), and has worked as a legislative staff member and lobbyist for the Wisconsin School Board Association.

Future Schedule and Agenda Items

The Board is scheduled to meet November 18th. Dennis Badtke requested a DATCP website overview at a future meeting. Paul Palmby requested an update on any proposed modifications and adjustments to the Implements of Husbandry permitting process in spring.

Adjournment

By unanimous consent, the Board adjourned at approximately 3:00 pm.

Andy Diercks, Board Chair

Nicole Hansen, Secretary